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(ENDORSED)
FILED
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DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of CA, County of Santa Clara
BY _____ DEPUTY

J. CAO-NGUYEN

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SANTA CLARA**

11 PAUL S. UGENTI, an individual,

12 Plaintiff,

13 v.

14 RONALD LAVALLEY, an individual;
JANET LAVALLEY, and individual;
15 MARYLOU ORAYANI, an individual;
HELEN ELIASI, an individual; STEVEN
16 ZAREA and ROBERTA MARIE ZAREA as
Trustees of The Zarea Family Trust;
17 EDWARD HUANG, an individual; JOHN
LOWE, an individual; ANTOINETTE
18 LOWE, an individual; CHARLES CHIOU,
an individual; JANE CHIOU, an individual;
19 RAYMOND TSENG, an individual; ROSE
TSENG, an individual; LEE TRUST, an
20 individual; RICHARD OLEARY, an
individual; KRISTIN OLEARY, an
21 individual; CARL BAILEY, an individual;
JUDITH BAILEY, an individual; EARLE G.
22 SCHWEIZER III and STEPHANIE J.
SCHWEIZER as Trustees of The
23 Schweizer Family Trust; WILLIAM
STACY, an individual; BARBARA STACY,
24 an individual; JOHN ABSALOM, an
individual; NICHOLAS CABI, an individual;
25 KAREN CABI, an individual; JOHN
MCCARTHY, an individual; TERESA
26 MCCARTHY, an individual; JOHN
BURKE, an individual; LORE BURKE, an
27 individual; THOMAS MARTELL, an
individual; CLAIRE MARTELL, an
28 individual; ROBERT NAGLE, an

CASE NO. **115CV277698**

**COMPLAINT FOR DECLARATORY
RELIEF AND TO QUIET TITLE**

FAXED

1 individual; LISA NAGLE, an individual;
2 LIEH WANG, an individual; YEE-LING
3 SETO, an individual; WILLIAM SETO, an
4 individual; THOMAS LAUSTEN, an
5 individual; GENEVIEVE LAUSTEN, an
6 individual; ALBERT TSANG, an individual;
7 ELAINE TSANG, an individual; BOK
8 SHIN, an individual; JUNG SHIN, an
9 individual; BENJAMIN ANGILERI, an
10 individual; JAMES THROCKMORTON, an
11 individual; RICHARD BOYLE, an
12 individual; VIOLET BOYLE, an individual;
13 CHRISTOPHER GREENE, an individual;
14 OLIVER WOODWORTH, an individual;
15 KENT HIURA, an individual; DEBBIE
16 HIURA, an individual; HASAN ENJAVI, an
17 individual; NEGAR ENJAVI, an individual;
18 HELEN GEWARGIS, an individual;
19 STEPHEN ABELY, an individual; DENISE
20 ABELY, an individual; SING-PUI LAM, an
21 individual; JEREMY HALL, an individual;
22 JOSEPH BRONSON, an individual;
23 WILLIAM LAUGENOUR, an individual;
24 JOAN LAUGENOUR, an individual;
25 JOSEPH AVAKOFF, an individual;
26 THEODORA AVAKOFF, an individual;
27 RANDALL PRESUHN, an individual;
28 GREGORY FANT, an individual; DEBRA
FANT, an individual; THOMAS BURKE,
an individual; MARY BURKE, an individual
KONSTANTINE IOURCHA, an individual;
ELENA IOURCHA, an individual;
STEPHEN LAUGHLIN, an individual;
SUSAN LAUGHLIN, an individual;
MICHAEL APPLEBAUM, an individual;
MARILYN SHEA, an individual; MICHAEL
SHEA, an individual; HENRY CHANG, an
individual; ELIZABETH CHANG, an
individual; REZA YAZDANFAR, an
individual; WILLIAM DEL BIAGGIO and
HELEN DEL BIAGGIO as Trustees of the
William J. Del Biaggio Jr. And Helen Del
Biaggio Trust; CHANDRASEKHAR
NARAYAN, an individual; RANI
NARAYAN, an individual; HOSEYN
RAHBAR, an individual; SOHEILA
RAHBAR, an individual; MARIE TSANG,
an individual; VICTOR TSANG, an
individual; AUGUSTINO CARCIONE, an
individual; DANIEL MARTINSON, an
individual; JESSICA MARTINSON, an
individual; RONALD SWENSON, an
individual; BONNIE SWENSON, an
individual; DAVID MEIDINGER, an
individual; THOMAS ROUSE, an

1 individual; ANDREE ROUSE, an
individual; PETER SMYTH, an individual;
2 ANITA SMYTH, an individual; THEO
WINARSKE, an individual; BARBARA
3 WINARSKE, an individual; CHUNG YEH,
an individual; MIAOYIN YEH, an
4 individual; DOUGLAS NEILSSON, an
individual; LINDA NEILSSON, an
5 individual; FATIMAH ABUZAYYAD, an
individual; DONALD MACDONALD and
6 NANCY MACDONALD as Trustees of The
MacDonald Living Trust; STEVEN JOLLY,
7 an individual; KIMBERLY JOLLY, an
individual; EMERSON YEE, an individual;
8 YIN-GAIL YEE, an individual;
FREDERICK EBERLE, an individual; DEE
9 EBERLE, an individual; DAVID
OHANNESON, an individual; JOAN
10 STEINBECK, an individual; TED
BARIKMO, an individual; HITESH
11 SAIJPAL, an individual; JOHN WHITE, an
individual; ALFRED MENINI, an individual;
12 BARBARA MENINI, an individual; AMIR
AGAH, an individual; JAMES GANSON,
13 an individual; PEGGY GANSON, an
individual; VIOLET SEQUEIRA, an
14 individual; MAXIMUS SEQUEIRA, an
individual; ROBERT CUDDIE, an
15 individual; CHIH-HSIN WANG, an
individual; BRUCE WALICEK, an
16 individual; JENNY WALICEK, an
individual; THOMAS KENNEDY, an
17 individual; MARGARET KENNEDY, an
individual; ANTHONY GIACOBBE, an
18 individual; ROSELIE GIACOBBE, an
individual; DON DINH TRAN, an
19 individual; KEVYN MOSHER, an
individual; RAFAEL CAVANNA, an
20 individual; DIANE CAVANNA, an
individual; P. MICHAEL TRUDEAU and
21 GLENNA TRUDEAU as Trustees of the
Trudeau Living Trust; KURT
22 CARRASQUILLA, an individual; TED
OMURA, an individual; JENNIFER
23 OMURA, an individual; DENNIS
WAGNER, an individual; VICKI WAGNER,
24 an individual; ABBAS ZAKERANI, an
individual; NAHID ZAKERANI, an
25 individual; JUNGHI AHN, an individual;
KUMSIL AHN, an individual; ALI
26 BAREKAT, an individual; KIM BAREKAT,
an individual; PETER HAAS, an individual;
27 LAURA HAAS, an individual; RONALD
BARBER, an individual; SUE BARBER, an
28 individual; ARTHUR COURVILLE, an

1 individual; CAROL COURVILLE, an
individual; ROBERT MIKOLIC, an
2 individual; PATRICIA MIKOLIC, an
individual; DAVID NOBLEZA, an
3 individual; SIMON CUONGNHI CHEN, an
individual; SIAMAK MOHSEN, an
4 individual; NAZY MOHSEN, THOMAS
CUDDIE, an individual, CELIA CUDDIE,
5 an individual; NORMAN HULBERG, an
individual; LISA HULBERG, an individual;
6 AHMAD JAVID, an individual; SAFOORA
JAVID, an individual; GREGORY HEARN,
7 an individual; REGINA HEARN, an
individual; DAVID LEWIS MYRON and
8 MICHELE SEGAL MYRON as Trustees of
The Myron Family 2003 Trust; JEFFERY
9 ZONTOS, an individual; DONNA
ZONTOS, an individual; JAMES A.
10 HEISCH AND RUTH E. HEISCH as
Trustees of The Heisch 1992 Trust;
11 JASON GEE, an individual; DARRELL
GEE, an individual; and all other persons
12 unknown, claiming any legal or equitable
right, title, estate, lien or interest in the
13 property described in the complaint, which
is adverse to The Almaden Golf & Country
14 Club's title or creates any cloud on that
title, inclusive,

15
16 Defendants.

17
18 Plaintiff Paul S. Ugenti ("Ugenti") alleges as follows:

19 **The Parties**

- 20 1. Ugenti is now, and at all times herein mentioned was, an individual that
21 resides in San Jose, California.
- 22 2. Ugenti is informed and believes and, on that basis, alleges that defendants
23 Ronald and Janet Lavalley are individuals that reside in Santa Clara County, California
24 and own, or claim some interest in, the real property located at 1345 Hidden Mine Road,
25 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-001.
- 26 3. Ugenti is informed and believes and, on that basis, alleges that defendant
27 Marylou Orayani is an individual that resides in Santa Clara County, California and owns,
28 or claims some interest in, the real property located at 1351 Hidden Mine Road, San

1 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-002.

2 4. Ugenti is informed and believes and, on that basis, alleges that defendant
3 Helen Eliasi is an individual that resides in Santa Clara County, California and owns, or
4 claims some interest in, the real property located at 1352 Hidden Mine Road, San Jose,
5 CA 95120, and further described as Assessor's Parcel Number 581-42-003.

6 5. Ugenti is informed and believes and, on that basis, alleges that defendants
7 Steven Zarea and Roberta Marie Zarea are Trustees of The Zarea Family Trust, which is
8 a trust that owns, or claims some interest in, the real property located at 6709 Lookout
9 Bend, San Jose, CA 95120, and further described as Assessor's Parcel Number
10 581-42-004.

11 6. Ugenti is informed and believes and, on that basis, alleges that defendant
12 Edward Huang is an individual that resides in Santa Clara County, California and owns,
13 or claims some interest in, the real property located at 6727 Lookout Bend, San Jose, CA
14 95120, and further described as Assessor's Parcel Number 581-42-005.

15 7. Ugenti is informed and believes and, on that basis, alleges that defendants
16 John and Antoinette Lowe are individuals that reside in Santa Clara County, California
17 and own, or claim some interest in, the real property located at 6745 Lookout Bend, San
18 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-006.

19 8. Ugenti is informed and believes and, on that basis, alleges that defendants
20 Charles and Jane Chiou are individuals that reside in Santa Clara County, California and
21 own, or claim some interest in, the real property located at 6751 Lookout Bend, San
22 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-007.

23 9. Ugenti is informed and believes and, on that basis, alleges that defendants
24 Raymond and Rose Tseng are individuals that reside in Santa Clara County, California
25 and own, or claim some interest in, the real property located at 6752 Lookout Bend, San
26 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-008.

27 10. Ugenti is informed and believes and, on that basis, alleges that defendant
28 Lee Trust is an individual that resides in Santa Clara County, California and owns, or

1 claims some interest in, the real property located at 6746 Lookout Bend, San Jose, CA
2 95120, and further described as Assessor's Parcel Number 581-42-009.

