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BOOK 7259 PAGE 955

DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS

This Declaration, made this 4th day of January, 1969, by STRAWBERRY FLAT LAND EXCHANGE, INC., a California corporation, hereinafter referred to as "Declarant",

WITNESSETH:

WHEREAS, Declarant is the owner of record of Lots 1 to 200, and Lots A through K of Tract No. 7909, in the County of San Bernardino, State of California, according to map recorded in Book 104 Page 22-27 inclusive, records of said county, and

WHEREAS, Declarant desires to establish a general plan for the development of said tract which will enhance and protect the value, desirability and attractiveness of the lands and every part thereof and will bind and inure to the benefit of the owners, heirs, successors and assigns of each of said lots or portions thereof, present and future, and

WHEREAS, in accordance with said general plan, Declarant desires to subject said tract to the following covenants, conditions, restrictions and reservations upon and subject to which all or any portion of said tract shall be held, improved and conveyed.

NOW, THEREFORE, Declarant does hereby adopt and establish the following restrictions, covenants, limitations, conditions and uses to which said real property in said tract, and the improvements thereon, may be held and put, which restrictions, covenants, limitations, conditions and uses shall be equitable servitudes, and each and all of which shall apply and bind not only Declarant while the owner of any part or portion of said real property, but also each and every future owner or lessee thereof, or any part thereof, or interest therein, and shall inure to the benefit of not only Declarant, but also to the benefit of each and every owner thereof and may be enforced not only by Declarant, but by all parties having or acquiring any right, title or interest in the described properties or any part thereof.

ARTICLE I  
DEFINITIONS

As used in this Declaration unless the context otherwise requires,

Section 1. "Association" shall mean STRAWBERRY FLAT PROPERTY OWNER'S ASSOCIATION, a non-profit corporation incorporated under the General Non-profit Corporation Law of California, or its successor.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described.

Section 3. "Common Area" shall mean Lots A to <sup>K</sup>/~~Z~~, inclusive, as shown on the Map and all reversionary interests in and to the roads offered for dedication as shown on the Map of said Tract No. 7909; together with any other interests in real or personal property hereafter conveyed to the association by the Declarant by Deed or Bill of Sale.

Section 4. "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 5. "Member" shall mean and refer to every person or entity who holds a membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, other than the Common Area, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Mortgage" shall mean and include a Deed of Trust as well as a mortgage in the conventional sense.

Section 8. "Mortgagee" shall mean and include a beneficiary under or holder of a deed of trust as well as a mortgagee.

ARTICLE IISTRAWBERRY FLAT PROPERTY OWNER'S ASSOCIATION

Section 1. The Association was created by Articles of Incorporation filed (issued) on December 19, 1968, by the Secretary of State of the State of California, and its affairs are governed in accordance with its By-Laws adopted or to be adopted pursuant to its Articles of Incorporation.

Section 2. "Membership" Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by conveyance 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. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership.

Section 3. "Management and Operation" The By-Laws of STRAWBERRY FLAT PROPERTY OWNER'S ASSOCIATION provide for management of the planned development of Tract No. 7909, the property rights of and rights of enjoyment by members, voting rights of members, annual and special meeting of members and for notice of such meetings, the formula for ascertaining the existence of a quorum for the transaction of business at any meeting, the establishment of a Board of Directors, selection of its members, their term of office, regular and special meetings of directors and provisions for a quorum at such meetings, the nomination and election of directors, the powers and duties of the Board of Directors, the establishment of various committees to assist the Board of Directors, the enumeration of officers and their duties, assessments of members, books and records, contracts, amendment of the by-law provisions and other miscellaneous provisions. Each member of the Association shall be entitled to a copy of the current existing by-laws of the Association.

ARTICLE III  
PROPERTY RIGHTS

Section 1. "Members' Easements and Enjoyment" Every member shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed 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 a member for any period during which any assessment against his lot remains unpaid; and for a period not to exceed ninety (90) 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 members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the membership has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than sixty (60) days in advance.

Section 2. "Delegation of Use" Any member 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 the property.

