

10199560
08/21/2007 01:23 PM \$142.00
Book - 9506 Pg - 1391-1397
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
RICHARDS & KIMBLE
2040 E MURRAY HOLLADAY RD #102
SLC UT 84117
BY: ZJM, DEPUTY - WI 7 P.

After Recording Return To:
RICHARDS & KIMBLE, P.C.
2040 E. Murray-Holladay Rd., Suite 102
Salt Lake City, UT 84117

**AMENDMENT TO
THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR CAPRI PARK HOMES**

This Amendment to the Declaration of Covenants, Conditions, and Restrictions for Capri Park Homes ("Declaration") that established Capri Park Homes is made on the date evidenced below by the Capri Park Homes Owners Association (the "Association").

RECITALS

A. Certain real property in Salt Lake County, Utah, known as Capri Park Homes was subjected to certain covenants, conditions, and restrictions, pursuant to a Declaration dated on or about July 29, 1974 and recorded as Entry No. 2639289, in Book 3641 at Page 381 in the Recorder's Office for Salt Lake County, Utah;

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. Pursuant to Section 57-8-7 of the Utah Condominium Ownership Act, owners representing more than two-thirds (2/3) of the Unit Owners within the Association consent and approve to this Amendment, said consents are on record with the Association.

NOW, THEREFORE, the Association, by and through its Management Committee, hereby adds to the Declaration a new section to be titled 7.G. It reads in its entirety as follows:

SECTION 7.G

HOUSING FOR OLDER PERSONS

INTRODUCTION: The following provisions create an “age restricted community” consistent with the Federal Fair Housing Laws. These provisions are drafted with the rights and interests of those persons 55 years of age or older in mind to provide the quality of life that Capri Park provides.

PLEASE NOTE: The community is an age restricted community but is NOT an assisted living community.

7.G(i) Compliance.

The policies and procedures governing the project as stated herein demonstrate the intent to provide housing for persons 55 years of age or older per condominium; that at least 80 percent of the condominiums shall be occupied by at least one person 55 years of age or older.

The policies and procedures of the project qualify it as housing for older persons and exempt the project from regulation under the Act as provided by Section 3607 thereof.

Thus, to this end, all owners shall be bound by, and the Association shall manage the project in compliance with, this Amended Declaration and specifically this Article.

7.G(ii) Advertising, Marketing, and Sales.

All advertising, marketing, and sales materials

or displays of any kind shall reflect that the Project is intended for housing for older persons. All print ads shall contain the following language: **“The Capri Park Homes project is a community for residents 55 years of age or older as defined in the Fair Housing Act. As such it is the policy of the Capri Park Homes Owners Association to prohibit permanent residence of persons under 18 years of age as is permitted under an exemption of the Act.”**

7.G(iii) Approved Occupancy.

The project is intended to be managed for occupancy by persons 55 years of age or older, as set forth in the Act and regulations relating thereto. Sec. 24 C.F.R. 100.304 under the Act providing housing for older persons exempts the project from the prohibition against discrimination on the basis of familial status and thus permits the following restriction: **No condominium may be occupied by any person under eighteen years of age, except that such persons under eighteen may be permitted to visit for reasonable periods.** In order to assure that the project meets the age requirements for occupants set forth in the Act, the Association shall be responsible for enforcing and carrying out the terms of the Amended Declaration, specifically including the following:

(a) Approved Occupant Status.

No person shall be permitted to occupy a condominium in the Project unless such person is an “Approved Occupant” in accordance with the terms and provisions

hereinafter set forth. If it is determined that an occupant has not obtained "Approved Occupant" status, the Association may pursue any remedies available to them under the Amended Declaration, including imposition of fines against a violator.

(b) Visitors.

Persons who are not "Approved Occupants" shall not be permitted to occupy any condominium within the Project, however, visitors do not have to be approved as occupants and shall be permitted to visit for such reasonable periods of time, and upon such reasonable conditions, as provided for from time to time by the majority of the Board of Trustees.

(c) Procedure for Approving Occupants.

Persons may become "Approved Occupants" based on the following terms and conditions:

(1) A person desiring to become an "Approved Occupant" shall submit to the Board of Trustees, a written "Association Membership Application and Age Verification" form which is kept on file with the Association. Owners shall be permitted to request the issuance of an "Approved Occupants Identification Letter."

