

## INTRODUCTION – DECLARATION

PROPOSED CHANGES TO THE RESTATEMENT OF THE DECLARATION OF CONDOMINIUM OWNERSHIP – THE FOLLOWING PROPOSED CHANGES WERE UNANIMOUSLY APPROVED FOR RECOMMENDATION TO THE BOARD BY THE GOVERNANCE COMMITTEE, AND UNANIMOUSLY APPROVED FOR SUBMISSION TO THE OWNERS FOR A VOTE BY THE ATCA BOARD OF DIRECTORS.

NEW/ADDED LANGUAGE IS “**HIGHLIGHTED**” IN YELLOW. LANGUAGE TO BE REMOVED/DELETED IS “~~HIGHLIGHTED~~” IN RED, AND RED “~~STRIKE OUT~~”.

ONLY SECTIONS FOR WHICH A CHANGE IS PROPOSED ARE LISTED HERE. IF A SECTION IS NOT LISTED HERE, IT MEANS THAT THE COMMITTEE DID NOT RECOMMEND A CHANGE TO IT, AND THE BOARD IS NOT SUBMITTING A CHANGE TO IT TO THE OWNERS FOR A VOTE.

1. **DEFINITIONS.**

- D. **“Building”** shall mean any or all of the thirty-nine buildings that contain residential Units, and any administrative building or structures located on the real property and forming part of the Property, ~~and containing the Units~~ as shown on the Plat, annexed as Exhibit “B-9” (said Exhibit B-9 that was attached to the “Restatement”, COB 1887, Folio 102).
- E. **“Common Elements”** shall mean the portion of the condominium property not a part of the individual Units, and shall include, but shall not be limited to, the Land, foundations, stairways ~~not located within the boundaries of a Unit~~, entrances and exits, common parking areas, any management storage areas, ~~basement~~, roof, ~~incinerator~~, pipes, ducts, electrical wiring and conduits (except pipes, ducts, electrical wiring and conduits situated entirely with a Unit and serving only said Unit), public utility lines, floors, ceilings and perimeter walls of Units (other than such portions thereof included within Unit boundaries as shown on the Plat), structural components of the Building, outside walks and driveways, landscaping, and all other portions of the Property except the individual Units. Structural components located within the boundaries of a Unit shall be part of the Common Elements.
- J. **“Limited Common Elements”** shall mean those Common Elements serving exclusively a single Unit ~~or Units~~, including specifically, but not by way of limitation, balconies and patios, ~~terraces~~, and such portions of the perimeter walls, floors, ceiling, doors, vestibules, windows, entryways, attic space, ~~reserved parking spaces~~ and all associated fixtures and structures therein as lie outside a Unit

boundary, but which serve only said Unit ~~or Units~~. The Board may from time to time designate other portions of the Common Elements as Limited Common Elements including, but not limited to, ~~automobile parking spaces, storage lockers, rubbish collection areas, and~~ such heating, plumbing, and electrical fixtures and all associated pipes, ducts, and wiring as may serve exclusively a single Unit ~~or group of Units~~. ■

5. **ASSOCIATION OF UNIT OWNERS AND ADMINISTRATION AND OPERATION OF THE PROPERTY.**

A. **The Association.**

The Declarant caused the Association to be incorporated on or about June 27, 1984, by filing the required documents with the Louisiana Secretary of State. This Association, through the Board (who shall be elected as set forth in the By Laws), shall be the governing authority for all of the Unit Owners in the administration and operation of the Property as provided in the Act, and in this Declaration and in the By Laws.

Whenever “Board” is used in this Declaration or in the By Laws, it shall mean and refer to the Association acting through its Board of Directors. The Board shall be elected by the Unit Owners in accordance with the By Laws. ~~Neither the Board, the Association, nor the Unit Owners shall be deemed to be using the Unit for residential purposes.~~

All funds collected by the Board shall be held and expended for the purposes designated in the Declaration and By Laws, and (except for such adjustment as the Board may require to reflect delinquent, prepaid, and special assessments) shall be deemed to be held for the benefit, use, and account of all the Unit Owners in the percentages set forth in Exhibit “D-9” (said Exhibit D-9 that was attached to the “Restatement”, COB 1887, Folio 102). All such funds shall be administered in accordance with the provisions of the Declaration and By Laws.

