

THE ORIGINAL OF THIS DOCUMENT WAS RECORDED
ON 8 - 8 - 79 FILE/PAGE NO. 79 - XXXXXX
VERA L LYLE, COUNTY RECORDER

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
(CIVIL CODE SECTION 1468)

HIGH COUNTRY WEST

TYPICAL OF THE WINDROSE PHASE (UNITS) AS RECORDED

THIS DOCUMENT IS PROVIDED FOR REFERENCE ONLY.

For each of the Phases (Units) of the development within High Country West a “Declaration of Covenants, Conditions and Restrictions (CC&R)” was “Recorded” with the County Recorder’s Office. Information contained herein is typical of that found in Windrose Development version of the Documents. The Declaration of Covenants, Conditions and Restrictions that applies to each Lot accompany the Deed for that Lot when “Recorded” at the County Recorder’s Office.

WHEN RECORDED RETURN TO:

DETISCH, CHRISTENSEN & WOOD
ATTORNEYS AT LAW
444 West "C" Street, Suite 404
San Diego, California 92101

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
(CIVIL CODE SECTION 1468)

This Declaration of Covenants, Conditions and Restrictions is made this _____ day of _____, _____ by RANCHO BERNARDO DEVELOPMENT COMPANY, A California joint venture, (hereinafter "Declarant"), the owner of that real property located in the City and County of San Diego, State of California known as Lots ("Lots") 58 through 88, inclusive of High Country West Resubdivision, according to Map thereof No. 10956 (hereinafter "Map"), as recorded in the Office of the County Recorder of San Diego, City of San Diego, State of California, (hereinafter collectively referred to as the "Real Property")

WHEREAS, Declarant intends to sell the Real Property; and

WHEREAS, it is the desire and intention of Declarant to restrict the Real Property according to a common plan as to use, landscaping, maintenance, vegetation and drainage; and

WHEREAS, it is the desire and intention of Declarant that all the Real Property shall be Benefitted and Burdened in accordance with the terms of this Declaration and each successive owner of all or part of said Real Property shall be benefitted by the preservation of value and the character of said Real Property.

NOW, THEREFORE, Declarant does declare as follows:

1. EASEMENT OVER BURDENED PROPERTY GRANTED TO BENEFITTED PROPERTY.

Declarant, for itself and for its successors, heirs, and assigns, hereby grants to each owner of a Lot within the Benefitted Property an Exclusive Use Easement over the corresponding portion of the Lot within the Burdened Property as shown in the attached Exhibit "A", which Exhibit "A" is incorporated herein by reference. The Exclusive Use Easement granted herein shall be for the purpose of maintenance, construction, landscaping, and repair of fences, decks, patios (provided, however, in no event shall said patios be covered) irrigation lines

and for drainage pipes and appurtenances. The Declarant reserves unto each owner of each Lot now burdened by this Declaration, the right to enter upon the Burdened Property for the purposes of generally maintaining, repairing, and painting the walls of the structures located adjacent to the Burdened Property. Said entry may be at all reasonable times and without further consent of the owner or owners of the Benefitted Property, or any of them.

2. PERMITS AND CONSENT OF THE CITY.

Each owner of an Easement granted in Paragraph 1 of this Declaration shall obtain the express written consent of the City of San Diego Planning Department prior to making any improvements within the Burdened Property, which in way differ from those improvements constructed by the Declarant upon the original sale of the Lots which are the subject of this Declaration. Each of the persons or entities purchasing or acquiring title to the Real Property or any portion thereof acknowledge that the Real Property has been developed as a Planned Residential Development and any and all modifications from the original development plan installed by the Declarant shall be approved by the City of San Diego and the Veterans Administration (in the event of subject property has been insured by the VA) prior to construction. In addition to the approval of the City Planning Department, all other necessary permits shall be obtained by all owners before construction is commenced for the improvement of the Burdened Property.

3. ALTERATION OF DRAINAGE PATTERNS.

In no event shall all owners of an Easement described in Paragraph 1 of this Declaration alter the drainage patterns established by the Declarant herein. Further, Declarant reserves unto each owner of the Burdened Property the right and privilege to conduct drainage through the Burdened Property. In the event any of the owners of the Benefitted Lots, in any way, alter the drainage pattern over the Burdened Property to the detriment of the owner of the Burdened Property the Burdened Property owner may take such steps that are necessary to reestablish the original drainage pattern so as to prevent damage or inconvenience caused by the alteration of the drainage pattern at the expense of the owner so altering the drainage pattern.

4 COVENANTS RUNNING WITH LAND.

These covenants are to run with the land and shall be binding on the present and future owners of the Real Property for a period of Seventy-five (75) years from the date these covenants are recorded. after which time said covenants shall be automatically extended for periods of Ten (10) years, unless an instrument signed by all of you the owners of the Benefitted and Burdened properties has been recorded, agreeing to change and or revoke these covenants in whole or in part. Further, said revocation and change must be approved by the city of San Diego and the VA, so long as it insures a loan.

