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Hamilton County Auditor

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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
THE BELVEDERE CONDOMINIUM**

This will certify that a copy of the Amended and Restated Declaration of Condominium Ownership for The Belvedere Condominium has been filed in the office of the County Auditor, Hamilton County, Ohio, this _____ day of _____, 2021.

HAMILTON COUNTY AUDITOR

By: _____
Printed: _____

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HAMILTON COUNTY ENGINEER
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**AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
THE BELVEDERE CONDOMINIUM**

WHEREAS, the Declaration of Condominium Ownership for The Belvedere Condominium (hereinafter, "1981 Declaration") was recorded on May 1, 1981 in Official Record Book 4210, Page 174-270 of the Hamilton County, Ohio records;

WHEREAS, the By-Laws of The Belvedere Condominium ("By-Laws") were recorded as Exhibit B to the 1981 Declaration;

WHEREAS, Amendment No. 1 to the 1981 Declaration was recorded on June 22, 1981 in Official Record Book 4213, Page 1400-1411 of the Hamilton County, Ohio Recorder's Office; and

WHEREAS, the Second Amendment to the 1981 Declaration was recorded on January 20, 1984 in Official Record Book 4277, Page 835-900 of the Hamilton County, Ohio Recorder's Office; and

WHEREAS, Amendment No. III to the 1981 Declaration was recorded on February 20, 1985 in Official Record Book 4307, Page 183-185 of the Hamilton County, Ohio Recorder's Office and was re-recorded on March 18, 1985 in Official Record Book 4308, Page 1643-1645; and

WHEREAS, an Amendment to the By-Laws was recorded on December 14, 1987 in Official Record Book 4398, Page 497-510 of the Hamilton County, Ohio Recorder's Office; and

WHEREAS, Amendment No. 4 to the 1981 Declaration was recorded on October 2, 2000 in Official Record Book 8384, Page 1806-1811 of the Hamilton County, Ohio Recorder's Office; and

WHEREAS, Amendment No. 5 to the 1981 Declaration was recorded on February 26, 2004 in Official Record Book 9546, Page 1811-1833 of the Hamilton County, Ohio Recorder's Office; and

WHEREAS, Amendment No. 6 to the 1981 Declaration was recorded on May 12, 2017 in Official Record Book 13416, Page 1194-1200 of the Hamilton County, Ohio Recorder's Office; and

WHEREAS, Amendment No. 7 to the 1981 Declaration was recorded on August 8, 2019 in Official Record Book 13976, Page 759-765 of the Hamilton County, Ohio Recorder's Office and was rescinded by a recording on September 9, 2019 at Official Record Book 13997, Page 2165-2167; and

WHEREAS, Amendment No. 7 to the 1981 Declaration was recorded on September 9, 2019 in Official Record Book 13997, Page 2168-2174;

WHEREAS, the 1981 Declaration, By-Laws and all amendments thereto are binding on all owners of the properties described in Exhibit "A1" attached hereto; and

WHEREAS, pursuant to Article XII of the 1981 Declaration, at least seventy-five percent (75%) of the voting power of the Association has voted in favor of this Amended and Restated Declaration, and the consents and non-consents of all mortgagees are attached as Exhibit "B" hereto;

THEREFORE, pursuant to Article XII of the 1981 Declaration, the 1981 Declaration is hereby amended and restated as follows:

ARTICLE I.

DEFINITIONSThe terms defined in this Section shall have the meanings specified, except as herein otherwise expressly provided.

- A. Association-Owned Property:** The three (3) parcels of real estate owned by the Association described in Section E, which are not part of the Common Element and not part of the Condominium Property.
- B. Board of Directors:** Those individuals elected and charged with the responsibility of administration of the Association.
- C. By-Laws:** The By-Laws governing the Association, attached as Exhibit "D" and made a part hereof.
- D. Common Assessment:** That portion of the Common Expenses to be paid proportionately by each Unit Owner and all other expenses chargeable to a Unit Owner.
- E. Common Element:** Means and includes, unless otherwise provided in the Declaration, all parts of the Condominium Property except those portions described herein as constituting a Unit or Units, including, but not limited to the following:
 - i.** The land described in the Declaration;
 - ii.** All other areas, facilities, places, and structures which are not part of a Unit, including, but not limited to:
 - a.** The foundations, columns, girders, beams, supports, supporting walls, roof, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the building or buildings;
 - b.** The basement, yards, gardens, storage areas and elevators;

- c. Installation of common services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, and incineration;
 - d. The tanks, pumps, motors, fans, compressors, ducts, and in general, all apparatus and installations existing for the common use of the Unit Owners;
 - e. Such community and commercial facilities, if any, as may be provided for in this Declaration;
 - f. All other parts of the Condominium Property necessary or convenient to its existence, maintenance, and safety, for normal and common use, or which have been designated as Common Element in the Declaration or Drawings.
 - g. The Association-Owned Property is not Common Element.
- F. Common Expenses:** Those expenses designated as such in Chapter 5311 of the Ohio Revised Code or in accordance with the provisions of the Declaration, as well as expenses necessary for the maintenance, administration, repair and replacement of the Condominium Property and any other property owned by the Association which is not Common Element, including, specifically, 889 Clinton Springs Avenue (Parcel 111-0005-0005-00); 891 Clinton Springs Avenue (Parcel 111-0005-0004-00); and property on Rose Hill Avenue (Parcel 111-0003-118-00), described in Exhibits A-2, A-3, and A-4 hereto (hereinafter the "Association-Owned Property"). Common Expenses shall further include the costs to maintain the green space within the Mitchell Triangle Park located at 898 Clinton Springs Avenue/3919 Rose Hill Avenue (Parcel 111-0003-0007-90).
- G. Common Loss:** For any period of time means the amount by which the Common Expenses exceed the total income, rents, profits, receipts and revenues from the Common Element for said period.
- H. Common Profits:** For any period of time means the amount by which the total income, rents, profits, receipts and revenues from the Common Element exceed the Common Expenses for said period.
- I. Condominium Property:** Means and includes the land, together with all buildings, improvements, and structures thereon, all easements, rights and appurtenances belonging thereto, and articles of personal property existing for the common use of Unit Owners, with the exception of the Association-Owned Property.

- J. Declaration:** Means this instrument by which the real property is submitted to the provisions of Chapter 5311 of the Ohio Revised Code and any exhibits, supplements or amendments thereto.
- K. Drawings:** Means the drawings prepared in accordance with Section 5311.07 of the Ohio Revised Code, and which are designated to show graphically all the particulars of the building or buildings, including, but not limited to the layout, location, designation and dimensions of each Unit as well as Common Element. The plans and drawings are filed with the Hamilton County Auditor and Recorder at Plat Book 229, Pages 11-25 and were prepared and certified by Richard Tweddell, registered architect, and Charles Goldick, registered engineer. The Drawings were subsequently amended by the following documents recorded at Plat Book 243, Page 39; Plat Book 355, Pages 88-92; Plat Book 382, Page 56; and Plat Book 458, Page 100.
- L. Occupant:** Any person or persons, natural or artificial, in possession of a Unit.
- M. Unit:** Means a single freehold estate and a part of the Condominium Property consisting of one or more rooms on one or more floors of a building or building and designated as a Unit in the Declaration and delineated on the Drawings. Unless otherwise provided in the Declaration or Drawings, a Unit shall consist of all space bounded by the undecorated interior surfaces of the interior walls, floors and ceilings of such Unit, including, without limitation, any finishing material applied to the interior surfaces of perimeter walls, ceilings and floors such as paint, lacquer, varnish, wallpaper, paneling, tile, carpet, as well as all existing appliances, if any, such as ranges, dishwashers, refrigerators, garbage disposals, trash compactors, water heaters, air conditioners, heating systems and control devices. Any drains, sinks, plumbing, electrical fixtures, or utility lines which do not serve any other Unit and any other parts of the building within the boundaries of the Unit are considered part of that Unit.
- Ownership of a Unit includes an undivided interest in the Common Element appurtenant to it in the percentage that is expressed in Exhibit B hereto. Ownership of a Unit includes the right to exclusive possession, use, and enjoyment of the interior surfaces of all its perimeter walls, floors, ceilings and of all supporting walls, fixtures, and other parts of the building within its boundaries, including the right to paint, tile, wax, paper, or otherwise finish, refinish, or decorate the Unit.
- N. Unit Owner:** Any person or persons, natural or artificial, owning the fee simple estate in a Unit.
- O. Unit Owners Association:** The Belvedere Condominium Unit Owners Association, Inc., being an Ohio corporation not for profit, an organization of all the Unit Owners which is specifically established pursuant to Section 5311.01(DD) of the Ohio Revised Code to administer the Condominium Property.

ARTICLE II.
NAME

The Condominium Property subject to this Declaration shall be known as The Belvedere Condominium.

ARTICLE III.
THE PURPOSE OF AND RESTRICTIONS ON USE AND OCCUPANCY OF
CONDOMINIUM PROPERTY

1. **Purpose.** The Belvedere Condominium was built for the primary purpose of providing residential housing for the owners of eighty-three (83) residential Units situated therein.

2. **Restrictions.**

- A. **Use of Unit:** A Unit Owner may use a portion of his Unit for his office or studio provided that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Owner or occupant; and provided further that such activities do not involve the personal services of any Unit Owner or occupant to a customer, or other person or client who comes to the Condominium Property; and provided further that in no event shall any part of the property be used as a school or music studio.
- B. **Obstruction of Common Element:** There shall be no obstruction of, nor shall anything be stored in the Common Element without the prior written consent of the Association. Each Unit Owner shall be obligated to maintain and keep in good order and repair his own Unit.
- C. **Hazardous Uses and Waste:** Nothing shall be done or kept in any Unit or in the Common Element which will increase the rate of insurance of the building or contents thereof without the prior written consent of the Association. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Element which would result in the cancellation of insurance on the building or contents thereof or any part of the Common Element, or which would be in violation of any law. No waste shall be committed in the Common Element.
- D. **Exterior Surfaces of Buildings:** Unit Owners shall not cause or permit anything to be hung or displayed on the outside or inside of windows other than curtains or blinds or placed on the outside walls of any building, and no sign, awning, canopy, shutter or radio or television antenna or other device shall be affixed to or placed upon exterior walls or roof of any building or any part thereof, without the prior consent of the Association.
- E. **Animals and Pets:** No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Element, except that dogs,

cats, or other domestic household pets may be kept in Units, provided that they shall not be permitted to run loose and provided that they are not raised, kept, bred, or maintained for any commercial purpose. Dogs, cats or other household pets must be kept within the confines of the Unit, except when being held on hand leash by the person attending the animal. A Unit Owner shall be responsible for cleaning up after his household pet. A Unit Owner shall not be permitted to have more than two (2) household pets at any given time. Notwithstanding the above, the Association shall have the right to promulgate rules and regulations pertaining to the size, number and type of such household pets and the right to levy Enforcement Assessments against persons who do not clean up after their pets. Additionally, the right of an occupant to maintain an animal in a Unit shall be subject to termination if the Board, in its full and complete discretion, determines that maintenance of the animal constitutes a nuisance or creates a detrimental effect on the Condominium Property or other Units or occupants, upon three (3) days written notice from the Board of Directors.

- F. Nuisances:** No noxious or offensive activity shall be carried on in any Unit or in the Common Element; nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to any other Unit Owners or occupants.
- G. Impairment of Structural Integrity of Building:** Nothing shall be done in any Unit or in, on or to the Common Element which would impair the structural integrity of the building or would structurally change any building.
- H. Laundry or Rubbish in Common Element:** No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Element, and the Common Element shall be kept free and clear of rubbish, debris and other unsightly materials.
- I. Storage in Common Element:** There shall be no placement of personal property on any part of the Common Element except in accordance with rules and regulations adopted by the Association.
- J. Prohibited Activities:** No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration, or otherwise shall be conducted, maintained or permitted on any part of the Condominium Property.
- K. Alteration of Common Element:** Nothing shall be altered or constructed in or removed from the Common Element except as otherwise provided in this Declaration and except upon the written consent of the Association.
- L. Rental of Units:** In order to (i) protect the equity of the individual Unit Owners within the Condominium Property; (ii) to carry out the purposes for which the

Condominium Property was formed by preserving the character of the Condominium Property as a residential neighborhood of predominantly owner-occupied Units and by preventing the Condominium Property from assuming the character of a renter-occupied apartment complex; and (iii) to comply with the eligibility requirements for financing in the secondary mortgage market, insofar as such criteria provides that the project be substantially owner-occupied, leasing of residential Units shall be governed by the restrictions imposed by this Section which shall be effective upon the recording date of this Declaration (the "Effective Date"). Except as otherwise provided in this Section, beginning on the Effective Date, the total number of residential Units leased shall not exceed fifteen (15). Owners who are leasing their Units on the Effective Date shall be permitted to continue to lease their Units, subject to the herein contained conditions, and shall be counted or accrued toward the calculation of the leasing cap described herein. Upon the conveyance of title of such a Unit by any conveyance method whatsoever, the new Unit Owner may only lease the Unit if the leasing cap has not been exceeded.

