

456335

DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS,
RESERVATIONS AND EASEMENTS
FOR TOWNHOUSE

THIS DECLARATION is made on the 4th day of JUNE, 1981 by D & L Building & Remodeling, a Wyoming Corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property situated in the City of Gillette, State of Wyoming, which is more particularly described as Lots 13 A, B, C, D, and E of the Resubdivision of Lot 13, Block 2, Valley View Subdivision, as recorded in 3 of plats, page 76, January 27, 1981.

AND WHEREAS, Declarant desires to convey Lots 13 A, B, C, D, and E as separate units each with a townhouse thereon connected by party wall to a townhouse on the other Lot or Lots.

AND WHEREAS, Declarant desires to convey said Lots subject to certain protective covenants, conditions, restrictions, reservations, and easements as hereinafter set forth:

NOW, THEREFORE, Declarant hereby declares that all of Lots 13 A, B, C, D, and E as described above, shall be held, sold and conveyed subject to the following easements, reservations, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of the above-described real property and which shall be binding upon and unure to the benefit of all parties having any right, title, or interest in the above-described properties, or any part thereof, and their heirs, personal representatives, administrators, successors and assigns.

ARTICLE I

Party Wall

1. The wall which is constructed as a common part of the above-described townhouse units and which is located between such townhouses dividing them into five separate units constitutes the party wall or walls in question. It is intended that the owner of each Lot shall own his own townhouse unit to the center of the party wall separating his unit from the other. In addition each owner shall have a cross easement as to the remaining one-half portion of the party wall separating his unit from the other. Except as is otherwise provided hereinafter, the cost of reasonable repairs and maintenance of said party wall shall be the joint expense of the owners who make use of the party walls. That is, the record owner, whether one or more persons or entities, of the fee simple title to the Lot or Lots shall pay one-half of the expenses of maintaining and repairing the party wall separating the Lot or Lots. Likewise, the record owner, whether one or more persons or entities, of the fee simple title to the Lot or Lots shall pay one-half of the expenses of maintaining and repairing the party wall separating one from the others.

ARTICLE II

Use Restrictions

1. The townhouse units located on Lots 13 A, B, C, D, and E shall be used as single family dwellings only.

2. Each Lot shall be conveyed as a separately designated and legally described fee simple estate, subject to the terms, and provisions hereof. Furthermore, the terms and provisions of this Declaration shall be deemed to be a part of any deed or other document affecting title to the above-described Lots whether or not specifically mentioned in such deed or documents.

3. All utilities, fixtures and equipment installed within a townhouse, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a townhouse shall be maintained and kept in repair by the owner thereof. An owner shall neither do any act nor perform any work that will impair any easement or hereditament nor do any act or allow any condition to exist which will adversely affect the other Lot or its owner (or occupants).

4. Mechanic's or materialmen's liens shall only apply to the particular Lot which was benefitted by such labor or material. In any event, the owner (or occupants) incurring the mechanic's or materialmen's lien shall save and hold the owner of the other Lot harmless from any liability, costs or expenses resulting from such lien.

5. In the event of destruction of the dwelling unit or units or any portion thereof, each unit so destroyed shall be repaired or rebuilt at the expense of the owner of the individual unit according to an agreed uniform architectural plan, and finished as close to the original as possible. If any dwelling is only partially destroyed so that the cost of restoring one Lot is not equal to the cost of restoring the other Lot, then the cost of restoration shall be apportioned according to the individual costs of the restoration for each unit. In the event all of the owners and all of the holders of any first mortgage or deed of trust agree, the Lots need not be restored.

ARTICLE IIICross Easement for Utilities

1. There is hereby created a blanket cross-easement upon, across, over and under Lots 13 A, B, C, D, and E and the improvements situated thereon in favor of the owner of each of said Lots, for ingress, egress, installation, replacing, repairing and maintaining all utilities, including, but not limited to, water, sewer, gas, telephones and electricity and for lateral and subjacent support of each unit. By virtue of this easement, it shall be expressly permissible for the companies providing utility services to erect and maintain the necessary equipment on said Lots, and to affix and maintain pipes, wires, circuits and conduits on, above, across and under the roof and exterior walls of either townhouse to serve either Lots. Notwithstanding anything contained in this Declaration, any damages to the other owner (or occupants) pursuant to the exercise of this easement shall be repaired by the owner exercising the rights pursuant to this easement.

ARTICLE IVRemedy for Nonpayment of Joint Expenses

1. In the event any joint expense or any individual expense incurred by or required to be paid by one owner as provided in Articles I, II or III herein is not paid by one owner within thirty (30) days after notice of such debt, such amount may be paid by the other owner and shall, upon proper recordation with the Clerk and Recorder of the City of Gillette, become a lien upon the non-paying owner's lot and townhouse unit and shall continue to be such a lien until fully paid. This lien shall be subordinate to the lien of any first mortgage or deed of trust and shall be enforceable in an action at law for the collection of a debt or shall be enforceable by all methods available for the enforcement of such lien, including foreclosure by an action brought in the name of the non-defaulting owner in a like manner as a deed of trust lien on real property, at the option of the non-defaulting owner. Furthermore, the defaulting owner hereby expressly grants to the non-defaulting owner a power of sale in connection with said lien. Nothing contained herein shall require one owner to pay the expenses of another.

2. Notwithstanding any provisions of this Article to the contrary, the cost of repairs and maintenance of the finished surfaces of the party wall which are located within a townhouse unit shall be the sole expense of the owner of that townhouse unit.

