

**SUMMONS**  
**(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANTS:**

**(AVISO AL DEMANDADO):**

STONE CREEK HOMEOWNERS ASSOCIATION, an association; ROSS MORGAN & COMPANY, INC., a California corporation; VALLEYCREST LANDSCAPE MAINTENANCE, INC., a California corporation; and DOES 1-10

**YOU ARE BEING SUED BY PLAINTIFF:** *inclusive*  
**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

FREDERICK M. BROWN, an individual

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED**  
LOS ANGELES SUPERIOR COURT

JUL 02 2013

JOHN A. CLARKE, CLERK

*J. Espindola*  
By Javier G. Espindola, Deputy

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Los Angeles Superior Court - Northwest District  
6230 Sylmar Avenue  
Van Nuys, CA 91401

CASE NUMBER:  
(Número del Caso):

**LC100511**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Terri R. Brown, Esq., Law Offices of Terri R. Brown, 23679 Calabasas Road, #188,  
Calabasas, CA 91302; Tel.: (818) 216-0840

DATE: **JOHN A. CLARKE JUL 02 2013**  
(Fecha)

Clerk, by **JAVIER G. ESPINDOLA**, Deputy  
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):
4. ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Terri R. Brown, Esq. (SBN 217787)

Law Offices of Terri R. Brown  
23679 Calabasas Road, #188  
Calabasas, CA 91302

TELEPHONE NO.: (818) 216-0840

FAX NO.: (818) 880-4505

ATTORNEY FOR (Name): Plaintiff FREDERICK M. BROWN

FOR COURT USE ONLY

**FILED**  
LOS ANGELES SUPERIOR COURT

JUL 02 2013

JOHN A. CLARKE, CLERK

By Javier G. Espindola, Dep't

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

STREET ADDRESS: 6230 Van Nuys Avenue

MAILING ADDRESS: 6230 Van Nuys Avenue

CITY AND ZIP CODE: Van Nuys, CA 91401

BRANCH NAME: Northwest District

CASE NAME:

BROWN v. STONE CREEK HOMEOWNERS ASSOCIATION

## CIVIL CASE COVER SHEET

- ☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

## Complex Case Designation

- ☐ **Counter** ☐ **Joinder**  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

LC100511

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

## Auto Tort

- ☐ Auto (22)  
☐ Uninsured motorist (46)

## Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- ☐ Asbestos (04)  
☐ Product liability (24)  
☐ Medical malpractice (45)  
☐ Other PI/PD/WD (23)

## Non-PI/PD/WD (Other) Tort

- ☐ Business tort/unfair business practice (07)  
☒ Civil rights (08)  
☐ Defamation (13)  
☐ Fraud (16)  
☐ Intellectual property (19)  
☐ Professional negligence (25)  
☐ Other non-PI/PD/WD tort (35)

## Employment

- ☐ Wrongful termination (36)  
☐ Other employment (15)

## Contract

- ☐ Breach of contract/warranty (06)  
☐ Rule 3.740 collections (09)  
☐ Other collections (09)  
☐ Insurance coverage (18)  
☐ Other contract (37)

## Real Property

- ☐ Eminent domain/Inverse condemnation (14)  
☐ Wrongful eviction (33)  
☐ Other real property (26)

## Unlawful Detainer

- ☐ Commercial (31)  
☐ Residential (32)  
☐ Drugs (38)

## Judicial Review

- ☐ Asset forfeiture (05)  
☐ Petition re: arbitration award (11)  
☐ Writ of mandate (02)  
☐ Other judicial review (39)

## Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

- ☐ Antitrust/Trade regulation (03)  
☐ Construction defect (10)  
☐ Mass tort (40)  
☐ Securities litigation (28)  
☐ Environmental/Toxic tort (30)  
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

## Enforcement of Judgment

- ☐ Enforcement of judgment (20)

## Miscellaneous Civil Complaint

- ☐ RICO (27)  
☐ Other complaint (not specified above) (42)

## Miscellaneous Civil Petition

- ☐ Partnership and corporate governance (21)  
☐ Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties d. ☐ Large number of witnesses  
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court  
c. ☐ Substantial amount of documentary evidence f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): Six (Fair Employment &amp; Housing Act; Unruh Civil Rights Act; Negligence;

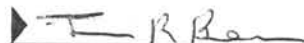
5. This case ☐ is ☒ is not a class action suit. Private Nuisance; Breach of Contract; Breach of Implied

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.) Covenant of Good Faith &amp; Fair Dealing)

Date: July 2, 2013

Terri R. Brown

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SHORT TITLE:

BROWN v. STONE CREEK HOMEOWNERS ASSOCIATION

CASE NUMBER

LC100511

**CIVIL CASE COVER SHEET ADDENDUM AND  
STATEMENT OF LOCATION  
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

**Item I.** Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☐ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL <sup>3</sup> ☐ HOURS/ ☒ DAYS

**Item II.** Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

**Step 1:** After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column **A**, the Civil Case Cover Sheet case type you selected.

**Step 2:** Check one Superior Court type of action in Column **B** below which best describes the nature of this case.

**Step 3:** In Column **C**, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

**Applicable Reasons for Choosing Courthouse Location (see Column C below)**

- |  |  |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. | 6. Location of property or permanently garaged vehicle.    |
| 2. May be filed in central (other county, or no bodily injury/property damage).  | 7. Location where petitioner resides.                      |
| 3. Location where cause of action arose.   | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred.                       | 9. Location where one or more of the parties reside.       |
| 5. Location where performance required or defendant resides.                     | 10. Location of Labor Commissioner Office                  |

**Step 4:** Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	<b>A</b> Civil Case Cover Sheet Category No.	<b>B</b> Type of Action (Check only one)	<b>C</b> Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/ Property Damage/ Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4. 1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1., 4.
		<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress	1., 3.
		<input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4.

SHORT TITLE:

BROWN v. STONE CREEK HOMEOWNERS ASSOCIATION

CASE NUMBER

LC100511

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| 2. May be filed in central (other county, or no bodily injury/property damage).  | 7. Location where petitioner resides.                      |
| 3. Location where cause of action arose.   | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred.                       | 9. Location where one or more of the parties reside.       |
| 5. Location where performance required or defendant resides.                     | 10. Location of Labor Commissioner Office                  |

**Step 4:** Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	<b>A</b> Civil Case Cover Sheet Category No.	<b>B</b> Type of Action (Check only one)	<b>C</b> Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/ Property Damage/ Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4. 1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1., 4.
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4. 1., 3. 1., 4.



SHORT TITLE:

BROWN v. STONE CREEK HOMEOWNERS ASSOCIATION

CASE NUMBER

LC100511

	<b>A</b> Civil Case Cover Sheet Category No.	<b>B</b> Type of Action (Check only one)	<b>C</b> Applicable Reasons - See Step 3 Above
Non-Personal Injury/Property Damage/ Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
	Civil Rights (08)	<input checked="" type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
	Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Employment	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Contract	Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
	Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
	Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation      Number of parcels_____	2.
Real Property	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

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	<b>A</b> Civil Case Cover Sheet Category No.	<b>B</b> Type of Action (Check only one)	<b>C</b> Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1., 2., 8.
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2., 8.
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1., 2., 8.
	<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8.	
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE:

BROWN v. STONE CREEK HOMEOWNERS ASSOCIATION

CASE NUMBER

LC100511

**Item III. Statement of Location:** Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

<b>REASON:</b> Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case.  <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input checked="" type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.			ADDRESS: <i>Home</i> Calabasas, CA <i>6393 Willow Glen St</i> <del>work</del> <i>Calabasas</i> <del>RE</del> <i>91302</i>
CITY: Calabasas	STATE: CA	ZIP CODE: 91302	

**Item IV. Declaration of Assignment:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Los Angeles Superior Court courthouse in the Northwest District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: July 2, 2013

*T. R. Brown*  
 (SIGNATURE OF ATTORNEY/FILING PARTY)

**PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:**

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

PLAINTIFF(S)/PETITIONER(S)  DEFENDANT(S)/RESPONDENT(S)	CASE NUMBER  <i>LC 100571</i>	FILE STAMP <b>FILED</b> LOS ANGELES SUPERIOR COURT  JUL 03 2013  JOHN A. CLARKE, CLERK <i>[Signature]</i> By Javier G. Espindola, Deputy
	NOTICE OF: TRIAL SETTING/ CASE MANAGEMENT CONFERENCE/ OSC RE: DISMISSAL	

**TO THE PLAINTIFF(S) AND THE ATTORNEY OF RECORD:**

YOU ARE HEREBY NOTIFIED THAT THE ABOVE MATTER HAS BEEN ASSIGNED FOR ALL PURPOSES, INCLUDING TRIAL, TO **JUDGE HUEY COTTON**, PRESIDING IN DEPARTMENT **"D"** OF THE NORTHWEST DISTRICT ON 11-19-13 AT 8:30 A.M. IN THE SUPERIOR COURT, LOCATED AT 6230 SYLMAR AVENUE, VAN NUYS, CA 91401.

You are Ordered to serve this notice of hearing to all parties/attorneys of record forthwith and serve a copy of this notice to all parties to the action within 60 days of service of this notice. The Court orders that except as otherwise ordered in writing, all attorneys (or unrepresented parties as applicable) appear at all scheduled hearings. All parties/attorneys of record are ordered to meet and confer about the matters to be discussed no later than 30 days before the Case Management Conference (which shall take place approximately 140 days from filing of the complaint). The complaint must be served on all named defendants and proofs of service must be filed with the Court within 60 days after the filing of the complaint. If all named defendants have not been served and proofs filed before the 60 days have elapsed, application must have been made with Court to extend or otherwise modify Rule CRC 3.110 (b),(c) and (e).

**YOU ARE ORDERED:**

- 1). To give notice of this hearing and serve a copy of this notice to all parties to the action within 60 days of service of this notice.
- 2). To bring to the hearing the original Proof of Service of said notice to all of the other parties served by you.

**ALL PARTIES ARE ORDERED** to have trial counsel, or an attorney thoroughly familiar with the case and trial counsel's calendar, appear at the hearing.

*[Signature: Huey Cotton]*  
\_\_\_\_\_  
Judge of the Superior Court

**CERTIFICATE OF SERVICE**

- ☐ I am not a party to the within action, and I certify that I personally served a true copy of the above notice to the plaintiff delivering the copy to the designated representative/attorney service at the time of filing of the original complaint.
- ☐ I am not a party to the within action, and I certify that I personally served a true copy of the above notice to the plaintiff or his attorney of record by delivering the copy in person this date to counsel for plaintiff or plaintiff in pro per.

A CORPORATION MUST BE  
REPRESENTED BY A LICENSED  
CALIFORNIA ATTORNEY

BY: *[Signature: Javier G. Espindola]*  
JAVIER G. ESPINDOLA, Deputy



TERRI R. BROWN, ESQ. (State Bar No. 217787)  
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Attorneys for Plaintiff FREDERICK M. BROWN

**FILED**  
LOS ANGELES SUPERIOR COURT

JUL 02 2013

JOHN A. CLARKE, CLERK  
By Javier G. Espindola, Deput

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES – NORTHWEST DISTRICT**

FREDERICK M. BROWN, an individual,  
Plaintiff,

vs.

STONE CREEK HOMEOWNERS  
ASSOCIATION, an association; ROSS  
MORGAN & COMPANY, INC., a  
California corporation; VALLEYCREST  
LANDSCAPE MAINTENANCE, INC., a  
California corporation; and DOES 1-10,  
inclusive,

Defendants.

CASE NO.:

**LC100511**

COMPLAINT FOR:

1. NEGLIGENCE;
2. PRIVATE NUISANCE;
3. BREACH OF CONTRACT;
4. BREACH OF IMPLIED COVENANT OF  
GOOD FAITH AND FAIR DEALING;
5. VIOLATION OF THE UNRUH CIVIL  
RIGHTS ACT (*Civil Code § 51, et seq.*);
6. VIOLATION OF THE FAIR  
EMPLOYMENT & HOUSING ACT (*Gov.  
Code § 12900, et seq.*)

COMES NOW Plaintiff FREDERICK M. BROWN, an individual, and demands a jury trial, and complains and alleges against each of the Defendants named in the caption as follows:

**INTRODUCTORY ALLEGATIONS**

1. Plaintiff FREDERICK M. BROWN ("Plaintiff" or "Mr. Brown"), an African-American, was at all relevant times herein a citizen and resident of the City of Calabasas, County of Los Angeles, State of California. Venue is proper in Los Angeles County as to all named Defendants and all DOE Defendants, and the subject property is located within the jurisdiction

1 and venue of this Court.

2 2. Plaintiff is informed and believes, and thereon alleges, that Defendant STONE  
3 CREEK HOMEOWNERS ASSOCIATION ("STONE CREEK HOA") is, and at all times  
4 relevant herein was, an association doing business in the County of Los Angeles, State of  
5 California. At all times referred to herein, "STONE CREEK HOA" shall mean Defendant  
6 STONE CREEK HOA and its agents, joint venturers, trustees, partners, servants, and/or  
7 employees.

8 3. Plaintiff is informed and believe, and thereon allege, that Defendant ROSS  
9 MORGAN & COMPANY, INC. ("ROSS MORGAN") is, and at all times relevant herein was, a  
10 corporation doing business in the County of Los Angeles, State of California, and is the property  
11 management company for STONE CREEK HOA. At all times referred to herein, "ROSS  
12 MORGAN" shall mean Defendant ROSS MORGAN and its agents, joint venturers, trustees,  
13 partners, servants, and/or employees.

14 4. Plaintiff is informed and believe, and thereon allege, that Defendant  
15 VALLEYCREST LANDSCAPE MAINTENANCE, INC. ("VALLEYCREST") is, and at all  
16 times relevant herein was, a corporation doing business in the County of Los Angeles, State of  
17 California, and is the landscape maintenance contractor for STONE CREEK HOA. At all times  
18 referred to herein, "VALLEYCREST" shall mean Defendant VALLEYCREST and its agents,  
19 joint venturers, trustees, partners, servants, and/or employees.

20 5. Except as otherwise alleged, Plaintiff is unaware of the true names and capacities  
21 of the Defendants named herein as DOES 1-10, inclusive. Plaintiff will seek leave of court  
22 hereafter to amend this Complaint in order to allege said Defendants' true names and capacities.  
23 Plaintiff is informed and believe, and thereupon allege, that each of the Defendants designated  
24 herein as DOES 1-10, inclusive, is responsible in some manner for the transactions, events and  
25 occurrences herein alleged, and that the damages herein alleged were proximately caused thereby.

26 6. Plaintiff is informed and believe, and based thereon alleges, that at all times  
27 relevant herein, Defendants and DOES 1-10, and each of them, were the agents, joint venturers,  
28

1 trustees, partners, servants, and/or employees of each of the remaining Defendants, and that the  
2 acts and omissions herein alleged were done by them, acting individually, through such capacity  
3 and within the scope of their authority, and that said conduct was ratified by each of the remaining  
4 Defendants. Further, Plaintiffs are informed and believe, and thereon allege, that Defendants and  
5 DOES 1-10, inclusive, are, and at all times relevant herein were, the alter-egos of each other, and  
6 there now exists, at all times relevant herein there did exist, such unity of interest and ownership  
7 between these Defendants, and each of them, such that any individuality and separateness has  
8 ceased; and that each of these Defendants are, and at all times relevant herein were, a mere shell,  
9 instrumentality, and conduit, through which each of the other Defendants carried on their business  
10 in the corporate name, exercising such control and dominance of each of the other Defendants to  
11 such an extent that any individuality or separateness of a Defendant did not and does not exist.

12 7. Any further adherence to the fiction of a separate existence of the several  
13 Defendants as entities distinct from each other would permit an abuse of the corporate privilege  
14 and would sanction a fraud upon Plaintiff.

15 8. Plaintiff is, and at all relevant times herein was, the owner of a single family  
16 residence ("Property") located within Stone Creek, a small community of single family residences  
17 purportedly governed by STONE CREEK HOA.

18 9. Plaintiff is informed and believes, and thereon alleges, that all relevant times  
19 herein, ROSS MORGAN was the property manager hired by STONE CREEK HOA to manage  
20 the purportedly common areas of Stone Creek.

21 10. Plaintiff is informed and believes, and thereon alleges, that all relevant times  
22 herein, VALLEYCREST was the landscape maintenance company hired by STONE CREEK  
23 HOA and/or ROSS MORGAN to maintain the landscape in the purportedly common areas of  
24 Stone Creek, which maintenance included watering of the front lawns of the single family homes  
25 in Stone Creek via sprinklers.

26 11. Within two years last past, Plaintiff repeatedly complained to Defendants, and each  
27 of them, about water from the sprinklers causing damage to his Property.

12. Despite Plaintiff's complaints, Defendants, and each of them, failed and refused to desist from causing water damage to his Property.

13. Plaintiff pointed out to Defendants, and each of them, that other single family residences in Stone Creek have low walls in the purportedly common areas of Stone Creek. As far as Plaintiff can tell, all those residences are occupied by non-African Americans. Before Plaintiff began installing a similar wall on his Property, none of the Defendants apprised him that a request form would have to be submitted to STONE CREEK HOA.

14. As a result of the foregoing, Plaintiff had his house repaired and then had it painted the same color as before.

15. Moreover, in an effort to stop the ongoing water damage, Plaintiff had low walls built of reinforced concrete, which were covered with stucco and painted to match his house. Plaintiff paid a professional surveyor to ensure that the walls were on his property.

16. Plaintiff was apprised by a representative of the City of Calabasas that the walls met the City's requirements and would be permitted.

17. After construction on the walls had begun, Plaintiff was informed for the first time that he would be required to submit a request form to STONE CREEK HOA. He repeatedly attempted to comply with the requirements. However, his approval request was denied rather than "returned without processing," as stated on the form, and he was threatened. A neighbor made a racial innuendo. Moreover, when Plaintiff made a number of good faith efforts to discuss the problems with ROSS MORGAN prior to the recommencement of work, he was consciously ignored.

18. The "Declaration of Covenants, Conditions and Restrictions" which STONE CREEK HOA purports governs Stone Creek ("CC&Rs"), contains an express provision in Article II, section 3(e) (entitled "Absolute Limitations on Association"), as follows: "The Association shall have no power to cause a forfeiture or abridgement of an owner's right to the full use and enjoyment of his individually-owned subdivision interest on account of the failure by the owner to comply with provisions of the governing instruments or of duly enacted Association rules for



1 operation of the maintenance areas and facilities except by judgment of a court, or a decision  
2 arising out of arbitration.”

3 19. Nevertheless, STONE CREEK HOA and its management company, ROSS  
4 MORGAN, in bad faith, in a racially discriminatory, arbitrary, and capricious manner, repeatedly  
5 and improperly harassed Plaintiff in an effort to abridge his right to the full use and enjoyment of  
6 his individually owned subdivision interest.

7 20. Defendants acts and/or omissions, including their retaliatory and harassing  
8 conduct, caused Plaintiffs severe emotional distress.

9 21. Defendants, and each of them, were under a duty to exercise ordinary care to avoid  
10 reasonably foreseeable property damage to Plaintiff, yet failed and/or refused to exercise ordinary  
11 care, thereby causing Plaintiff's damages.

12 22. As a proximate and legal result of the acts, conduct, failure to act, and/or omissions  
13 of Defendants, and their employees, agents and servants, Plaintiff has suffered foreseeable injury,  
14 and will continue to suffer injuries and damages in an amount which is above this Court's  
15 jurisdictional minimum and in an amount which will be proven at time of trial.

16 23. Plaintiff claims entitlement to the recovery of reasonable attorney's fees plus costs.

17 **FIRST CAUSE OF ACTION**

18 **(Negligence Against all Defendants and DOES 1-10, inclusive)**

19 24. Plaintiffs incorporate herein by reference each and every previous and subsequent  
20 allegation as though fully set forth herein.

21 25. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and  
22 each of them, owed a duty to the Plaintiff to exercise reasonable care in performing their  
23 functions, duties and responsibilities. Specifically, Defendants and their agents and employees  
24 had an additional duty to maintain and repair the common areas of Stone Creek without causing  
25 damage to Plaintiff's Property. Defendants, and each of them, breached their duties of due care to  
26 the Plaintiff by acting unreasonably for reasons including, but not limited to:

27 (1) Failure to cure water damage on the Property which was known or should have  
28

1 been known;

2 (2) Failing to properly investigate the Property after being notified of water damage;

3 (3) Failing to warn Plaintiff of known problems associated with the maintenance of  
4 Stone Creek;

5 (4) Failing to properly maintain the common areas of Stone Creek for Plaintiff after  
6 accepting his homeowners association dues;

7 (5) Failing to timely hire competent professionals to remediate the Property;

8 (6) Unduly delaying the evaluation and investigation of known defective conditions  
9 and by their failure to make necessary repairs, which caused the Property to become and remain  
10 damaged.

11 26. As a direct and proximate result of the Defendants', and each of their,  
12 negligent acts and/or omissions, Plaintiff has suffered property damage, severe emotional distress,  
13 and other damages, in amounts to be established at trial according to proof.

14 **SECOND CAUSE OF ACTION**

15 **(Private Nuisance Against All Defendants and DOES 1-100, inclusive)**

16 27. Plaintiff incorporates herein by reference each and every previous and subsequent  
17 allegation as though fully set forth herein.

18 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and  
19 each of them, by their acts, conduct, failure to act, and/or omissions, created, maintained,  
20 exacerbated, and concealed a private nuisance and did not take any reasonable steps to  
21 immediately abate said nuisance, although requested to do so.

22 29. Plaintiff is informed and believes, and based thereon alleges, that the  
23 aforementioned defective conditions and damages affecting his Property constituted a nuisance  
24 within the meaning of California *Civil Code* § 3479, in that said conditions were injurious to the  
25 health and welfare of the Plaintiff and/or Plaintiff's property, and that the conditions and/or  
26 injuries created a substantial and unreasonable interference with Plaintiff's peaceful and quiet  
27 enjoyment of his home.



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1 Housing Act”), and particularly *Government Code* § 12955, *et seq.*, STONE CREEK HOA had,  
2 and continues to have, a statutory duty not to discriminate against Plaintiff, an African-American,  
3 through public or private land use practices, decisions, and authorizations, or to coerce,  
4 intimidate, threaten, or interfere with Plaintiff in the exercise or enjoyment of, or on account of  
5 Plaintiff having exercised or enjoyed, or on account of that person having aided or encouraged any  
6 other person in the exercise or enjoyment of, any right granted or protected by the Fair  
7 Employment & Housing Act.

8 49. STONE CREEK HOA breached its statutory duty to Plaintiff under the Fair  
9 Employment & Housing Act.

10 50. In addition, STONE CREEK HOA has retaliated against Plaintiff for having  
11 brought a previous lawsuit against STONE CREEK HOA for statutory violations based upon  
12 racial discrimination.

13 51. As a direct and proximate result, Plaintiff has been harmed.

14 52. The conduct of STONE CREEK HOA was a substantial factor in causing  
15 Plaintiff’s harm.

16 **SIXTH CAUSE OF ACTION**

17 **(Violation of the Unruh Civil Rights Act (*Civil Code* § 51, *et seq.*, Against**  
18 **STONE CREEK HOA and DOES 1-10, inclusive)**

19 53. Plaintiff incorporates herein by reference each and every previous and subsequent  
20 allegation as though fully set forth herein.

21 54. STONE CREEK HOA denied/aided or incited a denial of/discriminated or made a  
22 distinction that denied full and equal accommodations/advantages/facilities/privileges/ services to  
23 Plaintiff.

24 55. A motivating reason for STONE CREEK HOA’s conduct was its perception of  
25 Plaintiff’s race/color.

26 56. The race/color of a person whom Plaintiff was associated with was a motivating  
27 reason for STONE CREEK HOA’s conduct.

1           57.     In addition, STONE CREEK HOA has retaliated against Plaintiff for having  
2 brought a previous lawsuit against STONE CREEK HOA for statutory violations based upon  
3 racial discrimination.

4           58.     As a direct and proximate result, Plaintiff has been harmed.

5           59.     STONE CREEK HOA's conduct was a substantial factor in causing Plaintiff's  
6 harm.

7           **WHEREFORE**, Plaintiff prays for judgment against Defendants, and each of them, as  
8 follows:

- 9           1.     For compensatory damages according to proof;
- 10          2.     For investigative costs and fees according to proof;
- 11          3.     For reasonable attorneys' fees according to proof;
- 12          4.     For general damages according to proof;
- 13          5.     For special, and incidental damages, according to proof;
- 14          6.     For prejudgment interest according to proof;
- 15          7.     For punitive damages;
- 16          8.     For costs of suit incurred;
- 17          9.     For declaratory relief;
- 18          10.    For injunctive relief; and
- 19          11.    For such other and further relief as the Court deems just and proper.

