

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Broadmoor Homes, Inc.
17500 Red Hill Avenue, Suite 100
Irvine, California 92714
ATTN: Mr. Ken Alton

11138

RECORDING REQUESTED BY
FIRST AMERICAN TITLE INC.

RECORDED IN OFFICIAL RECORDS
OF ORANGE COUNTY, CALIFORNIA

4:25 PM APR 10 1978

LEE A. BRANCH County Recorder

(Space above this line for Recorder's use)

SUPPLEMENTARY DECLARATION OF COVENANTS

CONDITIONS AND RESTRICTIONS

FOR BROADMOOR HUNTINGTON HARBOUR

(Project No. 1)

THIS SUPPLEMENTARY DECLARATION is made this 10th day of April, 1978, by Broadmoor Grimaud, a California limited partnership ("Grimaud"). Grimaud shall be referred to hereinbelow as the "Declarant."

RECITALS

A. Declarant is the owner and developer of certain real property ("Project No. 1"), located in the City of Huntington Beach ("City"), County of Orange, State of California, and more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference. Declarant is also the owner and developer of that certain real property ("Beach Area") more particularly described in Exhibit "B" attached hereto and incorporated herein by this reference, that certain real property ("Street Lots"), more particularly described in Exhibit "C" attached hereto and incorporated herein by this reference, and that certain real property ("Recreation Area") more particularly described in Exhibit

"D" attached hereto and incorporated herein by this reference.

B. Declarant will convey Project No. 1, the Beach Area, Street Lots and Recreation Area subject to the protective covenants, conditions, restrictions, reservations, liens and charges set forth herein and in that certain Declaration of Covenants, Conditions and Restrictions for Broadmoor Huntington Harbour recorded September 21, 1977, in Book 12386, Page 578 of Official Records of Orange County, California ("Declaration").

NOW, THEREFORE, it is declared as follows:

1. Definitions. The definitions set forth in Article I of the Declaration are incorporated herein by this reference.

2. Annexation. Project No. 1, the Beach Area, the Street Lots and the Recreation Area are hereby annexed, pursuant to Section 2 of Article II of the Declaration, to the R-1 Property and are hereby made subject to all the terms, covenants, conditions and provisions set forth in the Declaration, to all intents and purposes as though Project No. 1, the Beach Area, the Street Lots and the Recreation Area were a part of the Declaration.

3. Use. Except as provided in Section 11 of Article XVIII of the Declaration, no building, structure or improvement shall be constructed, erected, altered, placed or permitted to remain on any common area within Project No. 1 other than one or more Condominium Buildings containing Units and customary appurtenances designed for occupation by not more than one family. Units shall only be used for the residential purposes of a family.

4. Street Lots.

(a) Subject to the provisions of subsection (c) hereinbelow, every Member who owns a Condominium, and only such Members, shall have a right and easement of access, use and enjoyment in and to the Street Lots and such easement shall be appurtenant to and shall pass with the title to every Condominium subject to Assessment.

(b) Prior to the conveyance of the first Condominium within Project No. 1, fee simple or other fee or leasehold title to, or an easement or license in, the Street Lots shall be conveyed to the Association, free and clear of any and all encumbrances and liens, except current real property taxes, which taxes shall be prorated to the date of transfer, and reservations, easements, covenants, conditions and restrictions then of record, including those set forth in this Supplementary Declaration.

(c) The rights and easements of access, use and enjoyment created by subsection (a) hereinabove shall be subject to the following:

(i) The right of the Association, in accordance with its Articles and By Laws, to borrow money for the purpose of improving the Street Lots and facilities thereon, if any, and in aid thereof, to deed in trust said Street Lots; provided, however, that the rights of any beneficiary under such deed of trust shall be subordinate to the rights of the Members of the Association who own Condominiums, and

(ii) The right of the Association to take such steps as are reasonably necessary to protect the Street Lots against foreclosure; and