Each Unit Owner shall be a member of the Association so long as he shall be a Unit Owner. Such membership shall automatically terminate when he ceases to be a Unit Owner. Upon transfer (whether by sale, donation, or any other recorded procedure) of his ownership interest, the new Unit Owner succeeding to his ownership interest shall succeed to such membership in the Association.

**B. Management of Property.**

The Board shall have the authority to engage the services of an agent (sometimes referred to as a “Managing Agent”) to maintain, repair, replace, administer, and operate the Property, or any part hereof, to the extent deemed advisable by the Board. ~~, subject to the provision of subparagraph C below.~~

**C. Use by Declarant.**

~~During the period of sale by the Declarant of any Units, the Declarant and its agents, employees, contractors, and subcontractors, and their respective agents and employees, shall be entitled to access to and from, ingress to and egress from the Property as may be required for purposes of the development and sale of Units and/or Common Elements. While the Declarant owns any of the Units, and until each Unit sold by it is occupied by the purchasers, the Declarant and its employees may use and show one or more of such unsold or unoccupied Units as a model Unit or Units, and may use one or more of such unsold or unoccupied Units as a sales office, and may maintain customary signs in connection therewith.~~

**C. Indemnity.**

The members of the Board, the officers thereof or of the Association, and the

Declarant shall not be liable to the Unit Owners for any **good faith** mistake of judgment, or any acts or omissions made in good faith. The Unit Owners shall indemnify and hold harmless each of such members **and** officers, ~~and the Declarant~~ against all contractual liability to others arising out of contracts made by such members **or** officers, ~~or Declarant~~, on behalf of the Unit Owners or the Association, unless any such contract shall have been made in bad faith, or contrary to the provisions of this Declaration.

The liability of any Unit Owner arising out of any contract made by such members **or** officers, ~~or Declarant~~, or out of the aforesaid indemnity, shall be limited to such proportion of the total liability thereunder as his percentage interest in the Common Elements bears to the total percentage interest of all the Unit Owners in the Common Elements.

Each contract made by such members **or** officers, ~~or Declarant~~, or by the Managing Agent on behalf of the Unit Owners or the Association, shall be executed by such members, officers, ~~or Declarant~~ or the Managing Agent, as the case may be, as agents for the Unit Owners or for the Association.

**D. Board's Determination Binding.**

In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions or interpretation of application of the provisions of the Declaration or **the** By Laws, the determination thereof by the Board shall be final and binding on each and all of such Unit Owners. ■

6. **COMMON ELEMENTS.**

**B. Covenant Against Partition.**

In order to effectuate the intent hereof, and to preserve the Condominium and the Condominium method of ownership, the Common Elements shall remain undivided. No person, irrespective of the nature of his interest in the Common Elements, shall bring any action or proceeding for partition or division of the Common Elements, or any part thereof, until the termination of the condominium regime established by this Declaration in accordance with provisions herein elsewhere contained, or until the Property is no longer tenable, whichever first occurs. In all circumstances events, all mortgages must be paid in full, or all mortgagees must consent in writing, prior to bringing an action for partition.

**C. Use of the Common Elements.**

Each Unit Owner shall have the right to use the Common Elements (except the Limited Common Elements ~~and assigned parking and storage facilities~~) in common with all other Unit Owners, as may be required for the purposes of access to and from, and ingress to and egress from the Property, and for use and occupancy and enjoyment of the respective Unit owned by such Unit Owner. Such right to use the Common Elements shall extend to each Unit Owner, and the agents, servants, tenants, family members, and invitees of each Unit Owner.

Each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements serving exclusively his Unit. Such rights to use and possess the Common Elements, including the Limited Common Elements, shall be

subject to and governed by the provisions of the Act, and of this Declaration, the By Laws of the Association, and the rules and regulations governing the use, occupancy, and control of the Common Elements as more particularly provided in the By Laws.