Notwithstanding this restriction on leasing, the Board shall be empowered to make exceptions to this restriction in order to allow reasonable leasing of any Unit to avoid undue hardship, including but not limited to: (i) where a Unit Owner must relocate his residence away from the greater Cincinnati, Ohio area or any adjoining county and cannot within ninety (90) days from the date the Unit was placed on the market, sell the Unit for the current appraised market value after having made reasonable effort to do so; (ii) where the Unit Owner dies and the Unit is being administered by his estate; and (iii) where the Unit Owner takes a leave of absence or temporarily relocates and intends to return to reside at the Unit, in which case the Unit Owner must reapply at the end of each lease term for renewal of the hardship exception.

The occupancy of a Unit by an immediate family member of the Owner(s) shall not be prohibited by the leasing restriction set forth above and shall not be included in the allowable number of leased Units. "Immediate family" shall mean the spouse, father, mother, brother, sister or children of the Owner(s). The Board reserves the right to require proof of such relationship.

The Board shall have the power to make and enforce reasonable rules and regulations and to levy Enforcement Assessments in accordance with the Declaration and By-Laws for violations of the provisions of this Section. Any transaction which does not comply with this Section shall be void unless subsequently approved by the Board in writing.

Except as otherwise provided herein, every lease on every Unit in the Condominium Property is subject to the following rules and regulations, regardless of whether such provisions are set forth in the lease:

- i.** prior to offering a Unit for lease, the Unit Owner shall contact the management company for the Association in order to determine whether or not the leasing of the Unit would violate the restriction set forth in this Section;
- ii.** the lease must be for the entire Unit;
- iii.** the lease must be for a minimum period of not less than six (6) months. Renewals can be for any length;
- iv.** the use of the leased premises is subject to the Declaration, the By-Laws and the Rules and Regulations for the Condominium Property;
- v.** within thirty (30) days of occupancy by the tenant, the name and telephone number of the tenant, together with a clear and complete copy of the lease, must be furnished to the management company of the Association;
- vi.** the Unit cannot be used as a motel or hotel or otherwise for transient tenants; Daily, weekly and monthly, high turnover rentals, leases and/or subleases are strictly prohibited. AirBNB, vrbo, and similar daily/short term rentals are also strictly prohibited.
- vii.** if any Unit Owner (landlord) or tenant is in violation of any of the provisions of the Declaration or By-Laws, or both, including any Rules and Regulations, the Association may bring an action in its own name or in the name of the Unit Owner, or both, to have the tenant evicted, or to recover damages, or both. If the court finds that the tenant is violating or has violated any of the provisions of the Declaration, the By-Laws, or the Rules and Regulations, the court may find the tenant guilty of forcible detainer despite the fact that the Unit Owner is not a party to the action and/or that the tenant is not otherwise in violation of tenant's lease or other rental agreements with the Unit Owner. For purposes of granting the forcible detainer against the tenant, the court may consider the Unit Owner a person in whose name a contract (the lease or rental agreement) was made for the benefit of another (the Association). The remedy provided by this subsection is not exclusive and is in addition to any other remedy or remedies available to the Association. If permitted by present or future law, the Association may recover all of its costs, including court costs and reasonable attorney's fees, and these costs shall be a continuing lien on the Unit that shall bind the Unit in the hands of the then Unit Owner and the Unit Owner's successors and assigns. The Association shall give the tenant and the Unit Owner written notice of the nature of the violation of the Rules, and twenty (20) days from the mailing of the notice in which to cure the violation before the Association may file for eviction.

By becoming a tenant, each tenant agrees to be bound by the Declaration, the By-Laws and the other Rules and Regulations of the Condominium Property, and recognizes and accepts the right and power of the Association to evict the tenant for any violation by the tenant of the Declaration, the By-Laws and the other Rules and Regulations of the Condominium Property.

The Association shall keep a list of all leased residential Units. The Association shall also note whether the leased residential Units are a result of undue hardship on the Unit Owner. In the event that fifteen (15) of the eighty-three (83) Units are leased, the Board shall deny the leasing of any additional residential Units, unless one of the exceptions to such restriction is applicable.

Any lease shall provide that the violation of any provision of the Declaration, By-Laws or the other Rules and Regulations of the Condominium Property shall constitute a default under the lease giving the Association the right to evict the tenant. In the event such lease does not include such provision, then by means of this covenant on the Condominium Property and Unit, such provision shall be deemed automatically included in such lease.

To protect first mortgage lenders and to encourage first mortgage lenders to make loans on Units in the Condominium Property, only subsections (iv) and (v) of this Section shall apply to a first mortgage lender who has title to the Unit through (a) foreclosure of its first mortgage on the Unit; or (b) a deed in lieu of foreclosure on its first mortgage on the Unit. Any subsequent purchaser from the first mortgage lender is subject to all of the Rules and Regulations.

- M. Nondiscrimination:** No Owner, or any employee, agent, or representative thereof, shall discriminate upon the basis of sex, race, color, creed, marital status or national origin in the sale, lease, or rental of any Unit nor in the use of the Common Element.
- N. Parking:** No parking spaces other than those specifically designated for parking in the Declaration, if any, or the Drawings or on the Association-Owned Property shall be used for parking of any vehicle. No parking of any truck, boat, camper, trailer, recreational vehicle, unlicensed vehicle, or any other commercial or inoperable vehicle shall be allowed on any portion of the Condominium Property or the Association-Owned Property except as authorized by the Association. The Board of Directors shall have the authority, by enacting a Rule, to define the word "truck."

ARTICLE IV.
GENERAL DESCRIPTION OF CONDOMINIUM PROPERTY

- 1. General.** The Condominium Property consists of the property described in Exhibit "A-1" and all buildings or other improvements located thereon, including, without limitation, eighty-three (83) Units, all easements, rights and appurtenances belonging thereto, and all articles of personal property existing thereon for the common use of Unit Owners.
- 2. Description of Building.** The building is done in brick architecture, and is graphically represented in the Drawings. Principal materials of construction include brick, stone, glass and wood.
- 3. Description of Units.** The Units are defined in Article 1, Paragraph 13 hereof, and the layouts, designations and locations are shown graphically in the Drawings. Access to all of the Units is gained at ground level. As the Drawings were prepared in 1984, it is possible that they may not now accurately depict the layout of each Unit, as over time, the Unit Owners may have remodeled their Units. The Units are further identified in Exhibit B attached hereto.
- 4. Description of Common Element.** The entire balance of the Condominium Property and improvements thereon other than a Unit, including but not limited to all buildings, foundations, roofs, main and supporting walls, storage spaces, community and commercial facilities, pumps, trees, lawns, gardens, pavements and sidewalks, exterior balconies, if any, wires, conduits, utility lines and ducts now or hereafter situated on the Condominium Property are hereby declared and established as Common Element and as further defined in Article 1, Paragraph 5 hereof. Specifically, all electric fixtures, utility pipes and lines, faucets, plugs, connections or fixtures as defined by the laws of the State of Ohio and all replacements thereof shall be a part of the Common Element.
- 5. Ownership and Use of Common Element.** Each Unit Owner shall own an individual interest in the Common Element as a tenant in common with all other such Unit Owners, and, except as otherwise limited in this Declaration and in the By-Laws attached hereto, shall have the right to use the Common Element for all purposes incident to the use and occupancy of this Unit as a place of residence and such other incident uses permitted by this Declaration and the By-Laws, including the nonexclusive easement, together with other Unit Owners, to the use and enjoyment of the Common Element and for ingress and egress to and from the respective Units, which rights shall be appurtenant to and shall run with the Unit. The extent of such ownership in the Common Element is hereby deemed and expressed by the percentage amount set forth herein, which percentage amount is based on the par value originally established par value. Such percentage amount shall remain constant, and shall not be changed except by an amendment to this Declaration unanimously approved by all Unit Owners. The percentage of ownership of the Common Element attributable to the ownership interest in each Unit, together with the percentage of interest in the Association for the division of Common Profits and Expenses, if any, other than insurance expenses as hereinafter described in this Declaration, shall be as provided on Exhibit B.

6. **Maintenance and Rental of Common Element.** Although the Common Element is owned as tenants in common by all of the Unit Owners, the Unit Owners Association, by and through its Board of Directors, will continue to have the exclusive right and obligation to maintain and control the usage of the Common Element. In addition, the Unit Owners Association, by and through its Board of Directors, is hereby granted the right to lease or license all or any portion of the Common Element on such terms and conditions it deems appropriate but may not lease any portion of the Association-Owned Property.

7. **Partition.** There shall be no partition of the Common Element through judicial proceedings or otherwise until this Declaration is terminated and the Condominium Property is withdrawn from its terms or the terms of any statute applicable to condominium ownership; provided, however, that if any Unit shall be owned by two or more co-owners as tenants in common or as joint tenants, nothing herein contained shall be deemed to prohibit a voluntary or judicial partition of such Unit ownership as between such co-owners, provided that the entire Unit is sold or transferred as an entirety and there shall be no physical partition of a Unit.

ARTICLE V. UNIT OWNERS ASSOCIATION

1. **Membership.** An Ohio non-profit corporation called The Belvedere Condominium Unit Owners' Association, Inc. (referred to herein as the "Association") has been established for the purpose of administration of the Condominium Property and the Association-Owned Property. Each Owner, upon acquisition of title to a Unit, shall automatically become a member of the Association. Such membership shall terminate upon the sale or disposition by such member of his Unit ownership, at which time the new Owner of such Unit shall automatically become a member of the Association.

2. **Voting Rights.** The Association shall have one class of voting membership: all Unit Owners. The voting rights of the members is set forth in Article I of the By-Laws. Each Unit has one vote.

3. **Board of Directors and Officers.** The Board of Directors and the Officers of the Association, elected as provided in the By-Laws of the Association, shall exercise the powers, discharge the duties, and be vested with the rights confirmed by operation of the law, by the By-Laws, and by this Declaration upon the Association, except as otherwise specifically provided.

4. **Administration of Condominium Property.** The administration of the Condominium Property and the Association-Owned Property shall be in accordance with the provisions of this Declaration and the By-Laws of the Association. Each Unit Owner or occupant of a Unit shall comply with the provisions of the Declaration, By-Laws, decisions and resolutions of the Association or its representative, as lawfully amended from time to time, and failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due for damages, or injunctive relief.

5. **Service of Process.** The person to receive service of process for the Association shall be designated by the Board. This designation may be accomplished by filing with the Secretary of State an appropriate change of statutory agent designation.

**ARTICLE VI.
MANAGEMENT, MAINTENANCE, REPAIRS, ALTERATIONS AND
IMPROVEMENTS**

1. **General.** Except as otherwise provided herein, management, repair, replacement, alteration and improvement of the Common Element shall be the responsibility and expense of the Association. The Association may delegate all or any portion of its authority to discharge such responsibility to a manager or managing agent. Such delegation may be evidenced by one or more management contracts, no one of which may exceed three (3) years in duration. Each Owner agrees to maintain, repair and replace, at his own expense, all portions of the Common Element which may be damaged or destroyed by reason of the willful or uninsured negligent act or neglect of himself or any other member of his household, or by the willful or uninsured negligent act or neglect of any occupant, invitee, licensee, or guest of such Owner or member of his household.

