

Clock#: 895676
FILED FOR RECORD
1/08/2007 03:21pm
PAID: 98.00
Daniel W. Massey, Clerk
Superior Court of Chatham County
Chatham County, Georgia

BOOK
3191
PAGE
348

WILLIAMS & PINE, LLC
8906 ABERCORN STREET SUITE 201
SAVANNAH, GA 31405
PH: (912) 358-5560

Prepared by:
Inglesby, Falligant, Horne
Courington & Chisholm, P.C.
P.O. Box 1368
Savannah, Georgia 31402-1368
Attn: Robert B. Brannen, Jr., Esq.

DECLARATION OF CONDOMINIUM
for
The Cove at Newport,
A Condominium

Savannah, Chatham County, Georgia

Recording References:

Plat recorded in Condominium Plan Book 2 page 316,
Chatham County, Georgia records.

Plans recorded in Condominium Plan Book 2 page 317-A thru 317-X
Chatham County, Georgia records.

Greater HOA of Port Wentworth
PO Box 789
Pooler, GA 31322

**The Cove at Newport,
A Condominium**

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
I	Name	1
II	Definitions	1
III	Location, Property Description Flat and Plans	5
IV	Description and Boundaries of the Units	5
V	Common Elements	7
VI	Limited Common Elements	7
VII	Association Membership and Allocation of Votes	8
VIII	Allocation of Liability for Common Expenses	8
IX	Association Rights	9
X	Assessments	11
XI	Insurance	14
XII	Casualty Losses	18
XIII	Architectural Controls	19
XIV	Restrictions on Use, Conduct and Other Matters	21
XV	Leasing	25
XVI	Transfer of Title to Units	28
XVII	Maintenance Responsibility	28
XVIII	Mortgagee Rights	32
XIX	Declarant Rights	34
XX	Relationship to Townhome Association	36
XXI	Association Services	37
XXII	Eminent Domain	37
XXII	Easements	38
XXIV	General Provisions	38
XXV	Amendments	39
XXVI	Preparer	39

EXHIBITS

Exhibit "A"	Legal Description of Submitted Property
Exhibit "B"	Description of Plans and Plat
Exhibit "C"	Articles of Incorporation and Bylaws of Newport Condominium Association, Inc.

3191 BOOK

349 PAGE

DECLARATION OF CONDOMINIUM

for

The Cove at Newport,
A Condominium

Port Wentworth, Chatham County, Georgia

This Declaration is made this 27th day of December, 2006, by R.P. XIV, LLC, a Georgia limited liability company (hereinafter referred to as the "Declarant").

RECITALS:

A. Declarant owns certain real property and improvements constructed thereon in Savannah, Chatham County, Georgia, and being more particularly described in Exhibit "A", attached hereto and incorporated herein and made a part hereof by reference thereto (hereinafter referred to and defined as the "Submitted Property"); and

B. Declarant desires to reserve the right and option to submit to the provisions of the Act and this Declaration at a later date all or any portion of certain real property located in Chatham County, Georgia, and being more particularly described on Exhibit "B", attached hereto and incorporated herein and made a part hereof by reference thereto (the "Additional Property"); and

NOW, THEREFORE, Declarant, by this Declaration, does hereby submit the Submitted Property, together with all of the improvements located thereon to the condominium form of ownership and to the provisions of the Georgia Condominium Act, O.C.G.A. section 44-3-70 et seq., all as may be amended from time to time (hereinafter referred to as the "Act"). From and after the recording of this Declaration in the Chatham County, Georgia records, the Submitted Property shall be owned, held, transferred, sold, conveyed, used occupied, and mortgaged or otherwise encumbered, subject to all of the terms, provisions, covenants and restrictions of this Declaration and of the Act. The terms and provisions of this Declaration shall constitute covenants running with the land.

ARTICLE I

NAME

A. The name of the condominium shall be "The Cove at Newport, a Condominium," the same being located in City of Port Wentworth, Chatham County, Georgia.

ARTICLE II

DEFINITIONS

A. Generally, terms used in this Declaration, the Bylaws and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Act or the Georgia Non-Profit Corporation Code. Unless, the context otherwise requires, capitalized terms used in this Declaration, the Bylaws and the Articles of Incorporation shall be defined as follows:

BOOK
3191
PAGE
350

(1) Act means the Georgia Condominium Act, O.C.G.A. section 44-3-70, et seq., as it may be amended from time to time.

(2) Additional Subdivision means with regard to any portion of the property described in Exhibit "A" which is originally designated as one Unit hereunder, the reconfiguration/construction of more than one Unit within the boundaries of the original Unit in accordance with the provisions of the Condominium Act and this Declaration.

(3) Articles or Articles of Incorporation means the Articles of Incorporation of The Cove at Newport Condominium Association, Inc., a Georgia non-profit corporation, which have been filed with the Secretary of State of the State of Georgia, and attached to this Declaration as Exhibit C, and incorporated herein by this reference.

(4) Association means "The Cove at Newport Condominium Association, Inc.," a Georgia non-profit corporation formed for the purpose of exercising the powers of the Association of this Condominium.

(5) Board of Directors or Board means the Directors of The Cove at Newport Condominium Association, Inc.

(6) Building shall mean the composite of all Units, Common Elements and Limited Common Elements, as shown on the Plans and Plat.

(7) Bylaws mean the Bylaws of The Cove at Newport Condominium Association, Inc., a Georgia non-profit corporation, attached to this Declaration as Exhibit C and incorporated herein by this reference.

(8) Common Elements mean all portions of the Condominium which is not included within the boundaries of a Unit, and shall include the common areas and facilities as defined in the Act, this Declaration, the Bylaws, and all amendments to such. Common Elements shall also include easement rights over the Access Easement.

(9) Common Expenses mean the expenses incurred or anticipated to be incurred by the Association for the general benefit of the Units, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Elements, including the Limited Common Elements, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the Act, this Declaration, the Bylaws, and all amendments to such.

Common Expenses shall also include any assessments imposed on Owners but charged to the Association by the Townhome Association. The Association shall be responsible for paying dues to the Townhome Association for the lots on which the Condominium Units are located, and may delegate to the Townhome Association the duty to collect Association dues for each Unit and the obligations imposed on the Association pursuant to the Condominium Declaration. The intent of this

paragraph is to allow the Association and the Townhome Association to jointly manage the Units within their common jurisdiction.

(10) Condominium means all that property described in Exhibit "A", attached hereto and incorporated herein by this reference, submitted to the provisions of the Act by this Declaration.

(11) Condominium Documents or Condominium Instruments shall mean this Declaration, the Articles of Incorporation and the Bylaws and all other exhibits referenced or attached to any of such, and all other documents, rules, and regulations promulgated pursuant to the authority created herein and by the Act, all as said documents or instruments shall be amended from time to time. Any amendment or certification of any condominium instrument shall from the time of the recordation of such amendment or certification, be deemed an integral part of the affected condominium instrument or document, so long as such amendment or certification was made in accordance with the provisions of the Act and this Declaration.

(12) Condominium Unit shall mean a Unit together with the undivided interest in the Common Elements appertaining to that Unit.

(13) Declarant means R.P. XIV, LLC, a Georgia limited liability company, or its successors-in-title, or assigns, who take title to any portion of the Submitted Property for the purpose of development or sale and who are designated as the Declarant hereunder in a recorded instrument executed by the immediately preceding Declarant.

(14) Declaration means this Declaration of Condominium for The Cove at Newport, a Condominium, which is recorded in the Chatham County, Georgia records for the purpose of submitting the Condominium to the Act, and any amendments thereto.

