

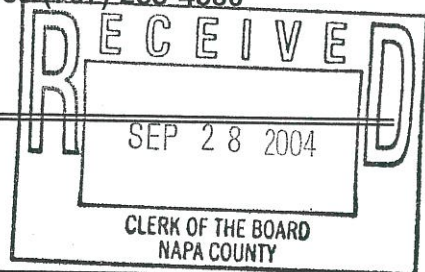
A. Lederer

**NAPA COUNTY
CLERK OF THE BOARD'S OFFICE**
1195 Third Street, Room 310, Napa, California, 94559 (707) 253-4580

APPEALS

(Chapter 2.88 of Napa County Code)

TO BE COMPLETED BY APPELLANT*
(Please type or print legibly)



Appellant's Name: The Highlands at Silverado Owners Association

Telephone #: (510) 864-3600 Fax #: (510) 864-3601 E-Mail: Jchapman@chapmanandintrieri.com

C/O Chapman & Intrieri, L.L.P.

Mailing Address: 2236 Mariner Square Dr., Ste. 300, Alameda, CA 94501

No. Street City State Zip

Status of Appellant's Interest in Property: Adjacent property owner
project applicant, adjacent property owner, other (describe)

Action Being Appealed: Tentative Parcel Map Request #04147-PM Approval

Permittee Name: Silverado Napa Corporation

Permittee Address: 1600 Atlas Peak Road, Napa, CA 94558

Permit Number: Parcel Map #04147-PM Date of Decision: September 15, 2004

Nature of Permit or Decision: Tentative Parcel Map Approval

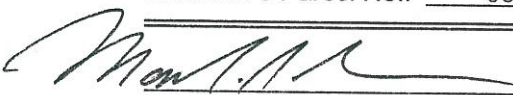
Reason for Appeal (Be Specific - If the basis of the appeal will be, in whole or in part, that there was a prejudicial abuse of discretion on the part of the approving authority, that there was a lack of a fair and impartial hearing, or that no facts were presented to the approving authority that support the decision, factual or legal basis for such grounds of appeal must be expressly stated or they are waived.)

(attach additional sheet if necessary): The grounds for appeal are described in detail in the addendum submitted herewith, and Exhibits 1-6 attached hereto, and include Appellant's contention that the decision to grant parcel map approval constituted a prejudicial abuse of discretion and is without sufficient factual or legal basis.

Project Site Address/Location: East of Silverado subdivisions, south of Atlas Peak Road, north of Monticello Road, Napa, CA

Street City State Zip

Assessor's Parcel No.: 0061-040-004 and 061-180-001


Signature of Appellant

September 28, 2004
Date

Mark G. Intrieri
PRINT NAME

TO BE COMPLETED BY CLERK OF THE BOARD

Total Fee: \$ 893.30 Receipt Nos. 846360 Received by: Miller Date: 9-28-04

* The following information, in addition to the information required by this form also needs to be provided as attachments hereto pursuant to County Code Section 2.88.050 (F-H): Title Insurance Report, Assessor's Map Book Pages, and Appeals Fee

ADDENDUM TO APPEAL OF TENTATIVE PARCEL MAP REQUEST # 04147-PM

Appellant: The Highlands at Silverado Owners Association
Permittee Name: Silverado Napa Corporation
Permit No. Parcel Map #04147-PM
Date of Decision: September 15, 2004
Nature of Permit or Decision: Tentative Parcel Map Approval
Re: Assessor Parcel No. 0061-040-004 and 061-180-001

The Highlands at Silverado Owners Association (hereinafter the "Association") submits the instant appeal challenging the September 15, 2004 decision of the Napa County Conservation, Development and Planning Department granting tentative parcel map approval to Silverado Napa Corporation as described above. Pursuant to Napa County Local Ordinance 2.88.090, "the Board shall exercise its independent judgment in determining whether the decision appealed was correct." The Association hereby submits that the Planning Department's decision to grant tentative parcel map approval to Silverado Napa Corporation was incorrect, constitutes a prejudicial abuse of discretion and is without sufficient factual or legal basis.

I. The Planning Department's Decision Was Incorrect and an Abuse of Discretion as it Is Not Based upon a Sufficient Factual or Legal Basis.

Attached hereto as Exhibits 1, 2, 3 and 4 are letters submitted to the Department on behalf of the Association challenging Silverado Napa Corporation's Tentative Parcel Map Request on several grounds. Specifically, the letters are dated June 8, June 14, July 6, and September 13, 2004.

Silverado Napa Corporation's request is premised upon access to the subject parcels over an easement through the Association's property. The legal validity of said easement is disputed and subject to pending litigation between these parties (Napa County Superior Court Case No. 26-25756). Silverado Napa Corporation contends, and the Association disputes, that the subject easement is the only viable means of access to the subject parcels. The Association's position with regard to the invalidity of the alleged easement is described in detail in Exhibits 1, 2, 3 and 4 hereto.

In short, the Association contends that the subject easement was not properly granted by the Association to Silverado Napa Corporation in accord with the Association's governing documents and procedural protocol. Under Article II, Section 2.10(iv) of the Association's Covenants, Conditions & Restrictions ("CC&Rs"), the Association's Board of Directors has the power to grant an easement over the common area in order to accomplish a purpose that is in the "best interest" of the Association and its members and does not unreasonably interfere with the use and enjoyment of the common area. (See Exhibit 1 and Exhibit B attached thereto.) The Association contends that the purported easement was not granted pursuant to a properly noticed meeting of the Board at which

a quorum was present; and further, that the purported decision to grant an easement over the common area was not made in a "non-arbitrary, good faith manner, free of any divided loyalties" since said easement has absolutely no value to the Association and benefits only Silverado Napa Corporation's desire to develop the adjacent parcels which are the subject of this appeal. Ingress and egress over the subject easement through the Association's property will substantially disrupt the quiet enjoyment of the Association members, damage Association roads, and poses a risk of harm to the Association members and their guests. There is absolutely no value or benefit to the Association or its members. Consequently, it cannot be said that the purported decision to grant the subject easement was made in good faith, in a non-arbitrary fashion, and in the best interests of the Association.

Additionally, the easement was granted by the developer's representative, Mr. Bryon Gilbert, then President of the Association's Board of Directors as well as Vice-President and Chief Operating Office of Silverado Napa Corporation. The easement was purportedly granted by Mr. Gilbert on behalf of the Association to Silverado Napa Corporation without the knowledge or consent of other Board members and without following established protocol for properly noticed meetings of the Association Board. (See Exhibit 1 and Exhibit C attached thereto.) Further, this easement was not disclosed to the homeowners in their purchase disclosure documents. (See Declarations attached to Exhibits 1 and 2 and Exhibit 6.)

Therefore, since the Planning Department's decision to grant Tentative Map Approval was premised upon access to the subject parcels over an easement which is invalid, the Planning Department's decision was an abuse of discretion and not supported by the facts.

Exhibit D attached to Exhibit 2 submitted herewith is a Declaration of Patrick Stevens. Mr. Stevens is a civil and geotechnical engineer who has studied the Association roadways which constitute the purported easement. It is his opinion that the subject roadways are not constructed or designed to be used for construction traffic. Bear in mind that Silverado Napa Corporation constructed the subject roadway.

Lastly, on August 31, 2004, the Napa County Superior Court issued an Order setting a hearing for November 19, 2004, at which time Silverado Napa Corporation is ordered to show cause why it should not be restrained and enjoined from entering upon the Association's property which is the subject of the purported Easement Grant Deed. A copy of the Court's Order is attached to Exhibit 4. The Order further provides that Silverado Napa Corporation shall refrain from engaging in construction or grading activities for a period of fifteen days following the conclusion of the November 19, 2004, hearing. Thus, even assuming Silverado Napa Corporation is not restrained and enjoined from entering upon the Association's property, the earliest date on which Silverado Napa Corporation can commence construction or grading activities is December 4, 2004. In light of the hearing set for November 19, 2004, the Planning Commission's decision to grant tentative parcel map approval was premature.

II. CEQA Requirements

The Association also adopts, as a basis for the appeal, all objections made to the Department's approval of PM04147 due to inadequate compliance with the requirements of CEQA. Attached as Exhibit 5 hereto is a letter dated June 14, 2004 from Sue Diamond and Marty Schenker, Association members residing at 175 Stone Mountain Circle, Napa California 94558. The subject letter describes inadequate compliance with CEQA requirements on the grounds of inadequate project description/location, the absence of review of aesthetic impacts, concerns regarding aesthetic impact of alternative road location off of Westgate Avenue, impermissible deferral of analysis and no evidence to support conclusions on biological, noise and cumulative impacts. The Association reiterates and adopts all of these stated deficiencies as a part of the instant appeal.

III. Conclusion

Based upon all the reasons cited above and the contents of Exhibits 1 through 6 which more thoroughly address each of these grounds for appeal, the Association requests that the Planning Department's September 15, 2004 approval of PM04147 be overturned and returned to the Planning Commission for further consideration.

CHAPMAN & INTRIERI, L.L.C.

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REDONDO BEACH OFFICE
707 TORRANCE BOULEVARD, SUITE 220
REDONDO BEACH, CA 90277
TELEPHONE (310) 540-7883

STOCKTON OFFICE
343 EAST MAIN STREET, SUITE 804
STOCKTON, CA 95202
TELEPHONE (209) 461-3602

File No.: 280.03

June 8, 2004

Napa County Conservation, Development and Planning Department
1195 Third Street
Suite 210
Napa, CA 94559

Re: Silverado Napa Corporation – Tentative Parcel Map Request #04147-PM

Dear Members of the Planning Commission:

We write concerning the public hearing set for June 16, 2004 regarding Silverado Napa Corporation – Tentative Parcel Map Request #04147-PM. Said Request seeks approval to divide and develop two parcels owned by the Silverado Napa Corporation. Further, the Request states that access to the two parcels "is proposed from Alta Mesa Circle, a private street within Silverado Highlands subdivision, pursuant to an Easement Grant Deed between the Highlands at Silverado Owner's Association and the property owner."

We represent the Highlands at Silverado Owners' Association ("Association") and write to request an indefinite continuance of the determination regarding the tentative parcel map due to a pending civil dispute¹ and due to the alleged invalidity of the grant of the subject easement. The

¹ The pending civil dispute is between the Highlands at Silverado Owners Association and the Silverado Napa Corporation. The civil suit is for declaratory relief and damages resulting from the grant of the subject easement. This public hearing set for June 16, 2004, is premature until the respective rights, duties and obligations of the parties regarding the easement have been properly adjudicated.

Association contends the purported grant of the easement is invalid and, thus, cannot provide the basis upon which Silverado Napa Corporation will access the two parcels. Please consider the following:

A. The Easement Grant Deed for Ingress and Egress.

Silverado Napa Corporation was the developer of the Highlands at Silverado subdivision. During the time that Silverado Napa Corporation still controlled the Highlands at Silverado Owners' Association's Board of Directors, Bryon Gilbert, Vice President and Chief Operating Officer of Silverado Napa Corporation and President of the Association's Board of Directors, *on behalf of the Association*, granted an easement for ingress and egress to Silverado Napa Corporation to use certain of the roads within the subdivision, including Alta Mesa Circle, for the purpose of allowing Silverado Napa Corporation access to the two parcels. The Easement Grant Deed was recorded on May 18, 2000. (A true and correct copy of the Easement Grant Deed is attached hereto as Exhibit "A.")

B. The Association Contends the "Board" Abused its Authority in Granting the Easement.

Under Article II, Section 2.10, Subsection (iv) of the Association's Covenants, Conditions, and Restrictions ("CC&Rs"), the Association's Board of Directors has the power to grant an easement over the common area in order to accomplish a purpose that is in the best interest of the Association and its members and does not unreasonably interfere with the use and enjoyment of the common area. (See Exhibit "B.")

This having been said, however, the Board's decision to grant an easement over the common area must be made in accordance with the provisions of all of the Association's governing documents and must be made in a non-arbitrary, good faith manner, free of any divided loyalties. As shall be explained below, the "Board's" decision is not in accordance with the provision of all the Association's governing documents, and was not made in a non-arbitrary, good faith manner, free of any undivided loyalties. Rather, the "Board" abused its authority when it granted the easement for ingress and egress to the Silverado Napa Corporation.

