



ESCALERA SUBDIVISION  
DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS

**KNOW ALL MEN BY THESE PRESENTS:**

Whereas, the undersigned (hereafter "Developer") is the owner of certain real property located in St. George, Washington County, State of Utah, identified as Escalera Subdivision, such property being more particularly described in Exhibit A attached hereto and made a part hereof (hereafter "Property"); and

Whereas, Developer has subdivided the Property into lots and shall cause such lots to be conveyed subject to certain protective covenants, conditions and restrictions as hereinafter set forth in this Declaration of Covenants, Conditions and Restrictions (hereafter "Declaration").

**NOW THEREFORE**, Developer hereby declares that all of the Property described in Exhibit A shall be held, sold, used, occupied, and conveyed subject to the following covenants, conditions and restrictions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These covenants, conditions and restrictions shall run with the Property and shall be binding upon all parties having or acquiring any right, title or interest in the Property or any portion thereof, and shall inure to the benefit of each such party. The acceptance of any deed to or conveyance of any lot, part or portion of the Property by the grantees named therein or by their legal representatives, heirs, executors, administrators, successors or assigns, shall constitute their covenant and agreement with the Developer and with each other to accept, hold, improve, use and convey the property described and conveyed in such deed or conveyance subject to this Declaration.

**1. Land Use and Building Type:** None of the Property or lots shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height and one "casita" style guest house attached by the roof line to the primary dwelling. Every dwelling shall have, as a minimum, a two-car garage. All residences shall have a concrete paved driveway connecting the parking with a street in such a way as to allow safe ingress and egress. All construction shall be of new materials, except that used brick or stone may be used with the prior written approval of the Architectural Control Committee (hereafter "Committee").

**2. Care and Maintenance of Lot:** The owner of each lot shall keep the same free from rubbish, litter and noxious weeds. All structures, landscaping and improvements shall be maintained in good condition and repair at all times.

**3. Nuisances:** No noxious or offensive activity shall be carried out on any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No lot shall be used for any illegal purpose.

**4. Prohibited Structures:** No basement home, mobile home, or pre-manufactured home shall be placed, located or constructed on any lot. No structure of a temporary character, trailer, mobile home, basement with no upper structure, pre-manufactured home, tent, shack, garage, barn or any outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. No lumber, material or building materials shall be kept, stored or

allowed to accumulate on any lot except building or other materials to be used in connection with any construction, alteration or improvement approved in accordance with the terms hereof.

**5. Signs:** No signs of any kind shall be displayed to the public view on any lot except one sign of not more than one square foot for identification (numbering) purposes. One sign of not more than two (2) square feet on each side may be used for advertising the lot for sale or rent or identifying the home during construction. Any sign used for advertising the lot or home thereon for sale or rent, or for identifying the home during construction, shall be of the style, size, color and design, and shall strictly conform in all respects with the sign depicted on Exhibit B attached hereto and made a part hereof. Except as specifically provided in this paragraph 5, no signs, including but not limited to banners, flags or streamers of any nature, shall be allowed on any lot.

**6. Animals, Livestock and Poultry:** No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets, not exceeding two (2) of each, may be kept, provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the owner's premises or on a leash under the handler's control. Pets shall not be kept if they create noise or odors that, in the opinion of the Committee, constitutes a nuisance.

**7. Garbage and Refuse Disposal:** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers which are emptied on at least a weekly basis. No unsightly materials or other objects are to be stored on any lot in view of the general public or neighboring lot owners.

**8. Landscaping:** Landscaping of the front and side yards of lots must be completed prior to occupancy. A \$1,000.00 deposit shall be tendered by the buyer of any lot to the Committee at the time of submission of an application for approval of plans for improvement of any lot and shall be held by the Committee to insure installation of the landscape and cleanup after construction on the lot. The deposit shall be returned to the person making the deposit upon the Committee's determination, after inspection, that the provisions of this paragraph have been met and the lot is in a clean condition. In the event the front and side yard areas are not landscaped prior to occupancy or the lot is not cleaned after construction as deemed appropriate by the Committee, the deposit shall be deemed forfeited to the Committee and the Committee shall be entitled to use such funds as deemed fit, including, but not limited to, the payment of costs and attorney fees incurred in enforcing this paragraph. The Committee shall have no obligation to use such deposit for the installation of required landscaping or the cleaning of the lot. Lots shall be landscaped such that all unpaved portions of street front or street side yards shall be planted in either grass, turf, other ground cover, or rock, all as acceptable to the Committee. Unless waived in writing by the Committee based upon special circumstances, front yard landscaping shall be planted with a minimum of fifteen percent (15%) and a maximum of thirty-five percent (35%) of grass, turf or otherwise vegetated by ground cover. Landscaping shall be maintained at a reasonable standard compatible with other homes in the subdivision. Shrub and tree planting on corner lots shall be located so as not to create a hazard for the movement of vehicles along streets. No trees or shrubs shall be planted on any corner. Lots shall be kept free of all tall, noxious or offensive weeds and plant growth by the owner of said lots. Should excessive growth occur on any lot, the owner shall be notified by the Committee, in writing, of such condition and shall be given thirty (30) days to correct the same,

after which time the Committee may order such correction affected, the expense of which shall be charged to the owner of the lot or lots.

