

Filed: June 6, 1957

PROTECTIVE COVENANTS
FOR
MOUNTAIN VIEW TRACTS
OTERO COUNTY, NEW MEXICO

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS W. H. DANLEY and NETTIE J. DANLEY, his wife, are the owners of property located in Otero County, New Mexico, described as follows, to-wit:

All of MOUNTAIN VIEW TRACTS, being composed of Lots numbered One (1) to Fifteen (15), both inclusive, a Subdivision in Otero County, New Mexico, as the same are shown and designated on the Plat thereof filed in the Office of the Clerk of Otero County, New Mexico, on November 9, 1956;

and

WHEREAS the undersigned W. H. Danley and Nettie J. Danley, his wife, desire to restrict and impose certain protective covenants on the above described land:

NOW THEREFORE, in consideration of the foregoing and other valuable considerations, the undersigned, being the owners of all the lots and all equities therein in said described land, do hereby create and establish the following protective and restrictive covenants for said land, to-wit:

PART A - SINGLE FAMILY DETACHED DWELLINGS AREA COVENANTS

A-1

AREA. The Restrictive Area Covenants in this Part A in their entirety shall apply to all of the above-described lands, being Lots numbered One (1) to Fifteen (15), both inclusive, of said Mountain View Tracts.

A-2

LAND USE AND BUILDING TYPE. No lot shall be used except for

residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling unit not to exceed two- and one-half stories in height, and a private garage for not more than three cars. It is recognized that this provision together with the provisions of A-6 hereof may permit the erection of two single-family detached dwelling units, one of which ~~may face Poplar Drive and the other Walnut Drive~~, if the tract is at least 90 feet in width and has an area of at least 23,000 square feet.

A-3

ARCHITECTURAL CONTROL. No building shall be erected, placed, or altered 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 and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed, or altered on any lot nearer to any street than the minimum building setback line, with the exception of a fence or wall not to exceed three feet in height above the natural ground elevation. Approval shall be as provided in Part B hereof.

A-4

DWELLING COST, QUALITY AND SIZE. No dwelling shall be permitted on any lot at a cost of less than \$8500.00 based on cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenants to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one-story open porches and garages shall not be less than 900 square feet or less than 800 square feet for a dwelling of more than one story.

A-5

Dwelling Dwelling;
BUILDING LOCATION. No building shall be located on any lot nearer than 25 feet to Poplar Drive ~~or Walnut Drive~~ or nearer than 15 feet to any side street line. The front of the dwelling building shall be not more than 60 feet from either Poplar Drive ~~or Walnut Drive~~ ~~or either street~~ ~~or applicable~~. Structures built on corner lots may face either street and, for the purposes of determining the setback of structures built on corner lots, either street side may be considered as the front of the lot even though the structure might face the other street. No building shall be located nearer than 10 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.

A-6

LOT AREA AND WIDTH. No dwelling shall be erected or placed on any lot having a width of less than 65 feet at the minimum building setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 11,500 square feet.

A-7

EASEMENTS. Easements for installation and maintenance of utilities are reserved as shown on the recorded Plat, and an easement 10 feet in width,

being 5 feet on each side of the following described line, to-wit:

Beginning at a point on the west line of said lot numbered One (1) which point is 135.74 feet from the southwest corner of said Lot numbered One (1), and thence easterly to a point on the east line of said Lot numbered Fourteen (14) which is 131.59 feet northerly from the southeast corner of said Lot numbered Fourteen (14).

All main line utility poles shall be placed on property lot lines.

A-8

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 any annoyance or nuisance to the neighborhood.

A-9

TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently, the sole and only exception being that a trailer house may be utilized as a residence for a period not to exceed one year while the dwelling is being erected.

A-10

LIVESTOCK AND POULTRY. No animals, livestock, or poultry shall be raised, bred, or kept on any lot except that dogs, cats, and other household pets, horses, chickens, and rabbits may be kept; provided, however, they are not kept, bred, or maintained for any commercial purposes and provided that all corrals, chicken houses, and horse barns are located at least 20 feet from the side lot lines and, on said Lots One (1) through Fourteen (14), at least 200 feet from Poplar Drive, and, on said Lot Fifteen (15), at least 150 feet from Mimosa Lane.

A-11

SEWAGE DISPOSAL. All lavatories and/or toilets shall be built indoors and connected with outside septic tank or cesspool, ~~which shall be installed along Poplar Drive, at which time the premises shall be connected therewith and thereafter no septic tanks or cesspools shall be permitted.~~ No individual sewage disposal system shall be permitted on any lot unless such system is located, constructed, and equipped in accordance with standards and requirements which are substantially equal to or exceed the minimum requirements for such systems ~~as used by the Federal Housing Administration in connection with insurance of mortgages covering property in this State and in effect on the date such system is constructed.~~ Approval of such systems shall be obtained from the health authority having jurisdiction.

A-12

WATER WELLS. No individual water wells for domestic use or human

consumption of water shall be allowed. City water is available for domestic use.

PART B - ARCHITECTURAL CONTROL COMMITTEE

B-1

MEMBERSHIP. The Architectural Control Committee is composed of W. H. Danley and Nettie J. Danley of Tularosa, New Mexico, and W. H. Danley, Jr., of Albuquerque, New Mexico. 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 representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time the then record owners of a majority of the 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 restore to it any of its powers and duties.

B-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 in any event, 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 C - GENERAL PROVISIONS

C-1

TOLERANCE. A two-inch (2") tolerance by reason of mechanical variance of construction is allowed for minimum distance requirements from lot lines.

C-2

TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 15 ~~years~~ years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

C-3

ENFORCEMENT. Enforcement shall be by proceedings at law or in

equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages.

C-4

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

IN WITNESS WHEREOF, the undersigned execute this instrument on this 25th day of May, 1957.

Mettie J. Danley (SEAL) W. H. Danley (SEAL)
Mettie J. Danley W. H. Danley

STATE OF NEW MEXICO)
County of Otero) ss.

The foregoing instrument was acknowledged before me this 6th
day of June, 1957, by W. H. Danley and Mettie J. Danley, his
wife.

Wale W. Scott
Notary Public

My commission expires 10-25-59