2. **Maintenance of Units.**

A. **By the Association:** The Association, at its expense, shall be responsible for the maintenance, repair and replacement of those portions of each Unit which contribute to the support of the building, excluding, however, interior walls, ceiling, and floor surfaces. In addition, the Association shall maintain, repair and replace all conduits, ducts, plumbing, wiring and other facilities for the furnishing of the utility services which may be located within the Unit boundaries, exclusive of any portions of the foregoing which may be located at or beyond the wall outlets, or which may be the responsibility of an individual Unit Owner under any other provision of this Declaration.

B. **By the Unit Owner:** The responsibility of each Unit Owner shall be as follows:

i. To maintain, repair and replace at his expense all portions of his Unit, and all internal installations of such Unit such as appliances, heating, plumbing, electrical, air conditioning fixtures or installations, and any portion of other utility service facility located within the Unit boundaries or serving the Unit, regardless of where the facilities are located.

ii. To maintain and repair all windows, doors, vestibules and entryways of his Unit and fixtures therein, which are appurtenances to his Unit. The foregoing includes, without limitation, a responsibility for all breakage, damage, malfunction and ordinary wear and tear of such appurtenances.

Any change, addition, or alteration which affects the appearance of the exterior of the Condominium Property must be approved in advance by the Association under Article IX herein.

- iii. To perform his responsibilities in such manner so as not unreasonably to disturb other persons residing within the building.
- iv. Not to paint or otherwise decorate or change the appearance of any portion of the building not within the walls of the Unit, unless the prior written consent of the Association is obtained under Article IX herein.
- v. To promptly report to the Association or its agent any defect or need for repairs, the responsibility for the remedying of which is with the Association.
- vi. Not to make any alterations in the portions of the Unit or the buildings which are not to be maintained by the Association or remove any portion thereof or make any additions thereto or do anything or remove anything which would or might jeopardize or impair the safety or soundness of the building without first obtaining the prior written consent of the Board of Directors of the Association under Article IX herein, nor shall any Unit Owner impair any easement without first obtaining the written consent of the Association and of the Owner or Owners for whose benefit such easement exists.
- vii. The Association shall have the right to maintain, replace, repair or decorate any Common Element or any part thereof, whether due to the failure of a Unit Owner to maintain, replace, repair or decorate or due to the desire of the Association, and the Association shall have the right to charge the particular Owner with the expenses thereof. Such expense shall be in addition to the Common Expense and shall be subject to the lien provisions of this Declaration.

3. Construction Defects. The obligation of the Association or the Unit Owners to repair, maintain, and replace the portion of the Condominium Property for which they are respectively responsible shall not be limited, discharged or postponed by reason of the fact that any maintenance, repair or replacement may be necessary to cure any latent or patent defects in material workmanship in the construction of the Condominium Property. The undertaking of maintenance, repair or replacement by the Association or Unit Owner shall not constitute a waiver of any rights against warranties, but such rights shall be specifically reserved.

4. Effect of Insurance or Construction Guarantees. Notwithstanding the fact that the Association and/or any Unit Owner may be entitled to the benefit of any guarantee or warranty of material or workmanship furnished by any construction trade responsible for any construction defect, or to benefits under any policies of insurance providing coverage for loss or damage for

which they are respectively responsible, the existence of any construction guarantee, warranty, or insurance coverage shall not excuse any delay by the Association or by any Unit Owner in performing its or his obligation hereunder.

**ARTICLE VII.
EASEMENTS AND ENCUMBRANCES**

1. General. The Condominium Property is hereby made subject to the following easements, which easements and rights described herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of, and be binding on the undersigned, their heirs, devisees, administrators, executors, personal representatives, successors and assigns, and any owner, purchaser, mortgagee and any other person having an interest in said Condominium Property or any part or portion thereof.

2. Encroachments. In the event that, by reason of the repair, restoration, construction, settlement or shifting of the buildings, or by reason of the partial or total destruction and partial or total rebuilding of the building, any part of the Common Element presently encroaches or shall hereinafter encroach upon any part of a Unit, or any part of a Unit presently encroaches or shall hereafter encroach upon any part of the Common Element or other Unit, or if by reason of the design or construction of any Unit it shall be necessary or advantageous to an Owner to use or occupy, for formal uses and purposes any portion of the Common Element, consisting of unoccupied space within the building and adjoining his Unit, or, if by reason of the design or construction of utility systems, any main pipes, ducts or conduits serving more than one Unit presently encroaches or shall hereafter encroach upon any part of any Unit, valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of each Unit in the Common Element, as the case may be, so long as all or any part of the building containing such Unit shall remain standing; provided, that in no event shall a valid easement for any encroachment be created in favor of the Owner of any Unit or in favor of the Common Element if such encroachment occurred due to the willful conduct of said Owner.

3. Maintenance Easements. The Owner of each Unit shall be subject to easements for access arising from necessity of maintenance or operation of the Condominium Property. The Owner of each Unit shall have the permanent right and easement to and through the Common Element and walls to the use of water, sewer, gas, power, television antenna, and any other utilities now or hereafter existing within the walls, and further shall have an easement to hang pictures, mirrors and the like upon the walls of his Unit.

4. Easements for Certain Utilities. The Association may hereafter grant easements for utility purposes for the benefit of the Condominium Property, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, and electrical conduits and wires over, under, along and on any portion of the Common Element; and each Unit Owner hereby grants to the Association an irrevocable power of attorney coupled with an interest, to execute, acknowledge and record, for and in the name of such Unit Owner, such instruments as may be necessary to effectuate the foregoing.

5. **Easements through Walls within Units.** Easements are hereby declared and granted to install, lay, maintain, repair and replace any pipes, wires, ducts, conduits, public utility lines or structural components running through the walls of the Units, whether or not such walls lie in whole or in part within the Unit boundaries.

6. **Reference to Easements in Deeds.** Reference in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easement and rights described in this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees and trustees of such parcels as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such document.

ARTICLE VIII.

COMMON EXPENSES, ASSESSMENTS AND LIEN OF THE ASSOCIATION

1. **Division of Common Expenses and Profits.** The Common Expenses shall be assessed against the Unit Owners by the Association according to the percentage of interest in the Common Element of their respective Units. Every Unit Owner shall pay his proportionate share of assessments for Common Expenses and any special assessments levied against him, and no Unit Owner shall be exempt from liability for such assessments by waiver of the use or enjoyment of the Common Element or by the abandonment of his Unit.

2. **Annual Operating Assessments.** The Board of Directors shall make its best efforts to adopt and amend a budget for revenues, expenditures, and reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, provided that the amount set aside annually for reserves shall not be less than ten percent (10%) of the budget for that year unless the reserve requirement is waived annually by the Unit Owners exercising not less than a majority of the voting power of the Association. Notwithstanding, the Board has the authority to levy special assessments for unforeseen, but necessary, repairs or replacements.

3. **Assessments.** Assessments levied by the Association shall generally be used to ensure that property values are maintained and enhanced and to promote the health, safety, recreation, and welfare of the Unit Owners, by providing for the maintenance, repair, replacement, and insurance of the Common Element, and insurance of the Units, together with the payment of Common Expenses. All payments shall be made in the manner provided herein and in the By-Laws. Each Unit Owner, by acceptance of any right, title, and interest to a Unit (whether or not expressly stated in the instrument of conveyance, will, title or interest) hereby covenants and agrees to pay to the Association as a Common Expense:

- A. Monthly Assessments or charges as are levied from time to time by the Association, including, but not limited to insurance premiums, maintenance, repair, contract services, the cost of any construction or reconstruction, habitation, or restoration, unexpected repair or replacement, including the necessary fixtures and personal property relating thereto and the establishment of a reserve in connection therewith, which reserve shall not be considered a part of the "Common Profits";

- B. Special assessments or other charges levied by the Association; and
- C. Special individual Unit assessments or charges which are attributed to individual Unit Owners by the Association.

4. **Lien of Association:** The Association shall have a lien upon the estate or interest in any Unit of a Unit Owner and its respective percentage of interest in the Common Element for the payment of all assessments levied by the Association, interest thereon, expenses, late charges, Enforcement Assessments, collection costs, and reasonable attorney's and paralegal fees involved in the collection thereof, which remain unpaid. Such a lien shall arise and run from the time a certificate of lien is filed as hereinafter provided, and said lien may be foreclosed in the same manner as a mortgage on real property in an action brought on behalf of the Association by its President or other chief officer pursuant to authority given to him by the Board of Directors. In the foreclosure action, the Owner of a Unit affected shall be required to pay a reasonable rental for the Unit during the pendency of the action, and the Association is entitled to the appointment of a receiver to collect the rental. In the foreclosure action, the Association, or its agent, authorized by action of its Board of Directors, is entitled to become a purchaser at the foreclosure sale. Said lien shall take priority over any other lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens of bona fide first mortgages which have been theretofore filed for record.

When an assessment remains unpaid for ten (10) days after the same has become due and payable, a certificate of lien therefor, subscribed by the agent or attorney for the Association, shall be filed with the Recorder of Hamilton County, Ohio, pursuant to authorization given by the Board of Directors of the Association. Such certificate shall contain a description of the Unit against which the lien exists; the name or names of the record Owner or Owners thereof, and the amount of the unpaid assessments. After recording the certificate of lien, the Association shall mail a copy of such lien to the Unit Owner at the address the Unit Owner has provided the Association for purposes of mailing invoices for assessments. However, the failure of the Association to mail a copy of such lien shall in no way invalidate the lien.

The lien provided for in this Section shall remain valid for a period of five (5) years from the time of filing thereof as provided in Ohio Revised Code 5311.18 unless sooner released or satisfied in the same manner provided by law 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 such lien as hereinafter provided. In addition, such assessments, interest thereon, late charges, expenses and reasonable attorney fees involved in the collection thereof, shall be the personal obligation of the person or persons who were the Owners of the Unit when the assessments became due and payable. That personal obligation for any such unpaid items shall pass to the successors in title and those successors in right, title and interest (whether or not it was expressly stated in the instruments of conveyance, will, title, or interest) who are deemed to assume the obligation to pay those unpaid items; however, these provisions do not relieve the Unit Owner originally indebted for the payment of these items from liability for such payments. Furthermore, these provisions do not apply to successors in title who held title merely as security for performance of an obligation and shall not

apply to mortgagees, their successors and assigns, who take title in lieu of foreclosure or through judicial or foreclosure sales, as to these assessments levied against the Unit prior to the acquisition of an ownership interest in such Unit.

5. **Application of Assessments.** The Association shall credit payments made by a Unit Owner in the following order of priority:

- A. First, to interest owed to the Association;
- B. Second, to administrative late fees owed to the Association;
- C. Third, to collection costs, attorney's fees, and paralegal fees incurred by the Association; and
- D. Fourth, to the principal amounts the Unit Owner owes to the Association for the Common Expenses or Enforcement Assessments chargeable against the Unit.

6. **Dispute as to Assessments.** Any Owner who believes that the assessment chargeable to his Unit, for which a certificate of lien has been filed by the Association, has been improperly charged against him or his Unit, may request a hearing with the Board of Directors of the Association to present evidence of payment or reasons why the assessments are improperly charged against his Unit, which hearing must be requested by the Unit Owner within three (3) days of the receipt of the copy of the certificate of lien. The Unit Owner may also bring an action in the Court of Common Pleas of Hamilton County for the discharge of all or any part of such lien.

7. **Date of Commencement of Assessments.** The full monthly assessments for Unit Owners shall commence on the first (1st) day of the first month following the transfer of title to that Unit Owner.

8. **Notice of Amount of Assessment.** Written notice of the amount of any monthly assessment, special assessments, and special individual Unit assessments shall be mailed by the Association to any Owner who requests such information. The Association shall furnish, upon demand and for a reasonable charge, a certificate signed by an officer of the Association setting forth the amount of unpaid assessments on any Unit, but only to those persons or organizations who have a bona fide interest in the matter of such assessments. Furthermore, all first mortgagees may be given written notification by the Association of any default by their respective mortgagor/Unit Owner of any obligation under the condominium documents not cured within sixty (60) days of the default.

9. **Exempt Property.** All properties, if any, dedicated to and accepted by a local public authority or granted to and used by a utility company, and any Association-Owned Property, shall be exempt from the assessments created herein.