**9. Paving:** All driveways, walkways, parking areas and other areas of similar nature shall be paved with concrete in accordance with Committee approved plans and specifications within sixty (60) days of completion of buildings or other improvements erected upon the subject lot. Any RV or other parking pad proposed to be constructed to the side of a home or garage, must first be approved by the Committee in writing.

**10. Storage of Materials:** During construction of buildings or improvements on a lot and for a period of sixty (60) days after completion thereof, a lot may be used for the storage of materials used in the construction of the building or improvement.

**11. Fences, Walls, Hedges and Shrubs:** Fences, walls, hedges and shrubs may be erected, planted, or maintained in rear yards and side yards not extending beyond the front line of the dwelling to a height not exceeding six (6) feet, unless otherwise approved by the Committee in writing. Fences, walls, hedges and shrubs may be erected, planted or maintained on remaining side yards and property lines to a height not to exceed four (4) feet. No fence, wall, hedge, shrub or other structure shall be placed or maintained along any front property line. No fence, wall, hedge, tree, plant, shrub or foliage shall be planted, kept or maintained in such manner as, in the opinion of the Committee, shall create a potential hazard or aesthetically offensive appearance. Fences and walls must be either earth tone colored concrete, block, brick, stone or stucco and approved by the Committee. No wood, chain link, PVC or white-rail fences will be allowed. All fences and walls shall be designed, constructed and maintained in strict accordance with the provisions of Exhibit C attached hereto and incorporated herein.

**12. Sight Distance at Intersections:** No fence, wall, hedge, or shrub which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within a triangle formed by the street property lines and a line connecting them at points thirty (30) feet from the intersection of the street property lines extended. The same sight line limitations shall apply on a driveway or alley. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**13. Vehicles:** Motor vehicles that are inoperable shall not be permitted to remain upon any street or lot or road areas adjacent thereto for a period of more than seventy-two (72) hours. No automobile, recreational vehicle, commercial vehicle, other motorized vehicle, or any portion thereof, shall be dismantled, rebuilt, serviced, repaired or repainted on or in front of any lot unless performed within a completely enclosed garage or other permitted structure located on the lot which screens the sight and sound of such activity from the public streets and neighboring lots. The foregoing restriction shall not be deemed to prevent temporary parking for loading or unloading of such vehicles. No boats, trailers, buses, motor homes, campers, recreational vehicles or other such vehicles shall be parked or stored upon any lot except within an enclosed garage or on a cement pad behind the required front lot line setback area. Any parking of vehicles, boats or other equipment must be in compliance with all ordinances of the City of St. George.

**14. Commercial Activities Prohibited:** Lots shall not be used for, or in connection with, the conduct of any trade, business, professional or commercial activity of any kind. However, this restriction shall not prohibit an owner or resident from (a) maintaining his personal professional library therein; (b) keeping his personal business or professional records or accounts therein; or (c) handling his personal business or professional telephone calls or correspondence therefrom.

**15. Slope and Drainage Control:** No structure, planting or material shall be placed or permitted to remain and no activities shall be undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels. No change in the elevation of a lot shall be made and no change in the condition of the soil or level of the land of a lot shall be made which results in any permanent change in the flow and drainage of surface water which is detrimental to any other lot. Construction of improvements and installation of landscaping shall be done in such a way that drainage water is retained on the lot and/or conveyed to appropriate drainage facilities and as not to detrimentally drain onto or across any other lot. The slope control areas of each lot and all improvements in them shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

**16. Re-subdivision or Combining of Lots:** No lot in this subdivision shall be divided, subdivided, partitioned, parceled or broken up into smaller lots or units. In the event any person desires to combine two or more lots, either by use or plat amendment, approval shall first be obtained from the Committee. The responsibility to comply with all legal requirements and pay all costs associated with such combination shall be borne exclusively by the person desiring such combination of lots.

**17. Damages:** Any damage inflicted upon existing improvements such as curbs, gutters, streets, sidewalks and such, by the purchaser or owner of any lot and/or their agents or builders, must be repaired as soon as possible after such damage is discovered, and the expense of such repair shall be borne by the lot purchaser or owner.

