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00675860 Bk 1359 Pg 1584
RUSSELL SHIRTS * WASHINGTON CO RECORDER
2000 FEB 09 15:24 PM FEE \$18.00 BY BJ
FOR: CREEKSIDE HOMES

**AMENDMENT TO AMENDED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
CREEKSIDE HOMES**

WHEREAS, the Amended Declaration of Covenants, Conditions and Restrictions of Creekside Homes (herein "the Declaration") was executed on the 20th day of July, 1995 and recorded on the 21st day of July, 1995 as Entry No. 505584 in Book 923 at Pages 68-98 of the official records of the County Recorder of Washington County, Utah, and

WHEREAS, the Board of Directors of Creekside Homes at a meeting held December 28, 1999, adopted a Resolution proposing to the membership that the Declaration be amended in the particulars hereinafter set forth, and

WHEREAS, a meeting of the members of Creekside Homeowners Association (the "Association") was held January 11, 2000 called, among other purposes, for the purpose of considering the proposed Amendment to the Declaration, and

WHEREAS, notice of the meeting of the members of the Association was duly given as required by Article VII, Section 1 of the Declaration, and there were 42 members present in person or by proxy who were entitled to cast a vote at the meeting, constituting a quorum for the purpose of such meeting, and

WHEREAS, among those members present at the meeting, 35 votes were cast in favor of the proposed Amendment and 7 votes were cast in opposition to such Amendment, whereby the requirements for amendments as set forth in Article VII, Section 1 of the Declaration were satisfied,

NOW THEREFORE, Article IV of the Declaration is amended to read as follows:

**ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Personal Obligation and Lien. Each owner shall, by acquiring or in any way becoming vested with an interest in a lot, be deemed to covenant and agree to pay to the Association the monthly and the special assessments described in this Article, together with the hereinafter provided for interest and costs of collection. All such amounts shall be, constitute, and remain: (a) a charge and continuing lien upon the lot with respect to which such assessment is made; and (b) the personal obligation of the person who is the owner of such lot as the time the assessment falls due. No owner may exempt himself or his lot from liability for payment of assessments by waiver of his rights concerning the common areas or by abandonment of his lot. Any such liens, however, shall be subordinate to the lien or equivalent security interest of any first mortgage on the unit recorded prior to the date any such common expense assessments become due.

Section 2. Assessment to Owners of Vacant Lots. Commencing March 1, 2000, owners of vacant lots will be assessed a sum equal to fifty percent (50%) of the homeowner's monthly assessments.

Section 3. Purpose of Assessments. Assessments levied by the Association shall be used exclusively for the purpose of promoting the maintenance, safety, and welfare of residents of the property. The use made by the Association of funds obtained from assessments may include payment of the cost of taxes and insurance on the common areas; maintenance, repair, replacement, and improvement of the common areas; management and supervision of the common areas; establishing and funding a reserve to cover major repairs or replacement of improvements within the common areas; and any expense necessary or desirable to enable the Association to perform or fulfill its obligations, functions, or purposes under this Declaration or its Articles of Incorporation.

Section 4. Special Assessments. In addition to the monthly assessments authorized above, the Association may levy special assessments for the purpose of defraying, in whole or in part (a) any expense or expenses not reasonably capable of being fully paid with funds generated by monthly assessments; or (b) the cost of any construction, reconstruction, or unexpected required repair or replacement in connection with the common areas. Any such special assessment must be assented to by more than fifty percent (50%) of all votes which members present in person or represented by proxy are entitled to cast at a meeting duly called for that purpose. Written notice setting forth the purpose of the meeting shall be sent to all members at least ten (10) days but not more than thirty (30) days prior to the meeting date.

Section 5. Special City Assessment. In addition to the annual assessments and special assessments for capital improvements authorized herein, the Association shall levy such assessments as may be necessary from time to time for the purpose of repairing and restoring the damage or disruption resulting to streets or other common or limited common areas from the activities of the City of St. George in maintaining, repairing or replacing utility lines and facilities thereon, it being acknowledged that the ownership of utility lines, underground or otherwise is in the City, including the meters for individual units, and that they are installed and shall be maintained to City specifications.