The Board shall have the authority to lease or to grant licenses or concessions with respect to parts of the Common Elements, subject to the provisions of the Declaration and the By Laws. ■

7. **COMMON EXPENSES.**

A. **Payment of Common Expenses.**

Each Unit Owner shall pay his proportionate share of the expenses of administration, maintenance, and repair of the Common Elements, and of any other expenses incurred in conformance with the Declaration and By Laws, or otherwise lawfully agreed upon (which expenses are hereinafter sometimes referred to as “Common Expenses”). ~~;~~ ~~provided,~~ **However,** the Board may establish another method for apportioning charges for services (including water and sewerage) furnished to individual Units if the same are charged to the Property as a whole and not billed separately to the Unit Owners by the utility or other persons furnishing the particular service.

Such proportionate share of the Common Expenses for each Unit Owner shall be in the same ratio as his percentage of ownership in the Common Elements as set forth in Exhibit “D-9” (said Exhibit D-9 that was attached to the “Restatement”, COB 1887, Folio 102). Payment thereof shall be in such amounts and at such times as determined **by the Board and** in the manner provided in the By Laws.

~~During Declarant’s period of ownership of any unsold completed Units, Declarant shall only be responsible for his proportionate share of Common Expenses of the Units and the Common Elements for each of the completed Units, but shall not be responsible for the payment of any monthly sums for reconstruction, repair, replacement, alterations, and improvements.~~

~~Declarant shall be responsible for any operating deficits during the period of its control.~~

Each Unit Owner shall also pay for all utility services, including electricity and other utility services (including telephone, internet, cable), if any, separately metered for such Unit Owner's Unit. Each Unit Owner shall make such payments for separately metered utility services to the public utility company providing such utility service if provided directly to the Unit Owner, or to the Association if such utility services are separately metered or sub-metered for the Units.

**B. Lien.**

The Association shall have a lien on a Condominium Unit for all unpaid sums assessed by the Association and interest thereon at the legal rate. This lien shall also secure reasonable attorney's fees incurred by the Association incident to the collection of the assessment or enforcement of the lien.

The Board may bring an action at law against the Unit Owner personally obligated to pay the same, for collection of his unpaid proportionate share of the Common Expenses, or foreclose the lien against the Unit or Units owned by such Unit Owner, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment.

Each Unit Owner, by his acceptance of a deed to a Unit, hereby expressly vests in the Board or its agents the right and power to bring all actions against such Unit Owner personally for the collection of such charges as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens. Each Unit

Owner hereby expressly grants to the Board a power of sale in connection with ~~said~~ any such lien.

The lien provided for in this section shall be in favor of the Board, and shall be for the common benefit of all Unit Owners. The Board, acting on behalf of the Unit Owners, shall have the power to bid upon any Unit or interest foreclosed at foreclosure sale, and to acquire and hold, lease, mortgage, and convey/sell or transfer the same.

This lien shall be superior to all other liens and encumbrances on a Unit, except (i) privileges, mortgages, and encumbrances recorded before the recordation of the Original Declaration, or recorded before the recordation of this lien, (ii) immovable property taxes, and (iii) governmental assessments in which the Unit is specifically described. ■

**10. INSURANCE.**

The insurance that shall be carried upon the Property shall be governed by the following provisions:

**C. Coverage.**

- (1) Casualty. The Building and all other insurable improvements upon the land, and all personal property as may be owned by the Association, shall be insured in an amount equal to the maximum insurable replacement cost thereof (exclusive of land, excavation, foundations, and other items normally excluded from property policies), as determined annually by the insurance company affording such coverage. Such coverage shall afford protection against:
  - a. loss of damage by fire and other hazards covered by the standard extended coverage endorsement;
  - b. loss or damage by flood or other rising water to the fullest extent such coverage can be reasonably obtained;
  - c. such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use as the Building, including, but not limited to, vandalism, malicious mischief, windstorm, and other damage.
- (2) Comprehensive. Comprehensive general liability insurance, including medical payments insurance in an amount determined by the Board, but not less than \$1,000,000, covering all occurrences commonly insured against for

death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements.