**18. Architectural Control Committee:**

**A. Creation.** The Developer shall appoint an Architectural Control Committee (hereafter referred to as "the Committee") consisting of three persons, one of whom shall be knowledgeable in the area of residential development. The Developer shall have the power to remove members of the Committee and fill vacancies on the Committee until the earliest of the following: (a) the Developer relinquishes this power in writing; (b) ninety percent (90%) of the lots on the Property have been sold; or (c) residential structures have been constructed on seventy-five percent (75%) of the lots in all phases of Escalera and such structures are legally occupied. When the Developer ceases to have this power, it shall give written notice of this event to each property owner and thereafter the property owners in Escalera shall, within sixty (60) calendar days, elect new members of the Committee. Each lot owner shall have one vote for each lot owned. The initial Committee members elected by the lot owners shall be elected for terms of three years. No member of the Committee shall receive any compensation or make any charge for services rendered. The Committee shall adopt reasonable rules and regulations for the conduct of its proceedings and to carry out its duties. The Committee may fix the time and place for its regular meetings and such other meetings as may be necessary.

The Committee shall meet monthly, or more or less often, on a regular basis as determined by the Committee. Written minutes shall be kept of Committee meetings and such minutes shall be open to lot owners for inspection at reasonable times upon request. The Committee shall, by majority vote, elect one of its members as chairman and one of its members as secretary. The duties of each will be such as usually appertain to such offices.

**B. Approval of Plans.** No construction, remodeling, addition or modification of any kind of any structure and no excavation, grading or modification of the topography of any lot may occur without the written consent of a majority of the Committee. Submission and approval of applications to engage in the above activities shall be governed by rules, regulations and standards adopted by the Committee. The initial rules and regulations, subject to amendment by the Committee, are attached as Exhibit D. After termination of the right of the Developer to appoint and remove Committee members as set forth in paragraph 18, any rule or regulation may be amended, adopted or repealed by majority vote of the property owners, by one vote for each lot owned. The issuance of a permit or granting of any approval by any governmental entity with respect to any matter shall not bind or otherwise affect the power of the Committee to refuse to approve such matter. Applications for approval shall be passed upon by the Committee within thirty (30) days of submission. In the event the Committee has not acted upon an application within such thirty (30) day period, the application will be deemed to be approved.

**C. Immunity from Liability.** The Committee shall not be held liable for damages by reason of any action, inaction, approval or disapproval by it with respect to any request made pursuant to this Declaration. Any errors or omissions in the design, construction, improvement or landscaping of any structure or property and any violation of this Declaration or of any law or regulation are the sole responsibility of the lot owner and the applicable designer, architect, or contractor. The Committee's review of plans shall in no way be concerned with structural, engineering or mechanical integrity or soundness, nor compliance with applicable laws or regulations.

**D. Injunctive Relief.** Purchasers or lot owners within Escalera acknowledge that any construction, remodeling, addition or modification of any kind of any structure and any excavation, grading or modification of the topography of any lot which occurs without the written consent of a majority of the Committee will cause irreparable harm to other owners and purchasers within Escalera. Based thereon, any violation of this paragraph 18 by any person shall entitle the Committee, the Developer, or purchaser or owner of any lot within any phase of Escalera to enforce this provision through immediate injunctive relief through the appropriate court. By purchasing a lot within Escalera, such purchaser or lot owner, for themselves and their agents, representatives, successors and assigns, waives any and all defenses to the granting of such injunctive relief. Additionally, any purchaser or lot owner of any lot within Escalera agrees that such injunctive relief is in addition to any other damages or claims which the Committee, the Developer, or any purchaser or lot owner within Escalera may have hereunder or pursuant to law.

**19. Preservation of Views:** In planning, constructing, installing and maintaining any structure, improvement or landscaping on any lot, the owner thereof shall take reasonable measures in an effort to not unduly restrict the views of surrounding lots and properties.

**20. Developer Immunity:** By purchasing property within the subdivision, the lot purchaser or owner assumes any and all risk of damage and personal injury and waives any and all known or unknown claims of whatever nature against the developer or its agents, employees, officers, representatives, successors and assigns with regard to the property purchased. Such waiver specifically includes, but is not limited to, any claims, damages, expense or loss caused by or related to any unforeseen surface or subsurface soil condition, soil compaction or lack thereof, rock falls, rock, block or other walls, or any other condition that may be associated with, or directly or indirectly related to, the purchase of such property or defects in design, construction, installation or management of improvements on such property. A waiver and release agreement in the form set forth on Exhibit E and incorporated herein by reference shall be executed by all purchasers at the time any lot is first sold to any purchaser and shall be recorded as part of the closing of such sale. However, the assumption of liability and waiver and release set forth in this paragraph shall be effective against any and all purchasers or lot owners of any lot within the subdivision whether or not the waiver and release shown on Exhibit E is signed and recorded.

**21. Severability:** In the event that any provision, restriction, covenant or condition contained herein is found to be invalid by a court of competent jurisdiction, the remaining provisions, restrictions, covenants and conditions shall remain in full force and effect.

