

DECLARATION OF CONDOMINIUM REGIME
OF
VILLAS AT THE HILLS

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11/15/94
11589

This Declaration of Condominium Regime is made and executed this 4 day of ~~NOVEMBER~~, 1994, by HARRY J. GLAUSER, III, (hereinafter referred to as "Declarant"), pursuant to the provisions of the Texas Uniform Condominium Act, Title 7, Chapter 82 of the Texas Property Code, (hereinafter referred to as the "Act"), for the purpose of submitting the hereinafter described real property and improvements located thereon to a condominium regime;

01-94020059JPB

WITNESSETH: 12:53 PM 3475 2 4 109.00 INDX 11/08/94

WHEREAS, Declarant is the owner of certain real property in the County of Travis, State of Texas, (herein called "Subject Property") more particularly described in the attached Exhibit "A"; and 12:53 PM 3475 5.00 RECM 11/08/94

WHEREAS, Declarant is also the Developer under that one certain document entitled Declaration of Condominium and Master Deed For "The Masters" At the Hills of Lakeway Residential Community, recorded in Volume 12085, Pages 140 - 212A of the Real Property Records of Travis County, Texas (hereinafter referred to as the "1993 Masters"), which document covers property located adjacent to and Southwest of the Subject Property; and 12:53 PM 3475 1.00 SEC 11/08/94 35.04-CHK

WHEREAS, the Subject Property is described in the 1993 Masters as the Undeveloped Land; and

WHEREAS, pursuant to the terms and provisions of the 1993 Masters, the Declarant is authorized and empowered to impose this Declaration of Condominium Regime on the Subject Property; and

WHEREAS, pursuant to Section 13.4 of the 1993 Masters, the Declarant is authorized and empowered, but is not required, to include the Subject Property in the 1993 Masters at a future date; and

WHEREAS, Declarant desires by recording this Declaration of Condominium Regime, together with the By-Laws attached hereto as Exhibit "B" and the condominium subdivision site plan attached hereto as Exhibit "C" to establish a condominium project, known as VILLAS AT THE HILLS, under the provisions of the Act, which condominium project is sometimes hereinafter referred to as the "Project"; and

WHEREAS, Declarant expressly retains the right to include the Condominium Project in the 1993 Masters at any time in the future allowed by the terms and provisions of Section 13.4 of the 1993 Masters, in which event the Common Elements of the Condominium Project shall not be commingled in any way with the common elements of the declaration into which it is phased other than by the affirmative vote of ninety-five percent (95%) of the Owners and the affirmative vote of ninety-five percent (95%) of the owners of units in the 1993 Masters; and

WHEREAS, Declarant by declaring the condominium regime desires to establish a plan for the individual ownership in fee simple of the area of space contained within each Unit and the co-ownership by the individual and separate owners thereof, as tenants in common, of all of the Subject Property; and

WHEREAS, Declarant intends to impose on the Project mutually beneficial restrictions for the benefit of all Units and the persons who own those Units (the "Owners"). The Declarant further intends, in accordance with the terms set forth herein, that the Owners will govern the Project by means of an organization of Owners (herein the "Association"), as more particularly set forth herein. The formal name of the Association is Villas at the Hills Condominium Owners Association, Inc..

AFTER RECORDING RETURN TO:
ATTN: John Bruce
STEWART TITLE
P.O. BOX 1806
AUSTIN, TX 78767

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12310 0001

NOW, THEREFORE, Declarant does upon the recording hereof, establish VILLAS AT THE HILLS as a condominium project under the Act and does declare that VILLAS AT THE HILLS is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, improved and in any other manner utilized, subject to the provisions of the Act and to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in this Declaration of Condominium Regime, all of which shall be deemed to run with the title to all or any portion of VILLAS AT THE HILLS and shall be a burden and a benefit to Declarant, HARRY J. GLAUSER, III and any persons acquiring or owning any interest in VILLAS AT THE HILLS, their grantees, heirs, executors, administrators, successors and assigns. In furtherance of the establishment of this condominium project, it is provided as follows:

I.
DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used herein shall have the following meanings:

1.1 "Articles" mean the Articles of Incorporation of the Association that are or shall be filed in the Office of the Secretary of State of the State of Texas.

1.2 "Assessment" shall mean and refer to the funds required to pay Common Expenses, other lawfully agreed upon expenses, plus surplus and reserves, as such costs, expenses and reserves are determined by the Managing Agent or Board of Directors and are levied by the Board of Directors upon all of the Owners.

1.3 "Association" shall mean and refer to VILLAS AT THE HILLS Condominium Owners Association, Inc., its successors and assigns, comprised of the Owners of all the Units, such association being a non-profit corporation organized pursuant to the Texas Non-Profit Corporation Act, the By-Laws of which corporation shall govern the administration of this Condominium and the members of which shall be all of the Owners of the Units.

1.4 "Board" means the Board of Directors of the Association.

1.5 "Building" means any building within the Condominium Project.

1.6 "By-Laws" means the By-Laws of the Association attached hereto as Exhibit "B" for reference and any amendment, modification or revision thereto as therein permitted.

1.7 "Common Elements" shall mean and refer to all elements of the Project except the separately owned Units, and includes both the General and Limited Common Elements as described herein.

1.8 "Common Expenses" means and includes:

A. All sums lawfully assessed against the General Common Elements by the Managing Agent or Board of Directors of the Condominium Project;

B. Expenses of administration and management, maintenance, repair or replacement of the General Common Elements or Limited Common Elements;

C. Expenses agreed upon as Common Expenses by the Owners; and

D. Expenses declared Common Elements by provisions of this Declaration and by the By-Laws.

E. Common Expenses may include, but are not limited to, the overhead expenses of the Association, costs of maintenance, repair and operation of the Common Elements, taxes and special assessments unless separately assessed, insurance premiums for

insurance coverage as deemed desirable or necessary by the Association, utility charges for the General Common Elements (including gas, electricity, water, and sewer) trash and garbage collection, guard service, burglar alarm service, landscape maintenance, janitorial service, manager's salary, legal and accounting fees, management fees.

1.9 "Condominium" shall mean and refer to the separate ownership of a Unit, together with an undivided ownership interest in the Limited and General Common Elements expressed as a fraction of the entire ownership interest in the Common Elements as set forth and defined herein.

1.10 "Condominium Project" shall mean and refer to VILLAS AT THE HILLS, as a condominium project established in conformance with the provisions of the Act.

1.11 "Declarant" shall mean Harry J. Glauser, III, or his heirs, legal representatives, successors or assigns.

1.12 "Entire Premises" or "property" means and includes the Subject Property, buildings, all improvements and structures thereon, and all rights, easements and appurtenances belonging thereto.

1.13 "Eligible Mortgage Holder" shall mean those first mortgagees who have requested in writing that the Association notify them on any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

1.14 "First Mortgagee" means any holder of a security interest in a Unit, represented by a first deed of trust, mortgage or security agreement giving such holder a first and paramount priority under Texas law.

1.15 The General and Limited Common Elements of the Condominium Project are as follows:

A. The General Common Elements consists of:

- (1) Any of the land described in Exhibit "A" which is not included within a Unit;
- (2) The foundations, bearing walls and columns (including any windows, and doors, therein), roofs, attics, ceilings and floors, or communication ways and any other portion of the buildings located on the land described above not included within any Unit;
- (3) The premises and facilities, if any, used for maintenance or repair of the Condominium Project;
- (4) All other common facilities, including without limitation the office and the grounds, driveways, except for those portions of the driveways which are specifically included in the limited common elements as shown on the site plan attached hereto as Exhibit "C", and walkways;
- (5) Parking spaces not designated with a Unit number and described on the condominium subdivision plan as unassigned parking spaces;
- (6) All other elements desirable or rationally of common use or necessary to the existence, upkeep and safety of the Condominium Project.

B. The Limited Common Elements, being those Common Elements reserved for the use of specific Units to the exclusion of others, consist of:

- (1) Compartments or installations of central services such as power, light, electricity, telephone, gas, cold and hot water, plumbing, reservoirs, water tanks and pumps, incinerators, and all similar devices and installations corresponding to a building within the Condominium Project or corresponding to a Unit;
- (2) Mail boxes not located at individual Units which are designated with a number corresponding to a Unit number;

(3) All of the portions of the General Common elements which are specifically reserved for the exclusive use of the Owner of a Condominium Unit as shown on Exhibit "C" attached hereto or as may hereafter be shown by supplement hereto.

1.16 "Governing Instruments" mean the Declaration, and the Articles of Incorporation and Bylaws of the Association.

1.17 "Managing Agent" shall mean that person retained by the Board as Managing Agent.

1.18 "Map", "Survey Map", "Site Plan" or "Plans" means and includes the engineering survey of the land attached hereto and filed herewith, consisting of Exhibit "C".

1.19 "Owner" shall mean and refer to a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who or which is the record owner of fee simple title to one or more Units in the Condominium Project.

1.20 "Special Assessment" shall mean an additional assessment created for any purpose of the Association as a whole.

1.21 "Unit" shall mean and refer to a physical portion of the Condominium, including land, designated for separate ownership or occupancy, as described, delineated and delimited in the plat attached hereto as Exhibit "C."

II. ESTABLISHMENT OF REGIME

2.1 GRANT AND SUBMISSION

Declarant hereby grants and submits to condominium ownership all of the Subject Property, the improvements to be constructed thereon, the Condominium Project and all attachments and appurtenances thereto and in anywise belonging.

2.2 DESCRIPTION OF PROPERTY

The Condominium site plan attached hereto as Exhibit "C" shall be filed for record simultaneously with the recording of this Declaration as a part hereof, and prior to first conveyance of any Condominium Unit. Declarant hereby expressly reserves the right to supplement said Exhibit to conform the map to actual location of the constructed improvements; to establish, vacate and relocate outside utility easements, access, and parking facilities as same may be located on the ground; and to redesignate building letters and unit numbers at Declarant's discretion. Such supplement shall not require the joinder of any Owner or mortgagee.

2.3 DIVISION OF FEE ESTATES

Each Owner shall be entitled to the exclusive ownership and possession of the Owner's Unit, to be held in fee simple. The real property is hereby divided into the following separate fee simple estates:

A. Those separately designated Units, identified by number on the plat attached hereto as Exhibit C.

B. The remaining portion of the entire premises, referred to as the Common Elements, shall be held in common by the Owners, with a fractional interest, the numerator of which is one and the denominator of which is the number of units described in Article 2.3 hereof, of the Common Elements being attributable to each Unit and with each such undivided interest being appurtenant to one of the Units described herein. The percentage of the undivided interest in the Common Elements shall be deemed to be conveyed or encumbered or released from liens with the Unit even though the interest is not expressly mentioned or described in the conveyance or other instrument. Each Owner may use the Common Elements in accordance with the purpose for which they

are intended as long as the lawful rights of the other Owners are not hindered or encroached on.

2.4 TITLE

Title to any Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a Deed from Declarant or any Owner shall be deemed an acknowledgement of and consent to this Declaration and its provisions. Each Owner and each mortgagee appoints Declarant as his attorney-in-fact for the purpose of effecting any change in the number of the Units or the undivided interest in the Common Elements attributable to each Unit and taking all actions necessary to effect the foregoing, including the execution, delivery, acceptance, and recording of correction deeds; and the power herein granted to Declarant shall be irrevocable and is a power coupled with an interest, and shall be a covenant binding and running with the Subject Property and with the interest of each owner of a condominium unit, and said owner's heirs, executors, administrators, legal representatives, successors, and assigns.

III. OCCUPATION AND USE

3.1 CONVEYANCE OF CONDOMINIUM UNITS

Each Unit and the undivided ownership interest in the Common Elements appurtenant thereto shall be inseparable and may be conveyed, leased or encumbered only as a Condominium Unit. Any conveyance of a Unit shall be deemed to include the Common Elements appurtenant thereto. Any attempted conveyance, encumbrance, judicial sale, or other transfer (voluntary or involuntary) of an individual interest in the Common Elements is void unless the Unit to which that interest is allocated is also transferred.

3.2 DESCRIPTION OF CONDOMINIUM UNITS

Every deed, lease, mortgage, trust deed or other instrument may legally describe a Condominium Unit by including in the legal description the following elements: (1) the name of the Condominium Project ("Villas at the Hills"); (2) the recording data for this Declaration, including any amendments, plats, and plans; (3) the county in which the Condominium Project is located ("Travis County"); and (4) the identifying number of the Unit. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber, or otherwise affect a Unit, the Common Elements appurtenant thereto and such Unit's fractional interest in the Common Elements.

3.3 COMBINATION OF UNITS

In the event that one Owner shall own two or more Units adjacent to each other, such Owner shall have the right, upon the express written consent of the First Mortgagee of each such Unit, to combine such Units into one area, to create entries, door openings and stairways between such Units so long as the same is approved by all relevant governmental bodies; except, however, all owners combining Units as described herein shall not be released from liability for the payment of all fees, costs, liabilities, expenses and other assessments allocated to the Units separately without regard to combination.

3.4 MODIFICATION OF UNIT

Prior to the sale of any Unit, the Declarant reserves the right to modify any proposed Unit for any purpose whatsoever, provided that the aggregate ownership percentage interest described in Section 2.3 B. hereof does not change and further provided that the aggregate number of the Units in VILLAS AT THE HILLS is not increased. Any change made by Declarant shall not be inconsistent with the basic design of VILLAS AT THE HILLS.

3.5 RIGHT OF ENTRY AND EMERGENCY REPAIRS

The Association shall have a right of entry to each Unit and its appurtenant Limited Common Elements from time to time during reasonable hours as may be necessary for the

maintenance, repair or replacement of Common Elements, or at any time deemed necessary for the making of emergency repairs or to do other work necessary for the maintenance of the project. In the event any damage occurs to an individual Unit as a result of the repair of or repairs to the Common Elements, the cost for restoration of said damaged Unit shall be a Common Expense. Further, in the event a Common Element is damaged as a result of actions or inactions of a Unit Owner or his guests, invitees, tenants or others taking or occupying through said Owner, then such Owner shall be liable for any and all costs incurred for the repair and restoration of the damaged Common Element.

3.6 NO PARTITION

Except as provided herein, no Owner shall bring an action for partition of his Condominium Unit or of the Common Elements.

3.7 TAX ASSESSMENTS

It is specifically stipulated that, if there is a Unit Owner other than the Declarant, each Unit shall be subjected to separate tax assessments and taxation by the appropriate governmental authority.

3.8 ENCROACHMENTS AND EASEMENTS

If the construction, reconstruction, repair, shifting, settlement, or other movement of any portion of the improvements results in any portion of the Common Elements encroaching upon a Unit or Units, or in any portion of a Unit encroaching upon the Common Elements or on another Unit, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist--as long as the boundaries of the Units after the construction, reconstruction, repairs, etc. will be in substantial accord with the description of those boundaries set forth in Exhibit "C" to this Declaration. For title or other purposes, such encroachment(s) and easement(s) shall not be considered or determined to be encumbrances either on the Common Elements or the Units.

3.9 LABOR AND MATERIALMAN LIEN

Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished and incorporated in a Unit with the consent or at the request of the Owner thereof or his agent or his contractor or subcontractors shall be the basis for filing of a lien against the Unit and Common Elements owned by such other Owners. Each Owner shall indemnify and hold harmless each of the other Owners, the Declarant and the Association from and against all liability arising from the claim of any lien against the Unit of any other Owner or against the General Common Elements for construction performed or for labor, materials, services or other products incorporated in the Owner's Unit at such Owner's request. Upon written request of any Owner, the Association shall have the right to enforce such indemnity.

3.10 USE RESTRICTIONS

A. Single Family Use. No Unit in the Condominium Project shall be used for other than single-family residence purposes.

B. Structural Alterations or Modifications. No Owner shall make alterations or modifications to his Unit or to any of the Common Elements, except as provided in the Bylaws attached hereto as Exhibit "B". The Association shall have the right to authorize any and all structural alteration or modifications, provided, however, the Association shall not approve any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Condominium Project and such alterations shall not affect the fractional interest assigned to each Unit Owner in Section 2.3 B. hereof.

C. Right to Lease. No Unit Owner shall be permitted to lease or rent his Unit for a term of less than thirty days. No Unit Owner may lease less than the entire Unit. With

the exception of a lender in possession of a Unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, any lease agreement shall be in writing and shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and the By-Laws and any rules and regulations of the Association, and that any failure by the Lessee to comply with the terms of such documents shall be a default under the lease.

D. Additional Restrictions. Additional restrictions on the use of the Unit and the property are included in the By-Laws attached hereto as Exhibit "B" and incorporated herein for all purposes.

E. Rules and Regulations. Non-discriminatory regulations concerning the use of the Condominium Project shall be promulgated from time to time by the Declarant or the Board of Directors of the Association and such regulations, and subsequent regulations duly adopted from time to time, shall be binding on all members of the Association unless duly amended by a majority of the fractional interests assigned to the Owners.

