

Regarding: Timberon Subdivision, Unit T-10 Amendment to Restrictive Covenants

STATE OF NEW MEXICO)
COUNTY OF Chavez)ss.

AFFIDAVIT OF
BRUCE C. RHODES

I, Bruce C. Rhodes, being first duly sworn upon oath state as follows:

1. That I am a lot owner of Timberon Subdivision, Unit 10, Otero County, New Mexico, my lot being known as T10-109-036.

2. That on or about March 20, 1991, I, together with lot owners Lonnie M. Jordan, John K. Shackelford and Dewell A. Dempsey, conducted an election to amend the restrictive covenants, pursuant to paragraph P of the Restrictive Covenants of Timberon Subdivision, Unit 10, which states:

"These covenants and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them. These covenants and restrictions may be amended by a vote of fifty-one (51%) percent or more of the property owners. Record owners of the lots shall be entitled to one vote for each lot as shown on the recorded plat. Any owner 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 shall request such election by written notification to the Subdivider and all record owners of lots within the Subdivision."

3. The purpose in seeking an amendment was to allow mobile homes in Unit 10, by amending Paragraph D of the Restrictive Covenants.

4. Letters explaining the election, and setting forth the existing covenant and proposed amended covenant, together with ballots for each lot owned, were mailed by me to the last known address of each and every record owner of lot(s) in Unit 10. A copy of the letter mailed is attached hereto as Exhibit A.

5. That out of 412 original lots in Unit 10, there presently exists a total of 410 lots, two separate owners having consolidated their two original lots into one, as evidenced

by the records of the Tax Assessor for Otero County, New Mexico.

6. That I, in behalf of all lot owners conducting said election, employed Carlos Cunningham, C.P.A., to receive and tabulate the votes.

7. That at least 51% of the votes were "Yes", in favor of and thereby passing the amendment of paragraph D.

Further affiant sayeth not.

Bruce C. Rhodes
Bruce C. Rhodes

Subscribed and sworn to before me this 24th day of June.

Glenn J. Sweeney
Notary Public

My Commission Expires:

11/6/85

LAK WOODS UNIT 22007 March 20, 1991

Dear Fellow Timberon T-10 Property Owners:

On November 19, 1985, Lyndol Wilcox and Betty L. Wilcox, his wife, filed suit in the Otero County District Court to force the removal of mobile homes in Timberon Subdivision T-10.

The property owners had been given approval by Timberon Property Owners Association to have the double-wide and modified single mobiles in T-10.

After years of litigation, in which the District Court and twice the Court of Appeals ruled in favor of the mobile home owners, a third appeal has resulted in a ruling in favor of Mr. and Mrs. Wilcox.

This means that the mobile home owners involved in this suit will be forced to move their homes out of T-10 and no other form of manufactured housing will be permitted.

This proposed amendment to the restrictive covenants would change that. The proposed amendment for Paragraph D for Timberon Subdivision T-10 is attached.

A previous proposed amendment to the restrictive covenants passed in 1986, but was rejected by the District Court in part because the ballots were not signed by all individual property owners.

Only owners of record for each lot may sign the ballot. This means that every person whose name is on the deed must sign the ballot even if you only have one lot. If you have more than one lot, every person whose name is on the deed must sign the ballot for each lot. If you have sold your lot under an escrow contract, you are still the owner of record. If you have sold your lot outright, please notify us immediately so that the new owner of record may be contacted.

The voting is being supervised by Carlos Cunningham, CPA, 500 North Main, Roswell, New Mexico 88201. Please return your ballot(s) immediately to Mr. Cunningham in the stamped, pre-addressed envelope provided.

The provisions for voting mandate that for any change in the covenants, 51% of the property owners in any subdivision approve the change. There are 412 lots in T-10. Therefore, to change the covenants as proposed, we must have 211 "YES" votes. Any ballot not returned within 60 days is counted as a "NO" vote.

The only areas of Timberon experiencing growth permit double-wide and modified single wide mobile homes. Some of your properties adjoin mobile homes. The developed areas show an increase in the value of the land.

This election is being conducted after written notification to and with the consent of the original subdivider, Johnny Mobley, and Dan Behles, the Bankruptcy Trustee of the Republic Financial Group, Ltd., with whom NAD merged.