3 11. Ugenti is informed and believes and, on that basis, alleges that defendants
4 Kristin and Richard Oleary are individuals that reside in Santa Clara County, California
5 and own, or claim some interest in, the real property located at 6740 Lookout Bend, San
6 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-010.

7 12. Ugenti is informed and believes and, on that basis, alleges that defendants
8 Judith and Carl Bailey are individuals that reside in Santa Clara County, California and
9 own, or claim some interest in, the real property located at 6734 Lookout Bend, San
10 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-011.

11 13. Ugenti is informed and believes and, on that basis, alleges that defendants
12 Earle G. Schweizer, III and Stephanie J. Schweizer are Trustees of The Schweizer
13 Family Trust, which is a trust that owns, or claims some interest in, the real property
14 located at 6728 Lookout Bend, San Jose, CA 95120, and further described as Assessor's
15 Parcel Number 581-42-012.

16 14. Ugenti is informed and believes and, on that basis, alleges that defendants
17 Barbara and William Stacy are individuals that reside in Santa Clara County, California
18 and own, or claim some interest in, the real property located at 6722 Lookout Bend, San
19 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-013.

20 15. Ugenti is informed and believes and, on that basis, alleges that defendant
21 John Absalom is an individual that resides in Santa Clara County, California and owns, or
22 claims some interest in, the real property located at 6716 Lookout Bend, San Jose, CA
23 95120, and further described as Assessor's Parcel Number 581-42-014.

24 16. Ugenti is informed and believes and, on that basis, alleges that defendants
25 Nicholas and Karen Cabi are individuals that reside in Santa Clara County, California and
26 own, or claim some interest in, the real property located at 6710 Lookout Bend, San
27 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-015.

28

1 17. Ugenti is informed and believes and, on that basis, alleges that defendants
2 Teresa and John McCarthy are individuals that reside in Santa Clara County, California
3 and own, or claim some interest in, the real property located at 6828 Leyland Park Drive,
4 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-017.

5 18. Ugenti is informed and believes and, on that basis, alleges that defendants
6 John and Lore Burke are individuals that reside in Santa Clara County, California and
7 own, or claim some interest in, the real property located at 6820 Leyland Park Drive, San
8 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-019.

9 19. Ugenti is informed and believes and, on that basis, alleges that defendants
10 Thomas and Claire Martell are individuals that reside in Santa Clara County, California
11 and own, or claim some interest in, the real property located at 6816 Leyland Park Drive,
12 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-020.

13 20. Ugenti is informed and believes and, on that basis, alleges that defendants
14 Robert and Lisa Nagle are individuals that reside in Santa Clara County, California and
15 own, or claim some interest in, the real property located at 6812 Leyland Park Drive, San
16 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-021.

17 21. Ugenti is informed and believes and, on that basis, alleges that defendant
18 Lih Wang is an individual that resides in Santa Clara County, California and owns, or
19 claims some interest in, the real property located at 6808 Leyland Park Drive, San Jose,
20 CA 95120, and further described as Assessor's Parcel Number 581-42-022.

21 22. Ugenti is informed and believes and, on that basis, alleges that defendants
22 Yee-Ling and William Seto are individuals that reside in Santa Clara County, California
23 and own, or claim some interest in, the real property located at 6804 Leyland Park Drive,
24 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-023.

25 23. Ugenti is informed and believes and, on that basis, alleges that defendants
26 Thomas and Genevieve Lausten are individuals that reside in Santa Clara County,
27 California and own, or claim some interest in, the real property located at 6798 Leyland
28 Park Drive, San Jose, CA 95120, and further described as Assessor's Parcel Number

1 581-42-024.

2 24. Ugenti is informed and believes and, on that basis, alleges that defendants
3 Elaine and Albert Tsang are individuals that reside in Santa Clara County, California and
4 own, or claim some interest in, the real property located at 6794 Leyland Park Drive, San
5 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-025.

6 25. Ugenti is informed and believes and, on that basis, alleges that defendants
7 Bok and Jung Shin are individuals that reside in Santa Clara County, California and own,
8 or claim some interest in, the real property located at 1351 Box Canyon Road, San Jose,
9 CA 95120, and further described as Assessor's Parcel Number 581-42-026.

10 26. Ugenti is informed and believes and, on that basis, alleges that defendant
11 Benjamin Angileri is an individual that resides in Santa Clara County, California and
12 owns, or claims some interest in, the real property located at 1357 Box Canyon Road,
13 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-027.

14 27. Ugenti is informed and believes and, on that basis, alleges that defendant
15 James Throckmorton is an individual that resides in Santa Clara County, California and
16 owns, or claims some interest in, the real property located at 1363 Box Canyon Road,
17 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-028.

18 28. Ugenti is informed and believes and, on that basis, alleges that defendants
19 Richard and Violet Boyle are individuals that reside in Santa Clara County, California and
20 own, or claim some interest in, the real property located at 1369 Box Canyon Road, San
21 Jose, CA 95120, and further described as Assessor's Parcel Number 581-42-029.

22 29. Ugenti is informed and believes and, on that basis, alleges that defendant
23 Christopher Greene is an individual that resides in Santa Clara County, California and
24 owns, or claims some interest in, the real property located at 1375 Box Canyon Road,
25 San Jose, CA 95160, and further described as Assessor's Parcel Number 581-42-030.

26 30. Ugenti is informed and believes and, on that basis, alleges that defendant
27 Oliver Woodworth Jr. is an individual that resides in Santa Clara County, California and
28 owns, or claims some interest in, the real property located at 1382 Box Canyon Road,

1 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-001.

2 31. Ugenti is informed and believes and, on that basis, alleges that defendants
3 Kent and Debbie Hiura are individuals that reside in Santa Clara County, California and
4 own, or claim some interest in, the real property located at 1376 Box Canyon Road, San
5 Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-002.

6 32. Ugenti is informed and believes and, on that basis, alleges that defendants
7 Hasan and Negar Enjavi are individuals that reside in Santa Clara County, California and
8 own, or claim some interest in, the real property located at 1364 Box Canyon Road, San
9 Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-003.

10 33. Ugenti is informed and believes and, on that basis, alleges that defendant
11 Helen Gewargis is an individual that resides in Santa Clara County, California and owns,
12 or claims some interest in, the real property located at 6815 Rockview Court, San Jose,
13 CA 95120, and further described as Assessor's Parcel Number 581-43-004.

14 34. Ugenti is informed and believes and, on that basis, alleges that defendants
15 Stephen and Denise Abely are individuals that reside in Santa Clara County, California
16 and own, or claim some interest in, the real property located at 6821 Rockview Court,
17 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-005.

18 35. Ugenti is informed and believes and, on that basis, alleges that defendant
19 Sing-Pui Lam is an individual that resides in Santa Clara County, California and owns, or
20 claims some interest in, the real property located at 6827 Rockview Court, San Jose, CA
21 95120, and further described as Assessor's Parcel Number 581-43-007.

22 36. Ugenti is informed and believes and, on that basis, alleges that defendant
23 Jeremy Hall is an individual that resides in Santa Clara County, California and owns, or
24 claims some interest in, the real property located at 6835 Rockview Court, San Jose, CA
25 95120, and further described as Assessor's Parcel Number 581-43-008.

26 37. Ugenti is informed and believes and, on that basis, alleges that defendant
27 Joseph Bronson is an individual that resides in Santa Clara County, California and owns,
28 or claims some interest in, the real property located at 6838 Rockview Court, San Jose,

1 CA 95120, and further described as Assessor's Parcel Number 581-43-009.

2 38. Ugenti is informed and believes and, on that basis, alleges that defendants
3 William and Joan Laugenour are individuals that reside in Santa Clara County, California
4 and own, or claim some interest in, the real property located at 6834 Rockview Court,
5 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-043-010.

6 39. Ugenti is informed and believes and, on that basis, alleges that defendants
7 Joseph and Theodora Avakoff are individuals that reside in Santa Clara County,
8 California and own, or claim some interest in, the real property located at 6832 Rockview
9 Court San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-
10 011

11 40. Ugenti is informed and believes and, on that basis, alleges that defendant
12 Randall Presuhn is an individual that resides in Santa Clara County, California and owns,
13 or claims some interest in, the real property located at 6828 Rockview Court, San Jose,
14 CA 95120, and further described as Assessor's Parcel Number 581-43-012.

15 41. Ugenti is informed and believes and, on that basis, alleges that defendants
16 Debra and Gregory Fant are individuals that reside in Santa Clara County, California and
17 own, or claim some interest in, the real property located at 6822 Rockview Court, San
18 Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-013.

19 42. Ugenti is informed and believes and, on that basis, alleges that defendants
20 Thomas and Mary Burke are individuals that reside in Santa Clara County, California and
21 own, or claim some interest in, the real property located at 6816 Rockview Court, San
22 Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-014.

23 43. Ugenti is informed and believes and, on that basis, alleges that defendants
24 Konstantine and Elana Loucha are individuals that reside in Santa Clara County,
25 California and own, or claim some interest in, the real property located at 7186 Wooded
26 Lake Drive, San Jose, CA 95120, and further described as Assessor's Parcel Number
27 581-43-015.

28

1 44. Ugenti is informed and believes and, on that basis, alleges that defendants
2 Stephen and Susan Laughlin re individuals that reside in Santa Clara County, California
3 and own, or claim some interest in, the real property located at 7188 Wooded Lake Drive,
4 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-016.

5 45. Ugenti is informed and believes and, on that basis, alleges that defendant
6 Michael Applebaum is an individual that resides in Santa Clara County, California and
7 owns, or claims some interest in, the real property located at 6803 Leyland Park Drive,
8 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-017.

9 46. Ugenti is informed and believes and, on that basis, alleges that defendants
10 Marilyn and Michael Shea are individuals that reside in Santa Clara County, California
11 and own, or claim some interest in, the real property located at 6807 Leyland Park Drive,
12 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-018.

13 47. Ugenti is informed and believes and, on that basis, alleges that defendants
14 Henry and Elizabeth Chang are individuals that reside in Santa Clara County, California
15 and own, or claim some interest in, the real property located at 6811 Leyland Park Drive,
16 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-019.

17 48. Ugenti is informed and believes and, on that basis, alleges that defendant
18 Reza Yazdanfar is an individual that resides in Santa Clara County, California and owns,
19 or claims some interest in, the real property located at 6817 Leyland Park Drive, San
20 Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-020.

21 49. Ugenti is informed and believes and, on that basis, alleges that defendants
22 William Del Biaggio and Helen Del Biaggio are trustees of the William J. Del Biaggio Jr.
23 and Helen Del Biaggio Trust, which is a trust that owns, or claims some interest in, the
24 real property located at 7198 Wooded Lake Drive, San Jose, CA 95120, and further
25 described as Assessor's Parcel Number 581-43-021.