**ARTICLE IX.
ARCHITECTURAL CONTROL/ARBITRATION**

No building, fence, wall, or other structure shall be erected or maintained upon the Condominium Property, except any original construction, nor shall any change or addition or alteration be made to the exterior of any buildings without the consent of the Board of Directors. Furthermore, any repair, remodeling, or renovation to the interior of a Unit which affects the Common Element structure in any way or which affects any common system (water, gas, electricity) maintained by the Association must be approved in advance in writing by the Board of Directors.

**ARTICLE X.
INSURANCE**

1. **Hazard Insurance.** The Association, as a Common Expense, shall obtain for the benefit of all Unit Owners, insurance on buildings, structures or other improvements now or at any time hereafter constituting a part of the Condominium Property and the Association-Owned Property against loss or damage by fire, and such other perils as are at this time comprehended within the term "standard extended coverage endorsement", in an amount not less than one hundred percent (100%) of the full replacement value thereof unless mortgagees otherwise agree in writing to a lesser amount, and coverage for vandalism, malicious mischief and windstorm. Such insurance shall be written in the name of, and the proceeds thereof shall be payable to, the Association, as Trustee, for each of the Unit Owners in accordance with the percentage ownership in the Common Element. Such policies shall be subject to such deductible amounts as determined by the Board of Directors. Such policy shall provide for built in or installed fixtures and equipment in an amount not less than one hundred percent (100%) of the replacement value thereof.

Such insurance by the Association shall be without prejudice to the right of the Owner of a Unit to obtain individual contents or chattel property insurance, but no Unit Owner may at any time purchase individual policies of insurance on his Unit or interest in the Common Element as real property, unless the Association shall be a named insured in such policy and be advised of the same.

Such policy of insurance shall contain an endorsement recognizing the interest of any mortgagee or any mortgagee's Units, and shall further provide for not less than thirty (30) days written notice to each mortgagee prior to cancellation, termination or expiration of the insurance coverage, and such other provisions as the mortgagee or mortgagees may require.

Such policy shall also provide for the release by the issuer thereof of any and all rights of subrogation or assignment and all causes and rights of recovery against any Unit Owner for any loss occurring to the injured property resulting from any of the perils insured against under such policy.

2. **Sufficient Insurance.** In the event the improvements forming the Condominium Property or the Association-Owned Property or any portion thereof 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 payable by reason thereof shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or construction shall be undertaken by the Association and the insurance proceeds shall be applied by the Association in payment therefor; provided, however, that in the event the Unit Owners shall elect to sell the Condominium Property or to withdraw the same from the provisions of this Declaration, then such repair, restoration or reconstruction shall not be undertaken.

3. Insufficient Insurance. In the event the improvements forming a part of the Condominium Property or the Association-Owned Property, or any portion thereof, shall suffer damage or destruction from any cause or peril which is not insured against, or, if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, unless the Unit Owners shall within ninety (90) days after such damage or destruction, if they are entitled to do so pursuant to the terms of this Declaration, elect to withdraw the property from the provisions of this Declaration, such repair, restoration or reconstruction of the Unit so damaged or destroyed shall be undertaken by the Association at the expense of the Owners of the Units so damaged or destroyed in the same proportions which the cost of repair, restoration or reconstruction of each such Unit so damaged or destroyed bears to the total cost of repair, restoration or reconstruction for all such Units and such repair, reconstruction or restoration of all or part of the Common Element shall be undertaken by the Association at the expense of all the Owners of Units in the same proportion in which they shall own the Common Element. Should any Unit Owner fail after reasonable notice to pay his share of such cost in excess of available insurance proceeds, the amount thereof may be advanced by the Association and the amount so advanced by the Association shall be assessed to such Unit Owner and such assessment shall be the same force and effect, and, if not paid, may be enforced in the same manner as hereinabove provided for the nonpayment of assessments.

To determine the share of each Unit Owner of the cost in excess of the available insurance proceeds, the following principles shall govern:

The cost of repair, restoration or reconstruction of all uninsured and underinsured (to the extent of such underinsurance) damage or destruction to Units shall be borne by the Unit Owner.

The cost of repair, restoration or reconstruction of the uninsured and underinsured (to the extent of such underinsurance) damage or destruction of Common Element shall be borne by Unit Owners and proportioned to their respective percentage of interest in the Common Element.

All insured, damaged or destroyed portions of the Condominium Property shall be deemed uninsured in the same proportion.

The term "uninsured damage or destruction" as used herein shall mean loss occurring by reason of a hazard not covered by the insurance policies of the Association. The term "uninsured damage or destruction" as used herein shall mean loss occurring by reason of hazard covered by the insurance policy of the Association for which the proceeds are insufficient to cover the cost of repair, restoration or reconstruction.

The final determination made with the insurers as to insured, uninsured and underinsured damage or destruction shall govern.

4. **Nonrestoration of Damage or Destruction.** In the event of substantial damage to a majority of the Units, the Unit Owners, by unanimous vote, may elect not to repair or restore such damage or destruction. Upon such election, all of the Condominium Property shall be subject to an action for sale as upon partition at the suit of any Unit Owner. In the event of any such sale or a sale of the Condominium Property after such election and by agreement of all Unit Owners, the net proceeds of the sale, together with the net proceeds of insurance, if any and any other indemnity arising because of such damage or destruction, shall be considered as one fund and shall be distributed to the Unit Owners in proportion to the respective percentages of interest in the Common Element, subject to the rights of mortgagees as their interest may appear. No Unit Owner, however, shall receive any portion of his share of such proceeds until all liens and encumbrances on his Unit have been paid, released or discharged.

5. **Liability Insurance.** The Association as a Common Expense shall insure itself, the Board of Directors, and all Unit Owners against liability for bodily injury, disease, illness or death, and for injuries to or destruction of the property occurring upon, in or about or arising from or relating to the Common Element and on the Association-Owned Property, such insurance to or for protection to a limit of not less than One Million and no/100 Dollars (\$1,000,000.00) in respect to any one occurrence, and to the limit of not less than Two Hundred Fifty Thousand and no/100 Dollars (\$250,000.00) in respect to damage to or destruction of property arising out of any one action. Such policy shall not insure against liability for personal injury or property damage arising out of or relating to the individual Units, and all liability insurance shall contain cross-liability endorsements to cover liabilities of the Unit Owners as a group to a Unit Owner.

6. **Lapse of Insurance Coverage.** If the required insurance coverage ceases to exist for any reason whatsoever, any mortgagee of any portion of the Condominium Property may remedy that lack of insurance by purchasing policies to supply that insurance coverage. The funds so advanced shall be due and payable to the mortgagee by the Association immediately. The repayment of said obligation shall be secured by a special assessment against all Unit Owners but shall not require a vote of the members of the Association, anything to the contrary in this Declaration notwithstanding

Each Unit Owner, at his sole cost and expense, shall obtain (a) public liability insurance for personal injuries or damage arising out of the occupancy and use of his Unit; and (b) casualty insurance affording coverage upon his personal property.

ARTICLE XI. REMOVAL FROM CONDOMINIUM OWNERSHIP

The Unit Owners, by unanimous vote, may elect to remove the Condominium Property from the provisions of Chapter 5311, Ohio Revised Code. In the event of such election, all liens and encumbrances, except taxes and assessments not then due and payable, upon all or any part of the Condominium Property, shall be paid, released, or discharged, and a certificate setting forth that

such election was made shall be filed with the Recorder of Hamilton County, Ohio, and by him recorded. Such certificate shall be signed by the President of the Board of Directors of the Association, who shall certify therein under oath that all liens and encumbrances, except taxes and assessments not then due and payable, upon all or any part of the Common Element have been paid, released, or discharged, and shall also be signed by all of the Unit Owners, each of whom shall certify therein under oath that all such liens and encumbrances on his Unit or Units have been paid, released or discharged.

**ARTICLE XII.
AMENDMENT OF DECLARATION AND BY-LAWS**

This Declaration and the By-Laws attached hereto may be amended upon the filing for record with the Recorder of Hamilton County, of any instrument in writing setting forth specifically the item or items to be amended and any new matter to be added, which instrument shall have been approved by the Unit Owners entitled to exercise at least seventy-five percent (75%) of the voting power of the Association. Such amendment must be executed with the same formalities as this instrument by the President of the Board and must refer to the volume and page in which this instrument and its attached exhibits are recorded. No provision in this Declaration or By-laws may be changed, modified or rescinded, however, which after such change, modification or rescission would conflict with the provisions of Chapter 5311, Ohio Revised Code.

**ARTICLE XIII.
REMEDIES FOR BREACH OF COVENANTS AND REGULATIONS**

1. Abatement and Enjoinment. The violation of any restriction or condition or regulation adopted by the Association or the breach of any covenant or provision contained in this Declaration or in the By-Laws of the Association by any Unit Owner or occupant, shall give the Association, in addition to the rights hereinafter set forth in this Article, the right:

- A. To enter upon the Condominium Property or Unit or portion thereof upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions of this Declaration and the By-Laws or Rules of the Association, and the Association or its agent, shall not be thereby deemed guilty in any manner of trespass; or
- B. To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

2. Charge for Damage. Violations of the covenants, conditions, or restrictions shall be grounds for the Association or any Unit owner to commence a civil action for damages, injunctive relief, or both, and an award of court costs and reasonable attorney's fees in both types of action.

3. **Enforcement Assessments.** The Board shall have the authority to impose reasonable Enforcement Assessments for violations of the Declaration, the By-Laws, and the Rules of the Association and reasonable Charges for Damage to the Common Element or other property.

Prior to imposing a Charge for Damages or an Enforcement Assessment pursuant to this Section, the Board of Directors shall give the Unit Owner a written notice that includes all of the following:

- A. A description of the property damage or violation;
- B. The amount of the proposed charge or assessment;
- C. A statement that the Unit Owner has a right to a hearing before the Board of Directors to contest the proposed charge or assessment;
- D. A statement setting forth the procedures to request a hearing pursuant to this Section.

To request a hearing, a Unit Owner shall deliver a written notice to the Board of Directors not later than the tenth (10th) day after receiving the notice from the Board required by this Section. If the Unit Owner fails to make a timely request for a hearing, the right to that hearing is waived, and the Board may immediately impose a Charge for Damages or an Enforcement Assessment pursuant to this Section.

If a Unit Owner requests a hearing, at least seven (7) days prior to the hearing, the Board of Directors shall provide the Unit Owner with a written notice that includes the date, time, and location of the hearing.

The Board of Directors shall not levy a charge or assessment before holding any hearing requested pursuant to this Section.

The Unit Owners, through the Board of Directors, may allow a reasonable time to cure a violation described in this Section before imposing a charge or assessment.

Within thirty (30) days following a hearing at which the Board of Directors imposes a charge or assessment, the Association shall deliver a written notice of the charge or assessment to the Unit Owner.

Any written notice that this Section requires shall be delivered to the Unit Owner or any Occupant of the Unit by personal delivery, by certified mail, return receipt requested, or by regular mail.

**ARTICLE XIV.
MISCELLANEOUS PROVISIONS**

1. Each Unit Owner, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every

character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall inure to the benefit of such Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

2. Upon the removal of the Condominium Property from the provisions of Chapter 5311, Revised Code, all easements, covenants and other rights, benefits, privileges, impositions and obligations declared herein to run with the land or any Unit shall terminate and be of no further force nor effect.

3. No covenants, restrictions, conditions, obligations or provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur.

4. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

5. If any of the privileges, covenants or rights created by this Declaration shall be unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (2) the rule restricting restraints on alienation, or (3) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of John Glenn, United States Senator from Ohio and James A. Rhodes, Governor of Ohio.

6. Upon written request to the Board, the holder of any duly recorded mortgage on any ownership interest or interest therein shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner or Owners whose ownership interest or interests therein is subject to such mortgage.

7. Notwithstanding anything to the contrary contained herein, unless specifically controlled by a more restrictive provision contained herein, the Association shall not, without the prior written consent of at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned) of the Units or of the individual Unit Owners, be entitled to:

- A. By act or omission, seek to abandon or terminate the Condominium Property;
- B. Change the pro rata interest or obligations of any individual Unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Unit in the Common Element;
- C. Partition or subdivide any Unit;

- D. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Element (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Element shall not be deemed a transfer within the meaning of the clause);
- E. Use hazard insurance proceeds for losses to any part of the Condominium Property (whether to Units or to Common Element) for other than the repair, replacement or reconstruction of such Condominium Property, except as provided in Article X, Paragraph 4 of this Declaration in case of substantial damage to the Units and/or Common Element of the Condominium Property.

