



CANDACE OWENS
COCONINO COUNTY RECORDER
OFFICIAL RECORDS OF
COCONINO COUNTY

INST: 98-19350 FEE:\$ 40.00
AT THE REQUEST OF:
RONALD KOHNER
DATE: 06/17/1998 TIME: 08:52
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When Recorded Mail to:

Blue Ridge Development, Inc.
P.O. Box 760
Peoria, Arizona 85380-0760

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BLUE RIDGE ESTATES

This Declaration of Covenants, Conditions and Restrictions for Blue Ridge Estates ("Declaration") made as of this 12 day of June, 1998, by **First American Title Insurance Company**, a California corporation, as Trustee under Trust No. 8381 (the "Trust"), as legal owner, and **Blue Ridge Development, Inc.**, an Arizona corporation ("Blue Ridge"), as Second Beneficiary under said Trust, to run with the real property herein described for the purposes as herein set forth:

W I T N E S S E T H:

A. WHEREAS, Blue Ridge is the Second Beneficiary under the Trust and is in possession of approximately 200 acres of land in Coconino County, Arizona, more specifically described in **Exhibit A** attached hereto and made a part hereof (the "Property");

B. WHEREAS, Blue Ridge intends to develop, in stages, the Property into a new and uniquely planned recreation property to be known as "Blue Ridge Estates" and impose upon the Property mutually beneficial restrictions and obligations with respect to the proper use, conduct upon and maintenance thereof for the benefit of all persons who now or hereafter use, own, occupy or have an interest in any portion of the property;

C. WHEREAS, Blue Ridge has the authority under the Trust to prepare and file a Declaration of Covenants, Conditions and Restrictions covering the Property;

NOW, THEREFORE, Blue Ridge, as Declarant ("Declarant") hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner of all or any part thereof.

ARTICLE I

DEFINITIONS

Except as otherwise expressly provided in this Declaration, the following terms shall, for purposes of this Declaration, have the meanings set forth below:

Section 1.1 "Annexable Property" shall mean the real property described on Exhibit B attached hereto and made a part hereof.

Section 1.2 "Annual Assessments" shall mean the charge levied and assessed each year against each Lot within the Assessable Property, as defined hereinbelow, in accordance with Article IX hereof.

Section 1.3 "Architectural Committee" shall mean the committee created pursuant to Article X hereof.

Section 1.4 "Architectural Committee Rules" shall mean the rules adopted by the Architectural Committee.

Section 1.5 "Articles" shall mean the Articles of Incorporation of the Association which shall be filed in the office of the Corporation Commission of the State of Arizona as said Articles may be amended from time to time.

Section 1.6 "Assessable Property" shall mean the entire Property, as defined hereinbelow, except such part or parts thereof as may from time to time constitute Exempt Property, as defined hereinbelow.

Section 1.7 "Assessments" shall mean the Annual Assessments together with all Special Assessments, as defined hereinbelow.

Section 1.8 "Association" shall mean and refer to Blue Ridge Estates Homeowners' Association of Coconino County, an Arizona non-profit corporation, its successors and assigns.

Section 1.9 "Association Expenses" shall mean the actual and estimated expenses of performing all obligations and exercising all rights and powers of the Association hereunder and otherwise of operating the Association, including any reasonable reserves, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Articles or By-Laws.

Section 1.10 "Association Property" shall mean such part or parts of the Property as may be owned by the Association, together with any adjacent real property upon which the Association is granted an easement, license or right to use, and any Improvements (as defined hereinbelow) thereon, and any personal property as may be owned by the Association.

Section 1.11 "Board" shall mean the Board of Directors of the Association.

Section 1.12 "By-Laws" shall mean the By-Laws of the Association, as such By-Laws may be amended from time to time.

Section 1.13 "Declarant" shall mean Blue Ridge Development, Inc., and any successor and assignee of the rights and duties granted or reserved to the Declarant herein. The term "Declarant" shall in no event refer to a "Public Purchaser".

Section 1.14 "Declaration" shall mean the covenants, conditions and restrictions herein set forth in this document, as same may from time to time be amended.

