

B 14. 80  
807941

FILED  
American Title Co  
300

AMENDMENT  
OF  
DECLARATION  
OF  
COVENANTS, CONDITIONS AND  
RESTRICTIONS AND RESERVATIONS OF  
EASEMENTS FOR EASTGROVE  
CONDOMINIUM  
\* \* \* \* \*

*Gene Vaughn*

This Amendment of Declaration of Covenants, Condi-  
tions and Restrictions and Reservations of Easements is  
made on the 2nd day of April, 1980, by A & B  
INVESTMENT CO., a Utah General Partnership and LAN DEV  
WEST, INC., a Utah corporation, successor to A & B  
INVESTMENT CO., as to Phase 2, hereinafter collectively  
sometimes called DECLARANT,

WITNESSETH:

WHEREAS A & B Investrent Co., on the 21st day of  
February, 1980, executed that certain Declaration of  
Covenants, Conditions and Restrictions and Reservations of  
Easements for Eastgrove Condomiun, which was recorded on  
February 25, 1979, in Book 1288, Page 327 et seq; and

WHEREAS, the said Declaration covers the following  
described real property situate in Weber County, State of  
Utah, to-wit:

BEGINNING at the Southwest corner of Lot 1, Block 4  
BRUMHITS ADDITION to Ogden City and running thence  
East along the South line of said Block 255.0 feet  
to a point 6.5 feet East of the Southwest corner of  
Lot 11, Block 4, BRUMHITS ADDITION, thence North  
145.37 feet to the center of an alley, thence West  
56.5 feet to the center of Cody Avenue, thence North  
along the center of Cody Avenue, 144.38 feet to the  
South line of proposed 20th Street, thence West 198.50  
feet to a point directly North of the West line of  
Lot 1, Block 4, BRUMHITS ADDITION to Ogden City, thence  
South 289.73 feet to the point of beginning; and

WHEREAS, the Declaration permits the expansion of the  
project as per Articles XVIIII thereof to cover any part of the  
"additional property" referred to at Section 16 of Article I  
of the Declaration which is described as follows, to-wit:

13-159 - 0001 TO 0013  
13-165 - 0001 TO 0005  
LOT 1111 COVENANTS BOOK PAGE 9

13-114-1-3014

BEGINNING at the intersection of the South line of 20th Street and the Center Line of Tyler Avenue, in CITY VIEW ADDITION to Ogden City, said point being 25 feet West of the original Northwest Corner of Lot 3, Block 3, CITY VIEW ADDITION in Ogden City, Weber County, Utah, and running thence North along the Center Line of said Tyler Avenue 702.6 feet, more or less to the North Line of CITY VIEW ADDITION in Ogden City, thence South 40°57' West along the North Line of CITY VIEW ADDITION 450 feet, more or less to the intersection of the North Line of CITY VIEW ADDITION and the West Line of Lot 14, Block 6, CITY VIEW ADDITION, thence continuing South 40°57' East 186.52 feet, thence Westerly 70 feet, more or less to a point North of the Northeast Corner of Lot 3, Block 5, CITY VIEW ADDITION, thence South 210 feet, more or less along the East Line and extended East Line of Lots 1, 2, and 3, CITY VIEW ADDITION, to the Center Line of 20th Street, thence West along the Center Line of 20th Street to the intersection of said Center Line and the Center Line of Cody Avenue, thence South along the Center Line of said Cody Avenue to the South Line of 20th Street, thence West along the South Line of 20th Street to the point of beginning; and

WHEREAS, A & B Investment Co., on the 2nd day of January, 1979, executed that certain Record of Survey Map relating to the Declaration, which was recorded on February 23, 1979, in Book 22 of Plats, page 4; and

WHEREAS, A & B Investment Co., on the 7th day of December 1979, executed that certain Notice of Addition of Property and Amended Declaration of Covenants, Conditions and Restrictions and Reservations of Easement for Eastgrove Condominium, Phase 2, which was recorded on January 2, 1980, in Book 1339, Page 265 et seq, and

