

6930146

04/16/98 1:39 PM 37.00
6930146
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
ANNA GRACE BELLIS SPERRY
2660 S HIGHLAND DR
SLC, UT 84106
REC BY: R JORDAN DEPUTY - WI

AFTER RECORDING, PLEASE RETURN TO:

Edmund L. and Anna Grace Bellis Sperry

EASEMENT AGREEMENT

This Easement Agreement ("Agreement") is made and entered into this ^{August} ~~April~~ 5th day of ~~April~~, 1997, by and between The Highlands of Sugar House Owners Association, Inc., a Utah nonprofit corporation (the "Association"), Taylor's Farm, L.C., a Utah limited liability company ("Taylor's Farm"), American Housing Development Corporation, a Utah corporation ("American"), Craig D. Nielsen ("Nielsen") and Jeffrey J. Jonas ("Jonas") (Taylor's Farm, American, Nielsen and Jonas shall be referred to herein collectively as the "Highland Parties"), and Edmund L. Sperry and Anna Grace Bellis Sperry (collectively "Sperry"). Sperry and the Association at times are referred to herein collectively as the "parties" and individually as a "party."

RECITALS

A. The Association is the fee title owner of certain real property located in Salt Lake County, Utah, as more particularly described on Exhibit A attached hereto (the "Association Parcel"). The Association Parcel is part of the common areas (the "Association Benefitted Parcel") of The Highlands of Sugar House, a planned unit development subdivision (the "PUD").

B. Sperry is the fee title owner of certain real property located in Salt Lake County, Utah, contiguous to the Association Parcel, as more particularly described in Exhibit B attached hereto (the "Sperry Parcel"). The Sperry Parcel is part of a residential property described in Exhibit C attached hereto (the "Sperry Benefitted Parcel"). The Association Parcel and the Sperry Parcel at times are referred to collectively herein as the "Parcels".

C. The Highland Parties have installed a sprinkler system on and landscaped the approximately north 10 feet of the Parcels (the "Landscaped Area"). The remainder of the Parcels that does not constitute a part of the Landscaped Area has been improved with an asphalt road and related curbing and improvements (the "Roadway Area").

D. Under previous instruments of record the Association and Sperry each may have a legal right of way over all or part of the Parcels. By this Agreement the parties desire to terminate and supersede any prior agreements pertaining to easements over the Parcels (except for

BK7947PG0534

any easement rights created by the PUD plat), and to clarify and agree that each party has a nonexclusive easement and right of way over the Roadway Area of the Parcels for pedestrian and vehicular ingress, egress and access, and over the Landscaped Area of the Parcels for landscaping (except for potential driveways over the Landscaped Area to the Sperry Benefitted Parcel as discussed herein).

AGREEMENT

NOW, THEREFORE, for \$3,000 paid to Sperry by the Highland Parties, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and in consideration of the mutual covenants and grants described herein, the Association, the Highland Parties and Sperry agree as follows:

1. Mutual Grant of Easements. The Association grants and conveys to Sperry and their respective successors and assigns, for the benefit of the Sperry Benefitted Parcel, a non-exclusive perpetual easement and right of way on, over, across and through the Association Parcel, and those portions of the driveways described in paragraphs 3 and 5 owned by the Association, for the purpose of pedestrian and vehicular ingress, egress and access to and maintenance of the Sperry Benefitted Parcel. Sperry grants and conveys to the Association and its respective successors and assigns, for the benefit of the Association Benefitted Parcel, a non-exclusive perpetual easement and right of way on, over, across and through the Sperry Parcel, for the purposes of (i) pedestrian and vehicular ingress, egress and access to and maintenance of the Association Benefitted Parcel (as to that portion of the Sperry Parcel that is within the Roadway Area), and (ii) landscaping and pedestrian use of the same by the users of the Association Benefitted Parcel (as to that portion of the Sperry Parcel that is within the Landscaped Area).

