

PAID: \$66.00 314186

## LAND LEASE

This lease is made between

**Brown Homestead Condominium Association of Telluride, Colorado**  
herein call Lessor, and

**Jerome R. Vass, of 1979 West Colorado Avenue, Telluride, Colorado 81435**  
herein call Lessee.

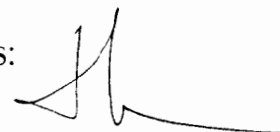
Lessee hereby offers to lease from Lessor the premises situated in the  
**County of San Miguel, State of Colorado, described in Exhibit 2 (attached),**

upon the following TERMS and CONDITIONS:

- 1. Term and Rent.** Lessor demises the above premises for a term of Twenty Five (25) Years commencing August 1, 1997 and ending July 31, 2022, or sooner as provided herein, for a one-time rental payment of Twenty Five Thousand Dollars (\$25,000), hereby receipted for, payable in advance and in full on the first day of this lease.
- 2. Use.** Lessee shall use and occupy the premises for parking for two automobiles/utility vehicles and landscaping. The premises shall be used for no other purpose. Lessor represents that the premises may lawfully be used for such purpose. See Addendum 1 for additional conditions.
- 3. Care and Maintenance of Premises.** Lessee acknowledges that the premises are in good order and repair, except for an outbuilding known as the "woodshed" which condition is dilapidated as indicated by the attached photographs taken on July 28, 1997. Lessee shall, at his own expense and at all times maintain the premises in good and safe condition and shall surrender the same at termination hereof, in as good condition as received, normal wear and tear excepted. Lessee shall be responsible for all repairs required. See Addendum 2 for additional conditions.

Lessor Initials: LK

Lessee Initials:



4. **Ordinances and Statutes.** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by Lessee.

5. **Utilities.** All applications and connections for necessary utility services on the demised premises shall be made in the name of Lessee only, and Lessee shall be solely liable for utility charges as they become due, including those for sewer, gas, electricity, and telephone services.

6. **Possession.** Possession of the demised premises shall be upon execution of this lease.

7. **Indemnification of Lessor.** Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property, occurring on the demised premises or any part hereof, and Lessee agrees to hold Lessor harmless from any claims for damages, no matter how caused.

8. **Insurance.** Lessee, at his expense, shall maintain public liability insurance including bodily injury and property damage insuring Lessee and Lessor.

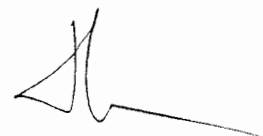
Lessee shall provide Lessor with a Certificate of Insurance showing Lessor as additional insured. The Certificate shall provide for a ten-day written notice to Lessor in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies which may be owned by Lessor or Lessee, Lessee and Lessor, for the benefit of each other, waive any and all right of subrogation which might otherwise exist. See Addendum 4 for additional conditions.

9. **Assignment and Subletting.** See Addendum 3 for Assignment clauses.

10. **Eminent Domain.** If the premises or any part thereof or any estate therein,

Lessor Initials: *LR*

Lessee Initials:



or any other part of the premises materially affecting Lessee's use of the premises, shall be taken by eminent domain, this lease shall terminate on the date when title vests pursuant to such taking. The rent shall be apportioned as of the termination date, and any rent paid for any period beyond that date shall be repaid to Lessee. Lessee shall not be entitled to any part of the award for such taking or any payment in lieu thereof, but Lessee may file a claim for any taking of fixtures and improvements owned by Lessee.

11. **Lessor's Remedies on Default.** If the Lessee defaults in the payment of rent, or defaults in the performance of any of the other covenants or conditions hereof, Lessor may give Lessee notice of such default and if Lessee does not cure any such default within sixty (60) days, after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if lessee does not commence such curing within such sixty (60) days and thereafter proceed with reasonable diligence and in good faith to cure such default), the lessor may terminate this lease on not less than thirty (30) days notice to Lessee. On the date specified in such notice the term of this lease shall terminate, and Lessee shall then quit and surrender the premises to Lessor, but Lessee shall remain liable as hereinafter provided. If this lease shall have been so terminated by Lessor, Lessor may at any time thereafter resume possession of the premises by any lawful means and remove Lessee or other occupant and their effects. No failure to enforce any term shall be deemed a waiver.