Moreover, the Association contends that at the time the easement was granted, (May of 2000) the Board was comprised of a developer's representative (Mr. Gilbert) and other homeowners. The Association will establish that the grant of easement was made by the developer's representative on the Board to the developer without the knowledge or consent of the other Board members. (See Exhibit "C," the attached Declarations and please note that other Declarations will be submitted at the time of the hearing.) Further, this easement was not disclosed to the homeowners in their purchase disclosure documents.

C. The Analysis.

1. The Purpose of the Association and The Limits on its Powers.

Article II of the Association's Articles of Incorporation provides, in pertinent part, "the specific and primary purposes for which [the Association] is formed are to provide for management, administration, maintenance, preservation and architectural control of the residence units and common area . . . and to promote the health, safety and welfare of the residents within [the development]." (Emphasis added.) (See Exhibit "D.")

Article III of the Articles of Incorporation provides, in pertinent part, "Notwithstanding any statement to the contrary, the Association shall not, except to an insubstantial degree, engage in any activity or exercise any power that is not in furtherance of its specific primary purpose." (Emphasis added.) (See Exhibit "D.")

2. The Powers of the Association's Board of Directors.

Under California law, for an Association's actions to be valid, the Association must act within the scope of its authority. Its authority is defined both by statute and by the governing documents. Civil Code § 1363.

Article V, Section 5.6 of the Association's CC&Rs state, "The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the general nonprofit mutual benefit corporation laws of California, subject only to such limitations on the exercise of these powers as set forth in the Articles, Bylaws and this Declaration. The Association shall have the power to do any lawful thing that may be authorized, required or permitted to be done by the Association under this Declaration, the Articles and Bylaws and to do and perform any act that may be necessary or proper for or incidental to the exercise of any of the express powers of the Association . . ." (Emphasis added.)

Article II, Section 2.10 states, "The Board or Declarant (as long as Declarant owns 25% or more of the lots in the development) shall have the power and the right in the name of the Association and all of the owners as their attorney-in-fact, to grant, convey or otherwise transfer to any owner or any other person fee title, easements, exclusive use easements or rights, rights-of-way and/or dedications in, on, over or under the common area, in order to:

(i) construct, erect, operate, maintain or replace lines, cables, wires, conduits or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes and any similar public or quasi-public improvements or facilities;

(ii) access the common area as may be reasonably necessary to maintain, repair (including repainting) or replace any improvement situated on a residential lot;

(iii) accommodate any encroachment that in the sole discretion of the board does not unreasonably interfere with the use and enjoyment of the common area; or

(iv) accomplish any other purpose that in the sole discretion of the board is in the best interest of the Association and its members and does not unreasonably interfere with the use and enjoyment of the common area. (Emphasis added.)

Each owner, in accepting a deed to a lot, expressly consents to such action and authorizes and appoints the Association and Declarant (as long as Declarant owns 25% or more of the lots in the development) as attorney-in-fact of such owner to execute and deliver all documents and interests to accomplish the action, including, but not limited to, grant deeds, easements, subdivision maps, and lot-line adjustments. Notwithstanding anything herein to the contrary, in no event shall the Board or Declarant take any action authorized hereunder that would permanently and unreasonably interfere with the use, occupancy and enjoyment of any owner of his or her lot or the use of any recreational facilities located in the common area without the prior written consent of that owner. Furthermore, the conveyance of fee title to any portion of the common area as authorized in this Section 2.10 shall require the consent of a majority of the total voting power of the Association other than Declarant." (See Exhibit "B.")

As a starting point, it is clear that Article II, Section 2.10, Subsections (i), (ii) and (iii) do not apply to the situation at hand. Thus, the question is whether Subdivision (iv) is applicable.

As noted above, under Subdivision (iv), the Board can grant an easement to accomplish any other purpose that in the sole discretion of the board is in the best interest of the Association and its members and does not unreasonably interfere with the use and enjoyment of the common area.

Under Article II, Section 2.10, Subdivision (iv), the determinative issues are:

(1) Whether it was in the best interest of the Association and its members for the Board to grant an easement for ingress and egress to Silverado Napa Corporation so that Silverado Napa Corporation can access and develop its two adjacent parcels; and

(2) Whether in granting an easement for ingress and egress to Silverado Napa Corporation so that Silverado Napa Corporation can access and develop

its two adjacent parcels, the Board unreasonably interfered with the use and enjoyment of the common areas.

These issues do not, however, exist in a vacuum. Rather, these issues are tempered by the Board's fiduciary duty to the Association and its members when viewed in the context that many of the homeowners have lived with construction traffic for as many as seven (7) years and further construction of the upslope property accessed by the purported easement through the very heart of the Highlands Association is a burden these homeowners should not be asked to bear. More to the point, such action cannot withstand scrutiny as it was not in the best interest of any of the homeowners - and only benefits Silverado Napa Corporation. As will be developed hereafter, the Grant of the easement was improper.

3. **The Board's Fiduciary Duty.**

It is well settled that directors of nonprofit corporations are fiduciaries. *Raven's Cove Townhomes, Inc. v. Knuppe Development Co.* (1981) 114 Cal.App.3d 783, 799. The pertinent statutory provision in this regard is Corporations Code § 7231.

4. **The Business Judgment Rule.**

Corporations Code § 7231(a) states, "A director shall perform the duties of a director, including duties as a member of any committee for the board upon which the director may serve, in good faith, in a manner such director believes to be in the best interest of the corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances." (Emphasis added.) Article 8, Section 8.1 of the Association's Bylaws reiterates the standard of care set forth in Corporations Code § 7231(a), "Each director shall perform his or her duties as a director, including the duties as a member of any committee of the Board on which a director serves, in good faith, in a manner such director believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances."

The directors' duty of care set forth in Corporations Code § 7231(a) codifies the common law "business judgment" rule. *Briano v. Rubio* (1996) 46 Cal.App.4th 1167, 1177-1179. Under the business judgment rule, in determining the liability of directors for breach of duty, courts will not review the directors' business decisions, or hold directors liable for errors or mistakes in judgment, so long as they were (1) disinterested and independent; (2) in good faith; and (3) done after reasonable inquiry. Moreover, disinterested directors are rebuttably presumed to have acted in good faith. Thus, a plaintiff challenging the board's decision has the burden of showing the decision involved a conflict of interest, or was made in bad faith (e.g., fraudulently) or without the requisite degree of care and diligence. Where a director, however, has, directly or indirectly, a

June 8, 2004

Re: *Silverado Napa Corporation – Tentative Parcel Map Request #04147*

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personal interest in a corporate decision, his or her judgment on the matter is not entitled to judicial deference under the rule. *Katz v. Chevron Corporation* (1994) 22 Cal.App.4th 1352, 1366-1367.

“A developer’s liability to a homeowner’s association for breach of the basic fiduciary duty to act in good faith, exercise proper management, and avoid conflicts of interest is well settled. This fiduciary duty extends to individual homeowners, not just the homeowner’s association. *Cohen v. S&S Construction Company* (1983) 151 Cal.App.3d 941, 945.

In *Cohen v. Kite Hill Community Association* (1983) 142 Cal.App.3d 642, plaintiff homeowners initiated a lawsuit against their neighbors for erecting a stone fence and their homeowners association, for its approval of the stone fence in an area that was, under the CC&Rs, improper for a stone fence. The Association demurred to the complaint, alleging, in part, that it owed no fiduciary duty to plaintiffs. The trial court sustained the demurrer. Plaintiffs appealed.

On appeal the court reversed, holding that in reviewing the neighbors’ improvement plan, the Association owed a fiduciary duty to plaintiffs to act in good faith and to avoid arbitrary action. In so holding, the court stated, “Although the Declaration vests ‘sole discretion’ in the [Architectural] Committee and allows for reasonable variances, their decisions must be ‘in keeping with the general plan for the improvement and development of the Project,’ [as provided in Article VII of the CC&Rs,] and, of course, must be made in good faith and not be arbitrary. These are clearly questions of fact for a jury.” (Emphasis added.) *Cohen v. Kite Hill Community Association* (1983) 142 Cal.App.3d 642, 654.

5. The Duty of Undivided Loyalty.

The duty of undivided loyalty applies when the board of directors of the Association considers maintenance and repair contracts, the operating budget, creation of reserve and operating accounts, etc. “Thus a developer and his agents and employees who also serve as directors of the association ... may not make decisions for the Association that benefit their own interests at the expense of the association and its members. In most jurisdictions, the developer is a fiduciary acting on behalf of unknown persons who will purchase and become members of the association. ‘Individuals on the board are held to a high standard of conduct, the breach of which may subject each or all of them to individual liability. Where a developer or sponsor totally dominates the association, or where the methods of control by the membership are weak or nonexistent, “closer judicial scrutiny may be felt appropriate,” and the principles of fiduciary duty established with business corporations “may exist for holding those exercising actual control over the group’s affairs to a duty not to use their power in such a way as to harm unnecessarily a substantial interest of a dominated faction.” (Emphasis added.) *Raven’s Cove Townhomes, Inc. v. Knappe Development Co.* (1981) 114 Cal.App.3d 783, 799-800.

D. Conclusion.

As the above-discussion makes clear, the easement for ingress and egress granted to Silverado Napa Corporation by Bryon Gilbert, Vice President and Chief Operating Officer of Silverado Napa Corporation, on behalf of the Association's Board, is invalid and cannot withstand legal challenge.

1. The Board's Decision to Grant an Easement to Silverado Napa Corporation was Not in Furtherance of the Board's Specific and Primary Purpose.

As noted above, the Association's Board is not permitted to engage in any activity or exercise any power that isn't in furtherance of its specific primary purpose, i.e., to provide for management, administration, maintenance, preservation and architectural control of the residence units and common area . . . and to promote the health, safety and welfare of the residents. *Quite obviously, in granting the easement to Silverado Napa Corporation the Board was not maintaining and preserving the common area or promoting the health, safety and welfare of the residents.* In fact, the opposite is true. The construction related traffic will, undoubtedly, lead to the rapid deterioration of the common area roads and be the source of considerable congestion. In addition, the construction traffic will pose a health and safety hazard and is contrary to the members' welfare.

2. Granting the Easement was Not in the Best Interest of the Association and its Members and Unreasonably Interferes with the Use and Enjoyment of the Common Area.

As noted above, the Board has the power to grant an easement over the common area, but only if it is to accomplish a purpose that is in the *best interest* of the Association and its members, and, then, only if it does *not* unreasonably interfere with the use and enjoyment of the common area. As to the issue of whether the decision was in the best interest of the Association and its members, it is self evident that a decision which is contrary to the Association's specific and primary purpose cannot possibly be in the best interest of the Association and its members.

Further, the Board's decision to grant an easement to Silverado Napa Corporation unreasonably interferes with the use and enjoyment of the common area. The easement will result in a continual flow of construction related traffic across the Association's roads. This traffic will continue for many, many months, perhaps years. The owners within the subdivision, especially those along the roads which will carry the construction traffic, absolutely deem this traffic to be an unreasonable interference with the use and enjoyment of the common area. Simply said, the use of the Association's roads by the Silverado Napa Corporation would turn an otherwise quite, serene community into a noisy, smokey, congested construction thoroughfare.

June 8, 2004

Re: *Silverado Napa Corporation – Tentative Parcel Map Request #04147*

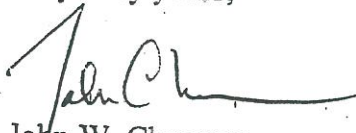
Page 8

3. The Board's Decision to Grant an Easement to Silverado Napa Corporation was in Violation of California Law.

As noted above, under California law, a developer and his agents and employees who also serve as directors of the association may not make decisions for the Association that benefit their own interests at the expense of the association and its members. Yet, this is precisely what Mr. Gilbert, Vice President and Chief Operating Officer of Silverado Napa Corporation, did when, as the President of the Association's Board of Directors, he granted the easement for ingress and egress to Silverado Napa Corporation. As such, the easement is in violation of California law and, thus, is invalid.

In light of the above, we respectfully request, on behalf of the Highlands at Silverado Owners' Association, that the Planning Commission indefinitely continue Silverado Napa Corporation – Tentative Parcel Map Request #04147-PM until such time as the civil dispute between the respective parties has been resolved. Thank you for your attention to this matter.

