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DECLARATION OF
ESTABLISHMENT OF
PROTECTIVE COVENANTS
AND RESTRICTIONS ON TRACT
KNOWN AS HENIE HILLS UNIT NO. 1

The undersigned, LEIF HENIE, a married man, hereinafter called "Declarant", is the sole owner in fee, as his separate property, of the real property tract or subdivision known as Henie Hills Unit No. 1, particularly described as follows:

That certain property in the City of Oceanside, County of San Diego, State of California, being Lots Numbered 1 to 68, inclusive, of Henie Hills Unit No. 1, according to map thereof, No. 2976, filed in the Office of the County Recorder of San Diego County, April 10, 1953.

Declarant hereby certifies and declares that Declarant has established and does hereby establish a general plan for the improvement, development, protection and maintenance of the tract, and, in order to accomplish such improvement and development, to insure such protection and maintenance, to encourage the best use and most artistic development and improvement of each lot therein, to promote the construction and erection of tasteful and attractive homes, to secure and maintain adequate set-back lines and free spaces, and in general adequately to provide for improvements of high type and quality, Declarant does hereby establish and impose upon the said tract and all of the various lots contained therein, provisions, conditions, restrictions, covenants, easements and reservations upon and subject to which each and all lots in said tract shall be held, occupied, leased, sold, and/or conveyed by Declarant or Declarant's successors, and/or by the record owners thereof, each and all of which is and are for the benefit of said tract and each and every lot therein, and of each owner of one or more lots therein, and shall inure to and pass with said tract and each and every lot therein, and shall apply to and bind the respective successors in interest of Declarant and are and each of which is imposed upon said tract as a servitude in favor of said tract and each and every lot therein, as the dominant tenement or tenements, as follows, to wit:

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ARTICLE I

General Restrictions

Section 1. Uses Other than Residential Prohibited. All of the lots in said tract shall be used only for residential purposes as herein provided, and no part of said tract and no lot therein shall be used or caused to be used, or permitted or authorized in any way, directly or indirectly, to be used, for any business or profession or for any commercial, manufacturing, mercantile, storing, vending, civic, educational, religious, medical, hospital, cemetery, crematory, institutional, or other non-residential purpose, or for the manufacture or sale of malt, vinous or spiritous liquors, or for the carrying on of any noxious activity or pursuit, or any act or thing which may be or become an annoyance or nuisance to the neighborhood.

Section 2. Oil Drilling, Mining and Gravel Excavating Prohibited.

Prospecting or boring for oil, natural gas or kindred substances, and/or prospecting or mining for ore or minerals, on any part of said tract, or on or in any lot thereof, shall not at any time be done or permitted; and no sand, gravel or soil shall at any time be excavated or dug out of any of said lots except for the purpose of laying the foundations of approved buildings thereon or for use in erecting such buildings, or improving the gardens or grounds thereof, or installing pipes and utilities; provided, however, that Declarant, Declarant's successors or assigns, in carrying out the initial improvement and development of the tract, shall have the right to remove or

add to any soil on any lot and shall have the right of ingress to and egress from all lots for the purpose of grading, constructing and completing the street improvements, the installation of utilities, and the carrying out of any and all other things necessary to complete the general plans of improvement.

Section 3. Regulations regarding Horses, Live-Stock, Poultry, Bees, Commercial Pet Raising, Etc.

No cows, cattle, goats or bees shall be kept or raised on any part of said tract or on any lot therein. After a lot has been improved with a residence (but in no case before) not more than two horses may be kept on any single lot in said tract. A limited amount of poultry may be kept or raised on any lot so improved (but not otherwise) such as poultry, pigeons, or similar fowl, provided the total number thereof shall not at any time exceed 100 including all varieties. No live-stock, rabbit, poultry, dog, cat, bird, chinchilla, fish or pet raising or trading as a business shall be carried on, directly or indirectly, on any part of said tract or on any lot therein.

Section 4. Construction to be Diligently Prosecuted and New Material Used.

The work of construction of any building or structure shall be prosecuted diligently and continuously from the time of commencement until the same shall be fully completed, and only new materials shall be used in such construction.