2. Roadway Area; Landscaped Area.

(a) The Association and Sperry agree that the approximately north 10 feet of the Parcels comprising the Landscaped Area shall hereinafter continue to be used in accordance with the provisions as set forth in paragraph 2(b), except for the driveways, as hereinafter described in paragraphs 3 and 5. The Roadway Area, being that portion of the Parcels that does not constitute the Landscaped Area, shall be improved with and consist of asphalt and curbing as shall be designed, constructed, installed and maintained by the Association. The Association shall have the obligation to maintain, repair and reconstruct the Roadway Area, and the Association covenants and agrees to keep the same in a normal and reasonable condition, normal wear and tear excepted.

(b) Except as provided in paragraphs 3 and 5, the parties and their respective successors and assigns waive any and all rights to use the Landscaped Area as a right of way for ingress and egress to their respective benefitted parcels. The parties agree that the Landscaped Area shall be improved and maintained with grass and a sprinkler system, and no shrubs other than the hedge in place on the date of this Agreement on the North boundary of the Sperry Parcel. The Association shall, at its sole cost and expense, maintain the grass and sprinkler system located on the Landscaped Area and pay all costs for water. If the Association fails to

maintain the Landscaped Area, Sperry may upon 30 days' prior written notice, undertake such work as necessary to restore the landscaping to a reasonable condition. All reasonable costs and expenses of such restoration shall be paid by the Association.

3. Driveway. When so requested by Sperry, its successors and assigns, the Highland Parties shall construct, or cause to be constructed, within 60 days of such request, an asphalt driveway 20 feet in width with suitable roadbase, assuring a proper and durable surface and over a portion of the Association Benefitted Parcel connecting the Roadway Area to the Sperry Benefitted Parcel, and which driveway shall extend an additional 10 feet into the Sperry Benefitted Parcel (the "Driveway"). The southeast corner of the Driveway shall be located at the post of the old gate to the U.S. West property or at such point directly south thereof as necessary to abut the Roadway Area, as extended westerly. The Highland Parties shall obtain any building permit necessary to construct the Driveway; provided, however, if the appropriate governmental body will not issue a permit for the Driveway described in this paragraph after the Highland Parties have submitted what is reasonably necessary and customary to obtain a permit to build the Driveway described herein, then it shall be the responsibility of Sperry to pursue and resolve the issues necessary to obtain a building permit for the Driveway. The Driveway shall be designed and constructed in accordance with generally accepted industry standards. Sperry shall be obligated to maintain the Driveway and to keep it clear of snow to the extent Sperry so desires. The Association shall modify the existing chain link fence on the Parcels to allow for the construction and use of the Driveway.

4. Gate. At the time of construction of the Driveway, the Highland Parties shall install a properly operable gate (the "Gate") across the Driveway in the chain link fence at the north line of the Association Benefitted Parcel. The Gate shall be a standard or typical chain link gate that matches or is similar to the chain link fence to which it will be attached, and will be made of iron not aluminum with opaque slats. Sperry shall determine and pay for the locking mechanism and hold the only keys thereto.

5. Option. Sperry, their successors or assigns, at their sole cost and expense, may design, construct and maintain an asphalt or concrete surface driveway, in addition to the Driveway, at such location as they shall determine, over, across and through the Landscaped Area for the purpose of connecting the Roadway Area to the Sperry Benefitted Parcel (the "Option"). Sperry may locate the driveway between ten (10) and 100 feet from the west line of Highland Drive, subject to governmental approval. The driveway shall not exceed twenty (20) feet in width and shall run north approximately ten (10) feet from the north line of the Roadway Area over the Landscaped Area to the south line of the Sperry Benefitted Parcel. The driveway shall be designed and constructed in accordance with generally accepted industry standards. Sperry, their successors and assigns, shall pay for any and all modification of water sprinkler lines as necessary to maintain and preserve the balance of the landscaping in the Landscaped Area and shall maintain any driveway constructed pursuant to this Option, and shall be responsible to keep the same clear of snow if they desire that the snow be removed.

6. Covenants Running with the Land. The easements granted herein shall run with the land, and shall run to the benefit of and be binding upon the Association and Sperry and their successors and assigns.

7. Not a Public Dedication. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Parcels to or for the general public or for any public purposes whatsoever, it being the intention of the parties that this Agreement be strictly limited to and for the purposes expressed herein.

8. Severability. In the event that any condition, covenant or other provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other condition, covenant or other provision herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such condition, covenant or other provision shall be deemed invalid to the extent of the scope and breadth permitted by law.