Very truly yours,



John W. Chapman

FIRST AMERICAN TITLE COMPANY
OF NAPA

Order No:



2000-0012459

When recorded mail to:

SILVERADO NAPA CORP.
1600 Atlas Peak Road
Napa, Ca. 94558

Recorded
Official Records
County Of
NAPA
JOHN TUTEUR
Recorder

REC FEE 10.00
CC1 ONE 1.00
OVERAGE 2.00

08:29AM 18-May-2000

EV
Page 1 of 2

THE UNDERSIGNED GRANTOR DECLARES
DOCUMENTARY TRANSFER TAX \$ -0-

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Computed on the consideration or value of property conveyed; OR
Computed on the consideration or value less liens or encumbrances
remaining at time of sale

EASEMENT GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

HIGHLANDS AT SILVERADO OWNER'S ASSOCIATION, A California corporation

hereby GRANT(S) to

SILVERADO NAPA CORP., a California corporation

the real property in the County of Napa, State of California, described as

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF
AND DESIGNATED EXHIBIT "A"

Dated: MAY 16, 2000

HIGHLANDS AT SILVERADO OWNER'S ASSOCIATION


BY: BRYON GILBERT, PRESIDENT

STATE OF CALIFORNIA

COUNTY OF NAPA

On MAY 16th 2000, before me,

FRANCIS J. HARVEY
personally appeared BRYON GILBERT

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(x) whose name(x) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Francis J. Harvey

MAIL TAX STATEMENTS TO:

same as above

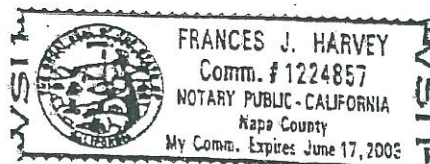


EXHIBIT "A"

END OF DOCUMENT

A non exclusive easement for ingress, egress, and public utilities over that portion of Parcel F, designated "Castle Oaks Drive, Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place", all as shown on that certain map entitled: "FINAL MAP OF SILVERADO HIGHLANDS 1, PHASE ONE", filed February 20, 1997 in Book 20 of Maps at Pages 80 thru 85 inclusive in the Office of the Recorder of Napa County, California.

Said easement is appurtenant to and for the benefit of the grantee's property described in that certain deed recorded December 28, 1989 in Book 1707 of Official Records Page 25, Napa County.

APN 061-040-002

71473

WHEN RECORDED RETURN TO:

LAW OFFICE OF JEFFREY G. WAGNER
88 Kearny Street, Suite 1500
San Francisco, CA 94108-5530

GGNFORMED COPY
NAPA COUNTY RECORDER
OFFICIAL RECORDS
DATE RECORDED SEP 04 1997
SERIAL NO. 97-20686

SILVERADO HIGHLANDS

DECLARATION

OF

RESTRICTIONS (CC&Rs)

2.10 Authority Over Common Area. The Board or Declarant (as long as Declarant owns 25% or more of the Lots in the Development) shall have the power and the right in the name of the Association and all of the Owners as their attorney-in-fact, to grant, convey or otherwise transfer to any Owner or any other Person fee title, easements, exclusive use easements or rights, rights-of-way and/or dedications in, on, over or under the Common Area, in order to: (i) construct, erect, operate, maintain or replace lines, cables, wires, conduits or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes and any similar public or quasi-public Improvements or facilities; (ii) access the Common Area as may be reasonably necessary to maintain, repair (including repainting) or replace any Improvement situated on a Residential Lot; (iii) accommodate any encroachment that in the sole discretion of the Board does not unreasonably interfere with the use and enjoyment of the Common Area; or (iv) accomplish any other purpose that in the sole discretion of the Board is in the best interest of the Association and its Members and does not unreasonably interfere with the use and enjoyment of the Common Area. Each Owner in accepting a deed to a Lot expressly consents to such action and authorizes and appoints the Association and Declarant (as long as Declarant owns 25% or more of the Lots in the Development) as attorney-in-fact of such Owner to execute and deliver all documents and interests to accomplish the action, including, but not limited to, grant deeds, easements, subdivision maps, and lot-line adjustments. Notwithstanding anything herein to the contrary, in no event shall the Board or Declarant take any action authorized hereunder that would permanently and unreasonably interfere with the use, occupancy and enjoyment by any Owner of his or her Lot or the use of any recreational facilities located on the Common Area without the prior written consent of that Owner. Furthermore, the conveyance of fee title to any portion of the Common Area as authorized in this Section 2.10 shall require the consent of a majority of the total voting power of the Association other than Declarant.

2.11 Delegation of Use Rights. An Owner's family members and guests and any such other Persons as may be permitted by the Rules may use and enjoy any Common Area Improvements, including any recreational facilities. All such use shall be subject to restrictions contained in this Declaration and the Rules. If an Owner has rented or leased his or her Lot, the Owner, members of the Owner's family and the Owner's guest shall not be entitled to use any Common Area Improvements, including the recreational facilities (other than such use as is directly related to the Owner's rights and duties as a landlord). Such rights may be enjoyed by the tenant or the tenant's family members and guests.

Any Owner who rents or leases his or her Lot must comply with the requirements of Section 3.2.

2.12 Conveyance of Common Area. The Common Area in each phase shall be conveyed to the Association on or before the date the Declarant first conveys title to a Lot in that phase. The Common Area as the servient tenement is subject to the rights reserved in Section 2.9 and to an easement in favor of each Lot as the dominant tenement for ingress and egress over the private streets and walkways situated on the servient tenement, for support from any Common Area land adjacent to any Improvements on any Lot, for access to the Common Area as may be reasonably necessary to maintain, repair (including repainting) or replace any Improvement situated on a Residential Lot, the encroachment easements described in Section 2.5, the rights of the Board or Declarant as described in Section 2.10, the Exclusive Use Common Area easements and rights described in Section 2.15, and for access to and use of (including the right to install, maintain, repair or replace) any utility lines, cables, wires, pipes, meters or other equipment installed within, on or over the servient tenement in order to provide utility or related service to the dominant tenement, including water, electricity, telephone, gas, cable television and sanitary sewer or storm drainage lines and equipment, and for access to and use of the Common Area by Declarant and its subcontractors and agents to construct, maintain and sell the Lots and all related Improvements in the subsequent phases. The rights retained by Declarant and its subcontractors and agents include the right to restrict access to any portion of the Common Area that is undergoing construction or development activity for safety or other reasons by the construction of fences or other barriers, or by the adoption of such other measures that restrict access to authorized personnel only, and the right to use portions of the Common Area as a staging or storage areas for materials and equipment to be used in connection with the construction of Improvements within the Development and to restrict

DECLARATION OF JAMES GRAZIANI,
MEMBER OF THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION

I, JAMES GRAZIANI declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development. In and about May of 2000, I was a member of the Board of Directors for the Highlands at Silverado Owners Association.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. Attached hereto as Exhibit "A" is a true and correct copy of the Easement Grant Deed for an easement, through the Highlands Association subdivision granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision.

4. This document bears the signature of Mr. Bryon Gilbert as President of the Highlands at Silverado Owners Association.

5. As a member of the Board of Directors at and during the time that this Easement Grant Deed apparently was made, no discussion of this Deed occurred in any session of a Board of Directors' meeting where I was present, nor was I ever made aware of this Easement Grant Deed during the time that I was a member of the Board of Directors.

6. I am not aware of any other meeting on behalf of the Board of Directors in which this Easement Grant Deed was discussed and in fact the Board never authorized this action on behalf of the Association to my knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 8th day of June, 2004 in Napa, California.


JAMES GRAZIANI

ARTICLES OF INCORPORATION

28003

ENDORSED
FILED

THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION in the office of the Secretary of
of the State of California

SEP 20 1994

ARTICLE 1NAMETONY MILLER
Acting Secretary of State

The name of the corporation (hereinafter called the "Association") is THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION.

ARTICLE IIPURPOSES OF THE ASSOCIATION

This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific and primary purposes for which it is formed are to provide for management, administration, maintenance, preservation and architectural control of the residence units and common area within that certain real property situated in the County of Napa, California, known as The Highlands at Silverado and to promote the health, safety and welfare of all the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose, all according to that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called "Declaration" recorded or to be recorded with respect to said property in the Office of the Recorder of Napa County.

ARTICLE IIILIMIT ON POWERS

Notwithstanding any statement herein to the contrary, the Association shall not, except to an insubstantial degree, engage in any activity or exercise any power that is not in furtherance of its specific primary purposes. This Association is intended to qualify as a Homeowner's Association under the applicable provisions of the United States Internal Revenue Code, Section 528, and the California Revenue and Taxation Code of California, Section 23701t, as they may be amended from time to time. No part of the net earnings of this Association shall inure to the benefit of any private individual except as expressly provided in those Sections with respect to the acquisition, construction or provision for management, maintenance and care of the Association

property, and other than by a rebate of excess membership dues, fees or assessments.

ARTICLE IV GOVERNANCE

The rights of members, number of and manner of election of the Board of Directors and all other matters concerning the operation and governance of the Association shall be as set forth in the By-Laws.

ARTICLE V AGENT FOR SERVICE OF PROCESS

The name and address of the Association's initial agent for service of process is:

Ms. Takako Ogura
Silverado Napa Corp.
1600 Atlas Peak Road
Napa, CA 94558

ARTICLE VI DISSOLUTION

In the event of the dissolution, liquidation or winding-up of the Association, upon or after termination of the Project, in accordance with provisions of the Declaration, its assets remaining after payment, or provision for payment, of all the debts and liabilities of the Association shall be divided among and distributed to its members in accordance with their respective rights therein.

ARTICLE VII AMENDMENTS

Amendments to these Articles shall require the affirmative vote or written assent of the members as follows:

1. At least a bare majority of the governing body; and,
2. At least a bare majority of the votes of all members of the Association; and
3. At least a bare majority of the votes of members other than Declarant (as defined in the By-Laws).

Notwithstanding the provisions of this Article, the

percentage of a quorum or of the voting power of the Association or of Members other than the Declarant necessary to amend a specific clause in the Articles shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

IN WITNESS WHEREOF, for the purposes of forming this corporation under the laws of the State of California, the undersigned has executed these Articles of Incorporation on September 16, 1994.

SILVERADO NAPA CORP.

BY: _____


Takako Ogura
Vice President

CHAPMAN & INTRIERI, L.L.P.

ATTORNEYS AT LAW
2236 MARINER SQUARE DRIVE
THIRD FLOOR, SUITE 300
ALAMEDA, CALIFORNIA 94501-1090
TELEPHONE (510) 864-3600
FACSIMILE (510) 864-3601

Mark G. Intrieri
John W. Chapman
Kurt T. Hendershott
Daniel M. O'Connell
Marc D. Coopersmith
Margot E. Barg
Penelope R. Glove
J. Spencer Edgett

RESPOND TO: ALAMEDA OFFICE

REDONDO BEACH OFFICE
707 TORRANCE BOULEVARD, SUITE 220
REDONDO BEACH, CA 90277
TELEPHONE (310) 540-7883

STOCKTON OFFICE
343 EAST MAIN STREET, SUITE 804
STOCKTON, CA 95202
TELEPHONE (209) 461-3602

File No.: 280.03-b

June 14, 2004

Napa County Conservation, Development
and Planning Department
1195 Third Street, Suite 210
Napa, CA 94559

Re: Silverado Napa Corporation – Tentative Parcel Map Request #04147-PM

Dear Members of the Planning Commission:

We write to follow up on our letter of June 8, 2004, concerning the public hearing set for June 16, 2004 regarding Silverado Napa Corporation – Tentative Parcel Map Request #04147-PM.

A. Lawsuit to Cancel the Easement Grant Deed

To begin with, enclosed please find a copy of the Complaint filed by the Highlands at Silverado Owners Association against the Silverado Napa Corporation pertaining to the disputed Easement Grant Deed (Exhibit "A"). As you will note, said Complaint seeks declaratory relief, a permanent injunction and cancellation of the Easement Grant Deed. Simply stated, the Complaint alleges that the Easement Grant Deed was given to the Silverado Napa Corporation in violation of the Association's governing documents and California law and is, therefore, invalid and void. If the court determines that the Easement Grant Deed is, in fact, invalid and void, the recorded Deed would be expunged from the public record. Accordingly, Silverado Napa Corp. could access its property utilizing other means - but not through the Association's property.