Section 5. Occupancy of Unfinished Dwellings and other Structures Prohibited; Limitations on Use of Signs

No building, any part of which is for dwelling purposes, shall in any manner be occupied or lived in while in the course of original construction or until made to comply with all requirements as to area and with all other conditions set forth or referred to herein or in any further restrictions established and applicable thereto.

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No building or structure anywhere on the tract, other than a completed dwelling shall ever be lived in or used for dwelling purposes, including tents, shacks, trailers, out buildings, garages or other such structures, nor shall any sign or billboard be erected, placed or maintained on any lot except individual "For Sale" or "For Rent" signs used in connection with the selling or renting of individual lots or houses; one "For Sale" or "For Rent" sign only may be maintained at any time on a lot or building and it shall not exceed the dimensions of 18" x 24", shall be professionally lettered and shall contain no price but only the usual information about name, address and telephone number of the owner or his duly authorized broker; however, nothing in this paragraph shall be construed to prevent the erection, placement or maintenance by Declarant or Declarant's successors or Declarant's duly authorized agents, of signs, trailers, offices or buildings in connection with the conduct of tract business and/or the development and sale of any part of said tract; and also during the construction of any residence on any lot in said Tract the architect and/or builder may maintain a sign on the property not to exceed in size 24" x 36", this sign immediately to be removed upon filing of the notice of completion. No sub-contractor or other person connected with the construction of said residence shall maintain any sign whatever on said property.

Section 6. Privy. No privy shall be erected, maintained or used upon any part of said tract except that a temporary privy, with the approval of the Art Jury, may be permitted during the course of construction of a building. Any lavatory, toilet or water closet that shall be erected, maintained or used on any lot shall be enclosed and located within a building herein permitted to be erected on said lot.

Section 7. Street and Lot Grading. Declarant reserves the right to make such cuts and fills as in Declarant's judgment may be necessary to grade or improve any streets or private ways in the tract, whether dedicated or not dedicated, within the boundaries thereof, in accordance with such grades as Declarant may establish, and to grade any lot or lots owned by Declarant.

Section 8. Lots to be kept Cleared of Woods and Rubbish.

Each lot or home owner, or contract purchaser thereof, shall keep his property free and clear of all woods and rubbish and do all other things necessary or desirable to keep the premises neat and in good order. It is hereby agreed that if any owner or contract purchaser fails to conform to this covenant, the Declarant or Declarant's successor shall have the right to enter upon the property of such owner or contract purchaser and remove all weeds and rubbish and do all other things necessary to put the premises in a neat and orderly condition, and the expenses thereof shall become due and payable from such owner or purchaser to Declarant within five days after written demand therefor.

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Section 9. Right to Plant and Maintain Vacant and Unimproved Lots.

The Art Jury shall have the right at all times to enter upon any lot in said tract that is vacant, or unimproved by the owner thereof, and to plant or replant, trim, cut back, remove, replace and/or maintain hedges, trees, shrubs or flowers on the front half thereof and/or on the area within fifteen feet of any rear line, or within ten feet of any side lines, and the said Art Jury shall not thereby be deemed guilty of any manner of trespass. When the owner of a lot so planted or maintained by the Art Jury shall give bona fide evidence and written notice to said Art Jury of his intention to improve the same within thirty (30) days, the Art Jury may within said thirty (30) days, and until work on said improvements is commenced, transplant, remove or dispose of any or all of the plantings which may have been made by it.

ARTICLE II

Building and Planting Restrictions

Section 1. Single Family Residences. No building, structures or premises shall be erected, constructed, altered or maintained on any lot in said tract, except one detached single family residence, together with guest house, detached servants quarters and other customary necessary accessory outbuildings appurtenant thereto; and no such residence shall ever be used or

designated or intended to be used, for any purpose other than exclusively for private, single family, residential occupancy and use. Guest house and servants quarters shall be occupied by invitees and servants only, and shall not be rented.

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Section 2. Moving of Buildings or Trailers on to Property Prohibited.

Subject to the exception set forth in Section 5 of Article I, no residence, structure or trailer, shall be moved onto any part of said tract or onto any lot therein, whether from some location outside of said tract or from some location within said tract.

