

August 3, 1990

BRITTAN HEIGHTS CONDOMINIUMS

USE OF ATTIC SPACE

In the course of making fire safety code repairs to the attics at Brittan Heights, the Board of Directors discovered that some third-floor owners were making use of the attic space above their units. Owners had installed non-code electrical wiring, a work shop, and one had even installed a sauna! Because the attic spaces were not designed for this or any other uses, a safety hazard was created for all owners.

The attic spaces are not part of the individually owned units. They are a part of the common area, owned in common by all members of the Association. The Board of Directors of the Association is responsible for maintaining the Common Area. As such, the Board has adopted a policy to control use of the attic spaces and accommodate its members as much as possible. A copy of the policy is available together with an application upon request.

The Board's policy maintains the space as common area, and at the same time permits third-floor owners to use the attic space if it is done safely, and the cost is borne only by those members who want to develop and use the common area for storage space.

The Uniform Building Code, and the various fire and life safety codes as adopted by the City of San Carlos, comprise the standard for the safe use of the common area. These Codes expressly forbid any use of the attic space for habitation, because it creates a fourth floor without effective fire exiting. Therefore, the only safe use that can be made of the attic space is for storage, and only for the storage of non-hazardous materials, i.e., no gasoline or other flammable liquids or gases. No firecrackers, oily rags, etc.

Even limiting the use to such storage, the code requires improvements to the strength of the floor system in the attic space, and a transfer of the fire protection barrier from the ceiling below to the roof rafters in the attic. If and when these changes are made according to the Code, then the space is made safe for storage.

The enclosed application is being provided for your use if you want to proceed utilizing Western Water Proofing and Cecon at this time. Please fill out and return to Helen Salisbury as soon as possible.

When Recorded Return To:

**Brittan Heights Condominium Assoc.
c/o Feingold and Youngling, PLC
810 Fifth Avenue
San Rafael, CA 94901
(415) 454-1090**

POLICY OF THE BRITTAN HEIGHTS CONDOMINIUM ASSOCIATION

REGARDING USE OF ATTIC SPACE IN TOP FLOOR UNITS

THIS DOCUMENT EFFECTS real property in that it provides the requirements for licensing use of attic space by third floor unit owners in the Brittan Heights Project situated in the City of San Carlos, County of San Mateo, State of California and more particularly described as set forth in Exhibit A, attached hereto and incorporated herein by reference.

WHEREAS, THE BRITTAN HEIGHTS CONDOMINIUM ASSOCIATION has a duty to protect and maintain the buildings and the common area of the project for the benefit of all Owners; and,

WHEREAS, the Association has recently discovered that some unit Owners have entered upon and made illegal uses of the attic space, which is located in the Common Area above the third floor units; and

WHEREAS the Association has determined that, due to building code and fire-safety requirements, no use of the Common Area consisting of the attic space above third floor units shall be made without specific written Association approval; and

WHEREAS the Board of Directors is duly authorized to adopt reasonable rules relating to the use and maintenance of the Common Area;

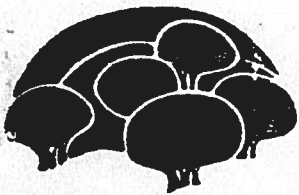
NOW THEREFORE, BE IT RESOLVED THAT THE ASSOCIATION, BY ITS BOARD OF DIRECTORS, HEREBY ADOPTS THE FOLLOWING POLICY AND RULES TO GOVERN THE CONSTRUCTION, USE AND MAINTENANCE OF THE ATTIC SPACES ABOVE THE THIRD FLOOR UNITS:

1. COMMON AREA. The attic spaces above third floor units are COMMON AREA. No use shall be made of them by unit Owners without the express written approval of the Board of Directors, which shall be granted only upon the fulfillment of all of the requirements set forth below:

- a. The Owner(s) shall submit an application ("Application") in the form attached hereto.**
- b. A licensed engineer or architect must design, and a licensed contractor must install the alterations ("Alterations") in conformance with the applicable San Carlos building & safety codes, including, at a minimum, the following:**

BRITTAN HEIGHTS ATTIC SPACE POLICY
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- (1) Add gypsum board to the underside of the roof rafters so as to cover all exposed framing.
 - (2) Add ceiling joists to increase the strength of the framing supporting the new attic floor.
 - (3) Install sheathing of sufficient strength after providing firestops and draftstops on all vertical penetrations through the ceiling.
 - (4) Install an approved attic access hatch.
 - (5) Install adequate eave and ridge ventilation.
- c. The Owner shall provide the Association with the engineer's or architect's written certification that the alterations conform to all structural, fire-safety, and code requirements in force at the time of construction.
- d. The Owner(s) must agree in writing to:
- (1) Indemnify, hold harmless, protect and defend the Association against any and all acts or claims arising from or in any way related to the Alterations, including any claims arising in connection with the approval, construction, use, repair, or removal thereof,
 - (2) Be responsible for all such additional costs related directly to the removal and/or replacement of the Alterations in the event the Association is required to further alter the attic space for good cause.
 - (3) Disclose the requirements of this Resolution, and Owner's the Application and approval hereunder, to all subsequent purchasers of the condominium by delivery of a copy of this Resolution and the Board's Approval of the Application for the Alterations to each purchaser not later than the closing of any sale of the unit,
 - (4) Maintain a policy of casualty and comprehensive liability insurance covering the Owner's interest in his/her unit and the approved attic storage space area,
 - (5) Reimburse the Association for the cost of reasonable engineering, legal and administrative fees related to the Owner's application. Failure to pay the above fees and costs within 30 days of notice may result in a special assessment for costs incurred in bringing the Owner's unit into compliance and may also result in a lien on the Owners unit which may be foreclosed pursuant to the applicable provisions of the Association's Covenants, Conditions and Restrictions. (See CC&R's, paragraphs 4.4 and 4.10.
 - (6) Have a written agreement with his/her licensed contractor which shall include a provision that, in the event of a dispute between the Owner(s) and Contractor over construction of the Alterations, the Contractor's lien rights shall be limited to the Owner's exclusive interest in the project pursuant to Section 1369 of the California Civil Code. The provisions of this Paragraph are in addition to, and not in lieu of, the provisions of Article 7.13 of the CC&R's, subtitled "Liability of Owners for Damage to Common Area".



APPLICATION

August 3, 1990

TO

BRITTAN HEIGHTS CONDOMINIUM ASSOCIATION

FOR USE OF ATTIC SPACE

Owner(s) Name: _____

Property Address: _____
San Carlos, California 94070

I/we hereby apply for license to use the attic space above my condominium. I agree that I will pay all costs involved in bringing the space into compliance with applicable codes. I agree to use the space only for closet and storage of non-flammable items and material.

The name, address and telephone number of the licensed engineer and/or architect that will [design and] approve and certify the work is: _____

The name, address and telephone number of the licensed contractor retained to perform the work is: _____

Also, I/we understand that:

1. The license may be revoked for cause by a future Board of Directors;
2. My unit may be liened and sold if I do not pay the Association for its engineering/legal/administrative costs; and
3. I/we must maintain a policy of casualty and comprehensive liability insurance covering said storage space in an amount not less than \$100,000 per occurrence, \$300,000 aggregate.

I have read the **POLICY OF THE BRITTAN HEIGHTS CONDOMINIUM ASSOCIATION REGARDING USE OF ATTIC SPACE IN TOP FLOOR UNITS**, a copy of which is attached hereto and incorporated by reference, and agree to comply with all the terms and conditions set forth therein.

Date: _____ **Owner** _____

Date: _____ **Owner** _____

Date: _____ **Brittan Heights Condominium Assn.** _____

[c/bh.attic]