**22. Duration:** This Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty-five (25) years from the date of recordation of this Declaration, after which time this Declaration shall be automatically extended for successive periods of ten (10) years unless an instrument, signed by the then owners of two-thirds (2/3) of the lots, has been recorded agreeing to amend or terminate such Declaration.

**23. Amendment:** After the occurrence of one of the events set forth in paragraph 18 which terminates the Developer's right to appoint and remove members of the Committee, this Declaration may be amended by a written document signed by the owners of two-thirds (2/3) of the lots in the subdivision. Until such time as one of the events set forth in paragraph 18 occurs which terminates the Developer's right to appoint and remove members of the Committee, the Developer is vested with the right to unilaterally amend this Declaration as may be reasonably necessary or desirable in the sole discretion of the Developer.

**24. Developer Exemption:** The Developer and all activities carried on by the Developer in connection with the subdivision, development, sale, or related activity, with regard to the Property or any lot, is exempt and free from all restrictions and constraints in this Declaration.

**25. Additional Property:** Additional property may be subjected to these covenants, conditions and restrictions in the discretion of the Developer. The Developer may do so by indicating its intent to have such property bound by these covenants, conditions and restrictions on the plat of such property, recording a document subjecting such additional property to these covenants, conditions and restrictions, or recording an additional set of covenants, conditions and restrictions. Thereafter, such additional property shall be considered as part of the Property in all respects.

**26. Violation as Nuisance:** Every act or omission whereby any restriction, covenant or condition in this Declaration is violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by appropriate legal action by the Developer or any owner or owners from time to time of any lot or portion of the Property. Remedies under this Declaration shall be deemed cumulative and not exclusive.

**27. Enforcement:** Each and all of the restrictions, covenants and conditions contained in this Declaration are for the benefit of the Developer and the owner or owners from time to time of any lot or portion of the Property. Each restriction, covenant and condition shall inure to the benefit of and pass with each and every lot or portion of the Property and shall apply to and be binding upon each and every successor in interest thereto. The restrictions, covenants and conditions are and shall be deemed covenants of equitable servitude, and the actual or threatened breach thereof, or the continuance of any such breach, or non-compliance therewith, may be enforced, enjoined, abated, or remedied by appropriate proceedings at law or in equity by the Developer or the owner or owners from time to time of any lot or portion of the Property; provided, however, that no such breach shall affect or impair the lien of any bona fide mortgage or trust deed which shall have been given in good faith and for value, except that any subsequent owner of such lot or portion of the Property shall be bound and obligated by this Declaration, whether such ownership is obtained by foreclosure, at a trustee's sale, or otherwise. Failure by the Developer or any owner or owners of any lot or portion of the Property, or their respective legal representatives, heirs, successors, or assigns, to enforce any of the provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

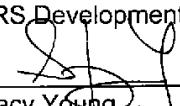
**28. Assignment:** All rights of the Developer under this Declaration shall be assignable to one or more assignees in the Developer's sole discretion.

**29. Attorney Fees and Costs:** In the event enforcement hereof is required against any person or entity, the prevailing party to such action shall be entitled to recover all costs and attorney fees so incurred, whether or not suit is filed, and at trial or on appeal.

IN WITNESS WHEREOF, the undersigned Developer has hereunto set its hand this 14<sup>th</sup> day of February, 2006.

APRIL

QRS Development, Inc.

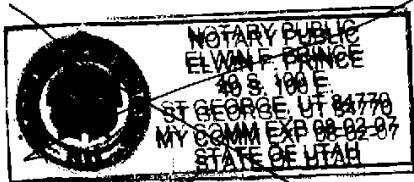
  
\_\_\_\_\_  
Stacy Young  
President

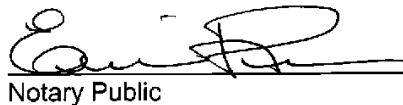
STATE OF UTAH )  
ss.  
COUNTY OF WASHINGTON )

On this 14<sup>th</sup> day of February, 2006, before me personally appeared Stacy Young, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the president of QRS Development, Inc., a Utah corporation, and that the foregoing document was signed by him on April

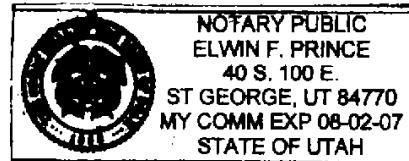
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behalf of such corporation by authority of the bylaws of the corporation or a resolution of its board of directors.





