

RECORDING  
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& MAIL TO

The Bank of California  
845 So. Figueroa St  
Los Angeles, Calif 90054  
Trust Subd. Dept.

BOOK 4628 PAGE 372

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Recorded By RAY A. VERCAHMILIN, Kern Co. Recorder

10<sup>00</sup>

DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR TRACT NO. 3427 (KERN COUNTY)

This Declaration is made by The Bank of California, National Association, a National Banking Association, hereinafter referred to as the "Declarant", concerning that certain real property described as Tract 3427, as per Map recorded in Book 23, Pages 13 thru 35, inclusive, of Maps, in the office of the County Recorder of Kern County, California, in contemplation of the following facts:

FIRST: Declarant is the owner of the above described real property in Trust and intends to impose thereon certain beneficial restrictions upon a general plan of improvement for the benefit of said property and the future owners thereof.

SECOND: It is the Declarant's intention that all said property be held, conveyed, encumbered, used and improved as a real estate development project encompassing non-dedicated and dedicated but not accepted streets, equestrian trails, open areas and drainage and water, sewers, easements and sites, subject to the covenants, conditions and restrictions contained in this Declaration, all of which are in furtherance of a plan for the use, improvement and sale of said property.

THIRD: All of the covenants, conditions and restrictions contained in this Declaration shall run with the land and shall be binding on all parties having or claiming in any manner whatever any right, title or interest in said property or any part thereof.

NOW, THEREFORE, in consideration of the foregoing, Declarant does hereby declare that such covenants, conditions and restrictions are as follows:

1. Definitions: As used in this Declaration:

a. The term "non-dedicated street" shall refer to a parcel of land or non-exclusive easement not owned by the County, Cities, or State, or Federal Governments, which is not offered for dedication for public use and which is used or intended to be used for access to the lots within the subdivision itself or parcels adjacent thereto.

b. Project shall be defined to mean the entire parcel of real property located in Tract No. 3427.

c. The common area is the land and real property included and designated as streets on the subdivision map of Tract No. 3427 and shall also include any equestrian trails, open areas, drainage and water, sewers, easements and sites, as well as the non-dedicated streets.

d. Owner shall be defined to mean the person or other legal entity owning a parcel.

2. PROPERTY USE RESTRICTIONS:

A. Covenants, Conditions and Restrictions. The following covenants, conditions and restrictions shall apply to the use and enjoyment of each lot in the above described Tract and shall run with the title to said property and each portion thereof:

a. No building, garage, patio, outbuilding, fence or other structure shall be constructed, erected, altered, remodeled, placed, maintained or be permitted to remain on said Tract or any portion thereof unless and until three complete sets of plans and specifications therefor, including finished grading plans, plot plan showing location of such structure on the building site, floor and roof plan, exterior elevations, sections and salient exterior details and color scheme, including the type and location of hedges, walls and fences, shall have been submitted to and approved in writing by any two (2) members of the Environmental Control Committee, whose duties shall be to act as an "Architectural Committee", which shall be composed of not more than three (3) members, selected as hereinafter set forth.

b. The members of the Environmental Control Committee shall be initially selected and appointed by declarant to serve without compensation. Any member of the Environmental Control Committee may be removed at any time, with or without cause, and his successor appointed by declarant or the record owners of a majority of the lots in said tract by a duly recorded instrument changing said committee. The Environmental Control Committee shall be initially composed of the following three members:

Paul Jones, Jr.  
Rayburn P. Jones  
Cherri LeAnn Pace

c. Said plans and specifications shall be delivered to the office of Declarant at Tehachapi, or at such other place as shall be designated by Declarant.

