

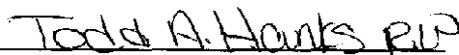
**DECLARATION AND BYLAWS**  
**ESTABLISHING CONDOMINIUM PROPERTY**  
**UNDER OHIO REVISED CODE CHAPTER 5311 FOR**  
**SELDOM SEEN ACRES CONDOMINIUM**

*Cab 3 Sl 631*

CERTIFICATE OF THE DELAWARE COUNTY, OHIO AUDITOR

September 23<sup>rd</sup>, 2005

I certify that of a copy of the Declaration, Bylaws, and Drawings of the Seldom Seen Acres Condominium have been filed with the Delaware County, Ohio Auditor.

  
 Todd A. Hanks, Delaware County  
 Auditor

200500038925  
 Filed for Record in  
 DELAWARE COUNTY, OHIO  
 ANDREW D BRENNER  
 09-23-2005 At 03:14 pm.  
 DECLARATION 584.00  
 DR Book 651 Page 976 - 1045

200500038925  
 KEPHART & FISHER

Prepared by:  
 David W. Fisher  
 Christopher D. Adkinson  
 Attorneys at Law  
 Kephart and Fisher LLC  
 207 North Fourth Street  
 Columbus, Ohio 43215

**DECLARATION ESTABLISHING CONDOMINIUM PROPERTY  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR**

**SELDOM SEEN ACRES CONDOMINIUM**

**TABLE OF CONTENTS**

**RECITALS** .....1

**DEFINITIONS** .....1

**THE PLAN** .....3

**ARTICLE I: CONDOMINIUM PROPERTY** .....3

**ARTICLE II: NAME**.....3

**ARTICLE III: PURPOSES OF THE CONDOMINIUM PROPERTY** .....3

**ARTICLE IV: RESTRICTIONS ON USES OF CONDOMINIUM PROPERTY** .....4

1. Rules and Regulations.....4

2. Structural Integrity.....4

3. Offensive and Illegal Activities .....4

4. Discrimination/Handicapped Accommodation.....4

5. Animals.....4

6. Signs.....5

7. Exterior Areas of Units .....5

8. Unit Uses.....5

9. Architectural Control .....5

10. Conveyances.....5

11. Renting and Leasing .....6

12. Common Element Uses.....7

13. Limited Common Elements Uses .....7

14. Construction in Easements.....7

15. Vehicles.....7

16. Replacements .....8

**ARTICLE V: IMPROVEMENT DESCRIPTIONS**.....8

1. Residential Buildings .....8

2. Other Improvements .....8

**ARTICLE VI: UNITS** .....8

1. Unit Designations.....8

2. Unit Compositions.....8

3. Units Are Not Convertible.....9

**ARTICLE VII: COMMON ELEMENTS**.....9

1. Common Elements Description .....9

2. Limited Common Elements Description .....9

3. Undivided Interests .....10

**ARTICLE VIII: UNIT OWNERS' ASSOCIATION** .....10

1. Establishment of Unit Owners' Association.....10

2. Membership .....10

3. Voting Rights .....10

4.	Board of Directors.....	10
5.	Association Activities .....	11
	<b>ARTICLE IX: AGENT FOR SERVICE .....</b>	<b>11</b>
	<b>ARTICLE X: MAINTENANCE AND REPAIR .....</b>	<b>11</b>
1.	Association Opportunities/Responsibilities .....	11
2.	Unit Owner Responsibility .....	11
	<b>ARTICLE XI: UTILITY SERVICES.....</b>	<b>12</b>
	<b>ARTICLE XII: INSURANCE AND LOSSES .....</b>	<b>12</b>
1.	Hazard Insurance .....	12
2.	Liability Insurance .....	13
3.	Fidelity Insurance.....	14
4.	Hazard Insurance Carrier .....	14
5.	Other Association Insurance .....	14
6.	Insurance Representative: Power of Attorney .....	15
7.	Unit Owners' Insurance .....	15
8.	Sufficient Insurance .....	15
9.	Insufficient Insurance.....	15
10.	Lender Requirements .....	16
	<b>ARTICLE XIII: DAMAGE; REHABILITATION AND RENEWAL; TERMINATION.....</b>	<b>16</b>
1.	Restoration of Substantial Damage or Destruction.....	16
2.	Election Not to Restore; Termination .....	16
3.	Rehabilitation and Renewal .....	16
	<b>ARTICLE XIV: CONDEMNATION .....</b>	<b>17</b>
1.	Standing .....	17
2.	Use of Proceeds.....	17
3.	Insufficient Proceeds.....	17
4.	Non-Restorable Unit .....	17
5.	Power of Attorney.....	18
6.	Termination.....	18
	<b>ARTICLE XV: GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS.....</b>	<b>18</b>
1.	Easements of Enjoyment; Limitations .....	18
2.	Easements for Encroachments .....	19
3.	Easements Reserved to Declarant.....	19
4.	Easements for Proper Operations.....	20
5.	Easement for Support.....	20
6.	Easement for Services.....	20
7.	Entry for Repair, Maintenance, and Restoration .....	20
8.	Power of Attorney.....	20
9.	Access Easement.....	21
	<b>ARTICLE XVI: ASSESSMENTS AND ASSESSMENT LIENS; RESERVE FUNDS .....</b>	<b>21</b>
1.	Types of Assessment.....	21
2.	Purpose of Assessments.....	21
3.	Assessment Apportionment; and Due Dates.....	21
4.	Effective Date of Assessment .....	24
5.	Effect of Nonpayment of Assessment; Remedies of the Association.....	24
6.	Subordination of the Lien to First Mortgages.....	26

7. Certificate Regarding Assessments.....26

**ARTICLE XVII: EXPANSIONS .....26**

1. Reservation of Option to Expand.....26

2. Limitations on Option to Expand.....26

3. Maximum Expansion Time.....26

4. Description of the Additional Property.....26

5. Composition of Additional Property Portions Added.....27

6. Time for Adding Portions .....27

7. Improvement Location Limitations .....27

8. Maximum Number of Units.....27

9. Non-Residential Use.....27

10. Compatibility of Structures.....27

11. Improvements Other than Structures .....28

12. Types of Units.....28

13. Limited Common Elements .....28

14. Supplementary Drawings.....28

15. Procedures for Expansion .....28

16. Effects of Expansion.....28

17. New Taxes, Assessments, etc .....29

18. Successor Owners Not Liable for Actions of Declarant.....29

**ARTICLE XVIII: NOTICES TO AND VOTING RIGHTS OF ELIGIBLE MORTGAGEES .....29**

1. Notices .....29

2. Voting Rights .....30

3. Approval Rights .....31

4. Approval by Veterans Administration During Developer Control.....31

**ARTICLE XIX: AMENDMENTS .....31**

1. Power to Amend .....31

2. Limitation on Right to Amend.....33

3. Method to Amend .....33

**ARTICLE XX: MISCELLANEOUS PROVISIONS .....33**

1. Covenants Run with the Land.....33

2. Enforcement.....33

3. Severability .....34

4. Numbers and Grammar.....34

5. Captions .....34

**EXHIBIT A..... A-1**

**EXHIBIT B..... B-1**

**EXHIBIT C..... C-1**

**EXHIBIT D..... D-1**

**EXHIBIT E..... E-1**

**EXHIBIT F..... F-1**

**EXHIBIT G..... G-1**

**DECLARATION ESTABLISHING CONDOMINIUM PROPERTY  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR**

**SELDOM SEEN ACRES CONDOMINIUM**

This is the Declaration of Seldom Seen Acres Condominium made as of the 23<sup>rd</sup> day of September, 2005, which submits property to the provisions of Ohio Revised Code Chapter 5311 (the "Condominium Act").

**RECITALS**

A. Romanelli and Hughes Building Company (the "Declarant"), an Ohio corporation, owns or has options to own in fee simple all of the real property hereinafter described, its improvements, and its appurtenances.

B. Declarant hereby submits this property to condominium ownership under the Condominium Act to establish a site of individually-owned residential units and commonly-owned areas and facilities.

**DEFINITIONS**

The terms used in this document shall have these meanings, unless the context requires otherwise:

1. "Additional Property" means the land, its improvements, and appurtenances that may, at a subsequent time, be added to the Condominium Property and become a part of the Condominium. A legal description of the "Additional Property" is attached as Exhibit B and made a part of this definition.

2. "Articles" and "Articles of Incorporation" mean the articles of incorporation, filed with the Secretary of State of Ohio, incorporating Seldom Seen Acres Condominium Association as a not-for-profit corporation pursuant to the provisions of Ohio Revised Code Chapter 1702, as the same may be lawfully amended from time to time (the State of Ohio's not-for-profit corporation statutory act).

3. "Association" means (a) the association created by virtue of filing this document pursuant to the Condominium Act and (b) the nonprofit corporation created by the filing of the Articles, which are one and the same. The official name of the "Association" shall be "Seldom Seen Acres Condominium Association"

4. "Board" and "Board of Directors" mean those Persons who, as a group, serve as the Board of Directors of the Association and are also one and the same as the Board of Directors of the Condominium established for the Condominium under the Condominium Act.

5. "Bylaws" mean the bylaws of the Association, as the same may be lawfully amended from time to time, created for the Condominium pursuant to the provisions of the Condominium

Act, and which also serve as the code of regulations of the Association pursuant to the provisions of Ohio Revised Code Chapter 1702. A true copy of the Bylaws is attached as Exhibit G, made a part of this definition, and made part of this Declaration.

6. "Common Elements" means all of the Condominium Property, except that portion thereof described in this Declaration as constituting a Unit or Units, and is that portion of the Condominium Property constituting "Common Elements" of the Condominium under the Condominium Act.

7. "Condominium" and "Seldom Seen Acres Condominium" mean the entire condominium regime for the Condominium Property created under and pursuant to the Condominium Act.

8. "Condominium Act" means the statutory law of the State of Ohio regulating the creation and operations of condominiums and is presently Ohio Revised Code Chapter 5311.

9. "Condominium Organizational Documents" means the Articles, the Bylaws, this Declaration, and the Drawings, as the same may be lawfully amended from time to time.

10. "Condominium Property" means the tract of land hereinafter described as being submitted to the Condominium Act, all buildings, structures, and improvements situated thereon, and all easements, rights, and appurtenances belonging thereto. A legal description of "Condominium Property" is attached as Exhibit A.

11. "Declarant" means Romanelli and Hughes Building Company, an Ohio corporation, and its successors, and its assigns, provided the rights specifically reserved to Declarant under the Condominium Organizational Documents shall accrue only to such successors and assigns as are designated in writing by Declarant as successors and assigns of such rights.

12. "Declaration" means this instrument and all of its attachments, through which the Condominium Property is submitted to the provisions of the Condominium Act, as this instrument may be lawfully amended from time to time.

13. "Director" and "Directors" mean that person or those persons serving, at the time pertinent, as a Director or Directors of the Association.

14. "Drawings" means the drawings for the Condominium, as defined in and required by the Condominium Act, filed simultaneously herewith, as the same may be lawfully amended from time to time. The "Drawings" are attached hereto, and include the survey plat of the Condominium Property, attached hereto as Exhibit F, and the architectural drawings of the Structures and improvements comprising the Condominium Property, attached hereto as Exhibit C.

15. "Eligible Mortgagee" shall have the meaning assigned to such term in Article XVIII, Section 1 herein.

16. "Limited Common Elements" means those Common Elements serving exclusively a particular Unit or particular Units, but less than all Units, the enjoyment, benefit or use of which are reserved to the lawful occupants of that Unit or Units either in this Declaration, by the Board, or by any other allowed means, and is that portion of the Condominium Property constituting "Limited Common Elements" of the Condominium under the provisions of the Condominium Act. The reservation or allocation of enjoyment, use, or benefit of "Limited Common Elements" shall not be distinguished by whether the enjoyment, use, or benefit of the "Limited Common Elements" were allocated or granted through this Declaration, by the Board, or by any other allowed means.

17. "Occupant" means a person lawfully residing in a Unit, regardless of whether or not that Person is a Unit owner.

18. "Person" means a natural individual, trustee, corporation, partnership, limited liability company, or any other legal entity capable of holding title to real property or residing in a Unit.

19. "Unit" and "Units" mean (a) that portion or portions of the Condominium Property described as a Unit or Units in this Declaration and designated by Unit designation on the Drawings and (b) that portion of the Condominium constituting a "unit" or "units" of the Condominium under the provisions of the Condominium Act.

20. "Unit Owner" and "Unit Owners" mean that Person or those Persons owning a fee simple interest in a Unit or Units, each of whom is also a "member" of the Association under Ohio Revised Code Chapter 1702.

### **THE PLAN**

NOW, THEREFORE, Declarant hereby makes and establishes the following plan for condominium ownership of the below described property under and pursuant to the Condominium Act.

### **ARTICLE I: CONDOMINIUM PROPERTY**

A legal description of the land constituting the Condominium Property, located in the City of Powell, Liberty Township, Delaware County, Ohio, is attached hereto as Exhibit A.

### **ARTICLE II: NAME**

The name by which the Condominium shall be known is "Seldom Seen Acres Condominium."

### **ARTICLE III: PURPOSES OF THE CONDOMINIUM PROPERTY**

The Condominium is created (a) to establish separate individual parcels from the Condominium Property to which fee simple interests may be conveyed; (b) to establish an Association to administer the Condominium; (c) to create restrictions, covenants, and easements providing for, promoting, and preserving the values of Units and the Common Elements as well as

the well-being of Unit Owners and Occupants; (d) to administer and enforce the covenants, easements, charges, and restrictions hereinafter set forth in this Declaration; and (e) to raise funds through assessments to accomplish these purposes.

**ARTICLE IV: RESTRICTIONS ON USES OF CONDOMINIUM PROPERTY**

The Condominium and the Condominium Property shall be benefited by and subject to the following restrictions, which shall run with the land as provided under the Condominium Act:

1. **Rules and Regulations.** In addition to adopting and enforcing rules and regulations in the instances specifically mentioned, the Board may, from time to time, adopt and enforce such further reasonable rules and regulations as it deems necessary or desirable to promote harmony, to serve the best interests of the Unit Owners and the Association, and to protect and preserve the nature of the Condominium and the Condominium Property. In so adopting and enforcing, the Board shall furnish copies of all rules and regulations to all Unit Owners before any rules or regulations shall become effective.

2. **Structural Integrity.** Nothing shall be done in any Unit or upon the Common Elements (including the Limited Common Elements), that might impair the structural integrity of any improvement.

3. **Offensive and Illegal Activities.** No noxious, offensive, or illegal activity shall be carried on in any Unit or upon the Common Elements (including Limited Common Elements). No Unit or Common Element (including Limited Common Elements) may be used in any way or for any purpose that might unreasonably disturb or endanger the health of any Occupant or Unit Owner.

4. **Discrimination/Handicapped Accommodation.** The Association and Board may never take action, which in any manner would discriminate against any Unit Owner in favor of another. Additionally, notwithstanding any provision of this Declaration or any rule or regulation of the Board, reasonable accommodation, if necessary to afford a handicapped Person equal opportunity to use and enjoy the Condominium Property shall be allowed, provided, that nothing contained in this Declaration shall be construed to mean or imply that any such accommodation must be at Association cost.

