

53.59

COMMON AREA SHARING AGREEMENT

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This COMMON AREA SHARING AGREEMENT is made and entered into as of this 12th day of January, 1993, by and between BARTON WOODS, INC., a Utah non-profit corporation ("Barton Woods") and LAKEVIEW TERRACE UNIT OWNERS ASSOCIATION, a Utah non-profit corporation ("Lakeview").

A. Barton Woods is the homeowners association for the Barton Woods Planned Unit Development (the "PUD") in Davis County, Utah, situated on real property more fully listed and described as follows:

Beginning at the Northwest Corner of Lot 61 of Lakeview Terrace Subdivision in Bountiful City, Davis County, Utah, which point is N 0°04'30"E 393.91 ft. along the Section Line and East 244.18 ft. from the West Quarter Corner of Section 28, T.2N., R.1E., S.L.B.&M. and running thence along the boundary of Lot 62 of said Lakeview Terrace Subdivision in the following nine courses: Northeasterly 207.33 ft. along the arc of a 420.00 ft. radius curve to the right through a central angle of 28°16'59" (radius point bears S 87°24'56"E from the point of beginning), Northeasterly 253.12 ft. along the arc of a 280.00 ft. radius curve to the left through a central angle of 51°47'44" (radius point bears N 59°07'57"W from the beginning of the curve), N 82°44'33"E 154.42 ft., N 74°50'01"E 181.72 ft., N 77°55'11"E 292.54 ft., S 72°14'20"E 399.28 ft., S 0°24'05"W 803.99 ft., Southwesterly 122.36 ft. along the arc of a 370.88 ft. radius curve to the right through a central angle of 18°54'12" (radius point bears N 18°40'42"W from the beginning of the curve), Southwesterly 257.69 ft. along the arc of a 1,808.83 ft. radius curve to the left through a central angle of 8°09'45" (radius point bears S 01°13'30"W from the beginning of the curve to the Southeast Corner of Lakeview Terrace Condominiums Phase 1; thence along the boundary of said Phase 1 in the following four courses: N 1°01'30"W 63.00 ft., N 65°58'30"E 130.27 ft., N 11°50'50"W 112.56 ft., Westery 115.15 ft. along the arc of a 340.00 ft. radius curve to the right through a central angle of 19°24'20" (radius point bears N 11°50'50"W from the beginning of the curve); thence N 7°33'30"E 54.70 ft. along the extended boundary of said Phase 1; thence N 87°47'30"E 64.44 ft.; thence N 2°12'30"W 25.09 ft.; thence N 2°12'30"W 94.91 ft.; thence S 87°47'31"W 85.00 ft.; thence N 47°12'31"W 38.46 ft.; thence S 42°13'30"W 87.00 ft.; thence S

04-067-0023

Barton Woods PUD Plat A Lots 101 to 113 + common area 04-132-0101 to 0114
Barton Woods PUD Plat B Lots 201 to 208 + common area 04-133-0201 to 0209
Barton Woods PUD Plat C Lots 301 to 312 + common area 04-134-0301 to 0313
Barton Woods PUD Plat D Lots 401 to 415 + common area 04-135-0401 to 0416
Barton Woods PUD Plat E Lots 501 to 512 + common area 04-136-0501 to 0513

2°12'30"E 25.00 ft.; thence N 87°47'30"E 13.00 ft.; thence S 2°12'30"E 25.00 ft.; thence S 2°11'48"W 33.37 ft.; thence along the boundary of Lakeview Terrace Condominiums Phase 1 in the following four courses: S 26°42'30"W 24.00 ft., Northwesterly 122.19 ft. along the arc of a 300.00 ft. radius curve to the right through a central angle of 23°20'10" (radius point bears N 26°42'30"E from the beginning of the curve), S 50°02'40"W 133.00 ft., S 14°51'10"E 170.04 ft. to the Northeast Corner of Lot 55 of said Lakeview Terrace Subdivision; thence N 86°38'38"W 68.72 ft.; N 70°01'46"W 69.11 ft.; thence N 44°28'23"W 134.94 ft.; thence N 33°51'54"W 66.65 ft.; thence N 14°33'09"W 65.87 ft.; thence N 4°42'29"W 67.20 ft. to the Northeast Corner of said Lot 61; thence N 87°24'56"W 130.14 ft. along the North line of said Lot 61 to the Point of Beginning.

