

19895

AMENDMENT TO DECLARATION  
FOR  
OAKCREST, A CONDOMINIUM PROJECT

THIS AMENDMENT is made by GARDEN PARK DEVELOPERS CORPORATION, a Utah corporation (hereinafter referred to as "Declarant"), and by the MANAGEMENT COMMITTEE OF OAKCREST CONDOMINIUM PROJECT (hereinafter referred to as the "Committee"), in the Committee's capacity as agent for and representative of the Association of Unit Owners of said Project.

1. Original Declaration. Pursuant to the Utah Condominium Ownership Act, the Declaration (hereinafter the "Declaration") for Oakcrest Condominium Project was duly executed and acknowledged by Declarant on January 15, 1974. On March 29, 1974 the Declaration was recorded in the official records of Utah County, State of Utah, as Entry No. 5070 in Book 1364, Pages 799-818.

2. Original Survey Map. Concurrently with the filing of the Declaration was recorded the Record of Survey Map (hereinafter the "Map") for Oakcrest. The Map consists of four (4) sheets and was recorded in the official records of Utah County, State of Utah, as Entry No. 4858 in March 26, 1974.

3. Legal Description. The Declaration and Map submitted to the provisions of the Utah Condominium Ownership Act the following-described real property situated in Utah County, State of Utah:

COMMENCING AT A POINT WHICH IS LOCATED SOUTH 1737.74 FEET & EAST 539.34 FEET FROM THE NORTH 1/4 CORNER OF SECTION 15, TOWNSHIP 6 SOUTH, RANGE 2 EAST, SALT LAKE BASE & MERIDIAN. THENCE S 88° 47' 30" E 368.15 FEET; THENCE N 0° 10' W 157.84 FEET; THENCE ALONG THE ARC OF A 368.91 FOOT RADIUS CURVE TO THE LEFT 77.02 FEET; (CHORD BEARING & DISTANCE OF SAID CURVE BEING S 82° 57' 37" E 76.88 FEET); THENCE S 88° 56' 30" E 707.93 FEET; THENCE SOUTH 428.61 FEET; THENCE N 88° 18' W 510.69 FEET; THENCE SOUTH 660.00 FEET, MORE OR LESS; THENCE WEST ALONG THE NORTH BOUNDARY OF CENTER STREET, OREM, UTAH, 50.00 FEET; THENCE NORTH 660.00 FEET MORE OR LESS; THENCE N 88° 18' W 588.86 FEET; THENCE N 0° 34' 20" W 266.93 FEET TO THE POINT OF BEGINNING.

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4. Declarant's Right to Amend. Under Section 13 of the Declaration and Article VIII of the Bylaws (hereinafter the "Bylaws") attached thereto as Exhibit "B" Declarant retained the right to amend the Declaration and Bylaws until all Units in the Oakcrest Condominium Project have been sold or until January 1, 1980, whichever first occurs. Declarant hereby certifies that all Units in said Project have not yet been sold and that Declarant has not heretofore relinquished its right to provide for management of said Project.

In any event, said Section 13 of the Declaration and Article VIII of the Bylaws provide that the Declaration and Bylaws may be amended upon the approval and consent of Unit Owners representing at least seventy five percent (75%) of the Units in the Project. Declarant is the Owner of, and hereby certifies that it is the Owner of, more than seventy five percent (75%) of the total number of Units in the Oakcrest Project. Declarant hereby consents to and approves all of the amendments to the Declaration and Bylaws which are set forth in this instrument.

5. Meeting and Vote of Owners. Article VIII of the Bylaws provides that the Bylaws may be amended by the affirmative vote of three-fourths of the Unit Owners at any special meeting of the Owners if notice of the proposed amendment be contained in the notice of such special meeting. The Committee hereby certifies that a special meeting of the Unit Owners of the Oakcrest Condominium Project was held on the 31 day of October, 1974, that notice of all of the amendments to the Declaration and Bylaws which are set forth in this instrument was contained in the notice of such special meeting, that said special meeting was called by the Committee, that the notice and call concerning said meeting in all respects complied with the requirements of the Bylaws, that a quorum was present at said meeting, and that at said meeting Unit Owners representing three-fourths or more of the total number of Units in the Project voted to approve each of the amendments to the Declaration and Bylaws which is set forth in this instrument.

6. Amendment Re Additional Phases. The Declaration is hereby amended so as to delete in its entirety Section 10 thereof ("Additional Phases of Project"). There are to be no additional phases of the Oakcrest Condominium Project.

7. Amendment Re Manager and Management Contract. Section 11 ("Management") of the Declaration and Section 10 ("Manager and Management Firm") of Article I of the Bylaws are amended by adding at the end of each of said Sections the following provision:

Any agreement for professional management of the Condominium Project which may be entered

into by the Management Committee or the Association of Unit Owners shall call for a term not exceeding three (3) years and shall provide that for cause such management agreement may be terminated by the Management Committee or by the Association of Unit Owners upon not in excess of ninety (90) days written notice.

