

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
KAY PLANNED DEVELOPMENT

THIS DECLARATION is make this 19 day of May,
1987, by STEVE KAY ASSOCIATES, INC. (Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property
in Utah County, Utah, and more particularly described as:

Commencing at a point located West along the Section line
907.15 feet and South 24.75 feet from the N. E. corner of
section 10, Township 6 South, Range 2 East, Salt Lake
Base and Meridian; thence South 00°47'00" East 114.87
feet; thence South 90°00'00" East 68.62 feet; thence
South 00°47'00" East 33.02 feet; thence South 89°43'03"
East 33.50 feet; thence South 02°13'33" East 162.82 feet;
thence South 89°51'00" West 104.70 feet; thence North
00°09'00" West 20.00 feet; thence South 89°51'00" West
65.00 feet; thence South 00°09'00" East 20.00 feet;
thence South 89°51'00" West 103.51 feet; thence North
00°48'30" West 7.00 feet; thence South 89°51'00" West
8.30 feet; thence North 00°54'00" West 129.00 feet;
thence North 89°51'00" East 147.56 feet; thence North
00°47'00" West 175.12 feet to the point of beginning.

AREA = 1.071 ACRES /

(the "real property"); and

WHEREAS, Declarant intends to develop the real property
as a residential planned development known and to be known as
Steve Kay Planned Development (the "Project"); and

WHEREAS, Declarant desires to provide for the preservation
of values and amenities within the Project and for the maintenance
of roadways, open spaces, recreational facilities and any other common
areas or facilities to be developed as part of the Project; and to
this end desires to subject the real property to the covenants,
conditions, restrictions, uses, limitations, obligations, servitudes,
easements, charges, liens and other provisions (herein all together
called "covenants and restrictions") set forth in this Declaration,
each and all of which is and are for the benefit of the real prop-
erty and the subsequent owners thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities in the Project to create an association to which will be conveyed title to all of the Common Areas and to which will be delegated and assigned the powers and duties of maintaining and administering said Common Areas, administering and enforcing the provisions of this Declaration, and disbursing the charges and assessments herein created; and

WHEREAS, Declarant has caused to be formed Key Homeowners Association, Inc., a Utah non-profit corporation without capital stock (the "Association") for the purposes of carrying out the aforesaid powers, duties and obligations;

NOW, THEREFORE, Declarant hereby declares that the real property is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to the covenants and restrictions hereinafter set forth, all of which are declared and agreed shall be in aid of the Project's plan of development; shall protect the value of the real property and the improvements comprising the Project; shall run with and bind the real property and all persons having any right, title or interest therein, their heirs, successors and assigns; and shall inure to the benefit of and be enforceable by Declarant, its successors and assigns, the Association, and any person owning or acquiring an interest in the real property.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration, shall have the meanings or refer to the items or matters set forth as follows:

1.01 Association: The Key Homeowners Association, Inc., a Utah non-profit corporation, its successors and assigns.

1.02 Board of Trustees or Board: The governing board of the Association.

1.03 Common Areas: The entire Project, including but not limited to outdoor lighting, fences, landscaping, walkways, pathways, interior roadways, recreational improvements, community buildings, recreational vehicle parking area, guest parking areas, but specifically excluding therefrom Lots and any Units constructed thereon.

1.04 Common Assessment: Assessments levied by the Association to offset Common Expenses.

1.05 Common Expenses: Any of the following:

(a) Expenses or reasonable reserves for the maintenance, management, operation, repair or replacement of the Common Areas or Limited Common Areas;

(b) Expenses of management and administration of the Association, including any compensation paid by the Association to a manager, accountant, attorney or to any employees or agents; and

(c) Any other item or items designated by this Declaration or the By-laws of the Association to be Common Expenses, and any other expenses reasonably incurred by the Association on behalf of all Owners.

