8412200026

OFF. VOL. 729 PAGE 454

RECORDING REQUESTED BY
AND WHEN RECORDED, MAIL TO:

LUKINS & ANNIS, P.S.
1600 Washington Trust Financial Center
Spokane, Washington 99204

Attention: EDWARD F. WROE

FILED FOR RECORD
REQUEST OF FIRST AMERICAN TITLE

DEC 20 8 43 AM '84

WILLIAM E. DONAHUE
AUDITOR
SPOKANE COUNTY, WASH.
DEPUTY

50.00

SNELL

DECLARATION OF

COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS

FOR

WAIKIKI VIEW RIDGE

A PLANNED UNIT DEVELOPMENT

SPOKANE COUNTY WASHINGTON

Unofficial Document

October 18, 1984

TABLE OF CONTENTS

Article	Title	Page No.
1.	DEFINITIONS	2
2.	ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS	5
	2.1 Organization of Association	5
	2.2 Duties and Powers	5
	2.3 Membership	5
	2.4 Transferred Membership	5
	2.5 Classes of Membership; Voting Requirements	6
	2.6 Membership Meetings	6
	2.7 Board of Trustees	6
	2.8 Use of Agent	6
3.	RIGHTS IN SPECIFIC AREAS	7
	3.1 Common Area	7
	3.2 Partition of Common Area Prohibited	7
	3.3 Damage by Member	7
	3.4 Patio Easement	8
	3.5 Northeast Entrance	8
4.	ARCHITECTURAL CONTROL	9
	4.1 Architectural Committee	9
	4.2 Prohibition of Alteration and Improvement	9
	4.3 Plans and Approval	9
	4.4 Non-Liability of Committee Members	10
5.	REPAIR AND MAINTENANCE	11
	5.1 Repair and Maintenance Rights and Duties of Association	11
	5.2 Repair and Maintenance Rights and Duties of Owners	11
6.	ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS	13
	6.1 Creation of the Lien and Personal Obligation of Assessments	13
	6.2 Purpose of Assessments	13
	6.3 Regular Assessments	13
	6.4 Extraordinary Assessments	14
	6.5 Special Assessments	14
	6.6 Allocation of Assessments	14
	6.7 Date of Commencement of Assessment; Due Dates	15

Unofficial Document

Article	Title	Page No.
	6.8 Transfer of Unit by Sale or Foreclosure	15
	6.9 Enforcement of Assessment Obligation; Priorities; Discipline	16
	6.10 Payment of Taxes Assessed Against Common Area or Personal Property of Association	16
	6.11 Special Lot Exemption	17
7.	EASEMENTS AND UTILITIES; COMMON WALLS	18
	7.1 Access, Use, and Maintenance Easements	18
	7.2 Encroachments and Utility Easements	18
	7.3 Owners' Rights and Duties With Respect to Utilities	19
	7.4 Owners' Rights and Duties With Respect to Common Walls	19
8.	RESIDENCE AND USE RESTRICTIONS	21
	8.1 Use of Individual Lots; Combination of Lots	21
	8.2 Business Use Prohibited	21
	8.3 Temporary Structures	21
	8.4 Completion of Construction	21
	8.5 Nuisances	22
	8.6 Signs	22
	8.7 Animals	22
	8.8 Garbage and Refuse Disposal	22
	8.9 Radio and Television Antennas	23
	8.10 Clothes Lines	23
	8.11 Power Equipment and Car Maintenance	23
	8.12 Parking	23
	8.13 No Warranty of Enforceability	23
9.	INSURANCE	25
	9.1 Duty to Obtain Insurance; Types	25
	9.2 Lenders' Requirements	26
	9.3 Waiver of Claim Against Association	26
	9.4 Right and Duty of Owners to Insure	26
	9.5 Notice of Expiration Requirements	27
	9.6 Insurance Premiums	27
	9.7 Trustee for Policies	27
10.	DESTRUCTION: CONDEMNATION	28
	10.1 Damage to Common Area	28
	10.2 Damage to Dwellings	28

Unofficial Document

Article	Title	Page No.
	10.3 Alternate Plans for Restoration and Repair	28
	10.4 Appraisal of Damage	29
	10.5 Interior Damage	29
	10.6 Condemnation	29
11.	DECLARANT'S RIGHTS AND RESERVATIONS	31
12.	RIGHTS OF MORTGAGEES	32
13.	DURATION AND AMENDMENT	35
	13.1 Duration	35
	13.2 Amendment	35
14.	GENERAL PROVISIONS	36
	14.1 Enforcement	37
	14.2 Invalidity of Any Provision	37
	14.3 Conflict of Project Documents	37

Unofficial Document

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR WAIKIKI VIEW RIDGE A PLANNED UNIT DEVELOPMENT SPOKANE COUNTY WASHINGTON

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS AND RESERVATION OF EASEMENTS ("Declaration"), is made on the date hereinafter set forth, by LEROY J. KOHLER and LINDA J. KOHLER, husband and wife (collectively "Declarant"), with reference to the following facts:

A. Declarant is the owner of a certain tract of land located in Spokane County, Washington, which property is more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. Declarant has subdivided the Property into separate residential lots and common areas, and desires to establish thereon a planned unit development, to be managed, operated, and maintained by an incorporated Association of Owners, for the benefit of all parts of the Property.

C. The development shall be hereinafter referred to as the "Project." The Owner of each Unit shall receive fee title to his individual Lot and the residential Dwelling thereon and all rights associated with membership in WAIKIKI VIEW RIDGE HOME OWNERS ASSOCIATION.

D. Declarant intends by this document to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the said Units and the Owners thereof.

Declarant hereby declares that the Property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions, and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property, and the Project, and every part thereof, in accordance with the plan for the improvement, sale, and operation of the Property as a planned unit development. All of the limitations, covenants, conditions, restrictions, and easements shall constitute covenants and encumbrances which shall run with the land and shall be perpetually binding upon Declarant and its successors-in-interest and assigns, and all parties having or acquiring any right, title, or interest in or to any part of the Property or the Project.

Official Document

ARTICLE 1

DEFINITIONS

Unless otherwise expressly provided, the following words and phrases, when used in this Declaration and in the Project Documents, shall have the following meanings:

1.1 Architectural Committee: the Architectural Committee created pursuant to Article 4 of this Declaration.

1.2 Articles: the Articles of Incorporation of the Association as amended from time to time.

1.3 Assessment: that portion of the cost of maintaining, improving, repairing, operating, and managing the Property which is to be paid by the Unit Owners as determined by the Association under this Declaration. Assessments may be designated as Regular Assessments, Extraordinary Assessments, or Special Assessments, as those terms are more specifically defined in Article 6 of this Declaration.

1.4 Association: THE WAIKIKI VIEW RIDGE HOME OWNERS ASSOCIATION, a Washington nonprofit corporation, formed or to be formed by Declarant in conjunction with the establishment of the planned unit development, the members of which shall be the Owners of Units in the Project.

1.5 Board or Board of Trustees: the governing body of the Association.

1.6 Bylaws: the Bylaws of the Association as amended from time to time. The initial Bylaws shall be as adopted by the incorporating members of the Board of Trustees.

1.7 Common Area: all the real property and improvements located within the Project, excluding the Lots and Dwellings, and including the Perimeter Landscape Area, the Patio Reservation, the Private Road, and that portion of the Northeast Entrance located within the Project, all of which shall be owned by the Association for the common use and enjoyment of all Owners. The Common Area is designated as such on the Plat Map and Exhibit "A" attached hereto and incorporated by reference.

1.8 Common Expenses: the actual and estimated expenses of maintenance, improvement, repair, operation, insurance and management of the Common Area, expenses of administration of the Association, and any reasonable reserve for such purposes as determined by the Board, and all sums designated Common Expenses by or pursuant to the Project Documents.

