


BILL NAZZARO
6834 S. Detroit Circle
Centennial, CO 80122

Arapahoe County Clerk & Recorder, Nancy A. Doty
Reception #: B7091887
Receipt #: 5347755
Pages Recorded: 6
Recording Fee: \$31.00
Date Recorded: 7/11/2007 2:04:29 PM



LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter referred to as the "Lease") is entered into and made effective as of the **1st day of June, 2002** (the "Effective Date") by and between **Cherry Knolls Swim and Tennis Club**, a Colorado non-profit corporation whose address is 3952 E. Briarwood Ave, Centennial, CO 80122 Centennial, Colorado, 80122 ("Lessor") and **Cherry Knolls Improvement Association**, a Colorado non-profit corporation whose address is P.O. Box 2551, Centennial, Colorado 80161 ("Lessee").

WITNESSETH:

WHEREAS, Lessor is the owner of certain real property in the City of Centennial, County of Arapahoe, State of Colorado being more particularly described on Exhibit "A" hereto (hereinafter referred to as the "Premises"); and

WHEREAS, Lessor is desirous of leasing the Premises exclusively to Lessee upon the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the sum of **Ten Dollars (\$10.00)**, the covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee do hereby agree as follows:

1. **TERM.** Lessor leases to Lessee and Lessee leases from Lessor the above described Premises, together with any and all appurtenances thereto, for a term of Ninety Nine (99) years, such term beginning on June 1, 2002 and, unless sooner terminated by written agreement of the parties or as otherwise provided herein, ending at 12 o'clock midnight on June 1, 2101.

2. **RENT.** The total rent for the term hereof is the sum of **Ninety Nine Dollars (\$99.00)** payable in ninety nine equal, annual installments of **One Dollar (\$1.00)**, commencing with June 1, 2002 and continuing annually thereafter with payment to be received on or before the first day of June of each year during the term hereof. All such payments shall be made to Lessor without demand at Lessor's address as set forth in the preamble to this Lease, unless directed in writing otherwise.

3. **USE OF THE PREMISES.** The Premises shall be used and occupied by Lessee for the development, maintenance and operation of a community park (the "Park") and for no other purpose. Notwithstanding the foregoing, however, it is expressly understood and agreed by the parties that Lessee's use and occupation of the Premises and the development and operation thereof for park purposes shall be joint and in cooperation with Lessor in accordance with the terms hereof.

a. Commencement of Development. As of the Effective Date, the Premises are undeveloped and vacant. Thereafter, the parties shall commence construction of the Park and the development of the Premises for park purposes in accordance with the directives of the Joint Operating Committee, such Committee being described below.

b. Preliminary Funding Requirement. The total project costs for construction of the Park have been estimated to cost approximately **One Hundred Thousand Dollars (\$100,000)** and the parties have jointly undertaken certain fundraising initiatives in contemplation of these expenditures. In the event that such fund raising initiatives have not raised a minimum of **Sixty Thousand Dollars (\$60,000)** (the "Preliminary Funding Requirement") by January 1, 2003, this Lease shall terminate and all funds raised in this effort shall be returned to the contributors. In the event that cost estimates for the Park project are revised, the Preliminary Funding Requirement shall also be adjusted proportionately so that it remains sixty percent (60%) of the total project costs and any failure to secure the minimum Preliminary Funding Requirement as of January 1, 2003 shall cause the termination of this Lease.

c. Costs of Development. Provided that the Preliminary Funding Requirement has been timely met, development of the Park shall be commenced and the costs of such shall be borne by Lessee (85%) and by Lessor (15%). For the purposes hereof, the funds raised in connection with the Preliminary Funding Requirement shall be deemed to have been raised by the parties, and shall be contributed toward the costs of development, in the percentages set forth in the preceding sentence. In the event the Preliminary Funding Requirement has been met, but less than the total project funding has been raised by December 31, 2002, the parties may elect to contribute additional funds toward the project out of their respective general operating budgets. Any funds contributed to, raised or otherwise obtained by the parties, or either of them, for purposes of Park development or construction, which are in excess of the costs necessary to complete the project, shall be returned to or retained by Lessee and Lessor in the percentages previously stated, i.e. 85% and 15% respectively.

d. Park Development and Construction. The development of the Premises into the Park shall be managed and directed by the Joint Operating Committee, (the "JOC"). The JOC shall consist of a total of six members, three of which shall represent Lessor and three representing Lessee. Lessor and Lessee shall select or appoint such JOC members in any manner they may choose in accordance with their respective bylaws or other governing documents. The decision-making process of the JOC initially shall be in accordance with the majority vote of the members thereof, but may be revised or established otherwise by the JOC. The JOC shall be responsible for all matters associated with the construction and development of the Park; provided, however, that contractors and others employed or retained to work on construction of the Park

shall be contracted by and in the name of Lessee. Upon substantial completion of the Park, as such may be determined by the JOC, the JOC shall be disbanded and subsequent operation and management of the Park shall be undertaken by Lessee pursuant to this Lease. For the purposes hereof, "substantial completion" of the Park shall include, at a minimum, the expenditure of all monies raised in conjunction with the Preliminary Funding Requirement.

e. Development Requirement. In the event substantial completion of the Park has not occurred by January 1, 2006, this Lease shall terminate and all unexpended funds shall be returned to Lessor and Lessee in the 85%/15% proportions set forth above to be expended on other projects or returned to contributors as each organization may determine.

