

State
of
California

OFFICE OF THE SECRETARY OF STATE

I, *MARCH FONG EU*, Secretary of State of the State of California, hereby certify:

That the annexed transcript has been compared with the record on file in this office, of which it purports to be a copy, and that same is full, true and correct.

IN WITNESS WHEREOF, I execute
this certificate and affix the Great
Seal of the State of California this

SEP 6 1977



March Fong Eu

Secretary of State

825391

**ENDORSED
FILED**

In the office of the Secretary of State
of the State of California

AUG 8 1977

BRANCH FORM 99, Secretary of State
Colleen E. Peterson
Deputy

ARTICLES OF INCORPORATION

OF

CASA DEL REY-HOMEOWNERS ASSOCIATION

(ENDORSED)
FILED
SEP 19 1977

JOHN KAZUBOWSKI, Clerk

Q -37444

ARTICLE I

NAME

The name of the corporation (hereinafter called the "Association") is CASA DEL REY HOMEOWNERS ASSOCIATION.

ARTICLE II

PRINCIPAL OFFICE

The principal office for the transaction of the business of the Association is located in Santa Clara County, State of California.

ARTICLE III

ORGANIZATION

This Association is organized pursuant to the General Non-profit Corporation Law.

ARTICLE IV

PURPOSES AND POWERS OF THE ASSOCIATION

The purpose for which the Association is formed are:

- (a) The specific and primary purposes for which it is formed are to provide for maintenance, preservation, and architectural

own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association;

5. To borrow money, and only with the assent (by vote or written consent) of two-thirds (2/3) of each class of members mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

6. To dedicate, sell, or transfer all or any part of the Common Areas or Common Facilities to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale, or transfer;

7. To participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any merger, consolidation, or such annexation shall have the assent by vote of two-thirds (2/3) of each class of members or by the written consent of all of the members;

8. To have and to exercise any and all powers,

rights and privileges which a corporation organized under the General Nonprofit Corporation Law of the State of California by law may now or hereafter have or exercise.

(c) Notwithstanding any of the above statements of purposes and powers, the Association shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of the Association.

ARTICLE V

MEMBERSHIP

Every person or entity who is a Record Owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

ARTICLE VI

VOTING RIGHTS

The Association shall have two classes of voting membership:

CLASS A. Class A members shall be all Owners (or designated agents of Owners) with the exception of Declarant (as defined in

the Restrictions) and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

CLASS B. The Class B members shall be the Declarant (or designated agents of Declarant) and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and shall be converted to Class A membership on the happening of any of the following events, whichever occurs earliest:

(a) When the total votes outstanding in Class A membership equal the Total votes outstanding in the Class B membership;

(b) Two (2) years from the date of the issuance of the original public report for the overall development; or

(c) On April 1, 1979.

ARTICLE VII

BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of three (3) Directors, who need not be members of the Association. The number of directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

1. S. A. STEINDORF, JR.
250 So. Mathilda Avenue
Sunnyvale, CA 94086
2. GORDON T. STEINDORF
250 So. Mathilda Avenue
Sunnyvale, CA 94086
3. TONY JELINCICH
574 Weddell Drive, Suite 4
Sunnyvale, CA 94086

ARTICLE VIII

LIMITATION ON CORPORATE ACTIVITIES

None of the activities of this Association shall consist of the carrying on of propaganda, or otherwise attempting, to influence legislation, nor shall this Association participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

ARTICLE IX

DISTRIBUTION OF INCOME AND PROHIBITED ACTIVITIES

Notwithstanding any other provision in these Articles of Incorporation, the Association shall be subject to the following limitations and restrictions:

(a) The Association shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4941 of the Internal Revenue Code of 1954.

(b) The Association shall not engage in any act of

self-dealing as defined in Section 4941 (c) of the Internal Revenue Code of 1954.

(c) The Association shall not retain any excess business holdings as defined in Section 4943 (c) of the Internal Revenue Code of 1954.

(d) The Association shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1954.

(e) The corporation shall not make any taxable expenditures as defined in Section 4945 (d) of the Internal Revenue Code of 1954.

ARTICLE X

DISSOLUTION OR WINDING UP

Upon the dissolution or winding up of the Association, its assets remaining after payment or provision for payment of all its debts and liabilities, shall be distributed among the members of the Association in accordance with their respective rights therein.

ARTICLE XI

AMENDMENT

Amendment of these Articles shall require the vote or written consent of members of the Association representing a majority of each class of members for so long as there are two classes of

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION, made on the date hereinafter set forth by CASA DEL REY, a general partnership, referred to as "Declarant".

WHEREAS, Declarant is the owner of certain real property in the City of Santa Clara, County of Santa Clara, State of California, described as follows:

LOTS 1 through 41, inclusive, as shown on the Map of "Amended Tract No. 6046," filed on January 4, 1978, Recorder's Serial No. 5891852, in Book 410 of Maps, pages 40 and 41 of the Official Records of Santa Clara County.

NOW THEREFORE, Declarant declares that all of the properties described above 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, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

**ARTICLE I
DEFINITIONS**

SECTION 1.01. "Association" shall mean and refer to CASA DEL REY HOMEOWNERS ASSOCIATION, its successors and assigns.

SECTION 1.02. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 1.03. "properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 1.04. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

LOT 41 as shown on the Map of "Amended Tract No. 6046," filed on January 4, 1978, Recorder's Serial No. 5891852, in Book 410 of Maps, Pages 40 and 41 of the Official Records of Santa Clara County.

SECTION 1.05. "Common Facilities" shall mean the improvements owned by the Association located within the Common Area, and includes the storm drainage system, located within Lots 2 through 6, 14, 15, 18 through 30 and 38 in the Storm Drain Easement as shown on the recorded subdivision map of the Properties.

SECTION 1.06. "Lot" shall mean and refer to any improved or unimproved plot of land or parcel shown upon any recorded subdivision map of the properties with the exception of the Common Area.

SECTION 1.07. "Declarant" shall mean and refer to CASA DEL REY, a general partnership, as subdivider, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

SECTION 1.08. "Board" shall mean and refer to the Board of Directors of the Association.

SECTION 1.09. "Mortgage" shall mean and refer to a voluntary lien against a Lot and shall include a Deed of Trust.

SECTION 1.10. "Restrictions" shall mean and refer to the covenants, conditions, and restrictions and equitable servitudes set forth herein.

SECTION 1.11. "Articles" shall mean and refer to the Articles of Incorporation of the Association.

SECTION 1.12. "By-Laws" shall mean and refer to the By-Laws of the Association.

SECTION 1.13. "Rules" shall mean and refer to the Rules of the Association.

SECTION 1.14. "Approval" shall mean and refer to prior written approval.

SECTION 1.15. "Residence" shall mean and refer to all of the improvements on a Lot, including patio area on such Lot.

**ARTICLE II
PROPERTY RIGHTS**

SECTION 2.01. Easements Reserved. Easements are reserved as shown on and in accordance with Map of "Tract No. 6046" hereinabove referred to.

SECTION 2.02. Easements of the Association. The Association or its agents may enter any Lot when reasonably necessary for the purpose of carrying out any maintenance, repair, improvement or replacement which the Association is permitted or required to carry out, and the Association shall have and is hereby granted an easement and right of entry for such purpose. Prior to entry, Association shall give to Owner twenty-four (24) hours notice except in case of an emergency. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be the responsibility of the Association.

