

THIRD AMENDED RESTRICTIVE COVENANTS AND PROTECTIVE EASEMENTS  
THE DESERT VILLA ESTATES, AN ADDITION TO  
THE CITY OF ALAMOGORDO, NEW MEXICO

DECLARATION

THIS DECLARATION is made on this 15 day of May, 1986 by the O'HARA'S, a partnership and the following undersigned owners who are all of the owners of real property located in the Desert Villa Estates, an addition to the City of Alamogordo, Otero County, New Mexico, as shown on the official plat thereof filed in the office of the County Clerk of Otero County on October 17, 1983 at Plat Book 30, Page 15 and 16, and other lands, all of which are more particularly described as follows:

A tract of land in the North half of the Northwest quarter of Section 11, T 17 S, R 9 E, NMPM, and being more particularly described as follows:

Starting at the Northwest corner of said Section 11 and going S 89 degrees 41' E along the North line of said Section 11 a distance of 100.00 feet to the place of beginning of the tract of land described; thence continuing S 89 degrees 41' E along the North line of said Section 11 a distance of 2238.06 feet; thence S 0 degrees 111' E a distance of 640.00 feet; thence S 44 degrees 45' E a distance of 28.16 feet; thence S 89 degrees 41' E a distance of 310.00 feet to the East line of said Northwest quarter; thence S 0 degrees 11' E along the East line of said Northwest quarter a distance of 670.14 feet; thence N 89 degrees 49' W a distance of 2572.86 feet to the East right-of-way line of Airport Road; thence N 0 degrees 03' E along said E right-of-way line a distance of 1336.67 feet to the place of beginning and containing 73.67 acres.

WHEREAS, THE O'HARA'S imposed certain restrictive covenants and mutual and reciprocal easements upon the tract of land, relating to an orderly and uniform development of the said real estate and the improvements to be placed thereon, under restrictive covenants recorded in Book 540, Page 866, et seq. on October 17, 1983, in the Office of the County Clerk, Otero County, New Mexico, and thereafter amended the same under Restrictive Covenants and Protective Easements, The Desert Villa Estates, An Addition To The City of Alamogordo, New Mexico, filed for record October 12, 1984, in Book 563, Pages 845-854, also in that office; and

BE IT THEREFORE DECLARED that the following covenants, restrictions and easements as amended herein are declared and imposed upon the lands and the same shall run with the land and be binding upon all parties, purchasers and owners and upon their successors, assigns and privies and all persons claiming under or by or through them for the term of years or terms of years as herein provided.

PART I. FULLY RESTRICTED RESIDENTIAL AREA

The residential area covenants in Part II in their entirety shall apply to the residential lots in Desert Villa Estates, an addition to the City of Alamogordo, Otero County, New Mexico.

PART II. RESIDENTIAL AREA COVENANTS

A. LAND USE AND BUILDING TYPE

1. No lots shall be used except for residential purposes.
2. No residence shall be erected, altered, placed or permitted to remain on any lot other than one detached single family dwelling.

B. MINIMUM HOME BUILDING REQUIREMENTS

Each dwelling shall contain and conform to the following minimum home building requirements;

1. Dwelling may be site built or manufactured or modular housing. They shall conform otherwise to all requirements relating to such single family residential construction in new subdivisions as may be required by acts, statute, rule, regulation or ordinance of Federal, State and Local authorities and agencies and shall, as constructed, conform generally to the requirements of conventional or Federal, State or local mortgage financing programs.

C. UNLESS THE FOREGOING GENERAL STANDARD IS HIGHER THE HOMES GENERALLY SHALL INCLUDE THE FOLLOWING.

1. Contain a minimum of 840 square feet with a minimum 1 car carport.
2. Contain a minimum of two bedrooms and one bath.
3. Sidewall minimum ceiling height of 7 feet with center height of living room no less than 7 feet 6 inches.

4. Composition roof shingle, or an acceptable equal.
5. Residential lap siding, fiber board, plywood, treated wood, brick, brick siding, masonite or masonry.
6. Removed wheels, axles, hitch and any running gear.
7. Permanent attachment to a foundation.
8. Concrete driveway.
9. Front entrance deck not less than 64 square feet with steps and sidewalks.
10. All site improvements and amenities in place and complete.
11. All utilities connected and attached in a manner acceptable to the utility company or in a manner comparable to site-built housing applications.
12. The finish floor elevation shall not be greater than twenty four (24") inches above the finish ground elevation from the front (street side) elevation.