5 ENFORCEMENT.

Enforcement of these covenants, conditions, and restrictions shall be by proceedings at law or in equity against the person or persons violating or attempting to violate any covenant either to restrain violation and/or to recover damages.

6 INVALIDATION.

In the event any of these covenants is determined to be invalid by a judgment or court order that provision shall be severed from the balance of this Declaration but shall in no way affect the other provisions which shall remain in full force and effect.

7. ATTORNEYS' FEES.

In the event legal proceedings are instituted to enforce or interpret the terms of these covenants, conditions, and restrictions, the prevailing party shall be entitled to reasonable attorneys' fees and costs of court, including expert witness fees, if any.

8. INTENT TO CONFORM WITH CIVIL CODE SECTION 1468.

It is the intent of the Declarant that these covenants, conditions, and restrictions comply with the terms with Section 1468 of the Civil Code of the State of California and shall be binding upon the heirs, successors, and assigns of the Burdened Property and shall benefit the heirs, successors, and assigns of the Benefitted Property.

9 PROTECTION OF FIRST MORTGAGEES.

A breach of the covenants contained in this Declaration shall not affect or impair the lien or charge of any bonafide mortgage or deed of trust made in good faith and for value on any of the Burdened Property subject to these restrictions. Provided, however, that any subsequent owner of such property shall be bound by said covenants whether such owner's title was acquired by foreclosure or deed in lieu of foreclosure or in a trustee sale, or otherwise. A lender that acquires title by foreclosure or deed in lieu of foreclosure or trustee's sale shall not be obligated to cure any breach of the covenants which occur prior to such acquisition of title but shall be bound prospectively by said covenants.

10. BENEFIT OF DECLARATION.

All of said easements, restrictions, reservations, provisions, covenants and conditions are for the benefit of each owner, and shall inure to and pass with each lot, and shall apply to and bind the successors in interest and assigns of Declarant. Each grantee of any lot, by acceptance of a deed thereto, accepts same subject to all of such easements, restrictions, reservations, provisions, covenants and conditions.

11. ASSIGNMENT OF POWERS.

Any of the rights and powers of Declarant herein contained may be delegated, transferred, assigned, or conveyed to any person, corporation or association; and, wherever Declarant is herein referred to, such reference shall be deemed to include Declarant's successors in interest and assigns.

12. CONSTRUCTIVE NOTICE AND ACCEPTANCE.

Every person who now or hereafter owns or acquired any rights, title or interest in or to any Lot is and shall be conclusively deemed to have consented and agreed to every provision of this Declaration.

13. HEADINGS.

Article and section headings, where used herein, are inserted for convenience only and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope and intent of the particular provisions to which they refer.

14. MINOR ENCROACHMENT INTO EASEMENT GRANTED HEREIN.

In the event any house or other improvement located on the burdened property encroaches into any easement granted herein, as described in Exhibit "A" attached hereto, as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements constructed on the burdened property, the easement granted herein shall be reduced in size and extent by the amount of such encroachment, and such reduction in the easement shall exist for so long as said encroachment exists. Said reduction in easement granted herein shall apply only to minor encroachments and shall exist for so long as the encroachment exists. In no event shall a reduction in the size and extent of an easement granted herein be created in favor of an Owner, if said encroachment occurred due to the willful misconduct of any Owner. In the event any portion of an encroaching structure is partially or totally destroyed and later repaired or rebuilt, then a minor encroachment into an adjoining easement granted herein shall be permitted. As used herein encroachment of one foot (1.0') or less shall be presumed to be minor.

15. AMENDMENT.

The Owner(s) of Lot(s) benefitted by these Covenants, Conditions, and Restrictions, the Owner(s) of Lot(s) burdened by these Covenants, Conditions, and Restrictions and each Beneficiary of a First Mortgage and/or Deed of Trust on the affected Lots only, may amend these Covenants, Conditions, and Restrictions as to the affected Lots upon the recordation of an amending instrument executed and acknowledged only by all affected Lot Owners and Beneficiaries of First Mortgages, and/or Deeds of Trust on the affected Lots.

By way of example, if two Owners of adjoining Lots desire to amend these Covenants, Conditions, and Restrictions as they affect their respective Lots, they need only obtain their respective signatures and that of their, and each of their, respective Beneficiaries of First Mortgages and/or Deeds of Trust encumbering their Lots.

Further, any Owner of a Lot in which the VA and/or FHA has an interest must obtain written approval of the amendment approval of the amendment from the VA and/or FHA prior to recording an amendment. In no event shall any owner be entitled to amend these Covenants, Conditions, and Restrictions, if the proposed amendment would in any way violate the laws of the City of San Diego, and/or the VA and/or FHA, including but not limited to the Small Lot Overlay Ordinance.

IN WITNESS THEREOF, the Declarant has executed these covenants, conditions, and restrictions on the date here first above written.

DECLARANT:

RANCHO BERNARDO DEVELOPMENT COMPANY
A California joint venture

BY:BUIE ASSOCIATES, LTD., a California limited
partnership, Joint Venture Partner.

