

# CASA LOMA CONDOMINIUMS

## DECLARATION

JUNE 2014













DECLARATION OF CASA LOMA CONDOMINIUM  
PURSUANT TO NEW MEXICO BUILDING UNIT OWNERSHIP ACT

THIS DECLARATION made and executed this 23 day of October, 1980 by Coyle Associates, Inc., a New Mexico corporation ("Declarant" hereinafter).

WITNESSETH:

WHEREAS, Declarant is the fee owner of a certain tract of land situate in the City of Las Cruces, County of Dona Ana, State of New Mexico, which land is more particularly described as follows:

Lots 3 and 4, Block 2, Majestic Hills Subdivision Number One, Las Cruces New Mexico as shown and designated on the plat thereof filed in the office of the County Clerk of Dona County, New Mexico in Plat Book 11 at Pages 14-15.

WHEREAS, Declarant desires and intends to create and establish, pursuant to the New Mexico Building Unit Ownership Act, Sections 47-7-1 et seq., N.M.S.A., 1978 Comp. ("Act" hereinafter), a plan of individual ownership of residential units to be constructed and located on and within the above-described real property, and a plan of common, undivided ownership of certain common areas and facilities within said real property, the entire condominium project to be known as the "Casa Loma Condominium".

WHEREAS, Declarant desires and intends to provide a plan for the management, maintenance and repair of building exteriors and common areas and facilities located on or within the Casa Loma condominium, and to insure to all owners of units the full benefit and enjoyment of a residence in an attractive, desirable community setting, and to provide for the harmonious, beneficial and proper use and conduct of the property and all units, and to promote and protect the cooperative aspect of the property within the Casa Loma Condominium for the purpose of enhancing and perfecting the value, desirability and attractiveness of said area.

NOW, THEREFORE, Declarants hereby declare that all units and common areas and facilities as are or are to be constructed on and within the Casa Loma Condominium are and shall be dedicated to the plan of ownership hereinafter expressed and in accordance with the Act, and that all said units and common areas and facilities shall be and are subject to the protective covenants, and conditions, restrictions, easements, charges and liens which shall run with the land in the Casa Loma Condominium and shall be binding upon all parties, persons or entities having an right, title and interest in the Casa Loma Condominium or any part thereof, including any unit or common areas or facilities, their heirs, assigns, transferees, successors, and personal representatives, and shall inure to the benefit of all said parties, persons and entities owning units in the Casa Loma Condominium.

1.

DEFINITIONS

Reference shall be made to the Act, where applicable, for definitions of the words and terms of this Declaration, except where such words and terms are hereinafter modified in whole or in part.

1.1. "Association" shall mean and refer to all of the unit owners acting as a group in accordance with this Declaration and the Bylaws of the Association, whether said Association shall be an unincorporated association, a non-profit corporation, or any other recognized legal entity.

1.2. "Board" shall mean and refer to the board of directors of the Association.

1.3. "Building(s)" shall mean and refer to a one- or two- story building or group of five (5) such buildings located on and within Casa Loma Condominium, and consisting of two (2), five (5), or six (6) Units, which buildings are or shall be constructed in separate phases as



described and located as shown on Exhibit A, which is attached hereto and is incorporated herein by reference.

1.4. “Common Areas and Facilities” shall mean and refer to all land within the Casa Loma Condominium, including, but not limited to, all lands upon which a Building is located, all landscaped and other garden areas including front and rear yards, and yard walls, walkways, drives, driveways, parking areas, stairways, and open spaces, subject to designation as “limited common areas facilities” in accordance with the Act, all as shown on Exhibit A, and the foundations, roofs, exterior main walls of a Building excepting therefore all doors, windows and air conditioners, all parts of interior walls of a Building excepting therefrom all areas, wiring, ducts, and other structures between the drywalls of contiguous Units, and all rock and block walls located as shown on Exhibit A.

1.5. Declaration” shall mean and refer to this Declaration of the Casa Loma Condominium together with all lawful amendments and addendums.

1.6. “Exterior Main Walls” shall mean and refer to any and all walls built as part of the original construction of the exterior or outside surface of a Building.

1.7. “Interior Walls” shall mean and refer to any and all walls built as part of the original construction of a Building which are not exterior main walls and which divide contiguous Units, said interior walls to be masonry party walls or stud walls.

1.8. “Unit” shall mean and refer to all such connected and interrelated rooms or enclosed spaces within a Building which are intended for individual-family residential use, which Units are more specifically described and located within Buildings as shown on Exhibit A, and which specifically include front and rear covered porches. The confines of individual units shall include all areas bounded by the upper surface of the concrete floor slab, or plywood

floor for second-story units, to the outside surface of the drywall ceiling, and from the outside surface of drywall walls, or the inside surface of masonry walls.

1.9. "Unit Owner" shall mean and refer to any and all persons owning a unit in fee simple absolute and an undivided interest in the fee simple estate of the common areas and facilities in the percentage established in this Declaration, including contract sellers, and shall expressly include Declaration as to all units shown on Exhibit A hereto, prior to the first sale of each thereof, whether or not such unit(s) yet be constructed.

2.

DESCRIPTIONS

2.1. Land and Address. A description of the land on which the Buildings and other improvements are or will be located is contained in the premises of this Declaration. The official mailing address of the Casa Loma Condominium shall be 2930 Claude Dove Drive, Las Cruces, New Mexico 88011.

2.2. Buildings. The Casa Loma Condominium shall have and include five (5) Buildings, consisting of one or two (2) stories each and having no basements. The Buildings will be constructed in separate phases and will be Spanish-style, wood frame, masonry block having concrete foundations and principally drywall partition walls. Roofs will be built-up roofing with some Spanish tile. The Buildings are designated on Exhibit A as A, B, C, D, and E, and will contain the respective number of units as follows: A (6 units), B (2 units), C (2 units), D (5units), and E (2 units).

2.3. Units. Each unit shall contain a living room, kitchen, dining area, closets, including a walk-in closet, a laundry-storage room, and other areas, and covered porch or porches, all as shown on the three (3) floor plans attached hereto as Exhibits



B and incorporated herein by reference. A- and B-type floor plans shall have two bedrooms, and C-type floor plans shall have one bedroom. C-type floor plans shall have one bath, and A- and B-type floor plans shall have one and one-half baths. A-type floor plans shall have one level, and B- and C-type floor plans shall have two levels. Units shall be numbered as shown on Exhibit A and will be the type floor plan also as shown on Exhibit A. The locations shown on Exhibit A. The location of each unit and common areas to which each unit has immediate access are also shown on Exhibit A. Declarants, or their authorized builder prior to first sale, and the unit owner thereafter shall have the right to change or modify small interior details of a unit provided that such change shall not alter the outside appearance of the unit or building, and shall not materially change the structural components of a unit or building in violation of paragraph 4.12, provided further that, a unit owner shall first acquire permission from the Board for such change or modification, which permission shall not be unreasonable withheld.

2.3a. Area. The Units shall each contain the following approximate squares footages: A-type floor plan – 1,000 square feet; B-type floor plan – 1,1500 square feet; and C-type floor plan – 900 square feet. Square footage shall be determined by measurement from the outside perimeter of walls.