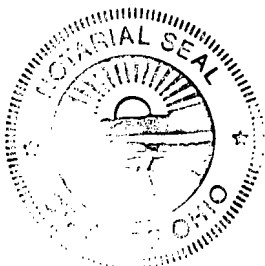
IN WITNESS WHEREOF, Margaret A. Hilvert, President of **The Belvedere Condominium Unit Owners' Association, Inc.**, an Ohio non-profit corporation, executes this Amended and Restated Declaration of Condominium Ownership for The Belvedere Condominium, by and on behalf of the corporation.

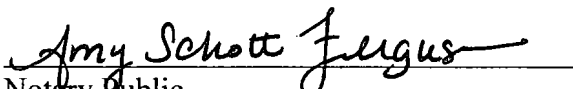
**THE BELVEDERE CONDOMINIUM
UNIT OWNERS' ASSOCIATION, INC.**
An Ohio Non-Profit Corporation


By: Margaret A. Hilvert
Its: President

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

This instrument was executed and acknowledged before me by **Margaret A. Hilvert**, President of **The Belvedere Condominium Unit Owners' Association, Inc.**, an Ohio non-profit corporation, by and on behalf of said corporation this 7th day of December, 2021.

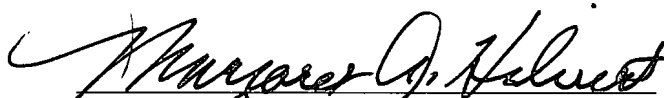



Notary Public
My Commission expires:
AMY SCHOTT FERGUSON, Attorney at Law
Notary Public, State of Ohio
/ Commission Has No Expiration Date
Section 147.03

PRESIDENT'S CERTIFICATION

IN WITNESS WHEREOF, Margaret A. Hilvert, the President of **The Belvedere Condominium Unit Owners' Association, Inc.**, an Ohio non-profit corporation, hereby certifies that this Amended and Restated Declaration and By-Laws was approved by at least seventy-five percent (75%) of the voting power of the Association and was sent by certified mail to all mortgagees having bona fide liens of record against any Unit ownership.

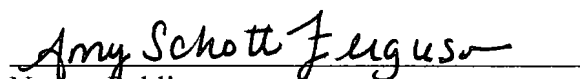
**THE BELVEDERE CONDOMINIUM
UNIT OWNERS' ASSOCIATION, INC.**
An Ohio Non-Profit Corporation



By: Margaret A. Hilvert
Its: President

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this 7th day of December, 2021 by **Margaret A. Hilvert**, President of **The Belvedere Condominium Unit Owners' Association, Inc.**, an Ohio non-profit corporation, on behalf of the corporation.


Notary Public
My Commission expires:

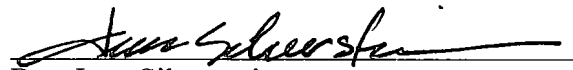


AMY SCHOTT FERGUSON, Attorney at Law
Notary Public, State of Ohio
Commission Has No Expiration Date
Section 147.03

SECRETARY'S CERTIFICATION

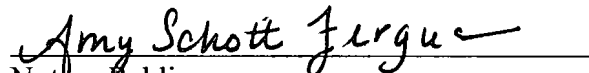
IN WITNESS WHEREOF, Jean Silverstein, Secretary of **The Belvedere Condominium Unit Owners' Association, Inc.**, an Ohio non-profit corporation, being duly cautioned and sworn, hereby attests and certifies that the requisite vote was obtained to pass this Amended and Restated Declaration and By-Laws as confirmed in the President's Certification. Attached hereto as Exhibit E is a list of consenting and non-consenting mortgagees, which may be updated as received by the Association.

**THE BELVEDERE CONDOMINIUM
UNIT OWNERS' ASSOCIATION, INC.**
An Ohio Non-Profit Corporation


By: Jean Silverstein
Its: Secretary

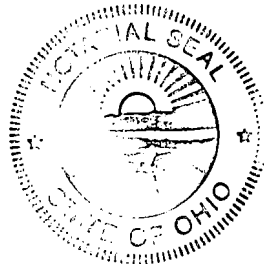
STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The foregoing instrument was acknowledged before me this 7th day of December, 2021, by Jean Silverstein, Secretary of **The Belvedere Condominium Unit Owners' Association, Inc.**, an Ohio non-profit corporation, on behalf of the corporation.


Notary Public
My Commission expires:

This Instrument Prepared by:

Amy S. Ferguson, Esq.
CUNI, FERGUSON & LeVAY CO., L.P.A.
10655 Springfield Pike
Cincinnati, Ohio 45215
Telephone: (513) 771-6768
Facsimile: (513) 771-6781
Email: AFerguson@cfl-law.com



AMY SCHOTT FERGUSON, Attorney at Law
Notary Public, State of Ohio
Commission Has No Expiration Date
Section 147.03

EXHIBIT A-1
Legal Description of Units

Situate in the City of Cincinnati, Hamilton County, Ohio, and being Unit Numbers:

101B, 102B, 200A, 201A, 202A, 203A, 204A, 205A, 201B, 202B, 203B, 301A, 302A, 303A, 304A, 305A, 301B, 302B, 303B, 401A, 402A, 403A, 404A, 405A, 406A, 401B, 402B, 403B, 500A, 501A, 502A, 503A, 504A, 505A, 506A, 501B, 502B, 503B, 601A, 602A, 603A, 604A, 605A, 601B, 602B, 603B, 701A, 702A, 703A, 704A, 705A, 701B, 702B, 703B, 801A, 802A, 803A, 804A, 805A, 801B, 802B, 803B, 901A, 902A, 903A, 904A, 905A, 901B, 902B, 903B, 1001A, 1002A, 1003A, 1004A, 1005A, 1001B, 1002B, 1003B, 1101A, 1102A, 1103A, 1104A, 1105A, 1101B, 1102B, and 1103B of The Belvedere Condominium according to a Declaration of Condominium Ownership recorded in Deed Book 4210, Page 174, the drawings of which are recorded in Plat Book 229, Pages 11 through 25, Recorder's Office of Hamilton County, Ohio, and as amended by Amendments to said Declaration recorded in Deed Book 4213, Page 1400; Deed Book 4277, Page 835; Deed Book 4308, Page 1643; Book 4398, Page 497; Book 8384, Page 1806; and Book 9546, Page 1811 of the Recorder's Office of Hamilton County, Ohio. **Together with the percentage interest in the Common Element as set forth in said Declaration and Amendments.**

EXHIBIT A-2
Legal Description of 889 Clinton Springs Avenue

Lot Number Five (5) of Lillie I. Ellis Subdivision of part of Lot Number One (1) of A.O. Tyler's Subdivision, recorded in Plat Book 14, Page 123, Recorder's Office of Hamilton County, Ohio fronting Fifty (50) feet on the south side of Clinton Springs Avenue.

Subject to easements and restrictions of record.

Parcel Number 111-0005-0005-00

Property Address: 889 Clinton Springs Avenue, Cincinnati, Ohio 45229

EXHIBIT A-3
Legal Description of 891 Clinton Springs Avenue

Situated in the City of Cincinnati, County of Hamilton, and State of Ohio, and being all that certain lot known and designated as Lot No. 4 of Lillie T. Ellis Subdivision a part of lot #1 in A. O. Tyler's Subdivision, in Section 9, Township 3, Fractional Range 2, Miami Purchase, a plat of said Lillie T. Ellis Subdivision being recorded in Plat Book 14, Page 123, Hamilton County, Ohio Records, and more particularly described as follows, to wit:

Beginning at the northwest corner of Lot No. Three (3) on the south side of Clinton Springs Avenue 314.06 feet, more or less, west of Reading Road; thence running westwardly along said south line of Clinton Springs Avenue 68 feet, more or less, to the northwest corner of said Lot No. Four (4); thence southwardly along the west line of said Lot No. Four (4), 183.22 feet, more or less, to the south line of said Lot No. Four (4); being the north line of Nihalovitch and Seasongood property; thence east 68.04 feet, more or less, to the southwest corner of Lot No. Three (3); thence northwardly along the west line of said Lot No. Three (3) 180.90 feet, more or less, to the place of beginning. And being part of the same premises conveyed to Lillie T. Ellis by deed from P. Lincoln Mitchell, Trustee, dated October 27, 1910, and recorded in Deed Book 1040, Page 336 of the Deed Records of Hamilton County, Ohio.

Being the same premises conveyed to the grantor by Certificate of Transfer from the Estate of Sarah Reisenfeld, Deceased, Estate No. 780026 in the Probate Court of Hamilton County, Ohio. Excepting, however, the below described portion of the above premises which was conveyed by Isaac Mallin and Esther Mallin to the City of Cincinnati, Ohio and recorded in Deed Book 2107, Page 396, Hamilton County, Ohio Records and particularly described as follows:

Being part of Lot Four (4) of L.T. Ellis' Subdivision and recorded in Plat Book 14, Page 123, Hamilton County Records and more particularly described as follows:

Being at the intersection of the southerly line of Clinton Springs Avenue and the easterly line of Lot Four (4) of said L.T. Ellis' Subdivision; thence N. 56°41' West along the southerly line of Clinton Springs Avenue 68 feet to the westerly line of said Lot Four (4); thence S. 48°19'03" East 68.75 feet to the easterly line of said Lot Four (4); thence N. 35°19' East along the easterly line of said Lot Four (4) a distance of 10 feet to the southerly line of Clinton Springs Avenue and the place of beginning.

Parcel No. 111-0005-0004-00

EXHIBIT A-4
Legal Description of Property on Rose Hill Avenue

Situated in Section 9, Town 3, Fractional Range 2, Millcreek Township, City of Cincinnati, Hamilton County, Ohio, and being more particularly described as follows:

Beginning at the intersection of the northwardly line of Clinton Springs Avenue with the westwardly line of Reading Road; thence N. $40^{\circ}16'00''$ E. in and along said westwardly line of Reading Road, a distance of 40.56 feet to the real place of beginning for this description; thence N. $29^{\circ}25'39''$ W., a distance of 26.09 feet to a point; thence in and along an arc to the right, a distance of 88.63 feet to a point, said arc having a radius of 30.00 feet and a chord distance of 59.74 feet bearing N. $88^{\circ}31'00''$ W.; thence in and along an arc to the left tangent to the preceding call, a distance of 23.86 feet to a point, said point being in the westwardly line of Rose Hill Avenue; said arc having a radius of 60.00 feet and a chord distance of 23.71 feet bearing N. $15^{\circ}16'13''$ W.; thence in and along an arc to the right tangent to the preceding call, a distance of 155.05 feet to a point in said westwardly line of Rose Hill Avenue, said arc having a radius of 1,384.14 feet and a chord distance of 154.97 feet bearing N. $23^{\circ}27'20''$ W.; thence in and along a radial line from the hereinabove immediately aforementioned curve N. $69^{\circ}45'13''$ E., a distance of 60.00 feet to a point; thence in and along an arc to the left, a distance of 203.73 feet to a point, said arc having a radius of 1,324.14 feet and a chord distance of 203.53 feet bearing S. $24^{\circ}39'15''$ E.; thence in and along an arc to the left, a distance of 18.97 feet, said arc having a radius of 12.20 feet and a chord distance of 17.12 feet bearing S. $73^{\circ}34'35''$ E.; thence S. $40^{\circ}16'00''$ W. in and along said westwardly line of Reading Road, a distance of 26.54 feet to the real place of beginning for this description.

Containing in all 0.2793 acres, more or less, subject to all legal highways and easements of record.

