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2020 MAY 20 AM 10:55

VICTORIA TANELL
SUPERIOR COURT CLERK

1 NANCY KNIGHT
2 1803 E. Lipan Circle
3 Fort Mohave, AZ 86426
4 (928) 768-1537
5 nancyknight@frontier.com

6 Plaintiff Pro Per

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

8 **IN AND FOR THE COUNTY OF MOHAVE**

9 NANCY KNIGHT,
10 Plaintiff,

11 vs.

12 GLEN LUDWIG AND PEARL LUDWIG,
13 TRUSTEES OF THE LUDWIG FAMILY
14 TRUST; FAIRWAY CONSTRUCTORS, INC.;
15 MEHDI AZARMI; JAMES B. ROBERTS
16 AND DONNA M. ROBERTS, HUSBAND
17 AND WIFE; JOHN DOES 1-10; JANE DOES
18 1-10; ABC CORPORATIONS 1-10; AND XYZ
19 PARTNERSHIPS 1-10.

20 Defendants.

CASE NO.: CV 2018-04003

21 **MOTION FOR RECONSIDERATION**
22 **OF DISMISSAL OF COUNT ONE**

23 **(Assigned to Hon. Judge Jantzen)**

24 COMES NOW Nancy Knight, Plaintiff Pro Per, pleading for the Court to
25 Reconsider Dismissal of Count One of her January 2018 Complaint. Judge Carlisle's
26 April 2018 decision was based on an assumption that alphabetically suffixed tracts were
27 separate subdivisions that will be proven inaccurate based on the language in Article I of
28 the CC&Rs. Judge Carlisle noticed the differentiated language of said tract and
subdivision and noted that the CC&Rs did not define subdivision. Plaintiff herein
provides the Court with real evidence as exhibits in the paper trail of the intent of Desert
Lakes Development L.P. in creating Subdivision Tract 4076 and in County Land Division

MOTION FOR RECONSIDERATION OF DISMISSAL OF COUNT ONE_MAY 2020 - 1



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1 Regulations that explains the alphabetical suffix for said tracts. The language in the
2 CC&Rs and conduct of CEO Frank Passantino, supports the Restatement (Third) on
3 Property that language should be interpreted to give effect to the intention of the parties.
4

5 Violations and attempted violations of setbacks are Count One causes of action in
6 this case. Additionally, indispensable parties, who are affected by the Declaration were
7 not joined and their legal rights are substantially affected by the determination of the
8 Court in the absence of reversal of dismissal of Count One.
9

10 **MEMORANDUM OF POINTS AND AUTHORITIES**

11 Supra Exhibits and new exhibits are included herein. From the Transcript of the
12 Carlisle Court's Ruling, page 3, line 25 through page 4, line 18: **Exhibit 1**
13

14 "The Codes, Covenants, and Restrictions for both
15 4076-A and 4076-B contain some similar language...
16 it was referenced in the Motion to Dismiss, and I
17 think both parties are aware of it...it says the
18 violation or threatened or attempted violation
19 of the Codes -- or the Covenants, Conditions or
20 Restrictions... shall be lawful for the Declarant,
21 its successors or assigns, or any person or persons
22 owning real property located within the subdivision
23 to prosecute proceedings at law or in equity against
24 all persons violating or attempting to violate.

25 So basically it's limited to all persons who -- or any
26 person owning real property located within the
27 subdivision. And within the CC&R's, and, again,
28 this started as a Motion to Dismiss, so I have to start
with the CC&R's. It doesn't necessarily define
subdivision, what is meant by subdivision."

For over two years the Plaintiff has been researching the definition of subdivision.

It has been shown to the Court that the subject subdivision, Tract 4076, was created in

1 1988 with an approved Preliminary Plat for four phases of development with a
2 Wordmark logo for the Subdivision. It has been shown to the Court that an alphabetical
3 suffix was attached to the subdivision tract name for the Final Plat for Phase I Tract
4 4076-A with the identical Wordmark logo and that a County Certificate is signed by three
5 officials based on the approved Preliminary Plat. It has been shown that the County Land
6 Division Regulation 3.8 establishes the nomenclature for Final Plats. **Exhibit 2.**
7

8
9 The definition of subdivision was known by all involved in the development of the
10 project, from the County who approved the Resolutions for Special Development Zoning
11 setbacks throughout the subdivision in 1989 (Res. 89-116) to the 1993 Resolution (Res.
12 93-122) that clarified the setbacks for all lots in the subdivision. **Exhibit 3.**
13

14 This 1993 clarification was intended to assure that even the 25 lots subdivided
15 from Parcel VV in 1990 (Res. 90-362) with a Final Plat to be identified as Tract 4076-E,
16 would have Special Development Residential Zoning setbacks of twenty feet, front and
17 rear. In 1991 the County revised the lot plan for a limit of 22 lots with a loop street design
18 and conditioned approval on abandonment of multifamily zoning and reversion of the
19 Parcel VV land to acreage (Res. 91-98, Res. 91-185, and Plat). **Exhibit 4.**
20

21
22 It has been shown to the Court that Defendant Azarmi's attempted violation of the
23 CC&Rs to reduce the approved Res. 93-122 twenty-foot setbacks to fifteen feet in 2016,
24 was for the entire Subdivision Tract 4076. The Board of Supervisor's Denial of Res.
25 2016-125 was recorded on October 13, 2016. **Exhibit 5.**
26
27
28

1 The only County entity that did not know the difference between the “subdivision”
2 and the Final Plat aka “said tract” was the Court.

3
4 It was argued by the Plaintiff, that the CC&Rs provide a provision for “...the
5 necessary grammatical changes required to make the provisions hereof apply...” Pursuant
6 to the 1988 approved Preliminary Plat that created Subdivision Tract 4076, it is this
7 definition of subdivision that “shall in all cases be assumed as though in each case fully
8 expressed”. As such, all persons owning property in the subdivision have rights to
9 prosecute violations of the CC&Rs in the subdivision as a whole. As taken from Tract
10 4076-A CC&R para. 21 (underscored below for emphasis): **Exhibit 6**

11
12
13 “The singular wherever used herein shall be construed
14 to mean the plural when applicable, and the necessary
15 grammatical changes required to make the provisions
16 hereof apply either to the corporations or individuals,
17 men or women, shall in all cases be assumed as though
18 in each case fully expressed.”

19 Court’s rely on the intent of CC&Rs in case rulings. The above CC&R provision
20 together with the County resolutions in this case, proves intent for setbacks in the entire
21 Subdivision Tract 4076. Not one “said tract” was intended to have less than twenty-foot
22 setbacks. Plaintiff should not be denied prosecution rights to enforcement under Count
23 One of her Complaint for the setback violations and the attempted violations by the
24 Defendants. Nor should the Plaintiff be denied prosecution of the Roberts for the
25 egregious actions to circumvent the Special Development Zoning setbacks approved by
26 the duly elected Board of Supervisors. Dismissal of Count One, due to the error in
27 defining alphabetically suffixed tracts as separate subdivisions in the CC&Rs also affects

1 the legal rights of indispensable parties who were not joined by the Defendants or the
2 Court in 2018.

3
4 *In Cundiff et al v Cox*, Arizona Appeals Court; CA-CV 15-0371 (2017).
5 The appeals court concluded “that the absent property owners are
6 necessary parties given the issue to be decided in this case” and
7 must be joined, and directed the trial court to “determine on remand
8 whether these parties are also indispensable under Rule 19(b),” Ariz.
9 R. Civ. P. Id at para 36.

10 “On remand, the trial court determined that the other property owners
11 subject to the Declaration were indispensable parties”. It was ordered
12 that the moving party serve and join all necessary and indispensable
13 parties. Page 5, Para. 13.

14 Plaintiff believes, that in the absence of a reversal of the dismissal of Count One,
15 the legal rights of all property owners subject to the Declaration and who are necessary
16 and indispensable parties, are substantially affected by the Court’s decision.

17 When entrance signs display the name of the subdivision as Desert Lakes Golf
18 Course and Estates, it is the expectation of buyers that they have purchased property in a
19 Master Planned Community. Both the home builder for the Plaintiff’s home, T&M
20 Development, and a partner in Desert Lakes Development L.P., Angelo Rinaldi, referred
21 to the subdivision as a master planned community in their Arizona Department of Real
22 Estate Public Reports. For clarity, it is the golf course that differentiates this project from
23 Desert Lakes Estates Tract 4152 which is situated on the east side of Mountain View and
24 north of Desert Lakes Golf Course and Estates Tract 4076-C. Plaintiff’s vested
25 expectation for property protection in her master planned community is the constant
26

1 reminder of her subdivision name at the street entrance to her home on Lipan Circle
2 “Desert Lakes Golf Course and Estates”. **Exhibit 7**

3
4 Judge Carlisle’s words in the Transcript from page 4, line 19 through page 5 line
5 24 shows how he came to the erroneous decision that the said tract was one-and-the-same
6 as the subdivision in the CC&Rs. Supra **Exhibit 1**. Key words underscored below for
7 emphasis.
8

9 “But when I’m looking at the CC&R’s, there are examples,
10 and I’m just going with the most obvious example because
11 it’s the easiest one to articulate. The first article talks about
12 a Committee of Architecture, and it says that there is created
13 a Committee of Architecture, and then it says at such time
14 that 90 percent of the lots within the subdivision have been
15 sold by Declarant, or within one year of the issuance of the
original public report, whichever occurs first, the owners of
such lots may elect three members to consist and serve on the
Committee of Architecture.

16 Imagine the confusion if owners of lots in each “said tract” phase of development
17 decided to elect three members to serve on Committees of Architecture. Actually, there
18 would only have been three possible committees based on the three Arizona Department
19 of Real Estate (ADRE) Public Reports for the four phases of development planned in the
20 1988 Preliminary Plat. Nonetheless, multiple Committees of Architecture was not the
21 intent of Article 1 and therefore it follows that the “subdivision” was the one and only
22 Subdivision Tract 4076.
23
24

25 Because Judge Carlisle did not have Arizona Statutes or County Subdivision
26 definitions nor County Land Division Regulation 3.8 for how subdivisions are formed
27 and how Final Plats are assigned names, the judge misinterpreted the intent and
28

1 differentiated language of Article I for the Committee of Architecture. The judge was
2 also not focused on the dates of the ADRE Public Reports for the four phases of
3 development. All four phases of development had a total of three Public Reports filed
4 with the ADRE within eight months of the first public report. **Exhibit 8.**

6 The next paragraph of Article I in the CC&Rs actually reads as follows for the
7 subject home in this case which is situated in Phase I Tract 4076-A:
8

9 “Notwithstanding anything hereinbefore stated, architectural
10 review and control shall be vested in the initial Architectural
11 Committee composed of ANGELO RINALDI, FRANK
12 PASSANTINO, AND STERLING VARNER until such time
13 as ninety percent (90%) of the lots in Tract 4076-A have been
14 sold by the Declarant, or within one year of the issuance of the
15 original public report, whichever occurs first. The initial address
16 of said committee shall be P.O. Box 6396, Mohave Valley, AZ
17 86440. Any and all vacancies during such period shall
18 be filled on designation by Desert Lakes Development L.P.” **Exhibit 9**

16 The language of the duties of the Architecture Committee was identical for “said
17 tract” 4076-B and “said tract” 4076-C with the exception that by December 1989 when
18 Tract 4076-B lots were expected to be put up for sale (ADRE Public Report dated
19 January 30, 1990), the address for the Committee changed to PO. Box 8858 Fort Mohave,
20 Arizona 86427. This P.O. Box is still active for Angelo Rinaldi. This is the address he
21 uses for his personal property tax statements as sent from the Mohave County Assessor’s
22 office.
23
24

25 Referring back to the Transcript, we see the foundation of the Court’s assumptions
26 that caused the dismissal error. The key words in the text that refutes the Court’s
27 assumptions, considering Arizona Statute subdivision definitions and County Land

28 MOTION FOR RECONSIDERATION OF DISMISSAL OF COUNT ONE_MAY 2020 - 7

1 Division Regulations, is underscored below for emphasis. Lines 12- 24 on page 5 of the
2 Transcript – Supra Exhibit 1.

3
4 “So when I look at that, it seems clear to me that the
5 intent of the Codes, Covenants, and Restrictions is to
6 define a subdivision as a tract. So a tract 4076-A is a
7 subdivision, Tract 4076-B is a subdivision for
8 purposes of the CC&R’s. And, again, that is what I am
9 focused on in my analysis is are the tracts the subdivision
10 or is the whole community a subdivision.”

11 “And when I read the CC&R's, there is -- it is a subdivision.
12 That's consistent with the fact that each tract has a different
13 final plat. It’s consistent with the fact that each of the tracts
14 have their own CC&R’s. So I am finding that the reference
15 to subdivision within the CC&R's is a reference to a
16 particular tract.”

17 In truth, the reference to “said tract” is for the conditions and restrictions for
18 specific lots in the subdivision. All lots in all “said tracts” had twenty-foot front and rear
19 setbacks. Some “said tract” lots required a frontage road. Some “said tract” lots had
20 different livable space conditions depending on whether the lots were adjacent to the golf
21 course or where in the subdivision the lots were situated. Some “said tract” lots had steel
22 rail side yard return fencing depending on whether these lots were adjacent to fairways.
23 This truth is also supported by the language and intent of Article I as stated above for
24 elections of Architecture Committee members in the “subdivision” as opposed to in the
25 “said tract”. Likewise, prosecution rights were for property owners in the “subdivision”
26 and not limited to property owners in a “said tract”. The differentiated language is
27 specific and meaningful.