20  
21 DATED: July 2, 2013

LAW OFFICES OF TERRI R. BROWN

22  
23 By: T. R. Brown  
24 TERRI R. BROWN, ESQ.  
25 Attorney for Plaintiff  
26 FREDERICK M. BROWN  
27  
28

BY FAX

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Attorneys for Defendant,

VALLEYCREST LANDSCAPE MAINTENANCE, INC.

**FILED**

LOS ANGELES SUPERIOR COURT

JUL 17 2013

JOHN A. CLARKE, CLERK

By Javier G. Espindola, Depu

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES**

FREDERICK M. BROWN, an individual,

Plaintiff,

vs.

STONE CREEK HOMEOWNERS  
ASSOCIATION, an association; ROSS  
MORGAN & COMPANY, INC., a California  
Corporation; VALLEY CREST LANDSCAPE  
MAINTENANCE, INC., a California  
Corporation; and DOES 1-10, Inclusive ,

Defendants.

Case No. LC100511

**ANSWER OF DEFENDANT,  
VALLEYCREST LANDSCAPE  
MAINTENANCE, INC. TO  
PLAINTIFF'S COMPLAINT**

AND RELATED CROSS-ACTIONS.

COMES NOW, Defendant, VALLEYCREST LANDSCAPE MAINTENANCE, INC., for  
itself alone, and no others, and answers the Complaint of FREDERICK M. BROWN on file herein  
and admits, denies and alleges as follows:

1. Pursuant to California *Code of Civil Procedure* section 431.30, Defendant denies the  
allegations of the Plaintiff, and each cause of action, and each paragraph in each cause of action,  
and each and every part thereof, including a denial that Plaintiff was damaged in the sum or sums  
alleged, or to be alleged, or any other sum or sums whatsoever.

1           2.       Defendant further denies, that by reason of any act or omission, fault, conduct or  
2 liability on the part of this answering Defendant, whether negligent, careless, unlawful or whether  
3 as alleged, or otherwise, Plaintiff was injured or damaged in any of the amounts alleged, or in any  
4 other manner or amount whatsoever. Defendant further denies that this answering Defendant was  
5 negligent, careless, reckless, wanton, acted unlawfully or is liable, whether in the manner alleged or  
6 otherwise.

7                               **FIRST AFFIRMATIVE DEFENSE**

8                               **(COMPARATIVE NEGLIGENCE)**

9           3.       Answering Defendant is informed and believes and on such information and belief  
10 alleges that the injury and damage, if any, alleged in the Complaint occurred and was proximately  
11 caused by either the sole or the partial negligence of Plaintiff, which negligence bars or reduces  
12 Plaintiff's recovery herein.

13                               **SECOND AFFIRMATIVE DEFENSE**

14                               **(FAILURE TO STATE A CAUSE OF ACTION)**

15           4.       Each of Plaintiff's causes of action, individually, fails to state facts sufficient to  
16 constitute a cause of action against this answering Defendant.

17                               **THIRD AFFIRMATIVE DEFENSE**

18                               **(REDUCTION TO PERCENT OF FAULT)**

19           5.       The right of Plaintiff to recovery herein, if any right exists, is reduced and limited to  
20 the percentage of negligence attributable to this answering Defendant pursuant to California *Civil*  
21 *Code* section 1431.2 .



1 **FOURTH AFFIRMATIVE DEFENSE**

2 **(NEGLIGENCE OF OTHERS)**

3 6. Answering Defendant denies that Plaintiff was damaged as a proximate result of any  
4 conduct on the part of this answering Defendant. This answering Defendant affirmatively alleges  
5 that Plaintiff's damages, if any, were proximately caused by the independent conduct of third  
6 parties or entities whether or not parties to this action. Plaintiff's recovery against this answering  
7 Defendant, if any, must therefore be reduced to the extent that those damages, if any, were caused  
8 by the independent conduct of third parties.

9 **FIFTH AFFIRMATIVE DEFENSE**

10 **(ACTIVE-PASSIVE NEGLIGENCE DEFENSE)**

11 7. If this answering Defendant is found responsible in damages to Plaintiff or some  
12 other party, whether as alleged or otherwise, then Defendant is informed and believes and, on that  
13 basis alleges, that the liability will be predicated upon the active conduct of Plaintiff, whether by  
14 negligence, breach of warranty, strict liability in tort or otherwise, which unlawful conduct  
15 proximately caused the alleged incident and that Plaintiff's action against Defendant is barred by  
16 that active and affirmative conduct.

17 **SIXTH AFFIRMATIVE DEFENSE**

18 **(FAILURE TO MITIGATE)**

19 8. Answering Defendant alleges that Plaintiff has failed to take reasonable steps to  
20 mitigate his damages, if any.

21 **SEVENTH AFFIRMATIVE DEFENSE**

22 **(STATUTE OF LIMITATIONS)**

23 9. Answering Defendant alleges that the Plaintiff is barred by the applicable statute of  
24 limitations, including California *Code of Civil Procedure* sections 337, 337.1, 337.15, 338, 339 and  
25 340.

1 **EIGHTH AFFIRMATIVE DEFENSE**

2 **(UNAVOIDABLE ACCIDENT)**

3 10. Any damages alleged by Plaintiff were the result of an unavoidable accident and  
4 occurred without any negligence, want of care, default, or other breach of duty, and were the result  
5 of no human intervention, but were solely caused by a natural cause which no one could reasonably  
6 be expected to anticipate and whose effects could not be prevented or controlled by the exercise of  
7 prudence, diligence and care.

8 **NINTH AFFIRMATIVE DEFENSE**

9 **(SUPERSEDING CAUSES)**

10 11. Answering Defendant is informed and believes and on that basis alleges that any  
11 and all damages, if any, were the direct and proximate result of the intervening and superseding  
12 actions of other parties, either served or unserved, and not this answering Defendant, and that such  
13 intervening and superseding actions of other parties, whether or not served, bar recovery herein on  
14 behalf of Plaintiff.

15 **TENTH AFFIRMATIVE DEFENSE**

16 **(EXTRA CONTRACTUAL DAMAGES BARRED)**

17 12. Plaintiff's alleged claims for extra contractual damages are barred by the provisions  
18 of California *Code of Civil Procedure* section 1021.

19 **ELEVENTH AFFIRMATIVE DEFENSE**

20 **(LACHES)**

21 13. Plaintiff has unreasonably delayed the commencement of the within action to the  
22 substantial prejudice of this answering Defendant and by reason thereof have been guilty of laches,  
23 and Plaintiff is thereby precluded from recovery in the within action.

24 **TWELFTH AFFIRMATIVE DEFENSE**

25 **(UNCLEAN HANDS)**

26 14. Plaintiff's conduct with respect to the matters alleged in the Complaint deprives  
27 Plaintiff of clean hands, and by reason of not coming into court with clean hands, Plaintiff is  
28 precluded from recovery in the within action.

1                                    **THIRTEENTH AFFIRMATIVE DEFENSE**  
2                                    **(COMPLAINT FRIVOLOUS AND IN BAD FAITH)**

3            15.     Answering Defendant alleges that Plaintiff's complaint is frivolous and is not based  
4 on good faith as to answering Defendant within the meaning of California *Code of Civil Procedure*  
5 section 128.5, and thus answering Defendant is entitled to recover its reasonable expenses,  
6 including attorneys' fees, in defending this action.

7                                    **FOURTEENTH AFFIRMATIVE DEFENSE**  
8                                    **(ESTOPPEL)**

9            16.     Answering Defendant is informed and believes and thereon alleges that Plaintiff  
10 engaged in conduct and activity with respect to the subject of this litigation, contracts and  
11 incidents, which are the subject of Plaintiff's complaint, and by reason of said conduct and  
12 activities are estopped from asserting any claims for damages or seeking any other relief against  
13 this answering Defendant.

14                                   **FIFTEENTH AFFIRMATIVE DEFENSE**  
15                                   **(WAIVER)**

16           17.     Answering Defendant is informed and believes and thereon alleges that the Plaintiff  
17 has engaged in conduct and activity sufficient to constitute a waiver of any alleged breach of  
18 warranty, breach of duty, negligence, act, omission, or any other conduct, if any, as set forth in  
19 Plaintiff's complaint.

20                                   **SIXTEENTH AFFIRMATIVE DEFENSE**  
21                                   **(ASSUMPTION OF RISK)**

22           18.     Answering Defendant alleges that Plaintiff expressly, voluntarily, and knowingly  
23 assumed all risks about which he complains in his complaint and, therefore, is barred either totally  
24 or to the extent of said assumption from recovering any damages.

1 **SEVENTEENTH AFFIRMATIVE DEFENSE**

2 **(STANDARD OF CARE)**

3 19. Answering Defendant alleges that Plaintiff is barred and precluded from any  
4 recovery in this action because this answering Defendant at all times complied with the applicable  
5 standard of care required at the time and location where Defendant's services were rendered.

6 **EIGHTEENTH AFFIRMATIVE DEFENSE**

7 **(FAILURE TO NOTIFY)**

8 20. Answering Defendant is informed and believes, and based thereon alleges that if any  
9 defects or inadequacies in the work performed by this answering Defendant, exist which this  
10 Defendant denies, Plaintiff failed to timely notify this defendant of such conditions and failed to  
11 give this defendant timely opportunity to remedy such conditions. This conduct by Plaintiff bars  
12 them from any relief from this answering Defendant herein.

13 **NINETEENTH AFFIRMATIVE DEFENSE**

14 **(NO PRIVACY OF CONTRACT)**

15 21. Answering Defendant is informed and believes and on that basis alleges that with  
16 respect to all causes of action in the complaint based on breach of contract and breach of express or  
17 implied warranty, there is no privity of contract or contractual or other relationship, between  
18 Plaintiff and this answering Defendant, which provides a basis for such claims.

19 **TWENTIETH AFFIRMATIVE DEFENSE**

20 **(LACK OF STANDING)**

21 22. Plaintiff lacks standing to sue for the damages alleged in the Complaint.

22 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

23 **(RESULTANT DAMAGE)**

24 23. To the extent that Plaintiff seeks recovery for actions which have not caused  
25 personal injury or property damages, such claims are barred as a matter of law.  
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1 **TWENTY-SECOND AFFIRMATIVE DEFENSE**  
2 **(INDEMNIFICATION BY APPORTIONMENT)**

3 24. This answering Defendant is informed, believes and thereon alleges that this  
4 Defendant is entitled to the right of indemnification by apportionment against all other parties and  
5 persons whose negligence contributed proximately to the happening of the claimed accident or  
6 alleged injuries.

7 **TWENTY-THIRD AFFIRMATIVE DEFENSE**  
8 **(RESERVATION)**

9 25. This answering Defendant presently has insufficient knowledge or information on  
10 which to form a belief as to whether it may have additional, as yet unstated, affirmative defenses  
11 available. Answering Defendant reserves herein the right to assert additional defenses in the event  
12 that the discovery indicates they would be appropriate.

13 WHEREFORE, answering Defendant prays that Plaintiff take nothing by reason of his  
14 Complaint on file herein, for costs of suit, and for such other and further relief as to the court seems  
15 just and proper.

16 Dated: July 11, 2013

BREMER WHYTE BROWN & O'MEARA LLP

17  
18 By: 

19 John O'Meara, Esq.  
20 Attorneys for Defendant  
21 VALLEYCREST LANDSCAPE  
22 MAINTENANCE, INC.  
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1 **PROOF OF SERVICE**

2

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
4 and not a party to the within action. My business address is 21271 Burbank Boulevard, Suite 110,  
Woodland Hills, California 91367.

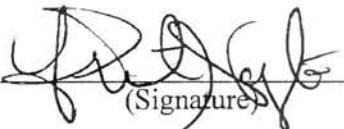
5 On July 16, 2013, I served the within document(s) described as: **ANSWER OF**  
6 **DEFENDANT VALLEYCREST LANDSCAPE MAINTENANCE, INC. TO PLAINTIFF'S**  
**COMPLAINT**, on the interested parties in this action as stated on the attached mailing list.

7 ☒ **(BY MAIL)** By placing a true copy of the foregoing document(s) in a sealed envelope  
8 addressed as set forth on the attached mailing list. I placed each such envelope for  
9 collection and mailing following ordinary business practices. I am readily familiar with this  
10 Firm's practice for collection and processing of correspondence for mailing. Under that  
11 practice, the correspondence would be deposited with the United States Postal Service on  
that same day, with postage thereon fully prepaid at Woodland Hills, California, in the  
ordinary course of business. I am aware that on motion of the party served, service is  
presumed invalid if postal cancellation date or postage meter date is more than one day after  
date of deposit for mailing in affidavit.

12 Executed on July 16, 2013, at Woodland Hills, California.

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

15 \_\_\_\_\_  
16 Lorena P. Negrete  
(Type or print name)

17 \_\_\_\_\_  
18   
(Signature)

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**Frederick M. Brown v. Stone Creek Homeowners Association**

**Case No. LC100511**

**BWB&O CLIENT: Valley Crest Companies, LLC**  
**BWB&O FILE NO.: 1287.368**

**SERVICE LIST**

Terri R. Brown, Esq. <b>LAW OFFICES OF TERRI R. BROWN</b> 23679 Calabasas Road Suite 188 Calabasas, CA 91302 (818) 216-0840 (818) 880-4505 Fax Attorneys For Plaintiff <b>Frederick M. Brown</b>		
--	--	--

1 TERRI R. BROWN, ESQ. (State Bar No. 217787)  
2 LAW OFFICES OF TERRI R. BROWN  
23679 Calabasas Road, #188  
Calabasas, CA 91302  
3 Telephone: (818) 216-0840  
Facsimile: (818) 880-4505

4 Attorneys for Plaintiff FREDERICK M. BROWN  
5  
6  
7

**FILED**  
LOS ANGELES SUPERIOR COURT

JUL 24 2013

JOHN A. CLARKE, CLERK  
*A. Ataryan*  
BY A. ATARYAN, DEPUTY

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES – NORTHWEST DISTRICT**  
10

11 FREDERICK M. BROWN, an individual,

12 Plaintiff,

13 vs.

14 STONE CREEK HOMEOWNERS  
ASSOCIATION, an association; ROSS  
15 MORGAN & COMPANY, INC., a  
California corporation; VALLEYCREST  
16 LANDSCAPE MAINTENANCE, INC., a  
California corporation; and DOES 1-10,  
17 inclusive,

18 Defendants.  
19  
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CASE NO.: LC100511

Assigned to Dept. "D"  
Honorable Huey Cotton

ORIGINAL PROOFS OF SERVICE OF  
SUMMONS, COMPLAINT, ETC., ON  
DEFENDANTS VALLEYCREST  
LANDSCAPE MAINTENANCE, INC. AND  
ROSS MORGAN & COMPANY, INC.

Complaint Filed: July 3, 2013

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Attorney or Party without Attorney: Law Offices Of: Terri R. Brown 23679 Calabasas Road, #188 Calabasas, CA 91302  Telephone No: 818.216.0840      FAX: No: 818.880.4505  Attorney for: Plaintiff				For Court Use Only	
Ref. No or File No.:					
Insert name of Court, and Judicial District and Branch Court: LOS ANGELES SUPERIOR COURT - NORTHWEST DISTRICT					
Plaintiff: Frederick M. Brown, an individual Defendant: Stone Creek Homeowners Association, et al					
<b>Affidavit Of Reasonable Diligence</b>		Hearing Date:	Time:	Dept/Div:	Case Number: LC100511

1. I, Henry Garcia, and any employee or independent contractors retained by AMSTAR EXPRESS are and were on the dates mentioned herein over the age of eighteen years and not a party to this action. Personal service was attempted on Defendant Valleycrest Landscape Maintenance, Inc. as follows:

2. Documents: SUMMONS & COMPLAINT; Notice Of: Trial Setting/ Case Management Conference/ OSC Re: Dismissal; Civil Case Cover Sheet; Civil Case Cover sheet Addendum And Statement Of Location..

Day	Date	Time	Location	Results
Thu	07/11/13	3:10pm	Business	Personal Service on: Valleycrest Landscape Maintenance, Inc. Business - 2710 Gateway Oaks Dr. Ste. 150N Sacramento, CA 95833 by Serving: Becky DeGeorge - White, Female, 40 Years Old, Blonde Hair, Glasses, 5 Feet 6 Inches, 160 Pounds, as Person Authorized to Accept for Agents of Service of Proces, CSC on behalf of Valleycrest Landscape Maintenance, Inc.. Served by: Henry Garcia

3. Person Executing

a. Henry Garcia

b. AMSTAR EXPRESS

509 MARIN STREET

SUITE 237

Thousand Oaks, CA 91360

c. 888-778-2711, FAX 805-777-1115

Recoverable Costs Per CCP 1033.5(a)(4)(B)

d. The Fee for service was: \$69.00

e. I am: (3) Registered California Process Server

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

Date: Fri, Jul. 12, 2013

Affidavit Of Reasonable Diligence

(Henry Garcia)

1173.19868

Attorney or Party without Attorney: Law Offices Of: Terri R. Brown 23679 Calabasas Road, #188 Calabasas, CA 91302 Telephone No: 818.216.0840 FAX No: 818.880.4505 terribrownlaw@earthlink.net Attorney for: Plaintiff				For Court Use Only	
Insert name of Court, and Judicial District and Branch Court: LOS ANGELES SUPERIOR COURT - NORTHWEST DISTRICT				Ref. No. or File No.:	
Plaintiff: Frederick M. Brown, an individual Defendant: Stone Creek Homeowners Association, et al				Case Number: LC100511	
<b>PROOF OF SERVICE SUMMONS &amp; COMPLAINT</b>		Hearing Date:	Time:	Dept/Div:	Case Number:

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the SUMMONS & COMPLAINT; Civil Case Cover Sheet; Civil Case Cover sheet Addendum And Statement Of Location..
3. a. Party served: Ross Morgan & Company, Inc.,  
 b. Person served: Brian Davidoff - White, Male, 58 Years Old, 5 Feet 11 Inches, 190 Pounds as Registered Agent and person authorized to accept on behalf of Ross Morgan & Company, Inc.
4. Address where the party was served: 15315 Magnolia Blvd., Suite 212  
 Sherman Oaks, CA 91403
5. I served the party:
  - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive process for the party (1) on: Mon., Jul. 08, 2013 (2) at: 3:10PM
6. The "Notice to the Person Served" (on the Summons) was completed as follows:  
 on behalf of: Ross Morgan & Company, Inc.,  
 Under CCP 416.10 (corporation)
7. Person Who Served Papers:
 

a. Daryl Crismon b. AMSTAR EXPRESS 509 MARIN STREET SUITE 237 Thousand Oaks, CA 91360 c. 888-778-2711, FAX 805-777-1115	Recoverable Cost Per CCP 1033.5(a)(4)(B) d. The Fee for Service was: \$49.00 e. I am: (3) registered California process server <ol style="list-style-type: none"> <li>(i) Owner</li> <li>(ii) Registration No.: 2013084008</li> <li>(iii) County: Los Angeles</li> <li>(iv) Expiration Date: Tue, Apr. 14, 2015</li> </ol>
--	--

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

Date: Tue, Jul. 09, 2013

  
 (Daryl Crismon)



1 TERRI R. BROWN, ESQ. (State Bar No. 217787)  
2 LAW OFFICES OF TERRI R. BROWN  
3 23679 Calabasas Road, #188  
4 Calabasas, CA 91302  
5 Telephone: (818) 216-0840  
6 Facsimile: (818) 880-4505

7 Attorneys for Plaintiff FREDERICK M. BROWN

**FILED**  
LOS ANGELES SUPERIOR COURT  
AUG 08 2013  
JOHN A. CLARKE, CLERK  
BY A. ATARYAN, DEPUTY

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES – NORTHWEST DISTRICT**

10  
11 FREDERICK M. BROWN, an individual,

12 Plaintiff,

13 vs.

14 STONE CREEK HOMEOWNERS  
15 ASSOCIATION, an association; ROSS  
16 MORGAN & COMPANY, INC., a  
17 California corporation; VALLEYCREST  
18 LANDSCAPE MAINTENANCE, INC., a  
19 California corporation; and DOES 1-10,  
20 inclusive,

21 Defendants.

CASE NO.: LC100511

Assigned to Dept. "D"  
Honorable Huey Cotton

ORIGINAL NOTICE AND  
ACKNOWLEDGMENT OF RECEIPT OF  
COMPLAINT, ETC., RE DEFENDANT  
STONE CREEK HOMEOWNERS  
ASSOCIATION

Complaint Filed: July 3, 2013

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NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: July 9, 2013

Terri R. Brown, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

### ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of *(to be completed by sender before mailing)*:

1. ☒ A copy of the summons and of the complaint.
2. ☒ Other (specify):

Copies of Civil Case Cover Sheet; Civil Case Cover Sheet Addendum and Statement of Location;  
Notice of: Trial Setting/Case Management Conference/OSC Re: Dismissal

*(To be completed by recipient):*

Date this form is signed: July 25, 2013

SAPEK RAME, HIGHT PR. WIS. ADLSTEE

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,  
ON WHOSE BEHALF THIS FORM IS SIGNED)

POW. STATE & CO. HOLBROOK, NEPS ASSOCIATED

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF  
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

1 TERRI R. BROWN, ESQ. (State Bar No. 217787)  
2 LAW OFFICES OF TERRI R. BROWN  
23679 Calabasas Road, #188  
Calabasas, CA 91302  
3 Telephone: (818) 216-0840  
Facsimile: (818) 880-4505

4 Attorneys for Plaintiff FREDERICK M. BROWN  
5  
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7

**FILED**  
LOS ANGELES SUPERIOR COURT

AUG 08 2013

JOHN A. CLARKE, CLERK

*A. Ataryan*  
BY A. ATARYAN, DEPUTY

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES – NORTHWEST DISTRICT**  
10

11 FREDERICK M. BROWN, an individual,

12 Plaintiff,

13 vs.

14 STONE CREEK HOMEOWNERS  
ASSOCIATION, an association; ROSS  
15 MORGAN & COMPANY, INC., a  
California corporation; VALLEYCREST  
16 LANDSCAPE MAINTENANCE, INC., a  
California corporation; and DOES 1-10,  
17 inclusive,

18 Defendants.  
19  
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CASE NO.: LC100511

Assigned to Dept. "D"  
Honorable Huey Cotton

ORIGINAL PROOF OF SERVICE OF NOTICE  
OF: TRIAL SETTING/CASE MANAGEMENT  
CONFERENCE/OSC RE: DISMISSAL, ON  
DEFENDANT ROSS MORGAN &  
COMPANY

Complaint Filed: July 3, 2013

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ORIGINAL PROOF OF SERVICE OF NOTICE

ORIGINAL

Gary A. Bague (Bar No. 93473)  
Blythe Golay (Bar No. 285389)  
HAIGHT BROWN & BONESTEEL LLP  
555 South Flower Street, Forty-Fifth Floor  
Los Angeles, California 90071  
Telephone: 213.542.8000  
Facsimile: 213.542.8100  
  
Attorneys for Defendants STONE CREEK  
HOMEOWNERS ASSOCIATION and ROSS  
MORGAN & COMPANY, INC.

**FILED**  
LOS ANGELES SUPERIOR COURT  
AUG 22 2013  
JOHN A. CLARKE, CLERK  
BY CHRISTINE Y-TEHRANI, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES - NORTHWEST DISTRICT

FREDRICK M. BROWN, an individual,  
Plaintiff,

vs.

STONE CREEK HOMEOWNERS  
ASSOCIATION, an association; ROSS  
MORGAN & COMPANY, INC., a  
California corporation; VALLEYCREST  
LANDSCAPE MAINTENANCE, INC., a  
California corporation; and DOES 1-10,  
inclusive,

Defendants.

Case No. LC100511

**ANSWER OF STONE CREEK  
HOMEOWNERS ASSOCIATION TO  
PLAINTIFF'S COMPLAINT**

Complaint Filed: July 2, 2013

TO THE HONORABLE COURT AND TO PLAINTIFF AND TO HIS  
ATTORNEY OF RECORD:

Defendant Stone Creek Homeowners Association, for itself alone, answers the  
Complaint of Plaintiff Frederick M. Brown as follows:

1. Pursuant to the California *Code of Civil Procedure* section 431.30(d),  
defendant Stone Creek Homeowners Association denies each and every allegation, cause  
of action and all portions of the complaint directed against Stone Creek Homeowners  
Association and further denies that plaintiff Frederick M. Brown has or will sustain any  
damages in the sum or sums alleged, or in any other sum or sums, or at all.

