

86-23441  
AMENDED AND RESTATED

0136-2346

DECLARATION

FOR

TENNIS VILLAGE TOWNHOUSES

THIS AMENDED AND RESTATED DECLARATION, pursuant to the provisions of ORS 94.004 to 94.480, is made and executed in Deschutes County, Oregon, this 5 day of November 1986, by TENNIS VILLAGE TOWNHOUSES ASSOCIATION, INC., an Oregon nonprofit corporation.

RECITALS

A. TENNIS VILLAGE TOWNHOUSES ASSOCIATION, INC. (the "Association"), is an Oregon nonprofit corporation, formed pursuant to ORS 94.146.

B. The members of the Association are the Unit Owners of TENNIS VILLAGE TOWNHOUSES, an Oregon condominium project located in Sunriver, Oregon.

C. The condominium project was established pursuant to the following documents:

1. Declaration Tennis Village Townhouses - Stage I (recorded December 13, 1976, at Volume 242, page 158, Official Records, Deschutes County, Oregon);
2. Annexation and Supplemental Declaration, Tennis Village Townhouses - Stage II (recorded April 27, 1977, in Volume 249, page 335, Official Records, Deschutes County, Oregon);
3. Annexation and Supplemental Declaration - Tennis Village Townhouses - Stage III (recorded November 11, 1977, in Volume 262, page 452, Official Records, Deschutes County, Oregon); and
4. Annexation and Supplemental Declaration - Tennis Village Townhouses - Stage IV (recorded March 13, 1978, in Volume 269, page 257, Official Records, Deschutes County, Oregon).

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MARCEAU, KARNOPP, PETERSEN & NASH  
ATTORNEYS  
835 N.W. BOND STREET  
BEND, OREGON 97701-2799

The foregoing documents are hereinafter collectively referred to as the "Original Declaration."

D. Various provisions of the Original Declaration have been amended over the years. The Unit Owners of the Association desire to further amend the Original Declaration and, to avoid the possibility of confusion, desire to republish the Original Declaration in an Amended and Restated form, which will include all past amendments and the amendments made herein.

THEREFORE, the Association, on behalf of its Unit Owners, hereby republishes the Original Declaration in which the land in fee simple therein described was declared to be held and shall continue to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following covenants, conditions, restrictions, uses, limitations, and obligations, all of which are declared and agreed to be in furtherance of the use of the land for condominium units, and all of which shall be deemed to run with the land and be a burden and a benefit to the Unit Owners, their successors and assigns, and any person acquiring or owning an interest in the land, townhouses and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. Definitions. Certain terms as used in this Declaration are defined in ORS 94.004, and other terms used herein shall be defined as follows, unless the context clearly indicates a different meaning:

(a) "Declarant" shall mean Danara Construction, Inc., an Oregon corporation;

(b) "Declaration" shall mean this instrument;

(c) "Project" shall mean the "property" as defined in ORS 94.004(19);

(d) "Condominium" or "townhouse" shall mean the entire estate owned by any owner, consisting of an undivided interest in the land, in the general common elements and any attributable limited common elements and the ownership of a separate interest in a unit;

(e) "Owner" shall mean any person, natural or artificial, or any group of persons, with an ownership interest in a townhouse in the project;

(f) "Board of Directors" shall mean the Board of Directors of the Association;

(g) "Mortgage" shall mean a deed of trust as well as a mortgage;

(h) "Mortgagee" shall mean a beneficiary under, or holder of, a deed of trust as well as a mortgage; and

(i) "Association of Unit Owners" shall mean Tennis Village Townhouses Association, Inc., formed pursuant to, ORS 94.146 et seq.

2. Land Description. The description of the land which will comprise the entire development is Block 1, Meadow Village Addition, City of Sunriver in the west half of Section 5, Township 20 S., Range 11 E. of the Willamette Meridian, in Deschutes County, Oregon, with the exception of .91 acres, described below. The portion of the land which is subject to this Declaration is described in Exhibits A-1 and A-2 attached to the Original Declaration.