1 The Architecture Committee had a life span of approximately 21 months. The
2 Committee was not a property owner for rights to prosecution of violations and attempted
3 violations. The deliberately planned short life span of the three Architectural Committee
4 members, according to the dates of the ADRE Public Reports for all four planned phases
5 of development, would have ended approximately on June 18, 1991. For those 21
6 months, the Architecture Committee only had a duty to “determine whether the
7 conditions in the Declaration were being followed”. (last line of Article I in all
8 Declarations – Supra **Exhibit 9**).

11 The ADRE Public Reports for Phase I, Tract 4076-A was filed on October 20,
12 1989. Phase IV on the Preliminary Plat was named Tract 4076-C with its ADRE Public
13 Report filed on June 18, 1990. According to the blocks and lots listed in the CC&Rs for
14 Tract 4076-B, it includes both Phase II and Phase III lots. **Exhibit 10**.

17 It was always the property owners in the “subdivision” that had the right to
18 prosecute violations and even had an implied duty to prevent violations in Subdivision
19 Tract 4076. Plaintiff is following the covenant for prosecuting setback violations and has
20 fulfilled her implied to duty to prevent the attempted violation of Defendant Azarmi’s
21 proposed Resolutions 2016-125 and 2016-126. The attempt to effectively nullify the
22 Special Development Residential zoning for twenty-foot setbacks, front and rear, was an
23 egregious attempt to involve the County in a despicable disregard for the work and
24 planning of CEO Frank Passantino of Desert Lakes Development L.P. Mr. Azarmi had no
25
26
27
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1 right whatsoever to attempt this action against the legal rights to twenty-foot setbacks in
2 the entire Desert Lakes Golf Course and Estates Subdivision Tract 4076. Supra Exhibit 5.

3
4 Mr. Passantino's Res. 93-122 setback clarification was applied for following his
5 work to subdivide Parcel VV as Tract 4076-E in 1990. This resolution was conditional on
6 a formal abandonment of the multifamily zoning and reverting of this land to acreage for
7 single family development in 1991. Clearly, the intent for all lots, including the 22 lots
8 for Tract 4076-E were supposed to have twenty-foot setbacks, front and rear. Defendant
9 Ludwig's engineering firm was a party to the setback violations that created 32 lots in the
10 re-subdivision of Parcel VV now known as Tract 4163 with ten-foot rear yard setbacks
11 throughout the said tract. **Exhibit 11.**

12
13
14 The intent of protection of the entire master planned subdivision would not serve
15 the long-term purpose of the CC&Rs if prosecution rights were limited to those who
16 owned property in an alphabetically suffixed tract. As quoted in *Citizens for Covenant*
17 *Compliance v. Anderson* P.2d 1314 (1995), as taken from the Arizona case of *Riley v.*
18 *Boyle*, "The uncertainty thus introduced into subdivision development would in many
19 cases circumvent any plan for the orderly and harmonious development of such
20 properties and result in a crazy-quilt pattern of uses frustrating the bargained-for
21 expectations of lot owners in the tract." (*Riley v. Boyle*, 6 Ariz. App. 523).

22
23
24 Plaintiff has a bargained-for vested expectation for orderly and harmonious
25 development in her Subdivision Tract 4076. Not everyone has the courage or ability to
26 take violation matters to a court of competent jurisdiction. Even if they had the courage
27

1 and ability, many, if not most property owners today, have no idea that CC&Rs were
2 recorded for Subdivision Tract 4076. This master planned subdivision has homes that
3 have been sold with the advertised claim of no HOA. This in turn has resulted in many
4 property owners believing that no CC&Rs exist. Escrow does not provide a copy of the
5 CC&Rs when homes are sold. Apparently, according to one real estate broker, when an
6 unimproved lot is sold, Escrow provides a copy of the CC&Rs. Anyone purchasing an
7 already built home has the disadvantage of not knowing they have enforcement rights.
8

9
10 **Exhibit 12.**

11
12 *Duffy v. Sunburst Farms E. Mut. Water & Agric. Co.*, 124 Ariz.
13 416, 604 P.2d 1124, 1127 (1979). “Words in a restrictive covenant
14 must be given their ordinary meaning, and the use of the words
within a restrictive covenant gives strong evidence of the
intended meaning”.

15
16 *Powell v Washburn*, 211 Ariz. 553, 125 P.3d 373 (2006). The
17 Supreme Court unanimously vacated the decision of the court of
18 appeals and affirmed the trial court’s judgment. In so holding, the
19 court adopted the approach of the Restatement (Third) of Property:
20 Servitudes (“Restatement”), which provides that [a] servitude
should be interpreted to give effect to the intention of the parties
ascertained from the language used in the instrument, or the
circumstances surrounding creation of the servitude, and to
carry out the purpose for which it was created.”

21
22 In *Continental Oil v Fennemore*, Supreme Court of Arizona,
23 May 27, 1931 38 Ariz. 277 (Ariz. 1931), the supreme court wrote:
24 “The policy of the courts of this state should be to protect the home
25 owners who have purchased lots relying upon, and have maintained
and abided by, restrictions, from the invasion of those who attempt
to break down these guaranties of home enjoyment under the claim
of business necessities.”

26 The intent for the servitude of twenty-foot setbacks in the entire subdivision and
27 the Defendants’ business interests for their “unlawful” dilapidated off-premises “Build to
28

1 Suit” advertising signs violates the CC&Rs and County Ordinances. Advertising on
2 unimproved lots is a Count One cause of action. **Exhibit 13.**

3
4 **CONCLUSION**

5 The Dismissal of Count One, based on an assumption that said tracts were separate
6 subdivisions was an error and violated the rights of every necessary and indispensable
7 property owner.

8
9 Plaintiff pleads with the Court to reverse the Dismissal of Count One of her
10 Complaint.

11 RESPECTFULLY SUBMITTED this 20th day of May, 2020.

12
13 
14 Nancy Knight,
15 Plaintiff Pro Per

16
17 COPY of the foregoing emailed on this 20th day of May, 2020 to:

18 djolaw@frontiernet.net

19
20 Attorney for Defendants

21 Daniel J. Oehler, Esq.
22 Law Offices of Daniel J. Oehler
23 2001 Highway 95, Suite 15
24 Bullhead City, Arizona 86442

1 **List of Exhibits**

- 2 Exhibit 1: Transcript pages 3-5 of Judge Carlisle's ruling.
- 3 Exhibit 2: 1988 approved Preliminary Plat for Subdivision Tract 4076 (2 pages);
- 4 Final Plat for Tract 4076-A, Phase I with the identical
- 5 Wordmark logo found on the 1988 Preliminary Plat and the
- 6 County Certificate; 2 pages
- 7 Land Use Regulation 3.8 for Final Plat alphabetically suffixed names.
- 8 Exhibit 3: Setback Resolutions: Res. 88-175 (2 pages) and Res. 93-122 (2 pages)
- 9 Exhibit 4: Parcel VV Resolutions 90-362 (7 pages), 91-98 (4 pages) and
- 10 91-185 (3 pages) for Tract 4076-E with abandonment of multifamily
- 11 zoning and reverting the land to acreage and plat of 22 lots with loop
- 12 street design.
- 13 Exhibit 5: Board of Supervisor's Denial of Mr. Azarmi's attempted setback
- 14 violations. Res. 2016-125 referencing Subdivision Tract 4076 and
- 15 Res. 93-122. (3 pages)
- 16 Exhibit 6: Grammatical change argument, CC&R Book 1554, Page 202
- 17 Exhibit 7: Photo of entrance sign at the corner of Lipan Blvd and Lipan Circle
- 18 Exhibit 8: ADRE Public Report dates for Tracts 4076-A, B, C. (3 pages)
- 19 Exhibit 9: Architectural Committee, CC&R Book 1554, Page 197-198 (2 pages)
- 20 Exhibit 10: Tract 4076-B CC&R list of blocks and lots in Phase II and Phase III
- 21 consisting of lots in Tract 4076-B, Tract 4132, Tract 4076-D, and
- 22 Tract 4163 for Parcel VV land.
- 23 Exhibit 11: Tract 4163 redesign of Parcel VV by Ludwig Engineering with a
- 24 cul-de-sac street and 32 lots with ten foot rear yard setbacks.
- 25 Exhibit 12: Home sales advertising No HOA and email conversation
- 26 with Real Estate Broker Gina Harris. (2 pages)
- 27 Exhibit 13: Photos of Defendant's Off-premises "Build to Suit" advertising.
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Exhibit 1: Transcript pages 3-5 of Judge Carlisle's ruling.

What is meant by subdivision was erroneously determined from
the language of Article I for the Architectural Committee
with references to the ADRE Public Reports.

1 LAKE HAVASU CITY, ARIZONA

2 MONDAY, APRIL 2, 2018

3 2:33 P.M.

4 * * * * *

5 (Whereupon, follows a partial transcript
6 requested by Mr. Oehler.)

7 THE COURT: All right. Well, I have to make a
8 decision. And, again, this was initially filed as a Motion to
9 Dismiss for Failure to State a Claim with the argument being
10 that pursuant to Rule 8 of the Arizona Rules of Civil
11 Procedure, that Ms. Knight didn't have the authority to bring a
12 claim.

13 So with respect to that, the Court has to look
14 at that narrow issue of does she have the authority to bring a
15 claim. And the basis for Ms. Knight having the authority to
16 bring a claim is the -- sorry, my judicial assistant just sent
17 me a note. The basis for Ms. Knight's claim is she is saying
18 because of the Codes, Covenants, and Restrictions, that she is
19 seeking to enforce those Codes, Covenants, and Restrictions,
20 and that is basically her way of saying I have the authority to
21 file this suit against somebody who lives in -- not directly
22 next to me or not near me, who is not immediately in proximity
23 to me, but is, I think, everybody agrees in a different tract
24 at least.

25 The Codes, Covenants, and Restrictions for both

MOHAVE COUNTY SUPERIOR COURT
LAKE HAVASU CITY, ARIZONA

1 4076-A and 4076-B contain some similar language, and I don't
2 know if I'll be able to read it on this monitor because it's
3 somewhat small, but it was referenced in the Motion to Dismiss,
4 and I think both parties are aware of it, and it's taking me a
5 really long time to get there, but it says the violation or
6 threatened or attempted violation of the Codes -- or the
7 Covenants, Conditions or Restrictions -- I think I might have
8 said it wrong -- shall be lawful for the Declarant, its
9 successors or assigns, or any person or persons owning real
10 property located within the subdivision to prosecute
11 proceedings at law or in equity against all persons violating
12 or attempting to violate.

13 So basically it's limited to all persons who --
14 or any person owning real property located within the
15 subdivision. And within the CC&R's, and, again, this started
16 as a Motion to Dismiss, so I have to start with the CC&R's. It
17 doesn't necessarily define subdivision, what is meant by
18 subdivision.

19 But when I'm looking at the CC&R's, there are
20 examples, and I'm just going with the most obvious example
21 because it's the easiest one to articulate. The first article
22 talks about a Committee of Architecture, and it says that there
23 is created a Committee of Architecture, and then it says at
24 such time that 90 percent of the lots within the subdivision
25 have been sold by Declarant, or within one year of the issuance

1 of the original public report, whichever occurs first, the
2 owners of such lots may elect three members to consist and
3 serve on the Committee of Architecture.

4 The next paragraph says notwithstanding anything
5 heretobefore stated -- maybe it's hereinbefore -- architectural
6 review shall be vested in the initial Architecture Committee.
7 And then it says until such time as 90 percent of the lots in
8 Tract 4076, and in this instance B, have been sold by
9 Declarant. And the ones for Tract 4076-A say the same thing,
10 until 90 percent of the lots in 4076-A have been sold by the
11 Declarant.

12 So when I look at that, it seems clear to me
13 that the intent of the Codes, Covenants, and Restrictions is to
14 define a subdivision as a tract. So a tract 4076-A is a
15 subdivision, Tract 4076-B is a subdivision for purposes of the
16 CC&R's. And, again, that is what I am focused on in my
17 analysis is are the tracts the subdivision or is the whole
18 community a subdivision.

19 And when I read the CC&R's, there is -- it is a
20 subdivision. That's consistent with the fact that each tract
21 has a different final plat. It's consistent with the fact that
22 each of the tracts have their own CC&R's. So I am finding that
23 the reference to subdivision within the CC&R's is a reference
24 to a particular tract.

