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RUSSELL SHIRTS & WASHINGTON CO RECORDER
2005 MAR 15 08:30 AM FEE $478.00 BY AMH
FOR: JENKINS & JENSEN

Recorded at the request of:
Padre Lakes Townhomes Association

Record against the Property described in Exhibit A

After Recording mail to:
~~Jenkins Jensen & Bayles, LLP~~
Attn: Bruce C. Jenkins
1240 East 100 South, Ste. 9
St. George, UT 84790

AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PADRE LAKES TOWNHOMES (rental restrictions)

This Amendment to the Declaration of Covenants, Conditions, and Restrictions of Padre Lakes Townhomes (rental restrictions) (this "Amendment"), amends the following: (i) Declaration of Covenants, Conditions, and Restrictions of Padre Lakes Townhomes, dated April 4,1994; recorded April 14,1994, as Entry No. 463799, in Book 811, beginning at Page 24 (the "Declaration"); (ii) any and all supplements or amendments to the Declaration prior to the date of this Amendment, whether or not such were recorded in the records of the Washington County Recorder. Specifically, this Amendment replaces and supercedes Article VIII, Section 14 of the Declaration. In the event of a conflict between the Declaration, the Bylaws or the Rules and Regulations for the Padre Lakes Townhomes Association, this Amendment shall control.

This Amendment is undertaken pursuant to Article XI of the Declaration, and was approved in writing by at least sixty-seven percent (67%) of all Owners.

Owners in the Padre Lakes Townhomes project were given notice of the requirements under Utah Code Ann. Section 16-6a-1607 for taking action without meetings. A true and correct copy of such notice is attached hereto and incorporated herein as Exhibit "B".

This Amendment shall take effect upon the date it is recorded in the records of the Washington County Recorder (the "Amendment Date").

ARTICLE VIII

Section 14. Lease Restrictions. Notwithstanding anything to the contrary contained in the Declaration, the leasing of any residence/Lot (hereinafter collectively referred to as a "Lot") within the Padre Lakes Development shall be governed by this Article VIII, Section 14, as amended hereby.

(a) IN ORDER TO INCREASE THE FUTURE AVAILABILITY OF

FINANCING FOR THE PURCHASE/SALE OF LOTS WITHIN THE PADRE LAKES DEVELOPMENT, TO PROMOTE THE AVAILABILITY OF INSURANCE FOR THE ASSOCIATION AT REASONABLE RATES, TO ATTEMPT TO MAXIMIZE THE PROPERTY VALUES WITHIN THE PADRE LAKES DEVELOPMENT, AND TO ~~PROMOTE A SENSE OF COMMUNITY BY AND THROUGH OWNER-~~ OCCUPANTS, FROM AND AFTER THE AMENDMENT DATE NO OWNER SHALL BE ABLE TO LEASE HIS LOT OR ANY PORTION THEREOF, EXCEPT AS SPECIFICALLY PROVIDED BELOW.

(b) Within forty-five (45) calendar days of the Amendment Date, each Owner who was leasing his Lot on the Amendment Date and who desires to continue to lease his Lot, must complete and execute the form attached hereto as Exhibit C (the "Notice of Intent to Continue Leasing"). An Owner who fails to timely deliver the Notice of Intent to Continue Leasing to the Board shall lose the right to lease the Owner's Lot, which lose of the right to lease shall be effective as of the time the current lessees of the Owner's Lot vacate the premises.

(c) Any Owner who timely returns to the Board a Notice of Intent to Continue Leasing, shall have the right to continue to Lease such Lot until the earlier of the following:

(i) The Lot becomes Owner-Occupied (as defined below), or

(ii) The Lot is sold.

For purposes hereof, a Lot shall be deemed "Owner-Occupied" upon the occurrence of any one of the following:

(i) The Owner or any member of his family occupies the Lot for a period of seven days or more;

(ii) Any person occupies the Lot with or without the consent of the Owner other than the lessee(s) under a lease complying with the terms of this Amendment; or

(iii) The Owner fails to advise the Board of the execution of the Lease and provide a copy thereof to the Board pursuant to the terms hereof.

(d) Notwithstanding anything to the contrary herein, if an Owner sells his Lot at a time when a Lease is in effect with respect to that Lot, the Lease shall continue to its termination. However, the purchaser of the Lot shall not have the right to lease the Lot after such purchaser takes title to the Lot, except for the remainder of the term of the Lease in place at the time of sale.