3.11 AGREEMENT OF SQUARE FOOTAGE.

It is expressly agreed and each and every purchaser of a Unit, his heirs, executors, administrators, assigns and grantees hereby agrees that the square footage, size and dimensions of each Unit as set out or shown in this Declaration or in the map attached hereto are approximate and are shown for descriptive purposes only. The Declarant does not warrant, guarantee or represent that any Unit actually contains the area, square footage or dimensions shown by the plat thereof. Each purchaser and Owner of a Unit or interest therein agrees that the Unit has been or will be purchased as actually and physically existing at the time such purchase is closed. Each purchaser of a Unit expressly waives any claim or demand which he may have against the Declarant or any person whomsoever on account of any difference, shortage or discrepancy between the Unit as actually and physically existing and as it is shown on the respective plat thereof exhibited hereto. It is specifically agreed that in interpreting deeds, mortgages, deeds of trust and other instruments for any purposes whatsoever or in connection with any matter, the existing physical boundaries of the Unit shall be conclusively presumed to be the boundaries regardless of settling, rising or lateral movements of the Building, and regardless of variances between boundaries as shown on the plat and those of the Buildings. Except for the homeowner warranties expressly agreed upon in writing between Declarant and the Owners, each purchaser of a Unit accepts the Unit as is and with all faults and without any warranties or representations, either express or implied, as to the condition of the unit, the General and Limited Common Elements, or the useability or suitability of the Unit and the General and Limited Common Elements.

3.12 RECIPROCAL UTILITY EASEMENTS.

The Owners grant to each other and to the Association an easement for the construction and maintenance of utilities and the Association grants to the Owners an easement for construction and maintenance of utilities over and across the common elements so long as the locations of such easements are reasonable.

3.13 ASSOCIATION'S RIGHT TO GRANT PERMITS, LICENSES, AND EASEMENTS.

The Owners grant to the Association the right to grant permits, licenses, and easements in, on, and over the Common Elements for the purpose of constructing, installing, or maintaining necessary utilities, roads, and other purposes necessary for the proper operation of the Condominium Project.

3.14 OTHER EASEMENTS.

The Owners hereby grant to each other a valid easement and right of entry in, over, and across their Unit(s) and appurtenant Common Elements to allow the side wall(s) of a Unit to be constructed, reconstructed, replaced, maintained, repaired, and located on the boundary line(s) between adjoining Units. The Association shall have a valid right of entry and easement in, over, and across each Unit and its appurtenant Common Elements as may be necessary for the

maintenance, repair, construction, reconstruction, location, or replacement of those various Unit side walls which are designated as Unit boundaries. In the event any damage occurs to an individual Unit as a result of the actions referenced in the previous sentence, the cost for restoration of said damaged Unit shall be a Common Expense.

3.15 OTHER RIGHTS AND DUTIES OF OWNERS.

Each Unit Owner has all the rights and is subject to all the duties assigned to Owners under the terms of the Governing Instruments. Unless otherwise noted herein, when there are unsold Units in the Project, the Declarant has the rights of an Owner and assumes the duties of an Owner, as those rights and duties relate to each individual unsold Unit. In addition to the other rights specified in the Governing Instruments, each Unit Owner has an unrestricted right of ingress and egress to his or her Unit. This right is perpetual and runs with the Unit; the right of ingress and egress passes with the Unit estate upon transfer of ownership of the Unit.

IV.

ADMINISTRATION AND UNIT OWNERS ASSOCIATION

4.1 ASSOCIATION. The Association, organized as a nonprofit corporation under the Texas Non-Profit Corporation Act, operating under the name VILLAS AT THE HILLS Condominium Owners Association, Inc., is charged with the duties and invested with the powers prescribed by law and set forth in the Governing Instruments.

4.2 MEMBERSHIP. Membership in the Association is automatically granted to the Owner or Owners of each Unit in the Project. On the transfer of title to any Unit, the membership of the transferor automatically ceases and each new Owner becomes a member.

4.3 VOTING RIGHTS. The aggregate number of votes for all members of the Association shall be the number of Units described in Article 2.3 hereof and shall be divided among the respective Unit Owners in accordance with their respective fractional ownership interest in the Common Elements as set forth in Section 2.3.B. If a Unit has more than one Owner, the aggregate vote of the Owners of the Unit may not exceed the fractional share of the total vote assigned to the Unit.

4.4 MEMBERSHIP MEETINGS. Meetings of the Owners shall be called, held, and conducted in accordance with the requirements and procedures set forth in the Bylaws.

4.5 GENERAL POWERS AND AUTHORITY. The Association shall have all of the powers allowed by the Act, as well as all the powers of a nonprofit corporation established under Texas law, subject only to the limitations contained in this Declaration and in the other Governing Instruments. The Association may perform all acts that may be necessary for, or incidental to, the performance of the obligations and duties imposed on it by this Declaration and the other Governing Instruments. The powers of the Association shall include, but are not limited to, the following:

(a) The power to establish, fix, levy, and collect Assessments against Owners in accordance with the procedures and subject to the limitations set forth in Article 6 of this Declaration.

(b) The power to adopt reasonable operating rules governing the use of the Common Elements and any facilities located on the Common Elements, as well as the use of any other Association property.

(c) The right to institute and maintain actions for damages or to restrain any actual or threatened breach of any of the provisions of the Governing Instruments or Association Rules in its own name, either on its own behalf or on behalf of any consenting Owner.

(d) The right to discipline Owners for violation of any of the provisions of the Governing Instruments or Association Rules by suspension of the violator's voting rights or privileges for use of the Common Elements or by imposition of monetary penalties, subject to the following limitations:

(i) The accused Owner must be given written notice of the violation or property damage, stating the amount of any proposed fine or damage charge and that the Owner may request a written hearing before the Board within thirty (30) days of the notice.

(ii) The accused Owner must be given a reasonable time, by a date specified in the notice, to cure the violation and avoid the fine, unless the Owner was given notice and a reasonable opportunity to cure a similar violation within the preceding twelve (12) months.

(iii) The accused Owner must be given written notice of a levied fine or damage charge within thirty (30) days after the date of levy.

(iv) Any suspension of privileges or imposition of monetary penalties shall be reasonably related to the Owner's violation.

(e) The power to delegate its authority, duties, and responsibilities, through the Board of Directors, to such committees, officers, or employees as are permitted to be retained under the Governing Instruments.

(f) The right, through its agents or employees, to enter any Unit when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as is practicable and any damage caused by the entrance shall be repaired by the Association at its own expense.

4.6 BOARD OF DIRECTORS AND OFFICERS OF THE ASSOCIATION.

The affairs of the Association shall be managed and its duties and obligations performed by a Board of Directors. Provisions regulating the number, term, qualifications, manner of election, and conduct of meetings of the members of the Board of Directors shall be set forth in the Bylaws of the Association. The Board shall elect officers, which shall include a President, Treasurer, Secretary, and such other officers as the Board may deem proper. Provisions regulating the numbers, term, qualifications, manner of election, powers and duties of the officers shall be set forth in the Bylaws of the Association.

4.7 DUTIES OF THE ASSOCIATION. In addition to the duties delegated to the Association or its agents and employees elsewhere in these Governing Instruments, the Association shall be responsible for the following:

(a) Operation and maintenance of the Common Elements and the facilities located on the Common Elements. This duty shall include, but shall not be limited to, exterior painting, maintenance, repair, and landscaping of the Common Elements and of the furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper.

(b) Acquisition of and payment from the maintenance fund for the following:

(i) Water, sewer, garbage, electrical, telephone, gas, elevator, and other necessary utility service for the Common Elements and, to the extent not separately metered and charged, for the Units.

(ii) A policy or policies of fire insurance with extended coverage endorsement for the full insurable replacement value of the Common Elements payable as provided in Articles 6 & 8 of this Declaration, or such other fire and casualty insurance as the Board shall determine gives substantially equal or greater protection to the Owners and their mortgagees, as their respective interests may appear.

(iii) A policy or policies insuring the Board, the Owners and/or the Association against any liability to the public or to the Owners and their tenants and invitees, incident to the ownership and/or use of the Project, including the personal liability exposure of the Owners. The limits and coverage shall be reviewed at least annually by the Board and varied in its discretion, provided, however, that the said limits and coverage shall never be of fewer kinds or lesser amounts than those set forth in this Paragraph. The policy or policies shall be issued on a comprehensive liability basis and shall provide cross-liability endorsement in which the rights

of named insureds under the policy or policies shall not be prejudiced as respects his, her, or their action against another named insured.

(iv) Workers' compensation insurance to the extent necessary to comply with any applicable laws.

(v) The services of personnel that the Board shall determine to be necessary or proper for the operation of the Common Elements.

(vi) Legal and accounting services necessary or proper for the operation of the Common Elements or the enforcement of this Declaration.

(c) Preparation and distribution, on a regular basis, of financial statements to the Owners in accordance with the following:

(i) A pro forma operating statement for each fiscal year shall be distributed not less than sixty (60) days before the beginning of the fiscal year.

(ii) A balance sheet, as of an accounting date that is the last day of the month closest in time to six months from the date of closing of the first sale of a Unit in the Project, and an operating statement for the period from the date of the first closing to the accounting date shall be distributed within sixty (60) days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the numbers of the Project Units and the names of the persons assessed.

(iii) A balance sheet as of the last day of the Association's fiscal year and an operating statement for the fiscal year shall be distributed within 90 days after the close of the fiscal year.

(d) Maintenance of the following books and records, such books and records to be kept in accordance with generally accepted accounting procedures:

(i) Financial records with a detailed account of the receipts and expenditures affecting the Project and its administration and specifying the maintenance and regular expenses of the Common Elements and any other expenses incurred by or on behalf of the Project.

(ii) Minutes of proceedings of Owners, Board of Directors, and Committees to which any authority of the Board of Directors has been delegated.

(iii) Record of the names and addresses of all Owners with voting rights.

(iv) Plans and specifications used to construct the Project.

(v) The condominium information statement given to all Owners by the Declarant before sale.

(vi) Voting records, proxies, and correspondence relating to declaration amendments.

(e) Arrangement for an annual independent audit of all books and records of the Association. If there is no audited statement available for a fiscal year, any holder of a first mortgage secured by Units in the Project may have an audited statement prepared at its own expense.

(f) Maintenance of current copies of the following items, which are to be available for inspection during normal business hours by unit owners or by holders, insurers, and guarantors of first mortgages that are secured by Units in the project: the Declaration; the articles of incorporation of the Association; the Bylaws of the Association; other rules concerning the Project; and the Associations books, records, and financial statements, including those items listed above in Section 4.7(d).

4.8 DECLARANT'S CONTROL PERIOD. Declarant shall have the power to appoint and remove officers and members of the Board until the earlier of the following dates, which date is hereinafter referred to as the Association Date:

(1) One hundred twenty (120) days after Declarant has conveyed seventy-five (75) percent of the Units in the Project to Owners other than Declarant, provided, however, that, not later than the one hundred twentieth (120th) day after Declarant's conveyance of fifty (50) percent of the Units to Owners other than a Declarant, not less than one third of the Board members must be elected by Owners other than Declarant; or

(2) Three years after the first Unit is conveyed to an Owner other than Declarant.

After the Association Date, members of the Board and officers of the Association shall be selected as specified in the Bylaws.

4.9 POWERS AND DUTIES OF THE BOARD OF DIRECTORS. The Board shall act in all instances on behalf of the Association, unless otherwise provided by this Declaration. The Board's powers and duties shall include, but shall not be limited to, the following:

(a) Levying and collecting Assessments.

(b) Enforcement of the applicable provisions of this Declaration, the Bylaws, and any Rules of the Association.

(c) Payment of taxes and assessments that are or could become a lien on the Common Elements or a portion of the Common Elements.

(d) Contracting for casualty, liability, and other insurance on behalf of the Association.

(e) Contracting for goods and services for the Common Elements, facilities, and interests of the Association.

(f) Delegation of its powers to such committees, officers, or employees of the Association as are expressly authorized by the Governing Instruments.

(g) Preparation of budgets and financial statements for the Association as prescribed in the Governing Instruments.

(h) Formulation of rules of operation for the Common Elements and facilities owned or controlled by the Association.

(i) Initiation and execution of disciplinary proceedings against Owners for violations of provisions of the Governing Instruments in accordance with procedures set forth in the Governing Instruments.

(j) Authorizing entry into any Unit as necessary in connection with construction, maintenance, or emergency repair for the benefit of the Common Element or the Owners in the aggregate.

4.10 MANAGING AGENT. The Board shall retain a Managing Agent for the Association with such management responsibilities as may be determined by the Board. Any management agreement between the Association and the Managing Agent shall not have a term of more than one (1) year, and shall be terminable by the Association without cause upon thirty (30) days written notice. The Declarant may retain a Managing Agent for the Association prior to the Association Date, provided that any management agreement arranged by the Declarant shall not have a term of more than one (1) year, shall be terminable without cause by the Association upon thirty (30) days written notice, and shall be terminable by the Association without cause at any time after the Association Date.

4.11 LIMITATIONS ON POWERS OF BOARD OF DIRECTORS. Notwithstanding the powers set forth in Section 4.8 of this Declaration, the Board shall be prohibited from taking any of the following actions except with the approval of a majority of the voting power of the Association residing in the Owners:

(a) Entering into (i) a contract with a third person under which the third person will furnish goods or services for a term longer than one year, except for a management contract approved

by the Federal Housing Administration or Veterans' Administration; (ii) a contract with a public utility if the rates charged are regulated by the Public Utilities Commission, provided that the term shall not exceed the shortest term for which the utility will contract at the regulated rate; or (iii) prepaid casualty and/or liability insurance of not more than five (5) years duration, provided that the policy provides for short-rate cancellation by the insured.

(b) Incurring aggregate expenditures for capital improvements to the Common Elements in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(c) Selling during any fiscal year property of the Association having an aggregate fair market value in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(d) Paying compensation to Directors or to officers of the Association for services rendered in the conduct of the Association's business, provided, however, that the Board may cause a Director or officer to be reimbursed for expenses incurred in carrying out the business of the Association.

V. MAINTENANCE

5.1 UNIT AND COMMON ELEMENTS

Maintenance of the Units and Common Elements shall be done pursuant to the provisions of the By-Laws attached hereto as Exhibit "B" and incorporated herein for all purposes.

5.2 LIMITATION ON WORK

An Owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament. No Owner shall in any way alter, modify, add to, or otherwise perform any work whatsoever upon any of the General Common Elements, save with written consent of the Board of Directors first obtained.

5.3 COMPLIANCE

Each Owner shall comply strictly with the provisions of this Declaration, By-Laws, and the decisions and resolutions of the Board of Directors and the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Managing Agent or Board of Directors on behalf of the Owners, or, in proper cases, by an aggrieved Owner and any other remedy allowed by law. Failure to pay any assessment owing or any other charge levied by the Association or other governing body pursuant to the provisions of this Declaration, By-Laws, and the decision and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time shall result, in addition to such other remedies as may be elected pursuant to the provisions hereof, in the additional penalty of three (3) times the amount owed, a late fee as described in Section 6.4 herein, or as determined by the Board of Directors if Section 6.4 does not apply, and a requirement that the annual fees and assessments be paid in advance on demand by the Association. Interest on all past due amounts shall be charged at the lesser of eighteen percent (18%) or the highest rate allowed by law.

VI. EXPENSES

6.1 COMMON EXPENSES, RESERVES, AND WORKING CAPITAL FUND

The costs and expenses of administration of the Condominium Project and of maintenance and repairs of the Common Elements, and any other expenses lawfully agreed upon by the Association which have been hereinbefore defined as "Common Expenses" shall be borne and

determined pursuant to the provisions of the By-Laws attached hereto as Exhibit "B" and incorporated herein for all purposes.

In order to meet unforeseen expenditures or to purchase any additional equipment or services needed, the Declarant shall establish and the Association shall maintain a working capital fund separate and distinct from any other account or fund of the Declarant or of the Association. The working capital fund shall be established, on a Unit-by-Unit basis, within thirty (30) days after the effective date of this Declaration; the fund shall be initially established by the Declarant's deposit of funds equal to two months of the estimated Common Expenses allocable to an individual Unit, if any, for the period between the effective date of this Declaration and the sale of that Unit. Thereafter, the Owner of each Unit shall contribute to the working capital fund an amount equal to two months of the estimated Common Expenses allocable to an individual Unit for the period after the sale of the Unit to the Owner; this contribution must be made on the earlier of (1) the date of the closing of the initial sale of the Unit from the Declarant to an Owner, or (2) the Association Date. Any amounts contributed to the working capital fund shall not be considered as advance payments of Assessments. On the Association Date, control of the working capital fund shall be transferred from the Declarant to the Association, with the fund to be maintained in a segregated account. The working capital fund shall not be used by the Declarant to defray any of its expenses, reserve contributions, or construction costs, and shall not be used to make up any budget deficits after control of the fund passes to the Association. Provided, however, that when any unsold Unit is sold from the Declarant to an Owner, the Declarant shall be reimbursed for any amounts it paid into the working capital fund for the relevant Unit's share of the working capital fund, with such reimbursement to be paid to the Declarant from funds collected at the closing on the relevant Unit.