June 14, 2004

Re: *Silverado Napa Corporation – Tentative Parcel Map Request #04147*

Page 2

B. The Easement Grant Deed was Not Disclosed to the Association's Members

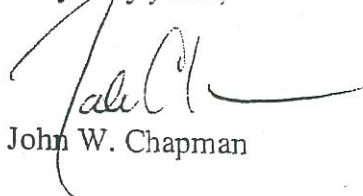
It is important for the Commission to understand that part of the basis for the Association's lawsuit to cancel the Easement Grant Deed is the fact that the existence of the easement, and its intended purpose, i.e., to allow for construction traffic and, later, residential traffic, was never disclosed to the Association's members at the time they purchased their respective homes, or any related time thereafter. Further, and as you can well imagine, the Association's members do not want any construction or subsequent, additional residential traffic upon the Association's roads. As testimony to the non-disclosure of the Easement Grant Deed and the opposition to construction and subsequent, additional residential traffic, enclosed please find Declarations executed by various members of the Association. (Exhibit "B") Additionally, enclosed please find declarations of the two (2) non-developer Board members concerning the non-disclosure issue. (Exhibit "C")

C. The Association's Roads are Not Designed to Carry Construction Traffic

Lastly, the Commission should also understand that there is a pending construction defect lawsuit entitled, *Highland at Silverado Owners Association v. Silverado Napa Corporation, et al.*, Napa County Superior Court Case No. 26-25669. A portion of this litigation relates to the Association's roads. Specifically, the roads were not adequately built to carry the existing construction traffic, and therefore need to be replaced, and certainly cannot carry any further construction traffic related to the development of Silverado Napa Corporation's upslope property. As testimony to these facts, enclosed please find the Declaration of the Association's civil and geotechnical engineer, Patrick Stevens. (Exhibit "D")

In light of the above, we respectfully request, on behalf of the Highlands at Silverado Owners' Association, that the Planning Commission indefinitely continue Silverado Napa Corporation – Tentative Parcel Map Request #04147-PM until such time as the civil disputes between the respective parties have been resolved. Thank you for your attention to this matter.

Very truly yours,



John W. Chapman

Enclosures

Mark G. Intrieri (SBN 116627)
John W. Chapman (SBN 134721)
Daniel M. O'Connell (SBN 197332)
J. Spencer Edgett (SBN 219221)
CHAPMAN & INTRIERI, L.L.P.
2236 Mariner Square Drive
Third Floor, Suite 300
Alameda, California 94501-1090
Telephone: (510) 864-3600
Facsimile: (510) 864-3601

Attorneys for Plaintiff
Highlands at Silverado Owners Association

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF NAPA - UNLIMITED JURISDICTION

THE HIGHLANDS AT SILVERADO
OWNERS ASSOCIATION, a California
nonprofit mutual benefit corporation

Plaintiff,

vs.

SILVERADO NAPA CORP., a California
corporation and DOES 1 through 400,
inclusive,

Defendants.

Case No.:

COMPLAINT FOR

1. **DECLARATORY RELIEF**
[Code of Civil Procedure §1060]
2. **PERMANENT INJUNCTION**
[Code of Civil Procedure §526]
3. **CANCELLATION OF INSTRUMENT**
[Civil Code § 3412]

Plaintiff complains against Defendants, and each of them, as follows:

FIRST CAUSE OF ACTION

(Declaratory Relief against All Defendants including DOES 1-400, inclusive)

1. Plaintiff THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION (hereinafter "Plaintiff" and/or "Association") is a nonprofit mutual benefit corporation duly formed under the Nonprofit Mutual Benefit Corporation law of the State of California, composed of the owners of residential housing structures located in Napa, in the County of Napa, State of California. The Association's members are comprised of estate homeowners and villa homeowners; each with

1 an undivided interest in real property known as common area. Said common area includes but is not
2 limited to all lands and improvements within the Association's boundaries with certain exceptions
3 pertaining to the estate lots; and further defined as the lands outside the footprints of the villa homes.
4 This property is hereinafter referred to as the "Common Area and/or Property." Other appurtenant
5 maintenance, repair, ownership and management obligations are more completely defined within the
6 Association's governing documents. The lots comprising the estate and villa homes and the Common
7 Area collectively comprise the "Development." Plaintiff was established to own, repair, maintain, and
8 manage the Common Area of the Development. As a common interest development, Plaintiff has
9 standing to institute and prosecute the above-captioned matter pursuant to Code of Civil Procedure
10 Section 383.

11 2. Plaintiff has the sole and exclusive right and duty to own, repair, maintain, and
12 manage the Common Area of the Development, to enter contracts to accomplish its duties and
13 obligations, and has all of the powers necessary to carry out its rights and obligations, including the
14 right, duty, and power to contract for legal services to prosecute any action affecting the Common
15 Area or pertaining to damage to the separate interests that arise out of or are related to any damage to
16 the Common Area, when such action is pertinent to its operations, powers, rights, and obligations,
17 including the bringing of this action in accordance with Code of Civil Procedure Section 383 and Civil
18 Code Section 1350, et seq.

19 3. Plaintiff is informed and believes and thereupon alleges that at all times hereir
20 material, Defendant SILVERADO NAPA CORP. was a business entity and/or organization which
21 conducted business in the County of Napa. Said Defendant and DOES 1-100, inclusive, and each o
22 them, were the developer and/or participated in the development, design, construction, repair, sal
23 and/or transfer of the Common Area of the Development, and/or in the manufacture and/or supply o
24 materials and components which were made a part of the Common Area of the Development as se
25 forth herein.

26 4. Defendant SILVERADO NAPA CORP. and DOES 101-200, inclusive, were th
27 general contractor and/or builders of the Common Area of the Development. Defendant SILVERAD
28 NAPA CORP. and DOES 201-300, inclusive, were the owners and/or sellers and/or brokers and/o

1 listing agents and/or auctioneers of the Development and sold the individual units to Plaintiff's
2 members. Defendant SILVERADO NAPA CORP. and DOES 301-400, inclusive, were
3 subcontractors, material men, suppliers, and/or manufacturers of building materials whose labor,
4 services and/or materials were incorporated into, or were part of the construction of, the Development.

5 5. Plaintiff is ignorant of the true names and capacities of defendants sued herein as
6 DOES 1 through 400, inclusive, and therefore sues these defendants by such fictitious names whether
7 individual, corporate, associate or otherwise. At such time(s) as defendants' true names become
8 known to Plaintiff, Plaintiff will seek leave of this Court to amend this Complaint to insert their true
9 names and capacities. Plaintiff is informed and believes and thereupon alleges that each of the
10 fictitiously named defendants are responsible in some manner for the occurrences herein alleged, and
11 that Plaintiff's damages as herein alleged were proximately caused thereby.

12 6. Plaintiff is informed and believes and on that basis alleges that at all times herein
13 mentioned each of the defendants was the alter ego of the other and/or was acting as the partner, agent,
14 servant, or employee of each of the remaining defendants, and in doing the things hereinafter
15 mentioned was acting in the course and scope of his/her or its authority as such partner, agent, servant,
16 or employee and with the knowledge, permission, and consent of each of the other defendants.

17 7. Prior to filing this action Plaintiff was not required to comply with the provisions of
18 Civil Code Section 1375 because this action does not involve a claim for defects in the design or
19 construction of the common interest development.

20 8. An actual controversy has arisen and now exists between Plaintiff and Defendant
21 concerning their respective rights and duties in that Plaintiff contends that an easement purportedly
22 created by an Easement Grant Deed recorded on May 18, 2000 in the County of Napa is invalid and
23 of no effect and, further, contends that there was no consideration supporting this purported transfer
24 whereas Defendants dispute this contention and contend that the easement is valid and provides
25 means of ingress and egress to a planned subdivision that Defendants intend to build on property
26 adjacent to the Associations' Property. A copy of the Grant Deed is attached hereto and incorporate
27 for reference only into this complaint as Exhibit "A."

28 //

1 9. Plaintiff desires a judicial determination of Plaintiff's rights and duties pursuant to
2 the alleged easement and as to the legality of the easement and a declaration as to its validity.

3 10. A judicial determination is necessary and appropriate at this time under the
4 circumstances in order that Plaintiff may ascertain the validity of the easement and prevent Defendants
5 from using the Association's Property as a means of ingress and egress to Defendants' contiguous
6 property. Defendants have submitted a tentative parcel map request for the aforementioned planned
7 development to the County of Napa Planning Commission. Plaintiff opposes the development based
8 on the assertion that the easement for ingress and egress is invalid and the proposed development
9 should not be accessed through the Common Area of Plaintiff's property.

10 **SECOND CAUSE OF ACTION**

11 **(Permanent Injunction against All Defendants including DOES 1-400, inclusive)**

12 11. Plaintiff hereby incorporates by this reference each allegation in paragraphs 1 through
13 10 above, as though set forth fully herein.

14 12. Plaintiff is informed and believes, and on that basis alleges, that unless Defendants
15 are restrained and enjoined by order of this Court, Defendants will commence and continue to engage
16 in acts, including but not limited to, using the Association's property as a means of ingress and egress
17 for transporting heavy machinery and earth moving equipment that will create a nuisance and cause
18 significant damage to the Association's roadways. The Association's roadways are not designed to
19 withstand the weight of such construction related traffic. Such damage to the roadways will also
20 undermine subsurface utilities including drainage and plumbing systems that are required for, among
21 other things, irrigation, household use and fire safety. Such conduct by Defendants will result in
22 irreparable harm to Plaintiff in that Plaintiff will suffer from a diminished value of its property
23 interruption of use and enjoyment of its property, significant damage to its roadways and possible loss
24 of necessary utilities including water which would be catastrophic in the event of a fire. The threat of
25 such irreparable and permanent damage justifies the issuance by the Court of an injunction.

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THIRD CAUSE OF ACTION

"(Cancellation of Instrument against All Defendants including DOES 1-400, inclusive)"

13. Plaintiff hereby incorporates by this reference each allegation in paragraphs 1 through 12 above, as though set forth fully herein.

14. A written instrument that purports to be an Easement Grant Deed executed by Defendants is presently in existence and filed in the office of official records in the County of Napa. A copy of the instrument, marked Exhibit "A," is attached to and incorporated in this complaint.

15. The instrument, although apparently valid on its face, is void in that the Grant Deed was recorded by an officer of SILVERADO NAPA CORP., allegedly on behalf of the Association, without the knowledge and consent of the other members of the Board of Directors of the Association in violation of the Declaration of Covenants, Conditions and Restrictions ("CC&Rs"), By-Laws and Articles of Incorporation for the Association. Furthermore, Defendants acted with divided loyalties, in breach of fiduciary duties owed to the members of the Association and in contravention of the best interests of the Association and its members.

16. By this complaint, Plaintiff notifies Defendants of Plaintiff's intent to cancel the aforementioned Easement Grant Deed.

17. Plaintiff did not learn of the grounds for cancellation alleged in Paragraph 15 until on or about June 1, 2004, on which date Plaintiff was notified that Defendants filed a tentative parcel map request with the County of Napa. The notice indicated that the easement would be used as the means of access to adjacent property owned by Defendants.

18. There is a reasonable apprehension that the Grant Deed may cause serious injury to Plaintiff in that Defendants intend to begin construction on property contiguous to Plaintiff's Property. Such construction would require heavy equipment to travel over Plaintiff's Property potentially causing damage to the roadways and subsurface utilities. The construction would also cause added traffic and noise creating a danger and nuisance to Plaintiff and its members. Furthermore, the proposed development would cause an increase in traffic on Plaintiff's Property and forever change its scope of use, nature, character and tranquility, thereby diminishing its value.

//

18. Defendants' conduct alleged in Paragraph 15 was oppressive, malicious, and with the intent to defraud Plaintiff. Plaintiff is therefore entitled to exemplary damages in an amount according to proof.

WHEREFORE, Plaintiff prays:

ON THE FIRST CAUSE OF ACTION:

For a declaration that the Grant Deed for an Easement recorded on May 18, 2000 in the County of Napa is invalid and void;

For costs of suit and attorney's fees;

For other relief that the Court deems appropriate.