12. **Tax Increase.** See Addendum 5 for tax clauses.

13. **Attorney's Fees.** In case suit should be brought for recovery of the premises, or for any sum due hereunder, or because of any act which may arise out of the possession of the premises, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee.

14. **Waiver.** No failure of Lessor to enforce any term hereof shall be deemed

Lessor Initials: LK

Lessee Initials:



to be a waiver.


15. **Notices.** Any notice which either party may, or is required, to give shall be given by mailing the same, postage prepaid, to Lessee at Box 1717, Telluride, Colorado or at such other place as may be designated by the parties from time to time.

16. **Heirs, Assigns, Successors.** This lease is binding upon and inures to the benefit of heirs, assigns and successors in interest to the parties.

17. **Subordination.** This lease is and shall be subordinated to all existing liens and encumbrances against the property. See Addendum 6 for additional conditions.

18. **Entire Agreement.** The foregoing represents the entire agreement between the parties and may be modified only by a writing signed by both parties. Exhibits 1, 2 and 2A (attached) have been made a part of this lease before the parties' execution hereof.

Lessor Initials: *LK*

Lessee Initials: 


- Addendum to Lease -

**Lessor: Brown Homestead Condominium Association**  
**Lessee: Jerry Vass and/or nominee**  
**Date:**  
**Relating to: the leasing of a parcel of land by lessor to lessee**

The following paragraphs are addenda to the lease between Lessor and Lessee, dated and attached herewith, and are considered a part of the lease.


The parties to the lease recognize the following terms and/or provisions used throughout the lease:


**Purpose of Lease:** Lessee is part of the BH HOA because of certain shared interests in the land owned by lessee and lessor. Lessee is not an owner in the BH HOA however. Lessee now wishes to lease from the HOA (as Lessor) certain property so that Lessee can reserve the property exclusively for its use. And the intended use is three fold: 1) to provide up to two additional paved parking spaces for lessee 2) to landscape the property, and 3) to provide a more pleasing visual impact of Lessee's property from the road.

**Description of Lessor and Lessee:** Lessor is the **Brown Homestead Condo Association** (comprised of basically 20 condominiums, a parking lot, a tennis court, a few "out" buildings, and some common area, generally referred to as the "BH") and Lessee is **Jerry Vass**, owner of the property often referred to as the "Red House" or the "Vass House" or the "Richmond" tract. Total land size for both parcels is estimated at approximately 107,000 sq ft +/- . The Red House occupies approximately 13,000 sq ft of the total land and the condo portion the balance. All figures are estimates only from a survey dated April 28, 1976 and signed by the then owners of the property (i.e. Richmond). ~~See Exhibit #1 to lease for site plan and Exhibit #2 for 1976 survey.~~  The Lessor is often called the "BH" and is managed by its "HOA" and the names are interchangeable for purposes of this lease. The reason Lessee is a part of the HOA is that access to its premises are across the condo property and there are some common expenses that are shared by the condo property and the lessee/Red House. The Red House has no ownership in the condo portion or its common areas. And the condo portion has no ownership in the Red House.

**BH:** meaning Brown Homestead Condominium Association and/or its Board of Directors

**HOA:** meaning the Brown Homestead "Homeowner Association" which is the governing body for the BH

Lessor Initials: 

Lessee Initials: 

**Board:** the managing entity of the HOA which is comprised of owners of condo units in the BH who have been elected by the HOA. Typically 5 people.

**Red House:** also known as "Vass" or "Richmond" property. It is the single family dwelling shown on the site plan to the west of the 20 condo units and west of the stream. Currently owned by the lessee of this lease.