Notary Public



File No. 122267

**EXHIBIT "A" - LEGAL DESCRIPTION**

Beginning at a point on the Easterly line of 1900 East Street said point being South 89°18'57" East, 1840.11 feet along the line between the Southwest Corner and the Southeast Corner of Section 16, Township 42 South, Range 15 West, Salt Lake Base and Meridian and thence South 00°00'08" West, 45.30 feet from the Southwest Corner of Section 16, Township 42 South, Range 15 West, Salt Lake Base and Meridian; thence North 80°18'16" East, 186.75 feet; thence North 09°41'44" West, 23.55 feet; thence North 80°18'20" East, 50.00 feet; thence South 09°41'44" East, 0.95 feet; thence North 80°18'16" East, 93.38 feet; thence South 09°41'44" East, 1.60 feet; thence North 80°18'16" East, 93.37 feet; thence North 09°41'44" West, 2.47 feet; thence North 80°18'16" East, 60.00 feet; thence South 09°41'44" East, 3.47 feet; thence Southeasterly 31.42 feet along an arc of a 20.00 foot radius curve to the left (center bears North 80°18'16" East long chord bears South 54°41'44" East, 28.28 feet with a central angle of 90°00'00"); thence South 09°41'44" East, 50.00 feet; thence North 80°18'16" East, 74.06 feet; thence Easterly 58.57 feet along an arc of a 175.00 foot radius curve to the left (center bears North 09°41'44" West long chord bears North 70°43'02" East, 58.29 feet with a central angle of 19°10'28"); thence South 31°56'59" East, 27.50 feet to the Northeast Corner of the West One-Half of Block 18 of the MIDDLETON TOWN RE-SURVEY of 1971; thence South 04°36'55" East, 587.57 feet along the Easterly line of the West One-Half of Block 18 to the Southerly line of said Block 18; thence South 80°18'16" West, 109.92 feet along said Southerly line to the West line of said Block 18; thence North 09°41'44" West, 614.49 feet along said Westerly line to the Northwest Corner of said Block 18; thence North 89°27'44" West, 60.97 feet to the Northeast Corner of Block 19 of the MIDDLETON TOWN RE-SURVEY of 1971; thence South 09°41'44" East, 625.33 feet along the Easterly line to the Southerly line of said Block 19; thence South 80°18'16" West, 423.50 feet along the Southerly line to the Westerly line of said Block 19; thence North 09°41'44" West, 651.00 feet along the Westerly line of said Block 19 to the point of beginning.

✓  
PROOFREAD

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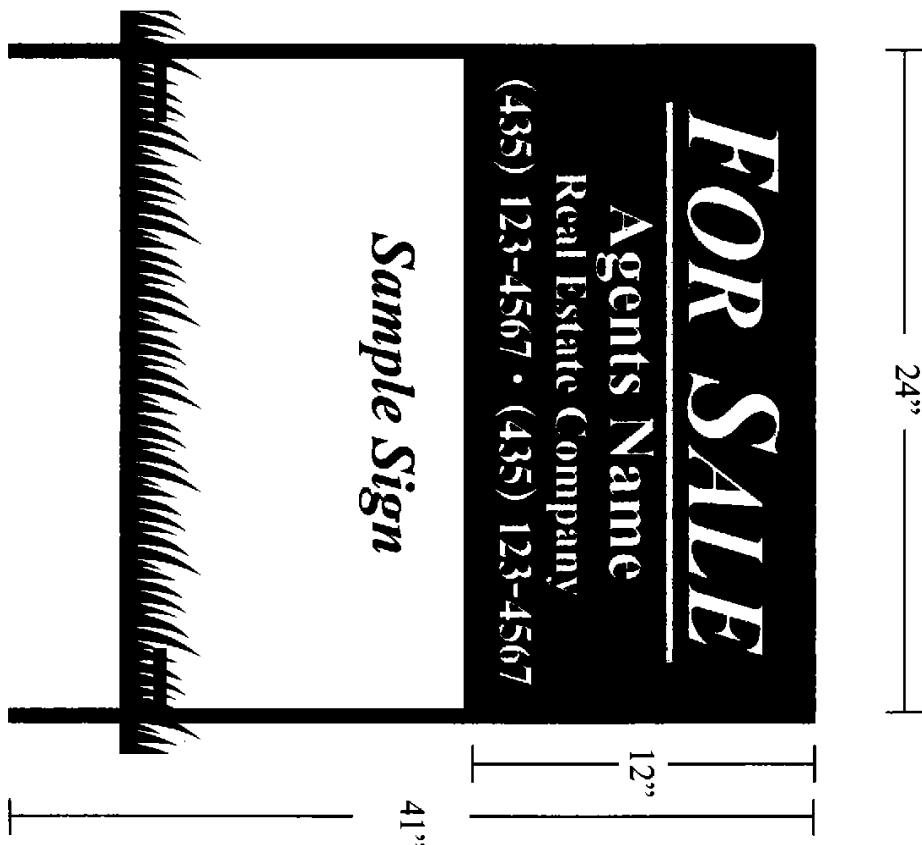
# ESCALERA

## *Real Estate Sign Standards*

All signs within Escalera must comply with the following guidelines:

- Background shall be a .032" steel panel 12 X 24 sign painted rust color (pantone 160c.)
- Copy color shall be beige.
- All signs shall comply with these standards (ie. Open House, For Rent, etc.).
- If a flyer box is used, it must be a clear faced flyer box attached directly to the sign frame.
- No additional signs, riders, banners, or permanent signs will be allowed within Escalera, other than one St. George City building inspection sign of identical design as set forth above, no more than 24" x 36" in size.
- Signs shall be installed approximately 10' from the back of the sidewalk.
- Signs meeting the above requirements are available from Star Sign & Banner (435) 628-7806.

