

3850820

DECLARATION OF
PROTECTIVE COVENANTS AND RESTRICTIONS
OF ENSIGN DOWNS PLAT H

25/12
REC'D OF JOHN KENNEDY
SEP 29 3 53 PM '93
RATH, RECORDS
SALT LAKE COUNTY
735

TO WHOM IT MAY CONCERN:

KNOW ALL MEN BY THESE PRESENTS:

THAT the undersigned, ENSIGN DOWNS, INC., a corporation of Utah, has heretofore caused to be surveyed, platted and subdivided into lots and streets the following described real property located in SALT LAKE CITY, SALT LAKE COUNTY, STATE OF UTAH, being a part of Section 30, Township 1 North, Range 1 East, Salt Lake Base and Meridian, to wit:

See Exhibit "A" attached hereto and made a part hereof.

THAT the undersigned, ENSIGN DOWNS, INC., is the legal and beneficial owner of all of the land located in said subdivision except that portion thereof dedicated as public streets.

NOW, THEREFORE, in order to protect the natural beauty of the area and its view and in order to develop a harmonious and regulated community for the benefit and protection of all owners of the area, it is therefore declared by such owners that all lots in the designated subdivision are held and sold, conveyed, leased, occupied, mortgaged and held subject to the following restrictions, conditions, covenants and agreements between it and the several owners and purchasers of said property as between themselves and their heirs, successors or assigns, to conform to and observe the same for a period of twenty-five (25) years from the first day of OCTOBER, 1983; provided, however, that each of said restrictions and covenants shall be renewed and automatically continued thereafter for successive periods of twenty-five (25) years past; provided, however, that the owners of the fee simple title of a majority of the lots in this subdivision may release all of the lands hereby restricted from any and all said restrictions and covenants at the end of the first twenty-five (25) year period, or any successive twenty-five (25) year period, by executing an appropriate agreement in writing for such purpose and filing it, for record, in

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the Office of the County Recorder of Salt Lake County, Utah, at least two (2) years prior to the expiration of any twenty-five (25) year period.

These covenants and restrictions, however, may be changed, altered, amended in any way, at any time, by the affirmative action of the owners of at least eighty-five percent of the lots in the subdivision. These changes shall be evidenced by the execution of an appropriate agreement in writing signed by at least eighty-five percent (85%) of the individual legal lot owners, and filed for record in the Office of the County Recorder of Salt Lake County, Utah.

MUTUAL AND RECIPROCAL BENEFITS:

All of said restrictions, conditions, covenants and agreements shall be made for the direct and mutual and reciprocal benefit of each and every lot created on above described property and shall be intended to create mutual and equitable servitudes upon each of said lots in favor of each other lot created on the aforesaid property and to create reciprocal rights and obligations between the respective owners of all of the lots so created and to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, as to the owners of each lot in said tract, their heirs, successors and assigns, operate as covenants running with the land for the benefit of all other lots in said tract.

USE OF LAND:

None of the lots shall be used for or occupied by other than single family dwellings, garages, and necessary incidental accessory buildings. No flat or apartment house shall be permitted thereon; any outside clothes drying areas must be so located that they are not in the view of neighbors. No rubbish shall be stored or allowed to accumulate thereon.

PARKING:

No boats or vehicles shall be parked on the public streets over night. Boats, trucks and recreational vehicles shall be parked only in areas of lots where they are hidden from view from the street, and in compliance with zoning.

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SET BACK OF IMPROVEMENTS AND APPURTENANCES:

No dwelling house or other structure shall be constructed or situated on any of said lots created except in conformity with the set back and side yard lines set by Salt Lake City and by the Architectural Committee or in conformity with additional lines which may be fixed by the undersigned, its successors and assigns, in contract or deeds to any or all of the lots created on said property;

FENCES, PLANTING AND LANDSCAPING:

No landscaping shall be begun on said property nor any planting of trees take place, until the plans and specifications therefore have been first approved in writing by the Architectural Committee. In the event, however, that such Committee shall fail to approve or disapprove a landscaping plan within thirty (30) days after approval thereof has been requested in writing, directed to ENSIGN DOWNS, INC., in Salt Lake City, Utah, then such approval will not be required provided the planting does not, nor in due course of growth, will injure the view of other owners in the subdivision.