Section 3. Minimum Size of Residences. No residence shall be erected on any lot in said tract which shall have a floor area of less than 1500 square feet, excluding, however, any portion used for outside or open porches and/or patios, and/or basements and/or cellars and/or garages. For the purpose of computing the floor area or areas, measurements shall be taken from the outer faces of the studs supporting the exterior walls. Should two or more contiguous lots be included in one agreement of sale or conveyance, such lots may be treated as one entire lot for the purpose of these building restrictions, but no residence shall be erected thereon which shall have a less number of square feet than in this section provided.

Section 4. Residences to Face Front Lines of Lots. The front of each residence in the tract shall face toward the established front line of the lot upon which it is built.

Section 5. Established Front Lines. All lots in said tract shall front on the streets, drives and/or places which they adjoin.

Section 6. Front and Side Set-Back Lines. No residence or any part thereof, including porches, eaves, steps, balconies and/or other architectural features, shall be erected, placed, permitted and/or maintained on any lot in this tract with a setback of less than 25 feet from the established front line of such lot or less than 5 feet from either side line of such lot.

Section 7. Location of Service Quarters and Detached Garages.

No residence shall be constructed with service quarters located on the front thereof, or in the case of a corner lot on the side which faces the side street, except with permission of the Art Jury.

No detached garage shall be erected closer than 20 feet to the front setback line of any lot; also in the case of a corner lot, such garage shall not be erected closer than 20 feet to the side setback line on the street side, except with the permission of the Art Jury.

Section 8. Height of Walls, Hedges and Trees. No wall, hedge or planting, with the exception of trees, exceeding three feet in height, shall be permitted and/or maintained on any lot in this tract in the area between the established front line of such lot and the front set-back line; and no wall, hedge or planting, with the exception of trees, exceeding six feet in height, shall be permitted and/or maintained on any lot to the rear of the front set-back line, and no tree shall be placed, permitted or maintained on any lot of this tract which cuts off the view or any part of the view from any other lot in the tract.

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ARTICLE III

Art Jury and its Powers

Section 1. Art Jury. How Constituted. An Art Jury shall be constituted and succeeded as follows:

From and after the date of this instrument, said Art Jury shall consist of three members who shall be appointed by Declarant, each of whom shall remain a member until his successor shall have been appointed and shall have assumed office. Declarant may be a member of the Art Jury. The vote of any two members shall be sufficient to decide any question. Should any of the said members die or resign or become unable to act, their successors shall be appointed in the same manner. The members of the Art Jury shall serve without compensation. When residences shall have been erected on all of the lots in the tract, the then record owners of a majority of the lots in the tract may elect an Art Jury Committee of their own nomination, whereupon Declarant shall, upon request of said Art Jury, delegate, transfer, assign and convey to such Art Jury, its successors and assigns, all of the rights and powers of the Art Jury under this declaration.

Section 2. Approval of Plans and Fees. No residence, garage, outbuilding, fence, wall, sidewalk, steps or other structure, and no improvement, utility, parking area or driveway shall be erected, constructed, laid down, altered or maintained on, under or about any portion of said tract, or any lot therein, unless plans (including elevations) and specifications thereof, together with the

lot plan indicating the location on the lot, shall have been submitted to and approved in writing by the Art Jury including outward appearance and design, and a copy of such plans, specifications and lot plan, as finally approved, permanently deposited with the Art Jury. No alteration shall be made in the exterior design of any structure, residence, garage, out-building, fence, wall, steps, or other structure, or parking area or driveway, unless written approval of such alteration shall have been first obtained from the Art Jury.

Section 3. Enforcement and Interpretation.

The Art Jury shall have the right to interpret and to enforce any and all provisions, conditions, restrictions, reservations and/or agreements in this Declaration set forth or at any time hereafter created for the benefit of the said Tract, and the interpretation of said Art Jury, in case of uncertainty as to the meaning of any article, section, subsection, paragraph, sentence, clause, phrase or word of this Declaration shall be final and conclusive upon all interested parties.

Section 4. Power of Art Jury to Modify and/or Amend Restrictions.

(a) The Art Jury shall have the right and power to amend, change or modify the front and side set-back lines of any and all lots in said tract, and to change the facing direction of any and all lots in said tract so that such lots may front on other streets than as provided in

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Section 5 of Article II; and the Art Jury may make any such amendments, changes or modifications, if in its judgment same are necessary or advisable, and the members of the Art Jury shall be the sole judges of such necessity or advisability, and the consent of no corporation,

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association, individual or lot owner shall be required for making any of the foregoing amendments, changes, modifications or alterations.