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**EXHIBIT C**

**DISCLOSURE OF FENCING/WALL AND OTHER REQUIREMENTS**

All lots are affected by all or portions of this exhibit. Escalera is developed as a complement to it's undisturbed natural surroundings. The highest priority in the development of these homesites is the preservation of the surrounding natural habitat. In order to accomplish these objectives, the following requirements and all provisions of the CC&Rs governing Escalera must be strictly followed and are hereby agreed to by the buyer indicated below.

- 1. Rear Walls-** Restrictions contained in our CC&Rs, referenced on the subdivision's final plat, and contained in this "Disclosure" require that rear walls on lots be built by the lot owner to the satisfaction of the ACC.
- 2. No Dumping-** No dumping of trash, yard clippings or refuse of any kind is allowed on or near any lot.
- 3. Signs-** No signs of any kind shall be displayed to the public view on any lot except one sign of not more than one square foot for identification (numbering) purposes. One sign of not more than two (2) square feet on each side may be used for advertising the lot for sale or rent or identifying the home during construction. Any sign used for advertising the lot or home thereon for sale or rent, or for identifying the home during construction, shall be of the style, size, color and design, and shall strictly conform in all respects with the sign depicted on Exhibit B attached to the CC&Rs. Except as specifically provided in the CC&Rs, no signs, including but not limited to banners, flags or streamers of any nature, shall be allowed on any lot.

**Lot/Home Owner Responsibility:**

In order to maintain the integrity of Escalera, it is the responsibility of the lot or home owner to provide a copy of this disclosure and all other binding documents to future buyers of lots or homes upon resale.

**EXHIBIT D**

**RULES, REGULATIONS AND STANDARDS OF THE  
ESCALERA ARCHITECTURAL CONTROL COMMITTEE**

While the controls exercised by the Architectural Control Committee (hereafter referred to as the "Committee") must be maintained, the Committee does not intend to stifle innovative designs or architectural freedom. If any design elements of a prospective home appear to be in conflict with the controls or recommendations set forth, such conflicts must be resolved by the Committee and will, whenever possible, be resolved in favor of aesthetic and design quality.

The guidelines and restrictions contained herein are consistent with the provisions of the recorded covenants, conditions and restrictions of Escalera subdivision (hereinafter "Covenants"). The Covenants are on record in the office of the Recorder, Washington County, Utah, at 87 North 200 East, St. George, Utah. Any violations of these guidelines or the Covenants may result in required changes to floor plans, colors, materials, etc. at the owner's and/or contractor's expense.

No construction may begin in Escalera without the issuance of a building permit issued by the City of St. George. A set of drawings and specifications with the Committee's stamp or signature of approval must be submitted to the City of St. George to obtain a permit. This stamp or signature of approval will be given upon compliance with all provisions stated in the Covenants and these rules, regulations and standards and by execution of a final agreement as established by these rules by the owner and contractor legally responsible for the proposed construction.

**SECTION 1.**

Three (3) complete sets of floor plans, outside elevations, and site plans as set forth and containing, at a minimum, the information listed below, shall be submitted to the Committee no less than ten (10) days prior to the desired date for commencement of construction. Two (2) sets will be stamped or signed and returned, one for the City of St. George and one for construction use. The plans must contain all of the following:

**A. SITE PLAN**

1. Show scale and over-all dimensions.
2. Indicate lot number and street name.
3. Indicate setback from street (front yard minimum setback is twenty-five (25) feet and side yards minimum setbacks are ten (10) feet and ten (10) feet).
4. Indicate grade elevations at front corners of lot and finished floor elevations.
5. All finished floor elevations must be a minimum of twelve (12) inches above the crown of the road of the front street elevations. Finished floor elevations are to be consistent with existing homes on the adjacent lots. (In instances where the contour of the land prohibits compliance, a special examination of the site will be made by the Committee and determination will follow.)
6. Location of the HVAC unit shall be noted. No HVAC unit will be placed on the roof.

**B. FLOOR PLAN**

1. Show scale and over-all dimensions.
2. Indicate window and door locations and sizes.
3. Show location of all HVAC units, satellite dishes, and any other mechanical and/or non-mechanical devices. Locations of these items must be in the rear of the house or out of street view. (Special consideration will be given when rear installation is not feasible. In such situation, the unit must be screened from the street view with materials compatible with materials used in the construction of the house.)

