

FLECHA CAIDA RANCH ESTATES NO. 1

NON-OFFICIAL RE-TYPED VERSION

Original Recorded in Docket 963, pages 273-279

DECLARATION OF ESTABLISHMENT OF CONDITIONS, COVENANTS AND RESTRICTIONS

That John W. Bender, Mary M. Bender, Pima Land Company, a corporation, Francis K. Carson, Marian F. Carson, H.W. Thomas, Jr. and Bobbie W. Thomas, being the owners, or having an interest therein, and hereinafter referred to as the owners of the following described property:

Lots 1 through 53 of FLECHA CAIDA RANCH ESTATES, a subdivision of part of Section 22, T13S, R14E, G & S R B & M, Pima County, Arizona, according to the map or plat thereof on file and on record in the office of the County Recorder of Pima County, Arizona in Book 11 of Maps and Plats at Page 74, thereof, hereinafter called "said property" do hereby declare:

That they have established and do hereby establish a general plan for the improvement and development of said property and do hereby establish the provisions, conditions, restrictions and covenants upon and subject to which all lots and portions of lots in said property shall be improved or sold and conveyed by them as owners thereof; each and all of said provisions, conditions, restrictions and covenants is and are for the benefit of each owner of land in said property, or any interest therein and shall inure to and pass with each and every parcel of said property and shall apply to and bind the respective successors in interest of the present owners thereof; said provisions, conditions, restrictions and covenants are and each thereof is imposed up said land therein as the dominant tenement or tenements as follows:

1. Said property and the whole thereof shall be used for private residential purposes only; no building or structure intended for or adopted to business purposes and no apartment house, double house, flat building, lodging house, rooming house, hospital, sanitorium or doctor's office, shall be erected, placed, permitted or maintained on said property or any part thereof.

2. No structure whatever, other than one first class private dwelling house with customary out-buildings, including a private stable, garage, carport, servants quarter or guest house, may be erected, placed or maintained on any lot in said property.

3. The native growth of said property shall not be permitted to be destroyed or removed except as necessary for the construction and maintenance of roads, driveways, residences, the customary out-buildings and within wall-in patios or service yards. In the event that such growth is removed, excepted as state above, the reversionary owner hereinafter described may require the replanting or replacement of same.

4. No elevated tanks of any kind shall be erected, placed or permitted upon any part of said property, provided, that nothing herein shall prevent the reversionary owner, their heirs or assigns, from erecting, placing or permitting the placing of tanks and other water system apparatus on said property for the use of the water company serving in part said property. Any tanks for used in connection with any residence constructed on said property, including tanks for the storage of fuels must be buried or walled sufficiently to conceal them from the view from neighboring lots, roads or streets. All clotheslines, garbage cans, equipment, wood piles or storage piles shall be walled in to conceal them from the view of neighboring lots, roads or streets.

5. That all buildings, structures, fences, hedges, outbuildings, etc., shall not be located closer than forty feet from any lot or property line.

6. That all electrical service and telephone lines from the utility company pole shall be placed underground and no outside electrical lines shall be placed overhead; provided that this requirement may be waived by the reversionary owner their heirs or assigns; however, one such waiver shall not constitute a waiver as to other lots or lines. That no exposed or exterior radio transmission and/or receiving antennas shall be erected, placed or maintained on any part of said property; television antennas shall be included in such restriction.

7. No more than two horses and two pets (including birds) may be kept on any lot in said property; providing that this shall not permit the keeping of domestic fowl.

8. No lot shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing or material be kept upon any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding property.

9. No billboards or advertising signs of any character shall be erected, placed, permitted or maintained on any lot or on any building erected thereon other than a name plate of the occupant of any residence upon which his professional title, if he is a physician or surgeon, may be also added, and provided that no such sign or name plate shall exceed a size of two square feet.

10. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon any part of said property, nor shall any oil, natural gas, petroleum, asphaltum or hydrocarbon products or substance be produced or extracted therefrom.

11. The said first class private dwelling house erected upon any such lot shall be constructed of burnt adobe or clay brick with either a gravel, shake, bermuda or mission tile roof. That there shall be no evaporative cooler placed, installed or maintained on the roof of any building or structure. That there shall be no rental of any guest house, the occupancy thereof being limited to either guests of servants.

12. No garage or other building or structure shall be erected or permitted upon any lot in said property until the construction and completion of a single family private dwelling house thereon, except that a single family dwelling house and the necessary outbuildings, garages or other structures related thereto may be simultaneously constructed; provided, however, that nothing herein shall be construed to prevent the incorporation and construction of a garage as part of such dwelling house.

13. No single family private dwelling house placed or erected upon any such lot shall be occupied in any manner while in the course of construction, nor at any time prior to its being fully completed, as herein required; nor shall any residence, when completed, be in any manner occupied until made to comply with the approved plans, the requirements herein and all other conditions and restrictions herein set forth; that all construction shall be completed within six months from the start thereof; provided that the reversionary owner may extend such time when in their opinion conditions warrant same. No temporary house dwelling, garage, outbuilding, trailer-home or other structure shall be placed or erected upon any lot.