25 There is no dispute -- there's no genuine of

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Exhibit 2: 1988 approved Preliminary Plat for Subdivision Tract 4076 (2 pages);

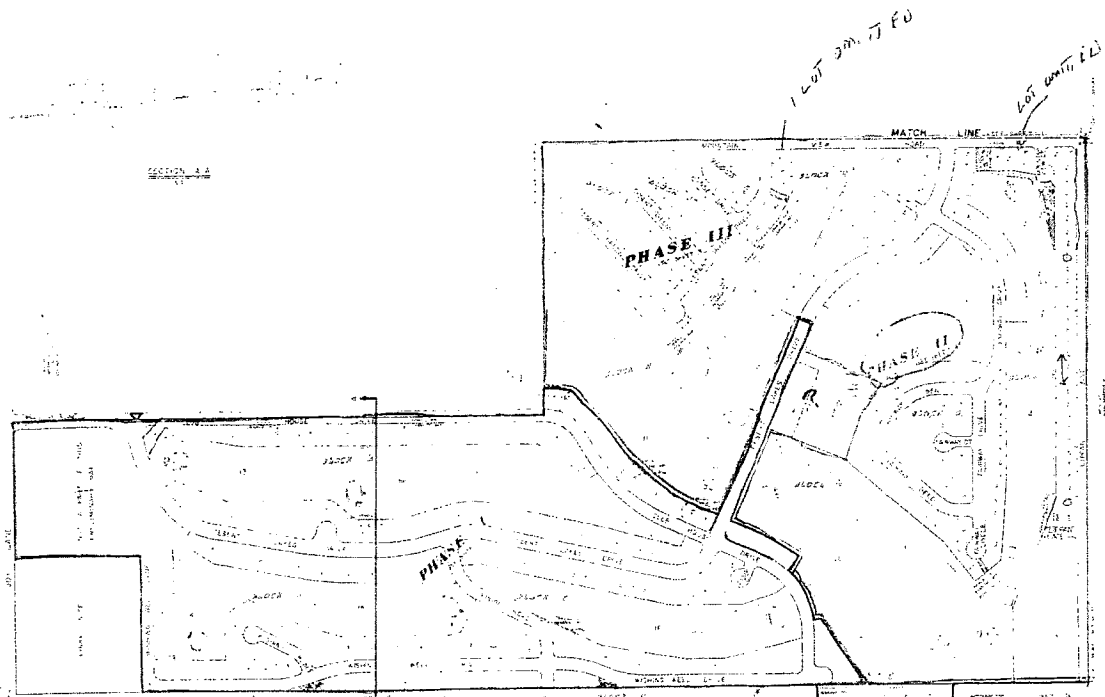
Final Plat for Tract 4076-A, Phase I with the identical
Wordmark logo found on the 1988 Preliminary Plat and the
County Certificate; (2 pages)

Land Use Regulation 3.8 for Final Plat alphabetically suffixed names.

2

TYPICAL CROSS SECTION

SECTION 3.8



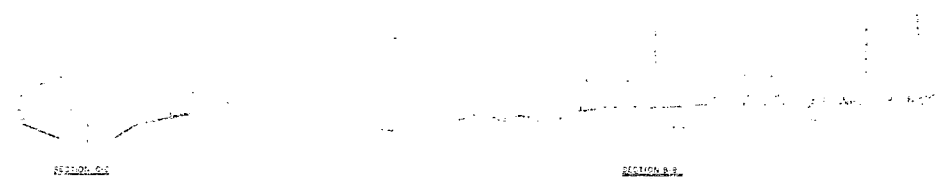
| | | | |
|-------------|------------|--------------|-----------------|
| DATE | 11/11/2011 | SCALE | AS SHOWN |
| DRAWN BY | SPC | PROJECT NO. | 11111111 |
| CHECKED BY | SPC | DATE | 11/11/2011 |
| APPROVED BY | SPC | PROJECT NAME | DEVELOPMENT MAP |
| DATE | 11/11/2011 | PROJECT NO. | 11111111 |
| DATE | 11/11/2011 | PROJECT NAME | DEVELOPMENT MAP |

SPC Survey, Drafting, Consulting
INCORPORATED
REGISTERED PROFESSIONAL ENGINEER
REGISTERED PROFESSIONAL LAND SURVEYOR
REGISTERED PROFESSIONAL ARCHITECT

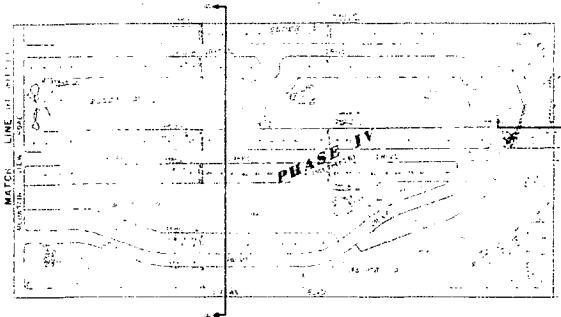
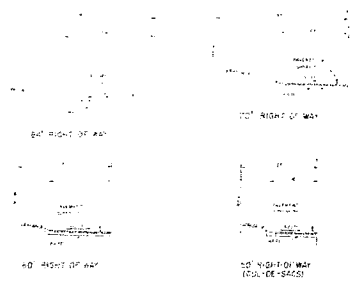
DEVELOPMENT MAP

LOCATION MAP

TYPICAL CROSS SECTION



TYPICAL STREET 1/2 SECTION



LOCATION MAP



| | | | | |
|--|-----|---------------------------|-----|-------|
| DATE | NO. | BY | FOR | SCALE |
| | | | | |
| SPC | | State Planning Commission | | |
| PRELIMINARY | | MAP | | |
| DESIGN LINES ONLY SOURCE OF ESTATES | | | | |

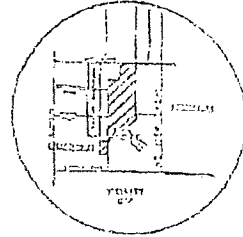
FINAL PLAT

2

DESERT LAKES GOLF COURSE and ESTATES

PHASE I TRACT 4076-A

SITUATED IN SECTION 35
T.19N., R.22W., G.8S.R.B. & M.
MOHAVE COUNTY, ARIZONA



SURVEYORS' CERTIFICATE

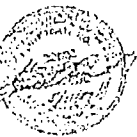
THIS IS TO CERTIFY THAT THE BOUNDARY SURVEY OF THE ABOVE DESCRIBED SUBDIVISION WAS MADE UNDER MY DIRECTION AND SUPERVISION AND IS ACCURATELY REPRESENTED ON THIS PLAT.



BY [Signature]
DATE 5/15/20

ENGINEERS' CERTIFICATE

THIS IS TO CERTIFY THAT THE DESIGN OF THE ABOVE DESCRIBED SUBDIVISION WAS MADE UNDER MY DIRECTION AND SUPERVISION AND IS ACCURATELY REPRESENTED ON THIS PLAT.



BY [Signature]
STURM K. POWELL, P.E., 22006
DATE 5/15/20

PARCEL DESIGNATION

| PARCEL | TYPE | DESCRIPTION |
|--------|------|----------------------------|
| A-A | I | REARAGE EASEMENT |
| B-B | I | FRONTAGE EASEMENT |
| C-C | I | REARAGE EASEMENT |
| D-D | I | EASEMENT |
| E-E | I | EASEMENT & WELL SITE |
| F-F | I | SEWER TREATMENT PLANT SITE |
| G-G | I | GOLF COURSE, P.U.E. & D.E. |
| H-H | I | GOLF COURSE, P.U.E. & D.E. |
| I-I | I | GOLF COURSE, P.U.E. & D.E. |
| J-J | I | DRIVE WAY, ACCESS & P.U.E. |
| K | I | STORAGE EASEMENT |
| L | I | FRONTAGE EASEMENT |
| M | I | DRIVE WAY, ACCESS & P.U.E. |
| N | I | DRIVE WAY, ACCESS & P.U.E. |
| O-O | I | PARKING LOT |
| P-P | I | CLUBHOUSE |

LEGEND

- SET 2" BRASS ORIC. NAIL SETTS
- FOUND NEAREST PER A/C D.E. P.O. 2012
- ① MINOR FINISHED FLOOR ELEVATION
- ALL FC ELEVATIONS SHALL BE INCREASED 10000 FC
- ALL LOT CORNER MONUMENTS W/ 20" MEDIA W/ 10" IRONED 2012

BENCHMARKS

- 1 CALADAD SPRING SET PLUSH AT N. 1/2" CORNER, ELEV. 523.00 4007 DATUM
- 2" AT N.E. CORNER 10' 12" CONCRETE WELL CAP, ELEV. 544.97 4007 DATUM

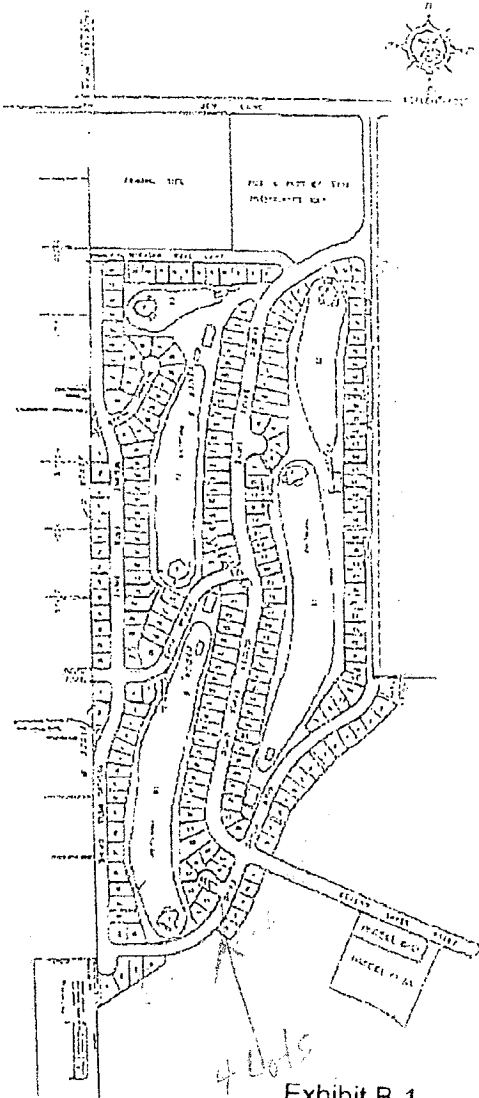


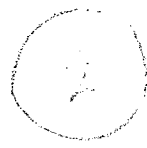
Exhibit B-1

[Signature]
SURVEYOR

ENGINEER, A. SURVEYOR

SPC

4076-A
B-70-4132
11-3-21



Final Plat

3.8 Final Plat

A. Purpose.

The final plat serves as the legal document that, upon recordation, establishes the official survey and platting of a subdivision. The final plat shall include all detail necessary to accurately and completely establish the lots, parcels, rights-of-way, easements, common areas, street names and numbering, dimensions, bearings, and monumentation of all elements included in the subdivision design, and shall also effect the dedication of any public roadways or parcels, any private roadways or parcels, and the granting of any easements.

B. Final Plat Processing.

1. The initial submittal of a Final Plat of a subdivision, or Final Plats for phases thereof, and corrected Final Plats, must be submitted for processing within six (6) years following the approval of a preliminary plat by the Board of Supervisors. Additional extensions of time to submit the initial or corrected Final Plats will be based on the Approved Preliminary Plat period of approval, as it may be extended. This Paragraph does not apply to Type II, Condominium or Commercial subdivisions.
2. Final Plats shall be prepared by or under the direction and supervision of the project surveyor and project engineer, and shall be issued under their seals and signatures.
3. The layout and design of the subdivision final plat shall substantially conform to the approved preliminary plat. These may include the correction of dimensions, bearings, and other technical information; the addition to or the deletion from the plat of minor easements; or other similar minor adjustments, which in the determination of the Director do not adversely impact or materially affect the subdivision design.
- 4. For each proposed phase in an approved preliminary plat (tract), a separate final plat must be submitted for review and processing.
5. A final plat shall be submitted for each proposed phase. Each subdivision phase must be able to function independently when constructed according to the Land Division Regulations. Each subdivision phase shall be identified by an alphabetical suffix starting with the letter "A," and with each final plat using the basic, assigned tract number. Sub-phasing of subdivisions (and any submittal component thereof), e.g., "Tract 1234-A1," is prohibited by these regulations.
6. The final plat shall be prepared in accordance with these regulations and any other applicable regulation, ordinance, state, or federal law.

page 37 per the County
file name.

