

6172347

SLC-SLCIA
Form Date 10/25/94

After recording, return to:
Salt Lake City Recorder

6172347
09/22/95 3:56 PM**NO FEE**
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
SL CITY - RECORDER
REC BY:Z JOHANSON ,DEPUTY - WI

AVIGATION EASEMENT

Avigation Easement affecting county tax parcel number 08-27-107-017
(Number)

IVORY HOMES, a Utah limited partnership
(Exact names of all current owners)

hereinafter referred to as "Grantor," hereby grants and conveys to SALT LAKE CITY CORPORATION, hereinafter referred to as "Grantee," for good and valuable consideration given by the Grantee to the Grantor in the form of Grantee's approval of the development of Grantor's land by memorializing an existing prescriptive common law avigation easement associated with the Airport and aircraft activities in and around the Salt Lake City International Airport, the receipt and sufficiency of which is hereby acknowledged, a perpetual and assignable easement in the airspace above and over the parcel of land described in Exhibit "A," attached hereto and by this reference incorporated herein, hereinafter referred to as the "Real Property," for the free and unrestricted passage of aircraft of any and all kinds now or hereafter developed for the purpose of transporting persons or property through the air, in, through, across and about the airspace over the Real Property, and all other aeronautical activities therein. The airspace shall mean that space above the Real Property which is above the height limit established for the Salt Lake City International Airport by the Revised Ordinances of Salt Lake City, which for the Real Property is that space above the flat plain

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4376 feet mean sea level, as determined by U.S.G.S. datum coterminous with the boundaries of the Real Property (hereinafter referred to as the "Airspace").

Said easement is granted under the condition that civil aircraft yearly average noise level does not exceed 75 LDN for Zone B and 65 LDN for Zone C as those zones are described in Figure 3-1 of the Salt Lake City International Airport Land Use Policy Plan dated August, 1982, (hereinafter referred to as the "Plan," (a copy of Figure 3-1 of said Plan is attached hereto as Exhibit "C" and by reference incorporated herein), or the equivalent to 65 LDC or 75 LDN, as appropriate, if a designation other than LDN is adopted by the U.S. Federal Government and is recognized as the generally accepted environmental noise descriptor, in which case the alternate equivalent designation shall apply. Zone A, as described in the Plan, shall not be restricted to any maximum yearly average noise level. During any period the maximum yearly average noise level was exceeded on any portions of the Real Property by civil aircraft within Zone B or Zone C, this easement shall be inoperative solely with respect to the levels of noise exceeding the maximum level authorized for said portions. However, on all other portions of the property where it cannot be proven that the authorized noise levels have been exceeded, this easement shall remain in full force and effect.

Grantor further agrees that the easement and rights hereby granted to the grantee in the Airspace above and over the Real Property are for the purpose of insuring that the Airspace shall remain free and clear for the flight of aircraft landing

at or taking off from or otherwise using the Salt Lake City International Airport described in Exhibit "B" attached hereto, and by this reference incorporated herein, (hereinafter referred to as "Airport"). Said easement and the rights appertaining thereto shall be for the benefit of Grantee, its successors, assigns, guests, invitees, including any and all persons, firms or corporations operating aircraft to or from the Airport. In perpetuity, said easement and the burden thereof, together with all things which may be alleged to be incidental to or to result from the use and enjoyment of said easement, shall constitute permanent burdens and servient tenements on the Real Property, and the same shall run with the land and be binding upon and enforceable against all successors in right, title or interest to said Real Property and shall be unlimited as to frequency.

Grantor agrees that it, its heirs, successors and assigns shall not hereafter erect or permit the erection or growth of any object within the Airspace. This easement grants the right of flight for the passage of aircraft in the Airspace, together with the right to cause or create, or permit or allow to be caused or created in the Airspace, and within, above and adjacent to the Real Property, such annoyances as may be inherent in, or may arise or occur from or during the operation of aircraft subject to the noise limitations described above.

Grantor further agrees that all structures to be constructed on Grantor's Real Property described in Exhibit "A" shall provide and maintain applicable sound

attenuation ordinance requirements to insulate occupants from noise to mitigate any adverse impact from aircraft noise.

