

RESOLUTION OF THE LOG HILL VILLAGE, UNIT 1 ARCHITECTURAL CONTROL COMMITTEE REGARDING NULLIFICATION OF “REPUBLISHED PROTECTIVE COVENANTS OF JUNE 14, 1976”.

WHEREAS, the “PROTECTIVE COVENANTS” for Log Hill Village, Unit 1 were adopted on July 29, 1975 by the developer of Log Hill Village, Unit 1, Western Community Planners, Inc., and said Protective Covenants were recorded with the Ouray County Clerk and Recorder on June 28, 1976, in Book 188 at pages 420-425, Reception Number 122041; and

WHEREAS, said Protective Covenants, in Article I, Section 2, created the Architectural Control Committee (hereinafter “Committee”) and authorizes the Committee to promulgate and maintain standards and criteria for guidance in making determinations as deemed necessary by the Committee for enforcement of the provisions and restrictions of said Protective Covenants; and

WHEREAS, Article II of said Protective Covenants provides that said covenants are binding upon the property in Log Hill Village, Unit 1 for a period of forty years from the date of recording; and

WHEREAS, the Committee is aware that certain “Republished Protective Covenants of June 14, 1976” were recorded in the Ouray County public records on April 4, 1983 in Book 201 at pages 569-573, Reception Number 133539 (hereinafter “Unauthorized Covenants”) and that these Unauthorized Covenants were recorded without the knowledge or approval of the sixty-nine property owners who had purchased lots in Log Hill Village, Unit 1 between 1976 and the recording of the Unauthorized Covenants and, further, that the Unauthorized Covenants were prepared by Ronn H. Mayer and Robert F. Draper, principals of Pan American International, Inc. which was the successor/developer of Log Hill Village, Unit 1 to Western Community Planners, Inc.; and

WHEREAS, Ronn Mayer testified, under oath, on June 6, 2010, in Ouray County District Court verifying the facts contained in the preceding recital in Case Number 08CV22, which case is titled “ Andrew Fisher vs. Dallas Creek Water Company, et al”; and

WHEREAS, in his testimony on June 6, 2010, Ronn Mayer explained that the Unauthorized Covenants were modified in order to allow more than one communications antenna to be erected in the Log Hill Village, Unit 1 subdivision as an accommodation for a privately owned radio station broadcasting in Ouray, Colorado; and

WHEREAS, the Unauthorized Covenants, by apparently allowing multiple communications antennas, resulted in confusion and uncertainty by homeowners in Log Hill Village, Unit 1 regarding such restrictions on communications facilities in the subdivision; and

WHEREAS, throughout the late 1970’s and through the 1980’s until early 1989, the developers occupied a majority of the seats on the architectural control committee which resulted in

replacement of several communications antennas on the edge of the Log Hill Mesa escarpment located at the south end of Tower Road South which was an area denominated as “green belt” on the recorded plat of Log Hill Village, Unit 1 which was recorded on June 25, 1976 in the Ouray County public records at Reception Number 122035; and

WHEREAS, on January 9 and 10, 1989 numerous home owners in the Log Hill Village, Unit 1 subdivision who were also members of the Log Hill Village Property and Homeowners Association met with the Ouray County Board of Commissioners (to wit: Robert A. Larson, Howard B. Williams and Don A. Caddy), and the Board of County Commissioners entered into an agreement that no further towers or poles, or additional equipment added to the existing structures would be allowed in the Log Hill Village, Unit 1 subdivision without the prior approval of the Log Hill Village Property and Homeowners Association because such structures violate the covenants; and

WHEREAS, in 1994, shortly after Dallas Creek Water Company (hereinafter “DCWC”) became the owner of the “green belt” area, a “Ground Lease Agreement” was entered into by DCWC, Durango Cellular Telephone Company and the Log Hill Village Property and Homeowners Owners Association, the intent and purpose of which was to achieve a consolidation of the various communications facilities/towers which had been erected in the “greenbelt” near the escarpment at the south end of Tower Road South, which Ground Lease Agreement resulted in the placement of all such facilities onto two towers which were thirty feet tall each; and, further, the “Ground Lease Agreement” resulted in a requirement that DCWC would be required to obtain approval from the Log Hill Village Property and Homeowners Association prior to placement of any other structures in that location from 1994 forward; and

WHEREAS, since the 1994 Ground Lease Agreement referred to immediately above, no additional communications facilities/towers have been approved by the Committee; and

WHEREAS, an application for construction of a communications tower was submitted to the Committee by Verizon Wireless in April, 2008, and the Committee denied said application; however, in spite of the Committee’s denial, Verizon Wireless constructed a communications facility in late 2010 and early 2011 which the Committee had previously determined clearly violates the Protective Covenants.

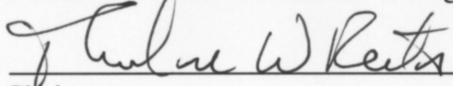
NOW, THEREFORE, be it resolved by the Architectural Control Committee of Log Hill Village, Unit 1 as follows:

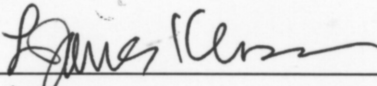
1. That the 1976 “Protective Covenants” recorded in Book 188 at pages 420-425 of the Ouray County Clerk and Records Office, Reception Number 122041 are the only valid Protective Covenants pertaining to Log Hill Village, Unit 1.
2. The “Republished Protective Covenants of June 14, 1976” are void, invalid, a nullity and have no binding legal effect whatever with regard to all of the real property which comprises Log Hill Village, Unit 1; said invalid and void “Republished Protective

Covenants of June 14, 1976" were improperly recorded in the Ouray County records on April 4, 1983 in Book 201 at page 569, Reception Number 133539.

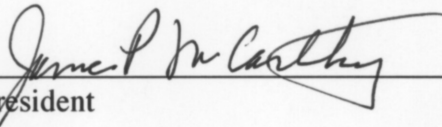
Introduced, read and passed this 5th day of December, 2011.

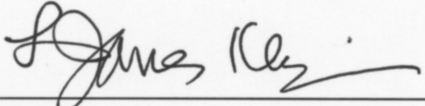
Architectural Control Committee of Log Hill Village, Unit 1

By: 
Chairman


Attest

Approved as to form and content by the Log Hill Village Property and Homeowners Association on Dec 5, 2011.

By: 
President


Attest