

3585672

VILLAS OF ST. ANDREWS  
AMENDMENT TO DECLARATION OF RESTRICTIONS

This Amendment, made as of this 7 day of March, 2003, by 143<sup>rd</sup> & Quivira Company, LLC, a Kansas limited liability company ("Developer").

WHEREAS, Developer is the fee simple Developer of the following described real property, situated in the City of Olathe, County of Johnson, State of Kansas, to-wit:

All of Lots 1 through 68, VILLAS OF ST. ANDREWS, a subdivision of land in the City of Olathe, Johnson County, Kansas, according to the recorded plat thereof.

WHEREAS, pursuant to Declaration of Restrictions, recorded in the office of the Register of Deeds, Johnson County, Kansas, in Book 7333, Page 566, (the "Declaration"), Developer imposed upon the Subdivision certain restrictions governing the development and use of said property; and

WHEREAS, Developer reserved in Section 18 of the Declaration the right to alter, amend, remove, or add to the Restrictions by filing amended copies of record in the office of the Register of Deeds, Johnson County, Kansas; and

WHEREAS, Developer desires to amend said Declaration in accordance with the provisions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises said Declaration is hereby amended in the following manner:

1. Paragraph 3, Building Material Requirements, is hereby amended to read as follows:

3. Building Material Requirements.

(a) Exterior walls of all residences and all appurtenances thereto shall be of stucco, brick, stone, plate glass, glass blocks, smart panel, or any combination thereof. All windows shall be constructed of glass, vinyl, white metal or white vinyl, clad and wood laminate or any combination thereof. All exterior doors shall be constructed of wood, vinyl, metal or vinyl clad and wood laminate, colored metal (other than silver) and glass, or any combination thereof. All exterior louvers shall be constructed of wood or vinyl, or any combination thereof. The roof of each home shall be constructed with 40-year "Shadow" shingles by Celotex, or such other comparable type of shingle as approved by the ACC. Paint colors are restricted to the following colors: (i) Westchester Gray SW 2849, (ii) Windsor Greige SW 2065, (iii) Weathered Shingle SW 2841, (iv) Cupola Yellow SW 2344, (v) Rushing River SW2093, or (vi) Snow Goose SW 2046 or colors approved by the Developer.

12.00  
12.00  
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28.0000

Ret Norton, Hubbard, Rozicka, + Kremer  
etc - 130 W Cherry  
PO Box 550  
Olathe, KS 66067

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Stone for front elevation: Gray Kansas Limestone from Higgins Stone in Topeka.  
Shutters shall be constructed of wood or vinyl.

Homes Association has discretion after Developer leaves.

Notwithstanding the foregoing provisions of this Section 3 requiring or prohibiting specific building materials or products, any building materials products that may be or come into general or acceptable usage for dwelling construction of comparable quality and style in the area, as determined by the Developer in its absolute discretion, shall be acceptable upon written approval by the Developer in its absolute discretion.

(b) All exteriors, except roofs and natural side walls, shall be covered with a workmanlike finish of two coats of high quality paint or stain. No residence or Exterior Structure shall stand with its exterior in any unfinished condition for longer than twelve months after commencement of construction. All exterior basement foundations and walls which are exposed in excess of 12 inches above final grade shall be painted the same color as the residence or covered with siding compatible with the structure.

(c) No air conditioning apparatus or unsightly projection shall be attached or affixed to the front of any residence.

(d) No metal or other pipe shall be exposed on the exterior of any fireplace or fireplace flue, and all fireplace flues shall be capped with a black metal rain cap.

(e) Except as otherwise permitted by the Developer in writing, all residences shall have a house number plate in the style(s) approved by the Developer, which plate shall be located over the front door or adjacent to the side trim of the front door.

(f) All driveways shall be concrete, concrete with brick edge. All private sidewalks shall be concrete, concrete with brick edge, brick interlocking. Crushed gravel, asphalt and natural driveways and sidewalks are prohibited.