8. Amendment Re Insurance. Section 15 ("Insurance") of the Declaration and Section 2 ("Insurance") of Article V of the Bylaws is each amended in its entirety to read as follows:

A. Hazard Insurance. The Management Committee shall at all times maintain in force hazard insurance meeting the following requirements:

(i) A multi-peril type policy covering the entire Condominium Project (both Units and Common Areas) shall be maintained. As a minimum, such policy shall provide fire and extended coverage insurance on a replacement cost basis in an amount not less than that necessary to comply with any co-insurance percentage specified in the policy, but not less than eighty percent (80%) of the insurable value (based upon replacement cost).

(ii) If a steam boiler is contained in the Condominium Project, there shall be maintained boiler explosion insurance evidenced by the standard form of boiler and machinery insurance policy. Said policy shall, as a minimum, provide coverage in the amount of Fifty Thousand Dollars (\$50,000.00) per accident per location.

(iii) If the Condominium Project is located in a locale identified by the Secretary of Housing and Urban Development as an area having special flood hazards and the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the Condominium

Project shall be obtained and maintained. The amount of coverage afforded by such policy shall be the lesser of the maximum amount of insurance available under said Act or the aggregate of the unpaid principal balances of the first mortgages and first trust deeds affecting the individual Condominium Units.

(iv) The name of the insured under each policy required to be maintained by the foregoing items (i), (ii), and (iii) shall be in form and substance essentially as follows: "Association of Unit Owners of the Oakcrest Condominium Project for the use and benefit of the individual Owners." [Said Owners shall be designated by name, if required.]

(v) Each such policy shall include the standard mortgagee clause which either shall be endorsed to provide that any proceeds shall be paid to the Association of Unit Owners for the use and benefit of mortgagees of individual Units as their interests may appear or shall be otherwise endorsed to fully protect the interests of mortgagees. In addition, the mortgagee clause shall provide that the insurance carrier shall notify the holder of each first mortgage or deed of trust affecting a Unit at least ten (10) days in advance of the effective date of any reduction in or cancellation of the policy.

B. Fidelity Insurance. The Management Committee shall at all times maintain in force fidelity coverage against dishonest acts on the part of directors, managers, trustees, employees, Committee members, or volunteers responsible for handling funds belonging to or administered by the Management Committee or Association of Unit Owners. The fidelity bond or insurance shall name the Association of Unit Owners as the insured and shall be written in an amount sufficient to afford the protection

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reasonably necessary, but in no event less than one and one-half times the Condominium Project's estimated annual operating expenses and reserves. An appropriate endorsement to the policy shall be secured to cover persons who serve without compensation if the policy would not otherwise cover volunteers.

C. Liability Insurance. The Management Committee shall at all times maintain in force a comprehensive policy of public liability insurance covering all of the Common Areas, including any commercial spaces and public ways contained in the Project. Such insurance shall include a "Severability of Interest" endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of other Owners, the Management Committee, or the Association of Unit Owners.

D. General Requirements Concerning Insurance. Each insurance policy maintained pursuant to the foregoing Paragraphs A, B, or C shall be written by an insurance carrier which is licensed to transact business in the State of Utah and which has a financial rating by Best's Insurance Reports of BBB+ or better. No such policy shall be maintained where: (i) under the terms of the carrier's charter, bylaws, or policy contributions may be required from, or assessments may be made against, a Unit Owner, the holder of a mortgage or deed of trust on a Unit, the Management Committee, or the Association of Unit Owners; (ii) by the terms of the carrier's charter, bylaws, or policy payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent the party entitled from collecting insurance proceeds.

9. Amendment Re Pro Rata Portion of Expenses. Section 3 ("Determination of Pro Rata Portion") of Article IV of the By-laws is hereby amended in its entirety to read as follows:

The pro rata portion of the Project's Common Expenses which is payable by each Owner in and for each year or portion of a year shall be based upon the undivided ownership interest in the Common Areas which is appurtenant to

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such Owner's Unit (as set forth in Exhibit "A" to the Declaration). Such assessments, together with any additional sums accruing under the Declaration and these Bylaws shall be payable monthly in advance, or in such payments and installments as shall be required by the Management Committee, and at such times as shall be provided by the Committee.

10. Amendment Re Mortgage Protection. The Declaration is amended by the addition thereto of a new Section 23 reading as follows:

23. Mortgage Protection. As used in this Section 23: (i) the term "Mortgage" shall mean and include both a first mortgage on any Unit and a first deed of trust on any Unit; and (ii) the term "Mortgagee" shall mean and include both a mortgagee under a first mortgage on any Unit and a beneficiary under a first deed of trust on any Unit.

A. Notice of Default. From and after the time a Mortgagee makes written request to the Management Committee or the Association of Unit Owners therefor, the Committee or said Association shall notify such Mortgagee in writing in the event that the Owner of the Condominium Unit encumbered by the Mortgage held by such Mortgagee neglects for a period of thirty (30) or more days to cure any failure on his part to perform any of his obligations under the Declaration or Bylaws.