d. Said Environmental Control Committee shall have the power and authority to approve or disapprove the plans and specifications, and approval of said plans, specifications and plot plan may be withheld not only because of non-compliance with any of the specific covenants, conditions and restrictions contained in this Declaration, but also by reason of the reasonable dissatisfaction of the Committee with the grading plan, location of the structure on the lot or building site, the finished ground elevation, the color scheme, finish, design proportions, architecture, shape, heights and style of the proposed structure or altered structures, the materials used therein, the kind, pitch or type of roof proposed to be placed thereon, the location of air conditioning, evaporative coolers, other mechanical equipment or devices, roof jacks, vent caps and other roof outlets, all of which shall be designated on the plans and specifications or because of its reasonable dissatisfaction with any or all other matters or things which, in the reasonable judgment of the Committee, will render the proposed structure inharmonious or out of keeping with the general plan of improvement of said Tract or with the structures erected on other building sites in the said Tract. Said Environmental Control Committee may, if it so desires, adopt rules governing its procedure.

e. The approval of the committee of any plans or specifications submitted for approval as herein specified for use on any building site shall not be deemed a waiver by the Committee, of its right to object to any of the features or elements embodied in such plans and specifications, if or when the same features or elements are embodied in any subsequent plans and specifications submitted for approval as herein provided for use on other building sites.

f. The approval, disapproval, or conditional approval of such plans, specifications and plot plans shall be in writing and delivered to the applicant with one set of the submitted documents, provided, if the Committee fails to approve or disapprove such plans and specifications and plot plan within thirty (30) days after said plans, specifications and plot plan have been submitted to it, it shall be presumed that the Committee has approved said plans, specifications and plot plan as submitted. If, after such plans and specifications and plot plan have been approved, the building, fence, wall or other structure shall be altered, erected or maintained upon the lot or building site otherwise than as approved by the Committee, such alteration, erection and maintenance shall be deemed to have been undertaken without the approval of the Committee having been obtained as required by this Declarant.

g. Any applicant, if dissatisfied with the decision of the Environmental Control Committee may appeal to the declarant, whose decision shall be final. The right of appeal by a property owner must be exercised in writing within 10 days after notification of the decision of the Environmental Control Committee, provided, however, that declarant may extend the time for such appeal or grant a hearing thereon after the expiration of said time in its discretion.

h. At any time, the record owners of a majority of the lots in said tract, through a duly recorded instrument, may withdraw from the Committee or restore to it any of its powers and duties.

i. The powers and duties of the Environmental Control Committee shall cease after June 30, 1985, unless prior to said date and effective thereon a written instrument shall be executed by the record owners of a majority of the lots in said Tract and duly recorded, appointing a representative or representatives who shall thereafter exercise the same powers and authorities previously exercised by the Environmental Control Committee, and providing the procedure for appointing his or their successors.

j. No mining, milling, quarrying or drilling operations shall be conducted upon any lot in said Tract, except for water drilling.

k. Any dwelling erected upon any lot in the Tract shall have a floor area exclusive of porches and garages of at least 800 square feet, and shall comply with all requirements of applicable building codes. Individual sewer systems will each be designed in accordance with requirements of and subject to the approval of the Kern County Health Department. Further, the plans and design shall be subject to approval of the Environmental Control Committee prior to its construction.

l. Storage of Trash and Equipment. The storage of household effects, machinery, machinery parts, old automobiles, automobile parts, containers, trash, materials, or any similar or other items that may detract in appearance from the esthetic values of the property shall be placed or stored so as to be concealed from public view.

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 m. Noxious Trade. No noxious or offensive trade, activity or noise shall be carried on upon any lot, nor shall anything be done thereon which may be or become any annoyance or nuisance to the neighborhood.

n. Other than by the original developer for purposes of sale of the original parcels, no sign or advertisement of any kind or nature shall be permitted on any parcel unless approved in advance by the Environmental Control Committee. However, for purposes of resale, a parcel owner may place a customary and reasonable sign upon his parcel containing the words "For Sale" and the name, address and phone number of the seller, or real estate broker selling that particular parcel.

o. Provided not in contravention with Kern County zoning or health ordinances, each owner shall be permitted to have on the property no more than one horse per each acre or fraction thereof owned by him.