2.3b. Value. The approximate values of the units, including the appurtenant undivided interest in the common areas and facilities, are as follows: A-type floor plan - \$38,000.00; B-type floor plan - \$42,000.00; and C-type floor plan - \$36,000.00. PROVIDED, HOWEVER, THAT nothing contained herein shall obligate Declarants or any subsequent unit owner to sell any unit for the value

assigned herein. The approximate value of the Casa Loma Condominium itself, including all units and appurtenant undivided interests in the common areas and facilities, is Six Hundred and Seventy-six Thousand Dollars (\$676, 000.00).

2.4. Common Areas and Facilities. The common areas and facilities are defined hereinabove and are described and located as shown on Exhibit A including the underlying land and foundations upon which the building are located. "Limited common areas and facilities" as that term is defined in the Act include parking areas, front and rear yards and yard walls, and walkways and stairways appurtenant to or reserved to the use of designated units, all as shown as Exhibit A.

### 3.

#### OWNERSHIP AND USE

3.1. Unit. Each unit owner shall be entitled to sole ownership and possession of his or her respective unit.

3.2. Common Areas and Facilities.

3.2a. Undivided Ownership. Each unit owner shall own for all purposes, including voting, a one-seventeenth (1/17<sup>th</sup>) or 5.88235% undivided interest in the common areas and facilities based upon the unit itself as a percentage of all the units in the Casa Loma Condominium in accordance with Section 47-7-12c, N.M.S.A., 1978 Comp. The undivided interests of each unit owner in the common areas and facilities as hereinabove expressed shall be permanent and shall not be altered without the consent of all of the unit owners in an amended declaration duly executed and recorded in accordance with the Act. The percentage of the undivided



interest in the common areas and facilities shall not be separated from the unit to which it is appurtenant and shall be deemed to be conveyed or encumbered with the unit even though not expressly mentioned or described in the conveyance or other instrument of transfer.

3.2b. Use. Each unit owner shall own his or her undivided interest in the common areas and facilities as a tenant in common with all other unit owners, and, except as otherwise limited or restricted in this Declaration, shall have the right to use the common area and facilities in accordance with the purpose for which such common areas and facilities are intended and incident to these and occupancy of the unit as a residence. The common areas and facilities shall remain undivided, and no unit owner or any other person shall bring any action for partition or division unless the Casa Loma Condominium has been duly removed from the provisions of the Act.

4.

COVENANTS AND RESTRICTIONS

4.1 Use. All units within the Casa Loma Condominium shall be used for private residential purposes only, except that the Declarant or their designated builder and/or realtor may maintain temporary real estate sales offices within model units. No unit shall be leased or rented by the unit owner for transient purposes which shall be defined as rental for any period less than three (3) months. Other than the foregoing provision, unit owners may lease their unit which lease shall be subject to the terms, covenants, and restrictions stated in this Declaration whether or not so stated in said lease. No manufacturing or commercial enterprise or enterprises of any kind shall be maintained on, in front of, or in connection with any unit or common area and facility

in the Casa Loma Condominium, except that home occupations may be permitted in accordance with the codes of the City of Las Cruces. There shall likewise not be permitted on or within the Casa Loma Condominium any fair, exhibition, festival, show or other activity that attracts or is intended to attract, direct, or collect large numbers of persons.

4.2 Maintenance. Except as hereinafter provided in paragraph 5.1c hereof, all units, including front and rear yards, covered porches and stairwells shall be maintained continuously by the respective unit owner in order to preserve the attractiveness, cleanliness and tidiness of said unit and areas. Rubbish, trash, garbage and other waste shall not be kept or stored except in clean and sanitary containers, which containers shall be kept in an enclosed area in the unit, except when placed in temporary pick-up areas or areas provided for and designated by the Association for garbage storage and pick-up.

4.3 Nuisances. No noxious or offensive activity shall be carried on within any unit or on any common area or facility, nor shall anything be done therein or thereon which may be or may become an annoyance or nuisance to the neighborhood, nor shall any property or thing be stored in any unit or on the common areas which is obnoxious to the eye, which emits foul or obnoxious odors, or which causes any noise that unreasonable disturbs the peace, quiet, comfort or serenity of the occupants of surrounding units.

4.4 Animals. No animal, livestock or poultry of any kind shall be raised, bred or kept in any unit or on the common areas, except that dogs, cats or other small domesticated pets may be kept, provided that they are not kept, bred or maintained in



unreasonable quantities or for any commercial purpose. Where allowed to be kept, all pets must be kept within an enclosed area within the owner's unit, or on the leash when outside the owner's unit, and provided subject to any applicable rules and regulations adopted by the Board.

4.5 Vehicles. All motorized vehicles shall be kept and parked in the designated parking areas, and shall not be driven within the Casa Loma Condominium except upon designated drives and driveways. No boats, campers, trailers, buses, recreational and similar vehicles and equipment shall be stored or parked within the Casa Loma Condominium for a period exceeding twenty-four (24) hours without the prior written consent of and, if given, in the location specified by the Board. Non-operable, derelict, or abandoned vehicles and equipment shall not be permitted to remain or be kept in any area in the Casa Loma Condominium.

4.6. Towers and Mechanical Equipment. No towers of any kind, including radio and television towers shall be erected, placed or permitted on any unit or common area. All private mechanical equipment and any other items kept by a unit owner shall be stored within his or her respective unit.

4.7. Games. No Archery, golfing, use firearms, baseball, football, or organized games or recreation shall be conducted within the Casa Loma Condominium.

4.8. Additional Structures. To temporary or permanent structure of any kind including, but not limited to, storage sheds, or similar structures shall be built around, onto or affixed to any unit or common area or facility.

4.9. Temporary Structures. No structure of a temporary character, trailer, mobile home, buses, vans or other vehicles not in use, tent, shack or garage shall be

placed or used upon any common area or facility, either temporarily or permanently, excepting such temporary structures as may be required during the period actual construction of a unit or building.

4.10. Signs. No billboards or advertising signs of any character or display for public view shall be erected, placed, permitted or maintained on any building unit, common area or facility except that one sign with a nameplate of the occupant of the unit shall be allowed, provided that said sign shall not exceed a size of one square foot, and further provided that signs used by Declarant and/or their designed builder and/or realtor to advertise the units during construction, sales and resale period shall be allowed.

4.11. Oil and Mining Operations. No oil and/or natural gas drilling, development operations or refining, quarrying, or mining operations of any kind shall be permitted within the Casa Loma Condominium.

4.12. Structural Alterations. No unit owner shall undertake any work which would jeopardize the soundness or safety of his unit, a building, or any common area without the unanimous consent of all the other unit owners. Structural alterations shall not be made by a unit owner to the building or in the water, gas or steam pipes, electric conduits plumbing or other fixtures connected therewith; nor shall a unit owner remove any additions, improvements, fixtures, or landscaping from a building or any common area without the prior, written consent of the Board of Directors.

4.13. Display. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or displayed on any part of the common areas and facilities.



4.14. Obstruction – Storage. No unit owner shall obstruct any common areas and facilities, nor shall anything be stored in the common area and facilities without the prior, written consent of the Board.