Section 3. "Title to the Common Area" The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first lot.

ARTICLE IVCOVENANT FOR MAINTENANCE ASSESSMENTSSection 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 therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments for maintenance. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made, provided, however, that such lien shall be effective only upon recordation of notice of claim thereof in the Office of the County Recorder of San Bernardino County and that any action brought to foreclose such lien must be commenced within ninety (90) days following such recordation. Each such assessment, together with such 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 and shall not pass to his successor in title unless expressly assumed by them.

Section 2. The lien of the assessments provided for herein and in the By-Laws of Strawberry Flat Property Owner's Association shall be subordinate to the lien of any bona fide previously recorded deed of trust or deeds of trust or mortgage or mortgages made in good faith and for value. Sale or transfer of any lot shall not affect the assessment lien. Such assessment lien shall be effective only upon recordation of notice of claim thereof in the Office of the County Recorder of San Bernardino County, California. Any action brought to foreclose such lien must be commenced within ninety (90) days following such recordation.

Section 3. The By-laws of Strawberry Flat Property Owner's Association set forth in detail the purpose of assessments, the basis and maximum of annual assessments, the method of computation when using the Consumer Price Index, what shall be a quorum for any action authorized for increasing the maximum annual assessment, the date of commencement of annual assessments, the effect of non-payment of assessments and remedies of the Association, and the determination as to what property shall be exempt from assessments.

Section 4. Annual and Special Assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

ARTICLE V  
USE RESTRICTIONS

Section 1. Excluding the Common Area, all lots shall be used for residential purposes except for the following lots, which at the date of recording hereof are being used for the purposes set forth, which use shall be allowed to continue without change:

- (a) Lots 24 and 25 - Church
- (b) Lot 26 - Masonic Temple
- (c) Lot 32 - Fire Station
- (d) Lot 69 - Water Association
- (e) Lots 110, 111, and 112 - Resort (R-3)
- (f) Lots 151, 152, 153, 154, 155, 156 and 193 - Resort (R-3)
- (g) Lot 194 - Trailer Park

All lots, except for the lots above mentioned being used as noted, shall be used, improved and occupied in accordance with the uses prescribed by the County of San Bernardino under Zoning Classification R-1, provided, however, that in the event such zoning classification be changed, said lots shall be subject to such uses as may be defined for the zone which it may be reclassified. The present zoning classification shall be maintained until 1987, after which time said zoning shall automatically continue unless the then owners of the lots desire it to be changed, which change shall then be obtained pursuant to County Ordinance.

Section 2. No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finished grade elevation.

Section 3. No building constructed after the recording date hereof or any addition after the recording date hereof to a building existing on the date of recording hereof, shall be located on any lot nearer to the front lot line or nearer to the

side street line than the minimum street set-back as provided in San Bernardino County ordinance No. 678. No building shall be located nearer to an interior lot line than the minimum interior side yard required as provided in San Bernardino County Ordinance No. 678. No dwelling shall be located on any interior lot nearer to the rear lot line than the minimum rear lot set-back as provided in San Bernardino County Ordinance No. 678. For the purposes of this covenant, eaves, steps and open porches shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

Section 4. No building which exceeds three stories in height or which has a private garage for more than three cars shall be erected, altered, placed or permitted to remain on any lot. The ground floor area of the structure, exclusive of one story open porches and garages, shall not be less than 600 square feet for a one story dwelling. (This does not affect present dwellings with less square feet existing at the date of recording hereof.)

Section 5. No dwelling shall be erected or placed on any lot having a width of less than 25 feet at the minimum building set-back line, nor shall any dwellings be erected or placed on any lot having an area of less than 7,200 square feet. (This shall not effect lots with dwellings in existence at the date of recording hereof with less than 7,200 square feet.)

Section 6. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 7. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other odd building shall be used on any lot at any time as a residence either temporarily or permanently.

Section 8. No derrick or other structure designed for use in boring, mining or quarrying for water, oil or natural gas or precious minerals shall ever be erected, maintained or permitted upon any lot in said tract.