(e) An Owner in compliance with this Amendment may continue to lease his Lot even if the lessees change or the Lot remains unoccupied in between lease terms,

provided the Lot does not become Owner-Occupied at any time after the Amendment Date. An Owner must comply with all the covenants and conditions of this Amendment to be able to Lease his Lot

(f) A Lot which is being Leased by an Owner at the time of the Owner's death and is passed to the heirs of such Owner by intestacy or testamentary instrument, may continue to be Leased until the heirs sell the Lot or it becomes Owner-Occupied. The Lease then in place shall continue to its termination. However, the purchaser of the Lot shall not have the right to lease the Lot after such purchaser takes title to the Lot, except for the remainder of the term of the Lease in place at the time of sale.

(g) Any agreement for the leasing or rental of a Lot (hereafter referred to as a "Lease") shall be in writing and shall provide that the terms of such Lease shall be subject in all respects to the provisions of the Declaration, this Amendment, the Articles, the Bylaws, the Rules & Regulations and any other governing documents of the Association (collectively the "Governing Documents"). Any failure by the lessee to comply with the terms of the Governing Documents shall be a default under the Lease. Owners with the right to lease their lots shall be responsible for assuring compliance by such Owner's lessee(s) with the Governing Documents. Failure of an Owner to cure the lessee's default within fifteen (15) calendar days after receiving written notice from the Board of such default, shall entitle the Association, through the Board, to take any and all such action, including the institution of proceedings in unlawful detainer and/or eviction, on behalf of such Owner against his lessee.

(h) Immediately upon leasing his Lot, an Owner shall furnish the Board with (i) a copy of such Lease (with the lease amount redacted, if desired by the lessee or Owner), (ii) the telephone number of the lessee, and (iii) any change in the address or telephone number of the Lot Owner. As soon as practicable after receiving such notification that an Owner has leased his Lot, the Board may cause copies of the Governing Documents to be delivered to such lessee. (The Governing Documents shall be binding on the lessee whether or not the Board delivers the Governing Documents to the lessee). Failure by an Owner to provide the information in this subparagraph (h) shall be deemed a default hereunder by such Owner. In the event of a default under this subparagraph (h), the Board, after affording the Owner an opportunity to be heard, may levy a fine against such Owner in an amount determined by the Board, but in no event less than One Hundred Dollars ($100.00). The Owner shall have fifteen (15) calendar days after receiving written notice of default from the Board to either pay the fine or request a hearing before the Board. If the fine is not timely paid or a hearing requested or the Board finds the Owner in violation after a hearing, the Board shall be entitled to exercise all of its rights hereunder and under the law, including without limitation to (i) levy continuing fines against any Owner for each day the violation continues, each day being considered a separate violation, (ii) collect such fines, costs and attorney's fees incurred in connection therewith, and (iii) deem the Lot Owner-Occupied and terminate all further rights of the Owner to lease his Lot.

(i) No Lot shall be Leased for hotel or transient purposes. A Lease for a period of less than six (6) months shall be deemed to be for transient purposes. No Owner shall lease less than his entire Lot. Any Lease of a Lot shall be in writing and shall include an acknowledgment by the lessee of the applicability of all the Governing Documents. Copies of all Leases shall be provided to the Board for its records, as set forth above. Thereafter, the Owner shall have no right to lease the Lot.

(j) If, at any time after the Amendment Date, an Owner believes that a hardship is being endured (the "Hardship") pursuant to which such Owner needs to Lease said Owner's Lot, the Owner may apply to the Board for a Hardship exemption from the leasing restrictions contained in this Amendment. If an Owner decides to apply for a Hardship exemption, such Owner must take the following steps:

(i) The Owner must submit a request in writing to the Board requesting a Hardship exemption setting forth in detail the reasons why such Owner should be entitled to same.

(ii) The following three Hardship exemptions shall be deemed expressly approved for up to a maximum of one (1) year, with the opportunity to obtain not more than three (3) one year extensions upon application to and approval from the Board, provided the applicant provides proof of engagement in one or more of the following types of service for each application or extension:

1. Religious service;
2. Government service; and
3. Civic/Humanitarian service.

(iii) In addition to the foregoing exemptions set forth in subsection (ii) above, if based on the information supplied to the Board by the Owner, the Board finds, in its sole discretion, that a reasonable Hardship exists, the Board may grant a waiver of lease restrictions up to a maximum of one (1) year.

(iv) The types of Hardships that the Board may consider under subsection (iii) above, shall include, but not be limited to, Hardships for a death in the family, transfers for jobs, or one or more significant medical treatments for an Owner or an immediate family member of the Owner (such as a spouse or child) or for a person who resided with the Owner in the Owner's unit, that requires the Owner to be away from the Owner's unit during the medical treatment. The Board, in its sole discretions, may determine if a Hardship exemption shall be granted.

