

12-301-0104, D108 thru 0116

DECLARATION OF RESTRICTIVE COVENANTS OF
MUIRFIELD SUBDIVISION PHASE 1

TO WHOM IT MAY CONCERN:

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SHERYL L. WHITE, DAVIS CNTY RECORDER
2000 JAN 14 3:09 PM FEE 32.00 DEP REC
REC'D FOR GUARDIAN TITLE COMPANY

PART A. PREAMBLE

WHEREAS, the undersigned Trustees (hereinafter collectively referred to as the "undersigned") are the legal and beneficial owners of a certain tract of land situated in the City of Syracuse, Davis County, State of Utah, described as ~~MUIRFIELD SUBDIVISION PHASE 1~~ SEE EXHIBIT "A"

WHEREAS, the undersigned are about to sell the property described heretofore, which it desires to subject, pursuant to a general plan of improvement, to certain restrictions, conditions, covenants and agreements between itself and the several purchasers of said property themselves as hereinafter set forth, makes the following declarations as to limitations, restrictions and uses to which the lots or tracts constituting such subdivision may be put, and specify that such declarations shall constitute covenants to run with all the land, as provided by law, and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations on all future owners in such subdivision, this Declaration being designed for the purpose of keeping the subdivision desirable, uniform, and suitable in architectural design and use as specified herein.

NOW, THEREFORE, the undersigned declare 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 the undersigned and the several owners and purchasers of said property as between themselves and their heirs, successors and assigns:

PART B. AREA OF APPLICATION

B-1 FULLY PROTECTED RESIDENTIAL AREA. The Residential Area Covenants in Part C in their entirety shall apply to all lots included in MUIRFIELD SUBDIVISION PHASE 1, as attached.

PART C. RESIDENTIAL AREA COVENANTS

C-1. LAND USE AND BUILDING TYPE. No lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height; a private garage for not less than two cars, but not more than three cars; and other outbuildings as shall be approved in advance in writing by the Architectural Control Committee.

C-2. FURTHER SUBDIVISION. A separate single family dwelling must be built on each lot, which dwelling must meet all covenants and restrictions contained herein. No lot, as described by the official plat recorded on this property, may be subdivided into smaller parcels, and each lot is subject to the requirement of sub-part C-1 regarding buildings which must be erected.

C-3 ARCHITECTURAL CONTROL. No building shall be erected, placed, or altered on any lot until the construction plans and specifications (including landscaping plans) and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, in harmony with the external design of existing structures, and as to location with respect to topography and finish grade elevation and landscaping. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved. Approval shall be as provided in Part D.

COURTESY RECORDING
This document is being recorded solely as a courtesy and as an accomodation only to the parties named therein. Guardian Title Co. of Utah hereby expressly disclaims any responsibility or liability for the accuracy thereof.

C-4 DWELLING QUALITY AND SIZE. It is the intention and purpose of the covenants to assure that all dwellings shall be of quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the permitted dwelling size. No residential structure shall be erected or placed on any building lot in said subdivision unless one of the following conditions are met:

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a. If the residence is a single level or a rambler with a basement, the main ground floor areas, exclusive of porches, garage areas or basements, shall be no less than 1235 square feet.

b. If the residence is a story and a half or two story type, there shall be at least 1475 square feet of finished area, exclusive of porches, garage areas or basements.

c. All lots will have residences with an exterior finish of a wainscot at least 3' 6" high on the front elevation with the remaining exterior of vinyl or aluminum siding.

d. The lots bordering on the Golf Course shall have fencing placed within 1 foot of the boundary with the Golf Course and in alignment with the fencing on lots adjacent to said lot. Fence material and design shall meet the standards set by the architectural control committee and shall be in compliance with Syracuse City ordinances. Fencing is the responsibility of the builder or homeowner.

C-5 TIME LIMITATION FOR CONSTRUCTION. Construction of all residential dwellings, pursuant to the terms and conditions of this Part C, must be started no later than six calendar months and completed no later than one calendar year from the date of purchase (the "date of purchase" means the date title is transferred by deed or contract, thus permitting construction).

C-6 EASEMENTS. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may not obstruct or retard the flow of water through the drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

a. EASEMENTS AND ASSUMPTION OF RISK FOR GOLF COURSE LOTS. Each Owner of a lot bordering on the golf course hereby expressly assumes the risk relating to the proximity of the lot to the Golf Course and each Owner agrees to the following:

1) PRIOR TO CONSTRUCTION OF A RESIDENCE ON THE LOT. Until such time as a residence is constructed upon the lot, the Golf Course owner shall be permitted to authorize its agents, registered golf course players, caddies, and maintenance workers to enter the lot to recover a ball, or to play a ball, subject to the official rules of the golf course.