(iii) The right of the Association to dedicate or transfer all or any part of the Street Lots to any public agency, authority or utility or any other entity for such purposes and subject to such conditions as may be agreed to by its Members who own Condominiums; provided, that no such dedication or transfer shall be effective unless approved by the vote or written consent of Members who own Condominiums who are entitled to exercise not less than two-thirds (2/3) of the voting power of such class of Members, and an instrument in writing is recorded and signed by the Secretary of the Association certifying that such dedication or transfer has been approved by the required vote and/or written consent; provided, further, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Street Lots shall not require such prior written consent, and

(iv) The right of the Association to establish and enforce reasonable rules and regulations pertaining to the use and enjoyment of the Street Lots, including, without limitation, parking thereon; and

(v) The right of the Association to perform its duties and exercise its powers under Article IX of the Declaration and Section 4 hereof and the power of the Association to grant easements on the Street Lots as provided hereinbelow; and

(vi) Any limitations, restrictions or conditions affecting the use, enjoyment or maintenance of the Street Lots imposed by the Declarant or any city, county or other governmental agency having jurisdiction to impose

any such limitations, restrictions or conditions, and whether by agreement with the Association, the Declarant or otherwise; and

(v) Such other rights of the Association, the Condominium Architectural Committee, the Board, the Owners of the Condominiums and the Declarant with respect to the Street Lots as may be provided for in the Declaration or herein.

(d) Subject to the limitations of this Section, any Member who owns a Condominium may delegate, in accordance with the By-Laws, his right of use and enjoyment to the Street Lots and facilities thereon, if any, to the members of his family, his tenants and contract purchasers who reside in this Unit.

(e) The California Vehicle Code may be enforced on the Street Lots by the City. The City is hereby declared to have a right of access over the Street Lots for purposes of police and fire protection, trash collection and utility maintenance.

(f) The Association shall:

(i) Own, lease, maintain, control and otherwise manage, or cause to be managed, in a neat, safe, attractive, sanitary and orderly condition, the Street Lots and all facilities, improvements, walls, fencing, fire hydrants, utility facilities, parking areas, drainage courses and facilities and landscaping thereon and thereunder, including (subject to the provisions of subsections (j) and (k) hereof) the reconstruction, repair or replacement thereof when necessary or appropriate.

(ii) Pay any real and personal property taxes and other charges assessed against the Street Lots unless separately assessed to the Condominium Owners.

(iii) Obtain, if appropriate, for the benefit of the Street Lots, all telephone, water, gas and electric services and refuse collections.

(iv) Subject to the limitations of subsection c(iii) hereinabove, grant easements where necessary for utilities and sewer facilities over or under the Street Lots to serve Broadmoor Huntington Harbour.

(g) The Association is hereby declared to have a license in favor of the Association, its agents and representatives, to traverse upon such property contiguous to the Street Lots as shall be necessary to gain access to such lots. Each Owner agrees, for himself and his heirs, successors, executors, administrators and assigns, that he will permit free access by the Association and its authorized agents and representatives for the purpose of exercising their rights and duties with respect to the Street Lots.

(h) There is hereby reserved by the Declarant, including, without limitation, its sales agents and representatives and prospective purchasers of Condominiums, together with the right in the Declarant to grant and transfer the same, over the Street Lots as the same may, from time to time, exist, easements for construction, display, sales offices and incidental parking and exhibit purposes in connection with the construction, development and sale of Condominiums within Broadmoor Huntington Harbour and for such other purposes and subject to such limitations as may be provided in Section 11 of Article XVIII of the Declar-

tion; provided, however, that such use by the Declarant and others shall not unreasonably interfere with the reasonable use and enjoyment of the Street Lots by the Members entitled to such use and enjoyment.

(i) The comprehensive public liability insurance policy and the policy of fire and casualty insurance which the Association is required to obtain pursuant to Sections 1(a) and (b) of Article XII of the Declaration shall include coverage of the Street Lots just as though said lots were included within said Sections and said Article (including, without limitation, Section 3 of said Article).