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Exhibit 3: Setback Resolutions: Res. 88-175 (2 pages) and Res. 93-122 (2 pages)

County Special Development/Residential Zoning setbacks
conformed to the CC&Rs

RESOLUTION NO. 89-116

BOS
7/2

A RESOLUTION REZONING A PORTION OF E4 SECTION 35, AND A PORTION OF THE SE4 OF SECTION 36, TOWNSHIP 19 NORTH, RANGE 22 WEST, TO BE KNOWN AND SUBDIVIDED AS DESERT LAKES GOLF COURSE AND ESTATES, TENTATIVE TRACT 4076, FROM: R-O (SINGLE FAMILY RESIDENTIAL/MOBILE HOMES PROHIBITED) AND R-M (MULTIPLE FAMILY RESIDENTIAL) ZONES, PROPOSED TO BE: S-D/R (SPECIAL DEVELOPMENT/RESIDENTIAL) AND S-D/C (SPECIAL DEVELOPMENT/COMMERCIAL) ZONE, LOCATED IN THE SOUTH MOHAVE VALLEY AREA, MOHAVE COUNTY, ARIZONA

WHEREAS, at the regular meeting of the Mohave County Board of Supervisors held on December 4, 1989, a public hearing was conducted to determine whether approval should be granted to Frank Passantino, C.E.O., Desert Lakes, Fort Mojave, Arizona for a rezone from existing R-O (Single Family Residential/Mobile Homes Prohibited) and R-M (Multiple Family Residential) zones, to S-D (Special Development) zone, and

WHEREAS, a public hearing before the Mohave County Planning and Zoning Commission on November 8, 1989 did generate a recommendation of approval of this request with the following condition noted:

1. The owner accepts that whenever a S-D zone is granted, each phase or stage of development or building proposals shall be submitted to the Planning staff, to be evaluated and compared with the approved zoning plan before any permits may be granted;
2. Any significant change (as determined by the Planning Director, appealable to the Planning Commission) in the approved zoning plan shall require a rehearing on the change before the Commission, with a final determination to be made by the Board;
3. Staff will maintain the most current approved ZONING PLAN on file in the master zoning folder for reviews;
4. Such change shall not be effective for at least thirty (30) days after final approval of the change in classification by the Board, being January 3, 1990, as per A.R.S. 11-829E;

and

WHEREAS, this request by the owners comes after the first phase of the development has been sold and construction needed to commence. The CC&R's presented set the rear yard setbacks at twenty (20') feet when zoning for a R-O zone states twenty-five (25') feet and although public hearings identified commercial development, i.e., Club House with associated facilities and a golf course, and the resolutions identified the same, there was

not a tool presented through zoning that would address this overall development. Staff represents that the Mohave County Zoning Regulations did allow for this type of development through the Special Development Zone; thus the proposal before the Planning and Zoning Commission to properly address this development. There is no significant change from the original proposal from the owner. The owner accepts that whenever an S-D zone is granted, each phase or stage of development or building proposals shall be submitted to the planning staff, to be evaluated and compared with the original plan before any permits may be granted. Any significant change in the approved plan shall require a rehearing before the Commission and Board for reapproval, and

WHEREAS, the notice of hearing was published in the Mohave Daily Miner, a newspaper of general circulation in Kingman, Mohave County, Arizona on November 15, 1989, and posted on November 14, 1989 as required by the Arizona Revised Statutes and the Mohave County Zoning Regulations, and

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors, at their regular meeting on Monday, December 4, 1989 approved this change in zoning as recommended by the Mohave County Planning and Zoning Commission, as outlined herein.

MOHAVE COUNTY BOARD OF SUPERVISORS

Becky Foster
 BECKY FOSTER, CHAIRMAN

ATTEST:

Pat Chastain
 Pat Chastain, Clerk

INDEX MISCELLANEOUS
 PROOFED
 REC # 89-66260 MICROFILMED



RECORDED IN OFFICIAL RECORDS
 OF MOHAVE COUNTY, ARIZONA
 DEC 11 '89 - 2 15 PM
 Jane McLean, County Recorder
 FEE *NO* PGS *272*

36
MICROFILMED

INDEXED 2] 5



93- 24565 BK 2214 PG 976
OFFICIAL RECORDS OF MOHAVE COUNTY AZ.
JOAN McCALL, MOHAVE COUNTY RECORDER
05/05/93 3:30 P.H. PAGE 1 OF 2
MOHAVE COUNTY BOARD OF SUPERVISORS
RECORDING FEE 0.00 NC

RESOLUTION NO. 93-122

RESOLUTION SETTING FORTH THE APPROVAL OF AN AMENDMENTS TO CLARIFY REZONING RESOLUTIONS THAT ESTABLISHED SD/R (SPECIAL DEVELOPMENT/RESIDENTIAL) ZONING FOR DESERT LAKES SUBDIVISION TRACT 4076 BY INCLUDING SPECIFIC SETBACK REQUIREMENTS FOR ALL LOTS, LOCATED IN THE SOUTH MOHAVE VALLEY, MOHAVE COUNTY, ARIZONA.

WHEREAS, at the regular meeting of the Mohave County Board of Supervisors held on May 3, 1993, a public hearing was conducted to determine the approval of the an amendment to clarify rezoning resolution that established SD/R (Special development/Residential) Zoning for Desert Lakes, Tract 4076 subdivision by including specific setback requirements for all lots, located in the South Mohave Valley area, and

WHEREAS, the Board of Supervisors Resolution Number 89-116 established the SD/R (Special Development/Residential) rezoning, and

WHEREAS, in the body of the rezone resolution it states in part "The CC&R's presented set the rear yard setbacks at twenty (20') feet when zoning for a R-0 states twenty-five (25') feet...", and

WHEREAS, Article six (6) in part "All buildings and projections thereof on lots not adjacent to the golf course being,..., shall be constructed not less than twenty (20') feet back from the front and rear property lines and five (5') feet from side property lines."

WHEREAS, at the public hearing before the Mohave County Planning and Zoning Commission on April 14, 1993 the Commission recommend conditional APPROVAL of the requested amendment with the applicant understanding and accepting the following conditions:

1. That the setbacks shall be not less than twenty (20') feet back from the front and rear property lines and five (5') feet from side property lines.
2. That all conditions of BOS Resolution Number 89-116 be met.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Board of Supervisors, at their regular meeting on Monday, May 3, 1993

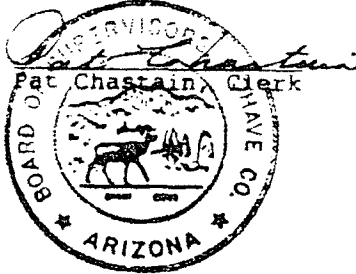
Resolution No. 94-122

Page 2

approved this Amendment to clarify zoning resolutions that established SD R (Special Development Residential) zoning for DESERT LAKES subdivision, Tract 4076 by including specific setback requirements for all lots, as outlined here in.

MOHAVE COUNTY BOARD OF SUPERVISORS

ATTEST:



Sam Standerfer
Sam Standerfer, Chairman

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Exhibit 4: Subdivide Parcel VV Resolutions 90-362 (7 pages), 91-98 (4 pages) and 91-185 (3 pages) for Tract 4076-E with abandonment of multifamily zoning and reverting the land to acreage.

Plat of the 22 lot design with loop street design.



14
82275 BK 1527 PG 4
OFFICIAL RECORDS OF MOHAVE COUNTY, AZ
DAN McCALL, MOHAVE COUNTY RECORDER
22/04/90 1:30 P.M. PAGE 1 OF 7
BOS
RECORDING FEE 0.00 NC

RESOLUTION NO. 90-362

A RESOLUTION SETTING FORTH APPROVAL OF A PRELIMINARY SUBDIVISION PLAN FOR DESERT LAKES GOLF COURSE AND ESTATES, TRACT 4076-E, BEING A RESUBDIVISION OF PARCEL V-V AND A PORTION OF PARCEL K-K OF TRACT 4076-B, SECTION 35, TOWNSHIP 19 NORTH, RANGE 22 WEST, LOCATED IN THE SOUTH MOHAVE VALLEY, MOHAVE COUNTY, ARIZONA

WHEREAS, at the regular meeting of the Mohave County Board of Supervisors held on December 3, 1990, a public hearing was conducted to determine the approval of the preliminary subdivision plan and petition of exception for Desert Lakes Golf Course and Estates, Tract 4076-E, and

WHEREAS, Desert Lakes, Tract 4076-E is being proposed approximately four (4) miles south of Bullhead City's southern most boundary and is approximately one-quarter (.25) mile east of Highway 95. Access to this project is being proposed via Highway 95 south four (4) miles to Lipan Boulevard then east one-quarter (.25) mile to the northeast corner of this subdivision, and

WHEREAS, Desert Lakes, Tract 4076-E is a proposed resubdivision of Parcel V-V and a portion of Parcel K-K of Tract 4076-B. The preliminary plan for this subdivision depicts approximately five (5) acres being resubdivided into twenty-five (25) individual lots. The proposed minimum lot size for this

project is 6,000 square feet and the proposed maximum lot size will be 11,500 square feet with an overall density of five (5) dwelling units per acre, and

WHEREAS, this project is bordered on the north and east by the remainder of Parcel K-K and Tract 4076-B; on the south by Fort Mojave Indian Reservation; and on the west by the proposed Mohave Mesa Business Center, Tract 4092, and

WHEREAS, this subdivision, consisting of five (5) acres, is proposed to be divided into twenty-five (25) lots. It is the division of Parcel V-V in Desert Lakes, Tract 4076-B and lies in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 35, Township 19 North, Range 22 West. The developer is Desert Lakes Development, L.P. of Fort Mojave, Arizona. The design and engineering is by Holland West, Inc., and

WHEREAS, this subdivision is within the Mohave Valley Irrigation and Drainage District. Drainage control for the development has been previously approved for Tract 4076-B and this subdivision will comply with that approval, and

WHEREAS, the southern boundary and access is Lipan Boulevard, originally dedicated by Tract 4076-E. This new plat extends into the golf course Parcel K-K. An abandonment of the

portion of this parcel included within this tract is necessary,
and

PAGE 3 OF 7
BK 1827 PG 42 (FEE#90- 82275)

WHEREAS, the Developer's Narrative is as follows:

Desert Lakes Golf Course and Estates, tract 4076-E is a proposed resubdivision of Parcel V-V and a part of Parcel K-K of Tract 4076-B located in Section 35, Township 19 North, Range 22 West. There are twenty-five (25) single family lots in this preliminary plat.

The current owners of the subdivision are Desert Lakes Development, L.P. They have provided for public utility service to the subdivision in conjunction with the adjoining existing development. Essential public utilities to be provided include: water, sanitary sewer, electricity, telephone, and solid waste disposal. The infrastructure necessary to connect to these public utilities will be constructed by the owner/developer.

Main access to this development is available from Lipan Boulevard. All streets will be constructed in accordance with County Standards.

Drainage control for the development has been previously approved. This subdivision will be in accordance with this approval.

All of these provisions will insure that the subdivision is constructed to assure the health safety, and welfare of its residents.

Water is to be supplied to each lot. Service is from Bermuda Water Company. Sanitary sewage disposal will be to Sorrenson treatment facilities.

WHEREAS, an accompanying petition for exception was submitted requesting variance for utility easements, inverted crown roads, some lot lines non radial or perpendicular, double fronted lots and lots fronting on Lipan Boulevard and three (3) minor street intersections, and

WHEREAS, the Commission recommends the requests for exception be granted and is as follows:

This request for petitions of exception is submitted as there are special circumstances or conditions which affect the property, and the granting of the exceptions not be detrimental to the public welfare or injurious to other property in the area in which said property is situated, and it will not have the effect of nullifying the intent and purpose of the Master Plan of the County or of the Mohave County Subdivision Regulations. Further explanation of each item is given below:

1. This request for block lengths in excess of 1320 feet is required due to the curvilinear nature of the plan and its neighborhoods. It will still allow good traffic flow within the development.
2. Granting a petition for eight (8') foot public utility easements at the front lot line will not be detrimental to the public welfare or injurious to other adjacent properties because eight (8') foot front lot lines easements will be adequate for the needed utilities. The proposed easement will allow the installation of the needed utilities and the special circumstances or conditions affecting said property are as follows: The sanitary sewer and water are to be located in the street and telephone, gas, and electric can be placed underground in the eight (8') foot easement and right-of-way behind the back of curb. This would eliminate the need for a full sixteen (16') foot easement on the rear lot lines.
3. Isolated areas of this project may require the use of inverted crown streets in order to provide greater carrying capacity for storm water runoff.
4. Non radial lot lines are used on knuckles and street curves to maintain efficient driveway access and to achieve required lot size. Where reduced frontage occurs, additional lot depth is provided. Both design elements encourage provision of usable lot area in accordance with County criteria.
5. Because of the golf course design and overall approval of Desert Lakes, Tract 4076-B with twenty-two (22) lots fronting in Lipan Boulevard, these four (4) lots will not create additional traffic movements.

6. The minor street outlets will handle a minimum of traffic movement. There are no others for one-half (.5) mile.

WHEREAS, an addendum to the Petition of Exception was received on Tuesday, November 13, 1990, as follows:

1. Article 6.4-7 Where a proposed subdivision abuts...an existing...minor or major County Highway, there shall be provision for a frontage road and/or non access easement along the arterial route, and a frontage road or non access easement shall be required along all federal and state highway...to minimize the intersections on the highway and help maintain the through traffic flow.

WHEREAS, this addendum to the original petitions of exception is submitted as there are special circumstances or conditions which affect the property, and the granting of the exceptions will not be detrimental to the public welfare or injurious to other property in the area which said property is situated, and it will not have the effect of nullifying the intent and purpose of the Master Plan of the County or of the Mohave Subdivision Regulations. Further explanation is given below:

1. This exception refers to 4 lots which front on Lipan Boulevard, and to Lipan Circle and Lipan Court which intersect with Lipan Blvd. First Lipan Blvd. is designated as a collector and is not a major or minor county arterial. Traffic on Lipan will not be excessive. There are twenty-two (22) lots which currently front on Lipan, and these four (4) additional lots are in keeping with the design previously approved, and will not substantially add to reduction of the traffic flow. The intersection of Lipan Court with Lipan Blvd. was [previously approved, and traffic on Lipan Circle will be very minimal and will not

seriously restrict flow of traffic of Lipan Blvd. These three (3) intersections are approximately one-half (.5) mile from the major intersection of Lipan and Mountain View Road and will have no affect on traffic in that area.