(b) The Art Jury shall also have the right and power by written instrument duly executed and placed of record, to amend, change, modify or terminate any of the provisions, conditions, restrictions, covenants, easements, or reservations herein set forth, and any provisions, conditions, restrictions, covenants, easements or reservations contained in any declaration of additional or modified restrictions affecting said property hereafter filed of record, unless otherwise provided therein. Said amendments, changes, modifications or termination may be made by said Art Jury at any time without the consent of any corporation, association, individual or lot owner.

Section 5. Freedom from Liability. Neither Declarant nor the Art Jury nor any member thereof, because of any action taken or thing done under this ARTICLE III and/or these restrictions, shall ever be liable for any structural or other defect in any building erected on any lot in said Tract, and the owners of the lots in said Tract and each of them hereby agree to hold said Declarant and said Art Jury and its members, jointly and severally, at all times free and harmless from any such liability.

Section 6. Recording and Mailing of Notices of Violation. Notice of any breach or violation of any of the restrictions, conditions and covenants hereby established, or notice of

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failure of any person, firm or corporation to comply therewith, shall, within a reasonable time after the occurrence of such breach, violation or failure to comply, be executed by the owner of the reversionary rights herein provided for, or by the Art Jury, or by the owner of any lot in said Tract, and recorded in the office of the County Recorder of San Diego County; and a copy of such notice, showing the date of recordation and document number, within a reasonable time after recordation thereof as aforesaid, shall be mailed by registered mail to the person, firm or corporation responsible for such breach or violation of, or failure to comply with, any of said restrictions, conditions or covenants. Until such notice has been recorded and mailed by registered mail as in this paragraph provided, neither the owner of the reversionary rights, nor the Art Jury nor the owner of any lot in said tract shall have the right to commence any action against any person, firm or corporation responsible for any breach or violation of any of said restrictions, conditions or covenants or for failure to comply therewith.

ARTICLE IV

Duration and Reversionary Rights

Section 1. Duration of Restrictions. All provisions, conditions, restrictions, covenants, easements and reservations set forth in this Declaration shall continue and remain in full force and effect at all times in respect to said tract, the lots therein and the owners thereof, subject to the right of change or modification provided for in Section 4 of Article III, until

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January 1, 2000, and shall, as they then exist be continued automatically and without further notice from that time for a period of ten years, and thereafter for successive periods of ten years, each without limitation unless within six months prior to January 1, 2000, or within the six months prior to the expiration of any successive ten year period thereafter, a written agreement executed by the then record owners of a majority of the lots in said tract shall be placed on record in the office of the County Recorder of San Diego County, by the terms of which agreement any of said provisions, conditions, restrictions, covenants, easements and reservations are changed, modified or extinguished in whole or in part, as to all or any of the property originally subject thereto, in the manner and to the extent therein provided. In the event that any such written agreement of change or modification be duly executed and recorded, the original provisions, conditions, restrictions, covenants, easements and reservations as therein modified, shall continue in force for successive periods of ten years each unless and until further changed, modified or extinguished in the manner herein provided.

Section 2. Reversion of Title. Each and all of said provisions, conditions, restrictions, covenants, easements and reservations, in and are for the benefit of each owner of one or more lots (or any interest therein) in said tract, and shall inure to and pass with each and every lot in said Tract and shall apply to and bind the respective successors in interest of Declarant. Each grantee of Declarant or Declarant's

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successors, of any lot in said tract by acceptance of a deed incorporating the substance of this Declaration either by setting it forth or by reference thereto, accepts the same subject to all of such provisions, conditions, restrictions, covenants, easements and reservations. A breach of any of the provisions, conditions, restrictions, covenants, easements and/or reservations hereby established shall cause the lot with relation to which such breach occurs to revert to Declarant or to Declarant's successors in interest as the owners of the reversionary rights herein provided for, and the owners of such reversionary rights shall have the right of immediate re-entry upon such lot, in the event of any such breach; and, as to each lot owner in said tract, the said provisions, conditions, restrictions, easements, covenants and reservations, shall be conditions running with the land, and the breach of any thereof, and the continuance of any such breach, may be enjoined, abated or remedied by appropriate proceedings by the owners of the reversionary rights or by any such owner or owners of one or more lots in said tract; but such reversion shall not affect or impair the lien of any bona fide mortgage or deed of trust which shall have been given in good faith, and for value, provided, however, that any subsequent owner of a lot or lots so encumbered shall be bound by the provisions, conditions, restrictions, covenants, easements and reservations herein set forth, whether obtained by foreclosure or at trustee's sale or otherwise.