Grantor acknowledges that Grantor may have signed and granted this easement with the height of the easement unspecified and blank. If so, Grantor agrees that Grantee may fill in the blank at the elevation required by the easement without Grantor's further signature or approval.

WITNESS the hand of Grantor this 11th day of September, 1994.

GRANTOR(S)

IVORY HOMES,

By: *Ellis R. Ivory*
Print Name: ELLIS R. IVORY
Title (if any): GENERAL PARTNER

ATTEST:

David R. Whitman
Print Name: DAVID R. WHITMAN
Title (if any): CFO

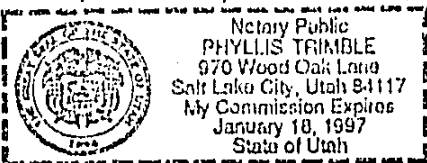
Print Name: _____
Title (if any): _____

ATTEST:

Print Name: _____
Title (if any): _____

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

On September 11, 1995, personally appeared before me
Ellis R. DUBEY and N/A, who being by
me duly sworn, deposed and said that ^{they are} General Partner and
N/A respectfully of a Utah Partnership, duly
acknowledged to me that the foregoing instrument was signed in behalf of said
partnership by authority therein vested, and said partners acknowledged to me that
said partnership executed the same.



Phyllis Trimble
NOTARY PUBLIC residing in
Salt Lake County, Utah

My commission expires:

1/10/97

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

On _____, personally appeared before me
_____ and _____, who being by
me duly sworn, deposed and said that they are _____ and
_____ respectfully of a Utah Partnership, duly
acknowledged to me that the foregoing instrument was signed in behalf of said
partnership by authority therein vested, and said partners acknowledged to me that
said partnership executed the same.

NOTARY PUBLIC residing in
Salt Lake County, Utah

My commission expires:

EXHIBIT "A"

The following description is the Grantor's Real Property situated in Salt Lake County, commonly referred to as Westside Plat "M" and Westside Plat "N"
(Name of subdivision, if applicable)
Subdivision.

DESCRIPTION: (Tax Parcel # 08-27-107-017)

(see attached)

Attach to this Exhibit A the County printout showing ownership or other evidence as approved by City.

EXHIBIT-"A"

Parcel 1:

Beginning at the Northwestern line of Westpointe Subdivision Plat "R", according to the official plat thereof, said point also being North 89°43'57" East 1359.51 feet along the section line and South 1019.50 feet from the Northwest corner of Section 27, Township 1 North, Range 1 West, Salt Lake Base and Meridian, and running thence South 42°32'39" West 782.05 feet to the Northeastly line of property conveyed to Salt Lake City; thence along said Northeastly line the following (3) courses North 47°27'21" West 274.82 feet to a point on a 878.00 foot radius curve to the right (radius bears North 42°32'39" East), along the arc of said curve 726.06 feet, and North 00°04'31" West 138.63 feet; thence North 89°55'29" East 86.00 feet; thence South 00°04'31" East 80.67 feet; thence North 89°43'57" East 617.89 feet to the West line of Westpointe Plat "F", according to the official plat thereof; thence South 00°16'03" East 127.58 feet along said West line; thence South 10°27'51" West 33.00 feet to a point on a 800.0 foot radius curve to the right (radius bears South 10°27'51" West); thence along the arc of said curve 384.41 feet to the point of beginning.

Being the proposed plat of WESTPOINTE SUBDIVISION PLAT "M".