(v) In the event an Owner has been granted a Hardship exemption, such Owner must reapply within thirty (30) days of the expiration of such Hardship exemption, if such Owner wishes to request an extension thereof. The

Board, in its sole discretion, may decide if an extension for such Hardship exemption shall be granted. However, in no event shall the Hardship be extended beyond a period of three (3) years.

(vi) In no event shall more than three (3) Hardship exemptions, not including extensions, be given to an Owner.

(vii) Any Lease entered into under this Subsection (j) shall be in writing and for a period of no less than thirty (30) days, and no more than one (1) year. The Lease will be subject to and must comply with all other requirements of this Amendment.

(k) The Board shall have the right to lease any Association owned Lots or any Lot which the Association has possession of, pursuant to any court order or foreclosure (judicial or non-judicial), and said Lots shall not be subject to this Amendment.

(l) The intent of this Amendment is to provide that at some time after the Amendment Date there will ultimately be no Lots that are not Owner-Occupied and that all leasing of Lots within the Padre Lakes Development will ultimately be eliminated; subject to the right of an Owner to obtain a Hardship exemption.

(m) Any Owner who shall lease his Lot shall be responsible for assuring compliance by such Owner's lessee(s) with the Governing Documents. Failure by an Owner to take legal action, including the institution of proceedings in Unlawful Detainer and /or Eviction against the lessee in violation of the Governing Documents within fifteen (15) calendar days after receipt of written demand from the Board to take action against the lessee(s) in violation, shall entitle the Association, through the Board, to take any and all action available in law or equity, including without limitation the institution of proceedings in Unlawful Detainer/Eviction, on behalf of such Owner against his lessee. Additionally, if any Owner leases his Lot in violation of this Amendment, then after providing the Owner with the appropriate notice and hearing as required by law, the Owner fails to institute proceedings in Unlawful Detainer/Eviction against the lessee to have him removed from the Owner's Lot, then the Association may, but shall not have an obligation to, institute proceedings in Unlawful Detainer/Eviction on behalf of the Owner against the lessee to have the lessee evicted from the property. Any expenses incurred by the Association in enforcing this Amendment, including attorneys fees and costs of suit, shall be repaid to the Association by such Owner. Failure of such Owner to make such repayment within fifteen (15) days after receipt of written demand thereof, shall entitle the Board (i) to levy and add to the assessment against such Owner and his Lot, all expenses incurred by the Association and to foreclose the assessment lien according to Utah law; or (ii) to file suit to collect the amounts due and owing, or both. Each Owner hereby appoints the Association as its attorney in fact for the purposes of filing and prosecuting any proceeding in Unlawful Detainer/Eviction, that the Association elects to commence pursuant to the terms of this Amendment. This appointment of attorney is

coupled with an interest and is non-revocable.

(n) Notices required hereunder shall be deemed given three (3) days after placing the same in the U.S. First Class Mail, postage pre-paid.

IN WITNESS WHEREOF, on the 11th day of JANUARY, 2005, the President of the Association hereby represents that attached to this Amendment are the signed consents of not less than sixty-seven percent (67%) of all the Owners.

PADRE LAKES TOWHHOMES ASSOCIATION, a Utah nonprofit corporation

Ronald Rooney

By:
Its: President

Witnessed:

Beverly Baum

Secretary, Padre Lakes Townhomes Association

STATE OF UTAH,)
: ss.
County of Washington.)

On the 11 day of January, 2005, personally appeared before me Ronald Rooney, who being by me duly sworn, did say that he is the President of the Padre Lakes Townhomes Association, the authorized individual empowered to sign this Amendment and that the Amendment was signed on behalf of said Association and said person acknowledged to me that said Association authorized the execution of same.

Janice L. Austin

Notary Public

NOTARY PUBLIC
JANICE L AUSTIN
3311 S. BLOOMINGTON DR. W.
ST. GEORGE UT 84790
MY COMM EXP 04-05-08
STATE OF UTAH

EXHIBIT A

This Amendment to the Declaration of Covenants, Conditions and Restrictions of Padre Lakes Townhomes effects the following real property, all located in Washington County, State of Utah:

All of Lots 1 through 25, including any and all Common Area, as shown on the Official Plat for Padre Lakes Townhomes, Phase 1, according to the Official recorder of the Washington County Recorder; and

All of Lots 26 through 75, and 98 through 101, including any and all Common Area, as shown on the Official Plat for Padre Lakes Townhomes, Phase 2, according to the Official recorder of the Washington County Recorder; and