5. **Animals.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept in any Unit or on the Common Elements; except that household domestic pets, not bred or maintained for commercial purposes, may be maintained in a Unit, provided that: (a) maintenance shall be subject to any rules and regulations as the Board may promulgate at any time, including, without limitation, the right to place limitations on the size, number, and type of such pets and the right to levy enforcement charges against Persons who do not clean up after their pets and (b) the right of an Occupant or Unit Owner to maintain an animal in a Unit shall be subject to termination if the Board, in its sole discretion, determines that maintenance of the particular animal constitutes a nuisance or creates a detrimental effect on the Condominium, other Units, or other Unit Owners or Occupants.

6. Signs. No sign of any kind shall be displayed to the public view on the Condominium Property except: (a) on the Common Elements, signs regarding and regulating the use of the Common Elements, provided those signs are approved by the Board; (b) on the interior side of a window of a Unit, one professionally prepared sign not in excess of nine square feet in size, advertising the Unit for sale or rent; and (c) on the Common Elements and model Units, signs advertising the sale and/or rental of Units by Declarant during the period of its sale and rental of Units. If these limitations on use and nature of signs, or any part of them, are determined to be unlawful, only the signs described in phrase (a) immediately above shall be permitted after Declarant's period of sales and rental of Units.

7. Exterior Areas of Units. Except for signs allowed immediately above, nothing (a) shall be hung or displayed on windows (except inoffensive interior drapes, curtains, or louvered blinds), (b) placed on the outside walls of a Unit or its building, or (c) otherwise attached the outside of a Unit, or any part thereof unless authorized by the Board or required by law to be permitted, but then subject to the Board's rules and regulations. Further, no awning, canopy, dish, antenna (television, radio, satellite, citizens' band, short wave, or any other type of antenna or transmitter), or any other similar device or ornament, shall be affixed to or placed upon an exterior wall, roof, door, window, patio, porch, balcony, or any part of the same.

8. Unit Uses. Except as otherwise specifically provided in this Declaration, no Unit shall be used for any purpose other than that of a residence for individuals living together as a single housekeeping unit, and uses customarily incidental thereto, provided, however, that no Unit may be used as a rooming house, group home, commercial foster home, fraternity or sorority house, or any similar type of lodging, care, or treatment facility. Notwithstanding the foregoing, (a) an Occupant maintaining a personal or professional library, keeping personal business or professional records or accounts, conducting personal business (provided that such use does not involve customers, employees, licensees, or invitees personally coming to the Unit), making professional telephone calls or corresponding, in or from a Unit, is engaging in a use expressly declared customarily incidental to residential use and is not in violation of these restrictions; (b) it shall be permissible for Declarant to maintain, during the period of its sale or rental of Units, one or more Units, whether made a part of the Condominium within this Declaration, or added later, as sales and rental models and offices, for storage purposes, and for maintenance purposes.

9. Architectural Control. Except for improvements constructed by Declarant or its designee during the initial construction, no building, fence, wall, other structure, other improvement, or change to an exterior of an existing building, fence, wall, or other structure shall be made or begun until the plans and specifications showing the nature, kind, shape, height, materials, color, and location of the same are submitted to and approved in writing by the Board or its designated representative or representatives, in its or their sole discretion.

10. Conveyances. Each Unit shall be conveyed or transferred (voluntarily or involuntarily) as a separately designated and legally described freehold estate subject to the terms, conditions, and provisions of the Condominium. The undivided interest of a Unit in the Common Elements shall be conveyed or encumbered with the Unit, even though that interest may not be expressly mentioned or described in the deed, mortgage, or other instrument of conveyance or encumbrance. Any conveyance, encumbrance, judicial sale, or other transfer (voluntary or

involuntary) of an interest in the Common Elements will be void unless the Unit to which that interest is allocated is also transferred to the same transferee in the same transaction. In any instrument conveying an interest in a Unit, creating an encumbrance to a Unit, or in any other document legally describing a Unit, it shall be sufficient to lawfully describe a Unit and its interest in the Common Elements by referring to the Unit's designation in the Condominium and by referring to the appropriate recording references of this Declaration and the Drawings. The right of a Unit Owner to sell, transfer, or otherwise convey that Owner's Unit is not subject to any right of first refusal; any Unit Owner may transfer that Owner's Unit free of that limitation.

To enable the Association to maintain accurate records of the names and addresses of Unit Owners, each Unit Owner agrees to notify the Association, in writing, within five days after an interest in that Unit Owner's Unit has been transferred to another Person. Additionally, each Unit Owner agrees to provide a copy of the Condominium Organizational Documents along with all effective rules and regulations to any purchaser of that Unit Owner's Unit.

11. Renting and Leasing. No Unit or part thereof shall be rented or used for transient or hotel purposes, which is defined as: (a) rental under which Occupants are provided customary hotel services such as room service for food and beverages, maid service, the furnishing of laundry and linen, busboy service, and similar services; or (b) rental to roomers or boarders, namely, rental to one or more persons of only a portion of a Unit. No lease may be of less than an entire Unit.

Any lease agreement shall be in writing, shall provide that the lease shall be subject in all respects to the provisions of this Declaration and to the rules and regulations promulgated by the Board, and shall provide that the failure by the tenant to comply with the terms of the Condominium Organizational Documents, all rules and regulations promulgated by the Board, and all other lawful rules and regulations shall be a default under the lease. Prior to the commencement of the term of a lease, the Unit Owner shall notify the Board, in writing, of the names of all Occupants as well as the lease duration.

The Board may restrict or limit the number of Units in the Condominium that may be rented out, provided that no such rule shall limit or restrict the right of: (a) an institutional first mortgagee, insurer, or guarantor which takes title to a Unit by deed in lieu of foreclosure, a purchaser at a foreclosure sale, the immediate successor in title to the Unit of an institutional first mortgagee, insurer, guarantor, or purchaser, to rent the Unit(s) so acquired; or (b) Declarant to rent a Unit or Units owned by Declarant.

Any Unit Owner who is renting out that Unit Owner's Unit when the Board decides to limit or restrict renting may continue to rent out that Unit for the remainder of the term of the current lease, up to one year beyond the Board's decision. However, if the Board's restriction or limitation on renting is for purpose (a) below, then the Board need not grandfather any Units under its restriction. Any restriction or limitation on the right to rent out Units shall not discriminate against any Unit Owner over any other. The Board's right to restrict or limit the ability to rent out Units shall be limited to the purpose of either: (a) assuring that the Condominium meets the requirements of institutional first mortgagees and institutional and governmental agency guarantors and mortgage insurers necessary to qualify buyers and owners and/or the Condominium for owner-occupant

residential financing; or (b) to maintain the character of the Condominium as primarily being a housing community for owner-occupants.

12. Common Element Uses. The Common Elements (except the Limited Common Elements) shall be used in common by all Unit Owners and Occupants and their agents, servants, customers, invitees, and licensees in accordance with the purposes for which they are intended, reasonably suited, capable, and as may be required for the purposes of access, ingress, egress, use, occupancy, and enjoyment of all Units. Unless expressly provided in this Declaration, however, no Common Elements shall be used for any purpose other than the health, safety, welfare, convenience, comfort, recreation, or enjoyment of Unit Owners and Occupants, subject to such rules and regulations as may from time to time be promulgated by the Board.

13. Limited Common Elements Uses. Those portions of the Common Elements described in this Declaration or shown on the Drawings as Limited Common Elements shall be used and possessed exclusively by the Unit Owners and Occupants of the Unit or Units served by the same, as specified in this Declaration, subject to the restrictions on use of Common Elements and Limited Common Elements set forth in this Declaration and such rules and regulations as may from time to time be promulgated by the Board.

Non-original items may be hung, placed, displayed, or maintained in Limited Common Elements only when either (a) approved, in writing, by the Board or its designated representative or representatives, in its or their sole discretion or unless (b) that action is authorized by existing rule or regulation adopted by the Board. Notwithstanding any repair or maintenance provision contained in this Declaration to the contrary, the Board may require, as a condition to approval, that the responsibility for repairing and maintaining any addition or improvement shall be the responsibility of the requesting Unit Owner and all future owners of that Unit.

Subject to the rules and regulations adopted by the Board of Directors pursuant to the Condominium Act, the Board may authorize the use of Limited Common Elements for the construction of open, unenclosed patios, hedges, decks, fences, or similar improvements, provided that the improvements are maintained and insured by the Unit Owner of the Unit to which the Limited Common Elements are appurtenant.

14. Construction in Easements. No structure, planting, or other material shall be placed or permitted to remain within the easements for the installation and maintenance of utilities and drainage facilities which may: (a) damage or interfere with the installation and maintenance of utility lines; (b) change the direction of the flow of drainage channels in the easements; or (c) obstruct or retard the flow of water through drainage channels in the easement areas. The Association may maintain utility facilities within the easement areas and delegate that right of maintenance to a public authority or utility.

15. Vehicles. The Board may restrict or prohibit the parking of automobiles, vans, buses, inoperable vehicles, trucks, trailers, boats, and recreational vehicles on the Common Elements (including the Limited Common Elements), or parts thereof, and may enforce its restriction or prohibition by levying enforcement charges, having such vehicles towed away, or taking such other lawful actions as the Board, in its sole discretion, deems appropriate.

16. Replacements. Any building erected to replace an existing building containing Units shall be newly constructed, be of comparable structure type, size, design, and construction to that replaced, and shall contain a similar number of Units of comparable size to the Units in the building replaced.

#### **ARTICLE V: IMPROVEMENT DESCRIPTIONS**

1. Residential Buildings. At present there is one (1) residential building containing three (3) Units, each built on poured concrete foundations with a basement, having wood frame construction, having a combination of cultured stone and hardi-plank exteriors, and having dimensional asphalt shingle roofs. Each unit has an attached, one or two-car garage, an exterior porch or stoop, a basement, and a screened-in porch. The principal materials of which these buildings are constructed are wood, glass, concrete, concrete block, stone, and drywall. The residential buildings are located as shown on the Drawings, attached hereto as Exhibit C and F.

2. Other Improvements. In addition, the Condominium contains parking spaces, driveways, private roads, and green and landscaped areas, as well as an approximately 1,908 square foot community center/clubhouse facility that includes a small kitchen, an exercise room, a swimming pool and patio area, and other ancillary amenities, together with an adjoining private drive leading directly to Seldom Seen Road. At the filing of this Declaration, the community center/clubhouse facility is not finished and is labeled "NOT YET COMPLETED" on the Drawings.

#### **ARTICLE VI: UNITS**

1. Unit Designations. Each Unit is designated by a four-digit number corresponding with a portion of that Unit's street mailing address. The Drawings show the location and designation of each Unit within the Condominium Property. Information concerning the Units, with a listing of proper Unit designations, is shown on the attached Exhibit D. A general description of the composition and approximate interior area of each Unit type is set forth on the attached Exhibit E. The location, dimensions, and composition of each Unit are also shown on the Drawings. Each Unit has direct access to the Common Elements.

2. Unit Compositions. Each Unit constitutes a single freehold estate and consists of the space in the building designated by that Unit's designation on the Drawings bounded by the undecorated interior surfaces of the perimeter walls, the unfinished surface of the floor at the lowest level, and the unfinished interior surface of the ceiling of the highest floor, all projected, if necessary, by reason of structural divisions such as interior walls and partitions, to constitute complete enclosures of space, and all the improvements within that space.

Without limiting the generality of the foregoing, or, as appropriate, in addition to the foregoing, each Unit includes:

(a) the decorating or covering materials on the interior to the Unit, including paint; lacquer; varnish; tile; carpeting; drywall; paneling; and other finishing material applied to floors, ceilings, and interior and perimeter walls;

(b) the finished walls, ceilings and floors themselves, but not their structural elements like rafters and joists above the ceiling, sub-flooring below the finished floors themselves, and the structural walls or structural components to which the finished walls are affixed;

(c) all windows, skylights, if any, screens, and doors, including storm doors and windows, if any, and their frames, sashes, thresholds, jambs, and hardware;

(d) all fixtures and appliances installed for the exclusive use of that Unit, commencing at the point of disconnection from the structural body of the building and from utility pipes, lines, or systems serving more than one Unit, including, without limiting the same: built-in cabinets, dishwashers, garbage disposal units, refrigerators, stoves and hoods, television antennas and cables, furnaces, hot water heaters, heat pumps and air conditioning units (even if located outside the bounds of a Unit), and components of the foregoing;

(e) all plumbing, electric, heating, cooling, and other utility or service lines, pipes, wires, ducts, conduits, and apparatus, wherever located, which serve only that Unit not within the structural body of the building;

(f) all control knobs, switches, thermostats, and electrical outlets and connections affixed to or projecting from the walls, floors, and ceilings that serve only the Unit;

(g) all interior walls that are not necessary for support of the structure, all components thereof, and all space encompassed thereby; and

(h) the attic space or storage space above a Unit, the basement, and any crawl space below a Unit to which the Unit has direct and exclusive access.

3. Units Are Not Convertible. No Units are convertible units, as defined and provided in Section 5311.01(Q) of the Condominium Act, and no Unit may be converted into one or more Units or Common Elements, as provided in Section 5311.033 of the Condominium Act.

## ARTICLE VII: COMMON ELEMENTS

1. Common Elements Description. Common Elements include all of the Condominium Property, including all of the land, its improvements, and its appurtenances, except those portions labeled or described herein or on the Drawings as a part of a Unit. Except for easements and rights for maintaining sales and marketing facilities, for repairing and competing improvements in the Condominium, and for access and utility service to the Additional Property, and except in its capacity as a Unit Owner of unsold Units, the Declarant shall not retain any interest in, or have any other right to, any portion of the Common Elements.

2. Limited Common Elements Description. Limited Common Elements include those portions of the Common Elements that are labeled or designated "limited common elements", "limited common areas", or "limited common areas and facilities" on the Drawings or in this Declaration, generally including, but not limited to: front porches or stoops, yard areas (and the

improvements within that area exclusive of utility lines that serve another Unit), driveway areas in front of each Unit's garage, and an approximately ten foot (10') strip of land surrounding the rear of each Unit, and a four foot (4') strip along the sides of each end Unit.

Each Limited Common Element is reserved for the exclusive use of the Owners and Occupants of the Unit or Units it is described, designed, or designated to serve.

3. Undivided Interests. The undivided interest in the Common Elements of each Unit is shown on the attached Exhibit D and, in each case, is based on each Unit having an equal, undivided interest in the Common Elements. The undivided interest in the Common Elements of each Unit shall at all times be calculated by using a fraction, the numerator of which shall be 1, and the denominator of which shall be the total number of Units from time to time in the Condominium. By way of example, at the date of the original filing of this Declaration, there are three (3) Units in the Condominium. Consequently, each Unit has an undivided interest in the Common Elements of 1/3rd. As Additional Property is added to the Condominium as contemplated herein, the undivided interest in the Common Elements for each Unit shall be uniformly reallocated as above provided.

The Unit Owners shall own the Common Elements as tenants in common, and that ownership shall remain undivided. No Unit Owner may waive or release any rights in the Common Elements. Further, the undivided interest in the Common Elements of a Unit shall not be separated from the Unit to which it appertains. Any attempted conveyance, encumbrance, judicial sale or other transfer of a Unit Owner's fee interest in Common Elements will be void unless the Unit to which such interest is allocated is also transferred.

The equal nature of the interests in the Common Elements shall not be altered. However, the exact percentage of voting power of any particular Unit may change in conjunction with and as the result of the adding of any or all of the Additional Property to the Condominium if, at a later time, the Condominium is expanded, as hereinafter provided.