Section 1.15 "Deed" shall mean a deed or other instrument conveying the fee simple title in a "Lot", as defined hereinbelow.

Section 1.16 "Exempt Property" shall mean the following parts of the Property:

(i) All land and permanent Improvements owned by the United States, the State of Arizona, Coconino County, or any political subdivision thereof, for as long as any such entity or political subdivision is the Owner thereof.

(ii) All Association land for as long as the Association is the Owner thereof.

Section 1.17 "Improvements" shall mean the buildings, garages, carports, roads, driveways, parking areas, fences, walls, utilities and service lines, decks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind.

Section 1.18 "Lot" shall mean any parcel of real property designated as a Lot on any recorded Subdivision Map that is located within the Property. A Lot shall be deemed "Developed" when adjacent streets and off-site utilities have been completely installed. A Lot shall be deemed "Improved" when a Single-Family Residence has been completely constructed thereon. All other Lots shall be deemed "Unimproved Lots".

Section 1.19 "Maximum Annual Assessment" shall mean the maximum Annual Assessment determined in accordance with Section 9.7 hereof.

Section 1.20 "Member" shall mean any person, corporation, partnership, joint venture or other legal entity which is a member of the Association.

Section 1.21 "Owner(s)" shall mean and refer to the record holder, whether one or more persons or entities, of legal, equitable or beneficial title to the fee simple interest of any Lot. "Owner" shall include the purchaser of a Lot under an executory contract for the sale of real property. The foregoing does not include persons or entities who hold an interest in any Lot

merely as security for the performance of an obligation or a lessee, tenant or any other person other than an Owner who occupies or is in possession of a Lot.

Section 1.22 "Property" shall mean as follows:

(i) The real property, more specifically described on **Exhibit A** attached hereto and made a part hereof and any adjacent real property upon which easements, licenses or rights are granted to the Association;

(ii) any and all streets, roadways, and highways constructed, built, installed or erected upon the real property described in subparagraph (i) hereof;

(iii) Any permanent Improvements built, installed or erected upon the real property described in subparagraph (i) hereof.

Section 1.23 "Public Purchaser" shall mean any person or legal entity other than the Declarant who becomes an Owner of any Lot within the Property.

Section 1.24 "Record", "Recording", "Recorded" and "Recordation" shall mean placing or having placed an instrument of public record in the official records of Coconino County, Arizona, or of such other governmental authority, office or official with which or whom the applicable laws of the State of Arizona prescribe that documents affecting title to real property in the area including the Property are to be placed of public record.

Section 1.25 "Residence" shall mean any building situated upon a lot and intended for use and occupancy as a residence by a Single Family.

Section 1.26 "Resident" shall mean any person who is an Owner, lessee, tenant or any other person other than an Owner who occupies or is in possession of a Lot.

Section 1.27 "Rules and Regulations" shall mean the rules and regulations regarding the Property and its use, occupancy, operation and maintenance adopted by the Board, as they may be amended from time to time.

Section 1.28 "Single Family" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three (3) persons not all so related, together with their domestic servants, who maintain a common household in a dwelling.

Section 1.29 "Single Family Residential Use" shall mean the occupation or use of a Single Family Residence in conformity with this Declaration and the requirements imposed by applicable zoning laws and other state, county or municipal rules and regulations.

Section 1.30 "Special Assessments" shall mean the charge levied or assessed against each Lot within the Assessable Property in accordance with Article IX hereof.

Section 1.31 "Subdivision Map" or "Subdivision Plat" shall mean a recorded map or plat covering any or all of the property described in **Exhibit A**.

Section 1.32 "Visible From Neighboring Property" shall mean, with respect to any given object, that such object is or would be visible to a person six feet tall, standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed.

ARTICLE II

COVENANTS BINDING ON PROPERTY AND OWNERS

Section 2.1 **Property Bound**. From and after the date of recordation of this Declaration, the Property shall be subject to the covenants, conditions and restrictions, assessments, charges, servitudes, liens, reservations and easements hereinafter set forth (collectively referred to as "Covenants"), and said Covenants shall run with, bind and burden the Property.