(2) Within fifteen (15) days of receipt of such written application for an "Approved Occupant Letter," the Trustees shall determine whether such occupancy is consistent with the intent to manage the project as housing for older persons, and, if such occupancy were permitted, whether the project would continue to meet the requirements of the exemption under Section

3607(b)(2)(C) of the Act, and regulations relating thereto. Sec. 24 C.F.R. 100.304: see also Preamble, 54 Fed. Reg. at pp. 3254.56. If such exemption requirements would continue to be met, the occupancy shall be approved. If not, the occupancy shall be denied.

(3) Within said fifteen (15) day period, the Board of Trustees shall issue written notification to the applicant, and to the potential seller or lessor of the condominium the Applicant desires to purchase or lease, as to the outcome of the Board of Trustees' determination as set forth in Paragraph (2) above.

(4) Within ninety (90) days of the issuance of an approval by the Board of Trustees of an application for an "Approved Occupant," the Approved Applicant must request the issuance of an "Approved Occupants Letter," which request must be accompanied with written proof of said Applicant's legal right to occupy the condominium, either by virtue of a recorded deed conveying fee simple title, an executed lease, or other document indicative of said Applicant's right of occupancy, which may be due to gift, devise, inheritance or other transfer document recognized under the laws of the State of Utah for transferring occupancy rights. Upon such timely request by the "Approved Applicant" and timely receipt of appropriate documentation, the Trustees shall issue, or cause to be issued, an "approved Occupant's Identification Letter."

(5) If an Approved Applicant fails to timely request an Approved Occupant's Identification Letter, and timely submit appropriate documentation, then such person shall not be permitted occupancy of the Unit. Said person must again apply to become

an "Approved Occupant" in accordance with provisions as set forth in Subsections (1) through (4) above. An extension of the ninety (90) day period may be granted by the Board of Trustees under such circumstances as reasonably determined by the Trustees.

(6) Within fifteen (15) days after written request by an Owner, Mortgagee or an other person who has been approved for occupancy, the Board of Trustees shall, without charge, provide a statement that such person is listed on the Association records as an "Approved Occupant" for such Unit as set forth in the Association's records.

(7) The Association shall retain all documents and records relating to its consideration of an application for "Approved Occupant" status.

7.G(iv) *Resale or Rental.*

**(a) Obligation of Owner;
Contents of Agreements.**

Should a current resident wish to sell or rent his or her condominium, the same procedures described above in Section 7.G(iii), will be followed. The prospective buyer or renter will be required to complete a Membership Application and Age Verification form. Review of this form will be done pursuant to Section 7.G(iii). Owners shall inform all prospective purchasers or renters of this procedure and shall provide the Board of Trustees with the information required in subsection (b)(1).

Any sale and rental agreement shall be in writing and shall (1) provide that occupancy of the property shall be subject to the provisions of the Amended Declaration, the

Articles of Incorporation, Bylaws and Rules and Regulations of the Association and (2) state the following: **"The Capri Park Homes project is intended and operated for residents 55 years of age or older as defined in the Fair Housing Act. As such it is the policy of the Capri Park Homes Owners Association to prohibit permanent residence of persons under 18 years of age as is permitted under an exemption of the Act."** In addition, rental agreements and deeds of trust shall provide that failure by the lessee or trustor to comply with the terms of this Amended Declaration, The Articles of Incorporation, Bylaws, and Rules and Regulations of the Association shall be in default under the agreement. Sale and Rental Agreements shall be approved by the Board of Trustees as to form and content prior to execution.

(b) Records.

The Association shall maintain the following:

(1) A log or other accounting of all persons making inquiry with respect to the sale or rental of a condominium. This record shall reflect, for each inquiry, the name(s) of such person(s), current address, the age of each prospective occupant, and the date of inquiry.

(2) For all persons who execute a purchase or lease agreement with an owner, the name of each such person(s), their current address and prospective address in the project, the age of each proposed occupant of the dwelling together with a copy of the documents provided to verify their ages, and the date of the agreement.

(3) A log or other record of all persons occupying a condominium. Such record to be updated quarterly and shall include names, address, and ages.

(4) For each subsequent transfer of a condominium, a log or other record identifying the transferor, the transferee, the address of the dwelling, the names and ages of the new occupants, the documentation provided to verify those ages, the method of transfer (sale, lease, devise, etc.), and the date the transfer was approved and by whom.

(5) For the sale, lease, or other transfer of a condominium rejected by the Association, a log identifying the persons involved in the proposed transfer and their current addresses, the ages of the prospective occupants, the reasons for the rejection, and the date of the rejection.