**Stream:** referenced inasmuch as it is, for purposes of this lease, the eastern boundary of the leased premises. The stream runs between the Red House and Building "A" of the adjacent BH condo project. Should the stream run dry, then the dry stream bed will replace the "stream" as the boundary. A formal legal survey is being prepared.

**Access Road:** the single lane road that provides ingress/egress to the leased property and then further to the Red house across the stream. This road begins in the parking lot of the condo project adjacent to the Red House property.

**Leased Property:** the subject property is described according to the attached legal description and survey map known as Exhibits 2 and 2A attached. Said description and survey are approved by both Lessor and Lessee:

Lessors Initials: LR

Lessee Initials.



Upon execution of the lease, the lease will be recorded against the legal description of the entire HOA. Said legal description includes both the property owned exclusively by the Red house (i.e. the lessee) and exclusively by the condo owners (i.e. the lessor).

**Laws:** this lease shall be construed according to the laws of the state of Colorado. If any provision of this lease is deemed illegal, then that portion of the lease shall be modified or deleted as the law may allow. And the lease will remain in effect for the duration of the term.

**Memorandum of Lease:** either a memorandum of this lease or the actual lease shall be recorded, at the option of the lessee. If lessee fails to so record a document, then lessor may do so.

**The tennis court** west of the stream is not part of the leased property, although lessee does have full privileges to use the tennis court by virtue of its inclusion in the BH HOA.

**The wood shed** which is part of the leased premises is to be maintained/retained by Lessee, and never removed from the leased premises or its current location without the express written permission of the HOA.

The following provisions relate back to the pre-printed form lease titled "Commercial Lease":

1) **Use.** Relating to **paragraph # 2 of the Lease**, no development or construction on the leased premises is permitted other than the areas referenced above of: 1) parking for 2 cars, and 2) additional landscaping. Under no circumstances may any buildings be constructed thereon. No new ingress/egress points to the leased property or the Red House may be developed on the leased premises. The mutual intent of Lessor and Lessee is to allow Lessee to provide extra parking and a beautification of the property in front of the Red House. Any zoning change or use change now or subsequently allowable by the Town of Telluride or the County of San Miguel that might effect the leased land will not override this lease and/or the intent of the parties to keep the space open and landscaped only.

The BH, as lessors of the property covered by this lease, hereby agree that they shall have no further rights to use the property during the course of the lease, whether it be for parking of cars, storage of materials, or any use whatsoever.

Lessee agrees to redo the entrance to the tennis court so that BH users will be able to enter the court from the east end (on BH property), while the old entrance along the north tennis court line will be replaced with a higher fence to prevent access to the court from this location.

Lessor Initials: *LR*

Lessee Initials:



Nothing herein is intended to restrict lessee's legal uses of the leased property. However, lessor wants to insure that the heretofore verbal intentions of lessor and lessee during the negotiation leading up to this lease are in fact adhered to. Accordingly, the leased premises are to be maintained in a condition at least equal to what is present today. No debris/garbage/construction material/extra vehicles (over and above the two allowed earlier in this lease) or other unsightly materials are to be left on the property which would impact the visual impression of the leased property.

2) **Care and Maintenance of Premises:** Relating to **paragraphs 3 and 17 of the lease form**, lessee agrees to provide all maintenance and repair of the leased premises during the term of the lease, except those items that may be the unique responsibility of the lessor. The intent here is to note that lessor's water main from the Town of Telluride water line runs under and across the leased premises and this line is lessor's responsibility. Regarding snow plowing, the BH HOA is responsible for plowing only the condo parking lot up to a point near the Access Road to the leased premises. Maintenance beyond said point is the responsibility of lessee.

3) **Assignment and Subletting:** Relating to **paragraph 6 of the lease form**, this lease shall be construed to run with the lessee's land (i.e the Red House) during the time of the lease, and at no time may the lease be assigned, sublet, carved out or in any manner transferred in such a way that its use or the ownership of the lease is separate from the current or future ownership of the Red House. Notwithstanding the forgoing, Lessee may assign this lease to any heirs or buyers of the Red House property without lessor's written or verbal approval beforehand. All such assignees, however, must abide by the terms of this lease, a memorandum of which will be recorded against the Red House.

