

DECLARATION OF SALLY A. SARGENT

I, Sally A. Sargent, currently residing at [REDACTED], San Marcos, CA 92078, make the following statements based on my own personal knowledge of the facts and circumstances stated herein:

1. I was a resident of City of San Clemente ("The City") during the period of time that Landmark Financial Corp, and subsequently, Richard B. Smith Co which became Broadmoor Homes, Inc. ("Broadmoor") requested approvals from the City of San Clemente to build homes on Tract 8162, the greater Broadmoor development and Tract 8963, which represents the 19 houses on Calle Delicada and their common areas. This period of the development approval phase of the Broadmoor Community lasted from approximately 1973 to 1976.

2. I lived at 203 Calle Felicidad, San Clemente, CA 92672, together with my late husband Donald Sargent during the development approval phase of the Broadmoor Community.

3. Calle Felicidad ("Felicidad") is the street directly above Calle Delicada ("Delicada").

4. From our home on Felicidad we had a wonderful, unobstructed view of the ocean and coastline, Dana Point Harbor and Catalina Island. Prior to the Broadmoor development, there were no homes built on the hillside between the houses on Calle Felicidad and San Clemente High School.

5. The houses on Felicidad were built by Pacesetter Development Company and my home was built in 1966 as part of the residential development in the City known as Rancho Margarita. Felicidad is the lowest street in the Rancho Margarita Development. Other Rancho Margarita houses were built further east and up the hill from Felicidad. The Rancho Margarita homes were single story and terraced at approximately 20 ft. or greater elevation intervals on the hillside providing the homeowners with ocean views.

6. In the early 1970's Landmark Financial Group planned on building two-story single-family residential homes on tracts 8162 and 8963, Delicada, which are located directly downhill from Felicidad.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7. Our immediate concern was that the two-story houses would eliminate our cherished ocean views. Consequently, a group of Felicidad neighbors and a few residents on neighboring streets formed a group known as the "Rancho Margarita Associates". The goal of the Rancho Margarita Associates was to communicate our concerns to the City Planning Commission, the City Council and the developers of the 8162 and 8963 tracts, in order to protect the views on Calle Felicidad and any other factors which would negatively impact the Rancho Margarita Associates ("RM Associates") such as traffic and housing density.

8. The RM Associates filed petitions and comment letters with the San Clemente Planning Commission and City Council and attended Planning Commission and Council Meetings in order to express our concerns about development of the downhill tracts. I personally attended many Planning Commission and City Council meetings and was one of the more active and outspoken members of the RM Associates.

9. The RM Associates, which included at least 65 participants, became well known to City officials. Apart from my late husband and me, the RM Associates included multiple other neighbors living on Felicidad including Jay and Susan Rice, William Kerns, Fred Keeler, Don Stenerson, Frank and Maryanne Dreher, Richard and Karoline Koester to name a few.

10. The 65 members of RM Associates petitioned the City to not deviate from the established Code requirements recommended by the City's Committee on Subdivisions as Landmark, the developer at that time, had requested multiple variances from the Code which we felt would have impacted the Felicidad homeowners. (See p. 2 of San Clemente Planning Commission Minutes of January 10, 1973, attached hereto as Exhibit 1.)

11. During the January 10, 1973, Planning Commission meeting, my neighbor, Fred Keeler, living at 205 Felicidad, specifically asked for clarification as to whether his view would be obstructed by the proposed terraces. He was informed by the developers that the terraces were proposed for 16 to 20 ft. of elevation change so that each terrace would have a view. (Exhibit 1 at p. 4.)

12. There was substantial opposition by the Felicidad neighbors against the Landmark

1 development. After much discussion with the representatives from Landmark, Landmark agreed
2 to include in their proposed development CC&Rs that would only permit single story houses to
3 be built on lots facing Delicada specifically so that the views from homes on adjacent tracts
4 would not be obstructed. The houses on Felicidad are the adjacent tract.

5 13. Eventually, Landmark Financial Group lost its option to develop the property and
6 it was taken up by Richard B. Smith, Co which became Broadmoor Homes, Inc. and acquired the
7 option. Broadmoor subsequently continued with the plans, originally started by Landmark, to
8 seek approvals for development of the Broadmoor community, which would include
9 approximately 225 homes to be located on tracts 8162 and 8963, downhill from Felicidad.

