

F. ANN RODRIGUEZ, RECORDER
RECORDED BY: NMB
DEPUTY RECORDER
1134 AS2
REZMS
EZ MESSENGER ATTORNEY SERVICE
EZ-DUNCAN



DOCKET: 12995
PAGE: 2020
NO. OF PAGES: 29
SEQUENCE: 20070340465
02/20/2007
SCRIVE 15:44
PICKUP
AMOUNT PAID \$ 36.00

SECOND DECLARATION OF SCRIVENER'S ERROR
FOR SIERRA VILLAS NORTH

A First Amended and Restated Declaration ("Declaration") of Covenants, Conditions and Restrictions for Sierra Villas North was recorded on April 1, 2005 in Docket 12522 at Page 8150 in the Office of the Pima County Recorder.

The Declaration should be entitled as "Second Amended and Restated Declaration of Covenants, Conditions and Restrictions". On June 9, 2006 a Declaration of Scrivener's Error was recorded in Docket 12822 at Page 6123, but such Declaration did not encompass all of the errors in the document. Thus, this Second Declaration of Scrivener's Error is being recorded to show that Exhibit "A" contains the actual language that was in the Declaration approved by the vote of the Owners of Lots within Sierra Villas North on January 31, 2005, and as signed by the President of the Association and attested to by the Secretary on March 25, 2005.

There were typographical errors in the Declaration that had to be corrected and words that were inadvertently omitted from that Declaration that had to be inserted.

Now therefore, the attached Exhibit "A" is the corrected version of the Declaration of Covenants, Conditions and Restrictions that is being recorded with the typographical errors corrected and words that were mistakenly omitted, included. The attached reflects the Declaration of Covenants, Conditions and Restrictions with the corrections.

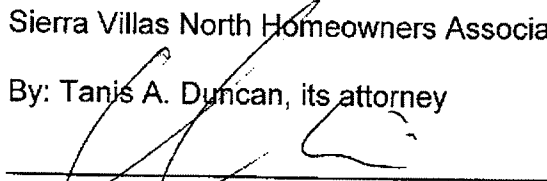
1100010 020000

29

IN WITNESS WHEREOF, the undersigned has executed this Declaration of
Scrivener's error on February 14, 2007.

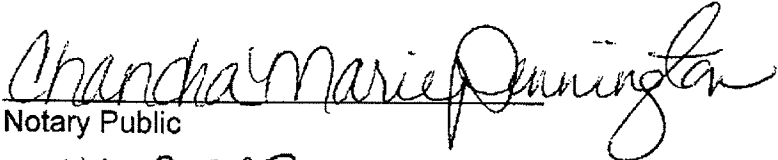
Declarant: Sierra Villas North Homeowners Association

By: Tanis A. Duncan, its attorney

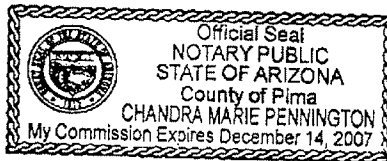

Chris Kimminau on behalf of Tanis A. Duncan

State of Arizona)
) ss:
County of Pima)

This instrument was subscribed and sworn before me on this 14th day of
February, 2007 by Chris Kimminau on behalf of Tanis A. Duncan, as the
attorney for Sierra Villas North Homeowners Association.


Notary Public

My commission expires: Dec. 14, 2007



110000 000001

**SECOND AMENDED AND RESTATED DECLARATION
OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR SIERRA VILLAS NORTH**

THIS SECOND AMENDED AND RESTATED DECLARATION was adopted with the written approval of the Owners of 75% of the Lots within Sierra Villas North on January 31, 2005.