f. Subsequent Maintenance and Operation. Following substantial completion of the Park and the termination of the JOC, all matters of operation, maintenance, improvement or any further development of the Park shall be under the control and at the expense of Lessee. At a minimum, Lessee shall provide for general landscaping, irrigation, mowing, fertilizing, weed control, trash removal, lighting and signage. Lessee also shall pay all charges for water, sewer, gas, electricity, telephone and other services and utilities used by Lessee on the Premises during the term of this Lease unless otherwise expressly agreed in writing by Lessor. In the event that any utility or service provided to the Premises is not separately metered, Lessor shall pay the amount due and separately invoice Lessee for Lessee's pro rata share of the charges. Lessee shall pay such amounts within thirty (30) days of invoice.

g. Insurance Requirements and Property Tax. Lessor and Lessee shall each maintain liability and hazard insurance on the property throughout the term of this Lease in amounts appropriate or necessary to cover each such party's interest in the Premises. The rates, coverage limits, carrier(s) and policy types shall be determined by Lessor and Lessee independently and in accordance with the needs or requirements of each organization, but each party shall provide the other, on an annual basis, a certificate of insurance naming such other party as an additional insured under the policy. Ad valorem taxes attributable to the Premises from and after the Effective Date shall continue to be paid by Lessor.

4. **USE RESTRICTIONS.** During the term of this Lease, neither party may use or occupy the Premises in any manner inconsistent with the purposes hereof. Neither party may sell, assign, transfer or encumber the Premises, or its interest therein without the prior written approval of the other and any approved sale, assignment, transfer or encumbrance shall be made expressly subject to the terms of this Lease and the requirement that the Premises be exclusively maintained for park purposes.

5. **ACCESS TO POOL PROPERTY.** Lessor owns a parcel of property immediately adjacent to and west of the Premises and operates the same

as a private swimming club (the "Pool"). The parties presently contemplate the option of constructing a place of ingress and egress between the Pool and the Park to be operated and maintained by and at the expense of Lessor. Construction of such access area shall not be undertaken without design approval on the part of both Lessor and Lessee.

6. **RECORDING.** In order to give public notice of the existence of this Lease, the parties shall execute and place of record in Arapahoe County, a written memorandum in mutually agreeable form which shall describe the Premises and such other terms and conditions hereof as the parties may determine.


7. **BINDING EFFECT.** The covenants, obligations and conditions herein contained shall be binding on and inure to the benefit of the permitted successors and assigns of the parties hereto.

8. **CONTROLLING LAW.** This Lease shall be governed and construed in accordance with the laws of the State of Colorado.

9. **SEVERABILITY.** If any provision of this Lease or the application thereof shall, for any reason or to any extent, be invalid or unenforceable, neither the remainder of this Lease nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

LESSOR:

**CHERRY KNOLLS SWIM
AND TENNIS CLUB**

By: 

Its: President

Attested to by: 

Its: Vice President

LESSEE:

**CHERRY KNOLLS
IMPROVEMENT ASSOCIATION**

By: 

Its: President

Attested to by: 

Its: Vice President

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("Memorandum") is made and entered into this ___ day of September, 2001 by and between Cherry Knolls Improvement Association, a Colorado not-for-profit corporation, acting by and through its board of directors ("CKIA"), and Cherry Knolls Swim & Tennis Club, also a Colorado not-for-profit corporation, acting by and through its board of directors ("CKS&T").

RECITAL

This Memorandum is entered into for the purpose of confirming the parties' intentions, understandings, agreements and commitments with respect to the joint and cooperative development of certain property owned by CKS&T for park purposes (the "Property"). This Memorandum is being entered into as a foundation for and in contemplation of the preparation of more comprehensive written agreements regarding this project (the "Formal Agreements").

1. The Property that is the subject of this Memorandum is located immediately east of the CKS&T swimming pool area and includes the current tennis courts and surrounding undeveloped acreage. The Property shall be surveyed and more particularly described in connection with the preparation of the Formal Agreements. The costs of such survey and the costs associated with obtaining any necessary Arapahoe County approvals or permits shall be borne by the parties equally.

2. Once the Property has been surveyed, the parties will enter into a lease agreement under which CKS&T will lease the Property to CKIA for a term of 99 years, with an annual rental in the amount of \$1.00. The lease shall be for the express purpose of developing and maintaining the Property for neighborhood park purposes.

3. The development and maintenance of the Property as a park shall be coordinated and undertaken by a six-person committee made up of three people from each organization. However, the committee shall be structured and established as a committee under the bylaws of CKIA. Each party shall be free to appoint or elect its three representatives in any manner it chooses.

4. The costs and expenses associated with the development of the Property as a park shall be borne by CKS&T - 15% and CKIA - 85%, although such percentages are considered approximations at this point and are subject to minor adjustment in the Formal Agreements. The

parties shall cooperate with, and jointly sponsor or participate in, various fundraising activities in furtherance of this project.

5. The Formal Agreements will establish certain fundraising objectives and time limitations in which those objectives are to be met. The Formal Agreements will also set forth certain levels or phases of the park development which also are to be completed within certain specified time limits. It is the intent and understanding of the parties that if these fund raising and construction objectives are not timely met, the entire project, including the lease agreement, may be terminated.

6. Once completed, the ongoing maintenance of the park shall be the obligation and the expense of CKIA.

By the execution of this Memorandum, each of the parties hereto confirms their respective commitment to enter the Formal Agreements consistent with the general terms set forth herein.

CKS&T

Cherry Knolls Swim &
Tennis Club

Name: 

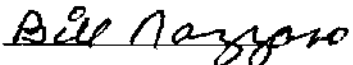
Title: President

Name: 

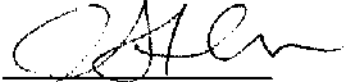
Title: Vice President

CKIA

Cherry Knolls Improvement
Association

Name: 

Title: President

Name: 

Title: Vice President