Section 2.2 **Owners Bound**. From and after the date of recordation of this Declaration, the Covenants shall be binding upon each Owner and his heirs, executors, administrators, successors and assigns. The Owners, for themselves, their heirs, executors, administrators, successors and assigns, expressly agree to pay, and be personally liable for, the assessments provided for in this Declaration ("Assessments"), and to be bound by all of the Covenants herein set forth. Each Owner shall be and remain personally liable, regardless of whether he has transferred title to his Lot, for the Assessments (together with interest thereon, costs of collection and attorneys' fees, if any) which fell due while the Owner held record title to his Lot. No Owner shall escape personal liability for the Assessments by non-use of the Property or transfer or abandonment of his Lot. The Owner's personal obligation shall not pass to a successor Owner unless expressly assumed by the successor Owner, but any such assumption of personal liability by a successor Owner shall not relieve the prior Owner of his personal liability for the Assessments which fell due while the prior Owner held record title to his Lot.

ARTICLE III

LAND USE CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS

Section 3.1 **Permitted Uses and Restrictions — Single Family**. The permitted uses, easements and restrictions for the Property shall be as follows:

(a) **Single Family Residential Use**. The Property shall be used, improved and devoted exclusively to Single Family Residential Use. No business, commercial, manufacturing, industrial, mercantile, vending or similar activity of any kind whatsoever shall be conducted on any of the Property, with the exception of the construction and sales activities of the Declarant or any affiliate or agent of Declarant with respect to the

Property. (Nothing herein shall be deemed to prevent the leasing of any Property to a Single Family from time to time by the Owner thereof, subject to all of the provisions of the Declaration.) All buildings and structures erected on the Property shall be of new construction and no buildings or structures shall be moved from any other location onto said Property except for buildings or structures used by the Declarant or any affiliate or agent of Declarant in construction or sales activities. No building or structure shall be erected or maintained separate from the Single Family Residence located on any Lot, other than a garage in accordance with Coconino County zoning ordinances in existence at the time. No dwelling or residence shall be erected, permitted or maintained having a floor area of less than twelve hundred square feet, and a ground floor area of less than eight hundred fifty square feet, exclusive of an open porch, carport or attached garage. No garage or shed shall be built prior to the issuance of a Coconino County building permit for the construction of a Single Family Residence.

Section 3.2 **Tanks**. Only tanks that contain fuel for heating purposes shall be allowed on the Lots and must be walled in or kept screened by adequate planting to conceal them from the neighboring properties, roads and streets. The location and method of concealment of the tanks must be approved by the Declarant or Architectural Committee. All tanks must be painted earth-tone colors.

Section 3.3 **Fencing**. Declarant may erect fencing with gates on the perimeter of the Property, along any easements or wherever it deems it necessary or desirable. The perimeter of any individual Lot may be fenced. All fencing must be of materials complimentary to the area and must be approved by the Declarant or Architectural Committee.

Section 3.4 **Building Materials**. No building material of any kind or character shall be placed upon any Lot except in connection with construction on said Lot of an Improvement as approved by the Declarant or Architectural Committee. As soon as building materials are placed on any Lot in such connection, construction shall be promptly commenced and diligently prosecuted in order that such construction shall be completed within a reasonable time after commencement but not later than nine (9) months from the date the material has been placed on the Lot.

Section 3.5 **Driveways**. All driveways which are established upon a Lot by an Owner shall be surfaced or paved with concrete, gravel, cinders or asphalt. The location of the driveway and the materials used shall be approved by the Declarant or Architectural Committee prior to the commencement of construction or use. All driveways must be ten (10) feet in width.

Section 3.6 **Temporary Structures**. No temporary building or structure shall be placed, erected or maintained on any portion of the Property.