1.9 Common Wall: any wall which is common to and separates any two Dwellings.

Unofficial Document

1.10 Declarant: LEROY J. KOHLER and LINDA J. KOHLER, husband and wife, and their successors-in-interest and assigns with respect to the Property, but shall not include members of the public purchasing Lots.

1.11 Declaration: this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, as it may be amended from time to time.

1.12 Dwelling: any structure or portion thereof within the Project which is designed and intended for use and occupancy as a single-family residence.

1.13 Lot: any residential Lot shown upon the recorded Plat Map of the Project, created for the construction of a private Dwelling. The term "Lot" does not include any portion of the Common Area.

1.14 Member: a person entitled to membership in the Association as provided herein.

1.15 Mortgage: includes a recorded mortgage, deed of trust, real estate contract, or other instrument creating a security interest in any Unit.

1.16 Mortgagee: includes a mortgagee, beneficiary or holder of a deed of trust, real estate contract vendor, or other holder of a mortgage on any Unit.

1.17 Mortgagor: includes a mortgagor, the trustor of a deed of trust, real estate contract vendee or other individual granting a security interest in any Unit.

1.18 Northeast Entrance: a perpetual easement reserved in favor of the Declarant and a perpetual easement granted to the Association by Declarant all as more particularly described on Exhibit "A".

1.19 Owner or Owners: the record holder or holders of title to or a contract vendee's interest in a Unit in the Project. This shall include any person having a fee simple title to any Unit, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Unit is sold under a recorded contract of sale to a purchaser, the purchaser, rather than the fee owner, shall be considered the "Owner," and the fee owner would be considered as a mortgagee.

1.20 Patio Reservation: that portion of the Common Area in which Declarant has reserved an easement for his patio all as more particularly described on Exhibit "A".

1.21 Person: any natural person, corporation, partnership, association, trustee, or other legal entity.

Office Document

1.22 Perimeter Landscaped Area: that portion of the Common Area which encircles the Project, as more fully described on Exhibit A.

1.23 Plat Map: the recorded map prepared by or for Declarant showing the surface of the Property and the division thereof into Lots and Common Area.

1.24 Private Road: all paved roadway located in the Project, including the Northeast Entrance, which is designated on the Plat Map as Fairwood Lane.

1.25 Private Sewer System: the sewer lines and facilities located within and servicing the Project (by connecting the project with a public sewer system outside the Property), which shall be operated and maintained by the Association.

1.26 Project Documents: this Declaration, the Plat Map, the Articles and Bylaws of the Association, and any architectural or other rules promulgated by the Declarant or the Association pursuant to this Declaration or the Articles or Bylaws, as each shall be amended from time to time.

1.27 Property or Project (synonymous): the real property covered by this Declaration, all easements, rights and appurtenances belonging thereto, and all improvements erected or to be erected thereon.

1.28 Unit: all elements of individual ownership of a residential interest in the Project, including ownership of a Lot and Dwelling thereon, nonexclusive use of the Common Area, and all rights of membership in the Association.

Unofficial Document

END OF ARTICLE 1
DEFINITIONS

ARTICLE 2

ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

2.1 Organization of Association.

The Association is or shall be incorporated under the name of THE WAIKIKI VIEW RIDGE HOME OWNERS ASSOCIATION, pursuant to the Washington Nonprofit Corporation Act.

2.2 Duties and Powers.

The duties and powers of the Association are those set forth in this Declaration, the Articles and Bylaws, together with its general and implied powers of a nonprofit corporation, generally to do any and all things that a corporation organized under the laws of the State of Washington may lawfully do which are necessary or proper in operating for the peace, health, comfort, safety and general welfare of its Members, subject only to the limitations upon the exercise of such powers as are expressly set forth in this Declaration, the Articles and Bylaws. Without limiting the generality of the foregoing, the primary functions of the Association shall be the maintenance, operation and insurance of the Common Area.

2.3 Membership.

The Owner of a Lot shall automatically, upon becoming the Owner of that Lot, be a Member of the Association, and shall remain a Member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and the Bylaws of the Association.

2.4 Transferred Membership.

Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the transfer of ownership of the Lot to which it is appurtenant, and then only to the new Owner. Any attempt to make a prohibited transfer is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in his name to the purchaser of his Lot, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

Official Document

2.5 Classes of Membership; Voting Requirements.

The Association shall have two (2) classes of voting membership established according to the Articles, and voting requirements shall be as set forth in the Bylaws.

2.6 Membership Meetings.

Regular and special meetings of Members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws of the Association.

2.7 Board of Trustees.

The affairs of the Association shall be managed by a Board of Trustees, which shall be established and which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association.

2.8 Use of Agent.

The Board of Trustees, on behalf of the Association, may contract with a professional management agent for the performance of maintenance and repair and for conducting other activities on behalf of the Association, as may be determined by the Board. The term of such contract, or any contract with Declarant for the furnishing of services to the Association, shall not exceed one (1) year, renewable by agreement of the parties for successive one-year periods, and such contract shall be terminable by the Association, acting through the Board, at any time (a) for cause upon thirty (30) days' written notice thereof, and (b) without cause or the payment of a termination fee upon ninety (90) days' written notice.

Unofficial Document

END OF ARTICLE 2
ASSOCIATION, ADMINISTRATION, MEMBERSHIP
AND VOTING RIGHTS

ARTICLE 3

RIGHTS IN SPECIFIC AREAS

3.1 Common Area.

The Common Area shall include all real property and improvements within the Project, excluding the Lots and Dwellings, and including the Perimeter Landscape Area, the Patio Reservation, the Private Road, and that portion of the Northeast Entrance located within the Project, all of which is described on Exhibit "A". The Common Area shall be dedicated to the common use and enjoyment of all Owners and shall be owned, operated, maintained, and insured by the Association for the use and benefit of Owners of Lots in the Project, subject to reasonable rules and regulations enacted according to the Bylaws. Each Lot Owner, through membership in the Association, shall have a nonexclusive right to use the Common Area in accordance with the purposes for which it is intended without hindering the exercise of or encroaching upon the lawful rights of any other Lot Owners. Notwithstanding the transfer of the Common Area to the Association, the Declarant shall reserve and hereby reserves in itself and its successors-in-interest and assigns an easement (and the right to grant further easements) over and onto the Common Area for ingress to and egress from the Project for the purpose of completing improvements thereon or for the performance of necessary construction, maintenance, or repair work.

3.2 Partition of Common Area Prohibited.

Regardless of the possible dissolution of the Association and the conveyance of fee title to the Common Area to the Owners as tenants in common pursuant thereto, no Owner shall bring any action for partition or division of any part of the Common Area, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation, management, use, and enjoyment of the Common Area.

3.3 Damage by Member.

Each Member shall be liable to the Association for any damage to the Common Area not fully reimbursed to the Association by insurance, if the damage is sustained because of the negligence or willful misconduct of the Member, his guests, tenants, or invitees, or any other persons deriving their right and easement of use and enjoyment of the Common Area from the Member, or his or their respective family and guests, both minor and adult. However, the Association, acting through the Board, reserves the right to determine whether any claim shall be made upon the insurance maintained by the Association, and the Association further reserves the

Unofficial Document

right to levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Member or the person for whom the Member may be liable as described above. The cost of correcting the damage to the extent not reimbursed to the Association by insurance shall be a Special Assessment against the Unit and may be enforced as provided hereby for the enforcement of any other Assessment.

3.4 Patio Easement.

A perpetual easement over the portion of the Property which is designated on Exhibit "A" as the "Patio Reservation" is hereby reserved for the use, maintenance, repair and replacement of a patio or deck presently owned by Declarant on neighboring property.