(g) All Units shall have at least a two-car garage. No carports are permitted.

2. Paragraph 8, Exterior Structures, is hereby amended to read as follows:

8. Exterior Structures.

(a) No Exterior Structure shall be erected upon, moved onto or maintained upon any Lot except (i) strictly in accordance with and pursuant to the prior written approval of the Architectural Committee as to the applicable

building plans, specifications, exterior materials, location, elevations, lot grading plans, landscaping plans and exterior color scheme and (ii) in compliance with the additional specific restrictions set forth in subsection (b) below or elsewhere in this Declaration; provided, however, that the approval of the Architectural Committee shall not be required for (i) any Exterior Structure erected by or at the request of the Developer or (ii) any Exterior Structure that (A) has been specifically approved by the Developer prior to the issuance of a temporary or permanent certificate of occupancy as part of the residential construction plans approved by the Developer and (B) has been built in accordance with such approved plans.

(b) (i) Lots may have only black aluminum or similar fences or privacy screens in the specific styles and colors approved by the Developer. All fences, boundary walls and privacy screens shall be ornamental and shall not disfigure the property or the neighborhood. All fences and privacy screens shall be constructed with the finished side out. No chain link, wooden, or similar fence shall be permitted. Unless and until otherwise specifically approved in writing by the Approving Party, (A) no fence, boundary wall or privacy screen shall exceed four feet in height, (B) no fence, boundary wall or privacy screen shall be constructed or maintained on any Lot nearer to the street than the rear corners (as defined by the Approving Party) of the residence, (C) no fence shall be constructed or maintained on any Lot more than one foot from the property line of the Lot or Unit, except to the extent necessary for such fence to abut the residence, (D) all fences must be joined to or abutting any previously existing fences on adjacent Lots or Units, (E) all fences shall be stair-stepped to follow the grade of the Lot. See Exhibit A.

(ii) All basketball goals shall be permanently installed, free standing and not attached to the residence unless the Architectural Committee determines that there are compelling reasons for the basketball goal to be attached to the residence. No portable basketball goal shall be allowed. All backboards shall be transparent and all poles shall be a black color. There shall be only one basketball goal per Lot. The Board shall have the right to establish reasonable rules regarding the hours of use of basketball goals and any such rules shall be binding upon all of the Lots and the Developers.

(iii) Except where specifically authorized by the Developer or the Architectural Committee in writing, all recreational or play structures (other than basketball goals) shall be located behind the back building line of the residence and shall be constructed of cedar or redwood.

(iv) No aboveground type swimming pools shall be permitted. All pools shall be fenced and all hot tubs shall be fenced or otherwise adequately screened, all in accordance with the other provisions of the Declaration. All pools and hot tubs shall be kept clean and maintained in

operable condition at all times. All pool and hot tubs must be approved by the Architectural Committee.

(v) The following Exterior Structures shall be prohibited: animal runs, trampolines, tennis courts, paddle tennis courts, sports courts, awnings, flagpoles, dog houses, tree houses, detached greenhouses and other detached outbuildings.

(vi) No Exterior Structure that is prohibited under Section 9 below shall be permitted under this Section 8.

(c) No fence, boundary wall or other Exterior Structure installed by or for the Approving Party anywhere in the Subdivision may be removed or altered by any Developer or other person without the prior written consent of the Approving Party.

