

SECOND AMENDMENT

TO

DECLARATION FOR
THE ROSEHAVEN CONDOMINIUMS

11/12/96 6503339 59.00
3147 PM
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
SUTHERLAND TITLE
REC BY: B GRAY ,DEPUTY - WI

6503339

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for the Rosehaven Condominiums, a Condominium Development, was recorded on October 11, 1996 as Entry No. 6479080 at Book 7510, Page 1580 (the "Covenants"); and

WHEREAS, an Amendment to the Covenants was recorded as Entry No. 6486456, on October 22, 1996 (the "Amendment") (the Covenants and the Amendment are referred to collectively as the "Declaration"); and

WHEREAS, certain corrections and changes to the Declaration have been proposed, considered and unanimously approved by the Declarant prior to the sale of any of the Units;

NOW THEREFORE, the Declaration is amended as follows:

1. Article 2, page 3 is amended to reflect that the property contains approximately 1.714 acres, not 2.28 acres.
2. Article 5, Section 5.4 "Limitations" is amended to read, in its entirety, as follows:

5.4 Limitations. The Homeowners Association may not seek to abandon, partition, subdivide, encumber, sell or transfer the common elements and Common Areas without the

BK 7532 PG 2618

prior written approval of two-thirds of the first mortgagees (based on one vote for each first Mortgage owned) and all of the Owners of the individual Units. This limitation shall not apply to the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Areas.

3. Article 19, Section 19.5.3 is amended to read, in its entirety, as follows:

19.5.3 Amount of Assessment. The portion payable with respect to each Unit in and for each year or for a portion of a year shall be determined by application of the fraction as shown on Appendix "B". Such assessments, together with any additional sums accruing under this Declaration, shall be payable monthly in advance, or in such payments and installments as shall be provided by the Association or the Board of Trustees. The percentage attributable to each Unit is set forth on Appendix "B" as the percentage of undivided interest.

This percentage may not be changed unless at least two-thirds of all first mortgagees (based on one vote per first mortgage owned) and all of the Owners (other than the Declarant) have given their written approval.

4. Article 18, Section 18.2 is amended to read, in its entirety, as follows:

18.2 If the Board of Trustees reasonably determines that a proposed change to the Declaration, Articles or Bylaws is not material, it shall submit the proposed change to the Unit Owners for approval by a majority of all Unit Owners. If a Unit Owner has not responded within 30 days after he receives notice of the proposal, his approval shall be implied.

Any amendments which are material to the rights of Unit Owners or their eligible mortgage holders must be approved by at least sixty-seven percent (67%) of the total allocated votes in the Owners Association (some matters require 100% owner approval where required by statute or by this Declaration) and by mortgage holders who represent two-thirds of the votes of unit estates that are subject to mortgages held by first mortgage holders. For purposes of this Declaration, eligible mortgage holders are those holders of a first mortgage on a Unit estate. For purposes of this Section 18, a change is considered material if it affects any of the following:

- voting rights (for which 100% of the owners must give approval);
- increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- reductions in reserves for maintenance, repair and replacement of common elements;
- responsibility for maintenance and repairs;

- reallocation of interests in the general or limited common elements, or rights to their use;
- redefinition of any unit boundaries;
- convertibility of units into common elements or vice versa;
- expansion or contraction of the project, or the addition, annexation, or withdrawal of Property to or from the project;
- hazard or fidelity insurance requirements;
- imposition of any restrictions on the leasing of Units;
- imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;
- restoration or repair of the project (after damage or partial condemnation) in a manner other than that specified in the documents; or
- any provisions that expressly benefit mortgage holders, insurers, or guarantors.

5. Article 22, Section 22.3 is amended to read, in its entirety, as follows:

22.3 **Law Controlling.** This Declaration, the Map, the Articles and the Bylaws shall be construed and controlled by and under the laws of the State of Utah, including U.C.A. §57-8-1, et seq., as it may be amended. If any provision in the Declaration, the Articles or Bylaws is inconsistent with U.C.A. § 57-8-1, et seq., (the "statute"), the statute shall control.

6. The property affected by this Amendment is described as follows:

In Salt Lake County, State of Utah:

Beginning at a point South 0°03'40" West along section line 286.0 feet and West 33.00 feet from the Monument in the center of 4000 West Street, said Monument being the Northeast corner of the Southeast Quarter of Section 6, and the East ¼ corner of Section 6, Township 2 South, Range 1 West, Salt Lake Base and Meridian; running thence West 102.00 feet; thence South 44.00 feet to the North line of Benview Subdivision No. 2; thence North 89°56'20" West 162.05 feet; thence North 0°03'40" East 299.71 feet to a point on the South Line of 4400 South Street;

thence North 89°58'36" East along the South R/W line of 4400 South Street 264.00 feet; thence South 0°03'40" West along the West R/W line of 4000 West Street 255.99 feet to the point of beginning.

Containing 1.714 acres.

7. In all other respects, the Declaration shall remain in full force and effect.

DATED this 8 day of November, 1996.

ROSEHAVEN WEST PARTNERSHIP,
a Utah General Partnership

By: *Bruce W. Manka*
Bruce W. Manka, Managing General Partner

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

SUBSCRIBED AND SWORN before me this 8 day of November, 1996 by Bruce W. Manka, who duly acknowledged before me that he is the Managing General Partner of Rosehaven West Partnership, a Utah General Partnership (the "Partnership") and that he is duly authorized to sign this document on behalf of the Partnership and that the Partnership signed the same.

[SEAL]

Keith W. Meade
NOTARY PUBLIC
KEITH W. MEADE
525 EAST 100 SOUTH
SALT LAKE CITY, UT 84102
NOTARY PUBLIC My Commission Expires FEB 10, 1998
State of Utah

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