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REAL ESTATE

SINCE 1910

# CC&Rs

## NOTICE

Attached is the document your (or someone on your behalf) requested. As required by Section 12956.1(b)(1) of the California Government Code, please take note of the following:

If this document contains any restriction based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income (as defined in California Government Code § 12955(p)), or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.



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**CALIFORNIA TITLE COMPANY**

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10-2-70

DECLARATION OF RESTRICTIONS

This Declaration of Building Restrictions and Architectural Control made this 26th day of November, 1969, by Rosedale Homes, Inc., hereinafter called "Grantor".

WITNESSETH:

WHEREAS, Rosedale Homes, Inc., is the owner of all that certain real property, located in the County of San Diego, State of California, described as:

Lots 57 through 89 inclusive of Pacific Serena Unit No. 2 according to Map thereof No. 6585 filed in the Office of the County Recorder of San Diego County, California on February 10, 1970.

which said property is hereinafter for convenience referred to as "real property", and,

WHEREAS, it is the intention of the Grantor to convey undivided interest in this property and to impose on the real property mutually beneficial restrictions under a general plan for the benefit of all future owners of the real property, and;

WHEREAS, the Grantor desires to subject all of said real property to certain conditions and restrictions for the protection and benefit of the Grantor and any and all future owners of the real property, or any portion thereof.

NOW, THEREFORE, in consideration of the premises, Grantor hereby certifies and declares that Grantor has established and does hereby establish the following general plan for the protection and benefit of all of said real property, and has fixed and does hereby fix the following conditions and restrictions upon and subject to which each and all of the lots in said real property shall be hereafter held, used, occupied, leased, sold and/or conveyed. All of the limitations, covenants, restrictions and conditions shall run with the real property, or any interest therein, and shall be binding upon all parties having or acquiring any rights, title or interest in the described real property, or any part thereof, and shall be for the benefit of each owner of any interest in the real property, and shall inure to the benefit of and be binding upon each successor in interest of the owners thereof.

Said conditions and restrictions are as follows, to wit:

- 1. DEFINITIONS.** The property interest conveyed by deed to a grantee is designated as ownership; the grantee (or the grantees) is designated an owner, the area in which the grantee is given the exclusive right of use and occupancy is designated a unit, and the owner of the other living unit located on the same lot shall be known as the adjoining owner.
- 2. NO PARTITION.** Each owner waives his rights to a partition of the real property until the building on the real property is totally or partially destroyed and the owners elect not to rebuild.
- 3. RESIDENTIAL PURPOSES ONLY.** That said lots shall be used for residential purposes only and that no building or buildings shall be erected, constructed, altered or maintained on any of the said lots other than a duplex containing two single family dwellings, together with customary outbuildings, as permitted from time to time by County of San Diego Zoning Ordinances.



No 25824

PRESENTED TO  
OFFICIAL RECORDS OF  
TITLE INSURANCE AND TRUST COMPANY

FEB 11 2 20 PM '70

JULY 1970  
OFFICIAL RECORDS  
COUNTY OF SAN DIEGO  
A. S. JONES, RECORDER

680

1035

4. RESIDENCE AND AGE REQUIREMENT. Each Duplex-Home shall be used as a residence, and for no other purpose except such temporary nonresidential uses as shall be permitted by Grantor while Rosedale Homes, Inc. is being developed and the Duplex-Homes are being sold by Grantor. If persons related by blood or marriage reside in a Duplex-Home, at least one must have attained age 45. No person under the age of 15, or over the age of 16 and attending either an intermediate or secondary school, may reside in a Duplex-Home. If persons unrelated by blood or marriage reside in a Duplex-Home, each must have attained age 45. The number of residents in Duplex-Homes shall be no more than two, plus one for each bedroom in excess of one. Guests may visit, but not reside in Duplex-Home.

5. ARCHITECTURAL COMMITTEE. There shall be an Architectural Committee, consisting of three (3) persons. The initial Committee is to be appointed by Grantor, each of said persons so appointed being subject to removal at Grantor's direction. All vacancies on said Committee shall be filled by appointment of Grantor. Upon the sale by Grantor of all ownerships or after February 10, 1971, whichever shall first occur, a new Committee of three (3) members shall be elected by a majority of 51% of the ownership owners, each ownership being entitled to one (1) vote. Upon such election, the powers of the Committee first appointed and the powers of Grantor to remove and appoint members shall cease. In the event of the death, resignation, or incapacity to serve of a member or members so elected, a successor or successors shall be elected by said majority. In the event there is no election of a successor or successors within 30 days of such death, resignation or incapacity to serve, the remaining member or members of the Committee shall appoint a successor or successors from among those persons qualified to vote as above provided.

6. NEW BUILDINGS ONLY. That no building of any kind shall be moved from any other place onto any of said lots, or from one lot onto another lot, without the prior written permission of the Architectural Committee.

7. HEIGHT LIMIT OF DWELLINGS. That no dwelling without the written approval of the Architectural Committee shall be more than one story in height.

8. PLANS AND SPECIFICATIONS. That no building or other structure or improvement shall be commenced upon any of said lots until the location and the complete plans and specifications, including the color scheme, of each building, fence and/or wall to be erected upon the lot have been approved in writing by the Architectural Committee, and no building shall be located on any lot in front of the setback line as shown on the recorded plot.

9. EXTERIOR ALTERATIONS. That no alteration shall be made in the exterior design or color of any structure unless such alteration, including any addition, shall have first been approved in writing by the Architectural Committee.