3. Paragraph 16, Covenants Running with Land; Enforcement, shall be amended as follows:

16. Covenants Running with Land; Enforcement. The agreements, restrictions, reservations and other provisions herein set forth area, and shall be, covenants running with the land and shall be binding upon all subsequent grantees of all parts of the Subdivision. The Developer, and its successors, assigns and grantees, and all parties claiming by, through or under them, shall conform to and observe such agreements, restrictions, reservations and other provisions; provided, however, that neither the Developer, the Homes Association nor any other person or entity shall be obligated to enforce any such agreements, restrictions, reservations or other provisions. By accepting a deed to any of the Units or Lots, each future grantee of any of the Units and Lots shall be deemed to have personally consented and agreed to the agreements, restrictions and reservations set forth herein as applied to the Unit or Lot owned by such Developer. No agreement, restriction, reservation or other provision herein set forth shall be personally binding upon any Developer except with respect to breaches thereof committed during his Developership; provided, however, that (i) the immediate grantee from the builder of the residence on a Unit shall be personally responsible for breaches committed during such builder's Developership of such Unit and (ii) an Developer shall be personally responsible for any breach committed by any prior Developer of the Unit to the extent notice of such breach was filed of record, as provided in the third paragraph of this Section 16, prior to the transfer of Developership.

The Developer, the Homes Association and each Developer shall have the right (but not the obligation) to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the agreements, restrictions, reservations and other provisions herein set forth, in addition to any action at law for damages. To the extent permitted by law, if the Developer or the Homes Association shall be successful in obtaining a judgment or consent decree in any such court action, the Developer and/or Homes Association shall be entitled to receive from the breaching party

as part of the judgment or decree the legal fees and expenses incurred by the Developer and/or Homes Association with respect to such action.

Whenever the Developer or the Board determines that a violation of this Declaration has occurred and is continuing with respect to a Unit, the Developer or the Homes Association may file with the office of the Register of Deeds of Johnson County, Kansas, a certificate setting forth public notice of the nature of the breach and/or a non-compliance lien and the Unit involved.

No delay or failure by any person or entity to exercise any of its rights or remedies with respect to a violation of this Declaration shall impair any of such rights or remedies; nor shall any such delay or failure be construed as a waiver of that or any other violation.

No waiver of any violation shall be effective unless in writing and signed and delivered by the person or entity entitled to give such waiver, and no such waiver shall extend to or affect any other violation or situation, whether or not similar to the waived violation. No waiver by one person or entity shall affect any rights or remedies that any other person or entity may have; provided, however, that a duly authorized, executed and delivered waiver by the Homes Association, acting upon a decision of the Board, respecting a specific violation shall constitute and be deemed as a waiver of such violation by all other persons and entities (other than the Developer).

4. Paragraph 22, Initiation Fee shall be added as follows:

22. Initiation Fee. An initiation fee of \$250.00 shall be payable by the new Lot owner to the Homes Association, for use as part of the general funds of the Homes Association, upon each of the following events with respect to each Lot:

(i) The initial occupancy of the residence on the Lot after the residence is constructed (which initiation fee for this event shall be collected by the Developer from the new Owner and paid over to the Homes Association); and

(ii) Each transfer of ownership of the Lot for value.

5. The Declaration as herein amended shall remain in full force and effect in accordance with its terms and shall run with the land as herein provided.

IN WITNESS WHEREOF, the undersigned has executed this Amendment to Declaration of Restrictions as of the date first above written.

143<sup>rd</sup> & Quivira Company, L.L.C.,  
a Kansas limited liability company

*Matthew M. Adam*  
Matthew M. Adam, Member

**ACKNOWLEDGMENT**

STATE OF KANSAS            )  
  ) SS:  
COUNTY OF JOHNSON        )

**BE IT REMEMBERED**, that on this 7 day of March, 2003, before me the undersigned, a Notary Public in and for said County and State, came Matthew M. Adam, who is personally known to me to be the same person who executed the within instrument of writing, and duly acknowledged the execution of the same.

**IN WITNESS WHEREOF**, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

*Mary Jane Beeman*  
Notary Public

My Commission Expires: 2/14/2007



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*87200*  
STATE OF KANSAS ] SS  
COUNTY OF JOHNSON ]  
FILED FOR RECORD  
2003 MAR 13 A 9: 37  
REBECCA L. DAVIS  
REGISTER OF DEEDS