

WHEN RECORDED RETURN TO:
IVORY DEVELOPMENT, LLC
978 E. Woodoak Lane
Salt Lake City, Utah 84117
(801) 268-0700

**FIRST AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DA VINCI PLACE,
a Planned Residential Development and Age Restricted Community**

This First Amendment to the Declaration of Covenants, Conditions and Restrictions for Da Vinci Place is made and executed by Ivory Development, LLC., a Utah limited liability company, of 978 E. Woodoak Lane, Salt Lake City, Utah 84117 (the "Declarant").

The Declaration of Covenants, Conditions and Restrictions for Da Vinci Place was recorded in the office of the County Recorder of Utah County, Utah on October 28, 2005 as Entry No. 123594:2005 at Pages 1-64 of the Official Records. Declarant reserved the right to amend the Declaration. Declarant is the fee simple owner of record of the real property located in Utah County, Utah which is the subject of this document, described with particularity on Exhibit "A" attached hereto and incorporated herein by this reference (the Property").

SUMMARY OF AGE RESTRICTIONS

Declarant desires and intends that the Property be operated to provide housing opportunities primarily for Persons age 55 and older in accordance with 42 U.S.C. Section 3602(k).

1. Age Restriction. At least 80% of the occupied homes must be occupied by at least one person 55 years of age or older.
2. Policies and Procedures. The Declarant or the association of homeowners will publish and adhere to policies and procedures that demonstrate an intent to provide housing for age qualified persons, such as written rules, regulations, lease provisions, deed restrictions, advertising, actual practices, and so forth.
3. Verification of Occupancy. Da Vinci Place will comply with rules issued by the Secretary of Housing and Urban Development for verification of occupancy through reliable surveys and affidavits. Owners and occupants shall be required to cooperate in providing age verification. Da Vinci Place will re-survey its list of residents at least once every two years to ensure that the 80% requirement is met.

4. Exceptions. The following homes may be excluded from the calculation of the 80% requirement:

- a. Unoccupied homes.
- b. Homes occupied by employees of Da Vinci Place who are under age 55, and who provide substantial management and maintenance services to the development.
- c. Homes occupied solely by persons who are necessary or essential to provide medical and/or health and nursing care services as a reasonable accommodation to residents.

5. Marketing. The Declarant may advertise or market the 20% portion of the homes not required to be occupied by at least one age qualified person to prospective buyers under age 55 and to families with children, but the marketing must be done in a way that identifies Da Vinci Place as housing intended for older persons. Advertising and marketing must be consistent with the intent. In order to not risk losing the exemption if some occupants over 55 die with survivors or heirs who are under age 55, re-sales and leases of homes in Da Vinci Place are restricted to occupancy by at least one age qualified person.

6. Temporary Absences. If an age qualified occupant is on vacation, hospitalized, on sabbatical, providing ecclesiastical, philanthropic, humanitarian or related service, or otherwise absent for a season, the occupant may allow a younger relative or a house sitter under age 55 years to live in the home during this absence and the home would be included in the 80% occupancy requirement as long as the home is not rented out, and the age qualified occupant returns on a periodic basis and maintains legal and financial responsibility for the upkeep of the home.

NOW, THEREFORE, for the reasons herein, and for the benefit of Da Vinci Place, and the Lot Owners thereof, Declarant hereby executes this First Amendment to the Declaration of Covenants, Conditions and Restrictions for Da Vinci Place.

1. **Supplement to Definitions**. Article I of the Declaration, entitled "Definitions," is hereby modified to include the following supplemental definitions:

- A. **First Amendment** shall mean and refer to this First Amendment to the Declaration of Covenants, Conditions and Restrictions for Da Vinci Place, an age 55 and older planned residential development.
- B. **Age Qualified Occupant** shall mean and refer to any Person 55 years of age or older who occupies a Dwelling Unit.

C. **Age Restricted Community** shall mean and refer to a development in compliance with 42 U.S.C., Section 3602(k) and all applicable state and federal housing laws.

D. **Age Restriction** shall mean and refer to the requirement that this Project is intended to provide housing primarily for persons 55 years of age or older and shall be operated as an Age Restricted Community.

Except as otherwise herein provided, the definition of terms contained in the Declaration are incorporated herein by this reference.

2. Article III, Section 6 shall be deleted in its entirety and the following language shall be substituted in lieu thereof:

6. **Conveyancing.** Any deed, lease, mortgage, deed of trust or other instrument conveying or encumbering a Lot shall describe the interest or estate involved substantially as follows:

All of Lot No. _____ contained within Da Vinci Place, a planned residential development, Phase _____, as the same is identified in the Final Plat recorded in Utah County, Utah as Entry No. _____ at Pages _____ (as said Final Plat may have heretofore been amended or supplemented) and in the Declaration of Covenants, Conditions and Restrictions for Da Vinci Place, a planned residential development, (as said Declaration may have heretofore been amended or supplemented), together with an undivided membership in and to the association of lot owners. Occupancy in each dwelling unit is restricted to at least one person 55 years of age or older.