SECTION 2.03. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area and Common Facilities which shall be appurtenant to and shall pass with the title to every Lot, subject to the restrictions set forth herein and to the following provisions:

(a) the right of the Association to establish annual assessments or charges and to collect same for the use of any Common Facility or of any private streets or drives situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of any of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed 30 days for any infraction of its published Rules, but only after a hearing before the Board in which the Owner shall have the right to be present and upon receiving five (5) days written notice which shall specify the violations and time and place of the meeting;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area or Common Facilities to any public agency, authority or utility for such purposes and subject to such condition as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

SECTION 2.04. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on his property.

SECTION 2.05. Easement of Encroachment. If any portion of any wall or other part of an improvement as originally constructed upon the Properties, including without limitation eaves or other overhangs of a structure, encroaches upon any part of the Common Area or upon the Lot or Lots used or designated for use by another Owner, an easement for the encroachment and for the maintenance of the same is granted to and for the benefit of the Owners of such encroaching structure. No such easement shall exist, however, in respect to an encroachment caused by construction of any improvement on any Lot after completion of construction of the original improvements thereon by the Declarant, its successors and assigns.

In the event a dwelling unit constructed on a Lot becomes partially or totally destroyed or in need of repair or replacement, mutual and reciprocal easements are granted to the Owner of the Lot upon which the damages or destroyed dwelling unit is located, the Owner of the abutting Lots and the Association to the extent reasonably necessary to make repairs and replacement to the damaged or destroyed property and protecting the structure on the Lot adjacent thereto. Any dispute as to the extent of such easement shall be submitted to the Board of Directors for arbitration and their judgment thereon shall be final and binding as to all parties concerned.

**ARTICLE III
USE RESTRICTIONS**

SECTION 3.01. No Residence or Lot shall be used except for single family residential purposes; provided, however, that Declarant may make temporary non-residential use of Residence and Lots owned by Declarant during the period of time when Declarant is developing the Properties and selling Residence and Lots. No Residence shall be occupied by more than one (1) family, and no structure of a temporary character, trailer, garage or outbuilding, shall be used on the Properties as a residence, either temporarily or permanently.

SECTION 3.02. Nothing shall be done in or upon any Lot or Residence which would impair the structural integrity of such Residence or any other Residence or of the Common Area; and, except with the approval of the Architectural Control Committee, no structural modification, alteration or addition to the exterior of any Residence (including but not limited to plumbing and electrical modification, alterations or additions and fences and walls) shall be made.

SECTION 3.03. Each Owner shall maintain and keep in repair everything within his Lot and shall not permit anything to be done or kept on his Lot or Residence which would result in the cancellation of any insurance or which would be in violation of the law.

SECTION 3.04. No use shall be made of the Common Area except in accordance with the Restrictions, Articles, By-Laws and Rules; nothing shall be kept, stored, placed, built, planted or maintained on any part of the Common Area except in accordance with the Restrictions, Articles, By-Laws and Rules; and each Owner by acceptance of a Deed to a Lot covenants and agrees and shall be deemed to covenant and agree, for himself, his heirs, successors and assigns, to abide by the provisions of the Restrictions, Articles, By-Laws and Rules as the same may from time to time be adopted or amended.

SECTION 3.05. Except with the approval of the Board and subject to the rules and regulations of the Association, nothing shall be stored, placed, kept, built, planted or maintained on any portion of a Lot which lies inside the Residence constructed on such Lot for which the Association has the responsibility for landscaping maintenance.

SECTION 3.06. No waste shall be committed in the Common Area and no noxious or offensive activity shall be conducted on, in or upon any Lot or Residence nor shall anything be done which may be or become an annoyance or nuisance to the other Owners through noise or otherwise or which would be in violation of any law.

SECTION 3.07. No animals, fish, fowls or birds may be kept or bred for commercial purposes on any Lot or in any Residence. Only conventional and customary household pets shall be permitted to be kept and only in reasonable numbers and of such types as not to cause any annoyance or nuisance to any Owner or to commit waste upon any Lot or Common Area.

SECTION 3.08. No sign of any kind shall be displayed to public view on any Lot or Residence except one (1) sign of not more than five (5) square feet advertising said property for sale or rent, and except signs used by Declarant or its agents or nominee in connection with the development of the Properties or the construction and sale of Lots and Residence.

SECTION 3.09. No mast, tower, exterior antenna or similar structure shall be erected or maintained on or about any Lot or Residence without approval of Board.

SECTION 3.10. No Owner shall park, store or maintain within the Common Area any boats, trailers, campers, pickup trucks, motorcycles, or vehicles other than ordinary passenger cars, family station wagons, and half (1/2) ton or smaller pickup trucks, except with the approval of the Board and subject to the rules and regulations of the Association.

SECTION 3.11. ~~The Association shall have the right to assign each Lot Owner the exclusive use of not more than two (2) automobile parking spaces within the Common Area, which shall be located on the driveway area nearest and adjacent to the said Lot Owner's residence. The Association shall have no power to reassign a parking space without the express written consent of all affected Owners.~~

SECTION 3.12. An easement for vehicular ingress and egress to and from each residence over the private road and driveways in the Common Area is reserved for the nonexclusive use of each Lot. Parking of automobiles and other motor driven vehicles on the private road in the Common Area shall not be permitted except in parking spaces designated by the Association.

See AMENDMENT - added sections 3.13 thru 3.16

**ARTICLE IV
MEMBERSHIP AND VOTING RIGHTS**

SECTION 4.01. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

SECTION 4.02. The Association shall have two classes of voting membership:
Class A. Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.
Class B. Class B member shall be the Declarant and shall be entitled to three (3) votes for each lot owned.

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership;
- (b) Two years from the date of the original issuance of the subdivision public report for the development;
- or
- (c) On April 1, 1979.

Any action by the Association which must have the approval of Association membership before being undertaken require the vote or written assent of a prescribed percentage of each class of membership during the time there are two outstanding classes of membership. § 4.

See AMENDMENT - ADDED Section 5.04. ARTICLE V
COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 5.01. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefor, whether or not it shall be so expressed in such Deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, if not paid within thirty (30) days after the same (or any part thereof) become due and payable, shall upon the recording at any time thereafter of a claim of lien by the Association, be and become a charge on the land and a continuing lien upon the property against which each such assessment is made, and the Association shall then have the right to enforce the payment of said assessments together with interest, costs, and reasonable attorneys' fees in accordance with the laws of the State of California governing foreclosure and enforcement of liens. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

~~**SECTION 5.02. Purpose of Annual Assessments.** The annual assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and Common Facilities, of the exterior of the residences, and of the landscaping which extend from the Common Area into the front of the Properties. Said annual assessment shall include and the Association shall acquire and pay for out of the funds derived from said annual assessment the following: (1) water, electricity and other necessary utility service for the Common Area, and water and other necessary utility service which the Association provides for the benefit of the Owners; (2) maintenance and repair of storm drain, sanitary sewer, private driveways and streets lying within the Common Area, or within quasi-public easements within any of the Lots within the Properties; (3) liability insurance insuring the Association against any liability to the public or to any Owners, their invitees or tenants incident to their occupation and or use of the Common Area and Common Facilities, with limits of liability to be set by the Board and increased or decreased in its discretion; (4) workers' compensation insurance to the extent necessary to comply with applicable laws and any other insurance deemed necessary by the Board; (5) standard fidelity bond insuring all members of the Board and all other employees of the Association in an amount which shall be determined by the Board; (6) exterior maintenance and repair of residences upon each Owner's Lot; (7) maintenance, repair and replacement and all landscaping of the Common Area as are necessary and proper; (8) repair, maintenance and replacement of any fence or part thereof that extends into Common Areas; and (9) any other materials, services, labor, maintenance, repair, insurance, taxes or assessment which the Association is required to secure or pay as the Board shall determine as necessary or proper for the Common Area and Common Facilities, or for the benefit of the Lot Owners or for the enforcement of these Restrictions.~~

See AMENDMENT

SECTION 5.03. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot of an Owner, the maximum annual assessment shall be \$556.00 per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, said annual assessment may be increased by the Board of Directors each year provided, however, that the Board may not, without the vote or written assent of a majority of the voting power of the Association residing in members other than the Declarant, impose a regular annual assessment which is greater than 20% of the regular annual assessment for the immediately preceding fiscal year.