4) **Insurance:** Relating to **paragraph 11 of the lease form**, insurance coverage for the leased premises is to be carried by lessee. Coverage shall include what is customary in Telluride, Colorado for such property. The BH HOA carries a blanket insurance policy which currently covers all its property, including the leased premises, but the BH HOA will not accept liability for use of the land by lessee and its tenants and/or guests. Lessee agrees to indemnify lessor against any and all claims arising out of its use of the property which may cause an insurance claim against the property and therefore potentially against the BH HOA and/or lessor. Lessor will continue to carry its policy of insurance in the event any of its condo owners and or guests/tenants are the cause of any insurance claim on the leased premises.

5) **Tax Increase.** Relating to **paragraph 16 of the lease form**, in the event the taxing authority of either the Town of Telluride or the County of San Miguel raise property taxes significantly on the common area of the BH HOA specifically because of either the mere existence of this lease or any improvements in landscaping/parking area on the leased area, then lessee agrees to pay the incremental taxes which will be assessed against the

Lessor Initials: LK

Lessee Initials:



JK  
LK

**LEASED PROPERTY.**

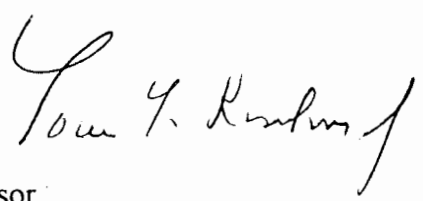
~~individual owners of the condo units.~~ It shall be lessor's responsibility to determine from the appropriate taxing authority if in fact tax increases were directly attributable to this lease and/or improvements to the leased property, and Lessor will share that evidence with Lessee to support the contention that the Lease and/or Lessee's actions on the property caused the tax increase.

6) **Subordination:** Relating to **paragraph 23 of the lease form**, this lease is subordinate to any current recorded liens against the Red House or the BH HOA. However, by its recording, it will become superior to any future liens against either property.

**Financing** of any kind may not be placed or recorded against the leased property, nor may the leased property be used as collateral for any financing the lessee or its assigns may place against the Red House or any other property. Any lender considering any future financing of the Red House may rely upon the existence of this lease solely as it benefits the Red House for the duration of the lease term and so long as lessee is in compliance with the terms of the lease. Any violation of this lease provision is grounds for unilateral cancellation of the lease by Lessor, in addition to any other provisions available in law to Lessor to clear the title to the leased property.

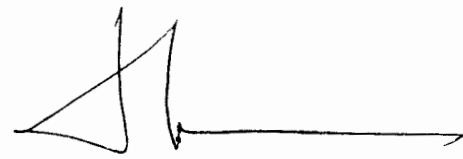
**Early cancellation of the lease** by lessee is permitted, but no rebate in rent will be tendered to lessee unless such a negotiation is agreed to in writing by lessor and lessee. Lessor has no such unilateral right of early cancellation.

**Authority of BH HOA to sign lease:** the Board of Directors of the BH HOA has submitted the proposed lease terms to its owners and received approval for the execution of this lease. A copy of the Board approval is attached to this lease as an exhibit #4.