10. NO TENTS, SHACKS, ETC. That no tents, shack, trailer, basement, garage or outbuilding shall at any time be used on any lot as a residence either temporarily or permanently; nor shall any residence of a temporary character be constructed, placed or erected on any lot.

11. NO SIGNS. That no signs of any kind or for any use or purposes whatsoever other than signs of customary and reasonable dimensions advertising the property for sale, shall be erected, posted, pasted, painted, or displayed upon any of said lots or upon any building or other structure thereon, without the prior written permission of the Architectural Committee.



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12. NO WELLS. That no well for the production of, or from which there is produced water, oil or gas, shall be operated upon any lot; nor, shall any machinery, appliance or structure be placed, operated, or maintained thereon for use in connection with any trading, manufacturing or repairing business.

13. NO FARM ANIMALS, ETC. That turkeys, geese, chickens, ducks, pigeons or fowls of any kind, or goats, rabbits, hares, horses, or animals usually termed "farm animals", shall not be kept or allowed to be kept on any of said lots.

14. NO RAISING OF DOGS AND CATS, ETC. That no commercial business shall be conducted on any of said lots, and no part of any lot shall be used for the purpose of vending liquors or beverages of any kind; and nothing shall be done upon any lot which may become an annoyance or nuisance to the neighborhood.

15. EXTENSION OF CONDITIONS AND RESTRICTIONS. Each and all of the foregoing conditions and restrictions shall terminate on December 31, 2002, unless the owners of a majority of said lots have executed and recorded at any time within six (6) months prior to December 31, 2002, in the manner required for a conveyance of real property, a writing in which they agree that said Conditions and Restrictions shall continue for a further specified period and providing therein a similar provision for the further extension of said Conditions and Restrictions, or some of them; provided, also, that the above and foregoing Conditions and Restrictions may be modified, after said termination date at the times and in the manner hereinabove provided for the extensions of said Conditions and Restrictions in force at the time of such extension or modifications.

16. NOTICE OF CLAIM OF BREACH. That the Grantor, or the Architectural Committee may at any time that the Grantor or the Architectural Committee deems a breach of these conditions and restrictions has occurred, execute, acknowledge and record in the Recorder's Office of San Diego County, a Notice of Claim of Breach setting forth the facts of such breach, describing the lot or lots upon which such breach has occurred and setting forth the names of the owner or owners thereof. Such notice upon being recorded, shall be notice to all persons of such breach, provided an action has been commenced within sixty (60) days after the recording of such notice to establish such breach, and, if no such action has been commenced within such sixty (60) day period, then and in that event such notice shall be of no force and effect whatsoever and the breach set forth in said notice shall be presumed to have been remedied.

17. FAILURE TO COMPLY WITH ORDER OF ARCHITECTURAL COMMITTEE. In the event of the failure of any owner to comply with a written directive or order from the Architectural Committee, then in such event the Architectural Committee shall have the right and authority to perform the subject matter of such direction or order and the cost of such performance shall be charged to the owner in question and may be recovered by the Architectural Committee in an action at law against such individual owner.

18. NOTICES. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States Mail, postage prepaid, certified mail, addressed to each such person at the resident address of such person.

19. MECHANIC'S LIENS. In case there should be filed a notice of Mechanic's Lien against any individual lot for or purporting to be for labor or material alleged to have been furnished or delivered on said lot, the unit owner causing the same



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shall forthwith cause such lien to be discharged within five (5) days within the date of notice from the adjoining unit owner. If not so discharged, then the adjoining unit owner may cause such lien to be discharged by payment, bond or otherwise, without investigation as to the validity thereof, or any off-set or defense thereto, and shall have the right to collect all amounts so paid, at all costs or expenses paid or incurred in connection therewith, including reasonable attorney's fees and disbursement, together with the interest thereon at the legal rate from the time or times of payment, unless the unit owner causing the Mechanic's Lien within the period of five (5) days determines to contest any such notice of Mechanic's Lien, and prosecutes such action with due diligence, and furnishes to the adjoining unit owner security in the form of cash equal to one-hundred-fifty percent (150%) of the amount claimed.

20. LIENS. There is hereby created a Lien, with power of sale, on each ownership and unit, running in favor of the adjoining owner of each unit to secure payment of any amounts that may be assessed or levied against the total lot, and which is not paid by any owner of any individual unit. No action shall be brought to foreclose such lien or proceed under the power of sale less than thirty (30) days after a notice of claim of lien is mailed to the owner of the unit in default, and a copy thereof is recorded in the Office of the Recorder of San Diego County, California. Such notice of claims of lien shall be filed and an action may be brought to foreclose a lien or exercise the power of sale by the adjoining owner of the unit, as trustee. Reasonable attorney's fees and expenses in connection with correction of debt secured by the lien or foreclosure thereof shall be paid by the owner against whom such action is brought and secured by the lien. The lien rights to foreclosure and sale shall be in addition to and not in substitution for all other rights and remedies which the owner may have hereunder and by law. A certificate executed and acknowledged by an adjoining owner stating the indebtedness secured by the lien upon any ownership in unit shall be conclusive upon the owner as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any owner upon request.

21. TAXES AND ASSESSMENTS. Each owner shall execute such instruments and take such action as may be reasonably necessary in the future to obtain separate assessment of each ownership. Each owner shall be obligated to pay the taxes or assessments, assessed by the County Assessor against his unit, or personal property, or ownership. In the event the assessment by the County Assessor is made on the basis of one lot with two living units, each owner of each unit shall be obligated to pay his pro rata share of said tax bill. All payment for taxes shall be paid prior to delinquency of such tax or assessment. In the event of failure of any owner to pay his share of a tax bill, the adjoining owner shall have the right to have a lien as created by Paragraph 20 in the event said adjoining owner is obligated to pay or does pay the proportionate share of the tax bill attributable to the other owner.

