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LuAnn Adams - Filed By mm
Box Elder Co., UT
For AMERICAN SECURE TITLE

AFTER RECORDING, PLEASE RETURN TO:

Jay Stocking
Sierra Homes Construction, Inc.
470N 2450 W
Tremonton, UT 84337

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RIVER VALLEY TOWNHOMES,
a Sierra Homes Development

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS**

AMERICAN SECURE TITLE

THIS DECLARATION is made on the date hereinafter set forth by SIERRA HOMES CONSTRUCTION, INC., a Utah corporation, as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Tremonton, County of Box Elder, State of Utah, which is more particularly described on Exhibit A attached hereto and incorporated herein; and,

WHEREAS, Declarant will plat and subdivide portions of the Exhibit A property from time to time and it is the intent of Declarant to make each portion of the Exhibit A property subject to these conditions and restrictions as each is platted and subdivided; and

NOW THEREFORE, Declarant hereby declares that all of the property described as Exhibit A herein 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 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. "Association" shall mean and refer to THE RIVER VALLEY TOWNHOMES HOMEOWNERS' ASSOCIATION, its successors and assigns. By filing

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this declaration with the County Recorder's office, the Association, along with its governing abilities, shall be in force with all authority and power as outlined herein.

Section 2. "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. The Owners shall include the future owners of other parcels of Exhibit A.

Section 3. "Occupant" shall mean any person living in the Dwelling Unit for more than 21 days in any 6-month period.

Section 4: "Dwelling Unit" shall mean any building on the Lot for which a permit of occupancy has been issued by the appropriate governmental agency.

Section 5. "Property" 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 6. "Common Area" shall mean and refer to:

- 6.1.** The land, other than the land to be deeded for each town house unit. Each unit will have 10' from back side of Unit the width of respective unit as private area. If owner chooses to fence this private area, then it ceases to be common area for purposes of maintenance, and owner will be responsible for landscape maintenance. This area will still be subject to architectural design limitations and approval.
- 6.2.** That portion of the Property not specifically included in the respective Dwelling Units as herein defined;
- 6.3.** All exterior walkways, driveways, streets, such recreational areas and facilities as may be provided, yards, fences, service and parking areas, open spaces, club house, entrances and exits, and in general all other apparatus, installations and other parts of the Property necessary or convenient to the existence, maintenance and safety of the Common Areas and Facilities or normally in common use;
- 6.4.** Those areas specifically set forth and designated as "Common Ownership" or "Limited Common Area"; and
- 6.5.** All common Areas and Facilities as defined in the Act, whether or not

expressly listed herein.

Section 7. Common Areas and Facilities. Except as otherwise provided in Article I Section 6, the Common Areas and Facilities shall consist of the areas and facilities described in the definitions and constitute in general all of the parts of the Property except the Dwelling Units. Without limiting the generality of the foregoing, the Common Areas and Facilities shall include the following:

- 7.1. The ground and land not conveyed to each unit owner;
- 7.2. All common structural parts of the buildings including, without limitation, foundations, columns, joists, beams, supports, supporting walls, floors, ceilings and roofs;
- 7.3. Driveways, parking areas, lawns, shrubs, and gardens, sidewalks, and recreational areas;
- 7.4. Any common utility pipe or line or system servicing more than a single Unit, and all ducts, wires, conduits, and other accessories used therewith;
- 7.5. All other parts of the Property necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as Common Areas and Facilities;
- 7.6. The Limited Common Areas and Facilities herein described; and
- 7.7. All repairs and replacements of any of the foregoing.

Section 8. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 9. "Declarant" shall mean and refer to SIERRA HOMES CONSTRUCTION, INC., and its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II **PROPERTY RIGHTS**

Section 1. Owners' Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area that shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees

- for the use of any recreational facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use 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 60 days for any infraction of its published rules and regulations;
- (c) the right of the Association to dedicate 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 Owners. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of the Owners has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to a member of his/her family, his/her tenants, or contract purchasers who reside on the property.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot that 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 that is subject to assessment.

Section 2. 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 determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and it shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, 2010.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. 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 therefore, 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 attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's 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 2. Purpose of Assessments. The 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.

Section 3. Maximum Annual Assessment. The maximum annual assessment shall be set first by the Declarant and recorded in the Association's minutes. Thereafter, the annual assessment shall be governed as follows:

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association 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, including fixtures and personal property related thereto; provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. 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.