6.2 ASSESSMENTS

The Assessments made to provide funds for Common Expenses shall be based upon the operating requirements deemed to be such aggregate sum as the Association shall from time to time determine is to be paid by all of the Owners. Such Assessments shall be to provide for the payment of all estimated expenses arising out of or connected with the maintenance and operation of the General Common Elements or Limited Common Elements, which sum may include, in addition to the costs set forth in Section 1.6E hereof, among other things, cost of management, taxes, assessments, fire insurance with extended coverage and vandalism and malicious mischief with endorsements attached, issued in the amount of the maximum and public liability and other insurance premiums, landscaping and care of grounds, common lighting, repairs and renovations, garbage collections, wages, water charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Managing Agent or Board of Directors under or by reason of the Declarations, and the payment of any deficit remaining from a previous period, (except for operating deficits incurred by the Declarant prior to the Association Date), the reserve fund provided in Article XIV. of the By-Laws as well as other costs and expenses relating to the General Common Elements or Limited Common Elements. The Association may levy a Special Assessment on all Owners of the Association. The omission or failure of the Board to fix the Assessment for any month shall not be deemed a waiver, modification, or a release of the Owners from the obligation to pay. Failure to pay any assessments when due shall result in additional penalties, fees, and interest as described in Section 5.3 hereof.

6.3 INSURANCE

The Managing Agent and/or Board of Directors shall obtain and maintain at all times insurance of the type and in the amounts required by the Federal National Mortgage Association ("Fannie Mae") to be maintained on condominium projects if Fannie Mae is to purchase or securitize mortgages or share loans secured by an individual unit within a condominium project. The types of insurance to be obtained may include hazard insurance, flood insurance, liability insurance, and fidelity insurance. The policies of insurance shall be issued by responsible insurance companies authorized to do business in the State of Texas, which companies must be acceptable under applicable Fannie Mae guidelines, as amended from time to time. All policies of insurance shall contain all the terms and provisions required under the Fannie Mae guidelines, as amended from time to time, for insurance policies on a condominium project if Fannie Mae

is to purchase or securitize mortgages or share loans secured by an individual unit within such condominium project. A copy of the Fannie Mae guidelines governing insurance requirements for eligible condominium projects, which guidelines are current as of the effective date of this Declaration, is attached to this Declaration as Exhibit "D" and incorporated herein by reference for all purposes. In accordance with the Fannie Mae guidelines, the Managing Agent must be covered by a fidelity insurance policy which provides the same coverage required of the Association. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular Owner guilty of a breach of warranty, act, omission, negligence or non-compliance with any provision of such policy, including payment of the insurance premium applicable to that Owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under such policy, as to the interest of all other insured Owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect. Further, such policies shall contain provisions requiring that the insurer waive its subrogation rights with respect to asserting any claim it might have against Unit Owners.

6.4 PAYMENT DATE

Assessments shall be due and payable monthly, except as to the Declarant, in such manner as the Association shall determine, commencing on the date of delivery of the first deed to a Unit from the Declarant to the subsequent Owner. Assessments shall be allocated against all Units no later than sixty (60) days after the date of delivery of the first deed to a Unit from the Declarant to the subsequent Owner. Prior to the delivery of such first deed and prior to the Association Date, however, the Declarant shall not be obligated to pay Assessments on unsold Units that are not occupied, but rather shall be obligated to pay for Common Expenses as stated in Section 6.1 of this Declaration and as detailed in Article XIV of the Bylaws of the Association. Except as otherwise stated herein, all Owners shall be obligated to pay the Assessments imposed by the Board of Directors or Managing Agent of the Association. Assessments for the Common Expenses, including insurance, and reserves when established, shall be due monthly, unless the Board of Directors determines otherwise and notifies Owners of such determination, in advance on or before the fifteenth day of each month and shall require the imposition and assessment of a late charge of Fifty and No/100 Dollars (\$50.00) per month for each assessment not paid when due. Contribution for monthly Assessments shall be pro rated if the ownership of a condominium Unit commences on a day other than on the first day of the month. Special Assessments shall be due and payable at such time as established by the Board of Directors.

6.5 ALL OWNERS OBLIGATED

No Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of any of the General or Limited Common Elements, or by abandonment of his Unit.

6.6 LIEN FOR ASSESSMENTS

All sums assessed but unpaid by any condominium Unit, including interest thereon at the lesser of eighteen percent (18%) or the highest rate allowed by law per annum, costs of collection, and attorneys fees incurred for collection, the late charge described in Section 6.4 hereof, and a penalty in the amount of three (3) times the amount owed, shall constitute a lien on such Unit superior (prior) to all other liens and encumbrances, except for:

- (a) Tax and special assessment liens in favor of any governmental body with taxing authority over the Units;
- (b) A First Mortgage or First Deed of Trust or first vendor's lien of record prior to the delinquency of payment, including all unpaid obligatory sums as may be provided by such encumbrance; and
- (c) Any other lien required by the Act to have priority over the assessment lien imposed by this Section 6.6.

Failure to pay Assessments when due shall result in the acceleration of all annual fees, and the annual fees, together with penalties, costs, the late charges and interest on unpaid amounts, as described herein, shall be included in the amount secured by the lien described herein. To evidence such lien the Board of Directors or Managing Agent may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the Owner of the Condominium Unit and a description of the Condominium Unit. Such a notice shall be signed by one of the Board of Directors or by the Managing Agent and may be recorded in the office of the Clerk of Travis County, Texas. Such lien for the Common Expenses shall attach from the date of the failure of payment of the assessment. Such lien may be enforced by non-judicial foreclosure of the lien affecting the defaulting owner's condominium Unit, by the Association, in like manner as a mortgage on real property pursuant to applicable law, upon the recording of a notice or claim thereof. In such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The Owner shall also be required to pay to the Association a reasonable rental for the Condominium Unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to purchase the Condominium Unit at foreclosure sale and to acquire and hold, lease, mortgage and convey same. The lien attaching hereunder may be foreclosed judicially. The acquisition of a Unit shall be deemed the consent of an Owner to such lien, and each Owner shall execute such document as may be reasonably required by the Managing Agent or Board of Directors to evidence this lien. If the Owner refuses, the Board of Directors shall be irrevocably vested with a power of attorney for such non-signing Owner, to execute and deliver such documents to the Association.

In addition to the lien herein imposed, a Vendor's Lien may be retained in each deed from Declarant to a Unit in order to secure the payment of all sums due under this Declaration, subordinate, however, as above set forth.

The amount of the Common Expenses assessed against each condominium Unit shall also be a personal debt of the Owner thereof at the time the assessment is made, which debt shall not pass to successors in title unless such successors agree to assume the debt. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing same.

Any encumbrancer holding a lien on a Condominium Unit may pay any unpaid Common Expense payable with respect to such Unit, and upon such payment such encumbrancer shall have a lien on such Unit for the amounts paid of the same rank as the lien of his encumbrance.

6.7 ESTOPPEL STATEMENTS

Upon the written request of any Owner or any encumbrancer or prospective encumbrancer of a Condominium Unit, and upon payment of a reasonable fee as may from time to time be set by the Association, the Association, by its Managing Agent or Board of Directors shall issue a written statement setting forth the unpaid common expenses, if any, with respect to the subject Unit, the amount of the current monthly Assessments and the date that such assessment becomes due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which shall be conclusive upon the Association for all persons who rely thereon in good faith. The Association, the Board of Directors, and the Managing Agent shall not be subject to liability for errors, omissions, mistakes or miscalculations, except for those made as a result of willful misconduct, and the Owner requesting a statement as described herein shall indemnify and hold harmless the Association, the Board of Directors, and the Managing Agent, and their agents, employees, attorneys, successors and assigns for all errors, omissions, mistakes and miscalculations of any nature whatsoever which are not made as a result of willful misconduct.

6.8 LIABILITY

The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the latter for his proportionate share of the Assessments up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor; provided, however, that upon written request, the payment

of a reasonable fee as determined by the Association any such prospective grantee shall be entitled to a statement from the Managing Agent or Board of Directors, setting forth the amount of the unpaid Assessments, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or for prepaid items, including but not limited to insurance premiums, which shall be conclusive upon the Association. The Association, the Board of Directors, and the Managing Agent shall not be subject to liability for errors, omissions, mistakes or miscalculations, except for those made as a result of willful misconduct, and the Owner requesting a statement as described herein shall indemnify and hold harmless the Association, the Board of Directors, and the Managing Agent, and their agents, employees, attorneys, successors and assigns for all errors, omissions, mistakes and miscalculations of any nature whatsoever which are not made as a result of willful misconduct.

VII. FINANCING

7.1 RIGHT TO FINANCE

Any Owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage or other security instrument, provided that such first deed of trust, mortgage and security agreement shall be subordinate to this Declaration, unless herein specifically provided to the contrary. A first mortgage shall be one which has first and paramount priority under applicable law.

7.2 FORECLOSURE

Any First Mortgagee, upon foreclosure of its lien on a Unit, or upon acceptance of a deed in lieu of foreclosure thereon, shall not be required to pay any unpaid Assessments owing on said Unit. Any assessment lien created or claimed under the provisions of this Declaration of Condominium Regime shall be subject and subordinate to the rights of any First Mortgagee of any duly recorded First Mortgage upon one or more Units made in good faith and for value. No lien created under the provisions hereof shall in any way defeat, invalidate or impair the rights of any first mortgagee under any such duly recorded first mortgage unless such mortgage shall expressly subordinate its interest, in writing, to such lien. Notwithstanding any provision contained herein or in any other document or instrument to the contrary, however, any and all mortgagees shall be liable for payment in full of all post-foreclosure Assessments owing on said Unit, in the same manner as any other Owner. No mortgagee or person who acquires title to any Unit by foreclosure shall be in any way responsible, liable, or assessable for any breach committed or permitted by the mortgagor of such Unit or those claiming under the mortgagor, provided only that such mortgage was made in good faith for value and recorded in the office of the County Clerk of Travis County, Texas.

7.3 AMENDMENT AFFECTING FINANCING

Except as otherwise expressly provided herein, no amendment to this Declaration or Condominium Regime shall affect the rights of the mortgagee of any such mortgage which is made in good faith and for value; provided that any such mortgage is recorded prior to the recordation of such amendment, written notice of delivery and recordation of such mortgage is given to the Association and such mortgagee is an eligible mortgage holder; provided further that the benefit of this paragraph shall not apply to the mortgagee of any such prior mortgage if such mortgagee shall either join in the execution of such amendment or shall approve said amendment by vote or in writing.

7.4 BREACH

No breach of any provision of this Declaration of Condominium Regime shall impair or invalidate any lien of any duly recorded mortgage made in good faith and for value encumbering one or more Units; provided however, that, unless otherwise expressly provided herein, all the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes contained in this Declaration of

Condominium Regime and the By-Laws shall be binding upon and effective against any person who acquires title to or any beneficial interest in any Unit by way of foreclosure, or otherwise.

7.5 MORTGAGEES' RIGHT TO RECEIVE NOTICE

The holder, insurer, or guarantor of the mortgage or deed of trust on any Unit in the Project has the right to receive timely written notice of any of the following events:

- a. Any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its mortgage.
- b. Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage.
- c. Any default by the Owner on whose Unit said mortgagee holds a lien if such Owner defaults in the performance of such Owner's obligations under the Governing Instruments other than failure to pay assessments or charges.
- d. A lapse, cancellation, or material modification of any insurance policy maintained by the Association; and
- e. Any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders.

In order to exercise its right to receive written notice as specified above, a mortgage holder, insurer, or guarantor must send a written request for this information to the Association, stating both its name and address and the Unit number or address of the Unit on which it has (or insures or guarantees) the mortgage.

VIII.

DAMAGE, REPLACEMENT AND REPAIR

8.1 POWER OF ATTORNEY

All of the Owners, by the acceptance of any deed or other conveyance of a Unit, and all mortgagees, irrevocably name, designate, constitute and appoint the Association, their true and lawful attorney in their name, place, and stead, for the purpose of dealing with the property upon its destruction, condemnation, obsolescence, the liquidation of all or part of the Project, or the termination of the Project, as is hereafter provided, and for the purpose of execution by all the Owners of all easements, rights-of-way, plats, subordinations to plats or liens, or any other document which may be required by any governmental authority. The Association shall represent the Owners in any proceedings, negotiations, settlements, or agreements relating to the matters listed in the previous sentence. Any proceeds from a settlement involving the matters listed in the first sentence of this paragraph shall be payable to the Association for the benefit of the Unit Owners and their mortgage holders. Any losses, awards, or proceeds from the condemnation, destruction, or liquidation of all or a part of the Project, or from the termination of the Project, shall be allocated among the affected Owners pro rata according to each Owner's fractional interest in and to the General Common Elements, as such fractional interest is set forth in Section 2.3.B.. The power of attorney granted in this Section 8.1 shall be coupled with an interest and irrevocable. As attorney-in-fact, the Association, by its President and Secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a condominium Unit Owner which are necessary and appropriate to exercise the powers herein granted.

8.2 DEFINITION OF REPAIRS

Repair and reconstruction of the improvement(s) as used in the succeeding Sections means restoring the improvement(s) to substantially the same conditions in which it existed prior to the damage, with each Unit and the General and Limited Common Elements having the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be

made available to the Association for the purpose of repair, restoration or replacements unless the Owners and Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders agree not to rebuild in accordance with the provisions set forth hereinafter.

8.3 RECONSTRUCTION WITH INSURANCE PROCEEDS

In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed.

8.4 ASSESSMENT IF INSURANCE IS INSUFFICIENT

If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than two-thirds (2/3) of all of the General Common Elements, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of a deficiency assessment to be made against all of the Owners and their Condominium Units, together with the proceeds of an additional assessment, if any, made against each Owner of a damaged Unit in accordance with the provisions of Article XI, Section 4.D. of the Bylaws. Such deficiency assessment shall be a Common Expense made pro rata according to each Owner's fractional interest in and to the General Common Elements and shall be due and payable within thirty (30) days after written notice thereof, except that an additional assessment may be made against each Owner of a damaged Unit in accordance with the provisions of Article XI, Section 4.D. of the Bylaws. The Association shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the deficiency and/or additional assessment. The deficiency and/or additional assessment provided for herein shall be a debt of each Owner and a lien on his condominium Unit and may be enforced and collected as is provided in Section 6.6 hereof. In addition thereto, the Association as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such deficiency and/or additional assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association, and each Owner by the acceptance of the conveyance of a Unit does hereby grant to the Association the limited power of sale as herein stipulated. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

- A. For payment of taxes and special Assessments liens in favor of any assessing entity;
- B. For payment of the balance of the lien of any first mortgage;
- C. For payment of unpaid common expenses;
- D. For payment of junior liens and encumbrances in order of and to the extent of their priority; and
- E. The balance remaining, if any, shall be paid to the Condominium Unit Owner.

8.5 SALE AFTER DESTRUCTION

If more than two-thirds (2/3) of all of the General Common Elements, not including land, are destroyed or damaged, and if all the Owners of the Units then under construction or completed vote, within one hundred and twenty (120) days after the date of such destruction or damage, not to make provision for reconstruction, which vote not to reconstruct the improvements must have the approval or consent of Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary, the entire

remaining premises shall be sold by the Association, as attorney-in-fact for all of the Owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each Unit owner's interest (as such interests appear on the policy or policies), and such dividend proceeds shall be paid into separate accounts, each such account representing one of the Condominium Units. Each such account shall be in the name of the Association, and shall further be identified by the number of the Unit and the name of the Owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts, without contribution from any account to another, toward the full payment of the lien of any first mortgage against the condominium Unit represented by such separate account. There shall be added to each such account, the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each condominium Unit Owner's fractional interest in the General Common Elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in this Article VIII.

8.6 PLAN FOR RECONSTRUCTION

Any assessment made in connection with such reconstruction plan shall be a Common Expense and made pro-rata according to each Owner's fractional interest in the General Common Elements and shall be due and payable as provided by the terms of such plan, but not sooner than thirty (30) days after written notice thereof, except that an additional assessment may be made against each Owner of a damaged Unit in accordance with the provisions of Article XI, Section 4.D. of the Bylaws, which additional assessment shall also be due and payable as provided by the terms of the reconstruction plan, but not sooner than thirty (30) days after written notice thereof. The Association shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an Owner to pay the assessments. The Assessments provided for in this Section 8.6 shall be a debt of each Owner and a Lien on his condominium Unit and may be enforced and collected as is provided in Section 6.6 hereof. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such assessments within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Association. Each Owner by the acceptance of a conveyance of any Unit hereby grants to the Association the limited power of sale herein set forth. The proceeds derived from sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in 8.4 hereof.