22. PAINTING, MAINTENANCE, AND REPAIRS. In the event that the Architectural Committee, in its sole discretion, determines that painting, maintenance or repair, hereinafter referred to as "work", of a unit is reasonably necessary to preserve the appearance and value of such unit or the appearance or value of an adjoining unit, the Architectural Committee shall give written notice of the necessity of such work to the owner of such unit in which event said owner shall be obligated, at his sole cost and expense, to perform said work.

If the owner of said unit shall have failed or refused to perform said work within a reasonable time after the aforesaid written notice, the Architectural Committee shall execute and cause to be recorded, a Certificate of Assessment stating that the painting, maintenance or repair which it has determined to be necessary as aforesaid shall not have been so performed within a reasonable time after such a written



notice. Upon recordation of said Certificate, the owner of an adjoining unit, without investigation as to the validity thereof, may, but shall be under no obligation to, cause the work to be performed, and incur such costs or expenses as may be necessary. Upon the recordation of the above mentioned Certificate, there shall arise a lien, with power of sale, on such unit, running in favor of the adjoining owner to secure payment of any such amount which may be so expended. Reasonable attorneys fees and expenses in connection with the collection of debt secured by the lien or foreclosure thereof shall be in addition to and not in substitution for all other rights and remedies which the owner may have hereunder and by law. A certificate executed and acknowledged by an adjoining owner stating the indebtedness secured by the lien upon any ownership in unit shall be conclusive upon the owner as to the amount of such an indebtedness on the date of the Certificate, in favor of all persons who rely thereon in good faith, and such Certificate shall be furnished to any owner upon request.

23. USE OF UNITS IN COMMON AREA. The unit in common area shall be occupied and used as follows:

A. Nothing shall be done or kept in any unit which will increase the rate of insurance on the total building, without the prior written consent of the adjoining owner. No owner shall permit anything to be done or kept in his unit which will result in the cancellation of insurance on the total dwelling unit, or which would be in violation of any law.

B. No obnoxious or offensive activity shall be carried on in any unit, nor shall anything be done therein which may be or become an annoyance or a nuisance to the other owners.

C. Nothing shall be done in any unit, or to the common area, which will impair the structural integrity of the building unit, or which would structurally change the building, except as is otherwise provided herein.

D. Nothing shall be altered or constructed in or removed from the common area, except upon the written consent of both unit owners.

24. ENTRY FOR REPAIRS. The adjoining owner of a unit upon reasonable notice may enter the opposite adjoining unit when necessary in connection with any maintenance or construction connected with the common area. Such entry shall be made with as little inconvenience to the adjoining owner as practicable, and any damage caused thereby shall be repaired by the entering adjoining owner at his expense.

25. DAMAGE AND DESTRUCTION. If the building unit is damaged by fire or other casualty which it is insured against and said damage is limited to a single unit, the insurance proceeds shall be paid to the owner of such unit, and such owner shall use the same to rebuild or repair such unit.

If such damage extends to both units, or extends to any part of the common area, this paragraph shall apply.

A. If the insurance to be paid as a result of loss or damage does not exceed fifty percent (50%) of the insurance coverage, the proceeds shall be paid to the owners jointly, and the owners jointly shall thereupon contract to repair or rebuild the damaged portions of the property, including the units so damaged, as well as the common area. If the insurance proceeds are insufficient to pay all the costs of repairing, the unit owners shall make up any deficiency on a prorated basis of excess building cost to ownership of the area so damaged.



B. If sub-paragraph (a) is inapplicable, the insurance proceeds shall be paid to such bank or trust company as may be designated by the owners of the two units acting jointly, to be held for the benefit of the two owners and their mortgagees as their respective interest shall appear. In the event one of the owners fails to comply with this paragraph, the adjoining owner is hereby authorized and directed to enter into such agreement on behalf of both of the owners, consistent with these restrictions, with such insurance trustee relating to its powers, duties and compensation. The insurance trustee and the joint owners shall then determine whether or not the insurance proceeds shall be used for rebuilding, and upon which terms and conditions said rebuilding should be accomplished. If it is decided that rebuilding is not desired, the insurance trustee as soon as reasonably possible, and as agent for both owners, shall sell the entire property in its then condition on terms satisfactory to the joint owners. The net proceeds of the sale, together with the insurance proceeds, shall thereupon be distributed to the owners and to the mortgagees of, or holders of deeds of trust upon the interest of such owners, as their interests may appear. The proceeds shall be divided among each owner on the basis of the original cost of each ownership to the total cost of all ownership.

The provisions of this paragraph can be amended or modified by the written consent of both owners of any one lot.

26. ARBITRATION. In the event a dispute occurs between an owner and an adjoining owner over the application of these restrictions, operation, maintenance, repair, insurance, or any other matter in connection with said premises, the same shall be submitted to the Architectural Committee which Committee shall act as an arbitrating tribunal.



The arbitrating tribunal shall have complete control of the conduct of the arbitration and may specify any rules or regulations with reference thereto not to conflict herewith. The decision of a majority shall be the decision of the arbitrating tribunal, and shall be final. The technical rules of evidence shall be waived in the discretion of the tribunal. The parties are entitled to be represented by counsel and to be heard, provided, however, that nothing herein contained shall limit the power of the arbitrating tribunal to control the manner, method, and conduct of the proceedings and the presentation of the evidence, subject always to the requirement that the parties be given a fair and impartial hearing. Where not inconsistent herewith the rules of the American Arbitration Association apply.