1           2.     Stone Creek Homeowners Association denies that by reason of any act, or  
2 omission, fault, conduct, error, breach of contract, breach of implied covenant, violation of  
3 statutory obligation or liability on the part of Stone Creek Homeowners Association  
4 whether negligent, careless, unlawful, wrongful, or whether as alleged or otherwise, that  
5 the plaintiff or any other party or person was damaged or injured in the manner or the  
6 amounts alleged, or in any other manner or amounts whatsoever; and Stone Creek  
7 Homeowners Association further denies that it was negligent, careless, reckless, wanton,  
8 acted unlawfully, breached any contract, acted wrongfully, or is liable, whether in the  
9 manner alleged, or otherwise.

10           FOR FURTHER AND SEPARATE AFFIRMATIVE DEFENSES TO THE  
11 ALLEGATIONS OF THE COMPLAINT, STONE CREEK HOMEOWNERS  
12 ASSOCIATION ALLEGES:

13                               **FIRST AFFIRMATIVE DEFENSE**

14           3.     The complaint, each and every cause of action contained in it, and all of it,  
15 fails to state facts sufficient to constitute a cause of action against this defendant.

16                               **SECOND AFFIRMATIVE DEFENSE:**

17           4.     Defendant alleges that the complaint is barred pursuant to all applicable  
18 statutes of limitations, including but not limited to California *Code of Civil Procedure* §§  
19 337, 340, 343, or other applicable statutes.

20                               **THIRD AFFIRMATIVE DEFENSE:**

21           5.     Defendant alleges that plaintiff, with actual or constructive knowledge of the  
22 facts alleged in the Complaint, was under a duty to mitigate damages, if any, and plaintiff  
23 failed to mitigate such damages; as a consequence thereof, this answering defendant is  
24 exonerated from liability to plaintiff, and all damages alleged are the sole and proximate  
25 cause of plaintiff's failure to mitigate damages.

26                               **FOURTH AFFIRMATIVE DEFENSE**

27           6.     Defendant is informed and believes that the alleged accident and damages, if  
28 any, complained of by plaintiff, said accident and damages being expressly denied by this



1 answering defendant, were caused by the conduct of plaintiff and/or firms, persons,  
2 corporations, or entities other than this defendant, including the plaintiff, whether or not  
3 parties to this action, and that conduct comparatively reduces the percentage of any  
4 liability attributable to this defendant, if it should be found that this answering defendant is  
5 at fault, which this defendant expressly denies.

6 **FIFTH AFFIRMATIVE DEFENSE**

7 7. Defendant alleges the injuries and damages of which the plaintiff complains  
8 were proximately caused by the acts or omissions of the other parties, persons and/or  
9 entities in that said acts or omissions were an intervening and superseding cause of injuries  
10 and damages, if any, of which the plaintiff complains, thus barring plaintiff from any  
11 recovery against this defendant.

12 **SIXTH AFFIRMATIVE DEFENSE**

13 8. This answering defendant is entitled to contribution from any person whose  
14 negligence proximately contributed to the happening of the claimed incident or alleged  
15 damages if the plaintiff should receive a verdict against this answering defendant.

16 **SEVENTH AFFIRMATIVE DEFENSE**

17 9. This answering defendant is entitled to indemnification by apportionment  
18 against all parties and persons whose negligence contributed proximately to the happening  
19 of the claimed incident or alleged damages.

20 **EIGHTH AFFIRMATIVE DEFENSE:**

21 10. Defendant alleges that plaintiff is further barred from recovery herein in that  
22 plaintiff, being fully informed of the act or acts, event or events, of which plaintiff now  
23 complains, ratified and affirmed all conduct with respect to the act or acts, event or events,  
24 and therefore plaintiff has waived any and all causes of action against this defendant and is  
25 barred from asserting the same.

26 **NINTH AFFIRMATIVE DEFENSE:**

27 11. Defendant alleges that plaintiff is further barred from any recovery in the  
28 present action in that plaintiff willingly and voluntarily consented, expressly or impliedly,

1 after full and complete disclosure by defendant of all relevant and material facts, to any  
2 and all such act or acts, event or events, as may be shown on the part of this answering  
3 defendant, to which plaintiff now complains. Plaintiff has, therefore, waived any and all  
4 causes of action against this answering defendant and is barred from asserting same.

5 **TENTH AFFIRMATIVE DEFENSE:**

6 12. Defendant alleges that the acts of plaintiff and his agents are acts which  
7 estop plaintiff from asserting any cause of action against this answering defendant.

8 **ELEVENTH AFFIRMATIVE DEFENSE:**

9 13. Defendant alleges, based on information and belief that the plaintiff, because  
10 of his activities and acts, is guilty of unclean hands and, therefore, no recovery should be  
11 allowed by this court.

12 **TWELFTH AFFIRMATIVE DEFENSE:**

13 14. Defendant expressly and specifically reserves the right to amend this answer  
14 to add, delete and/or modify affirmative defenses based upon legal theories, facts, and  
15 circumstances which may or will be developed through discovery and/or through further  
16 legal analysis of defendant's position in this litigation.

17 **THIRTEENTH AFFIRMATIVE DEFENSE:**

18 15. Defendant alleges, based on information and belief, that the plaintiff,  
19 because of his activities and acts, is guilty of laches and, therefore, no recovery should be  
20 allowed by this court.

21 **FOURTEENTH AFFIRMATIVE DEFENSE:**

22 16. Defendant alleges, based on information and belief, that the plaintiff failed to  
23 comply with the terms of the written agreement entered into between the parties.

24 **FIFTEENTH AFFIRMATIVE DEFENSE:**

25 17. To the extent that any of plaintiff's claims and causes of action against  
26 defendant are based upon a purported oral agreement which is in conflict with or  
27 contradictory to any written agreement or contract in existence between plaintiff and  
28

1 defendant or any third party, they are barred by the parol evidence rule, *Code of Civil*  
2 *Procedure* section 1856, et seq.


3 WHEREFORE, this answering Defendant prays as follows:

- 4 1. That the Complaint be dismissed with prejudice, and that Plaintiff take  
5 nothing thereby;
- 6 2. That judgment be entered in favor of this answering Defendant;
- 7 3. That this answering Defendant be awarded costs of suit incurred herein; and,
- 8 4. For such other and further relief as this Court deems just and proper.

9 Dated: August 22, 2013

HAIGHT BROWN & BONESTEEL LLP

10  
11 By: \_\_\_\_\_

  
12 Gary A. Bague  
13 Blythe Golay  
14 Attorneys for Defendants  
15 STONE CREEK HOMEOWNERS  
16 ASSOCIATION and ROSS MORGAN &  
17 COMPANY, INC.  
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1 **PROOF OF SERVICE**

2  
3 STATE OF CALIFORNIA )  
4 COUNTY OF LOS ANGELES ) ss.:

5 *FREDRICK M. BROWN vs. STONE CREEK HOMEOWNERS ASSOCIATION*  
6 *LC100511*

7 I am employed in the County of Los Angeles, State of California. I am over the age  
8 of 18 and not a party to the within action. My business address is 555 South Flower Street,  
9 Forty-Fifth Floor, Los Angeles, California 90071.

10 On August 22, 2013, I served the within document(s) described as:

11 **ANSWER OF STONE CREEK HOMEOWNERS ASSOCIATION TO**  
12 **PLAINTIFF'S COMPLAINT**

13 on the interested parties in this action as stated below:

14 Terri R. Brown  
15 LAW OFFICES OF TERRI R. BROWN  
16 23679 Calabasas Road, #188  
17 Calabasas, CA 91302

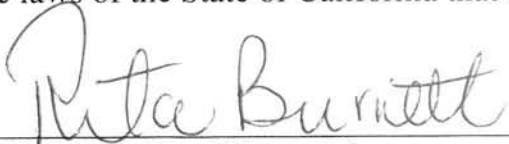
18 Telephone: (818) 216-0840  
19 Facsimile: (818) 880-4505

20 ☒ (MAIL) by placing a true copy thereof in sealed envelope(s) addressed above. I am  
21 readily familiar with this firm's practice of collection and processing  
22 correspondence for mailing. Under that practice it would be deposited with the U.S.  
23 postal service on that same day with postage thereon fully prepaid at Los Angeles,  
24 California, in the ordinary course of business. I am aware that on motion of party  
25 served, service is presumed invalid if postal cancellation date or postage meter date  
26 is more than 1 day after date of deposit for mailing in affidavit.

27 Executed on August 22, 2013, at Los Angeles, California.

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

29 Rita Burnett  
30 (Type or print name)

31   
32 (Signature)

ORIGINAL

Gary A. Bague (Bar No. 93473)  
Blythe Golay (Bar No. 285389)  
HAIGHT BROWN & BONESTEEL LLP  
555 South Flower Street, Forty-Fifth Floor  
Los Angeles, California 90071  
Telephone: 213.542.8000  
Facsimile: 213.542.8100

Attorneys for Defendants STONE CREEK  
HOMEOWNERS ASSOCIATION and ROSS  
MORGAN & COMPANY, INC.

**FILED**  
LOS ANGELES SUPERIOR COURT  
AUG 22 2013

JOHN A. CLARKE, CLERK  
*Christine Y. Tehrani*  
BY CHRISTINE Y. TEHRANI, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES - NORTHWEST DISTRICT

FREDRICK M. BROWN, an individual,  
Plaintiff,

vs.

STONE CREEK HOMEOWNERS  
ASSOCIATION, an association; ROSS  
MORGAN & COMPANY, INC., a  
California corporation; VALLEYCREST  
LANDSCAPE MAINTENANCE, INC., a  
California corporation; and DOES 1-10,  
inclusive,

Defendants.

Case No. LC100511

**ANSWER OF ROSS MORGAN &  
COMPANY, INC. TO PLAINTIFF'S  
COMPLAINT**

Complaint Filed: July 2, 2013

TO THE HONORABLE COURT AND TO PLAINTIFF AND TO HIS  
ATTORNEY OF RECORD:

Defendant Ross Morgan & Company, Inc., a California corporation, for itself alone,  
answers the Complaint of Plaintiff Frederick M. Brown as follows:

1. Pursuant to the California *Code of Civil Procedure* section 431.30(d),  
defendant Ross Morgan & Company, Inc. denies each and every allegation, cause of action  
and all portions of the complaint directed against Ross Morgan & Company, Inc. and  
further denies that plaintiff Frederick M. Brown has or will sustain any damages in the sum  
or sums alleged, or in any other sum or sums, or at all.

2. Ross Morgan & Company, Inc. denies that by reason of any act, or omission, fault, conduct, error, breach of contract, breach of implied covenant, violation of statutory obligation or liability on the part of Ross Morgan & Company, Inc., whether negligent, careless, unlawful, wrongful, or whether as alleged or otherwise, that the plaintiff or any other party or person was damaged or injured in the manner or the amounts alleged, or in any other manner or amounts whatsoever; and Ross Morgan & Company, Inc. further denies that it was negligent, careless, reckless, wanton, acted unlawfully, breached any contract, acted wrongfully, or is liable, whether in the manner alleged, or otherwise.

FOR FURTHER AND SEPARATE AFFIRMATIVE DEFENSES TO THE ALLEGATIONS OF THE COMPLAINT, ROSS MORGAN & COMPANY, INC. ALLEGES:

**FIRST AFFIRMATIVE DEFENSE**

3. The complaint, each and every cause of action contained in it, and all of it, fails to state facts sufficient to constitute a cause of action against this defendant.

**SECOND AFFIRMATIVE DEFENSE:**

4. Defendant alleges that the complaint is barred pursuant to all applicable statutes of limitations, including but not limited to California *Code of Civil Procedure* §§ 337, 340, 343, or other applicable statutes.

**THIRD AFFIRMATIVE DEFENSE:**

5. Defendant alleges that plaintiff, with actual or constructive knowledge of the facts alleged in the Complaint, was under a duty to mitigate damages, if any, and plaintiff failed to mitigate such damages; as a consequence thereof, this answering defendant is exonerated from liability to plaintiff, and all damages alleged are the sole and proximate cause of plaintiff's failure to mitigate damages.

**FOURTH AFFIRMATIVE DEFENSE**

6. Defendant is informed and believes that the alleged accident and damages, if any, complained of by plaintiff, said accident and damages being expressly denied by this answering defendant, were caused by the conduct of plaintiff and/or firms, persons,



1 corporations, or entities other than this defendant, including the plaintiff, whether or not  
2 parties to this action, and that conduct comparatively reduces the percentage of any  
3 liability attributable to this defendant, if it should be found that this answering defendant is  
4 at fault, which this defendant expressly denies.

5 **FIFTH AFFIRMATIVE DEFENSE**

6 7. Defendant alleges the injuries and damages of which the plaintiff complains  
7 were proximately caused by the acts or omissions of the other parties, persons and/or  
8 entities in that said acts or omissions were an intervening and superseding cause of injuries  
9 and damages, if any, of which the plaintiff complains, thus barring plaintiff from any  
10 recovery against this defendant.

11 **SIXTH AFFIRMATIVE DEFENSE**

12 8. This answering defendant is entitled to contribution from any person whose  
13 negligence proximately contributed to the happening of the claimed incident or alleged  
14 damages if the plaintiff should receive a verdict against this answering defendant.

15 **SEVENTH AFFIRMATIVE DEFENSE**

16 9. This answering defendant is entitled to indemnification by apportionment  
17 against all parties and persons whose negligence contributed proximately to the happening  
18 of the claimed incident or alleged damages.

19 **EIGHTH AFFIRMATIVE DEFENSE:**

20 10. Defendant alleges that plaintiff is further barred from recovery herein in that  
21 plaintiff, being fully informed of the act or acts, event or events, of which plaintiff now  
22 complains, ratified and affirmed all conduct with respect to the act or acts, event or events,  
23 and therefore plaintiff has waived any and all causes of action against this defendant and is  
24 barred from asserting the same.

25 **NINTH AFFIRMATIVE DEFENSE:**

26 11. Defendant alleges that plaintiff is further barred from any recovery in the  
27 present action in that plaintiff willingly and voluntarily consented, expressly or impliedly,  
28 after full and complete disclosure by defendant of all relevant and material facts, to any

1 and all such act or acts, event or events, as may be shown on the part of this answering  
2 defendant, to which plaintiff now complains. Plaintiff has, therefore, waived any and all  
3 causes of action against this answering defendant and is barred from asserting same.

4 **TENTH AFFIRMATIVE DEFENSE:**

5 12. Defendant alleges that the acts of plaintiff and his agents are acts which  
6 estop plaintiff from asserting any cause of action against this answering defendant.

7 **ELEVENTH AFFIRMATIVE DEFENSE:**

8 13. Defendant alleges, based on information and belief that the plaintiff, because  
9 of his activities and acts, is guilty of unclean hands and, therefore, no recovery should be  
10 allowed by this court.

11 **TWELFTH AFFIRMATIVE DEFENSE:**

12 14. Defendant expressly and specifically reserves the right to amend this answer  
13 to add, delete and/or modify affirmative defenses based upon legal theories, facts, and  
14 circumstances which may or will be developed through discovery and/or through further  
15 legal analysis of defendant's position in this litigation.

16 **THIRTEENTH AFFIRMATIVE DEFENSE:**

17 15. Defendant alleges, based on information and belief, that the plaintiff,  
18 because of his activities and acts, is guilty of laches and, therefore, no recovery should be  
19 allowed by this court.

20 **FOURTEENTH AFFIRMATIVE DEFENSE:**

21 16. Defendant alleges, based on information and belief, that the plaintiff failed to  
22 comply with the terms of the written agreement entered into between the parties.

23 **FIFTEENTH AFFIRMATIVE DEFENSE:**

24 17. To the extent that any of plaintiff's claims and causes of action against  
25 defendant are based upon a purported oral agreement which is in conflict with or  
26 contradictory to any written agreement or contract in existence between plaintiff and  
27 defendant or any third party, they are barred by the parol evidence rule, *Code of Civil*  
28 *Procedure* section 1856, et seq.

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WHEREFORE, this answering Defendant prays as follows:

1. That the Complaint be dismissed with prejudice, and that Plaintiff take nothing thereby;
2. That judgment be entered in favor of this answering Defendant;
3. That this answering Defendant be awarded costs of suit incurred herein; and,
4. For such other and further relief as this Court deems just and proper.

Dated: August 22, 2013

HAIGHT BROWN & BONESTEEL LLP

By: \_\_\_\_\_

  
Gary A. Bague  
Blythe Golay  
Attorneys for Defendants  
STONE CREEK HOMEOWNERS  
ASSOCIATION and ROSS MORGAN &  
COMPANY, INC.

1 PROOF OF SERVICE

2  
3 STATE OF CALIFORNIA )  
4 COUNTY OF LOS ANGELES ) ss.:

5 *FREDRICK M. BROWN vs. STONE CREEK HOMEOWNERS ASSOCIATION*  
6 *LC100511*

7 I am employed in the County of Los Angeles, State of California. I am over the age  
8 of 18 and not a party to the within action. My business address is 555 South Flower Street,  
9 Forty-Fifth Floor, Los Angeles, California 90071.

10 On August 22, 2013, I served the within document(s) described as:

11 **ANSWER OF ROSS MORGAN & COMPANY, INC. TO PLAINTIFF'S**  
12 **COMPLAINT**

13 on the interested parties in this action as stated below:

14 Terri R. Brown  
15 LAW OFFICES OF TERRI R. BROWN  
16 23679 Calabasas Road, #188  
17 Calabasas, CA 91302

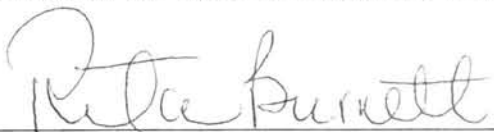
18 Telephone: (818) 216-0840  
19 Facsimile: (818) 880-4505

20 ☒ (MAIL) by placing a true copy thereof in sealed envelope(s) addressed above. I am  
21 readily familiar with this firm's practice of collection and processing  
22 correspondence for mailing. Under that practice it would be deposited with the U.S.  
23 postal service on that same day with postage thereon fully prepaid at Los Angeles,  
24 California, in the ordinary course of business. I am aware that on motion of party  
25 served, service is presumed invalid if postal cancellation date or postage meter date  
26 is more than 1 day after date of deposit for mailing in affidavit.

27 Executed on August 22, 2013, at Los Angeles, California.

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

29 Rita Burnett  
30 (Type or print name)

31   
32 (Signature)

SUM-110

**SUMMONS**  
**Cross-Complaint**  
**(CITACION JUDICIAL-CONTRADEMANDA)**

**NOTICE TO CROSS-DEFENDANT:**

**(AVISO AL CONTRA-DEMANDADO):**

FREDERICK M. BROWN, an individual, TERRI R. BROWN, an individual, and VALLEYCREST LANDSCAPE MAINTENANCE, INC., a California corporation; and ROES 1-10, inclusive.

**YOU ARE BEING SUED BY CROSS-COMPLAINANT:**

**(LO ESTÁ DEMANDANDO EL CONTRADEMANDANTE):**

STONE CREEK HOMEOWNERS ASSOCIATION, an Unincorporated Association, and ROSS MORGAN & COMPANY, INC., a California corporation.

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED**  
LOS ANGELES SUPERIOR COURT

AUG 22 2013

JOHN A. CLARKE, CLERK

BY CHRISTINE Y-TEHRANI, DEPUTY

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the cross-complainant. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

*Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al contrademandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

*Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), o uniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.*

The name and address of the court is:

(El nombre y dirección de la corte es):

Los Angeles Superior Court  
6230 Sylmar Ave.  
Van Nuys, CA 91401

SHORT NAME OF CASE (from Complaint): (Nombre de Caso):

Brown v. Stone Creek HOA. et al.

CASE NUMBER: (Número del Caso):

LC100511

Van Nuys Courthouse East

The name, address, and telephone number of cross-complainant's attorney, or cross-complainant without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del contrademandante, o del contrademandante que no tiene abogado, es):

Arturo T. Salinas, Esq. (SBN 134174)  
LOEWENTHAL, HILLSHAFFER & CARTER, LLP,  
15260 Ventura Boulevard, Suite 1400,

(818) 905-6283 (818) 905-6372

Sherman Oaks, CA 91403

DATE:

(Fecha)

AUG 22 2013 JOHN A. CLARKE

Clerk, by

(Secretario)

, Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (POS-010).)



**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual cross-defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

4. ☐ by personal delivery on (date):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

**Brown v. Stone Creek Home Owners Association, et al.**  
**LASC CASE NO. LC100511**

ATTORNEY	PARTY
Terri R. Brown, Esq. LAW OFFICES OF TERRI R. BROWN 23679 Calabasas Road, #188 Calabasas, CA 91302 Telephone: (818) 216-0840 Facsimile: (818) 880-4505	Counsel for FREDERICK M. BROWN
Gary A. Bague, Esq., (SBN 93473) Blythe Golay, Esq., (SBN 285389) HEIGHT BROWN & BONESTEEL 555 So. Flower Street, 45 <sup>th</sup> Floor Los Angeles, CA 90071 Telephone: (213) 542-8000 Facsimile: (213) 542-8100	Counsel for STONE CREEK HOMEOWNERS ASSOCIATION; and ROSS MORGAN & COMPANY, INC.



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Facsimile: (818) 905-6372

**FILED**  
LOS ANGELES SUPERIOR COURT  
AUG 22 2013

JOHN A. CLARKE, CLERK  
MARIAH Y. TEHRANI, DEPUTY

Attorneys for Cross-Complainant STONE CREEK HOMEOWNERS ASSOCIATION

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Los Angeles, CA 90071  
Telephone: (213)542-8000  
Facsimile: (213)542-8100

Attorneys for Defendants and Cross-Complainants STONE CREEK HOMEOWNERS ASSOCIATION and ROSS MORGAN & COMPANY, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES - NORTH WEST DISTRICT

FREDERICK M. BROWN, an individual, ) CASE NO.: LC100511

Plaintiff,

v.

STONE CREEK HOMEOWNERS  
ASSOCIATION, an association; ROSS  
MORGAN & COMPANY, INC., a  
California corporation; VALLEYCREST  
LANDSCAPE MAINTENANCE, INC., a  
California corporation; and DOES 1-10,  
inclusive,

Defendants.

CROSS-COMPLAINT FOR:  
1. BREACH OF COVENANTS,  
CONDITIONS AND RESTRICTIONS,  
2. INJUNCTION,  
3. DECLARATORY RELIEF,  
4. IMPLIED INDEMNITY,  
5. EQUITABLE INDEMNITY,  
6. EXPRESSED INDEMNITY, and  
7. CONTRIBUTION.

STONE CREEK HOMEOWNERS  
ASSOCIATION, an Unincorporated  
Association, and ROSS MORGAN &  
COMPANY, INC., a California  
corporation.

Cross-complainants,

v.

CROSS-COMPLAINT



1 FREDERICK M. BROWN, an individual, )  
2 TERRI R. BROWN, an individual, and )  
3 VALLEYCREST LANDSCAPE )  
4 MAINTENANCE, INC., a California )  
5 corporation; and ROES 1-10, inclusive, )  
6 Cross-Defendants. )

6 COME NOW Defendants and Cross-Complainants STONE CREEK  
7 HOMEOWNERS ASSOCIATION ("Cross-Complainant" or "Association") and ROSS  
8 MORGAN & COMPANY, INC ("ROSS MORGAN"), and for causes of action against  
9 Cross-Defendants FREDERICK M. BROWN and TERRI R. BROWN (collectively  
10 referred to as "Cross-Defendants"), and VALLEYCREST LANDSCAPE  
11 MAINTENANCE, INC., allege and cross-complain as follows:

12 **INTRODUCTORY ALLEGATIONS**

13 1. Cross-Complainant STONE CREEK HOMEOWNERS ASSOCIATION is an  
14 unincorporated association formed under the laws of the State of California, and has been  
15 charged with the duties, and invested with the powers, set for in the Bylaws and the  
16 Declaration of Covenants, Conditions and Restrictions applicable to the Stone Creek  
17 common interest development in the City of Calabasas, County of Los Angeles, and State  
18 of California. Included in Association's duties and powers are those of maintenance, repair,  
19 preservation, and enforcement of the provisions of the Declaration of Conditions,  
20 Covenants and Restrictions (hereinafter "the CC&Rs") recorded by the Developer of the  
21 project on, or about, July 20, 1987, as Instrument No. 1144125, Official Records of Los  
22 Angeles County, California (hereafter "CC&Rs"). Copies of the CC&Rs are attached hereto  
23 as Exhibit "A" and incorporated herein for all purposes. Copies of the Architectural  
24 Guidelines and the Rules and Regulations are attached hereto at Exhibit "B and also  
25 incorporated herein for all purposes.