WHEREAS, the said notice and amendment covers the following described real property situate in Weber County, Utah, to-wit:

Part of the N.W.  $\frac{1}{4}$  of the N.W.  $\frac{1}{2}$  of Section 27, T6N, R1W, SLB & M, U.S. Survey beginning at a point on the South line of vacated 20th Street 726.72 feet South 89°02' East and 49.5 feet S 0°58' W from the intersection of the centerline of 20th St. and Harrison Blvd., said point being at Ogden City Engineer's "A" Station 145+24.20 and "B" Station 158+46.92; running thence on the arc of a curve to the right whose radius is 280.0 ft. A distance of 154.98 feet, the chord of said curve bears S 26°02'54" E 153.01 feet, thence S 89°02' E 5.30 feet to the East line of Tyler Avenue thence N 0°58' E 136.31 feet to the N.W. corner of Eastgrove Condominium, thence S 89°02' E along North

line of said Eastgrove Condominium 32.50 feet, thence N 0°48' E 168.00 feet, thence N 89°02' W 108.52 feet to the East line of proposed Tyler Ave., thence S 0°58' W 168.00 feet along said East line of proposed Tyler Ave., thence S 89°02' E 1.22 feet to the point of beginning.

WHEREAS, Lan Dev West, on the 6th day of December, 1979, executed that certain Record of Survey Map relating to said Phase 2, which was recorded on January 28, 1980, in Book 23 of Plats, Page 1, and

WHEREAS, it is now desirable to amend the Declaration, NOW THEREFORE, the said Declaration is amended as follows:

1. There is added to Article III a new section designated as Section 7, which shall read:

"SECTION 7. In the event any portion of the common elements encroaches upon any unit or any unit encroaches upon the common elements, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the Project, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists.

2. Article VI, D. Section 1, is amended to read:

ASSESSMENTS

"SECTION 1, Every unit owner, shall pay his proportionate share of the condominium common expenses. Payment thereof shall be in such amounts and at such times as the management committee determines in accordance with the Act, this Declaration and By-Laws. The common expenses shall commence as to Declarant owned units upon completion of the unit or occupancy of the unit or within 60 days after close of the first sale of the first unit in the project. As to non-Declarant owned units the common expenses shall commence as to such owner upon close of sale.

There shall be a lien for non-payment of condominium common expenses as provided by Utah Code Annotated, Section 57-8-20 (1953, As Amended).

In assessing unit owners or requiring them to pay for the building improvements and other improvements of the condominium common areas and facilities follow the execution of the Declaration, it is agreed that no assessment for a single improvement in the nature of the capital expenditure exceeding the sum of \$3,000 in cost shall be made without the same having been first voted on and approved by owners of 75% or more of the undivided interests in the condominium common areas and facilities. The foregoing sentence shall not apply in connection with the replacement or reconstruction occasioned by fire or other casualty.

3. Article XVI, Lease of Units, Section 1, is amended to read:

"SECTION 1. With the exception of a lender in possession of a condominium unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no unit owner shall be permitted to lease his unit for transient or hotel purposes. No unit owner may lease less than the entire unit. Any lease agreement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be required to be in writing. Other than the foregoing, there is no restriction on the right of any unit owner to lease his unit."

4. Article XVII, Section 1 at paragraphs C, F, G, I and J are amended to read:

"C. Abandonment, Termination, Material Amendment to the Declaration, Termination of Professional Management.

The prior written approval of each institutional holder of a first mortgage or deed of trust (hereinafter called

"first mortgage") lien on units in the Project will be required for the following:

(1) The abandonment or termination of the Project except for abandonment or termination provided by law in case of substantial destruction by fire or other casualty or in the case of taking by condemnation or eminent domain.