All hearings shall be held within the limits of Encinitas.

In any arbitration, the arbitrators shall have the broadest possible power permitted by law to frame their award or decision so as to do substantial justice between or among the parties. The grantees herein agree that they will faithfully observe the contents of this document and the rules and that they will abide by and perform any award or decision rendered pursuant to this agreement, and a judgment of the court having jurisdiction may be entered upon the award.

27. INTERPRETATION. The provisions of this declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the real property. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

28. PROTECTION FOR MORTGAGEES AND TITLE INSURANCE COMPANIES. That the owner of any encumbrance made for value on any said lot or lots and any

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corporation insuring the lien of such encumbrance may conclusively presume that no breach exists under these conditions and restrictions provided such encumbrance is recorded in the Office of the County Recorder of San Diego County prior to the commencement of any action to establish any such breach and not within sixty (60) days after the recording of any Notice of Claim of Breach, anything contained herein to the contrary notwithstanding.

PROVIDED, that a breach of any of the foregoing conditions and restrictions, shall not affect, impair, defeat or render invalid the lien charge or encumbrance of any mortgage or deed of trust made for value which may then exist upon said land, which said mortgage or deed of trust shall be and is hereby declared to be a prior and superior lien to the rights in favor of any person or persons under and by virtue of these conditions and restrictions; provided, however, that in the event of a foreclosure of any such trust deed or mortgage, or if the owner of the note secured by such trust deed or mortgage acquires title to said land in any manner whatsoever in satisfaction of indebtedness, then any purchaser at the foreclosure of Trustee's sale, or any said note owner acquiring title as aforesaid agrees that said property so acquired by them shall immediately upon said acquisition become subject to each and all of the conditions and restrictions and rights herein contained, but free from the effects of any breach occurring prior thereto.



29. AMENDMENT. Subject to the provisions of paragraph 15 and 28, the provisions of these restrictions, other than this paragraph, may be amended by an Instrument in writing signed and acknowledged by record owners of at least seventy-five percent (75%) of the units located on the real property, which amendment shall be effective upon recordation in the Office of the Recorder of San Diego County, California

30. SEVERABILITY. The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

IN WITNESS WHEREOF, the undersigned has executed this instrument this 26th day of November, 1969.

ROSEDALE HOMES, INC.

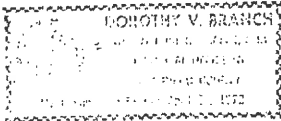
*[Signature]*  
L. Winans, President

STATE OF CALIFORNIA )  
                                  ) ss  
COUNTY OF SAN DIEGO )

On this 26th day of November, 1969 before me, the undersigned, a Notary Public in and for said State, personally appeared L. Winans known to me to be the President, and [Signature] known to me to be Secretary of the corporation that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature *[Signature]*



No 25624



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## NOTICE

Attached is the document your (or someone on your behalf) requested. As required by Section 12956.1(b)(1) of the California Government Code, please take note of the following:

If this document contains any restriction based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, national origin, source of income (as defined in California Government Code § 12955(p)), or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.



**CALIFORNIA TITLE COMPANY**

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000: 36

86-224641

RECORDED IN  
OFFICIAL RECORDS  
OF SAN DIEGO COUNTY, CA

1986 JUN -5 AM 8:04

VERA L. LYLE  
COUNTY RECORDER

Recording Requested by: )  
)  
)  
And When Recorded Mail To: )  
)  
WILLIAM A. WYMAN, ESQ. )  
Attorney at Law )  
6994 El Camino Real )  
Suite 211 )  
Carlsbad, California 92008 )

RF	5
AR	3
MG	1

**ADDENDUM TO  
DECLARATION OF RESTRICTIONS  
OF PACIFIC SERENA UNITS NO.'s 1, 2, 3, & 4**

WHEREAS, ROSEDALE HOMES, INC. was the owner of certain real property (hereinafter "property") located in the City of Encinitas, County of San Diego, State of California, described as:

- Unit 1:  
Lots 1 through 56 inclusive of Pacific Serena Unit No. 1 according to map thereof No. 6490 filed in the Office of the County Recorder of San Diego County, California, on September 30, 1969;
- and Unit 2:  
Lots 57 through 89 inclusive of Pacific Serena Unit No. 2 according to Map thereof No. 6585 filed in the Office of the County Recorder of San Diego County, California on February 10, 1970;
- and Unit 3:  
Lots 90 through 149 inclusive of Pacific Serena Unit No. 3 according to Map thereof No. 6599 filed in the Office of the County Recorder of San Diego County, California on March 10, 1970;
- and Unit 4:  
Lots 150 through 187, inclusive and Lots 190 and 191 of Pacific Serena Unit No. 4, according to Map thereof No. 6690 filed in the Office of the County Recorder of San Diego County, California, on July 22, 1970;
- and commonly known as PACIFIC SERENA UNITS NO. 1, 2, 3, and 4;
- and



WHEREAS, said owner established a general plan for the protection and benefit of all of said real property and fixed and recorded Declarations of Restrictions upon and subject to which each of the aforescribed lots are held, used, occupied,

leased sold and/or conveyed. Said Declarations of Restrictions were recorded as follows:

- Unit 1 - October 1, 1969, File/Page No. 180385
- Unit 2 - February 11, 1979, File/Page No. 25624
- Unit 3 - March 12, 1970, File/Page No. 44756
- Unit 4 - July 22, 1970, File/Page No. 128608

AND WHEREAS the property was developed for and at all times since development has been utilized as housing for senior citizens; and

WHEREAS, the properties consist of four (4) units of a development consisting in total of over 388 dwelling units, and