3.5 Northeast Entrance.

Declarant hereby grants and reserves over that parcel of property designated on Exhibit "A" as the "Northeast Entrance," perpetual reciprocal easements for installation, maintenance, repair and replacement of a driveway, access and drainage, utility lines, security gate and related appurtenances reasonably necessary to provide ingress and egress to and from the Property (and the neighboring property owned by Declarant), and utility services and security for the Property. Maintenance of the Northeast Entrance shall be at the Association's expense, and Declarant reserves the right to any card, key, combination or other device necessary to gain access to Declarant's property through any security gate.

Unofficial Document

END OF ARTICLE 3
RIGHTS IN SPECIFIC AREAS

ARTICLE 4

ARCHITECTURAL CONTROL

4.1 Architectural Committee.

The Architectural Committee shall consist of three (3) members, two (2) of which shall be appointed by the Declarant, and one (1) of which shall be appointed by the Board of Trustees. At such time as ninety percent (90%) of the Lots are sold or after five (5) years following the recordation of this Declaration, whichever occurs first, all members shall be appointed by the Board of Trustees of the Association. Unless and until the Declarant and Board appoint the Committee, the functions of the Architectural Committee shall be performed by the Board. Members of the Committee shall also be Members of the Association, except that any members of the Committee appointed by Declarant need not be Members of the Association.

4.2 Prohibition of Alteration and Improvement.

Subject to the exemption of Declarant hereunder, no structure, improvement, or alteration of any kind (which will be visible from other Dwellings, the Common Area, or any public right of way) shall be commenced, erected, painted or maintained upon the Property, until the same has been approved in writing by the Architectural Committee.

4.3 Plans and Approval.

The Architectural Committee shall make available to all Owners within the Project (at the Owner's expense for copying) a set of rules and guidelines to assist Owners in preparing plans under this Article 4. The rules and guidelines shall not be binding upon the Committee, but shall set forth general criteria to be considered by the Committee in evaluating a particular application for architectural approval.

Plans and specifications showing the nature, kind, shape, color, size, materials and location of any such structure, improvement or alteration shall be submitted to the Committee for approval as to quality of workmanship and design and harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finish grade elevation. No permission or approval shall be required to rebuild in accordance with Declarant's original plans and specifications, or to rebuild in accordance with plans and specifications previously approved by the Committee.

The Committee shall consider and act upon any and all plans and specifications submitted for its approval under

this Article and perform such other duties as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with plans approved by the Committee. Any application submitted to the Committee pursuant to this Article shall be deemed approved, unless written disapproval or a request for additional information or materials by the Committee shall have been transmitted to the applicant within forty-five (45) days after the date of receipt by the Committee of all required materials.

4.4 Non-Liability of Committee Members.

Neither the Architectural Committee nor any member thereof shall be liable to the Association, or to any Owner for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties hereunder unless due to the willful misconduct or bad faith of the Committee or member. The Committee shall review and approve or disapprove all plans submitted to it for any proposed structure, improvement or alteration, solely on the basis of aesthetic considerations and the overall benefit or detriment which would result to the immediate vicinity and the Project generally, but shall not be responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building or other codes.

Unofficial Document

END OF ARTICLE 4
ARCHITECTURAL CONTROL

Association is required or elects to maintain and repair, each Unit Owner shall, at his sole cost and expense, maintain and repair all components of his Dwelling and Lot (including interior and exterior, structural and nonstructural, and all landscaping), keeping the same in good condition, and shall repair all damage to the Common Area and the Pathways for which the Owner is responsible under Paragraph 3.3 above. Additionally, each Unit Owner shall be responsible for ordinary lawn care (e.g., watering, mowing and weed control) of that portion of the Perimeter Landscape Area which is immediately adjacent to his Lot. Without limiting the foregoing, the Owners of Units which share a Common Wall shall have sole responsibility for cooperating in the maintenance and repair of those Units and the Common Wall, and shall have a perpetual and reciprocal easement over the Common Wall to facilitate said maintenance and repair, subject to the right of the Association to supervise and ensure that such maintenance and repair is carried out in a manner consistent with the requirements of this Declaration relating to all other Unit Owners.

Unofficial Document

END OF ARTICLE 5
REPAIR AND MAINTENANCE

ARTICLE 5

REPAIR AND MAINTENANCE

5.1 Repair and Maintenance Rights and Duties of Association.

Subject to provisions in this Declaration pertaining to eminent domain and destruction of improvements, the Association shall maintain (including the removal of snow and ice from the Private Road), repair and replace all parts of the Common Area, including the Northeast Entrance and its gate and excluding the Patio Reservation, or the Association shall contract for such maintenance, repair and replacement to assure maintenance of such areas in good condition, reasonable wear and tear excepted. Additionally, the Association shall operate and maintain the Private Sewer System or contract for such operation and maintenance, the cost of which shall be paid by Owners of Lots through Regular Assessments to the Association and/or through operation and maintenance assessments levied by Spokane County or any governmental subdivision thereof having jurisdiction.

However, the Association shall not be responsible for or obligated to perform those items of maintenance, repair or improvement which are the responsibility of the Owners as provided in Paragraph 5.2 below. In the event an Owner fails to maintain his Dwelling or Lot, or to provide other maintenance or repair as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the Property, the Board may notify the Owner of the work required and request it be done within sixty (60) days (five (5) days for routine landscaping maintenance) from the giving of such notice. In the event the Owner fails to carry out such maintenance within such period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner, and, if necessary, enforce the assessment lien against his Unit for the amount thereof.

For the purpose of performing any maintenance, repair or replacement as authorized by this Article, or for purposes of making emergency repairs necessary to prevent damage to the Project or to other Dwellings, or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association (and its agents and employees) shall have an irrevocable easement over and onto all portions of the Common Area, and shall also have the irrevocable right, after reasonable notice to the Owner, and at reasonable hours, to enter any Lot and/or Dwelling.

5.2 Repair and Maintenance Rights and Duties of Owners.

Except for those portions of the Property which the

ARTICLE 6

ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

6.1 Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Lot owned within the Project, hereby covenants, and each Owner of any Lot by acceptance of a deed or contract therefor, whether or not it shall be so expressed in such deed or contract, is deemed to covenant and agree to pay to the Association the following Assessments, which shall be established and collected as provided herein and in the Bylaws of the Association:

6.1.1 Regular Assessments;

6.1.2 Extraordinary Assessments; and

6.1.3 Special Assessments.

All Assessments, together with interest, costs, and actual attorneys' fees, shall be a charge and a continuing lien upon the Unit against which each Assessment is made. Each such Assessment, together with interest, costs and actual attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Unit at the time when the Assessment fell due. No Owner of a Unit may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or by the abandonment of his Unit.

6.2 Purpose of Assessments.

The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the entire Project, for the improvement and maintenance of the Common Area, (including the Northeast Entrance) and the Private Sewer System, and for the common good of the Project. The Regular Assessments shall include an adequate reserve fund for maintenance, repair and replacement of all such items which must be repaired or replaced on a periodic basis.

6.3 Regular Assessments.

Until the end of the Association's fiscal year immediately following the closing of the sale of the first Lot in the Project, the annual maximum Regular Assessment per Unit shall be such amount as is set forth in the Project budget prepared by Declarant, payable in periodic installments as determined by the Board. Each Unit's share for the first fiscal year shall also be prorated based on the number of months remaining in that fiscal year. Thereafter, the Board

Unofficial Document

shall determine and fix the amount of the maximum annual Regular Assessment against each Unit at least sixty (60) days in advance of the start of each fiscal year; provided, however, that the maximum annual Regular Assessment may not be increased by more than ten percent (10%) above the maximum annual Regular Assessment for the immediately preceding fiscal year, without the vote or written assent of two-thirds (2/3) of the voting power of each class of Members.