ON THE SECOND CAUSE OF ACTION:

For a permanent injunction enjoining Defendants from using the portion of Plaintiff's property, described more particularly in Exhibit "A" as a means of ingress or egress for any construction related activities or as an access road to Defendants' planned development;

For costs of suit and attorney's fees;

For other relief that the Court deems appropriate.

ON THE THIRD CAUSE OF ACTION:

That the Easement Grant Deed be declared void and cancelled;

That Defendants be ordered to cancel the Easement Grant Deed and deliver it to Plaintiff or deliver the instrument to the clerk of this Court for cancellation;

For exemplary damages according to proof;

For costs of suit and attorney's fees;

For other relief that the Court deems appropriate.

DATED: June 14, 2004

CHAPMAN & INTRIERI, L.L.P.

By: 

Mark G. Intrieri
Attorneys for Plaintiff
THE HIGHLANDS AT SILVERADO
OWNERS ASSOCIATION

Exhibit "A"

Order No:



2000-0012459

When recorded mail to:

SILVERADO NAPA CORP.
1600 Atlas Peak Road
Napa, Ca. 94558

Recorded	REC FEE	10.00
Official Records	CC1 ONE	1.00
County Of	OVERAGE	2.00
NAPA		
JOHN TUTEUR		
Recorder		

08:29AM 18-May-2000 EV Page 1 of 2

THE UNDERSIGNED GRANTOR DECLARES
DOCUMENTARY TRANSFER TAX \$ 0.

Computed on the consideration or value of property conveyed; OR

Computed on the consideration or value less liens or encumbrances
remaining at time of sale

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

HIGHLANDS AT SILVERADO OWNER'S ASSOCIATION, A California corporation

heraby GRANT(S) to


SILVERADO NAPA CORP., a California corporation

the real property in the County of Napa, State of California, described as:

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF
AND DESIGNATED EXHIBIT "A"

Dated: MAY 16, 2000

HIGHLANDS AT SILVERADO OWNER'S ASSOCIATION


BY: BRYON GILBERT, PRESIDENT

STATE OF CALIFORNIA

COUNTY OF NAPA

On May 16th 2000, before me,

FRANCES J. HARVEY
personally appeared BRYON GILBERT

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Frances J. Harvey

MAIL TAX STATEMENTS TO:

same as above

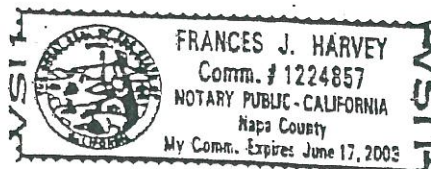


EXHIBIT "A"

END OF DOCUMENT

A non exclusive easement for ingress, egress, and public utilities over that portion of Parcel F, designated "Castle Oaks Drive, Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place", all as shown on that certain map entitled: "FINAL MAP OF SILVERADO HIGHLANDS 1, PHASE ONE", filed February 20, 1997 in Book 20 of Maps at Pages 80 thru 85 inclusive in the Office of the Recorder of Napa County, California.

Said easement is appurtenant to and for the benefit of the grantee's property described in that certain deed recorded December 28, 1989 in Book 1707 of Official Records Page 25, Napa County.

APN 061-040-002

ASSOCIATION

1. Teresa & Tony Ganze declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14th day of June, 2004 in Napa, California.

Teresa A. Ganze

Please fax this document to: 510-864-3601.

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, STANLEY KNIGHT declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000. *There appears to be a conflict of interest in the developer controlled the Board of the HOA. it has the "appearance" of an insider deal.*

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence. *I was shocked to learn the the developer intend to use our sub division as a transit path to access yet another development.*

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13th day of June, 2004 in Napa, California.

Stanley Knight

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, FRANK & LINDA GRANGE declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.



2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14 day of June, 2004 in Napa, California.

DECLARATION OF INDIVIDUAL MEMBER OF

THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION

I, William E. Morgan declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.
3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.
4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.
5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14th day of June, 2004 in Napa, California.

William E. Morgan

Please fax this document to: 510-864-3601.

DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION

I, KENNETH J. BARBOUR declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highland Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Ston Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14 day of June, 2004 in Napa, California.

Kenneth J. Barbour

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

1. DAVID M. LASKER declare:
AND VALERIE LASKER

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12 day of June, 2004 in Napa, California.



DAVID M. & VALERIE LASKER
129 STONE MOUNTAIN CIRCLE
NAPA
(415) 614-0120

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I. Richard Letter declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castile Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12 day of June, 2004 in Napa, California.

Richard F. Letter

**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, Ronald M. Wisbey declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development. I am also President of the Homeowners Assoc,

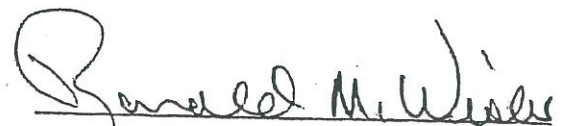
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of June, 2004 in Napa, California.


170 Stearns Mtn. Cir

DECLARATION OF INDIVIDUAL MEMBER
OF

THE HIGHLANDS AT SILVERADO
OWNERS ASSOCIATION

I, GAIL SILVERADO declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.
3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.
4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.
5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use

will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12 day of June, 2004 in Napa, California.

Gail Armstrong

**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, J. Peter Hanson declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.
3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp. the developer for the Highlands' subdivision, on or about May, 2000.
4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.
5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of June, 2004 in Napa, California.

J. Peter Hanson

.....

**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

1. TIMOTHY + BARBARA ARNSTEIN declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.
3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.
4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.
5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of June, 2004 in Napa, California.

Timothy Arnstein Barbara Arnstein

6/12/04

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, Melton K. GARNER declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12 day of June, 2004 in Napa, California.

Melton K. Garner

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, Deidre H. Bell declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12 day of June, 2004 in Napa, California.

Deidre H. Bell

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, Jeff Bell declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

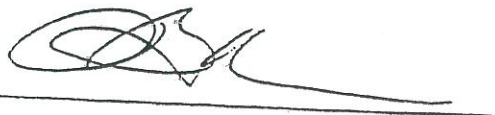
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stony Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands Silverado Owners Association to the Silverado Napa Corp., the developer for the Highland subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12 day of June, 2004 in Napa, California.



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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, Immanuel Panis declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12 day of June, 2004 in Napa, California.



DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION

We
I Patty & Chris Bias declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stor Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands Silverado Owners Association to the Silverado Napa Corp., the developer for the Highland subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at after the time I purchased my residence. (in 1997.) The Highlands was to be the last development on our hill, we never.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of June, 2004 in Napa, California.

FAX TO: John Chapman at 510-864-3601

Patty & Chris Bias
Highlands/Villas
425 Bear Creek Circle
Napa, CA 94558

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, Peter P. Connolly declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of June, 2004 in Napa, California.

Peter P. Connolly

DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION

1. DAVID M WALL declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13th day of June, 2004 in Napa, California.



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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, DONALD W. MILLER declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon subject Easement because I believe this use will detrimentally affect the use and enjoyment of property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13th day of June, 2004 in Napa, California.

Donald W. Miller

FAX TO: John Chapman at 510-864-3601

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, MARIA GARANTZMAN & BILL HALSEY declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14th day of June, 2004 in Napa, California.

Maria Garantzman
Bill Halsey

**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, BERNARD D. OLIVESTED declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.
3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.
4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.
5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12TH day of June, 2004 in Napa, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12TH day of June, 2004 in Napa, California.

.....

*DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION*

1. RICHARD HATTON declare:
JOAN HATTON

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.
3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.
4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.
5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

6/12/2004

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13th day of June, 2004 in Napa, California.

David Hutton / Jon Hutton

.....

**DECLARATION OF J. PAUL SILVESTRI, JR.
MEMBER OF THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, J. PAUL SILVESTRI, JR., declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development. In and about May of 2000, I was a member of the Board of Directors for the Highlands at Silverado Owners Association.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. Attached hereto as Exhibit "A" is a true and correct copy of the Easement Grant Deed for an easement, through the Highlands Association subdivision granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision.

4. This document bears the signature of Mr. Bryon Gilbert as President of the Highlands at Silverado Owners Association.

5. As a member of the Board of Directors at and during the time that this Easement Grant Deed apparently was made, I do not recall a discussion of this Deed occurred in any sessions of a Board of Directors' meeting where I was present, nor, to my knowledge, was I ever made aware of this Easement Grant Deed during the time that I was a member of the Board of Directors.

6. I do not recall any other meeting on behalf of the Board of Directors in which this Easement Grant Deed was discussed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13 day of June, 2004 in Napa, California.



J. PAUL SILVESTRI, JR.

Exhibit “A”

FIRST AMERICAN TITLE COMPANY
OF NAPA

Order No:



2000-0012459

When recorded mail to:

SILVERADO NAPA CORP.
1600 Atlas Peak Road
Napa, Ca. 94558

Recorded
Official Records
County Of
NAPA
JOHN TUTEUR
Recorder

REC FEE 10.00
CC1 ONE 1.00
OVERAGE 2.00

08:29PM 18-May-2000

EV
Page 1 of 2

THE UNDERSIGNED GRANTOR DECLARES
DOCUMENTARY TRANSFER TAX \$ -0-

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Computed on the consideration or value of property conveyed; OR
Computed on the consideration or value less liens or encumbrances
remaining at time of sale

EASEMENT GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

HIGHLANDS AT SILVERADO OWNER'S ASSOCIATION, A California corporation

hereby GRANT(S) to

SILVERADO NAPA CORP., a California corporation

the real property in the County of Napa, State of California, described as

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF
AND DESIGNATED EXHIBIT "A"

Dated: MAY 16, 2000

HIGHLANDS AT SILVERADO OWNER'S ASSOCIATION

BY: BRYON GILBERT, PRESIDENT

STATE OF CALIFORNIA }

COUNTY OF NAPA }

On MAY 16th 2000, before me,

FRANCES J. HARVEY
personally appeared BRYON GILBERT

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature

FRANCES J. HARVEY

MAIL TAX STATEMENTS TO:

same as above

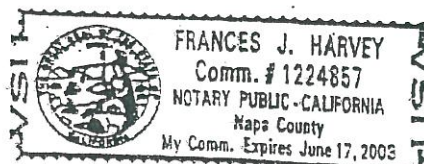


EXHIBIT "A"

END OF DOCUMENT

A non exclusive easement for ingress, egress, and public utilities over that portion of Parcel F, designated "Castle Oaks Drive, Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place", all as shown on that certain map entitled: "FINAL MAP OF SILVERADO HIGHLANDS 1, PHASE ONE", filed February 20, 1997 in Book 20 of Maps at Pages 80 thru 85 inclusive in the Office of the Recorder of Napa County, California.

Said easement is appurtenant to and for the benefit of the grantee's property described in that certain deed recorded December 28, 1989 in Book 1707 of Official Records Page 25, Napa County.

APN 061-040-002

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DECLARATION OF JAMES GRAZIANI
MEMBER OF THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION

I, JAMES GRAZIANI declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development. In and about May of 2000, I was a member of the Board of Directors for the Highlands at Silverado Owners Association.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. Attached hereto as Exhibit "A" is a true and correct copy of the Easement Grant Deed for an easement, through the Highlands Association subdivision granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision.

4. This document bears the signature of Mr. Bryon Gilbert as President of the Highlands at Silverado Owners Association.

5. As a member of the Board of Directors at and during the time that this Easement Grant Deed apparently was made, no discussion of this Deed occurred in any session of a Board of Directors' meeting where I was present, nor was I ever made aware of this Easement Grant Deed during the time that I was a member of the Board of Directors.

6. I am not aware of any other meeting on behalf of the Board of Directors in which this Easement Grant Deed was discussed and in fact the Board never authorized this action on behalf of the Association to my knowledge.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 8th day of June, 2004 in Napa, California.