No trees, other planting or fences shall be installed or maintained on any lot which will obstruct the view or otherwise interfere with the reasonable use and enjoyment of the owners or occupants of any other lots or lots in the subdivision. The Architectural Committee shall in each instance be the determining body as to whether one owner has planted trees and shrubbery or erected fences to interfere with the use and enjoyment of another owner. Grantee agrees to abide by any order of said committee directing him not to plant any trees, to cut down or cut back or remove any trees or plants or fences which may have been installed, planted, or maintained. The agreement contained in the last preceding sentence shall be construed as a covenant running with the land and not as a condition which might cause the grantee's title to be forfeited. The grantee further agrees that the members of said committee or any injured lot owner, may at any time institute or prosecute in their name any suit or suits which the committee or injured lot owner may consider advisable in order to compel and obtain a decree for specific performance by the grantee, of his agreement to remove, cut down or cut back any tree which the committee has ordered removed, cut back or cut down. Should any such suit be instituted, the grantee agrees to pay reasonable attorney fees for the plaintiff's attorneys as may be fixed by the court.

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ANIMALS AND FOWL:

No livestock or fowl of any kind or nature shall be housed or maintained on any lot except a reasonable number of household pets.

NO TRADE OR BUSINESS PERMITTED:

No trade or business establishment of any kind or nature shall be permitted on any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

TEMPORARY STRUCTURES:

No trailer, basement, tent, shack, garage, barn or other out-building shall be moved onto or erected on any lot for use as a residence, temporarily or permanently, and no residence of a temporary character shall be permitted thereon. A building program once started will be carried forward without undue delay.

NO EXCAVATION:

No excavation for stone, gravel or earth shall be made on said property unless such excavation is made in connection with the erection of a building structure thereon.

PLAN, DESIGN AND LOCATION OF BUILDINGS TO BE APPROVED:

No building shall be placed or erected on any lot until the design, size, height and location have been approved, in writing, by the Architectural Committee. In the event, however, that such Committee shall fail to approve or disapprove a design or location within thirty (30) days after approval thereof has been requested in writing, directed to ENSIGN DOWNS, INC., in Salt Lake City, Utah, then such approval will not be required, provided the design and location on the lot conform to the restrictions herein contained and are in harmony with existing structures in the subdivision.

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LOTS REQUIRED FOR BUILDING:

None of said lots may be re-subdivided. No lot shall be conveyed in whole or in part for right-of-way purposes for ingress or egress to other lands without the express permission of the undersigned in writing.

EASEMENT FOR UTILITIES:

Such easements and rights-of-way shall be reserved to the undersigned and successors and assigns in and over said real property for the erection, construction and maintenance and operation therein or thereon of drainage pipes or conduits and pipes, conduits, poles, wires and other means of conveying to and from lots in said tract, gas, electricity, power, water, telephone and telegraph services, sewage and other things for convenience to the owners of lots in said tract, as may be shown on said map, and the undersigned, its successors and assigns, shall have the right to reserve any further necessary easements for said purposes in contracts and deeds, to any or all of the lots shown on said map. All lots shall be supplied with underground electrical and telephone services, and service cables shall be run in accordance with plans and specifications of Utah Power & Light Company and Mountain State Telephone and Telegraph Company. All service conduits and cables from Secondary Pull (connection) boxes to houses shall be underground and shall be furnished and installed by individual home owners and shall be in accordance with plans and specifications of Utah Power & Light Company and Mountain States Telephone and Telegraph Company. No structure of any kind shall be erected over any of such easements, except upon written permission of undersigned, their successors or assigns.

ARCHITECTURAL COMMITTEE:

An Architectural Committee consisting of three members has been created by the undersigned and the undersigned may fill vacancies in the Committee and remove members thereof at their pleasure; provided, however, that when eighty-five percent (85%) of the title holder of the lots in the subdivision petition the undersigned in writing that an individual be named to the Architectural Committee, then the undersigned will appoint such a person on the Committee and if necessary will remove from said Committee an existing member thereof in order to create a vacancy for the new appointment; provided further, however, that two persons be designated by the undersigned to always remain members of said Committee if undersigned so desires. The functions of said Committee shall be, in addition to the functions elsewhere in this declaration set forth, to pass upon, approve or reject any plans, specification, size, height and location of structures to be erected on lots in said tract, or for planting to be placed thereon, so that all structures, fences and planting shall conform to the restrictions and general plan of the undersigned, and of the Committee, for the improvement and development of the whole tract. The Committee may act by any two of its members, and any authorization, approval or power made by the Committee must be in writing signed by at least two members thereof. The Architectural Committee may from time to time, in addition to the above, establish a minimum size for houses to be erected and may, to meet changing conditions, vary the style, height, type and size of structures permitted, and alter other rules and regulations for the protection and improvement of the area.

The Architectural Committee's decisions, made in good faith and within the scope of its authority, shall be final.

