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PIONEER ABSTRACT COMPANY

Book 187 Page 541

By Renne D. W. Hall

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RESTRICTIVE COVENANTS

WHEREAS, Melvin E. Tays and Helen D. Tays, his wife, of Alamogordo, New Mexico, are the owners of the following described real estate in Otero County, New Mexico, to-wit:

Dyer Subdivision Addition No. 2 of the City of Alamogordo, Otero County, New Mexico, according to the plat of said subdivision filed in the Office of the County Clerk, Otero County, New Mexico, on the 12th day of May, 1955, Reception No. 74164

AND WHEREAS, the said Melvin E. Tays and Helen D. Tays his wife, as owners desire to place certain restrictions in regard to the buildings and improvements thereon and other matters as hereinafter set out upon and against certain lots, as hereinafter described, as shown on the plat thereof.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That Melvin E. Tays and Helen D. Tays, his wife, of Alamogordo, New Mexico, the owners, hereby declare and agree with all future purchasers of lots or building sites in the above named Dyer Subdivision, Addition No. 2 of the City of Alamogordo, New Mexico, that the following restrictions apply to the following lots or building sites, Lots: 2-3-4-5-6-7-8-9; Block 411

Lots: 1-2-3-4-5-6-7-8-9-10-11-12-13-14-15-16-17; Block 412  
All of Block 413  
All of Block 414  
All of Block 415  
All of Block 416  
All of Block 417  
All of Block 418;

in said Subdivision known as Dyer Subdivision, Addition No. 2 of the City of Alamogordo, New Mexico, and all conveyances of any lot or lots therein shall be subject to certain restrictions as follows:

(a) All of the above described lots shall be known and described as single family residential lots and no structures shall be erected on any residential building plot other than one detached single family dwelling, not to exceed two stories in height, and private garages for not more than three cars, and other out-buildings incidental to residential use of the plot, all in accordance with such zoning regulations and building code as may legally apply at the time of construction.

(b) No building shall be located on any lot nearer to the front lot line than twenty-five feet (25 feet) or nearer to the side street line than fifteen feet (15 feet). In any event no building shall be located on any lot nearer than twenty-five feet (25 feet) to the front lot line, or nearer than fifteen feet (15 feet) to any side street line. No building shall be located nearer than five feet (5 feet) to an interior 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.

(c) No lot shall be resubdivided into, nor shall any dwelling be erected or placed on, any lot having a width of less than 60 feet at the minimum building setback line or any area of less than 6,000 square feet.

(d) 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.

(e) 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 residence either temporarily or permanently.

(f) No single family dwelling shall be permitted on any of the above described lots in "Dyer Subdivision, Addition No. 2" having a ground floor square foot living area of less than 900 square feet in case of a one story structure; nor not less than 900 square feet ground floor living area in the case of a one and one-half story or two story structure, both exclusive of porches and garages.

These covenants and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until April 2nd, 1981, at which time they shall be automatically continued in force for successive periods of ten years<sup>each</sup>/unless discontinued or amended by a vote of 51% or more of the then property owners, as hereinafter provided. These covenants and restrictions, or any portion thereof, may at such time or times, be amended or terminated by a vote of 51% or more of the then property owners. In case any vote is called, the record owners of the lots shall be entitled to one vote for each lot as described

in these covenants and as shown on the recorded plat.

Any person who desires to call an election for the purpose of suspending or amending all or any part of these protective covenants and restrictions, in accordance with the foregoing provisions will request such election by written notification to the subdividers and any and all owners of lots as described in these covenants.

If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the covenants or restrictions contained herein, it shall be lawful for the subdividers, their successors and assigns, or any other person or persons owning any lot as described in these covenants to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions and either to prevent him or them from so doing or to recover damages or other dues for such violation.

Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the provisions which shall remain in full force and effect.

IN WITNESS WHEREOF the said Melvin E. Tays and Helen D. Tays, his wife, owners, have caused this instrument to be executed this 12th day of April, 1956.

/s/ Melvin E. Tays

/s/ Helen D. Tays

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

On this 12th day of April, 1956, before me personally appeared Melvin E. Tays and Helen D. Tays, his wife, described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

Witness my hand and seal on this the day and year last above written.

/s/ Kathryn McMurry  
Notary Public

(Notarial Seal Imprint)  
My Commission expires:  
April 13, 1956.