JAMES GRAZIANI

Exhibit "A"

FIRST AMERICAN TITLE COMPANY
OF NAPA

Order No:



2000-0012459

When recorded mail to:

SILVERADO NAPA CORP.
1600 Atlas Peak Road
Napa, Ca. 94558

Recorded	REC FEE	10.00
Official Records	CC1 ONE	1.00
County Of	OVERAGE	2.00
NAPA		
JOHN TUTEUR		
Recorder		

08:29AM 18-May-2000 EV Page 1 of 2

THE UNDERSIGNED GRANTOR DECLARES
DOCUMENTARY TRANSFER TAX \$ -0-

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Computed on the consideration or value of property conveyed; OR
Computed on the consideration or value less liens or encumbrances
remaining at time of sale

EASEMENT GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

HIGHLANDS AT SILVERADO OWNER'S ASSOCIATION, A California corporation

hereby GRANT(S) to

SILVERADO NAPA CORP., a California corporation

the real property in the County of Napa, State of California, described as

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF
AND DESIGNATED EXHIBIT "A"

Dated: MAY 16, 2000

HIGHLANDS AT SILVERADO OWNER'S ASSOCIATION

BY: BRYON GILBERT, PRESIDENT

STATE OF CALIFORNIA

COUNTY OF NAPA

On MAY 16, 2000, before me,

FRANCES J. HARVEY
personally appeared BRYON GILBERT

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Frances J. Harvey

MAIL TAX STATEMENTS TO:

same as above

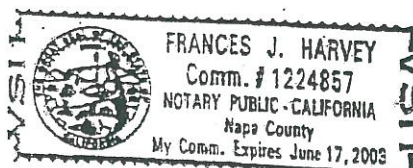


EXHIBIT "A"

END OF DOCUMENT

A non exclusive easement for ingress, egress, and public utilities over that portion of Parcel F, designated "Castle Oaks Drive, Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place", all as shown on that certain map entitled: "FINAL MAP OF SILVERADO HIGHLANDS 1, PHASE ONE", filed February 20, 1997 in Book 20 of Maps at Pages 80 thru 85 inclusive in the Office of the Recorder of Napa County, California.

Said easement is appurtenant to and for the benefit of the grantee's property described in that certain deed recorded December 28, 1989 in Book 1707 of Official Records Page 25, Napa County.

APN 061-040-002

**DECLARATION OF PATRICK STEVENS,
CIVIL AND GEOTECHNICAL ENGINEER**

I, PATRICK STEVENS declare:

1. I am a California licensed civil and geotechnical engineer and a principal at Stevens, Ferrone & Bailey, Engineering Company, Inc.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004.

3. On February 26 and March 5, 2004 Stevens, Ferrone & Bailey, Engineering Company, Inc. visited the Highlands at Silverado project located in Napa, California. The purpose of the site visit was, among others, to inspect and observe the street pavements.

4. After conducting tests and investigation, before, during and subsequent to the site visit, including but not limited to visual inspections, review of plans and reports and documents related to the development of the project and further analysis based thereon, the following conclusions were made:

- a. The existing street pavements were constructed in 1992 and 1993. The documentation reviewed indicates that all of the streets were designed in accordance with the Napa County Subdivision Road & Street Standards publication that was in effect at that time. The publication presents a chart that indicates subdivisions with 111 houses should be designed using a Traffic Index (TI) of about 5.2. In reality, pavement sections are designed using whole number TI's or TI's of whole numbers plus .5 (i.e. 5.0 or 5.5). Therefore it appears that the original pavements at the development were all designed using a TI of 5.0. This TI assumed that the post construction traffic on the pavements would consist of approximately 2 loaded triple axle service trucks (i.e. a garbage or delivery truck) per day based on a 5-day week.
- b. If the streets were to be used as access for the generally more frequent heavily loaded trucks associated with construction traffic, they should have been designed using a higher TI than 5.0.
- c. A visual inspection of the street pavement surfacing indicates in general that the asphalt concrete mat has experienced "map" cracking in many areas of the development. The predominant location of the "map" cracking is in the traffic channels where the tires of vehicles are concentrated. This type of cracking is indicative of structural failure due to excessive deflections under loading conditions.
- d. The average gravel equivalent of the pavement sections is approximately 90% of the original design, the average thickness of the asphalt concrete surfacing layer is 80% of the minimum required by Napa County and the streets were

1 not designed to be used for construction access. I believe the above
2 referenced Napa County design standard TI used in the design of the project
3 streets did not anticipate that the subdivision roads would be used as access
4 for construction traffic.

5 5. Based on the aforementioned conclusions, Stevens, Ferrone & Bailey made
6 the following findings and recommendation:

7 The streets of the subdivision could be reconstructed using the original design TI of
8 5.0 for an additional 10-years of life with normal maintenance. Due to the relatively
9 high volume and concentrated nature of traffic on Castle Oaks Drive, as the entrance
10 to the entire development, however, the pavement should be reconstructed using a
11 TI of 6.0. The new pavement sections should not be used for construction traffic
12 after they are completed.

13 I declare under penalty of perjury under the laws of the State of California that the foregoing
14 is true and correct. Executed this 14 day of June, 2004 in Concord, California.

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PATRICK STEVENS, P.E., G.E.



CHAPMAN & INTRIERI, L.L.P.

ATTORNEYS AT LAW
2236 MARINER SQUARE DRIVE
THIRD FLOOR, SUITE 900
ALAMEDA, CALIFORNIA 94501-1090
TELEPHONE (510) 864-3600
FACSIMILE (510) 864-3601

Mark G. Intrieri
John W. Chapman
Kurt T. Hendershott
Daniel M. O'Connell
Marc D. Coopersmith
Margot E. Barg
Penelope R. Glove
J. Spencer Edgett

RESPOND TO: ALAMEDA OFFICE

REDONDO BEACH OFFICE
707 TORRANCE BOULEVARD, SUITE 220
REDONDO BEACH, CA 90277
TELEPHONE (310) 540-7883

STOCKTON OFFICE
343 EAST MAIN STREET, SUITE 804
STOCKTON, CA 95202
TELEPHONE (209) 461-3602

File No.: 280.03-b

July 6, 2004

Hand Delivery

Napa County Conservation, Development
and Planning Department
1195 Third Street, Suite 210
Napa, CA 94559

Re: Silverado Napa Corporation – Tentative Parcel Map Request #04147-PM

Dear Members of the Planning Commission:

We write in regard to the above-captioned public hearing presently scheduled for Wednesday, July 7, 2004 for the purpose of informing you regarding the current status of litigation pending between the Highlands at Silverado Owners Association and Silverado Napa Corporation. As you know, the Highlands at Silverado Owners Association disputes Silverado Napa Corporation's alleged easement over certain portions of the Association's common area for the purpose of accessing the upslope property which is the subject of the instant Tentative Parcel Map Request. On July 2, 2004, the Court set a hearing for July 26, 2004 at which time Silverado Napa Corporation is ordered to show cause why it should not be restrained and enjoined from entering upon the Association's property which is the subject of the purported Easement Grant Deed. A copy of the Court's Order is attached hereto for your convenient review. The Order provides that it "shall not be utilized to affect substantively the Napa County Planning Commission July 7, 2004 proceeding and shall be without prejudice to any action of such Commission."

The Court Order does not purport to bind the Planning Commission. Nevertheless, on July 26, 2004 a hearing has been scheduled at which time the Court may enjoin Silverado Napa Corporation from utilizing the disputed easement for purposes of access to the upslope property which is the subject of the instant tentative map Request.

Napa County – Planning Commission

July 6, 2004

Re: *Silverado Napa Corporation – Tentative Parcel Map Request #04147*

Page 2

Consequently, the Highlands at Silverado Owners Association requests that the Planning Commission postpone its decision with regard to Silverado Napa Corporation's Tentative Map Request #04147-PM until the Court has had an opportunity to rule upon the Association's request for preliminary injunctive relief. The Planning Commission's decision is premature until the respective rights, duties and obligations of the parties regarding the easement have been properly adjudicated since Silverado Napa Corporation's Tentative Parcel Map Request is based upon access proposed over the easement which is in dispute.

Thank you for your consideration.

Very truly yours,



John W. Chapman

smw
Enclosure

7/2/04
JA

1 Mark G. Intrieri (SBN 116627)
2 John W. Chapman (SBN 134721)
3 Daniel M. O'Connell (SBN 197332)
4 J. Spencer Edgett (SBN 219221)
5 CHAPMAN & INTRIERI, L.L.P.
6 2236 Mariner Square Drive
7 Third Floor, Suite 300
8 Alameda, California, 94501-1090
9 Telephone: (510) 864-3600
10 Facsimile: (510) 864-3601

11 Attorneys for Plaintiff
12 Highlands at Silverado Owners Association

FILED

JUL 02 2004

Clerk of the Napa Superior Court
By: [Signature]
Deputy

13 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 IN AND FOR THE COUNTY OF NAPA - UNLIMITED JURISDICTION

15 THE HIGHLANDS AT SILVERADO
16 OWNERS ASSOCIATION, a California
17 nonprofit mutual benefit corporation

Case No.: 26-25756

18 Plaintiff,

19 vs.

20 SILVERADO NAPA CORP., a California
21 corporation and DOES 1 through 400,
22 inclusive,

23 Defendants.

~~TEMPORARY RESTRAINING ORDER~~
~~AND ORDER TO SHOW CAUSE RE~~
~~PRELIMINARY INJUNCTION~~
~~PROPOSED~~

Hearing Date July 2, 2004
Time: 11:45 a.m.
Dept. No. B

Date Action Filed: June 15, 2004
Trial Date: None

24 TO DEFENDANT, SILVERADO NAPA CORP., AND ITS ATTORNEY OF RECORD:

25 Based on the complaint on file herein and all the declarations submitted including but not
26 limited to the declarations of Patrick Stevens, Ronald Wisbey and various individual homeowners
27 served and filed herewith,

28 DEFENDANT SILVERADO NAPA CORP. IS HEREBY ORDERED TO SHOW CAUSE
at 11 a.m. on July 26, 2004, or as soon thereafter as counsel may be heard
in Department D of the above entitled Court, located at 825 Brown Street, Napa, California, why
you, your agents, servants, assigns and all those acting in concert with you, should not be restrained
and enjoined pending trial of this action from: Entering on Plaintiff's property, known as that portion

CHAPMAN & INTRIERI, L.L.P.
ATTORNEYS AT LAW
2236 MARINER SQUARE DRIVE
THIRD FLOOR, SUITE 300
ALAMEDA, CALIFORNIA 94501
TELEPHONE: (510) 864-3600
FACSIMILE: (510) 864-3601

1 of Parcel F as more particularly described in the Easement Grant Deed attached hereto as Exhibit "A,"
2 for the purpose of using it as a means of ingress and egress to adjoining property which is not part of
3 the Highlands at Silverado subdivision.

4 ~~PENDING HEARING on the above Order to Show Cause, you, your agents, servants,~~
5 ~~assigns, and all those acting in concert with you, ARE HEREBY RESTRAINED AND ENJOINED~~
6 ~~from: Entering on Plaintiff's property, known as that portion of Parcel F as more particularly described~~
7 ~~in the Easement Grant Deed attached hereto as Exhibit "A," for the purpose of using it as a means of~~
8 ~~ingress and egress to adjoining property which is not part of the Highlands at Silverado subdivision.~~

9 This Order to Show Cause and supporting papers shall be served on Defendant no later than
10 July 2, 2004 by personal service. Proof of service shall be filed and delivered in the manner
11 provided by Code of Civil Procedure §527.

12 The following briefing schedule shall apply: Any opposition papers to the OSC shall be filed
13 and served on Plaintiff no later than July 16, 2004 facsimile and U.S. Mail by hand delivery. Any reply papers
14 to such opposition shall be filed and served on Defendant no later than July 26, 2004
15 by facsimile and U.S. Mail. This order to show cause

16 The restraining order granted herein shall expire on

17 shall not be utilized to affect substantively
18 the Alameda County Planning Commission July 2, 2004 decision
19 and shall be null and void to any action of such Commission

20 DATED: July 2, 2004
21 Quentin Legg
22 Judge of the Superior Court

EXHIBIT A

Order No:



2000-0012459

Recorded
Official Records
County Of
NAPA
JOHN TUTEUR
Recorder

REC FEE 10.00
CC1 ONE 1.00
OVERAGE 2.00

08:29AM 18-May-2000 EV
Page 1 of 2

When recorded mail to:

SILVERADO NAPA CORP.
1600 Atlas Peak Road
Napa, Ca. 94558

THE UNDERSIGNED GRANTOR DECLARES
DOCUMENTARY TRANSFER TAX \$ -0-

Computed on the consideration or value of property conveyed; OR
Computed on the consideration or value less liens or encumbrances
remaining at time of sale

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

HIGHLANDS AT SILVERADO OWNER'S ASSOCIATION, A California corporation

hereby GRANT(S) to


SILVERADO NAPA CORP., a California corporation

the real property in the County of Napa, State of California, described as

LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF
AND DESIGNATED EXHIBIT "A"

Dated: MAY 16, 2000

HIGHLANDS AT SILVERADO OWNER'S ASSOCIATION


BY: BRYON GILBERT, PRESIDENT

STATE OF CALIFORNIA

} ss.

