

PREAMBLE
P R O T E C T I V E C O V E N A N T S
T E L L B R O O K S U B D I V I S I O N
U N I T 2

It is the firm belief of the Tellbrook Associates that no subdivision can be better than the vision of its developers. During the past several years we have looked at dozens of developments in New Mexico and other western states, and interviewed hundreds of homeowners, as well as retirees, young marrieds, homebuilders and Realtors, not with the idea of selling them something, but in an effort to find out what they would really like to buy, if it were available, and why.

From this gradually emerged Tellbrook and the 4 C's, which are:

Country Concept, City Convenience.

1. A lot large enough for privacy, with the average lot containing over 2/3 of an acre.
2. Good all-weather paved streets built to city specifications.
3. Underground utilities assuring a clean, uncluttered appearance to the subdivision, which feature further enhances the natural beauty of the desert.
4. Properly engineered drainage carrying water along its natural course, designed so as not to disturb your lot.
5. Maximum utilization of rolling terrain, taking advantage of natural contours and providing a selection of sites with varying views.
6. Requirements for a minimum disturbance of natural desert flora, and encouraging its further use. The desert is very stable and clean; the natural environment and unique beauty lends itself perfectly to the "Country Concept". Contrary to other areas where weeding is a continual problem, in the Tellbrook setting, you can make your yard work as much -- or as little -- as you desire.
7. Provisions pertaining to proper storage of recreational vehicles, boats, trailers, etc., only occasionally used to assure an attractive view of each home and lot from the street.
8. A privately owned public water system operated by the Jornada Water Company, which has many years experience supplying water to several developments in the area.

We are confident that as you review these protective covenants, you will appreciate the planning and effort that have gone into Tellbrook, always with the best interests of the homeowner in mind.



P R O T E C T I V E C O V E N A N T S
TELLBROOK SUBDIVISION
UNIT 2

KNOW ALL MEN BY THESE PRESENT: That The Tellyer Co., a New Mexico Corporation, of Las Cruces, New Mexico, owner of all lots and blocks in Tellbrook Subdivision, Unit 2, a subdivision in Las Cruces and Dona Ana County, New Mexico, according to the map and plat thereof on file in Plat Records Book 12, Page 201-202, of the County Clerk's office of Dona Ana County, New Mexico, in consideration of the mutual interest of the owners of real estate in the subdivision, covenant and agree with all future purchasers of lots or building sites in said subdivision that the following restrictions shall apply to all lots and building sites in said subdivision, and all conveyances of any lot therein shall likewise be subject to said restrictions, as follows:

1.

1. TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of forty-five years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change or remove said covenants in whole or in part.

2. ENFORCEMENT. All persons who now own, or who may in the future own, property in the subdivision are specifically given the right to enforce these covenants through any proceedings, at law or in equity, against any person or persons, firms and corporations, violating or threatening to violate such covenants, and to recover any damages suffered by them from any violation thereof.

3. SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions, which at all times shall remain in full force and effect.

4. ADMINISTRATIVE CONTROL COMMITTEE. The Administrative Control Committee (committee) shall initially be composed of Harry B. Tellyer, Merrill R. Brooks, and Brigitta H. Tellyer. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee or its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

5. ARCHITECTURAL CONTROL. No building nor fence shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Administrative Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to locations with respect to topography and finish grade elevation. "A" frame, cubical and

dome structures are herewith prohibited as residences or for any other purposes. Approval shall be as provided in Paragraph 1-6.

6. PROCEDURE. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee or its designated representative fails to approve or disapprove within thirty days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with. Provided further that any delay or omission on the part of the committee does not constitute a waiver or approval of any breach of the covenants, restrictions or reservations herein contained.

7. NONLIABILITY. Neither the original owner, the Administrative Control Committee, or its representative, shall incur liability to anyone submitting plans for approval, or to any owner or owners of land subject to these covenants by reason of mistake in judgment, negligence or nonfeasance of itself, its agents or employees, arising out of or in connection with the approval, or disapproval, or failure to approve any such plans; anyone submitting plans for approval, by the submitting of such plans, and any by acquiring title to any of the property covered hereby, waives claim for any such damages.

11.