- (3) Liability. All liability insurance shall contain cross-liability endorsements, to cover liabilities of the Unit Owners as a group to an individual Unit Owner.
- (4) Workers' Compensation. The Board of Directors will also maintain appropriate Workers' Compensation Insurance.
- (5) Auto Liability. The Board of Directors will maintain appropriate liability insurance on all motor vehicles owned by the Association, in accordance with all requirements of Louisiana law.
- (6) Health/Medical. The Board of Directors will maintain appropriate health/medical insurance for all full-time Association employees, once each employee has passed his/her probationary status. The type, nature, and coverages of such insurance will depend on market forces in effect in each calendar year, and such forces will also affect the amount of contribution, if any, that each employee may be required to pay. To the extent possible, employees may be given the opportunity to add their spouses and/or their children under the age of 25 to their coverage, subject to their full contribution for such coverage.
- (7) Errors and Omissions. The Board of Directors will maintain a policy of insurance that provides appropriate coverage to each member of the Board of Directors for the discretionary decisions they each made in good faith while serving as a member of the Board of Directors.

- (8) **Employee Theft.** The Board of Directors will maintain a policy of insurance that provides appropriate coverage to the Association from any loss the Association suffers as the direct result of theft, embezzlement, or fraud committed by any person while that person was an Association employee.
- (9) **Other Insurance.** If, at the time of a loss under a policy, there is other insurance in the name of a Unit Owner covering the same property or interest that is also covered by a policy procured by the Association, the Association's policy must be primary insurance, not contributing with the other insurance.

**E. Insurance Trustee.**

All insurance policies purchased by the Association shall be for the common benefit of the Association, and the Unit Owners and their mortgagees as their respective interests may appear, and all such policies shall provide that all proceeds payable as a result of any claim and/or loss suffered by the Association to any part of the Common Elements or Limited Common Elements shall be paid either to the Association or to a Trustee or special master, if there is one.

If the Board hires a Trustee or special master, then the Trustee shall not be liable for payment of premiums nor for the renewal of the policies, nor for the sufficiency of coverage, nor for the form or contents of the policies, nor for the failure to collect any insurance proceeds.

If the board hires a Trustee or special master, then the sole duty of the Trustee shall be to receive such proceeds as are paid, and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Association, the Unit Owners and their

respective mortgages, in the following shares, but such shares need not be set forth upon the records of the Trustee.

If a Trustee is not appointed, then the functions otherwise performed by the Trustee will be performed by the Board of Directors, and/or anyone designated, and/or hired by the Board to perform said functions. **Any such proceeds shall be apportioned in accordance with the following provisions:**

- (1) Common Elements. Proceeds on account of damages to Common Elements: That undivided share for each Unit Owner and his mortgagee, if any, which is set forth in Exhibit “D-9” (said Exhibit D-9 that was attached to the “Restatement”, COB 1887, Folio 102).
- (2) Units. Proceeds on account of Units shall be held in the following undivided shares:
  - a. Partial destruction when the Building is to be restored: For the Owners of damaged Units in proportion to the cost of repairing the damage suffered by each damaged Unit. Upon the request of the Trustee, if one has been appointed, the Association shall certify to the Trustee the appropriate portions as aforesaid, and each Unit Owner shall be bound by, and the Trustee may rely upon, such certification;
  - b. Total destruction of the Building or where the Building is not to be restored: For all beneficial Unit Owners in the manner established for the distribution of Proceeds in Section 10(g), below.

- (3) Mortgages. In the event a mortgagee endorsement has been issued to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear.

**G. Distribution of Proceeds.**

Proceeds of insurance policies received by the Association or by the Trustee, if one has been appointed, shall be distributed to or for the benefit of the Association in the following manner:

- (1) Reconstruction or Repair. If the damage for which the Proceeds were paid is to be repaired or reconstructed, the Proceeds shall be paid to defray the cost thereof as elsewhere provided. Any Proceeds remaining after defraying such costs shall be distributed to the beneficial Owners, all remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by him.
- (2) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which the Proceeds are paid shall not be reconstructed or repaired, the Proceeds shall be distributed to the beneficial Owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by him.
- (3) Certificate. In making a distribution to Unit Owners and their mortgagees, the Association or the Trustee, if one has been appointed, may rely upon a

certificate of the Association as to the names of the Unit Owners and their respective shares of the distribution. Upon request of a Trustee, the Association forthwith shall deliver such certificate.