RECITALS:

Whereas, a Declaration of Covenants, Conditions and Restrictions was recorded on November 8, 1984 in Docket 7406, pages 540, et. seq. and was amended by the First Amendment recorded on November 8, 1984 in Docket 7406 at page 548 and by the Second Amendment recorded on November 13, 1985 in Docket 7659, page 1367, Office of the Pima County Recorder; and

Whereas, such Declaration, as amended, was superseded and restated by the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Sierra Villas North, recorded on February 5, 1996 in Docket 10227 at page 1954, in the Office of the Pima County, Recorder (collectively the "Declaration"); and

Whereas, the Declaration concerns that certain real property legally described as:

Lots 1 through 4 and 7 through 97, inclusive, and Common Area Tracts A through B, inclusive, SIERRA VILLAS NORTH, according to the plat recorded in Book 38 of Maps at Page 17, as amended by Declaration of Scrivener's Error recorded in Docket 7589, page 736, Pima County Recorder (the "Property").

Whereas, Article VI, Section 3 of the Declaration provides that the Declaration may be amended with the written approval of the Owners of 75% of the Lots within the Property.

Whereas, the undersigned, being the President and Secretary of the Sierra Villas North Owners Association attest that this First Amended and Restated Declaration of Declaration of Covenants, Conditions and Restrictions was approved by the written consent of the Owners of at least 75% of the Lots ("Restated Declaration").

Now therefore, all of the Property is 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 the property, and which run with title to the Property and are binding on all parties having any right, title or interest in the Property, their heirs, successors and assigns, and inures to the benefit of each Owner whether or not this Restated Declaration, as amended from time to time, is referenced in the deed to subsequent Owners.

Article I - DEFINITIONS

In this Declaration and the other Community Documents, unless the context otherwise requires:

1. "Architectural Standards" refers to the standards developed from time to time by the Board for the construction and installation of Improvements on the Lot.
2. "Articles" mean the Articles of Incorporation which were filed in the office of the Arizona Corporation Commission.
3. "Assessment Lien" refers to the lien held by the Association to secure the payment of Regular or Special Assessments.
4. "Assessment Period" refers to the fiscal year of the Association.
5. "Association" means the Sierra Villas North Owners' Association, an Arizona nonprofit corporation created for the purpose of managing, maintaining or improving the property in accordance with the Community Documents and exercising the rights, powers and duties set forth therein, and its successors and assigns.
6. "Association Members" means the Owners of Lots in the Community; also referred to as "Owners" and "Members".
7. "Association Rules" means the rules adopted by the Board pursuant to the Community Documents.
8. "Board" means the Board of Directors of the Association.
9. "Bylaws" mean the Bylaws of the Association.

10. "Common Area" means the real property owned by the Association and known as Tracts A and B, Sierra Villas North, according to the recorded Plat and all land, together with all improvements situated thereon, which the Association at any time owns in fee or has a leasehold interest for as long as the Association is the owner of the fee or leasehold interest. For clarification purposes, Common Area "B" is owned by the Association and designated on the plat for the use of all members, their families, guests and invitees for ingress and egress.
11. "Common Expense" refers to the expenditures made by or the financial liabilities of the Association, together with any allocations for reserves.
12. "Community" means the Common Areas owned by the Association for the common use and enjoyment of the Owners, as well as the Lots, rights-of-ways and any other property shown on the Plat.
13. "Community Documents" means this Declaration, the Articles, the Bylaws, and the Association Rules.
14. "Designated Parking Spaces" refer to those areas located in the Common Areas which have been designated either on the plat or by the Board for parking.
15. "First Mortgage" refers to a person or entity holding a security interest in a Lot which is prior to any other security interest in the lot. The First Mortgagee refers to mortgages, deeds of trust and contracts for sale.
16. "First Mortgagee" refers to the holder or beneficiary of any First Mortgage.
17. "Improvement" includes (but is not limited to) any building, fence, wall or other structure or any swimming pool, road, driveway, parking area or any landscaping improvements on the Lot such as trees, plants or shrubs.
18. "Lot" means a portion of the Community intended for independent ownership and use and designated as a lot on the Plat including any Residential Unit, building, structure or other improvement situated on the Lot.
19. "Member" is a person entitled to membership in the Association by virtue of owning a Lot.