Declarant is not submitting to unit ownership, but is reserving title to itself in, 0.91 acres of land within the perimeters of the entire proposed development and the improvements thereon. It is Declarant's intent to construct upon it indoor tennis and racquet ball courts. The legal description of this land and a surveyor's drawing of it are shown in Exhibits B-1 and B-2 attached to the Original Declaration.

Declarant also hereby expressly reserves to itself, its agents, servants, successors and assigns the right, at its own risk, to cross over and park on the roads, streets and parking areas now or in the future established on the land subject to this Declaration and at such other points as may be agreed upon by Declarant and the unit owners, their heirs, successors or assigns. This easement shall be for the purpose of ingress and egress onto that portion of the land herein reserved to Declarant, including ingress and egress to construct, maintain, repair and operate tennis and racquet ball courts on that portion of the land herein reserved to Declarant. Declarant also reserves to members of the general public the right, at their own risk, to cross over and park on the roads, streets and parking areas now or in the future established on the land subject to this Declaration. This easement shall be for the purpose of ingress or egress to utilize the tennis or racquet ball facilities located on the portion of land herein reserved to Declarant.

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3. Name. The name by which the project shall be known is "Tennis Village Townhouses."

4. Unit Description. A general description of each unit, including the number of stories of each unit, the number of units and the location, designation and approximate area of each unit are set forth in Exhibits "C" and "D" attached to the Original Declaration. The principal materials of which units are constructed are: concrete foundation; wood framing; windows and doors; drywall interiors; plumbing and wiring conforming to State of Oregon codes at the time of construction; shingles; wood exterior; and downspouts in place.

5. Common Elements. General common elements include the land identified as part of the general part of the common elements in the Original Declaration; yards, gardens, parking areas, streets and outside storage spaces; foundations, columns, girders, beams, supports, roofs, stairs and ceilings; exterior installations of telephone, power, light, gas, hot and cold water, heating, refrigeration, air conditioning, waste disposal and incinerating and television cable.

Limited common elements include those interior unit partition walls which separate one unit from another within a building.

6. Limitation on Use. The use for which each of the units is intended and limited is as follows:

(a) No owner shall occupy or use his unit, or permit the same or any part thereof to be occupied or used for any purpose other than a private residence for the owner, the owner's family, and his guests; except that any owner may rent his unit, or any part thereof, as a commercial hotel unit during periods when the owner shall not be in occupancy thereof. No unit may be occupied as a temporary or permanent residence by more than the maximum number of persons specified for that type of unit by the Board of Directors of the Association;

(b) There shall be no obstruction of the common areas. Nothing shall be stored in the common areas without the manager's prior consent;

(c) Nothing shall be done or kept in any unit or in common areas which will increase the rate of insurance on the common areas without the manager's

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prior consent. No owner shall permit anything to be done or kept in his unit or in the common areas which will result in cancellation of insurance on any unit or any part of the common areas, or which will be in violation of any law. No waste shall be committed in the common areas;

(d) No sign of any kind shall be displayed to public view on or from any unit or the common areas without the manager's prior consent;

(e) No animals, livestock or poultry shall be raised, bred or kept in any unit or in the common areas, except that dogs, cats and other household pets may be kept in units, subject to rules and regulations adopted by the Board of Directors;

(f) No noxious or offensive activity shall be carried on in any unit or in the common areas, nor shall anything be done therein which may be or become an annoyance or nuisance to the other owners;

(g) Nothing shall be altered or constructed in, or removed from, the common areas, except upon the written consent of the manager; and

(h) None of the rights and obligations of the owners created herein or by the deed creating the townhouses shall be altered in any way by encroachment due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance for said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an owner, or owners, if encroachment occurred due to the willful conduct of said owner or owners.