ENSIGN DOWNS, INC. and the Architectural Committee shall exercise their best judgment to see that all buildings and improvements constructed within this subdivision conform to the purposes and requirements of these protective covenants; provided, however, that they and their employees or agents shall not be liable to any Owner or Occupant or to anyone submitting plans for approval, or to any other party by reason of a mistake in judgment, negligence or non-feasance arising out of or in connection with the approval, disapproval or failure to approve any such plans.

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CONFLICTS:

Zoning ordinances, building codes and regulations, and any other governmental restrictions and requirements shall be observed. In the event of any conflict between this Declaration and any such governmental codes, regulations, restrictions and requirements, the more restrictive standards shall apply. Any approval of Grantor required in this Declaration, does not in any way relieve Owners and Occupants from obtaining approvals required by any governmental body having jurisdiction.

MINIMUM BUILDING SIZE:

The undersigned reserve the right for itself, its successors and assigns to set a minimum figure for the size and/or the cost per square foot of floor area of any dwelling house to be erected on any of said lots. This size or cost per square foot may also be set from time to time by the Architectural Committee.

RIGHT TO ENFORCE:

The restrictions herein set forth shall run with the land and bind the owners, their heirs, successors and assigns and all parties claiming by, through or under them shall be taken to hold, agree and covenant with the owners of said lots, their heirs, successors and assigns, and with each of them to comply with and observe said restrictions as to the use of said lots and construction of improvements thereon, but no restriction herein set forth shall be personally binding on any person, persons, or corporation, except in respect of breaches committed during its, his, her or their seizing of title to said land, and the undersigned or any owner or owners of any of the lots in said subdivision shall have the right to sue for and obtain an injunction prohibitive or mandatory to prevent the breach of or to enforce the observance of the restrictions above set forth in addition to ordinary legal actions for damages and the failure of the undersigned or the owner or owners of any of the lots in this subdivision to enforce any of the restrictions herein set forth at the time of its violation, shall in no event, be deemed a waiver of the right to do so thereafter. These remedies are in addition to all other remedies provided by law or provided for elsewhere in this agreement.

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INVALIDATION OF RESTRICTIONS:

The invalidation of any restriction herein contained, by judgment or Court order, shall in no way affect any of the other provisions which shall remain in full force and effect.

NOTICE TO PURCHASERS:

(1) Conveyances have been recorded with this Subdivision specifying the manner in which development procedures and approvals for building permits will occur and no building permits will be issued until the Architectural Committee has reviewed and given approval to the site plan in writing.

(2) Developable Area Limitations-The developable area limitation restrictions of each lot, as defined herein and as shown on this plat, shall apply to all lot owners to insure that steep or unstable slopes are protected from detrimental action.

(3) Building Permit-No vegetation removal, excavations or construction of any kind will be permitted upon any lot in this subdivision until a building permit authorizing said activity or construction shall have been first obtained from Salt Lake City Corporation.

(4) Soils and Geologic Report-Notice is hereby given to lot owners that a Soils and Geologic Report has been prepared for this subdivision by Dames and Moore and has been filed with the Salt Lake City Planning Commission. This Report outlines existing soils and geologic conditions present for the area covered by the subdivision plat. Specific recommendations as to construction, slope stability, and earthquake faults are stated therein. In addition to complying with the Declaration of Restrictions, Covenants and Conditions of Record, each lot owner shall be required to have a professional soils engineer, registered as such in the state of Utah, recommend the placement and design of footings before a building permit shall be issued. (The maximum depth of hydro-compactible soil extends to 17.5 feet below existing grade). Thereafter, said engineer shall certify the construction of footings according to the submitted plan before construction will be allowed by Salt Lake City and said Certification recorded in the office of the County

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Recorder. When special footings are indicated, a number of relatively straight forward solutions can be taken. These include: (1) extending footings to underlying suitable soils (conventional spread and continuous wall footings or drilled piers); (2) placing conventional foundations upon replacement fill extending to suitable soils; and (3) establishing foundation upon a specified minimum thickness of underlying non-moisture sensitive natural soil and/or structural fill and providing overall positive moisture control. The most effective solution will depend upon the degree of collapse susceptibility of the soil, the thickness of the collapsible soil layers the depth below the proposed footing bearing level at which the collapsible soils are encountered, and the proposed design concept for the structure.

EXECUTED THIS 1ST day of OCTOBER, 1983.

ATTEST: ENSIGN DOWNS, INC.

David L. Freed
David L. Freed, Treasurer

By: David A. Robinson
David A. Robinson, President

STATE OF UTAH)
; ss.
COUNTY OF SALT LAKE)

On the 1st day of October, 1983, personally appeared before me, DAVID A. ROBINSON and DAVID L. FREED, who being duly sworn did say that they are the President and Treasurer, respectively, of ENSIGN DOWNS, INC., a corporation of Utah, and that the said instrument was signed in behalf of said corporation by resolution of its Board of Directors, and said DAVID A. ROBINSON and DAVID L. FREED acknowledged to me that said corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal, the day and year above written.

