

Pace Rosewood Association, Inc.

Declaration of Covenants, Conditions and Restrictions,
Amended Plat of Pace Rosewood, recorded June, 1973 in
Docket 10181, Page 655

(also known as CC&R's)

162-50

THIS DECLARATION, made on the date hereinafter set forth by
ARIZONA TITLE INSURANCE AND TRUST COMPANY, as Trustee, hereinafter
referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in Glendale,
County of Maricopa, State of Arizona, which is more particularly
described as:

Lots 1 through 170 of AMENDED PLAT OF PACE ROSEWOOD,
according to the plat of record in the office of the
County Recorder of Maricopa County, Arizona, in Book 162
of Maps, Page 50, together with Tracts A, B, C, D, E and
F and the private streets, inclusive, according to said plat.

NOW THEREFORE, Declarant hereby declares that all of the properties
described above, together with any properties hereinafter added or
annexed as provided herein, shall be held, sold and conveyed subject
to the following easements, restrictions, covenants, and conditions
(sometimes hereinafter termed "covenants and restrictions"), which are
for the purpose of protecting the value and desirability of, and which
shall run with, the real property and be binding on all parties having
any right, title or interest in the described properties or any part
thereof; their heirs, successors and assigns, and shall inure to the
benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to PACE ROSEWOOD
TOWNHOUSE ASSOCIATION, INC., an Arizona corporation, its successors
and assigns.

Section 2. "Common Area" shall mean all property owned by the
Association for the common use and enjoyment of the Owners. The
Common Area to be owned by the Association at the time of the conveyance
of the first lot is described as follows:

Tracts A, B, C, D, E and F and the private streets inclusive,
AMENDED PLAT OF PACE ROSEWOOD, per map recorded in Book 162 of
Maps, Page 50 in the office of the Maricopa County Recorder.

Section 3. "Declarant shall mean and refer to ARIZONA TITLE INSURANCE AND TRUST COMPANY, as Trustee, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding others having such interest merely as security for the performance of an obligation. In the case of Lots the fee simple title to which is vested of record in the trustee pursuant to Arizona Revised Statutes, Section 33-801 et seq., legal title shall be deemed to be in the trustor.

Section 6. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II

PROPERTY RIGHTS IN COMMON AREA

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a. Charges. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

b. Suspension of Voting Rights. The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remain unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

c. Dedicate or Transfer. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument

signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on April 30, 1975.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. the Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments

for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the buildings situated upon the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Hundred Twenty Dollars (\$420.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 3% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 3% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum and the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of Eight percent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages and Deeds of Trust. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust. Sale or transfer of any Lot pursuant to foreclosure of a first mortgage or first deed of trust (including without limitation the exercise by the trustee of a power of sale thereunder), or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Arizona shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

EXTERIOR MAINTENANCE

Section 1. By Association. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces.

Section 2. Necessitated by Owner. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VI

INTERIOR AND OTHER MAINTENANCE

Section 1. Interior and Patios. Each Owner shall be responsible for the upkeep and maintenance of the interior of his townhouse, individual patios, and all other parts of his Lot not maintained by the Association.

Section 2. Fixtures and Equipment. All fixtures and equipment installed within a townhouse unit, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a townhouse unit, shall be maintained and kept in repair by the Owner thereof.

Section 3. Termite Control. Termite control shall be the responsibility of the Owner.

ARTICLE VII

DAMAGE OR DESTRUCTION OF PROPERTY

Section 1. Common Area. In the event any part of the Common Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents or members of his family, such Owner does hereby irrevocably authorize the Association to repair said damaged element and the Association shall so repair said damaged element in a good workmanlike manner in substantial conformity with the original plans and specifications. The Owner shall then repay the Association the amount actually expended for such repairs.

Section 2. Townhouses.

a. Owner's Duty. In the event any townhouse is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents or members of his family, such Owner shall, within sixty (60) days from the date of the occurrence of the damage or destruction, enter into a binding bona fide contract for the repair and rebuilding the exterior of said townhouse and any damage to adjacent townhouses or property in a good workmanlike manner in conformity with the original plans and specifications used in the construction of said townhouses. In the event such Owner refuses or fails to so repair and rebuild any and all such damage to the exterior of the townhouse and adjacent property within a reasonable time, not to exceed six (6) months from the date of the occurrence of the damage or destruction, the Association by and through its Board of Directors, is hereby irrevocably authorized by such Owner to repair and rebuild any such townhouse and/or adjacent property in a good workmanlike manner in conformity with the original plans and specification of the townhouses. The Owner shall then repay the Association the amount actually expended for such repairs.

b. Lien and Collection. Each Owner further agrees that the charges for repairs shall be delinquent if not paid within ten (10) days after completion of the work, and together with interest, cost and reasonable attorneys fees, shall be secured by a lien upon said Owner's Lot until fully paid. Said lien, in the same manner and to the same extent as the assessment lien, shall be subordinate to any first mortgage or deed of trust on the subject Lot. Said charges shall bear interest from the date of expenditure at the rate of eight percent (8%) per annum. The amount of principal and interest owed by said Owner to the Association's cost and reasonable attorneys fees, shall be collectible by any lawful

procedure allowed by the laws of the State of Arizona. Each Owner, by his acceptance of a deed to a Lot, hereby expressly agrees to pay all such charges and vests in the Association or its agent the right and power to bring all actions against such Owner for the collection of such charges and to enforce the aforesaid lien by all methods available for the enforcement of such liens and such Owner hereby expressly grants to the Association a power of sale in connection with said lien.