(2) Any material amendment to the Declaration; but not limited to any amendment which would change the percentage interests of the unit owners in the project;

(3) The effectuation of any decision by the Owners Association to terminate professional management and assume self management of the Project;

(4) To abandon, partition, subdivide, encumber, sell or transfer all or any part of the common areas (except for the granting of easements for utilities and similar purposes consistent with the intended use of the condominium common areas);

(5) To use hazard insurance proceeds resulting, from damage to any part of the condominium project (whether to units or to the condominium common areas for purposes other than the repair, replacement, or reconstruction of such improvements, except as provided by the Utah Condominium Ownership Act in case of substantial damage to the unit and/or common areas;

(6) To change the prorata interest or obligations of the condominium common areas as to any unit for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards."

"F. Management Agreement. If the project is managed professionally by any person, firm or association pursuant to contract negotiated by the management committee; then in such event the agreement will be terminable by the management committee for cause upon 30 days' written notice thereof, and the term of any such agreement may not exceed one year, renewable by

agreement of the parties for successive one year periods.

"G. Notice of Substantial Damage and Insurance Awards.

In the event of substantial damage to or destruction of any unit or any part of the common elements, the institutional holder of any first mortgage on a unit will be entitled to timely written notice of any such damage or destruction and nothing herein will entitle the owner of a unit or other party to priority over such institutional holder with respect to the distribution to such unit of any insurance proceeds."

"I. No Liability for Unpaid Assessments. Each holder

of a first mortgage lien on a unit who comes into possession of the unit by virtue of foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure, or any purchase at a foreclosure sale will take the unit free of any claims for unpaid assessments and charges against the unit which, accrue prior to the time such holder comes into possession of the unit, except for claims for a pro-rata share of such assessments or charges resulting from a pro-rata reallocation of such assessments or charges to all Project units including the mortgaged unit."

"J. Notice of Condemnation and Award. If any unit or

portion thereof or the common elements or any portion thereof is made the subject matter of any condemnation of eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the institutional holder of any first mortgage on a Unit will be entitled to timely written notice of any such proceeding or proposed acquisition and nothing herein will entitle the owner of a unit or other party to priority over such institutional holder with respect to the distribution to such unit of the proceeds of any award or settlement."

These amendments shall take effect upon recording.

IN WITNESS WHEREOF the undersigned have hereunto executed these presents this 2<sup>nd</sup> day of APRIL, 1980.

A & B INVESTMENT CO.,  
a Utah General Partnership

by William A. Bailey  
WILLIAM A. BAILEY  
Partner

by Robert J. Anderson  
ROBERT J. ANDERSON  
Partner

LAN DEV WEST, INC.,  
a Utah corporation,

by William A. Bailey  
WILLIAM A. BAILEY  
President

ATTEST:

Robert J. Anderson  
ROBERT J. ANDERSON  
Secretary

STATE OF UTAH )  
                  : ss  
COUNTY OF WEBER )

On the 2<sup>nd</sup> day of APRIL, 1980, personally appeared before me William A. Bailey and Robert J. Anderson, who being by me duly sworn upon their oath, did say that they are the general partners of A & B Investment Co., a Utah general Partnership, and that the within and foregoing instrument was signed in behalf of said partnership.

Wayne W. Coyle  
Notary Public 7-8-81  
Residing at: Ogden, Utah

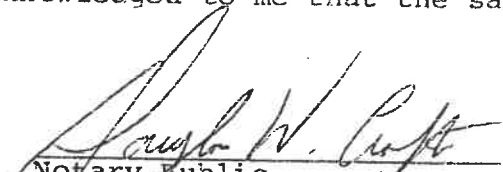
My Commission Expires: 7-8-81

STATE OF UTAH )  
                  : ss  
COUNTY OF WEBER )

On the 3<sup>rd</sup> day of April, 1980, personally appeared before me William A. Bailey and Robert J. Anderson, who being by me duly sworn, did say that they are the president and secretary respectively of Lan Dev West, Inc., a Corporation, and that said

BOOK 1351 PAGE 647

instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors and the said William A. Bailey and Robert J. Anderson acknowledged to me that the said corporation executed the same.

  
Notary Public  
Residing at: Ogden, Utah

My Commission Expires: 7-8-81



CERTIFICATE OF MANAGEMENT COMMITTEE

\* \* \* \* \*

The Management Committee of Eastgrove Condominium certifies that the unit owners representing at least three-fourths of the undivided interests in the Eastgrove Condominium common areas and facilities have approved and consented to the foregoing amendments.