WHEREAS, the aforesaid Declaration of Restrictions, in paragraph number 4 thereof, contains a restriction limiting occupancy based on age, which restriction has been continuously in effect since the said Declarations were recorded, and

WHEREAS, California Civil Code, Section 51.3 permits senior citizen housing developments to enforce age restrictions as set forth in that section notwithstanding lower age restrictions contained in a declaration;

WITNESSETH:

Pacific Serena Units No.'s 1, 2, 3 and 4, is a senior citizen development. Pursuant to Section 51.3 of the California Civil Code:

No living unit in Pacific Serena Units No.'s 1, 2, 3 and 4 may be occupied on a permanent basis unless at least one person in permanent residence is 55 years of age or older ("senior citizen") and each other person is a "qualified permanent resident". A qualified permanent resident is a person who meets all of the following requirements:

- (a) Was residing with the senior citizen prior to the death, hospitalization, or other prolonged absence of, or the dissolution of marriage with, the senior citizen.
- (b) Was 45 years of age or older, or was a spouse, cohabitant, or person providing primary physical or economic support to the senior citizen.
- (c) Has an ownership interest in, or is in expectation of an ownership interest in, the dwelling unit within the housing development that limits occupancy, residency, or use on the basis of age.

Provided however, that any person who had the right to reside in or occupy any living unit in Pacific Serena Units No.'s 1, 2, 3, and 4, on January 1, 1985, under the provision of



Clotfelter

REAL ESTATE  
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Paragraph 4 of the Declarations as written, shall not be deprived of the right to continue that residency or occupancy. The Association is and shall be empowered to, and shall take the necessary steps to enforce this provision.

We, the undersigned, comprising all of the members of the Pacific Serena Architectural Committee, the unincorporated Association named in the Declarations to enforce the provisions thereof, hereby certify and declare that the foregoing provisions relating to use and occupancy of living units in Pacific Serena Units No.'s 1, 2, 3, and 4, are the provisions applicable to and enforceable and enforced with respect to the above-described property.

Dated this 4 day of June 1986, at Encinitas, California.

*Carver L. Clough*  
CARVER L. CLOUGH

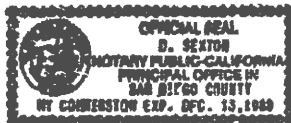


STATE OF CALIFORNIA )  
  ) ss  
COUNTY OF SAN DIEGO )

On June 4, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared, CARVER L. CLOUGH, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as the Chairman of the Architectural Committee for PACIFIC SERENA UNITS NO.'s 1, 2, 3 and 4, and acknowledged to me that such Association executed the within instrument pursuant to its Bylaws or a resolution of its Board of Directors.

WITNESS my hand and official seal.

*D. Sexton*



(Signature)

(Official Seal)

No 224641

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**CALIFORNIA TITLE COMPANY**

[www.CALTITLE.com](http://www.CALTITLE.com)

1650

86 613122

Recording Requested By and  
When Recorded Return To:

Alan H. Burson, Esq.  
PEIST, VETTER, KNAUF AND LOY, APC  
810 Mission Avenue, Suite 300  
Post Office Box 240  
Oceanside, California 92054-0040

RECORDED IN  
OFFICIAL RECORDS  
OF SAN DIEGO COUNTY, CALIF.

1985 DEC 29 PM 1:45

VERA L. LYLE  
COUNTY RECORDER

RF 4.00  
AR 2.00  
MG 1.00

AMENDMENT TO  
DECLARATION OF RESTRICTIONS  
PACIFIC SERENA UNIT NO. 2

Recitals

1. HERMOSA HOUSING CORPORATION on February 11, 1970 recorded a document entitled Declaration of Restrictions, as file/page number 70-25624 in the Office of the County Recorder of San Diego County, California, with regard to real property described as Lots 57 through 89 inclusive of Pacific Serena Unit No. 2, according to map thereof No. 6585 filed in the Office of the County Recorder of San Diego County, California on February 10, 1970.

2. Paragraph 29 of said document provides that "the provisions of these Restrictions, other than this Paragraph, may be amended by an instrument in writing signed and acknowledged by the record owners of at least Seventy-Five Percent (75%) of the Units located on the real property, including all units located in Pacific Serena Unit No. 2 which Amendment shall be effective upon recordation in the Office of the Recorder of San Diego County, California."

3. Section 1355 of the California Civil Code, adopted effective January 1, 1986, provides that the Declaration may be amended pursuant to the terms set forth in the Declaration or pursuant to Title 6 of Part 4 of Division 2 of the Civil Code.

4. Section 1355 of the Civil Code further provides that "an amendment is effective after (1) the approval of the percentage of the owners required by the governing document has been given, (2) that fact has been certified in a writing executed and acknowledged by the officer designated in the declaration... and (3) that writing has been recorded in each county in which a portion of the common interest development is located.

5. Pursuant to section 1355 of the California Civil Code, the aforesaid Declaration has been amended as follows:

-1-

11467B.ab  
102786/a



CIVIL RECORDS, SAN DIEGO COUNTY, VERA L. LYLE, RECORDER

Amendment

Paragraph 4 of the Declaration of Restrictions is amended to read, in full, as follows:

"Each living unit shall be used and occupied for private, single-family dwelling purposes only.

