

2015-0194817

05/11/2015 02:10 PM Fee: \$ 0.00

Page 1 of 9

Recorded in Official Records  
County of Riverside  
Peter Aldana  
Assessor-County Clerk-Recorder



RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

CITY OF RIVERSIDE  
3900 Main Street, 5th Floor  
Riverside, CA 92522  
Attn: Community Development, Code Enforcement

Property: 8695 Colorado Avenue  
Riverside, CA 92506  
APN: 191-174-020

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Page	DA	PCOR	Misc	Long	RFD	1st Pg	Adtl Pg	Cert	CC	
9										
SIZE	NCOR	SMF	(NCHG):							

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

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**AGREEMENT AND COVENANTS, CONDITIONS AND RESTRICTIONS  
AFFECTING REAL PROPERTY INCLUDING  
OWNER OCCUPANCY REQUIREMENTS**

THIS AGREEMENT AND COVENANTS, CONDITIONS AND RESTRICTIONS AFFECTING REAL PROPERTY INCLUDING OWNER OCCUPANCY REQUIREMENTS ("Covenant") is entered into this 17<sup>th</sup> day of December, 2014 (the "Effective Date"), by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation, ("City") and Heriberto C. Garcia, as ("Owners"), whom are sometimes referred to in this Agreement collectively as the "Parties," in connection with the real property located at 8695 Colorado Avenue, Riverside, California, Assessor's Parcel Number 191-174-020 ("Subject Property"), legally described in Exhibit "A" attached hereto and incorporated herein by reference to the following facts:

**RECITALS**

- A. Owners are the fee title holders of the Subject Property.
- B. Riverside Code Enforcement inspected the Subject Property on or about November 25, 2013 and observed an unmaintained landscape, outdoor storage and lack of exterior property maintenance.
- C. A Notice of Pendency of Administrative Proceedings was recorded with the Riverside County Recorder, instrument number 2014-0158160 on or about May 1, 2014.
- D. An Administrative Civil Penalties Notice and Order was issued and served on the Property Owner and interested parties on or about January 16, 2014.
- E. An Administrative Hearing was held on or about May 15, 2014, that resulted in findings that the condition of the Subject Property violated Sections 6.14.020(B)(3) (Lack of Required Landscape and/or Maintenance), 6.14.030 (Lack of Required Exterior Structural

C/A-1296

Maintenance), 6.15.020(A) (Unlawful Presence of Trash, Junk and Debris on Property), 19.440.030(E) (Unlawful Structure on City—Required Property Setback) and 16.04.510 (Lack of Required Building Permits for Construction, Reroof Project) of the Riverside Municipal Code (“RMC”) and an order was issued by Hearing Officer assessing administrative costs in the amount of \$1,522.67 and daily civil penalties of \$1,000.

F. Administrative Civil Penalties and Costs are currently outstanding and the Property Owner may be responsible for additional Administrative Civil Penalties and Costs assessed against the Subject Property in the absence of the execution of this this Owner Occupancy Covenant.

G. The City has an interest in eliminating blight, facilitating owner occupancy of residential housing stock, abatement of problem properties and securing the rehabilitation of problem properties in compliance with the RMC.

H. In consideration of the City’s reduction of the public assessment lien (or unpaid costs, fines and penalties owed to the City), Owners agree to record covenants, conditions and restrictions against the Subject Property, which requires the Owners, their successors and assigns to occupy the Subject Property.

NOW, THEREFORE, in consideration of the promises contained below and other good and sufficient consideration, the receipt of which is hereby acknowledged, the Parties agree that the Subject Property shall be held, sold, encumbered and conveyed subject to the following covenants, conditions and restrictions.

1. Recitals. The Parties acknowledge that the Recitals in the Agreement are true and correct and incorporate those recitals into the Agreement.

2. Comprehensive Resolution. The Parties acknowledge that this Agreement and corresponding Rehabilitation Agreement constitute a comprehensive resolution of all current administrative code enforcement actions relating to the Subject Property and further, that the parties intend to resolve all issues related thereto as a result of this Agreement.

3. Payment Reduction. The City of Riverside agrees to accept \$25,000 as payment for its cost and fines and \$4,200 as payment for its attorney’s fees, payments to be made within 45 days of execution of this agreement or the close of escrow, whichever occurs first.

4. Owner - Occupancy. Owners hereby agree that they will occupy the Subject Property as their primary residence for a period of twenty-five (25) years (“Restrictive Period”) following the Effective Date. Owner’s attempt to rent or actual rental of the Subject Property for any purpose during the Restrictive Period of restriction shall be a material breach of this Covenant and shall entitle City to exercise any and all available legal and equitable remedies. Should Owner breach this Covenant, the reduction of \$75,000 shall be forfeited and immediately due and payable.