COUNTY OF NAPA

On MAY 16th 2000, before me,

FRANCIS J. HARVEY
personally appeared BRYON GILBERT

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Francis J. Harvey

MAIL TAX STATEMENTS TO:

same as above

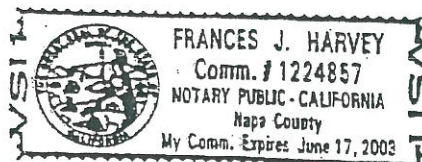


EXHIBIT "A"

END OF DOCUMENT

A non-exclusive easement for ingress, egress, and public utilities over that portion of Parcel F, designated "Castle Oaks Drive, Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place", all as shown on that certain map entitled: "FINAL MAP OF SILVERADO HIGHLANDS 1, PHASE ONE", filed February 20, 1997 in Book 20 of Maps at Pages 80 thru 85 inclusive in the Office of the Recorder of Napa County, California.

Said easement is appurtenant to and for the benefit of the grantee's property described in that certain deed recorded December 28, 1989 in Book 1707 of Official Records Page 25, Napa County.

APN 061-040-002

CHAPMAN & INTRIERI, L.L.P.

ATTORNEYS AT LAW
2236 MARINER SQUARE DRIVE
THIRD FLOOR, SUITE 300
ALAMEDA, CALIFORNIA 94501-1090
TELEPHONE (510) 864-3600
FACSIMILE (510) 864-3601

*Mark G. Intrieri
John W. Chapman
Kurt T. Hendershott
Daniel M. O'Connell
Marc D. Coopersmith
Penelope R. Glove
J. Spencer Edgett*

RESPOND TO: ALAMEDA OFFICE

REDONDO BEACH OFFICE
707 TORRANCE BOULEVARD, SUITE 220
REDONDO BEACH, CA 90277
TELEPHONE (310) 540-7883

STOCKTON OFFICE
343 EAST MAIN STREET, SUITE 804
STOCKTON, CA 95202
TELEPHONE (209) 461-3602

File No.: 280.03-b

September 13, 2004

Hand Delivery

Napa County Conservation, Development
and Planning Department
1195 Third Street, Suite 210
Napa, CA 94559

Re: *Silverado Napa Corporation – Tentative Parcel Map Request #04147-PM*

Dear Members of the Planning Commission:

We write in regard to the above-captioned public hearing presently scheduled for Wednesday, September 15, 2004, for the purpose of informing you regarding the current status of litigation pending between the Highlands at Silverado Owners Association and Silverado Napa Corporation. Further, the Highlands at Silverado Owners Association hereby incorporates by reference all materials previously submitted to the Planning Commission and the Board of Supervisors concerning Tentative Parcel Map Request #04147-PM. Specifically, the Highlands at Silverado Owners Association incorporates its letters of June 8, June 14 and July 6, 2004, the declarations submitted at the hearing on June 16, 2004, Sue Diamond's letter of June 14, 2004, and all the materials submitted on July 21, 2004, in support of the Association's appeal.

As you know, the Highlands at Silverado Owners Association disputes Silverado Napa Corporation's alleged easement over certain portions of the Association's common area for the purpose of accessing the upslope property which is the subject of the instant Tentative Parcel Map Request. On August 31, 2004, the Court issued an Order setting a hearing for November 19, 2004, at which time Silverado Napa Corporation is ordered to show cause why it should not be restrained and enjoined from entering upon the Association's property which is the subject of the purported Easement Grant Deed. A copy of the Court's Order is attached hereto for your review. The Order

September 13, 2004

Re: *Silverado Napa Corporation – Tentative Parcel Map Request #04147-PM*

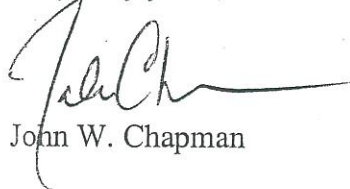
Page 2

further provides that Silverado Napa Corporation shall refrain from engaging in construction or grading activities for a period of fifteen days following the conclusion of the November 19, 2004, hearing. Thus, even assuming Silverado Napa Corporation is not restrained and enjoined from entering upon the Association's property, the earliest date on which Silverado Napa Corporation can commence construction or grading activities is December 4, 2004.

While we understand that the Court Order does not purport to bind the Planning Commission, nonetheless, at the hearing set for November 19, 2004, the Court may enjoin Silverado Napa Corporation from utilizing the disputed easement for purposes of access to the upslope property which is the subject of the instant tentative map Request. Consequently, the Highlands at Silverado Owners Association requests that the Planning Commission postpone its decision with regard to Silverado Napa Corporation's Tentative Map Request #04147-PM until the Court has had an opportunity to rule upon the Association's request for preliminary injunctive relief. The Planning Commission's decision is premature until the respective rights, duties and obligations of the parties regarding the easement have been properly adjudicated since Silverado Napa Corporation's Tentative Parcel Map Request is based upon access proposed over the easement which is in dispute.

Thank you for your consideration.

Very truly yours,



John W. Chapman

JWC:lh
Enclosure

1 Mark G. Intrieri, Esq. (SBN 116627)
2 CHAPMAN & INTRIERI L.L.P.
3 2236 Mariner Square Drive
4 Third Floor, Suite 300
5 Alameda, CA 94501-1090
6 Telephone: (510) 864-3600
7 Facsimile: (510) 864-3601

8 Attorneys for Plaintiff,
9 The Highlands at Silverado Owners Association

10 Richard Hoffman, Esq. (SBN 76799)
11 Daniel D. Harshman, Esq. (SNB 177139)
12 NIXON PEABODY LLP
13 Two Embarcadero Center, 27th Floor
14 San Francisco, CA 94111
15 Telephone: (415) 984-8200
16 Facsimile: (415) 984-8300

17 Attorneys for the Defendant,
18 Silverado Napa Corporation

19 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
20 IN AND FOR THE COUNTY OF NAPA – UNLIMITED JURISDICTION

21 THE HIGHLANDS AT SILVERADO
22 OWNERS ASSOCIATION, a California
23 nonprofit mutual benefit corporation,

24 Plaintiff,

25 vs

26 SILVERADO NAPA CORP., a California
27 Corporation and DOES 1 through 400,
28 inclusive,

Defendants.

FILED

AUG 31 2004

Clerk of the Napa Superior Court
By: [Signature]
Deputy

COPY

) Case No. 26-25756

) STIPULATION AND ORDER FOR
) CONTINUANCE OF THE HEARING ON
) THE ORDER TO SHOW CAUSE

STIPULATION OF THE PARTIES

Plaintiff, The Highlands at Silverado Owners Association ("Association"), and the Defendant, Silverado Napa Corporation ("Silverado"), by and through their counsel, stipulate and agree as follows:

1. Plaintiff has filed a First Amended Complaint and an *ex parte* Application for a Temporary Restraining Order and Preliminary Injunction.

2. By Order dated July 2, 2004, this Court through the Honorable Quentin Kopp denied Plaintiff's Application for a Temporary Restraining Order and issued an Order to Show Cause returnable at 11:00 a.m. on July 26, 2004 why a preliminary injunction should not issue pending trial of the action;

3. The parties hereto, having agreed to mediate the dispute that is the subject matter of the First Amended Complaint and the Order to Show Cause, previously stipulated to continue the original hearing date from July 24, 2004 to September 13, 2004 at 8:30 a.m. in Department B.

4. The parties hereto have participated in third party mediations beginning on August 13, 2004. The parties have continued their mediation efforts subsequent to the formal third party mediation and desire additional time to pursue those efforts without the necessity of filing formal oppositions and preparing for the approaching September 13, 2004 hearing.

5. The parties hereto agree to continue the hearing on the Order to Show Cause presently set for September 13, 2004 for an additional period of sixty days or until a date and time satisfactory to the Court. Defendant's Opposition will be due 10 days prior to the hearing and Plaintiff's Reply Brief will be due 5 days prior to the hearing. All Opposition and Reply Briefs shall be served upon opposing counsel by facsimile or overnight mail.

6. From the date of this Stipulation and for a period of 15 days following the conclusion of the hearing in paragraph 5 above, Defendant Silverado further agrees that in the event it obtains a permit allowing Silverado to commence construction or grading activities on the real property which is the subject of the instant action, Silverado will refrain from engaging in such construction or grading activities. Absent further Order of Court, Silverado's forbearance will automatically expire 15 days after the conclusion of the hearing described in paragraph 5 or immediately upon removal of the hearing from the Court calendar or further postponement thereof unless otherwise agreed.

5. The willingness of either party to engage in mediation shall not be deemed an admission by either party.

IT IS SO STIPULATED

Dated: August 26, 2004

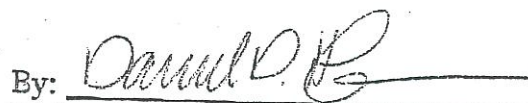
CHAPMAN & INTRIERI, LLP

By: 
Mark G. Intrieri, Esq.

Counsel for Plaintiff,
The Highlands at Silverado Owners Association

NIXON PEABODY, LLP

Dated: August 27, 2004

By: 
Richard D. Hoffman, Esq.
Daniel D. Marshman, Esq.

Counsel for the Defendant,
Silverado Napa Corporation

STIPULATION AND ORDER

ORDER OF COURT

GOOD CAUSE HAVING BEEN SHOWN, the parties stipulation is hereby adopted as the Order of the Court. The September 13, 2004 hearing on the Order to Show Cause is continued to November 19, 2004 at 9:30 A.m. in Department B. Defendant's Opposition will be due 10 days prior to the hearing and Plaintiff's Reply Brief will be due 5 days prior to the hearing. All Opposition and Reply Briefs shall be served upon opposing counsel by facsimile or overnight mail.

DATED: 8/31/04

W. Grossman
Judge of the Superior Court

Sue Diamond and Marty Schenker
175 Stone Mountain Circle, Napa, California 94558

June 14, 2004

Napa County Planning Commission
1195 Third Street, Suite 210
Napa, CA 94559

Re: PM 04147

Ladies and Gentlemen:

We are writing to object to the approval of PM 04147 due to (1) inadequate compliance with CEQA and (2) lack of access.

1. **Inadequate Project Description/Location.** It is impossible to tell from the maps in the staff package whether the proposed road and houses will be visible from the houses/decks in the Silverado Highlands that line the ridge above Westgate Avenue (including houses on Alta Mesa Circle, Wintergreen Circle and our house on Stone Mountain Circle). We request that you instruct the developer to plant flags/markings along the proposed location of the road as well as mark the houses, so that those of us living on the ridge can determine if the proposed project will be visible from our houses. In the absence of this information, we have been deprived of a meaningful opportunity to participate in the CEQA process. We request that you postpone any decision on this project until the road is marked (and until the issues below are resolved). See *County of Inyo et al (1977) 71 C.A. 3d*.

2. **Absence of Review of Aesthetic Impacts of Road.** The Neg. Dec. is utterly devoid of any review of the scarring effect of the proposed approx. ½ mile long private road that traverses undeveloped hillside. The maps show a location for this road yet the Neg. Dec. fails to discuss the negative aesthetics of this road, or the impacts of earthmoving and grading for the road or even indicate the slope of the hillside where the road will be built. No analysis is provided of the impact of the road on any viewshed. No analysis from any vantage points is provided (including the houses in the Silverado Highlands on the ridge above Westgate) and no studies are included to determine appropriate location and mitigation measures. The County may not accept the location of the road without determining its impact. In fact, if the aesthetic impacts cannot be mitigated then the County must prepare an EIR.