### **ARTICLE VIII: UNIT OWNERS' ASSOCIATION**

1. Establishment of Unit Owners' Association. The Association has been formed to be and to serve as the Unit Owners' Association of the Condominium. The Declarant is presently the sole member of the Association.

2. Membership. Membership in the Association shall be limited to the Unit Owners, and every Person who is or becomes a record owner of a fee or undivided fee simple interest in a Unit is a Unit Owner and shall be a member of the Association. Membership does not include Persons who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Unit, and transfer of any Unit shall automatically transfer membership to the transferee of that Unit.

3. Voting Rights. Voting rights of members are as set forth in the Bylaws.

4. Board of Directors. The number, composition, authority, rights, and responsibilities of the Board shall be as provided in the Bylaws. Any rights of Declarant related to the Board's

composition are governed by the Bylaws, and those rights are integrated herein by virtue of this reference to the Bylaws, which are attached hereto as Exhibit G.

5. Association Activities. The Association may, at any time, engage in other activities designed to maintain or improve the Condominium. However, the Association is not and shall not have any specific responsibility unless provided by law, in this Declaration, in the Bylaws, or in the Articles. Specifically, the Association shall not be held liable for any loss, cost, or damage arising by failure of the Association to provide security or the effectiveness of security measures it undertakes, if any.

**ARTICLE IX: AGENT FOR SERVICE**

The name of the Person to receive service of process for the Association is the Association's "Statutory Agent" in the Articles, and that Person's place of business is:

Vincent Romanelli  
148 West Schrock Road  
Westerville, Ohio 43081

If, for any reason, the aforementioned ceases to be registered with the Secretary of State of Ohio as Statutory Agent for the Association, the Person so registered with the Secretary of the State of Ohio shall be the Person to receive service of process for the Association.

**ARTICLE X: MAINTENANCE AND REPAIR**

1. Association Opportunities/Responsibilities. The Association, in the Board's sole discretion, may allocate funds to maintain, repair, and replace all improvements constituting a part of the Common Elements, including, without limitation, the Limited Common Element front porches or stoops and the Limited Common Element driveways. To the extent funds are so allocated, the Association shall repair and maintain the Common Elements to the extent not prohibited by Ohio law. The Association shall not be responsible for the cleaning and housekeeping of any Limited Common Elements or components thereof.

The Association shall maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Elements, including the Limited Common Elements. Except if a loss is covered by insurance maintained by the Association, and then only to the extent the net proceeds after deductibles are available for that purpose, the Association shall not have any responsibility to repair or maintain any Unit or its components.

2. Unit Owner Responsibility. Each Unit Owner shall repair and maintain each respective Unit, all its components, any exterior lights directed toward or attached to Limited Common Elements appurtenant to that particular Unit, and improvements made by the Unit Owner. Each Unit Owner shall perform all cleaning and housekeeping on all Limited Common Elements appurtenant to that Unit Owner's Unit. Without limiting the generality of the foregoing, the repair and maintenance responsibility of a Unit Owner shall include repair, maintenance, and replacement of all windows, screens, and doors, including the frames, sashes, jambs, thresholds, and hardware.

In the event (a) a Unit Owner shall fail to repair or perform maintenance as required of that Unit Owner, (b) the need for maintenance or repair of any part of the Common Elements or Limited Common Elements is caused by the negligent or intentional act of any Unit Owner or Occupant, (c) the need for maintenance or repair of any part of the Condominium Property results from the failure of any Unit Owner or his, her, or its predecessors in title to timely pursue to conclusion a claim under any warranty, express, implied, or imposed by law; the Association may perform the same. If the cost of that repair or maintenance is not covered by insurance, whether because of a deductible or otherwise, its cost shall constitute a special individual Unit assessment on the Unit owned by that Unit Owner and on that Unit Owner. The determination that a particular maintenance or repair is necessary or has been caused in the prescribed manner, shall be made by the Board in its sole discretion.

**ARTICLE XI: UTILITY SERVICES**

Each Unit Owner, by acceptance of a deed to a Unit, agrees to pay for utility services separately metered or separately charged by the utility company or the Association to that Unit, and to reimburse the Association for that Unit's share of any utility cost that the Association initially pays for or provides. All other utility costs shall be common expenses and paid by the Association. In the event any utility service is not separately metered, the cost thereof shall be a common expense and paid by the Association.

**ARTICLE XII: INSURANCE AND LOSSES**

1. **Hazard Insurance.** The Board shall have the authority to and shall obtain insurance for all buildings, structures, fixtures and equipment, and common personal property and supplies now or at any later time constituting a part of the Common Elements or other common property of the Association, against loss or damage by fire, lightning, and such other perils as are ordinarily insured against under "special form" policies, or, if not available, or not available at competitive rates, a policy that includes the "broad form" covered causes of loss, in amounts at all times sufficient to prevent the Unit Owners from becoming co-insurers under the terms of any applicable coinsurance clause or provision and not less than one hundred percent (100%) of the current insurable replacement cost of such items (exclusive of land, foundations, footings, excavations, and other items normally excluded from coverage). This insurance shall also:

- (a) provide for coverage of interior walls, windows, doors, frames, sashes, jambs, thresholds, and related hardware, even though these improvements may be parts of Units;
- (b) provide coverage for original built-in or originally installed improvements, fixtures, equipment, and other personal property that are part of a Unit;
- (c) have (1) an agreed amount and inflation guard endorsement, when that can be obtained; (2) a building ordinance or law endorsements, if 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; providing for contingent liability from the operation of building laws, demolition costs, and increased costs of construction; and, (3) when applicable, a steam boiler and machinery

coverage endorsement, which provides that the insurer's minimum liability per accident at least equals the lesser of Two Million Dollars (\$2,000,000) or the insurable value of the building or buildings housing the boiler or machinery (or a separate stand-alone boiler and machinery coverage policy);

(d) provide that no assessment may be made against a first mortgage lender, its insurer, or its guarantor, and that any assessment under such policy made against others may not become a lien on a Unit and its appurtenant interests superior to a first mortgage;

(e) be written in the name of the Association (or its authorized representative, including any insurance trustee with whom the Association has entered into an insurance trust agreement) for the use and benefit of the individual Unit Owners;

(f) contain or have attached the standard mortgagee clause commonly accepted by institutional first mortgage holders, insurers, and guarantors, which (1) provides that the carrier shall notify the named insured and each first mortgagee named in the mortgage clause at least ten days in advance of the effective date of any reduction in, cancellation of, or substantial change in the policy and (2) must be endorsed to provide that any loss shall be paid to the Association (or its insurance trustee) as a trustee for each Unit Owner and each such Unit Owner's mortgagee, and, unless otherwise prohibited by a nationally recognized institutional first mortgage holder, insurer, or guarantor, to the holders of first mortgages on Units;

(g) have a deductible amount no greater than the lesser of Ten Thousand Dollars (\$10,000.00) or one percent of the policy face amount;

(h) be paid for by the Association, as a common expense;

(i) contain a waiver of the transfer of recovery rights by the carrier against the Association, its officers, its Directors, and all Unit Owners;

(j) provide that the insurance shall not be prejudiced by any acts or omissions of individual Unit Owners who are not under the control of the Association; and

(k) be primary, even if a Unit Owner has other insurance that covers the same loss.

2. Liability Insurance. The Association shall maintain, at the Association's cost and as a common expense, a policy of commercial/general liability insurance covering all of the Common Elements, public ways, and any other areas under the Association's supervision, and Units, if any, owned by the Association, even if leased to others, insuring the Association, the Directors, and the Unit Owners and Occupants, with such limits as the Board may determine, but no less than the greater of (a) the amounts generally required by institutional first mortgage holders, insurers, and guarantors for projects similar in construction, location, and use or (b) One Million Dollars (\$1,000,000) arising out of a single occurrence.

This insurance shall contain a “severability of interest” provision, or, if it does not, an endorsement which shall preclude the insurer from denying the claim of a Unit Owner because of negligent acts of the Association, the Board, Unit Owners, or Occupants, and shall include, without limitation, coverage for legal liability of the insureds for property damage, bodily injuries and deaths of persons resulting from the operation, maintenance, or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts in which the Association is a party. Each policy must provide that it may not be canceled or substantially modified, by any party, without at least ten (10) days’ prior written notice to the Association and to each Eligible Mortgagee and every other holder of a first mortgage on a Unit that the Association has actual notice of.

3. Fidelity Insurance. After such time as Declarant no longer controls the Association, the Board may obtain and maintain, at the Association’s cost and as a common expense, a fidelity bond or policy providing coverage for the Association against dishonest acts on the part of Directors, managers, trustees, employees, agents, and volunteers responsible for or handling funds belonging to or administered by the Association. The fidelity bond or policy shall name the Association as the named insured and shall be written in an amount sufficient to provide protection, which is in no event shall be less than the greater of (a) an amount equal to the Association’s reserve funds plus three months’ assessments on all Units or (b) the maximum amount that will be in the custody of the Association or its managing agent at any time while the bond or policy is in force. In connection with such coverage, an appropriate endorsement to the bond or policy to cover any persons who serve without compensation shall be added if the bond or policy would not otherwise cover volunteers. The bond or policy shall provide that it shall not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten days’ (10) prior written notice to the Association, any insurance trustee, and any servicer on behalf of any holder, guarantor, or insurer of any mortgage on a Unit who requires those rights. Any management agent who handles funds of the Association shall maintain a fidelity bond or policy providing coverage of no less than that required of the Association, which bond or policy names the Association as an additional obligee or obligee.

4. Hazard Insurance Carrier. Each policy of hazard insurance obtained by the Association shall be obtained from an insurance company authorized to write such insurance in the State of Ohio which has (a) a “B” or better general policyholder’s rating or a “6” or better financial performance index rating in Best’s *Insurance Reports*, (b) an “A” or better general policyholder’s rating and a financial size category of “VIII” or better in Best’s *Insurance Reports—International Edition*, (c) an “A” or better rating in Demotech’s *Hazard Insurance Financial Stability Ratings*, and (d) a “BBBq” qualified solvency ratio or a “BBB” or better claims-paying ability rating in Standard and Poor’s *Insurer Solvency Review* or a “BBB” or better claims-paying ability rating in Standard and Poor’s *International Confidential Rating Service*. Insurance issued by a carrier that does not meet the foregoing rating requirements will be acceptable if the carrier is covered by reinsurance with a company that meets either one of the A.M. Best general policyholder’s acceptable ratings or one of the Standard and Poor’s claims-paying ability ratings mentioned above.

5. Other Association Insurance. In addition, the Board may purchase and maintain, at the Association’s cost and as a common expense, contractual liability insurance, directors’ and officers’ liability insurance, and other insurance as the Board may, in its sole discretion, determine to purchase or maintain.

6. Insurance Representative: Power of Attorney. Under any insurance policy obtained by the Association, the Association may name an authorized representative as the insured, including any trustee with whom the Association may enter into any insurance trust agreement, who shall have exclusive authority to negotiate losses under any such policy. Each Unit Owner, by acceptance of a deed to a Unit, irrevocably appoints the Association or such designated representative, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds of insurance; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose. The Association, or the designated representative, shall receive, hold, or otherwise properly dispose of any proceeds of insurance, in trust, for Unit Owners and their first mortgage holders, as their interests may appear. This power is for the benefit of the Association, the Condominium, each Unit Owner, and their respective first mortgage holders, runs with the land, and is coupled with an interest.

7. Unit Owners' Insurance. Any Unit Owner or Occupant may carry such insurance in addition to that provided by the Association, provided that no Unit Owner or Occupant may purchase individual policies of insurance against loss by fire or other casualty covered by the insurance carried by the Association on Common Elements and other parts of the Condominium. In the event any Unit Owner or Occupant violates this provision, any diminution in insurance proceeds resulting from the existence of such other insurance shall be chargeable to the Unit Owner who acquired, or whose Occupant acquired, such other insurance, who shall be liable to the Association to the extent of any diminution and/or loss of proceeds. Without limiting the foregoing, a Unit Owner or Occupant may obtain insurance against liability for events occurring within a Unit, losses with respect to personal property and furnishings, and losses to improvements owned by the Unit Owner or Occupant, provided that the insurance obtained by the Unit Owner with respect to improvements within the Unit shall be limited to the type and nature of coverage commonly referred to as "tenants' improvements and betterments." All insurance separately carried shall contain a waiver of subrogation rights by the carrier as to the Association, its officers and Directors, and all other Unit Owners and Occupants.

8. Sufficient Insurance. In the event the improvements forming a part of the Common Elements or any portion of the same shall suffer damage or destruction from any cause or peril insured against and the proceeds of any policy or policies insuring against such loss or damage and therefore payable shall be sufficient to pay the cost of repair, restoration, or reconstruction; then such repair, restoration, or reconstruction shall be undertaken by the Association. The insurance proceeds shall be used to pay for same; provided, however, that in the event that within sixty (60) days after such damage or destruction the Unit Owners and Eligible Mortgagees, if they are entitled to do so pursuant to the provisions of this Declaration, shall elect to terminate the Condominium, then such repair, restoration, or reconstruction shall not be undertaken.

9. Insufficient Insurance. In the event the Common Elements or any portion of the same suffers damage or destruction from any cause or peril which is not insured against, or, if insured against and the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration, or reconstruction; then, unless the Unit Owners and Eligible Mortgagees (if they are entitled to do so pursuant to the provisions of this Declaration) shall elect within sixty (60) days after

such damage or destruction not to make such repair, restoration, or reconstruction; the Association shall make repairs, restoration, or reconstruction of the Common Elements so damaged or destroyed at the expense (to the extent not covered by insurance) of all Unit Owners in proportion to their respective undivided interests in the Common Elements. Should any Unit Owner refuse or fail after reasonable notice to pay that Unit Owner's share of such cost in excess of available insurance proceeds, the amount so advanced by the Association shall be assessed against the Unit of such Unit Owner.

10. Lender Requirements. Notwithstanding the foregoing provisions of this Article, the Association shall at all times maintain hazard insurance, liability insurance, and fidelity insurance coverage conforming with the generally-recognized requirements then governing the making of a first mortgage loan or the purchase, guaranty, or insurance of first mortgages by national institutional or governmental lenders, guarantors, or insurers of first mortgage loans on condominium units.

**ARTICLE XIII; DAMAGE; REHABILITATION AND RENEWAL; TERMINATION**

1. Restoration of Substantial Damage or Destruction. In the event of substantial damage to or destruction of all Units in a residential building, or the taking of one or more Units in any condemnation or eminent domain proceedings, the Association shall promptly restore or replace the same, unless an election is made not to do so, as hereinafter provided.

2. Election Not to Restore; Termination. The Association may, with the consent of Unit Owners entitled to exercise not less than eighty percent (80%) of the voting power of Unit Owners and the consent of Eligible Mortgagees who represent at least fifty-one percent (51%) of the votes of the Units that are subject to mortgages held by Eligible Mortgagees, both given within sixty (60) days after substantial damage or destruction; determine not to repair or restore the damage or destruction and to terminate the Condominium. In such an event, all of the Condominium Property shall be sold as upon partition.