(b) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum. The failure of the Board to fix the amount of an annual assessment shall not be deemed a waiver of its power to fix that amount, and the amount of annual assessment fixed for the immediate preceding year shall continue in force until and unless changed by the Board.

~~**SECTION 5.04. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Board of Directors may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area or of a Common Facility, including fixtures and personal property related thereto; provided, however, that the Board may not without the vote or written assent of a majority voting power of the Association residing in members other than the Declarant, impose a special assessment which in the aggregate exceeds 5% of the budgeted gross expenses of the Association for the fiscal year.~~

~~**SECTION 5.05. Notice and Quorum for Any Action Authorized Under Sections 5.03 and 5.04.** Any action authorized under Sections 5.03 and 5.04 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than 10 days in advance of the meeting specifying the place, day and hour of the meeting, and in the case of a special meeting, the nature of the assessment for which the meeting has been called.~~

See AMENDMENT

~~**SECTION 5.06. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis. The exception to this provision is in the case of a special assessment against an Owner imposed by the Board as a remedy to reimburse the Association for costs incurred in bringing the Owner and his Lot into compliance with the Restrictions, or the Rules of the Association.~~

SECTION 5.07. Date of Commencement of Annual Assessments. Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the closing of the first sale of a subdivision interest as to the purchaser thereof. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot and notify each Owner in writing of the amount of the assessment.

assessment period. The due dates shall be established by the Board of Directors.

SECTION 5.08. Financial Statements and Budget. Owner shall be entitled to have furnished to him financial statements as follows:

(a) a pro-forma operating statement or budget for each fiscal year not less than 60 days before the beginning of the fiscal year;

(b) a balance sheet within 60 days as of an accounting date which shall be the last day of the month next in time to six months from the date of the conveyance of the first unit, and an operating statement for an accounting period from the aforesaid date of first closing to the aforesaid accounting date, which shall include a schedule of assessments received or receivable by itemized unit number and by the name of the Owner assessed;

(c) a balance sheet and an operating statement for said fiscal year within 90 days as of the last day of the Association's fiscal year;

(d) other than the above mentioned financial statements which shall be regularly furnished to Owner, the Association shall upon demand, and for a reasonable charge, furnish copies of said financial statements or furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

~~**SECTION 5.09. Default in Payment of Assessments; Remedies of Association.** Each Owner shall pay all assessments promptly after levy thereof by the Board. Any assessment not paid within thirty (30) days after the due date shall be considered delinquent, and the Board is hereby given a lien against the interest of any Owner who is delinquent in the amount of any assessment, whether regular or special, assessed to the Owner of any Lot, plus interest at the rate of ten percent (10%) per annum, and costs, including reasonable attorneys' fees. In the event of a default in payment of any such assessment, and in addition to any other remedies herein or by law provided, the Board may enforce such obligation, or foreclose the lien against the property, as follows:~~

~~(a) By a suit at law to enforce such assessment obligation personally against the Owner. Such action must be authorized by a majority of the Board at a regular or special meeting. Such action shall be brought in the name of the Association, and the Board shall be deemed to be acting on behalf of all Owners.~~

~~(b) By action to foreclose the lien against the property of the defaulting Owner. The Board, upon authorization of a majority thereof at a regular or special meeting may give notice to the defaulting Owner which states the date and amount of delinquency and makes a demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may elect to file a claim of lien against the Lot of such delinquent Owner. Such claim of lien shall state (1) the name of the delinquent Owner; (2) a description of the Lot against which claim of lien is made; (3) the amount claimed to be due and owing (with proper offset allowed); (4) that the claim is made by the Board pursuant to the terms of these Restrictions giving the references of recording of them; and (5) that a lien is claimed against said described Lot in an amount equal to the amount of stated delinquency. Such claim shall be signed and acknowledged by any two members of the Board and dated as of the date the last such Board member executed the same. Upon recordation of~~

~~claim of lien by the Santa Clara County Recorder, the lien claim shall immediately attach and become effective. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a mortgage or deed of trust under power of sale. Such sales shall be conducted in accordance with the provisions of the laws of the State of California applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law. **SEE AMENDMENT.**~~

SECTION 5.10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sales or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VI ARCHITECTURAL CONTROL

SECTION 6.01. No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior re-painting, exterior additions, changes or other alterations thereon be made until the plans and specifications showing the nature, kind, shape, height, color, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee, which shall be composed of three (3) representatives.

SECTION 6.02. Selection of Committee. The Board shall appoint one, and the Declarant two, of the three Committee Members until 90% of all of the Lots in the subdivision have been sold or until the fifth anniversary date of the issuance of the final public report, whichever occurs first, at which time the Board shall have the power to appoint all of the Committee Members. Members appointed to the Committee, by the Board shall be Members of the Association.

SECTION 6.03. Implied Approval. In the event the Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

SECTION 6.04. Structural Integrity. Nothing shall be done in or to any residence or in the Common Area which will impair the structural integrity of any residence except in connection with alterations or repairs specifically permitted or required hereunder. Notwithstanding anything to the contrary herein contained, there shall be no impairment of the structural integrity of any party wall without the prior consent of all Owners of any interest therein, whether by way of easement or in fee. Declarant hereby reserves for itself and for its successors a perpetual and reciprocal right of support between the respective Owners of each party wall. In the event it shall become necessary to repair or rebuild the whole or any portion of a party wall, the expense of repair or rebuilding shall be borne equally by the Owners of the respective residences adjoining said wall. Any such repair or rebuilding shall be erected in the same spot and where the wall was first built and of the same size and of the same or similar material.

ARTICLE VII GENERAL PROVISIONS

~~**SECTION 7.01. Enforcement.** The Association, or any Owner, shall have the right to enforce, by any pro-~~

See AMENDMENT

- (a) prevent Declarant from doing on said Properties or any part thereof owned or controlled by Declarant whatever is reasonably necessary or advisable in connection with the completion of said work;
- (b) prevent Declarant from erecting, constructing and maintaining on the Common Area or any part or parts of said Properties owned or controlled by Declarant such structures as may be reasonably necessary for the conduct of its business of completing said work and disposing of said Properties in parcels by sale, lease otherwise including, without limiting the generality of the foregoing, tract construction and sales offices;
- (c) prevent Declarant from conducting on the Common Area or on any part or parts of said Properties owned or controlled by Declarant its business of completing said work and of disposing of said Properties in parcels by sale, lease or otherwise; or
- (d) prevent Declarant from erecting, constructing and maintaining such sign or signs or other sales aids on any Lot or Lots owned or controlled by Declarant or on the Common Area as may be reasonably necessary for the purposes set forth in this Article.

