

10-27-72

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02-R MISC.

DECLARATION OF RESTRICTIONS

City of Phoenix
Smart Title & Trust of Phoenix
NON-INSURED

KNOWN ALL MEN BY THESE PRESENTS:

That STEWART TITLE & TRUST OF PHOENIX, an Arizona corporation, as Trustee, hereinafter referred to as Declarant, being the owner of all the following described premises, situate within the County of Maricopa, State of Arizona, to-wit:

Lots Twenty-one (21) to Forty-two (42) inclusive, APOLLO ESTATES UNIT 1, according to the plat of record in the office of the Maricopa County Recorder in Book 149 of Maps, page 13 thereof and;

WHEREAS, said Declarant is about to convey parcels of said real property shown on said Map and desires to subject the same to certain restrictions, conditions, covenants and agreements as hereinafter set forth in furtherance of a general plan for the improvement of said tract;

NOW, THEREFORE, the undersigned owner of the hereinabove described property hereby declares that said property is held and shall be conveyed subject to restrictions, conditions, covenants, charges and agreements set forth in this Declaration, to-wit:

1. LAN. USE AND BUILDING TYPE: No lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling not to exceed one story in height and a private garage with the approval of the Architectural Committee. No business, trade, or manufacturing of any nature or description shall be carried on or transacted on any portion of said property nor shall any part of said premises be used as a hospital or sanitarium or other place for hire for the care of entertainment of persons suffering from any disease or disability whatsoever.

2. ARCHITECTURAL CONTROL: No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation.

3. SIZE: The floor area of the dwelling, exclusive of porches, garages, carport and patios, shall be not less than 1800 square feet. No prefabricated building or other 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 or selling of dwelling, whichever is later.

4. BUILDING LOCATIONS: No building shall be located on any lot nearer to the front line than thirty (30) feet, no building shall be located nearer than seven (7) feet to any interior lot line, nor closer than ten (10) feet to a side lot line adjacent to a street, except that side yards for detached garages and other permitted accessory buildings located in the rear one-half of the lot need only conform to the requirements of the City of Phoenix.

"Restrictions herein, if any, based on race, color, religion, sex, handicap, familial status or national origin are hereby rejected."

A carport and storage room attached to the walls of the dwelling may be placed not closer than three (3) feet to an interior lot line and not closer than ten (10) feet to a side lot line adjacent to a street. For the purpose of this covenant, eaves, steps and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. In the event an owner acquires a portion of any adjoining lot or lots, the foregoing measurements shall be made from such owner's side property lines rather than from the side lot lines indicated on said recorded map or plat. None of said lots shall be resubdivided into smaller lots nor conveyed or encumbered in less than the full original dimension of such lots as shown by the plat of APOLLO ESTATES UNIT I, except for public utilities, provided that this restriction shall not prevent the conveyance or encumbrance of adjoining or contiguous lots or parts of lots in such a manner as to create parcels of land in a common ownership having the same or a greater street frontage than shown on the plat of APOLLO ESTATES UNIT I, for any one of the lots, portions of which are so conveyed or encumbered or having a greater area than any of the lots, portions of which are so conveyed or encumbered. Thereafter, such parts of adjoining or contiguous lots in such common ownership, shall, for the purpose of these restrictions, be considered as one lot. Nothing herein contained shall prevent the dedication of conveyance of portions of lots for public utilities, in which event the remaining portion of any lot shall, for the purpose of this provision, be treated as a whole lot.

5. REFRIGERATION OR COOLING: No refrigeration units or other cooling and heating units shall be on the roof of any residence. All such units shall be ground level or inside the residence. Residences approved by the Architectural Committee that have flat roofs may have roof units if the residences have a parapet wall not less than 18" in height around the exterior of the residence, and if said unit is not visible from the center line of the street.

6. FENCES: No fence or wall higher than six (6) feet shall be constructed across the rear property line of any lot; nor shall any fence or wall be constructed upon any lot unless its design and style are first approved by said Committee. Fences or walls constructed within the area of the minimum front or side street setback lines (as defined in Paragraph No. 4 herein) shall not exceed two (2) feet six (6) inches in height; fences or walls constructed on any side lot line shall not exceed six (6) feet in height.

7. EASEMENTS: Easements, as indicated upon the recorded Map of this subdivision, are reserved for the installation and maintenance of public service utilities and other use for public or quasi-public good. No buildings shall be placed upon such easements or interference be made with the free use of the same for the purposes intended.

8. NUISANCES: No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

9. TEMPORARY STRUCTURES: No structure of a temporary character, trailer, basement, tent, shack, garage, bar or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

10. SIGNS: No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet, advertising the property for sale or rent, or as approved by the Architectural Committee, or as placed by the developer during the period of development of this subdivision.