### 3. ORGANIZATION OF OWNERS OF THE PROJECT.

a. Type of Organization. The owners of parcels within the project shall comprise and be part of an incorporated association to be known as 3424 Kern County PROPERTY OWNERS' ASSOCIATION, INC. or such other name as the incorporated association shall select. In the event that for any reason whatsoever this tract's joining of the Association is declared invalid, or prevented, then the owners of parcels in the project shall form its own incorporated Property Owners' Association, said Association to be governed in accordance with the remaining provisions of this Declaration. Annual and special meetings of owners shall be held in accordance with the provisions of this Declaration, and the property owners' Articles of Incorporation and By-Laws. In any such meeting the presence in person or by proxy of owners owning the majority of the parcels in the project shall constitute a quorum. Each owner shall be entitled to one (1) vote for each individual parcel owned, even though this may give one individual or entity more than one (1) vote.

b. Organization Meeting. An organizational meeting thirty (30) days following the consummation of the sale of 51% of the lots or within one year after the sale of the first lot in the project, whichever occurs first. Notice of the time and place of such organizational meeting shall be given by the Declarant, or its authorized agent, to the owners in writing by mailing such notice to the address of each respective owners as shown in the records of the Declarant.

c. Annual Meetings. There shall be a meeting of the owners on the first Tuesday of \_\_\_\_\_ of each year at 7:30 P.M., at such location in the County of Kern, State of California, as may be designated by written notice of the Board of Directors and mailed to each owner at the address shown on the records of the Board of Directors. Such notice shall be mailed not less than seven (7) nor more than sixty (60) days before any owners' meeting.

At the organizational meeting and each annual meeting, the owners shall elect a Board of Directors for the forthcoming year consisting of three (3) to five (5) owners. Each owner entitled to vote at any election of members of the board may accumulate his votes and give one candidate a number of votes equal to the number of the members of the board to be elected, multiplied by the number of votes to which each such owner is entitled, or to distribute his vote on the same principle among as many candidates as he sees fit. The candidates receiving the highest number of

votes up to the number of the members of the board to be elected shall be deemed elected.

d. Special Meetings. Special meeting of owners may be called either by the Board of Directors or by the owners of not less than ten per cent (10%) of the lots in the project. Notice of special meetings shall be in writing, mailed to each owner at the address shown on the records of the Board of Governors, and shall state the time and place of the meeting, and the general nature of the business to be transacted, and shall be given at least ten (10) days prior to the date of the meeting as specified in such notice.

e. Majority Vote. At any annual meeting or special meeting of owners at which a quorum is present, the majority of the voting power shall prevail, except in those cases otherwise expressly provided for in this Declaration.

#### 4. BOARD OF DIRECTORS.

a. Membership of the Board - Term - Removal. The management of the property shall be vested in a Board of Directors consisting of three (3) to five (5) owners, or if an owner be a trust or corporation, its duly authorized representative or representatives, elected by the owners at each annual meeting or at any special meeting called for that purpose. Members of the board shall serve for a term of One (1) year and until their respective successors are elected, or until their death, resignation or removal; provided, however, that if any member ceases to be an Owner, his membership upon the board, whether in person or by representation, shall thereupon terminate. Any member may resign at any time by giving written notice to the manager, or to the other members of the board, and any member may be removed from membership on the board by vote of the owners; provided, however, that unless the entire board is removed, the provisions of Section 810 of the California Corporation Code as amended shall apply.

b. Quorum - Chairman. Two-thirds (2/3rds) of the board shall constitute a quorum, and if a quorum is present the decision of the majority of those present shall be the act of the board. The board shall elect a chairman who shall preside over both its meetings and those of the owners. Meetings of the board may be called, held and conducted in accordance with such regulations as the board may, from time to time, adopt. The board may also act without a meeting by unanimous consent of its members.

c. The board shall meet regularly on the first Tuesday of July of each year or such other times as the Board by majority vote shall deem necessary, provided that if such date be a holiday, the regular meeting shall be held on the following day.