(15) Eligible Mortgagee means the holder of a first Mortgage who has requested notice of certain items as set forth in this Declaration.

(16) Limited Common Element means the portion of the Common Elements reserved for the exclusive use of those entitled to the use of one or more (but less than all) of the Units.

(17) Limited Common Expenses means the expenses described in Article VIII, or otherwise specifically identified in the Act or the Condominium Documents as Limited Common Expenses.

(18) Majority means the number of Condominium Unit Owners or their proxies, entitled to cast fifty-one (51%) percent or more of the total votes of said Association in accordance with the voting rights as determined by the Act, this Declaration, the Bylaws, and all amendments thereto, except where otherwise provided by the Act, this Declaration, the Articles of Incorporation or the Bylaws thereof.

BOOK PAGE
3191 352

(19) Mortgage means any mortgage, deed to secure debt, trust deed, or other instrument conveying a lien upon or security interest in a Unit.

(20) Mortgagee means any grantee or holder of any Mortgage.

(21) Occupant means any Person occupying all or any portion of a Unit for any period of time, regardless of whether such Person is a tenant or the Owner of such Unit.

(22) Owner means the record title holder of a fee simple or undivided fee simple interest in a Unit, but does not include a Mortgagee. If a Unit is owned by more than one Person, the "Owner" shall refer to all such co-owners collectively, who shall be jointly and severally responsible for the obligations of an Owner and shall share the right of any Owner under the Condominium Documents and the Act.

(23) Person shall mean a natural person, corporation, partnership, association, trust or other entity, or any combination thereof.

(24) Plans means the floor plans of the Buildings referenced in Article III of this Declaration and more particularly described on Exhibit "B" attached hereto and made a part hereof by this reference.

(25) Plat means the plat of survey of the Submitted Property referenced in Article III of this Declaration, and more particularly described on Exhibit "B" attached hereto and made a part hereof by this reference.

(26) Submitted Property means the property lawfully submitted to the provisions of the Act by the recording of Condominium Instruments pursuant to the provisions of the Act or this Declaration, said property being more particularly described on Exhibit "A" attached hereto and by reference incorporated herein and made a part hereof.

(27) Townhome Association means and refers to The Cove at Newport Townhome Association, Inc., a Georgia non-profit corporation, its successors and assigns, which has been formed to care for the Common Elements and/or facilities which are used exclusively by the members of the Townhome Association. Pursuant to Section 6 of the Townhome Declaration, the Association may delegate the duty to collect condominium dues for each condominium unit, and the obligations imposed on the Association pursuant to this Declaration.

(28) Townhome Declaration means the Declaration of Covenants, Conditions, and Restrictions for The Cove at Newport, A Townhome Community for any townhome created on one or more Lots or within any Living Unit, including any and all amendments, modifications, supplements, and restatements thereof.

(29) Unit shall mean any portion of the Condominium intended for any type of independent ownership and use as described in paragraph Article IV.

BOOK
3191
PAGE
353

ARTICLE III

LOCATION, PROPERTY DESCRIPTION, PLAT AND PLANS

A. Location. The Condominiums are located on parcels of real property having street addresses of 28 A-D Bearing Circle; 42 A-D Bearing Circle; 43 A-D Bearing Circle; 44 A-D Bearing Circle; 58 A-D Bearing Circle; 59 A-D Bearing Circle, Port Wentworth, Chatham County, Georgia, and more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference.

B. Plat. The Plat of the Condominium has been filed for record in the Office of the Clerk of the Superior Court of Chatham County, Georgia, as more particularly described on Exhibit "B" attached hereto and made a part hereof by this reference.

C. Plans. The Plans of the Buildings have been filed for record in the Office of the Clerk of the Superior Court of Chatham County, Georgia, as more particularly described on Exhibit "B" attached hereto and made a part hereof by this reference.

BOOK
3191
PAGE
354

ARTICLE IV

DESCRIPTION AND BOUNDARIES OF THE UNITS

A. Description. Each Building will contain multiple Units, and the Condominium will contain the maximum number of Units shown on Exhibit "B" attached hereto and made a part hereof by this reference. Each Unit consists of a dwelling, as depicted on the Plat and Plans, and is assigned a percentage of the undivided interest in the Common Elements equal to every other Unit's undivided interest in the Common Elements. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Condominium Documents. The ownership of each Unit includes, and there shall pass with the title to each Unit as appurtenances thereto (whether or not separately described in the conveyance thereof), that percentage of the right, title and interest in the Common Elements attributable to such Unit and membership in the Association. The undivided interest in the Common Elements may not be separated from title to the Unit to which it is assigned and any attempt to convey such undivided interest separate from conveyance of the Unit shall be null and void. Each Owner is entitled to exclusive possession of his or her Unit, together with an interest in and right to use, in common with others, the Common Elements and any Limited Common Elements assigned to such Unit.

B. Boundaries. The boundaries of each Unit shall be determined in the following manner:

(1) Horizontal Boundaries.

(a) The upper horizontal boundary shall be the plane of the lower surfaces of the structural floor joists of the Unit above or roof joists as the case may be.

(b) The lower horizontal boundary shall be the plane of the upper surface of the floor joists, cement or slab as the case may be.

(2) Vertical (Perimeter) Boundaries. The vertical boundaries of the Unit shall be the planes between the wall studs and the outermost unexposed surface of the wallboard or other material comprising the interior surface of the perimeter walls of the Unit as shown on the Plans. Exterior doors and windows, including, but not limited to, any sliding glass doors, within the exterior, perimeter walls of the Building shall be part of the Unit.

(3) Other Improvements. Except where provisions of this Declaration provide otherwise, all lath, wallboard, plasterboard, plaster, paneling, molding, tile, wallpaper, paint, floor coverings, and any other materials constituting any part of the finished surfaces of walls, ceilings, or floors shall be deemed to be within the boundaries of the Unit, and all other portions of walls, floors or ceilings shall be deemed Common Elements. Except as provided in Article IV below, all spaces, interior walls and partitions, and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

(4) HVAC and Utilities. All portions of the heating, ventilation, and air-conditioning systems serving a single Unit (including any part of any such system located outside the boundaries of the Unit), including chutes, flues, compressors, and ducts and all conduits, wires, pipes, plumbing fixtures and portions of any other systems serving a single Unit are part of that Unit. Each Unit shall include all plumbing, electrical, gas, cable television, and other pipes, lines and fixtures located within such Unit, provided, however, that no pipes, wires, conduits or public utility lines situated within such Unit and forming part of any system serving one or more other Units or the Common Elements shall be deemed to be a part of such Unit. Any portions of such items or systems which serve more than one Unit are part of the Common Elements.

(5) Physical Boundaries. In interpreting deeds and plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original Plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or plan, regardless of settling or lateral movement of the Building in which the Unit was located, and regardless of minor variances between the boundaries shown on the plans or in a deed and those of the Unit.

(6) Subdivision of Units. No Unit shall be subdivided into a smaller Unit or Units.

3191

BOOK

355

PAGE

ARTICLE V

COMMON ELEMENTS.

A. Description. The Common Elements consist of all portions of the Condominium not located within the boundaries of a Unit, including the Limited Common Elements and all other items or fixtures which are specifically identified in this Declaration or the Plat and Plans as Common Elements.

B. Ownership. Ownership of the Common Elements shall be by the Owners as tenants-in-common. The Common Elements shall remain undivided, and no Owner nor any other person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act.

C. Use. Except as provided for Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall encroach upon the lawful rights of the other Owners.