D. ARCHITECTURAL CONTROL

No building or improvement shall be erected, placed, altered or replaced on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing and/or planned structures, and as to location with respect to topography and finish

grade elevation. No fence or wall, except necessary retaining walls of minimum height, shall be erected or allowed to remain nearer the front street than the front building setback line.

On corner lots, no side fence or walls, except necessary retaining walls of minimum height shall be erected or allowed to remain nearer to the front street than the front of the dwelling, nor nearer the side street than the property line. There is no restriction as to height of fences which are erected behind the minimum setback line of the front street; except as stated or implied herein. Approval shall be as provided in Part III.

E. BUILDING LOCATION

No building shall be located on a lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than twenty-five (25) feet to the front lot line, or nearer than fifteen (15) feet to any side street line, except that as to streets toward which houses face, no building shall be located nearer than twenty-five (25) feet to the street property lines of the said streets. No building shall be located nearer than five (5) feet to any exterior lot line except as may be permitted by City Ordinance. No dwelling shall be located on any interior lot nearer than twenty (20) feet to the rear lot line. For the purposes of this covenant, eaves, steps and open porches shall not

be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building, on a lot to encroach upon another lot.

F. LOT AREA AND WIDTH

No dwelling shall be erected or placed on any lot having a width of less than sixty (60) feet at the minimum building setback line. Each lot shall have an area of not less than 6,000 square feet.

G. EASEMENTS

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

H NUISANCES

No noxious or offensive activity 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.

I. TEMPORARY STRUCTURES AND INITIAL OCCUPANCY OF PERMANENT RESIDENCE

No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out-building, shall be used on any lot at any time as a residence either temporarily or permanently. Nor shall any residence be occupied initially until its completion has been approved by the Architectural Committee. Landscaping shall be completed within the time limits after occupancy and after in that manner agreed to between owner and the Committee at time of completion.

J. SIGNS

No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one (1) square foot, one (1) sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

K. OIL AND MINING OPERATIONS

No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot.

L. LIVESTOCK AND POULTRY

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household

pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

M. GARBAGE AND REFUSE DISPOSAL

No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

N. WATER SUPPLY

No individual water-supply system shall be permitted on any lot. Water supply for every lot shall be obtained from the public water system, maintained by the City of Alamogordo, New Mexico.

O. SEWAGE DISPOSAL

No individual sewage-disposal system shall be permitted on any lot. Sewage disposal for every lot shall be by means of the public sewage-disposal system, maintained by the City of Alamogordo, New Mexico.

P. SIGHT DISTANCE AT INTERSECTIONS

No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the

intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

PART III. ARCHITECTURAL CONTROL COMMITTEE

1. MEMBERSHIP The Architectural Control Committee is composed of:

- (a) Denny L. O'Hara  
607 South White Sands Blvd.  
Alamogordo, New Mexico 88310
- (b) Denny F. O'Hara  
607 South White Sands Blvd.  
Alamogordo, New Mexico 88310
- (c) Michael O'Hara  
607 South White Sands Blvd.  
Alamogordo, New Mexico 88310

A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representatives, shall be entitled to any compensation for

services performed pursuant to this covenant. At any time, the then record owners of a majority of lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or to restore to it any of its powers and duties.

2. PROCEDURE The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

PART IV. GENERAL PROVISIONS

1. TOLERANCE A six (6") inch tolerance by reason of mechanical variance of construction is allowed for minimum distance requirements from lot line.

2. TERM These covenants are to run with the land and shall be binding on all parties, their successors, assigns and privies and all persons claiming by, through or under them for a period of thirty (30) years from the date these covenants are recorded. After this period the covenants shall be automatically extended fo successive periods of ten (10) years unless an instrument signed by a majority of

the then owners of the lots has been placed of record in the County Clerk's Office, requesting amending or agreeing to change the covenants in whole or in part. Votes shall be counted on the basis of one (1) vote for each lot owned.

3. ENFORCEMENT Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

4. SEVERABILITY Invalidation of any one of these covenants by judgment or court order or by ordinance of the City of Alamogordo, New Mexico shall in nowise affect any of the other provisions which shall be and remain in full force and effect.