26 50. Ugenti is informed and believes and, on that basis, alleges that defendants
27 Chandrasekhar and Rani Narayan are individuals that reside in Santa Clara County,
28 California and own, or claim some interest in, the real property located at 7196 Wooded

1 Lake Drive, San Jose, CA 95120, and further described as Assessor's Parcel Number
2 581-43-022.

3 51. Ugenti is informed and believes and, on that basis, alleges that defendants
4 Hoseyn and Soheila Rahbar are individuals that reside in Santa Clara County, California
5 and own, or claim some interest in, the real property located at 7194 Wooded Lake Drive,
6 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-023.

7 52. Ugenti is informed and believes and, on that basis, alleges that defendants
8 Marie and Victor Tsang are individuals that reside in Santa Clara County, California and
9 own, or claim some interest in, the real property located at 7192 Wooded Lake Drive, San
10 Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-024.

11 53. Ugenti is informed and believes and, on that basis, alleges that defendant
12 Augustino Carcione, Sr., is an individual that resides in Santa Clara County, California
13 and owns, or claims some interest in, the real property located at 7190 Wooded Lake
14 Drive, San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-
15 025.

16 54. Ugenti is informed and believes and, on that basis, alleges that defendants
17 Daniel and Jessica Martinson are individuals that reside in Santa Clara County, California
18 and own, or claim some interest in, the real property located at 7184 Wooded Lake Drive,
19 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-026.

20 55. Ugenti is informed and believes and, on that basis, alleges that defendants
21 Ronald and Bonnie Swenson are individuals that reside in Santa Clara County, California
22 and own, or claim some interest in, the real property located at 7182 Wooded Lake Drive,
23 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-027.

24 56. Ugenti is informed and believes and, on that basis, alleges that defendant
25 David Meidinger is an individual that resides in Santa Clara County, California and owns,
26 or claims some interest in, the real property located at 7180 Wooded Lake Drive, San
27 Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-028.

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1 57. Ugenti is informed and believes and, on that basis, alleges that defendants
2 Thomas and Andree Rouse are individuals that reside in Santa Clara County, California
3 and own, or claim some interest in, the real property located at 7170 Wooded Lake Drive,
4 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-029.

5 58. Ugenti is informed and believes and, on that basis, alleges that defendants
6 Peter and Anita Smyth are individuals that reside in Santa Clara County, California and
7 own, or claim some interest in, the real property located at 7178 Wooded Lake Drive, San
8 Jose, CA 95120, and further described as Assessor's Parcel Number 581-43-031.

9 59. Ugenti is informed and believes and, on that basis, alleges that defendants
10 Barbara and Theo Winarske are individuals that reside in Santa Clara County, California
11 and own, or claim some interest in, the real property located at 7166 Wooded Lake Drive,
12 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-44-001.

13 60. Ugenti is informed and believes and, on that basis, alleges that defendants
14 Chung and Miaoyin Yeh are individuals that reside in Santa Clara County, California and
15 own, or claim some interest in, the real property located at 7158 Wooded Lake Drive, San
16 Jose, CA 95120, and further described as Assessor's Parcel Number 581-44-002.

17 61. Ugenti is informed and believes and, on that basis, alleges that defendants
18 Douglas and Linda Neilsson are individuals that reside in Santa Clara County, California
19 and own, or claim some interest in, the real property located at 7162 Wooded Lake Drive,
20 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-44-003.

21 62. Ugenti is informed and believes and, on that basis, alleges that defendant
22 Fatimah Abuzayyad is an individual that resides in Santa Clara County, California and
23 owns, or claims some interest in, the real property located at 7150 Wooded Lake Drive,
24 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-44-005.

25 63. Ugenti is informed and believes and, on that basis, alleges that defendants
26 Donald and Nancy MacDonald are Trustees of The MacDonald Living Trust, which is a
27 trust that owns, or claims some interest in, the real property located at 7146 Wooded
28 Lake Drive, San Jose, CA 95120, and further described as Assessor's Parcel Number

1 581-44-006.

2 64. Ugenti is informed and believes and, on that basis, alleges that defendants
3 Steven and Kimberly Jolly are individuals that reside in Santa Clara County, California
4 and own, or claim some interest in, the real property located at 7156 Wooded Lake Drive,
5 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-44-008.

6 65. Ugenti is informed and believes and, on that basis, alleges that defendants
7 Emerson and Yin-Gail Yee are individuals that reside in Santa Clara County, California
8 and own, or claim some interest in, the real property located at 7154 Wooded Lake Drive,
9 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-44-009.

10 66. Ugenti is informed and believes and, on that basis, alleges that defendants
11 Frederick and Dee Eberle, are individuals that reside in Santa Clara County, California
12 and own, or claim some interest in, the real property located at 7104 Wooded Lake Drive,
13 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-001.

14 67. Ugenti is informed and believes and, on that basis, alleges that defendant
15 David Ohanneson is an individual that resides in Santa Clara County, California and
16 owns, or claims some interest in, the real property located at 7090 Wooded Lake Drive,
17 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-002.

18 68. Ugenti is informed and believes and, on that basis, alleges that defendant
19 Joan Steinbeck is an individual that resides in Santa Clara County, California and owns,
20 or claims some interest in, the real property located at 7088 Wooded Lake Drive, San
21 Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-003.

22 69. Ugenti is informed and believes and, on that basis, alleges that defendant
23 Ted Barikmo is an individual that resides in Santa Clara County, California and owns, or
24 claims some interest in, the real property located at 7084 Wooded Lake Drive, San Jose,
25 CA 95120, and further described as Assessor's Parcel Number 581-45-004.

26 70. Ugenti is informed and believes and, on that basis, alleges that defendant
27 Hitesh Saijpal is an individual that resides in Santa Clara County, California and owns, or
28 claims some interest in, the real property located at 7080 Wooded Lake Drive, San Jose,

1 CA 95120, and further described as Assessor's Parcel Number 581-45-005.

2 71. Ugenti is informed and believes and, on that basis, alleges that defendant
3 John White is an individual that resides in Santa Clara County, California and owns, or
4 claims some interest in, the real property located at 7066 Wooded Lake Drive, San Jose,
5 CA 95120, and further described as Assessor's Parcel Number 581-45-006.

6 72. Ugenti is informed and believes and, on that basis, alleges that defendants
7 Alfred and Barbara Menini are individuals that reside in Santa Clara County, California
8 and own, or claim some interest in, the real property located at 1346 Rimrock Drive, San
9 Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-010.

10 73. Ugenti is informed and believes and, on that basis, alleges that defendant
11 Amir Agah is an individual that resides in Santa Clara County, California and owns, or
12 claims some interest in, the real property located at 1334 Rimrock Drive, San Jose, CA
13 95120, and further described as Assessor's Parcel Number 581-45-011.

14 74. Ugenti is informed and believes and, on that basis, alleges that defendants
15 James and Peggy Ganson are individuals that reside in Santa Clara County, California
16 and own, or claim some interest in, the real property located at 1352 Rimrock Drive, San
17 Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-012.

18 75. Ugenti is informed and believes and, on that basis, alleges that defendants
19 Violet and Maximus Sequeira are individuals that reside in Santa Clara County, California
20 and own, or claim some interest in, the real property located at 7059 Wooded Lake Drive,
21 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-013.

22 76. Ugenti is informed and believes and, on that basis, alleges that defendant
23 Robert Cuddie is an individual that resides in Santa Clara County, California and owns, or
24 claims some interest in, the real property located at 7071 Wooded Lake Drive, San Jose,
25 CA 95120, and further described as Assessor's Parcel Number 581-45-015.

26 77. Ugenti is informed and believes and, on that basis, alleges that defendant
27 Chih-Hsin Wang is an individual that resides in Santa Clara County, California and owns,
28 or claims some interest in, the real property located at 7115 Wooded Lake Drive, San

1 Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-022.

2 78. Ugenti is informed and believes and, on that basis, alleges that defendants
3 Bruce and Jenny Walicek are individuals that reside in Santa Clara County, California
4 and own, or claim some interest in, the real property located at 7064 Wooded Lake Drive,
5 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-023.

6 79. Ugenti is informed and believes and, on that basis, alleges that defendants
7 Thomas and Margaret Kennedy are individuals that reside in Santa Clara County,
8 California and own, or claim some interest in, the real property located at 7062 Wooded
9 Lake Drive, San Jose, CA 95120, and further described as Assessor's Parcel Number
10 581-45-024.

11 80. Ugenti is informed and believes and, on that basis, alleges that defendants
12 Anthony and Roselie Giacobbe are individuals that reside in Santa Clara County,
13 California and own, or claim some interest in, the real property located at 7060 Wooded
14 Lake Drive, San Jose, CA 95120, and further described as Assessor's Parcel Number
15 581-45-025.

16 81. Ugenti is informed and believes and, on that basis, alleges that defendant
17 Don Dinh Tran is an individual that resides in Santa Clara County, California and owns,
18 or claims some interest in, the real property located at 7083 Wooded Lake Drive, San
19 Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-027.

20 82. Ugenti is informed and believes and, on that basis, alleges that defendant
21 Kevyn Mosher is an individual that resides in Santa Clara County, California and owns, or
22 claims some interest in, the real property located at 7089 Wooded Lake Drive, San Jose,
23 CA 95120, and further described as Assessor's Parcel Number 581-45-028.

24 83. Ugenti is informed and believes and, on that basis, alleges that defendants
25 Rafael and Diane Cavanna are individuals that reside in Santa Clara County, California
26 and own, or claim some interest in, the real property located at 7099 Wooded Lake Drive,
27 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-029.

28

1 84. Ugenti is informed and believes and, on that basis, alleges that defendants
2 P. Michael and Glenna Trudeau are Trustees of The Trudeau Living Trust, which is a
3 trust that owns, or claims some interest in, the real property located at 7105 Wooded
4 Lake Drive, San Jose, CA 95120, and further described as Assessor's Parcel Number
5 581-45-030.

6 85. Ugenti is informed and believes and, on that basis, alleges that defendant
7 Kurt Carrasquilla is an individual that resides in Santa Clara County, California and owns,
8 or claims some interest in, the real property located at 7111 Wooded Lake Drive, San
9 Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-031.

10 86. Ugenti is informed and believes and, on that basis, alleges that defendants
11 Ted and Jennifer Omura are individuals that reside in Santa Clara County, California and
12 own, or claim some interest in, the real property located at 7056 Wooded Lake Drive, San
13 Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-032.

14 87. Ugenti is informed and believes and, on that basis, alleges that defendants
15 Dennis and Vicki Wagner are individuals that reside in Santa Clara County, California
16 and own, or claim some interest in, the real property located at 7054 Wooded Lake Drive,
17 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-045-033.

18 88. Ugenti is informed and believes and, on that basis, alleges that defendants
19 Abbas and Nahid Zakerani are individuals that reside in Santa Clara County, California
20 and own, or claim some interest in, the real property located at 7121 Wooded Lake Drive,
21 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-001.

22 89. Ugenti is informed and believes and, on that basis, alleges that defendants
23 Junghi and Kumsil Ahn are individuals that reside in Santa Clara County, California and
24 own, or claim some interest in, the real property located at 7127 Wooded Lake Drive, San
25 Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-002.