4.15. Dangerous Activity or Instrumentality. There shall be no activity or operation or storage of anything in any unit, building or common areas and facilities which endangers the health of any unit owner or members of his family, or endangers the safety and/or integrity of any unit, building, common areas and facilities, or the property of any unit owner within the Casa Loma Condominium, or which shall cause an increase in the cost or area and facilities within the Casa Loma Condominium.

4.16. Compliance. Each unit owner, and their family, tenants and guests shall comply strictly with the provisions of this Declaration, the covenants and restrictions stated herein, and the by-laws of the Association and any rules and regulations adopted by the Association. Failure to so comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Board on behalf of the Association or its other legal agent, or maintainable in a proper case by an aggrieved unit owner.

## 5.

### ADMINISTRATION

The administration of the Casa Loma Condominium shall be in accordance with the provisions of this Declaration and shall be vested in the Association acting by and through its Board pursuant to the by-laws of the

Association which are attached hereto as Exhibit C and are incorporated herein by reference.

5.1. Association.

5.1a. Membership. Each unit owner, including the Declarant for planned units prior to constructions and/or first sale thereof, shall, upon acquiring ownership of a unit within the Casa Loma Condominium, automatically become a member of the Association, and shall be governed by the by-laws and the rules and regulations of the Association.

Membership in the Association shall be appurtenant to and run with the ownership of a unit, and shall automatically cease upon cessation of ownership of a unit and pass to each unit owner's successors in title.

5.1b. Voting. Unit owners shall be entitled to voting rights in accordance with the apportionment of interest stated in paragraph 3.2a hereinabove, each unit owner, including the Declarant front and rear yards appurtenant to each unit which shall be the prior to construction and/or first sale of each planned unit. Multiple forms of ownership of any kind or nature shall not operate to increase any unit owner's proportionate vote, and all multiple owners, including spouses, shall exercise their proportionate vote among themselves or by written designation of the person authorized to cast the vote.

5.1c. Board. The actual direction, mangement and administration of the Casa Loma Condominium shall be exercised by the Board which shall be elected from and by the unit owners in the manner specified in the by-laws of the Association. The Board shall have all the duties and the powers as are allowed by law and are reasonable required to direct, manage, and administer the Casa Loma Condominium in accordance with the provisions of this



Declaration and the by-laws which duties are powers shall include, but not limited to, the following:

(1) assessment and collection of "common expenses" as that term as defined in the Act;

(2) acquisition and purchase of public damage and personal injury liability insurance policies in amounts to be determined by the Board insuring the Board, its agents and employees if any, and the unit owners against any liability to any persons arising out of the ownership and/or use of the common areas and facilities, including limited common areas and facilities;

(3) acquisition and purchase of fire and other extended coverage policies in amounts to be determined by the Board to protect against losses from fire and other hazards to the common areas and facilities, including limited common areas and facilities;

(4) Maintenance, repair, reconstruction, landscaping, gardening, painting, and refinishing of all common areas and facilities, including limited common areas and facilities, excepting front and rear yards appurtenant to each unit which shall be the primary responsibility of the unit owner, as the Board determines is reasonably required for the proper operation and maintenance of an attractive, valuable condominium complex, provided, however, that the duty imposed herein as to exterior main walls shall apply only to the exterior or outside surface of said walls, painting, refinishing, etc. of the interior of said exterior main walls to be the responsibility of the respective unit owner as is the responsibility for the maintenance, repairs and/or replacement of all glass surfaces, screens and screen doors, windows and hardware, and exterior doors and hardware.

(5) maintenance and repair of any unit if such maintenance and repair is, in the opinion of the Board, necessary to protect the common areas and facilities, buildings or units, and the unit owners of such unit have unreasonable failed or refused to perform such maintenance and repair within a reasonable time after receipt of written notification from the Board of the necessity of such maintenance and repair, provided that the Board shall levy a special unit assessment against such unit and unit owner(s) for the cost of such maintenance and repair, which assessment shall be made and enforced as hereinafter provided 5.2 hereof;

(6) discharge any mechanic's or materialman's lien or other encumbrance which, in the opinion of the Board, constitutes a lien against the Casa Loma Condominium and/or the common areas and facilities rather than merely against a unit owner's unit or his or her individual interest in the Casa Loma Condominium, provided that the Board shall levy a special unit assessment against the unit(s) and unit owner(s) responsible for the existence of such lien or encumbrance for the cost of discharging said lien or encumbrance, which assessment shall be made and enforced as hereinafter provided in paragraph 5.2 hereof;

(7) engage the services of any person(s) or firms(s) in furtherance of the Board's general duties and powers, including agreements for professional management of the Casa Loma Condominium, provided that any such agreements shall not exceed three years and shall provide for termination by either party without cause upon ninety (90) days' or less notice and without payment of any termination fee;

(8) enter any unit, by its agents or employees, from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any



common areas and facilities therein accessible therefrom, and for making emergency repairs or repairs in accordance with subparagraph (5) hereinabove necessary to prevent damage to the common areas and facilities or any unit;

(9) adopt rules and regulations for the use of the common areas and facilities; and

(10) do any and all other acts as are necessary to promote the health, safety and general welfare of unit owners and other residents of the Casa Loma Condominium.

5.1d. Limitations. The Board's powers hereinabove enumerated shall be limited in that the Board shall have no authority to acquire, purchase or otherwise contract for any one expenditure exceeding an amount equal to the amount of the preceding year's total annual assessment for all units as hereinafter provided, except for replacement or restoration of units and/or common areas and facilities in accordance with paragraph 6.7 hereof in which case said paragraph shall be controlling, without in each instance obtaining the prior approval of a majority of the votes of the unit owners.

5.2. Maintenance Assessments.

5.2a. Fund. Upon commencement of the annual assessments as hereinafter provided in paragraph 5.2b., the Board shall establish a fund to be used for the administration, maintenance, repair, replacement or improvement to common areas and facilities, including limited common areas and facilities, and units when applicable, and payment of all other common expenses of the Casa Loma Condominium including, but not limited to, insurance

premiums for coverage pursuant to paragraph 5.1c (2) and (3), water, sewage and trash pick-up, charges, and feeds for professional services, pursuant to the Board's powers and duties hereinabove expressed in paragraph 5.1c hereof, which fund shall be financed or funded by the assessments provided in paragraph 5.2d hereof, and managed in accordance with the by-laws, it expressly being recognized that said fund shall include an adequate reserve fund for the maintenance, repairs and/or replacement of the common areas and facilities funded from the annual assessments hereinafter provided in paragraph 5.2b. Prior to the commencement of said annual assessments, Declarant shall be responsible for all expenses and charges hereinabove expressed in this subparagraph.