Containing 16.4679 acres.

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B. Lakeview is the homeowners association of the condominium project known as Lakeview Terrace Phase I Condominium Project (the "Condominium") in Davis County, Utah, situated on that real property more fully listed and described as follows:

Lakeview Terrace Condominiums Phase No. 1, as the same is defined and established and identified on the record of survey map of Lakeview Terrace (Phase 1) duly recorded in the office of the County Recorder of Davis County, Utah, on November 11, 1979, as Entry No. 550443, and in the Enabling Declaration of Lakeview Terrace Condominium Phase No. 1, dated July 16, 1979, recorded November 11, 1979, as Entry No. 550444, in Book 801, at Page 487, of official records of Davis County, Utah.

Together with an undivided interest in and to the common areas as the same are established and identified in the maps and declarations referred to hereinabove.

The real property underlying the Phase 1 Properties has been more fully described as:

Beginning at the point of reverse curve on the North line of Lakeview Drive (radius point bears South 13°47'08" East) said point being South 87°43'23" East 763.50 feet from the West 1/4 corner of Section 28, Township 2 North, Range 1 East, Salt Lake Base and Meridian, and running thence easterly along the arc of an 1808.83 foot radius curve to the right 177.52 feet; thence North 01°15' West

63.00 feet; thence North 65°45' East 130.27 feet; thence North 12°04'20" West 112.564 feet along a radial line to a point on a 340.00 foot radius curve to the right; thence westerly along the arc of said curve 115.155 feet; thence North 07°20' East 24.00 feet along a radial line to a point on a 316.00 foot radius curve to the right; thence westerly along the arc of said curve 52.12 feet to the point of tangent with a 276.00 radius curve to the right (radius bears North 16°47' East); thence westerly along the arc of said curve 46.726 feet; thence South 26°29' West 24.00 feet along a radial line to a point on a 300.00 foot radius curve to the right; thence westerly along the arc of said curve 122.188 feet; thence South 49°49'10" West 133.00 feet; thence South 15°04'40" East 170.04 feet; thence South 00°12'44" West 123.07 feet along the East line of Lot 55, Lakeview Terrace to the Southeast corner of said Lot 55; thence easterly along the arc of a 420.00 foot radius curve to the left (radius point bears North 00°12'44" East) 102.61 feet to the point of beginning.

C. The PUD and the Condominium are contiguous to each other and, also, are contiguous to a parcel of real property designated as a clubhouse and related common amenities (the "Clubhouse Property") title to which is vested in Lakeview and which property has been more fully described as follows:

Beginning at a point South 87°24'5" East 855.26 feet and North 5°16'25" West 317.28 feet from the West quarter corner of Section 28, Township 2 North, Range 1 East, Salt Lake Base and Meridian, and running thence North 1°58'15" East 33.37 feet; thence North 2°26' West 25 feet; thence South 87°34' West 13 feet; thence North 2°26' West 25 feet; thence North 42°0' East 87 feet; thence South 47°26' East 38.46 feet; thence North 87°34' East 85 feet; thence South 2°26' East 120 feet; thence South 87°34' West 64.44 feet; thence South 7°20' West 30.70 feet to a point on a 316 foot radius curve to the right (radius point bears North 7°20' East); thence westerly along the arc of said curve 52.12 feet to the point of tangency with a 276 foot radius curve to the right; thence westerly along the arc of said curve 46.726 feet to the point of beginning.

The Condominium and the Clubhouse property are jointly referred to herein as the "Lakeview Properties."

D. The parties agree that it is to the mutual benefit of the Condominium, to the PUD, and to their respective lot owners or unit owners (sometimes referred to herein as the "Owners") to have mutual and joint access to, and to share proportionately the common area costs of the common areas of the PUD and of the Lakeview Properties.