7. Service of Process. The name of the person to receive service of process in the cases provided in ORS 94.280(1) is R.L. Marceau, and his place of business within Deschutes County, Oregon is 835 N.W. Bond Street, Bend, Oregon 97701.

8. Development in Stages. The project was developed in four stages as follows:

(a) 4 units constructed in the first stage; the interest of each unit owner in the general common elements therein will be one-fourth (1/4).

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(b) 16 units constructed in the second stages; the interest of each unit owner in the general common elements therein will be one-twentieth (1/20).

(c) 16 units constructed in the third stage; the interest of each unit owner in the general common elements therein will be one-thirty-sixth (1/36).

(d) 16 units constructed in the fourth stage; the interest of each unit owner in the general common elements therein will be one-fifty-second (1/52).

9. Failure of Board of Directors to Insist on Strict Performance. The failure of the Board of Directors or manager to insist, in any one or more instances, upon strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future enforcement of such term, covenant, condition or restriction, but such term, covenant or restriction shall remain in full force and effect. The receipt by the Board of Directors or manager of any charge from any owner with the knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board of Directors or manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board of Directors or manager.

10. Indemnification of Directors. Each director and the manager shall be indemnified by the owners against all expenses and liabilities, including attorney fees, reasonably incurred or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being, or having been, a director or manager, or any settlement thereof, whether or not he is a director or manager at the time such expenses are incurred, except in such cases wherein the director or manager is adjudged guilty of willful nonfeasance, misfeasance or malfeasance in the performance of his duties; provided that, in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement as being for the best interest of the Association of Unit Owners and the Board of Directors.

11. Enforcement. Each owner shall comply strictly with the provisions of this Declaration and with the Bylaws of the Association of Unit Owners and rules and regulations promulgated pursuant thereto, as the same shall be lawfully

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amended from time to time. Failure so to comply shall be grounds for an action to recover sums due for damages, or for injunctive relief, or both, maintainable by the Board of Directors or manager on behalf of the owners, or in a proper case, by an aggrieved owner.

12. Repeal of Certain Provisions of the Original Declaration. The following provisions of the Original Declaration are repealed but have been included as amendments to the Association's Bylaws:

Title of Provision	Section No.	Section No.
	(Original Declaration)	(Amended and Restated Bylaws)
Powers of Board of Directors	9	5.14
Improvement of Common Areas	10	7.2
Owner's Obligations and Repair	11	7.3
Limitation of Liability	13	15
Insurance	15	11
Damage and Destruction	16	12
Personal Property	18	8
Reserves	19	5.15
Liability for Unpaid Share of Common Expenses	20	7.7
Lien of Association Against Unit Overassessment	21	7.6
Overassessment	22	7.5
Legal and Accounting Services	23	9

13. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision thereof shall not constitute a waiver of the right thereafter to enforce that provision or any other provision thereof.

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14. Amendment. An amendment of this Declaration shall not be effective unless:

(a) Such amendment is approved by at least 75 percent of the Unit Owners; and

(b) A copy of the Declaration as amended or the amendment thereto, certified by the chairperson and secretary of the Association as being adopted in accordance with the Declaration and the provisions of ORS 94.004 to 94.480 and 94.991, is recorded; provided, however, before any amended declaration or amendment to a declaration may be recorded, it must be approved by the Oregon Real Estate Commissioner.

15. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforcement of any other provision hereof.

16. Effective Date. This Amended Declaration shall take effect upon recording. Upon becoming effective this Amended Declaration shall supersede and replace all amendments to the Original Declaration.

Executed by the duly authorized representatives of the Declarant this 5 day of November, 1986.

Declarant

TENNIS VILLAGE TOWNHOUSES  
ASSOCIATION, INC., an Oregon  
nonprofit corporation

By *Susie Pape*  
SUSIE PAPE  
President and Chairman

By *James W. Hoffman*  
JAMES W. HOFFMAN  
Secretary

STATE OF OREGON                    )  
County of Lane                    ) ss.