All of Lots 151 through 185, including any and all Common Area, as shown on the Official Plat for Padre Lakes Townhomes, Phase 3, according to the Official recorder of the Washington County Recorder; and

All of Lots 96 through 97, 102 through106, 128 through 135, 141 through 150, and 186 through 188, including any and all Common Area, as shown on the Official Plat for Padre Lakes Townhomes, Phase 4, according to the Official recorder of the Washington County Recorder; and

All of Lots 86 through 95, 107 through 111, and 136 through 140, including any and all Common Area, as shown on the Official Plat for Padre Lakes Townhomes, Phase 5, according to the Official recorder of the Washington County Recorder; and

All of Lots 77 through 85, 112 through 119, including any and all Common Area, as shown on the Official Plat for Padre Lakes Townhomes, Phase 6 according to the Official recorder of the Washington County Recorder; and

All of Lots 120 through 127 and 189 through 196, including any and all Common Area, as shown on the Official Plat for Padre Lakes Townhomes, Phase 7, according to the Official recorder of the Washington County Recorder.

EXHIBIT B

LEGAL NOTICE
FOR TAKING WRITTEN CONSENTS
WITHOUT A MEETING TO APPROVE THAT CERTAIN
AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS PADRE LAKES TOWNHOMES
(Leasing Restrictions)

The Declaration of Covenants, Conditions and Restrictions for Padre Lakes (the "Declaration") requires the taking of written consents of at least sixty-seven percent (67%) of all members to amend the Declaration and to adopt the Amendment to the Declaration of Covenants, Conditions and Restrictions Padre Lakes Townhomes relating to restrictions on leasing (the "Amendment").

Utah Code Ann. Section 16-6a-707 allows for the taking of written consents without a meeting of the members, provided the following are met:

1. The consents are signed by the number of members required to take the action if a meeting were held; in this instance sixty-seven percent (67%) of the members.

2. Unless 100% of the members sign a written consent, sixty-seven percent (67%) of the written consents must be obtained within a sixty (60) day period commencing on the date the first consent is executed.

3. The effective date of the Amendment will be the date the Amendment is recorded in the records of the Washington County Recorder.

4. Consents once given may only be revoked in a writing signed by the member(s) that references the Amendment, that states the member's prior written consent is revoked; and that is received by the Association prior to the expiration of the sixty (60) day period.

You are hereby given notice that if at least sixty-seven percent of the members consent in writing to the Amendment within the sixty (60) day period, that the Padre Lakes Townhomes Owners Association, through its Board, will immediately cause the Amendment to be recorded in the records of the Washington County Recorder.

A copy of the Amendment and Consent form are attached hereto and you have hereby been given notice that the enclosed Amendment has been provided to you more than ten (10) days in advance of the proposed effective date of the Amendment.

A copy of this Legal Notice has been attached as Exhibit B to the Amendment.

EXHIBIT C

NOTICE OF INTENT TO CONTINUE LEASING
(Padre Lakes)

TO ALL OWNERS: DATE: _____

That certain Amendment to the Declaration of Covenants, Conditions, and Restrictions of Padre Lakes Townhomes (rental restrictions) (the "Amendment") has been adopted the membership of Padre Lakes Townhomes Owners Association. Among other matters the Amendment prohibits leasing of Dwelling Units, subject to hardship exemptions and grandfathering Dwelling Units leased at the time the Amendment was approved and recorded in the records of the Washington County Recorder.

For those Owners seeking grandfathered status for the Dwelling Unit(s) owned by them which were leased at the time the Amendment was adopted you must return this completed form within forty-five (45) from the date of this NOTICE in the attached self-addressed envelope to the Association c/o Jensen Property Management, 590 E. St. George Blvd., St. George, Utah 84770. If you fail to do so your right to lease your Dwelling Unit(s) will lapse and terminate.

REGISTRATION INFORMATION

1. Names of Lessees

a. _____

b. _____

c. _____

d. _____

2. Telephone numbers of Lessee

a. Home: _____

b. Work: _____

c. Mobile: _____

3. Telephone numbers of Owner

a. Home: _____

b. Work: _____

c. Mobile: _____

4. Current address of Owner

_____

_____

_____

5. Copy of Lease: a true and correct copy of the lease must be attached. Each time there is a new lessee, Owner must provide a new copy of the lease.

I/We the Owners Lot(s) _____hereby verify that the above information is true, accurate and complete.

DATED this _____ day of _____, 200__.

(Sign) _____ (Sign) _____

(Print) _____ (Print) _____