- (4) **Insufficient Proceeds.** As provided for elsewhere in this document, the Board of Directors will direct the Manager and/or any others with whom they contract, to perform such repairs and/or restoration to the extent allowed by the available proceeds received from the applicable insurer in response to the Association's claim. If the available proceeds are not sufficient to repair and/or restore all confirmed damage, then the Board of Directors will decide whether to proceed with any such remaining repairs, and, if so, the source of the funds for making such repairs and/or restoration.

**11. RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE.**

**A. General.**

Any portion of the Condominium damaged or destroyed shall **to the extent feasible and necessary** be repaired or replaced promptly by the Association unless:

- (1) this Declaration is terminated;
- (2) repair or replacement would be illegal under any state or local health or safety statute or ordinance; ~~or~~
- (3) 80% of the Unit Owners vote not to rebuild a Unit that has been completely destroyed; **or**
- (4) **the Board of Directors determines that it is either not necessary or not economically feasible to repair or replace a particular portion of the property.**

**G. Responsibility.**

If the damage is only to those parts of one Unit for which the responsibility of maintenance and repair is that of the Unit Owner, then the Unit Owner, under the supervision of the Association, shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be the sole responsibility of the Association.

- (1) Estimate of costs. Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the

Association desires.

- (2) Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association (including the aforesaid fees and premiums, if any), assessments shall be made against the Unit Owners who own the damaged property in sufficient amounts to provide funds to pay the estimated costs. If at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the Unit Owners who own the damaged property in sufficient amount to provide funds for the payment of such costs.
- (3) Construction Funds. The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the Association or by a Trustee, if one has been appointed, and funds collected by the Association from assessments against Unit Owners, shall be disbursed in payment of such costs in the following manner:
  - a. Association. If the amount of the estimated costs of reconstruction and repair exceed the total of the annual assessments for Common Expenses made during the year in which the casualty occurred, then the sums paid upon assessments to meet such costs shall be deposited by the Association in an account established by the Association for such purpose, or with a Trustee, if one has been appointed. In all other cases, the Association shall hold the sums paid upon such

assessments and disburse the same in payment of the costs of reconstruction and repair. The proceeds from all such funds shall constitute a construction fund that shall be disbursed in payment of the costs of reconstruction and repair in the following manner:

- b. Trustee. If a Trustee has been appointed, then the proceeds of insurance collected on account of a casualty, and the sums deposited with the Trustee by the Association from collections of assessments against Unit Owners on account of such casualty, shall constitute a construction fund that shall be disbursed in payment of the costs of reconstruction and repair in the following manner:
  - (I) Unit Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with the Unit Owner. To such contractors, suppliers, and personnel as do the work, or supply the materials or services required for such reconstruction or repair, in such amounts and at such times as the Unit Owner may direct, or if there is a mortgagee endorsement, then to such payees as the Unit Owner and the first mortgagee jointly direct. Nothing contained herein, however, shall be construed so as to limit or modify the responsibility of the Unit Owner to make such reconstruction or repair.
  - (ii) Association – Lesser Damage. If the amount of the estimated

costs of reconstruction and repair is less than the total of the annual assessments for Common Expenses made during the year in which the casualty occurred, then the construction fund shall be disbursed in payment of such costs upon the order of the Association; provided, however, that upon request of a mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereafter provided for the reconstruction and repair of major damage.

- (iii) Association – Major Damage. If the amount of the estimated costs of reconstruction and repair of the Building or other improvement is more than the total of the annual assessments for Common Expenses made during the year in which the casualty occurred, then the construction fund shall be disbursed in payment of such costs in the manner required by the Association, and upon approval of a qualified architect employed by the Association to supervise the work.
- (iv) Surplus. It shall be presumed that the first money disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be

distributed jointly to the Unit Owners and their mortgagees who are the beneficial owners of the fund.