Parcel No. 111-3-118

EXHIBIT B
List of Units and their Square Footage and Percentage of Interest

Unit Number	Floor	Percentage of Interest
101 B	1	0.95896
102 B	1	0.88643
201 A	2	1.28936
202 A	2	1.36995
203 A	2	1.16848
204 A	2	1.15236
205 A	2	0.72526
201 B	2	1.63798
202 B	2	1.18460
203 B	2	1.04760
301 A	3	1.28936
302 A	3	1.36995
303 A	3	1.01537
304 A	3	1.07984
305 A	3	0.72526
301 B	3	1.46665
302 B	3	1.33771
303 B	3	1.04760
401 A	4	1.28936
402 A	4	1.36995
403 A	4	1.16042
404 A	4	1.12818
401 B	4	1.46665
402 B	4	1.35383
403 B	4	1.04760
500 A	5	0.77361
501 A	5	1.28936
502 A	5	0.75750
503 A	5	1.01537
504 A	5	1.12818
505 A	5	0.72526
501B	5	1.46650
502B	5	1.35383
503B	5	1.04760
601A	6	1.31354

602A	6	1.39412
603A	6	1.03955
604A	6	1.10401
605A	6	0.74944
601B	6	1.7499
602B	6	1.11892
603B	6	1.07178
701A	7	1.33771
702A	7	1.41830
703A	7	1.06372
704A	7	1.12819
705A	7	0.77361
701B	7	1.51500
702B	7	1.40218
703B	7	1.09596
801A	8	1.36189
802A	8	1.44247
803A	8	1.08790
804A	8	1.15237
805A	8	0.79779
801B	8	1.80189
802B	8	1.16365
803B	8	1.12013
901A	9	1.38606
902A	9	1.46665
903 A	9	1.11207
904 A	9	1.17654
905 A	9	0.82197
901 B	9	1.56335
902 B	9	1.45053
903 B	9	1.14431
1001 A	10	1.41024
1002 A	10	1.49082
1003 A	10	1.13625
1004 A	10	1.20072
1005 A	10	0.84614
1001 B	10	1.58753
1002 B	10	1.47471
1003 B	10	1.16848
1101 A	11	1.43441
1102 A	11	1.58753
1103 A	11	1.08789

1104 A	11	1.22489
1105 A	11	0.87032
1101 B	11	1.61170
1102 B	11	1.49888
1103 B	11	1.19266

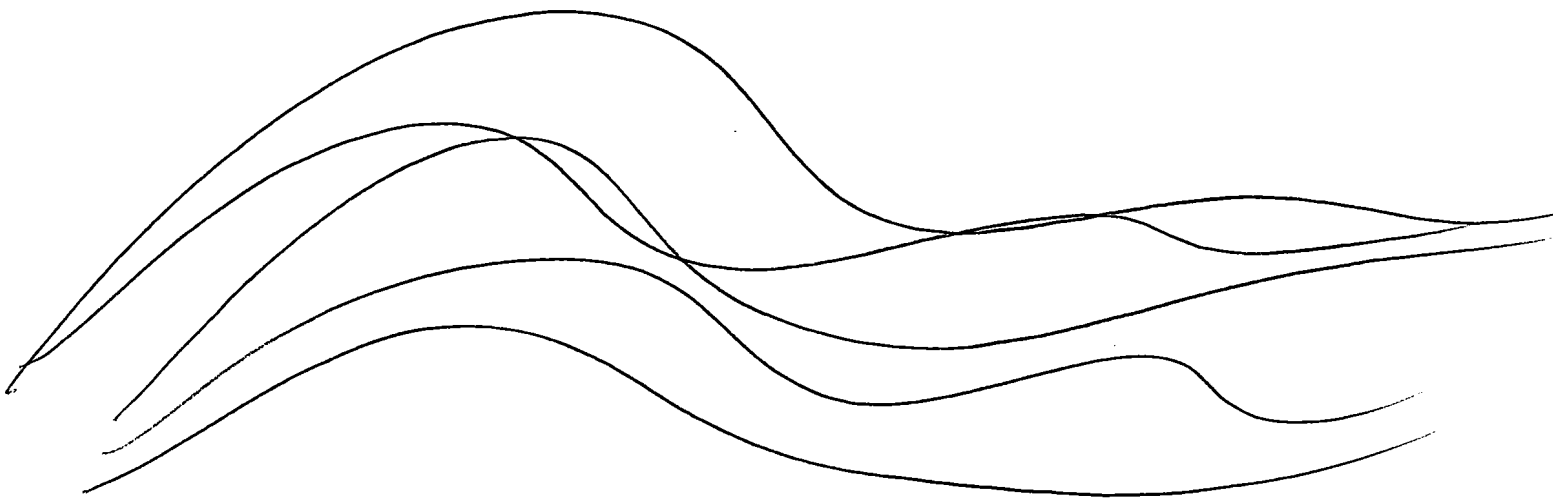


EXHIBIT C
Floor and Ceiling Elevation

Floor	Ceiling Elevation
1	736.10
2	752.95
3	763.20
4	773.45
5	783.7
6	793.95
7	804.20
8	814.45
9	824.70
10	834.95
11	845.20
Plenum	853.84

With respect to the penthouse and roof of The Belvedere Condominium, the floor elevation varies from 852.50 to 853.01 and the ceiling elevation from 861.50 to 866.92.

With respect to the basement of The Belvedere Condominium, the floor elevation varies from 724.60 to 729.27 and the ceiling elevation varies from 742.60 to 742.12.

EXHIBIT D
AMENDED AND RESTATED BY-LAWS
OF
THE BELVEDERE CONDOMINIUM UNIT OWNERS ASSOCIATION

The within By-Laws are executed and attached to the Amended and Restated Declaration (the "Declaration") of The Belvedere Condominium pursuant to Chapter 5311, Ohio Revised Code. Their purpose is to provide for the establishment of a unit owners association for the government of the Condominium Property in the manner provided by the Declaration and by these Amended and Restated By-Laws ("By-Laws"). All present or future owners or occupants or their employees, or any other person who might use the facilities of the Condominium Property in any manner, shall be subject to the covenants, provisions or regulations contained in the Declaration and these By-Laws and shall be subject to any restrictions, condition or regulation hereafter adopted by the Board of Directors of the Association. The mere acquisition or rental of any Unit located within the Condominium Property described in the Declaration, or the mere act of occupancy of any of the Units, will constitute acceptance and ratification of the Declaration and of these By-Laws, and any Rules and Regulations hereafter adopted by the Association.

ARTICLE I.
THE ASSOCIATION

Section 1. Name and Nature of Association. The Association shall be an Ohio non-profit corporation and shall be called The Belvedere Condominium Unit Owners Association, Inc. (hereinafter referred to as the "Association").

Section 2. Membership. Each Unit Owner, upon acquisition of title to a Unit, shall automatically become a Member of the Association. Such Membership shall terminate upon the sale or other disposition by such Member of his Unit ownership, at which time the new Owner of such Unit shall automatically become a Member of the Association.

Section 3. Voting Rights.

- A. The Association shall have one class of voting Membership: all Unit Owners, who shall be entitled to one (1) vote for each Unit owned. When more than one (1) person holds an interest in any Unit, all such persons shall be Members, but in no event shall there be more than one (1) vote for any one Unit.
- B. During any period of time in which a Unit Owner is in default in the payment of any assessment due and payable or fails to comply with any provision pursuant to these By-Laws and the Declaration, the voting rights of said Unit Owner are suspended until such time as said default is cured.

Section 4. Proxies. Members may vote or act in person or by proxy. The person appointed as proxy must be a Member of the Association in good standing.

Section 5. Meetings of Members.

- A. **Annual Meeting.** The annual meeting of Members of the Association for the election of Members of the Board of Directors, the consideration of reports to be presented before such meeting, and the transaction of such other business as may properly be brought before such meeting, shall be held at a place as may be designated by the Board of Directors and specified in the notice. The annual

meeting of Members of the Association shall be held at a date and time to be established by the Board of Directors.

B. Special Meetings. Special meetings of the Members of the Association may be held on any business day when called by the President of the Association or by the Board of Directors of the Association. The Board shall be required to hold a special meeting of the Members if requested to do so in writing by Members entitled to exercise at least twenty-five percent (25%) of the voting power of the Association. Upon request in writing delivered either in person or by certified mail to the President or the Secretary of the Association by at least twenty-five percent (25%) of the voting power of the Association, the Secretary shall cause to be given to all Members notice of a special meeting to be held on a date not less than seven (7) nor more than thirty (30) days after the receipt of such request as the Board may fix. If such notice is not given within thirty (30) days after the delivery or mailing of such request, the persons requesting the meeting may fix the time of the meeting and give notice to the Members thereof. Each special meeting shall be held at a place as shall be specified in the notice of meeting.

C. Notice of Meetings. Not less than seven (7) nor more than thirty (30) days before the day fixed for a meeting of the Members of the Association, written notice stating the time, place and purpose of such meeting shall be given by or at the direction of the Secretary of the Association or any other person or persons required or permitted by these By-Laws to give such notice to each Member of the Association who is a Member of record of a Unit as of the day next preceding the day on which

the notice is given. Notice may also be given to the Members by electronic mail if a Member has provided an email address to the Association for that purpose. Notice of the time, place and purposes of any meeting of Members of the Association may be waived in writing, either before or after the holding of such meeting, by any Members of the Association, which writing shall be filed with or entered upon the records of the meeting. The attendance of any Member of the Association at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him of notice of such meeting.

- D. Quorum; Adjournment.** Except as may be otherwise provided by law or by the Declaration, at any meeting of the Members of the Association, the Members of the Association entitled to exercise thirty percent (30%) of the voting power of the Association present in person or by proxy shall constitute a quorum for such meeting; provided, however, that no action required by law, by the Declaration, or by these By-Laws to be authorized or taken by a designated percentage of the voting power of the Association may be authorized or taken by a lesser percentage; and provided further, that the Members of the Association entitled to exercise a majority of the voting power represented at a meeting of Members, whether or not a quorum is present, may adjourn such meeting from time to time. If any meeting is adjourned notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

Section 6. Order of Business. The order of business at the annual meeting of Members of the Association shall be as follows:

- A. Calling of meeting to order.
- B. Proof of notice of meeting or waiver of notices.
- C. Reading of minutes of preceding meeting.
- D. Reports of officers.
- E. Reports of committees.
- F. Election of Board of Directors (when appropriate).
- G. Unfinished and/or old business.
- H. New business.
- I. Adjournment.

Section 7. Action by Association Members Without a Meeting. Any action which may be authorized or taken at a meeting of the Members of the Association may be authorized or taken without a meeting in a writing or writings signed by all the Members who would be entitled to notice of a meeting of Members held for such purpose, which writing or writings shall be filed with the records of the Association.

**ARTICLE II.
BOARD OF DIRECTORS**

Section 1. Number and Qualifications of Directors. The affairs of this Association shall be managed by a Board of six (6) Directors who must be Members of the Association or spouses of

Members, and must also be occupants. The number of Directors may be changed by amendment of the By-Laws of the Association.

The Board of Directors and the Officers of the Association, elected as provided herein, shall exercise the powers, discharge the duties, and be vested with the rights confirmed by operation of the law, by these By-Laws and by the Declaration upon the Association, except as otherwise specifically provided.

Section 2. Election of Successor Directors; Vacancies/Removal. Except as provided hereinabove, Directors shall be elected at each annual meeting of Members of the Association or at a special meeting called for the purpose of electing Directors. At a meeting of Members of the Association at which Directors are to be elected, only persons nominated as candidates in accordance with procedures established by the Board shall be eligible for election, and the candidates receiving the greatest number of votes shall be elected.

Nomination for election to the Board of Directors shall be made by a nominating committee, consisting of a Chairman, who shall be a member of the Board of Directors and who is not standing for re-election, and two (2) other Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting.

A vacancy shall be deemed to exist if any Director dies, resigns, is declared by court order to be of unsound mind, fails to attend three (3) consecutive duly called Board meetings without his absence being excused, or is removed from office during his term as Director. In the event of the occurrence of any vacancy or vacancies on the Board, however caused, the remaining Directors, though less than a majority of the whole authorized number of Directors, may fill any such vacancy for the balance of the unexpired term.

Each Director shall serve faithfully as such for the term for which he was elected but may be removed for cause by the vote of Members of the Association entitled to exercise at least a majority of the voting power of the Association at a special meeting called for that purpose.