WHEREAS, the Commission recommends this preliminary plat be approved conditional to the following:

1. A new preliminary plan and drainage report be submitted for staff's review and approval prior to submittal of the final plat.
2. The approval of this subdivision is based on the understanding that all streets within the subdivision will be constructed with inverted crowns and paved with asphaltic concrete in accordance with Standard Specification #171 or better; the streets will include curb and gutter; a water supply and distribution system including fire flow will be constructed to serve each lot; grading and drainage related improvements will be made as recommended by the design engineer in the submitted drainage reports; arrangements will be made to extend underground electric and telephone service to each lot in accordance with Arizona Corporation Commission Regulations; lots will be connected to Sorrenson sewage disposal systems as approved by Arizona Department of Environmental Quality; all lots and street centerline monuments will be staked and monumented in accordance with Standard Specification #102; fire hydrants will be provided at locations prescribed by the Fort Mojave Mesa Fire Department; street name and regulatory signs will be installed in accordance with the requirements of the Mohave County Subdivision Regulations and as recommended by the design engineer and as a condition of approval the owner/subdivider is responsible for the completion of improvements and shall provide an assurance for all required subdivision improvements in accordance with Article V of the Subdivision Regulations.
3. Right-of-way for full width Lipan Boulevard be acquired and Lipan Boulevard be constructed to connect with existing Lipan Boulevard construction west of Desert Lake Developments, or to Highway 95, unless recommended by the Planning Commission.

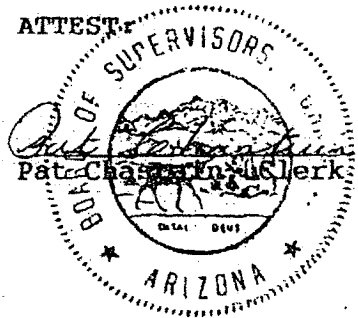
4. Developer shall address the conditions recommended by the Public Works Department and as requested by Mohave Electric Cooperative, as a part of in this action.
5. The zoning is SD/R (Special Development/Residential), originally intended for possible cluster apartment development as single family lots, the single family use setbacks will apply as were approved for the Desert Lakes development.
6. Abandonment procedures be completed prior to approval of the plat.
7. Recommendation that the requests for exception be granted.
8. A six (6') foot high concrete block wall constructed along the rear of the double fronted lots or along the side-front of those lots along Lipan Boulevard.

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors, at their regular meeting on Monday, December 3, 1990, conditionally approved this preliminary subdivision plan as recommended by the Mohave County Planning and Zoning Commission and outlined herein.

MOHAVE COUNTY BOARD OF SUPERVISORS

Lois J. Hubbard

 Lois J. Hubbard, Chairman



INDEX



RECORDED
1- 15546 BK 1871 PG 77
OFFICIAL RECORDS OF MOHAVE COUNTY AZ.
JOAN McCALL, MOHAVE COUNTY RECORDER
04/02/91 4:00 P.M. PAGE 1 OF 4
MOHAVE COUNTY BOARD OF SUPERVISORS
RECORDING FEE /C

(42)

RESOLUTION NO. 91-98

A RESOLUTION SETTING FORTH CONDITIONAL APPROVAL OF A REQUEST OF ABANDONMENT AND REVERSION TO ACREAGE OF A PORTION OF PARCEL K-K (PUBLIC UTILITY EASEMENT AND DRAINAGE EASEMENT) AND ALL OF PARCEL V-V AS SHOWN ON DESERT LAKES GOLF COURSE AND ESTATES, TRACT 4076-B, SECTION 35, TOWNSHIP 19 NORTH, RANGE 22 WEST, LOCATED IN THE SOUTH MOHAVE VALLEY AREA, MOHAVE COUNTY, ARIZONA

WHEREAS, at the regular meeting of the Mohave County Board of Supervisors held April 1, 1991 a public hearing was conducted to determine whether approval should be granted to Holland West, Inc. of Bullhead City, Arizona, for abandonment and reversion to acreage a portion of Parcel K-K (a Public Utility Easement and Drainage Easement) and all of Parcel V-V (a future multifamily property) as shown on Desert Lakes Golf Course and Estates, Tract 4076-B, Section 35, Township 19 North, Range 22 West, located in the South Mohave Valley area, and

WHEREAS, this requested abandonment is a part of the property platted by Desert Lakes Golf Course and Estates, Tract 4076-B, recorded December 18, 1989 at fee # 89-67669. The portions to be abandoned and reverted to acreage are a portion of Parcel K-K (a P.U.E. & D.E.) and all of Parcel V-V (a future multifamily project). This abandonment and reversion of acreage was initiated by the applicants because they are no longer needed as these portions of the plats of Desert Lakes Golf Course and

Estates, Tract 4076-B, will be replatted to increase the parcel size for the multifamily development and affect no other citizens except the applicants, and

WHEREAS, the legal descriptions of the abandonments reversions to acreage are as follows:

PORTION OF PARCEL K-K TO BE ABANDONED AND REVERTED:

A portion of parcel K-K shown on the Desert Lakes Golf Course and Estates, Tract 4076-B plat recorded at Fee No. 89-67669, Mohave County Records, and located in the southwest one-quarter of the southeast one-quarter of Section 35, Township 19 North, Range 22 West of the Gila and Salt River Base & Meridian, Mohave County, Arizona more particularly described as follows:

Beginning at the southwest corner of said Parcel K-K, being a point on the west line of said SW $\frac{1}{4}$ of the SE $\frac{1}{4}$;
Thence N 00 degrees 04' 44" E along said west line a distance of 19.36 feet;
Thence S 89 degrees 55' 17" E parallel with the south line of said parcel K-K a distance of 374.75 feet;
Thence S 67 degrees 56' 04" E a distance of 173.10 feet;
Thence S 58 degrees 12' 39" E a distance of 116.82 feet to the north line of Parcel V-V of said Tract 4076-B;
Thence N 67 degrees 56' 04" W along the north line of said Parcel V-V a distance of 286.86 feet;
Thence N 89 degrees 55' 17" W continuing along said north line of Parcel V-V a distance of 370.00 feet to the point of beginning;

Containing 11,916 square feet or 0.2735 acres, more or less.

PUBLIC UTILITY AND DRAINAGE EASEMENT TO BE ABANDONED:

A portion of Parcel K-K as shown on the Desert Lakes Golf Course and Estates, Tract 4076-B plat recorded at Fee No. 89-67669, Mohave County Records, and located in the southwest one-quarter of the southeast one-quarter of Section 35, Township 19 North, Range 22 West of the Gila and Salt River Base & Meridian, Mohave County, Arizona more particularly described as follows:

Beginning at the southwest corner of said Parcel K-K, being a point on the west line of said SW $\frac{1}{4}$ of the SE $\frac{1}{4}$;
Thence N 00 degrees 04' 44" E along said west line a distance of 19.36 feet;
Thence S 89 degrees 55' 17" E parallel with the south line of said Parcel K-K a distance of 374.75 feet;
Thence S 67 degrees 56' 04" E a distance of 173.10 feet;
Thence S 58 degrees 12' 39" E a distance of 116.82 feet to the north line of Parcel V-V of said Tract 4076-B;
Thence N 67 degrees 56' 04" W along the north line of said Parcel V-V a distance of 286.86 feet;
Thence N 89 degrees 55' 17" W continuing along said north line of Parcel V-V a distance of 370.00 feet to the point of beginning;

Containing 11,916 square feet or 0.2735 acres, more or less.

PARCEL V-V TO BE ABANDONED AND REVERTED;

All of Parcel V-V as shown on the Desert Lakes Golf Course and Estates, Tract 4076-B plat recorded at Fee No. 89-67669, Mohave County Records, and located in the southwest one-quarter of the southeast one-quarter of Section 35, Township 19 North, Range 22 West of the Gila and Salt River Base & Meridian, Mohave County, Arizona;

Containing 4.72 acres, more or less.

WHEREAS, a public hearing before the Mohave County Planning and Zoning Commission on March 13, 1991 did generate a recommendation of approval of these abandonments/reversion to acreage with the following conditions noted:

1. A statement from the Engineer involved will need to be submitted to Public Works for review which demonstrates that partial abandonment of the drainage easement (Parcel K-K) will not be detrimental to drainage plan as approved and accepted within Tract 4076-B.
2. That a Parcel Plat be submitted for each newly created lot depicting the "new" PUE and/or D.E. that is to occur.
3. The public utility companies concur with the granting of these easements.

- 4. The Parcel Plat shall also depict the "new" lot line and lot area for the lot created by the approval of this action.
- 5. That a Preliminary Title report be submitted by the property owners for the property proposed to be abandoned (reverted to acreage).
- 6. If the recordation of Desert Lakes V, Tract 4076-E does not occur within one (1) years time, the above referenced area shall revert to it's previous conditions.

WHEREAS, the notice of hearing was published in the Kingman Daily Miner, a newspaper of general circulation in Kingman, Mohave County, Arizona, on March 17 and 24, 1991, and posted March 18, 1991 as required by the Arizona Revised Statutes and the Mohave County Zoning Regulations, and

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors, at their regular meeting on Monday, April 1, 1991 approved these abandonment/reversion to acreage requests as recommended by the Mohave County Planning and Zoning Commission, subject to the condition outlined herein.

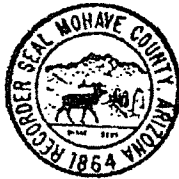
MOHAVE COUNTY BOARD OF SUPERVISORS



Lois J. Hubbard

 Lois J. Hubbard, Chairman

3
BOS



MICROFILMED
INDEXED

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91- 35464 BK 1913 PG 45
OFFICIAL RECORDS OF MOHAVE COUNTY AZ.
JOAN McCALL, MOHAVE COUNTY RECORDER
07/02/91 12:30 P.M. PAGE 1 OF 3
MOHAVE COUNTY BOARD OF SUPERVISORS
RECORDING FEE 0.00 NC

RESOLUTION NO. 91-185

A RESOLUTION SETTING FORTH APPROVAL OF A "REVISED" PRELIMINARY SUBDIVISION PLAN FOR DESERT LAKES GOLF COURSE AND ESTATES, TRACT 4076-E, BEING A RESUBDIVISION OF PARCEL V-V AND A PART OF PARCEL K-K ABANDONMENT OF TRACT 4076-B IN SECTION 35, TOWNSHIP 19 NORTH, RANGE 22 WEST, LOCATED IN THE SOUTH MOHAVE VALLEY AREA, MOHAVE COUNTY, ARIZONA

WHEREAS, at the regular meeting of the Mohave County Board of Supervisors held on July 1, 1991, a public hearing was conducted to determine the approval of the preliminary subdivision plan for Desert Lakes Golf Course and Estates, Tract 4076-E, and

WHEREAS, the owner of this project is Desert Lakes Development, L.P. of Fort Mohave, Arizona. The engineer of record is William E. Miller, P.E. of Holland West, Inc., Englewood, Colorado and Bullhead City, Arizona, and

WHEREAS, this tract is the division into single family lots of a large parcel, which had been reserved for future multiple family homes when the subdivision was first developed. The Tract lies in the southwesterly part of the project. Access to this site is along Lipan Blvd., approximately one-half (.5) mile east of Highway 95. A tract of 25 single family lots was approved by Board of Supervisor Resolution 90-362, on December 3, 1990, and

WHEREAS, subsequent evaluations between the project engineers and Public Works Department, resulted in a subdivision of 23 lots with an 80 foot drainage parcel along the west boundary and a cul-de-sac as access instead of a loop street, and

WHEREAS, besides the design changes, certain conditions of approval in reference to structural requirements are herein modified, and

WHEREAS, the six (6') foot wall requirement will be replaced with a three (3') foot wall. Additionally, a Parcel Plat will not be required to complete the abandonment of Parcel V-V and a portion of Parcel K-K. Specific reference to the abandonment of Parcel V-V and a portion of parcel K-K will be included as part of the Resolution of Approval for the final plat, and

WHEREAS, all other conditions and terms of Board of Supervisors Resolution No. 90-362 will remain unchanged, and

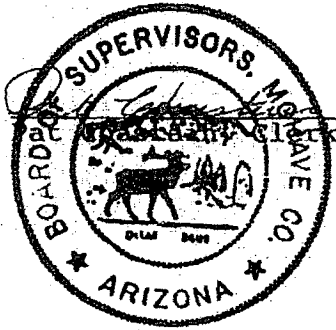
WHEREAS, the Commission at their meeting on June 12, 1991 did recommend approval of the revised preliminary subdivision plan for Tract 4076-E, and

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors, at their regular meeting on Monday, July 1, 1991, conditionally approved this revised preliminary subdivision plan as recommended by the Mohave County Planning and Zoning Commission and outlined herein.