26 90. Ugenti is informed and believes and, on that basis, alleges that defendants
27 Ali and Kim Barekat are individuals that reside in Santa Clara County, California and own,
28 or claim some interest in, the real property located at 7133 Wooded Lake Drive, San

1 Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-003.

2 91. Ugenti is informed and believes and, on that basis, alleges that defendants
3 Peter and Laura Haas are individuals that reside in Santa Clara County, California and
4 own, or claim some interest in, the real property located at 7139 Wooded Lake Drive, San
5 Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-004.

6 92. Ugenti is informed and believes and, on that basis, alleges that defendants
7 Ronald and Sue Barber are individuals that reside in Santa Clara County, California and
8 own, or claim some interest in, the real property located at 7145 Wooded Lake Drive, San
9 Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-005.

10 93. Ugenti is informed and believes and, on that basis, alleges that defendants
11 Carol and Arthur Courville are individuals that reside in Santa Clara County, California
12 and own, or claim some interest in, the real property located at 7151 Wooded Lake Drive,
13 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-006.

14 94. Ugenti is informed and believes and, on that basis, alleges that defendants
15 Robert and Patricia Mikolic are individuals that reside in Santa Clara County, California
16 and own, or claim some interest in, the real property located at 7155 Red Holly Court,
17 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-007.

18 95. Ugenti is informed and believes and, on that basis, alleges that defendant
19 David Nobleza is an individual that resides in Santa Clara County, California and owns,
20 or claims some interest in, the real property located at 7159 Red Holly Court, San Jose,
21 CA 95120, and further described as Assessor's Parcel Number 581-46-008.

22 96. Ugenti is informed and believes and, on that basis, alleges that defendant
23 Simon Cuongnhi Chen is an individual that resides in Santa Clara County, California and
24 owns, or claims some interest in, the real property located at 7163 Red Holly Court, San
25 Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-009.

26 97. Ugenti is informed and believes and, on that basis, alleges that defendants
27 Siamak and Nazy Mohsen are individuals that reside in Santa Clara County, California
28 and own, or claim some interest in, the real property located at 7167 Red Holly Court,

1 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-011.

2 98. Ugenti is informed and believes and, on that basis, alleges that defendants
3 Thomas and Celia Cuddie are individuals that reside in Santa Clara County, California
4 and own, or claim some interest in, the real property located at 7171 Red Holly Court,
5 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-012.

6 99. Ugenti is informed and believes and, on that basis, alleges that defendants
7 Norman and Lisa Hulberg are individuals that reside in Santa Clara County, California
8 and own, or claim some interest in, the real property located at 7175 Red Holly Court,
9 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-013.

10 100. Ugenti is informed and believes and, on that basis, alleges that defendants
11 Ahmad and Safoora Javid are individuals that reside in Santa Clara County, California
12 and own, or claim some interest in, the real property located at 7179 Wooded Lake Drive,
13 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-014.

14 101. Ugenti is informed and believes and, on that basis, alleges that defendants
15 Gregory and Regina Hearn are individuals that reside in Santa Clara County, California
16 and own, or claim some interest in, the real property located at 7189 Wooded Lake Drive,
17 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-015.

18 102. Ugenti is informed and believes and, on that basis, alleges that defendants
19 David Lewis Myron and Michele Segal Myron are Trustees of The Myron Family 2003
20 Trust, which is a trust that owns, or claims some interest in, the real property located at
21 7193 Wooded Lake Drive, San Jose, CA 95120, and further described as Assessor's
22 Parcel Number 581-46-016.

23 103. Ugenti is informed and believes and, on that basis, alleges that defendants
24 Jeffery and Donna Zontos are individuals that reside in Santa Clara County, California
25 and own, or claim some interest in, the real property located at 7195 Wooded Lake Drive,
26 San Jose, CA 95120, and further described as Assessor's Parcel Number 581-46-017.

27 104. Ugenti is informed and believes and, on that basis, alleges that defendants
28 James A. Heisch and Ruth E. Heisch are Trustees of The Heisch 1992 Trust, which is a

1 trust that owns, or claims some interest in, the real property located at 7197 Wooded
2 Lake Drive, San Jose, CA 95120, and further described as Assessor's Parcel Number
3 581-46-018.

4 105. Ugenti is informed and believes and, on that basis, alleges that defendants
5 Jason and Darrell Gee are individuals that reside in Santa Clara County, California and
6 own, or claim some interest in, the real property located at 7065 Wooded Lake Drive, San
7 Jose, CA 95120, and further described as Assessor's Parcel Number 581-45-014.

8 **The Property**

9 106. The Almaden Golf & Country Club ("Club") is the owner of the real property
10 located in San Jose, California that is legally described as Assessor's Parcel Nos. 581-
11 46-019, 581-46-020, 581-42-018 (the "Property").

12 107. The Property consists of undeveloped land that is not currently being used
13 for a golf course reservoir or any related golf course uses.

14 108. Ugenti has entered into a contract with the Club to purchase the Property
15 and the Club has assigned to Ugenti all of its rights and interests in and to any causes of
16 action necessary to obtain a judicial decree that the Property may be used for, among
17 other things, residential purposes, including, without limitation, the causes of action
18 alleged in this Complaint.

19 109. The defendants designated as all persons unknown, claiming any legal or
20 equitable right, title, estate, lien, or interest in the property described in the complaint,
21 which claim is adverse to the Club's title, or creates any cloud on Club's title (sometimes
22 referred to as the "Unknown Defendants"), are unknown to Ugenti. Each unknown
23 defendant claims some right, title, estate, lien, or interest in the Property, which is
24 adverse to, or creates a cloud on, the Club's title to that Property.

25 **FIRST CAUSE OF ACTION**

26 **Declaratory Relief**

27 **(Against All Defendants, Including Unknown Defendants)**

28 110. Ugenti realleges and incorporates herein by reference each and every

1 allegation contained in paragraphs 1 through 109, above.

2 111. The Club and each of the defendants named above (collectively the
3 "Defendants") are all known owners of property comprising that tract of land situated in
4 Santa Clara County, California, commonly known as Tract 5472 Almaden Villa Book 340
5 (hereinafter the "Subdivision").

6 112. On or about November 1, 1974, a Declaration of Covenants, Conditions,
7 Restrictions and Easements (the "CC&Rs") concerning the Subdivision was recorded in
8 the office of the County Recorder of Santa Clara County, in Volume B155, page 723. A
9 copy of the CC&Rs is attached hereto as **Exhibit A** and incorporated herein by
10 reference.

11 113. An actual controversy has arisen and now exists between Ugenti and the
12 Defendants in that Ugenti contends that, (1) under the CC&Rs, the Defendants have no
13 ownership, rights or privileges in or in relation to the Property and, therefore, have no
14 standing to prevent the Property from being used for any lawful purpose, including
15 without limitation, residential purposes, or, in the alternative, (2) even if the Defendants
16 have such standing, under the CC&Rs, the Property may be used for any purpose that is
17 approved by the City of San Jose, including, without limitation, residential purposes. The
18 Defendants dispute these contentions.

19 114. Ugenti desires a judicial declaration that (1) under the CC&Rs, the
20 Defendants have no have no ownership, rights or privileges in or in relation to the
21 Property and, therefore, have no standing to prevent the Property from being used for
22 any lawful purpose, including without limitation, residential purposes, or, in the
23 alternative, (2) if the Defendants have such standing, under the CC&Rs, the Property
24 may be used for any purpose that is approved by the City of San Jose, including, without
25 limitation, residential purposes.

26 115. A judicial determination is necessary and appropriate at this time so that the
27 parties may ascertain their respective rights and responsibilities with respect to how the
28 Property may be used. Defendants' objection to the Property being used for residential

1 purposes threatens to, among other things, jeopardize the Club's contract to sell the
2 Property, substantially decrease the value of the Property and impede plans to build
3 homes on the Property resulting in significant financial losses to both the Club and Ugenti
4 that are estimated to exceed several million dollars.

5 116. Ugenti has complied with all statutory prerequisites necessary to bring this
6 cause of action for declaratory relief.

7 117. Civil Code section 1354 provides for the recovery of reasonable attorney's
8 fees and costs in the event an action to enforce the CC&Rs is commenced. Ugenti has
9 retained the law firm of Hanson Bridgett LLP to commence and prosecute this action and,
10 therefore, is entitled to an award of its reasonable attorneys' fees. As evidenced by the
11 Certificate of ADR Compliance filed herewith, prior to the commencement of this action,
12 Ugenti requested that the Defendants participate in alternative dispute resolution.
13 Because the Defendants refused to participate, their refusal should be considered by the
14 Court in determining the amount of attorneys' fees to be awarded Ugenti, pursuant to
15 Civil Code section 5960.

16 **SECOND CAUSE OF ACTION**

17 **Quiet Title**

18 **(Against All Defendants, Including Unknown Defendants)**

19 118. Ugenti realleges and incorporates herein by reference each and every
20 allegation contained in paragraphs 1 through 117, above.

21 119. Ugenti is seeking to quiet title against the claims of all Defendants. Each of
22 the Defendants claims some right, title, estate, lien or interest in and to the Property
23 based on the CC&Rs and consisting of an alleged equitable servitude that burdens the
24 Property for the benefit of the lot of each Defendant, and with the right of enforcement of
25 the restrictions contained in the CC&Rs vested in each Defendant. Defendants' claims,
26 and each of them, are without any right whatsoever and Defendants, and each of them,
27 have no right, title, estate, lien or interest whatsoever in the Property, or any part of the
28 Property.

1 120. Ugenti seeks to quiet title as of the date this Complaint is filed.

2 121. Ugenti has complied with all statutory prerequisites necessary to bring this
3 cause of action to quiet title.

4 WHEREFORE, Ugenti prays for judgment as follows:

5 A. On the First, Causes of Action:

6 1. For a declaration by the Court that the CC&Rs do not prohibit the
7 Property from being used for residential purposes;

8 2. For a declaration that the Property is free of any cloud, equitable
9 servitude, or reversionary interest based on the CC&Rs;

10 3. For costs of suit;

11 4. For reasonable attorney's fees; and

12 5. For such other and further relief as the Court deems proper.

13 B. On the Second Cause of Action:

14 1. For a judgment quieting the Club's title to the real property as against
15 Defendants, and all persons claiming under Defendants, and determining those adverse
16 claims to, and clouds on, the Property consisting of covenants, conditions, and
17 restrictions that are not binding or enforceable;

18 2. For costs of suit;

19 3. For reasonable attorney's fees; and

20 4. For such other and further relief as the Court deems proper.

21

22 DATED: March 5, 2015

HANSON BRIDGETT LLP

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By: 

JOHN W. KLOTSCHKE
Attorneys for Paul Ugenti Sr.