Section 6. Quorum Requirements. The quorum required for any action authorized by Section 4 above shall be as follows: At the first meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all outstanding votes shall constitute a quorum. If a quorum is not present at the first meeting or any subsequent meeting, another meeting may be called (subject to the notice requirements set forth in Section 4) at which a quorum shall be one-half (1/2) of the quorum which was required at the immediately preceding meeting. No such subsequent meeting shall be held more than forty-five (45) days following the immediately preceding meeting.

Section 7. Equal Rate of Assessment. Except as provided for by Section 2, the monthly assessments and special assessments, shall be fixed at a uniform (equal) rate for all lots.

Section 8. Monthly Assessment Rates - Changes. Full monthly assessments for new homes built on vacant lots shall commence upon the first use of Creekside amenities, such as use of water or yard care. At least fifteen (15) days prior to the effective date of any change in amount of the monthly assessment, the Association shall give each owner written notice of the amount and the first due date of the assessment concerned.

Section 9. Certificate Regarding Payment. Upon the request of any owner or prospective purchaser or encumbrancer of a lot, the Association shall issue a certificate stating whether or not all assessments respecting such lot are current and, if not, the amount of the delinquency. Such certificate shall be conclusive in favor of all persons who, in good faith, rely thereon.

Section 10. Effect of Non-Payment - Remedies. Any assessment not paid when due shall, together with the hereinafter provided for interest and costs of collection, be, constitute, and remain a continuing lien on the lot, provided, however, that any such lien will be subordinate to the lien or equivalent security interest of any first mortgage on the lot recorded prior to the date any such assessments become due. The person who is the owner of the lot at the time the assessment falls due shall be and remain personally liable for payments. Such personal liability shall not pass to the owner's successors in title unless expressly assumed by them. If the assessment is not paid within thirty (30) days after the date on which it becomes delinquent, the amount thereof shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum plus a late payment service charge equal to five percent (5%) of each delinquent amount due, and the Association may, in its discretion, bring an action either against the owner who is personally liable or to foreclose the lien against the lot. Any judgment obtained by the Association shall include reasonable attorney's fees, court costs, and each and every other expense incurred by the Association in enforcing its rights.

Section 11. Insurance. The Association will maintain liability insurance, property insurance on its pool, jacuzzi, buildings and equipment associated therewith and the masonry walls, fences, signage, lighting, mailboxes, and other items of use in the Common Areas of Creekside. It is incumbent on each owner or prospective purchaser to provide his/her own insurance on the house or structures and its contents as well as liability insurance. This is commonly known as "Homeowners Insurance." People who are renting homes in Creekside should furnish their own "Renters" insurance for their own protection.

EXHIBIT "A"

LEGAL DESCRIPTION

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CREEKSIDE HOMES

BEGINNING AT A POINT BEING S 0°04'10" E 224.27 FEET ALONG THE CENTER SECTION LINE FROM THE CENTER 1/4 CORNER OF SECTION 26, TOWNSHIP 42 SOUTH, RANGE 16 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE S 57°33' E 768.61 FEET; THENCE S 36°09'25" W 149.79 FEET; THENCE S 64°29'17" E 44.59 FEET TO A POINT ON AN OLD FENCE LINE; THENCE FOLLOWING ALONG SAID OLD FENCE LINE FOR 11 COURSES AS FOLLOWS: S 18°20'21" W 139.70 FEET, S 15°39'48" W 448.01 FEET, N 89°04'56" W 404.01 FEET, N 10°39'34" E 151.365 FEET, N 3°17'56" E 123.305 FEET, N 12°43'49" W 94.17 FEET, N 39°56'13" W 42.605 FEET, N 1°25' W 351.78 FEET, N 56°13'06" W 37.11 FEET, N 28°47'25" E 124.92 FEET, AND N 56°45'43" W 315.69 FEET TO A POINT ON A 683.94 FOOT RADIUS CURVE TO THE LEFT BEARING TO RADIUS POINT N 52°39'33" W; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE 58.38 FEET; THENCE N 32°27'00" E 112.00 FEET; THENCE S 57°33'00" E 155.66 FEET TO THE POINT OF BEGINNING.

CONTAINING 11.852 ACRES