PARCEL 2:

Beginning at a point on the South line of Lot 5 of WESTPOINTE Plat "A", according to the official plat thereof, said point also being North 89°43'57" East 914.43 feet along the Section Line from the Northwest Corner of Section 27, Township 1 North, Range 1 West, Salt Lake Base and Meridian and running thence along the South line of said subdivision North 89°43'57" East 100.00 feet to the Northwest Corner of Lot 2, Westpointe Plat "F", according to the official plat thereof; thence South 00°16'03" East 701.62 feet along the West line of said subdivision; thence South 89°43'57" West 617.89 feet; thence North 00°04'31" West 80.67 feet; thence South 89°55'29" West 56.00 feet to the East line of property conveyed to Salt Lake City; thence along the East and North line of said property the following 2 courses: North 00°04'31" West 18.51 feet and South 89°43'57" West 106.95 feet; thence North 00°04'31" West 338.25 feet; thence South 89°43'57" West 132.66 feet; thence North 00°05'02" West 28.00 feet to the South line of Westpointe Plat "A"; thence along the South and West line of said subdivision the following 2 courses: North 89°43'57" East 811.94 feet and North 00°16'03" West 236.00 feet to the point of beginning.

Being the proposed plat of WESTPOINTE SUBDIVISION PLAT "N".

Situate in Salt Lake County, State of Utah.

PLAT COPY
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EXHIBIT "B"
Salt Lake City International Airport
Boundary Description

Beginning at a point 806.03 feet N. $0^{\circ}02'38''$ E. of the South 1/4 corner of Section 33, Township 1 North, Range 1 West, Salt Lake Base and Meridian, said point being on the northerly right-of-way line of North Temple Street, and running thence S. $89^{\circ}58'38''$ W. 340.71 feet along said right-of-way line; thence S. $0^{\circ}02'38''$ W. 805.75 feet to the south line of Section 33; thence N. $89^{\circ}58'33''$ E. 340.71 feet along said section line to the south 1/4 corner of Section 33 (said 1/4 corner is also the north 1/4 corner of Section 4, T.1 S., R.1 W.); thence S. $0^{\circ}11'26''$ E. 2,290.43 feet to the northerly right-of-way of the Western Pacific Railroad main-line siding; thence S. $77^{\circ}49'01''$ W. 581.95 feet; thence S. $0^{\circ}12'04''$ E. 238 feet, more or less, to the 1/4 section line; thence S. $89^{\circ}57'09''$ W. 185 feet, more or less; thence N. $0^{\circ}12'04''$ W. 197 feet, more or less, to the northerly right-of-way line of the Western Pacific Railroad main-line siding; thence S. $77^{\circ}49'01''$ W. 1,932.50 feet to the west line of said Section 4 (said line is also the east line of Section 5, T.1 S., R.1 W.); thence S. $77^{\circ}49'01''$ W. 230.26 feet to a point on a 3,852.83 foot radius curve to the left, said point also being on the northerly right-of-way line of the relocated Salt Lake Garfield & Western Railroad; thence South $77^{\circ}33'$ West 397.14 feet along said curve to a point 116 feet perpendicularly distant northwesterly to the Western Pacific Railroad main-line track; thence southwesterly and parallel to said railroad track 3,459 feet, more or less; thence S. $78^{\circ}00'55''$ W. 1,343 feet, more or less, to the west line of said Section 5, (said line is also the east line of Section 6, T.1 S., R.1 W.); thence S. $78^{\circ}00'55''$ W. 238 feet, more or less, to the westerly highway right-of-way and nonaccess line of U.D.O.T. project No. 1-80-3(5)116; thence N. $1^{\circ}25'59''$ W. 622 feet, more or less, along said right-of-way line to a point on a 1,527.89 foot radius curve to the left (note: Tangent to said curve at its point of beginning bears N. $1^{\circ}50'34''$ W.); thence northwesterly 769.68 feet along said curve to the North line of the NE 1/4 SE 1/4 of said Section 6; thence northwesterly 971.37 feet along the arc of a 1,672.95 foot radius curve to the left (note: Tangent to said curve at its point of beginning bears N. $34^{\circ}24'21''$ W.); thence N. $63^{\circ}47'38''$ W. 1,084.09 feet; thence N. $55^{\circ}55'36''$ W. 436.08 feet; thence west 83.57 feet to a point on a 2,894.79 foot radius curve to the left (note: Tangent to said curve at its point of beginning bears N. $51^{\circ}35'12''$ W.); thence northwesterly 246.45 feet along said curve; thence N. $57^{\circ}07'49''$ W. 100.52 feet; thence N. $57^{\circ}27'53''$ W. 328.82 feet; thence N. $57^{\circ}47'59''$ W. 200.79 feet to a point on a 5,759.58 foot radius curve to the left (note: Tangent to said curve at its point of beginning N. $58^{\circ}28'02''$ W.); thence