BY:BUIE CORPORATION, a California corporation,
General Partner

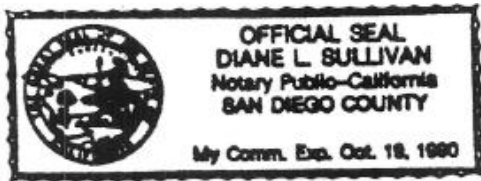
BY:_____

BY:_____

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On this _____ day of March, 1987, before me, Diane L. Sullivan, a Notary Public in and for said State, personally appeared Robert A. Wyatt, personally known to me (or proved to me on the basis of satisfactory evidence) to be the Vice-President, and Sheryl Mercado personally known to me (or proved to me on the basis of satisfactory evidence) to be the Assistant Secretary of THE BUIE CORPORATION, the corporation that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of said corporation, said corporation being known to me to be one of the general partners of BUIE ASSOCIATES, LTD., the limited partnership being known to me to be one of the joint venture partners of RANCHO BERNARDO DEVELOPMENT COMPANY, a joint venture that executed the within instrument, and acknowledged to me that such general partner executed the same as such joint venture and that such joint venture and that such joint venture executed the same.

WITNESS my hand and official seal.



Notary Public

EXHIBIT "A"

TABULATION OF BENEFITTED AND BURDENED
PROPERTY WITHIN HIGH COUNTRY WEST UNIT NO.5
RESUBDIVISION, ACCORDING TO MAP THEREOF NO.

10956

(HEREINAFTER "MAP") IN THE CITY OF SAN
DIEGO, COUNTY OF SAN DIEGO, STATE OF
CALIFORNIA

<u>BURDENED PROPERTY</u>	<u>BENEFITTED PROPERTY</u>
NORTHEAST 4 FEET OF LOT 59, SAID NORTHEAST 4 FEET	LOT 58 OF MAP
NORTHEAST 4 FEET OF LOT 60, SAID NORTHEAST 4 FEET	LOT 59 OF MAP
NORTHEAST 4 FEET OF LOT 61, SAID NORTHEAST 4 FEET	LOT 60 OF MAP
NORTHEAST 4 FEET OF LOT 62, SAID NORTHEAST 4 FEET	LOT 61 OF MAP
NORTHEAST 4 FEET OF LOT 63, SAID NORTHEAST 4 FEET	LOT 62 OF MAP
NORTHEAST 4 FEET OF LOT 64, SAID NORTHEAST 4 FEET	LOT 63 OF MAP
NORTHEAST 4 FEET OF LOT 65, SAID NORTHEAST 4 FEET	LOT 64 OF MAP
NORTHEAST 3.90 FEET OF LOT 66, SAID NORTHEAST 3.90 FEET	LOT 65 OF MAP
NORTHEAST 4 FEET OF LOT 67, SAID NORTHEAST 4 FEET	LOT 66 OF MAP
NORTHEAST 4 FEET OF LOT 68, SAID NORTHEAST 4 FEET	LOT 67 OF MAP
NORTHEAST 4 FEET OF LOT 69, SAID NORTHEAST 4 FEET	LOT 68 OF MAP
NORTHEAST 4 FEET OF LOT 70, SAID NORTHEAST 4 FEET	LOT 69 OF MAP
NORTHEAST 4 FEET OF LOT 71, SAID NORTHEAST 4 FEET	LOT 70 OF MAP

EXHIBIT "A" CONTINUED

<u>BURDENED PROPERTY</u>	<u>BENEFITTED PROPERTY</u>
NORTHEAST 4 FEET OF LOT 72, SAID NORTHEAST 4 FEET	LOT 73 OF MAP
NORTHEAST 4 FEET OF LOT 73, NORTHEAST 4 FEET	LOT 74 OF MAP SAID
NORTHEAST 4 FEET OF LOT 76, NORTHEAST 4 FEET	LOT 77 OF MAP SAID
NORTHEAST 4 FEET OF LOT 77, NORTHEAST 4 FEET	LOT 78 OF MAP SAID
NORTHEAST 4 FEET OF LOT 78, NORTHEAST 4 FEET	LOT 79 OF MAP SAID
NORTHEAST 4 FEET OF LOT 79, NORTHEAST 4 FEET	LOT 80 OF MAP SAID
NORTHEAST 4 FEET OF LOT 80, NORTHEAST 4 FEET	LOT 81 OF MAP SAID
NORTHEAST 4 FEET OF LOT 81, NORTHEAST 4 FEET	LOT 82 OF MAP SAID
NORTHEAST 4 FEET OF LOT 82, NORTHEAST 4 FEET	LOT 83 OF MAP SAID
NORTHEAST 4 FEET OF LOT 83, NORTHEAST 4 FEET	LOT 84 OF MAP SAID
NORTHEAST 4 FEET OF LOT 84, NORTHEAST 4 FEET	LOT 85 OF MAP SAID
NORTHEAST 4 FEET OF LOT 87, NORTHEAST 4 FEET	LOT 86 OF MAP SAID
NORTHEAST 4 FEET OF LOT 88, NORTHEAST 4 FEET	LOT 87 OF MAP SAID