5.2b. Annual Assessments. Each unit and unit owner shall be assessed annually in the amount to be determined by the Board for funding of the maintenance fund as hereinabove provided in paragraph 5.1a hereof including a reasonable operating reserve, subject to the limitations hereinafter expressed, which annual assessments shall commence as to each unit within a building on the first day of the month following the conveyance of one-half (1/2) of the units within each said building to a unit owner other than the Declarant, the amount of the first annual assessment to be adjusted according to the number of months remaining in the calendar year as a proportionate share of the amount of the first annual assessment hereinafter specified. The Board shall fix and give written notice to each unit owner of the amount of his or her annual assessment at least thirty (3) days prior to the beginning of the assessment period which shall be on a calendar year basis with the exception of the first annual assessment as hereinabove provided in this subparagraph. The annual assessment is due and payable as follows: (1) on or before the first day of January of each calendar year in the amount equal to ninety-five percent (95) of the annual assessment, except for the first annual assessment as



hereinabove provided which shall be due and payable in full within thirty (3) days from the date of written notice of the same, or (2) monthly in the amount equal to the amount of the full annual assessment divided by twelve (12) due on or before the first day of each month after the commencement of said assessments. In the event that the time for setting the annual assessments has begun and the Board has not yet been formed, or the Board otherwise fails to set an annual assessments, the amount of the annual assessment shall be \$300.00 due and payable in the manner hereinabove stated. The annual assessment may be increased over time by the Board but not at a rate in excess of the annual percentage increase in the Consumer Price Index, promulgated by the federal government for the nearest standard metropolitan area except upon an eleven seventeenths (11/17's) vote of the Association at a meeting called specially for said purpose in accordance with the by-laws.

5.2c. Special Assessments. In addition to the annual assessments and special unit assessments as hereinabove provided in paragraphs 5.2b and 5.1c(5) and (6) respectively, the Board may levy a special assessment, applicable only to the assessment year in which it is levied, for the purpose of defraying, in whole or in part, the costs of construction, reconstruction, repair or replacement of capital improvements, including paving, located on or within the common areas and facilities, provided that no such special assessment shall be levied except upon prior approval of an eleven seventeenths (11/17's) vote of the membership of the Association at a meeting specially called for said purpose in accordance with the by-laws.

5.2d. Lien and Personal Obligation. The Declarant hereby covenants, and each unit owner within the Casa Loma Condominium, by acceptance of a deed or other instrument of conveyance, whether or not so expressed in such deed or instrument, do and are deemed thereby to covenant and agree to pay all assessments levied by the Board, together with accrued interest

at the statutory rate, costs of suit and reasonable attorneys' fees incurred in the collection of such assessments, all of which sums shall be a charge upon each unit to which said sums are assessed, and shall be a continuing lien upon said unit until paid, and without affecting said lien, the personal obligation of the unit owner during the time such assessment or assessments became due. Further, in a voluntary conveyance, the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor's unit to the time of grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. However, any grantee shall be entitled to the statement from the Association setting forth the amount of the unpaid assessments against the grantor and the grantee shall not be liable, nor shall the unit conveyed be subject to a lien for any unpaid assessments against the grantor in excess of the amount set forth in the Association's statement to the grantee. Any first mortgagees of any unit in the Casa Loma Condominium shall, upon request, be entitled to written notification from the Association of any default in the respective unit owners' payment of any sums, assessments, funds or any other obligation imposed herein which has not been cured within sixty (60) days of the date of default.

5.2e. Priority and Enforcement. All unpaid assessments shall constitute a lien on the lien prior to all other liens except:

(1) tax liens on the unit in favor of any governmental assessing unit or special district; and

(2) all sums unpaid on a first mortgage of record. The lien may be foreclosed by suit by the Board, acting on behalf of the unit owners, in like manner as a foreclosure of mortgage or real property. In any foreclosure action, the unit owner shall be required to pay a reasonable rental for the unit during the period of said action, and the plaintiff

in the foreclosure shall be entitled to the appointment of a receiver to collect the rent paid. The Board, acting on behalf of the unit owners shall be the power to bid on the unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey. Suit to recover a money judgment for unpaid common expenses together with accrued interest and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. Where the mortgagee of a first mortgage of record or other purchaser of a unit obtains title to the unit as a result of foreclosure of mortgage, the acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the Board chargeable to the unit which became due prior to the acquisition of title to the unit by the acquirer. The unpaid assessments shall be collectible as common expenses from all the unit owners including the acquirer, his successors and assigns.

5.2f. Non-waiver. No unit owner may waive or otherwise avoid liability for any assessments provided for herein by waiver or non-use of the common areas and facilities or by abandonment of his

5.2g. Books of Receipt and Expenditures. The Board shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other common expenses incurred. The records and the vouchers authorizing payments shall be made available for examination by the unit owner at convenient hours of weekdays in accordance with the by-laws.

5.3 Utilities. Each unit shall have individual gas and electricity meters and the unit owner shall be responsible for the payment of said utilities. Water and sewage utilities charges shall be paid by the Association and assessed to each unit occupied by a person or



persons other than Declarant on a monthly basis, said charges to be equally apportioned among the units within the Casa Loma Condominium. There shall be rights of way in favor of utilities companies and other public officials for the purpose of the installation, maintenance, repair, replacement, and monitoring of all utilities in the Casa Loma Condominium. Monthly assessments for water and sewage charges shall be paid upon receipt by the unit owner and shall be collected and the subject of a lien in the same manner as provided in paragraphs 5.2d and 5.2e hereinabove.

5.4. Action for Damages. In addition to its powers and duties enumerated hereinabove, the Board may pursue all available remedies against parties responsible for any damage to the common areas and facilities for the reasonable costs of necessary repairs and/or replacements. In the event any such damages are caused by a unit owner, or his or her family members, guests, or tenants, and amount of said damages shall be the subject of a lien upon that unit owner's unit in the same manner as provided in paragraph 5.2d and 5.2e hereinabove.

## 6.

### GENERAL PROVISIONS

6.1. Agent for Service. The initial agent for service of process upon the Association is Thomas C. Coyle whose address is 2801 Missouri, Bonita Plaza, Suite #33, Las Cruces, New Mexico 88001. Successor agents for service of process shall be the President of the Association.

6.2 Interim Powers. Until the Board provided for in this Declaration and in the by-laws if formed, the Declarant shall exercise all duties, powers rights and functions of the Board.

6.3. Notice. Any notice required by the Declaration or the by-laws to be given to any unit owner may be addressed and mailed or otherwise delivered to the unit owner's unit or any other last known address of the unit owner. Upon written request to the Board and by authorization of the unit owner, the holder of any duly recorded mortgage on any unit shall receive a copy of all notices required under this Declaration or the by-laws.

6.4. Savings Clause. The invalidity of any covenant, restriction, condition, limitation, or any other provision of this Declaration, or any part thereof, shall not impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration.

6.5. Amendment and Revocation. This Declaration may be amended by an eleven seventeenth's (11/17's) vote of the membership of the Association at a meeting called for said purpose in accordance with the by-laws, PROVIDED, HOWEVER, THAT, each unit owner's undivided interest in the common areas and facilities shall not be amended in any manner, nor shall this Declaration be revoked as to any unit, building or common areas and facilities, thereby removing such unit, building or common areas and facilities from the plan of condominium ownership established herein and by the Act, UNLESS such amendment or revocation be approved unanimously by all unit owners and all holders of bona fide mortgages and liens against a unit or units, such approval to be signified by an instrument, duly recorded, setting forth the amendment and/or revocation and the sworn statement of the members of the Board that all unit owners and lien holders of record have agreed to said amendment and/or revocation.