26 2. Association brings and maintains this action as the authorized representative  
27 of its members pursuant to Civil Code § 1368.3. Association is entitled to enforce the  
28 provisions of its governing documents pursuant to Article II, Section (3)(a) of the CC&Rs,

1 and Civil Code § 1354.

2 3. Cross-Complainant ROSS MORGAN & COMPANY, INC. is a California  
3 corporation doing business as an association management company with its principal  
4 place of business in the County of Los Angeles, State of California. At all times relevant  
5 herein ROSS MORGAN is, and has been, the authorized and appointed management  
6 company for the Cross-Complainant Association.

7 4. Association is informed and believes that Cross-Defendants FREDERICK  
8 M. BROWN and TERRI R. BROWN are at all times relevant hereto husband and wife, and  
9 since approximately March 21, 1994 have been the residents and owners of the subject  
10 property, specifically 4393 N. Willow Glen Street, Calabasas, California 91302, also known  
11 as Lot 39 of Tract No. 44446 in the City of Calabasas, as per the map recorded in book  
12 1104, pages 55 through 58, of the County Recorder of the County of Los Angeles. A copy  
13 of the Grant Deed is attached hereto at Exhibit "C." By virtue of their ownership of the  
14 subject property, Cross-Defendants are members of the Association and are bound by the  
15 provisions of its governing documents including its By-Laws, CC&Rs, Rules and  
16 Regulations, and Architectural Guidelines.

17 5. Association is informed and believes and thereon alleges , that Cross-  
18 Defendant VALLEYCREST LANDSCAPE MAINTENANCE, INC (hereinafter  
19 "VALLEYCREST") is, and at all time relevant herein was, a corporation doing business in  
20 the County of Los Angeles, State of California, and is the landscape maintenance  
21 contractor for Cross-Complainant Association.

22 6. Association is unaware of the true names, entities and capacities, whether  
23 individual, corporate, associate or otherwise, of any Cross-Defendants sued herein as  
24 Roes 1 through 20 , and Association will amend this complaint to allege their true names  
25 and capacities when ascertained. Each of the Cross-Defendants, including those identified  
26 by fictitious names are, and at all times relevant hereto were, acting for themselves, and  
27 or as an agent, servant, or employee of each of their co-Cross-Defendants, and is in some  
28 manner liable and responsible to Association on the facts herein alleged.

1           7.       The applicable portions of the governing documents include Article XII,  
2 Section 11, of the CC&Rs which pertains to architectural review of an exterior alteration.  
3 This section states as follows:

4           "The Association shall obtain the services of a licensed architect to review any  
5 proposed alteration to the exterior or painting of buildings within the property. Said  
6 Architect shall approve such alterations which are, in his opinion, compatible with  
7 the original design and color scheme of the project."

8           8.       The Architectural Guidelines, under the section entitled "Application to  
9 Architectural Review Committee" provide at Section A therein as follows:

10          "1. Before commencing any exterior alteration, the owner planning such alteration  
11 must submit to the Committee a written request for approval. The Owner's request  
12 shall include plans and specification, and, if appropriate, a sample of material and/or  
13 colors to be used.

14          2. An 'exterior alteration' includes, without limitation, the construction, installation,  
15 alteration or remodeling of any buildings, walls, decks, fences, swimming pools,  
16 landscaping, landscaping structures, skylights, spas, antennas or any structure of  
17 any kind and any change in exterior paint color. The term encompasses changes to  
18 any portion of an owner's lot, not just changes visible from the street.

19          3. The Committee will review all submissions. When appropriate, the Committee  
20 will refer the proposed alteration to a licensed architect for review and comment.

21          4. The Committee will respond in writing to all submissions within thirty (30) days."  
22 The Rules and Regulations, at Article II entitled "Homeowners and Tenants  
23 Responsibilities", Section F, provides:

24          "Any plan to change the architecture in the front of your house (i.e. porch, garden  
25 wall, etc.) must be submitted to the chairperson of the architecture committee.  
26 Plans with scaled drawing must be submitted in duplicate. This will be approved or  
27 denied after review by the committee and the Board of Directors within 10 business  
28 days."

1           9. The Rules and Regulations provide at Article V, entitled "Enforcement" provides  
2 as follows at Section "F":

3           "Except as otherwise expressly provided herein, the Board of Directors and  
4 Community Property Management (CPM) shall have the right to enforce any and  
5 all of the provisions of the CC&Rs and Rules and Regulations against any  
6 homeowner. Such right shall include an action for damages, as well as an action  
7 to enjoin any violation of the CC&Rs and Association Rules and Regulations. If  
8 such an action is brought by the Board, the prevailing party shall be entitled to court  
9 costs, reasonable attorneys fees and costs."

10          10. In addition to having been a resident in the development for over 19 years,  
11 Cross-Defendant FREDERICK M. BROWN was a past member of Association's Board  
12 of Directors. Further, both Cross-Defendants were plaintiff's in a lawsuit which was filed  
13 in or about June of 2002, known as *Frederick M. Brown and Terri R. Brown v. Dahl-Davis,*  
14 *Inc. et. al.*, Los Angeles County Superior Court case number BC273875, against  
15 Association, its former manager, and others, wherein they alleged that a neighbor had  
16 constructed a "cement fence" ". . . in violation of STONECREEK's conditions, covenants  
17 and restrictions." As such, Cross-Defendants have both constructive and actual notice of  
18 the requirements in the CC&Rs, Rules and Regulations, and Architectural Guidelines, for  
19 modifications to their property.

20          11. On or about June 5, 2013, Association learned that Cross-Defendants  
21 initiated construction of a wall on the front of their property, to the right of the driveway from  
22 the residence to the sidewalk, without first obtaining prior approval from Association's  
23 Architectural Review Committee as required in the above referenced provisions of the  
24 governing documents. On that day the property manager, ROSS MORGAN, directed a  
25 "cease and desist" letter to the Cross-Defendant requesting that they stop work on the wall  
26 immediately and comply with the architectural submittal process.

27          12. In response to ROSS MORGAN's letter of June 5, Cross-Defendant TERRI R.  
28 BROWN, an attorney, directed a letter to ROSS MORGAN dated June 7, 2013 purporting

1 to justify Cross-Defendants' actions due to their complaints of "ongoing water damage to  
2 our house from water sprinklers, to no avail." Mrs. BROWN wrote that the wall was  
3 needed to remedy water damage and to prevent future water damage to their house.  
4 Pursuant to the Association's CC&Rs, the Association is obligated to maintain the front  
5 yards of the lots within the development, including the landscaping thereon. Mrs. BROWN  
6 concluded the letter with the threat that "to avoid litigation", she sought written confirmation  
7 that the improvement "would not be contested."

8 13. Association's records contain no reference to any complaint of water damage  
9 to the house from Cross-Defendants dated before they started construction of the subject  
10 wall. The records do reflect that in May 2007 Mr. BROWN requested that the landscape  
11 company, Cross-Defendant VALLEY CREST LANDSCAPE MAINTENANCE, not reinstall  
12 the irrigation system at the front yard, and that he would take responsibility for the watering  
13 of his front yard from that time forward. VALLEY CREST and Association complied with  
14 Mr. BROWN's request by capping off the sprinklers at Cross-Defendants front yard.

15 14. Despite ROSS MORGAN's cease and desist letter of June 5, 2013, Cross-  
16 Defendants did not cease and desist, and instead continued with the construction of the  
17 wall. Association was forced to retain counsel who directed another cease and desist letter  
18 dated June 14, 2013 to Cross-Defendants. On that same day counsel received Cross-  
19 Defendants' incomplete Architectural Approval Request form.

20 15. While their incomplete application was still pending with Association's  
21 Architectural Review Committee, on June 18, 2013 Association observed that Cross-  
22 Defendants had started the process of constructing yet a second similar wall on the left  
23 side of the driveway, along the property line with their neighbors on that side. Again,  
24 construction of this second wall was started without Cross-Defendants obtaining prior  
25 approval from Association's Architecture Committee.

26 16. By letter dated June 28, 2013, counsel for Association advised Cross-  
27 Defendants that their application for the first wall had been denied due to a number of  
28 deficiencies including: failure to provide a description of the improvement including



1 dimensions, the material used, and its color; failure to provide the location of the  
2 improvement on a plot plan; failure to provide elevations of the proposed improvement  
3 relating to the existing dwelling; and failure to complete the neighbor advisement portion  
4 of the application. The letter requests that Cross-Defendants resubmit a complete and  
5 accurate Architectural Approval Request form for the first wall, and stop all work on the  
6 second wall until an application for that wall is submitted and approved. Counsel warns  
7 that should Cross-Defendants fail to comply with the requests in the letter, Association may  
8 resort to court action.

9       17. Notwithstanding counsel's letter of June 28, Cross-Defendants continued  
10 work on the second wall. By his letter of July 1, 2013, counsel again requested that Cross-  
11 Defendants cease and desist work on the second wall and threatened court action.

12       18. On July 1, 2013 the manager received a second Architectural Approval  
13 Request which added a signature of one of Cross-Defendants' adjacent neighbors. This  
14 second application also makes a reference "walls" such that it purports to pertain to both  
15 new unapproved walls. No other additional information over what was contained in the  
16 first application was provided. On July 2<sup>nd</sup> counsel received TERRI R. BROWN's letter of  
17 that date stating that the second wall was "necessary because of Stone Creek, Ross  
18 Morgan and Valley Crest's continuing failure to address the ongoing issue of water damage  
19 to our house." Mrs. BROWN also stated in her letter that all work by them stopped on the  
20 wall on July 1, 2013.

21       19. Despite the representation of Mrs. BROWN in her letter of July 2<sup>nd</sup> that the  
22 work on the second wall had stopped on July 1, on the morning of July 2<sup>nd</sup> Association  
23 observed that work was progressing on the wall. On that day counsel directed an email  
24 to Mrs. BROWN again requesting that all work on the wall stop under threat of legal action.

25       20. Counsel's email had no affect on Cross-Defendants as work continued  
26 on both walls. The photographs attached hereto at Exhibit "D" show the two unapproved  
27 walls as they stand to date. Counsel directed yet another letter dated July 8, 2013 to Mrs.  
28 BROWN advising that the second Architectural Approval Request had been denied due

1 to insufficiencies including that fact that only one neighbor signed, and it failed to provide  
2 any information regarding dimensions including height and length. Unbeknownst to  
3 Association the Cross-Defendants had filed this action on July 2, 2013, though it had not  
4 been served. The letter also demands that since both walls are inconsistent with other  
5 smaller, less obtrusive walls within the community due to their length, height and proximity  
6 to the sidewalk, that Cross-Defendants immediately remove the walls within ten days. The  
7 letter also informs Cross-Defendants that the wall on the left hand side has damaged  
8 Association's irrigation pipes and sprinkler heads, and that Association will determine the  
9 cost of repair and will seek reimbursement from Cross-Defendants. In addition the letter  
10 advises of a scheduled hearing of the Board of Directors wherein discipline of the Cross-  
11 Defendants for the offending walls pursuant to California *Civil Code* Section 1363(g) will  
12 be considered and that Cross-Defendants have the right to attend the hearing. This  
13 meeting the

14 21. Cross-Defendants have not removed the offending walls as requested.  
15 Without any further efforts to communicate with Association or its counsel, Cross-  
16 Defendants filed the Complaint initiating this action on July 2, 2013, the same day that Mrs.  
17 BROWN represented that all work had stopped on the construction of the walls.

#### 18 **FIRST CAUSE OF ACTION**

#### 19 **(Association's Cause of Action for Breach of CC&Rs, Architectural Guidelines, 20 and Rules & Regulations Against Cross-Defendants.)**

21 22. Association incorporates paragraphs 1 through 20 of this Cross-Complaint  
22 as though set forth in full herein.

23 23. Cross-Defendants' FREDERICK M. BROWN and TERRI R. BROWN  
24 knowing and intentional commencement and completion of construction of the two walls  
25 on their property without first submitting the required Architectural Approval Request, and  
26 obtaining approval by Association's Architectural Review Committee, constitutes a breach  
27 of the following provisions of Association's governing documents: Article XII, Section 11,  
28 of the CC&R's; Section A(1) & (2) of the Architectural Guidelines; and Article II, Section F



1 of the Rules and Regulations.

2 24. Association seeks damages due to the Cross-Defendants' breach of the  
3 governing documents for the cost of repair of the damaged irrigation pipes and sprinklers  
4 heads caused by the construction of the second wall on the property of Cross-Defendants'  
5 neighbor at 4391 Willow Glen Street. The amount of Association's claim will be proven  
6 and established before the trial of this matter.

7 25. As a result of Cross-Defendants' breaches, and to enforce the provisions of  
8 the CC&Rs, Architectural Guidelines, and Rules and Regulations, Association has been  
9 compelled to retain counsel and to bring this action and incur attorneys' fees and costs.  
10 Pursuant to *Civil Code* § 1354 (c), and Article V of the Rules and Regulation, entitled  
11 "Enforcement", Section (F), the prevailing party in any action to enforce the provisions of  
12 the Association's governing documents is entitled to an award of its reasonable attorneys  
13 fees and costs.

## 14 **SECOND CAUSE OF ACTION**

### 15 **(Association's Cause of Action for Injunctive Relief Against Cross-Defendants.)**

16 26. Association incorporates paragraphs 1 through 20 of the Cross-Complaint  
17 as though set forth in full herein.

18 27. As stated above, Cross-Defendants FREDERICK M. BROWN and TERRI R.  
19 BROWN continue to refuse to comply with the CC&Rs, Architectural Guidelines, and Rules  
20 and Regulations by refusing to remove the unapproved block walls from their front yard.

21 28. Article II, Section (3)(a)(ii) of the CC&Rs provides as follows:

22 "The Association shall have the power and authority from time to time, in its own  
23 name and on its own behalf, or on behalf of any owner or owners who consent  
24 thereto, to commence and maintain actions and suits at law for damages or in  
25 equity to restrain and enjoin any breach or threatened breach of any provision of  
26 this Declaration or the Bylaws."

27 29. Further, Article X, Section 4, of the CC&Rs declares as follows:

28 "Every act or omission in violation of the provisions of this Declaration shall

1 constitute a nuisance and, in addition to all other remedies herein set forth, may be  
2 abated or enjoined by any owner, any member of the Board, the manager or the  
3 Association.”

4 30. These provisions of the CC&Rs constitute an express agreement by all  
5 parties to the CC&Rs that injunctive relief is an appropriate remedy to enforce the terms  
6 of the CC&Rs. Injunctive relief compelling compliance with Association’s governing  
7 documents is the only appropriate remedy to enforce the provisions of said documents and  
8 to abate the nuisance created by Cross-Defendants’ construction and maintenance of the  
9 offending walls on the front yard of their property.

10 31. Based on the Association’s CC&Rs at Article XII, Section 11, its Architectural  
11 Guidelines at Section A, and its Rules and Regulations at Article II, Section F, Cross-  
12 Defendants were obligated to submit the fully completed Architectural Approval Request  
13 form with sufficient specificity of their plan to allow the Architectural Review Committee the  
14 opportunity to review the plan for appropriateness, including the opportunity to pass said  
15 plan before and independent architect for review. Association was never given that  
16 opportunity to review the plans before the Cross-Defendants completed construction of the  
17 walls. The Cross-Defendants went forward with the project, finished the first wall, and  
18 started and finished the second wall, even after they received letter after letter from the  
19 manager and from counsel to cease and desist until approval was obtained.

20 32. Unless and until a mandatory injunction compelling the Cross-Defendants to  
21 remove the offending, unapproved, walls from their property is issued by this Court, the  
22 Association and its members will continue to be damaged due to the nuisance created by  
23 Cross-Defendants, and because they will not be able to effectively enforce the provisions  
24 of the CC&Rs, thereby denying the members and the Association the benefits intended  
25 under the CC&Rs, Architectural Guidelines, and Rules and Regulations, including, but not  
26 limited to, maintaining, controlling and preserving Stone Creek as a residential and  
27 recreational community and the beauty and appeal of the development for all current and  
28 future owners. Monetary relief will not be adequate or sufficient to enable Association to

1 enforce its governing documents.

2 33. As the result of the breaches of the Cross-Defendants FREDERICK M.  
3 BROWN and TERRI R. BROWN, and to enforce the provisions of its governing  
4 documents, Association has been forced to retain counsel and to bring this Cross-action  
5 and thereby incur attorneys fees and costs. Pursuant to *Civil Code* § 1354 (c), and Article  
6 V of the Rules and Regulation, entitled "Enforcement", Section (F), the prevailing party in  
7 any action to enforce the provisions of the Association's governing documents is entitled  
8 to an award of its reasonable attorneys fees and costs.

9 **THIRD CAUSE OF ACTION**

10 **(Association's Cause of Action For Declaratory Relief)**

11 34. Association incorporates paragraphs 1 through 21 of this Cross-Complaint  
12 as though set forth in full herein.

13 35. An actual controversy has arisen between Association and the Cross-  
14 Defendants FREDERICK M. BROWN and TERRI R. BROWN, and each of them, in that  
15 Association maintains that the CC&Rs, Architectural Guidelines, and Rules and  
16 Regulations prohibit Cross-Defendants from constructing the two non-conforming  
17 unapproved block walls at the front yard of their property without first submitting the  
18 required Architectural Approval Request, and obtaining prior written approval of the  
19 Architectural Review Committee. Said CC&Rs, Guidelines, and Rules and Regulations  
20 entitle Association to obtain an injunction compelling the removal of same. Crosss-  
21 Defendants apparently contend that they are not bound by the provisions of the CC&Rs,  
22 Guidelines or Rules.

23 36. A judicial determination and declaration of the respective rights and duties  
24 under the CC&Rs, Architectural Guidelines, and Rules and Regulations, and specifically  
25 a determination of whether the provisions prohibiting the construction of the non-  
26 conforming block walls without prior approval of the Association's Architectural Review  
27 Committee is enforceable against Cross-Defendants. Such a declaration is necessary at  
28 this time so that parties can determine their rights under the governing documents.

1 Accordingly, Association requests that this Court adjudicate the controversy, interpret the  
2 CC&Rs, Guidelines, and Rules and Regulations, and issue a declaration of the rights,  
3 duties, and obligations of the parties under the Association's governing documents.

#### 4 **FOURTH CAUSE OF ACTION**

##### 5 **(Implied Indemnity)**

6 37. Cross-Complainants hereby incorporate by reference as though fully set  
7 forth herein, each and every allegation contained in paragraphs 1 through 21 of this Cross-  
8 Complaint.

9 38. Plaintiff in the underlying action, Frederick M. Brown, an individual, filed a  
10 Complaint for personal injury and property damage on July 2, 2013 in the Superior Court  
11 for the County of Los Angeles, case no. LC100511. The Complaint in the main action is  
12 incorporated by reference as though fully set forth at this place for the purposes of  
13 illustrating its allegations only.

14 39. Cross-Complainants, as defendants in the main action, have answered the  
15 Complaint denying its material allegations, and setting up various affirmative defenses.  
16 Said Answers are incorporated by reference as though fully set forth at this place.

17 40. Cross-complainants are informed and believe and, upon such information  
18 and belief allege, that Cross-defendants are legally responsible in some manner for the  
19 events and happenings which give rise to the above-entitled action and caused the  
20 damages alleged.

21 41. Cross-complainants had no control or direction over the conduct of Cross-  
22 defendants, had no reasonable expectation that Cross-defendants would act in anything  
23 other than a safe, proper and workmanlike manner, and had no opportunity to protect  
24 themselves against any negligent conduct of Cross-defendant.

25 42. Cross-complainants are in no way negligent, careless, or reckless with  
26 respect to any acts alleged in the Complaint in the main action. If any unlawful or improper  
27  
28

1 conduct occurred as alleged by the Plaintiff in his Complaint, the acts of the Plaintiff and  
2 Cross-defendants constituted the sole and proximate cause of the damages on which  
3 Plaintiff's claims against Cross-complainants are predicated.

4 43. If Cross-complainants are found liable in the above-entitled action, liability will  
5 solely be of a vicarious and secondary nature, based upon the direct, primary, active and  
6 affirmative misconduct of Plaintiff and Cross-defendants, as set forth herein. By reason  
7 of the foregoing acts, Cross-complainants would be entitled to indemnification from Cross-  
8 defendants, in the amount that Cross-complainants may become obligated to pay.

9 **FIFTH CAUSE OF ACTION**

10 **(Equitable Indemnity)**

11 44. Cross-complainant hereby incorporates by reference as though fully set  
12 forth herein, each and every allegation contained in paragraphs 1 through 21 of this  
13 Cross-complaint.

14 45. Cross-complainants by their Answers have denied, and continue to deny,  
15 that they were in any way negligent or otherwise at fault, whether as alleged in Plaintiff's  
16 Complaint, or at all, or that any act or omission of Cross-complainants directly or  
17 proximately resulted in injury or damage to Plaintiff, whether as alleged in his  
18 Complaint, or otherwise at all.

19 46. Cross-complainants have asserted certain affirmative defenses, including  
20 the defense that the injuries and damages, if any, sustained by Plaintiff were  
21 proximately caused and/or contributed to by the acts of persons and/or entities other  
22 than Cross-complainants, and as such, the acts were an intervening and superseding  
23 cause of said injuries and damages, thus barring Plaintiff from recovery against these  
24 Cross-complainants.

25 47. Plaintiff and Cross-defendants, and each of them, so negligently and  
26 otherwise wrongfully conducted themselves in and about the matters alleged in  
27 Plaintiff's Complaint and as alleged in the causes of action contained therein, and said  
28

1 negligence and wrongful conduct directly and proximately contributed to the incident  
2 therein alleged and to the injuries and damages to Plaintiff, if any.

3 48. Should the allegations of Plaintiff's Complaint be proven and established,  
4 and Cross-complainants are found to be liable to Plaintiff, or to anyone else as a result  
5 of the allegations in Plaintiff's Complaint, such liability, which is specifically denied and  
6 set forth only for the purpose of pleading this cause of action, would be based entirely  
7 upon Cross-complainant's passive conduct, and would attach solely by reasons of the  
8 acts of Cross-defendants as previously alleged.

9 49. Therefore, Cross-complainants are entitled by reason of principles of  
10 equity and justice to be indemnified from, and to be held harmless by, Cross-  
11 defendants because of the direct, primary, immediate, and foreseeable conduct of  
12 Cross-defendants in an amount adjudged in favor of Plaintiff against Cross-  
13 complainants, and in the amount of all costs and expenses incurred, including  
14 attorney's fees incurred by Cross-complainants in defense against Plaintiff's Complaint.

### 15 **SIXTH CAUSE OF ACTION**

#### 16 **(Expressed Indemnity)**

17 50. Cross-complainants hereby incorporate by reference as though fully set  
18 forth herein, each and every allegation contained in paragraphs 1 through 21 of this  
19 Cross-complaint.

20 51. Cross-complainant STONE CREEK HOMEOWNERS ASSOCIATION has  
21 contracted with Cross-Defendant VALLEYCREST LANDSCAPE MAINTENANCE, INC.  
22 (hereafter "VALLEYCREST") for landscape maintenance work at the development  
23 including maintenance of the front yards of the residences. VALLEYCREST performed  
24 certain maintenance work at the front yard of the Cross-Defendants residence,  
25 including but not limited to maintaining the lawns and irrigation systems, including  
26 capping off of the irrigation system at the request of the Cross-Defendant FREDERICK  
27 M. BROWN. A copy of VALLEYCREST's Proposal for Landscape Management  
28 Services, including its Terms and Conditions page, is attached hereto at Exhibit "E".



1 Association cross-complains against VALLEYCREST for expressed Indemnity as  
2 specified in paragraph 9 of VALLEYCREST's Proposal. Said provision provides in  
3 relevant part: "Contractor shall indemnify the Client/Owner its agents and employees  
4 from liabilities which arise out of the contractor's work."

5 52. To the extent any of plaintiff's damages arise out of any work performed  
6 by VALLEY CREST, Association is entitled to be indemnified for any such damages it  
7 may be called upon to pay by settlement of verdict, and for any attorneys fees and  
8 costs incurred in connection with defending said claims.