Lessor  
Louis L. Kissling  
President  
Brown Homestead Condominium Association

Date: 8/5/97



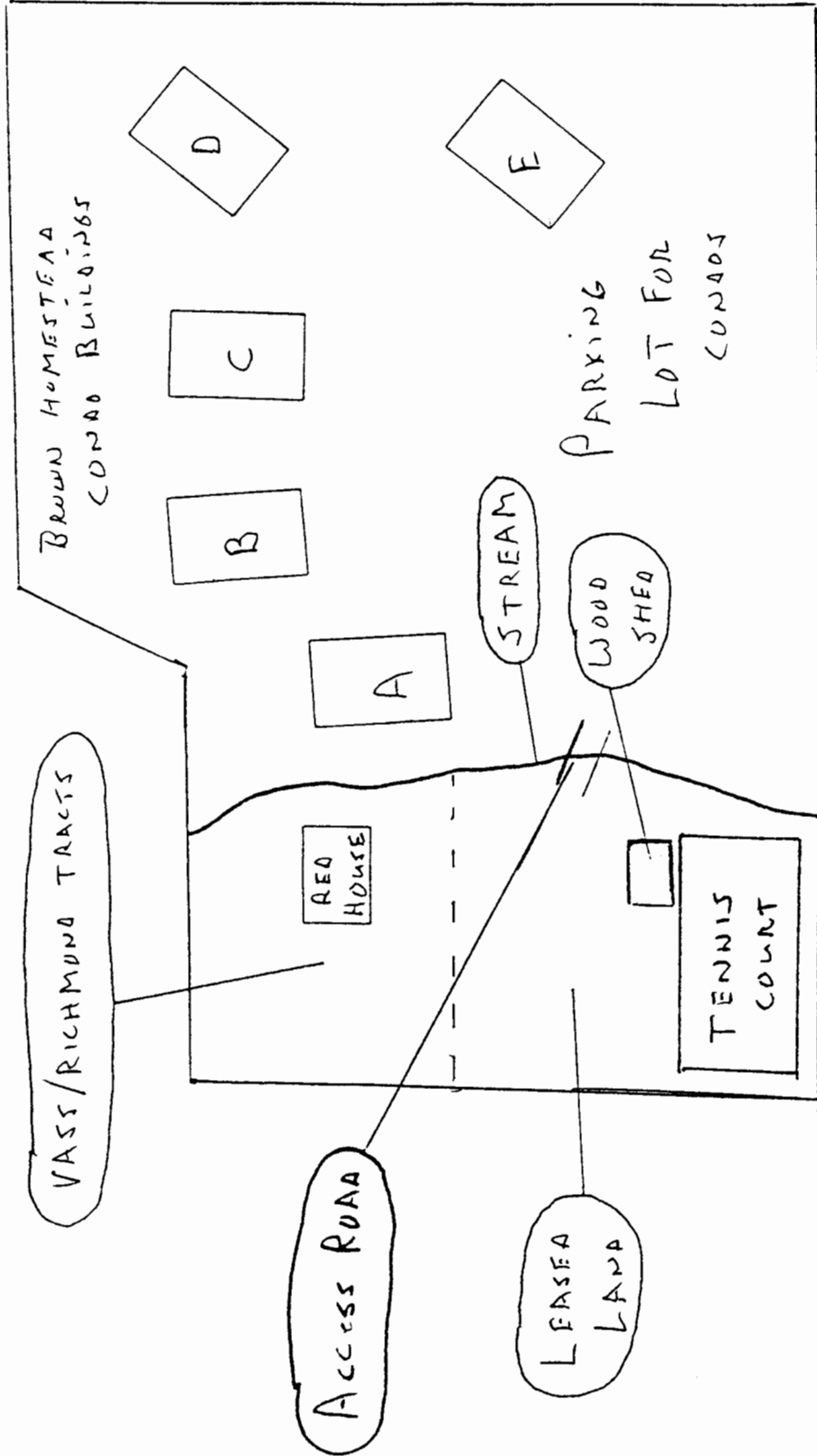
Lessee  
~~Jerry~~ Vass  
Owner  
Red House