Section 9. No turkeys, geese, chickens, rabbits, goats, cattle, horses, mules, ducks or any other animals usually termed farm animals shall be kept or allowed to be kept on said property.

Section 10. The Strawberry Flat Water Association shall continue to maintain all services which include the supply, and storage of water, garbage and refuse disposal, minimum road maintenance, aid in fire prevention and aid to county and forest service in the enforcement of all regulations with regard to fire, public health, sanitation, recreation and all things just and necessary to further the best interests of its members as the need presents itself from time to time. The above services shall be furnished to members of the Strawberry Flat Property Owner's Association on a fee basis as provided in the by-laws of Strawberry Flat Water Association.

Section 11. There shall be no sub-division or splitting of any lots until such time that supplemental water (via California Water Agency after 1972) is received to supply the tract. Until such time, the available water as controlled by Strawberry Flat Water Association, shall be available only to the present lots as they exist at the date of recording hereof.

Section 12. Each grantee of a lot in said tract agrees for himself, his heirs, his assigns or successors in interest, that he will permit free access by owners of adjacent or adjoining lots to slopes or drainage ways located on his property which affect said adjacent or adjoining lots, when such an access is essential for the maintenance of permanent stabilization on said slopes or maintenance of the drainage facilities for the protection and use of property other than the lot on which the slope or drainage way is located.

Section 13. Each grantee of a lot in said tract agrees for himself and his assigns that he will not in any way interfere with the established drainage pattern over his lot from adjoining or other lots in said tract, and that he will make adequate provisions for proper drainage in the event it is necessary to change the established drainage over his lot. For the purposes hereof, "established drainage" is defined as the drainage which occurred at the date of recording hereof.

#### ARTICLE VI

#### ARCHITECTURAL CONTROL

Section 1. After the recording date hereof no building 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 until the plans and specifications showing the nature, kind, shape, height, 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 an Architectural Control Committee composed of three (3) or more representatives appointed by the Board of Directors of the Association. A majority of the committee may designate a representative to act for it.

Section 2. The approval or disapproval of the Architectural Control Committee, as required in these covenants, shall be in writing. The approval or disapproval of the committee shall be subject to appeal or approval of the Board of Directors of the Strawberry Flat Property Owner's Association. In the event the committee, or its designated representative fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenant shall be deemed to have been fully complied with.

ARTICLE VII  
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 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 way affect any other provisions which shall remain in full force and effect.

Section 3. "Amendment" The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty five (35) years from the date this declaration is recorded, after

which time said covenants shall be automatically extended for successive periods of ten years. The covenants and restrictions of this declaration may be amended during the first thirty five (35) year period by an instrument signed by not less than ninety per cent (90%) of the lot owners, and thereafter by an instrument signed by not less than seventy five per cent (75%) of the lot owners. Any amendment must be properly recorded.

IN WITNESS WHEREOF, said corporation has caused its corporate name and seal to be affixed hereto and this instrument to be executed by its President and Secretary thereunto duly authorized.

Dated: January 4, 1969.

Strawberry Flat Land Exchange, Inc.,  
a California Corporation, Declarant

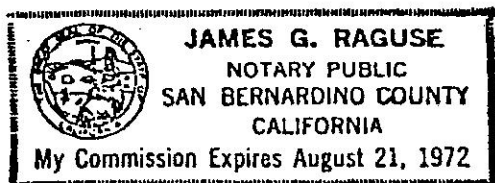
By: John G. Frayne - Pres  
Frederick M. Dowd - Secy

SEAL:

STATE OF CALIFORNIA }  
COUNTY OF San Bernardino } ss.

On January 10, 1969, before me, the undersigned, a Notary Public in and for said County and State, personally appeared John G. Frayne, known to me to be the President, and Frederick M. Dowd, known to me to be the Secretary of the Corporation that executed the within Instrument, known to me to be the person who executed the within Instrument on behalf of the Corporation therein named, and acknowledged to me that such Corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.



James G. Raguse

James G. Raguse  
Name (Typed or Printed)

[SEAL]

Notary Public in and for said County and State