**ARTICLE XI
TRANSFER OF COMMON AREAS TO ASSOCIATION**

SECTION 11.01. Title to and control of the Common Area and Common Facilities shall be transferred from and conveyed by the Declarant to the Association prior to or coincidental with the transfer or conveyance of the first Lot to an Owner by the Declarant, but in no event later than the first annual meeting of the Association.

SECTION 11.02. Prior to the transfer to the Association of title to the Common Area and Common Facilities, Declarant shall be responsible for the proper maintenance of the same.

SECTION 11.03. If Common Area improvements and Common Facilities are not completed and if the Association is an obligee under a bond or other arrangement (hereafter referred to as "Bond") to secure performance of the commitment of the Declarant to complete the improvements, the following provisions shall apply relative to the initiation of action to enforce the obligations of the Declarant and the surety under the Bond:

(a) The Board shall be directed to consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any improvement for which a Notice of Completion has not been filed within 60 days after the completion date specified for that improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Common-Area improvement, the Board shall be directed to consider and vote on the aforesaid question if a Notice of Completion has not been filed within 30 days after the expiration of the extension.

(b) A special meeting of Members, for the purpose of voting to override a decision of the Board not to initiate action to enforce the obligations under the Bond or on the failure of the Board to consider and vote on the question, shall be held not less than 15 days, nor more than 30 days after receipt by the Board of a petition asking for such a meeting, signed by Members representing 10% of the total voting power of the Association residing in Members other than the Declarant.

(c) At such a meeting of Members referred to in subparagraph (b) above, a vote of a majority of the voting power of the Association, residing in Members other than the Declarant, to take action to enforce the obligations under the Bond, shall be deemed to be the decision of the Association, and the Board shall thereupon implement this decision by initiating and pursuing appropriate action in the name of the Association.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 4th day of January, 1978.

*See AMENDMENT
ARTICLES VII & VIII added -*

CASA DEL REY, A General Partnership

by EL CAMINO FINANCIAL CORPORATION,
a California Corporation, Partner,

S.A. Steindorf, Jr. /s/
S.A. STEINDORF, JR., VICE PRESIDENT
by GAZDAR DEVELOPERS & BUILDERS INC
a California Corporation, Partner

Tony Jelincich /s/
TONY JELINCICH, PRESIDENT

RECORDED AT THE REQUEST OF:
CASA DEL REY HOMEOWNERS ASSOCIATION

RECEIVED OCT 27 1980
6882768

WHEN RECORDED RETURN TO:
CASA DEL REY HOMEOWNERS ASSOCIATION
P.O. BOX 8470
SAN JOSE, CALIFORNIA 95155

FILED FOR RECORD
AT REQUEST OF

Bridge Cliff
OCT 27 4 29 PM '80

F 687 : 152

OFFICIAL RECORDS
SANTA CLARA COUNTY
GEORGE A. MANN
REGISTRAR RECORDER

FIRST AMENDMENT

TO

1980

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS **F 687 : 152**

This Amendment to Declaration of Covenants, Conditions and Restrictions, executed on the date hereinafter set forth, amends those certain Declaration of Covenants, Conditions, and Restrictions dated January 4, 1978, and recorded January 13, 1978 in Book D404 of Official Records, at Page 359, affecting Lots 1 through 40 inclusive and Lot 41, as said Lots are shown on that certain Maps entitled "TRACT NO. 6046", "Casa Del Rey", which said Map was filed for record on January 4, 1978, in Book 410 of Maps, at Pages 40 and 41, Santa Clara County Records.

WITNESSETH:

WHEREAS, the following proposed amendments were approved at a duly constituted meeting for such purposes, approved by owners representing at least 51% of the voting power of the Association;

NOW, THEREFORE, the above-referred Declaration of Covenants, Conditions and Restrictions shall hereafter be held, sold and conveyed subject to the existing Declaration of Covenants, Conditions and Restrictions and the amendments set forth below, which Declaration of Covenants, Conditions and Restrictions and amendments are for the purpose of protecting the value and desirability of and shall run with the real property and be binding on all parties having right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE III.11 PARKING

Subsection 11 is amended to read as follows:

11. Parking. The Association shall have the right to assign each Lot Owner the exclusive use of not more than two (2) automobile parking spaces within the Common Area, which shall be located on the driveway area nearest and adjacent to the said Lot Owner's residence. The Association shall have no power to reassign a parking space without the express written consent of all affected Owners. The remaining seven (7) parking spaces are for guest parking only.

ARTICLE III.13 NUISANCES

Subsection 13 is amended to read as follows:

13. Nuisances. No noxious, illegal or offensive activities shall be carried on upon any lot, or any part of the property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the owners of his respective lot.

ARTICLE III.14 BASKETBALL STANDARDS

Subsection 14 is amended to read as follows:

14. Basketball Standards. No basketball standard or fixed sports apparatus shall be attached to the exterior surface of any residence or garage except where such exterior surface faces an interior patio.

ARTICLE III.15 LIABILITY OF OWNERS FOR DAMAGE TO COMMON AREA

Subsection 15 is amended to read as follows:

15. Liability of Owners for Damage to Common Area. The owner of each lot shall be liable to the Association for all damages to the common area or improvements thereon caused by such owner or any occupant of his lot or guest, except for that portion of said damage, if any, fully covered by insurance. Liability of an owner shall be established only after notice to the owner and hearing before the Board.

ARTICLE III.16 LEASING OF LOTS

Subsection 16 is amended to read as follows:

16. Leasing of Lots. No owner shall be permitted to lease his lot for transient or hotel purposes. Any lease agreement shall be required to provide that the term of the lease shall be subject in all respects to the provisions of the Declaration and the Bylaws and that any failure by the lessee to comply with the term of such documents shall be a default under the lease. All leases and rental agreements shall be required to be in writing. Other than the foregoing, there is no restriction on the right of any lot owner to lease his lot.

ARTICLE IV.03 MEMBERSHIP

Subsection 03 is amended to read as follows:

03. The owner of a lot shall automatically, upon becoming the owner of the same, be a member of the Association, and shall remain a member thereof until such time as his ownership ceases for any reason. Membership shall be appurtenant to and may not be separated from ownership of a lot. Membership shall be held in accordance with the Articles and Bylaws of the Association.

ARTICLE IV.04 TRANSFER OF MEMBERSHIP

Subsection 04 is amended to read as follows:

04. Transfer of Membership. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the lot to which it is appurtenant, and then only to the purchaser, (in the case of a sale), or mortgagee, (in the case of an encumbrance) of such lot. Membership passes automatically to the purchaser upon transfer of title to the lot. A mortgagee does not have membership rights until he becomes an owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. In the event the owner of any lot should fail or refuse to transfer the membership registered in his name to the purchaser of his lot, the Association shall have the right to record the transfer upon its books and thereupon any old membership outstanding in the name of the seller shall be null and void.