In the event of such an election not to repair or restore substantial damage or destruction or reconstruct such Unit or Units, (a) the net proceeds of insurance paid by reason of such damage or destruction, (b) the net amount of any award or proceeds of settlement arising from such proceedings, together with the proceeds received from the sale as upon partition, or (c) in the case of an election otherwise to terminate the Condominium, the net proceeds from the partition sale; shall be distributed among the Owners of the Units and the holders of their respective first mortgage liens (as their interests may appear) in the proportions of their undivided interests in the Common Elements.

3. Rehabilitation and Renewal. The Association, by vote of Unit Owners entitled to exercise not less than seventy-five percent (75%) of the voting power of Unit Owners, at a duly called and noticed meeting called specifically for the purpose of determining if the Condominium is obsolete in whole or in part and whether or not to have the same renewed and rehabilitated, with the consent of Eligible Mortgagees who represent at least fifty-one percent (51%) of the votes of the Units that are subject to mortgages held by Eligible Mortgagees, may determine that the Condominium is obsolete in whole or in part and elect to have the same renewed and rehabilitated. If

so, the Board shall proceed with renewal and rehabilitation, and that cost shall be a common expense. The Condominium shall not be determined or deemed to be "obsolete" merely because of the necessity to make major repairs or replacements, such as, but not limited to: replacing roofs, replacing or improving infrastructure, or repaving.

#### **ARTICLE XIV: CONDEMNATION**

1. **Standing.** Except as hereinafter provided, the Association (or its designated representative, as trustee) shall (a) represent the Unit Owners in any condemnation or eminent domain proceedings and in negotiations, settlements, and agreements with the condemning authority for acquisition of all or any part of the Condominium Property, (b) have the sole and exclusive right to settle losses with the condemning authority, and (c) receive the award or proceeds of settlement, for the use and benefit of the Unit Owners and their mortgagees as their interests may appear.

Notwithstanding the foregoing, a Unit Owner may lawfully separately pursue and realize upon a claim for incidental and consequential losses or damage to that Unit Owner resulting from a taking under the power of eminent domain, such as for relocation and moving expenses, loss of favorable mortgage terms, and other such individual incidental or consequential losses. That Unit Owner may, at that Unit Owner's election, separately pursue such claim, provided, that the pursuing of the same or the realization of an award for the same does not jeopardize an action by the Association to recoup the losses incurred by it or any other Unit Owner with respect to the Unit itself or with regard to the usability of the Condominium Property, nor diminish any award to the Association for any such loss.

2. **Use of Proceeds.** The award or proceeds of settlement in any actual or threatened condemnation or eminent domain proceedings, after reduction by the costs, if any, incurred in obtaining the same, shall be applied first to the cost of restoring or replacing all damaged or taken improvements on the remaining Condominium Property in accordance with the Drawings or in accordance with any related new plans and specifications approved by Unit Owners exercising no less than seventy-five percent (75%) of the voting power of Unit Owners along with the consent of Eligible Mortgagees who represent at least fifty-one percent (51%) of the votes of the Units that are subject to mortgages held by Eligible Mortgagees.

3. **Insufficient Proceeds.** If the award or proceeds are insufficient for restoring or replacing all damaged or taken improvements on the remaining Condominium Property, the excess cost shall be paid by the Association and, to the extent funds of the Association are insufficient, in the judgment of the Board, such excess cost shall be a common expense and assessed among the Units in the same manner as special assessments for capital improvements are assessed. Except as otherwise provided in this Declaration, the balance of any such award or proceeds of settlement, if there is an excess, shall be allocated and disbursed to the Unit Owners, and their first mortgagees (as their interests may appear) in proportion to the relative undivided interests of the Units in the Common Elements.

4. **Non-Restorable Unit.** Notwithstanding the foregoing, in the event that as a result of any such taking, and consequential restoration or replacement, any Unit that could not reasonably be restored to a condition comparable to that which existed prior to the taking, or could not be replaced,

prior to the allocation and disbursement of any sum to any other Unit Owner or that Unit Owner's mortgagee, there shall be allocated and disbursed from any award or proceeds, to each Unit Owner whose Unit cannot be so restored or replaced and that Unit Owner's respective first mortgagee (as its interests may appear), such amount as is equal to the then fair market value of the Unit that cannot be so restored or replaced. Thereupon, such Unit or Units, and their Unit Owners, shall be immediately and automatically divested of any interest in the Condominium, the Condominium Property, and the Association, including, without limiting the generality of the foregoing, divestment of an undivided interest, vote, and membership in the Association and liability for common expenses. All such rights and interests shall be reallocated among all other Units and Unit Owners in the same relative value proportions as those rights and interests were prior to such taking. To illustrate, upon a Unit being divested from the Condominium, (a) the voting right of that Unit will be equally allocated among all other Units, and their Owners, since the Unit Owners of each Unit previously had an equal vote and (b) the undivided interest of that Unit will be reallocated among all other Units in the proportions of their relative, undivided interests prior to such taking.

5. **Power of Attorney.** Each Unit Owner, by acceptance of a deed to a Unit, appoints the Association, or its designated representative, as that Unit Owner's attorney in fact to represent that Unit Owner, settle losses, receive and utilize the award or proceeds of settlement, and do all things necessary or desirable for such attorney in fact to exercise the rights and fulfill the responsibilities of the Association set forth in this Article with respect to condemnation or eminent domain proceedings. This power is for the benefit of each Unit Owner, each holder of a first mortgage on a Unit, the Association, and the real estate to which it is applicable; runs with land; is coupled with an interest; and is irrevocable.

6. **Termination.** The association may, with the consent of Unit Owners entitled to exercise not less than eighty percent (80%) of the voting power of Unit Owners and the consent of Eligible Mortgagees, who represent at least fifty-one percent (51%) of the votes of the units that are subject to Mortgages held by Eligible Mortgagees, both given within 60 days after the condemnation; determined not to restore the condominium and to terminate the same. In such an event, all of the condominium property shall be sold as upon partition.

#### **ARTICLE XV: GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS**

Unless specifically limited otherwise, the following easements shall run with the land, pass with the title to the benefited properties, shall be appurtenant to the properties benefited, shall be enforceable by the owners of the properties benefited, and shall be perpetual. The easements and grants provided shall in no way affect any other recorded grant or easement. Failure to refer specifically to any or all of the easements and/or rights described in this Declaration in any deed of conveyance, in any mortgage, or in any other evidence of obligation shall not defeat or constitute an intention not to reserve said rights or easements, but the same shall be deemed conveyed or encumbered, as the case may be, along with the Unit.

1. **Easements of Enjoyment; Limitations.** Every Unit Owner shall have a right and easement of enjoyment in, over, and upon the Common Elements and an unrestricted right of access to and from that Unit Owner's Unit, subject to the right of the Board to make reasonable rules and regulations concerning the use and management of the Common Elements and the Limited Common

Elements. However, no such rule or regulation shall limit or prohibit the right of ingress in and egress from a Unit, or any of its parts, or to that Unit's parking facilities. Each Unit Owner shall be deemed to have delegated that Unit Owner's right of enjoyment to the Common Elements and ingress and egress to the Occupants of that Owner's Unit.

2. Easements for Encroachments. The Condominium Property, including Units and Common Elements, shall be subject to and benefited by easements for encroachments on or by any other Unit and upon the Common Elements created or arising by reason of overhangs; or by reason of deviations in construction, reconstruction, repair, shifting, settlement, or other movement of any portion of the improvements; or by reason of errors on the Drawings. Valid easements for these encroachments and for the maintenance of same, as long as the physical boundaries of the Units after the construction, reconstruction, repairs, etc. will be in substantial accord with the description of those boundaries that appears in this Declaration or on the Drawings, shall exist so long as the encroachments remain.

3. Easements Reserved to Declarant. Non-exclusive easements are hereby reserved to Declarant, its successors and assigns, over and upon the Common Elements as follows:

(a) for two-years from the date of the closing of the first sale of a Unit to a bona fide purchaser, to access any part of the Condominium Property for the purpose of completing improvements for which provision is made in this Declaration, provided that such right of access shall be to the extent, but only to the extent, that other access is not otherwise reasonably available;

(b) for the periods provided for warranties in this Declaration or by law, for purposes of making repairs required pursuant to those warranties or pursuant to contracts of sale made with Unit Owners;

(c) for the initial sales and rental period, to maintain and utilize one or more Units along with its appurtenances, for sales offices, management offices, storage, maintenance, model Units, parking areas for sales and rental purposes, and advertising signs;

(d) for the maximum length of time allowed by law, no shorter time than the length of time that the Declarant has the right to expand the Condominium, to extend and otherwise make available, utilities from the Common Elements onto the Additional Property; and

(e) unless and until, if ever, the Condominium has been expanded to encompass any of the Additional Property, to owners and occupants of all or any added part of the Additional Property, for pedestrian and vehicular access over the streets and walkways that may from time to time be a part of the Condominium Property, for ingress to and egress from the added Additional Property, and each added part. Additionally, the Association, at all times, shall maintain an unimpeded route of vehicular and pedestrian ingress and egress over and upon the Condominium Property to and from the added Additional Property and a public street.

The rights and easements reserved pursuant to the provisions of this Article shall be exercised and utilized, as the case may be, in a reasonable manner, and in such way as not to

unreasonably interfere with the operation of the Association and the rights of Unit Owners and Occupants.

4. Easements for Proper Operations. Easements to the Association shall exist upon, over, and under all of the Condominium Property for ingress; egress; the road system; all walkways; the installation, replacing, repairing and maintaining of all utilities, including, but not limited to water, sewer, gas, telephone, electricity, security systems, master television antennas and cable television; and for all other purposes necessary for the proper operation of the Condominium Property. The Association may grant to the appropriate public authorities and/or vendor companies and contractors permission to construct and maintain the necessary appurtenances and improvements on, above, across, and under the Condominium Property, so long as such appurtenances and improvements do not unreasonably interfere with the use and enjoyment of the Condominium Property. If any public authority or other companies who contemplate furnishing a service request a specific easement, permit, or license, the Association shall have the right to grant such easement, permit, or license without conflicting with these terms. In addition, in the event the Board determines that the grant of easement rights to others is in the best interests of the Association, the Association shall have the right to grant the same, provided that use of the same would not, in the sole judgment of the Board, unreasonably interfere with the use and enjoyment of the Condominium Property by Unit Owners and Occupants.

5. Easement for Support. Every portion of a building, utility line, or any improvement on any portion of the Condominium Property contributing to the support of another building, utility line, or improvement on another portion of the Condominium Property shall be burdened with an easement for support for the benefit of all other buildings, utility lines, improvements, and other portions of the Condominium Property.

6. Easement for Services. Non-exclusive easements are hereby granted to all police, firefighters, ambulance operators, United States Postal Service employees, delivery persons, garbage and trash removal personnel, all similar persons, local governmental authorities, and Association employees, but not to the general public, to enter upon the Common Elements in the performance of their duties, subject to such reasonable rules and regulations as the Board may establish.

7. Entry for Repair, Maintenance, and Restoration. The Association shall have a right of entry and access to, over, upon, and through all of the Condominium Property, including each Unit and the Limited Common Elements, to enable the Association to perform its obligations, rights, and duties with regard to maintenance, repair, restoration, and/or servicing of any items or areas of or in the Condominium Property. In the event of an emergency, the Association's right of entry to a Unit and its appurtenant Limited Common Elements may be exercised without notice; otherwise, the Association shall give the Unit Owner or Occupants of a Unit no less than twenty-four hours' advance notice prior to entering a Unit or its appurtenant Limited Common Elements for the purpose of maintenance, repair, restoration, or service.

8. Power of Attorney. Each Unit Owner, by acceptance of a deed to a Unit, appoints the Association (or its designated representative) as that Unit Owner's attorney-in-fact, to execute, deliver, acknowledge, and record, for and in the name of such Unit Owner, such deeds of easement, licenses, permits, and other instruments as may be necessary or desirable, in the sole discretion of

the Board (or its authorized representative) to further establish or effectuate the foregoing easements and rights. This power is for the benefit of every Unit Owner, the Association, and the real estate to which it is applicable, runs with the land, is coupled with an interest, and is irrevocable.

9. Access Easement. A non-exclusive perpetual easement over and upon any property added from the Additional Property is reserved to each Unit Owner, their respective invitees and licensees, and the Occupants of each Unit for the purpose of effective Association management, if, only to the extent of, and only if the Declarant adds that property to the Condominium.

**ARTICLE XVI: ASSESSMENTS AND ASSESSMENT LIENS; RESERVE FUNDS**

1. Types of Assessment. The Declarant covenants and agrees, and each Unit Owner by acceptance of a deed to a Unit (whether or not expressed in the deed) is deemed to covenant and agree, to pay to the Association: (a) operating assessments, (b) special assessments for capital improvements, and (c) special individual Unit assessments, all of which are established and collected as provided below.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote and provide for the health, safety, and welfare of Unit Owners and Occupants and the best interests of the Condominium Property.

3. Assessment Apportionment and Due Dates.

(a) Operating Assessments.

(1) The Board shall establish an estimate for the remainder of the Association's first fiscal year (and before the beginning of each subsequent fiscal year for that upcoming fiscal year) the common expenses of the Association consisting of the following:

(i) that period's estimated cost of the maintenance, repair, and other services to be provided by the Association;

(ii) that period's estimated costs for insurance premiums to be provided and paid for by the Association;

(iii) that period's estimated costs for utility services not separately metered or charged to Unit Owners;

(iv) the estimated amount required to be collected to maintain a working capital reserve fund, to assure availability of funds for normal operations of the Association, in an amount deemed adequate by the Board, but in no event less than an amount equal to two months' currently estimated assessments on all Units;

(v) an amount deemed adequate by the Board to maintain a reserve for the cost of unexpected repairs and replacements of capital improvements and for the repair and replacement of major improvements for which cash reserves over a period of time in excess of one year ought to be maintained; and

(vi) that period's estimated costs for the operation, management, and administration of the Association, including, but not limited to fees for property management; fees for legal and accounting services; costs of mailing, postage, supplies, and materials for operating the Association; the salaries, wages, payroll charges and other costs to perform these services; and any other costs constituting common expenses not otherwise specifically excluded.

(2) The Board shall then allocate to each Unit that Unit's share of all of these items, prorated in accordance with each respective Unit's undivided interest in the Common Elements, establishing the operating assessment for each separate Unit. For administrative convenience, any such assessment may be rounded so that monthly installments will be in whole dollars.

(3) Operating assessments shall be payable in advance, in equal monthly installments, provided that nothing contained herein shall prohibit any Unit Owner from prepaying assessments in annual, semiannual, or quarterly increments. The due dates of any such installments shall be established by the Board, or, if it fails to do so, an equal monthly prorata share of the annual operating assessment for a Unit shall be due the first day of each month. The Association will not pay interest for prepayment of assessments. The first assessment shall be set for a due date within sixty (60) days of the Declarant conveying the first Unit to a bona fide purchaser.

(4) If the amounts so collected are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Board among the Units and their Owners on the same basis as earlier set forth.

(5) If assessments collected during any period are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be retained as reserves or reductions in future assessments, as determined by the Board, in its sole discretion, and shall in no event be deemed profits nor available for distribution to Unit Owners, except upon dissolution of the Association.