9 **SEVENTH CAUSE OF ACTION**

10 **(Contribution)**

11 53. Cross-complainants incorporate by reference as though fully set forth  
12 herein each and every allegation contained in paragraphs 1 through 21 of this Cross-  
13 complaint.

14 54. Cross-complainants were in no way negligent or responsible for the acts,  
15 injuries or damages alleged in Plaintiffs' Complaint. However, if as a result of the  
16 matters alleged in Plaintiffs' Complaint, Cross-complainants are held liable for all or part  
17 of the claims asserted against it, the Cross-defendant, to the extent of its fault as  
18 determined by the Court, is obligated to reimburse, and will be liable to Cross-  
19 complainants for all or any liability so assessed by way of contribution. Accordingly,  
20 Cross-complainants assert their right to such contribution.

21 **WHEREFORE**, Cross-Complainants pray for judgment against all Cross-  
22 Defendants, and each of them and all Roes as follows:

23 **A. First Cause of Action: Breach of CC&Rs**

- 24 1. For damages caused by the breach of the CC&Rs, Architectural Guidelines,  
25 and Rules and Regulations in an amount according to proof;  
26 2. For damages to Association's irrigation system caused by Cross-Defendants  
27 construction of the unapproved and offending walls in an amount to be  
28 proven by the time of trial;



3. Prejudgment interest at the legal rate from the date of breach;
4. For Attorneys fees and costs of suit; and,
5. For such other and further relief as the court deems just and proper.

**B. Second Cause of Action: Injunctive Relief**

1. An order compelling Cross-Defendants FREDERICK M. BROWN and TERRI R. BROWN to immediately remove the unauthorized and non-conforming block walls on their property.
2. For Attorneys fees and costs of suit; and,
3. For such other and further relief as the court deems just and proper.

**C. Third Cause of Action: Declaratory Relief**

1. A judicial determination that the provisions of the CC&Rs, Architectural Guidelines, and Rules and Regulations are enforceable against Cross-Defendants and that Cross-Defendants breached said documents by constructing the unapproved and non-conforming block walls on their front yard.
2. For Attorneys fees and costs of suit; and,
3. For such other and further relief as the court deems just and proper.

**D. Fourth Cause of Action: Implied Indemnity**

1. For judgment against Cross-defendants by way of partial or total indemnity for the sum Cross-complainants must pay, if any such sum, when compared to the total judgment for Plaintiff or others, is in excess of the proportionate amount of Cross-complainant's negligence, if any, as assessed by the trier of fact;

**E. Fifth Cause of Action: Equitable Indemnity**

1. For judgment based on equitable indemnity principles against Cross-defendants by way of partial or total indemnity for the sum Cross-complainants must pay, if any such sum, when compared to the total

1 judgment for Plaintiff or others, is in excess of the proportionate amount of  
2 Cross-complainant's negligence, if any, as assessed by the trier of fact;

3 **F. Sixth Cause of Action: Expressed Indemnity**

4 1. For judgment against Cross-defendant VALLEYCREST by way of  
5 partial or total indemnity for the sum or sums Association may pay for  
6 damages to Plaintiff arising out of any work of VALLEYCREST, including  
7 attorneys fee and costs incurred to defend those claims, pursuant to its  
8 contract for landscape maintenance services

9 **F. Seventh Cause of Action: Contribution**

- 10 1. For judgment against Cross-defendants by way of indemnification or  
11 contribution for any sum adjudged against cross-complainants, if any, in favor  
12 of Plaintiff or others herein;  
13 2. For judgment over and against Cross-defendants in the amount that the  
14 Plaintiff may recover against the Cross-complainants;

15  
16 DATED: August 22, 2013

LOEWENTHAL, HILLSHAFER & CARTER,  
LLP


17  
18  
19 By:

  
David A. Loewenthal  
Arturo T. Salinas  
Attorneys for Cross-Complainant STONE  
CREEK HOMEOWNERS ASSOCIATION

20  
21 DATED: August 22, 2013

HEIGHT BROWN & BONESTEEL

22  
23  
24 By:

  
Gary A. Bagge, Esq.  
Blythe Golay, Esq.  
Attorneys for Defendants and Cross-  
Complainants, STONE CREEK  
HOMEOWNERS ASSOCIATION and ROSS  
MORGAN & COMPANY, INC.

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Recording requested by, and  
when recorded mail to

Loren C. Phillips  
Attorney at Law  
P.O. Box 660  
Duarte CA 91010

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made as of the date set forth below  
by the undersigned Declarant.

R E C I T A L S

1. Declarant is the owner of certain real property located in the County of Los Angeles, (hereinafter referred to as "said County"), - State of California, described in Exhibit "A" attached hereto, as Lots 1 - 42, inclusive, of Tract No. 43724, in the unincorporated territory of the County of Los Angeles, as per map recorded in Book 1089 , Page(s) 74-79 of Maps, in the Office of the County Recorder of said County.

2. Said real property is to be improved as a residential subdivision.

3. Each residential lot, as hereinafter defined, shall have as appurtenant to it a membership in Stone Creek Homeowners Association.

4. All of said real property, including all structures and other improvements thereon, is hereby defined and shall hereinafter be referred to as the "development".

## DECLARATION

NOW, THEREFORE, Declarant hereby declares that the real property described in Recital 1 above is, and shall be conveyed, hypothecated, encumbered, leased, used and occupied subject to the following limitations, restrictions, easements, covenants, and conditions, all of which are declared and agreed to be in furtherance of a plan of residential development for the subdivision, improvement, protection, maintenance and sale of lots within the aforesaid real property and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the aforesaid real property. All of said limitations, restrictions, easements, covenants and conditions are equitable servitudes which shall run with the land, and shall be binding upon and inure to the benefit of the successors in interest of such parties.

## ARTICLE I DEFINITIONS

1. The "Association" shall mean and refer to Stone Creek Homeowners Association, its successors and assigns.

2. The "Board" shall mean the Board of Directors of the Association.



3. The "Bylaws" shall mean the bylaws of the Association adopted by Declarant, as such bylaws may be amended from time to time.

4. A "Residential Lot" shall mean Lots 1 through 42, inclusive, of Tract No. 43724 and to any Lots annexed to the Development as described in Article XI.

5. The "Maintenance Area" shall mean the total of all the areas described in Article XII, "Local Jurisdiction and Special Covenants."

6. The "Declarant" shall mean Las Virgenes Homes, a California Limited Partnership, their successors and assigns, if such successors and assigns acquire or hold title to all, or any portion of the development for development purposes.

7. A "Member" shall mean every person or entity who holds a membership in the Association through ownership in a lot.

8. An "Owner" shall mean each person and entity holding a record ownership interest in a lot including the Declarant. The term "Owner" shall not include persons or entities who hold an interest in a lot merely as security for the performance of an obligation.

9. "Subdivider" shall have the same meaning as "Declarant", defined above.

10. A "Subdivision Interest" is the ownership interest held by an "Owner", defined above.

ARTICLE II  
THE ASSOCIATION

1.     Formation.     The Association shall be an unincorporated association formed under the laws of the State of California, and upon the close of the first lot sale to an owner, shall be and become charged with the duties and invested with the powers set forth in the Bylaws and this Declaration, including, but not limited to, maintenance of the maintenance area. The Bylaws shall not, for any reason, be amended or otherwise changed or inter-preted so as to be inconsistent with this Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail.

2.     Association Action; Board of Directors and Officers.     Except as to matters expressly requiring the approval of members as set forth in this Declaration or the Bylaws, the affairs of the Association shall in all instances be conducted by the Board and such officers as the Board may elect or appoint, such election or appointment to be in accordance with the Bylaws, as the same may be amended from time to time.

3.     Powers and Duties of Association.

      a)     Powers.     The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under this Declaration and the Bylaws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association, including, without limitation to the following:

              (i)     Assessments.     The Association shall have the power to establish, fix and levy assessments against the owners of lots and to enforce payment of such assessments, all in accordance with the provisions of this Declaration.

(ii) Right of Enforcement. The Association shall have the power and authority from time to time, in its own name and on its own behalf, or on behalf of any owner or owners who consent thereto, to commence and maintain actions and suits at law for damages or in equity to restrain and enjoin any breach or threatened breach of any provisions of this Declaration or the Bylaws.

(iii) Delegation of Powers. The Association, acting by and through the Board, shall have the authority to delegate its powers, duties and responsibilities to committees or employees, including a professional managing agent (sometimes hereinafter referred to as the "manager").

b) Powers and Limitations of the Board of Directors. The powers and duties of the Board of Directors shall normally include, but shall not be limited to, the following:

(i) Enforcement of applicable provisions of the Declaration, Bylaws, and other instruments for the ownership, management and maintenance of the maintenance area.

(ii) Contracting for casualty, liability and other insurance on behalf of the Association.

(iii) Contracting for goods and/or services for the Association, subject to the limitations set forth below.

(iv) Delegation of its powers to committees, officers or employees of the Association as expressly authorized by the governing instruments.

(v) Preparation of budgets and financial statements for the Association as prescribed in the governing instruments.

(vi) Entering upon any privately owned subdivision interest as necessary in connection with construction, maintenance or emergency repair for the benefit of the maintenance area, or the owners in common.

(vii) Election of officers of the governing body.

(viii) Filling vacancies on the governing body except for a vacancy created by the removal of a governing body member.

c) The governing body of the Association shall ordinarily be prohibited from taking any of the following actions, except with the affirmative vote or written assent of both: a majority of the total voting power of the Association and a majority of the votes of members other than the subdivider:

(i) Entering into a contract with a third person or entity wherein said person or entity will furnish goods or services for the maintenance area, or for the Association, for a term of longer than one (1) year, with the following exceptions:

- a. A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

b. Prepaid casualty and/or liability insurance policies are not to exceed three (3) years duration provided that the policy permits for short-rate cancellation by the insured.

(ii) Incurring aggregate expenditures for capital improvements to the maintenance area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(iii) Paying compensation to members of the governing body or to officers of the Association for services performed in the conduct of the Association's business, provided, however, that the governing body may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

(iv) Filling of a vacancy on the governing body created by the removal of a governing body member.

d) Duties of the Association. In addition to powers delegated to it in the Bylaws, and without limiting the generality thereof, the Association, acting by and through the Board, or by and through persons or entities described in Paragraph a) (iii), above, if applicable, shall have the obligation to conduct all business affairs of common interest to all owners, and to perform each of the following duties:

(i) Operation and Maintenance of the Maintenance Area. Operate, maintain and otherwise manage or provide for the operation, maintenance and management of, the maintenance area, and all facilities, improvements and landscaping thereon in a first-class condition and in a good state of repair. In this connection, the Association may employ a managing agent and may enter into contract for services or materials for the benefit of the Association or the maintenance area, provided, however, that the term of any such service contract shall not exceed one (1) year unless approved by members as provided in Section 3 of this Article.

(ii) Water and Other Utilities. Acquire, provide and/or pay for water, sewer, garbage disposal, refuse and rubbish collection and electrical, and other necessary utility services for the maintenance area and for lots when the lots are not separately billed therefor. The Association shall guarantee payment to the jurisdiction stated in Article XII for all proper invoices for water, sewer service charges, garbage, trash or rubbish charges.

(iii) Insurance. Obtain, from reputable insurance companies, and maintain in effect, the insurance described in Article VI hereof.

(iv) Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce any of the provisions of this Declaration, the Bylaws, the Association rules and any Board resolutions.

e) Absolute Limitations on Association. The Association shall have no power to cause a forfeiture or abridgement of an owner's right to the full use and enjoyment of his individually-owned subdivision interest on account of the

failure by the owner to comply with provisions of the governing instruments or of duly enacted Association rules for operation of the maintenance areas and facilities except by judgment of a court, or a decision arising out of arbitration.

4. Personal Liability. No member of the Board, or any committee of the Association, or any officer of the Association, or the manager, if any, or Declarant, or any agent of Declarant, shall be personally liable to any owner, or to any party, including the Association, for any damage, loss or prejudice suffered or claimed on the account of any act, omission, error or negligence of any such person or entity, provided that such person or entity has, upon the basis of such information as may be possessed by him or it, acted in good faith without willful or intentional misconduct.

5. Annual Meeting and Notice. An organizational meeting shall be held as soon as practicable following issuance by the California Department of Real Estate of the first Final Public Report covering the development, and the directors elected thereat shall hold office until the first annual meeting. Until the first annual meeting, representatives of Declarant may act as directors and officers of the Association. The first election of a governing body for the Association shall be conducted at the first meeting of the Association. All positions on the governing body shall be filled at that election. The first annual meeting of members of the Association shall be held not later than six (6) months after the closing of the sale of the first lot within the development, or forty-five (45) days after the closing of the sale comprising at least fifty-one percent (51%) of the lots, whichever occurs first. Thereafter, annual meetings of the Association shall be held within one week before or after the anniversary date of said first annual meeting on a day to be determined by the Board which day shall not be a legal holiday.



Special meetings may be called as provided for in the Bylaws. Notice of all members meetings, annual or special, shall be given by regular mail or telegrams and shall be given not less than ten (10) days nor more than ninety (90) days prior to the time of said meeting and shall set forth the place, date and hour of the meeting, and the nature of business to be undertaken. All such meetings shall be held within the development or as close thereto as practicable, at a reasonable place selected by the Board. The presence at any meeting in person or by proxy of members entitled to cast at least fifty percent (50%) of the total votes of all members of the Association shall constitute a quorum. In the absence of a quorum at a members' meeting a majority of those present in person or by proxy may adjourn the meeting to another time, but may not transact any other business. An adjournment for lack of a quorum by those in attendance shall be to a date not less than five (5) days and not more than thirty (30) days from the original meeting date at which adjourned meeting the quorum requirements shall be twenty-five percent (25%) of said total votes. If a time and place for the adjourned meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to members in the manner prescribed for regular meetings. Any meeting of members whereat a quorum is present may be adjourned for any reason to a time not less than five (5) days nor more than thirty (30) days from the time of such meeting by members representing a majority of the votes present thereat in person or by proxy.

6. Audit and Annual Operating Statement. Financial statements for the Association shall be regularly prepared and distributed to all members regardless of the number of members or the amount of assets of the Association as follows:

a) A budget for each fiscal year shall be distributed not less than forty-five (45) days nor more than sixty (60) days prior to beginning of the fiscal year in accordance with Article IV, Section 4.

b) A balance sheet as of an accounting date which is the last day of the month closest in time to six (6) months from the date of closing of the first sale of an interest in the subdivision and an operating statement for the period from the date of the first closing to said accounting date, shall be distributed within sixty (60) days after the accounting date in accordance with Article IV, Section 4. Other financial information shall be provided in accordance with said Section 4.

7. Action Without a Meeting. The governing body may take actions without a meeting if all of its members consent in writing to the actions to be taken. Where the governing body resolves by unanimous written consent to take action, and explanation of the action taken shall be posted at a prominent place or places within the maintenance area within three (3) days after the written consents of all governing body members have been obtained.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

#### 1. Membership.

a) Qualifications. Each owner of a lot, including Declarant, shall be a member of the Association. Ownership of a lot or interest therein shall be the sole qualification for and entitlement to membership in the Association. Each owner shall remain a member of the Association until such time as his ownership or ownership interest in all lots in the development ceases for any reason, at which time his membership in the Association shall automatically cease. A member is not intended to include persons or entities who hold an interest in a lot merely as security for performance of an obligation.

b) Members' Rights and Duties. Each member shall have the rights, duties and obligations set forth in this Declaration, the Bylaws and the Association rules, as the same may from time to time be amended.

c) Transfer of Membership. The Association membership of each person or entity who owns, or owns an interest in, a lot shall be appurtenant to such lot, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon a transfer of title to each such lot or interest therein and then only to the transferee thereof. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a lot or interest therein shall operate automatically to transfer the membership rights in the Association appurtenant thereto to the new owner thereof.

## 2. Voting.

a) Number of Votes. The owner or, collectively, the owners, of each lot shall have one (1) vote for each lot owned.

b) Joint Owner Votes. The voting rights for each lot may not be cast on a fractional basis. In the event that the joint owners of a lot are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit same as to the matter in question. If any owner or owners cast the voting rights of a particular lot, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other owners of the same lot. In the event more than one (1) person or entity casts the voting rights for a particular lot, said voting rights shall not be counted and shall be deemed void.

c) Cumulative Voting.

(i) a. Cumulative voting in the election of governing body members shall be prescribed for all elections in which more than two positions on the governing body are to be filled. Voting for the governing body shall be by secret written ballot. No member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting, and the member has given notice at the meeting prior to the voting of the member's intention to cumulate votes. If any one member has given such notice, all may cumulate their votes for candidates in nomination.

b. Unless the entire governing body is removed from office by the votes of Association members, no individual governing body member shall be removed prior to the expiration of his term of office if the number of votes cast against his removal would be sufficient to elect the governing body member if voted cumulatively at an election at which the same total number of governing

body members authorized at the time of the most recent election of the governing body members were then being elected.

- (ii) a. One representative of the governing body shall be elected solely by votes of owners other than the subdivider. At any election of a governing body member or members, the votes cast by the subdivider shall be segregated from those cast by owners other than the subdivider. The votes of said other owners shall then be counted and the candidate receiving the greatest number of these votes shall be declared elected to the governing body unless there is already a representative on the governing body who has been elected by votes of owners other than the subdivider. The votes cast by the subdivider shall then be counted and the candidates with the greatest number of total votes shall be declared elected to the vacancies on the governing body with the condition that the candidate having been declared elected by votes of members other than the subdivider shall in any case be a member of the governing body.

b. A governing body member who has been elected to office solely by the votes of members of the Association other than the subdivider may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in members other than the subdivider.

#### ARTICLE IV ASSESSMENTS

1. Agreement to Pay. The Declarant, for each lot owned by it in the development which is expressly made subject to assessments as set forth in this Declaration, hereby covenants and agrees and each purchaser of a lot by his acceptance of a deed therefor, whether or not it is so expressed in such deed, is deemed to covenant and agree, for each lot owned, to pay to the Association regular assessments and special assessments, such assessments to be established, made and collected as hereinafter provided.

a) Commencement of Assessments. Assessments for each individual lot, including those belonging to Declarant, shall begin on the first day of the first month following the date that each such lot has been issued a Certificate of Occupancy by the County of Los Angeles.

2. Personal Obligation. Each such assessment, or installment thereof, together with any late charge, subject to limitations of Civil Code SS 1366 or any successor statute, interest thereon, collection costs and reasonable attorney's fees, shall also be the personal obligation of the person or entity who was an owner at the time such assessment, or installments thereof, become due and payable. In the event more than one person or entity was the owner of a lot, the personal obligation to pay such assessment, or installment thereof, respecting such lot shall be both joint and several. No owner of a lot may exempt himself from payment of assessments, or installments thereof, by abandonment of his lot.

3. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the members of the Association, for the improvement, operation and maintenance of the maintenance area, and for the performance of the duties of the Association as set forth in this Declaration.

4. Budgets and Financial Statements. Budgets and financial statements for the Association shall be prepared regularly and copies shall be distributed to each member of the Association as follows:

a) The following financial information shall be regularly prepared and distributed by the governing body to all members regardless of the number of members or the amount of assets of the Association:



(i) A budget for each fiscal year consisting of at least the following information shall be distributed not less than 45 days nor more than 60 days prior to the beginning of the fiscal year.

a. Estimated revenue and expenses on an accrual basis.

b. The amount of the total cash reserves of the Association currently available for replacement or major repair of common facilities and for contingencies.

c. An itemized estimate of the remaining life of, and the methods of funding to defray repair, replacement or additions to major components of the maintenance areas and facilities for which the Association is responsible.

d. A general statement setting forth the procedures used by the governing body in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the maintenance areas and facilities for which the Association is responsible.

ARTICLE V  
COLLECTION OF ASSESSMENTS

1. Right to Enforce. The right to collect and enforce assessments is hereby vested in the Board acting by and on behalf of the Association. The Board or its authorized representatives, including the manager, if any, may enforce the obligations of the owners to pay assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity.

2. No Lien Created. Assessments are the personal obligation of the owner(s) of each Lot and no lien over the real property is created except as the result of a judgment rendered by a court of competent jurisdiction.

3. Protection of Mortgagees.

a) Mortgagees Permitted. Any owner may encumber his lot with a mortgage or a deed of trust.

b) Effect of Breach Hereof. No violation or breach of any provision of these Covenants, Conditions and Restrictions, and no enforcement of any judgment lien resulting therefrom, shall defeat, invalidate or impair the lien of any mortgage or deed of trust made in good faith and for value, but, subject to subsections 3(c) and (d) below, all of said Covenants, Conditions and Restrictions shall be binding upon any owner whose title is derived through foreclosure sale, trustee's sale or otherwise.

e) The governing body of the Association may not, without the vote or written assent of a majority of the voting power of the Association residing in members other than the subdivider, impose a regular annual assessment per subdivision interest which is more than 20% greater than the regular assessment for the immediately preceding fiscal year.

6. Uniform Rate of Assessments. Regular and special assessments must be fixed at a uniform rate for all lots. In this regard, the same shall be determined by dividing the total amount thereof by the total number of lots within the development.

7. Assessment Period. The regular assessment period shall commence on January 1 of each year, and shall terminate on December 31 of such year, and the regular assessments shall be payable in equal monthly installments unless the Board adopts some other basis for collection; provided, however, that the initial regular assessment period shall commence on the first day of the first month following the close of the first sale of a lot to a purchaser (hereinafter referred to as the "initial date") and shall terminate on December 31 of the year in which the initial sale is consummated. The Board, at its discretion, may pro rate the first regular assessment and all subsequent regular and special assessments over the remaining month of the year or levy such assessment immediately against each lot.

8. Notice and Assessment; Installment Due Dates. A single ten (10) days prior written notice of each annual regular assessment and each special assessment shall be sent to the owner or owners of every lot subject thereto wherein the due dates for the payments of installments thereof shall be specified. The due dates for the payment of installments of regular assessments and special assessments shall normally be the first day of each month unless some other due date is established by the Board. Each installment of regular assessments and special assessments shall

become delinquent if not paid within fifteen (15) days after its due date. If an assessment is delinquent, the association may recover all of the following: reasonable costs incurred in collecting the delinquent assessment, including reasonable attorney's fees; a late charge not exceeding 10% of the delinquent assessment or ten dollars (\$10.00), whichever is greater. Interest on all sums imposed in accordance with this section, including the delinquent assessment, reasonable costs of collection, and late charges at an annual percentage rate not to exceed 12% interest, commencing 30 days after the assessment becomes due.

Associations are exempted from interest rate limitations imposed by Article XV of the California Constitution, subject to the limitations of Civil Code 1366.

9. Estoppel Certificate. The Board or manager shall upon not less than twenty (20) days prior written request, execute, acknowledge and deliver to any party making such request, a written statement stating whether or not to the knowledge of the Association, a particular owner is in default as to any assessments on said owner's lot under the provisions of this Declaration. Said written statement shall further state the dates to which such installments and assessments, regular or special have been paid, it being intended that any certificate delivered pursuant to this Section may be relied upon by a prospective purchaser or mortgagee of said lot. Reliance on such certificate may not extend to any default not involving the payment of assessments as to which the signer had no actual knowledge.

c) Foreclosure. The transfer of a subdivision interest as the result of the exercise of a power of sale or a judicial foreclosure involving a default under any mortgage or deed of trust shall extinguish any claim of assessments which were due and payable prior to such transfer, but shall not relieve the personal obligation of the owners against whom the assessment had been charged. No transfer of a subdivision interest as the result of a judicial foreclosure or exercise of a power of a sale shall relieve the new owner, whether it be the former mortgagee or beneficiary or another person, from liability for any assessments thereafter becoming due.

d) Non-Curable Breach. Any mortgagee, beneficiary, or other person who acquires title to a lot as a result of foreclosure shall not be obligated to cure any breach of this Declaration which is non-curable or of a type which is not practical or feasible to cure.

e) Loan to Facilitate. Any mortgage or deed of trust given to secure a loan to facilitate the re-sale of a lot after acquisition by foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of this Article.

f) Appearance at Meetings. Because of its financial interest in the development, any mortgagee or beneficiary, upon request, may appear at meetings of the members and the Board, or designate a representative to attend all such meetings. Said mortgagee or beneficiary shall, upon request, receive written notice of all meetings of the Association.

g) Right to Furnish Information; Collection of Insurance Premiums. Any mortgagee or beneficiary shall have the right to furnish information to the Board concerning the status of its mortgage or deed of trust. The Board may, upon request, delegate to any mortgagee or beneficiary the right to collect such portion of a lot's assessments, or installments thereof, representing premiums payable for insurance coverage.