Section 7. 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 conveyance of the Common Area. 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 at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance. Declarant shall not have to pay any assessments on any Lots or Properties it owns until a Dwelling Unit on said Lot is completed and a permit of occupancy has been issued.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within thirty (30 days) after the due date shall bear interest from the due date at the rate of 6 percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become 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 V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, including the exterior color used on any building on the Lot. No Structures are permitted to be built on Common areas unless built with original project with City and Developer approval.

ARTICLE VI

RESTRICTIONS ON IMPROVEMENTS

Section 1. Intent of Restrictions on Improvements.

It is the intent of these covenants to restrict the design, materials used, and the landscaping improvements only to the extent necessary to ensure quality in external appearance and maintain property values on a long term basis.

Section 2. Architectural Review Committee.

The Declarant hereby appoints an Architectural Review Committee, which shall consist of _____,

_____ and _____. The functions of the Committee will be to review and approve improvement plans of Owners, consistent with the intent of these

covenants. No structures, residences, outbuildings, sports courts, swimming pools, walls, fences or other improvements shall be constructed upon any Lot without following the Architectural Review Committee review process. This Committee will appoint the undersigned until such time as all Lots have Dwelling Units built on them. At such time, the undersigned, their successors and assigns and their assigned agents will be released from further involvement with the Architectural Review Committee. The Lot Owners, at such time may nominate members to serve as a new committee by majority vote. In voting, each Lot Owner of record shall be entitled to one vote, and the action resulting from such vote is to be evidenced by a written instrument signed and acknowledged by such Lot Owners and recorded in the County Recorder's Office of Box Elder, Utah. The new committee shall consist of Lot Owners or their agents as directed by majority vote of the Lot Owners.

The purpose of the Architectural Committee is to determine that the improvements are in conformity and harmony in external design with the existing structures and development of the area, and as to location of improvements with respect to topography and finish ground elevations. For this reason the Architectural Committee is given the general power to review improvement designs generally and may specifically disapprove of the design because of a lack of general harmony with the development of the area. In the event such disapproval occurs it must be in writing and specifically state the basis of the disagreement.

Section 1. Review Process.

a. Preliminary Submission: This submission to the Committee is not required but is recommended. This submission should include a rough layout drawn to scale, showing proposed improvements, including but not limited to improvement design and location, driveways, and patios. The architecture at this stage could be conceptual, showing plans with basic dimensions. Information as to colors and materials to be used could also be included. If the proposed improvements are not satisfactory to the Committee, a meeting with the Owner and/or his designer will be called to discuss possible changes for the final submission.

b. Final Submission: This submission is required and must be a detailed description of proposed improvements. This site plan should be drawn to a scale of at least 1"=20', should show proposed grading at no more than two foot intervals with spot elevations for clarifications when necessary, should give detailed and accurate

information concerning colors and materials to be used. If the Architectural Review Committee takes no action within thirty (30) days of the date of the final submission, the Owners will have the right to proceed with improvements as proposed, providing they notify the committee of their intent in writing.

c. Committee's Right to Stop Improvement: The Committee reserves the right to stop construction on any improvement which does not conform to approved drawing bearing it's approval.

d. If the Declarant is the Owner and builder of the Dwelling Unit, it does not have to submit plans to the Committee for approval.

ARTICLE VII SPECIFIC RESTRICTIONS

Section 1. Type of Structures. No building other than one single-family dwellings shall be erected on any of said Lots. Any structures constructed on any of said Lots shall be used only as a single family dwelling.

Section 2. Architectural Controls.

(a) Private Residences: Said Lots shall be used for private residences only. Renting of a room is not allowed. Fencing: Location of any fences must be submitted to the Architectural Review Committee as described above before construction may begin. Once fence construction has begun, the fence must be fully completed within sixty days. Fence materials must be vinyl. Other materials will require written permission.

(b) Landscaping: All landscaping must be completed within one hundred and eighty (180) days after construction of the Dwelling Unit is completed, weather permitting. If completion is delayed by weather, then landscaping must be completed as soon as possible.

(c) Signs: No sign shall be displayed on any of said Lots except as follows; There may also be displayed a sign advertising the fact that said parcel or said dwelling house is for sale or lease.

(d) Standards: The Architectural Committee reserves the right to disapprove

of designs, depictions, colors, statues, or any other landscaping elements, etc., which are unusual or which may detract from the ongoing image of the area.