BOOK
3191
PAGE
356

ARTICLE VI

LIMITED COMMON ELEMENTS

A. Description. The Limited Common Elements and the Unit(s) to which they are assigned are as follows:

- (1) to the extent that a deck, patio or balcony serving a Unit is not within the boundaries of the Unit, the deck, patio or balcony is assigned as a Limited Common Element to the Unit having direct access to such deck, patio or balcony;
- (2) the doorsteps or stoops leading as access to a deck, patio, or balcony are assigned as Limited Common Elements to the Unit to which the deck, patio or balcony is assigned and the doorsteps, and stoops leading as access to a Unit;
- (3) the mailbox, if any, is assigned as a Limited Common Element to the Unit it serves;
- (4) the portion of the Common Elements on which there is located any portion of the air conditioning or heating system exclusively serving a particular Unit or Units is assigned as a Limited Common Element to the Unit or Units so served;
- (5) any gas or electric meter which serves only one Unit is assigned as a Limited Common Element to the Unit so served.

B. Assignment of Limited Common Elements. The Board may assign Common Elements not previously assigned as Limited Common Elements, without the need for a vote of the membership,

upon written application to the Association by the Unit Owner or Owners for whose exclusive use such Common Element is requested and approval by a majority of the total number of directors on the Board. Upon such application and approval, the Association shall prepare and execute an amendment to the Declaration assigning the Common Element as a Limited Common Element, which amendment shall be executed by the Owner or Owners making such application. Such amendment shall be delivered and become effective as provided in Section 44-3-82 of the Act, as amended.

ARTICLE VII

ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES

A. The Owner of each Unit, by virtue of ownership of a fee or undivided fee interest in a Unit, is a member of The Cove at Newport Condominium Association, Inc., and, except as otherwise provided in this Declaration or the Bylaws, shall be entitled to exercise the vote allocated to such Unit on all matters upon which members of the Association are entitled to vote pursuant to the Act and the Condominium Instruments. Each Unit is allocated a vote equal to every other Unit's vote.

ARTICLE VIII

ALLOCATION OF LIABILITY FOR COMMON EXPENSES

A. Equal Allocation. Except as otherwise specifically provided in this Declaration or the Bylaws, each Unit is hereby allocated liability for Common Expenses equal to that allocated to every other Unit, subject to the following:

(1) Limited Common Expenses. In addition to such other expenses as are specifically identified as Limited Common Expenses under the Act or this Declaration, the following expenses shall be Limited Common Expenses and shall be assessed against the benefitted Units as indicated below:

(a) The costs incurred or anticipated to be incurred by the Association in providing special or additional services to any Unit or the Owners or Occupants thereof upon request of the Owner or Occupants shall be assessed against the benefitted Unit, or if attributable to more than one but less than all Units, then allocated among the benefitted Units equally; and

(b) Any Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element, including contributions to a reserve fund for such purposes, shall be assessed against the Unit to which that Limited Common Element is assigned at the time the assessment is levied, or if assigned to more than one Unit, then in equal shares against all such Units.

(2) Specific Unit Assessments. The Board of Directors shall have the power to assess specific Units pursuant to this paragraph A(2) and Section 44-3-80(b) of the Act, as it shall deem appropriate. Failure of the Board of Directors to exercise its authority under this paragraph A(2) shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this paragraph in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this paragraph.

(a) Any Common Expenses benefitting fewer than all of the Units, or significantly disproportionately benefitting all Units, other than Common Expenses incurred in maintaining those portions of Units for which the Association is specifically responsible under this Declaration, may be assessed equitably among all of the Units which are benefitted according to the benefit received, as the Board may reasonably determine; and

(b) Any Common Expenses occasioned by the negligence or misconduct of the Owner or Occupant of any Unit, or their guests, may be specially assessed against the Unit of such Owner or Occupant.

For purposes of this paragraph A(2), non-use by an Owner of the Common Elements, any common facility, or any item which is budgeted as a Common Expense shall not constitute a benefit to fewer than all Units, unless the Board determines that such non-use of the Common Elements, common facilities, or budgeted Common Expenses results in an identifiable, calculable reduction in cost to the Association.

(3) Reallocation. No reallocation of liability for Common Expenses pursuant to this Declaration shall affect any Common Expense assessments or installment thereof due and payable prior to such reallocation.

ARTICLE IX

ASSOCIATION RIGHTS

A. Rights of the Association. In addition to and not in limitation of all other rights it may have under the Act, the Georgia Nonprofit Corporations Act, and the Condominium Instruments, the Association, acting through its Board of Directors or such Association employees or agents as the Board may authorize, shall have the right and authority:

(1) to enter into Units for maintenance, emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit.

- (2) to make and to enforce reasonable rules and regulations governing the use of the Condominium, including the Units, Limited Common Elements, and Common Elements, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Such rules and regulations shall be binding upon all Owners, Occupants, guests, and invitees.
- (3) to enforce use restrictions, other provisions of the Condominium Instruments, and Association rules and regulations, by the imposition of reasonable monetary fines and suspension of use and voting privileges as provided in Section 44-3-76 of the Act, and by any other legal means. Any fines imposed in accordance with Section 44-3-76 of the Act, shall be considered an assessment against the Unit, shall be secured by a lien in favor of the Association, and may be collected in the manner provided for collection of other assessments under this Declaration and the Act;
- (4) to grant permits, licenses, access, drainage and utility easements, and other easements over the Common Elements;
- (5) to control, manage, operate, maintain, improve and replace all portions of the Condominium for which the Association is assigned maintenance responsibility under this Declaration;
- (6) to deal with the Condominium in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of the Act and this Declaration;
- (7) to represent the Owners in dealings with governmental entities on matters related to the Condominium;
- (8) to assign the Association's right to future income, including the right to receive assessments, and to secure money borrowed to fund Common Expenses;
- (9) to enter into contracts, agreements for maintenance of the Condominium, covenants to share costs, or other similar agreements, on behalf of itself and the Owners with other owners associations or similar entities, including, without limitation, agreements or covenants which provide that the Association shall contribute toward the cost of maintaining property and facilities which are not part of the Condominium but which benefit the Association and the Owners, such as property and facilities subject to easements which benefit the Condominium and Owners, and agreements delegating certain duties of the Association hereunder to the Townhome Association;
- (10) to delegate to the Townhome Association all rule making authority in accordance with Section 2 of the Townhome Declaration incorporated herein by reference;

BOOK PAGE
 3191 359

(11) to close or cease operation of any portion of the Common Elements (excluding the Limited Common Elements), temporarily or permanently, and to discontinue or suspend non-essential services which the Association provides to the Owners; provided, the Board shall give the Owners at least 30 days' prior notice of any permanent closure, cessation of operations or discontinuation of service. Subject to compliance with applicable laws and ordinances the Owners may require that the Association re-open or resume operation of Common Elements or resume discontinued services, upon the vote or written consent, or any combination thereof, of Owners entitled to cast a Majority of the total Association votes.

ARTICLE X

ASSESSMENTS

A. Purpose of Assessment. The Association is authorized to levy assessments, as provided in this Declaration, the Bylaws, and the Act, for the purpose of defraying the Common Expenses.

B. Creation of the Lien and Personal Obligation For Assessments. The Owner of each Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments levied pursuant to the Association's operating budget, as described in subparagraph (C) below; (ii) special assessments levied pursuant to subparagraph (D) below; (iii) other assessments for Limited Common Expenses as provided in paragraph VIII A(1); and (iv) specific assessments levied against the Owner's Unit as authorized pursuant to paragraph VIII A(2) or as otherwise specifically authorized in the Condominium Instruments or the Act, including but not limited to reasonable fines imposed in accordance with the terms of this Declaration or the Bylaws.