B. Right of First Refusal. None of the provisions of Article IX of the Bylaws, nor any right of first refusal or option to purchase a Unit created in said Article IX, shall apply to the extent that such right of first refusal or option exists or arises as a result of or in connection with: (i) Foreclosure of a Mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure; or (ii) Any transfer or sale of a Unit by a person or

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entity which previously was the Mortgagee thereof, in the event such person or entity became the Owner of such Unit as a result of one of the procedures mentioned in the foregoing item (i).

C. Assessments Subordinate.

The lien or claim against a Condominium Unit for unpaid assessments or charges levied by the Management Committee or by the Association of Unit Owners pursuant to the Declaration or the Utah Condominium Ownership Act shall be subordinate to the Mortgage affecting such Unit, and the Mortgagee thereunder which comes into possession of the Unit shall take the same free of such lien or claim for unpaid assessments or charges, but only to the extent of assessments or charges which accrue prior to foreclosure of the Mortgage, exercise of a power of sale available thereunder, or deed or assignment in lieu of foreclosure (except for claims for a pro rata share of such prior assessments or charges resulting from a pro rata reallocation thereof to all Units including the Unit in which the Mortgagee is interested). No assessment, charge, lien, or claim which is described in the preceding sentence as being subordinate to a Mortgage or as not to burden a Mortgagee which comes into possession shall be collected or enforced by either the Management Committee or the Association of Unit Owners from or against a Mortgagee, a successor in title to a Mortgagee, or the Condominium Unit affected or previously affected by the Mortgage concerned.

D. Abandonment, Termination, and Subdivision. Unless at least seventy five percent (75%) of the Mortgagees (based upon one vote for each Mortgage) of the individual Units have given their prior written

approval, neither the Management Committee nor the Association of Unit Owners shall be entitled, by act, omission, or otherwise: (i) To abandon or terminate the Condominium Project or to abandon or terminate the arrangement which was established by the Declaration and the Project's Record of Survey Map; (ii) To partition or subdivide any Condominium Unit; (iii) To abandon, partition, subdivide, encumber, sell, or transfer all or any part of the Common Areas (except for the granting of easements for utilities and similar purposes consistent with the intended use of the Common Areas); or (iv) To use hazard insurance proceeds resulting from damage to any part of the Condominium Project (whether to Units or to the Common Areas) for purposes other than the repair, replacement, or reconstruction of such improvements, except as provided by the Utah Condominium Ownership Act in case of substantial damage to the Units and/or Common Areas.

E. Alteration of Undivided Interests. Unless at least seventy five percent (75%) of the Mortgagees (based upon one vote for each Mortgage) of the individual Units have given their prior written approval, neither the Management Committee nor the Association of Unit Owners shall change the pro rata interests or obligations of any Condominium Unit which apply for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (ii) determining the pro rata share of ownership of each Unit in the Common Areas.

F. Examination of Records. Any Mortgagee shall have the right, at its request and expense and upon reasonable notice, to examine the

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books and records of the Management Committee, of the Association of Unit Owners, or of the Condominium Project.

G. Reserve Fund. The Management Committee and Association of Unit Owners shall establish an adequate reserve to cover the cost of reasonably predictable and necessary major repairs and replacements of the Common Areas and shall cause such reserve to be funded by regular monthly or other periodic assessments against the Unit Owners rather than by special assessments.

H. Notice of Substantial Loss. From and after the time a Mortgagee makes written request to the Management Committee or the Association of Unit Owners therefor, the Committee or said Association shall notify such Mortgagee in writing in the event that there occurs any loss to or taking of the Common Areas involving an amount in excess of, or reasonably estimated to be in excess of, Ten Thousand Dollars (\$10,000.00). Said notice shall be given within ten (10) days after the Management Committee or said Association learns of such loss or taking.

I. Amendment. No amendment to this Section 23 which has the effect of diminishing the rights, protection, or security afforded to Mortgagees shall be accomplished or effective unless at least seventy-five percent (75%) of the Mortgagees (based upon one vote for each Mortgage) of the individual Units have given their prior written approval to such amendment. Any amendment to this Section 23 shall be accomplished by an instrument executed by the Management Committee and filed for record in the office of the Recorder of the County in which the Condominium Project is situated. In any such instrument

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STATE OF UTAH )  
 ) ss.  
COUNTY OF Utah )

On this 31st day of October, 1974, personally appeared before me MARK A. RADMALL and \_\_\_\_\_, who being by me duly sworn, did say that they are the Chairman and \_\_\_\_\_, respectively, of THE MANAGEMENT COMMITTEE OF OAKCREST CONDOMINIUM PROJECT, and that the foregoing Amendment was signed on behalf of said Committee by authority of either the Declaration of said Condominium Project or a Resolution adopted by said Committee, and said Mark A. Radmall and \_\_\_\_\_ acknowledged to me that said Management Committee executed said Amendment in its capacity as agent for, and representative of, the Association of Unit Owners of said Condominium Project.

My Commission Expires:  
2-7-76

*L. Lane Walker*  
Notary Public  
Residing at: Orem, Utah



*Gravo*

PRUDENTIAL FED. SAV'S. & LOAN

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PRIMO LAND TITLE CO.  
5002  
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