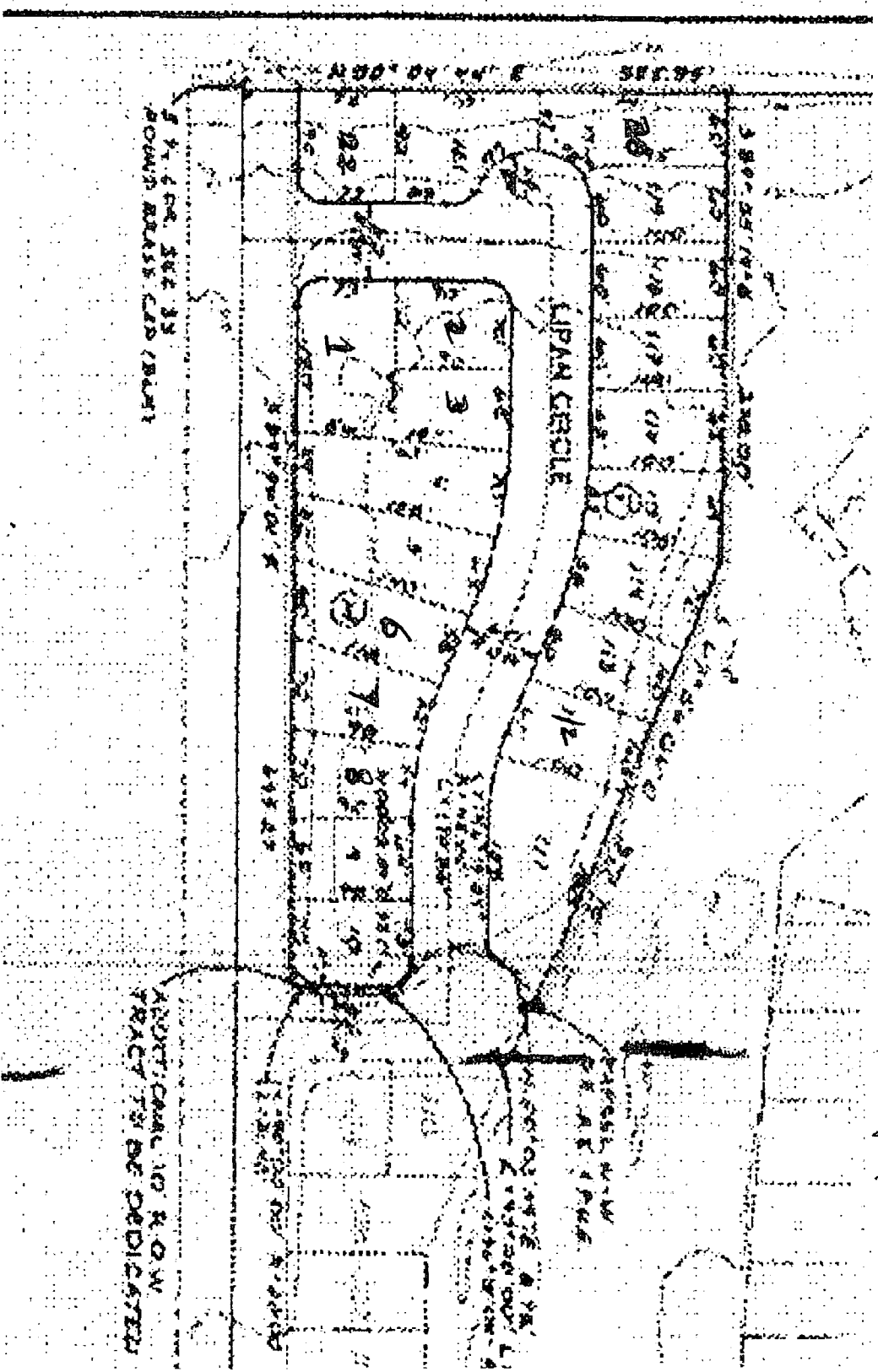
MOHAVE COUNTY BOARD OF SUPERVISORS

Lois J. Hubbard
Lois J. Hubbard, Chairman

ATTEST:



Desert Lakes Development L.P. Parcel 1 W Loop Street (4)
Apr 1990 Revised Preliminary Plat Tract 4076-B 22 Lots
per physical count



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Exhibit 5: Board of Supervisor’s Denial of Mr. Azarmi’s attempted setback violations.

Res. 2016-125 referencing “Subdivision Tract 4076” and Res. 93-122. (3 pages)

FEE# 2016046551

OFFICIAL RECORDS
OF MOHAVE COUNTY
ROBERT BALLARD
COUNTY RECORDER



10/13/2016 03:10 PM Fee: \$0.00

PAGE: 1 of 3

RESOLUTION NO. 2016-125

A RESOLUTION SETTING FORTH A DENIAL OF AN AMENDMENT TO BOS RESOLUTION NO. 93-122 ON ASSESSOR'S PARCEL NOS. 226-11-002, 226-11-012, 226-11-014, 226-11-015, 226-11-031, 226-11-032, 226-11-034, 226-11-035, 226-11-036, 226-11-037, 226-11-042, 226-11-044, 226-11-045A, 226-11-047, 226-11-049, 226-11-050, 226-11-052, 226-11-056, 226-11-058, 226-11-063, 226-11-064, 226-11-072, 226-11-075, 226-11-077, 226-11-092, 226-11-099, 226-11-102B, 226-11-103A, 226-11-104, 226-11-108, 226-11-109, 226-11-110, 226-11-115, 226-11-118, 226-11-120, 226-11-125, 226-11-133, 226-11-134, 226-11-144, 226-11-145, 226-11-147, 226-11-156, 226-11-166, 226-11-167, 226-11-168, 226-11-173, 226-11-176, 226-11-177, 226-11-179, 226-11-180, 226-11-182, 226-11-184, 226-11-185, 226-11-188, 226-11-191, 226-11-192, 226-11-202, 226-11-212, 226-11-217, 226-11-225, 226-11-229, 226-11-233, 226-13-001, 226-13-002, 226-13-003, 226-13-008, 226-13-009, 226-13-011A, 226-13-013, 226-13-016, 226-13-023, 226-13-025A, 226-13-027, 226-13-035, 226-13-036, 226-13-037, 226-13-038, 226-13-039, 226-13-049, 226-13-059, 226-13-061, 226-13-062, 226-13-064, 226-13-065, 226-13-079, 226-13-082, 226-13-083, 226-13-085, 226-13-086, 226-13-088, 226-13-090, 226-13-095, 226-13-102, 226-13-120, 226-13-126, 226-13-136, 226-13-141, 226-13-149, 226-13-152, 226-13-154, 226-13-157, 226-13-160, 226-13-165, 226-13-166, 226-13-167, 226-13-168, 226-13-172, 226-13-173, 226-13-174, 226-13-175, 226-13-177, 226-13-179, 226-13-181, 226-13-191, 226-13-201, 226-13-208, 226-13-211, 226-13-218, 226-13-225, 226-14-008, 226-14-010, 226-28-001, 226-28-009, 226-28-014, 226-28-015, 226-28-021, 226-28-028, 226-28-029, 226-28-030, 226-28-031, 226-28-036, 226-28-037, 226-28-040, 226-28-057, 226-28-060, 226-28-061, 226-28-066, 226-28-068, 226-28-070, 226-28-071, 226-28-088, 226-28-111, 226-28-126, 226-28-129, 226-28-130, 226-28-131, 226-28-135, 226-28-137, 226-28-148, 226-28-161, 226-28-168, 226-28-171, 226-28-172, 226-28-177, 226-28-180, 226-28-183, 226-28-187, 226-28-192, 226-28-193, 226-28-203, 226-28-215, 226-28-216, 226-28-217, 226-28-218, 226-28-219, 226-28-221, 226-28-227, AND 226-28-229, TO ALLOW FOR A SETBACK REDUCTION IN FRONT YARDS FROM 20 FEET TO 15 FEET AND IN REAR YARDS FROM 20 FEET TO 15 FEET, IN THE SOUTH MOHAVE VALLEY VICINITY, MOHAVE COUNTY, ARIZONA.

WHEREAS, at the regular meeting of the Mohave County Board of Supervisors held on October 3, 2016, a public hearing was conducted to determine whether approval should be granted for an Amendment to BOS Resolution 93-122, as requested by Mohave County, and

WHEREAS, the Assessor's Parcel Numbers shown above are located within the Desert Lakes Subdivision Tract 4076. The subdivision is accessed on State Highway 95, then east onto Joy Lane approximately .75 miles to the site, and

RESOLUTION NO. 2016-125

PAGE 2

WHEREAS, all subject properties are currently zoned S-D/R (Special Development/Residential) zone, and consist of vacant lots and single-family residential dwellings. The properties were zoned S-D/R (Special Development/Residential) as approved and amended by BOS Resolution No. 89-116 adopted December 4, 1989 and BOS Resolution No. 93-122 adopted May 3, 1993. A setback of twenty (20') feet in the front and rear yard and five (5') feet in the side yard was established with BOS Resolution No. 93-122. The surrounding zoning is S-D/R (Special Development/Residential) and S-D/C (Special Development/Commercial). The surrounding land uses consist of single family residential and a golf course, and

WHEREAS, as of December 2, 2015, revisions to the Mohave County Zoning Ordinance took effect including Section 35.B, Setbacks and Area Requirements. This section of the Zoning Ordinance was revised per Mohave County Ordinance 2015-07. The revisions reduced the front yard setback from 20 feet to 15 feet and reduced the rear yard setback from 25 feet to 15 feet on residentially zoned properties. However, the new setbacks did not apply to properties located within the Desert Lakes Subdivision because the setbacks within the subdivision were set by BOS Resolution No. 93-122. In order to change the setbacks within the Desert Lakes Subdivision, an amendment would have to be made to the resolution, and

WHEREAS, to mitigate the need to make future amendments to the resolution, Development Services sent out individual packets to all property owners within the Desert Lakes Subdivision. The packets included a letter from Development Services that explained the reduction in setbacks and its process, a response form that indicated whether or not the property owner would like to be included in the reduction in setbacks, a Waiver of Claims for Diminution in Value form, and a prepaid return envelope. In order to be included in the proposed amendment to BOS Resolution 93-122 each property owner had to check "Yes" on the response form, sign both the response and waiver forms, and return it to the Development Services Department by July 25, 2016. A total of 762 parcels were included in the mailing with 180 responding yes, 62 responding no, 32 that did not send in all of the needed paperwork, and 22 that were returned by the Post Office because of a bad address, and

WHEREAS, the following described Findings of Fact are for the above-captioned item:

- a. All notices have been advertised and posted according to regulations.
- b. The proposed action and effect comply with the Mohave County General Plan.

WHEREAS, at the public hearing before the Mohave County Planning and Zoning Commission on September 14, 2016, the Commission recommended APPROVAL of the Amendment to BOS Resolution No. 93-122, subject to the following:

1. That the setbacks shall not be less than twenty (20') ~~twenty~~ fifteen (15') feet back from the front and rear property lines and five (5') feet from side property lines.

WHEREAS, the notice of hearing was published in the Kingman Daily Miner, a newspaper of general circulation in Kingman, Mohave County, Arizona, and in the Mohave Valley News, a newspaper of general circulation in South Mohave Valley, Mohave County, Arizona, on September 18, 2016, and was posted on September 16, 2016, as required by Arizona Revised Statutes and the Mohave County Zoning Regulations; and

RESOLUTION NO. 2016-125

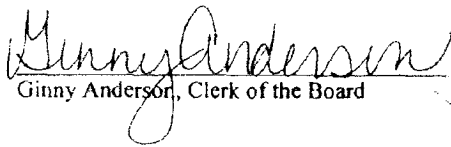
PAGE 3


WHEREAS, the Board of Supervisors accepted public testimony and considered the testimony in their decision making process.

NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors, at their regular meeting on Monday, October 3, 2016, **DENIED** this Amendment to BOS Resolution No. 93-122.

MOHAVE COUNTY BOARD OF SUPERVISORS

ATTEST


Ginny Anderson, Clerk of the Board



Jean Bishop, Chairman



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Exhibit 6: Grammatical change argument, CC&R Book 1554, Page 202

or provisions shall be construed as being void and of no effect as of twenty-one (21) years after the death of the last partners of Desert Lakes Development, or twenty-one (21) years after the death of the last survivor of all of said incorporators children or grandchildren who shall be living at the time this instrument is executed, whichever is the later.

21. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

6
← grammatical changes

B(1). R-0 Single Family Residential, Mobile Homes Prohibited Land Use Regulations.

R-0 Regulations, as defined and set forth in the Mohave County Zoning Ordinance shall apply to the following lots in Tract 4076-A:

- Lots 1 - 80 Inclusive, Block A
- Lots 1 - 74 Inclusive, Block B
- Lots 1 - 14 Inclusive, Block C
- Lots 1 and 2 Block D
- Lots 1 - 48 Inclusive, Block E
- Lots 1 - 9 Inclusive, Block F
- Lots 1 - 14 Inclusive, Block H

Uses Permitted:

Single Family dwelling and accessory structures and uses normally incidental to single family residences, MOBILE HOMES, MANUFACTURED HOMES AND PREFABRICATED HOMES PROHIBITED.

LAWYERS TITLE AGENCY, INC. as Trustee

DESERT LAKES DEVELOPMENT L.P. a Delaware Limited Partnership

By [Signature]
Title: Trust Officer

By [Signature]
ANGELO RINALDI, President
LAGO ENTERPRISES, INC.,
The General Partner

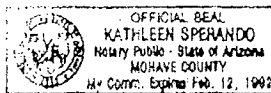
STATE OF ARIZONA)
COUNTY OF MOHAVE) SS

On this, the 15th day of May, 1989, before me the undersigned officer, personally appeared ROBERT P. DOUGLASS, who acknowledged himself to be a Trust Officer of LAWYERS TITLE AGENCY, INC., an Arizona corporation, and that he, as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Trust Officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission Expires: February 12, 1992

[Signature]
Notary Public



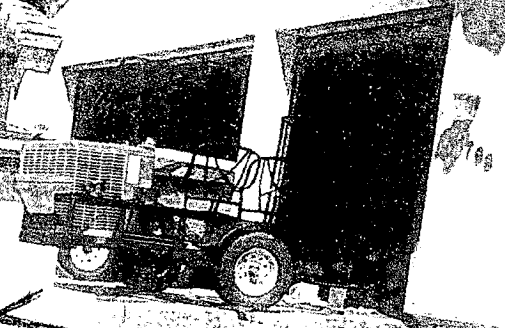
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Exhibit 7: Photo of entrance sign at the corner of Lipan Blvd and Lipan Circle.