Date: 7/28/97

LK



EXHIBIT 1



NOT TO SCALE

LEASED PROPERTY  
OUTLINE IN  
YELLOW

LESSOR INITIALS: —  
LESSEE INITIALS: —

EXHIBIT 1 TO LEASE

EXHIBIT 2

**FOLEY ASSOCIATES, INC.  
CIVIL ENGINEERING AND LAND SURVEYING  
P. O. BOX 1385  
TELLURIDE, CO 81435  
970-728-6153**

**LEGAL DESCRIPTION**

Beginning at a rebar and aluminum cap LS 6310 at the southwest corner of the Vass Tract, according to the Replat for Richmond and Vass Tracts P.U.D. recorded in the office of the Clerk and Recorder in Plat Book 1 at page 501; Thence S 79°50'18" E 58.52 feet to a rebar and aluminum cap LS 6310 at the southeast corner of said Vass Tract, also being the southwest corner of the Richmond Tract according to said Replat; Thence S 79°45'55" E 68.03 feet to a rebar and aluminum cap LS 24954 at the southeast corner of said Richmond Tract; Thence S 36°37'11" E 9.68 feet along the centerline of an existing ditch; Thence S 00°51'33" E 13.38 feet along the centerline of an existing ditch; Thence S 14°17'27" W 7.91 feet along the centerline of an existing ditch; Thence S 44°47'12" E 9.84 feet along the centerline of an existing ditch; Thence S 07°38'14" W 5.75 feet along the centerline of an existing ditch to a 24" culvert pipe; Thence S 12°06'30" W 13.23 feet along said culvert pipe to a centerline of an existing ditch; Thence S 16°52'54" W 10.07 feet along the centerline of an existing ditch; Thence N 79°49'28" W 26.49 feet to the northeast corner of an existing fence for a tennis court; Thence continuing N 79°49'28" W 116.75 feet along said fence to the westerly boundary of Brown Homestead Condominiums according to the Subdivision of the Brown Homestead P.U.D. recorded in the office of the Clerk and Recorder in Plat Book 1 at page 68; Thence N 11°02'23" E 62.34 feet along said westerly boundary to the Point of Beginning, containing 8686 square feet, more or less, County of San Miguel, State of Colorado.

The Basis of Bearings for this legal description is assumed as the historic bearing of S 72°06'00" E along brass cap monuments LS 24954 in the centerline of Colorado Avenue in the Town of Telluride.



J. David Foley,

P.L.S. #24954

**LEASE EXHIBIT**  
**BROWN HOMESTEAD CONDOMINIUMS**  
**SAN MIGUEL COUNTY, COLORADO**

Record Book # \_\_\_\_\_  
 Subdivided by \_\_\_\_\_  
 Made by \_\_\_\_\_  
 Date \_\_\_\_\_  
 Plat No. \_\_\_\_\_  
 Section \_\_\_\_\_  
 Township \_\_\_\_\_  
 Range \_\_\_\_\_

**FOLEY**  
 ROBERTSON, INC.  
 970-728-6183  
 125 W. PACIFIC SUITE B-1  
 TELLURIDE, COLORADO 81435

970-728-6050 fax  
 P.O. BOX 1385  
 TELLURIDE, COLORADO 81435



OHIO FLACER  
 ASS. INC.  
 SAN MIGUEL VALLEY CORPORATION  
 (P.L.D.A.)

VASS TRACT

RICHMOND TRACT

BUILDING A

BUILDING B

TENNIS COURT

LEASE AREA

Ditch

24' CMP

parking  
 per plat Book 1  
 of Page 185

Road Easement  
 per plat Book 1  
 of Page 185

GRAPHIC SCALE  
 0 30  
 (IN FEET)  
 1 Inch = 30 ft.

- REPAIR AND ALUMINUM CAP LS 6310
- REBAR AND ALUMINUM CAP LS 24934

State of Arizona, County of Maricopa

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of August, 1997, by Louis L. Kissling.

My commission expires 12-1, 1997

Witness my hand and official seal



Susan Kittle  
Notary Public

State of COLO , County of SAN MIGUEL

The foregoing instrument was acknowledged before me this 2<sup>th</sup> day of July, 1997, by Jerome Vass.

My commission expires ~~1997~~ XXXXXX NON-EXPIRING

Witness my hand and official seal

Lois Ruffe  
~~Notary Public~~  
DEPUTY COUNTY CLERK