14. All plans for the construction of private roads and driveways and all building plans for any building, fence, wall or structure to be erected upon any lot, and the proposed location thereof, upon any lot, and any changes after approval thereof, any remodeling, reconstruction, alteration or addition to any building, road, driveway or other structure upon any lot in said

property, shall require further the approval in writing of the reversionary owner, or their heirs or assigns, or their agent or architect. Before beginning the construction of any road, driveway, building, fence, wall, coping, or other structure whatsoever, or remodeling, reconstructing or altering such road, driveway or structure upon any lot, the person or persons desiring to erect, construct or modify the same shall submit to the reversionary owner, their heirs or assigns, or their agent or architect as directed, two complete sets of road or driveway plans showing the location, course and width of same or two complete sets of building plans and specifications for the building, fence, wall, coping or other structure, as is applicable, so desired to be erected, constructed or modified, and no structure of any kind, the plans, elevations and specifications of which have not received the written approval of said reversionary owner, their heirs and assigns, or their agent or architect, and which does not comply fully with such approved plans and specifications, shall be erected, constructed, placed or maintained upon any lot. Approval of such plans and specifications shall be evidenced by the written endorsement made on said plans and specifications, a copy of which shall be delivered to the owner or owners of the lot upon which said prospective building, road, driveway or other structure is contemplated prior to the beginning of said construction. No changes or deviations in or from said plans and specifications as approved shall be made without the written consent being first had. The reversionary owner, their heirs or assigns, their agent or architect shall not be responsible for any structural defects in said plans or specifications or in any building or structure erected according to said plans and specifications. The reversionary owner, their heirs or assigns may waive the setback provisions contained in item numbered five herein.

15. That the reversionary owners, their heirs or assigns, shall determine the location and size of all mail and paper delivery boxes.

16. That nothing herein shall be construed to prevent the reversionary owner, their heirs or assigns, from erecting, placing or maintaining sign structures on Lot 52 described hereinbefore which shall designate the subdivision name and contain a directory of the subdivision occupants.

17. That the reversionary owner hereinbefore mentioned shall be John and Mary Bender.

All of the aforesaid conditions and restrictions shall continue and remain in full force and effect at all times as against the owner of any lot in said property, however, his title thereto may be acquired, until the commencement of the calendar year of 1996, on which date the said conditions and restrictions shall terminate and end, and thereafter be of no further legal or equitable effect of said property or any owner thereof; provided, however, that said conditions and restrictions shall be automatically extended for a period of ten years, and thereafter in successive ten year periods, unless on or before the end of one of such extension periods or the base period the owners of a majority of the lots in said subdivision shall by written instrument duly recorded declare a termination of the same. Although the conditions, restrictions and covenants may expire as aforesaid any and all reversions for breach of said conditions or restrictions committed or suffered prior to said expiration shall be absolute.

PROVIDED, that a breach of any of the provisions, conditions, restrictions, and covenants hereby established shall cause the real property upon which said breach occurs to revert to the reversionary owner, their heirs and assigns in interest as the owner of such reversionary rights herein provided for and the owner of such reversionary rights shall have the right of immediate re-entry upon such real property in the event of such breach, and as to each lot owner in said property the said provisions, conditions, restrictions and covenants shall be covenants running with the land and the breach of any thereof or the continuance of any such breach may be enjoined or remedied by appropriate proceedings by the owner of the reversionary rights or by any owner of another lot in said property, but by no other person;

PROVIDED, FURTHER, that should the owner of the reversionary rights employ counsel to enforce any of the foregoing provisions, conditions, restrictions, or covenants, or re-entry by reason of such breach, all costs incurred in enforcing these restrictions, including a reasonable fee for counsel, shall be paid by the owner of such lot or lots, and the owner of such reversionary rights shall have a lien upon such lot or lots to secure payment of all such amounts;

PROVIDED, FURTHER, that the breach of any of the foregoing provisions, conditions, restrictions or covenants or any re-entry by reason of such breach, shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any lot or lots or portions of lots in said property, but said provisions, conditions, restrictions and covenants shall be binding upon and effective against any such mortgages of trustee or owner thereof, whose title thereto or whose grantor's title is or was acquired by foreclosure, trustee's sale or otherwise;

PROVIDED, FURTHER, that no delay or omission on the part of the owner of the reversionary rights or the owners of other lots in said property in exercising any right, power or remedy herein provided, in the event of any breach of the conditions, restrictions, covenants or reservations herein contained, shall be construed as a waiver thereof or acquiescence therein, and no right of actions shall accrue nor shall any action be brought or maintained by anyone whatsoever against the owner of the reversionary rights for or on account of their failure to bring any action on account of any breach of said provisions, conditions, restrictions or covenants or for imposing restrictions herein which may be unenforceable by the owner of said reversionary rights.

PROVIDED, FURTHER, that in the event any one or more of the conditions and restrictions hereinbefore set forth and contained shall be declared for any reason, by a court of competent jurisdiction, to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any of said conditions or restrictions not so declared to be void, but all of the remaining restrictions not expressly held to be void shall continue unimpaired and in full force and effect;

PROVIDED, FURTHER, that said property shall be subject to any all rights and privileges which the City of Tucson or the County of Pima, Arizona, may have acquired through dedication or the filing or recording of maps or plats of said property, as authorized by law, and provided further, that no conditions, restrictions, or privileges or acts performed shall be in conflict with any County Zoning Ordinance or Law.

IN WITNESS WHEREOF, PIMA LAND COMPANY, has caused its corporate name to be signed and the persons above named have hereto set their hands this 21st day of March, 1956.

(signatures of:) PIMA LAND COMPANY

By: Ivan Culbertson, President

(signatures of:) John W. Bender, Mary M. Bender, Francis K. Carson, Marian F. Carson, H. W. Thomas, Jr., Bobbie W. Thomas

Notorized by D. E. Hutchins