

The Board of Directors of the Bannockburn Homeowners Association hereby resolves on this date, _____, 1995, that the Bannockburn Protective Covenants filed with the Douglas County Clerk and Recorder on May 20th, 1993, contained certain changes and amendments which were made through the use of improper procedures and are hereby declared invalid; and that, furthermore, such procedures, changes and amendments and the reasons for declaring them invalid are cited below; to wit:

1. In regard to the balloting procedures used to authorize the amendment to the Covenants of an "appendix that lists approved types of materials for roofing, siding and fencing":
 - 1.1. A ballot was mailed to Bannockburn Resident Homeowners in June of 1992 asking them to vote on the following:

"With reference to the Protective Covenants of the Bannockburn Homeowners Association, as revised and summarized on December 15, 1986, and filed with the Douglas County Clerk & Recorder at reception number 8705875, dated 03/04/87, shall the appropriate Sections be amended to provide for the addition of an appendix that lists the approved types of materials for roofing, siding and fencing?"
 - 1.2. This ballot clearly stated "In order to be counted, this ballot must be returned no later than July 10, 1992 to: B H A, P.O. Box 211, Franktown, CO 80116".
 - 1.3. Ballots received as late as December, 1992, were counted in order to obtain the number of 'Yes' votes required for approval. The minutes of the December 9, 1992 Board meeting show that "two more votes are needed".
 - 1.4. The Bylaws then in effect allowed only 21 days from date of first sending for ballots to be returned and counted. Ballots were dated June 18, 1992 and most ballots were postmarked June 23, 1992. Per the Bylaws, the last possible date for returning ballots was July 14, 1992.
 - 1.5. Inasmuch as this ballot item failed to achieve approval by 66 2/3% of the then Resident Homeowners by the specified deadline (July 10, 1992) or the deadline required by the Bylaws (July 14, 1992), and inasmuch as such approval was required to amend the Covenants then in force, this ballot item is hereby declared to have FAILED.
2. In regard to a vote to amend the Covenants conducted March 27, 1993, at the Grange Hall in Franktown regarding specific building materials which, if approved, would be amended to the Covenants in the proposed appendix referenced above in paragraph 1:
 - 2.1. A total of 44 votes were received, 7 of which were disqualified. Two votes were disqualified because the voter's annual Bannockburn Homeowners Association fees had not been paid and three votes were disqualified because the voter's had not supplied the Board of Directors with proof of ownership.
 - 2.2. The Covenants then in effect stated in Section X, paragraph 4 that:

"The conditions, restrictions, stipulations, agreements and covenants contained herein shall not be waived, abandoned, terminated, or amended except by written consent of sixty-six and two-thirds percent (66 2/3%) of the resident owners of the privately owned land included within the boundaries of Bannockburn, as the same may then be shown by the plat on file in the office of the Clerk and Recorder of Douglas County, Colorado."

The vote conducted on March 27, 1993, was for the purpose of amending the Covenants and the 5 votes cited in paragraph 2.1 above were improperly disqualified.
 - 2.3. Inasmuch as the vote conducted on March 27, 1993, was for the purpose of amending (building materials to) the Covenants and none of the materials were approved by 66 2/3% of the then Resident Homeowners, as required to amend the Covenants then in force, all of the materials are hereby declared to have FAILED to be approved.
3. In regard to the "Bannockburn Architectural Guidelines" which contained a list of building materials (including those "approved" by the vote referenced in paragraph 2 above) and was amended to the Bannockburn Protective Covenants as "Appendix 1":
 - 3.1. This Appendix included the following statement:

"To protect Owners from future Covenant violations, once a material is approved for use in Bannockburn, such material will not be removed from this list of approved materials, except where such material may be declared hazardous or in violation of any law, rule, or regulation of any governmental authority having jurisdiction over Bannockburn."
 - 3.2. Inasmuch as the statement referenced in paragraph 3.1 above constitutes an amendment to the Covenants and inasmuch as this amendment was not approved by 66 2/3% of the Resident Homeowners, as required by the Covenants then in effect, this amendment of said statement is hereby declared INVALID.
4. Inasmuch as the changes and amendments contained in the Bannockburn Protective Covenants filed with the Douglas County Clerk and Recorder on May 20th, 1993, were not authorized by 66 2/3% of the then Resident Homeowners, as required by the Covenants then in effect, and for the reasons cited in paragraphs 1, 2 and 3 above, all of those changes and amendments are hereby declared INVALID.

By: _____
Stephen P. Bailey, President, Bannockburn Homeowners Association, Inc.

Attest: _____
James D. Rogers, Chairman, Governing Documents Committee, Bannockburn Homeowners Association, Inc.