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Section 3. Right of Entry to Correct Violations. The violation of any of the provisions, conditions, restrictions, covenants, easements or reservations or breach of any of the other covenants and agreements hereby established shall also give to Declarant or to Declarant's successors in interest as owners of the reversionary rights herein provided for, the right to enter upon the lot upon or as to which such violations or breach exists, and summarily to abate and remove at the expense of the owner thereof, any structure, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, and the party or parties making such entry shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal.

Section 4. Violation Constitutes Nuisance. Every act or omission whereby any provision, condition, restriction, covenant, easement or reservation in this Declaration set forth is violated in whole or in part, is declared to be and shall constitute a nuisance, and may be abated by Declarant or by Declarant's successors in interest as owners of the reversionary rights herein provided for, and/or by any lot owner in said tract, and such remedy shall be deemed cumulative and not exclusive.

Section 5. Construction and Validity of Restrictions. All of said provisions, conditions, restrictions, covenants, easements and reservations, contained in this Declaration shall be construed together, but if it shall at any time be held that any one of said

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provisions, conditions, restrictions, covenants, easements or reservations or any part thereof, is invalid, or for any reason becomes unenforceable, no other provisions, conditions, restrictions, covenants, easements or reservations or any part thereof shall be thereby affected or impaired; and the grantor or grantors and grantee or grantees, their heirs, personal representatives, successors, heirs and/or assigns shall be bound by each article, section, sub-section, paragraph, sentence, clause, phrase and word of this Declaration irrespective of the fact that any article, section, sub-section, paragraph, sentence, clause, phrase or word be declared invalid.

Section 6. Assignment of Powers. Any or all of the rights and/or powers of Declarant herein contained as to any of the said tract, may be delegated, transferred, assigned, or conveyed to any person, corporation or association, and wherever Declarant is herein referred to such reference shall be deemed to include Declarant's successors in interest or Declarant's successors or assigns of the reversionary rights herein provided for or created.

Section 7. Failure to Enforce not a Waiver. The terms and provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by Declarant and Declarant's successors, the owner or owners of any lot or lots in said tract, their and each of their legal representatives, heirs, successors and assigns; and failure by Declarant or Declarant's successors,

AMENDMENT AND MODIFICATION OF
CERTAIN PROVISIONS OF RESTRICTIONS AS
TO HENIE HILLS UNIT NO. 1

Reference is made to the document entitled "Declaration of Establishment of Protective Covenants and Restrictions on Tract known as Henie Hills Unit No. 1", recorded in Book 4832, page 503, official records of San Diego County, as modified by document recorded in Book 5220, page 593 of said official records, and as further modified by document recorded in Book 7483 at page 149 of said official records, referred to hereinafter as so modified, as "Henie Hills Restrictions". Said tract herein referred to as "Henie Hills Tract" is particularly described as follows:

That certain property in the City of Oceanside County of San Diego, State of California, being Lots numbered 1 to 68, inclusive, of Henie Hills Unit No. 1, according to Map thereof, No. 2976, filed in the office of the County Recorder of San Diego County, April 10, 1953.

WHEREAS, the Art Jury as constituted in Article III of said Henie Hills Restrictions is the Assignee and Transferee of all the rights and/or powers of the declarant in said Henie Hills Restrictions; and,

WHEREAS, this Amendment and Modification hereby establishes and sets forth for the mutual benefit of present and future owners of lots in the Henie Hills Tract, and each lot additional protective provisions, covenants, conditions, restrictions, agreement, charges, liens, and other matters herein set forth (collectively referred to herein as additional Restrictions) which are binding upon the Henie Hills Tract and each lot therein and which are expressly and exclusively for the use and benefit of the Henie Hills Tract and of each lot therein and of each and every person or entity who now or in the future is an owner of the Henie Hills Tract and each lot therein. The term "owner" means and refers not only to present owners of the Henie Hills Tract and to those hereafter acquiring title to any lot therein in fee simple, but also to all persons who may be or become entitled to purchase any such lot under contracts of sale and all persons having at any time hereafter a possessory interest in any lot as tenants or otherwise, and their heirs, successors, and assigns. The Additional Restrictions shall run with the land and every part thereof and shall inure to the benefit of and be a burden upon the Henie Hills Tract and each lot therein shall bind the respective heirs, successors and assigns of the owners of the Henie Hills Tract and each lot therein; and,