ARTICLE V.02 PURPOSE OF ANNUAL ASSESSMENTS
Subsection 02 is amended to read as follows:

02. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and Common Facilities, of the exterior of the residences, and of the landscaping which extend from the Common Area into the front of the Properties. Said annual assessment shall include and the Association shall acquire and pay for out of the funds derived from said annual assessment the following: (1) water, electricity and other necessary utility service for the Common Area, and water and other necessary utility service which the Association provides for the benefit of the Owners; (2) maintenance and repair of storm drain, sanity sewer, private driveways and streets lying within the Common Area, or within quasi-public easements within any of the Lots within the Properties; (3) fire and extended coverage (special form) and insuring the full replacement value, liability insurance insuring the Association against any liability to the public or to any Owners, their invitees or tenants incident to their occupation and or use of the Common Area and Common Facilities, with limits of liability to be set by the Board and increased or decreased in its discretion; (4) workers' compensation insurance to the extent necessary to comply with applicable laws and any other insurance deemed necessary by the Board; (5) standard fidelity bond insuring all members or the Board and all other employees of the Association in an amount which shall be determined by the Board; (6) exterior maintenance and repair of residences upon each Owner's Lot; (7) maintenance, repair and replacement and all landscaping of the Common Area as are necessary and proper; (8) repair, maintenance and replacement of any fence or part thereof that extends into Common Areas; and (9) any other materials, services, labor, maintenance, repair, insurance, taxes or assessment which the Association is required to secure or pay as the Board shall determine as necessary or proper for the Common Area and Common Facilities, or for the benefit of the Lot Owners or for the enforcement of these Restrictions.

ARTICLE V.05 NOTICE AND QUORUM FOR ANY ACTION
AUTHORIZED UNDER SECTIONS V.03 AND V.04
Subsection 05 is amended to read as follows:

05. Notice and Quorum for any Action Authorized under Sections 5.03 and 5.04. Any action authorized under Section 5.03 and 5.04 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than 10 days in advance of the meeting specifying the place, day and hour of the meeting, and in the case of a special meeting, the nature of the assessment for which the meeting has been called. If a quorum is present and the proposed action is favored by a majority of the voting power of the Association including a majority of members other than the Declarant, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

ARTICLE V.09 DEFAULT IN PAYMENT OF ASSESSMENTS:
REMEDIES OF ASSOCIATION
Subsection 09 is amended to read as follows:

09. Default in Payment of Assessments: Remedies of Association. Each Owners shall pay all assessments promptly after levy thereof by the Board. Any assessment not paid within thirty (30) days after the due date shall be considered delinquent, and the Board is hereby given a lien against the interest of any Owner who is delinquent in the amount of any assessment, whether regular or special, assessed to the Owner of any Lot, plus interest at the rate of ten percent (10%) per annum, penalties (not to exceed 10% of the balance outstanding), and costs, including reasonable attorneys' fees. In the event of a default in payment of any such assessment, and in addition to any other remedies herein or by law provided, the Board may enforce such obligation, or foreclose the lien against the property, as follows:

ARTICLE V.09. DEFAULT IN PAYMENT OF ASSESSMENTS; REMEDIES
OF ASSOCIATION (CONT.):

(a) By a suit at law to enforce such assessment obligation personally against the Owner. Such action must be authorized by a majority of the Board at a regular or special meeting. Such action shall be brought in the name of the Association, and the Board shall be deemed to be acting on behalf of all Owners.

(b) By action to foreclose the lien against the property of the defaulting Owner. The Board, upon authorization of a majority thereof at a regular or special meeting may give notice to the defaulting Owner which states the date and amount of delinquency and makes a demand for payment thereof. If such delinquency is not paid within ten (10) days after delivery of such notice, the Board may elect to file a claim of lien against the Lot of such delinquent Owner. Such claim of lien shall state (1) the name of the delinquent Owner; (2) a description of the Lot against which claim of lien is made; (3) the amount claimed to be due and owing (with proper offset allowed); (4) that the claim is made by the Board pursuant to the terms of these Restrictions giving the references of recording of them; and (5) that a lien is claimed against said described Lot in an amount equal to the amount of stated delinquency. Such claim shall be signed and acknowledged by any two members of the Board and dated as of the date the last such Board member executed the same. Upon recordation of such claim of lien by the Santa Clara County Recorder, the lien claim shall immediately attach and become effective. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a mortgage or deed of trust under power of sale. Such sales shall be conducted in accordance with provisions of the laws of the State of California applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law.

ARTICLE VII
GENERAL PROVISIONS

ARTICLE VII.01 ENFORCEMENT
Subsection 01 is amended to read as follows:

01. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration, and in such action shall be entitled to recover reasonable attorneys' fees as are ordered by court. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE VII.05 OWNERS' COMPLIANCE
Subsection 05 is amended to read as follows:

05. Owners' Compliance. Each owner, tenant or occupant of a lot shall comply with the provisions of this Declaration, and (to the extent they are not in conflict with the Declaration) the Articles, Bylaws, decisions and resolutions of the Association or its duly authorized representative, all as lawfully amended from time to time, and any failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover damages, or for injunctive relief.

ARTICLE VIII
PARTY WALLS

ARTICLE VIII.03 DESTRUCTION BY FIRE OR OTHER CASUALTY
Subsection 03 is amended to read as follows:

03. Destruction by Fire or Other Casualty. If all or any portion of any residence is damaged or destroyed by fire or other casualty it shall be the duty of the owner of said residence to rebuild, repair or reconstruct said residence in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty. The Board shall be responsible for making available the proceeds of the master insurance policy for the reconstruction and repair of the damaged residence.

(a) Time Limitation: The owner or owners of any damaged residence and the Architectural Control Committee shall be obligated to proceed with all due diligence hereunder, and the owner shall commence reconstruction within three (3) months after the damage occurs and complete reconstruction within six (6) months after the damage occurs, unless prevented by causes beyond his reasonable control.

(b) Common Area Destruction: In the event the common area or facilities subject to this Declaration are totally or substantially damaged or destroyed, the repair, reconstruction or disposition thereof and the use and disposition of insurance proceeds payable to the Association in such event, shall be as provided by an agreement approved by the owners representing at least seventy-five percent (75%) of the voting power of each class of members of the Association subject to the rights of institutional lenders. Provided, however, that in no event shall hazard insurance proceeds for losses to any common property be used for other than the repair, replacement or reconstruction of such damaged common property unless seventy-five percent (75%) of class of members give their prior written assent thereto.

(c) Insurance; Damage or Destruction: If any of the project improvements are damaged by fire or other casualty, insurance proceeds payable to the Association shall be used to rebuild or repair such damage substantially in accordance with the original plans and specifications therefor. Any excess insurance proceeds shall be deposited to the general funds of the Association. In the event the proceeds of the Association's insurance policy are insufficient to

ARTICLE VIII.03 DESTRUCTION BY FIRE OR OTHER CASUALTY (CONT.):
rebuild or repair the common area, or the residences, then the Association may use funds from its account or if necessary from levying a special assessment on all lot owners to restore or rebuild said common area or residences.

All property and liability insurance carried by the Association or the owners shall contain a cross liability endorsement and waiver of subrogation as to the Association, officers and directors, and any members, their guests, agents and employees.