E. Access to portions of the PUD shall be on and over the streets of the Lakeview Properties; and Lakeview is willing to grant easements for access to the PUD property over these streets with permanent easements for access to the portion of the PUD along Fremont Road.

F. As partial consideration for this Agreement, Barton Woods is willing to expend, or cause expenditure of, money to make certain improvements to portions of the Lakeview Properties, more fully specified and provided herein.

G. The parties also desire by contract to provide for the common use, sharing of costs, management, making and collecting of assessments and other related matters with respect to the Lakeview Properties.

H. The parties desire to formalize the provisions of their agreement.

NOW THEREFORE, for and in consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree and represent as follows:

1. Rights to Common Areas Facilities and Rights of Access.

The parties desire, through this contract, to provide mutual access and use by both parties hereto and by all owners, their guests and invitees, to the common areas and facilities of both the PUD and the Lakeview Properties, including but not limited to the rights of the use of the Clubhouse Property and the facilities and amenities, on the terms provided herein. Moreover, the parties, by contract, desire to grant to both parties, and to their respective owners, guests and invitees, right and access to and over the roads respectively in the PUD and in the Lakeview Properties. Accordingly, the parties agree:

a. Lakeview, for itself, the Condominium and the Condominium's owners, hereby grants to Barton Woods, to the PUD, and to the PUD's owners, guests and invitees:

i. The right to use the common areas and facilities of the Lakeview Properties to the same extent as the Condominium owners have the rights to the use thereof; and

ii. Full rights to access, ingress and egress and use of streets, sidewalks and other common areas of the Lakeview Properties during the term hereof.

iii. Easements, during the duration and continuation of this Agreement, for ingress and egress on, over and across the streets in the Lakeview Properties, as described in the Record of Survey Map of the Condominium

and of all other documents affecting the Condominium on record with the Davis County Recorder.

iv. A permanent easement evidenced by recordable instrument for ingress and egress on, over and across the streets in the Lakeview Properties to and from Fremont Road within the PUD.

b. Barton Woods, for itself, the PUD, and the PUD's owners, guests and invitees, hereby grants to Lakeview, to the Condominium and to the Condominium owners, guests and invitees:

i. The right to use the common areas and facilities of the PUD to the same extent as the PUD owners have the right to the use thereof; and

ii. Full rights, during the duration and continuation of this Agreement, to access, ingress and egress and use of streets, sidewalks and other common areas of the PUD.

It is specifically understood and agreed that the respective rights and interests granted under this paragraph are contract rights only. Nothing in this Agreement is intended, nor shall it be construed:

a. To grant to Barton Woods, to the PUD, or to the PUD owners, guests and invitees, any title or ownership in and to the Lakeview Properties, or the common areas and facilities of the Lakeview Properties.

b. To grant to Lakeview, to the Lakeview Properties or to the Condominium owners, guests and invitees, any title or ownership in and to the PUD or the common areas and facilities of the PUD.

2. Effective Date. This Agreement shall take effect upon the later of the following:

a. The approval by Bountiful City and recording of the Enabling Declaration of Covenants, Conditions and Restrictions of Barton Woods Planned Unit Development; or

b. Receipt of the necessary consents and approvals of Lakeview and the Condominium owners as required by Barton Woods to effectuate the provisions hereof.

Notwithstanding any provision to the contrary, either party may terminate this Agreement, except for the permanent easement specified in subparagraph 1(a)(iv) above, by written notice if the above-specified conditions precedent do not occur on or before December 31, 1994.

3. Manner of Operation of Clubhouse Property and Common Areas. The parties agree that the operation and dealings with the common areas and facilities of the PUD and of the Lakeview Properties, shall be shared by the respective entities and the owners as follows:

a. Barton Woods shall assume the management responsibilities for both the Lakeview Properties and the PUD, and the operation and maintenance of the respective common areas and facilities. Lakeview grants to Barton Woods a

transition period of nine (9) months from the effective date of this Agreement to assume all of the full and complete responsibilities hereunder.