c. Insurance Company Liability. Nothing contained in this Article shall be construed in any way so as to relieve any insurance company from the payment of any and all amounts which would be payable under any policy or policies had not this Article been inserted.

d. Resolution of Disputes. In the event of a dispute between an Owner and the Board of Directors with respect to the cause of damage, the extent of repairs necessitated, the cost thereof, or any other matters under this Article, then upon written request of the Owner addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by the Board of Directors, one chosen by the Owner and these two arbitrators shall then choose a third arbitrator. If the two arbitrators cannot agree as to the selection of the third arbitrator, then by an Judge of the Superior Court of Maricopa County, Arizona. A determination by any two of the three arbitrators shall be binding upon the Owner and the Association, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after personal receipt of a request in writing for arbitration from the other party, which request cites this provision, then said other party shall have the right and power to choose both arbitrators.

ARTICLE VIII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Damage or Destruction. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions or under the provisions of this Declaration. Notwithstanding anything herein elsewhere provided, in the event any party wall is damaged or destroyed through the act of an Owner, or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive an adjacent Owner of the full use and enjoyment of such wall, then the first of such Owners shall forthwith proceed to rebuild, repair and restore the same to as good condition as formerly without cost to the adjacent Owner. In the event any party wall is damaged or destroyed by some cause other than the act of one of the Owners, his agents, tenants, licensees, guests or family (including without limitation ordinary wear and tear and deterioration from lapse of time), then in such event the adjacent Owners shall proceed forthwith to rebuild, repair and restore the same to as good condition as formerly at their joint expense.

Section 4. Protection from Elements. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Modification of Party Wall. No Owner shall modify, extend or alter any party wall without first obtaining the written consent of the adjacent Owner, which consent shall be in addition to all other approvals required under this Declaration or by law.

Section 7. Resolution of Disputes. In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by each of the Owners and the third by the two so chosen, or if the two arbitrators cannot agree as to the selection of the third arbitrator within five (5) days, then by any Judge of the Superior Court of Maricopa County, Arizona. A determination of the matter signed by any two of the three arbitrators shall be binding upon the Owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after personal receipt of a request in writing for arbitration from the other party, which request cites this provision, then said other party shall have the right and power to choose both arbitrators.

ARTICLE IX

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, color, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE X

USE RESTRICTIONS

Section 1. General Use and Building Restrictions. All Lots are hereby restricted to residential dwellings for residential use. All buildings or structures erected upon any Lot shall be of new construction and no buildings or structures shall be moved from other locations onto any Lot; and no

subsequent buildings or structures other than townhouses, being residence units joined together by party walls, shall be built on any parcel where the builder theretofore programmed and constructed a townhouse. No structures 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.

Section 2. Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cat or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

Section 3. Signs; Unsightly Objects; Nuisances. No signs (except on of not more than five square feet "for rent" or "for sale" sign per parcel), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on any Lot, nor shall any Lot be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any townhouse or any resident thereof. Further, no business activities of any kind whatsoever shall be conducted. No Owner shall do or suffer any act or condition upon his Lot which impairs any easement or right of, or otherwise adversely effects, the Owners or residents of other Lots.

Section 4. Outside Equipment; Storage; Trash Removal. All clothes lines, equipment, garbage cans, service years, woodpiles, or storage piles on any Lot shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring townhouses and streets. All rubbish, trash or garbage shall be regularly removed from each Lot, and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio area.

Section 5. Landscaping and Fencing. No planting, gardening or landscaping shall be done, and no fences, hedges, screens, or walls shall be erected or maintained upon any Lot except in accordance with the initial construction thereon or in accordance with the architectural control provisions of this Declaration.

Section 6. Common Area. The Common Area shall remain undivided, and shall at all times be owned by the Association or its successors, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Common Area.

Section 7. Antennas. Without prior written approval and the

authorization of the Board of Directors, no exterior television, radio or other antennas of any sort shall be placed, allowed or maintained upon any portion of the Properties.

Section 8. Builder's Exemption. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the developer, its agents, assigns, and contractors of said townhouses to maintain during the period of construction and sale thereof, such facilities as in the sole opinion of said developer may be reasonably required, convenient or incidental to the construction and sale of said townhouses, including without limitation, a business office, storage area, construction yards, signs, billboards, model units and sales office.

ARTICLE XI

EASEMENTS

Section 1. Utilities. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewers, gas, telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the townhouses. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated except as initially programmed and approved by the major developer of said premises. This easement shall in no way affect any other recorded easements on said premises.

Section 2. Encroachments. Each Lot and the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the original builder. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event a structure is partially or totally destroyed, and then rebuilt, the Owners agree that minor encroachments due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist. Notwithstanding any provision herein to the contrary, any encroachment permitted herein shall not

...ed one foot.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Term. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive period of ten (10) years.

Section 4. Amendment. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 5. Annexation.

a. With Consent of Members. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 6. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 14th day of June, 1978.

ARIZONA TITLE INSURANCE AND TRUST COMPANY, as Trustee

By [Signature]
Its TRUST OFFICER

DECLARANT