1.06 Limited Common Areas: Common Areas that are reserved for use of a certain Lot, Unit or Owner to the exclusion of other Lots, Units or Owners, including but not limited to sidewalk entries and exterior porches to any Unit, and the exterior of fences separating the Lots from the Common Areas.

1.07 Lot: The subdivided and numerically designated parcels as shown on any recorded Map of the Project and designated for construction of the Units.

1.08 Map or Maps: The recorded subdivision plat or plats of the Project recorded in the Office of the County Recorder, Utah County, Utah pursuant to applicable law.

1.09 Member: A person or entity who holds any class of membership in the Association.

1.10 Owner: The record owner (whether one or more persons or entities) of fee simple title to any Lot as reflected on the records of Utah County, Utah, including contract sellers, but excluding a mortgagee under a mortgage or a trustee or beneficiary under a deed of trust unless and until such person has acquired record title pursuant to applicable foreclosure proceedings or any arrangement in lieu thereof.

1.11 Private Areas: Those areas of the Project that are not Common Areas or Limited Common Areas, namely the Units, including interior fences.

1.12 Rules and Regulations: The Rules and Regulations governing the use of the Common Areas within the Project as duly adopted and circulated by the Association to the Members.

1.13 Special Assessment: Assessments levied by the Association to offset Special Expenses.

1.14 Special Expenses: Expenses incurred or to be incurred by the Association to defray, in whole or in part, the construction, reconstruction, repair to or replacement of designated capital improvements located on or forming a part of the Common Areas.

1.15 Unit: The combination of dwelling, rear yard and garage constructed on a Lot and intended for the independent and private use of an Owner.

ARTICLE II

PROPERTY RIGHTS

2.01 Owner's Right and Easement of Enjoyment. Each Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to the land and shall pass with the title to such Owner's Lot. Each Owner shall have a permanent right and easement of ingress and egress, for both vehicular and pedestrian traffic, over such portion of the Common Areas as are set aside and designated on the Map as streets, roadways, sidewalks or pathways, subject to the right of the Association:

(a) To suspend (1) the voting rights and (2) the right to use Common Area recreational facilities of any Owner for any period during which any assessment against such Owner's Lot remains unpaid for more than thirty (30) days, or for a period of not to exceed sixty (60) days for any infraction of the Rules and Regulations.

(b) To dedicate or transfer 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 agreeing to such dedication or transfer signed by at least two-thirds (2/3) of the Members entitled to vote has been recorded.

2.02 Delegation of Use. Any Owner may designate his right of enjoyment to the Common Areas to the members of his family who reside with him in his Unit, or to his tenants or contract purchasers who reside in his Unit. The rights and privileges of such delatee shall be subject to suspension in the same manner and to the same extent as those of the Owner.

ARTICLE III

PROJECT ADMINISTRATION

3.01 Administration of Project. The Project shall be administered by the Association, acting by and through its Board of Trustees, who shall be elected in accordance with the Articles of Incorporation and By-Laws of the Association, and whose duties will be governed by the provisions thereof and this Declaration. The Association may employ a professional management agent to perform, subject to the supervision of the Board of Trustees, such duties and services as the Board shall direct, including, but not limited to, management of the Common Areas and the collection of and accounting for assessments made by the Association.

3.02 Rules and Regulations. The Association shall have the power to establish and enforce compliance with the Rules and Regulations and to amend the same from time to time. A copy of such Rules and Regulations shall be delivered or mailed to each Member promptly upon the adoption thereof.

3.03 Common Utilities. The Association shall be responsible for the payment of common utility services that are provided by public utilities to the Project for the benefit of Common Areas or for the overall benefit of the Project, specifically electricity, gas, water, sewer and garbage collection.

ARTICLE VI

MEMBERS AND VOTING RIGHTS

4.01 Membership. Each Owner shall be a Member of the Association by virtue of his Lot ownership which shall be the sole qualification for membership. Membership shall be appurtenant to and shall pass from an Owner only with conveyance of title to such Owner's Lot.