5. AMENDMENT These covenants may be amended [in whole or in part] at any time an instrument signed by a majority of the owners of the lots has been recorded agreeing to [amend said covenants in whole or in part to] include additional property under the terms hereof or to exclude specifically described property from the provisions hereof. Votes shall be counted on the basis of one (1) vote for each lot owned with the subject area.

The document described as "Additional Declarations of Restrictive Covenants and Protective Easements, The Desert Villa Estates, an addition to the City of Alamogordo, New Mexico, relating to the Desert Villa Estates Owners' Association" recorded in the

Office of the County Clerk of Otero County, New Mexico at Book 575, Page 879, is adopted as a part of these Third Amended Restrictive Covenants and Protective Easements, the Desert Villa Estates, an addition to the City of Alamogordo, New Mexico, as that document effects Lots 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, and 34 of Block 2; Lot 32 of Block 7; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 of Block 3; and Lot 1 of Block 8, all fronting on Challenger Avenue, and being Stage I, a part of Phase I, of the Desert Villa Estates Addition to the City of Alamogordo, New Mexico as shown on the official plat thereof filed in the office of the County Clerk of Otero County, New Mexico on the 17th day of October, 1983, at Plat Book 30, pages 15 and 16.

IN WITNESS WHEREOF, the said owners have caused this instrument to be executed this 20<sup>th</sup> day of May, 1986.

THE O'HARA'S,  
a general partnership

Denny L. O'Hara  
Denny L. O'Hara

Jean O'Hara  
Jean O'Hara

Denny F. O'Hara *By Jean O'Hara attorney in fact*  
Denny F. O'Hara

Patricia Jean O'Hara  
Patricia Jean O'Hara

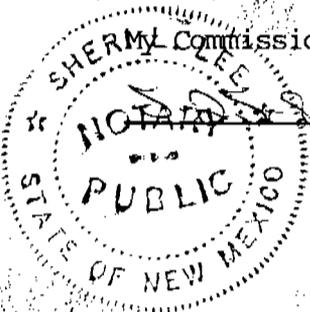
Michael Martin O'Hara  
Michael Martin O'Hara

STATE OF NEW MEXICO     )  
                                  ) ss:  
COUNTY OF OTERO         )

The foregoing instrument was acknowledged before me this 20<sup>th</sup>  
day of May, 1986, on behalf of THE O'HARA'S, a general  
partnership, by Denny L. O'Hara, Jean O'Hara, Denny F. O'Hara,  
Patricia Jean O'Hara, and Michael Martin O'Hara, general partners.

Shorid Soc  
Notary Public

Commission Expires:





DESERT VILLA ESTATES

SIGNATURE PAGE

Third Amended Restrictive Covenants and Protective Easements, the Desert Villa Estates, an addition to the City of Alamogordo, New Mexico,

OWNERS:

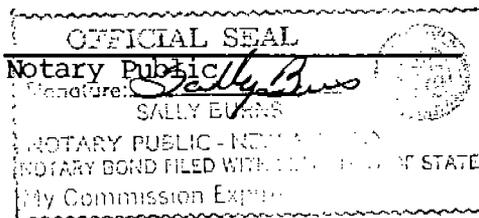
Kenneth B. McMurry  
Kenneth B. McMurry

Carolyn McMurry  
Carolyn McMurry, his wife

STATE OF NEW MEXICO     )  
  ) ss:  
COUNTY OF OTERO         )

The foregoing instrument was acknowledged before me this 22nd day of MAY, 1986, by Kenneth B. McMurry and Carolyn McMurry, his wife.

My Commission Expires:  
Aug 24 - 88









DESERT VILLA ESTATES

SIGNATURE PAGE

Third Amended Restrictive Covenants and Protective Easements, the Desert Villa Estates, an addition to the City of Alamogordo, New Mexico,

OWNERS:

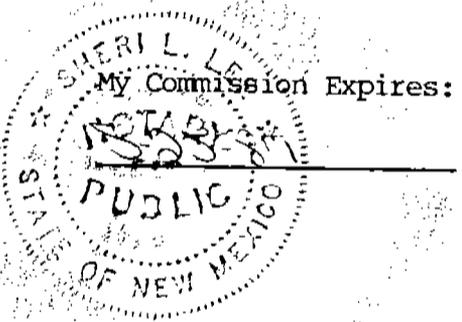
Ralph P. Watkins  
Ralph P. Watkins

Lynn A. Watkins  
Lynn A. Watkins, his wife

STATE OF NEW MEXICO     )  
  ) ss:  
COUNTY OF OTERO         )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of May, 1986, by Ralph P. Watkins and Lynn A. Watkins, his wife.