All such assessments, together with late charges, interest, costs of collection (including but not limited to reasonable attorney's fees actually incurred, whether or not suit is filed), and if the Board so elects, the fair rental value of the Unit, all as provided for in subparagraph (E) below and Section 44-3-109 of the Act, shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment became due and shall be a charge and continuing lien on the Unit against which each assessment is levied. The Association's lien shall have the priority provided in the Act. Upon conveyance of a Unit, the grantor and grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of such conveyance.

Declarant shall be responsible for all Common Expenses incurred prior to the conveyance of the first Unit. Thereafter, the Owner of each Unit, including Declarant for the period of its ownership of any Unit, shall be liable for assessments for its share of Common Expenses, which assessments shall be paid in such manner and on such dates as the Board may fix by resolution. Unless otherwise provided, the annual assessments shall be paid in equal monthly installments due on the first day of each month.

No Owner may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, non-use of the Common

Elements, the Association's failure to perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

C. Computation of Operating Budget and Annual Assessment. At least 30 days prior to the beginning of the Association's fiscal year, the Board shall prepare a budget covering the estimated Common Expenses to be incurred during the coming year, separately reflecting general Common Expenses and Limited Common Expenses. The budget shall include as separate line items, as applicable, an amount to be placed in a reserve account for capital repairs, and replacements of those assets whose repair or replacement would be a general Common Expense and for those assets whose repair or replacement would be a Limited Common Expense, in accordance with a separate reserve budget adopted pursuant to subparagraph F below. The budget shall also take into account any surplus from prior years, to the extent not previously added to reserves.

The Board shall cause the budget and notice of the annual assessments to be levied against each Unit for the following year to be delivered to each Owner at least 30 days prior to the beginning of the Association's fiscal year for which such budget is to be effective. If the budget would result in an increase in the annual assessment in excess of a percentage equal to the annual rate of inflation as measured by the Consumer Price Index for All Urban Consumers for the immediately preceding 12-month period, then the budget and the annual assessment may be disapproved at a duly called and constituted meeting of the membership by a vote of Owners entitled to cast a Majority of the total Association vote. Otherwise, the proposed budget shall become effective on the date set forth in the notice.

Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for any year, then until such time as a budget has been determined as provided herein, the budget in effect for the current year shall continue in effect for the succeeding year. In such case, the Board may propose a new budget at any time during the year, subject to the foregoing procedures.

D. Special Assessments. If the Association incurs or expects to incur unbudgeted Common Expenses or the annual assessment otherwise proves inadequate for any year, the Board may, at any time, and in addition to any other rights it may have, levy a special assessment to cover the additional Common Expenses. Any such special assessment shall be levied against the Units which are responsible for the additional expense under Article VIII. Notice of any such special assessment shall be sent to the Owners of all Units against which such special assessment is made at least 30 days prior to the due date thereof.

E. Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

(1) If any monthly installment of annual assessments or any part thereof is not paid in full by the 10th day of the month or if any other charge is not paid within 10 days of the due date, a late charge equal to the greater of ten (\$10.00) dollars or 10% percent of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without

BOOK PAGE
3191 361

further notice or warning to the delinquent Owner; interest at the rate of 10% percent or such higher rate as may be permitted by the Act shall accrue from the due date, and the delinquent Owner shall pay all costs of collection, including court costs, the expenses of sale, any expenses required for the protection and preservation of the Unit, and reasonable attorney's fees actually incurred.

(2) If part payment of assessments and related charges is made, the amount received shall be applied in the following order, and no restrictive language on any check or, draft shall be effective to change the order of application:

(a) respectively, to any unpaid late charges, interest charges, and specific assessments (including, but not limited to, fines) which are not the subject matter of suit in the order of their coming due;

(b) to costs of collection, including reasonable attorney's fees actually incurred by the Association;

(c) to any unpaid installments of the annual assessment or special assessments which are not the subject matter of suit in the order of their coming due;

(d) respectively, to any unpaid late charges, interest, specific assessments (including, but not limited to, fines), and installments of the annual assessment or special assessments which are the subject matter of suit in the order which they came due;

(3) If assessments, fines or other charges or any part thereof due from an Owner remain delinquent and unpaid for a period greater than 15 days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than 10 days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the annual assessment and of any special assessment. If an Owner fails to pay all assessments and related charges currently due within 10 days of the date of the notice of delinquency, the Board of Directors may then accelerate and declare immediately due all installments of the annual assessment and of any special assessment, without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the annual assessment in monthly installments for that fiscal year.

(4) If assessments and other charges or any part thereof remain unpaid more than 30 days after the assessment payments first become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, the Act and Georgia law and suspend the Owner's and/or Occupant's right to use the Common Elements (however, the Board may not limit ingress or egress to or from the Unit).

(5) In the event any assessment is delinquent for 60 days or more, in addition to all other rights provided in the Act and this Declaration, the Association shall have the right upon 10 days written notice, to suspend any utility services, the cost of which are a Common Expense of the Association to that Unit until such time as the delinquent assessments and all costs permitted pursuant to this subparagraph are paid in full. Any costs incurred by the Association in discontinuing and/or reconnecting any utility service, including reasonable attorney's fees, shall be an assessment against the Unit and shall be collected as provided herein for the collection of assessments. The notice requirement of this subparagraph shall be deemed complied with if the notice is sent by certified mail to the Unit address and to any other address the Owner of the Unit has provided in writing to the Association.

3191

BOOK

363

PAGE

F. Capital Budget and Reserve Contribution. The Board of Directors shall prepare and thereafter review on an annual basis, a capital budget which shall take into account the number and nature of replaceable assets maintained by the Association as a general Common Expense and the number and nature of replaceable assets maintained by the Association as a Limited Common Expense, the expected life of each asset, and the expected repair or replacement cost over the useful life of each asset. The Board shall establish an amount to be contributed on an annual basis to reserve funds to permit meeting the projected capital needs of the Association over the period of the budget. The capital contribution required, if any, shall be included within the budget and assessments as provided in subparagraph C above. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

G. Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Unit. The Association shall respond in writing within five days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified therein.

H. Surplus Funds and Common Profits. Pursuant to Section 44-3-108 of the Act, common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall be credited to the next assessment chargeable to the Owners in proportion to the liability for Common Expenses attributable to each Unit, or added to the Association's reserve account.

ARTICLE XI

INSURANCE

A. Owner Responsibility. Every Unit Owner shall be obligated to obtain and maintain at all times insurance covering the structural portions of his or her Unit to the extent not insured by

policies maintained by the Association, and to furnish a copy of such insurance policy or policies to the Association. In the event that any such Unit Owner fails to obtain insurance as required by this subparagraph, the Association may purchase such insurance on behalf of the Unit Owner and assess the cost thereof to the Unit Owner, to be collected in the manner provided for collection of assessments under Article X.

Each Unit Owner shall notify the Board of Directors of all structural improvements made by the Unit Owner to his or her Unit. Any Unit Owner who obtains an individual insurance policy covering any portion of the Condominium, other than improvements and betterments made by such Owner at his or her expense and personal property belonging to such Owner, shall file a copy of such individual policy or policies with the Board of Directors within 30 days after the purchase of such insurance. Such Owner shall also promptly notify, in writing, the Board of Directors in the event such policy is canceled.