Section 3.7 **Trailers and Motor Vehicles**. No mobile homes or manufactured homes of any kind shall be allowed on any portion of the Property. No vehicles shall be driven on any streets or roads within the Property unless properly licensed. No unlicensed vehicles shall be

kept or placed upon any portion of the Property unless parked within an enclosed garage. Except with the prior approval of the Declarant or Architectural Committee, no bus, motor home, truck larger than three-quarter (3/4) ton, trailer of any kind, boat, recreational vehicle, mini-bike, camper (except during the course of making deliveries or for the purposes of loading or unloading) or permanent tent or similar vehicles or equipment shall be kept, placed, maintained, constructed, reconstructed or repaired upon any portion of the Property, including streets and roads (public or private) within the Property in such a manner as will be Visible From Neighboring Property, provided, however, that the provisions of this paragraph shall not apply to emergency vehicle repairs and/or vehicles used exclusively in connection with the construction of any Improvements approved by the Declarant or Architectural Committee.

Section 3.8 Maintenance of Lawns and Plantings by Owner. Each Owner of a Lot shall keep his Lot free of trash and other unsightly material. No Owner shall cut down any tree larger than four (4) inches in diameter without the consent of the Declarant or Architectural Committee. All Lots shall be maintained by thinning and trimming of trees to keep fire danger to a minimum.

Section 3.9 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon any portion of the Property, and no odors shall be permitted to arise therefrom so as to render any portion of the Property unsanitary, unsightly, offensive or detrimental to any other portion of the Property or to its occupants. No noxious, destructive or offensive activity or any activity constituting an unreasonable source of annoyance shall be permitted to be conducted, exist or operate upon any portion of the Property. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or other devices, except security devices used exclusively for security purposes, shall be located, used or placed on any portion of the Property. The Declarant or the Board, in its sole discretion, shall have the right to determine the existence of any of the activities described herein.

Section 3.10 Repair of Buildings. No building or structure upon any portion of the Property shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.

Section 3.11 Trash Containers and Collection. No garbage or trash shall be placed or kept on any portion of the Property except in covered containers of a type, size and style which are approved by the Declarant or Architectural Committee. In no event shall such containers be maintained so as to be Visible From Neighboring Properties. All rubbish, trash or garbage shall be removed from any portion of the Property and shall not be allowed to accumulate thereon. No incinerators for burning trash or garbage shall be kept or maintained on any portion of the Property nor shall garbage or trash be permitted to be buried on any portion of the Property at any time.

Section 3.12 Fires. No outdoor fire of any kind is permitted at any time for any reason with the sole exception of cooking food, and then such fire must be confined to a barbecue-type

container, either free-standing or built-in, and under no circumstances shall such barbecue fire be directly on the ground.

Section 3.13 **Clothes Drying**. No outside clotheslines or other outside facilities for drying or airing clothes may be erected, placed or maintained on any Lot.

Section 3.14 **Mineral Exploration**. No portion of the Property shall be used in any manner to explore for or to remove oil or other hydrocarbons, minerals of any kind, gravel, earth or earth substance of any kind.

Section 3.15 **Machinery and Equipment**. No machinery or equipment of any kind shall be placed, operated or maintained upon any portion of the Property except such machinery or equipment as is usual and customary in connection with the construction of a residence or other Improvements and except that which Declarant or the Association may require for the development, operation and maintenance of the Property.

Section 3.16 **Disease and Insects**. No Owner shall permit any thing or condition to exist upon any portion of the Property which shall induce, breed or harbor infectious plant diseases or noxious insects.

Section 3.17 **Restriction on Further Subdivision**. No Lot shall be further subdivided or separated into smaller Lots or parcels by any Owner, and no portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by any Owner without the prior written approval of the Declarant or the Board.

Section 3.18 **Signs**. No signs or billboards whatsoever including, but not limited to, "For Sale" signs, commercial, political or other similar signs shall be erected or maintained on any Lot or portion of the Property, except:

- (a) Such signs as may be required by legal proceedings;
- (b) Not more than two (2) residential identification signs each of a combined total face area of seventy-two (72) square inches or less, provided such signs must contain the address numbers that are not less than four (4) inches in height and are visible from the street, within ten (10) feet of the driveway entry, and which signs shall be approved in advance by the Declarant or Architectural Committee;
- (c) During the time of construction of any building or other improvement, one job identification sign not larger than eighteen (18) by twenty-four (24) inches in height and width and having a face area not larger than three (3) square feet;
- (d) Such signs, the nature, number and location of which have been approved in advance by the Declarant or Architectural Committee; and