(j) In the event of partial or total destruction of the Street Lots (including any improvements thereon), it shall be the duty of the Association to restore and repair the same to their former condition as promptly as is practical and in a lawful and workmanlike manner. The proceeds of any insurance maintained pursuant to this Declaration shall be used for such purpose, subject to the prior rights of beneficiaries of deeds of trust whose interests may be protected by said policies.

(k) The term "taking" as used in this subsection shall mean condemnation by eminent domain or by sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Street Lots, the Members of the Association hereby appoint the Board and such persons as the Board may delegate to represent all of the Members in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation.

action. Subject to the prior rights of beneficiaries of deeds of trust, if any, any awards received on account of a taking shall be paid to the Association. In the event of a taking of less than all of the Street Lots, the rules as to the restoration and replacement of the Street Lots and the improvements thereof shall apply as in the case of the destruction of the Street Lots as provided hereinabove. In the event of a taking, the Board shall retain any award in the general funds of the Association for the benefit of Members who own Condominiums.

(1) Each Member shall be liable to the Association for any damage to the Street Lots or to any of the equipment or improvements thereon which may be sustained by reason of the negligence or wilful misconduct of said member or his family, relatives, guests or invitees, both minor and adult.

5. Common Area: Every Member who owns a Condominium shall have a nonexclusive easement for use and enjoyment in and to the Common Area, regardless of the Project in which such member is an owner, and such easement shall be appurtenant to and shall pass with the title to every Condominium subject to assessment, subject to all of the easements, covenants, conditions, restrictions and other provisions contained in the Declaration and this Supplemental Declaration, including, without limitation the following provisions:

(a) The right of the Association, as provided in its By-Laws, to suspend the voting rights and/or use or enjoyment rights to recreational or social facilities within the Common Area of any Member for any period during which

any assessment against his Condominium remains unpaid and delinquent, and for a period not to exceed thirty (30) days for any infraction of the Association Rules; and

(b) The right of the Association to establish and enforce reasonable rules and regulations pertaining to the use and enjoyment of the Common Area and the facilities thereon; and

(c) The right of the Association to limit the number of guests of Members and to limit the use of the Common Area by persons not in possession of a Condominium but owning a portion of the interest in a Condominium required for membership; and

(d) The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area; and

(e) The right of the Association to grant easements on, over and under the Common Area to public utilities or governmental entities or agencies; provided that such easement shall not unreasonably interfere with the right of any Owner to the use and enjoyment of his Unit and the Common Area. No such easement shall be effective unless an instrument signed by Members who own Condominiums entitled to cast two-thirds ($\frac{2}{3}$) of the voting power of the Members residing in the Project in which the easement will be granted has been recorded agreeing to the granting of such easement.

The certificate of the President and Secretary of the Association attached to such instrument certifying that the Members signing such instrument represent two-thirds ($\frac{2}{3}$) of the voting power of the Members residing in the Project in which the easement will be granted shall be deemed conclusive proof thereof.

(f) The right of the Association to perform its duties and exercise its powers under the Declaration and this Supplementary Declaration; and

(g) Any limitations, restrictions or conditions affecting the use, enjoyment or maintenance of the Common Area imposed by the Declarant or any city or county or other governmental agency having jurisdiction to impose any such limitations, restrictions or conditions, and whether by agreement with the Association, the Declarant or otherwise; and

(h) Such other rights of the Association, the Condominium Architectural Committee, the Board, the Owners of Condominiums and the Declarant with respect to the Common Area as may be provided for in this Declaration.

6. Delegation of Use of Common Area. Subject to the limitations of Section 5 hereinabove, any Member who owns a Condominium may delegate, in accordance with the By-Laws, his right of use and enjoyment to the Common Area and facilities thereon to the members of his family, his tenants and contract purchasers who reside in his Unit.

7. Easements.

(a) The easements set forth in Section 3 of Article X of the Declaration, when granted to Owners of Condominiums, shall be subject to the rights of the Association as set forth in Section 5 hereinabove.