## ARTICLE VI INSURANCE

1. Liability Insurance. The Association shall obtain and maintain in force comprehensive public liability insurance insuring the Association, the manager, if any, the Declarant and the owners and occupants of lots, and their respective family members, guests, and invitees, and the agents and employees of each, against any liability incident to the ownership or use of the maintenance area and including, if obtainable, a cross-liability to each other insured. The limits of such insurance shall not be less than \$1,000,000.00 for death of or injury to any one person in any one occurrence, \$1,000,000.00 for death or injury to more than one person in any one occurrence, and \$1,000,000.00 for property damage in any one occurrence.

2. Fidelity Bonds. The Board shall purchase and maintain Workers Compensation Insurance, to the extent that the same shall be required by law, for all employees of the development. The Board may also purchase and maintain insurance on personal property owned by the Association and such other insurance as it deems necessary.

The Association shall also obtain and maintain a fidelity bond or fidelity insurance insuring the Association against dishonest acts on the part of directors, managers, trustees, employees, or volunteers responsible for handling funds belonging to or administered by the lot association of owners. The fidelity bond or insurance must name the lot association of owners as the named insured and shall be written in an amount sufficient to provide protection which is in no event less than one and one-half times the insured's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

ARTICLE VII  
NON-SEVERABILITY OF COMPONENT INTERESTS  
IN A LOT

1. Prohibition Against Severance. No owner shall be entitled to sever his lot from his membership in the Association for any purpose. Neither of said component interests may be separately sold, conveyed, encumbered, hypothecated or otherwise dealt with, and any violation or attempted violation of this provision shall be void and of no effect. This suspension of this right of severability will, in no event, extend beyond the period set forth in Article VIII.

2. Entire Interest to be Conveyed. Any conveyance, judicial sale or other voluntary or involuntary transfer of a lot includes the owner's membership interest in the Association.



b) If the report referred to in a.(iii) above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared from the books and records of the Association without independent audit or review.

c) In addition to financial statements, the governing body shall annually distribute within 60 days prior to the beginning of the fiscal year a statement of the Association's policies and practices in enforcing its remedies against members for default in the payment of regular and special assessments including the recording and foreclosing of liens against members' subdivision interests.

## 5. Assessments.

a) Regular Assessments. At least sixty (60) days prior to the beginning of each calendar year the Board shall estimate the total amount of funds necessary to defray the common expenses of the Association for that year, distribute the budget as provided in Article IV, Section 4(a), above, and if said amount is approved by the Board, the same shall become the regular assessments for such year. Said assessments shall be determined as provided in Section 6 hereof. The governing body of the Association may not, without the vote or written assent of a majority of the total voting power of the Association, impose regular assessments per subdivision interest which are more than ten percent (10%) greater than the regular assessment for the immediately preceding fiscal year.

b) Special Assessments. In the event the Board shall determine that the theretofore estimated total amount of funds necessary to defray the common expenses of the Association for a given calendar year is, or will become, inadequate to meet such expenses for any reason, including, but not limited to,

unanticipated delinquencies, cost of construction or reconstruction, unexpected repairs or replacement of capital improvements upon the maintenance area, or otherwise, the Board shall determine the approximate amount necessary to defray such expenses. The Board may, in its discretion, pro rate such special assessment over the remaining months of the calendar year, or levy such assessments immediately against each lot.

c) Limitation Respecting Special Assessments. In any fiscal year, the Board may not, without the vote or written assent of a majority of the total voting power of the Association and a majority of the votes of members other than the subdivider, levy special assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. This limitation on special assessments does not apply where the levy is a remedy to bring the member into compliance with the governing instruments. A special assessment against the owners of the development to raise funds for the rebuilding or major repair of the structural maintenance area housing units of the project shall be levied as provided in Section 6.

d) Exceptions to Limitations on Regular Assessments. The limitations on regular assessments provided in Sections 5(a) and 5(b) above do not limit assessment increases for:

(i) The maintenance or repair of the maintenance areas or other areas which the association is obligated to maintain or repair, including, but not limited to, the payment of insurance premiums, the payment of utility bills, the costs incurred in maintaining or repairing structures or improvements, and funding reserves.

(ii) Addressing emergency situations.

9. Easements for Maintenance of Buildings Adjacent to Lot Lines. The owners and occupants of each Lot are hereby granted easements over the Lot or Lots adjacent to said Lot along any and all building walls and appurtenances which are closer than four feet to the common property between said Lot and said adjacent Lot or Lots. These easements are for the purpose of maintaining said walls and appurtenances and entry on to the easement hereby granted is to take place during normal working hour, Monday through Saturday, after having received permission to enter from the owner or occupant of said adjacent Lot, which permission shall not be unreasonably withheld. Any owner entering any such easement is responsible for any damage to said adjacent Lot and the owner of said adjacent Lot is not responsible for any injuries or damages suffered by the persons using said easement for the purposes herein stated.

10. Easements for Minor Encroachments. An easement is hereby created for minor encroachments by improvements constructed as part of the development of one individual lot over the common line between that lot and an adjacent lot. Any such easement shall be permanent in nature and shall inure to the benefit of the Developer and his successors in interest as owners of each lot in the Project. Said improvements include, but are not limited to, meters, eaves, footings and drainage down spouts and no such easement created by the encroachment thereof shall be greater than one foot in width.

11. Architectural Review of Exterior Alterations and/or Paint. The Association shall obtain the services of a licensed architect to review any proposed alterations to the exteriors or painting of buildings within the project. Said architect shall only approve such alterations which are, in his opinion, compatible with the original design and color scheme of the project.

3. Conveyances. Subsequent to the initial sale of the lot, any conveyance of a lot, by the owner of any lot, shall be presumed to convey the entire subdivision interest; provided, however, that nothing herein contained shall be construed as precluding the owner of any lot from creating a co-tenancy or joint tenancy in the ownership of said lot with any other person or persons.

#### ARTICLE VIII

#### TERM OF DECLARATION; COMPLIANCE WITH RULE AGAINST PERPETUITIES AND RESTRAINTS ON ALIENATION

1. Term of Declaration. This Declaration shall run with the land, and shall continue in full force and effect for a period of fifty (50) years from and after the date on which this Declaration was executed. Thereafter, this Declaration and the covenants, conditions, restrictions and other provisions hereof shall be automatically extended for successive ten year periods unless cancelled by an instrument executed by owners of not less than two-thirds (2/3) of the lots in the development and recorded in the office of the County Recorder of said County.

2. Rules Against Perpetuities. Excepting as otherwise provided, no suspension of the right of partition as provided in Article VII and excepting as to the prohibition against severable component interests in a lot as provided in Article XI, in any event shall the vesting of any interest in real or personal property or the suspension or the alienation of any interest in real property occur under the provisions of this Declaration later than twenty-one (21) years following the death of the last survivor of the following persons: Ronald Reagan, President of the U.S.; his wife Nancy; and his now living children.

ARTICLE IX  
AMENDMENT

1. Amendment Prior to Close of First Sale. Prior to the close of the first sale in the development to a purchaser other than Declarant, this Declaration and any amendment thereto may be amended in any respect or revoked by the execution by Declarant of any instrument amending or revoking same, which instrument shall make appropriate reference to this Declaration and any amendments thereto and which instrument shall be acknowledged and recorded in the office of the County Recorder of said County after receipt of the written consent of the California Real Estate Commissioner.

2. Amendment Subsequent to Close of First Sale.

a) Subsequent to close of first sale of a lot in the development to a purchaser other than Declarant, this Declaration may be amended by the vote or written consent of the members representing both:

(i) At least 51% of the total voting of the Association; and

(ii) At least 51% of the votes of members, other than the subdivider.

The foregoing notwithstanding, the percentage of the voting power necessary to amend a specific clause or provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

3. Business and Professions Code Section 11018.7. The foregoing notwithstanding, all amendments or revocations of this Declaration shall comply with the provisions of Section 11018.7 of the California Business and Professions Code to the extent said Section is applicable thereto.

4. Approval of Governmental Authority. Any amendments which would defeat the obligation of the Board, acting on behalf of the Association, or the Association, to provide management and maintenance of the maintenance area in a first-class condition and in a good state of repair, or which would defeat the assessment procedure established or contemplated in this Declaration to insure said management and maintenance, must be approved in writing by a representative of the jurisdiction stated in Article XII. Such written approval may be in the form of a letter and need not be a part of any recorded instrument.

5. Reliance on Amendments. Any amendments in accordance with their terms of this Declaration shall be presumed valid to anyone relying thereon in good faith.

6. Petition for Reducing Percentage of Affirmative Votes for Amendment. The Association or any owner of a lot may petition the Superior Court in Los Angeles County for an order reducing the percentage of the affirmative votes necessary for amendment of this Declaration. The petition shall be prepared and presented in accordance with the provisions of Civil Code Section 1356 (a) and implemented, if applicable, in accordance with Section 1356 (b) through (g), inclusive.

## ARTICLE X GENERAL PROVISIONS

1. Headings. The headings used in this Declaration are for convenience only and are not to be used in interpreting the meaning of any of the provisions of this Declaration, or otherwise.



2. Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provision or provisions thereof shall not invalidate any other provisions hereof.

3. Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver thereof.

4. Violation as Nuisance. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies herein set forth, may be abated or enjoined by any owner, any member of the Board, the manager or the Association.

5. No Racial Restriction. No owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of his lot on the basis of race, color or creed.

6. Districts. To the extent permitted by law, no owner, including the developer, shall oppose the formation of any district in which the development would be included.

7. Inspection of Association's Books and Records.

a) The membership register, books of account and minutes of meetings of the members of the Board and of committees of the Board, shall be made available for inspection and copying by any member of the Association -- or by his duly-appointed representative -- at any reasonable time and for a purpose reasonably related to his interest as a member, at the office of the Association or at such other place within the subdivision as the governing body shall prescribe.



b) The Board shall establish reasonable rules with respect to:

(i) Notice to be given to the custodian of the records by the member desiring to make the inspection.

(ii) Hours and days of the week when such an inspection may be made.

(iii) Payment of the cost of reproducing copies of documents requested by a member.

c) Every director shall have the absolute right, at any reasonable time, to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and copies of documents.

8. Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a plan of lot ownership for the development. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter.

9. Notification of Sale of Lot. Concurrently with the consummation of the sale of any lot under circumstances whereby the transferee becomes an owner thereof, or within five (5) business days thereafter, the transferee shall notify the Board in writing of such sale. Such notification shall set forth the name of the transferee and his transferor, the street address of the lot purchased by the transferee, the transferee's mailing address, and the date of sale. Prior to receipt of such notification, any and all communications required or permitted to be given by the Association, the Board or the manager shall be

deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Board. Notices shall be deemed received forty-eight (48) hours after mailing if mailed to the transferee, or to his transferor if the Board has received no notice of transfer as above provided, by certified mail, return receipt requested, at the mailing address above specified. Notices shall also be deemed received twenty-four (24) hours after being sent by telegram or upon personal delivery to any occupant of a lot.

10. Number; Gender. The singular shall include the plural and the plural the singular, unless the context requires the contrary; and the masculine, feminine and neuter shall include the masculine, feminine or neuter, as the context requires.

11. Exhibits. Any and all exhibits attached hereto shall be deemed made a part hereof and incorporated by reference herein.

12. Easements Reserved and Granted. Any and all easements referred to herein shall be deemed reserved or granted, as appropriate, by reference to this Declaration in a conveyance of any lot.

13. Binding Effect. This Declaration shall inure to the benefit of and be binding upon the successors and assigns of the Declarant, and the heirs, personal representatives, grantees, lessees, successors and assigns of the owners.

14. Indemnification of Officers and Directors. Every director and every officer of the Association shall be, and is hereby indemnified by the Association against all expenses and liabilities, including fees of counsel, reasonably incurred by or imposed upon such director or officer in connection with any proceeding to which he or she may be a party, or in which he or

she may become involved, by reason of his or her being or having been a director or officer of the Association, or any settlement thereof, whether or not he or she is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to, and shall be exclusive of all rights to which each such director and each such officer may otherwise be entitled.

ARTICLE XI  
ANNEXATION

1. Annexation. The property, as defined on Exhibit "A", attached hereto, is the first phase of a projected two (2) phase residential project. When completed, Declarant contemplates that the entire project will consist of eighty-four (84) residential lots. The additional phase is planned to be constructed as follows:

Lots 1 - 42, inclusive, of Tract No. 44446

to be filed in the Office of the Los Angeles County Recorder, California.

This real property may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Association by either of the following methods:

a) Annexation by Approval. Upon the vote or written consent of not less than sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the total votes residing in members other than the subdivider, additional property may be annexed thereto; provided, however, if approval of such annexation is sought at any time when two classes of members are still in effect, then, and in that event, such annexation shall instead require the vote or written consent of both the members holding not less than sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the Class A voting rights and sixty-six and two-thirds percent ( $66\frac{2}{3}\%$ ) of the members holding Class B voting rights. The owner of real property who desires to annex such real property to the scheme of this Declaration shall cause such annexation to be accomplished by the recordation of a Declaration of Annexation as provided hereinbelow.

b) Annexation Without Approval. The property described in this Article, Section 1 may be annexed to the scheme of this Declaration by the record owner or owners thereof without the consent of the Association or its members at any time prior to the expiration of a period of three (3) years from and after the date of original issuance by the California Department of Real Estate of the most recent Final Subdivision Public Report covering the first phase of development. Annexation pursuant to this paragraph shall be accomplished by the recordation of a Declaration of Annexation as provided for in Sections 2 and 3 of this Article provided the real property to be annexed is to be developed in accordance with plans approved by the County of Los Angeles and any amendments or supplements thereto.

2. Method of Annexation. The annexation authorized pursuant to paragraphs (a) and (b) of Section 1 of this Article shall be effectuated by the recordation in said County of a Declaration of Annexation covering the annexed property. The Declaration of Annexation shall be executed by the record owners of the real property sought to be annexed to the scheme of the

Declaration, and, the event annexation is accomplished pursuant to paragraph (a) of Section 1 of this Article, there shall also be attached thereto a written certificate executed by an officer of the Association setting forth that the required votes or written consent of the members of the Association, as required by said paragraph (a), have been obtained.

3. Contents of Declaration of Annexation. The Declaration of Annexation shall describe the real property to be annexed to the scheme of this Declaration and shall state that it is being made pursuant to the terms of this Declaration for the purpose of annexing the real property described therein to the scheme of the Association to cover the property so described. Any Declaration of Annexation recorded in accordance with the terms hereof shall be conclusively presumed valid as to all persons who rely thereon in good faith. Except as otherwise expressly provided in this Declaration and in the Declaration of Annexation respecting its amendment or revocation, and respecting the date of commencement of the payment of Assessments to the Association, upon recordation of the Declaration of Annexation, the real property described therein shall be subject to the provisions of this Declaration and the Bylaws, and thereafter all of the owners located within said annexed real property shall automatically be members of the Association. It is expressly contemplated hereby that commencement of the payment of assessments by owners in an annexed phase of development may be postponed to a time subsequent to the date of recordation of the Declaration of Annexation.

4. Management of Maintenance Area after Annexation. Membership in the Association shall be expanded to include owners within annexed phases of development. The management of the maintenance area shall be as already hereinbefore described. The homeowners association shall include members from the development as well as from the annexed area. The homeowners association shall be charged with the responsibilities and duties and the maintenance and management of the maintenance area therein.

5. Declarant hereby reserves for the benefit of and appurtenant to the Lots hereinafter located in Tentative Tract No. 44446, and their respective owners all rights and duties which are appurtenant to the Lots in Tract No. 43724, pursuant to and in the manner set forth in this Declaration of Restrictions to the same extent and with the same effect as is true of each owners of a Lot in said Tract 43724.

6. This Article shall not be amended without the written approval of Declarant attached to the instrument of amendment.

ARTICLE XII  
LOCAL JURISDICTION AND  
SPECIAL COVENANTS

1. Local Jurisdiction. The governmental entity with primary jurisdiction over this project is the County of Los Angeles. The Association shall abide by codes and/or ordinances of the primary jurisdiction above stated, and the State of California.

2. Maintenance of Parkways and Walls. The Association shall maintain all parkways within public streets in and adjacent to the project in first-class condition to standards acceptable to the County of Los Angeles.

3. Spa, Hottubs and Swimming Pools. Any spa, hottub, swimming pool or such facility may be constructed and installed in a Lot only after a permit has been granted by the appropriate office of the County of Los Angeles. Any such installation shall be made in such a manner as not to interfere with established lot drainage.

4. Storm Drain Facilities Within Individual Lots. The Association shall maintain all storm drainage facilities consisting of discharge mains and area drains within any private Lots to the standards of the County of Los Angeles.

5. Cross-Lot Drainage. The owners of Lots across which storm drainage from other Lots passes shall not interfere with any such established drainage pattern.

6. Maintenance Area. As described in Article II, the Association shall maintain the "maintenance area" and all improvements and facilities therein including, but not limited to, landscaping, walls, irrigation lines, sprinkler timers and other facilities. The Maintenance Area for Tract No. 43724 is described in Exhibit "B", attached hereto, and the Maintenance Area for Tract No. 44446 is described in Exhibit "C", attached hereto.

7. Easements to Association. The Association is hereby granted easements over those portions of Lots within the maintenance area to enter all Lots for the purposes of performing the operation and maintenance of duties herein described, and to all rear yards, for the purpose of maintaining storm drainage facilities.

8. "Entry Statement Walls". The Association shall maintain all walls constructed by Declarant for the purpose of identifying the Project. An easement is hereby granted to the Association to enter that portion of those Lots on which such wall are located necessary to perform said maintenance. The owners of the lots on which these walls have been installed shall not alter, paint, nor remove any such wall.



9. Easements for Maintenance of Buildings Adjacent to Lot Lines. The owners and occupants of each Lot are hereby granted easements over the Lot or Lots adjacent to said Lot along any and all building walls and appurtenances which are closer than four feet to the common property between said Lot and said adjacent Lot or Lots. These easements are for the purpose of maintaining said walls and appurtenances and entry on to the easement hereby granted is to take place during normal working hour, Monday through Saturday, after having received permission to enter from the owner or occupant of said adjacent Lot, which permission shall not be unreasonably withheld. Any owner entering any such easement is responsible for any damage to said adjacent Lot and the owner of said adjacent Lot is not responsible for any injuries or damages suffered by the persons using said easement for the purposes herein stated.


10. Easements for Minor Encroachments. An easement is hereby created for minor encroachments by improvements constructed as part of the development of one individual lot over the common line between that lot and an adjacent lot. Any such easement shall be permanent in nature and shall inure to the benefit of the Developer and his successors in interest as owners of each lot in the Project. Said improvements include, but are not limited to, meters, eaves, footings and drainage down spouts and no such easement created by the encroachment thereof shall be greater than one foot in width.

11. Architectural Review of Exterior Alterations and/or Paint. The Association shall obtain the services of a licensed architect to review any proposed alterations to the exteriors or painting of buildings within the project. Said architect shall only approve such alterations which are, in his opinion, compatible with the original design and color scheme of the project.

By the execution and recording of this document, Declarant does hereby allow the jurisdiction stated in Article XII to enforce traffic regulations on any private streets within the development pursuant to Vehicle Code Section 21107.5

IN WITNESS WHEREOF, Declarant has executed this instrument as of this 10 day of July, 1987.

LAS VIRGENES HOMES, A California Limited Partnership - Owner

  
Conrad J. Baumgartner - General Partner

  
Peter J. Sidiow - General Partner

STATE OF CALIFORNIA }  
COUNTY OF Los Angeles } ss.



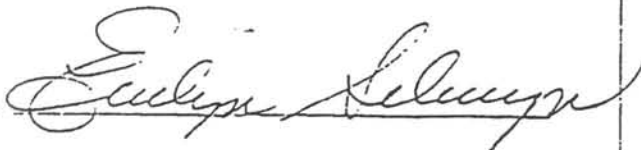
GATEWAY TITLE COMPANY

On July 10, 1987  
before me, the undersigned, a Notary Public in and for said  
County and State, personally appeared \_\_\_\_\_

Conrad J. Baumgartner and  
Peter J. Sidiow

\_\_\_\_\_ known to me  
(or proved to me on the basis of satisfactory evidences) to be  
general partners of the partnership that executed the  
instrument, and acknowledged to me that such partnership  
executed the same.

Signature



FOR NOTARY SEAL OR STAMP

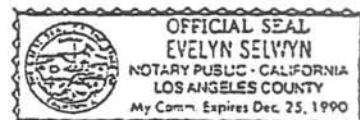


EXHIBIT "A"

Lots 1 through 42, inclusive, of Tract No. 43724, in the County of Los Angeles, State of California, as per map recorded in Book 1089 , Pages 74-79 of Maps, in the Office of the County Recorder of said County.

EXHIBIT "B"  
Maintenance Area  
Tract No. 43724

The front of each Lot indicated to the depth indicated except that portion in a structure or within the rear yard enclosed by fences or other structures at the time of development of the Project.

LOT NO.	EASEMENT DEPTH	LOT NO.	EASEMENT DEPTH
1	45'	25	40'
2	45'	26	35'
3	45'	27	35'
4	40'	28	20'
5	40'	29	25'
6	45'	30	20'
7	50'	31	50'
8	80'	32	30'
9	65'	33	35'
10	50'	34	35'
11	40'	35	35'
12	35'	36	40'
13	35'	37	40'
14	35'	38	20'
15	35'	39	35'
16	35'	40	45'
17	35'	41	40'
18	35'	42	40'
19	35'		
20	30'		
21	45'		
22	75'		
23	75'		
24	55'		

EXHIBIT "C"  
Maintenance Area  
Tract No. 44446

The front of each Lot indicated to the depth indicated that portion in a structure or within the rear yard fences or other structures at the time of development Project.

LOT NO.	EASEMENT DEPTH	LOT NO.	EASE
1	40'	25	
2	40'	26	
3	40'	27	
4	40'	28	
5	50'	29	
6	30'	30	
7	20'	31	
8	15'	32	
9	25'	33	
10	20'	34	
11	15'	35	
12	20'	36	
13	25'	37	
14	35'	38	
15	35'	39	
16	30'	40	
17	25'	41	
18	25'	42	
19	40'		
20	25'		
21	25'		
22	25'		
23	20'		
24	20'		

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

LOREN C. PHILLIPS  
ATTORNEY AT LAW  
P.O. BOX 660  
DUARTE, CALIFORNIA 91010

CONSENT OF LIENHOLDER  
AND SUBORDINATION OF LIEN

The undersigned beneficiary under that certain Deed of Trust dated December 21, 1986, recorded on December 31, 1986, as Instrument No. 86-1839105 of Official Records of Los Angeles County, California, consents to all of the provisions contained in the Declaration of Covenants, Conditions and Restrictions to be recorded concurrently herewith for Tract No. 43724 and agrees that the lien of the Deed of Trust shall be junior and subordinate and subject to said Declaration.

Dated: May 4, 1987.

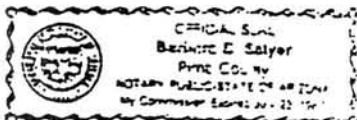
PIMA FINANCIAL SERVICE CORPORATION,  
an Arizona corporation

By David R. Erwin  
David R. Erwin  
Vice President

STATE OF Arizona )  
COUNTY OF Pima ) SS.

On May 12, 1987, before me, the undersigned, a Notary Public in and for said State, personally appeared DAVID R. ERWIN, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as a Vice President on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.




Barbara E. Seliger  
Notary Public

By the execution and recording of this document, Declarant does hereby allow the jurisdiction stated in Article XII to enforce traffic regulations on any private streets within the development pursuant to Vehicle Code Section 21107.5

IN WITNESS WHEREOF, Declarant has executed this instrument as of this 10 day of July, 1987.

LAS VIRGENES HOMES, A California Limited Partnership - Owner

  
Conrad G. Baumgartner - General Partner

  
Peter J. Sidiow - General Partner

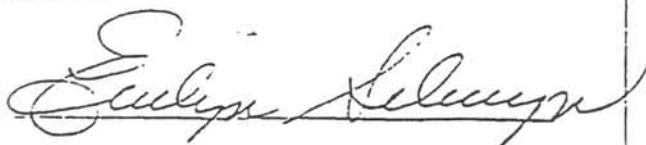
STATE OF CALIFORNIA  
COUNTY OF Los Angeles } ss.