WHEREAS, the Art Jury intends and desires to subject the Henie Hills Tract and each lot therein to the Additional Restrictions in order to perfect and further implement a uniform, general and common plan designed to preserve the value and single-family residential qualities of the Henie Hills Tract for the benefit of the Henie Hills Tract and each lot therein and for the mutual benefit of the owners of the Henie Hills Tract and each lot therein. Therefore, the Restrictions are hereby imposed against the Henie Hills Tract and each lot therein as mutual and equitable servitudes in favor of the Henie Hills Tract and each lot therein.

NOW, THEREFORE, the Art Jury pursuant to the rights and powers given to it under the terms and conditions of said Henie Hills Restrictions, and with the approval of a majority of the members of the Henie Hills Homeowners' Association, hereby amends, changes and modifies certain provisions of said Henie Hills Restrictions as follows:

1. Article III, Section 2 of said Henie Hills Restrictions is amended to add the following sentence. "The Art Jury shall have the power to approve or reject any proposed lot split or subdivision of any of the lots constituting the real property in the Henie Hills Tract."
2. Article III, Section 6 of said Henie Hills Restrictions is amended to add the following sentence. "Such notice upon being duly recorded shall be notice to all persons of such breach provided an action has been commenced within 60 days after the recording of such notice to establish such breach, and if no such action has been commenced within said 60 day period, then and in that event, such notice shall be of no force and effect whatsoever and the breach set forth in said notice shall presume to have been remedied."
3. Article II, Section 3 of said Henie Hills Restrictions is hereby amended to delete the first sentence of said Section and substituted in its place the following sentence. "No residence shall be erected on any lot in said Tract which shall have a floor area of less than 2100 square feet under one roof, including a garage and excluding, however, any portion used for outside or open porches and/or patios and/or basements and/or cellars."
4. Article I, Section 4 of the Declaration of Protective Restrictions by Ocean Vista Heights Development Company, Ltd., recorded in Book 7223 at page 364 of the Official Records of San Diego County and incorporated by reference as a part of the Henie Hills Restrictions by document recorded in Book 7483 at page 149 of said official records is hereby amended to insert after the language "other such structures", the following language: "Either temporary or permanent, nor shall any residence of temporary nature be erected or maintained on such lots."

5. Article I, Section 4 of the Declaration of Protective Restrictions by Ocean Vista Heights Development Company, Ltd., hereinafter referred to as Ocean Vista Restrictions, is amended to add the following sentence: "All landscaping of all front and side yards in all lots in the Henie Hills Tract shall be diligently and continuously pursued to completion within 90 days of close of escrow for the sale of any such lot or completion of construction of buildings upon such lot, whichever shall last occur."

6. Article II, Section 4 of the Ocean Vista Restrictions is amended as follows: The title of said section shall be deleted and in its place shall be substituted the title "Size of Lots, Frontage, Front and Side Setback Lines." There shall be inserted the additional sentence as the first sentence in said paragraph immediately following the title line: "No residence shall be constructed on a lot which fronts or borders on the original Henie Hills Unit No. 1 existing streets smaller than 25,000 square feet in area or with less than 125 feet in frontage; furthermore, no lot in the Henie Hills Tract shall have less than 15,000 square feet in area or less than 100 feet of frontage."

~~Article III, Section 4 of the Ocean Vista Restrictions~~

7. Article IV, Section 3 of the Ocean Vista Restrictions is hereby amended as follows. The title of said paragraph is deleted and in its place is substituted the following title: "Adding Property to the Jurisdiction of the Association."

8. There shall be added the following Article to the Henie Hills Restrictions:

Article V. ASSESSMENTS AND ENFORCEMENT THEREOF.

