

**SENIOR HOUSING RESIDENCY RESTRICTIONS  
FOR  
HACIENDA CARMEL COMMUNITY ASSOCIATION**

This document sets forth the Senior Housing Residency Restrictions concerning the age and other qualifications of residents, other occupants, and guests at the Hacienda Carmel condominium project (the "Project").

Hacienda Carmel is not a community licensed as a "continuing care retirement community," a "residential care facility for the elderly," or otherwise equipped to accept responsibility for or care for persons who are not capable of safely living independently. The Association does not provide care or supervision of residents, assistance with activities of daily life, assisted living services, or care programs of any kind for residents.

These Senior Housing Residency Restrictions are adopted by the Board of Directors of Hacienda Carmel Community Association (the "Association") in conformance with applicable federal and California law. **These Senior Housing Residency Restrictions were adopted by the Board at a meeting on \_\_\_\_\_, 20\_\_ and are effective immediately.**

1. Senior Citizen Housing Development. The Project is a senior housing development that is intended to (i) qualify for the "housing for older persons" exemption from the prohibitions on discrimination based on familial status contained in the federal Fair Housing Act, including those provisions adopted pursuant to the Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995 (the "Federal Act"); (ii) qualify as a "senior citizen housing development" as that term is defined in California Civil Code section 51.3 (the "State Act"); and (iii) otherwise comply with the requirements of the Federal Act and the State Act.

2. Definitions. Capitalized terms used in these Senior Housing Residency Restrictions shall have the definitions set forth in this Section 2. All other capitalized terms that are not defined below shall have the meaning ascribed to them in the CC&Rs, unless the context requires otherwise.

2.1. Qualifying Resident means a person fifty-five (55) years of age or older.

2.2. Qualified Permanent Resident means a person who meets either of the following requirements:

(a) The person is residing or will reside with a Qualifying Resident **and** the person is forty-five (45) year of age or older *or* is a spouse or cohabitant (that is, persons who live together as husband and wife or are

domestic partners within the meaning of California Family Code section 297), or is a person providing primary physical or economic support to a Qualifying Resident (but not a Permitted Health Care Resident as defined in Section 2.C, below); or

(b) The person is a disabled person or person with a disabling illness or injury who is a child or grandchild of a Qualifying Resident or Qualified Permanent Resident, who needs to live with the Qualifying Resident or Qualified Permanent Resident because of the disabling condition, illness, or injury. "Disabled person" means a person who has a disability as defined in California Civil Code section 54(b). "Disabling illness or injury" means an illness or injury which results in a condition meeting the definition of a disability set forth in Civil Code section 54(b).

2.3. Permitted Health Care Resident means a person hired to provide live-in, long-term, or terminal (hospice) health care to a Qualifying Resident or a family member of a Qualifying Resident who is providing that care to a Qualifying Resident, other than a person who is a Qualified Permanent Resident as defined in Section 2.2, above. The care provided by a Permitted Health Care Resident must be substantial in nature and must provide assistance with necessary daily activities or medical treatment or both.

3. Residency Requirements and Restrictions, Generally. Except as otherwise specifically provided in Sections 8 and 11, below, every Unit, if occupied, must be occupied by at least one Qualifying Resident and every other person occupying the Unit (if he or she is not also a Qualifying Resident) must be a Qualified Permanent Resident, a Permitted Health Care Resident, or a person under fifty-five (55) years of age whose continued occupancy is permitted under certain "grandfathering" provisions of California law contained in Civil Code section 51.3(h) (had the right to occupy the Unit on January 1, 1985) and Civil Code section 51.4 (b) (had the right to occupy the Unit prior to January 1, 1990). In addition to the requirements set forth in these Senior Housing Residency Restrictions, Residents must also satisfy applicable financial, health, and other qualifications set forth in the Declaration of CC&Rs.

4. Burden of Proof. All persons claiming status as a Qualifying Resident, Qualified Permanent Resident, or Permitted Health Care Resident have the burden of proving to the satisfaction of the Board that they meet the qualifications for the applicable status.

5. When Documentation Is Required. The Owner or an authorized agent of the Owner shall certify to the Association that the Unit is or will be occupied by persons and in the manner set forth in these Senior Housing Residency Restrictions (i) before the Owner takes title to the Unit, (ii) before a person takes up occupancy of the Unit, and (iii) at such other times as may be requested by the Board. Certifications must be supported by reliable documentation of the age

and/or other relevant qualifications for occupancy or whether the person is a *bona fide* resident of the Unit, which documentation is acceptable to the Board in its sole discretion.

6. Verification of Age. The following documents, if authentic, are acceptable as proof of age:

- (a) Valid state-issued driver's license or identification card
- (b) Medicare card
- (c) Birth certificate
- (d) Passport
- (e) Immigration card
- (f) Military identification card
- (g) State, local, national, or international official documents containing a birth date of comparable reliability.

7. Verification of Primary Physical or Economic Support. Where it is asserted that a person provides primary physical support to a Qualifying Resident, the Qualifying Resident or agent of the Qualifying Resident may be required to provide one or both of the following to the Association: (i) a written statement from the Qualifying Resident's physician, other medical care provider, case worker or social worker stating that the Qualifying Resident requires physical support to perform or engage in one or more major life activities, and (ii) a written explanation of the type and amount of physical support provided to the Qualifying Resident by the person with a comparison of physical support provided by others and the activities that the Qualifying Resident may undertake without assistance.