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VERIFICATION

I, Paul S. Ugenti, am the plaintiff in the above titled action. I have read the foregoing complaint and know the contents of the complaint. The same is true of my own knowledge, except as to those matters that are therein alleged on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

March 4, 2015



EXHIBIT A

"Covenants and restrictions if any, based upon race, color, religion, sex, handicap, familial status, or national origin are deleted unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons"

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
TRACT NO. 5472
ALMADEN VILLA UNIT NO. 14

THIS DECLARATION made and dated this 31st day of October, 1974, by Lawyers Title Insurance Corporation, a corporation, herein called the "Declarant".

WHEREAS, the Declarant is the owner of that certain real property situated in the City of San Jose, County of Santa Clara, State of California, as shown upon that certain Map entitled, "Tract No. 5472, Almaden Villa Unit No. 14", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California on May 28, 1974, in Book 340 of Maps, Pages 42, 43, 44 and 45 to which said Map and the said record thereof reference is hereby made and,

WHEREAS, said Declarant is about to convey parcels of said real property shown on Map of Tract 5472, Almaden Villa Unit No. 14, and desires to subject the same to certain covenants, conditions, restrictions and easements as hereafter set forth in furtherance of a general plan for the improvement, development, use and occupancy of the property.

WHEREAS, Declarant hereby declares that said lots and each of them are held and shall henceforth be sold, conveyed, used, improved, occupied, resided upon, hypothecated and held upon and subject to the manner, covenants, conditions, restrictions, easements and agreements between Declarant and the several purchasers and subsequent owners thereof, and their and each of their heirs, personal representatives, successors and assigns, all of which covenants, conditions, restrictions and easements are and each of them is impressed and imposed upon each and every parcel of said property as a servitude in favor of each and every parcel thereof as the dominant tenement or tenements as follows, to wit:

PART A. COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS - THE GENERAL PLAN FOR TRACT 5472

A-1. Land Use. Each and every one of the lots shall be used for private residential (sic) purposes only, except as noted below.

No building shall be erected, altered, placed or be permitted to remain on any lot other than (1) single family dwelling with attached or detached garage. No more than one room in each residence may contain kitchen facilities.

No resubdivision of any lot will be allowed except with the approval and compliance with all applicable ordinances of the City of San Jose. Approval of resubdivision must be obtained in scheduled public meetings before the appropriate bodies of the City of San Jose. Resubdivision of a lot or lots does not release newly created parcels of land from these covenants, conditions, restrictions and easements.

A-2. Exception: Non-Residential Lots. Lots 841, 843 and 873, Tract 5472. These three lots shall not be used for residential purposes as they constitute land being used as a golf course reservoir and related golf course uses. Note: City of San Jose zoning includes golf course areas and uses in their "residential" zoning. Lots 841, 843 and 873, Tract 5472 are excluded from residential restrictions in these covenants, however, uses and buildings approved by Use Permit before scheduled public hearings of the City of San Jose will be acceptable uses under these covenants.

Owners of lots in Tract 5472 (other than Lots 841, 843 and 873) do not have any ownership, rights, or privileges, in or in relation to Lots 841, 843 and 873.

A-3. Architectural Design

a. General. No building, fence, wall, swimming pool or other structure shall be erected on or moved upon any lot, or later changed or added to on any lot that is not in harmony with the exterior design and location in relation to surrounding structures and foothill topography of Tract 5472.

b. Clarification of "Surrounding Structures". The majority of homes that comprise the "Surrounding Structures" and also exemplify the goals of these covenants, conditions, restrictions and easements for Tract 5472 are described locally as California Ranch Houses. Such homes have low-pitched roofs, wide overhang and the exterior materials are varied with wood siding, boards, boards and battens, plywood siding, brick, stone, slumpstone, etc. Stucco may be used in conjunction with materials named herein, however, a basically all stucco house (except for wood trim) is not in harmony with the general plan of Tract 5472.

California Ranch Houses will be considered to blend into the surrounding area if structures are constructed in accordance with the guidelines set forth herein. Several other architectural styles will be considered to blend into the neighborhood if they are designed and adapted to the site so that the house does not "stand out" in relation to the homes around it. Architectural styles which require special care in design and location include extreme contemporary, Colonial, Mediterranean, English tudor, "pole type" foundation homes and "A" frame construction. These styles of architecture will not be allowed unless the structure can be located and designed so that it will blend into the surrounding area in a subdued manner.

c. Initial Development. Until a representative number of new homes have been constructed in Tract 5472 (twenty-five percent) the existing homes in the subdivisions immediately surrounding Tract 5472 shall be used as a general guide as to "surrounding structures" referred to herein. It is acknowledged, however, that the mere existence of an architectural style in the tracts surrounding Tract 5472 will not modify the guides as to what is in harmony with a general plans stated herein or elsewhere in these covenants, conditions, restrictions and easements.

d. Split-Level and Two-Story Homes. On lots wherein the section on Height Limitations (A-26) allows a two-story house or a split-level house (partially two-story), the general plan of these covenants is to achieve compatibility with the California Ranch House. The use of exterior materials, such as brick, wood siding, boards and battens, board on board, plywood siding, stone and slumpstone on the front elevation is recommended. Combinations of these materials and combinations with stucco on one of the floors of the house is acceptable.

e. Homes on Corner Lots. Exterior elevations on corner lots must be designed to treat all sides of the homes facing the streets with the same detail and materials as a "front" elevation.

f. Homes with Prominent Rear or Side Elevation. Homes that have side or rear elevations that are prominently

exposed to streets or houses below shall have the side or rear elevations designed and finished with the same detail and variety of materials as the front elevation.

g. Enclosure of Exposed Foundation Underpinning. Where the lot slope requires high wood or steel posts, concrete piers, "pole" type construction, or the like, all exposed foundation areas are to be enclosed with latticework, sheathing or other suitable screening material.

h. Exterior Home Colors. Only color schemes in harmony with the ranch house motif and the hillside lots shall be used. Preferred colors for major wall areas are the "earthy" shades of browns, greens or gray. Objectionable colors for major wall areas are white (including letdown shades such as oyster and eggshell) and the bright colors including red, yellow and blue.

Trim colors shall be muted shades, especially when applied to substantial areas such as garage doors, etc.

The height and size of the most prominent wall in the home shall influence (sic) the color scheme. The larger the wall area, the greater will be the need to blend colors with the hillside.

A-4. Dwelling Cost, Quality, Size. No dwelling shall be constructed on any lot at a cost of less than \$60,000 including lot cost, based upon 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 meeting all of the covenants, conditions, restrictions and easements contained in these covenants.

The floor area of the dwelling, exclusive of porches, garages, carports and patios, shall be not less than 2000 square feet.

A-5. Conduct of Business. No business of any kind shall be conducted on any residence lot with the exception of the business of the Declarant or its transferee of Declarant's business.

A-6. Nuisance. No noxious or offensive activity shall be carried on, in, or upon any lot nor shall anything be done therein which may be or which may become an annoyance or nuisance to other owners of neighbors.

A-7. Signs. No signs of any kind shall be displayed to the public view on any lot except one (1) professional sign of not more than five (5) square feet advertising the property for sale or rent. This provision does not apply to signs used by a builder to advertise the property during the construction and sales period.

A-8. Livestock, Poultry and Pets. No animals, poultry, livestock or pets shall be raised, bred or kept on any lot, except that dogs, cats or other pets that are bonafide household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and do not make objectionable noise or otherwise constitute a nuisance to any resident of adjoining property. Not more than a total of two (2) household pets over four (4) months of age may be kept in each dwelling.

A-9. Completion of Construction and Landscaping. Upon commencement of construction of any dwelling within this subdivision, the same will be pursued (sic) with diligence and continuity so that the same will be completed within a period of six (6) months. Acts of God, labor disputes, material and supply shortages, which are reasonably beyond the control of the builder, are excepted. Within eight (8) months after filing of Notice of Completion on the building, landscaping pertaining thereto will be completely finished, excepting that acts of God, bad weather conditions or material and labor shortages shall apply as heretofore mentioned.

A-10. Care of Properties. All vacant lots in this subdivision shall at all times be kept free of rubbish and litter by owner thereof; weeds and grass shall be disced out or kept well mown so as to present a tidy appearance. The yards and grounds in connection with all improved properties shall be at all times kept in a neat and sightly condition and shall be cultivated and planted to any extent needed to maintain an appearance in keeping with that of typical improved properties within this subdivision.

A-11. Mail Boxes. All detached residential mail boxes located within the front twenty-five (25) feet of any lot shall be in harmony with goals of architectural design as outlined herein.

A-12. Boat, Trailer or Truck Storage. No house trailer, mobile home, trailer, tent, camper, truck or boat may be maintained, stored, parked or kept upon any lot or parcel (with or without building) unless the same shall be screened effectively so as not to be visible from the street.

No automobiles or other vehicles shall be parked or kept in, upon, or about any lot or parcel unless the same be in operating condition and in regular use by the owners thereof.

A-13. Short Wave Antennas. No short wave aerial or antenna or support thereof shall be erected or maintained upon any lot or plot, or upon any building upon any lot or plot.

A-14. Basketball Backboards. In the event basketball backboards are attached or constructed on the front portion of any garage or dwelling, they shall be treated to match the color of the building to which they are affixed.

A-15. Underground Utilities. All utilities shall be underground.

A-16. Temporary Structures. 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. No temporary pre-fabricated building or structure of any nature whatsoever, permanent or temporary, shall be moved or placed upon, or assembled or otherwise maintained on any lot, provided, however, that a temporary office, trailer office, tool shed, lumber shed and/or sales office may be maintained upon any lot or lots by any building contractor for the purpose of erecting and selling dwellings on any lot or lots, but such temporary structures shall be removed at completion of construction.

A-17. Building Location.

a. Front and Rear Setbacks. Front and rear setbacks shall be in conformity with all ordinances of the City of San Jose relating thereto. Should the City of San Jose grant a front or rear setback variance, it shall be considered to be in conformity with these covenants.

b. Sidyard Setbacks. No building shall be located nearer than seven and one-half (7½) feet to an interior lot line (greater than City of San Jose ordinances at the time of recording these covenants).

c. Eaves and Open Porches. For the purpose of these covenants, eaves and open porches shall not be considered as part of the building.

A-18. Fences and Walls. No fence, wall or shrubbery hedge exceeding six (6) feet in height, measured from the

ground level elevation at the lot line may be erected or permitted to grow on any lot above the height limitation herein on any lot line. No fence shall be placed nearer to the front property line than the building itself.

A-19. Special Fence Height Restrictions on Lots Bordering the Golf Course. On lots bordering the golf course, no fencing, wall or shrubbery hedge shall be permitted in excess of forty-two (42) inches in height on the rear property line nor on the rear twenty-five (25) feet of the interior side lot lines.

A-20. Existing Slopes. Where slopes have been created by the developer in the grading of lots, the existing grade (i.e. 1½ to 1, 2 to 1, etc.) shall not be increased. Slopes shall not be undercut unless a retaining wall is constructed.

A-21. Retaining Walls. All retaining walls must be constructed in an efficient and workmanlike manner and must meet the regulations and ordinances of the City of San Jose.

A-22. Sanitary Sewers. Sewer lines have been installed in various locations other than the street on certain lots and owners or their agents should check with the City of San Jose for sewer lateral locations.