**C. ELEVATIONS**

1. Note scale on plan.

**D. COLOR SCHEMES AND EXTERIOR MATERIALS**

1. Colors shall be subdued earth tones. The color scheme should compliment the neighborhood. The Committee reserves the right to reject any scheme it deems not consistent with the area.
2. The general design expressed in the front of the house must continue to each side elevation.
3. Innovative designs used on the front of the house using stone, brick or other materials will be considered on an individual basis.

**E. CONSTRUCTION AND MATERIALS WHICH ARE NOT ACCEPTABLE**

1. Log house.
2. Pre-manufactured houses.
3. Earth or berm houses.
4. Re-located houses.

**F. ACCEPTABLE ROOFING MATERIALS**

1. Roofing materials must be slate, clay or concrete tile.

**G. HEIGHT OF HOUSE**

1. No house will exceed thirty five feet from street frontage view.
2. All houses proposed to be over one story in height will be examined by the Committee as to the aesthetic value for adjoining houses, lots and/or their views. The Committee has the right to restrict the height of any house, structure or landscaping if it unduly restricts a neighbor's view.
3. Minimum roof pitch on homes and accessory buildings will be 4/12.

**H. SIZE OF HOUSE, LANDSCAPING, AND SPECIAL RESTRICTIONS**

1. The outside measurement of each house containing a single level, or of each house containing a ground level and a basement level, will not be less than eighteen hundred (1,800) square feet on the ground floor, exclusive of garages, porches, patios, and storage. The ground floor of a two story home, exclusive of garages, porches, patios, and storage, will not be less than fourteen hundred (1,400) square feet.
2. All storage units, detached garages, etc., are to have the same design and materials as the main dwelling, except that colored block may be used for detached buildings.
3. All homes are to have a minimum two car garage attached or detached.
4. Fences and swimming pools will follow the St. George zoning requirements.
5. All required landscaping (as outlined in paragraph 8 of the Covenants) will be completed prior to occupancy.
6. Campers, boats, pickups and other recreational and commercial vehicles must be kept in a garage or on a concrete (or other suitable material) pad at the side or in the rear of the house.
7. All walls around houses shall be of colored masonry materials approved by the Committee and shall conform to the St. George zoning requirements. No chain link, wood or wire fences or walls will be allowed.
8. In order to maintain the integrity of the development, no roof-top mounted air conditioning or heating equipment, or any other such device will be allowed.
9. Basements: A geotechnical investigation was performed by Rosenberg & Associates in a report dated July 8, 2004. This report is available from the Developer and a copy is on file with the City of St. George. Owners, builders and contractors should become familiar with this report and comply with its recommendations. In addition, all homes must be constructed in accordance with the recommendations of a geo-technical engineer on a lot by lot basis.

**I. EASEMENTS**

1. Easements for installation and maintenance of utilities and drainage are reserved as shown on the recorded plat. Structures of any type are prohibited within these easements. Plants or other materials may be placed or permitted to remain within such easements which will not damage utilities, or which will not obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot except for those improvements for which a public authority or utility is responsible.

**SECTION 2.**

**DURING THE COURSE OF CONSTRUCTION, OWNERS AND CONTRACTORS WILL  
COMPLY WITH THE FOLLOWING CONDITIONS AND AGREEMENTS.**

**A. Trash Receptacles and Debris Removal.** Owners and contractors shall clean up all trash and debris at the end of each day. An approved trash receptacle must remain on the site

at all times for this purpose to contain all lightweight materials or packaging. Trash receptacles must be emptied at least once a week (and more often if necessary) at an appropriate off-site facility.

**B. Concrete Trucks.** Concrete trucks may be washed out only on the lot being built upon and inside the construction area. The owner and contractor are responsible for containing all washout to preclude this water from entering washes and contaminating tree roots.

**C. Cleanliness.** During the construction period, each construction site shall be kept neat and shall be properly policed to prevent it from becoming a public eyesore, or affecting other parcels or any easement. Any cleanup costs incurred in enforcing these requirements shall be payable by the owner and contractor. Dirt, mud, or debris resulting from activity on each construction site shall be promptly removed.

**D. Materials Storage.** Construction materials shall be stored on the lot, only for such time as reasonably needed and in orderly array.

**E. Sanitary Facilities.** Each owner and contractor shall be responsible for providing adequate sanitary facilities for construction workers. Portable toilets must be provided.

**F. Vehicles and Parking Areas.** All construction vehicles shall be parked within the lot being built upon or on the public street.

**G. Conservation of Native Landscape.** The Committee shall have the right to protect major terrain features, rocks, or plants. Any trees or branches removed during construction must be promptly cleaned up and removed from the construction site.

