

LAVA BLUFF HOMEOWNER'S ASSOCIATION

**POLICIES, PROCEDURES AND RULES – FOR HOUSING OF PERSONS AGE
55 AND OVER**

These Policies, Procedures and Rules governing the Lava Bluff Homeowner's Association ("Association"), and its Members, demonstrate the intent to provide Housing for Older Persons, 55 years of age or older and are adopted by the Board of Trustees pursuant to that certain "Lava Bluff Owners Association Amendment to CC&R's," including the "Resolution" attached hereto and thereto as Exhibit "A," and recorded on January 28, 1997 in the records of the Washington County Recorder as Entry No. 555830 in Book 1071, at Pages 561-563. These Policies, Procedures, and Rules are intended to comply with the Federal Housing for Older Persons Act of 1995 ("HOPA").

Section I. Age Restrictions. At least eighty (80) percent of the "occupied Dwelling Units" in the Properties (Properties being defined as the Lava Bluff project) must be occupied by at least one person 55 years of age or older. The primary purpose for permitting up to twenty (20) percent of the Dwelling Units not to be occupied by at least one person 55 years of age or older is to prevent the disruption of the lives of surviving or remaining spouses and cohabitants under age 55 when the over age 55 person dies or otherwise leaves the Dwelling Unit. Thus, except for up to twenty (20) percent of the "occupied Dwelling Units" which may be occupied by surviving or remaining spouses or cohabitants, all "occupied Dwelling Units" must be occupied by at least one person 55 years of age or older. Where the application of the eighty (80) percent rule results in a fraction of a Dwelling Unit, that Dwelling Unit shall be considered to be included in the Dwelling Units. (For example, if there are 63 occupied Dwelling Units, 80% of 63 units equals 50.4; thus, 51 units would require occupancy by at least one person 55 years of age or older).

If a Dwelling Unit is temporarily vacant, it will be considered occupied if the primary occupant has resided in the Dwelling Unit during the past year and intends to return on a periodic basis. A temporarily vacant Dwelling Unit will be considered occupied by a person over 55 years of age or older if at least one of the occupants

immediately before it was vacated was 55 years of age or older. NO DWELLING UNIT MAY BE OCCUPIED BY ANY PERSON UNDER EIGHTEEN YEARS OF AGE. VISITORS, INCLUDING PERSONS UNDER AGE EIGHTEEN, MAY BE PERMITTED TO VISIT FOR REASONABLE PERIODS NOT TO EXCEED TWO CONSECUTIVE WEEKS ON ANY ONE OCCASION OR THIRTY DAYS IN ANY CALENDAR YEAR.

Section 2. Exception to Age Restriction.

(a) **Dwelling Units Not Considered "Occupied Dwelling Units".** Dwelling Units occupied by the following persons are not required to have an occupant 55 years of age or older, shall not be governed by the age restrictions in Section 1, and shall not be considered an "occupied Dwelling Unit":

- (1) An employee of the Association, and his family members (including persons under age 18 years) residing in the same Dwelling Unit, provided the employee performs substantial duties related to the management or maintenance of the Properties; for example, a maintenance person; and
- (2) A person who is necessary to provide a reasonable accommodation to disabled residents, including without limitation, health aides.

(b) **Twenty-five Percent Occupancy.** The Association need not comply with the provisions of Section 1 until at least Twenty-five (25) percent of the Dwelling Units are occupied.

(c) **Unoccupied Dwelling Units.** Unoccupied Dwelling Units shall not be counted when determining if eighty (80) percent of the Dwelling Units are occupied by at least one person 55 years of age or older.

(d) **Reservation of Vacant Lots and Unoccupied Dwelling Units for Persons Age 55 or Older.** Where there are insufficient Dwelling Units occupied by at least one person 55 years of age or older or where occupancy of a Dwelling Unit on a Lot in the Project which is presently vacant and occupancy by a person under age 55 would result in a violation of the eighty percent (80%) rule, all vacant

Lots and unoccupied Dwelling Units shall be reserved for occupancy by at least one person who is 55 years of age or older.