Pacific Serena Unit No. 2 is a senior citizen housing development as that term is defined in section 51.3 of the California Civil Code. No Living Unit shall be used or occupied unless at least one person in permanent residence is 55 years of age or older ('senior citizen') or is a 'qualified permanent resident' as that term is defined in section 51.3 of the Civil Code). Each other person residing in the unit on a permanent basis must be at least 45 years of age, except that a spouse or cohabitant of the senior citizen or a person providing primary economic or physical support to the senior citizen may be of any age. Temporary residence by a person less than 45 years of age (guests) is permitted for a period cumulatively not in excess of sixty (60) days in any twelve month period. Upon the death or dissolution of marriage, or upon hospitalization or other prolonged absence of the senior citizen, any qualified permanent resident shall be entitled to continue his or her occupancy, residency or use of the unit.

The number of residents in a unit shall be no more than one (1), plus one (1) person for each bedroom in the unit as shown on the original plans of the unit."

CERTIFICATION

I, the undersigned Chairman of Pacific Serena Unit No. 2 Architectural Committee, the person designated by the Association for the purpose of executing this certificate, hereby certify that the foregoing amendment to the Declaration of Restrictions was approved by the owners of at least seventy five percent (75%) of the units on the real property.

*Mary E. Dargan*

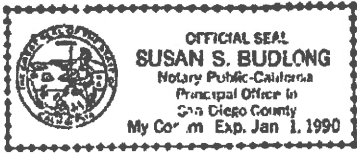
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

On this 19th day of December, 1986, before me the undersigned notary public in and for said State, personally appeared Mary E. Dargan, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

WITNESS my hand and official seal.

*Susan S. Budlong*  
Notary Public

11467B.ab  
102788/a



SAN DIEGO COUNTY RECORDS

DOC # 2010-0000334



JAN 04, 2010 8:00 AM

OFFICIAL RECORDS  
SAN DIEGO COUNTY RECORDER'S OFFICE  
DAVID L. BUTLER, COUNTY RECORDER  
FEES: 117.00

DA: 1

PAGES: 18



FN  
NS  
1810  
12  
TCS

Recording Requested By: ~~Diane~~  
Therault

When recorded mail to:  
Chicago Title ServiceLink Division  
4000 Industrial Blvd  
Aliquippa, PA 15001

13  
201171

Section 91941

(B)

Chicago Title  
ServiceLink Division  
4000 Industrial Blvd  
Aliquippa PA 15001

Deed of Trust

1900

Definitions. Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated December 18, 2009, together with all Riders to this document.

(B) "Borrower" is Linda B Donaghey, Single Woman, Borrower's address is 255 Fraxinella Street, Encinitas, CA 92024. Borrower is the trustor under this Security Instrument.

(C) "Lender" is JPMorgan Chase Bank, N.A.. Lender is a National Banking Association organized and existing under the laws of the United States. Lender's address is 1111 Polaris Parkway, Columbus, OH 43240. Lender is the beneficiary under this Security Instrument.

(D) "Trustee" is JPMorgan Chase Bank, N.A..

(E) "Note" means the promissory note signed by Borrower and dated December 18, 2009. The Note states that Borrower owes Lender three hundred twenty five thousand five hundred seventy-five and 00/100 Dollars (U.S. \$325,575.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than January 1, 2030.

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:



CALIFORNIA-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
VMP#  
Walters Kluwer Financial Services

200912193 3 2 381720091130Y

Initials

YBD.

1235212588  
Form 3005 1/01

Page 1 of 17





- Adjustable Rate Rider
- Balloon Rider
- VA Rider
- Condominium Rider
- Planned Unit Development Rider
- Biweekly Payment Rider
- Second Home Rider
- 1-4 Family Rider
- Other(s) [specify]

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appellable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, RESPA refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

**Transfer of Rights in the Property.** This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose.



Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the COUNTY [Type of Recording Jurisdiction] of San Diego [Name of Recording Jurisdiction] See Attached **Exhibit "A"**

Parcel ID Number: 257-080-33-01 which currently has the address of 255 Fraxinella Street [Street] Encinitas [City], California 92024 [Zip Code] ("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

Uniform Covenants. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim



which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

**3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to



*YBD*



Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien



which can attain priority over this Security Instrument. Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee and Borrower further agrees to generally assign rights to insurance proceeds to the holder of the Note up to the amount of the outstanding loan balance.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall



be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

**6. Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.



Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause. Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

**8. Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated



payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(A) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(B) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During



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such repair and restoration period. Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds. Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.



All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a



prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.



**Clotfelter**

REAL ESTATE  
SINCE 1931



If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If



REAL ESTATE  
SINCE 1931



Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**Non-Uniform Covenants.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert



CALIFORNIA - Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT

VMP®

Wolters Kluwer Financial Services

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Initials

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Form 3005 1/01

Page 14 of 17



the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Trustee shall cause this notice to be recorded in each county in which any part of the Property is located. Lender or Trustee shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the other persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

**23. Reconveyance.** Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Lender may charge such person or persons a reasonable fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law. If the fee charged does not exceed the fee set by Applicable Law, the fee is conclusively presumed to be reasonable.

**24. Substitute Trustee.** Lender, at its option, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the office of the Recorder of the county in which the Property is located. The instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page where this Security Instrument is recorded and the name and address of the successor trustee. Without conveyance of the Property, the successor trustee shall succeed to all the title, powers and duties conferred upon the Trustee herein and by Applicable Law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.




25. **Statement of Obligation Fee.** Lender may collect a fee not to exceed the maximum amount permitted by Applicable Law for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California.

The undersigned Borrower requests that a copy of any Notice of Default and any Notice of Sale under this Security Instrument be mailed to the Borrower at the address set forth above. A copy of any Notice of Default and any Notice of Sale will be sent only to the address contained in this recorded request. If the Borrower's address changes, a new request must be recorded.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

Borrower

Linda B. Donaghey 12/23/09  
Linda B Donaghey Date  
Seal



Acknowledgment

State of California

County of San Diego

On Dec 23, 2009 before me, Tam Le Notary

Public, personally appeared Linda B Donaghey

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

*[Handwritten Signature]*

Notary Public

My commission expires: Aug 24, 2013



Space below notary acknowledgment(s) intentionally left blank

750.