(b) There is hereby reserved by the Declarant, including, without limitation, its sales agents and representatives and prospective purchasers of Condominiums, together with the right in the Declarant to grant and transfer the same, over the Common Area, as the same may from time to

time exist; easements for construction, display, sales offices and incidental parking and exhibit purposes in connection with the construction, development and sale of Condominiums within Broadmoor Huntington Harbour and for such other purposes and subject to such limitations as may be provided in Section 11 of Article XVIII of the Declaration; provided however, that such use by the Declarant and others shall not unreasonably interfere with the reasonable use and enjoyment of the Common Area by the Members entitled to such use and enjoyment.

8. Repair and Maintenance by Owner. Except as the Association shall be obligated to maintain and repair as may be provided in the Declaration or this Supplementary Declaration, every Owner of a Condominium shall:

(a) Subject to the Article of the Declaration entitled "Architectural and Landscaping Control":

(i) maintain all plants and other growing things emplaced or located within the nonresidential elements of Units, and such plants or other growing things shall be permitted to encroach into or onto the Common Area; and

(ii) repair, maintain or replace Garage doors, including, without limitation, hinges, springs and other parts of the door mechanism; and

(iii) maintain, repair, replace and restore all portions of the Unit, including, without limitation, the interior walls, ceilings, floors and doors in a clean, sanitary and attractive condition.

(b) Clean the interior and exterior window glass enclosing his Unit.

9. Recreation Area. Lot 1 within the Recreation Area and all facilities and improvements thereon, if any, are hereby declared to be Recreation Area as defined in the Declaration.

10. Assessments. Notwithstanding any other term or provision of the Declaration or this Supplementary Declaration, the R-F Regular Assessment levied against the Owner of any Lot within the R-I Property shall not include any Common Expenses incurred (or estimated) in connection with, or as a result of, the maintenance, management, operation, repair or replacement of the Street Lots and, without limiting the generality of the foregoing, said exclusion shall include, but shall not be limited to, utility, trash pick-up and disposal, gardening and other fees and charges for services benefiting the Street Lots; premiums charged for fire, casualty, liability, workmen's compensation and other insurance covering the Street Lots; and amounts paid by the Association for the discharge of any lien or encumbrance levied against the Street Lots.

11. Exclusive Easements.

(a) Declarant shall grant to the Owners of the Condominiums referred in Paragraphs 9, 10 and 11 on Sheet 2 of the Condominium Plan for Project No. 1 (which Condominium Plan is being recorded concurrently herewith) exclusive easements for the use and enjoyment of such Owners, which use and enjoyment are more particularly described in said Paragraphs.

(b) The Association shall maintain, or cause to be maintained, the Common Area covered by the foregoing easements as originally improved by the Declarant, or as may be further improved or modified with the consent of the Condominium Architectural Committee and the Board, in good condition and repair and in such a manner as to enhance their appearance and place such Common Area in an attractive, neat and safe condition.

12. Undivided Interest. The instrument by which each Owner of a Condominium within Project No. 1 receives title to his Condominium shall convey to each such Owner a separate fee interest in a Unit, together with an undivided 1/64th interest in the Common Area shown and defined in the Condominium Plan for Project No. 1.

13. Beach Area.

(a) Prior to the conveyance of the first Condominium within Project No. 1, fee simple or other fee or leasehold title to, or an easement or license in, the Beach Area shall be conveyed to the Association, as a Maintenance Area, free and clear of any and all encumbrances and liens, except current real property taxes, which taxes shall be prorated to the date of transfer, and reservations, easements, covenants, conditions and restrictions then of record, including those set forth in the Declaration, this Supplementary Declaration and that certain Offer of Dedication in favor of the City of Huntington Beach recorded as Instrument No. 18431, Official Records, County of Orange, California.

(b) Until such time as the City of Huntington Beach accepts the foregoing Offer of Dedication, the Association shall maintain, or cause to be maintained, substantially as originally improved by the Declarant or as may be further.

improved or modified with the consent of the Condominium Architectural Committee, the R-1 Architectural Committee and the Board, the Beach Area as a Maintenance Area and all

improvements thereon in a neat, safe, sanitary and orderly condition (including the repair and replacement of improvements when necessary or appropriate) and in such a manner as to enhance its appearance.

