

PRELIMINARY MEMORANDUM REPORT  
FOR THE USE OF  
STEWART TITLE & TRUST OF PHOENIX, INC  
244 WEST OSBORN ROAD  
PHOENIX, ARIZONA 85013  
(602) 248-8444

ORDER NO. 02410046

Search made to **January 22, 2002** at

Examiner: **BILL PICKETT**

THIS IS A MEMORANDUM REPORT ONLY, NOT A TITLE INSURANCE POLICY.

CONDITION OF TITLE

The above named has examined for Stewart Title & Trust of Phoenix, Inc.,  
the title to the land described herein, the results of which are set forth  
in Schedule A and B hereof.

This is a Condition of Title Report only. This report does not represent nor  
commit any type of title insurance. The liability incurred, if any, is limited  
to twice the amount of the fees paid for this report.

(All recording data refer to records in the office of the County Recorder of  
the county in which the land is situated.)

**3-UP-2002**  
**1-28-2002**

S C H E D U L E    A

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AMOUNT OF INSURANCE: \$

1. Name of Insured:

**NONE**

2. The estate or interest in the land described in this report is:

**A FEE TITLE**

3. The estate or interest referred to herein is at the date hereof vested in:

**ACACIA VILLAGE, L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY**

4. The land referred to in this report is situated in the State of Arizona, County of **MARICOPA**, and is described as follows:

**See Legal Description Attached Hereto & Made a Part hereof.**

EXHIBIT "A"

LEGAL DESCRIPTION

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A PORTION OF THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 3 NORTH, RANGE 4 EAST OF THE GILS AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 646.85 FEET;

THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 65.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SCOTTSDALE ROAD MARKING THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, 128.00 FEET TO THE BEGINNING OF A CURVE WITH A RADIUS OF 165.00 FEET TO THE RIGHT;

THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 75 DEGREES 16 MINUTES 06 SECONDS, FOR AN ARC DISTANCE OF 216.76 FEET TO THE BEGINNING OF A NON-TANGENT LINE;

THENCE SOUTH 75 DEGREES 16 MINUTES 06 SECONDS WEST, 20.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, THE CENTER OF WHICH BEARS NORTH 17 DEGREES 40 MINUTES 06 SECONDS WEST, 114.70 FEET;

THENCE WESTERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 04 DEGREES 59 MINUTES 49 SECONDS FOR AN ARC DISTANCE OF 10.00 FEET TO THE BEGINNING OF A NON-TANGENT LINE;

THENCE SOUTH 12 DEGREES 40 MINUTES 18 SECONDS EAST, 15.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, THE CENTER OF WHICH BEARS NORTH 12 DEGREES 40 MINUTES 18 SECONDS WEST, 129.70 FEET;

THENCE WESTERLY, ALONG THE ARC OF SAID CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 45 DEGREES 31 MINUTES 48 SECONDS FOR AN ARC DISTANCE OF 103.07 FEET;

THENCE NORTH 57 DEGREES 08 MINUTES 30 SECONDS WEST, 250.76 FEET TO A POINT ON THE EASTERLY LINE OF THE ACACIA CREEK APARTMENTS SITE;

Continued on next page

LEGAL DESCRIPTION CONTINUED  
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THENCE NORTH 00 DEGREES 08 MINUTES 30 SECONDS WEST, ALONG SAID EASTERLY LINE, 376.03 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF GOLD DUST ROAD;

THENCE SOUTH 89 DEGREES 53 MINUTES 31 SECONDS EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, 360.68 FEET;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, 464.70 FEET TO THE BEGINNING OF A CURVE WITH A RADIUS OF 135.00 FEET TO THE LEFT;

THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 14 DEGREES 43 MINUTES 54 SECONDS, FOR AN ARC DISTANCE OF 34.71 FEET TO THE BEGINNING OF A NON-TANGENT LINE;

THENCE NORTH 75 DEGREES 16 MINUTES 06 SECONDS EAST, 5.50 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, THE CENTER OF WHICH BEARS NORTH 75 DEGREES 16 MINUTES 06 SECONDS EAST, 129.50 FEET;

THENCE SOUTHEASTLY, ALONG THE ARC OF SAID CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 75 DEGREES 16 MINUTES 06 SECONDS FOR AN ARC DISTANCE OF 170.12 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 14.87 FEET;

THENCE NORTH 87 DEGREES 08 MINUTES 15 SECONDS EAST, A DISTANCE OF 75.23 FEET;

THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 22.53 FEET;

THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 38.00 FEET, TO THE AFOREMENTIONED WESTERLY RIGHT-OF-WAY LINE OF SCOTTSDALE ROAD;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG SAID RIGHT-OF-WAY LINE, 61.78 FEET TO THE POINT OF BEGINNING.

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S C H E D U L E   B

Subject to the usual printed conditions stipulations and exceptions contained in the regular form of a policy, or by a rider attached thereto, and also subject to the following specific encumbrances, reservations and exceptions:

1. Taxes for the year 2002, a lien, but not yet due and payable.
2. Easement and rights incident thereto for ingress and egress as set forth in instrument recorded January 24, 1994 at Records No. 94-0060467 and amended by Shared Access Easement recorded March 24, 1995 at Records No. 95-0162591.
3. Terms and Conditions contained in Shared Access Easement recorded March 24, 1995 at Records No. 95-0162591.
4. Terms, provisions, covenants, conditions, and restrictions, easements, charges, assessments and liens provided in the Covenants, Conditions and Restrictions recorded June 9, 1994 at Records No. 94-0459341 but omitting any covenant, condition or restriction, if any, based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that the covenant, condition or restriction (a) is exempt under Title 42 of the United States Code, or (b) relates to handicap, but does not discriminate against handicapped persons.
5. Easement and rights incident thereto for underground utilities as set forth in instrument recorded November 14, 1994 at Records No. 94-0809641.
6. Deed of Trust to secure an indebtedness in the original amount of \$2,000,000.00 and other amounts payable thereunder, dated June 7, 1994, recorded November 22, 1994 at Records No. 94-0829726, records of Maricopa County, Arizona;  
  
Trustor:           Acacia Village, L.L.C., an Arizona Limited Liability Company  
  
Trustee:           First American Title Insurance Company, a California Corporation  
  
Beneficiary:       Herberger Enterprises, Inc., an Arizona Corporation
7. Terms and Conditions contained in Sewer Maintenance Agreement recorded December 29, 1994 at Records No. 94-0900000.
8. Easement and rights incident thereto for underground electrical facilities as set forth in instrument recorded March 13, 1995 at Records No. 95-0135335.

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CONDITION OF TITLE

SUBJECT TO MATTERS CONTINUED:

9. Unrecorded Lease, dated January 22, 1997 by and between Acacia Village, LLC, an Arizona Limited Liability Company, landlord and Meal Market, Inc., A/C Tenant, as disclosed by Subordination Agreement recorded March 5, 1997 at Records No. 97-0143346.
10. The rights of any parties in possession of any portion of said land under the terms of leases or month-to-month tenancies.

"This is a Condition of Title Report only. This report does not represent nor commit any type of title insurance. The liability incurred, if any, is limited to twice the amount of the fees paid for this report."