Regardless of whether or not the description employed in any such instrument is in the above-specified form, all provisions of this Declaration, as amended, shall be binding upon and shall inure to the benefit of any party who acquires any interest in a Lot. Neither the membership in the Association, nor the right of non-exclusive use of a Common Area shall be separated from the Lot to which it appertains; and, even though not specifically mentioned in the instrument of transfer, such mandatory membership in the association and such right of exclusive use shall automatically accompany the transfer of the Lot to which they relate.

3. Article III, Section 7(a) is deleted in its entirety and the following language is substituted in lieu thereof:

a) **Nature and Restrictions on Ownership and Use in General.** Each Owner shall have and enjoy the privileges of fee simple ownership of his Lot; however, this is an Age Restricted Community and, as such, is intended and operated for occupancy by persons age 55 and older. The Lots shall be used for residential purposes and the Common Areas and Facilities shall be used in a manner consistent with the residential nature of the Project and its status as an Age Restricted Community. The Declarant and/or Association are granted and hereby expressly reserve the unilateral right to void any re-sale or lease of a Lot or Dwelling Unit in violation of the Age Restrictions by recording a written "Notice of Election to Void Sale or Lease for Violation of Age Restrictions" or its equivalent in the office of the County Recorder of Utah County, Utah.

4. Article III, Section 7(c) is amended to add the following subsections:

(4) The right, power and authority to require that at least 80% of the occupied Dwelling Units are occupied by at least one Age Qualified Person.

(5) The right, power and authority to enforce the Age Restriction.

5. Article III, Section 7(e)(14) is deleted in its entirety and the following language is substituted in lieu thereof:

(14) Fencing and Gardens. In order to maintain the open nature of the Project and the Declarant's original design and architectural scheme, the following fencing restrictions shall apply:

a) No front yard fencing is allowed;

b) No fence or other similar structure shall be erected in any side or rear yard to a height in excess of six feet (6');

c) Each Lot, if fenced, shall have at least one gate with an opening of at least forty-three inches (43") so that the lawn care company can access the back yard area with their equipment;

d) Fencing may not extend beyond the geometric plane established by the rear corner of the house;

e) Wood fencing is not allowed;

f) Chain link fencing is not allowed except around a tennis or other sports court;

f) Tan vinyl fencing is allowed;

g) Anything to the contrary notwithstanding, the Declarant is granted and hereby reserves the unilateral right to determine the construction material of the perimeter fence;

h) Any fencing or similar structure using other construction materials or colors than those established hereby shall require the prior express written approval of the ARC and ALL fencing plans MUST have the prior written approval of the ARC;

i) The property owner must allow access to every utility located adjacent to the public right of way. These utilities include fire hydrants, water meters, telephone pedestals, power poles, power boxes, cable boxes, irrigation facilities, or any other utility feature;

j) All fencing must be constructed or installed with a minimum three-foot (3') clearance from the outer-most edge of the utility;

k) Fencing on corner Lots shall meet city ordinances regarding vision triangle standards for safety visibility;

l) Vegetable gardens in the rear yard are allowed if they are contained behind a privacy fence and are not visible to the general public or a neighbor;

m) No alterations to the landscaping in the front or side yards is allowed, including trees, bushes, shrubs and plant or flower beds; and

m) If there is a dispute as to gardens, landscaping, fencing or what constitutes visible to the public or other residents, the front, side or rear yards, including the location of the geometric plane established by the rear of the house, the decision of the ARC shall be final, binding and conclusive.

6. Article III, Section 7(e) shall be amended to add the following new subsection:

(31) **Housing for Older Persons.** This Project is intended and operated for occupancy by persons age 55 and older. Persons who purchase Lots from the Declarant are permitted to occupy Dwelling Units; provided, however:

a. At least 80% of the occupied Dwelling Units must be occupied by at least one Age Qualified Person. Once a Dwelling Unit is occupied by an Age-Qualified Occupant, other Qualified Occupants of that Dwelling Unit may continue to occupy that Dwelling Unit, regardless of the termination of the Age-Qualified Occupant's occupancy, if at least 80% of the Dwelling Units within the Project are occupied by at least one Person 55 years of age or older;

b. The Association shall publish and adhere to policies and procedures as may be necessary that demonstrate the intent of the Declarant to establish and maintain the Property's status as an Age Restricted Community; and

c. The Association shall comply with all of the rules issued by the Secretary of HUD for verification of occupancy. The Management Committee shall either provide or contract for surveys and affidavits to verify that the Property is and remains an Age Restricted Community.

