

6638633

THIRD SUPPLEMENT TO
DECLARATION OF
CONDOMINIUM
OF
HERITAGE TOWNHOMES
(PHASE 5)

6638633
05/06/97 4:42 PM 52.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
LYNETTE MILLER
4759 W CANYON VIEW DR
HIGHLAND, UT 84003
REC BY: B ROME DEPUTY - WI

THIS THIRD SUPPLEMENT TO DECLARATION OF CONDOMINIUMS is made and executed this 4th day of December, 1996, by American-Prows One, L.L.C., a Utah Limited Liability Company with its principal place of business in Salt Lake City, State of Utah (hereinafter referred to as "Declarant").

RECITALS:

A. On or about the 12th day of August, 1996, Declarant made and executed that certain "Declaration of Condominium of Heritage Townhomes" with respect to the certain real property located in Salt Lake County, State of Utah, more particularly described therein and now known as Heritage Townhomes (herein the "Declaration"), which Declaration was recorded in the office of the County Recorder of Salt Lake County, State of Utah, on the 15th day of August, 1996, in Book 7466, beginning at Page 2316, as Entry No. 6431011.

B. On or about the 16th day of September, 1996, Declarant made and executed that certain "First Supplement to Declaration of Condominium of Heritage Townhomes" (herein the "First Supplement"), which First Supplement was recorded in the office of the County Recorder of Salt Lake County, State of Utah, on the 23rd day of September, 1996, in Book 7494, beginning at Page 230, as Entry No. 6450872, adding Additional Property for Phase 2 of Heritage Townhomes.

C. On or about the 24th day of October, 1996, Declarant made and executed that certain "Second Supplement to Declaration of Condominium of Heritage Townhomes" (herein the "Second Supplement"), which Second Supplement was recorded in the office of the County Recorder of Salt Lake County, State of Utah, on the 30th day of October, 1996, in Book _____, beginning at Page _____, as Entry No. 6493801, adding Additional Property for Phases 3 and 4 of Heritage Townhomes.

D. Under the terms of the Declaration, Declarant reserved the right to add certain additional real properties ("Additional Land" or portions thereof) to the provisions of the Declaration and

SK7661PG1619

now desires to do the same in order to further the intent of the Declarant as expressed in the Declaration.

NOW, THEREFORE, in consideration of the recitals set forth hereinabove, the Declarant hereby declares and certifies as follows:

1. Submission of Phase 5. Declarant hereby submits the following described real properties, and its interests therein, to the terms, conditions, restrictions, covenants and easements to the terms of the Declaration, as amended:

SEE SCHEDULE "A" ATTACHED HERETO FOR PHASE FIVE

TOGETHER WITH all easements, rights-of-way, and other appurtenances and rights incident to, appurtenant to, or accompanying the above-described real property (the real property).

ALL OF THE FOREGOING IS SUBJECT TO all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-governmental authorities; all Patent reservations and exclusions; any mineral reservations of record and rights incident thereto; all instruments of record which affect the real property or any portion thereof, including, without limitation, any mortgage or deed of trust; all visible easements and rights-of-way; all easements and rights-of-way of record; any easements, rights-of-way, encroachments, or discrepancies shown on or revealed by the Map or otherwise existing; an easement for each and every pipeline, cable, wire, utility line, or similar facility which traverses or partially occupies the real property at such time as construction of all Project improvements is complete; and all easements necessary for ingress to, egress from, maintenance of, and replacement of all such pipes, lines, cables, wires, utility lines, and similar facilities.

RESERVING UNTO DECLARANT, however, such easements and rights of ingress and egress over, across, through and under the real property and any improvements now or hereafter constructed thereon as may be reasonable necessary for Declarant or for any assignee or successor of Declarant (in a manner which is reasonably and not inconsistent with the provisions of the Declaration): (i) an easement for ingress and egress for the benefit of the Additional Land, however developed or utilized, over the real property described on Exhibit "D" attached to the Declaration, whether or not the Additional Land, or portions thereof, is part of the Project; (ii) to construct and complete each of the Units in any Building and all of the other improvements described in the Declaration or in the Map recorded concurrently herewith, and to do all things reasonably necessary or proper in connection therewith; (iii) to improve portions of the real property with such other or

additional improvements, facilities, or landscaping designed for the use and enjoyment of all the Owners as Declarant or as such assignee or successor may reasonably determine to be appropriate; and (iv) to construct and complete each of the Units, Buildings and other improvements to be constructed upon any Additional Land or portion thereof intended to be included within the Project. If, pursuant to the foregoing reservations, the real property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements including the perpetual easement specified in (i) above, the reservations hereby effected shall, unless sooner terminated in accordance with their terms, expire seven (7) years after the date on which the Declaration was filed for record in the office of the County Recorder of Salt Lake County, State of Utah.

2. Amendment to Exhibit "E". Declarant hereby supplements and amends the Declaration by the filing of Amended Exhibit "B" (Phases 1, 2, 3, 4 and 5) attached hereto and incorporated herein by reference.

3. Supplemental Map. The real properties described in Paragraph 1, and the improvements to be constructed thereon, all of which are submitted to the terms and conditions of the Declaration, are more particularly set forth on a supplemental Map pertaining to the same, which supplemental Map shall be recorded with this Supplement.

4. Representations of Declarant. Declarant represents as follows:

a. The annexed real property is part of the Additional Land as identified in the Declaration.

b. By the annexation of the real property described in paragraph 1, the total number of Units when completed, will equal thirty (30).