11. LIVESTOCK AND POULTRY: No animals, horses, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

12. GARBAGE AND REFUSE DISPOSAL: No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

13. OIL AND MINING OPERATIONS: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

14. SIGHT DISTANCE AT INTERSECTIONS: No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways, shall be permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet (25) from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

15. COMPLETION OF CONSTRUCTION: Any building in this subdivision the construction of which has been started, shall be completed without delay, except when such delay is caused by acts of God, strikes, actual inability of the owner to procure delivery of necessary material, or by interference by other persons or forces beyond the control of the owner to prevent. Financial inability of the owner or his contractor to secure labor or materials or discharge liens or attachments shall not be deemed a cause beyond his control.

16. CARE OF PROPERTIES: All vacant lots in this subdivision shall be at all times kept free of rubbish and litter; 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 sufficient to maintain an appearance not out of keeping with that of typical improved properties in this subdivision. During prolonged absence, owner of said lot agrees he will arrange for the care of the property, during such absence. In the event a lot owner does not maintain his lot in a neat, proper manner, any six neighbors, acting in concert, may have said lot cleaned up and upon refusal to pay, within thirty (30) days from date upon filing an affidavit that said owner refuses to maintain said lot in a neat and proper manner, may file said affidavit in the office of the County Recorder of Maricopa County, State of Arizona stating the amount therein and to whom it was paid and the date and such amount shall constitute a lien against said lot. No over-night parking for any trucks, pickup trucks, or trailers will be permitted in the street, and further no vehicles other than passenger cars and pick-up trucks will be parked in open carports.

17. DRAINAGE EASEMENT: Purchaser shall not at any time hereafter fill, block, or obstruct any drainage easements and drainage structures on the demised premises, nor shall purchaser cause or suffer to be erected on the demised premises any building or obstruction for the purpose, directly or indirectly, of obstructing, blocking or filling any such drainage easement or drainage structure, and purchaser agrees to make and forever to repair and maintain all such drainage easements and drainage structures on the demised premises, making good nevertheless, at his own expense, all damage which may be caused to the said drainage easements and structures on the demised land, and purchaser agrees to repair at his own expense, all damage to any structure on any lot which may be caused directly or indirectly, by his obstructing, blocking or filling any such drainage easements.

18. ARCHITECTURAL CONTROL COMMITTEE: The Architectural Control Committee shall be composed of Ted Wells, Warren F. Eck and Klaas Bol. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of 22 lots shall have the power through a duly recorded written instrument to change the membership of the Committee or to withdraw from the Committee or restore to it any of its powers and duties.

19. APPROVAL PROCEDURE: The Committee's approval or disapproval as required in these covenants, shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion hereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

20. DOMINANT TENEMENT: Each of the lots in said tract shall constitute the dominant tenement and be entitled to the benefit of the covenants herein contained as against all of the other lots in said tract which shall constitute the servient tenements.

21. TERMS: These covenants are to run with the land and shall be binding on the undersigned and all of its successors in title, interest or possession in all and every part of said premises until July 1, 2001, and thereafter said covenants shall be automatically extended for successive periods of ten (10) years, unless and until the owners of a majority of the lots affected hereby amend or revoke the same by written instrument, duly acknowledged, and recorded.

22. DEEDS: Deeds of conveyance of all or any of said lots shall incorporate by reference all of the provisions contained in this document. "However, whether or not recited in the deeds of conveyance, these restrictions shall be binding on every owner of every lot in this subdivision".

23. ENFORCEMENT: If the owner or possessor of any lot subject to these restrictions shall violate, or attempt to violate, any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated in said tract to prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants and either to prevent him or them from so doing or to recover damages for such violation, or both.

24. 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 deed of trust shall hold title subject to all the provisions hereof.

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

IN WITNESS WHEREOF, STEWART TITLE & TRUST OF PHOENIX, an Arizona corporation, as Trustee, has caused its corporate name to be signed by the undersigned officers duly authorized on the 26th day of October, 1972.

STEWART TITLE & TRUST OF PHOENIX, an Arizona corporation, as Trustee

BY: [Signature]
VICE PRESIDENT
BY: [Signature]
TRUST OFFICER

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this, the 26th day of October, 1972, before me, the undersigned Notary Public, personally appeared Vernon E. Yofferman and Merrill P. Lloyd who acknowledged themselves to be the Vice President and Trust Officer of STEWART TITLE & TRUST OF PHOENIX, an Arizona corporation, and that they as such officers, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by themselves, as such officers.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My Commission Expires:
My Commission Expires June 26, 1976

Margaret Howard
NOTARY PUBLIC



STATE OF ARIZONA) ss.
County of Maricopa)

I hereby certify that the within instrument was filed and recorded at request of

STEWART TITLE & TRUST

OCT 27 1972-8 00 AM

in Docket **9783**

on page **155-159**

Witness my hand and official seal the day and year aforesaid.

Paul M. Houston
County Recorder

By *Mae Morgan*
Deputy Recorder

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