d. Interim Powers of Declarant. Until the first election of the board, the rights, duties and functions of the board shall be exercised by Declarant or their designated representatives without compensation. Provided that if the Declarant in its exercise of the powers of the board shall enter into any arrangement or contract with any person or firm for the management of the project, such contract may be voided by the board at its first regular meeting.

e. Certificate of Membership. After the first election of the board, Declarant shall execute, acknowledge and record an affidavit

stating the names of all the persons elected to membership on the board. Thereafter, any two (2) persons who are designated of record as being members of the most recent board, (regardless of whether or not they shall still be members) may execute, acknowledge and record an affidavit stating the names of all the members of the then current board. The most recently recorded of such affidavits shall be prima facie evidence that persons named herein are all of the incumbent members of the board and shall be conclusive evidence thereof in faith of all persons who rely thereon in good faith.

f. Powers of the Board. The Board of Directors shall install and maintain the non-dedicated and dedicated but not accepted streets, water rights of way, and water lines, equestrian trails, drainage and sewer easements and sites, and open areas and shall have the power and authority to: (1) Pay for all labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the board is required to secure or pay for pursuant to the terms of these restrictions or By-Laws, or which in its opinion may be necessary or proper in maintaining the common areas, including access roads, and including the joining with adjoining property owners to maintain any mutually used (common) areas, and to maintain the operation of the project or for the enforcement of these restrictions; (2) Obtain public liability and property damage insurance insuring the board, owners and the manager, if any, against any liability to the public or to the owners and their invitees, licensees, or tenants incident to the ownership and/or use of the common areas, the liability under which insurance shall be set by the board. Such limits may be increased by the board from time to time in its discretion. (3) Pay for the reconstruction of any portion or portions of the common areas, including the access roads, damaged or destroyed which are to be rebuilt pursuant to the provisions of the Declaration. (4) To do all things necessary or reasonable to carry out the provisions of the Declaration and the duties of the board in the operation and management of the project. (5) Provide for posting of signs in accordance with Section 5838-b of the Subdivision Ordinance. (6) To permit any adjoining property subdivided by the Declarant, his successors, or nominees, to join the property owners' association, provided such action will not substantially increase assessments or substantially increase the burden upon community property. In the event such action will substantially increase assessments or substantially increase the burden upon community property, such annexation shall require approval by at least a two-third's majority of the voting power, excluding the voting power of the Declarant. However, any such annexation must be accomplished within three (3) years of the date of the issuance of the final Sub-Division Public Report issued for the last property joining this project.

g. It is intended that none of the Board of Directors duties nor powers herein granted shall conflict with, or duplicate, the operation of any Mutual Water Company or any Utility or any Public Entity developed to service this area. In the event of a conflict in duties or powers the Mutual Water Company, Utility, or Public Entity shall prevail.

5. ASSESSMENTS AND MAINTENANCE FUND. All assessments levied by the Board of Directors pursuant to this Declaration, whether designated a basic assessment or a further assessment, shall be paid equally by the owners of parcels in the project, and no parcel may be assessed an amount per month or per annum greater or less than any other parcel.

a. Basic Assessment. On the first day of November of each year, beginning on the first day of November, 1972, or the first day of the month following the recording of the sale of the fiftieth (50th) parcel of this tract, the owners of each of the parcels in the project shall pay to the board to be held and dispersed as a fund to meet the authorized expenditures and provided herein and to provide adequate reserves for replacement the sum of Fifteen Dollars per year. Each such annual payment (continued on Page 7)

shall be a separate debit of the owner against whom it is assessed. The initial basic assessment herein provided may not be decreased without the approval of the majority of the owners and of all beneficial interest under mortgages or trust deeds covering all of the parcels in the project. The initial assessment may be increased by the Board up to \$50.00 per parcel per year. It may not be raised above that amount by the Board without a majority vote of the property owners.

b. Further Assessments. If the fund provided by any of the owners, proves inadequate to maintain the project, and to provide adequate reserves for replacement, and to enable the board to carry out its duties and responsibility, the board may at any time levy a further assessment which shall be assessed equally to each of the owners of the parcels in the project. The board shall give each owner written notice of the total amount of said further assessment, the amount thereof assessed to each owner and the date or dates upon which said amount or portion thereof shall be due and payable. Each such payment so indicated in the written notice shall be a separate debit of the owner against whom it is assessed and shall be due and payable on the indicated date.

c. Unsold Parcels. Declarant shall pay a prorated share of all maintenance costs in the project applicable to unsold parcels, whether completed or not, and both before and after the board of directors provide for in this Declaration is elected and assumes office.