(1) All lots in the Henie Hills Tract shall be subjected to assessments on an annual basis to be levied by the vote of the majority of the Art Jury, and approved by a majority of the members of the Henie Hills Homeowners' Association; said annual assessment to be based upon estimated expenses for the following year. (The estimate shall include a reasonable provision for contingencies and replacements, ~~less any expected income from the prior year.~~ If the sum estimated proves inadequate for any reason, including nonpayment of assessment, ~~the~~ ^{a majority of the} Association may ~~levy~~ ^{levy} a further assessment; provided, however, that said annual assessment shall not exceed \$.75 per \$100.00 of assessed valuation as fixed by the County Assessor of San Diego County for the then current year for each lot or building site without the majority approval of the members of the Homeowners' Association. The Art Jury shall have the right to expend for the purposes stated in paragraph (2) hereof, the money paid in

improved

OC

*more than 1 lot
104
3,500*

SUMMARY OF RESTRICTIONS AND
INFORMATION FOR RESIDENTS OF
HENIE HILLS, UNIT #1

INTRODUCTION

This summary has been prepared as a convenient reference of restrictions and information for owners and residents of Henie Hills Unit #1. Owners renting are held responsible for advising tenants and guests of the rules and regulations and violations of these rules and regulations are the sole responsibility of the owner.

The restrictions governing Hills Unit No. 1 are contained in a series of documents as follows:

The original restrictions were recorded on or about April 22, 1953, file/page No. 5034832 of the official records of the San Diego County. There was an interim modification of restrictions filed April 28, 1954, file page 593 book 5220 of the official records of San Diego County. However on February 5, 1958 the original restrictions excepting Article III, Sections 1, 2 and 3 were revoked by modification recorded at page 149, Book 7483 of the official records of San Diego County and were replaced by the declaration of protective restrictions which had been recorded by Ocean Vista Heights Development Company on or about July 30, 1958, at page 364, Book 7223 of the official records of San Diego County. The restrictions governing Henie Hills Unit #1 are therefore: Article III of the original declaration of restrictions recorded on or about April 2, 1953, page 503 book 4832 and the declaration of protective restrictions recorded by Ocean Vista Heights Development Company, Ltd. on or about July 30, 1958 at page 364 book 7223.

These restrictions control the rights, privileges, use, obligations and maintenance for all residences in Henie Hills Unit #1. They are designed for the rights and enjoyment of all owners and/or tenants.

The full declaration of CC&R'S described above is a series of legal documents. The following summary of restrictions is extracted from the CC&R's. The declaration of CC&R's is a definitive document and by its terms, controls any questions of interpretation. The summary is only a digest of the main points contained in the original documents and should not be construed nor is intended as a substitute for the original documents.

Please note at the outset, references to the protective covenants and restrictions on Henie Hills Unit #1, the original CC&R's, will be referred to as Henie Hills CC&R's. References to the declaration of protective restrictions of Ocean Vista Heights Development Company, Ltd. will be referred to as the Ocean Vista CC&R's.

All owners who sell should take care to include a recital in the grant deed to the effect that the conveyance is subject to the recorded CC&R's.

DIGEST OF RESTRICTIONSINTERPRETATION AND ENFORCEMENT OF RESTRICTIONS.

1. Article III, §1, 2, 3 and 4 of the original declaration of restrictions sets forth the description of the art jury and the scope of its powers. This is the only remaining section of the original CC&R's still in effect.

(a) Article III §1, indicates that the art jury consists of three people elected by a majority of the residents within the tract.

(b) Article III §2 requires that all plans must be submitted to and approved by the art jury.

(c) Article III §3 vests in the art jury the right to interpret and enforce all provisions of the CC&R's. The powers vested in the art jury in this section are very broad, and are described as final and conclusive upon all parties.

(d) Section 4 vests in the art jury the power to amend or modify front and side setback lines in the facing direction of all lots in the tract. This section also gives the art jury the power by written instrument to amend or terminate any of the provisions of the CC&R's. This right of amendment is also very broad and vests this power of amendment solely in the art jury.

VIOLATION OF RESTRICTIONS

2. Violation of any of the restrictions shall be ~~formally noted by recordation by the art jury of a~~ notice of breach in the San Diego County Recorder's Office, with a copy mailed to the owner in violation, under Article III, paragraph 4 of the original CC&R's.