8.7 OBSOLESCENCE AND REPLACEMENT

Subject to the approval of eligible mortgage holders representing at least sixty-seven percent (67%) of the votes of Units that are subject to mortgages held by eligible mortgage holders, all of the Owners of the Units then under construction or completed, or more, may agree that the General Common Elements of the property are obsolete and that the same should be renewed or reconstructed. In such instance, then the expense thereof shall be payable by all of the Owners as Common Expense; provided however, that any owner not agreeing to such renewal or reconstruction may give written notice to the Association that such Unit shall be purchased by the Association, for the fair market value thereof. If such Owner and the Association can agree on the fair market value thereof, then such sale shall be consummated within thirty days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "Commencing Date" from which all periods of time mentioned herein shall be measured. Within ten (10) days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party) the appraiser who shall be a member of the Austin Board of Realtors. If either party fails to make such a nomination, the appraiser nominated shall within five days after default by the other party appoint and associate with him another appraiser (to be selected from the Austin Board of Realtors). If the two appraisers designated by the parties, or selected pursuant hereto in the event of the default of one party, are unable to agree, they shall appoint another appraiser (to be selected from the Austin Board of Realtors), if they can agree on such person. If they are unable to agree upon such third appraiser, then each appraiser previously

appointed shall nominate two persons (each of whom shall be a member of the Austin Board of Realtors), and from the names of the four persons so nominated shall be drawn by lot by any judge of any court of record in Texas, and the name so drawn shall be such third appraiser. The nominations from whom the third appraiser is to be drawn by lot shall be submitted within ten (10) days after the failure of the two appraisers to agree, which in any event shall not be later than twenty (20) days following the appointment of the second appraiser. The decision of the appraisers as to the fair market value or in the case of their disagreement, the decision of the third appraiser, shall be final and binding. The expenses and fees of such appraiser shall be borne equally by the Association and the Owners. The sale shall be consummated within fifteen (15) days thereafter, and the Association as attorney-in-fact, shall disburse such proceeds as is provided in this Article VIII.

8.8 OBSOLESCENCE AND SALE

Subject to the approval of eligible mortgage holders representing at least sixty-seven percent (67%) of the votes of Units that are subject to mortgages held by eligible mortgage holders, all of the Owners of the Units then under construction or completed, may agree that the General Common Elements of the property are obsolete and that the same should be sold. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's president and secretary, the entire premises shall be sold by the Association, as attorney-in-fact, for all of the Owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The sales proceeds shall be apportioned between the Owners on the basis of each Owner's fractional interest in the General Common Elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one condominium Unit. Each such account shall be in the name of the Association, and shall be further identified by the number of the Unit and the name of the Owner. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such funds, without contribution from one fund to another for the purposes and in the same order as is provided in this Article VIII.

IX.

OPERATING DURING CONSTRUCTION, ETC.

Notwithstanding any other provision expressly or impliedly to the contrary in this Declaration, the Declarant reserves the right to exercise the rights, duties, and functions of the Association, Board of Directors, or managing agent, until management of the Condominium Property has been transferred to the Owners as provided in Article IV, including the exclusive right and power to delegate to others the duties of the manager or managing agent, or both. To that end, the Declarant hereby irrevocably and unconditionally appoints Bert Dement Company, a Texas corporation, as the Declarant's true and lawful agent and attorney in fact for the purpose of exercising all of the Declarant's rights, powers, and obligations under this Declaration and taking all actions, making all decisions, and executing all documents and other writings deemed necessary by Bert Dement Company to implement same. Said appointment of Bert Dement Company shall not terminate on disability of the principal. The compensation or fee to be paid therefor shall be reasonable, and shall be a part of the Common Expenses. At the option of the Declarant, at an earlier date, the Declarant shall give written notice thereof to the condominium unit owners, at which time the first meeting of the Association members shall be called as indicated earlier, and the powers herein held by the Declarant by this Article IX. shall be eliminated.

X.

TERMINATION AND REVOCATION

This Declaration may be revoked and the legal status of the condominium terminated only as provided herein:

- (a) if such revocation and termination is approved by all Owners and all mortgage holders. Such agreement must be evidenced by an instrument in writing and executed in a manner to provide for the conveyance of the property and as otherwise required by the Association. Such termination shall comply with the requirements set out in Article

X.(d) below and shall become effective when the agreement has been recorded in the public records of the County of Travis, State of Texas.

(b) if substantial destruction should occur as indicated herein and the property is not reconstructed as provided herein, or upon a taking of all of the Units by condemnation, the condominium form of ownership will be terminated and the documents herein will be revoked upon the agreement of Unit Owners who represent at least 67% of the total allocated votes in the Association and by Eligible Mortgage Holders who represent at least 51% of the votes of the Unit estates that are subject to mortgages or deeds of trust held by Eligible Holders.

(c) except as otherwise provided herein, if such termination occurs, title to the real property vests in the Unit Owners as tenants in common in proportion to their respective interests, and all Common Elements which are General Elements shall be owned as tenants in common and the Limited Common Elements shall be owned as tenancy-in-common between those who previously shared the Limited Common Elements. While the tenancy in common exists, a Unit Owner and the Owner's successors in interest have an exclusive right to occupy the portion of the real property that formerly constituted the Owner's Unit. Further, the holders of mortgages and liens against the Owners' properties shall have mortgages and liens respectively according to the undivided tenancy in common interests of the individual Owners. All funds and other property of the Association, including insurance proceeds, if any, shall be held by the Association to be distributed in proportion to the ownership shares after all other claims on said funds are paid as determined in the discretion of the Association. The costs incurred by the Association in connection with the termination and winding up of the condominium ownership shall be borne as a Common Expense.

(d) except as otherwise provided herein, following the termination, if any, of the condominium ownership, the subject property, including General and Limited Common Elements, may be partitioned and sold upon the application by any Owner to a court for such partition agreement. Further, if the Board of Directors determines that a termination of the Declaration and Association, including articles, By-Laws, and minutes, is most advantageous, and if such determination is ratified by the written consent of all the Owners of the Association and all mortgagees, then the directors, upon unanimous vote by said directors, may seek out the means, terms, and provisions to seek sale of the condominium property. However, such sale shall not work to the disadvantage of any parties who claim a lien on said property. Further, the determination as to any disposition of the condominium must be approved by all said parties holding mortgages or liens on any condominium unit. If the directors comply with the provision herein for such disposition of property, each Owner shall be bound to execute any documents, including Deeds, necessary or required by said directors to conform with their decision as to disposition of the condominium property and appoint the Board of Directors or the Managing Agent as agent and attorney-in-fact to execute such documents and consummate the sale.

XI. MISCELLANEOUS

11.1 COMPLIANCE WITH DECLARATION

Each Owner shall comply strictly with the provisions of this Declaration, the Articles of Incorporation, By-Laws, rules, regulations and resolutions of the Association and any management agreement entered into by the Association as the same may from time to time be in force and effect. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages, attorneys fees, accelerated annual fees, penalties and interest as described in Section 5.3 hereof, or injunctive relief or both, maintainable by the Association on behalf of the Owners, or by an aggrieved Owner.

11.2 SEVERABILITY

If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase, word or section, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase, word or section in any other circumstances shall not be affected thereby.

11.3 AMENDMENT

Except as permitted herein, none of the provisions of this Declaration nor of the other Governing Instruments shall be amended unless (1) the Owners representing an aggregate ownership interest of sixty-seven percent (67%) of the Condominium Units, or more, and (2) Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders consent and agree to such revocation or amendment by instrument(s) duly recorded. Those provisions of the Governing Instruments which may be amended as provided above specifically include those provisions which are provisions of a "material nature" in accordance with the guidelines of the Federal National Mortgage Association, as amended from time to time. The foregoing shall not prevent the making of physical changes in the interior of a Unit or Units coming into the possession of a mortgagee by virtue of foreclosure of any first mortgage; provided, however, that an amendment of this Declaration may not alter or destroy a Unit or a limited common element without the consent of the Owners affected and the affected Owners' first lien mortgagees; provided further, that the fraction of the undivided interest of each Unit Owner in General Common Elements as expressed in this Declaration shall have a permanent character and shall not be altered without the consent of all of the affected Unit Owners expressed in an amended Declaration duly recorded, and all mortgagees.

The board, or the Declarant if the declarant owns a unit that has never been occupied, may, without a vote of the Unit Owners or approval of the Association, supplement this Declaration or the By-Laws for the purpose of clarifying or resolving any ambiguities or conflicts herein, or correcting any inadvertent misstatements, errors or omissions herein, or to meet any requirement specified by the Federal Home Loan Mortgage Corporation, Veterans' Administration, Federal Housing Administration, Federal National Mortgage Association and any other similarly secured or guaranteed mortgage agency or authority. No such supplement shall change the stated number of units nor the fractional interest in the Common Elements attributable thereto, nor materially adversely affect the interest Owner.

11.4 NOTICE

All notices, demands or other notices intended to be served upon an Owner shall be sent by regular or certified mail, postage prepaid, addressed in the name of such Owner in care of the Unit number and building address of such Owner. All notices, demands or other notices intended to be served upon the Managing Agent, or the Board of Directors of the Association or the Association shall be sent by regular or certified mail, postage prepaid to Benjamin J. Campbell, 108 Wild Basin Road, Suite 320, Austin, Texas 78746, until such address is changed by a notice of address change duly recorded.

11.5 CONSTRUED UNDER LAWS OF TEXAS

The provisions of this Declaration shall be in addition and supplemental to the Condominium Ownership Act of the State of Texas and to all other provisions of law, and shall be construed under the laws of the State of Texas.

11.6 WORD CONSTRUCTION

That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural and the use of any gender shall include all genders.



XII.
RESERVATION OF DECLARANT'S
RIGHTS

Notwithstanding anything in this Declaration to the contrary, Declarant reserves the right to include the Condominium Project in the 1993 Masters pursuant to the terms of Section 13.4 of the 1993 Masters, recorded in Volume 12085, Pages 140-212A of the Real Property Records of Travis County, Texas. If the Declarant chooses to include the Condominium Project in the 1993 Masters, the Common Elements of the Condominium Project shall not become a part of the common elements of the 1993 Masters unless the owners owning at least 95% of the total number of units in each of the Condominium Project and the 1993 Masters shall unanimously vote to provide that the Common Elements of the Condominium Project shall become a part of the common elements of the 1993 Masters. If, as set forth in the previous sentence, the required number of owners do not vote for the Common Elements of the Condominium Project to become a part of the common elements of the 1993 Masters, the Common Elements of the Condominium Project shall be held by the Owners of Units in the Condominium Project as set forth above in the sections of this Declaration other than this Article XII.

EXECUTED in multiple originals on the date first above written.


HARRY J. GLAUSER, III

WITNESSES:

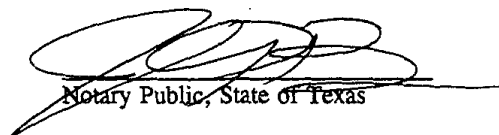



THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, on this day personally appeared HARRY J. GLAUSER, III, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 4 day of November, 1994.

My Commission Expires: 


Notary Public, State of Texas

TYPE/PRINT/STAMP NAME


JOINDER OF LIENHOLDER

Cypress Creek Properties, Inc.

The undersigned, _____ being the owner and holder of an existing mortgage and lien upon and against the real property described in the foregoing Declaration of Condominium Regime ("Declaration") and defined as the "Property" in said Declaration, as such mortgagee and lienholder, does hereby consent to and join in said Declaration.

The consent and joinder shall not be construed or operate as a release of said mortgage or liens owned and held by the undersigned, or any part thereof, but the undersigned agrees that its said mortgage and liens shall hereafter be upon and against each and all of the Units and all appurtenances thereto, and all of the undivided, equitable shares and interests in the Common Elements, subject to the said Condominium Regime.

SIGNED AND ATTESTED by the undersigned officer of Cypress Creek Properties, Inc. authorized, this the 4th day of November, 1994. _____ hereto


By: Harry J. Glauser, III
Sole General Partner, President

ATTEST:

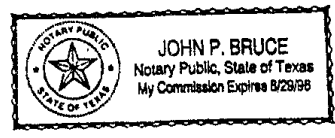
Secretary

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

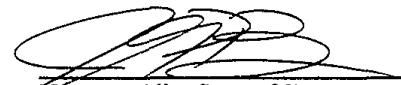


BEFORE ME, the undersigned authority, on this day personally appeared Harry J. Glauser, III, ~~President of~~ * _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation. *Sole General Partner of Cypress Creek Properties, Inc.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 4 day of November, 1994.



My Commission Expires:


Notary Public, State of Texas

TYPE/PRINT/STAMP NAME

RETURN TO:

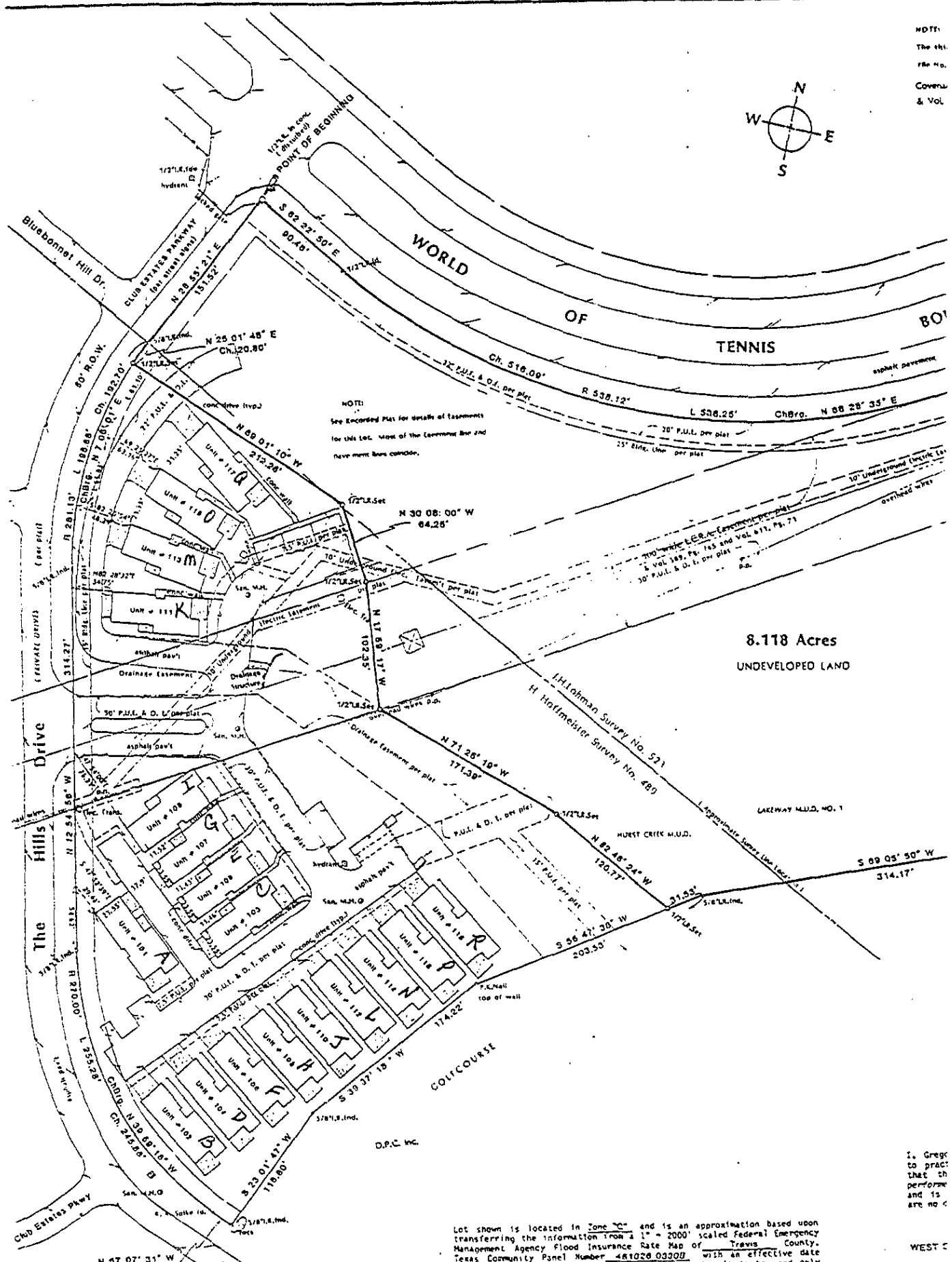
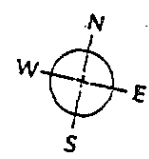
~~James T. Cameron~~
Anson, Maloney & Cameron, L.L.P.
301 Congress Avenue, Suite 1400
Austin, Texas 78701

AFTER RECORDING RETURN TO:
ATTN. John Bruce

STEWART TITLE
PO BOX 1806
AUSTIN, TX 78767

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

12310 0024



NOTE:
See Encoded Plat for details of easements
for this lot. Most of the easements are and
have never been recorded.