DATED this 2<sup>nd</sup> day of April, 1980.

MANAGEMENT COMMITTEE  
EASTGROVE CONDOMINIUM


by R.E. Higginson  
Chairman

ATTEST:

Secretary

STATE OF UTAH )  
                  : ss  
COUNTY OF WEBER )

On the 2<sup>nd</sup> day of April, 1980, personally appeared before me R.E. HIGGINSON and \_\_\_\_\_, who being by me duly sworn, did say that they are the Chairman and Secretary respectively of the Management Committee Eastgrove Condominium, and that said instrument was signed in behalf of said committee by authority of a resolution of the committee and the said R.E. HIGGINSON acknowledged to me that the said Management Committee executed the same.

  
Notary Public  
Residing at: OGDEN, UTAH

My Commission Expires: 7-8-81

CONSENT OF FIRST MORTGAGEES  
\*\* \*\* \* \*\* \* \*\* \* \*\* \* \*\*

We the undersigned first mortgagees in Eastgrove  
Condominium hereby consent to the foregoing Amendments.

DATED:

SIGNATURE

AMERICAN SAVINGS & LOAN

by: Lyle E. Harrison

FIRST SECURITY BANK OF UTAH, N.A.

by: [Signature]

OGDEN FIRST FEDERAL SAVINGS &  
LOAN ASSOCIATION

by: [Signature]

STATE OF UTAH )  
: ss  
COUNTY OF WEBER )

On the 2<sup>nd</sup> day of April, 1980, personally  
appeared before me Lyle E. Harrison and \_\_\_\_\_,  
who being by me duly sworn, did say that he are the MANAGER  
and \_\_\_\_\_ respectively of American Savings and Loan  
a Corporation, and that said instrument was signed in behalf  
of said corporation by authority of a resolution of its Board  
of Directors and that the said Lyle E. Harrison acknowledged to me  
that the said corporation executed the same.

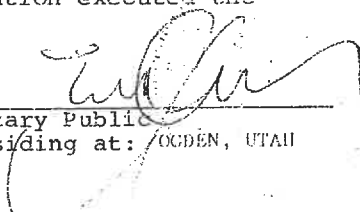
[Signature]  
Notary Public  
Residing at: Ogden, UTAH

My Commission Expires: 7-8-81

STATE OF UTAH )  
: ss  
COUNTY OF WEBER )

On the 1<sup>ST</sup> day of APRIL, 1980, personally appeared  
before me J. P. BOWELL and \_\_\_\_\_, who being

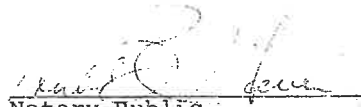
by me duly sworn, did say that he is/are the ASSISTANT VICE PRESIDENT  
and ASSISTANT MANAGER respectively of First Security Bank of  
Utah, N.A., a Corporation, and that said instrument was signed  
in behalf of said corporation by authority of a resolution  
of its Board of Directors and that the said J. R. BOSWELL  
acknowledged to me that the said corporation executed the  
same.

  
Notary Public  
Residing at: OGDEN, UTAH

My Commission Expires: NOVEMBER 8, 1983

STATE OF UTAH )  
: ss  
COUNTY OF WEBER )

On the 2ND day of APRIL, 1980, personally  
appeared before me JACK C. SARGENT and \_\_\_\_\_, who  
being by me duly sworn, did say that he ~~was~~/is the SR. VICE PRESIDENT  
and \_\_\_\_\_ respectively of Ogden First Federal Savings  
& Loan Association, a Corporation, and that said instrument  
was signed in behalf of said corporation by authority of a  
resolution of its Board of Directors and that the said  
JACK C. SARGENT acknowledged to me that the said corporation  
executed the same.

  
Notary Public  
Residing at: OGDEN, UTAH

My Commission Expires:  
FEB. 15, 1983