Section 3. Advertising, Marketing and Sales. All advertising, marketing and sales materials or displays of any kind shall reflect that the Project is intended for "Housing for Persons 55 Years of Age or Older." The Association and its Members shall impart in all oral and written communications (including, without limitation, advertising, marketing, sales and rental materials or displays) a clear statement of intent that (i) the Properties are intended for housing for persons 55 years of age or older – at least one such person per Dwelling Unit, and (ii) that the Association claims an exemption from the provisions of the Federal Fair Housing Act, as amended from time to time, regarding discrimination based on familial status and that the occupancy of Dwelling Units by persons under age 18 is prohibited. (In sale and rental agreements these provisions must appear directly above the signature line). All print ads shall contain the following language: **"The Lava Bluff Homeowner's Association is intended and operated for residents 55 years of age or older as defined in the Fair Housing Act. As such it is the policy of the Lava Bluff Homeowner's Association to prohibit permanent residence of persons under age 18."** The Association and its Members shall inform prospective occupants that a copy of these Policies, Procedures and Rules will be provided, at no cost, upon request. All advertising portraying residents must use older persons and reflect that the Project is intended for older persons. All entrances to the Properties shall have a sign with easily discernible lettering stating that "Lava Bluff Homeowner's Association Provides Housing for Persons 55 Years of Age or Older." All Common Area facilities shall also have a sign stating that "Lava Bluff Homeowner's Association Provides Housing for Persons 55 Years of Age or Older."

Section 4. Approved Occupancy. The following provisions shall govern occupancy of a Dwelling Unit:

- (a) **Approved Occupant Status.** No person shall be permitted to occupy a Dwelling Unit in the Properties unless such person is an "Approved Occupant" in accordance with the terms and provisions hereinafter set forth. If it is determined that an occupant has not obtained "Approved Occupant" status, the Association

may pursue any remedies provided for herein or in the Declaration, including the imposition of fines against a violator. Any fines to be imposed shall be set by the Board of Trustees and shall constitute an Assessment to be collected as provided in the Declaration.

(b) Visitors. Persons who are not "Approved Occupants" shall not be permitted to occupy any Dwelling Unit within the Properties; however, visitors do not have to be approved as occupants and may reside with an occupant for the period provided for in Section J.

(c) Procedure for Approving Occupants. Persons may become "Approved Occupants" based on the following terms and conditions:

(i) A person desiring to become an "Approved Occupant" shall submit to the Board of Trustees, a written "Association Membership Application and Age Verification", substantially in the form attached hereto as Addendum No. 1.

(ii) Within fifteen (15) days of receipt of a completed Association Membership Application and Age Verification form, the Board of Trustees shall determine whether such occupancy is consistent with the intent to manage the Properties as housing for older persons, and, if such occupancy were permitted, whether the Properties would continue to meet the requirements of HOPA, and any federal regulations relating thereto. If such requirements would continued to be met, the occupancy shall be approved; if not, the occupancy shall be denied.

(iii) Within the fifteen (15) day period, the Board of Trustees shall issue written notification to the Applicant and to the potential seller or lessor of the Dwelling Unit as to the outcome of the Board of Trustee's determination as set forth in Subsection (ii) above.

(iv) The Board of Trustees shall issue to an approved applicant, an "Approved Occupant's Identification Card" (the form of such card is attached hereto as Exhibit "B"), upon written proof of said applicant's legal right to occupy the Dwelling Unit, either by virtue of a recorded Deed conveying

fee simple title, an executed lease, or other document indicative of said applicant's right of occupancy, which may be due to gift, devise, inheritance or other transfer document recognized under the laws of the State of Utah for transferring occupancy rights.

(v) The Association shall retain all documents and records relating to its consideration of an application for "Approved Occupant" status.

Section 5. Resale or Rental.

(a) **Obligation of Owner.** Should a Owner within the Properties wish to sell or rent his or her Dwelling Unit, the same procedures described in Section 4 above shall be followed. The prospective buyer or renter must complete a Membership Application and Age Verification form. Review of this form will be accomplished pursuant to the procedures in Section 4. Owners shall inform all prospective purchasers or renters of this procedure and shall provide the Trustees with the information required in Section 4(c)(i).

Any sale or rental agreement shall be in writing and directly above the signature line shall state (i) that occupancy of the Dwelling Unit shall be subject to the provisions of the Declaration, the Articles of Incorporation, the Bylaws, the Rules and Regulations of the Association, and these Policies, Procedures and Rules; and (ii) that "The Properties are intended for housing of persons 55 years or age or older -- at least one such person per Dwelling Unit, and that the Project claims an exemption from the provisions of the Fair Housing Act regarding discrimination based on familial status and the occupancy of Dwelling Units by persons under age 18 is prohibited."