A-23. Water Pressure - Lots 774, 775, 776 and 777. The buildings on above noted four lots shall be placed below the 540 foot elevation in order to receive standard water pressure from the water main. In a multi-storied building the maximum height of the living areas shall be under the 540 foot elevation.

A-24. Swimming Pools. The excavated portion of a swimming pool shall not be located nearer than seven and one-half (7½) feet to the side yard lines nor nearer than seven and one-half (7½) feet to the rear lot lines.

Swimming pool heating and filtration units shall not be placed in that portion of the side yard setback adjacent to the dwelling unless the side yard has sufficient width to permit said unit to be a minimum of ten (10) feet from adjoining property line.

No heating or filtration units shall be placed in the rear twenty (20) feet of lots bordering on the golf course.

A-25. Air Conditioning. Air conditioning condensers utilizing a motor and fan shall not be placed in that portion of the side yard setback adjacent to the dwelling unless the side yard has sufficient width to permit said unit to be a minimum of ten (10) feet from adjoining property line.

A-26. Height Limitations. The maximum allowable height of the ridge of the building roof is shown on the schedule that is part of this paragraph. These height limitations have been established in relation to a specific reference point occurring at the top of the curb at the point designated on the following schedule:

Lot No.	Reference Point at Lot Line at top of Curb Between Lots Numbered**	Top of Curb - Elevation in feet at Reference Point	Maximum Height of Ridge of Roof. Elevation in Feet
763	763/764	452.77	489
764	764/765	411.33	464
765	764/765	411.33	485
766	766/767	396.51	432
767	767/768	393.69	419
768	768/769	367.77	409
769	769/770	375.58	400
770	770/771	378.49	400
771	771/772	390.84	425
772	772/773	403.92	432
773	773/774	387.38	469
774	774/775	401.25	480
775	775/776	396.05	490
776	776/777	425.19	510
777	777/778	424.78	530
778	778/780	417.86	450
779	777/776	425.19	480
780	778/780	417.86	445
781	778/780	417.86	424
782	782/783	414.55	424
783	783/784	404.55	434
784	784/785	396.46	434
785	785/786	392.63	416
786	786/797	394.53	413
787	787/788	398.77	430
788	788/789	393.88	430
789	789/790	378.58	405
790	790/791	356.21	390
791	791/792	336.28	363
792	792/793	343.64	364
793	793/794	345.90	387
794	794/795	339.82	403
795	794/795	339.82	375
796	796/797	395.74	403
797	797/786	394.53	403
798	798/799	378.97	384
799	799/800	395.30	400
800	800/801	411.61	415

801	801/802	420.29	435
802	802/803	420.62	439
803	803/804	420.95	453
804	804/805	417.38	447
805	805/806	402.59	435
806	806/807	399.75	409
807	807/808	381.94	415
808	808/809	362.26	395
809	809/810	343.21	373
810	810/811	346.39	377
811	811/812	346.64	378
812	812/813	346.60	379
813	813/814	345.67	377
814	814/815	343.27	375
815	815/816	340.61	373
816	816/817	333.95	369
817	816/817	333.95	363
818	818/819	421.02	453
819	819/820	415.56	448
820	820/821	406.48	436
821	821/822	395.61	425
822	822/823	384.87	414
823	823/824	372.85	395
824	824/825	359.62	390
825	825/826	341.56	372
826	825/826	341.56	354
827	827/828	417.16	425
828	828/829	421.79	446
829	829/818	421.36	453
830	830/831	337.18	414
831	830/831	337.18	375
832	832/833	326.10	364
833	832/833	326.10	355
834	834/835	331.11	352
835	835/836	330.16	352
836	836/837	337.41	352
837	837/838	345.93	358
838	838/839	344.31	363
839	839/840	336.28	357
840	840/841	329.81	352
841	N/A	N/A	N/A
842	841/842	335.61	365
843	N/A	N/A	N/A
844	844/845	355.28	375
845	845/846	373.86	399
846	846/847	395.97	419
847	847/850	396.11	430
848	848/849	433.43	453
849	849/851	432.39	453
850	850/851	399.01	430
851	849/851	432.39	451
852	852/853	432.22	451
853	853/854	433.31	453
854	854/855	433.39	453
855	855/848	433.43	453
856	856/857	395.78	425
857	857/858	401.31	420
858	857/858	401.31	420
859	857/858	401.31	420
860	860/861	401.66	420
861	860/861	401.66	420
862	861/862	393.40	404
863	863/865	400.79	416
864	864/865	404.58	429
865	864/865	404.58	431
866	866/867	404.73	431
867	866/867	404.73	429

868	866/868	395.09	409
869	869/872	372.76	399
870	870/871	405.89	454
871	871/872	375.38	425
872	869/872	372.76	429
873	N/A	N/A	N/A

** Height datum based on Improvement Plans for Tract No. 5472 approved by Department of Public Works, City of San Jose on May 7, 1974.

A-27. Limitations on Protection of View. No height restrictions greater than those set forth in the preceding paragraph will be imposed on any lot nor will any modification of front, rear or sideyard setbacks as set forth elsewhere in this declaration be required to protect the view from any other lot in the tract.

A-28. Lot Drainage, Where Drainage Easement is Recorded. When a recorded drainage easement crosses one or more lots it shall be the obligation of Lot Owners involved to accept the drainage waters from the higher lot and carry the drainage water across their lot to the next succeeding lower lot (or discharge point) following the route of the recorded drainage easement. Within these easements no structure, planting or other material shall be placed or permitted to remain or grow which may damage or interfere with the installation and maintenance of the 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 drainage easement area of each lot (generally a shallow swale) shall be maintained continuously by the owner of the lot.

A-29. Lot Drainage, Between Property Owners Without Recorded Drainage Easements.

a. No lot owner may concentrate storm or irrigation waters on his land without providing proper means for disposing of said waters in a manner which will prevent erosion or other damage to property owners in the tract.

b. In instances where a down-slope commences, as distinguished from a continuing slope, at a property line, the owner of the lot at the top of the slope shall be required to drain storm and irrigation water on his lot parallel to the property line so as not to permit storm or irrigation water to discharge down the slope onto the lot below.

c. If graded or natural swales or other drainage facilities are removed or modified due to landscaping, concrete walks, patios or other structures, owner shall be required to make appropriate and adequate arrangements so that there will be no change or increase in the natural flow of water across or onto adjoining properties.

A-30. Trees.

a. Existing Trees. An existing tree or trees may be removed should the trees interfere with the effective utilization of a lot to accommodate a reasonable floor plan.

b. Tree Replacement. If a tree is removed in accordance with preceding section, another tree shall be planted on the lot by the owner in a more suitable location. Acceptable replacement trees include, but shall not be limited to, the following trees:

Native to Area
 California White Oak
 (quercus lobata)
 (deciduous)
 California Live Oak
 (quercus agrifolia)
 (evergreen)
 California Bay
 California Buckeye

Other Trees
 European White Birch
 Liquidamber
 Chinese Evergreen Elm
 Ginkgo (Maidenhair Tree)
 (Male form only)
 Silver Maple
 Careb-St. John's Bread
 Chinese Pistache
 Claret Ash
 Flowering Plum
 Incense Cedar
 Silk Tree

Replacement trees shall be sized according to the following schedule:

<u>Diameter of Tree Removed</u>	<u>Nursery Stock Replacement</u>
Over 2" to 6"	5 Gallon Container
Over 6" to 12"	7 Gallon Container
Over 12"	15 Gallon Container

PART B. - EASEMENTS

B-1. Easements. No building shall be placed on easements nor shall owners interfere with the free use of the same for the purposes intended. As shown on the recorded subdivision map for Tract 5472, Easements are identified as follows:

Public Service Easement	(PSE)
Slope Easements	(SE)
Storm Drain Easements	(SDE)
Sanitary Sewer Easements	(SSE)
Private overland Drainage Easements	(?ODE)
Private Sanitary Lateral Easements	(PSLE)
Flow Line Lateral Drainage Course Easement, 20 Feet Wide	(FNDCE)

B-2. Mutual Driveway Easements. Mutual driveway easements are hereby created as specifically described in Addendum A for the purpose of ingress and egress, roadway construction, maintenance and repair for the mutual benefit of lots named. These mutual driveway easements as described in Addendum A are by this reference incorporated herein as if fully set forth. Lot owners, their heirs, successors and assigns of lots affected by Mutual Driveway Easements described in Addendum A shall bear equal costs of and accept responsibility to mutually and jointly maintain, repair, renew and operate these driveway ease-

ments to insure freedom of access. Should any one of the Owners fail to pay his or their share of expenses for said maintenance, repair or renewal, any or all of the Owners, after having made a written demand for said payment, may then bring an action in Civil Court against the delinquent contributor as provided for under Section 845 of the Civil Code of the State of California.

PART C. ARCHITECTURAL CONTROL.

C-1. General. Conditions of this part will only apply during such time as there is in existence an Architectural Committee by reason of appointment herein or by reason of recordation of the names of successor committee members in the office of the recorder of the County of Santa Clara.

In the event there no longer exists a committee because of resignation of the original committee members and because of the failure to record the names of successors from time to time, all other parts of these covenants, conditions, restrictions and easements shall nevertheless remain in full force and effect.

C-2. Architectural Committee - Establishment, Appointments to, Resignations, Meetings. An Architectural Committee of three persons is hereby established as the Declarant's original Committee. Declarant hereby appoints B. R. Gillis, E.T. Davies and Paul F. Merrill, 6641 Hampton Drive, San Jose, California 95120. The Committee membership shall be three (3) persons in number and until more than 50% of the lots have been sold or conveyed by the Declarant, the Declarant shall have the sole right to appoint, replace or remove any member of the Committee. Section C-7 will govern continuation, termination, re-signation and dissolution of the Committee after more than 50% of lots are sold. The Committee shall meet at the convenience of the members thereof, and as often as reasonably necessary to transact its business, acting on the concurrence of at least two (2) of its three members. A majority of the Committee may designate one or two representatives to act for it, but, by a majority vote of the Committee, may overturn said representatives actions. Members of the Committee may resign. Members of the Committee appointed by Declarant shall never receive compensation of any nature for their services during their tenure.

C-3. Work Requiring Architectural Committee Approval. No building, swimming pool, fence, wall or any other structure whatsoever, roof and/or exterior color schemes of or on structures, structural or other alterations, exterior painting or repainting or redecorating, repair of or addition to an existing structure which alters the exterior appearance thereof, remodeling or reconstruction shall be commenced, erected, constructed or maintained upon the properties without the prior approval of the Architectural Committee, and such approval shall be given when the plans, showing the nature, kind, shape, height, materials, colors and location of the same have been submitted to and approved as being in harmony of exterior design, color and location in relation to "surrounding structures" and topography by the Architectural Committee. The Architectural Committee shall use the standards set forth in paragraph A-3. Architectural Design. and elsewhere in this Declaration.