- (v) When the damage is to both Common Elements and Units, the insurance proceeds shall be applied first to the costs of repairing the Common Elements, and the balance to the Units in the shares above stated.

(4) **Insufficient Proceeds.** If the available proceeds are not sufficient to repair and/or restore all confirmed damage, then the Board of Directors will decide whether to proceed with any such remaining repairs, and, if so, the source of the funds for making such repairs and/or restoration.

(5) Insurance Adjustments. Each Unit Owner shall be deemed to have delegated to the Board his right to adjust with insurance companies all losses under policies purchased by the Association, except in any case where the damage is restricted to one Unit, subject to the rights of mortgagees of such Unit Owners.

(6) Waiver of Claims. Each Unit Owner hereby waives and releases any and all claims that he may have against any other Unit Owner, the Association, its officers, members of the Board, the Declarant, the manager and managing agent of the Building, if any, and their respective employees and agents, for damage to the Common Elements, the Units, or to any personal property located in the Units or Common Elements, to the extent that such damage is caused by a casualty for which insurance coverage is provided. ■

13. **ALTERATIONS, ADDITIONS, OR IMPROVEMENTS.**

No alterations of any Common Elements, or any additions or improvements thereon, shall be made by any Unit Owner without the prior written approval of the Board. The Board may authorize and charge as Common Expenses (or in the case of Limited Common Elements, may charge to the Unit Owner(s) benefitted thereby) alterations and improvements of, and additions to, the Common Elements; provided, however, that in the event the costs thereof are to be charged as Common Expenses, the Board shall not approve such alterations, improvements, or additions requiring an expenditure in excess of ~~\$10,000.00~~ two percent (2%) of the Association's annual Operating Budget without the approval of Unit Owners owning not less than ~~80%~~ 66 2/3 % in the aggregate in interest of the undivided ownership of the Common Elements.

Notwithstanding the provisions of the previous sentence, if the improvements shall cost in excess of 10% of the then-appraised value of the condominium, the improvements may be made only on the affirmative vote of not less than 90% of the Unit Owners, based on their percentage obligation for Common Expenses.

The Board may authorize and charge to the Unit Owners benefitted thereby the cost of alterations, improvements, or additions to Limited Common Elements, provided that the Board must obtain the consent of not less than 50% (or, in the case of improvements affecting a single Unit Owner, the consent of that Unit Owner) of the Unit Owners benefitted thereby, based upon their aggregate percentage interest in those Limited Common Elements so improved.

Any Unit Owner may make alterations, additions, or improvements within his Unit without the prior written approval of the Board, provided same do not impair the structural integrity or mechanical systems, or lessen the support of any portion of the Building, but in any event such Unit Owner shall be responsible for any damage to other Units, the Common Elements, or the Property as a result of such alterations, additions, or improvements.

Changes, repairs, alterations, and/or additions to the Common Elements and Limited Common Elements that are the direct result of a casualty loss shall be governed by Sections 10 and 11, above. ■

**16. LEASE RESTRICTIONS OF A UNIT OWNER.**

Any lease or rental agreement must be in writing and must be subject to the terms and conditions contained in the Declaration of Condominium Ownership and the By Laws of the Association. No Unit may be leased for less than ~~thirty (30) days~~ 180 consecutive days or six (6) consecutive months. ■

**18. REMEDIES.**

In the event of any violation of the provisions of the Act, Declaration, By Laws, or rules and regulations of the Board or Association by any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit), the Association or its successors or assigns, or the Board or its agent, shall have each and all of the rights and remedies that may be provided for in the Act, Declaration, By Laws, or said rules and regulations, or that may be available at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner and/or others for enforcement of any item, and the appointment of a receiver for the Unit and ownership interest in such Unit Owner, or for damages, or injunction, or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief.