(6) As long as the Declarant controls the Association, Declarant shall not use any part of the working capital reserve fund to defray Declarant's expenses, reserve contributions, or construction costs, or to make up any budget deficits, and shall maintain the working capital reserve fund in a segregated account and transfer the same to the Association for deposit into a segregated account at or prior to the

time Unit Owners other than Declarant control the Association. The Association may not have a deficiency in funds when the Unit Owners take control of the Association.

Each Unit's share of the working capital reserve fund shall be collected at the time the sale of the Unit is closed, without prejudice to Declarant's right to recover its contribution from purchasers of Units.

(b) **Special Assessments for Capital Improvements.**

(1) In addition to the operating assessments, the Board may levy, at any time, special assessments to construct, reconstruct, or replace capital improvements on the Common Elements to the extent that reserves are insufficient, provided that new capital improvements not replacing existing improvements (except new capital improvements required to comply with applicable law or governmental regulation, or to correct any deficiency or defect creating a safety or health hazard to Occupants) shall not be constructed nor funds assessed if their cost in any fiscal year would exceed an amount equal to five percent (5%) or more of that fiscal year's budget, without the prior consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners and the consent of Eligible Mortgagees.

(2) Any special assessment for capital improvements shall be prorated among all Units and their Owners in proportion to the respective undivided interests of the Units in the Common Elements, and shall become due and payable on the date or dates the Board determines following written notice to all Unit Owners.

(c) Special Individual Unit Assessments. The Board shall levy assessments against an individual Unit, or Units, and its Unit Owner or Unit Owners, to reimburse the Association for those costs incurred in connection with that Unit or Units properly chargeable to a particular Unit (including, but not limited to, the cost of making repairs that were the responsibility of a Unit Owner, the cost to reimburse the Association for a Owner's Unit's share of any unpaid utility costs that the Board (or its designee) reasonably determines is attributable to that Owner's Unit, and a Unit Owner's interest, late charges, enforcement, and arbitration charges). Any special individual unit assessment shall be due and payable on the date as the Board determines, as long as written notice from the Board precedes the due date.

Additionally, during the first five years of the Condominium's existence or until such time as real estate taxes and assessments are split into separate tax bills for each Unit, whichever is earlier, the Association shall have the right to pay the real estate taxes and assessments attributable to the Condominium Property in the event the same have not been paid when due, and assess respective Unit Owners that Unit's share of such real estate taxes and assessments as a special individual Unit assessment. The share of those particular taxes and assessments attributable to a Unit shall be computed by multiplying the total taxes and assessments for all of the Condominium Property by the undivided interest in Common Elements attributable to that Unit. The calculation by the Association of the Units' and its Unit Owners' shares of taxes and assessments shall be binding upon all Unit Owners.

4. Effective Date of Assessment. Any properly administered assessment shall be effective if written notice of its amount is sent by the Board to the Unit Owner subject to the assessment at least ten (10) days prior to the assessment's due date, or if to be paid in installments, the due date of the first installment. Written notice mailed or delivered to a Unit Owner's or Unit Owners' Unit shall constitute notice to that or those Unit Owners, unless a Unit Owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to that last designated address of a particular Unit Owner shall constitute notice to that Unit Owner.

5. Effect of Nonpayment of Assessment; Remedies of the Association.

(a) If any installment or portion of any installment of an assessment is not paid within at least ten (10) days after the same is due, the entire unpaid balance of the assessment shall immediately become due and payable, without demand or notice, unless the Board, in its sole discretion, determines not to accelerate the installment. The Association shall credit all payments received from a Unit Owner in the following priority: (1) to interest; (2) to administrative late fees; (3) to collection costs, attorney fees, and paralegal fees; and (4) to the principal amounts owed to the Association for common assessments, enforcement assessments, penalty assessments or any other charges owed to the Association.

(b) If any installment or portion of any installment of an assessment is not paid within at least ten (10) days after the same is due, the Board, at its option, and without demand or notice, may (1) charge interest on the entire unpaid balance (including the accelerated portion thereof) at such rate as the Board, from time to time, establishes by rule; or if the Board fails to establish a rate by rule, at the rate of eight percent (8%) per annum, (2) charge a reasonable, uniform late fee, as established from time to time by the Board, by rule, and (3) charge the cost of collection, including attorney fees and other out-of-pocket expenses.

(c) All assessments, together with interest, late fees, and costs, including attorney fees, shall be a charge in favor of the Association upon the Unit against which each such assessment is made.

(d) At any time after any assessment, installment of an assessment, or portion of any installment of an assessment remains unpaid for thirty (30) or more days after the same has become due and payable, a certificate of lien for the unpaid balance of that assessment, including all future installments, interest, late fees, and costs, including attorney fees, may be filed with the Delaware County, Ohio Recorder, pursuant to authorization given by the Board. The certificate shall contain a description or other sufficient legal identification of the Unit against which the lien exists, the name or names of the record Unit Owner or Unit Owners, and the amount of the unpaid portion of the assessments and charges. The same shall be signed by the president or other designated representative of the Association. The lien amount may include all assessments chargeable against the Unit, interest, administrative late fees, enforcement assessments, collection costs, attorney fees, and paralegal fees.

(e) The aforementioned lien shall become effective from the time a certificate of lien or renewal certificate is duly filed, and shall continue for a period of five (5) years unless sooner released or satisfied in the manner provided by law in the State of Ohio for the release and satisfaction of mortgages on real property or discharged by the final judgment or order of a court in an action brought to discharge the lien.

(f) Any Unit Owner who believes that an assessment chargeable to that Unit Owner's Unit (for which a certificate of lien has been filed by the Association) has been improperly charged against that Unit, may bring an action in the Court of Common Pleas of Delaware County, Ohio for the discharge of that lien. In any such action, if it is finally determined that all or a portion of the assessment has been improperly charged to that Unit and its Unit Owner(s), the Court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien.

(g) Each assessment, together with interest, late fees and costs, including attorney fees, shall also be the joint and several personal obligation of the Unit Owner(s) who owned the Unit at the time when the assessment fell due. The obligation for delinquent assessments, interest, late charges, and costs shall not be the personal obligation of that or those Unit Owner(s)' successors in title unless expressly assumed by the successors, or required by applicable law, provided, however, that the right of the Association to a lien against that Unit, or to foreclose any lien thereon for these delinquent assessments, interest, late charges, and costs shall not be impaired or abridged by reason of the transfer, but shall continue unaffected, except as provided in Paragraph 6 of this Article.

(h) The Association, as authorized by the Board, may file a lien or liens to secure payment of delinquent assessments, interest, late fees and costs, including attorney fees; bring or join in an action at law against the Unit Owner or Owners personally obligated to pay the same, and an action to foreclose a lien; or effect any one or more of these.

In any foreclosure action, the Unit Owner(s) affected shall be required to pay a reasonable rental for that Unit during the pendency of such action. In any foreclosure action involving Units, the Association shall be entitled to become a purchaser at the foreclosure sale. In any such foreclosure action, interest and costs of such action (including attorney fees) shall be added to the amount of any such assessment, to the extent permitted by Ohio law.

(i) No claim of the Association for assessments and charges shall be subject to setoffs, offsets, or counterclaims.

(j) No Unit Owner(s) may waive or otherwise escape liability for the assessments provided for in this Declaration by not using the Common Elements or any part of the same or by abandoning that Owner's Unit.

(k) Regardless of their procedural character, assessments run with the land and are necessary to continue the care, repair, and maintenance of Units and their undivided interests in the Condominium Property. Accordingly, assessments accruing or becoming due during the pendency of bankruptcy proceedings shall constitute administrative expenses of the bankruptcy estate.

6. Subordination of the Lien to First Mortgages. The lien of the assessments and charges provided for in this Declaration shall be subject to and subordinate to the lien of any duly executed first mortgage on a Unit recorded prior to the date on which such lien of the Association arises, and any holder of such first mortgage that comes into possession of a Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid installments of assessments and charges against the mortgaged Unit which became due and payable prior, in the case of foreclosure, to the date of the sale, and, in all other cases, to the date legal title vested in the successor owner. The foregoing will not relieve any successor Unit Owner from the obligation to pay assessments accruing after gaining ownership.

7. Certificate Regarding Assessments. The Board shall, upon request, for a reasonable charge, furnish a certificate signed by the president, treasurer, secretary, or other designated representative of the Association, stating the payment status of assessments on a particular Unit. This certificate shall be conclusive evidence of payment of any assessment that the Certificate states to have been paid.

#### **ARTICLE XVII: EXPANSIONS**

1. Reservation of Option to Expand. Notwithstanding any provision in this Declaration to the contrary, the Declarant expressly reserves the option to expand the Condominium Property by amendment(s) to include all or part of the Additional Property (without any consent to such amendment being required by any other party) as provided in this Article.

2. Limitations on Option to Expand. There are no limitations on Declarant's option to expand the Condominium Property except as provided in this Article or elsewhere in this Declaration. Except as otherwise so expressly limited, Declarant has the exclusive right, power, and authority to expand the Condominium Property. Specifically, the consent of Unit Owners is not required for Declarant to exercise its option to expand.

3. Maximum Expansion Time. Declarant's option to expand the Condominium Property shall expire and terminate at the end of seven years from the date this Declaration is filed for record. Notwithstanding the foregoing, Declarant may extend its option to expand the Condominium Property for an additional seven years if it exercises that right to extend within six months prior to the expiration of that initial seven year period, with the consent of the majority of the Unit Owners other than Declarant. Declarant exercises its right to extend through a writing addressed to the Association.

Declarant shall have the right to waive its option to expand at any time in an unequivocal writing addressed to the Association dedicated solely to that waiver. There are no other circumstances that will terminate the option to expand prior to the expiration of the seven years.

4. Description of the Additional Property. A legal description, by metes and bounds, of all of the land that is part of the Additional Property, and that, through exercise of Declarant's

option, may be submitted to the Condominium Act and thereby added to the Condominium Property is attached as Exhibit B hereto.

5. Composition of Additional Property Portions Added. Neither all nor any portion of the Additional Property must be added to the Condominium Property, nor, if any of the Additional Property is added, shall it be required that a particular portion of the Additional Property must be added. This Article provides the exclusive method of adding any part or all of the Additional Property to the Condominium. All improvements to the Additional Property shall be added to the Condominium Property shall be substantially completed prior to the addition. There are no limitations fixing the boundaries of portions added or regulating the order in which portions are added.

6. Time for Adding Portions. Portions of the Additional Property may be added to the Condominium Property from time to time, and at different times, in any order selected by the Declarant. There are no limitations on the addition of Additional Property.

7. Improvement Location Limitations. There are no established or defined limits on the location of any improvements that may be made on any portion of the Additional Property added to the Condominium Property, outside those imposed by law.

8. Maximum Number of Units. The maximum, total number of Units that may be created on the Additional Property and added to the Condominium Property is 142. The foregoing shall neither limit nor restrict the number of dwelling units or other improvements that may be constructed on all or any portion of the Additional Property that is not added to the Condominium Property.

There is no limit as to the maximum number of Units per acre that may be created on any portion of the Additional Property added to the Condominium Property, except that the total number of Units that may be constructed on the Additional Property and added to the Condominium may not exceed 142.

9. Non-Residential Use. All Units added to the Condominium on the Additional Property shall be residential.

10. Compatibility of Structures. All structures erected on all or any portion of the Additional Property and added to the Condominium Property will be consistent and compatible with structures then on the Condominium Property in terms of structure type, quality of construction, the principal materials to be used, architectural style, and design. Comparable style and design shall be deemed to exist if the exterior appearance of the structures on the Additional Property is compatible and harmonious with those then on the Condominium Property. Design shall not be deemed to be incompatible or not comparable because of changes in the number of dwelling units in a building, types or mixes of types of dwelling units in a building, variances in setbacks or locations of structures in relation to other improvements, changes in design or finish detail, or minor changes in size.

11. Improvements Other than Structures. If all or a portion of the Additional Property is added to the Condominium Property, no particular non-structural improvements need be included. However, if non-structural improvements are included, they shall be of substantially the same kind, style, design, and quality as those improvements then on the Condominium Property.

12. Types of Units. All Units that are created on any portion of the Additional Property and added to the Condominium Property shall be of the same types as the types of Units then on the Condominium Property, or as otherwise described herein, provided, however, that any such Units shall be deemed of the same types notwithstanding changes in interior layout or interior features, changes in design or finish detail, or minor changes in size.

13. Limited Common Elements. Declarant reserves the right with respect to all or any portion of the Additional Property added to the Condominium Property to create Limited Common Elements of substantially the same type and size as those areas now so designated as Limited Common Elements. The Declarant may designate any areas in the Additional Property as Common Elements that may later be designated Limited Common Elements.

14. Supplementary Drawings. Attached as Exhibit F is a sketch drawing showing the general location and physical relationship between the Condominium Property and the Additional Property. When Declarant adds all or any portion of the Additional Property to the Condominium Property, Declarant shall file drawings with respect to the Additional Property as required by the Condominium Act.

15. Procedures for Expansion. Adding all or any part of the Additional Property shall be accomplished by the Declarant's filing of amendment(s) to the Declaration that contains the information and drawings with respect to the Additional Property and its improvements added, along with any other requirements provided by the Condominium Act.

16. Effects of Expansion. Upon the filing, consistent with the Condominium Act, of any amendment to the Declaration adding all or any portion of the Additional Property to the Condominium Property:

(a) the added portion shall be subject to and benefited by all of the terms and provisions of this Declaration, to the same extent and with the same effect as if that added portion had previously constituted part of the Condominium Property. Specifically, the rights, easements, covenants, restrictions, and assessment plan set forth in this Declaration shall run with, bind, and benefit the added portion in the same manner, to the same extent, and with the same force and effect as the terms of this Declaration apply to the Condominium Property. Additionally, non-exclusive easements are reserved to Declarant over and upon the Common Elements and Limited Common Elements in property added to the Condominium (1) for a two year period of time from the date of the closing by Declarant of the first sale of a Unit in that property added to a bona fide purchaser, for access to and for the purpose of completing any improvements in that portion added, (2) for the periods provided for warranties, or by law, for purposes of making repairs required pursuant to warranties, and (3) for the initial sales and rental period for Units in that property added, to maintain and utilize one or more of those Units and its appurtenances for sales offices, management offices,

storage, maintenance, model Units, parking areas for sales and rental purposes, and advertising signs;

(b) the Unit Owners in the added portion shall become members, to the same extent, with the same effect, subject to the same obligations, and imbued with the same rights, as all other Unit Owners, including, without limiting the generality of the foregoing, one vote for each Unit owned by that Unit Owner or those Unit Owners in the Association;

(c) the undivided interests of Units in the Common Elements, as so expanded, shall be reallocated on the basis of one Unit equals one vote among all Units in the Condominium, including those added by any expansion;

(d) with respect to Units added, annual operating assessments shall commence the later of (1) the first day of the calendar month immediately after the date the documents adding the Units were duly recorded or (2) the date established by the Association for the commencement of any operating assessment, with proration based on the number of full calendar months remaining in the year for which the operating assessments were levied; and

(e) in all other respects, all of the provisions of this Declaration shall include and apply to the added portions, and to the Unit Owners, mortgagees, and lessees of those added portions, with equal meaning and of identical force and effect.

17. New Taxes, Assessments, etc. Declarant shall pay or otherwise satisfactorily provide for all taxes, assessments, mechanics' liens, and other charges affecting the Additional Property before the same is made a part of the Condominium.