ARTICLE XII
DUTIES AND POWERS OF THE ASSOCIATION

ARTICLE XII.01 DUTIES
Subsection 01 is amended to read as follows:

01. Duties. In addition to the duties enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for in this Declaration, and without limiting the generality thereof, the Association shall perform the following duties:

(a) Insurance: The Association shall obtain and continue in effect a master policy of insurance covering all of the real property and improvements of the project, and protecting the interests of the Association and its members, including, without limitation, fire and extended coverage (special form) and insuring the full replacement value of all improvements in the project including the dwellings on the lots, and public liability insurance insuring the Association and each owner for his liability for the common area with "severability of interest provision" and waiver of subrogation provision", and a fidelity bond covering officers, directors, and employees in an amount to be determined by the Board.

The minimum limits on the public liability insurance policy shall be \$1,000,000 single limit and shall include personal injury, bodily injury, property damage, liability for non-owned automobiles, and glass coverage. In addition the Association shall obtain and continue in effect additional umbrella coverage of \$1,000,000 or as an alternative may carry a \$2,000,000 single limit policy. The City of Santa Clara shall be named as an additional insured in said policy or policies. The limits and coverage shall be reviewed at intervals of

ARTICLE XII.01 DUTIES (CONT.): not less than three (3) years and adjusted, if necessary, to provide such coverage and protection as the Association may deem prudent. Workmens' compensation insurance shall at all times be carried to the extent required to comply with any applicable law. Officers and directors liability insurance shall be carried by the Association to cover persons serving in such capacities. It is the responsibility of each owner to insure his personal property and the improvements and betterments added to his dwelling since the time of the original sale, together with additional living expense coverage and public liability insurance for the interior of his dwelling.

Insurance premiums for the master policy shall be a common expense to be included in the monthly assessments levied by the Association and amounts necessary for the insurance premiums shall be held in a separate account of the Association and shall be used solely for the payment of the master insurance policy premiums as such premiums become due.

(b) Discharge of Liens: The Association shall discharge by payment, if necessary, any lien against the common area and assess the cost thereof to the member or members responsible for the existence of said lien, if any.

(c) Assessments: The Association shall fix, levy, collect and enforce assessments as set forth in Article IV hereof.

(d) Payment of Expenses: The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the property of the Association.

(e) Enforcement: The Association shall enforce this Declaration.

ARTICLE XII.02 POWERS
Subsection 02 is amended to read as follows:

02. Powers. In addition to the powers enumerated in its Articles of Incorporation and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers:

ARTICLE XII.02 POWERS (CONT.):

(a) Utility Services: The Association shall keep all utilities, including but not limited to storm drains, sewers, water lines, irrigation lines, exterior and common area lighting and appurtenances thereto on the property, in a state of good condition and repair consistent with the standard of quality of said facilities upon original installation. All such repairs shall be made at the expense of the Association.

(b) Easements: The Association shall have authority to grant easements where necessary for utilities and sewer facilities over the common area to serve the common area and lots.

(c) Manager: The Association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a firm or person appointed as a manager or managing agent shall not exceed a one (1) year term, shall provide for the right of the Association to terminate the same at the first annual meeting of the members of the Association, and to terminate the same without cause or payment of a termination fee of ninety (90) days written notice, or for cause on thirty (30) days written notice.

(d) Adoption of Rules: The Association may adopt reasonable rules not inconsistent with the Declaration relating to the use of the common area and all facilities thereon, and the conduct of owners and their tenants and guests with respect to the property and other owners.

(e) Access: For the purpose of performing the maintenance authorized herein or for any other purpose reasonably related to the performance by the Association or the Board of Directors of their respective responsibilities, the Association's agents or employees shall have the right, after reasonable notice (except in emergencies, not less than twenty-four (24) hours) to the owner thereof, to enter any lot or to enter any portion of the common area at reasonable hours.

(f) Assessments, Liens, and Fines: The Association shall have the power to levy and collect assessments in accordance with the provisions of Article IV hereof. The Association may impose fines or take disciplinary action against any owner for failure to pay assessments or for violation of any provision of the project documents.

ARTICLE XII.02 POWERS (CONT.):

(f) Assessments, Liens and Fines (cont.): Penalties may include but are not limited to fines, temporary suspension of voting rights, rights to the use of recreational facilities or other appropriate discipline, provided that the accused member is given notice and the opportunity to be heard with respect to the alleged violations before a decision to impose discipline is made.

(g) Enforcement: The Association shall have the power to enforce this Declaration.

(h) Acquisition of Property: The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.

(i) Loans: The Association shall have the power to borrow money, and only with the assent (by vote or written consent) of three-fourths (3/4) of each class of members, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

(j) Dedication: The Association shall have the power to dedicate, sell, or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed or approved by three-fourths (3/4) of each class of members, agreeing to such dedication, sale or transfer.

(k) Contracts: The Association shall have the power to contract for goods and/or services for the common areas, facilities and interests or for the Association, subject to limitations elsewhere set forth in the project documents.

(l) Delegation: The Association shall have the power to delegate its authority and powers to committees, officers, or employees of the Association.

(m) Use of Recreational Facilities: The Association shall have the power to limit the number of an owner's guests who may use the recreational facilities.

ARTICLE XIII

* INDEMNIFICATION OF DIRECTORS, OFFICERS,
EMPLOYEES, AND OTHER AGENTS

SECTION 1. DEFINITIONS

For the purpose of this Article,

(a) "agent" means any person who is or was a director, officer, employee, or other agent of this corporation;

(b) "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and

(c) "expenses" includes, without limitation, all attorneys' fees, costs, and any other expenses incurred in the defense of any claims or proceedings against an agent by reason of his position or relationship as agent and all attorneys' fees, costs, and other expenses incurred in establishing a right to indemnification under this Article.

SECTION 2. SUCCESSFUL DEFENSE BY AGENT

To the extent that an agent of this corporation has been successful on the merits in the defense of any proceeding referred to in this Article, or in the defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection with the claim. If an agent either settles any such claim or sustains a judgment rendered against him, then the provisions of Sections 3 through 5 shall determine whether the agent is entitled to indemnification.

SECTION 3. ACTIONS BROUGHT BY PERSONS OTHER
THAN THE CORPORATION

Subject to the required findings to be made pursuant to Section 5, below, this corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding (other than an action brought by, or on behalf of, this corporation, or by an officer, director or person granted related status by the Attorney General, or by the Attorney General on the ground that the defendant director was or is engaging in self-dealing within the meaning of California Corporations Code section 5233, or by the Attorney General or a person granted related status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of this corporation, for all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the proceeding.

SECTION 4. ACTION BROUGHT BY OR ON
BEHALF OF THE CORPORATION

(a) Claims settled out of court. If any agent settles or otherwise disposes of a threatened or pending action brought by or on behalf of this corporation, with or without court approval, the agent shall receive no indemnification for either amounts paid pursuant to the terms of the settlement or other disposition or for any expenses incurred in defending against the proceeding unless such action concerns assets held in charitable trust and is settled with the approval of the Attorney General.

(b) Claims and suits awarded against agent. This corporation shall indemnify any person who was or is a party to any completed action brought by or on behalf of this corporation by reason of the fact that the person is or was an agent of this corporation, for all expenses actually and reasonably incurred in connection with the defense of that action, provided that both of the following are met:

(i) The determination of good faith conduct required by Section 5, below, must be made in the manner provided for in that section; and

(ii) Upon application, the court in which the action was brought must determine that, in view of all of the circumstances of the case, the agent should be entitled to indemnity for the expenses incurred. If the agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be reimbursed.