5. Lender's Agreement of Subordination. By its execution of this Supplement, Wells Fargo Bank, National Association, successor by merger to First Interstate Bank of Utah, N.A. (hereinafter "Lender"), agrees, covenants and declares that this ~~First~~ Supplement to Declaration shall be senior in priority to: (i) the Deed of Trust with Assignment of Rents, made as of August 24, 1995, between *see below, as "Trustor," and **see below, as "Trustee" and Lender as "Beneficiary" (hereinafter "Trust Deed"), which Trust Deed was recorded on August 25, 1995, as Entry No. 6151243, in Book 7214, beginning at page 1086 of the Official Records of Salt Lake County, (ii) _____ (hereinafter the "Security Agreement"),

*American-Prows One, L.L.C., a Utah Limited Liability Company
**First Interstate Bank of Utah, N.A., as Lender ("Beneficiary")

which Security Agreement was recorded on N/A, 199 ,
as Entry No. , in Book , beginning at page of
the Official Records of Salt Lake County, and that said Trust Deed
and Security Agreement shall be subordinate to and subject to this
Third ~~First~~ Supplement to Declaration notwithstanding the fact that this
Third ~~First~~ Supplement to Declaration is recorded later in time than the
Trust Deed and Security Agreement.

6. Effective Date. This Supplemental Declaration, and the
Supplemental Map relative to this addition, shall take effect upon
their being filed for record in the office of the County Recorder
of Salt Lake County, Utah.

EXECUTED the day and year first above written.

DECLARANT:

AMERICAN-PROWS ONE, L.L.C.,
a Utah Limited Liability Company

By 

Manager

AND

By 

Manager

LENDER:

Wells Fargo Bank, National Associa-
tion, successor by merger to First
Interstate Bank of Utah, N.A.

By: 

Its: Vice President

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

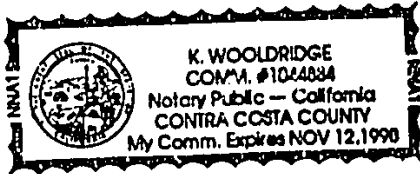
State of California

County of Contra Costa

On 12/14/96 before me, K. Wooldridge, Notary Public
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Ted Bodnar
Name(s) of Signer(s)

personally known to me -- OR -- proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

K. Wooldridge
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

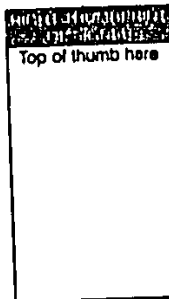
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

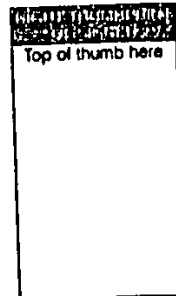
Signer is Representing:



Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

Signer is Representing:



SCHEDULE "A"
to
First Supplement to Declaration of Condominium of
Heritage Townhomes

(Legal Description of Additional Land)

PHASE FIVE:

Contains 18,316 Square Feet

Sidwell Nos.

Real property located at approximately 5138 South 2700 West, Salt Lake City, Salt Lake County, State of Utah, and more particularly described as follows, to wit:

BEGINNING at a point North 00°14'53" West 1819.64 feet and West 300.75 feet from the South Quarter Corner of Section 9, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running thence North 92.20 feet; thence West 12.80 feet; then North 29.00 feet; thence West 2.51 feet; thence Northwesterly, along the arc of a 13.00 foot radius curve to the right 20.49 feet (long chord bears North 45°05'44" West); then North 3.10 feet; thence East 89.71 feet; thence South 18.04 feet; thence East 99.49 feet; thence South 119.27 feet; thence West 130.83 feet to the POINT OF BEGINNING. Contains 18,316 square feet or 0.42 acres, more or less.

AMENDED EXHIBIT "B"
to
Second Supplement to Declaration of Condominium of
Heritage Townhomes
(A Utah Expandable Condominium Project)
(Phases 1, 2, 3, 4 & 5)
(Percentage Interests)

<u>BLD</u>	<u>UNIT NO, &STYLE</u>	<u>SIZE</u>	<u>PERCENTAGE INTEREST</u>	<u>VOTES</u>
1	AL	1120	2.73	2.73
1	BL	1421	3.45	3.45
1	CL	1569	3.82	3.82
1	AR	1120	2.73	2.73
1	BR	1421	3.45	3.45
1	CR	1569	3.82	3.82
2	AL	1120	2.73	2.73
2	BL	1421	3.45	3.45
2	CL	1569	3.82	3.82
2	AR	1120	2.73	2.73
2	BR	1421	3.45	3.45
2	CR	1569	3.82	3.82
3	AL	1120	2.73	2.73
3	BL	1421	3.45	3.45
3	CL	1569	3.82	3.82
3	AR	1120	2.73	2.73
3	BR	1421	3.45	3.45
3	CR	1569	3.82	3.82
4	AL	1120	2.73	2.73
4	BL	1421	3.45	3.45
4	CL	1569	3.82	3.82
4	AR	1120	2.73	2.73
4	BR	1421	3.45	3.45
4	CR	1569	3.82	3.82
5	AL	1120	2.73	2.73
5	BL	1421	3.45	3.45
5	CL	1569	3.82	3.82
5	AR	1120	2.73	2.73
5	BR	1421	3.45	3.45
5	CR	1569	3.82	3.82
Totals		41,100	100.00%	100.00