4.02 Class of Members. The Association shall have two (2) classes of voting members, Class A and Class B:

Class A. Class A Members shall be limited to Owners, other than Declarant, who shall be entitled to one (1) vote for each Lot owned.

Class B. Declarant shall be the sole Class B Member and shall be entitled to three (3) votes for each Lot owned. Class B membership shall cease and be converted to Class A membership upon the first of the following events to occur:

(a) when the total Class A votes outstanding equal the total Class B votes outstanding;
or

(b) on July 1, 1994

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4.03 Proxies. An Owner may give his proxy, either specific or general, to another Owner or to a contract purchaser of his Lot to vote on all matters coming before the Association for vote provided the same is in writing, authenticated by witnesses or a notary public and is presented to those Association officers conducting such vote.

4.04 Suspension of Voting Rights. The voting rights of any Member shall automatically be suspended during any period in which he shall be delinquent for more than thirty (30) days in the payment of assessments due the Association and for any period during which his right to use the Common Area recreational facilities shall have been suspended by the Board of Trustees, not to exceed a period of sixty (60) days.

ARTICLE V

PROJECT MAINTENANCE

5.01 Duties of Association. The Association shall have the responsibility to repair, replace, and otherwise maintain in a first-class condition all Common Areas and Limited Common Areas of the Project.

5.02 Exterior Maintenance. The Association will provide maintenance to and upon the exterior of Common Areas, Limited Common Areas and exteriors and roofs of Units as follows: paint, stain, repair, replace, and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, streets and parking, including snow removal therefrom, and all other exterior improvements but excluding glass surfaces on any Unit.

5.03 Duties of Owners. Each Owner shall have the duty and responsibility to maintain his Private Area and to provide routine, as opposed to major or capital, maintenance and repair on all Limited Common Areas related to his Lot and Unit. In the event an Owner fails to do so in a manner satisfactory to the Board of Trustees, then, after a resolution passed by at least two thirds (2/3) of the Trustees, the Association shall have the right, through its agents and employees, to enter upon such Owner's Lot or Unit to repair, maintain and restore such Private and Limited Common Areas to a standard consistent with the Project, the cost thereof to be added to and become a part of the assessment to which such Lot is subject.

5.04 Private Streets. Streets within the Project are part of the Common Areas and are private, non-dedicated streets. They shall be maintained by the Association so long as they remain private and non-dedicated. Before such streets can be dedicated, their condition must be brought to standards acceptable to Provo City and the consent of Members obtained pursuant to Section 2.01 (b) of this Declaration.

ARTICLE VI

ASSESSMENTS

6.01 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by him/her in the Project, hereby covenants and agrees, 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: (a) annual Common Assessments or charges; and (b) Special Assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Common and Special Assessments, together with interest, costs and reasonable attorney's fees incurred in any collection thereof shall be a charge on the land and shall be a continuing lien upon the Lot and Unit against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees incurred in any collection thereof shall also be the personal obligation of the person who was the Owner of such Lot and Unit at the time when the assessment was made. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them; provided, however, that nothing herein shall be construed to prevent the creation of such lien upon an Owner's Lot and Unit as herein set forth.

6.02 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and for the improvement and maintenance of the Common Areas and Limited Common Areas of the Project.

6.03 Annual Budget. Not less than thirty (30) days prior to the commencement of each fiscal year of the Association (which shall be determined as provided in the Association's By-Laws), the Board of Trustees shall establish an annual budget for such fiscal year, including therein all anticipated items of income and all anticipated items of Common Expense together with a reasonable reserve for contingencies.

6.04 Annual Common Assessment. By the adoption of the annual budget by the Board of Trustees there shall be established an annual Common Assessment for each Lot for the payment of which each Owner, including Declarant, shall be personally liable, as follows:

(a) Written notice of such annual Common Assessment shall be sent to every Owner subject thereto.