It is expressly understood, acknowledged, agreed to and covenanted by the Owners for themselves, their successors and assigns, that the Subject Property or any part thereof shall only be used and maintained as an owner-occupied Single Family Residence. The Owners, their heirs,

executors, administrators, successor or assigns, are prohibited from and shall not rent, lease, or sublease the Subject Property (including any improvement or fixture thereto), or otherwise transfer or attempt to transfer a tenancy or leasehold interest in the Subject Property (including any improvement or fixture thereto) or any part thereof.

Parties acknowledge that this owner-occupancy covenant is a condition to and consideration for a reduction in the amount of unpaid civil penalties, fines and costs. City is implementing the objective of increasing the ratio of decent, safe and sanitary owner-occupied single-family residences to rental property throughout the City. In furtherance of this public use and purpose, Owners for itself and its successors and assigns, also agrees not to rent, lease, license or otherwise permit a non-owner of the Subject Property to take possession and control thereof. Owners for themselves, their heirs, executors, administrators, successors and assigns, agree and consent that this owner-occupancy restriction may be enforced by the City through specific performance

5. Term. This Covenant shall run for twenty-five (25) years on the Subject Property and apply to the Owners, their heirs, executors, administrators, assigns and successors-in-interest. This Covenant cannot be terminated unless a written agreement to terminate is executed by Owners, or their successors-in-interest, and the City, by its Community Development Director and said document is duly recorded with the Riverside County Recorder. At the end of the term, City shall record a Notice of Termination of the Covenant.

6. Statutory Liability. Nothing contained in this Agreement shall be construed to alter the Parties statutory and common law duties, rights and liabilities with respect to nuisance abatement, hazardous substance handling and remediation; nor to apportion liability for the cost of abating or remediating the occurrence of any nuisance or release of "hazardous substances" and "hazardous materials" as those terms may be defined by regulatory agencies.

7. Liability Waiver. Owners hereby forever voluntarily releases, discharges, waives and relinquishes any and all actions or causes of action solely arising out of the City's enforcement activities occurring on or before the effective date of this Agreement, however the same may have occurred and for whatever period said activities may continue, and Owners do for themselves, their heirs, executors, administrators, successors-in-interest and assigns hereby release, waive discharge and relinquish any action or causes of action which may hereafter arise for themselves and their estate.

8. Acknowledgment. The Parties, and each of them, acknowledge that they have read this Agreement; that they had an opportunity to have the Agreement explained to them by counsel of their choice; that they are aware of the content and legal effect of the Agreement; and that they are not relying on any representation made by any other party or any of the employees, agents, representatives, or attorneys of any other party, or any of them.

9. Disclosure Requirements. Prior to the execution of a purchase and sale agreement between the Owner and any subsequent purchaser of the Property, and prior to the execution of a purchase and sale agreement between any subsequent owner of the Property and any subsequent purchasers, the then current Owners or its successor, or its assigns (as may be applicable) shall

disclose, in writing, to each purchaser the fact that the Property is burdened by these certain "Covenants, Conditions and Restrictions Affecting Real Property Including Owner Occupancy Requirements" and that the requirements stated in this Covenant will remain in effect for the term described in Section 3.

10. Monitoring by the City. The City is authorized to take reasonable steps to investigate the occupancy status of the Subject Property and confirm compliance with the owner occupancy covenant.

11. Binding on the Successors in Interest. The Owners hereby covenant and agree that their heirs, successors, executors, administrators and assigns, and every successor in interest to the Subject Property, or any part thereof, shall comply with each and every term, covenant, condition and restriction contained herein. This Covenant shall run with the land, any other provision of law notwithstanding, and shall be enforceable by the City in an action for specific performance against the Owners and their successors and assigns.

12. Maintenance of Subject Property.

(a) The Owners hereby agree, for themselves, their successors and assigns, that they shall maintain the Subject Property, dwelling unit, improvements, landscaping and fixtures in good repair and shall keep the Subject Property free from any accumulation of debris or waste materials, consistent with the customary practice and so as not to create a nuisance, or violate any provision of the RMC. In particular, Owners agree, for themselves, their successors and assigns, to maintain the Property in compliance with RMC Chapters 6.11 and 6.14, as same may be amended from time to time.

(b) All exterior painted surfaces shall be maintained at all times in a clean and presentable manner, free from chipping, cracking and defacing marks. Any such defacing marks shall be cleaned or removed within the time as set forth in subparagraph (d) below.

(c) The Owners shall at all times maintain the front exterior, visible side exteriors and yard in a clean, safe and presentable manner, free from defacing marks or any disrepair. The Owners shall maintain and/or repair the front exterior or rear or visible side yard and exterior of the dwelling unit.

(d) All graffiti and defacement of any type, including marks, words and pictures, must be removed and any necessary painting or repair completed within one (1) week of their creation or within one (1) week after notice to Owner(s).