6.6. Taxation. Pursuant to Section 47-7-23B, N.M.S.A., 1978 Comp., and by authority of their ownership of all units within the Casa Loma Condominium and paragraph 7.2 hereinabove, the Declarant elects that each unit and its appertaining percentage of undivided interest in the common areas and facilities shall be deemed to be a parcel and shall be subject to

separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law, including ad valorem levies and special assessments. All such taxes and any lien imposed by reason of nonpayment thereof shall relate only to the unit to which it is attached and not to the Casa Loma Condominium as a whole.

6.7. Damage or Destruction and Restoration of Buildings. In the event of damage to or destruction of all or part of a unit or units, the affected unit owner shall rebuild the unit within a reasonable time, said reconstruction to conform to the original construction of the unit as to size, design, shape, color, and materials and shall not be so rebuild as to detract from the appearance of the building or otherwise diminish the value of the remaining units in the building. In the event of total or substantial damage to or destruction of an entire building or buildings, then, upon the affirmative vote or eleven seventeenths (11/17's) of the membership of the Association at a meeting specially called for such purpose in accordance with the by-laws, the building or buildings shall be rebuilt, repaired, and/or restored, it being the obligation of each affected unit owner to repair, and restored his or her unit, and the Association to contribute to the rebuilding, repair, and restoration of all affected common areas and facilities. In the event that the required affirmation vote is not obtained, then the affected unit owners shall be released from their obligation to rebuild, repair and restore their unit, and shall be allowed to sell the affected building or buildings in accordance with their common agreement PROVIDED THAT such sale shall in no wise release the affected buildings or building sites from this Declaration and the plan of condominium ownership established herein.

6.8 Individual Insurance. Each unit owner shall purchase and obtain from a reputable insurance comp any duly authorized to do business in New Mexico fire and casualty insurance insuring his or her respective unit, which insurance shall be compatible with fire and other



casualty insurance obtained by the Board insuring common areas and facilities and which insurance shall be in an amount sufficient to satisfy the unit owner's respective mortgagee, if any, and which insurance shall, further, name the insured unit owner and the Association as insureds. The Association's interest in the insurance proceeds to guarantee the unit owner's obligation to apply said proceeds toward the rebuilding, repair, and/or restoration of his or her unit as hereinabove provided in paragraph 6.7 hereof.

6.9 Insured Loss; Condemnation. Nothing contained herein shall be construed to give any unit owner, or any other party, priority over any rights of a first mortgagee or any unit in the Casa Loma Condominium pursuant to said mortgage in case of a distribution to the respective unit owner of any insurance proceeds or condemnation awards for losses to or the taking of a unit and/or any common areas and facilities.

6.10 Failure to Enforce. No terms, obligations, covenants, conditions, restrictions, limitations, or other provisions of this Declaration or the by-laws shall be abrogated or waived by any failure to enforce the same, irrespective of the number of breaches or violations which may occur.

6.11 Incorporation. The Declarant, prior to the elections for the first Board, and the Board thereafter may, upon the affirmative vote of a majority of the unit owners, at any time hereafter, cause the formation of a New Mexico non-profit corporation for the purpose of facilitating the administration and operation of the Casa Loma Condominium, and in such event:

(a) each unit owner shall be a member of such corporation, which membership shall terminate upon the sale or other disposition by such member of his unit ownership, at which time the new unit owner shall automatically become a member therein;

(b) the by-laws attached to this Declaration shall be adopted as the by-laws of such corporation;

(c) the Articles of Incorporation and by-laws shall contain such terms not inconsistent with this Declaration, as the Declarants or the Board shall deem desirable;

(d) the name of such corporation shall be The Casa Loma Condominium Association, Inc. or a similar name.

6.12. Encroachments. No rights or obligations created hereunder or by any instrument of conveyance of any unit shall be altered or repaired by any encroachment or any part of the common areas and facilities upon any unit or limited common areas or facilities or any unit upon any common areas and facilities or other unit. In the event of such as encroachment, then a valid easement for the encroachment and maintenance of the same, as long as it continues, shall exist unless such encroachment shall be caused by the willful conduct of the encroaching unit owner. In the event any unit or other part of a building shall be partially or totally damaged or destroyed, and then repaired or rebuild , minor encroachments or any parts of the common areas and facilities due to repair or reconstruction shall be permitted, and valid easements for each encroachments and the maintenance of the same shall exist.

6.13. Reservation to Grant Easements. The Declarant reserves the right to grant, convey, cancel, relocate, and otherwise deal with any and all utility and other easements now or hereafter located on the common areas and facilities until completion of all units and buildings within the Casa Loma Condominium. Easements are hereby declared and granted for utility purposes, including the right to install, lay, maintain, repair and replace water main and pipes, sewer lines, gas lines, telephone wires and equipment, and electrical conduits, wires and equipment over, under, along and on any part of the common areas and facilities, which pipes,

wires, conduits, lines and other structural utility components serving more than one unit or serving or extending over, under or into the common areas and facilities, or any part thereof, shall be deemed a part of such common areas and facilities and no unit owner shall own the same except in accordance with his or her undivided interest in all common areas and facilities.

6.14. Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose or creating a uniform plan for the development and struction of an attractive, valuable condominium.

6.15. Changes or Modifications by Declarants. Prior to the election of the first Board, the Declarant shall have the right to change or modify any or all of the terms, restrictions, covenants, limitations and other provisions of this Declaration, including building and unit design and location, except the apportionment of undivided ownership provided hereinabove which changes or modifications shall be effective upon the recording thereof.

IN WITNESS WHEREOF, the undersigned has executed this Declaration of the day and year first above written by its authorized agent.

COYLE ASSOCIATES, INC.,  
a New Mexico corporation

By

Thomas Coyle  
Its President

STATE OF NEW MEXICO)

COUNTY OF DONA ANA )

) ss.

The foregoing instrument was acknowledged before me this 23 day of OCTOBER, 1980, by THOMAS COYLE, President of Coyle Associates, Inc., a New Mexico corporation, on behalf of said corporation.



OFFICIAL SEAL

Signature

DAVID L. COYLE

Notary Public

NOTARY PUBLIC-NEW MEXICO

NOTARY BOND FILED WITH SECRETARY OF STATE

My Commission Expires 4-19-83

My Commission Expires:

4-19-83



President of Coyle Associates, Inc., a New Mexico corporation,  
on behalf of said corporation.