(b) Each Owner shall pay his share in even monthly installments of one-twelfth (1/12) thereof on the first day of each month during the fiscal year. The first monthly installment, or prorated portion thereof, of such annual Common Assessment shall be due and payable by an Owner upon the close of his Lot purchase.

(c) Declarant shall pay its share in even monthly installments of one-twelfth (1/12) thereof for each of its Lots on the first day of each month during the fiscal year.

(d) Declarant shall commence payment of Common Assessments on its Lots in each phase of the Project upon the first day of the month following the close of sale of the first Lot in each such phase.

(e) Upon resolution adopted by the Board of Trustees each Owner (other than Declarant), may be required to deposit and to maintain up to the equivalent of three (3) monthly installments of his annual Common Assessment for purchase of equipment or supplies or for working capital. Such advance payment shall not relieve an Owner from making the regular monthly installment payments. Upon the sale of his Lot, an Owner shall be entitled to a credit from his grantee for any uncredited portion of such advance.

(f) If the annual budget is not adopted as herein required, the previous fiscal year monthly payments shall continue to be due by each Owner until such time as the

annual budget for the current year is established, at which time the annual Common Assessment shall become retroactive to the commencement of such current fiscal year.

6.05 Maximum Annual Common Assessment. Until January 1, of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Common Assessment shall not exceed \$600 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 Common Assessment may be increased each year not more than ten percent (10%) above the maximum annual Common Assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Common Assessment may be increased above ten percent (10%) by a vote of at least two-thirds (2/3) of the eligible vote of each class of Members who are voting in person or-by proxy at a meeting duly called for this purpose.

(c) The Board of Trustees may fix the annual Common Assessment at an amount not in excess of the maximum permitted herein.

6.06 Special Assessments for Capital Improvements. In addition to the annual Common Assessment 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 Areas, including fixtures and personal property related thereto. provided that any such assessment shall have the assent of two-thirds (2/3) of the eligible votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

6.07 Notice and Quorum for Any Action Authorized Under Sections 6.05 and 6.06. Written notice of any meeting called for the purpose of taking any action authorized under Sections 6.05 or 6.06 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members in person or by proxy entitled to cast sixty percent (60%) of all the eligible 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 shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6.08 Uniform Rate of Assessment. Both annual Common Assessments and Special Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

6.09 Association Remedies Upon Non-payment of Assessments. Any Assessment not paid within thirty (30) days after the due date shall bear interest at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the Lot and Unit to which such lien has attached. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Areas or by abandonment of his Lot or Unit.

6.10 Subordination of Assessment Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the

lien of any first mortgage or first deed of trust upon a Lot pursuant to the following provisions:

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(a) Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or first deed of trust, 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.

(b) No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

(c) Should the provisions of this Section 6.10 and the subsections thereunder be or become in conflict with any federal or Utah legislation now in effect or hereafter enacted, the provisions of such legislation shall prevail.

ARTICLE VII

INSURANCE

7.01 Types of Insurance. The Association shall obtain from companies licensed to do business in the State of Utah and shall keep in full force and effect at all times the following types of insurance covering the entire Project (both Units and Common Areas) and shall pay the premiums thereon as a Common Expense:

(a) Fire and Casualty Insurance. The Association shall obtain a policy or policies of insurance on the Project in such amounts as shall provide for the maximum insurable replacement thereof in the event of damage or destruction from the casualty against which such insurance is obtained, which insurance shall be in accordance with coverage customarily maintained in other projects similar in construction, design, and use. Such insurance shall include fire and extended coverage, vandalism and malicious mischief, and such other risks and hazards against which the Association shall deem it appropriate to provide insurance protection. The Association may elect such "deductible" provisions as in the Association's opinion are consistent with good business practice.

(b) Public Liability and Property Damage Insurance. The Association shall obtain a broad form of comprehensive liability insurance coverage, in such amounts and in such forms as it deems advisable to provide adequate protection against liability for personal injury, death, and property damage. Coverage shall include without limitation liability for operation of automobiles on behalf of the Association and all activities in connection with the ownership, operation, maintenance, and other use of the Project or any portion thereof.