northwesterly 640 feet, more or less, along said curve; thence North 545 feet more or less, to the north section line of said Section 6; thence North 850.50 feet; thence East 46.47 feet; thence N. $4^{\circ}58'32''$ W. 4,445.67 feet to the north line of Section 31, T.1 N., R.1 W.; thence West 1,009.82 feet along said line to the northwest corner of said Section 31; thence North 15,840 feet to the northwest corner of Section 18, T.1 N., R.1 W.; thence East 10,560 feet to the northeast corner of Section 17, T.1 N., R.1 W.; thence South 5,280 feet to the northwest corner of Section 21, T.1 N., R.1 W.; thence East 2,640.0 feet; thence South 660.0 feet; thence East 1,320.0 feet; thence South 14,374.25 feet to the northerly right-of-way line of North Temple Street; thence S. $89^{\circ}58'38''$ W. 1,254 feet, more or less, along said right-of-way line to the point of beginning;

And beginning at a point 660 feet West and 792 feet North of the South 1/4 corner of Section 16, T.1 N., R.1 W., Salt Lake Base and Meridian; running thence North 198 feet; thence East 660 feet; thence North 33 feet; thence East 165 feet; thence South 264 feet; thence West 165 feet; thence North 33 feet; thence West 660 feet to the point of beginning;

And beginning at a point 660 feet West and 990 feet North of the South 1/4 corner of Section 16, T.1 N., R.1 W., Salt Lake Base and Meridian; running thence North 519.75 feet; thence East 660 feet; thence South 189.75 feet; thence East 165 feet; thence South 297 feet; thence West 165 feet; thence South 33 feet; thence West 660 feet to the point of beginning;

And beginning at the South Quarter Corner of Section 16; Township 1 North, Range 1 West, Salt Lake Base and Meridian; running thence West 660 feet along the South line of said section; thence North 792 feet; thence East 660 feet; thence South 792 feet to the point of beginning;

And beginning at a point 660 feet West and 792 feet North of the South Quarter Corner Section 16, Township 1 North, Range 1 West, Salt Lake Base and Meridian; running thence North 198 feet; thence East 660 feet; thence North 33 feet; thence East 165 feet; thence South 264 feet; thence West 165 feet; thence North 33 feet; thence West 660 feet to the point of beginning;

And beginning in the South line of the Northeast quarter of Section 5 at a point 470.36 feet West from the East quarter corner of said Section 6; thence West 1205.35 feet along said South line; thence North $25^{\circ}05'47''$ West 265.54 feet; and thence N. $25^{\circ}25'49''$ West 100.52 feet; thence Northwesterly 1287.85 feet along the

arc of a 2894.79 foot radius curve to the left to the North line of the Southwest quarter Northeast quarter of said Section 6 (Note: Tangent to said curve at its point of beginning bears North $26^{\circ}05'48''$ West); thence East 83.57 feet along said North line to the Southwesterly right-of-way and no-accessline of the freeway known as Project No. 80-3; thence South $55^{\circ}55'36''$ East 436.08 feet; thence South $63^{\circ}47'38''$ East 1084.09 feet to a point on a 1672.95 foot radius curve to the right; thence Southeasterly 971.37 feet along the arc of said curve to the point of beginning. (Note: Tangent to said curve at its point of beginning bears South $67^{\circ}40'25''$ East);

And beginning in the south line of the Northeast quarter of said Section 6 at a point approximately 1741.94 feet West from the East quarter corner of said Section 6; thence West 903.79 feet, more or less, to the West line of the Northeast quarter of said Section 6; thence North 1254.38 feet along said West line to a point on a 2834.79 foot radius curve to the right; thence Southeasterly 1220.69 feet along the arc of said curve (Note: Tangent to said curve at its point of beginning bears South $50^{\circ}46'08''$ East); thence South $25^{\circ}25'43''$ East 99.48 feet; thence South $25^{\circ}05'47''$ East 237.49 feet to the point of beginning;

And beginning at the Northwest corner of the Southeast quarter of Section 16, Township 1 North, Range 1 West, Salt Lake Base and Meridian, said point being the center of Section 16; thence East 165 feet; thence South 1320 feet; thence West 165 feet; thence North 1320 feet to the point of beginning.