6.4 Extraordinary Assessments.

In addition to the Regular Assessments authorized above, the Board may levy, in any fiscal year, an Extraordinary Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated expense not covered by the Regular Assessment (and, where necessary, for taxes assessed against the Common Area); provided, however, that the aggregate Extraordinary Assessments for any fiscal year shall not exceed five percent (5%) of the budgeted gross expenses of the Association (excluding reserves) for that fiscal year, without the vote or written assent of two-thirds of the voting power of each class of Members.

6.5 Special Assessments.

In addition to the Regular and Extraordinary Assessments authorized above, the Board may levy Special Assessments (without limitation as to amount or frequency and without requiring a vote of Owners) against an individual Unit and its Owner to reimburse the Association for costs incurred in bringing that Owner and his Unit into compliance with the provisions of this Declaration and the Bylaws, including actual attorneys' fees and costs.

6.6 Allocation of Assessments.

Each Lot, including Lots owned by Declarant (but excluding the Exempt Lot to the extent described in Paragraph 6.11 below), shall bear an equal share of each Regular and Extraordinary Assessment. For purposes of allocation of Assessments (and voting rights), the combination of Lots for purposes of establishing a single Dwelling thereon, shall not be deemed to reduce the total number of Lots. For example, if the Owner of two Lots combines such Lots and constructs thereon a single Dwelling, such Owner shall be responsible for payment of all assessments assessed against each Lot as though separately owned.

Unofficial Document

6.7 Date of Commencement of Assessment; Due Dates.

The Regular Assessments provided for herein shall commence as to all Lots in the Project on the first day of the month following closing of the sale of the first Lot in the Project; provided, however, that Declarant shall have the right, by written agreement with the Association, to subsidize all repair, maintenance, and insurance (and the establishment of a reasonable reserve fund) of the Common Area, until Declarant shall have sold seventy-five percent (75%) of all Lots in the Project. If Declarant executes such an agreement, Declarant shall have the right to first exhaust all Regular Assessments collected from the Owners prior to subsidizing the repairs, maintenance or insurance, and the Regular Assessments shall commence as to all Lots owned by Declarant on the first day of the month following termination of the subsidy. Due dates of Assessments shall be the first day of every calendar month, or such other date as may be indicated by the Board. No notice of such Assessment shall be required other than an annual notice setting forth the amount of the periodic Assessment.

6.8 Transfer of Unit by Sale or Foreclosure.

The sale or transfer of any Unit shall not affect any Assessment lien, or relieve the Unit from any liability therefor, whether the lien pertains to payments becoming due prior or subsequent to such sale or transfer. Notwithstanding the foregoing, the sale or transfer of any Unit pursuant to foreclosure or by deed in lieu of foreclosure of a recorded first mortgage given in good faith and for value shall extinguish the lien of all such Assessments as to payments which became due prior to such sale or transfer (except for Assessment liens arising prior to the recordation of the mortgage). Sale or transfer pursuant to mortgage foreclosure shall not, however, affect the personal liability of the Owner for unpaid Assessments. Any Assessments for which the liens are extinguished pursuant to this Paragraph shall be deemed to be Common Expenses collectible from all of the Units including the Unit for which the lien was extinguished. In a voluntary conveyance of a Unit, the grantee of the same shall be jointly and severally liable with the grantor for all unpaid Assessments by the Association against the latter up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Board, setting forth the amount of the unpaid Assessments due the Association, and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid Assessments made by the Association against the grantor in excess of the amount set forth in the statement; provided, however, the grantee shall be liable for any such Assessment becoming due after the date of any such statement.

Document

6.9 Enforcement of Assessment Obligation; Priorities; Discipline.

If any part of any Assessment is not paid and received by the Association or its designated agent within thirty (30) days after the due date, such Assessment shall thereafter bear interest at the rate of eighteen percent (18%) per annum until paid. Additionally, an automatic late charge of Ten Dollars ($10.00) shall be assessed and additional Ten Dollar ($10.00) sums shall be assessed for each month from the due date until the Assessment and all late charges are paid. Each unpaid Assessment shall constitute a lien on each respective Unit prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record made in good faith and for value. Such lien, when delinquent, may be enforced by sale by the Association, its attorney or other person authorized by this Declaration or by law to make the sale, after failure of the Owner to pay such Assessment, in accordance with the provisions of Washington law applicable to the exercise of powers of sale in deeds of trust, or by judicial foreclosure as a mortgage, or in any other manner permitted by law. The Association, acting on behalf of the Unit Owners, shall have the power to bid for the Unit at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. The foreclosing party shall have the right to reduce or eliminate any redemption rights of the defaulting Owner as allowed by law. Suit to recover a money judgment for unpaid Assessments, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Board may impose reasonable monetary penalties including actual attorneys' fees and costs and may temporarily suspend the Association membership rights of a Unit Owner who is in default in payment of any Assessment, after notice and hearing according to the Bylaws.

6.10 Payment of Taxes Assessed Against Common Area or Personal Property of Association.

In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than against the Units, said taxes shall be included in the Assessments made under the provisions of this Article, and, if necessary, an Extraordinary Assessment may be levied against the Units in an amount equal to said taxes (regardless of the limitation on Extraordinary Assessments set forth in Paragraph 6.4 above), to be paid in two (2) installments, thirty (30) days prior to the due date of each tax installment.

Document Image

6.11 Special Lot Exemption.

Notwithstanding anything to the contrary set forth in this Article 6 or elsewhere in the Project documents, it is specifically acknowledged that Lot 10, Block 2 will not be substantially benefitted by any monetary expenditures of the Association with respect to Common Area repair, maintenance or insurance, but shall be benefitted by the maintenance of the Private Sewer System. Accordingly, said Lot 10, Block 2 (the "Exempt Lot") shall be exempt from all Regular Assessments other than that portion of the Regular Assessments which is allocated to operation, maintenance and repair of the Private Sewer System. Additionally the Exempt Lot shall be excluded from voting on any matter pertaining to Regular Assessments except where the vote pertains to the Private Sewer System. However, the Exempt Lot shall be subject to all remaining provisions of this Declaration, including without limitation, all provisions respecting Architectural Control (Article 4) and Residence and Use Restrictions (Article 8).

Unofficial Document

END OF ARTICLE 6
ASSOCIATION MAINTENANCE FUNDS AND ASSESSMENTS

ARTICLE 7

EASEMENTS AND UTILITIES; COMMON WALLS

7.1 Access, Use, and Maintenance Easements.

Declarant expressly reserves for the benefit of the Owners reciprocal, nonexclusive easements for access, ingress and egress, and for use and enjoyment, over all of the Common Area, and for the use and enjoyment thereof. Subject to the provisions of this Declaration governing use and enjoyment thereof, the easements may be used by Declarant, its successors, purchasers and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Property, for vehicular access and such other purposes reasonably necessary for use and enjoyment of a Unit in the Project.

Declarant also expressly reserves for the benefit of the Board of Trustees and all agents, officers and employees of the Association, nonexclusive easements over the Common Area as necessary to maintain and repair the Common Area, and to perform all other tasks in accordance with the provisions of this Declaration. Such easements over the Common Area shall be appurtenant to, binding upon and shall pass with the title to, every Unit conveyed.

7.2 Encroachments and Utility Easements.

Each owner of a Dwelling which shares a Common Wall with another Dwelling is hereby declared to have an easement over all adjoining Units and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of any building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Unit agree that minor encroachments over adjoining Units or Common Area shall be permitted and that there shall be a valid easement for the maintenance of said encroachments so long as they shall exist.

Declarant expressly reserves over Lot 1, Block 1, an easement to accommodate the actual encroachment of the Private Road and/or Northeast Entrance as located prior to recordation of this Declaration and for the maintenance, repair and replacement of the encroaching portion of such Private Road and/or Northeast Entrance.