3. Notwithstanding any provisions of this Article to the contrary, if the party wall or any portion thereof is damaged or destroyed by any wilful or negligent act or omission or any default hereunder of the owner of one townhouse unit, such owner shall rebuild said wall and shall compensate the other owner for any damage suffered by the other owner (or occupants). Owners shall be responsible for all acts, omissions or defaults of the occupants of their particular Lot which may affect the owner (or occupants) of the other Lot.

4. Notwithstanding any provision of this Article to the contrary, an owner who by his negligent or wilful acts or omissions or any defaults hereunder causes the party wall or any portion thereof to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

5. Notwithstanding any provision of this Article to the contrary, an owner shall have the right to maintain and repair any utility installations located within the party wall, but in so doing, shall restore the party wall to its original condition at his cost.

6. It shall be the individual responsibility of each owner (or occupant), at his own expense, to provide, as he sees fit, homeowner's insurance for fire, liability, theft and other coverage to insure against loss for his particular Lot and the contents thereof.

7. To the extent that damages to the party wall are covered by insurance, the full insurance proceeds shall be used and applied to repair, restore and replace said party wall. Any deficiency shall be joint expense of the appropriate owners using that party wall without prejudice however, to the right of any owner to demand a larger contribution from the other owner (or occupants) under any rule of law or equity regarding liability for negligent or wilful acts or omissions or any default hereunder.

8. It is recorded by the Declarant that the party wall lies along the Lot line separating Lots 13 A, B, C, D, and E. Should said party wall jog away from said Parcel line, however, the owner whose townhouse unit encroaches upon the Parcel owned by the other owner shall have an easement as to such encroachment. In other words, Declarant does not warrant that the centerline of the party wall lies precisely on the dividing line between the Lots. All future purchasers of each Lot accept the party wall "as is" and shall not hold Declarant liable for encroachments or discrepancies in the boundary line. Furthermore, Declarant shall not be responsible for changes in the zoning, subdivision, building or health laws or changes in interpretations thereof.

ARTICLE V

Arbitration

1. In the event of any dispute arising between the owners concerning any provision of this Declaration including, but not limited to, disputes regarding repairs, exterior decoration and liens, said owners shall mutually agree in writing to the resolution of the dispute by binding arbitration. In such event, the owner desiring such arbitration shall serve upon the other owner a Notice in writing naming his choice for arbitrator and requiring the other owner within 30 days to name an arbitrator. Upon the other owner naming an arbitrator, the two arbitrators together shall choose a third arbitrator. Such arbitrators shall thereupon proceed to hear and consider the matter in accordance with the laws of the State of Wyoming and the rules of the American Arbitration Association or its successor and shall within twenty (20) days of the appointment of the third arbitrator make an award settling the dispute and advising the parties of their rights under this Declaration and directing the payment to the successful owner by the other owner of any sum that may be due and owing to such owner or directing one owner to take such action as may be required under this Declaration. Said award, if concurred in by a majority of such arbitrators, shall be final and binding upon the parties hereto. The parties may agree to name just one arbitrator to reduce expenses. The costs shall be divided equally between the parties to the arbitration.

Notices may be mailed to the street address of each townhouse unit and shall be deemed to be delivered on the date placed in the U.S. Mails. Notices shall be in a stamped and properly addressed envelope.

ARTICLE VI

General Provisions

1. This Declaration shall be perpetual and the covenants herein contained shall run with each Lot. This Declaration may only be amended by a writing signed by the then record owners of all Lots. The terms of this Declaration may be enforced by any present or future owner (or occupants) of a lot Lot in law or in equity.

2. Invalidation of any one of these terms or provisions by Judgment or Court Order shall not affect any other term or provision. The remaining terms and provisions shall remain in full force and effect.

3. To the extent that they are not inconsistent with the terms or provisions of this Declaration, the general rules of law regarding party walls shall apply to the real property subject hereto.

4. This Declaration shall be interpreted by the laws of the State of Wyoming.

5. The singular whenever used herein shall be construed to mean the plural when applicable and the necessary grammatical changes to make the provisions hereof apply either to corporations or individuals or men or women, shall in all cases be assumed as though in each case fully expressed.

6. The remedies set forth herein are cumulative.

7. Whenever consent is required under this Declaration, such consent shall not be unreasonably withheld.

8. An owner of a Lot shall be responsible for the negligent or willful acts and omissions of his occupants, family, residents, guests, agents, invitees, servants, and employees as well as defaults hereunder caused by said individuals. Said acts, omissions and defaults of the owner of said Lot.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunder set its hand and seal the date and year first above written.

D & L Building & Remodeling

By Gary K. Lancaster

D & L Building & Remodeling
a Wyoming Corporation



STATE OF WYOMING)
) ss.
COUNTY OF CAMPBELL)

This instrument was acknowledged before me this 22 day of June, 1981 by Gary K. Lancaster as a free and voluntary act and deed.

Witness my hand and official seal.

My commission expires: FEB 23, 1982



Glenna Y. Wiley
Notary Public

STATE OF WYOMING)
Campbell County) ss.

Filed for record this 5th day of June, A. D., 1981 at 9:00 o'clock A.M. and recorded in Book 558 of Photos on page 223 Fees \$ 12.00

Sivan E. Addison
County Clerk and Ex-Officio Register of Deeds

RECORDED
ABSTRACTED
INDEXED
CHECKED

By [Signature]
Deputy

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