Shorid Soo  
Notary Public



DESERT VILLA ESTATES

SIGNATURE PAGE

Third Amended Restrictive Covenants and Protective Easements, the Desert Villa Estates, an addition to the City of Alamogordo, New Mexico,

OWNERS:

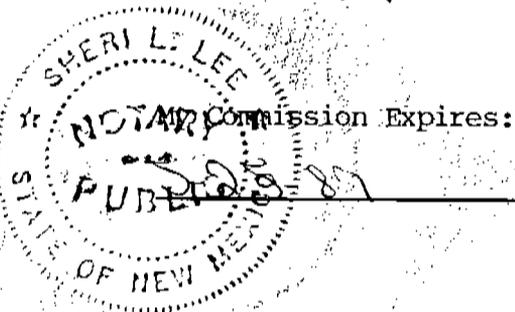
John A. Hockersmith  
 John A. Hockersmith  
Donnalee E. Hockersmith  
 Donnalee E. Hockersmith, his wife

STATE OF NEW MEXICO     )  
   ) ss:  
 COUNTY OF OTERO         )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of May, 1986, by John A. Hockersmith and Donnalee E. Hockersmith, his wife.

Shorid Lee  
 Notary Public

My Commission Expires:



DESERT VILLA ESTATES

SIGNATURE PAGE

Third Amended Restrictive Covenants and Protective Easements, the Desert Villa Estates, an addition to the City of Alamogordo, New Mexico,

OWNERS:

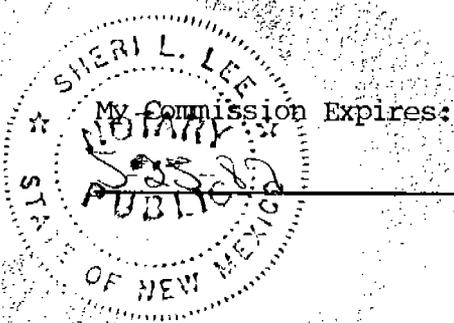
Scott L. Bonebright  
Scott L. Bonebright

Toni E. Bonebright  
Toni E. Bonebright, his wife

STATE OF NEW MEXICO     )  
  ) ss:  
COUNTY OF OTERO         )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of May, 1986, by Scott L. Bonebright and Toni E. Bonebright, his wife.

Sheri L. Lee  
Notary Public



DESERT VILLA ESTATES

SIGNATURE PAGE

Third Amended Restrictive Covenants and Protective Easements, the Desert Villa Estates, an addition to the City of Alamogordo, New Mexico,

OWNERS:

Hadley S. Antes  
Hadley S. Antes

Laura Antes  
Laura Antes, his wife

STATE OF NEW MEXICO     )  
  ) SS:  
COUNTY OF OTERO         )

The foregoing instrument was acknowledged before me this 22nd day of MAY, 1986, by Hadley S. Antes and Laura Antes, his wife.

My Commission Expires:

Aug 24 88

Signature: J. B. Burns  
Notary Public  
NOTARY PUBLIC - NEW MEXICO  
NOTARY BOND WITH THE SECRETARY OF STATE  
My Commission Expires:





DESERT VILLA ESTATES

SIGNATURE PAGE

Third Amended Restrictive Covenants and Protective Easements, the Desert Villa Estates, an addition to the City of Alamogordo, New Mexico,

OWNERS:

Mark W. Gauger  
Mark W. Gauger

Janette E. Gauger  
Janette E. Gauger, his wife

STATE OF NEW MEXICO        )  
  ) SS:  
COUNTY OF OTERO            )

The foregoing instrument was acknowledged before me this 22nd day of MAY, 1986, by Mark W. Gauger and Janette E. Gauger, his wife.

My Commission Expires:  
Aug 24-88

\_\_\_\_\_  
Notary Public

OFFICIAL SEAL  
Signature: Sally Burns  
SALLY BURNS  
NOTARY PUBLIC - NEW MEXICO  
NOTARY BOND FILED WITH SECRETARY OF STATE  
My Commission Expires