1. LAND USE AND BUILDING TYPE. All lots are presently zoned R-1 and subject, therefore, to the restrictions of the code of the City of Las Cruces, Article 12-2-3. In addition to the restrictions covered by such zoning now in force and as amended from time to time, the following restrictions as to use shall also apply:

(a) Only single family dwellings are permitted, although separate quarters for servants or for other members of the immediate family will be allowed. The renting of such quarters is herewith prohibited.

(b) No R-1 lot shall be resubdivided.

(c) No manufacturing or commercial enterprise or enterprises of any kind for profit shall be maintained on, in front of, or in connection with any property in the subdivision; except, home occupations may be permitted in accordance with the codes of the City of Las Cruces. There shall be no fair, exhibition, festival, show or other activity which attracts or is intended to attract, divert, or collect a large number of persons. Such restrictions shall not prevent, however, what is commonly known as "garage sales" or "carnivals" or "backyard parties" conducted by persons living in the subdivision, provided such are only occasional.

(d) All construction shall be completed within six months from the start thereof.

2. DWELLING SIZE.

(a) The ground floor area of the main structure for a one-story dwelling, exclusive of open porches and garages, shall not be less than

1500 square feet, which may include varying levels in the ground floor area.

(b) The total floor area of multi-floor dwellings, exclusive of open porches and garages, shall not be less than 1700 square feet.

(c) The maximum height allowed for any residence shall be two (2) stories above grade.

3. BUILDING LOCATION.

(a) No residence or structure, excluding fences, shall be located nearer to the front lot line or nearer to the side street line or nearer the interior lot line than the minimum building setbacks, which are: front yard - 35 feet; side yard - 20 feet; and rear yard - 30 feet. The setback from a side street or corner lots shall be a minimum of 35 feet.

(b) For the purposes of this covenant, eaves, steps and open porches shall be considered as a part of the building.

4. EASEMENTS. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow in the drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owners of the lot, except for those improvements for which a public authority or utility is responsible.

5. NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

6. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, automobiles not in use, basement, tent, shack, garage, barn, or other outbuilding shall be placed on any lot at anytime as a residence, either temporarily or permanently.

7. SIGNS. No billboards or advertising signs of any character shall be erected, placed, permitted or maintained on any lot or on any building erected thereon, other than a nameplate or the occupant of any residence upon which his professional or occupational title may also be added, and provided no such sign or nameplate shall exceed a size of one square foot. Provided, however, that permission is granted for the erection and maintenance of not more than one signboard to each building site during the course of construction of a new single-family dwelling and upon its completion, during the course of its initial sale, or resale, which signboard shall not exceed six square feet. Notwithstanding anything herein contained to the contrary, nothing herein shall be construed to prevent the Grantor from erecting, placing, or maintaining sign structures and offices as may be determined necessary by the Grantor to promote sale and development of lots within the subdivision.

8. MAINTENANCE OF LOTS. No lot or portion thereof shall be used in whole or in part for the storage or dumping of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing or material be kept upon any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might unreasonably disturb the peace, quiet, comfort or serenity of the occupants of surrounding property. The bar ditches adjacent to the street shall be maintained so as to assure continuous flow and drainage of water. Such restriction shall not prevent the developer from controlling the drainage and flow of water by use at bar ditches or otherwise.

9. OIL AND MINING OPERATIONS. No oil drilling, oil development operations, oil refining, quarrying or mining or thermal operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on, under or upon any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

10. EXTERIOR CONSTRUCTIONS MATERIALS. The exterior construction of any dwelling or garage or outbuilding erected on any tract may be of brick, brick veneer, stucco, stone, mission stone, adobe, wood or combinations thereof, or any other fire-resisting material approved by the Administrative Control Committee, and permitted under the New Mexico Uniform Building Code.

11. ANIMALS, LIVESTOCK AND POULTRY. No animals, livestock, including horses, donkeys and mules, or poultry of any kind shall be raised, bred, or kept on any lot, except that a maximum of two dogs and two cats, or other small household pets, may be kept, provided that they are not kept, bred, or maintained for any commercial purposes.

12. FENCES AND WALLS.

(a) No planting more than three (3) feet high may be located within 30 feet of a street intersection.