NOTARY SEAL



OFFICIAL SEAL

Signature

DAVID L. COYLE

NOTARY PUBLIC - NEW MEXICO

Notary Public BOND FILED WITH SECRETARY OF STATE

My Commission Expires

4-19-83

My Commission Expires:

4-19-83

State of N. Mex., Co. of Dona Ana  
RECEPTION NO. 11236 I Hereby  
certify that this instrument was filed  
for record and duly recorded on:

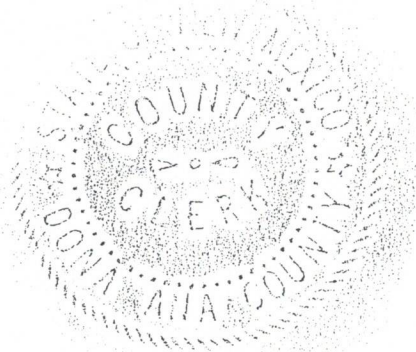
OCT 23 1980

at 1:19 o'clock P M in Misc  
Book 146 Page 81-849 of the  
records of said county.  
BY: Delia Garcia Barncastle County Clerk  
Delia Garcia Barncastle Deputy

DONA ANA COUNTY CLERK

OCT 23 PM 1 19

COUNTY CLERK SEAL



CLAUDE DOVE DRIVE

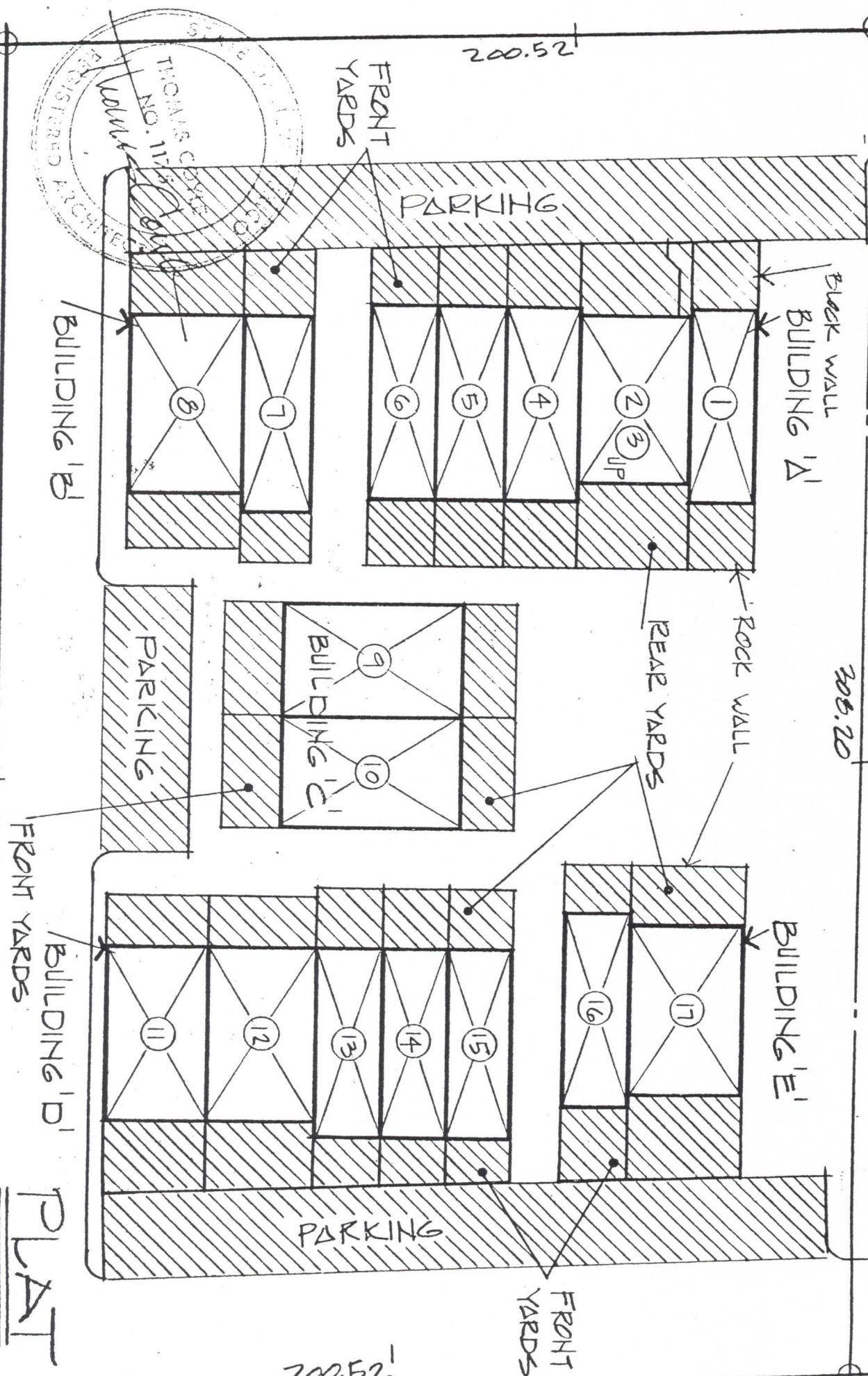


EXHIBIT "A"

Q21.

CSSA

## COMMON AREA

308.20

五十七

154

# Building

Black wall  
BUILDING 'A'