PERMITTED USES

3. (a) Article 1 of the Ocean Vista Heights Development Company, Ltd. sets forth the general permitted and prohibited uses to be made of each lot. It may be used only for residential purposes and not for any business, commercial, manufacturing or other nonresidential purpose or any other thing which may be an annoyance or nuisance to the neighborhood in general, and subject to variations. Compliance is decided on a case by case basis by the art jury.

(b) Livestock and bees may not be kept or raised on any lot and no more than two horses may be kept on any lot. A "limited amount" of poultry when approved by the art jury, but no pet raising, trading or breeding as a business can be carried on upon lot.

(c) Construction of any building must be pursued diligently and continuously from the time of commencement of the building until finally completed and no occupancy of unfurnished dwellings or other structures is permitted in the interim.

(d) All lots must be kept clear of weeds and rubbish.

(e) Article II, §2 prohibits the moving of any building, mobile home or trailer onto a lot from another location and article II, §2 provides for an area 1400 square feet for any residence.

(f) Front line setbacks must be a minimum of 25 feet, side a minimum of 10 feet.

DURATION

4. The duration of the restrictions is to January 1, 2000 provided however, that they continue to be renewed automatically for a period of ten years without limitations unless within six months prior to January 1, 2000 or within six months prior to the expiration of any successive ten year period, a written agreement executed by a majority of the record owners is recorded in the County Recorder's Office of the County of San Diego, terminating the restrictions.

ANDREASEN, GORE, GROSSE & THOMPSON

BY: _____

James E. Betz

MEMORANDUM OF SUGGESTED REVISIONS
TO CC&R's / HENIE HILLS UNIT #1

Please note at the outset, references to the protective covenants and restrictions on Henie HILLS Unit #1, the original CC&R's, will be referred to as Henie Hills CC&R's. References to the declaration of protective restrictions of Ocean Vista Heights Development Company, Ltd. will be referred to as the Ocean Vista CC&R's.

1. Article I, §5 of the Ocean Vista CC&R's should be amended at line 8 to provide after the language, "other such structures..." as follows: ", either temporary or permanent, nor shall any residence of temporary nature be erected or maintained on such lots."
2. Article I §4 should contain an additional clause providing that landscaping of all front and side yards be diligently and continuously pursued and must be completed within 90 days of the close of escrow or completion of construction.
3. Article I §9, the power of the art jury to maintain a vacant or unimproved lot is of questionable vitality without obtaining a prior court order to do so.
4. Article III §1 of the Henie Hills CC&R's should be amended to provide the art jury with the power to approve any proposed lot splits and further to provide that there shall be no alteration of exterior design or color of a residence or structure upon a lot without the prior consent of the art jury having been first obtained.
5. Inasmuch as there was apparently never formed a community association which was vested with the proof of power, as presently constituted the effective CC&R's for Henie Hills Unit #1 make no provision for assessment power in either the art jury or the home owners. Insertion of a power to assess vested in either the art jury or in the majority of the homeowners is desirable in the event it would become necessary to finance the enforcement of the CC&R's. An additional purpose which commonly necessitates inclusion of an assessment power which would not appear to be applicable here is maintenance of common areas.
6. There also should be inserted a provision providing that upon the failure of an owner to comply with an order of the art jury, the art jury may enforce its order in a court of law and in that event be entitled to be awarded reasonable attorneys fees and costs.
7. Relative to the procedure for notification of breach contained in §6 of Article III of the original Henie Hills CC&R's, for the protection of the individual owners, there be placed a limitation upon the art jury's action in declaring a breach as follows:

Such notice upon being recorded, shall be notice to all persons of such breach, provided an action has been commenced within 60 days after the recording of such notice, to establish such breach and if no such action has been commenced within said 60 day period, then and in that event such notice shall be of no force and effect whatsoever

and that breach set forth in said notice shall be presumed to have been remedied.

In the event a provision for assessments is inserted, there should be a provision stating that such assessments shall constitute a lien upon the lot and improvements thereon, which lien may be enforced in the manner provided by law with respect to other liens on real property and in the event of such a foreclosure proceeding the property owner to bear all costs, expenses of foreclosure and reasonable attorney's fees.

8. There should be inserted a clause prohibiting storage or parking of any type of material or vehicles on the front yard of any premises.

ANDREASEN, GOPE, GROSSE & THOMPSON

BY: _____

James E. Betz