8.118 Acres
UNDEVELOPED LAND

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS
12310 0025

EXHIBIT A.
Page 1 of 2

Lot shown is located in Zone "C" and is an approximation based upon
transferring the information from a 1" = 2000' scaled Federal Emergency
Management Agency Flood Insurance Rate Map of Travis County,
Texas Community Panel Number 481026 0320B with an effective date
of April 1, 1982 and such flood information is to be used only
for the purpose of flood insurance. This Surveyor does not assume
responsibility for the accuracy of said Rate Maps.

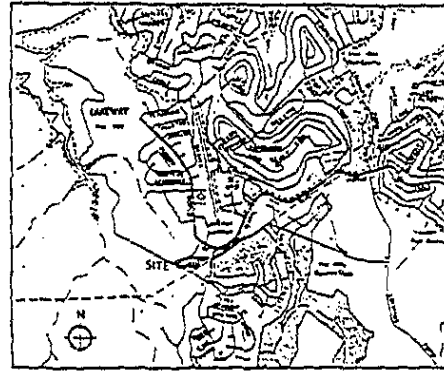
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to practice
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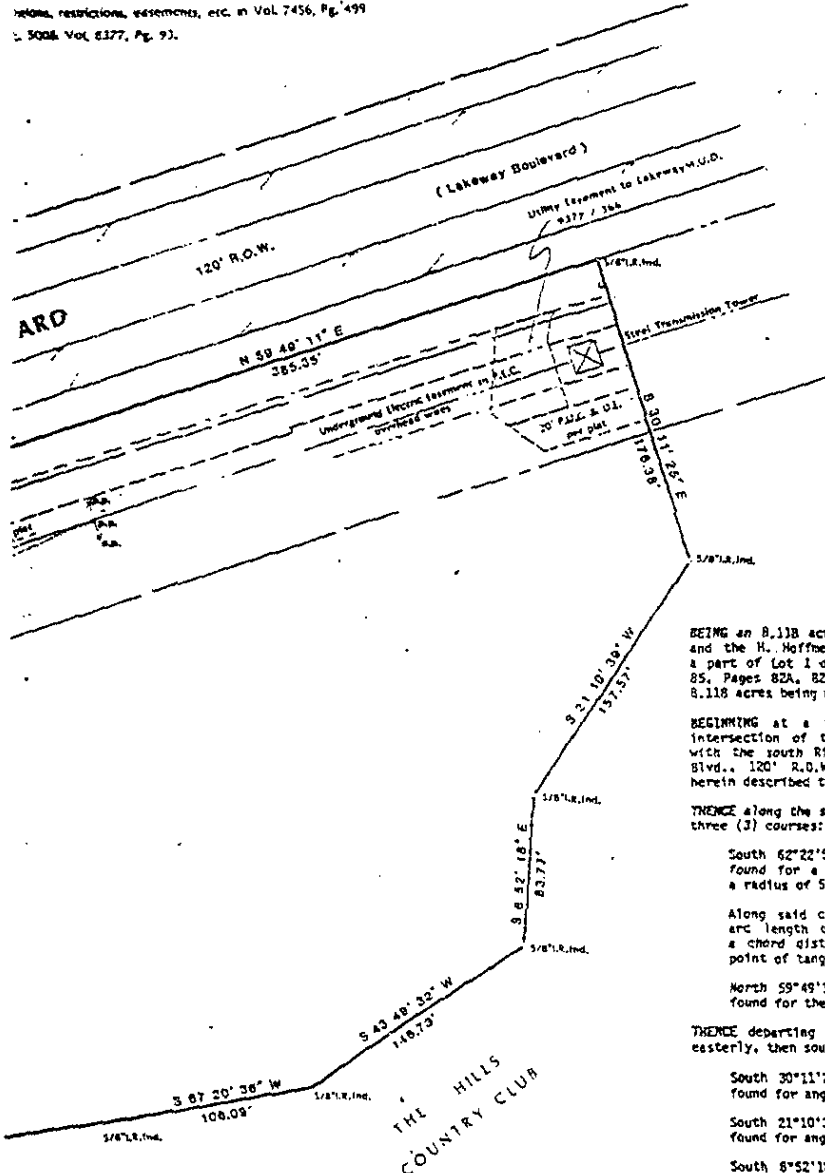


12085 0203

for this survey was provided by Commission Title of Austin
 ORDER 7873-OC, May 7, 1993
 All other restrictions, easements, etc. in Vol. 7456, Pg. 499
 S. 5008, Vol. 8377, Pg. 93.



VICINITY MAP



FIELDNOTE DESCRIPTION

BEING an 8.118 acre tract of land out of both the J.N. Lohman Survey No. 523 and the H. Hoffmeister Survey No. 489 Travis County Texas, said tract being a part of Lot 1 of "The Masters" of the Hills of Lakeway as recorded in Book 85, Pages 82A, 82B and 82C of the Plat Records of Travis County Texas, said 8.118 acres being more particularly described by metes and bounds as follows:

BEGINNING at a (disturbed) 1/2 inch iron rod in concrete found at the intersection of the east right-of-way line of The Hills Drive (60' R.O.W.) with the south Right-of-Way line of World of Tennis Blvd. (formerly Lakeway Blvd., 120' R.O.W.) same being the most northerly northwest corner of the herein described tract:

THENCE along the said south R.O.W. line of World of Tennis Blvd., the following three (3) courses:

South 62°22'50" East, a distance of 90.46 feet to a 1/2 inch iron rod found for a point of curvature of a circular curve to the left having a radius of 538.12 feet;

Along said curve to the left, through a central angle of 57°18'25", an arc length of 538.25 feet, a chord bearing of North 88°28'35" East, a chord distance of 516.09 feet to a 5/8 inch iron rod found for the point of tangency to said curve;

North 59°49'11" East, a distance of 385.35 feet to a 5/8 inch iron rod found for the most northerly northeast corner of this tract;

THENCE departing said south R.O.W. line of World of Tennis Blvd., along the easterly, then southerly line of this tract the following nine (9) courses:

South 30°11'25" East, a distance of 176.38 feet to a 5/8 inch iron rod found for angle point;

South 21°10'39" West, a distance of 157.57 feet to a 5/8 inch iron rod found for angle point;

South 8°52'18" East, a distance of 83.77 feet to a 5/8 inch iron rod found for angle point;

South 43°49'32" West, a distance of 146.73 feet to a 5/8 inch iron rod found for angle point;

South 67°20'26" West, a distance of 106.09 feet to a 5/8 inch iron rod found;

South 69°05'50" West, a distance of 314.17 feet to a 5/8 inch iron rod found for angle point;

South 56°47'30" West, a distance of 31.53 feet to a 1/2 inch iron rod set for angle point;

THENCE crossing said Lot 1, the following five (5) courses:

North 62°46'24" West, a distance of 120.77 feet to a 1/2 inch iron rod set for angle point;

North 71°25'19" West, a distance of 173.39 feet to a 1/2 inch iron rod set for angle point;

North 17°59'17" West, a distance of 102.35 feet to a 1/2 inch iron rod set for angle point;

North 30°08'00" West, a distance of 64.25 feet to a 1/2 inch iron rod set for angle point;

North 69°01'10" West, a distance of 222.05 feet to a 3/2 inch iron rod set for corner in the aforesaid easterly right-of-way line of The Hills Drive;

THENCE along the said easterly right-of-way line of The Hills Drive, the following two (2) courses:

Along a circular curve to the right having a radius of 282.12 feet, a central angle of 4°14'24", an arc length of 20.81 feet, a chord bearing North 25°01'22" East, a chord distance of 20.80 feet to a 5/8 inch iron rod found for the point of tangency to said curve;

North 26°55'31" East, a distance of 151.52 to the POINT OF BEGINNING and containing a calculated area of 8.118 acres of land.

12401 Hymeadow Drive
 Suite 1-C
 Austin, Texas 78750
 PH. (612) 268-6642

WEST SURVEYORS, INC.

BOUNDARY SURVEY
 "The Masters" at the Hills of Lakeway
 Travis County, Texas

EXHIBIT "B"
 Harry J. Glauser, III

Scale: 1" = 50' Date: June '93
 Drawn by: G. J. West
 Checked by:
 Clerk No. 1004/04

REAL PROPERTY RECORDS
 TRAVIS COUNTY, TEXAS
 42310 0026

I, Gregory E. West, a Registered Professional Land Surveyor, licensed and Surveying in the State of Texas, do hereby certify that this represents the results of an on-the-ground Survey made May 14, 1993 under my direction and supervision and correct to the best of my knowledge and that there are no claims, conflicts or encroachments except as shown hereon.

GREGORY E. WEST
 4188



REAL PROPERTY RECORDS
 TRAVIS COUNTY, TEXAS

12085 1204

EXHIBIT A
 Page 2 of 2

**EXHIBIT B
TO DECLARATION OF CONDOMINIUM REGIME**

**CONDOMINIUM BY-LAWS
OF
VILLAS AT THE HILLS**

ARTICLE I.

Section 1. Definitions.

All definitions herein contained shall have the same meanings as set forth in the Declaration of Condominium Regime to which these By-Laws are attached, reference being here made for all purposes. All other definitions are expressly set forth elsewhere in this document.

Section 2. Administration.

VILLAS AT THE HILLS (hereinafter referred to as the "Condominium Project") shall be administered by the Association of all of the Owners of Units, a non-profit corporation incorporated under the laws of the State of Texas, under the name of "Villas at the Hills Condominium Owners Association, Inc." (herein referred to as the "Association"). The Association shall be responsible for the management, maintenance, operation and administration of the Condominium Project, the Common Elements and easements appurtenant thereto in accordance with the Declaration of Condominium Regime, to which this Exhibit "B" is attached (hereinafter referred to as the "Declaration"), these By-Laws, the Articles of Incorporation, the duly adopted rules and regulations of the Association, and the laws of the State of Texas.

Section 3. Members and Voting.

Membership in the Association and voting by members of the Association shall be in accordance with the following provisions:

A. Each Unit Owner shall be a Member of the Association and no other person or entity shall be entitled to membership. No Owner shall be required to pay any consideration whatsoever solely for his membership in the Association.

B. The share of an Owner in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to his Unit in the Condominium Project.

C. Each Unit Owner shall be entitled to one vote and the aggregate number of votes for all Unit Owners shall be the number of Units described in Section 2.3.A. of the Declaration, in accordance with their respective fractions of ownership interest in the Common Elements. Declarant may exercise the voting rights with respect to Units owned by it.

D. No Owner shall be entitled to vote at any meeting of the Association until such Owner has presented evidence of ownership of a Unit in the Condominium Project to the Association. Such evidence may consist of a copy of a duly executed and acknowledged deed or title insurance policy evidencing ownership of an Unit in the Project. Such deed or policy shall be deemed conclusive in the absence of a conflicting claim based on a later deed or policy. The vote of each Owner may only be cast by such Owner or by a proxy given by such Owner to his duly authorized representative. If title to a Unit shall be in the name of two or more owners, any one of such Owners may vote as the Owner of the Unit at any meeting of the Association and such vote shall be binding on such other Owners who are not present at such meeting until written notice to the contrary has been received by the Association in which case the unanimous action of all such Owners (in person or by proxy) shall be required to cast their vote as Owners. If two or more of such Owners are present at

any meeting of the Association then unanimous actions shall also be required to cast their vote as Owners.

E. When a quorum is present at any meeting of the Association, the vote of fifty-one percent (51%) or more of the Units represented and qualified to vote and present in person or proxy at such meeting shall decide any question brought before such meeting, unless the question is one upon which by express provision of any statute, the Declaration of Condominium Regime, the Articles of Incorporation of the Association or these By-Laws a different vote is required, in which case such express provision shall govern and control the decision of such question. The Owners present in person or by proxy at a duly organized meeting may continue to transact business until adjournment notwithstanding the withdrawal of enough Owners to leave less than a quorum.

F. At all meetings of the Owners cumulative voting shall not be permitted.

ARTICLE II. OFFICES

Section 1. Principal Office.

The principal office of the Association shall be 2501 Loop 360 South, in the City of Austin, Travis County, Texas.

Section 2. Registered Office and Registered Agent.

The Association shall have and shall continuously maintain in the State of Texas a registered office and a registered agent, whose office shall be identical with the registered office, as required by the Texas Non-Profit Corporation Act. The registered office may be, but need not be, identical with the principal office, and the address of the registered office may be changed from time to time by the Board of Directors.

ARTICLE III. MEETINGS OF MEMBERS

Section 1. Place of Meetings.

The meetings of Members of the Association shall be held at 2501 Loop 360 South, in Austin, Travis County, Texas, with the place of meetings being set by the Board of Directors of the Association.

Section 2. Annual Meeting.

The annual meeting of the Members of the Association, shall be held each year at 10:00 o'clock a.m., Central Standard Time on the third Thursday of the month of March, and if such day is a legal holiday, then on the next secular day following at 10:00 o'clock a.m., at which time the Members shall elect a Board of Directors and transact such other business as may properly be brought before the meeting.

Section 3. First Meeting.

The first meeting of the Members of the Association shall be held by the earlier of the following dates, which date is hereinafter referred to as the Association Date:

- (1) One hundred twenty (120) days after Declarant has conveyed seventy-five (75) percent of the Units in the Project to Owners other than Declarant; or
- (2) Three years after the first Unit is conveyed to an Owner other than Declarant.

Until the first meeting of members, the affairs of the Association shall be managed by the Managing Agent, as set in the Condominium Declaration, or by the first Board of Directors named in the Articles of Incorporation of the Association, or their replacements.

Section 4. Special Meeting.

Special meetings of the Members for any purpose or purposes, unless otherwise prescribed by law or by the Articles of Incorporation, may be called by the President, a majority of the Board of Directors or one-tenth (1/10th) of all of the Members entitled to vote at the meetings. Business transacted at all special meetings shall be confined to the purpose or purposes stated in the call.

Section 5. Notice of Meetings.

Written or printed notice of all meetings of Members stating the place, day and hour thereof, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be personally served upon, faxed, or mailed to each Member entitled to vote at the address of the Unit owned by the aforesaid Member, or at any other address (provided that prior written notice of the other address is furnished to the Association at least sixty (60) days in advance of the meetings), not less than ten (10) nor more than sixty (60) days before the date of the meeting. If the Owner shall fail to give an address to the Association for the mailing of notices, the address of the Unit owned by the Owner shall be deemed to be the address for the giving of notice.

Section 6. Quorum.

Except as otherwise provided by statute or these By-laws, the presence in person or by proxy of fifty percent (50%) of the Owners qualified to vote shall constitute a quorum for holding any meeting of the members of the Association. If, however, such quorum shall not be present or represented at any meeting of the Owners, the Owners present in person or represented by proxy shall have the power to adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum shall be present or represented. At the first adjourned meeting the presence in person or by proxy of forty percent (40%) of the Owners qualified to vote shall constitute a quorum. Should a second or subsequent adjourned meeting be required, the presence in person or by proxy of thirty percent (30%) of the Owners qualified to vote shall constitute a quorum. If a quorum shall be present or represented by proxy at such meeting held in lieu of the adjourned meeting(s), any business may be transacted at such meeting as originally notified.

Section 7. Organization.

The President shall preside at all meeting of the Members. In his absence a Vice President shall preside. In the absence of all of these officers any Member or the duly appointed proxy of any Member may call the meeting to order and a chairman shall be elected from among the Members present.

The Secretary of the Association shall act as secretary at all meetings of the Members. In his absence an Assistant Secretary shall so act and in the absence of all of these officers the presiding officer may appoint any person to act as secretary of the meeting.

Section 8. Proxies.

At any meeting of the Members every Member entitled to vote thereat shall be entitled to vote in person or by proxy appointed by instrument in writing executed by such member or by his duly authorized attorney-in-fact. No appointment of a proxy shall be valid after the expiration of twelve (12) months after the date of its execution unless such proxy otherwise provides. A Unit Owner may not revoke a proxy given under this Section except by giving actual notice of revocation to the person presiding over a meeting of the Association.

Section 9. Action Without Meeting.

Any action required by law to be taken at a meeting of the Members or any action that may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed a sufficient number of members as would be necessary to take the action at a meeting at which all of the members were

present and voted. Actions may be taken without a meeting in accordance with the procedures set forth in the Texas Non-Profit Corporation Act, Article 1396-9.10.

ARTICLE IV. DIRECTORS

Section 1. Number and Qualification.