18. Successor Owners Not Liable for Actions of Declarant A successor owner of the Condominium Property and/or Additional Property who is not an affiliate of Declarant or "developer," as defined in the Condominium Act, and who is a bona fide purchaser of any portion of the Condominium Property for value, or a purchaser who acquires any portion of the Condominium Property at a sheriff's sale or by deed in a lieu of a foreclosure, is not liable in damages for harm caused by an act or omission of the Declarant or developer or a breach of an obligation by the Declarant or developer, all as further provided in Section 5311.05(C)(15) of the Condominium Act.

#### **ARTICLE XVIII: NOTICES TO AND VOTING RIGHTS OF ELIGIBLE MORTGAGEES**

1. Notices. Any mortgagee holding a first mortgage on a Unit, upon written request to the Association (which shall state the name and address of such mortgagee and sufficiently designate and describe the applicable Unit that the mortgagee has a first mortgage on), shall be an "Eligible Mortgagee" and shall be entitled to timely written notice by the Association of:

(a) any proposed addition to, change in, or amendment of the Condominium Organizational Documents of a material nature, including any addition to, change in, or amendment of any provision establishing, providing for, governing, or regulating: (1) voting rights; (2) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or priority of assessment liens; (3) reductions in reserves for maintenance, repair,

and replacement of Common Elements; (4) responsibility for maintenance and repairs; (5) reallocation of interests in the Common Elements (specifically including the Limited Common Elements), or rights to their use; (6) redefinition of boundaries of any Unit; (7) convertibility of Units into Common Elements or vice versa; (8) expansion or contraction of the Condominium or the addition, annexation, or withdrawal of property to or from the Condominium; (9) hazard or fidelity insurance requirements or coverage; (10) imposition of any restrictions on the leasing of Units, (11) imposition of any restrictions on a Unit Owner's right to sell or transfer that Unit Owner's Unit; (12) if the Condominium consists of fifty (50) or more Units, a decision by the Association to establish self-management if professional management had been required previously by the Condominium Organizational Documents or by an Eligible Mortgagee; (13) restoration or repair of the Condominium Property after damage or partial condemnation in a manner other than specified in the Condominium Organizational Documents; (14) termination of the legal status of the Condominium after substantial destruction or condemnation; or (15) benefits to mortgage holders, insurers, or guarantors. No addition to, change in, or amendment of the Condominium Organizational Documents shall be considered material if it is for the purpose of correcting technical errors or for clarification only;

(b) any proposed decision or action that: (1) terminates professional management and establishes self-management when professional management has been required previously by an Eligible Mortgagee; (2) causes restoration or repair of the Condominium Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Condominium Organizational Documents; (3) substantial damage or destruction not be restored; (4) the Condominium Property be renewed or rehabilitated; (5) significant new capital improvements not replacing existing improvements be constructed; or (6) would, without addition to, change in, or amendment of the Condominium Organizational Documents, make any change with respect to the items described in subparagraph (a) of Section 1 of this Article; and

(c) (1) any condemnation or casualty loss that affects either a material portion of the Condominium Property or the Unit securing its mortgage; (2) any delinquency for sixty (60) days in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage; (3) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; and (4) any proposed action that requires the consent of a specified percentage of Eligible Mortgagees. A holder, insurer, or guarantor of a first mortgage lien on a Unit which has sent a written request to the Association stating both its name and address and the Unit Designation or address of the Unit on which it holds, insures, or guarantees the mortgage shall be entitled to timely written notices of the events described in this subsection (c) for the particular Unit so designated.

2. Voting Rights. No action with respect to which Eligible Mortgagees are entitled to notice, as provided in subparagraphs (a) or (b) of Section 1 of this Article, may be taken without the consent of Eligible Mortgagees of Units to which not less than fifty-one percent (51%) of the votes of Units subject to mortgages held by Eligible Mortgagees appertain, provided, further, that no action to terminate the Condominium or that would have that effect, other than by reason of substantial destruction or condemnation of the Condominium Property, shall be taken without the consent of Eligible Mortgagees of Units to which not less than seventy-five percent (75%) of the votes of Units subject to mortgages held by Eligible Mortgagees appertain.

3. Approval Rights. Notwithstanding any other provision, if a federal or other nationally broad-based institutional mortgagee, guarantor, or insurer of residential home loans:

- (a) holds, insures, or guarantees payment of all or part of a mortgage secured loan on one or more Units in the Condominium;
- (b) has not approved a particular plan of expansion of the Condominium to which a proposed addition to the Condominium conforms; and
- (c) requires approval of proposed additions to the Condominium;

neither the Additional Property, nor any part thereof, may be added to the Condominium without the prior written consent of such holder, insurer, or guarantor.

4. Approval by Veterans Administration During Developer Control. Notwithstanding any other provision in this Declaration, if the Condominium has been approved by the Department of Veterans Affairs, and while the Declarant is in control of the Association, any amendment (except those aiding the expanding of the condominium in accordance with the provisions of Article XVII of this Declaration) must be approved by the Secretary of the Department of Veterans Affairs.

**ARTICLE XIX: AMENDMENTS**

1. Power to Amend. Except as otherwise specifically provided in this Article, additions to, changes in, or amendment of this Declaration (or the other Condominium Organizational Documents) or the taking of any of the actions which require the consent of Eligible Mortgagees exercising not less than fifty-one percent (51%) of the Voting Power of Units subject to mortgages held by Eligible Mortgagees, as provided elsewhere herein, shall, in addition to such consents of Eligible Mortgagees, require the consent of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of Unit Owners.

Notwithstanding the foregoing:

- (a) the consent of all Unit Owners shall be required for any amendment effecting a change in:
  - (1) the boundaries of any Unit;
  - (2) the undivided interest in the Common Elements appertaining to a Unit or the liability for common expenses appertaining thereto;
  - (3) the number of votes in the Association appertaining to any Unit; or
  - (4) the fundamental purposes to which any Unit or the Common Elements are restricted;

(b) the consent of Unit Owners exercising not less than eighty percent (80%) of the voting power of Unit Owners shall be required to terminate the Condominium;

(c) in any event, subject to the provisions of Section 5311.05(E) of the Condominium Act granting the Board of Directors certain rights to amend the Declaration, each Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant a power of attorney, which right and power is coupled with an interest and runs with the title to the respective Unit:

(1) to Declarant, for so long as Declarant owns any Unit, to amend the Condominium Organizational Documents, to the extent necessary to (i) conform to the requirements then governing the making of a mortgage loan or the purchase, guaranty, or insurance of mortgages by an institutional lender or an institutional guarantor or insurer of a mortgage on a Unit, provided that the appropriate percentage (as described elsewhere) of Eligible Mortgagees is obtained (if required) or (ii) correct typographical, factual, or obvious errors or omissions, the correction of which would not impair the interest of any Unit Owner, mortgagee, insurer, or guarantor, provided, further, that if there is a Unit Owner other than the Declarant, the Declaration shall not be amended to increase the scope or the period of control of the Declarant and

(2) the Association, through its Board, from and after such time as Declarant no longer owns any Unit, the right and power, and each Unit Owner by acceptance of a deed to a Unit is deemed to and does give and grant to the Association, through the Board, a power of attorney, which right and power is coupled with an interest and runs with the title to a Unit and is irrevocable (except by the Board), to amend the Condominium Organizational Documents to the extent necessary to correct typographical, errors, factual errors, or omissions, the correction of which would not impair the interest of any Unit Owner, mortgagee, insurer, or guarantor.

(3) In addition to the foregoing, the Board, without a vote of the Unit Owners, may amend the Declaration in any manner necessary for any of the following purposes: (i) to meet the requirements of institutional mortgagees, guarantors and insurers of first mortgage loans, or the requirements of insurance underwriters; (ii) to bring the Declaration into compliance with requirements of the Condominium Act; (iii) to correct clerical or typographical errors or obvious factual errors in this Declaration or an exhibit or amendment hereto; and (iv) to designate a successor to the Person name to receive service of process for the Association, provided, that the naming of a successor need not be by amendment hereto if the change of statutory agent is appropriately filed with the Ohio Secretary of State.

An Eligible Mortgagee of a Unit who receives a written request to approve changes, additions, or amendments sent by certified or registered mail, return receipt requested, and who does not deliver or post to the requesting party a response within thirty (30) days after receipt of the same, shall be deemed to have approved such request.

2. Limitation on Right to Amend. Any provision of this Declaration granting any rights, duties, obligations, opportunities, or otherwise affecting Declarant shall not be amended without written consent of Declarant unless Declarant no longer retains any right to expand the Condominium.

3. Method to Amend. An amendment to this Declaration (or the Drawings or the Bylaws), adopted with the consents of Unit Owners and Eligible Mortgagees as may be required, shall be executed by the Secretary (or the Secretary's proxy as assigned by the Board) and one other officer of the Association and shall contain their certification that such amendment was duly adopted in accordance with the appropriate provisions. Any amendment adopted by the Declarant shall only be executed with the same formalities as were required for this Declaration and shall certify that the amendment is made pursuant to authority vested in Declarant. Any amendment duly adopted and executed in accordance with the foregoing provisions shall be effective upon the filing of the same with the Delaware County, Ohio Auditor and Recorder.

**ARTICLE XX: MISCELLANEOUS PROVISIONS**

1. Covenants Run with the Land. The covenants, conditions, restrictions, easements, reservations, powers of attorney, liens, and charges created in this Declaration shall run with and bind the land and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in to all or any part of the Condominium Property, the Association, and their respective heirs, executors, administrators, successors, and assigns.

2. Enforcement. In addition to any other remedies provided in this Declaration, Declarant (only with respect to those rights directly benefiting the Declarant), the Association, and each Unit Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges set forth in this Declaration, the Bylaws, or the Board's rules and regulations. Failure by Declarant, the Association or any Unit Owner to enforce any right, restriction, condition, covenant, easement, reservation, lien or charge shall in no event be deemed a waiver of the right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches nor any statute of limitations bar the enforcement of any such right, restriction, condition, covenant, reservation, easement, lien or charge. Further, the Association and each Unit Owner shall have rights of action against each other for failure to comply with the provisions of the Condominium Organizational Documents, rules and regulations, and applicable law, and with respect to decisions made pursuant to authority granted under the same.

Additionally, the Association shall have the right to assess reasonable charges against a Unit Owner who fails to comply with the same, including the right to assess charges for the costs of enforcement and arbitration, and provided, further, that neither the Association nor its Directors, officers, or other representatives, shall be liable to any Unit Owner or Occupant, or their invitees, for damage to any Unit or any part thereof, or any personal property of such Unit Owner, Occupant, or invitee, or for injury to such person, unless the damage or injury was proximately caused by the gross negligence or intentional tortious act of the Association, Director, officer, or other representative. In addition to all other remedies available by law, the Association may use summary

abatement or similar means to enforce any provisions in this Declaration or restrictions against the Unit or its use, provided that judicial proceedings shall be instituted before any items of construction may be altered or demolished by summary means.

3. Severability. Invalidation of any one or more of these covenants, conditions, restrictions, or easements by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect. In the event any language of this Declaration conflicts with mandatory provisions of the Condominium Act or any other Ohio or federal law; the Condominium Act, Ohio law, or federal law shall prevail; and the conflicting language shall be deemed to be invalid and void, provided that such invalidity shall not affect any other provisions of this Declaration, provisions shall otherwise remain in full force and effect.

4. Numbers and Grammar. The singular used in this Declaration shall be construed to mean the plural when applicable and vice versa. The grammatical changes required to make the provisions of this Declaration apply either to corporations, partnerships, trusts, limited liability companies, other entities, men, or women, shall in all cases be assumed as though in such case fully expressed.

5. Captions. The captions of the various provisions of this Declaration are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

[Remainder of Page Intentionally Left Blank]

*Signature Page Follows*

23<sup>rd</sup> The undersigned has executed and delivered this Declaration on behalf of Declarant this day of September, 2005.

ROMANELLI AND HUGHES BUILDING COMPANY, an Ohio Corporation

By: *Vicent Romanelli*

Its: *Vice p.*

STATE OF OHIO

COUNTY OF FRANKLIN, SS:

The foregoing instrument was acknowledged before me by *Vicent Romanelli* the *Vice President* of Romanelli and Hughes Building Company, an Ohio corporation, on behalf of the corporation, this *22<sup>nd</sup>* day of September, 2005.

*Christopher D. Adkinson*  
Notary Public

My commission expires: *N/A*



CHRISTOPHER D. ADKINSON  
Attorney At Law  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Section 147.03 R.C.

VOL 0651 PAGE 1015

EXHIBIT A

**DECLARATION ESTABLISHING CONDOMINIUM PROPERTY**  
**UNDER OHIO REVISED CODE CHAPTER 5311 FOR**  
**SELDOM SEEN ACRES CONDOMINIUM**

[Legal Description by metes and bounds of Condominium Property]



September 2, 2005

**DESCRIPTION OF CONDOMINIUM  
THE SELDOM SEEN ACRES CONDOMINIUMS**

**Legal Description, Condominium Property  
(2.496 Acres)**

Situated in the Township of Liberty, County of Delaware, State of Ohio, located in a portion of Lot 3410 in Seldom Seen Acres, a subdivision of record in Plat Cabinet 2, Slide 245 acres, said portion containing 14.376 acres and conveyed to Romanelli & Hughes Building Company in Official Record Volume 434, Page 1033 said 2.496 acres being more particularly described as:

Beginning at an iron pin found in the north line of said Lot 3410, the same being in the southerly right-of-way line for Seldom Seen Road;

Thence South 87° 30' 58" East, along the northerly line of said Lot 3410, a distance of 423.34 feet to an iron pin set;

Thence, South 02° 29' 02" West, crossing a portion of said Lot 3410, a distance of 167.85 feet to an iron pin set;

Thence, North 87° 30' 58" West, crossing a portion of said Lot 3410, a distance of 115.16 feet to an iron pin set;

Thence, South 02° 29' 02" West, crossing a portion of said Lot 3410, a distance of 122.24 feet to an iron pin set;

Thence, North 87° 30' 58" West, crossing a portion of said Lot 3410, a distance of 308.18 feet to an iron pin set;

Thence, North 02° 29' 02" East, with the westerly line of said 14.376 acres, a distance of 290.09 feet to the TRUE PLACE OF BEGINNING;

Containing 2.496 acres of land, more or less.

Subject to all easements, restrictions and rights-of-way of record.

Bearings are based on South 87°30'58" East, as given for the northerly line of Seldom Seen Acres, a subdivision of record in Plat Cabinet 2, Page 245, Recorder's Office, Delaware county, Ohio.

All iron pins set are 3/4" inch iron pipe with a yellow plastic cap stamped "HOY SURV. - P.S. 7313".

All references are to records of the Recorder's Office, Delaware County, Ohio.