b. During the term of this Agreement, all common area expenses of the PUD and of the Lakeview Properties shall be shared among all PUD and Condominium owners, with the owner of each PUD lot and of each Condominium unit paying its proportionate share of all of the combined common area and expenses of the PUD and of the Lakeview Properties. The common areas hereunder are the streets, sidewalks, landscaping, clubhouse amenities and recreational facilities, and all other areas designated as common areas on the respective Condominium Declaration and PUD Declaration; provided, however, that common areas, for purposes of this Agreement, shall not include any costs or expenses for structural improvements or renovations of structures outside the ordinary maintenance of exteriors of the respective dwelling units or lots.

c. Each party hereto shall continue to remain in good standing, with a designated management committee or board of directors in place.

d. Lakeview shall be entitled, during the entire term of this Agreement, to have a representative serve on the Barton Woods management committee and who will have voting rights on budget matters affecting both the PUD and the Lakeview Properties. This Lakeview member shall also have the

right of veto as to any matters affecting only the Lakeview Properties and not affecting the PUD or its budget.

e. Barton Woods shall, after consultation with the management committee of Lakeview, establish a combined budget, on an annual basis, for the PUD common areas and the Lakeview Properties common areas. Each party shall, to the extent required under its respective covenants, fully cooperate in the allocation and collecting of the payment of expenses and assessments.

f. Barton Woods shall handle the record keeping, collection and disbursement of money, filing and recording of notices, and other management duties on behalf of both the PUD and the Condominium, common areas and management.

g. Lakeview shall fully cooperate with Barton Woods in handling all dealings and assessments with the Condominium owners and shall promptly deliver to Barton Woods any and all information received by Lakeview with respect to any information, complaints or other input from the Condominium owners.

h. Lakeview, by and through its authorized representatives, shall have the full right to examine the books and records of Barton Woods as they affect the handling and management of the Lakeview Properties common areas; and Lakeview shall have the right to disburse the information to or among the Condominium owners and any lien holders on any Condominium property.

i. All existing funds of Lakeview, as of the effective date, shall continue to be the sole property of Lakeview and shall be applied, used, or disbursed at the discretion of Lakeview.

j. Lakeview agrees that, without cost to Barton Woods, Barton Woods shall be entitled to utilize the existing tools, maintenance supplies and equipment presently owned by Lakeview for Barton Woods' services under this Agreement.

k. Each party agrees to enforce its respective covenants, conditions and restrictions for the collection, enforcement and filing of liens, as necessary, to collect their respective amounts for their share of the shared common area expenses.

4. Repairs and Renovations to Properties. As partial consideration for the right to use and share the Lakeview Properties, Barton Woods shall, at Barton Woods's sole expense, excluding any contribution from maintenance fees paid by Lakeview unit owners, take or cause to be taken, the following actions and to expend up to and no more than, \$150,000 with respect to the current properties within the Lakeview Properties, such expenditure to be upon Barton Woods' reasonable determination as to the most efficient and cost-effective use of the funds and the nature of the work which is required to be made to bring the improvements into usable and reasonable condition. The work to be accomplished includes the following:

a. Repair and resurface the tennis courts.

b. Repair the swimming pool, including concrete edging surrounding the pool.

c. Repair and/or resurface the cool deck.

d. Renovate the clubhouse, providing roof repairs, painting, repairing the tile, adding new carpeting where necessary, installing appliances in kitchen area and making other repairs which Barton Woods determines are appropriate and necessary.

e. Repair and resurface existing streets within the Condominium.

f. Improve the exterior, including but not limited to roof and driveway replacements, curb and gutter repairs, replacement of rain gutters, and landscaping improvement, as needed, of the existing ten (10) Condominium units in the Condominium to conform as much as possible architecturally with the improvements on the PUD. The parties acknowledge and agree that the improvements specified in this subparagraph 4(f) shall have priority over the other improvements in this paragraph 4 and, except as otherwise agreed by Lakeview, shall be completed first, up to the total required \$150,000 expenditure.

This work shall be accomplished in stages, according to a reasonable schedule established by Barton Woods, it being understood that final completion may occur on or before December 31, 1994.