(e) All driveways must be paved and maintained with impervious material in accordance with the RMC.

13. City as Beneficiary. The City is a beneficiary of the terms and provisions of this Covenant, both for and in its own right, and for the purposes of protecting the interests of the community and other parties, public or private, for whose benefit this Covenant has been provided.

The City shall have the right, but not the obligation, to exercise all rights and remedies and to maintain any actions at law or in equity or any other proceedings to enforce this Covenant.

14. Notices. All notices required shall be in writing and delivered by registered mail, postage prepaid. A party may change its address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address. All notices shall be deemed received three (3) business days after dispatch by regular mail, or one (1) business day after dispatch by a reputable overnight courier service (such as Federal Express).

Notices to be given to the City shall be addressed as follows:

City of Riverside  
Community Development Department  
Code Enforcement  
3900 Main Street  
Riverside, CA 92522

Notices to the Owners shall be addressed as follows:

Heriberto C. Garcia  
\_\_\_\_\_  
\_\_\_\_\_

15. Nonwaiver. The failure of City to enforce any one or more of the covenants, conditions or restrictions contained herein on any one or more occasions shall not constitute a waiver of the City's right to enforce the covenants, conditions and restrictions in the future.

16. Noncompliance/Attorney's Fees. In the event of noncompliance with any provision under this Covenant, the City may take any and all enforcement actions provided by any provision of the RMC, or exercise any other remedy under the law or in equity to which the City may be entitled. Should the City bring an action to enforce the terms of this Covenant, the prevailing party shall be entitled to costs of suit, including reasonable attorneys' fees.

17. Rights and Remedies are Cumulative. To the extent permitted by law and except with respect to rights and remedies expressly declared to be exclusive in this Covenant, the rights and remedies of the Owners are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same event of default or any other event of default by the other party.

18. Deemed Consent. Any person or corporation who now or hereafter owns or acquires any right, title or interest in or to the Subject Property shall be deemed to have consented and agreed to every covenant, condition and restriction contained herein whether or not any reference to this Covenant is contained in the instrument by which such person acquired an interest in the Subject Property.

19. Counterparts. This Covenant may be executed in two (2) or more identical counterparts. If so executed, each of such counterparts shall, collectively, constitute one original Covenant. In making proof of this Covenant, it shall not be necessary to produce or account for more than one such counterpart.

20. Venue. Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

21. Severability. Should any of this Agreement be deemed unlawful, that provision shall be severed, and the remaining terms shall continue to be valid and fully enforceable.

22. Waiver. Failure of any party to insist upon strict observance of, or compliance with, all of the terms of this Agreement in one or more instances, shall not be deemed to be a waiver of a party's rights to insist upon such observance or compliance with the other terms of this Agreement.

23. Agreement Parameters. This Agreement constitutes the entire agreement between the Parties. No modification of this Agreement shall be valid unless in writing signed by the Parties. The Parties shall not be bound by any representation, warrant, promise, statement or information, unless it is specifically set forth in this Agreement.

24. Agreement Interpretation. This Agreement has been jointly negotiated and drafted. The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any of the Parties.


25. Authority. The individuals executing this Covenant and the instruments referenced herein on behalf of Owners each represent and warrant that they have the legal power, right and actual authority to bind Owners to the terms and conditions hereof and thereof.

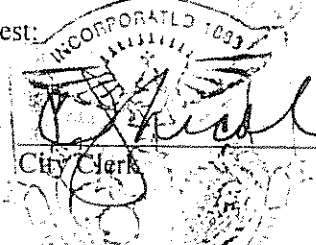

IN WITNESS WHEREOF, the parties have caused this Covenant to be executed as of the day and year first written above.

(Signatures on next page)


**CITY:**

CITY OF RIVERSIDE,  
a California charter city and  
municipal corporation

By:   
City Manager

Attest:   
By:   
City Clerk

APPROVED AS TO FORM:

By:   
Deputy City Attorney

**OWNERS:**

By:   
HERIBERTO C. GARCIA


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

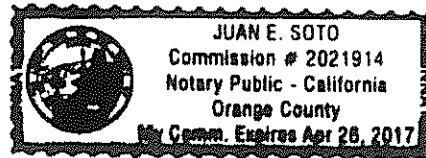
STATE OF CALIFORNIA )  
 )ss  
COUNTY OF RIVERSIDE )

On December 05, 2014, before me, Juan E. Soto, Notary Public,  
personally appeared Heriberto C. Garcia who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that  
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Notary Signature





**EXHIBIT A**

Legal description of the Subject property located in the County of Riverside, at (address), is as follows:

LOT 1 OF ROBLYNN MANOR, UNIT 2, AS SHOWN BY MAP ON FILE IN BOOK 35, PAGES 81, 82. AND 83 OF MAPS, RIVERSIDE COUNTY RECORDS.

APN: 191-174-020