B. Association Responsibility. The Association shall obtain and maintain at all times, as a Common Expense, insurance as required by Section 44-3-107 of the Act and as required herein. At the discretion of the Board of Directors, this policy may be held jointly with the Townhome Association. At least every two years the Board of Directors shall conduct an insurance review, to determine if the policies then in force are adequate to meet the needs of the Association and to satisfy the requirements of the Act. The Board may rely upon a review and verification of the adequacy of insurance coverage by the Association's insurance agent. Such policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals the amount of coverage required hereunder. Such policies shall include:

(1) Hazard Insurance. The Association shall obtain a blanket hazard insurance policy or policies affording, at a minimum, fire and extended coverage, including coverage for vandalism and malicious mischief, on all structures within the Condominium, except that the Association need not obtain coverage for (i) any part of a Unit which is not depicted on the original Plats and Plans or included in the original Mortgage; (ii) improvements to Units or Limited Common Elements made by the Owners; and (iii) any structures or portions thereof covered by builder's risk insurance, provided that the Association is named as an additional insured on the builder's risk insurance policy. Notwithstanding this minimum coverage requirement, the Board shall use reasonable efforts to secure a blanket hazard insurance policy providing "all risk" coverage.

The hazard insurance policy shall provide coverage in an amount equal to the replacement value of the structures within the Condominium, before application of any deductible, as determined from time to time by the Board of Directors. Unless the Association otherwise provides notice in writing to the Owners, the improvements and betterments made by the individual Unit Owners shall be excluded from this required coverage. However, each Owner shall have the right to obtain additional coverage for such improvements betterments, or personal property at his or her own expense.

(2) Liability Insurance. The Association shall also obtain a liability insurance policy or policies providing coverage for bodily injury, death, and property damage, in at least such amounts as required by Section 44-3-107 of the Act. Such insurance shall cover the Association, its Board of Directors and officers, all agents and employees of the Association, the Owners, the Mortgagees, and all other persons entitled to occupy any Unit, as their interests may appear, for all occurrences commonly insured against arising out of or in connection with the use, ownership, or maintenance of portions of the Condominium which the Association is obligated to maintain. The policies shall not provide coverage for individual Owners or Occupants for liability arising within their Units.

(3) Other Insurance. In addition to the insurance required above, the Association shall obtain:

(a) worker's compensation insurance, if and to the extent necessary to meet the requirements of law;

(b) officers' and directors' liability insurance in such amounts as the Board may determine, if available at reasonable cost;

(c) fidelity bonds, if reasonably available, covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. Such bonds, if reasonably available, shall be in such amount as the Board deems appropriate in the exercise of its business judgment, but in no event less than three month's assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the bond; provided, however, such fidelity coverage may be reduced based on the implementation of financial controls which take one or more of the following forms:

(i) the Association or management company, if any, maintains a separate bank account for the operating account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association;

(ii) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account or;

(iii) two members of the Board of Directors must sign any checks written on the reserve account; and

(d) such other insurance as the Board of Directors may determine to be necessary, including, without limitation, a blanket flood insurance policy, if required as a condition to Mortgagees making first mortgage loans on the Units.

BOOK
3191

PAGE
365

(4) Description of Insurance Policies. All such insurance coverage shall be written in the name of the Association as trustee for itself, each of the Owners, and the Mortgagees, if any. All policies shall be written with a company licensed to do business in the State of Georgia. The insurance company shall provide insurance certificates to each Owner and each Mortgagee upon request. In addition, the Board shall use reasonable efforts to obtain policies that provide the following:

- (a) the insurer waives its rights of subrogation of any claims against directors, officers, the managing agent, the individual Owners, Occupants, and their respective household members;
- (b) any "other insurance" clause contained in the master policy shall expressly exclude individual Unit Owners' policies from its operation;
- (c) until the expiration of 30 days after the insurer gives notice in writing to the Mortgagee of any Unit, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Unit, the other Unit Owners, the Board of Directors, or any of their agents, employees, or household members, nor be canceled for non-payment of premiums;
- (d) the master policy may not be canceled, substantially modified, or subject to non-renewal without at least 30 days prior notice in writing to the Board of Directors and Mortgagees of Units;
- (e) an agreed value endorsement and an inflation guard endorsement; and
- (f) the deductible amount per occurrence shall not exceed one thousand (\$1,000,00) dollars.

(5) No Contribution. In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees.

(6) Mortgagee Protection. Nothing contained herein gives any Owner or other party priority over any rights of first Mortgagees as to distribution of insurance proceeds. Any insurance proceeds payable to the Owner of a Unit on which there is a Mortgagee endorsement shall be disbursed jointly to such Unit Owner and the Mortgagee. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee.

BOOK
3191
PAGE
366

ARTICLE XII

CASUALTY LOSSES

A. Payment of Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person or Persons which would be responsible for such loss in the absence of insurance. If the loss affects more than one Unit or a Unit and the Common Elements, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected Owner's portion of the total cost of repair. Notwithstanding this, if the insurance policy provides that the deductible will apply to each Unit separately or to each occurrence, each Owner shall be responsible for paying the deductible pertaining to his or her Unit, if any. If any Owner fails to pay the deductible when required under this subparagraph, then the Association may pay the deductible and assess the cost to the Owner pursuant to Article X, provided, if the deductible is for insurance required under the Act, no Owner shall be responsible for more than one thousand (\$1,000.00) dollars, or such higher amount as the Act may authorize, of such deductible for any one occurrence.

B. Obligation to Repair and Reconstruct. In the event of damage to or destruction of all or any part of the Condominium as a result of fire or other casualty, unless 80% of the Unit Owners, including the Owner or Owners of any damaged Unit or Units, vote not to proceed with the reconstruction and repair of the structure, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure. In the event of substantial damage or destruction, each institutional holder of a first Mortgage shall be entitled to written notice of the damage, and nothing in these documents shall be construed to afford priority to any Unit Owner with respect to the distribution of insurance proceeds for any such Unit.

C. Cost Estimates. Immediately after a fire or other casualty causing damage to the Condominium, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Unit) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

D. Source and Allocation of Proceeds. If the Board determines that the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, or if the insurance proceeds are otherwise inadequate to pay the actual costs of repair and reconstruction, the Board may levy an assessment to cover the additional costs. Any such assessment shall be levied against all Owners, if the damaged property is maintained as a general Common Expense, or against the Owners of the benefitted Unit(s), if the damaged property is maintained as a Limited Common Expense. Such an assessment shall not be subject to the limitation on special assessments set forth in Article X(D). If after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Association to be used as the Board may direct.

BOOK PAGE
3191 367

E. Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the Condominium was originally constructed, except where changes are necessary to comply with current applicable building codes or where the Board approves improvements not in accordance with the original plans and specifications. To the extent insurance proceeds are available, the Association may reconstruct or repair Owner improvements damaged as a result of fire or other casualty.

F. Encroachments. Encroachments upon or in favor of Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Condominium was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

G. Construction Fund. The net proceeds of insurance and such additional funds as the Association collects from assessments against Owners on account of a casualty shall constitute a construction fund which the Association shall disburse in payment of the cost of reconstruction and repair in the manner set forth in this paragraph. The Association shall disburse such funds in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as the Board may designate.

ARTICLE XIII

ARCHITECTURAL CONTROLS

A. Architectural Standards. Except as provided herein, no Owner, Occupant, or other Person except the Association may make any encroachment onto the Common Elements or Limited Common Elements, or make any exterior change, alteration (including painting and landscaping), or addition to the Common Elements or Limited Common Elements, nor erect, install, place or post any object, sign, flag, light, sculpture, artificial or real vegetation, storm doors or window, door knob or knocker, or other thing on the exterior of the building or on any portion of the Condominium visible from outside of a Unit, without first obtaining the written approval of the Board or its designee in accordance with the procedures set forth below. The Board may allow such encroachments on the Common Elements and Limited Common Elements as it deems appropriate pursuant to this Article XIII.