Unofficial Document

Declarant also expressly reserves for the benefit of itself and its successors-in-interest and assigns, including the Association, easements over and under the entire Property (together with the right to grant and transfer the same) for the installation, repair, and maintenance of sanitary sewer, (for the Private Sewer System), water, electric, gas, and telephone lines and facilities, cable or master television antenna lines and drainage facilities, as may be hereafter required to serve the Property.

7.3 Owners' Rights and Duties With Respect to Utilities.

The rights and duties of the Owners of Units within the Project with respect to utilities shall be as follows:

7.3.1 Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections are located or installed within the Project, which connections, or any portion thereof, lie in or upon or beneath Lots or Dwellings owned by other than the Owner of a Dwelling served by said connections, the Owners of any Dwellings served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the Dwellings or to have the utility companies enter upon the Dwellings in or upon or below which said connections, or any portion thereof lie, to repair, replace and generally maintain said connections as and when necessary.

7.3.2 Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections are located or installed within the Project, which connections serve more than one Dwelling, the Owner of each Dwelling served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his Dwelling.

7.3.3 In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board, which shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

7.4 Owners' Rights and Duties With Respect to Common Walls.

The Owner of any Dwelling which shares a Common Wall with another Dwelling shall be deemed to own the one-half (1/2) of the wall nearest his Dwelling, and shall have an

Unofficial Document

exclusive and perpetual easement over the remainder of the Common Wall for support and maintenance.

Unofficial Document

END OF ARTICLE 7
EASEMENTS AND UTILITIES; COMMON WALLS

ARTICLE 8

RESIDENCE AND USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the Property and each Unit therein is subject to the following:

8.1 Use of Individual Lots; Combination of Lots.

No structure or building of any kind shall be erected on any Lot other than a single family dwelling for single family residential occupancy only.

No Lot may be subdivided further than the size indicated on the Plat Map. However, Lots may be combined, either for construction of a single dwelling over more than one Lot, or for construction of a multi-family dwelling, with the living areas separated by a Common Wall located over the boundary between the Lots. The combination of Lots for either such purpose shall not affect the Assessment or voting rights or obligations with respect to any of the Lots involved.

8.2 Business Use Prohibited.

No trade, craft, business, profession, commercial or manufacturing enterprise or business or commercial activity of any kind shall be conducted or carried on upon any Lot, or within any Dwelling located on a Lot, nor shall any goods, equipment, vehicles, including buses, trucks and trailers of any description, or materials or supplies used in connection with any trade, service or business, wherever the same may be conducted, or any vehicles in excess of 6,000 pounds gross weight (including buses, trucks and trailers of any description) used for private purposes, be kept, parked, stored, dismantled or repaired outside of any Lot.

8.3 Temporary Structures.

No trailer, basement, tent, shack, garage, barn or other outbuilding or any structure of a temporary character erected or placed on the Property shall at any time be used as a residence temporarily or permanently.

8.4 Completion of Construction.

Any Dwelling erected or placed on any Lot shall be completed as to external appearance, including finished painting, within nine (9) months from the date of commencement of construction.

Unofficial Document

8.5 Nuisances.

No noxious, illegal, or offensive activities shall be carried on in any Dwelling, or in any part of the Property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the Owners of his respective Dwelling, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of any building.

8.6 Signs.

Signs advertising Units for sale or rent may be displayed on the appropriate Lot without prior approval of the Board or the Architectural Committee, provided that such signs shall be of reasonable and customary size, not to exceed five (5) square feet. Except as expressly permitted by this Paragraph, no signs shall be displayed to the public view on any Dwellings or on any portion of the Property, unless first approved by the Architectural Committee.

8.7 Animals.

No animals or birds of any kind shall be raised, bred, or kept in any Dwelling, or on any portion of the Property; except that no more than two (2) usual and ordinary household pets such as dogs, cats, or birds, may be kept, provided that they are not kept, bred or maintained for any commercial purposes, and that they are kept under reasonable control at all times. Any such dog shall be kept on a leash at all times that the dog is in the Common Area. Owners shall prevent their pets from soiling all portions of the Property and in the event a pet does soil a portion of the Property, the Owner or person in control of such pet shall immediately clean up after the pet. The Board may enact reasonable rules respecting the keeping of animals within the Project, or may require that specific animals not be allowed on any part of the Property.

8.8 Garbage and Refuse Disposal.

All rubbish, trash and garbage shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment, garbage cans, wood piles, or storage piles shall be kept screened and concealed from view of other Dwellings, the Common Area and public rights-of way.

Document

8.9 Radio and Television Antennas.

No alteration to or modification of a central radio or television antenna system or cable television system, whichever is applicable, shall be permitted, and no Owner may be permitted to construct, use, or operate his own external radio, television antenna, or other electronic antenna without the consent of the Board. No Citizens Band or other transmission shall be permitted on the Property.

8.10 Clothes Lines.

No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes.

8.11 Power Equipment and Car Maintenance.

No power equipment, work shops, or car maintenance of any nature whatsoever (other than minor repairs requiring no more than twenty-four (24) hours work) shall be permitted on the Property except with prior written approval of the Board. In deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

8.12 Parking.

Parking of boats, trailers, motorcycles, trucks, truck/campers and like equipment shall not be allowed on any part of the Property, excepting only within the confines of an enclosed garage and no portion of the same may project beyond the enclosed area except under such circumstances, if any, as may be prescribed by written permit approved by the Architectural Committee. If any of the provisions of this Paragraph 8.12 are violated, the Board of the Association may employ a tow truck or other device to remove the vehicle after prior written notice to the Owner and the Owner of the vehicle shall be responsible for any charges arising therefrom.

8.13 No Warranty of Enforceability.

While Declarant has no reason to believe that any of the restrictive covenants contained in this Article 8 or elsewhere in this Declaration are or may be invalid or unenforceable for any reason or to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability of any such restrictive covenant. Any Owner acquiring a Unit in the Project in reliance on one or more of such restrictive covenants shall assume all risks

Official Document

of the validity and enforceability thereof and, by acquiring the Unit agrees tohold Declarant harmless therefrom.

Unofficial Document

END OF ARTICLE 8
RESIDENCE AND USE RESTRICTIONS

ARTICLE 9

INSURANCE

9.1 Duty to Obtain Insurance; Types.

The Board, on behalf of the Association, shall cause to be obtained and maintained the following policies of insurance:

(a) Hazard Insurance: A "master" or "blanket" type of hazard insurance policy or policies with respect to the Common Area, protecting against loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement, and all other perils customarily covered for similar types of projects, including those covered by the standard "all risk" endorsement. The hazard policy shall cover one hundred percent (100%) of the current replacement cost of all insured facilities within the Common Area, but excluding land, foundations, excavations or other items normally excluded from insurance coverage. Additionally, the policy shall include the following special endorsements and provisions:

- Agreed amount and inflation guard endorsement, when available;

- Construction code endorsements;

- The requirement that any Insurance Trust Agreement will be recognized;

- A waiver of any right of subrogation against Unit Owners;

- A requirement that the insurance will not be prejudiced by any acts or omissions of individual Unit Owners that are not under the control of the Association; and

- An indication that the policy is a primary policy, even if a Unit Owner has other insurance covering the same loss.

The policy shall name the Association (for the use and benefit of the individual Owners), as the named insured and shall contain the standard mortgage clause, naming the holders of first mortgages (and their successors and assigns) as the mortgagees.

(b) Liability Insurance: A comprehensive general liability insurance policy covering all Common Area, and

Unofficial Document

other areas that are under the supervision of the Association. The liability policy shall provide coverage of at least $1,000,000 for bodily injury and property damage for any single occurrence, covering bodily injury and property damage resulting from the operation, maintenance or use of the Common Area, and any legal liability resulting from lawsuits related to employment contracts to which the Association may be a party.