The property, business and affairs of the Association shall be managed and controlled by a Board of at least three (3) Directors who shall be elected annually by the Members. Each member of the Board of Directors of the Association must be a member of the Association with the exception of the first Board of Directors (and any replacement directors selected by the Declarant prior to the first meeting of the Association) elected or appointed by the Declarant or designated in the Articles of Incorporation of the Association. The number of Directors may be increased by amendment of By-Laws, but may not be decreased to a number less than three (3).

Section 2. Election and Term of Office.

The Directors shall be elected by the Members at the annual meeting of the Members (except as provided in Section 5 of this Article) and each Director elected shall hold office until the next annual meeting of the Members and until his successor shall be elected and shall qualify, or until his death, or until he shall resign or be removed in the manner hereinafter provided.

Section 3. Resignation.

Any Director may resign at any time by giving written notice to the President or Secretary. Such resignation shall take effect at the time specified therein and unless otherwise specified therein the acceptance of such resignation shall not be necessary to make it effective.

Section 4. Removal.

Any Director may be removed at any time either with or without cause, and another person may be elected to serve for the remainder of his term at any special meeting of the Members called for the purpose of removal by a vote of a majority of the Owners. In case any vacancy so created shall not be filled by the Members at such meeting, such vacancy may be filled by the Directors as provided in Section 5 of this Article.

Section 5. Vacancies.

If any vacancy shall occur in the Board of Directors, such vacancy may, subject to the provisions of Section 4 of this Article, be filled by the affirmative vote of the remaining Directors though less than a quorum of the Board of Directors; provided, however, any Directorship to be filled by reason of an increase in the number of Directors shall be filled by election at an annual meeting or at a special meeting of Members called for that purpose. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 6. General Powers.

In addition to the powers and authorities expressly conferred upon them by these By-Laws, the Board of Directors may exercise all such powers of the Association and do all such lawful acts and things as are not by law or by the Articles of Incorporation or by these By-Laws directed or required to be exercised or done by the Members.

Section 7. Compensation.

Directors as such shall not receive any stated salary for their services, but by resolution of the Board a fixed sum for expenses of attendance, if any, may be allowed for attendance

at any regular or special meeting of the Board provided that nothing herein contained shall be construed to preclude any Director from serving the Association in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

**ARTICLE V.
MEETING OF DIRECTORS**

Section 1. Place of Meetings.

The Directors of the Association shall hold their meetings, both regular and special at Austin, Travis County, Texas. To the extent possible, said meetings shall be held at 2501 Loop 360 South, City of Austin, Travis County, Texas.

Section 2. Annual Meeting.

The first meeting of each newly elected Board shall be held at such time and place as shall be fixed by the initial Board of Directors or by the vote of the Members at their annual meeting, and no notice of such meeting shall be necessary to the newly elected Directors in order legally to constitute the meeting, provided a quorum shall be present, or they may meet at such time and place as shall be fixed by the consent in writing of all of the Directors.

Section 3. Regular Meetings.

Regular meetings of the Board may be held without notice at such time and place as shall from time to time be determined by the Board.

Section 4. Special Meetings.

Special meetings of the Board may be called by the President on one (1) day notice to each Director given either personally, by mail, or by fax. Special meetings shall be called by the President or Secretary in like manner and like notice on the written request of two (2) Directors. Neither the purpose of nor the business to be transacted at any special meeting of the Board of Directors need to be specified in the notice or waiver of notice of such meeting. Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

Section 5. Quorum and Action.

At all meetings of the Board the presence of a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of a majority of the Directors at any meeting at which a quorum is present shall be the act of the Board of Directors unless the act of a greater number is required by law, the Articles of Incorporation or these By-Laws. If a quorum shall not be present at any meeting of the Directors, the Directors present thereat may adjourn the meeting from time to time without notice other than announcement at the meeting until a quorum shall be present.

Section 6. Presumption of Assent to Action.

A Director who is present at a meeting of the Board at which action or any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

ARTICLE VI.
EXECUTIVE COMMITTEE

Section 1. Membership and Authorities.

The Board of Directors, by resolution adopted by a majority of the whole Board, may designate two (2) or more Directors to constitute an Executive Committee, which Committee to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the business and affairs of the Association, except where action of the full Board of Directors is specified by applicable law, but the designation of such Committee and the delegation thereof of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed upon it or him by law.

Section 2. Minutes.

The Executive Committee shall keep regular minutes of its proceedings and report the same to the Board when required.

Section 3. Vacancies.

The Board of Directors shall have the power at any time to fill vacancies in, to change the membership of, or to dissolve, the Executive Committee.

ARTICLE VII.
OFFICERS

Section 1. Number.

The officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer. The Board of Directors may also choose additional Vice Presidents and one or more Assistant Secretaries and/or Assistant Treasurers. One person may hold any two or more of said offices except those of President and Secretary.

Section 2. Election, Term of Office and Qualifications.

The officers of the Association shall be elected by the Board of Directors at its first meeting after each annual meeting of Members. The Board shall elect a President, one or more Vice Presidents, a Secretary and a Treasurer, none of whom need be a member of the Board. Each officer so elected shall hold office until his successor shall have been duly chosen and qualify or until his death or his resignation or removal in the manner hereinafter provided.

Section 3. Subordinate Officers.

The Board of Directors may appoint such other officers and agents as it shall deem necessary who shall hold their offices for such term and have such authority and perform such duties as the Board of Directors may delegate to any committee or officer the power to appoint any such subordinate officer or agent.

Section 4. Resignation.

Any officer may resign at any time by giving written notice thereof to the Board of Directors or to the President or Secretary of the Association. Any such resignation shall take effect at the time specified therein and unless otherwise specified therein the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Removal.

Any officer elected or appointed by the Board of Directors may be removed by the Board at any time with or without cause by the Board of Directors or by any committee or superior officer in whom such power of removal may be conferred by the Board of Directors.

Section 6. Vacancies.

A vacancy in any office shall be filled for the unexpired portion of the term by the Board of Directors, but in case of a vacancy occurring in an office filled in accordance with the provisions of Section 3 of this Article, such vacancy may be filled by any committee or superior officer upon whom such power may be conferred by the Board of Directors.

Section 7. The President.

The President shall be the chief executive officer of the Association; the President shall, when present, preside at all meetings of the Members and Directors; shall be ex officio a member of all standing committees, shall have general and active management of the business of the Association and shall see that all orders and resolutions of the Board of Directors are carried into effect. The President may sign, with any other proper officer, any contracts and other documents which the Board of Directors has authorized to be executed, except where required by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board of Directors or these By-Laws, to some other officer or agent of the Association.

Section 8. The Vice President.

Vice Presidents shall perform the duties as are given to them by these By-Laws and as may from time to time be assigned to them by the Board of Directors or by the President and may sign, with any other proper officer, any documents authorized by the Board of Directors. At the request of the President, or in his absence or disability, the Vice President designated by the President (or in the absence of such designation, the senior Vice President) shall perform the duties and exercise the powers of the President.

Section 9. The Secretary.

The Secretary shall attend all meetings of the Board of Directors and all meetings of the Members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the Executive Committee and standing committees when required. He shall give, or cause to be given, notice of all meetings of the Members and special meetings of the Board of Directors as required by law or these By-Laws, be custodian of the corporate records and shall perform such other duties as may be prescribed by the Board of Directors or President, under whose supervision he shall be. He shall keep in safe custody the seal of the Association, and, when authorized by the Board, affix the same to any instrument requiring it and, when so affixed, it shall be attested by his signature or by the signature of the Treasurer or an Assistant Secretary.

Section 10. Assistant Secretaries.

The Assistant Secretaries shall perform the duties as are given to them by these By-Laws or as may from time to time be assigned to them by the Board of Directors or by the Secretary. At the request of the Secretary, or in his absence or disability, the Assistant Secretary designated by the Secretary (or in the absence of such designation the senior Assistant Secretary) shall perform the duties and exercise the powers of the Secretary.

Section 11. The Treasurer.

The Treasurer shall have the custody and be responsible for all corporate funds and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association and shall deposit all moneys and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. He shall disburse the funds of the Association as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association.

Section 12. Assistant Treasurers.

The Assistant Treasurers shall perform the duties as are given to them by these By-Laws or as may from time to time be assigned to them by the Board of Directors or by the Treasurer. At the request of the Treasurer, or in his absence or disability, the Assistant Treasurer designated by the Treasurer (or in the absence of such designation, the senior Assistant Treasurer) shall perform the duties and exercise the powers of the Treasurer.

Section 13. Treasurer's Bond.

If required by the Board of Directors, the Treasurer and any Assistant Treasurer shall give the Association a bond, such sum and with such surety or sureties as shall be satisfactory to the Board, for the faithful performance of the duties of his office and for the restoration to the Association, in case of his death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his possession or under his control belonging to the Association, provided, however, that the cost of the bond shall be paid for by the Association.

Section 14. Management.

As provided in Article IV. of the Declaration, the Association shall provide for independent management of the Condominium Project, with the responsibilities of such management being determined by the Board of Directors. Such independent management may jointly manage the Condominium Project and other property. In such event, the Association shall not be required to bear in excess of its pro rata share (based on the ratio that the number of Units in the Condominium Project bears to the number of total units of whatever type so jointly managed) of such independent management expense. Any agreement for independent professional management of the Condominium Project shall provide that the management contract may be terminated without cause within a period of time not exceeding thirty (30) days written notice and the term of any such contract shall not exceed one (1) year. Any officer or stockholder of the Association or any Owner (or any of their respective affiliates, nominees, employers or companies) may be employed as the independent management so long as the fees paid to such related party are reasonable.

ARTICLE VIII. ASSESSMENTS

Section 1. Expenses.

All costs incurred by the Association, including but not limited to any costs incurred in satisfaction of any liability arising within, caused by or in connection with the Association's operation, maintenance or use of the Condominium Project, costs for insurance, personal property taxes of any tangible personal property of the Condominium Project owned or possessed in common by the Owners, and all other Common Expenses set forth in the Condominium Declaration shall be Association expenses. All sums received by the Association, including but not limited to all sums received as proceeds of, or pursuant to, any policy of insurance carried by the Association, shall be Association receipts.

Section 2. Assessments.

A. The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year and such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium Project, including a reasonable allowance for contingencies and reserves. Such reserves shall include without limitation an adequate reserve fund for the replacement of the Common Elements. The assessment for such year shall be established by the adoption of such annual budget by the Board of Directors of the Association. Copies of such budget shall be delivered to each Owner, although the delivery of a copy of the budget to each Owner shall not affect the liability of any Owner for any existing or future assessment. Should the Board of Directors at any time determine, in the sole discretion of said Board of Directors, that the assessments levied are or may prove to be insufficient to pay the costs of

operation and management of the Condominium Project in any fiscal year, then the Board of Directors shall have the authority at any time and from time to time to levy such additional assessment or assessments as it shall deem to be necessary for that purpose.

B. Special assessments, assessments other than those described in Subsection A above, may be made by the Board of Directors of the Association at any time, and from time to time, to meet other needs or requirements of the Association and the Condominium Project including, but not limited to, assessments for costs described herein and capital improvements.

C. Assessments levied by the Association against each Owner pursuant to Subsection A and/or Subsection B above which are expended on capital expenditures, or which are set aside in a reserve for future repairs or improvements within the Condominium Project (whether or not such repairs or improvements would otherwise be considered capital in nature pursuant to the provisions of the Internal Revenue Code of 1954, as amended), shall be treated as capital contributions by such Owners to the Association and shall be shown on the books of the Association as such.

The provision of this Subsection C may be amended by a majority vote of the Board of Directors of the Association if, in the sole discretion of said Board of Directors, such action is necessary to conform to any change in the Internal Revenue Code of 1954, as amended, or any Treasury Regulation or Ruling promulgated thereunder. Notwithstanding anything contained in the Declaration of Condominium Regime to the contrary, any amendment to this Subsection C duly authorized by the Board of Directors of the Association shall not require the consent of any Owner or mortgagee.

Section 3. Appointment of Assessments.

All assessments levied against an Owner to cover expenses of the Association and the Condominium Project shall be apportioned among and paid by the Owners in accordance with the fractional interest assigned to each Unit according to the Declaration of Condominium Regime without increase or decrease for the existence appurtenant to such Unit. Assessments shall be due and payable monthly, except as to the Declarant, in such manner as the Association shall determine, commencing on the date of delivery of a deed to a Unit from the Declarant to the subsequent Owner. Prior to such conveyance and the Association Date, the Declarant shall be obligated to pay for Common Expenses as stated in Article 6.1 of the Declaration and as described in Article XIV. herein. After the Association Date, the Declarant shall bear all of the assessments against Units owned by Declarant in accordance with the aggregate fractional interest assigned thereto.

The payment of an assessment shall be in default if such assessment, or any part thereof, is not paid to the Association in full on or before the due date for such payment. Default in the payment of assessment shall result in additional costs, charges, and fees, and the acceleration of all annual assessments as described in Paragraph 6.6 of the Declaration. Assessments in default shall bear interest at the lesser of the rate of eighteen percent (18%) per annum or the highest rate allowed by law from the due date until paid. Each Owner shall be, and remain, personally liable for the payment of all assessments which may be levied against such Owner by the Association in accordance with these By-Laws, and any unpaid assessments with accrued interest thereon owed with respect to a Unit may, at the option of the Association, be collected out of the sale proceeds of such Unit. In addition, to the extent permitted by law, unpaid assessments shall become a lien against the Unit and each deed from Declarant may expressly retain a Vendor's Lien to secure the payment of all assessments, subject only to: (i) tax and special assessment liens in favor of any governmental body with taxing authority over the Units; (ii) a First Mortgage or First Deed of Trust or first vendor's lien of record prior to the delinquency of payment, including all unpaid obligatory sums as may be provided by such encumbrance; and (iii) any other lien required by the Texas Uniform Condominium Act, Title 7, Chapter 82 of the Texas Property Code (the "Act") to have priority over the assessment lien. Any First Mortgagee, upon foreclosure of its lien on a Unit, or upon acceptance of a deed in lieu of foreclosure thereon, shall not be required to pay any unpaid assessments owing on said Unit. Such unpaid assessment lien may be recorded in the Condominium Records of Travis County, Texas, and

may be enforced by foreclosure, and the expenses incurred therefor including interest, costs and attorneys' fees shall be chargeable to the Owner in default. Each Owner, by his acceptance of deed to a Unit, shall expressly vest in the Association the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property as provided in Section 51 of the Texas Property Code, and such Owner by acceptance of a deed to Unit expressly grants to the Association a power of sale in connection with said lien, and agrees to the creation of (and by the acceptance of deed grants) a Vendor's Lien to secure the payment of the assessments. The liens provided for in this section shall be in favor of the Association and shall be for the common benefit of all Owners. The Association acting on behalf of the Owners shall have the power to bid upon an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same and to treat the proceeds of any such lease, mortgage or conveyance in the same manner as assessments hereunder.

Section 4. No Exemption.

No Owner except Declarant may exempt himself from liability for his contribution toward the expenses of the Association and the Condominium Project by waiver of the use or enjoyment of any of the Common Elements or by the abandonment, sale or the disposition of his Unit.

Section 5. Enforcement.

The Association may, in addition to its rights under Article 6.6 of the Declaration, Section 3 hereof, and the Act, enforce collection of delinquent assessments by suit at law for a money judgment, and the expenses incurred in collecting unpaid assessments including interest, costs and attorneys' fees shall be chargeable to the Owner in default. The Association may also discontinue the furnishing of any utilities or other services to an Owner in default of his obligations to the Association or other Owners as set forth herein upon seven (7) days written notice to such Owner of its intent to do so. Any Owner in default of his obligations to the Association or other Owner as set forth herein shall not be entitled to vote at any meeting of the Association so long as such default is in existence, and such defaulting Owner's name shall be placed in the announcements of the Association or on a bulletin board of the Association.

ARTICLE IX. OWNER ACTION

Without limiting the other legal rights of any Owner or the Association, legal action may be brought by the Association at its sole discretion on behalf of two (2) or more Owners as their respective interest may appear with respect to any cause of action relating to the Common Elements of more than one (1) Unit.

ARTICLE X. INSURANCE

Notwithstanding anything to the contrary in these Bylaws and as provided in Section 6.3 of the Declaration, the Association shall obtain and maintain at all times insurance of the type and in the amounts required by the Federal National Mortgage Association ("Fannie Mae") to be maintained on condominium projects if Fannie Mae is to purchase or securitize mortgages or share loans secured by an individual unit within a condominium project. The types of insurance to be obtained may include hazard insurance, flood insurance, liability insurance, and fidelity insurance. The policies of insurance shall be issued by responsible insurance companies authorized to do business in the State of Texas, which companies must be acceptable under applicable Fannie Mae guidelines, as amended from time to time. All policies of insurance shall contain all the terms and provisions required under the Fannie Mae guidelines, as amended from time to time, for insurance policies on a condominium project if Fannie Mae is to purchase or securitize mortgages or share loans secured by an

individual unit within such condominium project. To the extent that the remaining provisions of this Article X other than this paragraph are consistent with this paragraph,

The Association shall carry a liability policy for the General Common Elements and shall carry such other and additional insurance as required by Fannie Mae guidelines.