(b) Fences less than six (6) feet high, as measured from the highest directly adjacent ground surface, may be erected on those parts of a lot that are as far back or farther back from a street than the main building.

(c) All fences will be constructed of the following materials: rock, masonry, adobe, chain link, wood or combinations thereof, and any other material approved by the Administrative Control Committee. Tin, wire and barbed wire fences are specifically prohibited.

13. TERRAIN MANAGEMENT. Inasmuch as one of the basic concepts of TELLBROOK SUBDIVISION - UNIT 2 is to maintain a rural atmosphere in desert living, the natural flora will be disrupted to a minimum during and after any construction. Additional landscaping with desert plantings shall be encouraged.

14. TOWERS, ETC. No radio or television transmission tower or radio or television receiving towers shall be erected, placed or permitted upon any part of said property. Television receiving antennae shall not be included in the meaning of this paragraph; however, any antennae exceeding fifteen feet above roofline of the house shall be subject to approval by the Administrative Control Committee.

15. TANKS, ETC. No elevated tanks of any kind shall be erected, placed or permitted except where required for the water distribution system. Any tanks for use in connection with any residence constructed on said property, including tanks for the storage of gas, fuel oil, gasoline or oil, must be buried or screened sufficiently to conceal them from the view of neighboring or other lots or roads or streets. All private mechanical equipment at ground level that services the dwellings shall be concealed from view from the street. Boats, campers, trailers, buses, recreational and similar vehicles or equipment, or vehicles under extensive repair shall be stored at the rear of the house for aesthetic reasons. This does not apply to operable vehicles parked or used during normal activities.

III.

1. BREACH OF COVENANTS. It is further stipulated that breach of any of the foregoing conditions and covenants within forty-five years from the date hereof shall not affect any mortgage or other lien which in good faith may be existing at the time upon said property or any improvements thereon.

2. PROVISIONS. Any provision herein contained may be waived by the Administrative Control Committee excepting when such provisions constitute a law or regulation of the State of New Mexico or any political subdivision thereof.

IV.

1. ADDITIONAL POWERS OF COMMITTEE. In addition to other powers and authorities vested in the Administrative Control Committee, it shall also:

(a) Rule upon any questions arising with respect to interpretation of the restrictive covenants, and, if necessary, may but shall not be required to, take any action necessary to enforce the same on behalf of all parties having an interest. Such shall not preclude any other person authorized by law from either enforcing or enjoining the enforcement of these restrictive covenants.

(b) Modify any restrictive covenants when, in the judgment of the Administrative Control Committee, such covenant has ceased to serve the original intent, and enforcement thereof would be injurious or harmful to the owners of the parcels within the tract or other parties having an interest therein. Any modification shall be in writing and signed by at least a majority of the members of the Administrative Control Committee and filed for record with the County Clerk of Dona Ana County, New Mexico.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed this 20th day of JULY, 19 78.

THE TELLER CO.,
A New Mexico Corporation

By [Signature]
Its President

ATTEST [Signature]
Its Secretary



STATE OF NEW MEXICO)
COUNTY OF DONA ANA) SS.

The foregoing instrument was acknowledged before me this 20 day of July, 19 78, by Harry B. Tellyer, President, THE TELLER CO., a New Mexico Corporation, on behalf of said Corporation.

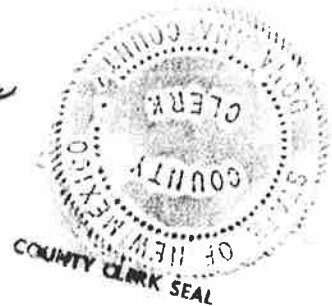


[Signature]
NOTARY PUBLIC

State of N. Mex., Co. of Dona Ana; RECEPTION NO. 4132 I hereby certify that this instrument was filed for record and duly recorded on:

JUL 20 1978

at 3:40 o'clock P in Mesa Book 728 Page 677-683 of the records of said county. County Clerk DELIA GARCIA BARNCASTLE BY: [Signature] Deputy



DONA ANA COUNTY CLERK
JUL 20 PM 3 40 '78

Tellyer Co.
Box 1318
City