**Exhibit "A"**  
**Legal Description**

ALL THAT CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, BEING KNOWN AS:

**1917**

**PARCEL 1:**

AN UNDIVIDED ONE-HALF INTEREST IN AND TO LOT 57 OF PACIFIC SERENA UNIT NO. 2, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 6585, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, FEBRUARY 10, 1970.

EXCEPTING THEREFROM ANY AND ALL RIGHTS TO OCCUPY AND USE SAID LAND.

**PARCEL 2:**

THE EXCLUSIVE RIGHT TO OCCUPANCY AND USE IN AND TO THE NORTHERLY 49.97 FEET OF LOT 57 OF PACIFIC SERENA UNIT NO. 2, IN THE CITY OF ENCINITAS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 6585, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, FEBRUARY 10, 1970.

BEING THE SAME PROPERTY AS DESCRIBED IN INSTRUMENT NO. 1993-26065, DATED 10/26/1992, RECORDED 01/14/1993 IN SAN DIEGO RECORDS.

Tax ID: 257-080-33-01



# PACIFIC SERENA - UNIT No 2

MAP No 6585 SHEET 1 OF 3 SHEETS



WE HEREBY CERTIFY THAT WE ARE THE CHARGES OF AND AUTHORIZED BY THE BOARD OF DIRECTORS OF THE HOME FEDERAL SAVINGS AND LOAN ASSOCIATION OF SAN DIEGO, A CORPORATION, AS TRUSTEE

*[Signature]*  
 COUNTY CLERK

ROSEDALE HOMES, INC., A CORPORATION, AS CHAIR

*[Signature]*  
 COUNTY CLERK

HOME FEDERAL SAVINGS AND LOAN ASSOCIATION OF SAN DIEGO, A CORPORATION, AS TRUSTEE

*[Signature]*  
 COUNTY CLERK

STATE OF CALIFORNIA )  
 COUNTY OF SAN DIEGO )  
 I, JAMES H. ... )  
 COUNTY CLERK )  
 DO HEREBY CERTIFY THAT THE ABOVE )  
 INSTRUMENT WAS FILED FOR RECORD )  
 IN THE OFFICE OF THE COUNTY CLERK )  
 OF SAN DIEGO COUNTY, CALIFORNIA, )  
 THIS 24th DAY OF APRIL, 1970, AT )  
 SAN DIEGO, CALIFORNIA. )

IN WITNESS WHEREOF, I HAVE SIGNED MY HAND AND AFFIXED MY OFFICIAL SEAL IN SAN DIEGO COUNTY, CALIFORNIA, THIS 24th DAY OF APRIL, 1970.

*[Signature]*  
 COUNTY CLERK

A SUBDIVISION OF THE TRACT OF 6.25 ACRES OF LAND, MORE OR LESS, BEING THE ...

... THE COUNTY OF SAN DIEGO, CALIFORNIA, ...

ORDER NO. 30403

TITLE INSURANCE AND TRUST COMPANY, A CORPORATION, ...

... THE COUNTY OF SAN DIEGO, CALIFORNIA, ...

IN WITNESS WHEREOF, I HAVE SIGNED MY HAND AND AFFIXED MY OFFICIAL SEAL IN SAN DIEGO COUNTY, CALIFORNIA, THIS 24th DAY OF APRIL, 1970.

*[Signature]*  
 COUNTY CLERK

STATE OF CALIFORNIA )  
 COUNTY OF SAN DIEGO )  
 I, JAMES H. ... )  
 COUNTY CLERK )  
 DO HEREBY CERTIFY THAT THE ABOVE )  
 INSTRUMENT WAS FILED FOR RECORD )  
 IN THE OFFICE OF THE COUNTY CLERK )  
 OF SAN DIEGO COUNTY, CALIFORNIA, )  
 THIS 24th DAY OF APRIL, 1970, AT )  
 SAN DIEGO, CALIFORNIA. )

IN WITNESS WHEREOF, I HAVE SIGNED MY HAND AND AFFIXED MY OFFICIAL SEAL IN SAN DIEGO COUNTY, CALIFORNIA, THIS 24th DAY OF APRIL, 1970.

*[Signature]*  
 COUNTY CLERK



I, ROY L. ... )  
 COUNTY CLERK )  
 DO HEREBY CERTIFY THAT THE ABOVE )  
 INSTRUMENT WAS FILED FOR RECORD )  
 IN THE OFFICE OF THE COUNTY CLERK )  
 OF SAN DIEGO COUNTY, CALIFORNIA, )  
 THIS 24th DAY OF APRIL, 1970, AT )  
 SAN DIEGO, CALIFORNIA. )

APPROVED AS TO FORM:

BERTHALL M. LEE, JR., COUNTY CLERK

DATE: 24/70 BY: ...

I HEREBY CERTIFY THAT THE ABOVE INSTRUMENT WAS FILED FOR RECORD IN THE OFFICE OF THE COUNTY CLERK OF SAN DIEGO COUNTY, CALIFORNIA, THIS 24th DAY OF APRIL, 1970, AT SAN DIEGO, CALIFORNIA.

*[Signature]*  
 COUNTY CLERK

IN WITNESS WHEREOF, I HAVE SIGNED MY HAND AND AFFIXED MY OFFICIAL SEAL IN SAN DIEGO COUNTY, CALIFORNIA, THIS 24th DAY OF APRIL, 1970.