9.2 Lenders' Requirements.

Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity bonds meeting the insurance and bond requirements for similar projects established by the Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA"), The Mortgage Corporation ("TMC"), Veterans Administration ("VA") and/or the Federal Housing Administration ("FHA"), so long as any of them shall be a holder, insurer or guarantor of a mortgage encumbering a Unit within the Project (or an actual Owner of a Unit), except to the extent such coverage is not available or has been waived in writing by FNMA, GNMA, TMC, VA and/or FHA, as applicable.

9.3 Waiver of Claim Against Association.

As to all policies of insurance maintained by or for the benefit of the Association and the Owners, the Association and the Owners hereby waive and release all claims against one another, the Board of Directors and Declarant, to the extent of the insurance proceeds available, whether or not the insurable damage or injury is caused by the negligence of or breach of any agreement by any of said persons.

9.4 Right and Duty of Owners to Insure.

It is the responsibility of each Owner to provide hazard insurance on his or her Dwelling, and on his or her personal property and upon all other property and improvements within his or her Lot. Nothing hereby shall preclude any Owner from carrying any public liability insurance as he or she deems desirable to cover his or her individual liability for damage to persons or property occurring within his or her individual Lot or elsewhere upon the Property. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Association, and duplicate copies of such other policies shall be deposited with the Board upon request. If any loss intended to be covered by insurance carried by or on behalf of the Association shall occur and the proceeds payable thereunder shall be reduced by reason of insurance carried by any Owner, such Owner shall assign the proceeds of such insurance carried by him to the Association to the extent of such reduction, for application

by the Board to the same purposes as the reduced proceeds are to be applied.

9.5 Notice of Expiration Requirements.

If available, all of the policies of insurance maintained by the Association shall contain a provision that said policy or policies shall not be cancelled, terminated or expired by their terms, without ten (10) days prior written notice to the Board, Declarant, Owners and their respective first mortgagees (provided that such person have filed written requests with the carrier for such notice) and every other person in interest who requests such notice of the insurer.

9.6 Insurance Premiums.

Insurance premiums for any blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Board of Directors shall be a Common Expense to be included in the Regular Assessments levied by the Association and collected from the Owners. That portion of the Regular Assessments necessary for the required insurance premiums shall be separately accounted for by the Association in the reserve fund to be used solely for the payment of premiums of required insurance as such premiums become due.

9.7 Trustee for Policies.

The Association, acting through its Board of Trustees, is hereby appointed and shall be deemed trustee of the interests of all named insureds under policies of insurance purchased and maintained by the Association. All insurance proceeds under any such policies as provided for in Paragraph 9.1 above shall be paid to the Board of Trustees as trustees. The Board shall have full power to receive and to receipt for the proceeds and to deal therewith as provided herein. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried or otherwise disposed of as provided in this Declaration. The Board is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers, with participation, to the extent they desire, of first mortgagees who have filed written requests within ten (10) days of receipt of notice of any damage or destruction as provided in this Declaration. Any two (2) Trustees of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on all the named insureds.

END OF ARTICLE 9
INSURANCE

ARTICLE 10

DESTRUCTION; CONDEMNATION

10.1 Damage to Common Area.

In the event of any destruction of any portion of the Common Area, the repair or replacement of which is the responsibility of the Association, it shall be the duty of the Association to restore and repair the same to its former condition, as promptly as practical. The proceeds of any insurance maintained pursuant to Article 9 hereof for reconstruction or repair of the Property shall be used for such purpose, unless otherwise provided herein. The Board shall be authorized to have prepared the necessary documents to effect such reconstruction as promptly as practical. The Property shall be reconstructed or rebuilt substantially in accordance with the original construction plans. If the amount available from the proceeds of such insurance policies for such restoration and repair is inadequate to complete the restoration and repair, the Board shall levy an Extraordinary Assessment for the deficiency and proceed with such restoration and repair.

10.2 Damage to Dwellings.

In the event of any destruction of any Dwelling or Dwellings, it shall be the duty of the Owner(s) of the Dwelling or Dwellings to restore and repair the same to its/their former condition, as promptly as practical, under the supervision of the Board. The proceeds of any insurance maintained pursuant to Article 9 hereof for reconstruction or repair of the Property shall be made available for such purpose, unless otherwise provided herein. The Dwelling or Dwellings shall be reconstructed or rebuilt substantially in accordance with the original construction plans. If the amount available from the proceeds of such insurance policies for such restoration and repair is less than the estimated cost of restoration and repair, the Owner(s) of the Dwelling or Dwellings shall be responsible for the deficiency, and the Board shall have the power to levy a Special Assessment to secure payment of the deficiency. In the event more than one Dwelling is damaged or destroyed, the available insurance proceeds shall be allocated according to the estimated costs of repair and restoration of each Dwelling.

10.3 Alternate Plans for Restoration and Repair.

Notwithstanding the provisions of Paragraphs 10.1 and 10.2, the Association shall have the right, by a vote of two-thirds (2/3) of the voting power of the Association, to make alternate arrangements respecting the repair, restoration or demolition of the damaged portion of the Property. The alternate plan may provide for special allocation of

Unofficial Document

insurance proceeds, modification of design, or special allocation of any necessary Assessments. Any plan adopted pursuant to this subparagraph shall be adopted within sixty (60) days of the damage or destruction and shall be supported by the vote of any Owner whose Dwelling has been physically damaged (to the extent of any modification required to such Dwelling).

10.4 Appraisal of Damage.

In the event the parties affected by damage or destruction to the Property cannot agree, within twenty (20) days of the date of the damage, on the estimated cost of repair or the allocations referred to in this Article 10, the Association shall appoint three (3) independent appraisers having at least five (5) years full-time appraisal experience in Spokane County, Washington, to appraise the damage and establish allocations among various damaged portions of the Property. Within twenty (20) days after the selection of the appraisers, a majority of the appraisers shall set the estimates and allocations. If a majority of the appraisers are unable to agree within the stipulated period of time, the average of the three (3) appraisals shall be utilized. If, however, the low appraisal and/or the high appraisal are/is more than fifteen percent (15%) lower and/or higher than the middle appraisal, the low appraisal and/or the high appraisal shall be disregarded. If only one appraisal is disregarded, the average of the two remaining appraisals shall be utilized. If both the low appraisal and the high appraisal are disregarded, the middle appraisal shall be utilized. The cost of the appraisals required by this subparagraph shall be paid by the Association and reimbursed by the Owners whose Property has been damaged through a Special Assessment.

10.5 Interior Damage.

Restoration and repair of any damage to the interior of any individual Dwelling, including without limitation all fixtures, cabinets and improvements therein, together with restoration and repair of all interior paint, wall coverings and floor coverings, shall be made by and at the individual expense of the Owner of the Dwelling so damaged.

10.6 Condemnation.

The taking or partial taking of any Lot or the Common Area by condemnation or threat thereof shall be negotiated by the party whose property is affected thereby, and such party shall be entitled to receive all compensation paid by the condemning authority. In the event of a taking or partial taking of the Common Area, the Board shall be authorized to negotiate the condemnation award, which shall be deposited in the general funds of the Association, subject to

Unofficial Document

disbursement or other use according to an agreement supported by two-thirds (2/3) of the voting power of the Association.

Unofficial Document

END OF ARTICLE 10
DESTRUCTION; CONDEMNATION

ARTICLE 11

DECLARANT'S RIGHTS AND RESERVATIONS

Declarant is undertaking the work of construction of the Project and the creation of the planned unit development on the Property. The completion of that work and the sale or other disposition of the Units is essential to the establishment and welfare of the Property as a residential community. In order that said work may be completed and said Property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

11.1 Prevent Declarant, or any Builder, or their contractors, or subcontractors from doing on the Property, whatever is reasonably necessary or advisable in connection with the completion of the work; or

11.2 Prevent Declarant or any Builder or their representatives from erecting, constructing and maintaining on any part or parts of the Property, such structures as may be reasonable and necessary for the conduct of their business of completing said work and establishing said Property as a residential community and disposing of the same in parcels by sale or other disposition; or

11.3 Prevent Declarant or any Builder from maintaining such sign or signs on any of the Property as may be necessary for the sale or disposition thereof.