SECTION 5. DETERMINATION OF AGENT'S GOOD FAITH CONDUCT

The indemnification granted to an agent in Sections 3 and 4 above is conditioned on the following:

(a) Required standard of conduct. The agent seeking reimbursement must be found, in the manner provided below, that he acted in good faith, in a manner he believed to be in the best interest of this corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use in similar circumstances. The termination of any proceeding by judgment, order, settlement, conviction, or on a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in the best interest of this corporation or that he had reasonable cause to believe that his conduct was unlawful. In the case of a criminal proceeding, the person must have had no reasonable cause to believe that his conduct was unlawful.

(b) Manner of determination of good faith conduct. The determination that the agent did act in a manner complying with Paragraph (a) above shall be made by:

(i) the board of directors by a majority vote of a quorum consisting of directors who are not parties to the proceeding; or

(ii) the affirmative vote (or written ballot in accord with these By-Laws) of a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum) with the person to be indemnified not being entitled to vote thereon; or

(iii) the court in which the proceeding is or was pending. Such determination may be made on application brought by this corporation or the agent or the attorney or other person rendering a defense to the agent, whether or not the application by the agent, attorney, or other person is opposed by this corporation.

SECTION 6. LIMITATIONS

No indemnification or advance shall be made under this Article, except as provided in Sections 2 or 5(b)(iii), in any circumstance where it appears:

(a) That the indemnification or advance would be inconsistent with a provision of the articles, a resolution of the members, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That the indemnification would be inconsistent with any condition expressly imposed by a court in approving a settlement.

SECTION 7. ADVANCE OF EXPENSES

Expenses incurred in defending any proceeding may be advanced by this corporation before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the agent to repay the amount of the advance unless it is determined ultimately that the agent is entitled to be indemnified as authorized in this Article.

SECTION 8. CONTRACTUAL RIGHTS OF NONDIRECTORS
AND NONOFFICERS

Nothing contained in This Article shall affect any right to indemnification to which persons other than directors and officers of this corporation, or any subsidiary hereof, may be entitled by contract or otherwise.

SECTION 9. INSURANCE

The board of directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not this corporation would have the power to indemnify the agent against that liability under the provisions of this section.

SECTION 10. FIDUCIARIES OR CORPORATE EMPLOYEE BENEFIT PLAN

This Article does not apply to any proceeding against any trustee, investment manager, or other fiduciary of an employee benefit plan in that person's capacity as such, even though that person may also be an agent of the corporation as defined in Section 1 of this Article. Nothing contained in this Article shall limit any right to indemnification to which such a trustee, investment manager, or other fiduciary may be entitled by contract or otherwise, which shall be enforceable to the extent permitted by applicable law.

The undersigned is the duly authorized Secretary of the Casa Del Rey Homeowners Association and has been authorized to execute this Amendment to Declaration of Covenants, Conditions and Restrictions, said Amendments having been approved by the owners of units within the above-described property representing at least 51% of the voting power of the Association in the project. This Amendment shall be effective upon recordation.

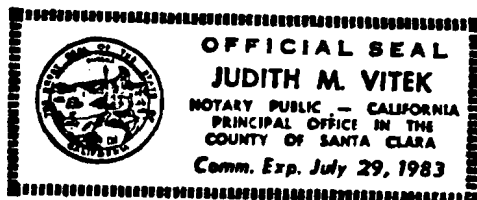
Dated: 8/18/80

CASA DEL REY HOMEOWNERS ASSOCIATION

By *C. A. Black, Jr.*
Secretary

State of California
County of Santa Clara

On Aug 18, 1980, before me, the undersigned, a Notary Public in and for said County and State, personally appeared C. A. Black, Jr. known to me to be the Secretary of Casa Del Rey Homeowners Association, the Corporation that executed the within instrument on behalf of said Corporation, and he acknowledged to me that such Corporation executed the same.



Judith M. Vitek
Notary Public in and for said County
and State

RECEIVED OCT 25 1982

G820 PAGE 627

RECORDED AT THE REQUEST OF:
CASA DEL REY HOMEOWNERS ASSOCIATION

W WHEN RECORDED RETURN TO:
CASA DEL REY HOMEOWNERS ASSOCIATION
P.O. BOX 8470
SAN JOSE, CALIFORNIA 95155

REC. FEE	5
MICRO	1
LIEN NOT	
SMPF	

FILED FOR RECORD
AT REQUEST OF
Casa Del Rey
JUN 29 23 AM '82
OFFICIAL RECORDS
SANTA CLARA COUNTY
CENTRAL RECORDER

SECOND AMENDMENT

TO

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

This Amendment to Declaration of Covenants, Conditions and Restrictions, executed on the date hereinafter set forth, amends those certain Declaration of Covenants, Conditions, and Restrictions dated January 4, 1978, and recorded January 13, 1978 in Book D404 of Official Records, at Page 359, affecting Lots 1 through 40 inclusive and Lot 41, as said Lots are shown on that certain Maps entitled "TRACT NO. 6046", "Casa Del Rey", which said Map was filed for record on January 4, 1978, in Book 410 of Maps, at Pages 40 and 41, Santa Clara County Recorder.

WITNESSETH:

Whereas, the following proposed amendments were approved at a duly constituted meeting for such purposes, approved by owners representing at least 51% of the voting power of the Association;

NOW, THEREFORE, the above-referred Declaration of Covenants, Conditions and Restrictions shall hereafter be held, sold and conveyed subject to the existing Declaration of Covenants, Conditions and Restrictions and the amendments set forth below, which Declaration of Covenants, Conditions and Restrictions and amendments are for the purpose of protecting the value and desirability of and shall run with the real property and be binding on all parties having right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

CASA DEL REY HOMEOWNERS ASSOCIATION
SECOND AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS

ARTICLE VII - GENERAL PROVISIONS

Section 7.05. Lease Agreement

Section 7.05 is added and reads as follows:

Section 7.05 -- Any owner who leases his or her lot shall not violate the state of California law in his selection of tenants.

ARTICLE VII - GENERAL PROVISIONS

Section 7.06. Violation of Lease

Section 7.06 is added and reads as follows:

Section 7.06 -- The lease or rental agreement of an owner shall state that the tenant or tenants shall abide by all CC&Rs and By-Laws of the homeowners association. Any violation of the CC&Rs and By-Laws shall constitute violation of the terms of the lease.

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Assoc. Rules & Regulations

CASA DEL REY
HOMEOWNERS ASSOCIATION

Welcome to Casa Del Rey! Whether you are a homeowner or renter, we hope this will be a happy time for you.

Please take time to read this package. It contains important information to help your move-in go smoothly, and will answer many of the questions you may have about the complex.

Casa Del Rey is a community of 40 families who share common areas and, it is hoped, common goals of maintaining a comfortable and pleasant environment for all residents. With this in mind, your Board of Directors has put together an outline of the CC&Rs and rules so that all owners/residents have a clear understanding of the mutual responsibility we share.

It is expected that owners will make available a copy of these rules and guidelines to their tenants to avoid unnecessary problems or embarrassment for any resident.

We do not have a resident manager. Casa Del Rey employs the services of the Property Management firm of D & L MANAGEMENT. Their address is 1355-K SAGE HEN WAY, SUNNYVALE, CA 94087. Their telephone number is (408) 735-9355. Any questions or problems should be directed to them.

The accompanying Rules and Regulations are some of the basic guidelines for our Association. All residents are requested to become both familiar with and to comply with them.