ALL MICROPHOTOGRAPHIC IMAGES OF DOCUMENTS ON THIS FILM STRIP ARE OF AUTHORIZED DOCUMENTS IN THE POSSESSION OF THIS AGENCY AS NOTED IN THE STATEMENT OF DOCUMENT CERTIFICATION OF FILE AT THIS AGENCY. THESE DOCUMENTS ARE ROUTINELY MICROFILMED AS A NECESSARY OPERATION IN THE GENERATION OF AN INVARIANT DOCUMENT.
7-31M
DWE
V. W. G. GALL
CAMERA OPERATOR O
ROLL NO.

CURRENT

RESTRICTIVE COVENANTS

OF

TIMBERON SUBDIVISION UNIT 10

Paragraph D

No trailer, mobile home, basement, tent, shack, garage, barn or other out-building shall at any time be used as a residence, nor shall any residence of a temporary character be erected or permitted to remain. However, contractors may use a temporary building during the course of construction. And a travel trailer may be used as a temporary residence for a period of up to thirty (30) days if it is not connected to a water line and septic tank and if it is so connected, then the travel trailer may be used for a period of up to one-hundred eighty (180) days out of any one year period. The travel trailer must be removed from the lot during the remaining balance of each year.

PROPOSED AMENDMENT

RESOLVED, that the Restrictive Covenants for Timberon Subdivision, Unit 10, filed for record on March 26, 1979, shall be amended by deleting existing Paragraph D and substituting therefore the following language:

D

No basement, tent, shack, garage, barn or other outbuilding shall at any time be used as a residence, nor shall any residence of a temporary character be erected or permitted to remain. Contractors may use a temporary building during the course of construction and travel trailers may be used as temporary residences for a period of up to thirty days if not connected to a water line or septic system, or, if so connected, such travel trailer may be used for a period of up to 180 days out of any one-year period. Such travel trailer must be removed from the lot during the remaining balance of each year.

Mobile homes, modular units, manufactured homes, and movable structures (all hereafter referred to as "unit") shall be permitted on the following conditions with prior written approval of the Architectural Control Committee:

1. The minimum ground floor area, exclusive of porches and garages, shall be 900 square feet.
2. The unit shall be set on a permanent foundation with tongue and wheels removed.
3. The unit shall have a pitched roof with roofing material which complements the unit and which must be pre-approved by the Architectural Control Committee.
4. The unit must be skirted with a visually attractive material of a color and consistency which complements the unit, which must be pre-approved by the Architectural Control Committee and installed within 180 days of moving the unit onto the lot.
5. The exterior walls of the unit must be covered with stucco, brick, stone or other veneer material which must be pre-approved by the Architectural Control Committee.
6. Units in place prior to 1 March 1991 must comply with covenants and must receive written notification of compliance from the Architectural Control Committee. The owner of any such pre-existing unit not in compliance with the covenants must submit to the Architectural Control Committee a written intention to comply with the covenants within 90 days of filing of these covenants as amended.

BK 708 PG 300

We will try to contact you by telephone to answer any questions you may have. If you wish to call any of us, please do so. We will try to provide any information you want.

Remember to send in your ballot marked "YES" now.

Bruce C. Rhodes

Bruce C. Rhodes
Lot T10-109-036
505/622-0628

Lonnie M. Jordan

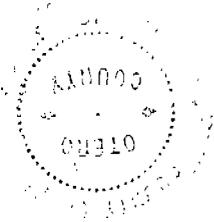
Lonnie M. Jordan
Lot T10-105-004
505/748-2911

John K. Shadelford

John K. Shadelford
Lot T10-106-003
915/593-8715

Dewell A. Dempsey

Dewell A. Dempsey
Lot T10-112-037
505/623-3193



STATE OF NEW MEXICO
COUNTY OF SHERIDAN
FILED FOR RECORD IN MY OFFICE
This 5 day of July 1974
At 1:30 o'clock P. M. and duly recorded
in Book No. 708 Page 295-300
The Record of this County, New Mexico
County of Sheridan, New Mexico
By *Laura L. P. [Signature]* Deputy

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