7.G(v) Occupancy by at Least One Person 55 Years of Age or Older per Condominium.

The Board of Trustees will not approve any applicant if the granting of "Approved Occupant" status will defeat the primary purpose of the project which is to provide housing for older persons within the meaning of the Act or is done pursuant to a policy of setting aside a certain number of housing units for persons under 55 years of age. To maintain the exemption under the Act for housing of older persons, at least 80 percent of the condominiums must be occupied by at least one person 55 years of age or older. The primary purpose for permitting 20 percent of the units to be occupied by persons younger than 55 is to prevent the disruption of the lives of surviving spouses and cohabitants under

age 55 when the over age 55 member of the household dies or otherwise leaves the condominium. Notwithstanding the above, the 20 percent allowance described herein shall not be used for potential buyers who do not otherwise meet the age requirements established and required by this Declaration. The Department of Housing and Urban Development (HUD), has indicated in the preamble to its regulations that so long as the 80 percent rule is not violated, occupancy of a condominium can be approved, in the following situations, where there is no occupant over age 55: (1) the individual has relatives in the project who would benefit from their residence nearby; (2) the individual inherited the property from a former occupant; (3) the individual is the surviving spouse or cohabitant of a former occupant; (4) the individual is a nurse or other medical professional whose presence would be beneficial to a resident. It is expressly provided that the Association shall not set aside a certain number of condominiums for persons under 55 years of age.

7.G(vi) Applicability.

The provisions of this Article shall not apply to prohibit the occupancy of any person presently occupying a condominium in the project before the date of this Declaration or prohibit the occupancy by any child born to such occupant while that occupant is a resident of the project, so long as the 80 percent rule is not violated. Any sale or rental of the condominium by such occupant, however, must be in accordance with the provisions of this Amended Declaration, specifically including this Article.

IN WITNESS WHEREOF, CAPRI PARK HOMES has executed this Amendment to the Declaration as of the 8th day of August, 2007, in accordance with Section 24 of the Declaration and pursuant to Section 57-8-7 of the Utah Condominium Ownership Act.

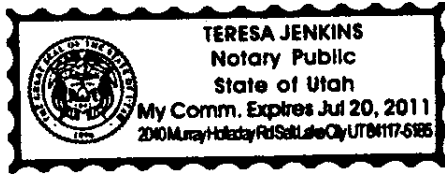
CAPRI PARK HOMES

Jerry M. Matheson
President

Mark R. Soderborg
Secretary

STATE OF UTAH)
 :SS
County of Salt Lake)

On the 8 day of August 2007, personally appeared Jerry M. Matheson who, being first duly sworn, did say that he/she is the President of the Association and that the seal affixed to the foregoing instrument is the seal of said Association and that said instrument was signed and sealed in behalf of said Association by authority of its Management Committee; and each of them acknowledged said instrument to be their voluntary act and deed.



Teresa Jenkins
Notary Public for Utah

On the 8 day of August 2007, personally appeared Mark R. Soderborg who, being first duly sworn, did say that he/she is the Secretary of the Association and that the seal affixed to the foregoing instrument is the seal of said Association and that said instrument was signed and sealed in behalf of said Association by authority of its Management Committee; and each of them acknowledged said instrument to be their voluntary act and deed.



Teresa Jenkins
Notary Public for Utah

EXHIBIT "A"
LEGAL DESCRIPTION

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

Beginning at the Northeast Corner of Lot 14, Block 20, Ten Acre, Plat A, Big Field Survey and running thence S 0° 11' 03" W 57.57 feet; thence S 89° 58' 47" W 300.00 feet; thence S 0° 11' 03" W 805.86 feet; thence N 89° 59' 45" W 464.90 feet; thence N 0° 11' 21" E 575.48 feet; thence S 89° 59' 13" W 305.94 feet; thence N 0° 11' 29" E 287.69 feet; thence N 89° 58' 42" E 305.93 feet; thence N 0° 11' 21" E 282.75 feet; thence N 89° 58' 10" E 562.92 feet; thence S 0° 11' 12" W 167.79 feet; thence N 89° 58' 30" E 19.52 feet; thence S 0° 11' 07" W 47.11 feet; thence N 89° 58' 36" E 5.31 feet; thence S 0° 11' 12" W 65.53 feet; thence N 89° 58' 50" E 177.00 feet; thence S 0° 11' 03" W 2.43 feet to the point of beginning.

This Amended and Restated Declaration extends to parcel # 16321560010000 and all parcels located within the Capri Park Homes Condominium