B. Alterations Within Units. Owners may make any improvements, renovations, or alterations within their Units that do not conflict with the requirements of this Declaration, impair the structural integrity of the building or any portion thereof, or otherwise materially lessen the support of any portion of the Condominium, upon first notifying the Board or its designee and providing the Board or its designee with evidence reasonably acceptable to it that the proposed improvements, renovation, or alterations will not so impair the structural integrity of any structure or lessen the support of any portion of the Condominium. No Person other than the Association may make any

BOOK
3191
PAGE
368

alterations within a Unit which involve connecting to Common Element pipes, lines, conduits and/or other apparatus for access to common utilities without first obtaining the written approval of the Board, or its designee.

C. Application Procedures. Applications for approval of any such architectural modification shall be in writing and shall include detailed plans and specifications for the proposed modification, addition, or alteration and such other information as the Board or its designee may reasonably require. The Board or its designee may publish written standards for permitted alterations or additions and any request in substantial compliance therewith shall be approved. Otherwise, the Board or its designee shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved plans. The Board or its designee may consider, but shall not be limited to consideration of, uniformity of appearance, the quality of that proposed work, the materials to be used, and harmony with the design of other portions of that Condominium. After final plans and specifications have been approved, no changes may be made in the approved plans or specifications without the consent of the Board or its designee.

D. Condition of Approval. As a condition of approval for a requested modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on such change, modification, addition, or alteration. In the discretion of the Board or its designee, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

E. Limitation of Liability. Review and approval of any application pursuant to this paragraph is made on the basis of aesthetic considerations only and neither the Board of Directors or its designee shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Association, the Board of Directors, its designee, or any member of any of the foregoing, shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications.

F. No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board of Directors and any committee which it may designate to exercise its authority under this paragraph will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. The approval of either the Board of Directors or its designee of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board or its designee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters subsequently or additionally submitted for approval or consent.

G. Enforcement. Any construction, alteration, or other work done in violation of this paragraph shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their

BOOK PAGE
3191 369

own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. The Board of Directors shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this paragraph and decisions made hereunder.

The Board may exclude from the Condominium any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this paragraph and the architectural standards, subject to the notice and hearing procedures contained in the Bylaws of the Association. Neither the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this subparagraph (G).

If any Owner or Occupant makes any exterior change, alteration, or construction (including landscaping) upon the Common Elements in violation of this Article, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction remain on the Common Elements without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

ARTICLE XIV

RESTRICTIONS ON USE, CONDUCT AND OTHER MATTERS

A. The following restrictions apply to the Condominium and the Board may adopt rules and regulations which supplement, expand, further define or clarify the restrictions set forth in this Article XIV:

(1) Residential Use. Each Unit shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Unit or any part of the Condominium, including business uses ancillary to a primary residential use, except that the Owner or Occupant residing in a Unit may conduct such ancillary business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the Unit; (ii) the business activity does not involve visitation of the Unit by employees, clients, customers, suppliers or other business invitees; (iii) the business activity conforms to all zoning requirements for the Condominium; (iv) the business activity does not increase traffic in the Condominium; (v) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; and (vi) the business activity is consistent with the residential character of the Condominium and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Condominium, as may be determined in the sole discretion of the Board of Directors.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation,

work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the use of a Unit by Declarant in accordance with the rights reserved under Article XIX or by an on-site management company operating on behalf of the Association shall not be considered a trade or business within the meaning of this subparagraph.

(2) Single Family Occupancy. Occupancy of each Unit shall be limited to a single family or, in the alternative, that number of unrelated persons equal to the number of bedrooms in the Unit (as depicted on the Plans referenced in Article III) plus one additional person. For purposes of this subparagraph (2), "occupancy" means staying overnight in a Unit for a total of more than 30 days, either consecutive or non-consecutive, in any calendar year. "Single family" means any number of persons, all of whom are interrelated by blood, adoption, or marriage, and no more than one additional person who is not so related. The phrase "by blood" shall be deemed to encompass only children, grandchildren, grandparents, brothers, sisters, nieces, nephews, parents, aunts, uncles, and first cousins, and no other degree of kinship. "Marriage" shall include common law marriage as provided for under Georgia law, and "by marriage" shall include in-laws and step-relatives.

(3) Relocation of Boundaries. No Unit may be combined with other Units or Common Elements.

(4) Timesharing. No Unit shall be made subject to any type of timesharing, fraction-sharing, or similar program whereby the right to exclusive use of a Unit rotates among members of the program on a fixed or floating time schedule over a period of years.

(5) Animals and Pets. No animals, reptiles, birds, or other non-human living creatures shall be raised, bred, or kept on any part of the Condominium, except that a total of two dogs or cats weighing less than 20 pounds each, and a reasonable number of birds, fish, or other usual and common household pets may be kept in a Unit, provided that such pets are not kept, bred, or maintained for any commercial purpose, do not endanger the health or unreasonably disturb the Owner or Occupants of any other Units, and do not create a nuisance.

At all times when pets are outside a Unit, they must be kept on a leash. The keeping of pets and their ingress, egress, and travel upon the Common Elements shall be subject to such rules and regulations as the Board may promulgate. Failure to comply with these restrictions or such rules and regulations shall be grounds for the Board to bar the pet from use or travel upon the Common Elements. The Board may subject pet ingress, egress, use, or travel upon the Common Elements to a user fee, which may be a general fee for all similarly situated persons or a specific fee imposed for failure of an Owner or Occupant to abide by the rules, regulations, and restrictions applicable to pets. In addition, any pet which endangers the

BOOK
3191
PAGE
371

health of any Owner or occupant of a Unit or which creates a nuisance or an unreasonable disturbance, as may be determined in the sole discretion of the Board, must be permanently removed from the Condominium upon seven days written notice from the Board.

(6) Signs. No person shall erect, post, or place any sign of any kind on the Common Elements without the Board's prior approval. "For Sale" and "For Rent" signs are prohibited and may not be displayed in any Unit or on any portion of the Common Elements; provided, however, the Board of Directors may provide a bulletin board or other display area on the Common Elements where Owners can place notices regarding Units available for sale or lease.

(7) Rubbish, Trash, and Garbage. The Owner or Occupant of each Unit shall ensure that all rubbish, trash, and garbage is regularly removed from the Unit and is not allowed to accumulate within the Unit. No trash, rubbish, and garbage shall be placed outside of a Unit or permitted to accumulate on the Common Elements. All trash, rubbish, and garbage shall be placed in receptacles approved by the Board and shall be placed at designated times in designated locations within the Condominium. The Board shall be authorized to designate a single sanitation company for the Condominium, and all Occupants agree to utilize said company.

(8) Use of Common Elements. Except for the right of ingress and egress over the Common Elements, the Owners are prohibited from using any portion of the Condominium outside of their respective Units and the Limited Common Elements assigned to their respective Units, except as the Board may expressly allow, and then subject to such rules and regulations as the Board may adopt. Use of the Limited Common Elements is restricted exclusively to the Owners and Occupants of the Unit to which such Limited Common Elements are assigned, and their family members, guests, tenants and invitees.