*[Signature]*  
 COUNTY CLERK

COUNTY TMS 772-2 (1-5542) 322-1683

# PACIFIC SERENA - UNIT No 2

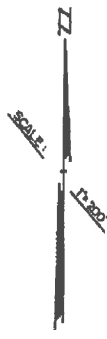
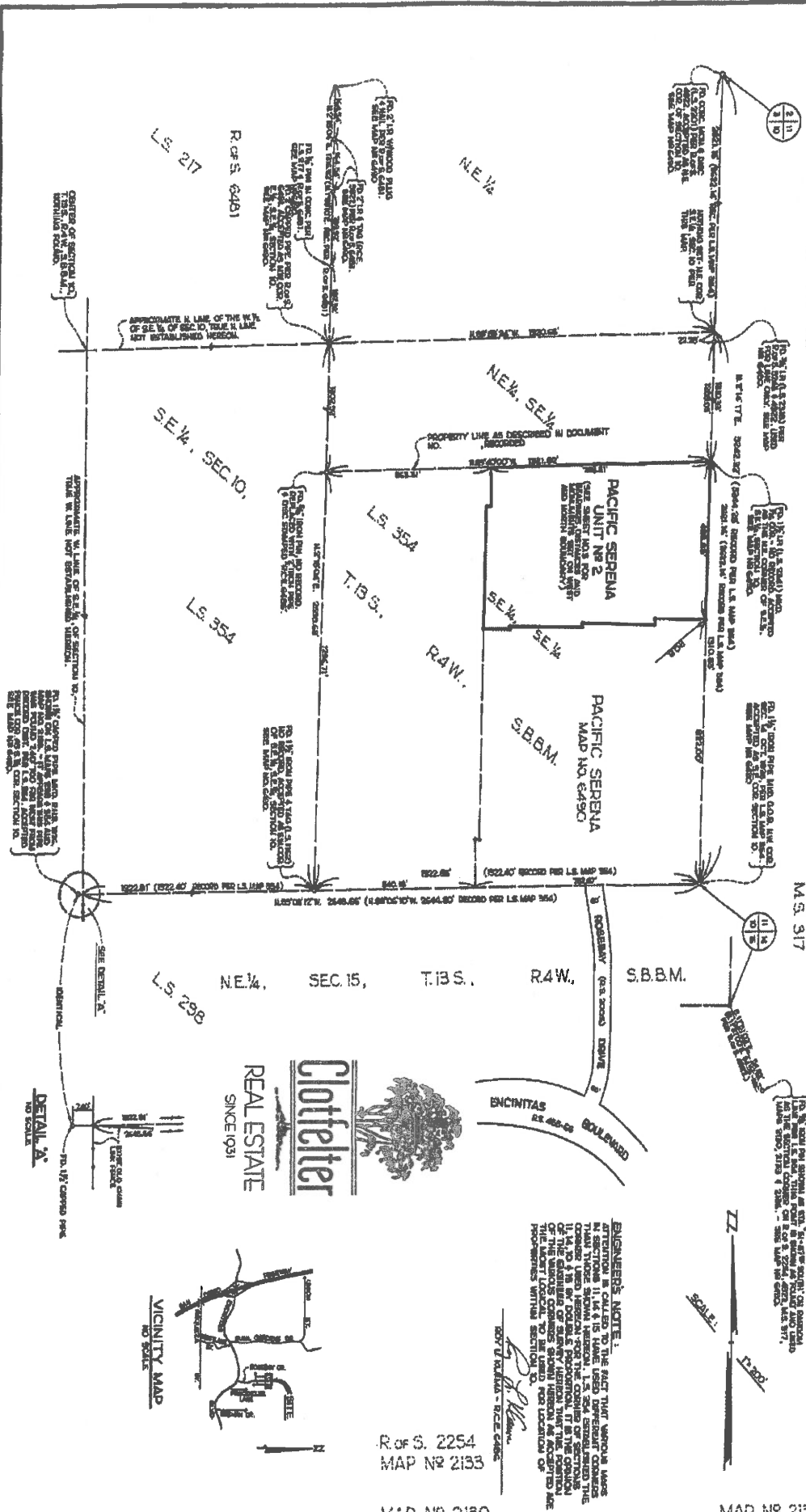
SUBDIVISION BOUNDARY + PROCEDURE OF SURVEY

MAP No 6585

SHEET 2 OF 3 SHEETS

R of S. 5243  
R of S. 4922

M.S. 317

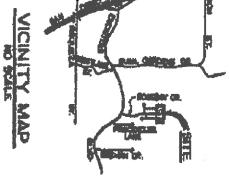


**ENGINEER'S NOTE:**  
ATTENTION IS CALLED TO THE FACT THAT VARIOUS MAPS  
AND RECORDS HAVE BEEN USED IN THE PREPARATION OF THIS  
MAP AND THAT THE ENGINEER HAS NOT BEEN ADVISED OF ANY  
CHANGES SINCE THE PREPARATION OF THE MAP. IT IS THE  
POLICY OF THE ENGINEER TO BE RESPONSIBLE FOR THE LOCATION  
OF THE VARIOUS CORNERS SHOWN HEREON AS ACCEPTED FOR  
RECORD AND TO BE HELD FOR LOCATION OF  
THE CORNERS WITHIN THE SECTION.

BY *[Signature]*  
R. P. WILSON  
CIVIL ENGINEER

R of S. 2254  
MAP No 2133  
MAP No 2130

MAP No 2136



COUNTY TM2772-2  
(L-5542)  
322-1683