2) SUBSEQUENT TO CONSTRUCTION OF A RESIDENCE ON THE LOT. After a residence has been constructed upon a lot, the Owner of the lot acknowledges and agrees that due to the proximity of the lot to the Golf Course, stray golf balls might enter the lot and some of the players playing the Golf Course might enter the lot to retrieve or play a stray golf ball. In the event that a golf ball enters upon the lot or any player enters upon the lot to retrieve or play a stray golf ball, the Owner of the lot agrees that neither the Course Owner nor any entity responsible for the design, construction, ownership, management, or operation of the Golf Course shall be responsible or liable for any damages caused by the stray balls or players, or any claim of trespass that the Owner of the lot may assert or be entitled to assert resulting therefrom.

3) ASSUMPTION OF RISK BY OWNER AND INDEMNIFICATION. The Owner agrees

that Sun Quest Development L.C., Calute Homes Inc., Blackburn Jones Real Estate Inc., the Golf Course Owners, Golf Course Manager, any of their guests, invitees, clients, or any entity responsible for the design, construction, ownership, management, or operation of the Golf Course shall not be liable to the lot Owner or any other person claiming any loss or damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, loss of view, noise pollution, or other visual or audible offenses, or trespass or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to the proximity of the lot to the Golf Course, including, without limitation, any claim arising in whole or in part from the negligence of the Golf Course, or any entity responsible for the design, construction, ownership, management or operation of the Golf Course. Owner hereby agrees to indemnify and hold harmless the Golf Course Owner and any entity responsible for the design, construction, ownership, management or operation of the Golf Course, including the Course Owner, against any and all claims by Owner's invitees or guests.

4) RESTRICTED ACCESS TO GOLF COURSE. Notwithstanding the proximity of the Subdivision to the Golf Course, each lot Owner acknowledges that ownership of any lot, does not convey to said Owner or create in favor of said Owner any interest in or rights to the use of the Golf Course. Use of the Golf Course shall be strictly limited and controlled by the Course Owner, at its sole and absolute discretion. Further, each lot owner shall be responsible to maintain the security of the boundary of the golf course bordering said lot and to not allow any persons or animals to enter the Golf Course from said lot.

C-7 LANDSCAPING. Landscaping shall be substantially completed on all sides of the dwelling within one calendar year of the date construction began. Construction shall be deemed to have started on the date the lot owner obtains a building permit from Syracuse City. "Substantial completion" shall mean lawn, shrubs, trees or ground cover of a similar grade or quality to the homes in the subdivision covering the entire lot with reasonable allowance for garden space. Landscaping plans shall be subject to review and approval by the Architectural Control Committee.

C-8 NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

C-9 TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, shed or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

C-10 PRIVATE RESIDENCE: MOVING OF STRUCTURES. Said premises shall be used for private residence purposes only, except as hereinafter set forth and no structure of any kind shall be moved from any other prior residence upon said premises.

C-11 SIGNS. No signs of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than two square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

C-12 PETS, ANIMALS, ETC. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the above-described property, or any portion of such property, except that dogs, cats, or other house pets may be kept provided they are not kept, bred, or maintained for any commercial purpose.

C-13 GARBAGE AND REFUSE DISPOSAL. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All

incinerators or other equipment for the storage or disposal of such material shall be kept in clean and sanitary condition. No hazardous material, including waste oil, may be disposed of by any means of disposal on any lot subject to this Agreement.

C-14 CERTAIN EXCEPTIONS FOR DECLARANTS' ACTIVITIES.

Nothing in this declaration shall be understood or construed to prevent declarants, declarants' developer transferee, or the employees, contractors or subcontractors of declarants or declarants' developer transferee, from doing on any part or parts of the subdivision including, but not limited to, constructing and maintaining such structures, including model homes, as may be reasonably necessary or advisable in connection with the development of the subdivision; conducting the business of establishing the subdivision as a residential community in the disposing of lots by sale, lease or otherwise; and the maintaining of such sign or signs on any of the lots owned or controlled by the declarant or the declarants' developer transferee, as may be reasonably necessary or advisable in connection with the sale, lease or otherwise of subdivision lots. As used in this section, the words "declarants' developer transferee" specifically exclude individual purchasers of improved lots.