BUILDING

PARKING

FRONT  
YARDS

PEAR YARDS

FROTH  
YARDS

## PARKING

BULLOCK

FRONT YARDS

BUILDING

# PARKING

BULLOCK

305.20

200.52

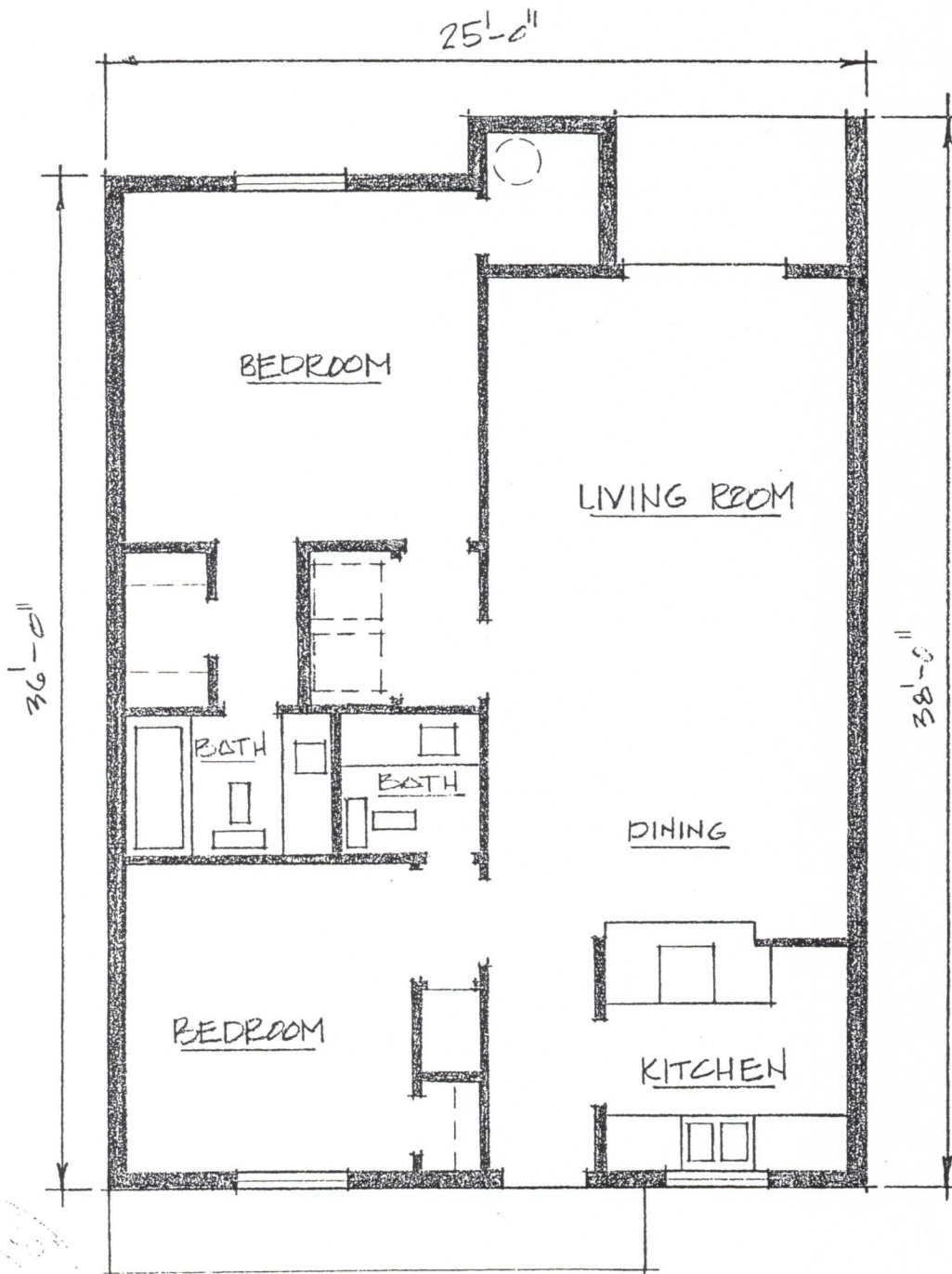
200.521

THOMAS C. COLE  
NO. 117  
JAN 10 1891

THOMAS C. COLE  
NO. 117  
JAN 10 1891

THOMAS C. COLE  
NO. 117  
JAN 10 1891

21



*Handwritten signature: Thomas C. ...*

NOTE:  
THIS PLAN IS TO  
BE USED AT UNITS  
2, 3, 8, 9, 10, 11, 12, & 17  
ON SITE PLAN OF  
EXHIBIT 'A'

EXHIBIT 'B'

UNIT A

DIMENSIONS APPROX.

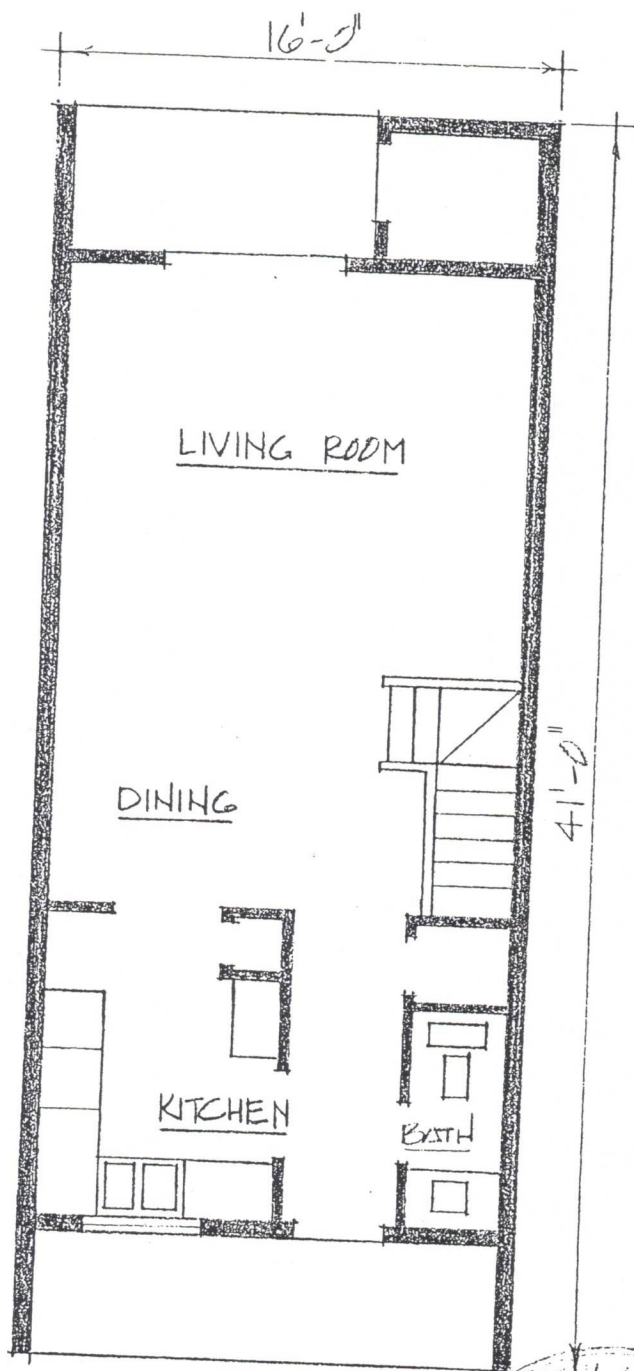
CASA LOMA

APPROX-1000 SQ FT

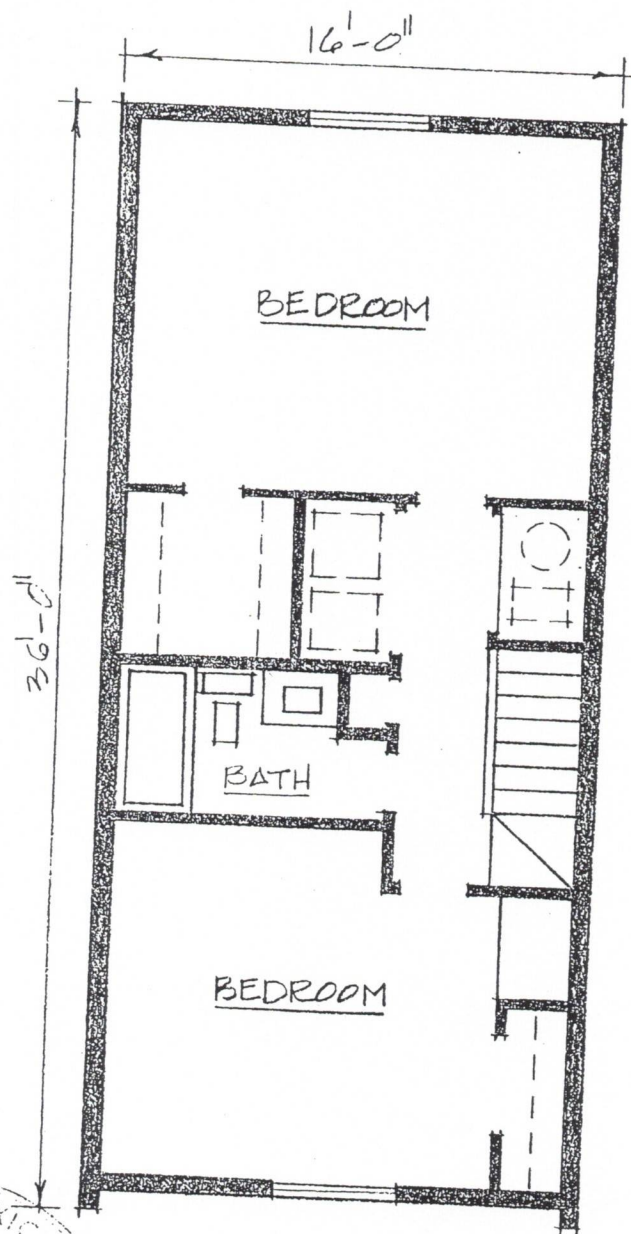
EXHIBIT B(1)