(c) Workmen's Compensation Insurance. The Association shall obtain and maintain workmen's compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(d) Fidelity Insurance or Bond. The Association shall purchase, in such amounts and in such forms as it deems appropriate, fidelity insurance or a bond to cover against dishonesty of the Association's Trustees, officers, or employees, destruction or disappearance of money or securities, and forgery.

7.02 Form of Insurance. Insurance coverage on the Project, insofar as possible, shall be in the following form:

(a) Fire and Casualty Insurance. Casualty insurance shall be carried in a form or forms naming the Association as the insured, as trustee for the Owners and mortgagees or trust deed beneficiaries, and such policy or policies shall specify, if required, the interest of each Owner. Each policy shall include a standard, noncontributory mortgagee clause in favor of each mortgagee or trust deed beneficiary which from time to time shall give notice to the Association of its mortgage or trust deed. Each policy also shall provide that it cannot be cancelled or reduced in coverage either by the insured or by the insurance company until after thirty (30) days prior written notice is given to each Owner and to each mortgagee or trust deed beneficiary whose interests are protected by the policy. The Association shall furnish on demand to each Owner, and to each mortgagee or trust deed beneficiary requesting the same, a certificate of coverage, including an identification of the Owner's and mortgagee's or trust deed beneficiary's interest.

(b) Public Liability and Property Damage Insurance. Public liability and property damage insurance shall name the Association and each Owner in his capacity as a Member of the Association as the insureds, and shall protect the Association and each Owner/Member against liability for acts or omissions of the Association and the Owners/Members, and if obtainable at a reasonable cost, against liability for acts or omissions of all other persons and entities in connection with the ownership, operation, maintenance, or other use of the Project. Each such policy shall provide that it cannot be cancelled or reduced in coverage either by any insured or by the insurance company until after thirty (30) days prior written notice to the Association and each Owner/Member.

(c) Policies. The Association shall make every effort to secure insurance policies that will provide for the following:

(1) The insurer shall waive subrogation claims against the Association, the Owners/Members, and their respective employees, agents, and guests;

(2) The policy or policies on the Project cannot be cancelled, invalidated, or suspended on account of the conduct of any one or more individual Owners/Members;

(3) The policy or policies on the Project cannot be cancelled, invalidated, or suspended on account of the conduct of any Trustee, officer, or employee of the Association without a prior demand in writing that the Association cure the defect; and

(4) Any "no other insurance" clause in the policy or policies on the Project shall exclude individual Owners/Members policies from consideration.

7.03 Additional Coverage. The provisions of this Declaration shall not be construed to limit the power or authority of the Association to obtain and maintain insurance coverage in addition to any insurance coverage required by this Declaration, in such amounts and in such forms as the Association may deem appropriate from time to time.

7.04 Adjustment and Contribution. Exclusive authority to adjust losses under policies hereafter in force on the Project shall be vested in the Association, subject, however, to the rights of mortgagees or trust deed beneficiaries. In no event shall the

insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners/Members or their mortgagees or trust deed beneficiaries.

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7.05 Owner's Own Insurance. Each Owner, at his own expense, shall have the responsibility to procure and maintain at all times fire and extended coverage insurance ("homeowner coverage") covering his Unit and its contents and shall name the Association as an additional insured as its interests may appear. Each Owner shall provide satisfactory evidence of such insurance to the Association promptly upon request. Each Owner may obtain additional insurance providing coverage upon his Unit, his personal property, and/or for his personal liability, and covering such other risks as he may deem appropriate.

7.06 Review of Insurance. The Association shall review annually the coverage and policy limits of all insurance required to be maintained by the Association and adjust the same at its discretion. Such annual review may include an appraisal of the improvements in the Project by a representative of the insurance carrier or carriers providing the policy or policies on the Project, or by such other qualified appraisers as the Association may select.