**H. Dust and Noise Control.** The owner and contractor shall be responsible for controlling dust and noise from the construction site, including the removal of dirt and mud that is the result of construction activity on the site and the owner shall ensure that the contractor undertakes such responsibilities. The volume of stereos, radios or any equipment must be maintained at a LOW LEVEL that does not disturb the quiet peace and enjoyment of adjoining property owners or the surrounding neighborhood.

**I. Material Deliveries.** All building materials, equipment and machinery required to construct a residence must be delivered to and remain within the lot. This includes all building materials, earth moving equipment, trailers, generators, mixers, cranes, and any other equipment or machinery.

**J. Firearms.** Carrying any type of firearm on the Property by construction crews is prohibited.

**K. Alcohol and Controlled Substances.** The consumption of alcohol or use of any controlled substance on any construction site is prohibited.

**L. Fires and Flammable Materials.** Careless disposition of cigarettes and other flammable materials, as well as the build-up of potentially flammable materials constituting a fire hazard on the construction site, are prohibited.

**M. Restoration of Property.** Upon completion of construction, each owner and contractor shall clean his construction site and repair all property which has been damaged, including but not limited to, restoring natural contours, rocks, trees, and natural vegetation as approved or required by the Committee, and repair roadways, driveways, pathways, drainage, and culverts. The deposit required by paragraph 8 of the Covenants shall not be refunded until the requirements of this paragraph are met.

**N. Construction Signage.** Temporary construction signs shall be limited to one sign per site not to exceed four (4) square feet of total surface area. The sign shall be free standing, not to exceed four (4) feet in height above natural grade, and of a design and in a location within the site as approved by the Committee. Attachment of signs or similar material to trees or rocks is strictly prohibited.

**O. Daily Operation.** Daily working hours for each construction site shall be from 30 minutes before sunrise to 30 minutes after sunset.

**EXHIBIT E**

**WAIVER AND RELEASE AGREEMENT**

("Owner(s)") of Lot(s) \_\_\_\_\_, Escalera Subdivision, according to the official plat thereof recorded in the office of the Washington County Recorder, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby agree that it is their sole responsibility to obtain and comply with recommendations from competent geotechnical and engineering professionals with regard to the inspection of lots within the subdivision prior to purchase and construction on such lots after purchase. Owner(s) further acknowledge and agree that the developer makes no warranties whatsoever with regard to any lot within the Escalera Subdivision or the sale or transfer thereof. Owner(s) for themselves and their heirs, representatives, successors and assigns, waive any and all known or unknown claims of whatever nature against the developer of Escalera subdivision and its agents, employees, officers, representatives, successors and assigns. Such waiver specifically includes, but is not limited to, any claims or damages caused by or related to any unforeseen surface or subsurface soil condition, soil compaction or lack thereof, rock falls, rock, block or other walls installed by or for the developer, or any other condition that may be associated with, or directly or indirectly related to, defects in design, construction, installation or management of improvements within the subdivision.

All rock retaining walls built by or for the developer and all masonry or rock walls built by or for any lot owner shall be owned and maintained by the owner of the lot on or adjacent to which the wall is located. Neither the City of St. George nor the developer shall have any responsibility or liability whatsoever with regard to any aspect of any such walls, including defects therein.

This waiver and release is hereby made a part of the sale of lot(s) \_\_\_\_\_ and the contract for the purchase and sale of such lot(s) dated \_\_\_\_\_, shall survive the closing of any purchase transaction or transfer with regard to such lot(s), and constitutes a covenant running with the land. The burdens and benefits under this waiver and release shall be binding upon the undersigned and their successors, representatives and assigns. Should any term or provision of this agreement be ruled invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall nonetheless stand in full force and effect. Should any action be brought to enforce the terms of this Agreement, the prevailing party shall be entitled to recover their costs and attorney fees incurred in such action, whether or not suit is commenced, and at trial or on appeal.

By signing below, the undersigned acknowledges that they have carefully read and reviewed the terms of this waiver and release and agree to its provisions.

OWNER(S)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date  
(Acknowledgment for business entity or trust)

20060014510 04/14/2006 01:39:10 PM  
18 of 18 Washington County

STATE OF \_\_\_\_\_ )  
ss:  
County of \_\_\_\_\_ )

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me, a notary public, personally appeared \_\_\_\_\_  
\_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, personally known  
to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to  
this instrument, and acknowledged that (s)he executed the same on behalf of \_\_\_\_\_  
\_\_\_\_\_, by authority of \_\_\_\_\_.

---

Notary Public

(Acknowledgment for individual)

STATE OF \_\_\_\_\_ )  
ss:  
County of \_\_\_\_\_ )

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me, a notary public, personally appeared \_\_\_\_\_  
\_\_\_\_\_, personally known to me or proved to me on the basis of  
satisfactory evidence to be the person whose name is subscribed to this instrument, and  
acknowledged that (s)he executed the same.

---

Notary Public