Plaintiff's expectations.



Desert Lakes
Golf Course & Club



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Exhibit 8: ADRE Public Report dates for Phase I Tract 4076-A,
Phase II and III for Tract 4076-B, and Phase IV for Tract 4076-C. (3 pages)

Re: Architectural Committee life span based on Public Reports

Tract 4076-A dated October 20, 1989
Tract 4076-B dated January 30, 1990
Tract 4076-C dated June 18, 1990

ARIZONA

SUBDIVISION PUBLIC REPORT

For

DESERT LAKES GOLF COURSE AND ESTATES,
PHASE I TRACT 4076-A
A SUBDIVISION SITUATED IN SECTION 35, T19N, R22W, G&SRB&M
MOHAVE COUNTY, ARIZONA
REFERENCE NO. 26,607

DEVELOPER

DESERT LAKES DEVELOPMENT L.P.,
a Delaware Limited Partnership
Suite 9
4570 Campus Drive
Newport Beach, California 92660

OCTOBER 20, 1989

Effective Date

STATE PROPERTY REPORT DISCLAIMER

This report is NOT A RECOMMENDATION NOR AN ENDORSEMENT by the State of Arizona of this land.

This report reflects information provided by the developer and obtained by the department in its review process in accordance with the provisions of Title 32, Chapter 20, Article 4, of the Arizona Revised Statutes, as amended.

SPECIAL NOTES:

1. MAP OF THIS DEVELOPMENT IS RECORDED AT FEE NO. 89-20061, RECORDS OF MOHAVE COUNTY, ARIZONA. YOU ARE ADVISED TO OBTAIN A COPY OF SAID MAP AND NOTE ALL EASEMENTS, RESTRICTIONS AND STATEMENTS CONTAINED THEREON.
2. THIS REPORT INCLUDES LOTS 32-49, BLOCK A; 1, 2, BLOCK D; 1-41, 48, BLOCK E; 1-9, BLOCK F; 1-14, BLOCK H; EXCEPTING THEREFROM ALL COAL, OIL, GAS AND MINERAL DEPOSITS BELOW A DEPTH OF 500 FEET FROM THE SURFACE THEREOF, WITHOUT THE RIGHT OF SURFACE ENTRY TO PROSPECT FOR, MINE AND REMOVE THE SAME, BELOW A DEPTH OF 500 FEET FROM THE SURFACE THEREOF, AS RESERVED BY HOWARD PETROLEUM, AN OKLAHOMA CORPORATION, IN INSTRUMENT RECORDED FEBRUARY 27, 1989 IN BOOK 1517, PAGE 367 OF OFFICIAL RECORDS.
3. PROSPECTIVE PURCHASERS ARE ADVISED THAT THE RECORDED PLAT CONTAINS THE FOLLOWING NOTE: "THIS PLAT IS WITHIN F.E.M.A. FLOOD PRONE AREA - ZONE A. THE PLAT ALSO CONTAINS THE FOLLOWING PARCEL DESIGNATION:

| <u>PARCEL</u> | <u>PHASE</u> | <u>TYPE</u> |
|---------------|--------------|-----------------------------|
| A-A | I | DRAINAGE EASEMENT |
| B-B | I | DRAINAGE EASEMENT |
| C-C | I | DRAINAGE EASEMENT |
| E-E | I | LANDSCAPE |
| F-F | I | LANDSCAPE & WELL SITE |
| G-G | I | SEWAGE TREATMENT PLANT SITE |
| H-H | I | GOLF COURSE, P.U.E. & D.E. |

ARIZONA

SUBDIVISION PUBLIC REPORT

For

DESERT LAKES GOLF COURSE AND ESTATES, TRACT 4076-B
aka DESERT LAKES GOLF COURSE AND ESTATES
A SUBDIVISION OF A PORTION OF THE SOUTHEAST 1/4 OF
SECTION 35, T19N, R22W OF THE G&SRB&M
MOHAVE COUNTY, ARIZONA
REFERENCE NO. 26,917

DEVELOPER

DESERT LAKES DEVELOPMENT LP
Suite 200
20251 Acacia Street
Santa Ana Heights, California 92707

JANUARY 30, 1990

Effective Date

STATE PROPERTY REPORT DISCLAIMER

This report is NOT A RECOMMENDATION NOR AN ENDORSEMENT by the State of Arizona of this land.

This report reflects information provided by the developer and obtained by the department in its review process in accordance with the provisions of Title 32, Chapter 20, Article 4, of the Arizona Revised Statutes, as amended.

SPECIAL NOTES:

1. MAP OF THIS DEVELOPMENT IS RECORDED AT RECEPTION NO. 89-67669, RECORDS OF MOHAVE COUNTY, ARIZONA. YOU ARE ADVISED TO OBTAIN A COPY OF SAID MAP AND NOTE ALL EASEMENTS, RESTRICTIONS AND STATEMENTS CONTAINED THEREON.
2. THIS REPORT INCLUDES LOTS 10 THRU 110, BLOCK 'F'
1 THRU 22, BLOCK 'G'
15 THRU 68, BLOCK 'H'
1 THRU 24, BLOCK 'I'
1 THRU 17, BLOCK 'J'
1 THRU 7, BLOCK 'K'
3. PURCHASERS ARE ADVISED THAT THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THIS SUBDIVISION PROVIDES FOR AN ARCHITECTURAL CONTROL COMMITTEE.
4. DEVELOPER ADVISES THAT A SEWAGE TREATMENT PLANT IS ADJACENT TO THIS PROJECT TO THE WEST AND A PRIVATE LANDING STRIP IS APPROXIMATELY 3/4 OF A MILE TO THE NORTH.
5. DRAINAGE STATEMENT BY WILLIAM E. MILLER, CIVIL ENGINEER CITES:
"THE DESERT LAKES GOLF COURSE AND ESTATES, TRACT 4076-B, A SUBDIVISION LOCATED WITHIN THE COLORADO RIVER VALLEY, SECTION 35, TOWNSHIP 19 NORTH, RANGE 22 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MOHAVE COUNTY, ARIZONA IS SUBJECT TO INFREQUENT INUNDATION FROM DESERT THUNDERSTORMS.

ARIZONA

SUBDIVISION PUBLIC REPORT

For

DESERT LAKES GOLF COURSE AND ESTATES TRACT 4076-C
AKA DESERT LAKES GOLF COURSE AND ESTATES

REFERENCE NO. 90-27547

DEVELOPER

DESERT LAKES DEVELOPMENT L.P.
20251 Acacia Street
Suite 200
Santa Ana Heights, CA 92707

June 18, 1990
Effective Date

STATE PROPERTY REPORT DISCLAIMER

This report is NOT A RECOMMENDATION NOR AN ENDORSEMENT by the State of Arizona of this land.

This report reflects information provided by the developer and obtained by the department in its review process in accordance with the provisions of Title 32, Chapter 20, Article 4, of the Arizona Revised Statutes, as amended.

SPECIAL NOTES:

1. MAP OF THIS DEVELOPMENT IS RECORDED AT FEE NO. 90-34031, RECORDS OF MOHAVE COUNTY, ARIZONA. YOU ARE ADVISED TO OBTAIN A COPY OF SAID MAP AND NOTE ALL EASEMENTS, RESTRICTIONS AND STATEMENTS CONTAINED THEREON.
2. THIS REPORT INCLUDES LOTS 1 THRU 43, BLOCK(L); 1 THRU 80, BLOCK(M); 1 THRU 62, BLOCK(N); 1 THRU 48 BLOCK (O).
3. PURCHASERS ARE ADVISED THAT THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THIS SUBDIVISION PROVIDES FOR AN ARCHITECTURAL CONTROL COMMITTEE.
4. DEVELOPER ADVISES THAT A SEWAGE TREATMENT PLANT IS ADJACENT TO THIS SUBDIVISION TO THE WEST AND A PRIVATE LANDING STRIP IS APPROXIMATELY 2 MILES TO THE NORTH.
5. NOTE ON RECORDED PLAT CITES IN PART: "ALL OF THIS PLAT IS WITHIN FLOOD PLAIN AREA-ZONE A".

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Exhibit 9: Architectural Committee, CC&R Book 1554, Page 197-198 (2 pages)

Elections, Member Names, PO Box, Duties

487

INDEX MISCELLANEOUS

Fee # 89-26062



PROOFED

RECORDED IN OFFICIAL RECORDS OF MOHAVE COUNTY, ARIZONA

JUN 2 '89 - 8 00 AM

Joe McCall County Recorder
FEE 77.00 PAGES 147

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

DESERT LAKES GOLF COURSE & ESTATES 4076-A

MOHAVE COUNTY, ARIZONA

KNOW ALL MEN BY THESE PRESENTS:

THIS DECLARATION made and entered into this 15th day of May, 1989, by LAWYERS TITLE AGENCY, INC., an Arizona corporation, as Trustee, under Trust No. 1033, hereinafter designated "The Declarant" which holds the lands hereinafter referred to as the Trustee for the benefit of DESERT LAKES DEVELOPMENT L. P., a Delaware Limited Partnership.

WHEREAS, the Declarant is the owner of DESERT LAKES GOLF COURSE & ESTATES, TRACT 4076-A, County of Mohave, State of Arizona, as per plat thereof recorded on the 2 day of JUNE - 1989 at Fee No. 89-26062, and

WHEREAS, the Declarant intends to sell, dispose of or convey from time to time all or a portion thereof the lots in said Tract 4076-A and desires to subject the same to certain protective reservations, covenants, conditions and restrictions between it and the acquirers and/or users of the lots in said tract.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the Declarant hereby certifies and declares that it has established and does hereby establish a general plan for the protection, maintenance, development and improvement of said tract, and that this declaration is designed for the mutual benefit of the lots in said tract and Declarant has fixed and does hereby fix the protective conditions upon and subject to which all lots, parcels and portions of said tract and all interest therein shall be held, leased or sold and/or conveyed by the owners or users thereof, each and all of which is and are for the mutual benefit of the lots in said tract and of each owner thereof, and shall run with the land, and shall inure to and pass with each lot and parcel of land in said tract, and shall apply to and bind the respective successors in interest thereof, and further are and each thereof is imposed upon each and every lot, parcel or individual portion of said tract as a mutual equitable servitude in favor of each and every other lot, parcel or individual portion of land therein as the dominant tenement.

Every conveyance of any of said property or portion thereof in Tract 4076-A, shall be and is subject to the said Covenants, Conditions and Restrictions as follows:

ARTICLE I

COMMITTEE OF ARCHITECTURE

Declarant shall appoint a Committee of Architecture, hereinafter sometimes called "Committee", consisting of three (3) persons. Declarant shall have the further power to create and fill vacancies on the Committee. At such time that ninety percent (90%) of the lots within the subdivision have been sold by Declarant, or within one year of the issuance of the original public report, whichever occurs first, the owners of such lots upon request to the Committee may elect three members therefrom to consist of and serve on the Committee of Architecture.

Nothing herein contained shall prevent Declarant from assigning all rights, duties and obligations of the Architecture Committee to a corporation organized and formed for and whose members consist of the owners of lots within this subdivision.

Notwithstanding anything hereinbefore stated, architectural review and control shall be vested in the initial Architecture Committee composed of ANGELO RINALDI, FRANK PASSANTINO AND STERLING VARNER until such time as ninety percent (90%) of the lots in Tract 4076-A have been sold by Declarant, or within one year of the issuance of the original public report, whichever occurs first. The initial address of said Committee shall be P.O. BOX 6396 Mohave Valley, AZ 86440. Any and all vacancies during such period shall be filled on designation by DESERT LAKES DEVELOPMENT L. P.

No building, porch, fence, patio, ramada, awning or other structure shall be erected, altered, added to, placed upon or permitted to remain upon the lots in Tract 4076-A, or any part of any such lot, until and unless the plan showing floor areas, external designs and the ground location of the intended structure, along with a plot plan and a fee in the amount set by the Committee but not less than TEN DOLLARS AND NO/100 (\$10.00) nor more than ONE HUNDRED DOLLARS AND NO/100 (\$100.00) have been first delivered to and approved in writing by the Committee of Architecture.

It shall be the general purpose of this Committee to provide for maintenance of a high standard of architecture and construction in such manner as to enhance the aesthetic properties and structural soundness of the developed subdivision.

The Committee shall be guided by, and, except when in their sole discretion good planning would dictate to the contrary, controlled by this Declaration. Notwithstanding any other provision of this Declaration, it shall remain the prerogative within the jurisdiction of the Committee to review applications and grant approvals for exceptions or variances to this Declaration. Variations from these requirements and in general other forms of deviations from these restrictions imposed by this Declaration may be made when and only when such exceptions, variances and deviations do not in any way detract from the appearance of the premises, and are not in any way detrimental to the public welfare or to the property of other persons located within the tract, all in the sole opinion of the Committee.