ARTICLE III

PARTY WALLS

8.01 General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Units and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

8.02 Sharing of Repair and Maintenance. The costs of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

8.03 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has use of the wall may restore it, and if the other Owner thereafter makes use of the wall, he shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owner making the repairs to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

8.04 Weatherproofing. Notwithstanding any other provision of this Article, an Owner who, by his negligent or willful act, causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

8.05 Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

8.06 Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE IX

MORTGAGES OR TRUST DEEDS

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9.01 Notices. Any Owner who encumbers his Lot by a first mortgage or first trust deed shall furnish the Association with the name and address of the mortgagee or beneficiary and the Association shall maintain such information in a book entitled "Mortgages of Lots". The Association shall provide notice to such mortgagee or beneficiary of any unpaid assessments due from the Owner of such Lot at the same time as the Association makes demand on the Owner thereof for payment of such assessment. Each such mortgagee or beneficiary shall also be entitled to written notification from the Association of any other default by its Owner-mortgagor/trustor in the performance of such Owner's obligations under the terms and provisions of this Declaration which shall not have been cured within thirty (30) days after written notice to such Owner-mortgagor/trustor by the Association specifying the nature of such default. Any notices required by the Association to any mortgagee or beneficiary pursuant to the provisions of this Section 9.01 shall be satisfied by providing to such mortgagee or beneficiary a copy of the notice or demand sent by the Association to the delinquent or defaulting Owner.

9.02 Delinquent Assessments. A mortgagee or trust deed beneficiary may, but shall not be required to, pay any delinquent assessments due upon an encumbered Lot and the amount of such payment shall be added to the indebtedness due to such mortgagee or beneficiary.

9.03 Right to Examine. The mortgagee or trust deed beneficiary shall have the right to examine the books and records of the Association upon request and to require annual reports of the financial status of the Association.

ARTICLE X

ARCHITECTURAL CONTROL

10.01 Committee and Approval. No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made to any Unit until the plans and specifications showing the nature, kind, shape, height, materials and location thereof 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 an Architectural Committee composed of three (3) or more persons appointed by the Board of Trustees.

10.02 Lack of Committee Action. If said Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted and receipted by it, approval will not be required and the provisions of this Article will be deemed to have been fully complied with.

ARTICLE XI

RESTRICTIONS

11.01 Residential Use. Each Unit shall be occupied and used by its Owner only as a private residence dwelling for the Owner, his family, tenants and social guests and shall further conform to applicable zoning ordinance requirements of Orem City, Utah.

11.02 Alterations. No Owner shall make structural alterations or modifications to his Unit or to any of the Common Areas or Limited Common Areas, including but not limited to, the erection of antennas (including satellite "dishes"), aeriials, awnings, the placement of any reflective or other materials in the windows of his Unit or other exterior attachments, signs or advertising devices withouth the prior written approval of the Architectural Committee. The Committee shall not approve any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Project.

11.03 Improper Activities. No unlawful activities shall be carried on in any Unit, Lot or upon the Common Areas or Limited Common Areas, nor shall anything be done which may be a nuisance to the Owners. No Owner shall store any dangerous explosives or inflammable materials either in his Unit, on his Lot, or upon the Common Areas or Limited Common Areas, or permit anything to be done or to keep or permit to be kept in his Unit, on his Lot, or on the Common Areas or Limited Common Areas anything that will increase the rate of insurance within the Project.

11.04 Signs. No signs or other advertising devices shall be displayed which are visible from the exterior of any Unit or on the Common Areas or Limited Common Areas including "For Sale" signs, except in conformity with the Rules and Regulations promulgated by the Board of Trustees.