A. Said policy shall be purchased by the Association for the benefit of the Association, the Owners and their mortgagees as their interests may appear (subject to the provisions of these By-Laws, the Declaration of Condominium Regime and the Act), and provision shall be made for the issuance of appropriate mortgagee endorsements to the mortgagees of the Owners. The Owners shall obtain insurance coverage upon their personal property at their own expense. Each Owner shall also obtain fire and extended coverage (Homeowner's Insurance) on said Owner's Unit through the same insurance company and carrier used by the Association, unless the Association previously agrees, in writing, to allow the Owner to use a different company and/or carrier. The Association and the Owners shall see that all property and liability insurance carried by an Owner or the Association shall contain appropriate provisions whereby the insurer waives its right of subrogation as to any claims against the Owners or the Association and the respective tenants, servants, agents, and guests of the Owners or the Association, as the case may be.

B. All buildings, improvements, personal property of the Condominium Project and other Common Elements of the Condominium Project shall be insured by the Owner of the Unit to which it pertains against fire and other perils covered by a standard extended coverage endorsement, in an amount equal to the maximum insurable value thereof (based upon replacement costs), excluding the cost of excavations, foundations and footings, as determined annually by the Board of Directors of the Association. The Association shall also carry such other coverage, if any, required by Fannie Mae guidelines.

C. All premiums upon insurance purchased by the Association pursuant to these By-Laws shall be included in the Association's budget in accordance with Subsection 2A, Article VIII. hereof, except that the amount of increase over such premiums occasioned by the use, misuse, occupancy or abandonment of a Unit or the Common Elements by an Owner shall be assessed only against such Owner.

D. Proceeds of all insurance policies owned by the Association shall be received by the Association, held in a separate account and distributed to the Association, the Owners and their mortgagees (subject to the provisions of these By-Laws, the Declaration of Condominium Regime and the Act) as their interest may appear; provided, however, whenever repair or reconstruction of the Condominium Project shall be required as provided in Article XI. of these By-Laws, the proceeds of any insurance received by the Association as a result of any loss requiring repair or reconstruction under the Declaration of Condominium Regime and these By-Laws shall be applied to such repair or reconstruction.

E. Each Owner, by ownership of a Unit in the Condominium Project, shall be deemed to appoint the Association as his true and lawful attorney-in-fact to act in connection with all matters concerning the maintenance of the insurance described herein. Without limiting the generality of the foregoing, the Association as said attorney shall have full power and authority to purchase and maintain such insurance, to collect and remit the premiums therefor, to collect proceeds and to distribute the same to the Association, the Owners and their mortgagees (subject to the provisions of these By-Laws, the Declaration of Condominium Regime and the Act) as their interests may appear, to execute releases of liability and to execute all documents and to do all things on behalf of such Owner and the Condominium Project as shall be necessary or convenient to the accomplishment of the foregoing; and any insurer may deal exclusively with the Association in regard to such matters. The Association shall not be responsible for procurement or maintenance of any insurance covering the contents or the interior of any Unit nor the liability of any Owner for occurrences therein not caused by or connected with the Association's operation, maintenance or use of the Condominium Project.

Nothing herein contained shall require or impose a duty on the Association to maintain insurance on personal items of the Owners of the Units, such personal items to include, but

not be limited to, jewelry, furniture, household items, or other personal property; such insurance for personal items shall be the sole and express obligation of each Owner.

**ARTICLE XI.
RECONSTRUCTION OR REPAIR**

Section 1. Damage and Reconstruction.

If less than two-thirds (2/3) of the General Common Elements in the Condominium Project (as determined by the vote or written consent of the majority of the Owners representing each of the Units in the exercise of their sole discretion) shall be damaged or destroyed by fire or any other casualty, then such damaged or destroyed improvements shall be rebuilt or repaired. If more than two-thirds (2/3) of the General Common Elements in the Condominium Project (as determined by the vote or written consent of a majority of the Owners representing each of the Units in the exercise of such discretion) shall be damaged or destroyed by fire or other casualty, then reconstruction shall not be compulsory if all the Owners of the Units then under construction or completed vote, within one hundred and twenty (120) days after the date of such destruction or damage, not to make provision for reconstruction, which vote not to reconstruct the improvements must have the approval or consent of Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders. In the event that such Owners decide not to reconstruct the Condominium Project, the land (more particularly described on Exhibit "A" of this Declaration of Condominium Regime) shall be sold and such sale proceeds along with any insurance proceeds shall be distributed to each Owner and his mortgagee, as their interests may appear, in accordance with each Owner's fractional interest in the Condominium Project, and in accordance with the Declaration.

Section 2. Reconstruction Guidelines.

Any reconstruction or repair of the Common Elements in the Condominium Project or any Unit located therein shall be substantially in accordance with the Declaration of Condominium Regime and the original plans and specifications for the Common Elements in the Condominium Project unless the Owners and the eligible mortgage holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by eligible mortgage holders shall unanimously decide otherwise.

Section 3. Owner's Responsibilities.

Each Owner shall be responsible for the reconstruction, repair or replacement of any improvements which are a part of his Unit. Each Owner shall also be responsible for the costs not otherwise covered by insurance carried by the Association of any reconstruction, repair or replacement of any portion of the Condominium Project necessitated by his negligence or misuse, or the negligence or misuse by his family, tenants, guests, agents, servants, employees or contractors. In the event damage to all or any part of the improvements which are part of an Owner's Unit is covered by insurance held by the Association for the benefit of such Owner, then such Owner shall begin reconstruction or repair of such damage upon receipt of the insurance proceeds or any portion thereof from the Association, but in no event later than sixty (60) days after the date of such damage, subject to the rights of the Association to supervise, approve or disapprove such reconstruction or repair during the course thereof. In the event damage to all or any part of the improvements which are part of an Owner's Unit is not covered by insurance held by the Association for the benefit of such Owner, then such Owner shall begin reconstruction or repair of his Unit within sixty (60) days after the date of such damage, subject to the right of the Association to supervise, approve or disapprove such reconstruction or repair during the course thereof. Should an Owner fail to maintain or repair the Limited Common Elements within his Unit, then the Association shall have the right to perform such maintenance and repair as it deems necessary for the benefit of the Association, and the costs thereof shall become a Special Assessment against such Unit.

Section 4. Assessment of Damage.

As soon as possible after the occurrence of a casualty which causes damage to any part of the Condominium Project for which the Association has insurance coverage (hereinafter referred to as the "Casualty") the Association shall obtain reliable and detailed cost estimates of the following:

A. The cost of restoring all damage caused by the Casualty to the General and Limited Common Elements (hereinafter referred to as the "Common Elements Costs"); and

B. The cost of restoring that part of the damage caused by the Casualty to each Unit which is or would be covered by insurance held by the Association without regard to the policy limits of such insurance (hereinafter referred to as the "Unit Costs").

All insurance proceeds available to the Association with respect to the Casualty shall first be applied to the payment of the actual Common Element Costs and the balance thereof, if any, shall thereafter be applied to the payment of the actual Unit Costs. However, if such insurance proceeds are not sufficient to cover such estimated costs, then an assessment shall be made against the Owners by the Association in the following manner:

C. All Owners shall be assessed on the basis of their fractional interest in the Condominium Project as set forth in the Condominium Declaration for the payment of the estimated Common Element Costs not otherwise paid for by insurance held by the Association.

D. Each Owner of a damaged Unit shall be assessed an amount equal to the difference between his estimated Unit Costs less a sum calculated by multiplying the amount, if any, of the remaining insurance proceeds held by the Association with respect to the casualty by a fraction, the numerator of which is his estimated Unit Costs and the denominator of which is the total of all of the estimated Unit Costs.

If actual costs exceed such estimated costs, then an additional assessment shall be made against the Owners by the Association in the above manner based upon actual costs.

Section 5. Eminent Domain.

In the event of any taking of any Unit in the Condominium Project by eminent domain, or private purchase in lieu thereof, the Association shall give timely written notice of the existence of such proceedings to all First Mortgagees. The Owner of such Unit and his mortgagee shall jointly be entitled to receive the award for such taking and, after acceptance thereof, if such Owner shall vacate his Unit by virtue of such taking, he and his mortgagee shall be divested of all interest in the Condominium Project. If any repair or rebuilding of the remaining portions of the Condominium Project is required as a result of such taking, a sixty-seven percent (67%) majority of the Owners of each of the Units and the Eligible Mortgage Holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by Eligible Mortgage Holders shall determine by vote or written consent whether to rebuild or repair the Condominium Project or to take such other action as such remaining Owners deem appropriate. If part of the General Common Elements are taken hereunder, any award shall be paid to each Unit Owner and his First Mortgagee pro rata in accordance with said Owner's fractional ownership in the project. If no repair or rebuilding shall be required, or shall be undertaken, then the remaining portion of the Condominium Project shall be resurveyed and the Declaration of Condominium Regime and Exhibit "C" shall be amended to reflect such taking and to proportionately readjust the interests assigned to the remaining Owners so that the sum of the fractional interests of all of the Owners is equal to one (1).

ARTICLE XII.
USE RESTRICTIONS

Section 1. Structural Alterations or Modifications.

No Owner shall make alterations or modifications to his Unit or to any of the Common Elements, including the erection of antennae, aerials, awnings, the placement of any reflective or other material in the windows of the Unit (other than uniform window coverings approved by the Board of Directors) or other exterior attachments without the written approval of the Association.

Section 2. Nuisance.

No immoral, improper, unlawful, or offensive activity shall be carried on in any Unit or upon the Common Elements, nor shall anything be done which may be or become an annoyance or a nuisance to the Owners. No Owner shall do or permit anything to be done or keep or permit to be kept in his Unit or on the Common Elements anything that will increase the rate of insurance on the Condominium Project. No Owner shall store any dangerous, explosive, or inflammable liquids or other materials either in his Unit or upon the Common Elements. No Owner shall use the garage in any Unit for storage purposes and all Owners, guests and invitees shall be obligated to keep the Common Elements free from all waste and litter caused by their respective pets. Failure to comply with the provisions of this Section shall result without limitation in an assessment for the removal of such waste, litter, or other materials.

Section 3. Signs.

No signs or other advertising devices which are visible from the exterior of any Unit or upon the Common Elements shall be displayed, including "For Sale" signs, without written permission from the Association.

Section 4. Pets.

No animals shall be kept except household pets. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor or unsanitary conditions. No savage or dangerous animal shall be kept. No more than one household pet may be kept without written permission of the Board of Directors of the Association which shall not be unreasonably withheld. No pets may be permitted to run loose upon the Common Elements, and any Owner who causes any animal to be brought or kept upon the premises of the Condominium Project shall indemnify and hold harmless the Association for any loss it may sustain or which may be claimed against the Association as a result of the presence of such animal on the premises, whether or not the Association has given its permission therefor. Notwithstanding the generality of the foregoing, after (i) repeated violations of this provisions, (ii) ten (10) days prior written notice to the Owner of such pet(s), and (iii) an opportunity for such Owner to have a hearing before the Board of Directors, such pet(s) may be taken from such Owner and given to the Society for the Prevention of Cruelty to Animals of Travis County, Texas.

Section 5. Use of Common Elements.

The Common Elements shall not be used for storage of supplies, personal property, trash or refuse of any kind (except common trash receptacles, storage buildings or other similar structures which may from time to time be placed upon the Common Elements at the discretion of the Board of Directors of the Association), nor shall the Common Elements be used in any way for the drying, shaking or airing of clothing or other items. Stairs, entrances, sidewalks, yards, driveways and parking areas shall not be obstructed in any way nor shall unauthorized persons or pets play therein or thereon or use such areas for other than their intended purposes. In general, no activities shall be conducted nor condition maintained by any Owner either in his Unit or upon the Common Elements which despoils the appearance of the Condominium Project.

Section 6. Maintenance.

Each Owner shall maintain his Unit in clean, safe and sanitary condition. Each Owner shall also use due care to avoid damaging any of the Common Elements, including, but not limited to, the telephone, water, gas, plumbing, power or other utility systems throughout the Condominium Project and each Owner shall be responsible for his negligence or misuse of any of the Common Elements or of his own facilities resulting in damage to the Common Elements.

Section 7. Vehicles.

Vehicles not in operating condition shall not be parked upon the premises of the Condominium Project (except in an assigned parking space). No parking space shall be converted for living, recreational or business purposes, nor shall anything be stored in any parking space so as to prevent the parking of a vehicle therein.

Section 8. Sales Office.

None of the restrictions contained in this Article XII. apply to the sales office, sales models and other commercial activities or signs or billboards, if any, of Declarant during the sales period of the Condominium Project or of the Association in furtherance of its power and purposes set forth herein and/or in its Articles of Incorporation and By-Laws as the same may be amended from time to time, including without limitation the power of the Association to own a Unit for the use and enjoyment of the resident manager of the Condominium Project.

Section 9. Enforceability.

These restrictive covenants as to the use of the Units and the Common Elements shall be a burden upon the fee title to the property herein described and shall run with the title to the land of same until duly amended by the Association as permitted herein and in the Declaration.

ARTICLE XIII.
MAINTENANCE

An Owner shall maintain and keep in repair the improvements which are a part of his own Unit, including the fixtures thereof. All fixtures and equipment, including the heating and air conditioning system, installed within the Unit, commencing at a point where the utility lines, pipes, wires, conduits or systems (which for brevity are hereafter referred to as "utilities") enter the Unit shall be maintained and kept in repair by the Owner thereof. Without limitation on the generality of the foregoing, an Owner shall maintain and keep in good repair (and replace, if so required) the air conditioning compressor, hot water heater units, fans, ductwork, and heating unit and cooling coils, utilized in and for his Unit. An Owner shall be obliged to promptly repair and replace any broken or cracked windows and doors.

The Owner's obligations to maintain and repair as set forth herein shall also extend to any damage caused by Owner's guests, tenants and invitees.

Notwithstanding any provisions contained herein or in any other document or instrument to the contrary, a Unit Owner, after having obtained the written approval of the Villas at the Hills Condominium Owners Association, Inc., may construct at his or her sole cost and expense improvements and appurtenances to the real property located within the Limited Common Elements reserved for that Unit Owner pursuant to 1.12 of the Declaration, and it is specifically agreed that all additional costs, fees, and premiums assessed, incurred, or charged for utilities, insurance, taxes, repair, and maintenance for such improvements and appurtenances shall be the sole responsibility, liability, and obligation of the respective Unit Owner for whom said Limited Common Element is reserved. Villas at the Hills Condominium Owners Association, Inc. shall not be charged or responsible for any such costs, fees, premiums, or assessments, and any dispute between the Association and a Unit

Owner who has constructed improvements or appurtenances within the Limited Common Elements reserved for him or her concerning the allocation of costs, fees, premiums, or assessments and their relation to said improvements or appurtenances shall be decided by action of the Board of Directors. Further, any claim or liability arising from any accident or injury to any person or entity which occurs in, or as a result of, improvements or appurtenances constructed by a Unit Owner within the Limited Common Elements reserved for the use of said Unit Owner, shall be the sole responsibility and liability of said Unit Owner. Every Unit Owner who constructs any improvement or appurtenance on or within the Limited Common Element reserved to him or her pursuant to 1.12 of the Declaration agrees to defend, indemnify, and hold harmless Villas at the Hills Condominium Owners Association, Inc., the Declarant, and all other unit owners against any and all claims, losses, damages, liabilities, actions, assessments, costs, and fees, arising out of or in any way pertaining to such improvement or appurtenance or to any accident or injury in, on, or pertaining to or resulting from such improvement or appurtenance.

**ARTICLE XIV.
COMMON EXPENSES, RESERVE, AND WORKING CAPITAL FUND**

The costs and expenses of administration of the Condominium Project and of maintenance and repairs of the Common Elements, and any other expenses lawfully agreed upon by the Association which have been defined as "Common Expenses" in the Declaration shall be borne pro-rata by all Owners. The Common Expenses for the fiscal year will be estimated by the Managing Agent or the Declarant, and each Owner shall pay their pro-rata share of the Common Expenses and Reserves on a monthly basis, with the exception of the Declarant, which shall pay its pro-rata share on the Association Date. Prior to the Association Date, the Declarant shall pay all deficiency for the Common Expenses and Reserves, and such payment shall not be limited by the amount of the assessments for the Common Expenses. Furthermore, such payment shall never be less than the Declarant's pro-rata share of the Common Expenses. The Declarant shall be exempt from paying its pro-rata Common Expenses and Reserves monthly. At the Association Date, the actual Common Expenses and Reserves shall be determined from the date of this Declaration until the Association Date. The actual Common Expenses and Reserves will then be determined on a pro-rata basis for each unit per month. If after determination of the actual per unit Common Expenses and Reserves, an Owner, other than the Declarant, has paid more than their actual pro-rata share of the Common Expenses and Reserves, then that Owner's excess may be retained by the Association and credited to the account for future Assessments of said Owner, or the excess may be refunded to said Owner, as the members of the Association may determine. The Declarant shall, at any time, be entitled to a refund for the deficiency paid on behalf of the Association. In order to obtain such refund, the Declarant may request that the Board of Directors include in the calculation of the assessments an amount, submitted to the Board of Directors by Declarant, which amount shall not be greater than the deficiency paid by Declarant on behalf of the Association.