Said Committee, in order to carry out its duties, may adopt reasonable rules and regulations for the conduct of its proceedings and may fix the time and place for its regular meetings and for such extraordinary meetings as may be necessary, and shall keep written minutes of its meetings, which shall be open for inspection to any lot owners upon the consent of any one of the members of said Committee. Said Committee shall by a majority vote elect one of its members as chairman and one of its members as secretary and the duties of such chairman and secretary appertain to such offices. Any and all rules or regulations adopted by said Committee regulating its procedure may be changed by said Committee from time to time by a majority vote and none of said rules and regulations shall be deemed to be any part or portion of this Declaration or the conditions herein contained.

The Committee shall determine whether the conditions contained in this Declaration are being complied with.

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Exhibit 10: Tract 4076-B CC&R list of blocks and lots in Phase II and Phase III consisting of lots in Tract 4076-B, Tract 4132, Tract 4076-D, and Tract 4163 for Parcel VV land.

(15)

be completed within twelve (12) months from the commencement of construction. Mobile homes and all structures built, constructed or prefabricated off the premises are expressly prohibited, including but not limited to modular or manufactured structures and existing structures.

2. No noxious or offensive activities shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

3. No lot shall be conveyed or subdivided smaller than that shown or delineated upon the original plat map, but nothing herein contained shall be so construed as to prevent the use of one lot and all or a fraction of an adjoining lot as one building site, after which time such whole lot and adjacent part of the other lot shall be considered as one lot for the purposes of these restrictions.

4. All buildings on lots not adjacent to the golf course being lots shall have a minimum of one thousand four hundred (1,400) square feet of living space, exclusive of garages, porches, patios and basements. Buildings on all other lots, being those lots adjacent to the golf course, in Tract 4076-B shall have a minimum of one thousand six hundred (1,600) square feet of living space, exclusive of garages, porches, patios and basements. No construction shed, basement, garage, tent, shack, travel trailer, recreational vehicle, camper or other temporary structure shall at any time be used as a residence.

5. All buildings shall have: (i) a maximum building height of Thirty (30) feet from the surface of the lot to the peak of the highest projection thereof; (ii) no more than two stories; (iii) no exposed radio, radio-telephone, television or microwave receiving or transmitting antennas, masts or dishes; (iv) no airconditioning unit on roofs; (v) a closed garage with interior dimensions of no less than twenty (20) feet; (vi) on any roof visible from ground level at any point within Tract 4076-B as its exposed visible surface, clay, concrete or ceramic tile, slate, or equal as may be approved by the Committee on Architecture; (vii) tempered glass in all windows facing fairways and driving range lakes.

6. All buildings and projections thereof on lots not adjacent to the golf course being Lots 31, 32, 33, 34, 35, 36, 37, 41, 42, 69, 74, 78, 79, 80, and 108 Block F, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 Block G, Lots 21, 22, 26, 27, 28, 29, 30, 33, 34, 35, 36, 37, 38, 66, 67, and 68 Block H, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and 24 Block I, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 Block J, and Lots 1, 2, 3, 4, 5, 6, and 7 Block K shall be constructed not less than twenty feet (20') back from the front and rear property lines and five feet (5') from side property lines. All buildings and projections thereof on all other lots of Tract 4076-B, being those lots adjacent to the golf course shall be constructed not less than twenty feet (20') from the front and rear property lines and five feet (5') from the side property lines.

7. Lots 75 through 86 inclusive, Block F, shall not have direct vehicular driveway access to Mountain View Road or Lippan Boulevard, as the case may be, but rather shall have vehicular access from the twenty-four foot (24') access easement as depicted on the plat. No automobiles, motorcycles, bicycles or other vehicles shall be parked in said access easement.

8. Fences and walls shall not exceed six (6) feet in height and shall not be constructed in the street set back area (being twenty feet (20') from the front property line). Fences and

LIST of Lots Not Adjacent to Golf Course

| Block | # of Lots |
|-------|-----------|
| F | 15 |
| G | 22 |
| H | 16 |
| I | 24 |
| J | 17 |
| K | 7 |

Tract 4076-B

Tract 4076-B

Tract 4076-B

Tract 4076-B

Arroyo Rd
3/12/88 P. 12

BOOK 1641 PAGE 897

Note! Tract 4163 Parcel VV can utilize land in Tract 4076-B

F 12
No Vehicle
= 12 lots

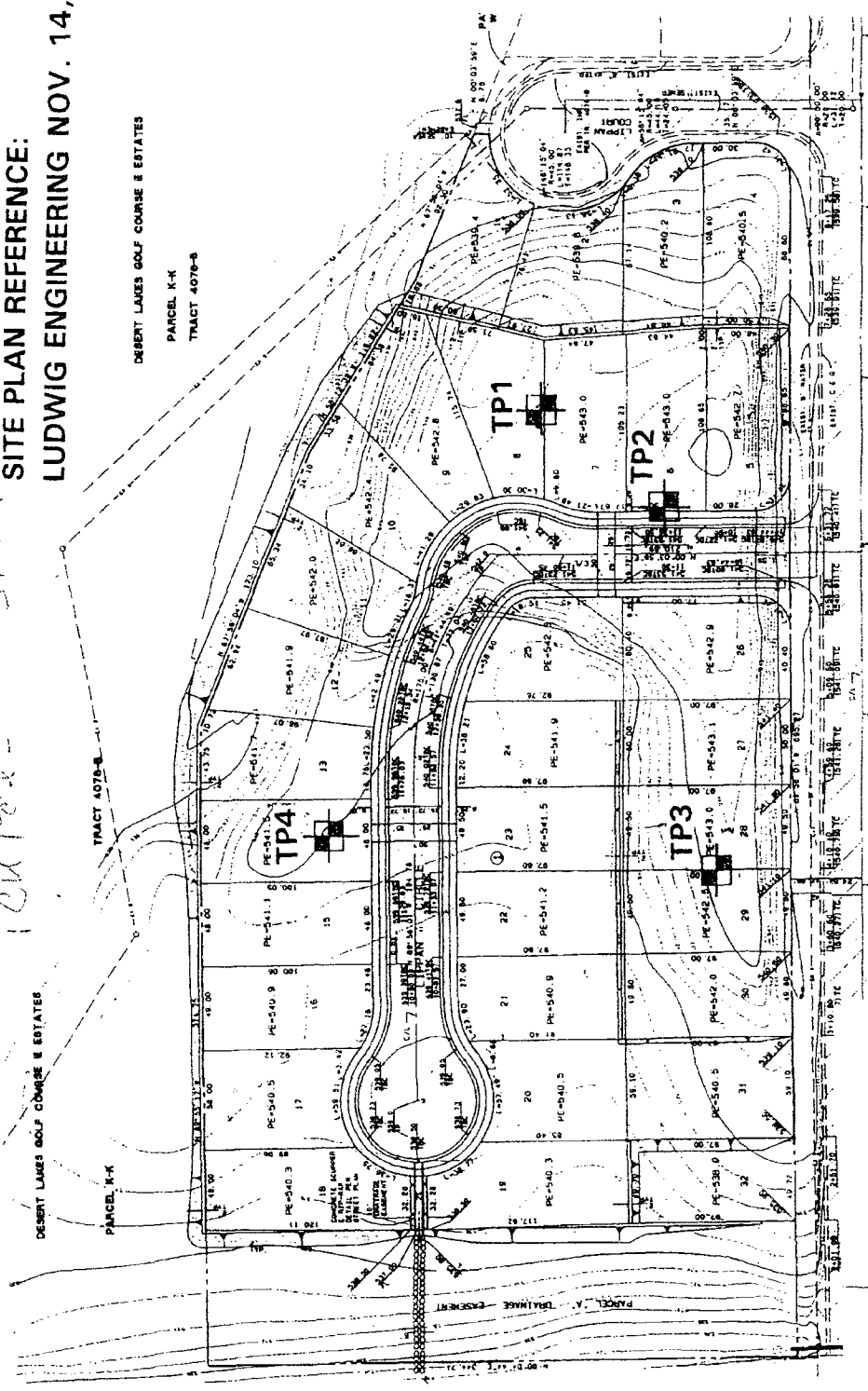
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Exhibit 11: Tract 4163 redesign of Parcel VV by Ludwig Engineering with a cul-de-sac street and 32 lots with ten-foot rear yard setbacks.

**SITE PLAN REFERENCE:
LUDWIG ENGINEERING NOV. 14, 1997**

DESERT LAKES GOLF COURSE & ESTATES
PARCEL K-K
TRACT 4076-B

100 feet - street



SITE PLAN REDUCED

EXPLORATION PIT LOCATION

| |
|------------------------------|
| DESERT LAKES EST. TRACT 4163 |
| Test Pit Location Diagram |
| Western Technologies Inc. |
| Job No.: 2748JC029 |
| Plate: 1 |



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Exhibit 12: Home sales advertising No HOA and email conversation
with Real Estate Broker Gina Harris regarding
Escrow not supplying copies of CC&Rs. (2 pages)

nancyknight

From: "nancyknight" <nancyknight@frontier.com>
Date: Saturday, April 25, 2020 10:27 PM
To: "Gina Harris" <ginaharrisbroker@gmail.com>
Subject: Re: Fwd: Listing

Gina,

Thank you for listing your lot sales with full disclosure. However, it does appear your company does not disclose the same info for home sales and not all companies listing lot sales do not provide full disclosure.

I have responded with two other emails.

If you did not get the one for the Coldwell Banker listing of a lot that is inconsistent with your disclosure to buyers let me know. The other email is in regards to your "home" listing that does not disclose the Restrictions.

Do you know if Escrow only gives a copy of the CC&Rs to buyers of unimproved lots?

I have purchased two homes in our area. One with an HOA and one without. Both have CC&Rs but Escrow did not give me a copy of the CC&Rs for either home.

Nancy

From: Gina Harris
Sent: Saturday, April 25, 2020 4:01 PM
To: nancyknight
Subject: Fwd: Listing

Hello Nancy

I have attached a copy of a current active listing. If you look under restrictions you will see CCR. This has been a part of our listing contract as far back as I can remember. When a property goes into escrow the escrow company supplies a copy of the CCRs to the buyer.

Gina Harris

Along The River Properties
Owner/Associate Broker

3790 Highway 95
Bullhead City, Arizona 86443
928-716-1308

<https://wardexre.mlsmatrix.com/matrix/shared/FhSRSYMhHd/2000EDesertPalmsCourt>

Handwritten note: ↑ listing - good lot

nancyknight

From: "nancyknight" <nancyknight@frontier.com>
Date: Saturday, April 25, 2020 10:19 PM
To: "Gina Harris" <ginaharrisbroker@gmail.com>
Subject: Your listing without the Restrictions provided to buyers

GOLF COURSE HOME!! Located on the popular Hukkan Golf Course with no HOA, this home features formal dining area & breakfast nook, Large living area with vaulted ceilings great for entertaining, Split floor plan for your guests or family. Large master suite with delightful fireplace, Jacuzzi tub, separate shower & dual sinks. Partial block wall around back with views of the golf course & western sunsets. Minutes to the fun & sun of the Colorado River & just a few miles to Laughlin, NV. Buyer to verify Utilities, Sq. Ft. & Flood Zone.

Listing Agent



- Terry Ayala
- Along The River Properties

Listed by:

Along The River Properties

Other

Source details

- MLS ID: 963759

Other facts

- Appliances Equip: Burglar Alarm-Own, Dishwasher, Disposal, Garage Door Opener(s), Microwave, RO System-Own, Water Heater-Elec, Dryer-Gas, Oven/Range-Electric, Dryer-Electric
- Construction: Stucco, Wood Frame
- Exterior Features: Landscape-Front Yard, Patio Covered
- Floorings: Carpet, Tile
- Heating Cooling: Cooling-Central Elec, Heating-Central Elec
- Interior Features: Breakfast Bar, Ceiling Fan(s), Dining-Formal DR, Jetted Tub, Pantry, Security Wired, Walk-In Closet(s), Window Coverings, Dining-Casual, Vaulted Ceiling, Counters-Solid Surface, Shower-Walk-In
- Laundry Hookup: Utility Room, House, Electric
- Limited Service YN: 0
- Listing Type: Excl Right to Sell
- Lot Description: Level to Street, Rd Maintained-Public, On Golf Course
- Master Bedroom Bath: 1 Master Suite, Dual Sinks, Separate Tub/Shower
- MLS: Western AZ Regional Real Estate Data Exchange
- Property Sub Type: Single Family
- Property Type: Residential
- Roof: Tile
- Styles: Site built 1 Story
- Water Sewer: Sewer, Water-Rural Co.
- Exposure: E
- Less Than 1 Acre YN: 1
- Occupancy: Vacant
- Other Rooms: Utility Room

- Possession: At Close
- Split Bedroom YN: 1
- Flood Plain YN: 1
- Zip Code: 86426
- Garage Door Height: 7 Ft
- Fireplace: Gas Log
- Home Warranty YN: 0
- Sqft Source: Tax Roll
- Community Amenities: Golf Course
- Garage Depth: 22-27
- Apx Lot Dim: 60 X 101
- Garage Dim: 20 x 23
- Taxes: 1797.00
- Pets Living On Property YN: 0
- Fenced: Partial
- Smoking Allowed YN: 0
- Fireplace YN: 1
- Parcel Number: 226-14-005
- Garage Parking: Attached, Finished

5/7/2020

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Exhibit 13: Photos of Defendant's Off-premises "Build to Suit" advertising.

Unlawful dilapidated signs.

Exhibit 13

2015

REMITTED
TO
SUIT

Exhibit 1

04.04.2018

04-04-2018

13

BUILD
TO SUIT
788-7777

US