With the Board's prior written approval and subject to any restrictions the Board may impose, an Owner or Occupant may reserve portions of the Common Elements for use for a specified period of time. Each Owner or Occupant shall assume, on behalf of himself and any guests, all risks associated with the use of the Common Elements and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees.

(9) Impairment of Units and Easements. No person shall do any act or work that will impair the structural soundness or integrity of another Unit or the Common Elements, nor impair any easement, nor do any act nor allow any condition to exist which will adversely affect the other Units or their Owners or Occupants.

(10) Nuisance. No person shall make use of any Unit or any portion of the Condominium in any way or for any purpose which may endanger the health or unreasonably annoy or disturb other Owners or occupants of any Unit, or which constitutes, in the Board's opinion,

BOOK
3191
PAGE
372

a nuisance. No Owner or Occupant shall do, keep or store anything on the Condominium which would increase the rate of insurance on the Condominium, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would otherwise increase the Common Expenses, without the prior approval of the Board of Directors.

(11) Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, such as, but not limited to, garage sales or the assembly and disassembly of mechanical devices, which might tend to cause disorderly, unsightly, or unkept conditions, shall not be pursued or undertaken on any part of the Condominium.

(12) Control Over Employees. No person other than such officers, directors or managing agent of the Association as the Board may authorize, shall direct, supervise, or in any manner attempt to assert any control over the Association's employees, if any.

(13) Window Treatments. No blinds, shades, screens, decorative panels, or other window treatments or coverings, except for draperies in or lined with white, off-white, or light beige, or vertical or horizontal blinds in white, off-white or light beige, shall be attached to, hung, or used in connection with any window or door in a Unit in such a manner as to be visible from outside of the Unit, without the Board's prior written consent. Any type of reflective film or coating of any window, glass door, or glazed surface of any structure visible from outside the Unit is prohibited.

(14) Noise. No Owner or Occupant of a Unit may use or allow the use of the Unit, the Common Elements or the Limited Common Elements between the hours of 11:00 p.m. and 7:30 a.m. in any manner which creates levels of noise that can be heard by persons in another Unit or that, in the opinion of the Board, interferes with the rights, comfort or convenience of the other Owners or Occupants.

(15) Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Elements is prohibited, except that the display of lawful firearms on the Common Elements is permitted for the limited purpose of transporting the firearms across the Common Elements to or from the Owner's Unit. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. Section 25-10-1, as amended.

(16) Parking. All vehicles shall be parked in designated parking areas. Each Unit shall be assigned at least two (2) parking spaces by the Board of Directors and no other Condominium Owner shall utilize said assigned spaces. The habitual parking of commercial vehicles, trucks, boats, buses, trailers, motor homes or other recreational vehicles is prohibited. No disabled vehicle shall be parked on the Unit for more than 24 hours.

(17) Abandoned Personal Property. Personal property, other than an automobile as provided for in subparagraph (16) of this paragraph, is prohibited from being stored, kept,

BOOK PAGE
3191 373

or allowed to remain for a period of more than 24 hours upon any portion of the Common Elements other than on a Limited Common Element except as the Board may approve. The Board may remove and either discard or store any such personal property in a location which the Board may determine in its discretion. Prior to taking any such action, the Board shall place a notice on the personal property and/or on the door of the owner's Unit, if known, specifying the nature of the violation and stating that after two days the property may be removed and either discarded or stored. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation. If two days after such notice the violation continues or thereafter occurs again within six months of such notice, the personal property may be removed in accordance with the original notice, without further notice to the owner or user of the personal property. Notwithstanding anything to the contrary, the Board, in its discretion, may determine that an emergency situation exists, and the Board may cause the personal property abandoned or stored in violation of this subparagraph to be removed and either discarded or stored in a location which the Board may determine; provided, however, the Board shall give to the Owner, if known, notice of the removal of the property and the location of the personal property within three days after the personal property is removed.

If personal property is removed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage resulting from the removal activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

ARTICLE XV

LEASING

- A. Definition. "Leasing," for purposes of this Declaration, means regular, exclusive occupancy of a Unit by any person or persons other than the Owner (the "Tenant") for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.
- B. Leasing Program. In order to preserve the character of the Condominium as predominantly owner-occupied and to comply with the eligibility requirements for financing in the secondary mortgage market, the leasing of Units shall be governed by the restrictions imposed in this Article. Except as provided herein, the Leasing of Units shall be prohibited.
- C. General. Owners desiring to lease their Units may do so only if they have applied for and received from the Board of Directors either a "Leasing Permit" or a "Hardship Leasing Permit". Such a permit, upon its issuance, will allow an Owner to lease his or her Unit provided that such Leasing is in strict accordance with the terms of the permit and this Article. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Article. All Leasing Permits and Hardship Leasing Permits shall be valid only as to a

specific Unit Owner and Unit and shall not be transferable between either Units or Unit Owners, but shall be transferable to successors in title to the same Unit.

D. Leasing Permits. An Owner's request for a Leasing Permit shall be approved if current outstanding Leasing Permits issued do not exceed twenty-five (25%) of the total number of Units (excluding Units owned by Declarant) in the Condominium. A Leasing Permit shall be automatically revoked upon the happening of any of the following events: (1) the failure of a Unit Owner to lease his or her Unit within one hundred eighty (180) days of the Leasing Permit having been issued; (2) the failure of a Unit Owner to have his or her Unit leased for any consecutive one hundred eighty (180) day period thereafter; or (3) the occurrence of the date referenced in a written notification by the Owner to the Association that the Owner will, as of said date, no longer need the Leasing Permit. If current Leasing Permits have been issued for more than twenty-five percent (25%) of the total number of Units (excluding Units owned by the Declarant), no additional Leasing Permits shall be issued (except for Hardship Leasing Permits) until the number of outstanding current Leasing Permits falls below twenty-five percent (25%) of the total number of Units (excluding Units owned by the Declarant) in the Condominium. Owners who have been denied a Leasing Permit shall be automatically placed on a waiting list for a Leasing Permit and shall be issued the same if they so desire when the number of current outstanding Leasing Permits issued falls to twenty-five percent (25%) or less of the total number of Units (excluding Units owned by the Declarant) in the Condominium. The issuance of a Hardship Leasing Permit to an Owner shall not cause the Owner to be removed from the waiting list for a Leasing Permit.

E. Hardship Leasing Permits. If the failure to lease will result in a hardship, the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a Hardship Leasing Permit. The Board of Directors shall have the authority to issue or deny requests for Hardship Leasing Permits in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship, (2) the harm, if any, which will result to the Condominium if the permit is approved, (3) the number of Hardship Leasing Permits which have been issued to other Owners, (4) the Owner's ability to cure the hardship, and (5) whether previous Hardship Leasing Permits have been issued to the Owner. A "hardship" as described herein shall include, but not be limited to, the following situations: (1) a Unit Owner must relocate his or her residence outside Chatham County, Georgia and cannot, within six (6) months from the date that the Unit was placed on the market, sell the Unit except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner dies and the Unit is being administered by his or her estate; and (3) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit. Hardship Leasing Permits shall be valid for a term not to exceed one (1) year. Owners may apply for additional Hardship Leasing Permits. Hardship Leasing Permits shall be automatically revoked if during the term of the permit, the Owner is approved for and receives a Leasing Permit.

F. Lease Form. At least seven (7) days prior to entering into the lease of a Unit, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease into compliance with the

BOOK
PAGE
3191
375

Declaration and any rules and regulations adopted pursuant hereto. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form that is deemed acceptable.