The Association shall have the power and authority to enforce this Section and the Age Restriction by any legal or equitable means available, as the Management Committee deems appropriate.

6. **Legal Description.** The Property shall be held, transferred, sold, conveyed and occupied subject to the provisions of the Declaration as it may be supplemented or amended from time to time.

7. **Declarant's Period of Control.** Anything to the contrary notwithstanding, the Declarant is granted and hereby reserves the unilateral right to control and direct the affairs of the Association and appoint the members of both the Management Committee and the Architectural Review Committee until it has sold all of its Lots in the Project or recorded a "Notice of Waiver of Declarant's Period of Control" in the office of the County Recorder of Utah County, Utah.

8. **Mortgagee Protection.** Nothing herein contained, and no violation of these covenants, conditions, and restrictions, shall invalidate or impair the lien of any mortgage or deed of trust, given in good faith and for value.

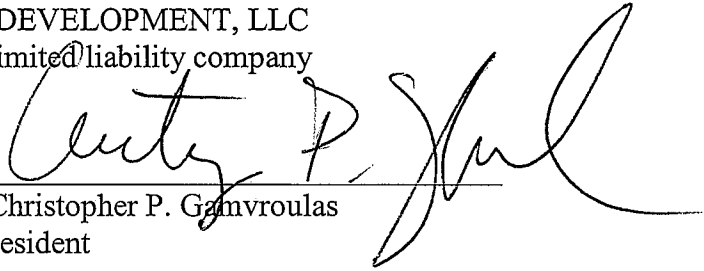
9. **Construction.** In the event of any inconsistency, incongruity or conflict between the provisions of this First Amendment and the provisions of the Declaration, the former shall in all respects govern and control.

10. **Effective Date.** The effective date of this First Amendment is the date on which said instrument is filed for record in the Office of the County Recorder of Utah County, Utah.

Dated the 25th day of January, 2006.

DEVELOPER:
IVORY DEVELOPMENT, LLC
A Utah limited liability company

By: _____
Name: Christopher P. Gammvroulas
Title: President

A handwritten signature in black ink, appearing to read "Christopher P. Gammvroulas", written over a horizontal line. The signature is cursive and extends to the right of the line.

ACKNOWLEDGMENT

STATE OF UTAH)
SS:
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 25 day January, 2006 by Christopher P. Gamvroulis the ^{President} ~~Manager~~ of IVORY DEVELOPMENT, LLC, a Utah limited liability company, and said he duly acknowledged to me that said company. executed the same.

Donna Perkins
NOTARY PUBLIC
Residing at: Salt Lake
My Commission Expires: 5/30/06

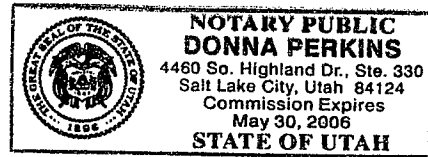


EXHIBIT "A"
LEGAL DESCRIPTION

The Property referred to in the foregoing document is located in Utah County, Utah and is described more particularly as follows:

A portion of Lots 2 and 3, Plat "G", Timpanogos Research and Technology Park, as shown on file in the office of the Utah County Recorder, Utah County, Utah.

Also being described as:

Commencing at a point located South 89°54'39" West along the Section line 328.07 feet and North 33.00 feet from the Southeast corner of Section 2, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 89°54'42" West 488.66 feet; thence along the arc of a 100.00 foot radius curve to the right 34.82 feet (chord bears North 80°06'54" West 34.64 feet); thence along the arc of a 100.00 foot radius curve to the left 34.82 feet (chord bears North 80°06'54" West 34.64 feet); thence South 89°54'39" West 200.00 feet; thence along the arc of a 15.00 foot radius curve to the right 23.59 feet (chord bears North 45°02'40" West 21.23 feet); North 187.85 feet; thence along the arc of a 100.00 foot radius curve to the left 22.41 feet (chord bears North 06°25'09" West 22.36 feet); thence along the arc of a 100.00 foot radius curve to the right 22.41 feet (chord bears North 06°25'09" West 22.36 feet); thence North 452.87 feet; thence East 164.19 feet; thence South 45°00'00" East 250.00 feet; thence East 226.27 feet South 66°45'53" East 227.17 feet; South 00°07'16" East 444.59 feet to the point of beginning.

Area: 446,293 SF 10.25 Acres

CONSENT

COMES NOW the undersigned buyer and consents to the foregoing First Amendment.

Name (Print or Type)

Lot No.

Date

Signature

STATE OF UTAH)
 SS:
COUNTY OF UTAH)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2006.

NOTARY PUBLIC
Residing at:
My commission expires: