

6520510

When Recorded, please mail to:  
CHATEAU FRANCAIS HOMEOWNERS' ASSOCIATION  
c/o Ken Keller  
2363 East Oakcrest Lane  
Salt Lake City, Utah 84121

12/04/96 6520510 3155 PM 26.00  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
METRO NATIONAL TITLE  
REC BY: Z JOHANSON DEPUTY - WI

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF THE CHATEAU FRANCAIS SUBDIVISION

THIS DECLARATION made and executed this 4<sup>th</sup> day of December, 1996, by Kenneth G. Keller, Trustee and Kristen L. Keller, Trustee of the Kristen L. Keller Revocable Family Trust, with its principal place of business located at 2363 East Oakcrest Lane, Salt Lake City, Utah, hereinafter referred to as "Declarant".

WHEREAS, Declarant is the record owner of that certain tract of property known as Chateau Francais Subdivision (according to the official plat thereof on file and in the office of the Salt Lake County Recorder) located at approximately 6575 South Canyon Cove Drive and 3600 East, Salt Lake City, Salt Lake County, Utah, and desires to develop a residential project of distinctive and individual character and to provide means by which such character may be safely guarded and protected, do hereby make this Declaration of Covenants, Conditions and Restrictions as follows, to wit:

WHEREAS, Declarant desires to provide for preservation of the values and amenities of the property and for maintenance of the common areas and to create an entity which possesses the power to maintain and administer the common areas, to collect and disburse the assessments and charges hereinafter provided for, and otherwise to administer and enforce the provisions of this declaration. To this end and for the benefit of the property and of the Owners thereof, Declarant desires to subject the property and the three lots now or hereafter contained and/or amended within the entire tract to the covenants, restrictions, easements, charges and liens hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that all of the property, including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and shall be sold, transferred, conveyed, used, leased, occupied, developed, resided upon, mortgaged, or otherwise hypothecated or otherwise encumbered, and held subject to the following covenants, conditions, restrictions, agreements, easements, assessments and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with

BK7550PG0094

the title to, the Property and Lots hereby or hereafter made subject hereto. This Declaration shall be binding on all persons having any right, title or interest in all or any portion of the Property and Lots now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every Owner of a Lot, and any owner of any other portion of the Property, including Declarant.

1. **COMPLIANCE WITH ZONING AND BUILDING ORDINANCES OF SALT LAKE COUNTY.** All excavation work, all foundations, all construction, and all buildings in this three lot subdivision shall be performed, placed or constructed, as the case may be, in, on or upon each Lot in accordance with the provisions of Salt Lake County Zoning and Building Ordinances in effect when the buildings are constructed. This provision shall not affect the applicability of the other provisions hereof.
2. **SOILS REPORTS, TESTING AND GEOTECHNICAL REQUIREMENTS.** All three Lot owners agree to comply with the requirements Salt Lake County Building Department will impose regarding soils reports and geotechnical analysis of the building pad sites. Prior to receiving a building permit, Salt Lake County Building officials will require each owner to provide the necessary documentation from licensed civil, structural and geotechnical engineers who are registered with the State of Utah. The Declarant makes no warranties of any kind relative to soils or geotechnical matters. All three Lot owners have been made aware of the section on the plat labeled "County Non-Buildable Area" which prohibits any habitable buildings being constructed in the northerly 40% (approximately) of the Chateau Francais Subdivision recorded on December 2, 1996 (see attached copy of PL 93-1141, Chateau Francais final plat).
3. **CONSTRUCTION DEBRIS.** All Owners shall properly maintain their Lots during the construction period so as to insure that no "spoils" or any other debris from construction shall be permitted to blow or otherwise be deposited upon any adjoining Lot or any other private or common property or street right-of-way. Owners shall take whatever action is necessary to prevent run-off onto, and resultant erosion of, adjoining property. Owners agree that the Declarant and or the Association shall be empowered to clean up any and all "spoils" or construction debris which are located upon any adjoining property resulting from activities of an Owner, his builder, or any other person employed or otherwise controlled by an Owner, and record a lien against the Owner's property to secure the repayment of all sums expended by the Association or by the Declarant in cleaning up and removing said "spoils" and debris from adjoining public or private property if same is not voluntarily cleaned up and removed by the Owner within 48 hours of written notice from the Declarant, another Owner, or the Association, identifying the required clean up and removal work.
4. **PURPOSE OF MONTHLY ASSESSMENT.** The assessments provided for herein shall be used for the general purposes of providing services for the convenience, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots contained in the recorded subdivision, including but not limited to snow removal, trash removal, landscaping, maintenance of common areas, streets, entry facilities, water, sewer, storm drain and utility systems, curb, gutter, sidewalk, fences, landscaping and other real and

BK7550PG0095

personal property and/or easements owned by the Association, all as may be more specifically authorized from time to time by the Association.

5. **CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS.** Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (A) monthly assessments or charges; (B) special assessments, such assessments to be established and collected as hereinafter provided; and (C) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration or the By-Laws. All such assessments, together with late charges, interest at eighteen (18%) per annum (or such lower rate fixed by the Association, or so as not to exceed the maximum legal rate), costs, and reasonable attorneys' fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with late charges, interest costs, and reasonable attorneys' fees actually incurred, shall also be the personal obligation of the Owner(s) of such Lot at the time the assessment fell due. Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Lot, and his or her grantee(s) shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any bona fide first Mortgage holder until such first Mortgage holder or other person takes title through foreclosure proceedings or deed in lieu of foreclosure.

Assessments shall be paid in such manner and on such dates as may be fixed by the Association, which may include, without limitation, acceleration, upon ten (10) days' written notice, of the annual assessment in any case where any installment is delinquent. Unless otherwise provided by the Association, the assessment shall be paid in advance in quarterly installments, one-fourth of the total annual assessment on January 1, April 1, July 1 and October 1 of each year.

6. **LIEN FOR ASSESSMENTS.** All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorneys' fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (A) liens of real property ad valorem taxes; and (B) liens for all sums unpaid on a bona fide first Mortgage or on any Mortgage to Declarant duly recorded in the office of the County Recorder of Salt Lake County, Utah, and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such Mortgage.
7. **EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF ASSOCIATION.** Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount, as the Association may from time to time determine, not less than five percent (5%) nor more than ten percent (10%) of the amount due. The Association shall cause a notice of delinquency

BK7550PG0096

to be given to any Owner who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest at the rate of eighteen percent (18%) per annum or such lower rate so as not to exceed the maximum legal rate, on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorneys' fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid sixty (60) days after the due date, the Association may, as the Association shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this paragraph shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same. No Owner may waive or otherwise except liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action or inaction by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

All payments made by owners shall be applied first to costs and attorneys' fees, then to late charges, then interest and then to unpaid assessments.

8. **SEVERABILITY.** Invalidation of any one of or any portion of any one of these covenants, conditions, restrictions and agreements by judgement or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.
9. **PARAGRAPH CAPTIONS.** The paragraph captions and phrases as to the contents of particular paragraphs are inserted herein only as a matter of convenience and for reference and in no way are intended to be part of this Declaration or in any way to define, limit or describe the scope or intent of the particular paragraph to which they refer.
10. **RELATIONSHIP TO CITY, COUNTY AND STATE ORDINANCES.** The provisions contained in this Declaration are in addition to the effective laws and ordinances of Salt Lake City, Salt Lake County, and the State of Utah. In the event of any conflict between the provisions of this Declaration and the effective laws and ordinances of Salt Lake City, Salt Lake County, or the State of Utah, the most restrictive provision shall apply.
11. **COUNTERPARTS.** This Declaration, and its subsequent supplements, amendments and

BK7550PG0097

other documents from past agreements (some of which, but not limited to, are the following: Agreement dated 7/25/96 between Keller, Haroldsen and Brazell; Supplemental Agreement dated 10/4/96 between Keller, Haroldsen and Brazell; Supplemental Agreement dated 10/4/96 between Goodart, Keller, Haroldsen and Brazell; and Purchase Agreement dated 11/8/96 between Keller, Haroldsen, Kondos, Kondos and Lovelace) may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same agreement. All such counterpart signature pages shall be read as though one, and they shall have the same force and effect as though all of the signers had signed a single signature page.

12. **DAMAGE TO SUBDIVISION IMPROVEMENTS.** Any Owner or person who directly or through an agent, contractor, subcontractor, or employee, causes damage to any of the Association's improvements, lines, or facilities, including damage by heavy equipment or construction vehicles, shall pay to the Association the cost to repair such damage and any and all costs, including reasonable attorneys' fees, incurred by the Association as a result of such damage, or in pursuing legal action to recover the costs of such damage or in connection with pursuing any remedy provided in this Declaration.
13. **FENCING.** Each of the three Lot Owners shall be responsible for their own fencing around the perimeter of their own property and the additional coordination and negotiation with the adjacent property owners concerning type of fencing, height, placement of fence, cost, etc.
14. **FEE TO BE PAID TO DECLARANT.** The eventual Owners of Lot 1 and Lot 2 shall each be responsible to pay Ken Keller \$50 per hour (not to exceed \$12,000 or 240 hours) for his efforts in developing, supervising, scheduling, bidding and coordinating the work done in the subdivision from March of 1996 until the work is completed. This fee shall be paid ½ upon recording of the subdivision and the other half upon completion of the subdivision improvements, roadway and common area landscaping.
15. **COUNTY ZONING LIMITATIONS.** All three Lot Owners acknowledge they are aware of the limitation placed on the property by Salt Lake County Planning Department wherein only three single family dwellings are permitted in the Chateau Francais Subdivision.
16. **IMPROVEMENT COSTS FOR DEVELOPMENT OF SUBDIVISION.** All three Lot Owners agree to each pay 1/3 of the improvement costs and expenses associated with the development of the subdivision, some of which, but not limited to, are the following: engineering, surveying, municipality assessments, impact fees, excavation, hauling, access road, fire hydrant, brick entry, retaining walls, rod iron fencing, sidewalk, curb and gutter, landscape lighting, copper caps, asphalt, sprinkling system, trees and plant material, sod, lampposts for entry, mailboxes, mainline utilities, road cuts and patches, street signage, construction bond, compaction tests, manholes, recording fees, hydrology fees, road base, topsoil, entry gate and openers, water meters, etc. Each Lot Owner shall pay monies owed to the Chateau Francais Improvement Account within seven (7) days of receipt of invoice draw request as per the specifications of this document. The original draw request for the three Lot Owners (as of October 30, 1996) is \$70,000 each for a sum of \$210,000; this

BK7550PG0098

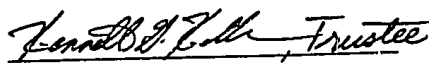
amount is a preliminary estimate and may be adjusted slightly up or down depending on the final costs of the improvements for the subdivision.

17. **CONSTRUCTION EXPENSES TO BE PAID BY EACH OWNER.** Each Lot Owner will be responsible for paying their own construction costs associated with the development of their particular home; said costs are not directly related to the development of the subdivision access road and entrance but are specific to each Lot. An example of some of these costs are as follows: driveways, grading, excavation, hauling, compaction testing, soils reports, topography drawings, fill dirt, fencing, rock work, retention, extension and installation of utility laterals, asphalt, concrete work, landscaping, retaining walls, fire hydrants, storm drainage, gravel sumps, etc.
18. **DEFAULT.** This Declaration may be specifically enforced. In the event of a default hereunder, in addition to any other relief available hereunder or in law or equity, the non-defaulting party shall be entitled to recover from the defaulting party the non-defaulting party's costs and reasonable attorneys' fees incurred in enforcing the terms hereof or seeking damages for the breach thereof.
19. **SUCCESSORS AND ASSIGNS.** This Declaration shall be binding upon the parties hereto and their respective successors and assigns.
20. **RESERVATION OF RIGHT TO BUY.** In the event that construction of a single family dwelling is not commenced on Lot 1 within 12 months from the date of recording of the Chateau Francais Subdivision plat (Dec. 2, 1996), Declarant shall have the right to purchase said Lot back from Owners as per Supplemental Agreement dated October 4, 1996, page four, paragraph number ten entitled "Twelve Month Period to Commence/First Right of Refusal."
21. **CONTRACT FOR CONSTRUCTION OF HOME.** Owners of Lot 1 also agree to enter into a written contract with Declarant that would provide a 10% cost plus or a fixed monthly fee (agreed upon by both parties) build job agreement for the construction of a single family dwelling. Such contractual commitment shall run with the land and be binding upon their successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this document this 4<sup>th</sup> day of December, 1996.

ATTEST:

KRISTEN L. KELLER REVOCABLE FAMILY TRUST

  
Kenneth G. Keller, Trustee

BK 7550 PG 0099

Kristen L. Keller, Trustee  
Kristen L. Keller, Trustee

STATE OF UTAH )  
: ss.  
COUNTY OF SALT LAKE )

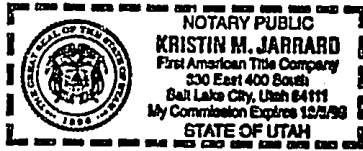
On the 4<sup>th</sup> day of December, 1996, personally appeared before me Kenneth G. Keller, who being by me duly sworn, did say that he is a Trustee of the Kristen L. Keller Revocable Family Trust, and that the foregoing instrument was signed on behalf of said trust.

Kristin M. Jarrard  
NOTARY PUBLIC  
Residing at: Salt Lake, UT

STATE OF UTAH )  
: ss.  
COUNTY OF SALT LAKE )

On the 4<sup>th</sup> day of December, 1996, personally appeared before me Kristen L. Keller, who being by me duly sworn, did say that she is a Trustee of the Kristen L. Keller Revocable Family Trust and that the foregoing instrument was signed on behalf of said trust.

Kristin M. Jarrard  
Salt Lake, UT  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_



BK7550P60100

**SURVEYOR'S CERTIFICATE**

I, the undersigned, being duly sworn, depose and say that I am a duly licensed and qualified Surveyor, and that I am the author of the foregoing plat, and that the same is a true and correct copy of the original plat as the same appears on my books, and that I am not aware of any fraud or illegality in the execution of the same.

Witness my hand and seal of office at the City of St. Louis, Missouri, this 25th day of November, 1938.



**OWNER'S DECLARATION**

I, the undersigned, being duly sworn, depose and say that I am the owner of the above described land, and that I am the author of the foregoing plat, and that the same is a true and correct copy of the original plat as the same appears on my books, and that I am not aware of any fraud or illegality in the execution of the same.

STATE OF MISSOURI  
 COUNTY OF ST. LOUIS

**ACKNOWLEDGMENT**

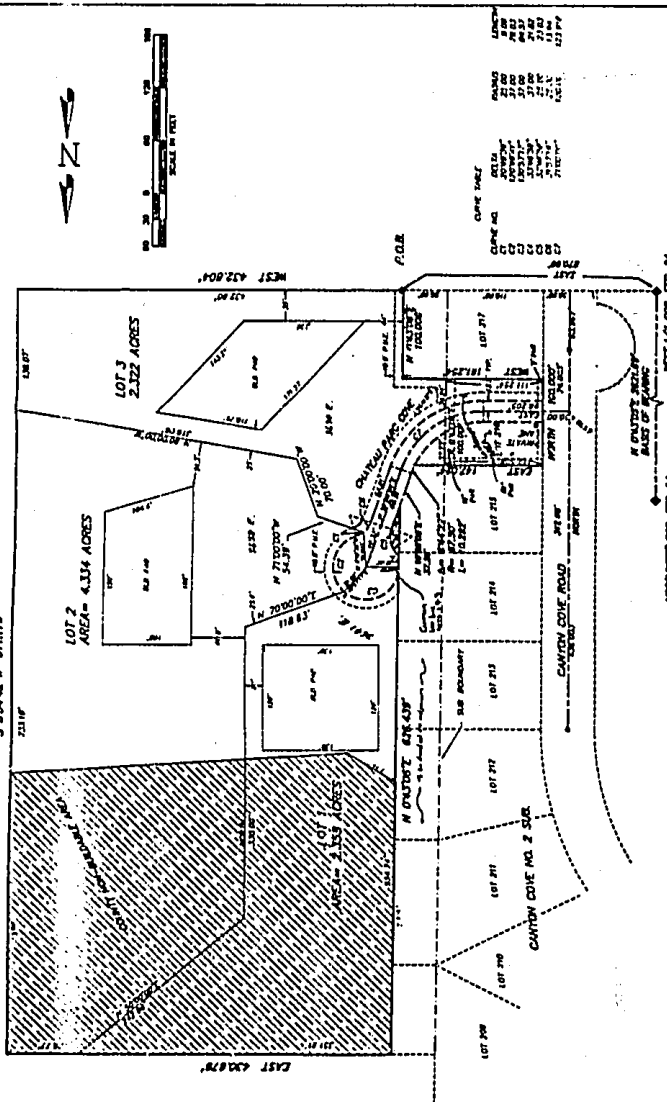
On the 25th day of November, A.D. 1938, before me, the undersigned Notary Public, in and for the State of Missouri, appeared the within named parties, in person, and they acknowledged to me that they executed the foregoing instrument for the purposes and consideration therein expressed, and they authorized me to execute this certificate of acknowledgment.

CHATEAU FRANCAIS

RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF THE CITY AND COUNTY OF ST. LOUIS, MISSOURI, ON THE 25th DAY OF NOVEMBER, 1938.

RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF THE CITY AND COUNTY OF ST. LOUIS, MISSOURI, ON THE 25th DAY OF NOVEMBER, 1938.

96-12P-373



**CHATEAU FRANCAIS**  
 A PLAT SHOWING LOTS 1 THROUGH 21, IN THE CITY OF ST. LOUIS, MISSOURI, AND INCLUDING LOT 21E, CANYON COVE NO. 2 SUB.

**APPROVED**

**PL 92-1141**

**BOARD OF HEALTH**  
 ST. LOUIS, MISSOURI

**PLANNING COMMISSION**  
 ST. LOUIS, MISSOURI

**DEVELOPMENT SERVICES DIVISION**  
 ST. LOUIS, MISSOURI

**APPROVAL AS TO FORM**  
 ST. LOUIS, MISSOURI

**APPROVAL AS TO MERIT**  
 ST. LOUIS, MISSOURI

**APPROVAL AS TO CONFORMANCE WITH THE CITY CHARTER**  
 ST. LOUIS, MISSOURI

**APPROVAL AS TO CONFORMANCE WITH THE CITY CODE**  
 ST. LOUIS, MISSOURI

**APPROVAL AS TO CONFORMANCE WITH THE CITY ORDINANCES**  
 ST. LOUIS, MISSOURI

**APPROVAL AS TO CONFORMANCE WITH THE CITY RESOLUTIONS**  
 ST. LOUIS, MISSOURI

**APPROVAL AS TO CONFORMANCE WITH THE CITY ORDINANCES**  
 ST. LOUIS, MISSOURI

**APPROVAL AS TO CONFORMANCE WITH THE CITY RESOLUTIONS**  
 ST. LOUIS, MISSOURI

BK7550PG0101