The above-signed, SUSIE PAPE', certifies that the above Amended and Restated Declaration of Tennis Village Townhouses

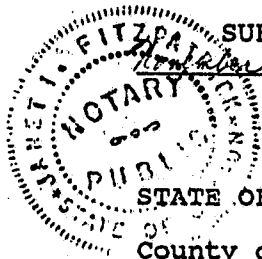
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Association, Inc. were adopted in accordance with the existing Declaration of said Association and the provisions of ORS 94.004 to 94.480 and 94.991.

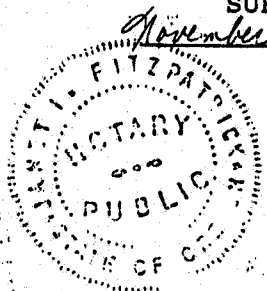


SUBSCRIBED AND SWORN to before me this 5 day of November, 1986.

Janet L. Fitzpatrick  
Notary Public for Oregon  
My Commission Expires: 9-8-89

STATE OF OREGON )  
County of Lane ) ss.

The above-signed, JAMES W. HOFFMAN, certifies that the above Amended and Restated Declaration of Tennis Village Townhouses Association, Inc. were adopted in accordance with the existing Declaration of said Association and the provisions of ORS 94.004 to 94.480 and 94.991.



SUBSCRIBED AND SWORN to before me this 5 day of November, 1986.

Janet L. Fitzpatrick  
Notary Public for Oregon  
My Commission Expires: 9-8-89

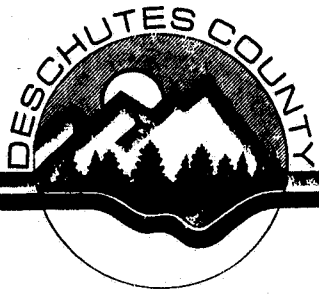
The foregoing Amended and Restated Declaration is approved pursuant to ORS 94.036 this 12th day of November, 1986.

MORELLA LARSEN  
Real Estate Commissioner

By Marge Robinson  
Marge Robinson

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## Assessor's Office

Deschutes County Courthouse / Bend, Oregon 97701 / (503) 388-6508

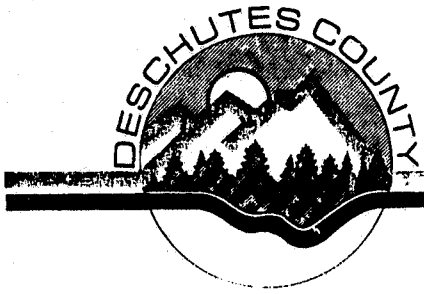
Oscar B. Bratton, Deschutes County Assessor

**0136-2355**

November 17, 1986

The foregoing Amended and Restated Declaration is approved pursuant to ORS 94.036 this 17th day of November, 1986.

Joan Rotsolk  
Deputy Assessor



## Treasurer and Tax Collector

Deschutes County Courthouse / Bend, Oregon 97701

Helen Rastovich, Treasurer & Tax Collector  
(503) 388-6536

Marilyn Baer, Tax Deputy  
(503) 388-6538

November 17, 1986

**0136-2356**

The foregoing Amended and Restated Declaration for Tennis Village Townhouses dated November 5, 1986 is approved pursuant to ORS 94.036 this 17th day of November, 1986.

Helen Rastovich  
Treasurer and Tax Collector

STATE OF OREGON )  
COUNTY OF DESCHUTES ) SS.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND  
RECORDER OF CONVEYANCES, IN AND FOR SAID  
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN  
INSTRUMENT WAS RECORDED THIS DAY:

1986 NOV 18 PM 3:20

MARY SUE PENHOLLOW  
COUNTY CLERK

BY P. Luck DEPUTY  
NO. 86-23441 FEE 45  
DESCHUTES COUNTY OFFICIAL RECORDS