Roberta W. Harris
Notary Public
Residing at Salt Lake City, Utah

My Commission Expires:

March 2, 1987

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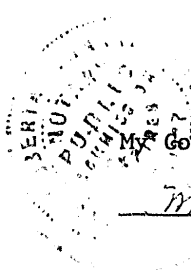
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EXHIBIT "A"
To Restrictive Covenants for Ensign Downs Plat "H"

A subdivision of part of Section 30, T1N, R1E, SLB&M described as follows:
Commencing at a point with the state plane rectangular coordinates of; X=1893823.460, Y=896198.891 based on the Lambert Conformal Projection, Utah Central Zone. Said point is further described as being West 680.272 feet, and South 1969.573 feet from the North $\frac{1}{4}$ corner of Section 30 T1N, R1E, SLB&M, and running thence N 3°51'44"W 102.000 feet, thence N 89°20'00"E 353.851 feet to a point on the West line of a street (East Capitol Blvd.) thence North 60.237 feet along said West line, thence N 78°45'00"E 663.243 feet, thence S 4°36'15"W 233.523 feet, thence S 9°36'15"W 250.000 feet, thence S 19°58'45"E 430.000 feet, thence S 32°38'34"W 25.000 feet, thence S 86°15'28"W 517.001 feet along the North line extended of Lot 4 Ensign Downs Plat "E" to the easterly line of East Capitol Blvd. and a point on a 290.073 foot radius curve to the left, thence Northwesterly along said curve for a distance of 30.376 feet (chord bears N 6°44'32"W 30.363 feet) thence S 80°15'28"W 80.00 feet to the N.E. corner of Lot 3 of said Plat "E", said point is N 31°44'30"E 488.647 feet from the monument marking the intersection of North Sandrun and East Capitol Blvd., thence continuing along the Northerly line of said Lot S 80°15'28"W 188.144 feet, thence continuing along the line common with Plats "D" & "E" of Ensign Downs subdivision the following courses and distances; S 24°43'45" E 24.567 feet, thence S 60°16'15"W 133.616 feet, thence N 73°52'45"W 30.000 feet, and leaving said common boundary line, N 21°45'00"W 208.424 feet, thence N 4°40'00"E 400.385 feet, thence N 88°05'00"W 130.527 feet, thence N 09°15'00"E 143.000 feet to the point of beginning. Contains 17.9680 ac.

The following description is the mathematical equivalent of the preceeding description with all description terms rotated to match the bearing base of the recorded plats of Ensign Down subdivision Plats "A" through "E".

Beginning at a point which is S 89°43'45"W 680.272 feet and S 0°16'15"E 1969.573 feet from the N $\frac{1}{4}$ corner of Section 30 T1N, R1E, SLB&M and running thence N 4°07'59"W 102.000 feet thence N 89°03'45"E 353.851 feet, to a point on the West line of a street (East Capitol Blvd.) thence N 0°16'15"W 60.237 feet along said West line, thence N 78°22'45"E 663.243 feet, thence S 4°20'00"W 233.523 feet, thence S 9°20'00"W 250.000 feet, thence S 20°15'00"E 430.000 feet, thence S 32°22'19"W 25.000 feet, thence S 85°59'13"W 517.001 feet along the North line extended of Lot 4 Ensign Downs Plat "E" to the Easterly line of East Capitol Blvd. and a point on a 290.073 radius curve to the left, thence Northwesterly along said curve for a distance of 30.376 feet (chord bears 7°00'47"W 30.363 feet) thence S 79°59'13"W 80.000 feet to the N.E. corner of Lot 3 of said Plat "E", thence continuing along the Northerly line of said lot, S 79°59'13"W 188.144 feet, thence continuing along the line common with Plats "D" & "E" of Ensign Downs subdivision; the following courses and distances: S 25°00'00"E 24.567 feet, thence S 60°00'00"W 133.616 feet, thence N 74°09'00"W 30.000 feet, and leaving said common boundary line, N 22°01'15"W 208.424 feet thence N 4°23'45"E 400.385 feet, thence N 88°21'15"W 130.527 feet, thence N 8°58'45"E 143.000 feet to the point of beginning.

Bearing equation - N 85°59'13"E (along the N. LY Boundary of Lot 4 Ensign Downs Plat "E") equals N 86°15'28"E (along the S. LY Boundary of Plat "H", state coord. bearing base) both bearings represent the same line, using the two different basis for bearing methods.

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