3. **Concern re Aesthetic Impact of Alternative Road Location off of Westgate.** We understand that an alternative location for access to the two proposed homes may exist off of Westgate. ***We are extremely concerned that the negative aesthetic scarring effect of this alternative road off of Westgate may be even more detrimental to the houses/decks in the Silverado Highlands above Westgate than the proposed access road off of Alta Mesa.*** If you decide to consider this alternative location, we cannot

participate meaningfully in the CEQA review until the alternative road location is marked so we can determine its visibility and comment on the potentially negative effects of earthmoving, grading and any scarring effects - and mitigation is selected which locates the road so that it is not visible from our houses/decks. *If this alternative location is visible from our houses/decks, then we cannot understand how any mitigation would be possible. The hillside at the end of Westgate is currently undeveloped and the blighting effect of a road heading straight up the hill or composed of switchbacks would be severe and unacceptable.*

4. **Impermissible Deferral of Analysis.** The Neg. Dec. impermissibly defers all analysis of the aesthetic impacts of the houses to a later date without any explanation of how such analysis will mitigate impacts to less than significant. For example, insufficient information is provided in the Neg. Dec. to determine whether compliance with the Viewshed Ordinance would even mitigate the aesthetic impacts of the two houses from the vantage of our residences on the ridge. Even if the project does not have any viewshed impacts under the limited criteria of the Viewshed Ordinance, how do we know at this time that there still won't be aesthetic impacts at all? Such deferral violates CEQA especially when done in a Neg. Dec, because, at this point, it is impossible to conclude that all aesthetic impacts will be mitigated to less than significant. Thus, the Neg. Dec. is invalid. See *Sundstrom et al (1988) 202 C.A. 3d 296.*

5. **No Evidence to Support Conclusions on Biological, Noise and Cumulative Impacts.** The Neg. Dec. concludes that there are no biological impacts yet cites no studies or surveys that have been done to support such a conclusion. The Neg. Dec. states that construction noise will be mitigated by limiting hours of construction and concludes that only construction workers would be affected, but contains no analysis of how noise travels through the canyon and up to the ridge above Westgate. The Neg. Dec. asserts that there are no cumulative impacts yet includes absolutely no analysis of the cumulative aesthetic and biological impacts from the proposed project and adjacent development. The Neg. Dec. fails to discuss the effect of the cumulative construction noise on the residents of the Highlands who have lived in a construction zone since 1997. CEQA requires that all such conclusions be supported by substantial evidence in the record.

6. **No Access.** Counsel for the Silverado Highlands Homeowners Ass'n has submitted evidence to the County and has filed an action in Napa Superior Court challenging the legality of the purported access easement for the Parcel Map. This parcel map is contingent on the validity of the access easement and it is improper (as well as a waste of time) for the Planning Commission to take action until it knows whether or not the fundamental issue of access has been resolved.

In conclusion, we request that you put this action on hold until such time as access has been resolved and adequate CEQA review has been undertaken.

Very truly yours,

Sue Diamond and Marty Schenker

John W. Chapman

From: <sdiamond@morganlewis.com>
To: <ronwisbey@cs.com>; <tkscottco@aol.com>
Cc: <R2Renew@aol.com>; <mschenker@cooley.com>; <jchapman@chapmanandintrieri.com>
Sent: Monday, June 14, 2004 5:05 PM
Attach: Napa Planning Commission letter.doc
Subject: Letter to Planning Commission re: Parcel Map 04147

Ron and Terry, per my discussions with both of you attached please find a protest letter I just e-mailed to the County to be distributed to the Planning Commission. As I indicated to both of you, the letter primarily focuses on inadequate CEQA compliance although it does also mention the absence of valid of access. I am equally concerned, however, that this action may force the developer to seek alternative access off of Westgate. As I mention in the letter, if the access road off of Westgate ends up being visible from the Silverado Highlands houses/decks that top Westgate (i.e. the houses on the backside of Alta Mesa Circle, Wintergreen Circle and our house on Stone Mtn. Circle), the negative aesthetic scarring effects of a road straight up the undeveloped hill behind the Armstrong house or a road composed of switchbacks up that hill would be severely detrimental to our views and completely unacceptable (and perhaps much worse than the proposed access road off of Alta Mesa Circle). Further, the noise effects of construction traffic along Westgate that travels up the canyon may be much worse on these residents than the proposed access off of Alta Mesa. Without more information, it is hard to tell which scenario is worse and different access roads may have different impacts on different groups of residents. It is important that the Association understand the impacts of all the alternatives before taking action that could help one group of residents to the detriment of another group. Thanks for your consideration. Regards, Sue.

----- Forwarded by Susan R. Diamond/SF/MLBLaw on 06/14/2004 04:45 PM -----

Susan R. Diamond

06/14/2004 04:44 PM

To: STRIPPI@co.napa.ca.us
cc: mschenker@cooley.com, (bcc: Susan R. Diamond/SF/MLBLaw)
Subject: Letter to Planning Commission re: Parcel Map 04147

Sean, per our discussion, attached please find our letter to the Planning Commission objecting to approval of PM 04147 due to inadequate CEQA compliance and lack of access. Please distribute to all of the Planning Commissioners in time for them to read the letter prior to the June 16, 2004 hearing. I would appreciate it if you would copy me on any future applications or revisions to applications related to development of this land owned by Silverado Napa Corporation. Please send such copies to my attention at the following address: Susan Diamond, 159 Commonwealth Avenue, San Francisco, CA 94118.

As indicated in my letter, it is virtually impossible to determine from the maps you sent me what the aesthetic effect will be on the houses in the Silverado Highlands that top the ridge above Westgate Avenue (including mine). I do not believe any CEQA document or parcel map should be approved until the roads and houses are added into photomontages from the vantage point of this ridge or unless the roads and houses are flagged/marked so we can see if they are visible from our houses/decks and determine the aesthetic effect and appropriate mitigation. I also need to point out that if the developer decides to pursue alternative access of of Westgate rather than off of Alta Mesa, I am even more concerned about the negative scarring effects of the access road. If such a road either heads up the hillside or is composed of switchbacks and is visible from our houses, then the aesthetic effect would be severe and

7/20/04

unacceptable.

Thanks for your attention to this matter. (I also sent a copy of this letter by UPS overnight mail and you should receive it tomorrow morning). I would appreciate it if you would confirm receipt of this e-mail.

Regards, Sue Diamond

This e-mail message is intended only for the personal use of the recipient(s) named above. This message may be an attorney-client communication and as such privileged and confidential. If you are not an intended recipient, you may not review, copy or distribute this message. If you have received this communication in error, please notify us immediately by e-mail and delete the original message.

COTWMMS01

The Highlands at Silverado Owners Association

DECLARATIONS

Served 06/16/04

Jean White

Lynn B. & Ann P. Gerow

Tim & Janet Maher

Dennis L. Isenburg

Thomas Turley

Leo F. Quinn

James Stephen Gladfelter

Bruce L. Crile

John Maitland

Nancy L. Isenburg

Edward J. Vertal

Shelley R. Turley

William S. Chiat

DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION

I, Jean White declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Executed this 12 day of June, 2004 in Napa, California.

Jean L. White

**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

WE

I, LYNN B & ANN P GEROW declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.
3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.
4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.
5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14TH day of June, 2004 in Napa, California.

1 Tim & Janet Maher declare:

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 15 day of June, 2004 in Napa, California.

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Jesse Tucker
212 WINTERGREEN CIRCLE

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, Dennis L. Isenburg, declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

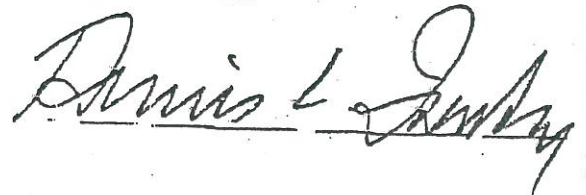
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3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of June, 2004 in Napa, California.



DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION

I, THOMAS TURLEY declare:

1. I am a homeowner and member of the Highlands at Silverado Owner Association and reside at the subject development.

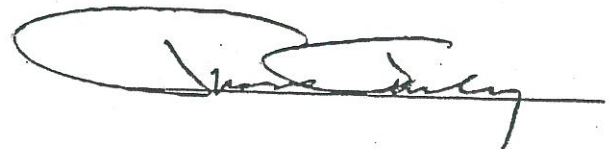
2. This Declaration is made in support of the Highlands at Silverado Owner Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highland Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Ston Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands Silverado Owners Association to the Silverado Napa Corp., the developer for the Highland subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14th day of June, 2004 in Napa, California.



**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, Leo F Quinn declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.
3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.
4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.
5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 15 day of June, 2004 in Napa, California.

Leo F Quinn

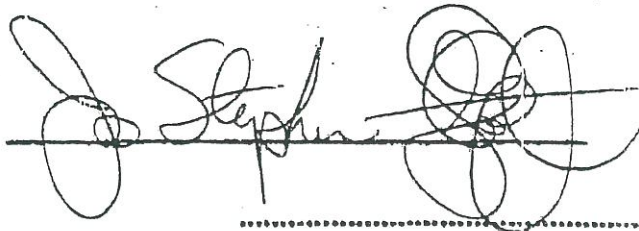
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DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION

I, James Stephen Gladfelter declare:

- 1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.**
- 2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.**
- 3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.**
- 4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.**
- 5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13th day of June, 2004 in Napa, California.


.....

**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, BRUCE L. CRILE declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.
3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.
4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.
5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14th day of June, 2004 in Napa, California.


BRUCE L. CRILE

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, John Maitland declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 16th day of June, 2004 in Napa, California.

John B. Maitland
1634 Chaparral Cir
NAPA, CA

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, Nancy L. Isenburg, declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

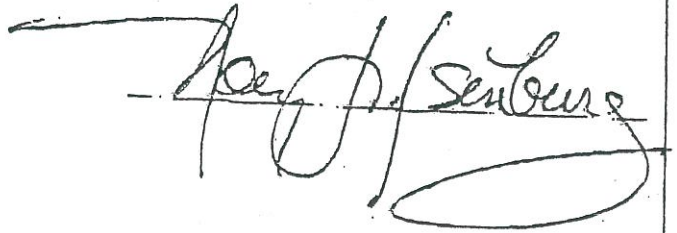
2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of June, 2004 in Napa, California.



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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

I, Edward J. Vertal, declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 12th day of June, 2004 in Napa, California.

X Edward J. Vertal

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**DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION**

1. SHELLEY R. TURLEY declare:

1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.

2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.

3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands subdivision, on or about May, 2000.

4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.

5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 14th day of June, 2004 in Napa, California.

SHELLEY R. TURLEY

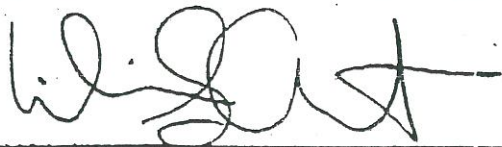
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DECLARATION OF INDIVIDUAL MEMBER OF
THE HIGHLANDS AT SILVERADO OWNERS ASSOCIATION

I, William S. Chist declare:

- 1. I am a homeowner and member of the Highlands at Silverado Owners Association and reside at the subject development.**
- 2. This Declaration is made in support of the Highlands at Silverado Owners Association's request for an indefinite continuance of Silverado Napa Corp.'s Tentative Parcel Map Request #04147-PM, scheduled for hearing on June 16, 2004, until the civil dispute between the Owners Association and Silverado Napa Corp. is resolved.**
- 3. I understand that the Silverado Napa Corp. contends that it has a valid Easement Grant Deed which provides a non-exclusive easement for ingress and egress through the Highlands Association subdivision from the intersection of West Gate Drive and Castle Oaks Drive to Stone Mountain Circle, Alta Mesa Circle and Alta Mesa Place, granted on behalf of the Highlands at Silverado Owners Association to the Silverado Napa Corp., the developer for the Highlands' subdivision, on or about May, 2000.**
- 4. This Easement was never disclosed to me by the Silverado Napa Corp. at or after the time I purchased my residence.**
- 5. I do not want any further construction traffic, or subsequent traffic, upon the subject Easement because I believe this use will detrimentally affect the use and enjoyment of my property.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 13th day of June, 2004 in Napa, California.



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