837

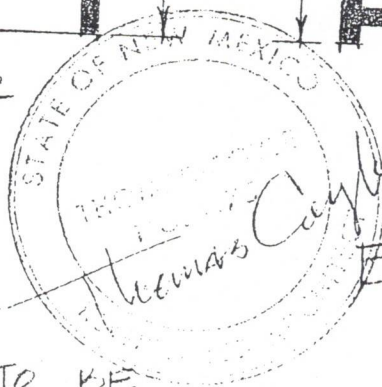




FIRST FLOOR



SECOND FLOOR



NOTE:  
THIS PLAN TO BE  
USED AT UNIT, 1, 4,  
5, 7, 13, 14, 15, & 16  
ON EXHIBIT 'A' SITE  
PLAN

EXHIBIT 'B'

UNIT B

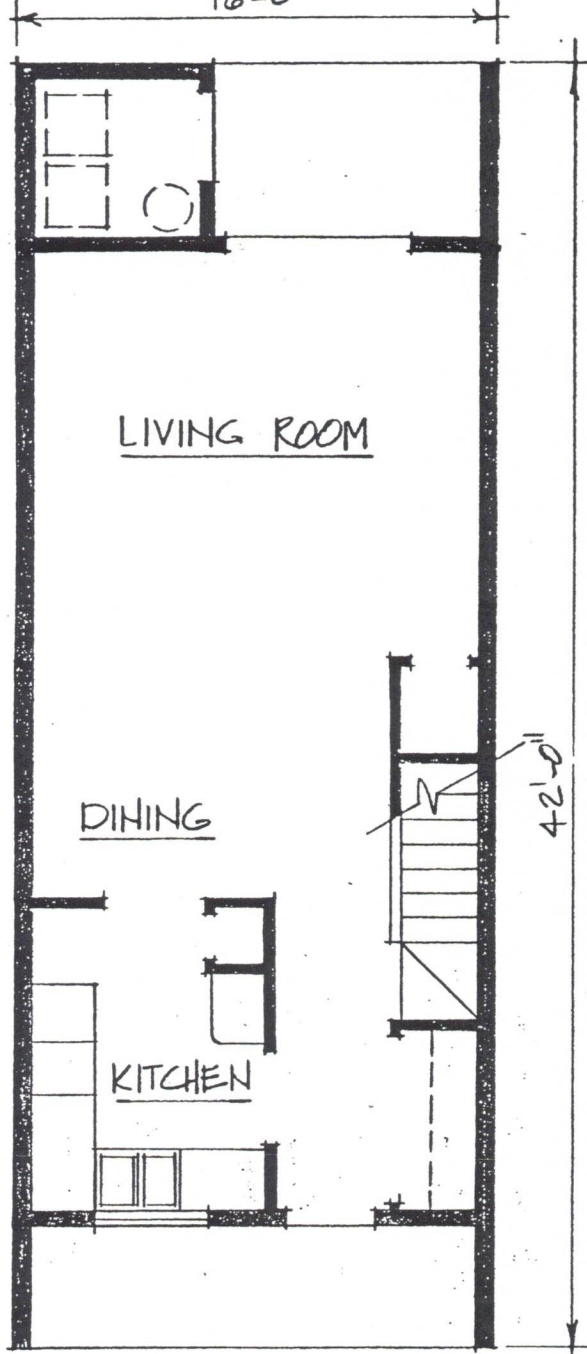
DIMENSIONS APPROX.

CASA LOMA  
APPROX 1150 SQ FT

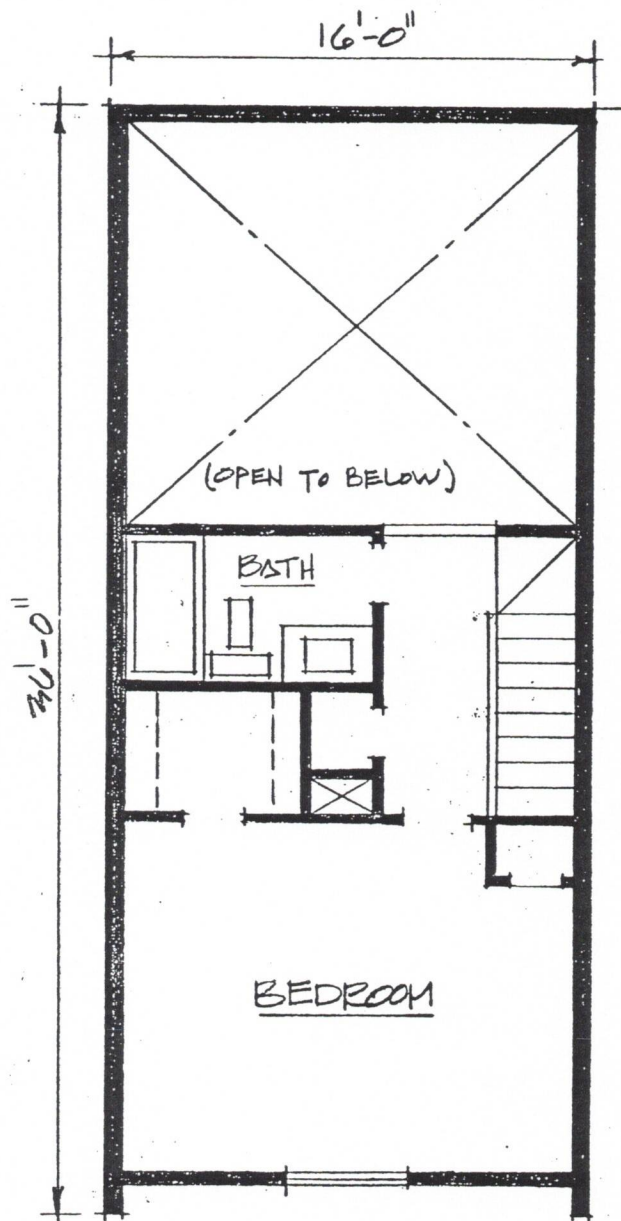
EXHIBIT "B(2)"

28

228



FIRST FLOOR



SECOND FLOOR

NOTE:

THIS PLAN IS TO BE  
USED AT UNIT C  
ON SITE PLAN OF  
EXHIBIT 'A'

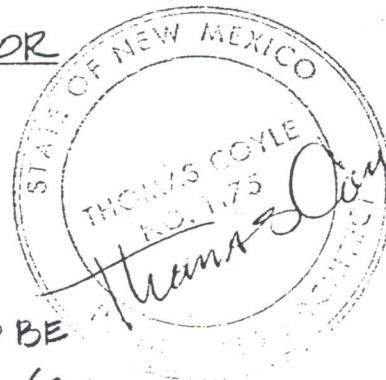


EXHIBIT 'B'

UNIT C

DIMENSIONS APPROX.

CASA LOMA  
APPROX 900 SQ FT

EXHIBIT "B(3)"

839

29