C-4. Approval Procedure.

a. Preliminary Approval. In order to avoid unnecessary hardships, lot owners contemplating works requiring Architectural Committee approval as set forth in the preceding section C-3 may submit in duplicate to the Architectural Committee at the outset preliminary drawings in order to obtain tentative action thereon before causing preparation of detailed or complete drawings, plans and specifications.

b. Final Plans. Before anyone shall commence the construction, reconstruction, remodeling, addition or alteration of any structure whatsoever on any lot, or commence any work the same as or similar to that mentioned in this Declaration, there shall be submitted to the Architectural Committee two complete sets of plans for such construction, reconstruction, remodeling or addition, alteration or work which is desired and no such construction, reconstruction, remodeling, addition, alteration or work shall be commenced, erected, constructed or maintained upon any lot unless and until the final plans, elevations and specifications therefore have received such approval as provided in this section.

c. Inclusion in Plans. Plans submitted to the Architectural Committee shall include the following:

Building Plans, including retaining walls and fences.

Plot Plans, including existing tree locations; also all recorded easements.

Existing and finish grades of lot.

Height of floor, or floors, above reference point as shown in A-26.

Height of roof ridge above reference point as shown in A-26.

Drainage swales, pipe or other drainage programs.

Color schemes for exterior; including roof.

d. Alteration or Changes after Initial Approval. Any later changes, or additions in or to plans, specifications, work, or other item whatsoever mentioned in this Part after initial approval by the Architectural Committee has been secured shall require reapproval by the Committee.

e. Plans on File. The Committee shall retain the plans and other supporting exhibits for a period of one year after approval. The Architectural Committee shall not be obligated to return their file set of plans to the lot owner and may destroy the plans after one year.

C-5. Approval or Disapproval.

a. The Architectural Committee shall have the right to approve or disapprove any plans, specifications, or details, whatsoever submitted to it.

b. The Architectural Committee shall approve or disapprove plans or details (C-4-c) submitted to it within thirty (30) days of the receipt thereof. One set of plans and details (C-4-c) with the approval or disapproval endorsed thereon shall be returned to the applicant, and the other copy thereof shall be retained by the Committee. In the event there be no action taken to approve or disapprove such plans, or details within thirty (30) days after the delivery thereof to the Committee, and no action has been instituted to enjoin the doing of the proposed work the provision requiring approval of plans shall be deemed waived so far as the Architectural Committee is involved.

c. Neither written approval or disapproval by failure to act within a thirty (30) day period by the Architectural Committee shall take away the right of an individual lot owner to enjoin the building of any structure on the lots in Tract 5472. Also, approval by the Architectural Committee shall not affect the rights granted lot owners under Part D. General Provisions, D-2 Enforcement.

d. Neither the Architectural Committee, Declarant, nor any one retained to assist them, shall be responsible in any way

ments to insure freedom of access. Should any one of the Owners fail to pay his or their share of expenses for said maintenance, repair or renewal, any or all of the Owners, after having made a written demand for said payment, may then bring an action in Civil Court against the delinquent contributor as provided for under Section 845 of the Civil Code of the State of California.

PART C. ARCHITECTURAL CONTROL.

C-1. General. Conditions of this part will only apply during such time as there is in existence an Architectural Committee by reason of appointment herein or by reason of recordation of the names of successor committee members in the office of the recorder of the County of Santa Clara.

In the event there no longer exists a committee because of resignation of the original committee members and because of the failure to record the names of successors from time to time, all other parts of these covenants, conditions, restrictions and easements shall nevertheless remain in full force and effect.

C-2. Architectural Committee - Establishment, Appointments to, Resignations, Meetings. An Architectural Committee of three persons is hereby established as the Declarant's original Committee. Declarant hereby appoints B. R. Gillis, E.T. Davies and Paul F. Merrill, 6641 Hampton Drive, San Jose, California 95120. The Committee membership shall be three (3) persons in number and until more than 50% of the lots have been sold or conveyed by the Declarant, the Declarant shall have the sole right to appoint, replace or remove any member of the Committee. Section C-7 will govern continuation, termination, resignation and dissolution of the Committee after more than 50% of lots are sold. The Committee shall meet at the convenience of the members thereof, and as often as reasonably necessary to transact its business, acting on the concurrence of at least two (2) of its three members. A majority of the Committee may designate one or two representatives to act for it, but, by a majority vote of the Committee, may overturn said representatives actions. Members of the Committee may resign. Members of the Committee appointed by Declarant shall never receive compensation of any nature for their services during their tenure.

C-3. Work Requiring Architectural Committee Approval. No building, swimming pool, fence, wall or any other structure whatsoever, roof and/or exterior color schemes of or on structures, structural or other alterations, exterior painting or repainting or redecorating, repair of or addition to an existing structure which alters the exterior appearance thereof, remodeling or reconstruction shall be commenced, erected, constructed or maintained upon the properties without the prior approval of the Architectural Committee, and such approval shall be given when the plans, showing the nature, kind, shape, height, materials, colors and location of the same have been submitted to and approved as being in harmony of exterior design, color and location in relation to "surrounding structures" and topography by the Architectural Committee. The Architectural Committee shall use the standards set forth in paragraph A-3. Architectural Design, and elsewhere in this Declaration.

C-4. Approval Procedure.

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b. Final Plans. Before anyone shall commence the construction, reconstruction, remodeling, addition or alteration of any structure whatsoever on any lot, or commence any work the same as or similar to that mentioned in this Declaration, there shall be submitted to the Architectural Committee two complete sets of plans for such construction, reconstruction, remodeling or addition, alteration or work which is desired and no such construction, reconstruction, remodeling, addition, alteration or work shall be commenced, erected, constructed or maintained upon any lot unless and until the final plans, elevations and specifications therefore have received such approval as provided in this section.

c. Inclusion in Plans. Plans submitted to the Architectural Committee shall include the following:

Building Plans, including retaining walls and fences.

Plot Plans, including existing tree locations; also all recorded easements.

Existing and finish grades of lot.

Height of floor, or floors, above reference point as shown in A-26.

Height of roof ridge above reference point as shown in A-26.

Drainage swales, pipe or other drainage programs.

Color schemes for exterior; including roof.

d. Alteration or Changes after Initial Approval. Any later changes, or additions in or to plans, specifications, work, or other item whatsoever mentioned in this Part after initial approval by the Architectural Committee has been secured shall require reapproval by the Committee.

e. Plans on File. The Committee shall retain the plans and other supporting exhibits for a period of one year after approval. The Architectural Committee shall not be obligated to return their file set of plans to the lot owner and may destroy the plans after one year.

C-5. Approval or Disapproval.

a. The Architectural Committee shall have the right to approve or disapprove any plans, specifications, or details, whatsoever submitted to it.

b. The Architectural Committee shall approve or disapprove plans or details (C-4-c) submitted to it within thirty (30) days of the receipt thereof. One set of plans and details (C-4-c) with the approval or disapproval endorsed thereon shall be returned to the applicant, and the other copy thereof shall be retained by the Committee. In the event there be no action taken to approve or disapprove such plans, or details within thirty (30) days after the delivery thereof to the Committee, and no action has been instituted to enjoin the doing of the proposed work the provision requiring approval of plans shall be deemed waived so far as the Architectural Committee is involved.

c. Neither written approval or disapproval by failure to act within a thirty (30) day period by the Architectural Committee shall take away the right of an individual lot owner to enjoin the building of any structure on the lots in Tract 5472. Also, approval by the Architectural Committee shall not affect the rights granted lot owners under Part D. General Provisions, D-2 Enforcement.

d. Neither the Architectural Committee, Declarant, nor any one retained to assist them, shall be responsible in any way

for any defects in any plans or details submitted, revised or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such plans.

e. The approval or disapprovals, specified in this Part shall be in writing.

f. Architectural Committee has the right, but not the duty, to enforce by legal or other means the terms of this Declaration relative to Architectural design.

C-6. Intent. In addition to any expressions of intent found elsewhere in these covenants, conditions, restrictions and easements, it is the intent of this document to provide for a general plan of the improvement, development, use and occupancy of Tract No. 5472, Parts contained herein are complementary and what is called for by any one of them shall be as binding as if called for by all.

C-7. Continuing or Discontinuing Architectural Committee After More Than Fifty Percent (50%) of the Lots Have Been Sold By Declarant. When more than fifty percent (50%) of the lots have been sold by Declarant (or assigns) the Declarant shall take the following steps to assist the lot owners with respect to the continuation of an Architectural Committee:

Notify each lot owner (as shown on the records of the Assessor of the County of Santa Clara) by regular mail not less than 15 days prior to the meeting, of the time and place of a public meeting to be held for the purpose of determining if lot owners' Architectural Committee is desired. Provide a representative who will act as chairman of this public meeting, which meeting shall be for the sole purpose of determining by majority vote of those in attendance whether the lot owners desire to have their own Architectural Committee. If the vote is in favor of continuation, those in attendance will proceed to:

a. Lot owners will select by majority vote (each lot has one vote) three representatives to serve on the Architectural Committee.

b. Secure thereafter the signatures of a majority of the lot owners to indicate approval of the three Architectural Committee members selected. Persons obtaining signatures will be required to certify as to the authenticity of signatures obtained.

c. Cause to be recorded the signed document with the Recorder of the County of Santa Clara.

C-8. Termination of Declarant's Architectural Committee. If for any reason a new Architectural Committee is not selected at the above meeting, the Declarant's Architectural Committee shall be considered to have completed all its functions and shall be automatically terminated and relieved of all responsibility for further action. Within forty-eight hours Declarant will record a notice of the termination of the Architectural Committee and resignations of the members and shall have no obligation whatever to continue to provide a Committee or to perform any of the Committee functions.

C-9. Reactivation of Architectural Committee by Lot Owners. Nothing herein, however, should prevent the lot owners from selecting an Architectural Committee at a later date in the event it is the desire of more than fifty percent (50%) of the then lot owners to reactivate such a Committee and to cause it to function as outlined elsewhere in the covenants, conditions, restrictions and easements. To recreate the Architectural Committee, the signature of more than fifty percent (50%) of the lot owners stating their desires shall be required to be recorded in the office of the Recorder of Santa Clara County.

PART D. GENERAL PROVISIONS

D-1. Terms. These covenants, conditions, restrictions and easements are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the owners of a majority of the lots has been recorded, agreeing to change said covenants in whole or in part.

D-2. Enforcement. If the parties hereto, or their successors shall violate or attempt to violate any of the covenants, it shall be lawful for any person owning any real property subject thereto, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, or either to prevent him or them from so doing or to recover damages of other dues for such violation.

D-3. Subordination. Nothing contained in this Declaration shall be held to invalidate the lien of any Mortgage or Deed of Trust prior to foreclosure, provided, however, that any purchaser at any mortgage foreclosure sale or sale under the terms of a Deed of Trust shall hold title subject to all the provisions hereof.

D-4. Deeds. Deed of conveyance of all or any of said lots shall incorporate by reference all of the provisions contained in this document.