9. Attorneys' Fees. In the event of a breach of any of the provisions hereof, the nondefaulting party shall be entitled to reimbursement of any and all fees, costs and expenses (including attorneys' fees, costs and expenses) incurred by such nondefaulting party in enforcing their rights hereunder. In addition, in the event of a breach hereunder, the nondefaulting party shall be entitled to recover damages arising out of such breach and to secure any and all remedies available at law or in equity, including specific performance.

10. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Utah.

Executed the day and year first above written.

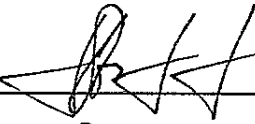
**The Highlands of Sugar House
Owners Association, Inc.,
a Utah non-profit corporation**

By: Craig D. Min
Its: Pres

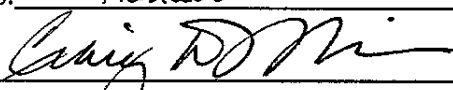
**Taylor's Farm, L.C., a Utah limited
liability company**

By: AMERICAN HOUSING DEVELOPMENT CORP.,
ITS MANAGER
By: [Signature]
Its: President

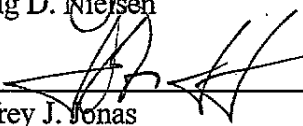
**American Housing Development Corporation,
a Utah corporation**

By:  _____

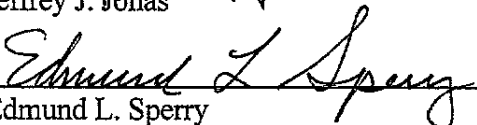
Its: President _____



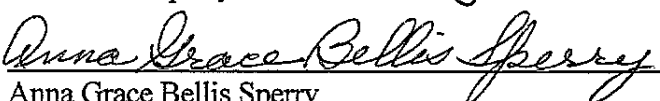
Craig D. Nielsen



Jeffrey J. Jonas



Edmund L. Sperry



Anna Grace Bellis Sperry



STATE OF Utah)
 : SS.
COUNTY OF Salt Lake)

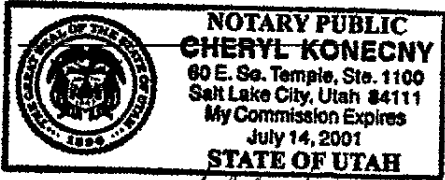
The foregoing instrument was acknowledged before me this 27th day of August, 1997, by Craig D. Nielsen, the President of The Highlands of Sugar House Owners Association, Inc., a Utah nonprofit corporation.

My Commission Expires: 9/30/2000
Jennifer Kanistanoux
NOTARY PUBLIC
Residing at:

STATE OF Utah)
 : SS.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 16th day of April, 1998 by Edmund L. Sperry.

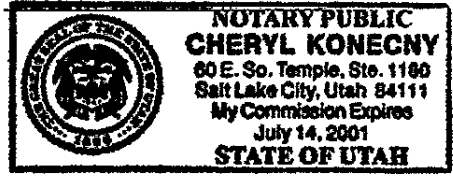
My Commission Expires:
Cheryl Konecny
NOTARY PUBLIC
Residing at:



STATE OF Utah)
 : SS.
COUNTY OF Salt Lake)

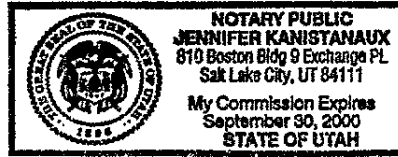
The foregoing instrument was acknowledged before me this 16th day of April, 1998 by Anna Grace Bellis Sperry.

My Commission Expires:
Cheryl Konecny
NOTARY PUBLIC
Residing at:



BK 7 9 4 7 P G 0 5 3 9

STATE OF Utah)
 : SS.
COUNTY OF Salt Lake)



The foregoing instrument was acknowledged before me this 5th day of August, 1997, by Jeffrey J. Jones, the President of Taylor's Farm, L.C., a Utah limited liability company.