On July 10, 1987  
before me, the undersigned, a Notary Public in and for said  
County and State, personally appeared

Conrad G. Baumgartner and  
Peter J. Sidiow

known to me  
(or proved to me on the basis of satisfactory evidences) to be  
general partners of the partnership that executed the  
in instrument and acknowledged to me that such partnership  
executed the same.

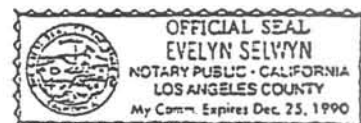
Signature





GATEWAY TITLE COMPANY

FOR NOTARY SEAL OR STAMP





**STONE CREEK HOMEOWNERS ASSOCIATION  
ARCHITECTURAL GUIDELINES**

In order to preserve the value, desirability, attractiveness and architectural integrity of the Stone Creek Community, the Board of Directors has re-established the Association's Architectural Review Committee (the "Committee"). The Board has also promulgated certain architectural guidelines which must be followed by owners before any improvement or alteration to the exterior of any residence can be made.

Effective immediately, all owners must adhere to the following guidelines:

**A. APPLICATION TO ARCHITECTURAL REVIEW COMMITTEE**

1. Before commencing any exterior alteration, the owner planning such alteration must submit to the Committee a written request for approval. The Owner's request shall include plans and specifications, and, if appropriate, a sample of materials and/or colors to be used.

2. An "exterior alteration" includes, without limitation, the construction, installation, alteration or remodeling of any buildings, walls, decks, fences, swimming pools, landscaping, landscaping structures, skylights, spas, antennas or any structure of any kind and any change in exterior paint color. The term encompasses changes to any portion of an owner's lot, not just changes visible from the street.

3. The Committee will review all submissions. When appropriate, the Committee will refer the proposed alteration to a licensed architect for review and comment.

4. The Committee will respond in writing to all submissions within thirty (30) days.

**B. SPECIFIC GUIDELINES**

1. Fences and Walls.

Owners may not increase the height of fences and walls. However, certain standards of lattice will be developed so that owners may extend the height of wooden fences between lots.

2. Paint.

An approved color palette for stucco and trim is in the process of being developed by the Board which is consistent with the builder's original colors. Owners will be notified once it has been approved and will be obligated to adhere to the color palette when painting any building, fence, wall or structure on their lot. Until then, any owner who desires to paint any building, fence, wall or structure on their lot (even if you are re-painting existing colors) must submit a request for approval to the Committee as provided for in Section A, above.

3. Landscaping.

Owners may not make major landscaping changes without the Committee's prior written approval. This does not mean that owners must obtain approval prior to replacing, for example, geraniums with pansies; however, any installation or removal of trees, large plants, hedges, walkways, etc. must be approved by the Committee.

C. ENFORCEMENT

These guidelines shall be enforced prospectively against all owners. In the event an owner fails to comply with these guidelines, the Association intends to pursue all available legal remedies to compel compliance and to seek reimbursement from the owner for the cost of any legal services incurred in connection therewith.

Conclusion

In establishing the guidelines, the Board does not seek to restrict individual creativity or personal preferences, but rather to help ensure a continuity in design which will help preserve and improve the appearance of the Community and protect property values. Your cooperation to this end is greatly appreciated.

The Board of Directors  
Stone Creek Homeowners Association

January 21, 1998

## Stone Creek Homeowners' Association

### RULES AND REGULATIONS

#### I. Introduction

These Rules and Regulations have been adopted by the Board of Directors to ensure a uniform interpretation of the need for cooperation, courtesy and consideration among residents of Stone Creek. This will maximize the enjoyment of all who live here.

All of these Rules and Regulations herein may be changed, deleted or added to at any time by the Board of Directors with due notice. These Rules and Regulations do not supersede the By-laws or CC & R's in any way, but are intended to augment, clarify and supplement those documents.

#### II. Homeowners and Tenants Responsibilities

- A. Homeowners are to instruct real estate agents and prospective buyers of the CC & R's, By-laws and these Rules and Regulations.
- B. Homeowners are strongly urged to provide their tenants with a copy of these Rules and Regulations, as the homeowner is responsible for any fines or expenses incurred by the tenant or tenant's guests.
- C. Any damage to buildings or any common area property, including landscaping, caused by an owner, tenant, his/her guests, or employees/contractors of the owner, shall be the responsibility of the owner.
- D. Owners shall be held responsible for the actions of their children and guests at all times.
- E. Owners shall not make or permit to be made any unreasonable loud noises. This includes noise made by the owner, his/her family, and/or guests made in either the home or in the common areas.
- F. Any plans to change the architecture in the front of your house (i.e. porch, garden wall, etc.) must be submitted to the chairperson of the architecture committee. Plans with scaled drawings must be submitted in duplicate. This will be approved or denied after review by the committee and the Board of Directors within 10 business days.

(Rules and Regulations - page two)

- G. Any plans to add or change any landscaping to any area in front of your house (other than in the flower beds) must be submitted in duplicate to the chairperson of the landscaping committee. They will be approved or denied after review by the landscaping committee, the Board of Directors, and a representative from our landscape maintenance company within 10 business days.

III. Pets

- A. All dogs must be kept on a leash at all times.
- B. Pet owners must clean up their animal's waste in their and their neighbor's front yards, and in the common areas. Neglecting to do so will kill and discolor the lawn, and will incur additional and unnecessary landscaping expenses.
- C. All pets are the responsibility of the respective homeowner. Homeowners are responsible for the behavior of their pets, and will be held financially liable for damages or injury caused by pets.
- D. No animal noise (i.e. excessive or continuous barking) that disturbs other homeowners shall be permitted.
- E. Failure to comply with any of the above may result in action by the Department of Animal Control.
- F. Although the Department of Animal Control will respond to any request, please attempt a resolution of the situation before they are called, as involving Animal Control could unnecessarily subject the pet owner to substantial fines, jail time or probation.

IV. General Community

- A. Vehicles parked on the street should be parked parallel to the curb, facing in the direction of flow of traffic, and should not obstruct the view of oncoming traffic.
- B. No parking is allowed in the dirt areas on Las Virgenes Road in front of Stone Creek. This is unlawful, and violators may be cited by the Sheriff's Department.
- C. Do not park vehicles in driveways so that they block pedestrians from free passage and complete access to the sidewalk.
- D. Please avoid parking in front of mailboxes which interferes with mail delivery. Rural route postal regulations allow mail delivery personnel to not deliver mail if mailbox access is blocked.

(Rules and Regulations - page three)

- E. Homeowners are responsible for the removal and safe disposal of any dangerous materials (i.e. broken glass, etc.) from the front of their homes, including the street area.
- F. In general, trash is not to be put out more than one day before trash pickup, and trash cans should be removed as soon as possible after pickup. In addition, please position trash cans on sidewalk so that they do not block free passage and complete sidewalk access by pedestrians.
- G. For the protection of everyone, please limit your driving speed to 25 mph within the development.

V. Enforcement

- A. Homeowners are encouraged to notify rule violators at the time the violation occurs.
- B. If personal notification does not resolve the issue, or if personal notification is not possible, the Management Company, or the appropriate committee chairperson (i.e., landscape, architectural, or rules and regulations) should be notified of the violation.
- C. An owner will receive one (1) written notice of violation. If corrective action is not instituted within ten (10) business days, or if the same violation occurs, fines may be assessed to the responsible homeowner in the amount of \$50.00 per occurrence.
- D. Owners have the right to appeal a notice of violation. To exercise this right, the homeowner must send a written appeal to the Management Company within ten (10) business days of notice of the violation. The assessment of fines and review of written appeals will be conducted by the Board of Directors and members of the Rules and Regulations committee.
- E. Non-payment of fines may subject the homeowner to legal action in the form of a property lien or court action if necessary.
- F. Except as otherwise expressly provided herein, The Board of Directors and Community Property Management (CPM) shall have the right to enforce any and all of the provisions of the CC & R's and Rules and Regulations against any homeowner. Such right shall include an action for damages, as well as an action to enjoin any violation of the CC & R's and Association Rules and Regulations. If such an action is brought by the Board, the prevailing party shall be entitled to court costs, reasonable attorney fees and costs.

STONECREEK HOMES

Dear Homeowner:

Congratulations on the purchase of your new home at "StoneCreek Homes". We trust you will enjoy your home. We hope that we can be helpful and aid you with any questions or problems which may arise with regards to your new home. To ensure proper understanding of the Developer's warranties, please read all of the documents carefully before signing them, and make sure you keep copies for your records and future reference.

I. GENERAL INFORMATION FOR NEW HOMEOWNERS

The primary purpose of the "walk through" is to note obvious defects and/or missing items within your home. Any defects found are to be reported on "walk through"; however, such defects must be reported no later than one (1) week after close of escrow; homeowner is responsible thereafter.

All reasonable repairs will be performed.

Major structural, electrical and plumbing items, relative to your new home, are under warranty against defects in workmanship and materials for one year from the close of your escrow.

II. WARRANTY: BUILDER'S RESPONSIBILITY

The builder will, if notified as provided herein, correct any defects due to faulty construction and/or defective materials (excluding normal wear or tear, and acts of God, occurrences, or natural disasters beyond the control of the Builder) reported to the Builder in writing within one (1) year from the date of first occupancy and/or close of escrow, whichever occurs first except as otherwise stated herein. The Builder's obligation and liabilities under this warranty are limited to making repairs and correcting defects covered under this warranty. Nothing in this warranty shall render the Builder liable for any other losses, expenses or claims including, but not limited to, injuries or damages occurring to any person or property by reason of any defect in the house. No steps taken by the Builder to correct defects shall extend beyond the initial warranty term of one (1) year...the Builder shall have the option of selecting the materials and methods to be used in making a repair. This warranty shall terminate as to any item altered or repaired by anyone other than the Builder, its agents or employees, and the Builder shall not be responsible for the costs of any repairs made by anyone other than the Builder, its





## EMERGENCIES

Emergencies are defined as situations and/or conditions which will endanger health, life, or property if not corrected immediately. In case of an emergency you can often alleviate the problem or reduce damage by shutting off the central valve and/or switch until service can be arranged.

It is your responsibility to protect your home and your personal property from possible damage in an emergency.

In the event of an emergency, please phone the responsible subcontractor or utility listed above, or contact the following:

D&S Construction	(818) 880-4382
D&S Company	(818) 506-1212
Village Management	(818) 506-6800
(front yard landscape and irrigation)	

## VI. PROCEDURES FOR REPORTING REQUESTS FOR REPAIRS

Telephone calls will not be acknowledged as registering a request for service. Any and all requests for repairs must be made in writing and mailed to D&S Company, 11650 Riverside Drive, North Hollywood, California 91602, Attention: STONECREEK CUSTOMER SERVICE. This is necessary in order to maintain proper records of repairs made to your home.

When registering a repair request, please be as specific as possible. Make sure the following information is included in your request:

1. Your address
2. State whether or not we have permission to enter your house. If permission has not been granted, our representative will make an appointment to meet with you. Be sure to include current daytime telephone numbers in your request, so that we can contact you without difficulty.

Our customer service field representative and/or his supervisor will inspect the items on your written service request and, if warranted, will perform or cause to be performed the necessary service as workloads permit. If, however, our inspection shows that the corrections requested come from HOMEOWNER DAMAGE AFTER OCCUPANCY, or are normal maintenance items resulting from normal usage, then you will be asked to assume the responsibility for correction.

I HAVE READ AND UNDERSTOOD ALL OF THE PRECEDING PAGES REGARDING MY NEW HOME.

\_\_\_\_\_  
Signature of Buyer/Homeowner

\_\_\_\_\_  
Date

Permission to enter your home:

Yes \_\_\_\_\_ No \_\_\_\_\_



RECORDING REQUESTED BY  
PACIFIC TITLE GUARANTY COMPANY  
AND WHEN RECORDED MAIL THIS INSTRUMENT TO

94- 552405

NAME [FREDRICK BROWN & TERRI BROWN]  
STREET ADDRESS [4393 N. WILLOW GLEN ST.]  
CITY [CALABASAS, CA 91302]  
STATE [ ]  
ZIP [ ]

RECORDED/FILED IN OFFICIAL RECORDS  
RECORDER'S OFFICE  
LOS ANGELES COUNTY  
CALIFORNIA  
1 MIN. 2 P.M. MAR 21 1994

FEE  
\$7  
M

TITLE ORDER NO. 941129-3 ESCROW NO. 5-11352

SPACE ABOVE THIS LINE FOR RECORDER'S USE

## GRANT DEED

89

THE UNDERSIGNED GRANTOR(S) DECLARE(S)

DOCUMENTARY TRANSFER TAX is \$ 264.00

- ☒ computed on full value of property conveyed, or  
☐ computed on full value less value of liens or encumbrances remaining at time of sale, and

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

JEFFREY H. TURNER AND MADIERA LYNN TURNER

hereby GRANT(S) to

FREDERICK BROWN AND TERRI BROWN, HUSBAND AND WIFE AS COMMUNITY PROPERTY

the following described real property in the

County of LOS ANGELES

State of California:

LOT 39 OF TRACT NO. 44446, IN THE CITY OF CALABASAS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1104, PAGES 55 THROUGH 58 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

Dated FEBRUARY 16, 1994

STATE OF CALIFORNIA

COUNTY OF LA } SS

On March 1, 1994 before me,

M. J. J. J. a Notary Public

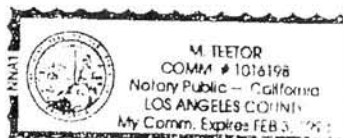
personally appeared Jeffrey H. Turner  
and Madiera Lynn Turner

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.

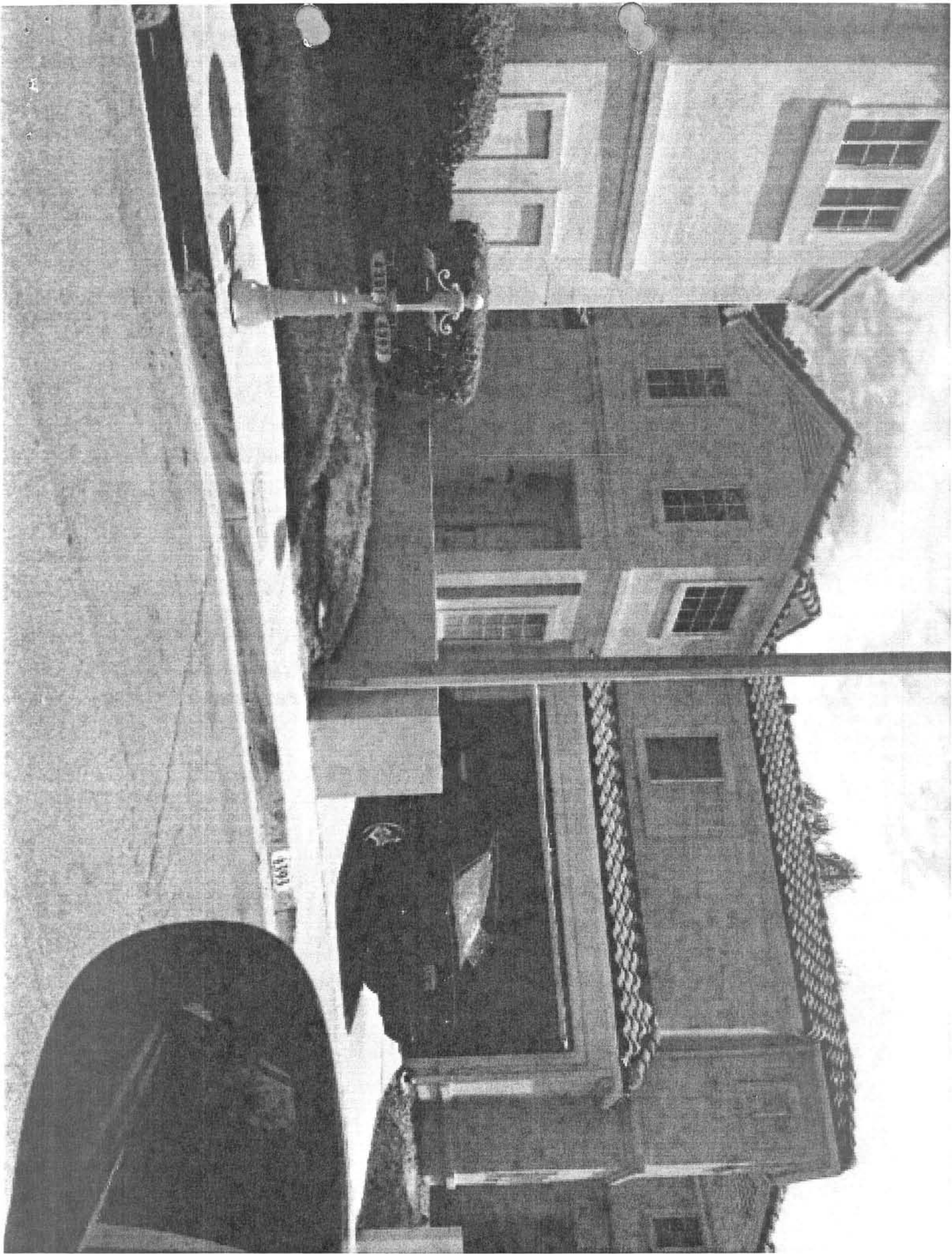
WITNESS my hand and official seal.

Signature M. J. J.

Jeffrey H. Turner  
JEFFREY H. TURNER  
Madiera Lynn Turner  
MADIERA LYNN TURNER



FOR NOTARY SEAL OR STAMP







February 23, 2012

**PROPOSAL FOR  
LANDSCAPE MANAGEMENT SERVICES  
for**

3275 E. Thousand Oaks Bl., #200  
Thousand Oaks, CA 91362  
tel: 805.642.9300  
fax: 805.642.6990

Owner/Client: Stone Creek Homeowners Association  
Client Address: Calabasas, CA  
Job Name: Stone Creek HOA  
Job Location: Calabasas, CA

We appreciate the opportunity to propose to you how ValleyCrest Landscape Maintenance, Inc., can help you enhance the quality of your landscape. Our team is committed to integrating the specific landscape needs of your property with your service expectations and budget considerations. Giving careful consideration to the individuality of each landscape, ValleyCrest Landscape Maintenance, Inc., provides competitive pricing, which may include landscape maintenance, irrigation, tree care, and seasonal color programs. Our Proposal includes Scope of Work, Practical Specifications for Landscape Management and General Terms and Conditions.

An effective landscape management program is sustainable and provides value. We are confident that your property would benefit greatly from our efforts to create beauty in the appearance of your landscape while our operational efficiencies create value to your budget.

We hereby propose the following for your review:

**Exterior Landscape Management**

Client's Initials	Service	Price Per Year	Price Per Month
	Base Management Price	\$ 29,880.00	\$ 2,490.00
	Sales Tax	-	-
	Total Base Management Price	\$29,880.00	\$ 2,490.00

**Additional Services**

Client's Initials	Category	Service	Frequencies Per Year	Service Price Per Occurrence	Sales Tax	Total Price Per Year
	Seasonal Turf Renovation	Common area lawns & front lawns over 3/4" of thatch	1	\$ 1,950.00	-	\$ 1,950.00
	Tree Pruning	see exhibit A	1		-	\$14,755.00
	Tree Removal	see exhibit A	1		-	\$ 2,613.00
	Total					



Billing for additional services will be invoiced upon installation.

**Extra Services Included in the Base Contract**

*Additional scope of services that have been included in the base management price include the following:*

Quarterly seasonal color changes in four planter areas. Labor and materials, previously an extra charge.

Mulch property twice per year in planter beds and tree wells in preparation for fall and spring.

Minor irrigation repairs such as nozzle adjustment or replacement.

Fertilizer and chemical treatments for lawn and planters.

ValleyCrest Landscape Maintenance, Inc., agrees to furnish all Horticultural Supervision, Labor, Equipment, Materials and Transportation, as described hereinabove, necessary to maintain the landscape per the above and per the attached Practical Specifications for Contract Landscape Management and the General Terms and Conditions.

This proposal is withdrawn unless executed and received within 30 days of the date of this document.

**Period of Service Agreement**

This agreement shall be in effect for the period stated: March 1, 2012 to February 28, 2013. Unless terminated pursuant to Article IV of the General Conditions, at the expiration of the initial term, this Agreement shall be automatically extended on a month-to-month basis.

You should receive your first invoice within 30 days of our service commencement date, and can expect to receive them monthly thereafter by the 10<sup>th</sup> of each month. All billings are due and payable 15 days following the date of the invoice. Owner/Client agrees to pay any and all cost incurred by ValleyCrest Landscape Maintenance, Inc., in the collection of the same.

If our proposal meets with your approval, please initial the services in the block provided for each item selected indicating that you are authorizing that service and sign both originals below. Return one fully executed original to our office, and retain the second original for your files. This proposal, including the attached Practical Specifications and the General Terms and Conditions, together are the Service Agreement.

Again, thank you for the opportunity to submit this proposal. We look forward to serving as your landscape management professionals.

*Sincerely,*

*ValleyCrest Landscape Maintenance, Inc.*



*Frank Annino*

*Vice President, Regional Manager*

*Client Approval:*

**Client/Owner**

**Stone Creek HOA**

**Contractor:**

**ValleyCrest Landscape Maintenance, Inc.**  
Thousand Oak, CA 91363



By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name & Title

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
VCLM Regional Manager

Date: \_\_\_\_\_

## PRACTICAL SPECIFICATIONS FOR CONTRACT LANDSCAPE MANAGEMENT

### I. Scope of Work:

Contractor shall furnish all horticultural supervision, labor, material, equipment and transportation required to maintain the landscape throughout the contract period, as specified herein.

The scope of our services shall be based exclusively on those items approved and initialed on Page One (1) of our Proposal document.

### II. Lawn Care:

#### A. Mowing and Edging:

Lawns shall be mowed more frequently during the active growing season and as needed during other seasons. During extended rainy or dry periods mowing will take place as conditions dictate. Mowing height will be based on what is horticulturally correct for the turf variety taking into account the season.

Clippings shall not be caught and removed from lawn area unless they are lying in swaths which may damage the lawn.

Edges shall be trimmed to maintain a neat appearance.

#### B. Fertilization:

Lawns shall be fertilized as warranted with a commercial fertilizer. The number of applications will be dependent on the type of nitrogen used and the type of turfgrass.

#### C. Disease control:

Disease control is maintained through proper fertilization, mowing and water management. In the event that disease problems occur Contractor will use treatments to stop or slow progression of disease. This program does not include the prevention of disease with weekly or monthly applications of disease control products although such protection is available at substantial additional cost.

Disease caused by infestation of nematodes (microscopic round worms that feed on roots) is not included. Currently, there is no effective nematode control product registered for use on landscapes. Contractor will recommend additional treatments and procedures to minimize damage should nematodes become a problem. These treatments will be provided at additional cost. Nematode control is available for some sports turf locations and will be quoted separately if required.

#### D. Insect control:

Contractor will provide control of turf damaging insects using Federal and State registered insect control products as needed to prevent or mitigate turf damage. These treatments do not include the prevention of fire ant infestation which is available at added cost.

#### E. Weed control:

Contractor will use proper fertilization, mowing and watering practices to promote the growth of weed resistant turf. Additionally, applications of pre and postemergence weed controls will be applied at times if warranted to control weeds without damaging desirable turf. Recent changes in Federal regulations have resulted in our loss of ability to selectively control some weeds including crabgrass when they are present in St Augustine. The only control of these weeds is to treat infested turf with non selective products such as Roundup. These treatments require the resodding which will be quoted at additional charge.

### III. Ground Cover Area/ Shrub Areas:

#### A. Edging:

Edge ground cover as needed to keep within bounds and away from obstacles.



B. Pruning:

Shrubs shall be pruned only as necessary to maintain the natural form of the plant, to maintain growth within space limitations, and to eliminate damage or diseased wood. This excludes pruning necessitated by storm damage, disease, neglected overgrowth or winterkill.

C. Weed Control:

Keep beds reasonably free of broadleaf or grassy weeds, preferably with pre-emergent and/or selective post-emergent/contact herbicides.

Pre-emerge: This type of control should be used only if a known weed problem warrants its use.

Post-emerge: Control broadleaf weeds with selective herbicides.

The chosen chemical will be recommended and legally approved for the specific weed problem.

D. Fertilization:

Apply fertilizer as warranted. The number of applications will be dependent on the type of nitrogen used and the type of plant material.