20. "Owner" means the record owner, whether one or more persons or entities (or a trustee under a trust), having fee simple interest or a beneficial interest in a Lot.
21. "Person" is a natural person, corporation, trust, estate, partnership, limited liability company, Association, joint venture, or any other legal or commercial entity.
22. "Plat" means the plat of Sierra Villas North recorded in Book 38 at Page 17 and as amended by the Declaration of Scrivener's Error recorded in Docket 7589 at Page 736, Pima County Recorder.
23. "Resident" refers to each individual occupying or residing in any Residential Unit.
24. "Residential Unit" means any building situated on a Lot and designed and intended for independent ownership to be used and occupied as a home.
25. "Restated Declaration" means this Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions, as amended from time to time; also commonly known as "CC&Rs."
26. "Single Family" means a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons who are not all related, but who maintain a common household in a Residential Unit.
27. "Visible" refers to any given object which is visible to a person six feet tall, standing at ground level on any part of any Lot or Common Area.

Article II - PROPERTY RIGHTS

1. Owners' Easements of Enjoyment. Every Owner has an easement to use and enjoy the Common Area. This right passes 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 the Owner's Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations, or for so long as the infraction continues, whichever is greater;
 - 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 is effective unless an instrument agreeing to such dedication or transfer is signed by two-thirds of the Owners is recorded in the Pima County Recorder's Office.
2. Delegation of Use. Any Owner may delegate that Owners right to use and enjoy the Common Area and facilities to the Owner's family members, guests or tenants who reside on the Lot, provided, however, that such Owner remains responsible for the actions of such Persons.
 3. Permanent Easement for Fire and Emergency Ingress and Egress. If the Developer created a walkway, alleyway or other means of ingress and egress adjacent to any Lot which leads to a street or private drive, then if there is a fire or other emergency, neither the Association nor any Owner can take any action to block or prevent access to neighboring lots, or to otherwise construct, store, or deposit any equipment, furnishings, or other items which may block or prevent access from neighboring lots over the walkway or alleyway to the street or any private drive. The Association will enforce this restriction to ensure access by fire and other emergency vehicles and equipment for the benefit of all of the Owners.

Article III - MEMBERSHIP AND VOTING RIGHTS

Every Owner of a Lot is a Member of the Association. When more than one person holds an interest in any Lot, all Owners are Members of the Association. There is only one vote for each Lot owned, regardless of the number of Owners and such vote may be exercised as the Owners determine. If the Owners cannot agree on the vote, then the vote is void.

1020210 0210210

Article IV - ASSESSMENTS

Each Owner, upon the recordation of a deed vesting the Owner with title to the Lot and whether or not it is expressed in such deed, covenants and agrees to pay Assessments to the Association for the Common Expenses of the Association and for the payment of those costs incurred in the performance of the Association's obligations under the Community Documents as follows:

1. Regular Assessments. Each year the Board will determine the amount of the regular assessment based upon the costs of operating the Association, including appropriate reserves, provided, however, that the amount of the annual assessment may not be increased more than the maximum allowed under the Planned Communities Act, A.R.S. §33-1801, *et. seq.*, without the approval of a majority of the members of the Association.
2. Real Property Taxes. If taxes are assessed against the Common Area or the personal property of the Association, rather than against the Lots, these taxes will be included in the regular assessment levied on a pro rata basis to each Lot.
3. Uniform Rate of Assessment. Each Lot will be assessed for Regular and Special Assessments at a uniform rate. Assessments may be collected on a monthly (or any other) basis, as determined by the Board.
4. Surplus Funds. The Association is not obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any remaining balances. The Association is not obligated to reduce the amount of the Annual Assessments in the succeeding year if a surplus exists from the prior year and the Association may carry forward from year to year such surplus as the Board, in its discretion, determines for the financial stability of the Association.
5. Working Capital Fund. In insure that the Association has adequate funds to meet its expenses, at the time of a purchase of a Lot, the Purchaser will pay the Association \$100.00, or such other amount as determined from time to time by the Board of Directors. Funds paid to the Association under this Section may be used by the Association to pay its operating expenses or any other purpose permitted under the Community Documents. Payments made under this Section are nonrefundable and are not advance payments of any Assessments against each Lot and are not payable to subsequent Purchasers of the same Lot.