  
 \_\_\_\_\_  
 David B. McCoy  
 Registered Professional Surveyor No. 7632

VOL 0651 PAGE 1017

**EXHIBIT B**

**DECLARATION ESTABLISHING CONDOMINIUM PROPERTY  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR**

**SELDOM SEEN ACRES CONDOMINIUM**

[Legal Description of Additional Property]

B-1



September 15, 2005

**DESCRIPTION OF CONDOMINIUM  
THE SELDOM SEEN ACRES CONDOMINIUMS**

Legal Description, Additional Property  
(21.246 Acres)

Situated in the Township of Liberty, County of Delaware, State of Ohio, located in portions of Lot 3410 in Seldom Seen Acres, a subdivision of record in Plat Cabinet 2, Slide 245 acres, said portions being comprised of: a) 11.880 acres, conveyed to Romanelli & Hughes Building Company in Official Record Volume 434, Page 1033 and b) 9.366 acres, conveyed to Edens of Powell Apartments, LLC, in Official Record Volume 453, Page 2090, for a total of 21.246 acres, said 21.246 acres being more particularly described as:

Commencing for reference at an iron pin found in the north line of said Lot 3410, the same being in the southerly right-of-way line for Seldom Seen Road;

Thence South 87° 30' 58" East, along the northerly line of said Lot 3410, a distance of 423.34 feet to an iron pin set at the TRUE PLACE OF BEGINNING;

Thence, from said TRUE PLACE OF BEGINNING, South 87° 30' 58" East, with the northerly line of said Lot 3410, a distance of 467.00 feet to an iron pin set at the northeasterly corner of said Lot 3410, the same being the northwesterly corner of Lot 3409 in said subdivision;

Thence, South 02° 29' 02" West, with the easterly line of said Lot 3410, a distance of 424.99 feet to an iron pin found;

Thence, South 87° 30' 58" East, with a southerly line of said Lot 3410, a distance of 402.74 feet to an iron pin found in the westerly right-of-way line of Sawmill Parkway;

Thence, with said right-of-way line, with the arc of a curve to the left, having a radius of 1275.00 feet, a delta angle of 07° 03' 52", a chord bearing of South 17° 37' 18" East and a chord of 157.11 feet to an iron pin found;

Thence, with said right-of-way line and with the northerly right-of-way-line of Sawmill Circle, with the arc of a curve to the right, having a radius of 20.01 feet, a delta angle of 88° 47' 16", a chord bearing of South 23° 14' 24" West and a chord of 27.99 feet to an iron pin found;

Thence, North 67° 38' 02" East, with said northerly right-of-way line, a distance of 12.82 feet to an iron pin found;

Thence, with said right-of-way line, with the arc of a curve to the right, having a radius of 61.50 feet, a delta angle of 54° 13' 15", a chord bearing of North 85° 15' 20" West and a chord of 56.05 feet to an iron pin found;

Thence, with said right-of-way line, with the arc of a curve to the left, having a radius of 95.00 feet, a delta angle of 99° 53' 38", a chord bearing of North 71° 54' 28" East and a chord of 145.44 feet to an iron pin found;

Thence, North 65° 55' 31" West, with a southerly line of said Lot 3410, a distance of 9.85 feet to an iron pin found;

Thence, North 87° 22' 07" West, with a southerly line of said Lot 3410, a distance of 947.36 feet to an iron pin found;

Thence, North 87° 22' 07" West, with a southerly line of said Lot 3410, a distance of 747.22 feet

to an iron pin found at the southwest corner of said Lot 3410;

Thence, North 02° 29' 02" East, with the westerly line of said Lot 3410, a distance of 645.00 feet to an iron pin found at the northwesterly corner of said Lot 3410, the same being in said southerly right-of-way line;

Thence, South 87° 30' 58" East, with the northerly line of said Lot 3410, a distance of 573.31 feet to an iron pin found;

Thence, South 02° 29' 02" East, crossing a portion of said Lot 3410, a distance of 290.09 feet to an iron pin set;

Thence, South 87° 30' 58" East, crossing a portion of said Lot 3410, a distance of 308.18 feet to an iron pin set;

Thence, North 02° 29' 02" East, crossing a portion of said Lot 3410, a distance of 122.24 feet to an iron pin set;

Thence, South 87° 30' 58" East, crossing a portion of said Lot 3410, a distance of 115.16 feet to an iron pin set;

Thence, North 02° 29' 02" East, crossing a portion of said Lot 3410, a distance of 167.85 feet to the TRUE PLACE OF BEGINNING;

Containing 21.246 acres of land, more or less.

Subject to all easements, restrictions and rights-of-way of record.

Bearings are based on South 87°30'58" East, as given for the northerly line of Seldom Seen Acres, a subdivision of record in Plat Cabinet 2, Page 245, Recorder's Office, Delaware county, Ohio.

All iron pins set are 3/4" inch iron pipe with a yellow plastic cap stamped "HOY SURV. - P.S. 7313".

All references are to records of the Recorder's Office, Delaware County, Ohio.



*David B. McCoy*  
\_\_\_\_\_  
David B. McCoy  
Registered Professional Surveyor No. 7632

EXHIBIT C

**DECLARATION ESTABLISHING CONDOMINIUM PROPERTY  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR**

**SELDOM SEEN ACRES CONDOMINIUM**

[Drawings]

**EXHIBIT D**  
**DECLARATION ESTABLISHING CONDOMINIUM PROPERTY**  
**UNDER OHIO REVISED CODE CHAPTER 5311 FOR**  
**SELDOM SEEN ACRES CONDOMINIUM**

**Unit Information**

<b>Unit Designation</b>	<b>Unit Address</b>	<b>Unit Type</b>	<b>Unit Value</b>	<b>Undivided Interest</b>
3766	3766 Echo Place Powell, Ohio 43065	Charleston	1	1/3rd
3758	3758 Echo Place Powell, Ohio 43065	Charleston	1	1/3rd
3750	3750 Echo Place Powell, Ohio 43065	Charleston	1	1/3rd
		<b>TOTALS</b>	<b><u>3</u></b>	<b><u>3/3rds or 100%</u></b>

EXHIBIT E

**DECLARATION ESTABLISHING CONDOMINIUM PROPERTY  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR  
SELDOM SEEN ACRES CONDOMINIUM**

Unit Types

<u>Type</u>	<u>Description</u>
Augustine	Town home style Unit consisting of two bedrooms, den/third bedroom, two and one-half bathrooms, living room, screened porch, dining area, kitchen, laundry room, and a two car garage, containing approximately 1,627 gross interior square feet, <sup>1</sup> together with a basement containing approximately 970 gross interior square feet.
Brunswick	Town home style Unit consisting of two bedrooms, den/third bedroom, two and one-half bathrooms, living room, screened porch, dining area, kitchen, laundry room, and a two car garage, containing approximately 1,627 gross interior square feet, <sup>1</sup> together with a basement containing approximately 970 gross interior square feet.
Charleston	Town home style Unit consisting of two bedrooms, two and one-half bathrooms, living room, dining area, kitchen, laundry room, screened porch and a two car garage, containing approximately 1,567 gross interior square feet, <sup>1</sup> together with a basement containing approximately 712 gross interior square feet.

<sup>1</sup> "Gross Interior Square Feet" means the area of space that constitutes a "Unit" and is measured from interior surfaces of exterior walls inward, and includes space occupied by interior partitions and the attached garage.

VOL 0651 PAGE 1023

**EXHIBIT F**

**DECLARATION ESTABLISHING CONDOMINIUM PROPERTY  
UNDER OHIO REVISED CODE CHAPTER 5311 FOR**

**SELDOM SEEN ACRES CONDOMINIUM**

[Sketch of Condominium Property and Additional Property  
showing physical relationship between the two]

VOL 0651 PAGE 1024

**EXHIBIT G**

**DECLARATION ESTABLISHING CONDOMINIUM PROPERTY**  
**UNDER OHIO REVISED CODE CHAPTER 5311 FOR**  
**SELDOM SEEN ACRES CONDOMINIUM**

**BYLAWS OF**  
**SELDOM SEEN ACRES CONDOMINIUM ASSOCIATION**  
**ALSO SERVING AS THE CODE OF REGULATIONS OF**  
**SELDOM SEEN ACRES CONDOMINIUM ASSOCIATION**

**BYLAWS INDEX**

**SECTION I: NAME AND LOCATION**.....1

**SECTION II: DEFINITIONS**.....1

**SECTION III: UNIT OWNERS (MEMBERS)** .....1

1. Composition .....1

2. Annual Meetings of the Unit Owners .....1

3. Special Meetings of the Unit Owners .....1

4. Notice of Meeting of Unit Owners .....1

5. Conduct of Meetings of Unit Owners .....2

6. Quorum .....2

7. Voting Rights .....2

8. Voting Power .....2

9. Proxies.....2

10. Unit Owner Action In Writing Without Meeting .....3

**SECTION IV: BOARD OF DIRECTORS**.....3

1. Initial Directors .....3

2. Successor Directors.....3

3. Increase in Number of Directors; Terms of Directors .....3

4. Removal.....4

5. Qualification .....4

6. Nomination .....4

7. Election .....4

8. Compensation .....4

9. Regular Meetings .....5

10. Special Meetings.....5

11. Quorum .....5

12. Voting Power .....5

13. Action in Writing Without Meeting.....5

14. Powers and Authority .....5

15. Duties .....6

16. Delegation of Authority; Management; Contracts.....7

**SECTION V: OFFICERS** .....8

1. Enumeration of Officers .....8

2. Selection and Term .....8

3. Special Appointments .....8

4. Resignation and Removal .....8

5. Duties .....8

**SECTION VI: COMMITTEES**.....9

**SECTION VII: BOOKS AND RECORDS**.....9

**SECTION VIII: AUDITS**.....10

**SECTION IX: FISCAL YEAR**.....10

**SECTION X: COMMON EXPENSES**.....10

**SECTION XI: COMMON PROFITS**.....10

**SECTION XII: AMENDMENTS**.....10

**BYLAWS OF**

**SELDOM SEEN ACRES CONDOMINIUM ASSOCIATION**  
**ALSO SERVING AS THE CODE OF REGULATIONS OF**  
**SELDOM SEEN ACRES CONDOMINIUM ASSOCIATION**

**SECTION I: NAME AND LOCATION**

The name of the Association is Seldom Seen Acres Condominium Association (the "Association"), which as a nonprofit corporation, is created pursuant to the provisions of Ohio Revised Code Chapter 1702 and is also created pursuant to the provisions of Ohio Revised Code Chapter 5311 as the unit owners' association for Seldom Seen Acres Condominium.

The principal office of the Association shall be as set forth in its Articles of Incorporation (the "Articles") filed with the Secretary of State of Ohio, and the place of meetings of Unit Owners (members) and of the Directors (Board of Directors) of the Association shall be anywhere in Ohio as the Board of Directors (the "Board") may designate.

**SECTION II: DEFINITIONS**

All of the terms used in this document ("Bylaws") shall have the same meanings as set forth in the Declaration Establishing Condominium Property Under Ohio Revised Code Chapter 5311 for Seldom Seen Acres Condominium (the "Declaration"), recorded simultaneously with these Bylaws with the Auditor and Recorder of Delaware County, Ohio.

**SECTION III: UNIT OWNERS (MEMBERS)**

1. Composition. Each Unit Owner, as defined in the Declaration, is a member of the Association.

2. Annual Meetings of the Unit Owners. Regular annual meetings of the Unit Owners shall be held in the second calendar quarter of each year, on a date and at an hour established by the Board, provided, that, in any event, there shall be no more than fourteen (14) months between annual meetings of the members.

3. Special Meetings of the Unit Owners. Special meetings of the Unit Owners may be called at any time by the president, by the Board, upon written request of Unit Owners entitled to exercise one-fourth (1/4) or more of the voting power of Unit Owners, or when required by the Condominium Act.

4. Notice of Meeting of Unit Owners. The secretary or person authorized to call the meeting will provide for written notice of each meeting of Unit Owners by mailing a copy of such notice, postage prepaid, at least five (5) days before such meeting, to each Unit Owner entitled to vote at such meeting. Alternatively, personal delivery of a copy of that notice to the appropriate address at least five (5) days before the meeting is acceptable service of the notice.

The notice shall be addressed to the Unit Owner's address either (a) last appearing on the books of the Association or (b) last supplied by that Unit Owner to the Association for the purpose of notice, whichever is most recent.

The notice shall specify the date, place, and hour of the meeting. Additionally, for special meetings, the notice shall indicate the specific purposes of the meeting, and, in the case of special meetings called by the petition and written request of Unit Owners, the specific motion or motions (other than procedural) to be voted upon must be indicated in the notice.

5. Conduct of Meetings of Unit Owners. The Board shall conduct all meetings of the Unit Owners, and the president of the Association shall preside over the same, unless otherwise directed by the Board. Roberts Rules of Order shall apply to the conduct of all meetings of Unit Owners except as otherwise specifically provided in the Condominium Organizational Documents or by law.

6. Quorum. The Unit Owners present, in person or by proxy, at any duly called and noticed meeting of the Association, shall constitute a sufficient quorum for that meeting.

7. Voting Rights. One vote is allocated to each Unit, exercisable as the Unit Owners of the undivided fee simple interest in that Unit determine.

Any owner of a fee simple interest of a Unit may cast the entire vote with respect to that Unit on any given matter, unless that vote is contested by a co-owner of that Unit. If the Owners of the fee simple interest in a Unit are unable to agree among themselves as to the vote to be cast with respect to that Unit on a particular matter, no vote shall be cast with respect to that Unit on that particular matter.

The Board may temporarily suspend a Unit's vote if any assessment, assessment installment, or portion of the same is overdue by thirty (30) days or more. Likewise, the Board may temporarily suspend a Unit's vote if that Unit's Occupants or Unit Owners have failed to observe any term of the Declaration, these Bylaws, or rules and regulations duly adopted by the Board, subject to the parameters set forth below.

8. Voting Power. Except as otherwise provided in the Condominium Organizational Documents or by law, a simple majority vote at any duly noticed and conducted meeting shall determine the matter voted upon.

9. Proxies. At any meeting of Unit Owners, a Unit Owner may vote in person or by proxy.

A Unit Owner shall notify the secretary in a dated writing to appoint a proxy for a particular meeting. A telegram or facsimile appearing to have been transmitted by a Unit Owner or a photographic, photocopy, or equivalent reproduction of a writing is sufficient to appoint a proxy. An electronic mail notice of proxy appointment, delivered to the secretary, shall be sufficient notice of proxy if that Unit Owner previously provided the Association a

personally-signed document verifying that the electronic mail address from which the proxy notice was received is, in fact, the Unit Owner's.

Every proxy shall be revocable and shall automatically cease upon conveyance of that Unit Owner's fee simple interest in that Unit. Every proxy shall cease to be valid after the expiration of eleven months after its making unless the proxy specifies a specific date on which it is to expire or a specific length of time it is to continue in force.

10. Unit Owner Action in Writing Without Meeting. Any action that could be taken by Unit Owners at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of Unit Owners or their proxies having not less than seventy-five percent (75%) of the voting power of all Unit Owners, or such greater proportion of the voting power as may be required by the Condominium Organizational Documents or by law.

#### **SECTION IV: BOARD OF DIRECTORS**

1. Initial Directors and Replacements. The initial Directors shall be those three (3) persons named as the initial Directors in the Articles. The Declarant reserves the right, at any time, to have the Unit Owners elect any or all Directors and for Declarant to turn over the functions or operation of the Association to the elected Directors.

2. Successor Directors. No later than sixty (60) days after the sale and conveyance by the Declarant of thirty-seven (37) Units, the Unit Owners shall meet, and the Unit Owners other than the Declarant shall elect one Director at that meeting to replace one Director Declarant designates to be replaced. The term of such Director shall be three (3) years.