11.05 Use of Common Areas. The Common Areas shall not be used for storage of supplies, personal property or trash or refuse of any kind except common trash receptacles placed within the Project at the discretion of the Association, nor shall the Common Areas be used in any way for the drying, shaking or airing of clothes or fabrics. Stairs, entrances, sidewalks, yards, driveways or parking areas shall not be obstructed in any way nor shall unauthorized persons use them for other than their intended purposes.

11.06 Pets. No animals shall be kept in the Project except household pets. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor, or unsanitary conditions. No wild or dangerous animals shall be kept within the Project. No more than one household pet may be kept in any Unit or on any Lot without the prior written permission of the Association. No pets shall be permitted to run loose upon the Common Areas.

11.07 Parking. There shall be no parking of recreational vehicles or boats in the Project except in designated areas specifically provided therefor. No vehicles shall be parked on public or private streets within the Project so as to obstruct traffic flow and Owners will encourage their guests and invitees to use designated guest parking areas.

ARTICLE XII

DEFAULT

12.01 Definition. Failure to comply with any of the terms of this Declaration, the Articles of Incorporation of By-Laws of the Association or the duly adopted Rules and Regulations of the Association shall constitute an event of default and shall be grounds for relief, which may include, without limitation, actions to recover sums due for damages or injunctive relief, or a combination thereof.

12.02 Costs and Attorney Fees. In any proceeding arising because of any alleged default by any Owner, the Association,

if successful, shall be entitled to recover the costs of the proceedings and reasonable attorneys fees from such Owner.

12.03 Remedies Cumulative. The failure of the Association or of any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration, the Articles of Incorporation or By-Laws of the Association, or the Rules and Regulations, shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies and privileges shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges, as may be available to such party at law or in equity.

ARTICLE XIII

GENERAL PROVISIONS

13.01 Acceptance of Governing Rules. The Association, all present or future Owners, tenants or future tenants, or any other persons utilizing any facility or improvement within the Project are subject to and shall comply with this Declaration, the Articles of Incorporation and By-Laws of the Association, and the Rules and Regulations, and the acquisition, occupancy or rental of a Unit shall signify that all such documents are accepted and ratified. In the event of a conflict in any of the provisions of any such documents, the documents shall govern or control in the following order or preference: (a) this Declaration; (b) the Articles of Incorporation of the Association; (c) the By-Laws of the Association; and (d) the Rules and Regulations.

13.02 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.

13.03 Delivery of Notices. All notices or other documents required herein to be delivered by the Association or Owners may be delivered either personally or by mail. If delivered personally, such notice shall be deemed to have been delivered when actually received by the Owner or when left at the front door of his Unit. If mailed, such notice shall be deemed delivered when deposited in the United States Mail addressed to the Owner at his address as it appears on the records of the Association with postage prepaid thereon.

13.04 Severability. If any of the provisions of the Declaration or any paragraph, sentence, clause or phrase or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any provisions, paragraph, sentence, clause or phrase in any other circumstances shall not be affected thereby.

13.05 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment hereto must be recorded.

13.06 FHA/VA Approval. As long as there is a Class B member ship, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Public dedication of Common Areas; and amendment of this Declaration.

13.07 Headings and Titles. Headings and titles of articles, sections or paragraphs are used in this Declaration for convenience of reference and are not intended to limit, enlarge or change the meaning or contents thereof.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration on the day and year herein First above written.

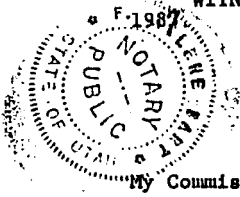
KAY DEVELOPMENT ASSOCIATION, INC.

By *Steve Kay*
Steve Kay, Declarant

STATE OF UTAH)
) : ss
COUNTY OF UTAH)

Before me, a Notary Public in and for the State of Utah, personally appeared Steve Kay, known to me to be the person whose name is subscribed to the foregoing instrument.

WITNESS my hand and official seal this 19th day of May



J. Charles Dant
Notary Public

My Commission Expires:
7/6/97

Residing at:
10424 4000 Quail St. 84051