6. DEFAULT IN PAYMENT OF ASSESSMENTS. In the event of a default in the payment of any of the assessments as provided for in Section 5 of this Declaration, the Board of Directors may enforce such obligation as follows:

a. Action at Law. The board may maintain an action at law in the name of 3424 PROPERTY OWNERS' ASSOCIATION, INC., or its subsequent name, or in the name of one or more of the board members to enforce each assessment obligation. Each such action must be authorized by a majority of a quorum of the board at a regular or special meeting thereof. Any judgment rendered in any such action shall include a sum for reasonable attorneys' fees in such amount as the Court may adjudge against the defaulting owner. Upon full satisfaction of any such judgment, it shall be the duty of the board to authorize delivery of any appropriate satisfaction thereof.

b. Lien.

(1) Notice in Claim of Lien. At any time within ninety (90) days after default of payment of any assessment or installment thereof, the board, acting upon the authorization of the majority of a quorum at any regular or special meeting, may give a notice to the defaulting owner which shall state the date of delinquency, the amount thereof, and make demand for payment. If such delinquency is not paid within ten (10) days after delivery of such notice, the board may elect to record a Claim of Lien against the parcel of the delinquent owner. Any such Claim of Lien shall state (a) the name of the delinquent owner or reputed owner; (b) a description of the property against which the claim of lien is made; (c) the amount claimed to be due and owing from any proper offset allowed; (d) that the claim of lien is made by the board of directors or the association pursuant to the terms of this Declaration; and (e) that a lien is claimed against such described property in an amount equal to the amount of the stated delinquency. Any such claim of lien shall be signed



and acknowledged by any two (2) or more members of the board and shall be dated as of the date the last such board member executed such claim of lien. Upon recordation of a duly executed original or duplicate original of such claim of lien in the office of the Kern County Recorder, the lien claim thereof shall immediately attach and become effective subject only to the limitations hereinafter set forth. Each default shall constitute a separate basis for a claim of lien or a lien.

(2) Enforcement of Lien. Any such lien may be foreclosed by appropriate action in Court or in the manner provided by law for the foreclosure of a mortgage or trust deed under power of sale, or in any other manner permitted by law. In the event such foreclosure is by action in law, reasonable attorneys' fees shall be allowed to the extent permitted by law. In the event foreclosure is as in the case of a mortgage or trust deed under power of sale, the board or any person designated by it in writing shall be deemed to be acting as the agent of the lienor and shall be entitled to actual expenses and such fees as may be allowed by law.

(3) Release of Lien. In the event any Claims of Lien have been recorded as hereinabove provided and thereafter the board receives payment in full of the amount claimed to be due and owing, then upon demand of the owner or successor and the payment of a reasonable fee not to exceed Ten (\$10.00) Dollars, the board acting by any two (2) members shall execute and acknowledge and record in the Office of the County Recorder of Kern County, a Release of Lien stating the date of the original claim of such lien, the amount claimed, the date and page wherein the lien was recorded, the fact that the lien has been fully satisfied and that the particular lien is released and discharged. Such Release of Lien shall be delivered to the owner of his successors upon payment of the above stated fee.

(4) Other Means of Enforcement. The Board of Directors may enforce the payment of any delinquent assessment or installment thereof in any other manner permitted by law.

(5) Amendment. No amendment of this Section 6 shall be effective without the unanimous written consent of all the owners and the holders of the beneficial interest in any mortgage, contract or deed of trust then of record as a valid lien against said property or any part thereof.