The Association shall provide for future contingencies and for replacement of improvements to the Common Elements through the creation and maintenance of an adequate reserve fund. The reserve fund shall be maintained out of regular Assessments for Common Expenses.

In order to meet unforeseen expenditures or to purchase any additional equipment or services needed, the Declarant shall establish and the Association shall maintain a working capital fund in accordance with the provisions of Section 6.1 of the Declaration.

**ARTICLE XV.
MORTGAGES**

Any Owner who mortgages his interest in a Unit shall, within ten (10) days after the execution of such mortgage, give notice to the Association in writing of the name and address of his mortgagee and the amount secured by said mortgage. Such Owner shall, in the same manner, notify the Association as to release or discharge of any such mortgage.

ARTICLE XVI.
TAXATION

Each Unit shall be assessed and taxed for all purposes as a separate parcel of real estate entirely independent of the Condominium Project or Common Elements thereof, and each Owner shall be solely responsible for the payment of all taxes, municipal claims, charges and assessments of any nature whatsoever assessed against such Unit. Such payment shall be made prior to the due date of such taxes, municipal claims, charges and assessments.

ARTICLE XVII.
AMENDMENT

Subject to the requirements of Article 11.3 of the Declaration, and unless otherwise expressly stated herein or required by law, the By-Laws (as opposed to the Declaration of Condominium Regime of which they are a part) may be amended by the members of the Association from time to time by approval of Owners representing an aggregate ownership interest of sixty-seven percent (67%) of the Condominium Units with the consent of the eligible mortgage holders representing at least fifty-one percent (51%) of the votes of Units that are subject to mortgages held by eligible mortgage holders. Any such amendment may be evidenced by an instrument in writing signed and acknowledged by the President and Secretary of the Association certifying that such amendment has been approved by the vote or written consent of a majority of the fractional interests assigned to the Owners in the Condominium Project, and such amendment shall be effective upon its recordation in the Condominium Records of Travis County, Texas. The procedure for proposing amendments hereto shall be set by the Board of Directors.

ARTICLE XVIII.
DEFAULT

Section 1. Compliance.

These Bylaws are set forth to comply with the requirements of the Texas Uniform Condominium Act and the provisions of the Declaration of Condominium Regime. In case these Bylaws conflict with the provisions of the said Act or said Declaration of Condominium Regime, it is hereby agreed and accepted that the provisions of the Act and said Declaration of Condominium Regime shall govern. Failure to comply with the Declaration of Condominium Regime, these By-Laws, the Articles of Incorporation or duly adopted rules and regulations of the Association shall constitute an event of default and shall be grounds for relief, which may include, without intending to limit the same, an action to recover sums due for damages and injunctive relief, or any combination thereof or any other remedy allowed by law. Failure to pay assessments or other charges when due shall, in addition to such other remedies as may be elected pursuant to the provisions hereof, result in penalties, costs, interest, rate charges and the acceleration of all annual fees and assessments as described in Paragraph 5.4 of the Declaration.

Section 2. Attorneys Fees.

In any proceeding arising because of an alleged default by any Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding including without limitation reasonable attorneys' fees.

ARTICLE XIX.
BOOKS AND RECORDS

The Association shall keep or cause to be kept detailed books of account showing all expenditures and receipts of the administration of the Condominium Project which shall specify the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Association and the Owners. Such books shall be open for inspection by the Owners and their mortgagees during reasonable working hours on

weekdays and shall be audited annually by qualified auditors. The cost of such audit shall be an expense of administration of the Condominium Project.

IN WITNESS WHEREOF, we, being all of the Directors of VILLAS AT THE HILLS CONDOMINIUM OWNERS ASSOCIATION, INC. have hereunto set our hands this the 4 day of NOVEMBER, 1994.

Bert Dement
Bert Dement, Director

_____, Director

_____, Director

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of VILLAS AT THE HILLS CONDOMINIUM OWNER'S ASSOCIATION, INC., a Texas non-profit corporation; and

That the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereon, held on the ____ day of _____, 1994.

IN WITNESS WHEREOF, I have hereunto subscribed by name as Secretary of said Association, this the ____ day of _____, 1994.

_____, Secretary

Selling

- an "A" general policyholder's rating and a "V" financial size category in Best's *Insurance Reports*—if the carrier is issuing a master (or blanket) policy for a cooperative project. *
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**Section 701.02
Required Coverage**

The insurance policy must at least protect against fire and all other hazards that are normally covered by the standard extended coverage endorsement, and all other perils customarily covered for similar types of projects, including those covered by the standard "all risk" endorsement. If the policy does not include an "all risk" endorsement, we will accept a policy that includes the "broad form" covered causes of loss. The policy must meet the requirements described below:

- *PUD common elements.* The owners' association must maintain a policy of property insurance, with premiums being paid as a common expense. The policy must cover all of the common elements except for those that are normally excluded from coverage, such as land, foundation, excavations, etc. Fixtures and building service equipment that are considered part of the common elements, as well as common personal property and supplies, should be covered.

We also require individual insurance policies for each unit mortgage that we purchase in a PUD project. If the project's legal documents allow for blanket insurance policies to cover both the individual units and the common elements, we will accept them to satisfy our insurance requirements for the units.

- *Condominium projects.* The owners' association must maintain a "master" or "blanket" type of insurance policy, with premiums being paid as a common expense. The policy must cover all of the general and limited common elements that are normally included in coverage. These include fixtures, building service equipment, and common personal property and supplies belonging to the owners' association.

The policy must also cover fixtures, equipment, and other personal property inside individual units if they will be financed by a mortgage that we purchase or securitize, whether or not the property is part of the common elements.

- *Cooperative projects.* The cooperative corporation must maintain a policy of property insurance, with premiums being paid as a common expense. The policy must cover the entire project, including the individual units.

Selling

**Section 701.03
Amount of Insurance**

Insurance should cover 100% of the insurable replacement cost of the project improvements, including the individual units in a cooperative or condominium project. Coverage does not need to include land, foundations, excavations, or other items that are usually excluded from insurance coverage.

An insurance policy that includes either of the following endorsements will assure full insurable value replacement cost coverage:

- a *Guaranteed Replacement Cost Endorsement* (under which the insurer agrees to replace the insurable property regardless of the cost) and, if the policy includes a coinsurance clause, an *Agreed Amount Endorsement* (which waives the requirement for coinsurance); or
- a *Replacement Cost Endorsement* (under which the insurer agrees to pay up to 100% of the property's insurable replacement cost, but no more) and, if the policy includes a coinsurance clause, an *Agreed Amount Endorsement* (which waives the requirement for coinsurance).

Unless a higher maximum amount is required by state law, the maximum deductible amount for policies covering the common elements in a PUD project and for policies covering condominium or cooperative projects is the lesser of \$10,000 or 1% of the policy face amount. However, for losses related to individual units in a cooperative project or for individual PUD units that are covered by the blanket policy for the project, the deductible related to the individual unit should be the higher of \$1,000 or 1% of the replacement cost of the unit. Funds to cover these deductible amounts should be included in the operating reserve account that is maintained by the owners' association (or cooperative corporation).

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**Section 701.04
Special Endorsements**

The following endorsements are required for PUD, condominium, and cooperative projects:

- an *Inflation Guard Endorsement*, when it can be obtained;
- a *Building Ordinance or Law Endorsement*, if the enforcement of any building, zoning, or land-use law will result in loss or damage, increased cost of repairs or reconstruction, or additional demolition and removal costs. (The endorsement must provide for contingent liability from the operation of building laws, demolition costs, and increased costs of reconstruction.); and

Selling

- *Steam Boiler and Machinery Coverage Endorsement*, if the project has central heating or cooling. (This endorsement should provide for the insurer's minimum liability per accident to at least equal the lesser of \$2 million or the insurable value of the building(s) housing the boiler or machinery.) In lieu of obtaining this as an endorsement to the commercial package policy, the project may purchase separate stand-alone boiler and machinery coverage.

In addition, the policy for a *condominium project* should provide that

- any Insurance Trust Agreement will be recognized;
- the right of subrogation against unit owners will be waived;
- the insurance will not be prejudiced by any acts or omissions of individual unit owners that are not under the control of the owners' association; and
- the policy will be primary, even if a unit owner has other insurance that covers the same loss.

These provisions are usually covered by a *Special Condominium Endorsement*.

**Section 701.05
Named Insured**

Insurance policies for condominium projects should show the owners' association as the named insured. If the condominium's legal documents permit it, the policy can specify an authorized representative of the owners' association, including its insurance trustee, as the named insured. The "loss payable" clause should show the owners' association or the insurance trustee as a trustee for each unit owner and the holder of each unit's mortgage.

Insurance policies for a PUD's common areas should show the owners' association as the named insured, while policies for cooperative projects should show the cooperative corporation.

The insurance policy must also contain the standard mortgage clause and must name as mortgagee either Fannie Mae or the servicers for the mortgages or share loans we hold on units in the project. When a servicer is named as the mortgagee, its name should be followed by the phrase "its successors and assigns."

**Section 701.06
Notices of Changes
or Cancellation**

The insurance policy for condominium projects should require the insurer to notify in writing the owners' association (or insurance trustee) and each first mortgage holder named in the mortgage clause at least ten days before it cancels or substantially changes a condo-

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minimum project's coverage. For cooperative projects, this notification is required 30 days before an action is taken.

Section 702 Flood Insurance

If any part of a project's improvements are in a Special Flood Hazard Area—which is designated as A, AE, AH, AO, A1-30, A-99, V, VE, or V1-30 on a Flood Insurance Rate Map (FIRM)—the owners' association (or cooperative corporation) must maintain a "master" or "blanket" policy of flood insurance and provide for the premiums to be paid as a common expense.

- For *PUD* projects, the policy should cover any common element buildings and any other common property. We also require the same flood insurance for the individual PUD units that we require for other one- to four-family properties.
- For *cooperative* projects, the policy should cover the buildings and any other property located within the designated hazard area. When the project consists of high-rise or other vertical buildings, the cooperative corporation must have a separate flood insurance policy for each building that houses dwelling units.
- For *condominium* projects, the policy should cover common element buildings and any other common property. When the project consists of high-rise or other vertical buildings, the owners' association must have a separate flood insurance policy for each building that houses dwelling units.

The amount of flood insurance should be at least equal to the lesser of 100% of the insurable value of the facilities or the maximum coverage available under the appropriate National Flood Insurance Administration program. For those condominium or cooperative projects that consist of high-rise buildings or other vertical buildings, the building coverage should equal 100% of the insurable value of the building, including machinery and equipment that are part of the building. The contents coverage must include 100% of the insurable value of all contents, including any machinery and equipment that are not part of the building, but which are owned in common by the association (or corporation) members. If the required coverage exceeds the maximum coverage available under the National Flood Insurance Administration's programs, we will accept coverage equal to the maximum amount that is available under those programs.

Unless a higher deductible amount is required by state law, the maximum deductible amount for policies covering the common areas and elements for PUD and condominium projects, or for those covering each building in a high-rise or vertical condominium or

Selling

cooperative project, is the lesser of \$5,000 or 1% of the policy's face amount. Funds to cover this deductible amount should be included in the owners' association (or cooperative corporation's) operating reserve account.

**Section 703
Liability Insurance**

Our liability insurance requirements apply to PUD, condominium, and cooperative projects. Usually, we expect lenders to verify liability insurance coverage as part of their review of a project. However, lenders do not need to verify the liability insurance coverage for the following projects: Type E PUD projects, Type F PUD projects accepted by the lender, or Type F PUD projects and Type C condominium projects processed under the limited project review procedures.

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The owners' association (or cooperative corporation) must maintain a commercial general liability insurance policy for the entire project—including all common areas and elements, public ways, and any other areas that are under its supervision. The insurance should also cover commercial spaces that are owned by the owners' association (or cooperative corporation), even if they are leased to others. The commercial general liability insurance policy should provide coverage for bodily injury and property damage that results from the operation, maintenance, or use of the project's common areas and elements.

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The amount of coverage should be at least \$1 million for bodily injury and property damage for any single occurrence. However, the minimum coverage that we require for cooperative projects that consist of elevator buildings is \$3 million. We may require higher amounts of coverage if similar amounts are usually required by mortgage investors in other projects in the area.

If the policy does not include "severability of interest" in its terms, we require a specific endorsement to preclude the insurer's denial of a unit owner's claim because of negligent acts of the owners' association (or cooperative corporation) or of other unit owners.

The policy should provide for at least ten days' written notice to the owners' association (or cooperative corporation) before the insurer can cancel or substantially modify it. For condominium and cooperative projects, similar notice must also be given to each holder of a first mortgage or share loan on an individual unit in the project.

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**Section 704
Fidelity Insurance**

We require fidelity insurance for Types B and C condominium projects; for most Type F PUD projects, except for new PUD projects that consist of detached dwellings only or those that consist of both attached and detached dwellings if the mortgage being delivered is secured by a detached dwelling; and for all cooperative projects. However, we will not require fidelity insurance for any of these projects that consist of 20 or fewer units. In those states that have statutory fidelity insurance requirements, we will accept the state fidelity insurance requirements in place of ours. *

Usually, we expect lenders to verify fidelity insurance coverage as part of their review of the project. However, lenders do not need to verify the fidelity insurance coverage for the following projects: Type F PUD projects accepted by the lender or Type F PUD projects and Type C condominium projects processed under the limited project review procedures. *

The owners' association (or cooperative corporation) must have blanket fidelity insurance coverage for anyone who either handles (or is responsible for) funds that it holds or administers, whether or not that individual receives compensation for services. The insurance policy should name the owners' association (or cooperative corporation) as the insured and the premiums should be paid as a common expense by the association (or corporation). The policy for a condominium project must include a provision that calls for ten days' written notice to the owners' association (or insurance trustee) before the policy can be cancelled or substantially modified for any reason. This same notice must also be given to each servicer that services a Fannie Mae-owned or -securitized mortgage in the condominium project. *

A management agent that handles funds for the owners' association (or cooperative corporation) should be covered by its own fidelity insurance policy, which must provide the same coverage required of the owners' association (or cooperative corporation). *

The fidelity insurance policy should cover the maximum funds that will be in the custody of the owners' association (or cooperative corporation) or its management agent at any time while the policy is in force. A lesser amount of fidelity insurance coverage is acceptable for a project if the project's legal documents require the owners' association (or cooperative corporation) and any management company to adhere to certain financial controls. Even then, the fidelity insurance coverage must at least equal the sum of three months of assessments on all units in the project. *

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A lender may accept reduced fidelity insurance coverage based on greater financial controls only when the financial controls take one or more of the following forms:

- The owners' association (or cooperative corporation) or the management company maintains separate bank accounts for the working account and the reserve account, each with appropriate access controls, and the bank in which funds are deposited sends copies of the monthly bank statements directly to the owners' association (or cooperative corporation);
- The management company maintains separate records and bank accounts for each owners' association (or cooperative corporation) that uses its services and the management company does not have the authority to draw checks on—or to transfer funds from—the owners' association's (or cooperative corporation's) reserve account; or
- Two members of the Board of Directors must sign any checks written on the reserve account.

**Section 705
Rent Loss Insurance**

For cooperative projects in which less than 70% of the units have been sold to owner-occupants, we require a rent loss insurance policy to cover losses due to fire or other casualties. For garden-type cooperative projects up to three stories high, we require the coverage to protect against a minimum of six months of rent loss. However, for cooperative projects that are more than three stories high, we require coverage for 12 months of rent loss.

STATE OF TEXAS COUNTY OF TRAVIS
I hereby certify that this instrument was FILED on
the date and at the time stamped hereon by me, and
was duly RECORDED in the Volume and Page of the
named RECORDS of Travis County, Texas, on

NOV 8 1994



Debra Robinson
COUNTY CLERK
TRAVIS COUNTY, TEXAS

FILED

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DAVID L. HUYOIR
COUNTY CLERK
TRAVIS COUNTY, TEXAS

REAL PROPERTY RECORDS
TRAVIS COUNTY, TEXAS

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