Where it is asserted that a person provides primary economic support to a Qualifying Resident, the Qualifying Resident or agent of the Qualifying Resident may be required to demonstrate one or both of the following: (i) that the person has independent means and is able to support himself or herself without assistance from the Qualifying Resident, and (ii) that the financial support provided to the Qualifying Resident by such person exceeds the income and other financial support received by the Qualifying Resident. Absent satisfactory proof that the person provides primary physical or economic support to a Qualifying Resident, the person will be deemed to be a Permitted Health Care Resident if he or she otherwise satisfies the requirements for a Permitted Health Care Resident as defined in Section 2.3.

8. Verification of Disability or Disabling Illness or Injury. Where it is asserted that a person is a disabled person or person with a disabling illness or injury who is a child or grandchild of a Qualifying Resident or Qualified Permanent Resident, who needs to live with the Qualifying Resident or Qualified Permanent Resident because of the disabling condition, illness, or injury (as defined in Section 2.2(b)), the Qualifying Resident or Qualified Permanent Resident or his or her agent may be required to provide to the Association: (i) birth certificates or other documentation satisfactory to the Board showing that the person is the child or grandchild of the Qualifying Resident or Qualified Permanent Resident, (ii) a written statement or other documentation prepared by the person's physician, other medical care provider, case worker, or social worker confirming the diagnosis of the claimed disability or disabling illness or injury and/or the continuing existence of the disability or disabling illness or injury, (iii) a written statement from the person's physician, other medical care provider, case worker or social worker stating that the disability or disabling illness or injury limits a major life activity of the person and that the person needs to live with the Qualifying Resident or Qualified Permanent Resident because of the disability or disabling illness or injury.

9. Prohibition or Termination of Occupancy by Certain Disabled Persons. Subject to the hearing requirements set forth in this Section 9, the Board may prohibit or terminate the occupancy of any person who is a Qualified Permanent Resident pursuant to the definition in Section 2.2(b), above, if the Board finds, based on credible and objective evidence, that the person is likely to pose a significant threat to the health or safety of others, which threat cannot be ameliorated by means of a reasonable accommodation. The Board must provide to the disabled person whose occupancy is being challenged and to the co-resident parent or grandparent of that person reasonable notice and opportunity to be heard. The disabled person and/or his or her co-resident parent or grandparent shall be entitled to have present at the hearing an attorney or any other person authorized by the disabled person or the parent or grandparent to speak on their behalf or assist them in the matter. To preserve privacy, evidence must be submitted in a confidential manner and the hearing must be conducted in executive session of the Board. The Board shall give due consideration to the relevant, credible, and objective evidence provided in the hearing.

10. Continued Occupancy by Qualified Permanent Resident in the Absence of the Qualifying Resident. The Owner or an agent of the Owner shall provide notice to the Board within fifteen (15) days of the death, hospitalization, other prolonged absence, or dissolution of marriage of a Qualifying Resident. If the Qualified Permanent Resident was residing with the Qualifying Resident prior to the death, hospitalization, or other prolonged absence of, or dissolution of marriage with the Qualifying Resident, then the Qualified Permanent Resident shall be entitled to continue his or her occupancy of the Unit in the absence of the Qualifying Resident, unless the Board determines that such continued occupancy will result in less than eighty percent (80%) of the Units in the Project

being occupied by at least one Qualifying Resident as required by the Federal Act.

11. Termination of Occupancy of Formerly Disabled Qualified Permanent Resident. With respect to a person who is a Qualified Permanent Resident pursuant the definition in Section 2.2(b), above, if the person's disabling condition ends, the Board may require that the formerly disabled resident cease residing in the Project within six months after written notice from the Board to the formerly disabled person, or, in its discretion, the Board may allow the formerly disabled person to remain a resident for up to one year after the disabling condition has ended.

12. Occupancy by Permitted Health Care Residents. A Permitted Health Care Resident may occupy a Unit only during any period that he or she is actually providing live-in, long-term, or terminal (hospice) health care to a Qualifying Resident for compensation. For purposes of these Senior Housing Residency Restrictions, "compensation" shall include the provision of lodging and food in exchange for care. A Permitted Health Care Resident shall be entitled to continue his or her occupancy or use of a Unit in the absence of the Qualifying Resident only if **both** of the following apply and then only for the time periods specified:

(a) The Qualifying Resident became absent from the Unit due to hospitalization or other necessary medical treatment and expects to return to the Unit within ninety (90) days from the date the absence began; **and**

(b) The absent Qualifying Resident or an authorized person acting for the Qualifying Resident submits a written request to the Board stating that the Qualifying Resident desires that the Permitted Health Care Resident be allowed to remain in the Unit in order to be present when the Qualifying Resident returns to reside in the Project. If it appears that the Qualifying Resident will return within a period not to exceed an additional ninety (90) days, and upon written request for the Qualifying Resident or an authorized person acting for the Qualifying Resident, the Board may, in its discretion, allow a Permitted Health Care Resident to remain for a period longer than ninety (90) days.

13. Guests. A person under fifty-five (55) years of age may temporarily occupy a Unit as a guest of a Qualifying Resident or Qualified Permanent Resident, however the temporary occupancy of each individual guest may not exceed thirty (30) days in any six-month period and the host Qualifying Resident or Qualified Permanent Resident must be occupying the Unit during the time of the guest's stay.

14. Publication and Adherence to Restrictions. In compliance with the Federal Act, the Association shall publish and adhere to these Senior Housing Residency Restrictions which demonstrate that the Project is intended, and operated for,

occupancy by Qualifying Residents. The Association shall also comply with the federal rules and regulations for verification of occupancy adopted to implement the Federal Act.

15. Implementation of Restrictions, Amendment. The Board shall have the power and discretion to take any action the Board deems necessary to implement further rules and regulations and to amend or modify these Senior Housing Residency Restrictions to assure compliance with the Federal Act or the State Act and any rules or regulations adopted thereunder, as such statutes and governmental rules and regulations may be amended from time to time.

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