So long as Declarant, or any Builder or their successors-in-interest and assigns, owns one or more of the Units established and described in this Declaration and except as otherwise specifically provided herein, Declarant and all Builders, and their successors and assigns, shall be subject to the provisions of this Declaration.

In the event Declarant shall convey all of its right, title and interest in and to the Property to any partnership, individual or individuals, corporation or corporations, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of the Declarant.

Official Document

END OF ARTICLE 11
DECLARANT'S RIGHTS AND RESERVATIONS

ARTICLE 12

RIGHTS OF MORTGAGEES

In order to induce various lenders and lending agencies, including without limitation, The Mortgage Corporation ("TMC"), the Government National Mortgage Association ("GNMA") and the Federal National Mortgage Association ("FNMA"), the Veterans Administration ("VA") and/or the Federal Housing Administration ("FHA") to participate in the financing of the sale of Units within the Project, this Article 12 is included in this Declaration. To the extent these added provisions, pertaining to the rights of such lenders and lending agencies conflict with any other provisions of this Declaration or any other of the Project Documents, these added restrictions shall control. For purposes of this Article 12, the terms "Eligible Holder" and "Eligible Insurer or Guarantor" refer to a Holder, Insurer or Guarantor of any first mortgage on a Unit, who has provided a written request to the Association, to be notified of any proposed amendment or action described in Paragraph 12.5 or Paragraph 12.6 below.

12.1 Notwithstanding any other provision of Project Documents, no amendment or violation of the Project Documents shall operate to defeat or render invalid the rights of any mortgagee of a Unit made in good faith and for value, provided that after the foreclosure of any such mortgage, such Unit shall remain subject to the Project Documents.

12.2 Each first mortgagee of a mortgage encumbering any Unit, which obtains title to such Unit pursuant to judicial foreclosure or the powers provided in such mortgage, shall take title to such Unit free and clear of any claims for unpaid Assessments or charges against such Unit which accrued after the time such mortgagee recorded its mortgage, and prior to the time such mortgagee acquires title to such Unit.

12.3 First mortgagees, upon written request, shall have the right to (1) examine the books and records of the Association during normal busness hours; (2) require from the Association the submission of annual audited financial reports and other financial data; (3) receive written notice of all meetings of the Owners; and (4) designate, in writing, a representative to attend all such meetings.

12.4 Each Owner hereby authorizes the first mortgagee of a first mortgage on his Unit to furnish information to the Board concerning the status of the first mortgage and the loan which it secures.

12.5 Unit Owners shall have the right to amend the Project Documents in accordance with Article 13 below, subject to the rights of Eligible Holders to participate in the

Unofficial Document

amendment process as provided in this Paragraph. Amendments of a material nature shall be agreed to by (i) the Declarant (so long as there are two classes of voting power); (ii) Unit Owners representing at least sixty-seven percent (67%) of the total allocated votes in the Association (excluding votes residing in Declarant, so long as there are two classes of voting power); and (iii) Eligible Holders representing at least fifty-one percent of the votes of Units that are subject to mortgages held by Eligible Holders. A change to provisions within the Project Documents which pertain to any of the following matters would be considered as material, and therefore subject to the above voting requirements:

- Voting rights;

- Assessments, assessment liens, or subordination of assessment liens;

- Reserves for maintenance, repair and replacement of Common Area;

- Responsibility for maintenance and repairs;

- Reallocation of interests in the Common Area, or rights to its use;

- Boundaries of any Lot;

- Convertibility of Lots into Common Area or vice-versa;

- Expansion or contraction of the Project, or the addition, annexation or withdrawal of property to or from the Project;

- Insurance or fidelity bonds;

Leasing of Units;

- Imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit;

- A decision by the Association to establish self-management when professional management had been previously required by an Eligible Holder;

- Restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in the Project Documents;

- Any action to terminate the legal status of the Project after substantial destruction or condemnation (when Unit Owners are considering termination of the

Unofficial Document

legal status of the Project for reasons other than substantial destruction or condemnation, approval must be obtained from Eligible Holders representing at least sixty-seven percent (67%) of the votes of Units that are subject to mortgages held by Eligible Holders); or

- Any provisions that expressly benefit mortgage holders, insurers or guarantors.

If the Association determines that an addition or amendment to the Project Documents is not a material change, the approval of Eligible Holders shall be implied by the failure of an Eligible Holder to submit a response to a written proposal for an amendment within thirty (30) days after the proposal is made.

12.6 Each Eligible Holder and each Eligible Insurer or Guarantor is entitled to timely written notice of the following:

Any condemnation or casualty loss that affects either a material portion of the Project or the Unit securing its mortgage;

Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Unit on which it holds the mortgage;

A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

Any proposed action that requires the consent of a specified percentage of Eligible Holders.

In addition to the foregoing, the Board shall have the power and authority, without the vote of the Association, to enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of the VA, FHA, TMC, the FNMA or the GNMA or any similar entity, so as to allow for the purchase, guaranty or insurance, as the case may be, by such entities of first mortgages encumbering Units. Each Owner hereby agrees that it will benefit the Association and the membership of the Association, as a class of potential mortgage borrowers and potential sellers of their residential Units, if such agencies approve the Property as a qualifying Project under their respective policies, rules and regulations, as adopted from time to time.

Official Document

END OF ARTICLE 12
RIGHTS OF MORTGAGEES

ARTICLE 13

DURATION AND AMENDMENT

13.1 Duration.

This Declaration shall continue in full force for a term of fifty (50) years from the date hereof, after which time the same shall be automatically extended for successive periods of ten (10) years, unless a Declaration of Termination is recorded, meeting the requirements of an amendment to this Declaration as set forth in Paragraph 13.2. There shall be no severance by sale, conveyance, encumbrance or hypothecation of an interest in any Unit from the concomitant membership of the Association, as long as this Declaration shall continue in full force and effect.

13.2 Amendment.

Notice of the subject matter of a proposed amendment to this Declaration in reasonably detailed form shall be included in the notice of any meeting of the Association at which a proposed amendment is to be considered. A resolution adopting a proposed amendment may be proposed by an Owner at a meeting of the Members of the Association. The resolution shall be adopted by the vote, in person or by proxy, or written consent of Members representing not less than two-thirds (2/3) of the total voting power of the Association (both classes combined).

Notwithstanding the foregoing, the following special voting provisions shall apply:

(a) Amendments of a material nature shall be enacted in compliance with the provisions of Article 12 of this Declaration;

(b) The percentage of the voting power necessary to amend a specified provision of this Declaration shall be not less than the percentage of affirmative votes prescribed for action to be taken under that provision;

(c) Any amendment purporting to change the relative voting powers, or the relative rights and/or obligations of Members based on class of membership, shall require the vote of the prescribed percentage of the voting power of each class of membership;

A certificate, signed and sworn to by two (2) officers of the Association, that the record Owners of the required number of Units have either voted for or consented in writing to any amendment adopted as provided above, when recorded, shall be conclusive evidence of that fact. The Association shall maintain in its files the record of all such votes or

Unofficial Document

written consents for a period of at least four (4) years. Such a certificate reflecting any amendment which requires the written consent of any of the record holders of first mortgages shall be signed and sworn to by such first mortgagees.

Unofficial Document

END OF ARTICLE 13
DURATION AND AMENDMENT

ARTICLE 14

GENERAL PROVISIONS

14.1 Enforcement.

The Board, any Owner, and any governmental or quasi-governmental agency or municipality having jurisdiction over the Project shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court. Any such action by the Board shall be taken on behalf of two (2) or more Unit Owners, as their respective interests may appear, with respect to any cause of action relating to the Common Area or more than one Unit. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

14.2 Invalidity of Any Provision.

Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situated, the validity of all other provisions shall remain unaffected and in full force and effect.