(c) All costs and expenses of any kind whatsoever incurred by the Association with respect to the Beach Area shall be a Common Expense of the Association.

(d) All Members and all persons who do not own a Lot or Condominium within Broadmoor Huntington Harbour are hereby declared to have an unrestricted right of access over and across and use of the Beach Area for public beach purposes.

(e) To the fullest extent permitted by law, neither the Association, its officers, directors, employees or agents, nor any Owner or Member, shall bear any responsibility for any liabilities, costs, damages, claims, demands or expenses resulting from, incurred in connection with, or otherwise arising out of, any person's use of the Beach Area, and all persons using the Beach Area do so completely at their own risk.

(f) This Section shall not be amended without the consent of the South Coast Regional Commission of the California Coastal Zone Conservation Commission, or its successors or assigns; provided, however, in the event said Regional Commission waives its right to consent to any such amendment, such consent shall not be required for the amendment as to which the waiver is applicable.

14. Use of Beach Area, Street Area, Boat Dock Area.

Without the prior written consent of Declarant, no use shall be made of the Beach Area, Street Area or Boat Dock Area by an Owner or Member or other person until such time as the improvement of said areas has been completed and such areas are available, under applicable laws and regulations, for use as provided for in the Declaration and this Supplementary Declaration.

15. Enclosures. No Balcony shall be enclosed by glass, screens or any other material.

16. Amendment. This Supplementary Declaration may be amended only in accordance with Section 2, Article

XVIII of the Declaration and Section 13(f) of this Supplementary Declaration; provided, however, that before the conveyance of the first Condominium in Project No. 1, this Supplementary Declaration may be amended by the Declarant without complying with the provisions of said Sections. Any amendment must be properly recorded.

IN WITNESS WHEREOF, the Declarant has executed this Supplementary Declaration on the day and year first above written.

BROADMOOR GRIMAUD, a limited partnership

By Broadmoor Homes, Inc., a general partner

By S. Reid Gustafson
Its Vice President

By Bette J. Lazear
Its Assistant Secretary

"Declarant"

STATE OF CALIFORNIA
COUNTY OF ORANGE } ss.

On April 10, 1978, before me, the undersigned, a Notary Public in and for said State, personally appeared S. Reid Gustafson, known to me to be the Vice President and Bette J. Fazekas, known to me to be the Assistant Secretary of BROADMOOR HOMES, INC., the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of said corporation, said corporation being known to me to be a general partner of BROADMOOR GRIMAUO, the partnership that executed the within instrument and acknowledged to me that such corporation executed the same as such partner and that such partnership executed the same.

WITNESS my hand and official seal.

Signature: *Germaine B. GUNS*

Name (Typed or Printed): *GERMAINE B. GUNS*



M126296 95

Description
of
Project No. 1

Lots 2 through 6, inclusive, of Tract No. 10004
as shown on a Map recorded in Book 418, Pages 1
to 4, inclusive of Miscellaneous Maps, records of
Orange County, California.

Exhibit "A"

8X12629PG 96

Description

of

Beach Area

Lot A, of Tract No. 10004 as shown on a Map recorded
in Book 418, Pages 1 to 4, inclusive of
Miscellaneous Maps, records of Orange County, California.

Exhibit "B"

BP26296 97

Description

of

Street Lots

Lots B through G, inclusive, of Tract No. 10004
as shown on a Map recorded in Book 418, Pages 1
to 4, inclusive, of Miscellaneous Maps, records of
Orange County, California.

Exhibit "C"

M12629C 98

Description
of
Recreation Area

Lot 1 of Tract No. 10004 as shown on a Map recorded
in Book 418 Pages 1 to 4 inclusive of
Miscellaneous maps, records of Orange County, California.

Exhibit "D"

RECORDED DOCUMENT