My Commission Expires:
9/30/2000

Jennifer Kanistanaux
NOTARY PUBLIC
Residing at:

STATE OF Utah)
 : SS.
COUNTY OF Salt Lake)

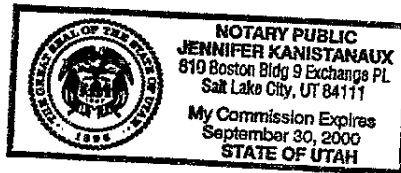


The foregoing instrument was acknowledged before me this 5th day of August, 1997, by Jeffrey J. Jones, the President of American Housing Development Corporation, a Utah corporation.

My Commission Expires:
9/30/2000

Jennifer Kanistanaux
NOTARY PUBLIC
Residing at:

STATE OF Utah)
 : SS.
COUNTY OF Salt Lake)

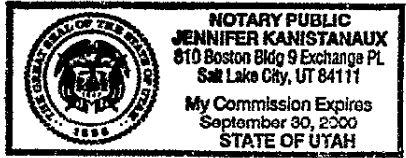


The foregoing instrument was acknowledged before me this 5th day of August, 1997, by Craig D. Nielsen.

My Commission Expires:
9/30/2000

Jennifer Kanistanaux
NOTARY PUBLIC
Residing at:

STATE OF Utah)
 : ss.
COUNTY OF Salt Lake)



The foregoing instrument was acknowledged before me this 5th day of August, 1997, by Jeffrey J. Jonas.

My Commission Expires:
9/30/2000

Jennifer Kanistanau
NOTARY PUBLIC
Residing at:

EXHIBIT A
TO
EASEMENT AGREEMENT

THE ASSOCIATION PARCEL

The Association Parcel is located in Salt Lake County, Utah and is more particularly described as follows:

Beginning North 7° 17'40" West 170.41 feet from the Northeast Corner of Lot 18, Highland Park Plat "D", according to the official plat filed in Book "G" of Plats at Page 6 , Records of Salt Lake County, Utah (said point is also North 7° 17'40" West, 54.45 feet along the Monument Line and West 33.27 feet from a monument marking the intersection of Highland Drive and Malvern Avenue); and running thence West 142.95 feet; thence North 0°01'32" West, 31.75 feet, to the southerly line of the Parcel as described in that certain Warranty Deed dated October 31, 1996 from Richard Taylor, et al. to Edmund Sperry, et al. and recorded in official records on November 1, 1996 as Entry No. 6496661; thence South 89°59'47" East 20.00 feet; thence South 0°01'32" East, 9.92 feet; thence South 89°59'47" West, 120.16 feet to the westerly line of Highland Drive; thence South 7°17'40" East, 21.99 feet to the point of beginning.

**EXHIBIT B
TO
EASEMENT AGREEMENT**

The following property located in Salt Lake County, Utah:

Beginning at a point at the Southeast Corner of the Parcel as described in that certain Warranty Deed dated October 31, 1996 and recorded in official records on November 1, 1996 as Entry No. 6496661, said point being North 7°17'40" West 192.40 feet from the Northeast corner of Lot 18, Highland Park Plat "D", according to the official plat filed in Book "G" of Plats at Page 6, Records of Salt Lake County, Utah (said point is also North 7°17'40" West, 54.45 feet along the monument line and West 33.27 feet and North 7°17'40" West 21.99 feet from a monument marking the intersection of Highland Drive and Malvern Avenue), and running thence North 89°59'47" West 120.16 feet; thence North 0°01'32" West 9.92 feet; thence South 89°59'47" East approximately 120 feet to a point on Highland Drive that is North 7°17'40" West 9.92 feet more or less from the point of beginning; thence South 7°17'40" East 9.92 more or less to the point of beginning.

**EXHIBIT C
TO
EASEMENT AGREEMENT**

The following property located in Salt Lake County, Utah:

Beginning East 248.0 feet from the Southwest corner of Lot 14, HIGHLAND PARK , PLAT "B"; thence East 200.0 feet, more or less, to the West line of Highland Drive; thence South 5 deg. 30' East 105.6 feet; thence West 114.07 feet; thence North 5 deg. 30' West 9.92 feet; thence North 89 deg. 59'47" West 85.93 feet; thence North 5 deg. 30' West 95.33 feet to the point of beginning.