6. No Offsets. All Assessments or other amounts payable to the Association must be paid in accordance with the provisions of the Community Documents. No Owner may offset any amount against the Assessments owed to the Association for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Community Documents.
7. No Exemption of Owners. No Owner is exempt from any liability for the payment of Assessments or the payment of any other amounts which may be owed to the Association, even if the Owner does not use the Common Area or abandons his/her Lot.
8. Special Assessments. Special assessments may be assessed for:
 - a. Capital improvements as approved by the vote of 2/3rds of the Members voting in person or by proxy at a meeting called for that purpose or by a written ballot mailed or delivered to each Member. The vote on the special assessment must occur before the work commences. The Capital Improvement Assessment may be for new construction, reconstruction, repair or replacement of existing capital improvements in the Common Area, and fixtures and personal property related thereto.
 - b. Correcting any inadequacy in the current operating account caused by unusual or unforeseen expenses which were not anticipated in the regular assessment period. The amount of this Special Assessment will not be more than 10% of the annual assessment unless approved by a vote of 2/3 of the owners voting in person or by proxy at any meeting of the Members.
9. Responsibility for Assessments. Assessments are the personal obligation of each Owner at the time the assessment becomes due and are a lien on the lot from the date that the assessment becomes due.
10. Delinquent assessments:
 - a. Any assessment, or any installment of any Assessment, becomes delinquent if not paid within 15 days after its due date. A late charge as established by the Board will be imposed if the assessment is delinquent. Late charges are added to and become part of the Assessment against the Lot.

- b. The Board has the right to charge interest on delinquent assessments at a rate it determines from time to time.

11. Enforcement.

- a. Delinquent assessments are a continuing lien on the Lot together with any interest, late charges, costs, litigation expenses and reasonable attorney fees incurred by the Association in collecting such sums. Assessments, if not paid at the time that title to the lot is transferred to another Person become the obligation of the transferee.
- b. The Association has the right, at its option, to collect delinquent assessments in any manner allowed by law including, but not limited to:
 - i. Filing an action at law against the Owner without waiving the Association's lien rights securing the delinquent assessments;
 - ii. Filing an action to foreclose the lien against the Lot in the manner provided by law for the foreclosure of a mortgage;
 - iii. The Association has the power to bid at any sheriff's sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sheriff's sale.
- c. Undeveloped Lots. The Owners of undeveloped lots are not liable for the payment of regular or special assessments, until the Lot no longer qualifies as undeveloped, provided, however, that such Owners are liable for the payment of Special Assessments imposed for any Capital Improvements. A Lot is undeveloped until such time as a certificate of occupancy is issued for the Residential Unit, or until it becomes occupied, whichever occurs first.

Article V - LIEN RIGHTS

- 1. Lien on the Lot. The Association has an automatic lien on each Lot for all delinquent assessments and any other amounts payable to the Association pursuant to the Community Documents, although the Association may record a Notice of Lien to give notice to third parties that the Association claims an interest in the Lot.