Section 3. Term of Office; Resignations. Except as otherwise provided in this Section 3, each Director shall hold office for two (2) years and until his or her successor is elected, or until his or her earlier resignation, removal from office, or death. The terms of the Directors shall be staggered, so that three (3) Directors shall be elected in one (1) year for two (2) year terms, and three (3) Directors shall be elected the next year, also for two (2) year terms. Any Director may resign at any time by oral statement to that effect made at a meeting of the Board of Directors or in a writing to that effect delivered to the Secretary of the Association, such resignation to take effect immediately or at such other time as the Director may specify. Directors shall serve without compensation, but shall be entitled to reimbursement for authorized expenses incurred on behalf of the Association.

Section 4. Organizational Meetings. Immediately after each annual meeting of the Members of the Association, the Board of Directors shall hold an organizational meeting for the purpose of electing officers and transaction of any other business. Notice of such meeting need not be given to the Directors or the Members.

Section 5. Regular Meetings. Regular meetings of the Board of Directors may be held at such times and places as shall be determined by a majority of the Directors.

Section 6. Special Meetings. Special meetings of the Board of Directors may be held at any time upon call by the President or any two (2) Directors. Written notice of the time and place of each such meeting shall be given to each Director either by personal delivery or by mail, email, or

telephone at least two (2) days before the meeting, which notice need not specify the purposes of the meeting; provided, however, that attendance of any Director at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice, shall be deemed to be a waiver by him of the notice of such meeting and such notice may be waived in writing either before or after the holding of such meeting by any Director, which writing shall be filed with or entered upon the records of the meeting. Unless otherwise indicated in the notice thereof, any business may be transacted at any organizational, regular or special meeting.

Section 7. Modality of Meeting. A meeting of the Board of Directors may be held by any method of communication, including electronic or telephone communication, including electronic or telephone communication, provided that each Director can hear, participate and respond to every other Director.

Section 8. Action by Board of Directors Without a Meeting. Any action which may be authorized or taken at a meeting of the Board of Directors may be authorized or taken without a meeting in a writing or writings signed by all the Directors who would be entitled to notice of a meeting of Directors held for such purpose, which writing or writings shall be filed with the records of the Board.

Section 9. Quorum; Adjournment. A quorum of the Board of Directors shall consist of a majority of the Directors then in office, provided that a majority of the Directors present at a meeting duly held, whether or not a quorum is present, may adjourn such meeting from time to time; if any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting. At each meeting of the Board of Directors at which a quorum is present, all questions and business shall

be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration or in these By-Laws.

Section 10. Fidelity Bonds. The Board of Directors shall require that all officers and employees of the Association handling or responsible for the Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association and shall be a common expense.

**ARTICLE III.
OFFICERS**

Section 1. Election and Designation of Officers. The Board of Directors shall elect a President, one (1) or more Vice Presidents, a Secretary, and a Treasurer, each of whom shall be a member of the Board of Directors, pursuant to the requirements of Ohio Revised Code Section 1702.34. The Board of Directors may also appoint such other officers as in their judgment may be necessary, all of whom must be Directors.

Section 2. Term of Office; Vacancies. The officers of the Association shall hold office until the next organizational meeting of the Board of Directors and until their successors are elected, except in case of resignation, removal from office, or death. The Board of Directors may remove any officer at any time with or without cause by a majority vote of the Directors then in office. Any vacancy in any office may be filled by the Board of Directors.

Section 3. Duties of Officers.

- A. President.** The President shall be the chief executive officer of the Association. The President shall preside at all meetings of Members of the Association and shall preside at all meetings of the Board of Directors. Subject to directions of the Board

of Directors, the President shall have general executive supervision over the business and affairs of the Association. The President may execute all authorized deeds, contracts and other obligations of the Association and shall have such other authority and shall perform such other duties as may be determined by the Board of Directors or otherwise provided for in the Declaration or in these By-Laws.

- B. Vice-President.** The Vice-President shall perform the duties of the President whenever the President is unable to act and shall have such other authority and perform such other duties as may be determined by the Board of Directors.
- C. Secretary.** The Secretary shall keep the minutes of meetings of the Members of the Association and of the Board of Directors. The Secretary shall keep such books as may be required by the Board of Directors, shall give notices of meetings of Members of the Association and of the Board of Directors required by law or by these By-Laws or otherwise, and shall have such authority and shall perform such other duties as may be determined by the Board of Directors.
- D. Treasurer.** The Treasurer shall supervise the management company's handling of all money, bills, notes and similar property belonging to the Association, and shall direct the management company as to the same as may be directed by the Board of Directors. The Treasurer shall supervise and regularly inspect and review to ensure that the management company keeps accurate financial accounts and holds the same open for the inspection and examination of the Members. The Treasurer shall have such authority and shall perform such other duties as may be determined by the Board of Directors and may delegate same to the management company.

Section 4. Delegation of Authority and Duties. The Board of Directors is authorized to delegate the authority and duties of any officer to any other officer or to the management company and generally to control the action of the officers and to require the performance of duties in addition to those mentioned herein.

**ARTICLE IV.
GENERAL POWERS OF THE ASSOCIATION**

Section 1. Powers. Except where otherwise prescribed by law, the state of Ohio, or the Declaration or By-Laws, all authority shall be exercised by the Board of Directors to:

- A. Adopt and publish Rules and Regulations governing: (i) the use of the Condominium Property and the Association-Owned Property; (ii) the personal conduct of Members, guests, licensees, invitees, and others; (iii) the establishment of penalties for noncompliance with such Rules and Regulations; (iv) which regulate the collection of delinquent assessments and the application of payments of delinquent assessments; and (v) which regulate the use or occupancy of Units, the maintenance, repair, replacement, modification, and appearance of Units and Common Elements, when the actions regulated by those Rules affect Common Elements or other Units.

- B. Hire and fire managing agents, attorneys, accountants, and other independent contractors and employees that the Board determines are necessary or desirable in the management of the Condominium Property, and the Association-Owned Property, and the Association.

- C.** Commence, defend, intervene in, settle, or compromise any civil, criminal, or administrative action or proceeding that is in the name of, or threatened against, the Association, the Board of Directors, the Condominium Property, or the Association-Owned Property, or that involves two or more Unit Owners and relates to matters affecting the Condominium Property or the Association-Owned Property;
- D.** Enter into contracts and incur liabilities relating to the operation of the Condominium Property or the Association-Owned Property;
- E.** Regulate the use, maintenance, repair, replacement, modification, improvement, and appearance of the Condominium Property and the Association-Owned Property;
- F.** Cause additional improvements to be made as part of the Common Element and the Association-Owned Property;
- G.** Purchase, encumber, and convey Units, and, subject to any restrictions in the Declaration, and with the approval of not less than seventy-five percent (75%) of the Unit Owners, acquire an interest in other real property and encumber or convey that interest. All expenses incurred in connection with the acquisition, encumbrance, use, and operation of that interest are Common Expenses;
- H.** Acquire, encumber, and convey or otherwise transfer personal property;
- I.** Hold in the name of the Association the real property and personal property acquired pursuant to Article IV, Sections 1(g) and (h) of these By-Laws;

- J.** Grant easements, leases, licenses, and concessions through or over the Common Element;
- K.** Impose and collect fees or other charges for the use, rental, or operation of the Common Element or for services provided to Unit owners;
- L.** Impose interest and late charges for the late payment of assessments; impose returned check charges; and impose Enforcement Assessments for violations of the Declaration, the By-Laws, and the rules of the Association and reasonable Charges for Damage to the Common Element, Association-Owned Property, or other property;
- M.** Impose reasonable charges for preparing, recording, or copying amendments to the Declaration, resale certificate, or statements of unpaid assessments;
- N.** Enter a Unit for bona fide purposes when conditions exist that involve an imminent risk of damage or harm to Common Element, another Unit, or to the health or safety of the occupants of that Unit or another Unit;
- O.** Assign the Association's rights to common assessments, or other future income, to a lender as security for a loan to the Association;
- P.** Purchase insurance and fidelity bonds the Members consider appropriate or necessary and as required by the Declaration;
- Q.** Suspend the voting rights of any Unit Owner during such periods as that Unit Owner is in default in the payment of any assessment levied by the Association for

more than thirty (30) days, or who has failed to abide by the Rules and Regulations so established after a hearing upon such non-compliance is conducted;

- R.** Employ such employees, agents, attorneys, independent contractors, or others deemed necessary and to prescribe their duties and to provide for the compensation therefor;
- S.** Invest excess funds in investments that meet standards for fiduciary investments under Ohio law;
- T.** Maintain complete and accurate record of all acts of the Association in the form of a corporate minute book containing minutes of all meetings of the Board of Directors reflecting the decisions made and taken by official resolution, pursuant to Ohio Revised Code Section 5311.09;
- U.** Establish and levy the assessments more fully provided for in the Declaration; and to enforce the payment thereof with the remedies available, including foreclosure of liens filed;
- V.** Provide for the maintenance of the Common Element, Units, and Association-Owned Property as provided for in the Declaration;
- W.** Provide for the payment of all fees and other administrative expenses;
- X.** With a majority vote of the Directors, borrow money, issue, sell, and pledge notes, bonds and other evidences of indebtedness of the Association, and assign the Association's rights to common assessments which constitute common assessments, or other future income, to a lender as security for a loan to the

Association, subject to the affirmative vote of seventy-five percent (75%) of the Unit Owners indicating they are in favor of taking out a loan;

- Y. Exercise powers that are conferred by the Declaration or the By-Laws of the Association or the Board of Directors, permitted to be exercised in Ohio by a not-for-profit corporation, or which are necessary and proper for the government and operation of the Association;
- Z. Purchase, hold title to, and sell real property that is not declared to be part of the Condominium Property with the approval of Unit Owners exercising not less than seventy-five percent (75%) of the voting power of the Association.

Section 2. Payment of Common Expenses. The Association, for the benefit of all the Unit Owners, shall pay all Common Expenses arising out of the operation of the Condominium Property and the Association-Owned Property, including without limitation, the following:

- A. **Replacement and Repair.** Adequate amount for replacement and repair of the Common Element and the Association-Owned Property;
- B. **Utility Service for Common Element.** Water, waste removal, electricity, telephone, heat, power or any other necessary utility service for the Common Element and the Association-Owned Property;
- C. **Casualty Insurance.** A policy or policies of fire insurance, with extended coverage, vandalism and malicious mischief endorsements, as provided in the Declaration, the amount of which insurance shall be reviewed annually;

- D. Liability Insurance.** A policy or policies insuring the Association, the Members of the Board, and the Owners against liability to the public or to the Owners of Units and of the Common Element, their invitees, or tenants, incident to the ownership and/or use of the Common Element and the Association-Owned Property, as provided in the Declaration, the limits of which policy shall be reviewed annually;
- E. Wages and Fees for Services.** The services of any person or firm employed by the Association, including, without limitation, the services of a person or firm to act as a Managing Agent for the Condominium Property, the services of any person or persons required for the maintenance or operation of the Condominium Property and legal and/or accounting services necessary or proper in the operation of the Condominium Property or the enforcement of the Declaration and these By-Laws and for the organization, operation and enforcement of the rights of the Association;
- F. Care of Common Element.** Such maintenance, operational and recreational services not covered by other fees to be paid by each Unit Owner pursuant to the Declaration (other than the care of the interior surfaces of the Units, which the Owner shall paint, clean, decorate, maintain and repair), as the Association shall determine are necessary and proper;
- G. Discharge of Mechanic's Liens.** Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the entire Condominium Property or any part thereof which may in the opinion of the Association constitute a lien against the Condominium Property or against the Common Element, rather

than merely against the interest herein of particular Owners; it being understood, however, that the foregoing authority shall not be in limitation of any statutory provisions relating to the same subject matter. Where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it, and any costs incurred by the Association by reason of said lien or liens shall be specifically assessed to said Owners;

- H. Certain Maintenance of Units.** Maintenance and repair of any Unit if such maintenance or repair is necessary, in the discretion of the Association, to protect the Common Element, or any other portion of a building, if the Owner or Owners of said Unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair is delivered by the Association to said Owner or Owners, provided that the Association shall levy a special assessment against such Unit Owner for the cost of said maintenance or repair;
- I. Worker's Compensation.** Worker's Compensation insurance to the extent necessary to comply with any applicable laws; and
- J. Miscellaneous.** The Association shall pay such other costs and expenses designated as "Common Expenses" in the Declaration and in these By-Laws.