10 14. At the Planning Commission Meeting on November 14, 1973, Larry Lizotte, VP
11 of the Richard B. Smith Company, and subsequently Broadmoor, proposed and requested that the
12 City deviate from its standard building code requirements. My husband, Donald, voiced his
13 opposition to the deviations and concurred with the City Engineer that the city code should be
14 adhered to with no deviations.

15 15. During the period between late 1973 and 1975, various Broadmoor officials
16 approached residents living on Felicidad to explain their plans to build homes below Felicidad.

17 16. The Broadmoor officials included: Richard B. Smith (founder), Larry Lizotte
18 (Senior Vice President), Dennis Bickler (Director of Property Acquisition and Assistant Division
19 Manager), S. Reid Gustafson (Vice President and Division Manager), R.F. Osgood (Senior Vice
20 President and Secretary), Don Corbin (architect at Morris & Lohrbach Architects), and John
21 Hazeltine. We emphasized to Broadmoor that our existing ocean and coastal views were
22 extremely valuable and needed to be preserved if they wanted the support of the RM Associates
23 for the development of any new homes.

24 17. There were several meetings between the Broadmoor officials and the Felicidad
25 homeowners, some of which took place in my home, at 203 Calle Felicidad. Through this series
26 of meetings, many compromises and concessions were made by all parties concerned to the
27 satisfaction of both Broadmoor and the Felicidad homeowners. One such meeting was held on
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

November 27, 1973, by Larry Lizotte and RM Associates. (See p. 6 of the San Clemente Planning Commission Minutes of November 28, 1973, attached as Exhibit 2.)

18. At the Planning Commission Meeting held on November 28, 1973, Mr. Keeler and I represented the Felicidad Homeowners. We were insistent that the height difference between Delicada and Felicidad would be a minimum of 20 ft. Broadmoor agreed to this and that only single level homes would be built on Delicada with a maximum roof height of 17 ft. so as to preserve the views from Felicidad. We asked that these conditions would be imposed on the Broadmoor development even though the Broadmoor developers had previously given us their word. (Exhibit 2 at p. 7.)

19. Consequently, the Planning Commission passed a motion to approve the Broadmoor plan with the added conditions to the approval and to the CC&Rs that:

- 1) the building pads on Delicada be a minimum of 20 ft. below the pads of the existing homes on Felicidad, and
 - 2) all homes be single story no higher than 17 ft. and at no time can a second story or other structure be added which would exceed the 17 ft. height limit.
- (Exhibit 2 at p. 7.)

20. I was also present at the December 19, 1973, City Council Meeting. Larry Lizotte presented the revised plan for the development at the public hearing portion of the meeting. Bill Kerns addressed the Council apprising them that RM Associates had spoken with the Broadmoor officials and had requested the following before allowing Broadmoor to build:

- 1) That the first row of houses which are on Delicada be at least 20 ft. below the pads of the houses on Felicidad, and that their roof height is limited to 17 ft.
- 2) That the CC&Rs include a statement that the houses on Delicada cannot add to the height of those buildings
- 3) That the size of the houses would be larger than 1720 sq. ft. (See pp. 1-2 of the San Clemente City Council Minutes of December 19, 1973, attached hereto as Exhibit 3.)

1 21. I also addressed the council on behalf of the RM Associates. Given the
2 abovementioned concessions, I spoke in support of the variances requested by Mr. Lizotte of
3 Broadmoor. Mr. Lizotte confirmed for the public record that the three abovementioned
4 requirements that would be imposed by the City as a condition of approval of the subdivision
5 would also be included in the CC&Rs. The Council then unanimously approved the Broadmoor
6 plans subject to the conditions requested by the RM Associates. As far as the RM Associates were
7 concerned the inclusion of the height limitations would preserve the Felicidad views. (Exhibit 3
8 at pp. 1-2.)