7. AUDIT. Any owner may at any time and at his own expense cause an audit or inspection to be made of the books and records of the manager of the board. The board shall furnish all owners of the project with an independent annual report showing assets, liabilities, income and expenses within thirty (30) days from the completion thereof, or one hundred twenty (120) days from the class of each fiscal year adopted by the board, whichever shall first occur.

8. AMENDMENT. Except as otherwise provided herein, the provisions of these restrictions may be amended by instrument in writing, signed and acknowledged by record owners holding seventy-five (75%) percent of the total vote hereunder and the holders of all the beneficial interests in any trust, first mortgage or first deed of trust of record as a valid lien against the project or any part thereof, which amendment shall be effective upon recordation in the office of the County Recorder of Kern County, California.

In no case shall there be an amendment to these restrictions after any lot has been sold, unless such amendment is approved by at least fifty-one per cent (51%) of the lot owners without counting any unsold lots owned by the Declarant.

So long as no lots have been sold in the Tract, Declarant will not amend these Covenants, Conditions and Restrictions without first having had an obtained the consent of the Board of Supervisors of the County of Kern, California.

9. SUBDIVIDER'S GUARANTEE. The subdivider guarantee is as follows:

a. Should any lot owner be in default in the payment of any assessment as herein provided, prior to the sale of the majority of the lots within the subdivision then in such event, the Declarant shall pay to the Association any such delinquencies.

b. In addition thereto, the Declarant, shall pay all assessments which might be levied on the lots remaining unsold until sold.

10. CONVEYANCE OF NON-DEDICATED STREETS AND COMMON AREAS TO ASSOCIATION.

The non-dedicated and dedicated but not accepted streets, equestrian trails, open areas, drainage and water easements, and sewer sites and easements within the subdivision shall be conveyed to the Association by the Declarant, in fee simple, prior to the sale of any other lot within the subdivision to any purchaser. The Association is hereby granted the Power and Authority to dedicate or transfer all or any part of the non-dedicated and dedicated but not accepted streets and drainage and water easements, sewer easements and sewer sites to any public agency or authority for such purposes and subject to such conditions as may be agreed upon by the members of the Association, provided that no such dedication or transfer or determination as to the purposes or condition thereof, shall be effective unless:

a. There is recorded therewith an instrument signed by members of the Association, agreeing to such dedication, transfer, purpose or conditions, and,

b. Written notice of the proposed action is sent to every member at least seven (7) but not more than sixty (60) days prior to such action.

III WITNESS WHEREOF, the undersigned have executed this Declaration this 27th day of May, 1971.

THE BANK OF CALIFORNIA, NATIONAL  
ASSOCIATION, a National Bank  
Association, is Trustee.

BY:  

RECORDERS MEMO. POOR RECORDED REPRODUCTION DUE TO QUALITY OF PRINT OR TYPE ON ORIGINAL DOCUMENT.

TO ANY C (Corporation)

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STATE OF CALIFORNIA }  
COUNTY OF Los Angeles } SS.

On May 27, 1971 before me, the undersigned, a Notary Public in and for said State, personally appeared H. R. Billings known to me to be the Trust Officer ~~President~~ and C. J. Featherston known to me to be Asst. Trust Officer ~~Asst. Trust Officer~~ of the corporation that executed the within Instrument known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.  
Signature *Chilwanis*

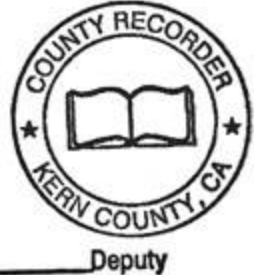
Name (Typed or Printed)



(This area for official notarial seal)

This is a true certified copy of the record if it bears the seal, imprinted in purple ink, of the recorder except that social security numbers contained in the record have been redacted.

FEB 11 2009  
JAMES W. FITCH, Assessor-Recorder  
Kern County California  
By *C. Ateland* Deputy



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