PART D. ARCHITECTURAL CONTROL COMMITTEE

D-1 MEMBERSHIP. The Architectural Control Committee is composed of Michael E. McBride, Bruce H. Jones, and Kenneth Hammon. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

D-2 BUILDING APPROVAL. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove plans and specifications within 30 days after such have been submitted to it, approval will not be required and the related covenants shall be deemed to have been fully complied with. The architectural control committee will have sole and exclusive authority to modify the conditions specified in these covenants if in the opinion of the committee the plan offers superior architecture or design.

D-3 IMMUNITY OF ARCHITECTURAL CONTROL COMMITTEE. Notwithstanding the foregoing provisions, the Architectural Control Committee shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this declaration, and no member of the Architectural Control Committee shall have any liability, responsibility, or obligation, whatsoever, for any decision or lack thereof, in the carrying out of the duties as a member of such committee. Such Committee and its members shall have only an advisory function, and the sole responsibility for compliance with all of the terms of the declaration shall rest with the homeowner. Each homeowner agrees to save, defend, and hold harmless the Architectural Control Committee and each of its members on account of any activities of the Architectural Control Committee relating to such owner's property or buildings to be constructed on his or her property.

PART E. GENERAL PROVISIONS.

E-1 TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of fifteen years from the date these covenants are recorded, after which said covenants shall be automatically extended for successive periods of ten years each, unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to

change said covenants in whole or in part.

E-2 ENFORCEMENT. Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

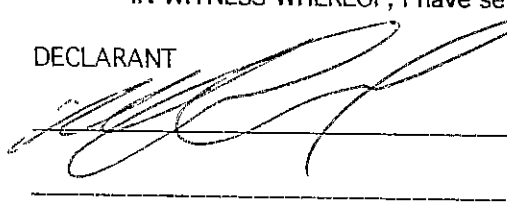
E-3 SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

E-4 ATTORNEY FEES. If any covenant or restriction contained herein is enforced by legal action, the person enforcing the covenant shall have the right to collect reasonable attorney fees and costs against the person found violating the covenant.

PART F. ACCEPTANCE OF RESTRICTIONS. All purchasers of property described above shall, by acceptance of contracts or deeds for any lot or lots shown thereon, or any portion thereof, be conclusively deemed to have consented and agreed to all restrictions, conditions, covenants, and agreements set forth.

IN WITNESS WHEREOF, I have set my hand this 29th day of Dec. 1999.

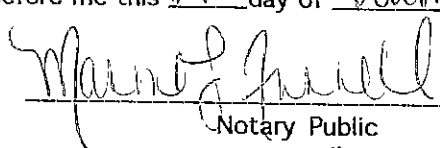
DECLARANT



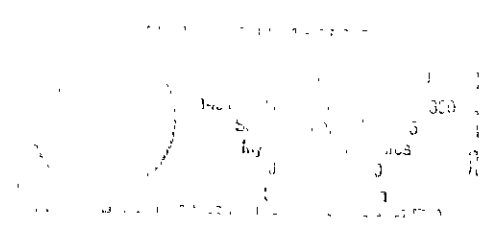
STATE OF UTAH)
COUNTY OF DAVIS) :ss.

The foregoing instrument was acknowledged before me this 29th day of December, 1999, by

My Commission Expires: 1/21/2000


Notary Public

Residing at: So Ogden, Utah



change said covenants in whole or in part.

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IN WITNESS WHEREOF, I have set my hand this _____ day of _____ 1999.

DECLARANT

[Handwritten Signature]

STATE OF UTAH)
) :SS.
COUNTY OF Davis)

The foregoing instrument was acknowledged before me this 3rd day of JANUARY, ^{2000 RND} 1999, by

My Commission Expires: _____

[Handwritten Signature]

Notary Public

Residing at: _____



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DECLARANT

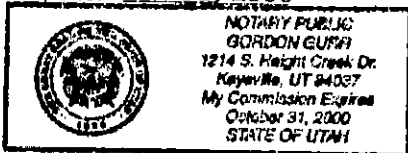
~~PHELPS BROS. CONSTRUCTION CORP.~~

By: [Signature]
~~RYAN H. PHELPS, VICE-PRESIDENT~~

STATE OF UTAH)
) ss.
COUNTY OF DAVIS)

The foregoing instrument was acknowledged before me this 17th day of December, 1999, by RYAN H. PHELPS, Vice-President of PHELPS BROS. CONSTRUCTION CORP., who did duly acknowledge to me that said corporation executed the same.

My Commission Expires: Oct. 31, 2000



Notary Public [Signature]

Residing at: Kaysville, Utah

EXHIBIT-"A"

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Lots 104, 108, 109, 110, 111, 112, 113, 114, 115 and 116, MUIRFIELD SUBDIVISION PHASE 1, according to the official plat thereof, records of Davis County, State of Utah.