14.3 Conflict of Project Documents.

If there is any conflict among or between the Project Documents, the provisions of this Declaration shall prevail; thereafter, priority shall be given to Project Documents in the following order: Plat Map; Articles; Bylaws; and rules and regulations of the Association. Notwithstanding the foregoing, any provision in any of the Project Documents which is for the protection of mortgagees shall have priority over any inconsistent provision in that document or in any other Project Document.

Unofficial Document

END OF ARTICLE 14
GENERAL PROVISIONS

The undersigned, being the Declarant herein, has executed this Declaration on Nov. 13, 1984.

DECLARANT:

LEROY J. KOHLER

LINDA J. KOHLER

STATE OF WASHINGTON)
:ss
County of Spokane)

On this 13th day of Nov., 1984, before me personally appeared LEORY J. KOHLER and LINDA J. KOHLER, his wife, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they signed and sealed the same as their own free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL the day and year in this certificate first above written.

Notary Public in and for the State of Washington, residing at Spokane

Unofficial Document

CONSENT TO RECORDATION OF DECLARATION

OLD NATIONAL BANK, which is the holder of a recorded first mortgage (or deed of trust) covering the Property described in the foregoing Declaration, hereby acknowledges that it has read and approves the Declaration, and agrees that the lien of said mortgage (or deed of trust) shall be subject and subordinate to the interest of Bancshares Mortgage Company in said property in the amount of $105,100 the value of the credit to be extended by Bancshares Mortgage Company concerning said Declaration and Property.

Dated: 12-5-84, 1984.

OLD NATIONAL BANK

By: R E Shull V.P. (Title)

By: C R Yentzer Asst V.P. (Title)

State of Washington)
) ss.
County of Spokane)

On this 5 day of December, 1984, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared R.E. Shull, to me known to be the Vice President of OLD NATIONAL BANK, the Corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said Corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument and that the seal affixed is the corporate seal of said Corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Kathy M. Bungard

Notary Public in and for the State of Washington, residing at Spokane

Unofficial Document

STATE OF WASHINGTON)
) ss.
County of Spokane)

On this 5th day of December, 1984, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared C.R. Kentzer, to me known to be the Asst. V.P. of OLD NATIONAL BANK, the Corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said Corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute the said instrument and that the seal affixed is the corporate seal of said Corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Kathy M. Bungard

Notary Public in and for the State of Washington, residing at Spokane

KATHY M. BUNGARD NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES OCT. 1, 1988

15A/KJM28307A

Unofficial Document

CONSENT TO RECORDATION OF DECLARATION

Bancshares Mortgage Company, which will be the holder of a recorded first Deed of Trust covering the Property described in the foregoing Declaration, hereby acknowledges that it has read and approves the Declaration.

Dated: December 5, 1984.

Bancshares Mortgage Company

By: _____ President (Title)

By: Rich Hardan (Title)

State of Washington)
) ss.
County of Spokane)

On this 5th day of December, 1984, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared J. L. Kiesch baum and Rich Hardan to me known to be the President and Vice President respectively, of Bancshares Mortgage Company, the Corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said Corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument and that the seal affixed is the corporate seal of said Corporation.

WITNESS my hand an official seal hereto affixed the day and year first above written.

NOTARY PUBLIC STATE OF WASHINGTON

_____
Notary Public in and for the State of Washington, residing in Spokane.

Document Copy

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY
WAIKIKI VIEW RIDGE

ENTIRE PROPERTY:

All property within that subdivision known as Waikiki View Ridge, being a planned unit development and a replat of portion of Short Plat No. 81-194, located in Sections 6 and 7, T.26 N., R.43 E.W.M., in Spokane County, Washington and recorded in Volume 2 of Short Plats, pages 32 and 33, in the Auditor's Office of said County, described as follows:

All of Parcel "C" of said Short Plat;
TOGETHER WITH that portion of Parcel "B" of said Short Plat being more particularly described as follows:
Beginning at a point on the southerly line of said Parcel "B" distant easterly 27.00 feet from the southwest corner of said parcel; thence N.27°21'54"E. at a right angle to said south line, a distance of 10.00 feet; thence S.62°38'06"E. parallel with said south line, a distance of 50.00 feet; thence S.27°21'54"W. at a right angle to said south line of Parcel "B" a distance of 10.00 feet to said south line; thence N.62°38'06"W. a distance of 50.00 feet to the point of beginning
ALSO TOGETHER WITH that portion of Parcel "B" of said Short Plat being more particularly described as follows:
Beginning at a point on the southerly line of said Parcel "B" distance easterly 127.96 feet from the southwest corner of said parcel; thence N.27°21'54"E. at a right angle to said south line, a distance of 20.00 feet; thence S.62°38'06"E. parallel with said south line, a distance of 184.87 feet to the easterly margin of Mill Road; thence S.41°03'23"W. along said easterly margin a distance of 20.58 feet to the southeast corner of said Parcel "B"; thence N.62°38'06"W. along the south line of said Parcel "B" a distance of 180.00 feet to the point of beginning

Unofficial Document

COMMON AREA: (PRIVATE ROADS, PERIMETER LANDSCAPE AREA, AND PORTION OF NORTHEAST ENTRANCE)

All parts of Waikiki View Ridge, a planned unit development according to the Plat to be recorded in the records of Spokane County, Washington, excepting the individual residential lots, such Common Area to be designated on the Plat as Fairwood Lane; Lot 11, Block 2; and Lot 8, Block 1. Also, that part of the "Northeast Entrance" described below, which is located within the proposed Plat.

NORTHEAST ENTRANCE:

That portion of Parcel "B" of Spokane County Short Plat #81-194, as recorded in Volume 2 of Short Plats, pages 32 and 33, in the Spokane County Auditor's Office, and located in the Southeast Quarter of Section 6, T.26 N., R.43 E.W.M., in Spokane County, Washington, described as follows:

Beginning at a point on the southerly boundary of said Parcel "B" distant easterly 127.96 feet from the southwest corner of said parcel; thence N.27°21'54"E. at right angles to said southerly boundary a distance of 53.00 feet; thence S.62°38'06"E. a distance of 30.00 feet; thence S.00°34'11"E. a distance of 23.93 feet; thence S.76°04'59"E. a distance of 160.00 feet to the easterly boundary of said Parcel "B", being also the westerly margin of Mill Road; thence S.41°03'23"W. along said easterly boundary a distance of 50.50 feet to a point 20.58 feet northerly of the southeast corner of said Parcel "B"; thence N.62°38'6"W. parallel with said southerly boundary a distance of 64.24 feet thence N.76°04'59"W. a distance of 86.00 feet to said southerly boundary; thence N.62°38'06"W. along said southerly boundary a distance of 36.99 feet to the point of beginning.

Unofficial Document

PATIO RESERVATION:

That portion of Parcel "B" of Spokane County Short Plat #81-194 located in Sections 6 and 7, T.26 N., R.43 E.W.M. in Spokane County, Washington and recorded in Volume 2 of Short Plats, pages 32 and 33 in the Auditor's Office of said county, described as follows:

Beginning at a point on the southerly line of said Parcel "B" distant easterly 27.00 feet from the southwest corner of said parcel; thence N.27°21'54"E. at a right angle to said southerly line, a distance of 10.00 feet; thence S.62°38'06"E. parallel with said southerly line, a distance of 50.00 feet; thence S. 27°21'54"W. at a right angle to said southerly line of Parcel "B" a distance of 10.00 feet to said southerly line; thence N.62°38'06"W. along said southerly line a distance of 50.00 feet to the point of beginning.

Unofficial Document

15A/EFW22108F