9 22. Concerned for their view, the Felicidad neighbors were worried that the houses
10 planned for Delicada may have been taller than the 17 foot restriction called for in the CC&Rs.
11 Consequently, I wrote a letter dated November 13, 1974, to Mr. Dick Ahlman, Director of
12 Planning for the City, requesting that an onsite physical inspection be made of homes to confirm
13 conformance with the CC&Rs. I emphasized in the letter that the 17 ft. height restriction was a
14 major provision that we had worked hard to have included in the CC&Rs and that we wanted to
15 make sure that this limitation was actually being observed. The letter was co-signed by many of
16 our Felicidad neighbors. Mr. Ahlman responded confirming that an onsite inspection was
17 conducted on the models homes and they were all found to be 17 ft. high or a little less.

18 23. Still concerned for our views, we requested that an additional model be measured
19 which appeared to be taller than the others. I wrote a second letter to Mr. Ahlman, dated February
20 11, 1975, to physically measure model 1A. I was present, along with two neighbors at the site
21 inspection and measurement of the model in question. The measurements were 17 feet 1 inch or
22 less. We considered this within the tolerance of compliance with conditions imposed by the City
23 Council and the CC&Rs. Attached hereto as Exhibit 4 is a true and correct copy of the
24 correspondence dated November 13, 1974, to Mr. Ahlman, Planning Director, City of San
25 Clemente.

26 24. I was present at the January 7, 1976, City Council meeting where the tract map for
27 Tract 8963, (the Delicada Tract) was approved. As I was specifically concerned about the views
28

1 from Felicidad, I asked for assurances that certain provisions in the final tract map be included in
2 the CC&Rs when recorded with the County so the City would not be faced with important
3 elements omitted from the documents as had happened in other situations. As the Felicidad
4 neighbors were relying on the conditions of approval of the tract map and the CC&Rs to protect
5 their views in perpetuity. These conditions included the single story, 17 ft. height restriction on
6 structures and 17 ft. height restriction on trees, bushes and shrubs. (See p. 7 of the San Clemente
7 City Council Minutes of January 7, 1976, attached hereto as Exhibit 5.)

8 25. At that meeting, Mr. Lizotte, representing Broadmoor Homes, Inc. stated that all
9 the restrictions for the tract, planting and maintenance were reflected in their plans and would be
10 included in the CC&Rs and recorded with the County. Furthermore, the City Attorney
11 commented that he was setting up a procedure to ensure that the CC&Rs were reviewed to make
12 sure all the various items were included therein before recording. Following discussion, the City
13 Council unanimously approved the final tract map for tract 8963. (Exhibit 5 at p. 7.)

14 26. Subsequently, on January 16, 1976, Broadmoor Homes, Inc., submitted its
15 SUPPLEMENTARY DECLARATION OF COVENANTS, CONDITIONS AND
16 RESTRICTIONS for Tract 8963 ("SUPPLEMENTARY DECLARATION"), for the 19 Lots on
17 Delicada. This document was recorded with the County of Orange, California, in early February,
18 1976. The following section below is included (Exhibit 6 at p.2) :

19 **Section 3. No building, structure, improvement or addition (excluding chimneys and**
20 **roof vents) shall be constructed, erected, altered, placed or permitted to remain on any**
21 **portion of the Property which exceeds one story in height with a maximum height of 17 feet.**
22 **No tree, bush or shrub shall be placed or maintained upon (i) any Lot described in Exhibit**
23 **"A", attached hereto and incorporated herein by reference, which exceeds 17 feet in height**
24 **or (ii) upon any other Lot in the Property which exceeds 20 feet in height.**

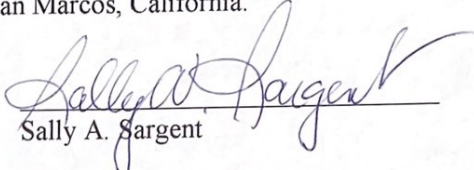
25 27. We were told by the City and Broadmoor that the abovementioned
26 SUPPLEMENTARY DECLARATION, in addition to the condition of approval limiting the
27 heights of all plants and building, would be sufficient to protect the views from Felicidad in
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

perpetuity as the limit of the structures and landscape was set at 17 feet.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 6, 2020, at San Marcos, California.


Sally A. Sargent