D-5. Compliance with Law. Every lot owner and possessor shall comply with all requirements of all municipal, county, state and federal authorities and statutes now or hereafter in force pertaining to their premises and the construction and use of any improvements thereon, including but not limited to zoning, construction and building location regulations.

D-6. Severability. Invalidation of any one of these covenants by judgment (sic) 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 has hereunto set its hand and seal the day and year first above mentioned.

LAWYERS TITLE INSURANCE CORPORATION

A CORPORATION

By R. L. Atkinson /s/

Assistant Secretary

By C. Lowell Baldwin /s/

Assistant Secretary

ADDENDUM A

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

TRACT NO. 5472

ALMADEN VILLA UNIT NO. 14

A Mutual Driveway Easement for the purposes of ingress and egress, roadway construction, maintenance and repair for the benefit of Lots 786, 794, 796 and 797, Tract 5472, Almaden Villa Unit No. 14, being more particularly described as follows:

BEGINNING at the most Easterly corner of Lot 786 in the Northwesterly line of Wooded Lake Drive (50 feet wide) as said Drive and lot are shown upon that certain map entitled, "Tract No. 5472, Almaden Villa Unit No. 14", recorded May 28, 1974,

in Book 340 of Maps at pages 42 through 45, inclusive, Santa Clara County Records; thence from said point of beginning along a Northeasterly line of said Lot 786 North 11°22'36" West 100.00 feet to an angle point therein; thence leaving said Northeasterly line, North 18°55'17" East 141.74 feet; thence North 62°03'03" East 42.65 feet to the dividing line between Lot 794 and Lot 796 as said last named lots are shown on said map; thence along said dividing line South 7°31'50" West 55.00 feet to the Southwesterly corner of said Lot 794; thence along the dividing line between said Lot 796 and Lot 787 as said last named Lot is shown on said map the two following courses and distances: South 22°26'53" West 112.40 feet and South 11°22'36" East 70.00 feet to the most Southerly corner of said Lot 787 in said Northwesterly line of Wooded Lake Drive; thence Southwesterly along said Northwesterly line, along an arc of a curve to the left from a tangent which bears South 51°25'22" West with a radius of 290.00 feet through a central angle of 7°22'19" an arc distance of 37.31 feet to the point of beginning and being a portion of Lots 796 and Lot 797 as shown on said map.

Lot Owners, their heirs, successors and assigns of lots affected by the above Mutual Driveway Easement shall bear equal costs of and accept responsibility to mutually and jointly maintain, repair, renew and operate this driveway easement to insure freedom of access. Should any one of the Owners fail to pay his or their share of expenses for said maintenance, repair or renewal, any or all of the Owners, after having made a written demand for said payment, may then bring an action in Civil Court against the delinquent contributor as provided for under Section 845 of the Civil Code of the State of California.

A Mutual Driveway Easement for the purposes of ingress and egress, roadway construction, maintenance and repair for the benefit of Lots 776, 777 and 779, Tract 5472, Almaden Villa Unit No. 14, being more particularly described as follows:

A portion of Lot 777 and Lot 779 as said Lots are shown upon that certain map entitled, "Tract No. 5472, Almaden Villa Unit No. 14", recorded May 28, 1974, in Book 340 of Maps at pages 42 through 45, inclusive, Santa Clara County Records, and being more particularly described as follows:

BEGINNING at the Southerly common corner for said Lot 777 and Lot 776 as said last named lot is shown on said map; thence from said point of beginning along the dividing line between said lots, North 0°49'51" West 393.27 feet to an angle point in said dividing line being the TRUE POINT OF BEGINNING of this description; thence from said true point of beginning continuing along said dividing line as follows: North 78°54'43" East 140.53 feet, Northeasterly along an arc of a tangent curve to the left with a radius of 60.00 feet through a central angle of 111°42'08" an arc distance of 116.97 feet to a point of reverse curvature, Northwesterly along an arc of a curve to the right with a radius of 40.00 feet through a central angle of 88°37'44" an arc distance of 61.88 feet to the most Northerly corner of said Lot 776 in the Southwesterly line of Wooded Lake Drive (50 feet wide) as shown on said map; thence Northwesterly along said Southwesterly line along an arc of a curve to the right from a tangent which bears North 47°55'11" West with a radius of 290.00 feet through a central angle of 4°00'30" an arc distance of 20.29 feet to an Easterly common corner for said Lot 779 and Lot 778 as said last named lot is shown on said map; thence along the line dividing said Lots 779 and 778 as follows: Southwesterly along an arc of a curve to the left from a tangent which bears South 51°53'24" West with a radius of 60.00 feet through a central angle of 84°40'49" an arc distance of 88.68 feet to a point of reverse curvature, Southeasterly along an arc of a curve to the right with a radius of 40.00 feet through a central angle of 111°42'-8" an arc distance of 77.98 feet to a point of compound curvature, Southwesterly along an arc of a curve to the right with a radius of 140.00 feet through a central angle of 28°11'46" an arc distance of 68.90 feet, tangent to the preceding curve, North 72°53'31" West 77.00 feet to an angle point in said last named dividing line; thence leaving said last-named dividing line, South 5°59'02" East 73.28 feet to the true point of beginning.

Lot Owners, their heirs, successors and assigns of lots affected by the above Mutual Driveway Easement shall bear equal costs of and accept responsibility to mutually and jointly maintain, repair, renew and operate this driveway easement to insure freedom of access. Should any one of the Owners fail to pay his or their share of expenses for said maintenance, repair or renewal, any or all of the Owners, after having made a written demand for said payment, may then bring an action in Civil Court against the delinquent contributor as provided for under Section 845 of the Civil Code of the State of California.

A Mutual Driveway Easement for the purposes of ingress and egress, roadway construction, maintenance and repair for the benefit of Lots 778, 780, 781 and 782, Tract 5472, Almaden Villa Unit No. 14, being more particularly described as follows:

A portion of Lot 780, 781 and 782 as said Lots are shown upon that certain map entitled, "Tract No. 5472, Almaden Villa Unit No. 14", recorded May 28, 1974, in Book 340 of Maps at pages 42 through 45, inclusive, Santa Clara County Records, and being more particularly described as follows:

BEGINNING at the Northerly common corner for said Lots 781 and 782; thence from said point of beginning along the dividing line between said lots, South 0°14'32" East 273.92 feet to an angle point in said dividing line and the TRUE POINT OF BEGINNING of this description; thence from said true point of beginning leaving said dividing line, North 87°10'06" East 144.98 feet to the Southwesterly corner of Lot 783 as said last named lot is shown on said map; thence along the Southerly line of Lot 783, North 86°37'26" East 162.73 feet to the Southeasterly corner of said Lot 783 in the Southwesterly line of Wooded Lake Drive (50 feet wide) as shown on said map; thence along said Southwesterly line Southeasterly along an arc of a curve to the left from a tangent which bears South 22°08'08" East with a radius of 290.00 feet through a central angle of 5°58'03" an arc distance of 30.20 feet to the most Northerly corner of Lot 778 as said last named lot is shown on said map; thence along the Northwesterly line of said Lot 778, South 71°18'49" West 31.38 feet; thence continuing along said last-named Northwesterly line and along the Northerly line of Lot 779 as said last named lot is shown on said map and along the Westerly curvilinear extension thereof Southwesterly along an arc of a tangent curve to the right with a radius of 410.00 feet through a central angle of 28°50'01" an arc distance of 206.33 feet to a point of tangency in a parallel line distant 10.00 feet Southerly measured at right angles from the Northerly line of said Lot 780; thence along said parallel line North 79°51'10" West 91.71 feet; thence at right angles North 10°08'50" East 20.00 feet to the true point of beginning of this description.

Lot Owners, their heirs, successors and assigns of lots affected by the above Mutual Driveway Easement shall bear equal costs of and accept responsibility to mutually and jointly maintain, repair, renew and operate this driveway easement to insure freedom of access. Should any one of the Owners fail to pay his or their share of expenses for said maintenance, repair or renewal, any or all of the Owners, after having made a written demand for said payment, may then bring an action in Civil Court against the delinquent contributor as provided for under Section 845 of the Civil Code of the State of California.

A Mutual Driveway Easement for the purposes of ingress and egress, roadway construction, maintenance and repair for the benefit

of Lots 854 and 855, Tract 5472, Almaden Villa Unit No. 14, being more particularly described as follows:

BEGINNING at the Southwesterly common corner for Lot 854 and Lot 855 in the Northeasterly line of Red Holly Court as said Court and Lots are shown upon that certain map entitled, "Tract 5472, Almaden Villa Unit No. 14", recorded May 28, 1974, in Book 340 of Maps at pages 42 through 45, inclusive, Santa Clara County Records; thence from said point of beginning along the dividing line between said lots, North $62^{\circ}10'51''$ East 145.00 feet to the terminus of this easement and being a portion of said Lots 854 and 855, the Southwesterly terminal line of this easement being said Northeasterly line of Red Holly Court. Lot Owners, their heirs, successors and assigns of lots affected by the above Mutual Driveway Easement shall bear equal costs of and accept responsibility to mutually and jointly maintain, repair, renew and operate this driveway easement to insure freedom of access. Should any one of the Owners fail to pay his or their share of expenses for said maintenance, repair or renewal, any or all of the Owners, after having made a written demand for said payment, may then bring an action in Civil Court against the delinquent contributor as provided for under Section 845 of the Civil Code of the State of California.

A Mutual Driveway Easement for the purposes of ingress and egress, roadway construction, maintenance and repair for the benefit of Lots 858, 859 and 860, Tract 5472, Almaden Villa Unit No. 14, being more particularly described as follows:

BEGINNING at the most Easterly corner of Lot 858 as said Lot is shown upon that certain map entitled, "Tract No. 5472, Almaden Villa Unit No. 14", recorded May 28, 1974 in Book 340 of Maps at pages 42 through 45, Santa Clara County Records; thence from said point of beginning along the Southeasterly line of said lot and along Southwesterly prolongation thereof, South $56^{\circ}35'57''$ West 68.66 feet to a parallel line distant 5.00 feet Southeasterly, measured at right angles from the Southeasterly line of Lot 857 as said last named Lot is shown on said map; thence along said parallel line, South $15^{\circ}40'06''$ West 81.89 feet to the intersection with the Northeasterly line of Wooded Lake Drive (50 feet wide) as shown on said map and the terminus of this easement and being a portion of Lots 858, 859 and 860 as shown on said map. The terminal lines for this easement being said Northeasterly line of Wooded Lake Drive and the Southeasterly prolongation of the Northeasterly line of said Lot 858.

Lot Owners, their heirs, successors and assigns of lots affected by the above Mutual Driveway Easement shall bear equal costs of and accept responsibility to mutually and jointly maintain, repair, renew and operate this driveway easement to insure freedom of access. Should any one of the Owners fail to pay his or their share of expenses for said maintenance, repair or renewal, any or all of the Owners, after having made a written demand for said payment, may then bring an action in Civil Court against the delinquent contributor as provided for under Section 845 of the Civil Code of the State of California.