Section 3. Association's Right to Enter Units. The Association or its agents may enter any Unit when necessary in connection with any maintenance, repair, replacement or construction for which the Association is responsible or in the event of an emergency. The Association reserves

the right to retain a pass key to each Unit, and no locks or other devices shall be placed on the doors to Units to obstruct entry through the use of such pass key.

Section 4. Capital Additions and Improvements. The Association shall have the authority to acquire and pay for out of the maintenance fund any capital additions and improvements.

Section 5. Rules and Regulations. The Association, by vote of the Board of Directors, may adopt such reasonable Rules and Regulations and from time to time amend the same supplementing the Rules and Regulations set forth in the Declaration and in the By-Laws as it may deem advisable for the maintenance, conservation and beautification of the Condominium Property and the Association-Owned Property, and for the health, comfort, safety and general welfare of the Owners and occupants, of the Condominium Property. Written notice of such Rules and Regulations shall be given to all Owners and occupants, and the Condominium Property and Association-Owned Property shall at all times be maintained subject to such Rules and Regulations. In the event such supplemental Rules and Regulations shall conflict with any provisions of the Declaration or of these By-Laws, the provisions of the Declaration and of these By-Laws shall govern.

Section 6. No Active Business to be Conducted for Profit. Nothing herein contained shall be construed to give the Association authority to conduct an active business for profit on behalf of all the Owners or any of them.

Section 7. Delegation of Duties. Nothing herein contained shall be construed so as to preclude the Association, through its Board of Directors and Officers, from delegating to persons, firms or corporations of its choice, including any Member or Managing Agent, such duties and

responsibilities of the Association as the Members of the Association shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

Section 8. Applicable Laws. The Association shall be subject to and governed by the provisions of any statute adopted at any time and applicable to property submitted to the condominium form of ownership (including, without limitation, Chapter 5311, Ohio Revised Code); provided, however, that all inconsistencies between any statute applicable to associations formed to administer property submitted to the Condominium form of ownership, shall be resolved in favor of the later statute. In the event of any conflict or inconsistency between the provisions of the Declaration and the Articles or By-Laws of the Association, the terms and provisions of the Declaration shall prevail, and the Owners and all persons claiming under them covenant to vote in favor of such amendments in the Articles or By-Laws as will remove such conflict or inconsistencies.

Section 9. Committees. The Members shall appoint such committees as they may deem appropriate in carrying out their purposes.

ARTICLE V. BUDGET AND ASSESSMENTS

Section 1. General. Each Unit Owner is obligated to pay to the Association certain assessments as are enumerated, described and fixed under the terms of the Declaration. Such assessments shall be secured by a continuing lien upon the Unit against which the assessment is fixed and made. No Owner may waive or otherwise escape liability for the assessment by non-use of the Common Element or abandonment of his Unit.

Section 2. Budget and Assessments. Each year on or before December 1, the Board shall estimate the total amount necessary to pay all the Common Expenses for the next calendar year, together with a reasonable amount considered by the Board to be necessary for a Reserve for Non-recurring Expenses and Capital Improvements, as provided in Section 3 of this Article V, and shall, on or before December 15, notify each Unit Owner in writing as to the amount of such estimate, with reasonable itemization thereof. This estimated cash requirement shall be assessed to the Unit Owners according to each Unit Owner's percentage of ownership interest in the Common Element, and the portion of the assessment attributable to said Reserve shall be paid directly to the Association, as provided in said Section 3 of this Article V. On or before January 1 of the ensuing year, and the first day of each and every month of said year, each Unit Owner shall be obligated to pay one-twelfth (1/12) of the assessment made pursuant to this Section. If the funds received by the Association for payment of Common Expenses are insufficient for any reason, the Board may levy additional assessments against the Unit Owners. The Association shall serve notice of such further assessment on all Unit Owners by a statement in writing giving the amount and reason therefor, and such further assessments shall be payable as the Board directs.

The failure or delay by the Board of Directors to prepare the annual budget shall not constitute a waiver or release of a Unit Owner's obligation to pay any assessment levied in accordance therewith.

Section 3. Reserve for Non-recurring Expenses and Capital Improvements. The Association must build up and maintain a reasonable reserve for non-recurring expenses and for capital improvements. A "non-recurring expense" shall be defined as an expense which is reasonably anticipated to be incurred less frequently than bi-annually and which cannot reasonably

be met from monthly assessments. All such reserve funds shall be deemed a contribution by the Unit Owners, according to their respective percentages of ownership interest, to the capital of the Association, and all Unit Owners shall pay their respective shares of such contribution directly to, and such contributions shall be held in trust by, a financial institution designated by the Board. Such funds shall be disbursed by the Board.

Section 4. Failure to Pay Assessments and Remedies. The Association shall have a lien upon the estate or interest in any Unit of an Owner and the Unit's respective percentage of interest in the Common Element for the payment of all assessments levied by the Association, interest thereon, expenses, late charges, and reasonable attorney fees involved in the collection thereof, which remain unpaid. Such a lien shall arise and run from the time a certificate of lien is filed as hereinafter provided, and said lien may be foreclosed in the same manner as a mortgage on real property in an action brought by the Association pursuant to the authority given by the Board of Directors. In the foreclosure action, the owner of the Unit affected shall be required to pay a reasonable rental for the Unit during the pending of the action and the plaintiff in the action is entitled to the appointment of a receiver to collect the rental. In the foreclosure action, the Association or its agent, duly authorized by action of its Board of Directors, is entitled to become a purchaser at the foreclosure sale. Said lien shall take priority over any other lien or encumbrance subsequently arising or created, except liens for real estate taxes and assessments and liens on bona fide first mortgages which have been filed for record.

When an assessment remains unpaid for ten (10) days after the same has become due and payable, a certificate of lien therefor, subscribed by the agent or attorney for the Association, shall be filed with the Recorder of Hamilton County, Ohio, pursuant to authorization given by the Board

of Directors of the Association. Such certificate shall contain a description of the Unit against which the lien exists, the name or names of the record owner or owners thereof, and the amount of the unpaid assessment.

The lien provided for in this Section shall remain valid for a period of five (5) years from the time of filing thereof as provided in Ohio Revised Code 5311.18 unless sooner released or satisfied in the same manner provided by law 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 such lien as hereinafter provided. In addition, such assessments, interest thereon, late charges, expenses and reasonable attorney fees involved in the collection thereof, shall be the personal obligation of the person or persons who were the Owners of the Unit when the assessments became due and payable. That personal obligation for any such unpaid items shall pass to the successors in title and those successors in right, title and interest (whether or not it was expressly stated in the instrument of conveyance, will, title, or interest) who are deemed to assume the obligation to pay those unpaid items; however, these provisions do not relieve the Unit Owner originally indebted for the payment of these items from liability for such payments. Furthermore, these provisions do not apply to successors in title who hold title merely as security for performance of an obligation and shall not apply to mortgagees, their successors and assigns, who take title in lieu of foreclosure or through judicial or foreclosure sales, as to these assessments levied against the unit prior to the acquisition of an ownership interest in such Unit.

Section 5. Dispute as to Assessments. Any Owner who believes that the assessment chargeable to his Unit, for which a certificate of lien has been filed by the Association, has been improperly charged against him or his unit, may request a hearing with the Board of Directors of

the Association to present evidence of payment or reasons why the assessments are improperly charged against his Unit, which hearing must be requested and conducted by the Unit Owner within three (3) days of the receipt of the copy of the certificate of lien. The Unit Owner may also bring an action in the court of Common Pleas of Hamilton County for the discharge of all or any part of such lien.

Section 6. Date of Commencement of Assessments. The full monthly assessments for Unit Owners shall commence on the first day of the first month following the transfer of title to that Unit Owner.

Section 7. Notice of Amount of Assessments. Written notice of the amount of any monthly assessment, special assessment, and special individual Unit assessments shall be mailed by the Association to any Owner who requests such information. The Association shall furnish, upon demand and for a reasonable charge, a certificate signed by an officer of the Association setting forth the amount of unpaid assessments on any Unit, but only to those persons or organizations who have a bona fide interest in the matter of such assessments.

Section 8. Exempt Property. All properties, if any, dedicated to and accepted by a local public authority or granted to and used by a utility company, shall be exempt from the assessments created herein.

**ARTICLE VI.
AMENDMENT OF BY-LAWS**

These By-Laws may be amended by the consent of seventy-five percent (75%) of the voting power of the Members of the Association and then only by amendment to the Declaration as provided herein; and such modification or amendment shall be effective from the time the

certificate setting forth such amendment is delivered to the Recorder for record. In the case of any conflict between these By-Laws and the Articles of Incorporation, the Articles shall control. In the event of any conflict between these By-Laws and the Declaration, the Declaration shall control.

**ARTICLE VII.
SEVERABILITY**

The invalidity of any covenant, restriction, condition, limitation or any other provision of these By-Laws or any part thereof shall not impair or affect the validity, enforceability, or effect of the rest of these By-Laws.

**ARTICLE VIII.
BOOKS AND RECORDS**

Section 1. The Association is not required to permit the examination and copy of any of the following from books, records, and minutes;

- A.** Information that pertains to Condominium Property-related personnel matters;
- B.** Communications with legal counsel or other work product pertaining to pending litigation or other Condominium Property-related matters;
- C.** Information that pertains to contracts or transactions currently under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements and that is subject to those requirements;
- D.** Information that relates to the enforcement of the Declaration, By-Laws, or rules of the Association against Unit Owners;
- E.** Information, the disclosure of which is prohibited by state or federal law.

Section 2. The records and books shall reflect accurately all receipts and disbursements as well as the collection, allocation, and distribution of Common Profits and Expenses among and from the Unit Owners. There shall also be maintained a record of the names and addresses of Unit Owners and their respective percentage of interest in the Common Element. Said books and records shall be available for inspection upon request by any Director or first mortgagee upon reasonable notice.

**ARTICLE IX.
GENERAL PROVISIONS**

Section 1. Copies of Notice to Mortgage Lenders. Upon written request to the Board of Directors, the holder of any duly recorded mortgage against any Unit ownership shall be given a copy of any and all notices permitted or required by the Declaration or these By-Laws to be given to the Owner or Owners whose Unit ownership is subject to such mortgage.

Section 2. Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations or provisions contained in the Declaration or these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 3. Agreements Binding. All agreements and determinations lawfully made by the Association in accordance with the procedure established in the Declaration and these By-Laws shall be deemed to be binding on all Unit Owners, their successors, heirs, and assigns.

Notice of Mortgagees. Any Owner who mortgages his Unit shall notify the Association of the name and address of his mortgagee and thereafter shall notify the Association of the full payment, cancellation or other alteration in the status of such mortgage.

EXHIBIT E
MORTGAGE HOLDER RESPONSE

CONSENTING MORTGAGEES

Annie Thomas	503B
Northside Bank & Trust	1101A
Freedom Mortgage	1104A

NON-CONSENTING MORTGAGEES

None

NON-RESPONSIVE MORTGAGEES

Guaranteed Rate Affinity, LLC Mortgage Electronic Registration Systems, Inc.	502A
New Century Mortgage Corporation Mortgage Electronic Registration Systems, Inc.	802A
Secretary of Housing and Urban Development	803B
CINCO Family Financial Center Credit Union, Inc	1101B
CINCO Family Financial Center Credit Union, Inc.	1103B
Chase	101B
Citizens Bank	203A
Eagle Savings Bank	204A
Cincinnati Capital	403A
Nation Star Mortgage	407A
U.S. Bank	500A
5/3 Bank	902A
Caliber Home Loans	903A
Guardian Savings	903B

Specialized Loan Servicing	904A
Chase Bank	1002A
Union Savings Bank	1003A
U.S. Bank Home Mortgage	1005A
Specialized Loan Servicing, LLC	504A
Superior Mortgage	601A
Specialized Loan Servicing, LLC	601B
New Rez/Loancare	603A
Huntington National Bank	702A
Specialized Loan Servicing, LLC	702B
Select Portfolio Servicing	802B
Plaza Home Mortgage	805A
5/3 Bank	102B