E. Fungicide:

Apply recommended, legally approved fungicides to control disease-causing damage to ornamentals if warranted.

F. Pesticide:

Apply recommended, legally approved pesticides to control insects causing damage to ornamentals if warranted.

G. Control of imported pests:

Certain locations in the United States have a record of accidental introduction of pests from other countries. These imported pests can be very damaging and difficult or impossible to control with available products. Where such pests become a problem Contractor will recommend the most cost effective alternatives for pest mitigation. Such recommendations may include plant replacement or intensified treatment schedules that may require additional cost to the customer.

IV. Slope Care:

A. Edging:

Edge as needed to keep plant material within bounds and away from obstacles.

B. Weed Control:

Maintain slopes so they are reasonably free of weeds. Use recommended, legally approved herbicides to control weed growth in open areas whenever possible, and if necessary. Avoid soil cultivation to maintain pre-emergent herbicide effectiveness and root health.

Pre-emerge: This type of control should be used only if a known weed problem warrants its use.

Post-emerge: Control broadleaf weeds with selective herbicides.

The chosen chemical will be recommended and legally approved for the specific weed problem.

C. Fertilization:

Apply fertilizer as warranted. The number of applications will be dependent on the type of nitrogen used and the type of plant material.

D. Fungicide:

Apply recommended, legally approved fungicides to control disease-causing damage to slope area when necessary.

**E. Insecticide:**

Apply recommended, legally approved pesticides to control insects causing damage to slope area when necessary.

**V. Tree Care:**

**A. Pruning:**

Height limitation for tree pruning covered in the specification is 12 feet. On trees over 12 feet in height only low-hanging branches that present a hazard to pedestrian or vehicular traffic will be raised. Trees under 12 feet are scheduled to be pruned in the winter months except for safety-related pruning, which will be done only if necessary. Evergreen trees under 12 feet shall be thinned out and shaped only if necessary to minimize wind and storm damage.

**B. Staking:**

Stakes are to be inspected and adjusted or removed as necessary. When trees attain a trunk caliper of 4" or substantial root development stability, removal will be discussed with client.

**VI. Mulched Areas/ Granite Areas :**

Mulched or decomposed granite areas will be inspected on our days of service. Weeds and grasses shall be controlled with recommended, legally approved herbicides only if necessary. In those areas with excessive mulch build up alternatives will be discussed with the client.

**VII. Irrigation System:**

Watering shall be scheduled with automatic controllers to supply quantities and frequencies consistent with seasonal requirements of the plant materials in the landscape. In some circumstances, water scheduling may be limited by local watering restrictions.

Where practical, watering shall be done at night or early morning if the system is automatic, unless notified otherwise by the owner.

Any damages to the irrigation system caused by the Contractor while carrying out maintenance operations shall be repaired without charge. Where practical, repairs shall be made within one watering period.

Faulty equipment, vandalism or accidental damage caused by others shall be reported promptly to owner. Cost of labor and material to perform repair is an extra and shall be paid for by the owner upon authorization.

Whenever possible, owner's representative shall be instructed on how to turn off system in case of emergency. Our office is to be advised at once or by next business day.

If the Contractor is required to make emergency repairs or adjustments other than regularly scheduled visits, a minimum charge will apply.

**VIII. Debris Cleanup:**

All landscape areas shall be inspected on days of service and excess debris removed. Gardening debris, generated from our work, shall be removed from paved areas on days of service. This excludes leaf fall pickup from parking areas, sidewalks, pools, etc.

**IX. Bio-Hazards:**

Contractor shall not be responsible for policing, picking up, removing or disposing of certain materials that may be bio-hazards on the Owner/Client's property. This includes, but is not limited to, items such as hypodermic needles (Sharps/needles) will not be handled by the Contractor's employees at any time), condoms, feminine hygiene products, clothing or materials used in the process of cleaning up bodily fluids. Contractor shall only be obligated to report/communicate any observations of potential bio-hazards to the Owner/Client for their appropriate removal by others, unless previously arranged by the Owner/Client and Contractor.

## GENERAL TERMS AND CONDITIONS

### I. Contractor's Responsibility:

The contractor shall recognize and perform in accordance with written terms, written specifications and drawings only, contained or referred to herein.

Contractor reserves the right to renegotiate the contract when price or scope of work is affected by changes to any local, state, or federal law, regulation or ordinance that goes into effect after the Agreement is signed.

#### A. Workforce:

Contractor shall designate a qualified representative with experience in the services being provided. The workforce is to be personally presentable at all times. All employees shall be competent and qualified, and shall be U.S. citizens or legal residents, and authorized to work in the United States.

#### B. Materials:

All materials shall conform to bid specifications. Contractor will meet all Agricultural licensing and reporting requirements.

#### C. Licenses and Permits:

Contractor to maintain a Landscape Contractor's license, if so required by State or local law, and will comply with all other license and permit requirements of the City, State and Federal Governments, as well as all other requirements of law.

#### D. Taxes:

Contractor agrees to pay taxes applicable to its work under this contract, including sales tax on material supplied where applicable.

#### E. Insurance:

Contractor agrees to provide General Liability Insurance, Automotive Liability Insurance, Worker's Compensation Insurance, and any other insurance required by law or owner/client.

#### F. Liability:

It is understood and agreed that the Contractor is not liable for any damage of any kind whatsoever that is not caused by the negligence of the Contractor, its agents or employees.

#### G. Subcontracts:

Contractor reserves the right to hire qualified subcontractors to perform specialized functions or work requiring specialized equipment.

#### H. Invoicing:

Contractor will submit monthly service invoices for the amount set forth under the prices and terms shown on page 1 of this Agreement. Any services rendered, that are in addition to or beyond the scope of work required by this Agreement shall be separately billed.

II. **Owner's/Client's Responsibility:**

A. **Utilities:**

All utilities shall be provided by the Owner/Client.

B. **Access to Jobsite:**

Owner/Client shall furnish access to all parts of jobsite where Contractor is to perform work as required by this Agreement or other functions related thereto, during normal business hours and other reasonable periods of time, and in the case of after hours emergencies.

C. **Payment:**

Owner/Client shall review invoices submitted by Contractor and payment shall be due fifteen (15) days following the date of the invoice and delinquent if not paid by that date. Contractor may cancel Agreement by giving seven (7) days written notice for nonpayment, after the payment is delinquent.

D. **Notice of Defect:**

Owner/Client shall give Contractor at least seven (7) days written notice to correct any problem or defect discovered in the performance of the work required under this Agreement. Contractor will not accept any deduction or offset unless such written notice is given.

III. **Other Terms:**

The Owner/Client and the Contractor respectively, bind themselves, their partners, successors, assignees and legal representative to the other party with respect to all covenants of this Agreement. Neither the Owner/Client nor the Contractor shall assign or transfer any interest in this Agreement without the written consent of the other.

IV. **Termination:**

This agreement may be terminated by either party with or without cause, upon thirty (30) days written notice to the other party. This agreement may be terminated by the Contractor for non-payment by Owner/Client, upon seven (7) days written notice as stated above. Either party shall be entitled to cure any deficiencies of performance or payment within seven (7) days of being notified of deficiency(s). If the Owner/Client makes payment in full within seven (7) days of receipt of the written notice, the grounds for termination shall be deemed cured. If Contractor corrects the deficiency identified in the written notice within seven (7) days of receipt of the notice, or if the deficiency is of such a nature that it cannot reasonably be corrected within seven (7) days and the Contractor commences a good faith effort to correct the deficiency within seven (7) days of receipt of notice, the grounds for the termination shall be deemed cured.

For the convenience of Owner/Client only, the monthly charge under this contract is an average of the total charge for all work to be performed under the contract divided by the number of calendar months included in the payment period of the contract. In the event this contract is terminated early by either party, the Contractor shall be entitled to recover his unrecovered costs incurred through the date of termination, including a reasonable amount of overhead and profit, and any amount in excess of the monthly charges paid by the Client through the date of termination. This is because substantial portions of the work for the year, may be performed in the early months of each year of the contract including potentially significant mobilization costs in start-up and the cost of the work will not be fully recovered by the Contractor until all monthly payments under the contract have been received.

End



3275 E. Thousand Oaks Blvd., #200  
Thousand Oaks, CA 91362  
T (805) 642-9300  
F (805) 642-6990  
[www.treecareservices.com](http://www.treecareservices.com)

## EXHIBIT A

Thank you for the opportunity to present a Tree Care Proposal for Stonecreek HOA. After walking the property, we've put together a competitive bid to perform this work. In the pages that follow you can find the estimated fees as well as a photo gallery depicting some of the problematic areas we noticed in your trees along with recommended solutions. Following is a summary of the primary objectives we discussed:

- **Reduce Liability** – The trees throughout the community are very heavy and pose a threat of breaking in the coming weather, potentially causing significant personal and property damages. By proactively pruning these trees and reducing some of the excessive end weight, we can prevent significant liability costs associated with potential damages.
- **Reduce Annual Pruning Costs & Improve Aesthetic Appeal** – There are several areas throughout the community that have been overplanted with too many trees planted very close to each other and to the homes. These trees are now competing with one another and encroaching on the homes with several points of contact. Select removal of the outlined trees will encourage healthy growth of adjacent landscape, reduce the possibility of structural damage from trees planted too close to homes, and reduce future annual pruning costs associated with maintaining proper building clearance.

We know that you have a choice when it comes to selecting a tree care contractor. As you consider your options, please remember what makes ValleyCrest distinct.

- |  |  |
|--|--|
| • 24/7 Emergency Response  | • Strict, Self-Imposed Safety Standards                              |
| • Self-Performed Work; No Subcontractors                               | • Personal and Property Damage Insurance, Specifically for Tree Work |
| • Neat, Clean, Uniformed Tree Care Crews                               | • Same Three-Person Teams Together on Every Job                      |
| • Company-Supplied, Regularly-Maintained Tools & Equipment             | • Certified Arborist or Tree Care Specialist on Every Job            |
| • Regularly Solicited Customer Feedback Via 3 <sup>rd</sup> Party Firm | • Multi-Year Tree Management Programs                                |
| • Work Performed in Accordance with Industry Best Practices            | • Landscape Design, Installation & Maintenance Solutions             |

As soon as you are ready, we can schedule the work and look forward to working together. Thank you for your consideration.

Sincerely,

Billy Duckworth, Tree Care Specialist  
805-732-3217 (cell)  
[bduckworth@valleycrest.com](mailto:bduckworth@valleycrest.com)



November 11, 2011  
Job # 2070

## Stonecreek HOA Tree Care Services Proposal

Customer Name	Tandem Property Management	Jobsite Name	Stonecreek HOA
Customer Phone	818-883-4202	Jobsite Address	Las Virgenes Rd/Oak Glen St
Customer E-Mail	martin@yonspm.com	Jobsite City, St, Zip	Oak Glen, CA
Billing Address	6453 Independence Ave	Jobsite Contact	Martin Wilson
Billing City, St, Zip	Woodland Hills, CA 91367	Jobsite Contact Phone	818-883-4202

Tree Species	Quantity	Service	Location
<b>Pruning</b>			
Sycamore	64	Crown Thin to Prevent Breakage: Building Clearance Prune	Throughout
Alder	25	Crown Thin To Prevent Breakage: Remove Deadwood	Throughout
Camphor	7	Crown Thin	Throughout
Crape Myrtle	21	Crown Thin: Lace out	Throughout
Brazilian Pepper	6	Crown Thin: Building Clearance Prune	Throughout
Oleanader	18	Crown Thin: Building Clearance Prune	Throughout
Podocarpus	3	Crown Thin to Prevent Breakage: Building Clearance Prune	Throughout
Plum	9	Crown Thin: Lace out: Building Clearance Prune	Throughout
Carolina Cherry	3	Crown Thin: Lace out: Building Clearance Prune	Throughout
Queen Palm	8	Remove Dead Fronds and Seed Pods	Throughout
Pear	42	Crown Thin: Building Clearance Prune	Throughout

### Removals

Sycamore	1	Overplanted: Encroaching on Home: Removal with Stump Grind	4356-4352
Sycamore	1	Overplanted: Encroaching on Home: Removal with Stump Grind	4355
Sycamore	1	Overplanted: Encroaching on Home: Removal with Stump Grind	4355
Sycamore	1	Overplanted: Encroaching on Home: Removal with Stump Grind	4365
Sycamore	1	Overplanted: Encroaching on Home: Removal with Stump Grind	4361
Sycamore	1	Overplanted: Encroaching on Home: Removal with Stump Grind	4371

Tree Species	Quantity	Service	Location
Sycamore	1	Overplanted: Encroaching on Home: Removal with Stump Grind	4371
Sycamore	1	Overplanted: Encroaching on Home: Removal with Stump Grind	4378
Alder	2	Dead: Removal with Stump Grind	4375

Items included in this price

Jobsite clean-up and debris disposal	<input checked="" type="checkbox"/>	All materials	<input checked="" type="checkbox"/>	
City ordinances for noise and traffic blockage researched and followed	<input checked="" type="checkbox"/>	All applicable taxes	<input checked="" type="checkbox"/>	Pruning Total \$14,755
Company-supplied, regularly-maintained tools and equipment	<input checked="" type="checkbox"/>	Drive time	<input checked="" type="checkbox"/>	Removal Total \$2,613

3275 E. Thousand Oaks Blvd., #200, Thousand Oaks, CA 91362

Phone (805) 642-9300 Fax (805) 642-6990

www.treecareservices.com

**Total Proposed Cost \$17,368**

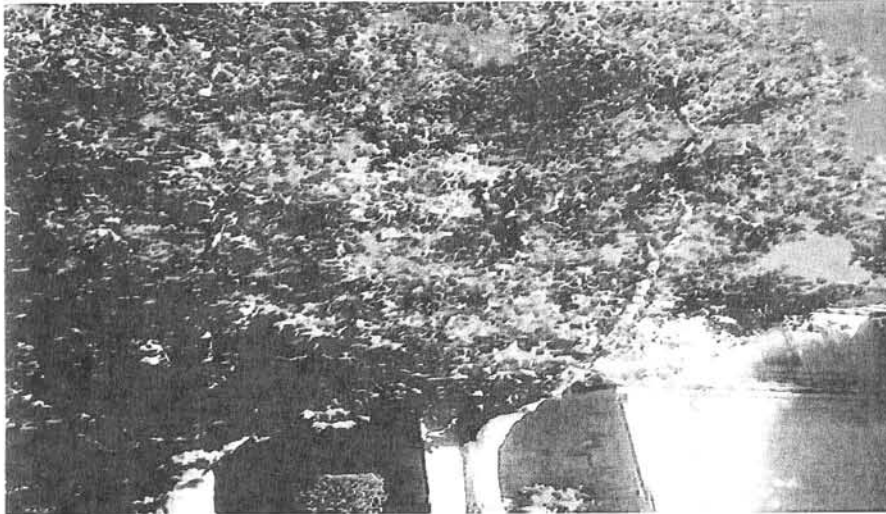
THIS IS NOT AN INVOICE



## Stonecreek HOA Observations & Recommendations

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On a recent visit to your property we had the opportunity to observe your trees. We discovered some trees in immediate need of attention, some requiring preventative maintenance and others that should be removed. Below we visually depict our observations and summarize our recommendations for only those trees with clearance, liability or healthcare issues, and those we suggest for removal. Please note that at ValleyCrest we suggest only practical, cost-effective solutions, ones we know that work and conform to industry best practices dictated by the International Society of Arboriculture and the Tree Care Industry Association.



**Observation:** There are several areas that are overplanted with trees competing with one another and encroaching on homes.

**Recommendation:** Select Removal and Stump Grind.

**Benefit and Value:** Encourage healthy growth of adjacent landscape and reduce annual building clearance pruning costs.



**Observation:** There are two dead Alder trees that pose a threat of falling due to internal decay.

**Recommendation:** Removal and Stump Grind.

**Benefit and Value:** Reduce potential for personal and property damages from failure and improve aesthetic appeal of community.

# ValleyCrest Tree Care Services

## Terms & Conditions

1. **Bid Specifications:** The Contractor shall recognize and perform in accordance with only written terms, specifications, and drawings contained or referred to herein. All materials shall conform to bid specifications.
2. **Work Force:** Contractor shall designate a qualified representative with experience in tree management. The work force shall be presentable at all times. All employees shall be competent and qualified and shall be legally authorized to work in the U.S.
3. **Tree & Stump Removal:** Trees removed will be cut as close to the ground as possible based on conditions near to or next to the bottom of the tree trunk. Additional charges will be levied for unseen hazards such as, but not limited to concrete or brick filled trunks, metal rods, etc. If requested, mechanical grinding of visible tree stump will be done to a defined width and depth below ground level at an additional charge to the Client/Owner. Defined backfill and landscape material may be specified. Client/Owner shall be responsible for contacting Underground Service Alert to locate underground utility lines prior to start of work. ValleyCrest Tree Care Services is not responsible for damage done to underground utilities such as, but not limited to, cables, wires, pipes, and irrigation parts. ValleyCrest Tree Care Services will repair damaged irrigation lines at the Client/Owner's expense.
4. **Scheduling of Work:** If the jobsite conditions materially change from the time of approval of this proposal to the time the work starts, such that the job costs are adversely changed, this proposal is null and void. Scheduling of work is dependent on weather conditions and workloads. Our office will call the day prior to the work being done, unless other arrangements are made.
5. **Work Hours:** Any work, including emergency work, overtime and weekend work performed outside of the normal working hours (Monday-Friday between 6:30 a.m. and 2:30 p.m.) shall be billed at overtime rates. Use of power equipment will commence at 7:00 a.m., unless otherwise specified in the scope of work. Additional charges will be applied if crews cannot use power equipment by 9:00 a.m.
6. **License and Permits:** Contractor shall maintain a Landscape Contractor's license if required by State or local law and will comply with all other license and permit requirements of relevant city, state and federal governments, as well as all other requirements of law.
7. **Taxes:** Contractor agrees to pay all applicable taxes, including sales taxes on material supplied, where applicable.
8. **Insurance:** Contractor agrees to provide General Liability Insurance, Automotive Liability Insurance, Worker's Compensation Insurance, and any other insurance required by law or Client/Owner, as specified in writing prior to commencement of work. If not specified, Contractor will furnish insurance with a \$1,000,000 limit of liability.
9. **Liability:** Contractor shall indemnify the Client/Owner and its agents and employees from liabilities which arise out of the Contractor's work. It is understood and agreed that the Contractor is not liable whatsoever for any damages that are caused by the sole negligence or willful misconduct of the Client/Owner or an indemnified party. Contractor shall not be liable for any damage that occurs from acts of God. Acts of God are defined as those caused by windstorm, hail, fire, flood, earthquake, hurricane and freezing, etc. Under these circumstances, Contractor shall have the right to renegotiate the terms and prices of this agreement within sixty (60) days. Any illegal trespass, claims and/or damages resulting from work requested that is not on property owned by Client/Owner or not under Client/Owner management and control shall be the sole responsibility of Client/Owner.
10. **Waiver of Liability:** Requests for crown thinning in excess of twenty-five percent (25%), or work not in accordance with ISA (International Society of Arboricultural) standards will require a signed waiver of liability.
11. **Subcontractors:** Contractor reserves the right to hire qualified subcontractors to perform specialized functions or work requiring specialized equipment.
12. **Additional Services:** Any additional work not specified in the signed written proposal that involves additional costs will be executed only upon signed written order and will become an extra charge over and above the estimate.
13. **Access to Job Site:** Client/Owner shall provide all utilities to perform the work. Client/Owner shall furnish access to all parts of the job site where Contractor is to perform work as required by the Contract or other functions related thereto, during normal business hours and other reasonable periods of time. Contractor will perform the work as reasonably practical after the owner makes the site available for performance of the work.
14. **Invoicing:** Client/Owner shall make payment to Contractor within fifteen (15) days of receipt of invoice.
15. **Cancellation:** Notice of cancellation of work must be received in writing before the crew is dispatched to their location or Client/Owner will be liable for a minimum travel charge of \$150.00 and billed to Client/Owner.
16. **Assignment:** The Client/Owner and the Contractor, respectively, bind themselves, their partners, successors, assignees and legal representatives to the other party with respect to all covenants of this Contract. In the event of sale or transfer of Client/Owner's interest in its business and/or the property which is the subject of this agreement, Client/Owner must first obtain the written consent of Contractor for the assignment of any interest in this agreement to be effective.
17. **Disclaimer:** This proposal for tree care services was estimated and priced based upon a site visit and visual inspection from ground level using ordinary means, at or about the time this proposal was prepared. The price quoted in this proposal for the work described, is the result of that ground level visual inspection and therefore our company will not be liable for any additional costs or damages for additional work not described herein, or liable for any incidents/accidents resulting from conditions, that were not ascertainable by said ground level visual inspection by ordinary means at the time said inspection was performed. The work performed by ValleyCrest Tree Care Services is intended to reduce the chances of tree failure and any corresponding property liabilities, in addition to enhancing aesthetic value but is not a guarantee. We cannot be held responsible for unknown or otherwise hidden defects of your trees, which may fail in the future. The corrective work proposed herein cannot guarantee exact results.

### Acceptance of this Proposal

Contractor is authorized to perform the work stated on the face of this proposal. Payment will be 100% due at time of billing. If payment has not been received by ValleyCrest Tree Care Services within fifteen (15) days after billing, ValleyCrest Tree Care Services shall be entitled to all costs of collection, including reasonable attorneys' fees and it shall be relieved of any obligation to continue performance under this or any other Contract with Client/Owner. Interest at a per annum rate of 1% per month, or the highest rate permitted by law, will be charged on unpaid balance 45 days after billing.

**NOTICE: FAILURE TO MAKE PAYMENT WHEN DUE FOR COMPLETED WORK ON CONSTRUCTION JOBS, MAY RESULT IN A MECHANIC'S LIEN ON THE TITLE TO YOUR PROPERTY.**

### Customer

Signature	Title
Printed Name	Date

### ValleyCrest Tree Care Services

Tree Care Specialist	
Signature	Title
Billy Duckworth	November 11, 2011
Printed Name	Date

SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF LOS ANGELES NORTH WEST DISTRICT		FOR COURT USE ONLY
TITLE OF CASE (Abbreviated) <b>Brown v. Stone Creek Home Owners Association, et al.</b>		
ATTORNEY(S) NAME AND ADDRESS Davida A. Loewenthal Arturo T. Salinas LOEWENTHAL, HILLSHAFFER & CARTER, LLP 15260 Ventura Boulevard, Suite 1400 Sherman Oaks, CA 91403-5348 Telephone: (818) 905-6283/ Fax: (818) 905-6372		
ATTORNEY(S) FOR: <b>Cross-Complainants</b>		
		CASE NO.: LC100511 JUDGE: DEPT.:

### DECLARATION OF SERVICE

I, ROBERT SNOOK, declare that: I am over the age of eighteen years and not a party to the action; I am employed in, or am a resident of the County of Los Angeles, California; where the mailing occurs; and my business address is 15260 Ventura Blvd., Suite 1400, Sherman Oaks, California. I further declare that I am readily familiar with the business practice for collection and processing of correspondence, pleadings, and discovery for mailing via U.S. MAIL, OVERNIGHT DELIVERY, AND/OR FACSIMILE pursuant to which practice I caused to be served the following document(s): **CROSS-COMPLAINT FOR: BREACH OF COVENANTS, CONDITIONS AND RESTRICTIONS, INJUNCTION, DECLARATORY RELIEF, INDEMNITY and EQUITABLE INDEMNITY** by one or more of the following methods of service for each addressee respectively as follows:

### SEE ATTACHED SERVICE LIST

- ☒ (BY U.S. MAIL) I caused such document(s) to be sealed in envelopes, and with the correct postage thereon fully prepaid, either deposited each in the United States Postal Service or placed each for collection and mailing on August 22, 2013, at Sherman Oaks, California, following ordinary business practices.
- ☐ (BY OVERNIGHT DELIVERY) I caused such document(s) to be sealed in separate envelopes for each addressee and deposited each with OVERNITE EXPRESS for collection and delivery via OVERNIGHT DELIVERY on August 22, 2013, at Sherman Oaks, California, following ordinary business practices.
- ☐ (BY FACSIMILE) I caused such document(s) to be transmitted via facsimile to the named persons at their respective fax numbers on August 22, 2013, at Sherman Oaks, California. I then confirmed receipt of the facsimile transmission.
- ☒ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- ☐ (Federal) I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on August 22, 2013.

  
 ROBERT SNOOK

ATTORNEY	PARTY
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