Contains 6,822.59 acres, more or less (excluding the highway R.O.W.).

OWNERSHIP

Without limitation, the undersigned hereby represent to Salt Lake City Corporation that they constitute all of the owners of the Real Property bearing Salt Lake County Tax Parcel Number 08-27-107-017 as of the date set forth below, that they have full capacity to execute this Avigation Easement, that they are aware of no other person or entity having any rights or interests with respect to ownership of the Real Property, and that they are aware of no other acts in addition to their execution of this Avigation Easement necessary to make a valid and binding conveyance of the same.

Date: Sept 14, 1995

Record Owners of Salt Lake County Tax
Parcel Number 08-27-107-017

EVERY HOURS,

By: Ellis R. Tully
Print Name: Ellis R. Tully
Title (if any): General Partner

Print Name: _____
Title (if any): _____

Print Name: _____
Title (if any): _____

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EXHIBIT "A"

Parcel 1:

Beginning at the Northwestern line of Westpointe Subdivision Plat "K", according to the official plat thereof, said point also being North 89°43'57" East 1359.51 feet along the section line and South 1019.50 feet from the Northwest corner of Section 27, Township 1 North, Range 1 West, Salt Lake Base and Meridian, and running thence South 42°32'39" West 782.05 feet to the Northeastly line of property conveyed to Salt Lake City; thence along said Northeastly line the following (3) courses North 47°27'21" West 274.82 feet to a point on a 878.00 foot radius curve to the right (radius bears North 42°32'39" East), along the arc of said curve 726.06 feet, and North 00°04'31" West 138.63 feet; thence North 89°55'29" East 56.00 feet; thence South 00°04'31" East 80.67 feet; thence North 89°43'57" East 617.89 feet to the West line of Westpointe Plat "F", according to the official plat thereof; thence South 00°16'03" East 127.58 feet along said West line; thence South 10°27'51" West 33.00 feet to a point on a 800.0 foot radius curve to the right (radius bears South 10°27'51" West); thence along the arc of said curve 384.41 feet to the point of beginning.

Being the proposed plat of WESTPOINTE SUBDIVISION PLAT "M".

PARCEL 2:

Beginning at a point on the South line of Lot 5 of WESTPOINTE Plat "A", according to the official plat thereof, said point also being North 89°43'57" East 914.43 feet along the Section Line from the Northwest corner of Section 27, Township 1 North, Range 1 West, Salt Lake Base and Meridian and running thence along the South line of said subdivision North 89°43'57" East 100.00 feet to the Northwest corner of Lot 2, Westpointe Plat "F", according to the official plat thereof; thence South 00°16'03" East 701.62 feet along the West line of said subdivision; thence South 89°43'57" West 617.89 feet; thence North 00°04'31" West 80.67 feet; thence South 89°55'29" West 56.00 feet to the East line of property conveyed to Salt Lake City; thence along the East and North line of said property the following 2 courses: North 00°04'31" West 18.51 feet and South 89°43'57" West 106.95 feet; thence North 00°04'31" West 338.25 feet; thence South 89°43'57" West 132.66 feet; thence North 00°05'02" West 28.00 feet to the South line of Westpointe Plat "A"; thence along the South and West line of said subdivision the following 2 courses: North 89°43'57" East 811.94 feet and North 00°16'03" West 236.00 feet to the point of beginning.

Being the proposed plat of WESTPOINTE SUBDIVISION PLAT "N".

Situate in Salt Lake County, State of Utah.

PLAT 0317
CO. RECORDS

BK 7233 PG 1786