5. Mutual Representations. Each party, as an inducement to the other party, respectively represents as follows:

a. Barton Woods is authorized and entitled, pursuant to its corporate powers and pursuant to the documents governing the PUD, to enter into and to carry out the provisions of this Agreement.

b. Lakeview represents and authorizes that it is authorized to enter into this Agreement and to bind Lakeview and Condominium owners for the sharing and use of the facilities and the other provisions of this Agreement as it relates to the rights and interests of Barton Woods.

c. The parties agree that Barton Woods shall have the right to record, with respect to the Lakeview Properties, a memorandum of this Agreement to protect the rights of Barton Woods in and to the continuing use and interest hereunder.

6. Termination of Agreement. This Agreement shall terminate at the earlier of the following:

a. The mutual written consent of both parties.

b. Upon the option of either party, if the other party defaults in any of the covenants or agreements herein, and fails to correct that default after written notice to the other party.

Notwithstanding any provision herein to the contrary, this Agreement (except for the easement specified in subparagraph 1(a)(iv) above) shall terminate fifty (50) years from the effective date hereof, upon written notice by either party no later than one

hundred eighty (180) days prior to the fifty (50) year term. If not terminated at the end of fifty (50) years, the Agreement shall continue for successive periods of ten (10) years each until terminated by written notice by either party at least one hundred eighty (180) days prior to the end of the then-effective extended term.

7. Execution of Documents. The parties agree to execute, deliver and record all deeds, easements, consents and all other documents necessary to effectuate the provisions of this Agreement.

8. Notices. Any notices required to be sent to the parties hereunder may be sent to them by certified or registered mail at the addresses shown below, or to such other addresses specified in writing.

9. Default. If either party defaults in any covenants or agreements herein contained, the defaulting party shall pay all costs and expenses, including reasonable attorney's fees, incurred by the other party in enforcing its rights arising under this Agreement, whether incurred through legal action or otherwise.

10. Binding. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, agents, personal representatives, successors and assigns.

11. Savings Clause. If any court of competent jurisdiction determines that any portion of this Agreement is unenforceable, this Agreement shall continue in full force and effect with the unenforceable provision eliminated, and with all other provisions continuing in full force and effect.

12. Paragraph Numbers and Headings. The paragraph and subparagraph headings and numbers used herein are for purposes of convenience and shall not be considered in the interpretation of this Agreement.

ADDRESS:

BARTON WOODS, INC.
A Utah Non-Profit Corporation

By Lynnda R. Hanson
Its

ADDRESS:

1040 So. Fremont Rd
Bountiful, UT 84010

LAKEVIEW TERRACE UNIT OWNERS
ASSOCIATION
A Utah Non-Profit Corporation

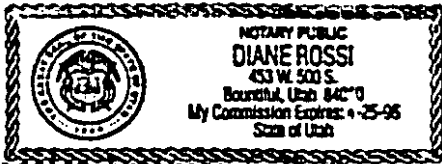
By John A. Law
Its Trustee

By Kenneth Allen
Its TRUSTEE

By Jale M. Zetser
Its Trustee
1068 So. Fremont Rd.
Bountiful, UT, 84010

STATE OF UTAH)
COUNTY OF DAVIS) ss.

On the 12th day of January, 1993, A.D. personally appeared before me, Lynda R. Hobson, who being duly sworn, did say that she is the President of Barton Woods, Inc., a Utah Non-Profit Corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors.



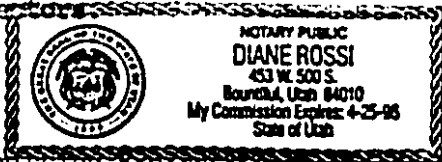
My Commission Expires: 4-25-96

Diane Rossi
Notary Public

Residing at: Bountiful Utah

STATE OF UTAH)
COUNTY OF DAVIS) ss.

On the 12th day of January, 1993, A.D. personally appeared before me, Robert G. Larson, Kenneth L. Kerr, and Dale M. Nebeker, who being duly sworn, did say that they are the Trustees of Lakeview Terrace Unit Owners Association, a Utah Non-Profit Corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors.



My Commission Expires: 4-25-96

Diane Rossi
Notary Public

Residing at: Bountiful, Utah