(e) **Car Repairs:** No car under repair or needing repair or which would be considered a junk vehicle or salvage vehicle shall be kept outside of an enclosed garage. In this determination, a vehicle which is unlicensed or which has not been moved for fifteen days or more shall be presumptively prohibited. The Architectural Committee has discretion to determine which of such automobiles are junk or salvage and to direct either their removal or relocation inside garages.

(f) **Animals:** The animal ordinance of Tremonton City is hereby incorporated as a part of these covenants and a failure to follow the same shall be considered a breach hereof. There shall be no barking dogs. All animals must dwell primarily in the Dwelling Unit and must be brought in at night. There are no animals allowed on chains in Common Areas. Any droppings, fecal matter, or other messes created by an animal will be removed by the person controlling said animal.

(g) **Overnight Parking:** Only 1 vehicle per unit will be allowed overnight parking on the driveway. The only exception being when Owners have Related Visitors visiting, then 2 vehicles will be permitted overnight parking in driveways, but in no event shall this accommodation exceed 21 days in any 6-month period.

(h) Each unit has a space immediately to the front of the unit that is designated as limited common area. Use of this area is limited to the unit it serves. Parking in these areas by any other than the owner of record or assigns is a violation of these covenants and restrictions and any violation of this restriction may result in offending vehicle being removed by the Association.

(i) **Roadway Parking:** No parking on the street is allowed, except for designated areas.

(j) **Landscape Maintenance:** The landscape maintenance for all Lots and Properties will be conducted by a company hired by the Association. Each Owner will have the responsibility to maintain their personal flowerbeds, garden plots, planter boxes and similar personal landscape features.

(k) **Common Water Charges:** There shall be a single water meter for all

Properties. The Association shall pay all water charges from the assessment.

Section 3. Maintenance of Lot. Buildings, fences, landscaping and other improvements shall be continuously maintained to preserve a well-kept appearance. If the appearance of a Lot falls below reasonable levels, the Architectural Review Committee, or other committee appointed by Lot Owners as provided for below, shall so notify the Owner in writing and the Owner shall have thirty (30) days thereafter to restore the property to an acceptable level of maintenance. Should the Owner fail to do so, the Architectural Review Committee or the other committee may order the necessary work performed at the Owner's expense. No rubbish shall be stored or allowed to accumulate on Lots. Personal property of the Lot Owner in the process of being repaired shall not be left in the visible sight of neighbors for more than thirty (30) days, unless repairs occur. No excavation for stone, gravel or earth shall be made on Lots, unless such excavation is made in connection with the erection of a building or structure thereon.

The Owners of all Lots shall immediately upon the purchase of any Lot, maintain and control all weeds on the said Lot. If in the opinion of the Committee, a weed control program is needed, then the Committee shall have all necessary weed control work completed. The Committee shall thereupon bill the Owners of the Lot for the costs of having the weed control work done on their Lot and the Owner shall pay to the Committee at the address designated on the statement, the sum so billed, within thirty days from the date of said billing.

ARTICLE VII
SINGLE FAMILY RESTRICTED

Section 1. Restricted to Single Family Occupancy. All properties are restricted to single family occupancy. Single family means any number of individuals living together related by blood within two degrees of consanguinity, by marriage or adoption, or unless specified otherwise by Tremonton City, no more than 3 unrelated by blood within two degrees of consanguinity, by marriage or adoption.

ARTICLE VIII
GENERAL PROVISIONS

Section 1. 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. 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.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions that shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Area may only be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 21 day of November, 2008.

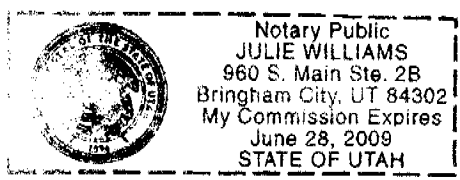
DECLARANT
SIERRA HOMES, INC.

By: 
JAY STOCKING, PRESIDENT

ACKNOWLEDGEMENT

STATE OF UTAH)
:SS
COUNTY OF BOX ELDER)

On this 21 day of November 2006 personally appeared before me JAY STOCKING, PRESIDENT OF SIERRA HOMES, INC., the Declarant, who being by me duly sworn, did acknowledge to me that he executed the same on behalf of the Corporation.



Julie Williams
Notary Public

All of Units A, B, C, D and all of the common area of the RIVER VALLEY TOWNHOMES, PHASE 1

TAX NO. 05-238-0084, 05-238-0085, 05-238-0086, 05-238-0087, 05-238-0088

1, 2, 3, 4
ALL OF Units 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 & 16
RIVER VALLEY Townhomes, PHASE 2, AMENDED

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