2. Priority of the Association Lien. The Assessment Lien has priority over all liens and encumbrances except:
 - a. Liens and encumbrances recorded before the Declaration of Covenants, Conditions and Restrictions for Sierra Villas North was recorded on November 8, 1984;
 - b. A recorded First Mortgage on a Lot;
 - c. Liens for real estates taxes and other governmental assessments or charges against the Lot.
3. The Assessment Lien is extinguished unless proceedings to enforce the lien are instituted within three years after the assessment became due.
4. Recording of this Declaration constitutes record notice and perfection of the Association's lien. Further recording of such lien is not required.
5. Any First Mortgagee or any other person who acquires title or obtains possession of a Lot through foreclosure of the First Mortgage, purchase at a foreclosure sale or trustee sale, or through any equivalent proceedings, such as, but not limited to, the taking of a deed in lieu of foreclosure, acquires title free and clear of any claims for delinquent assessments and charges against the Lot which became payable prior to the acquisition of the Lot by such Person. Any assessments and charges against the Lot which accrued before the foreclosure sale or transfer will remain the personal obligation of the defaulting Owner of the Lot. No sale or transfer relieves the Lot from liability for any assessments which thereafter become due or from the lien.
6. On written request, the Association will furnish a lienholder, escrow agent, Owner or person designated by the Owner with a statement setting forth the amount of any delinquent assessment against the Lot.

Article VI - ARCHITECTURAL CONTROL

Residential Units in the Community as initially constructed by the developer have a consistent, harmonious exterior appearance, using certain colors, textures, fenestrations, and features. To maintain that consistency, each Owner is required to obtain prior architectural approval from the Board or a committee appointed by the Board to ensure conformance with the basic

2. Amendment of Declaration. This Declaration may be amended at any time by the written approval or the affirmative vote, or any combination thereof, of Owners of at least 67% of the Lots, The Board may amend this Declaration without the consent of the Owners to correct any scrivener's error or inconsistency in the Declaration.
 - a. All amendments must be signed by the President or Vice President of the Association attesting that the requisite number of owners have approved the amendment.
 - b. All amendments become effective when recorded in the office of the Pima County Recorder.
3. Term. This Restated Declaration runs with title to the Property and is binding on each Owner that Owner's heirs and successors in interests.
4. Interpretation. In the event of any conflict between
 - a. this Declaration and the Articles, Bylaws, or Association Rules, this Declaration will control;
 - b. the Articles and the Bylaws, the Articles will control;
 - c. The Bylaws and the Association Rules, the Bylaws will control.
5. Superseding Declaration. This Second Amended and Restated Declaration supersedes all previously recorded Declarations in their entirety and upon recordation of this Restated Declaration, the Declaration will be of no further force and effect.
6. Variances. The Board may, at its option and in extenuating circumstances, grant variances from the restrictions set forth in this Restated Declaration if in its discretion:
 - a. A restriction would create an unreasonable hardship or burden on an Owner, lessee or resident, or a change of circumstances since the Recording of this Declaration has rendered such restriction obsolete.

- b. The activity permitted under the variance will not have any substantial adverse effect on the Owners, lessees and residents within the Community.

Article VIII - INSURANCE

- 1. The Association will maintain, to the extent reasonably available, the following insurance coverage for the Common Area and all other portions of the Community property which the Association is obligated to maintain under this Declaration. The insurance will be written in the name of the Association and any proceeds obtained will be payable to the Association.
 - a. Comprehensive general liability insurance in an amount determined by the Board, but not less than \$1,000,000. This insurance must cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Areas.
 - b. Property Damage Insurance, including coverage for all insurable improvements and fixtures in the Common Areas, or any other areas maintained by the Association, against loss or damage by fire for the full insurable replacement cost thereof, and such other hazards and casualties as the Association deems desirable.
 - c. Workers Compensation Insurance to the extent necessary to meet the requirements of the laws of Arizona.
 - d. Director's and Officer's Liability Insurance in an amount sufficient to insure such directors and officers of the Association.
 - e. Such other insurance as the Association determines from time to time to be appropriate for the protection of the Association or the Owners.
- 2. Insurance policies purchased by the Association must contain the following provisions:
 - a. There is no subrogation between the insurance maintained by the Association and insurance maintained by the Owners;
 - b. No act or omission by any Owner will void the policy or be a condition to recovery on the policy;