All expenses of the **Association** in connection with any such actions or proceedings, including court costs and attorney's fees, and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the maximum lawful rate per annum until paid, shall be charged to and assessed against such defaulting **and/or non-compliant** Unit Owner, and shall be added to and assessed against such defaulting **and/or non-compliant** Unit Owner, and shall be added to and deemed part of his respective share of the Common Expenses.

**The Association** shall have a lien for all of the same, as well as for non-payment of his respective share of the Common Expense, upon the Unit and ownership interest in the Common Elements of such defaulting **and/or non-compliant** Unit Owner, and upon all of his additions and improvements thereto, and upon all of his personal property in his Unit or located elsewhere on the Property. **Provided, however,** that such lien shall be subordinate to

the lien of a prior recorded first mortgage on the interest of such Unit Owner, except for the amount of the proportionate share of said Common Expenses that become due and payable from and after the date on which the said mortgage owner or holder either takes possession of the Unit, accepts a conveyance of any interest therein (other than as a security), or files suit or commences other proceedings to foreclosure its mortgage or causes a receiver to be appointed.

This Paragraph shall not be amended, changed, modified, or rescinded **in any way that impedes the rights of holders of record of mortgages against Units, without the prior consent of all such mortgage holders.**

In the event of any such default by any Owner, the Board and the **Property Manager** shall have the authority to correct such default, and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting **and/or non-compliant** Unit Owner. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the **Association.**

The violation of any restriction, condition, or regulation adopted by the Board, or the breach of any covenant or provision herein contained **or contained in the By Laws,** shall give the Board **on behalf of the Association** the right, in addition to any other rights provided for in this Declaration:

- A. to enter upon the Unit, or any portion of the property upon which, or as to which such violation or breach exists, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing, or condition that may exist thereon contrary to the intent and meaning of the provisions

hereof, and the Association and the Board, or its employees or agents, shall not thereby be 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; or
- C. to take possession of such Unit Owner's interest in the Property, and to maintain an action for possession of such Unit in the manner provided by law. ■

23. **GENERAL PROVISIONS.**

~~A. — Until such time as the Board provided for in this Declaration is formed, the Declarant shall exercise any of the powers, rights, duties, and functions of the Board.~~

**A.** 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 that may occur.

**B.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a ~~first-class~~ condominium development.

**C.** In the event that title to any Unit Ownership is conveyed to a title holding trust, under the terms of which all powers of management, operation, and control of the Unit Ownership remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens, or indebtedness, and for the performance of all agreements, covenants, and undertakings chargeable or created under this Declaration against such Unit Ownership. No claim shall be made against any such title-holding trustee personally for payment of any lien or obligation hereunder created, and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Unit Ownership, and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Unit Ownership.

**D.** In the event of a resale of a Unit by a Unit Owner other than Declarant, the Unit Owner shall furnish to a purchaser before execution of any contract to purchase a Unit, or otherwise before conveyance, a copy of the Declaration, other than plats and plans, the Articles of Incorporation or documents creating the Association, the By Laws, and a certificate containing:

- (1) a statement setting forth the amount of any current Common Expense assessments;
- (2) a statement of any capital expenditures approved by the Association for the current and two next succeeding fiscal years;
- (3) a statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the Association for any specified projects;
- (4) the most recent balance sheet and income and expense statement of the Association, if any;
- (5) the current operating budget of the Association, if any;
- (6) a statement of any unsatisfied judgments against the Association, and the status of any pending suits to which the Association is a party;
- (7) a statement describing any insurance coverage provided by the Association;
- (8) a statement of the remaining term of any ground lease affecting the Building and provisions governing any extension or renewal thereof.

The Association, within ten (10) days after request by a Unit Owner, shall furnish a certificate containing the information necessary to enable a Unit Owner to comply with this section. The Unit Owner providing a certificate pursuant to this section is

not liable to the purchaser for any erroneous information provided by the Association and included in the certificate. A Unit Owner is not liable to a purchaser for the failure or delay of the Association to provide the certificate in a timely manner; however, the contract to purchase is voidable by the purchaser until a certificate has been provided, and for five (5) days thereafter or until conveyance, whichever first occurs.

**E.** All provisions of the Act are incorporated herein by reference. ■