3. Increase in Number of Directors; Terms of Directors. Within sixty (60) days after the earlier of (a) three (3) years from the date of the establishment of the Association, and (b) the sale and conveyance, to purchasers in good faith and for value, of one hundred nine (109) Units; the Association shall meet and from and after that date the Board shall consist of five (5) Directors. At that meeting, a new Board will be elected (at which time control of the Association shall be considered to be "turned over to the Unit Owners") and all Unit Owners, including the Declarant, shall elect the five (5) new Directors. The persons so elected shall take office at the end of the meeting during which they are elected and shall, as soon as reasonably possible, appoint officers. The terms of the five (5) Directors shall be staggered so that the terms of at least one-fifth (1/5) of the Directors will expire and successors be elected at each annual meeting of the Association. Thereafter, at such annual meetings, successors to the Directors whose terms then expire shall be elected to serve three-year terms. (By way of example, at this meeting one Director could be given a one-year term, two Directors a two-year term, and two Directors a three-year term. As a result, every third annual meeting only one new Director will be elected, and two new Directors will be elected during each of the other two annual meetings.)

Notwithstanding the foregoing, Declarant shall have the right at any time to waive its right to select one or more Directors or to vote in an election of Directors.

4. Removal. Excepting only Directors named in the Articles or selected by Declarant, any Director may be removed from the Board with or without cause, by the holders of not less than seventy-five percent (75%) of the votes at any special meeting. In the event of the death, resignation, or removal of a Director other than one named in the Articles or a substitute to the same selected by the Declarant, that Director's successor shall be selected by the remaining members of the Board and shall serve until the next annual meeting of Unit Owners, when a Director shall be elected to complete the term of such deceased, resigned, or removed Director.

In the event all Directors are removed, the Unit Owners shall, at the meeting at which all Directors are removed, elect Directors to complete the terms of the removed Directors. As long as Declarant controls the Condominium, Declarant shall have the sole right to remove, with or without cause, any Director designated in the Articles, or a substitute selected by the Declarant. Likewise, the Declarant may select the successor of any Declarant-selected Director who dies, resigns, is removed, or leaves office for any reason before the election of Directors by all of the Unit Owners, as provided in the Declaration.

5. Qualification. To qualify for nomination, election, or appointment as a Director (other than being selected by the Declarant), the prospect must be an individual who is a Unit Owner or co-owner of a Unit, the spouse of a Unit Owner or co-owner of a Unit, or a designated officer or principal of an entity that is a Unit Owner. Further, that Unit Owner or co-owner of a Unit or the Unit Owner of such spouse must not then be delinquent in the payment of any obligation to the Association or be an adverse party to the Association, its Board, or any member of the Board (in that member's capacity as a Board member) in any litigation.

6. Nomination. Nominations for the election of Directors to be elected by the Unit Owners shall be made by a nominating committee appointed by the Board, or, if the Board fails to appoint a nominating committee, by the Board itself. Nominations may also be made from the floor at a meeting. The nominating committee, or Board, shall make as many nominations for election to the Board as it shall, in its sole discretion, determine, but no fewer than the number of vacancies that are to be filled.

7. Election. Unless there are no more nominees than vacancies, election to the Board by the Unit Owners shall be by secret written ballot. At the elections, the Unit Owners or their proxies may cast, in respect to each vacancy, the number of votes as they are entitled to under the provisions of the Declaration. The Persons receiving the largest number of votes shall be elected, and, likewise, those receiving the largest number of votes shall be elected to the longest terms, if applicable. In cases of ties, the winner shall be determined by lot. Cumulative voting is not permitted.

8. Compensation. Unless otherwise determined by the Unit Owners at a meeting duly called and noticed for such purpose, no Director shall receive compensation for any service rendered to the Association as a Director. However, any Director may be reimbursed actual expenses incurred in the performance of duties as a Director.

9. Regular Meetings. Regular meetings of the Board shall be held on such dates and at such places and times as may be fixed from time to time by resolution of the Board, but not less than quarterly.

10. Special Meetings. Special meetings of the Board shall be held when called by the president of the Board, or by a majority of the Directors, after not less than three days' notice to each Director.

11. Quorum. The presence at any duly called and noticed meeting of Directors of Directors consisting of a simple majority, in person, by proxy, and/or by participation by any method of communication, including electronic, telephonic, by computer, or otherwise, as long as each member of the Board can hear, participate, and respond, shall constitute a quorum for that meeting.

12. Voting Power. Each Director shall be entitled to a single vote, and, except as otherwise provided in the Condominium Organizational Documents or by law, vote of a simple majority of the Directors voting on any matter that may be determined by the Board at a duly called and noticed meeting at which a quorum is present, shall be sufficient to determine that matter.

13. Action in Writing Without Meeting. Any action that could be taken by the Board at a meeting may be taken without a meeting with the affirmative vote or approval, in a writing or writings, of all of the Directors.

14. Powers and Authority. The Board shall exercise all powers and have all authority, under law, and under the provisions of the Condominium Organizational Documents, that are not specifically and exclusively reserved to the Unit Owners by the Condominium Organizational Documents or by law, and without limiting the generality of the foregoing, the Board shall have the right, power, and authority to:

a. take all actions deemed necessary or desirable to comply with or to cause compliance with all requirements of law and the Condominium Organizational Documents;

b. obtain insurance coverage and bonds in amounts no less than that required pursuant to the Declaration;

c. enforce the covenants, conditions, and restrictions set forth in the Declaration;

d. repair, maintain, and improve the Common Elements;

e. establish, enforce, levy, and collect: assessments, late fees, delinquent interest and such other charges as are provided for in the Declaration and adopt, publish, and enforce rules and regulations concerning the same;

f. adopt and publish rules and regulations governing the use of the Common Elements and the personal conduct of Unit Owners, Occupants, and their guests on the same;

g. suspend the voting rights of a Unit Owner during any period in which the Unit Owner shall be in default in the payment of any assessment (such rights may be suspended after notice and hearing, for a period not to exceed sixty (60) days for each infraction of published rules and regulations or of any provisions of the Condominium Organizational Documents);

h. declare the office of a member of the Board to be vacant in the event such Director shall be absent from three consecutive regular meetings of the Board;

i. subject to such approvals, if any, as may be required pursuant to the provisions of the Condominium Organizational Documents, authorize the officers to enter into one or more agreements necessary or desirable to fulfill the purposes and objectives of the Association, including, without limitation: management agreements, purchase agreements, and loan documents, all on such terms and conditions as the Board in its sole discretion may determine, subject to the Declaration;

j. cause funds of the Association to be invested in such reasonable investments as the Board may from time to time determine;

k. borrow funds, as needed, and pledge such security and rights of the Association as might be necessary or desirable to obtain any such loan; and

l. do all things and take all actions permitted to be taken by the Association by law or the Condominium Organizational Documents not specifically reserved to others.

15. Duties. It shall be the duty of the Board to:

a. cause to be kept a complete record of all its acts and corporate affairs and to present a statement of the same to the Unit Owners at each annual meeting of Unit Owners, or at any special meeting when such statement is requested in writing by Unit Owners representing one-half (1/2) or more of the votes of Unit Owners;

b. supervise all officers, agents, and employees of the Association and verify that their duties are properly performed;

c. prepare or cause an annual budget to be prepared;

d. as more fully provided in the Declaration; establish, levy, enforce, and collect assessments;

e. issue, or to cause an appropriate representative to issue, upon demand by any person, a certificate of assessment payment status;

f. procure and maintain insurance and bonds, as provided in the Declaration and as the Board deems advisable;

g. maintain the Condominium Property, subject to the Association's jurisdiction, within the scope of authority provided in the Declaration;

h. cause the restrictions created by the Declaration to be enforced;

i. take all other actions required to comply with all requirements of law and the Condominium Organizational Documents; and

j. Prior to imposing a charge for damages or an enforcement assessment as permitted by the Act, as amended, the Board of Directors shall give the Unit Owner or Owners written notice that includes:

(i) a statement of the facts giving rise to the proposed charge or enforcement assessments, including, if applicable, a description of the property, damage, or the violation of the restriction, rule or regulation allegedly violated;

(ii) the amount of the proposed charge or enforcement assessment;

(iii) a statement that the Unit Owner has a right to a hearing before the Board to contest the proposed charge or enforcement assessment by delivering to the Board a written notice requesting a hearing within ten days after the Unit Owner receives written notice of the proposed charge or enforcement assessment; and

(iv) in the case of a charge for violation of a restriction, rule or regulation, a reasonable date by which the Unit Owner must cure the alleged violation to avoid the proposed charge or enforcement assessment.

The notice by the Board given pursuant to the foregoing may be delivered personally to the Unit Owner to whom a charge or enforcement assessment is proposed to be charged, or an Occupant of that Owner's Unit, by certified mail, return receipt requested, or by regular mail. In the event that, after such hearing, the Board determines to levy the charge or enforcement assessment proposed, the Board shall deliver to the Unit Owner written notice thereof within thirty (30) days of the date of that hearing.

16. Delegation of Authority; Management; Contracts. The Board may delegate all or any portion of its authority to discharge its responsibilities to a managing agent. This delegation of authority and responsibility to a managing agent may be evidenced by one or more management contracts which may provide for the payment of reasonable compensation to such managing agent as a common expense; provided, however, that any agreement for professional management shall be terminable by the Association for cause on thirty (30) days' written notice; shall be terminable by either party without cause and without penalty, on written notice of ninety (90) days or less; and shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing, provided that, in the case of any professional management contract entered into before control of the Association is vested in Unit Owners other than Declarant, the contract must give the Association the right to terminate it without

cause and without penalty at any time after control of the Association has been transferred to or assumed by Unit Owners other than Declarant.

Subject to the foregoing, nothing contained in these Bylaws shall preclude Declarant or any other entity designated by Declarant, from being employed as managing agent. The managing agent, or the Board if there is no managing agent, shall have the authority to enter into contracts with Declarant or an affiliate of Declarant, as defined by an institutional first mortgagee or an agency or organization which purchases, insures, or guarantees first mortgages for goods, services, or for any other thing, including, but not limited to contracts for maintenance and repair services, provided the same are bona fide and commercially reasonable to the Unit Owners. In any case, no management contract or agreement by the Association executed prior to the assumption of control of the Association by Unit Owners other than Declarant shall extend subsequent to that assumption of control unless renewed by the Board pursuant to the provisions of these Bylaws.

### **SECTION V: OFFICERS**

1. **Enumeration of Officers.** The officers of this Association shall be a president, a vice president, a secretary, a treasurer, and any other officers as the Board may from time to time determine. No officer need be a Unit Owner or Director of the Association. The same person may hold more than one office.

2. **Selection and Term.** Except as otherwise specifically provided in the Declaration or by law, the officers of the Association shall be appointed by the Board to serve until the Board appoints their successors. There is no set term for any officer.

3. **Special Appointments.** The Board may appoint any other officers as the affairs of the Association may require; each of whom shall hold office for the period, have the authority, and perform the duties determined by the Board.

4. **Resignation and Removal.** Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the president, or the secretary. Such resignation shall take effect when the notice is received or at any later time specified in the notice. The acceptance of a resignation shall not be necessary to make it effective.

5. **Duties.** The duties of the officers shall be as the Board may from time to time determine. Unless the Board otherwise determines, the duties of the officers shall be as follows:

a. **President.** The president shall preside at all meetings of the Board, have the authority to see that orders and resolutions of the Board are carried out, and sign all legal instruments on behalf of the Association.

b. **Vice President.** The vice president shall act in the place and stead of the president in the event of the president's absence or refusal to act. Further, the Vice President shall chair all committees of the Association.

c. **Secretary.** The secretary shall record the votes and keep the minutes and proceedings of meetings of the Board and of the Unit Owners. Further, the secretary shall serve notice of meetings of the Board and of the Unit Owners and keep appropriate current records showing the names of Unit Owners of the Association together with their addresses.

d. **Treasurer.** The treasurer shall receive, deposit (in bank accounts and investment of funds in other vehicles as the Board directs), and disburse funds as directed by the Board. Further, the treasurer shall keep proper books of account, prepare a proposed annual budget, and finalize statements of income and expenditures to be presented to the Unit Owners at annual meetings.

#### **SECTION VI: COMMITTEES**

The Board shall appoint a nominating committee and may appoint such other committees as it deems appropriate in carrying out its purposes.

#### **SECTION VII: BOOKS AND RECORDS**

The books, records, and financial statements of the Association, including current copies of the Declaration, Bylaws, Articles and effective rules and regulations, shall be available during normal business hours or under other reasonable circumstances, upon request to the Association, for inspection by Unit Owners, lenders, and the holders, insurers, and guarantors of first mortgages on Units, pursuant to reasonable standards established from time to time by the Board by rule, including, but not limited to, standards governing the type of documents that are subject to examination and copying, the times and locations at which those documents may be examined or copied, and the specification of a reasonable fee for copying the documents; provided, further, that the Board shall not be required to permit the examination and copying of materials and information permitted to be excluded from examination and copying under the Condominium Act or the disclosure of which is prohibited by the laws of the State of Ohio or of the United States of America. Likewise, during normal business hours or under other reasonable circumstances, the Association shall make available to prospective purchasers current copies of the Declaration, Bylaws, Articles, effective rules and regulations, and the most recent annual audited financial statement, if such is prepared.

Within thirty (30) days after a Unit Owner obtains a Unit, the Owner shall provide the Board with the home address, home and business mailing addresses, and home and business telephone numbers of the Unit Owner and all Occupants of the Unit, as well as the name, business address, and business telephone number of any person who manages the Owner's Unit as an agent of that Owner. In addition, within thirty (30) days after a change in any of the above information, a Unit Owner shall notify the Association, through the Board, in writing of such change. When the Board requests, a Unit Owner shall verify or update the information listed in this paragraph.

**SECTION VIII: AUDITS**

The Board shall cause the preparation and furnishing of an audited financial statement of the Association for the immediately preceding fiscal year, in the following circumstances:

1. to each requesting Unit Owner, at the expense of the Association, upon the affirmative vote of Unit Owners exercising a majority of the votes of Unit Owners within a reasonable time after request;
2. to each holder, insurer, or guarantor of a first mortgage on a Unit who requests the same, in writing, within a reasonable time, provided the audit, if an audited statement is not already available, shall be prepared at the expense of such requesting party;
3. during such time, if ever, that the Condominium contains fifty (50) or more Units, to each holder, insurer, or guarantor of a first mortgage on a Unit who makes written request therefor, within one hundred twenty (120) days of the Association's fiscal year end, at the expense of the Association; and
4. as otherwise required by law.

**SECTION IX: FISCAL YEAR**

Unless otherwise changed by the Board, each fiscal year of the Association shall begin on the first day of January and terminate at the end of the 31<sup>st</sup> day of December of that year, except that the first fiscal year shall begin on the date of incorporation of this Association and terminate at the end of the next following 31<sup>st</sup> day of December.

**SECTION X: COMMON EXPENSES**

Common expenses shall be allocated and assessed as directed in the Declaration.

**SECTION XI: COMMON PROFITS**

Common profits shall be handled and/or disbursed as directed in the Declaration.

**SECTION XII: AMENDMENTS**

Any modification or amendment of these Bylaws shall be made only by means of an amendment to the Declaration, in the manner and subject to the approvals, terms, and conditions set forth in the Declaration. Those amendments shall be effective from the time a certificate setting forth such modification or amendment is delivered for filing with the Delaware County, Ohio Auditor and recording with the Delaware County, Ohio Recorder.