- c. Coverage under such policy will not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust;
 - d. A "severability of interest" endorsement which will preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners;
 - e. A statement that the name of the insured is the Association.
3. Payment of Premiums. Premiums for all insurance carried by the Association are Common Expenses and included in the Regular Assessments imposed by the Board.
 4. Indemnification. Neither the Association nor any officer or director is liable to any Owner or other party if any risk or hazard is not covered by the insurance maintained by the Association or the amount is inadequate.
 5. Owner's Obligation to Obtain Insurance on the Lot. Each Owner is responsible for obtaining insurance for his/her own benefit and at his/her own expense covering the Residential Unit and the Owner's personal property and fixtures and providing personal liability coverage to the extent such insurance is not obtained by the Association. In the event any claim against the Association's insurance is made as a result of damage or destruction caused by the Owner, his/her family, tenants or guests, the Owner is responsible for the payment of the deductible portion of the insurance.
 6. First Mortgagees' Obligations. First Mortgagees may pay overdue premiums and may secure new insurance coverage if there is a lapse of any policy of insurance required to be maintained by any Owner under this Restated Declaration, and any first mortgagee which makes that expenditure is entitled to immediate reimbursement from the Owner on whose behalf the expenditure was made.
 7. Obligation of Owners of Undeveloped Lots. The Owners of Undeveloped Lots are solely responsible for obtaining, at their own expense, "course of construction" insurance covering the Residential Unit improvements during the initial construction process until a certificate of occupancy is issued for those Residential Units; at which time the Owners must obtain

such casualty and liability insurance covering their completed Residential Units as they or their first mortgagees deem necessary or desirable.

8. Certificate of Insurance.

- a. An insurer issuing an insurance policy under this Article must issue a certificate or a memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or beneficiary under a deed of trust.
- b. Any insurance obtained pursuant to this Article may not be cancelled until 30 days after notice of the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary under a deed of trust to whom certificates of insurance have been issued.

9. Damage to the Common Area. Any portion of the Common Area which is damaged or destroyed must be promptly repaired or replaced by the Association:

- a. Unless repair or replacement would be illegal under any state or local health or safety statute or ordinance, or
- b. Unless the Owners representing at least 80% of the total authorized votes in the Association vote not to rebuild.
- c. With respect to Paragraphs 9(a) and (b), above, insurance proceeds which are not used will either be retained by the Association in its reserve account, or used to pay the Common Expenses of the Association.
- d. The costs of repair or replacement in excess of the insurance proceeds and reserves will be paid by the Association as a Common Expense and if there are insufficient funds, a Special Assessment may be imposed.

10. Damage to Residential Units. Subject to other provisions of this Declaration, in the event of damage to or destruction of any part of a Residential Unit or Lot:

4100010 0100010

- a. The Owner of the Lot must reconstruct the damaged portion as soon as reasonably practicable and substantially in accordance with the original plans and specifications;
 - b. The Owner will have an easement of reasonable access onto any adjacent Lot for the purpose of repairing or reconstructing his/her Residential Unit.
11. First Mortgagees. First mortgagees must receive timely notice that a Residential Unit is totally or substantially damaged or destroyed.

Article IX - OCCUPANCY RESTRICTIONS.

1. Residential Use.

- a. Subject to the provisions of any applicable federal or state Fair Housing Acts, all Residential Units must be used, improved and devoted exclusively to residential use by a Single Family.
- b. No trade or business may be conducted on any Lot except that an Owner or other resident may conduct a business activity within a Residential Unit so long as:
 - i. The existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residential Unit;
 - ii. The business activity conforms to all applicable zoning ordinances or requirements for the Community;
 - iii. The business activity does not involve persons coming onto the Lot or the door-to-door solicitation of other Owners or residents; and
 - iv. The business activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use or threaten security or safety of other Owners or residents, as may be determined from time to time in the sole discretion of the Board.