Reservations for use of the clubhouse must be made by the owner of the property only, as they are legally responsible. A security deposit of \$50.00 must accompany the request. This is returned after the clubhouse use if it is properly cleaned and returned to the original condition. Reservations may be made by contacting Keith Stattenfield, 1395 Gazdar Court, telephone (408) 246-6376.

Following is some information and some suggestions that will enable you to help keep our complex a desirable place to live.

1. Our regular trash pick up days are Tuesday and Friday. Unusually large amounts of trash must be taken to the dump. There is usually more room in the dumpsters between the Tuesday and Friday pickups. NEVER put anything on the ground. It MUST be in the dumpster or it will not be picked up. It is also recommended that ALL organic materials be put in plastic bags and secured. This helps eliminate odors and scavenging animals.
2. The pool facilities are available to all residents. Your pool key should have been given to you by the previous owner or by the owner of your unit. The key has your lot number stamped on it. If it is ever lost, then found, the owner can be identified. Replacement keys cost \$50.00, so take good care of your key. Only the owner may request additional or replacement keys. The money for such keys goes into the general fund of the Association.
3. Guests, in reasonable numbers, are acceptable at the pool. Please remember that the facilities are designed for residents. Do not bring so many guests to the pool that you "take over". It is recommended that you never bring more than four (4) guests at any time. Guests are never permitted without the resident being present.
4. Since we do not have anyone to clean the pool area we request that you pick up any trash and empty "butt cans" into the large trash container before you leave the pool area. If everyone does their share our pool facilities will always be neat and clean to use.
5. Anyone entering the rest room area is requested to dry off before doing so.

CASA DEL REY
HOMEOWNERS ASSOCIATION

RULES, REGULATIONS, AND GENERAL INFORMATION

As quoted from the CC&Rs, the responsibilities of the Board [are]...

ARTICLE XII.02 (d). To adopt reasonable rules not inconsistent with the Declaration relating to the use of the Common Area and all facilities thereon, and the conduct of owners and their tenants and guests with respect to the property and other owners.

ARTICLE XII.02 (f). To impose fines or take disciplinary action against any owner for violation of the project documents.

These Rules are based on the philosophy that common sense, good neighborliness, and an esprit de corps exist among the Casa Del Rey community. Any questions should be directed to the Board of Directors through the management firm.

The following Rules and Regulations are applicable to all owners and residents of Casa Del Rey and their visitors. All non-resident owners are responsible for the proper conduct of their unit occupants and for the distribution of these Rules and Regulations to them. These Rules and Regulations are in compliance and in addition to the CC&Rs. They are, however, not meant to be all inclusive.

PETS

1. The City of Santa Clara has a strong leash law applicable to Casa Del Rey. Animals (both dogs and cats) are not allowed to run loose and must be on a leash in the common grounds.
2. If a pet, owned by a Casa Del Rey resident defecates anywhere on the common grounds or roads, the owner of said pet is responsible for immediately cleaning up and disposing of feces in a proper garbage receptacle.
3. No pets are allowed in the pool area at any time.
4. The unit owner or resident will be required to remove from the complex any pet declared to be a nuisance by the Association. This includes any pet found to annoy, molest or inconvenience any other owner or resident.

VEHICLES AND PARKING

1. No boats, trailers, campers, motorcycles, or pickup trucks larger than 1/2 ton may be parked, stored, or maintained within the Common Area.
2. NO parking is allowed on our streets (on the asphalt). Any vehicle parked on the street is subject to immediate tow away without warning and/or a monetary fine may be imposed.
3. For both safety and courtesy to your neighbors, vehicles parked on individual cement parking areas must NOT extend beyond the cement onto the asphalt.
4. GUEST PARKING is for guests ONLY. Resident vehicles left in Guest Parking are subject to tow away and/or a monetary fine may be imposed.
5. Oil or grease drippings from vehicles parked on individual unit cement parking areas are the responsibility of the unit resident and/or owner. Any spillage or drippings must be cleaned up immediately.
6. NO parking in any FIRE LANE. Any vehicle parked in a fire lane is subject to immediate tow away and/or a monetary fine may be imposed.
7. No vehicle may be parked in the common area, or restricted use common area (the cement area in front of your unit) which is inoperable. This includes any vehicle which does not have a current license. Any vehicle which is not operable or is not currently licensed must be removed from any common area.

POOL RULES

1. All who use the pool do so at their own risk.
2. The pool is for private use only.
3. Running and unnecessary noise is not permitted.
4. Glassware is not permitted in the pool area.
5. Food or drink is not permitted in the pool (water).
6. Pets are not allowed in the pool area.
7. Swim suits only. To protect the pool filters other clothing, such as "cut-offs" or "T-shirts" are not allowed.
8. When wet, towels must be used before entering the clubhouse or bathrooms.
9. Children under 14 are not permitted without an adult.
10. Gate must be kept closed. Climbing over the gate and/or fence is prohibited. If you see anyone climbing over the fence assume they are trespassers and call the Santa Clara police at # 911 and report them as such.
11. Visitors (except house guests and relatives) must be accompanied by an adult resident.
12. No children under age 2, or in diapers, allowed in pool.
13. Leave the pool area as clean or cleaner than you found it.
14. The Management reserves the right to deny use of the pool for improper behavior to anyone at anytime.

The lights will turn off automatically each night at 10:00 PM

We hope that each of you will enjoy the pool and respect the rights of the other residents.

TRASH

1. All trash must be placed **INSIDE** the dumpsters. The disposal company will not pick up items outside the dumpsters. **ALWAYS** close the dumpster lids.
2. All boxes must be broken down and flattened before being placed in the dumpsters.
3. All large items or excessive amounts of trash must be taken directly to the City Dump.
4. All vendors supplying services to individual residences shall not use the Association trash dumpsters, but shall remove the trash from the Association property. The individual resident or owner acquiring the service is responsible to notify the vendor of this rule and additionally responsible to see it is enforced. (Examples -- carpet layers, movers, plumbers, carpenters, painters, etc.)

ARCHITECTURAL CONTROL

1. No unit owner or resident may paint, decorate, or modify the outside of their unit, including balconies and patios, without prior written consent of the Association.

RENTAL PROPERTY

1. Unit owners are required to submit the names and telephone numbers in writing to the Association immediately upon rental or other non-owner occupancy. It is also the owners responsibility to furnish a copy of these Rules to the tenant/occupant, and furthermore that the tenant/occupant will abide by these Rules. Notification of names and telephone numbers should be sent to the Management Company.

ENFORCEMENT

1. Complaints and notices of violations must be reported in writing to the Board of Directors.
2. If the Board determines that the offense(s) is/are valid the offender must cease the offense immediately.
3. The Board of Directors will give written notice to the owner, and to the tenant if there is one, charged with the violation. The notice shall state (a) the nature of the alleged violation and (b) a date and time for a hearing of the charges.
4. The Board is authorized to (a) impose fines up to \$100.00 for each violation or up to \$100.00 per day for a continuing violation, and (b) suspend the membership rights of the owner in the Association so long as the violations continue, and (c) suspend any fine or penalty, or delay payment up to 30 days, if it finds that the owner is making a good faith effort to correct the situation.
5. All charges under these rules shall become a part of the assessments against the lot or unit involved, subject to lien and foreclosure as described in the CC&Rs. All fines collected under these rules shall be placed in the general fund of the Association.

Adopted February 26, 1990
Revised September 26, 1990