In addition, rental agreements and deeds of trust (or similar mortgage instruments) shall provide that failure by the lessee or trustor to comply with the terms of the Declaration, the Articles of Incorporation, Bylaws, Rules and Regulations of the Association and these Policies, Procedures and Rules shall be an event of default under such document. A copy of all sale and rental agreements shall be placed with the Secretary of the Association to be kept with the records of the Association.

- (b) **Records.** The Association shall maintain the following:
- (i) A log or other record of all persons occupying a Dwelling Unit. Such record is to be updated once every two years and shall include names, address and ages.
 - (ii) If the occupants of a particular dwelling unit refuse to comply with the age verification procedures, the Association may, if it has sufficient evidence, consider the Dwelling Unit to be occupied by at least one person 55 years of age or older. Such evidence may include:
 - (1) Government records of documents, such as a census;
 - (2) Prior forms or applications; or
 - (3) A statement from an individual who has personal knowledge of the age of the occupants. The individual's statement must set forth the basis for such knowledge.
 - (iii) For each transfer of a Dwelling Unit, a log or other record identifying the transferor, the transferee, the address of the Dwelling Unit, the names and ages of the new occupants, the documentation provided to verify those ages, the method of transfer (sale, lease, devise, etc.), and the date the transfer was approved and by whom.
 - (iv) For the sale, lease, or other transfer of a Dwelling Unit rejected by the Association, a log identifying the persons involved in the proposed transfer and their current addresses, the ages of the prospective occupants, the reasons for the rejection, and the date of the rejection.
 - (v) Verification that at least annually the local real estate brokerage and title companies in Washington County, Utah, have been sent written notice that Lava Bluff Homeowner's Association provides Housing for Persons 55 Years of Age or Older.

- (vi) The records required by the Association in Section 4(b) shall be available for inspection upon reasonable notice and request by any person.

Section 6. Dissemination. The Association shall provide every owner, at no cost, a copy of these Policies, Procedures and Rules. An occupant of a Dwelling Unit may request copies for which the Association may charge a reasonable fee, not to exceed \$10.00 for each additional copy.

Section 7. Binding Effect. Except as provided in Section 8 below, these Policies, Procedures and Rules are binding upon (i) the Association, its Trustees, officers and agents; (ii) the Association Members, their guests, invitees, friends and agents; and (iii) the successors, heirs, attorneys, representatives and assigns of the Association and its Members.

Section 8. Applicability. The provisions of these Policies, Procedures and Rules shall not apply to occupants of a Dwelling Unit who occupied the Unit prior to adoption of that certain "Restated and Amended Declaration of Covenants, Conditions, and Restrictions of Lava Bluff Manufactured Home Park (formerly known as Lava Bluff Mobile Home Park, dated March 13, 1999), to prohibit the occupancy of (i) persons under age 18 and (ii) a child born to an occupant who is pregnant at the time these Policies are adopted, so long as eighty (80) percent of the occupied Dwelling Units are occupied by at least one person age 55 or older. Any sale or rental of Dwelling Unit by such an Owner or occupant, however, must be in accordance with the provisions of these Policies, Procedures and Rules.

Section 9. Amendment. The Association Board of Trustees may modify, amend, add to or supersede these Policies, Procedures and Rules in any manner to conform with (i) such policies and procedures for Housing for Older Persons as are promulgated from time to time by the Secretary of the Department of Housing and Urban Development and (ii) any amendments to HOPA.

Section 10. Definitions. Except as otherwise provided for herein, terms shall have the same meanings as set forth in the Declaration of Covenants, Conditions, and Restrictions for Lava Bluff Homeowner's Association.

Section 11. Representations. The president of the Association hereby verifies that as of the date hereof at least eighty percent (80%) of the occupied Dwelling Units are occupied by at least one person age 55 or older. This verification is based upon the written verifications of age as provided for in Section 4(c)(i) above. Such verification is attached hereto as Exhibit "C".

DATED this 22nd day of MARCH, 1999

Lava Bluff Homeowner's Association

By: Lewis Collins
Its: President

Attested to by:
Donna J. Cunningham
~~Secretary~~ Vice President

STATE OF UTAH,

:SS

County of Washington)

On this 22 day of March, 1999, before me personally appeared Lewis Collins, whose identity is personally known to or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (of affirmed), did say that he is the President of Lava Bluff Homeowners Association, a Utah nonprofit corporation, and that the foregoing document was signed by him on behalf of the Association by authority of its Bylaws, Declaration, or resolution of the Board, and he acknowledged before me that he executed the document on behalf of the Association and for its stated purpose.

Barbara Jane Gardner
Notary Public

Residing at: 931 N 3410 W Box 315-15
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