Within ten (10) days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with a copy of the lease and the name of the Tenant and all other people occupying the Unit. The Owner must provide the Tenant copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Board the right to approve or disapprove of a proposed Tenant; the Board's approval or disapproval shall be limited to the form of the proposed lease.

G. Required Lease Terms. Each Owner covenants and agrees that any lease of a Unit shall comply with the following provisions or contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the Tenant, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(1) Units may be leased only in their entirety, no fraction or portion may be leased without prior written Board approval.

(2) There shall be no subleasing of Units or assignment of leases without prior written Board approval.

(3) All leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship.

(4) The Tenant shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Unit in order to ensure such compliance. The Owner shall cause all Occupants of his or her Unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Unit are fully liable and may be sanctioned for any such violation. If the Tenant, or a person living with the Tenant, violates the Declaration, Bylaws, and the rules and regulations for which a fine is imposed, notice of the violation shall be given to the Owner, and the Tenant, and such fine may be assessed against the Tenant as if he were the Owner of the Unit as provided herein. If the fine is not paid by the Tenant within the time period set by the Board, the Board, in its sole discretion may demand that the Owner pay the fine upon notice from the Board of the Tenant's failure to pay the fine. Unpaid fines shall constitute a lien against the Unit.

(5) Any violation of the Declaration, Bylaws or rules and regulations adopted pursuant thereto by the Tenant, or any guest of Tenant, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the Tenant in accordance with Georgia law. The Owner hereby delegates and assigns to the

Association, acting through the Board, the power and authority of enforcement against the Tenant for breaches resulting from the violation of the Declaration, bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the Tenant as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the Tenant, any costs, including reasonable attorney's fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Unit.

ARTICLE XVI

TRANSFER OF TITLE TO UNITS

A. Seller Notice. A Unit Owner intending to sell or otherwise transfer title to a Unit shall give written notice to the Board of Directors of such intention within seven days after entering into any agreement to sell or transfer the Unit. The Unit Owner shall furnish to the Board as part of the notice (a) the name and address of the intended grantee; and (b) such other information as the Board may reasonably require. This paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

B. Purchaser Notice. Within seven days after taking title to a Unit, the new Owner shall give written notice to the Board of Directors of his or her ownership of the Unit. Upon failure of a Owner to give the required notice within the seven-day time period provided herein, the Board may levy fines against the Unit and the Owner thereof, and assess the Owner for all costs incurred by Association in determining his or her identity.

ARTICLE XVII

MAINTENANCE RESPONSIBILITY

A. Association Maintenance. Except as otherwise specifically provided in this Article XVII, the Association shall maintain and keep in good repair as a Common Expense, the "Area of Common Responsibility," which includes all Common Elements, Limited Common Elements, and the exterior surface of all improvements, whether located within the boundaries of a Unit or within the Limited Common Element assigned to a Unit. The Association's maintenance responsibilities shall include, but not be limited to:

- (1) the maintenance and repair of all the roofs and roof supports (including the roof joists and trusses, crossbeams, roof decking and underlayment, and shingles or other covering and surface materials);
- (2) the resurfacing, repair and replacement of paving, brick, walkways, floor coverings on the Common Elements, stairways, stoops, landings, railings, steps, and balconies and balcony supports, if any;

- (3) the maintenance, repair and replacement of gutters and down spouts (if any);
- (4) the maintenance, repair and replacement of signs and other markers;
- (5) the maintenance and repair of all common corridors and passageways, entrances to and exits from a building;
- (6) maintenance and repair of utility lines, pipes, wires, vents, ducts, flues, and conduits serving more than one Unit, or serving a particular Unit up to the point where the same intersect the boundaries of the Unit to the extent that such utility lines, pipes, wires, vents, ducts, flues, and conduits are not maintained by public, private or municipal utility companies;
- (7) maintenance, repair, painting and replacement of exterior walls and surfaces bounding the Units, including the vinyl siding or other building material forming the exterior walls of the Units (but not including the wood, drywall, plaster or other building material on the Unit side of the perimetrical or vertical boundaries of the Unit);
- (8) maintenance and repair of grassed, landscaped or undeveloped natural areas contained in the Common Elements; and
- (9) all other functions necessary for the proper maintenance, upkeep, repair, replacement, rebuilding and operation of the Condominium.

BOOK
 319I
 PAGE
 378

The Association shall repair incidental damage to any Unit resulting from performance of work which is the responsibility of the Association. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors. The Association shall have the right, but not the obligation, to maintain and repair as a Common Expense any or all property owned by the Association but not submitted to this Declaration.

B. Association Liability. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities.

C. Owner Liability. If the Board determines that the need for maintenance or repair is in the Area of Common Responsibility and is caused through the willful or negligent act of any Owner, or occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or Occupant's Unit, shall become a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

D. Unit Owner Maintenance. Each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit except those portions which are to be maintained, repaired

or replaced by the Association under subparagraph (A) of this Article. In addition, each Owner shall be responsible for maintaining the Limited Common Elements assigned to such Owner's Unit in a neat, clean and orderly condition and shall not allow any unsanitary or dangerous condition to exist in or on such Limited Common Elements. The responsibility of the Unit Owner shall include, but not be limited to:

- (1) the maintenance, repair and replacement of all finishes, fixtures and equipment installed in such Owner's Unit;
- (2) the wood, drywall, plaster, or other building material comprising the unfinished surfaces of the walls and ceilings of the Unit;
- (3) the maintenance, repair and replacement of the heating, ventilation, and air conditioning unit serving a Unit;
- (4) the maintenance, repair and replacement of windows and window frames, and doors, door frames and hardware of a Unit including specifically the painting of exterior doors, and the replacement of light bulbs in the exterior door light fixtures of a Unit;
- (5) all utility lines, pipes, wires, vents, ducts, flues, conduits or systems which serve only that Unit, to the extent that they lie within the perimeter boundaries of the Unit.
- (6) the maintenance and repair of those portions of the heating and air conditioning systems serving a Unit which serve only that Unit or are located within the Unit itself shall be the responsibility of the Unit Owner.

E. Alterations. An Owner shall not be permitted to make any alterations in the portions of the Unit which are to be maintained by the Association, nor do anything with respect to the Unit which would or might jeopardize or impair the safety or soundness of any Unit without first obtaining the written consent of the Board of Directors and all Unit Owners and Mortgagees of the Units affected, nor impair any existing easement without first obtaining written consent of the Association and of the Unit Owner or Owners and their Mortgagees for whose benefit such easement exists.

F. Failure to Maintain. If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors.

Unless the Board of Directors determines that an emergency exists, the Owner shall have 10 days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within 10 days. If the

Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be added to and become a part of the assessment to which such Owner is subject, shall become and be a lien against the Unit, and shall be collected as provided herein for the collection of assessments.

G. Measures Related to Insurance Coverage:

(1) The Board of Directors, upon resolution, shall have the authority to require all or any Unit Owner(s) to do any act or perform any work involving portions of the Condominium which are the maintenance responsibility of the Unit Owner, which will, in the Board's sole discretion, decrease the possibility of fire or other damage in the Condominium, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring all Owners to turn off cut-off valves, which may now or hereafter be installed, during winter months for outside water spigots; requiring Owners to insulate pipes sufficiently or take other preventive measures to prevent freezing of water pipes; requiring Owners to install smoke detectors; requiring Owners to make improvements to the Owner's Unit; and such other measures as the Board may reasonably require so long as the cost of such work does not exceed five hundred (\$500.00) dollars per Unit in any 12 month period.

(2) In addition to, and not in limitation of, any other rights the Association may have, if any Unit Owner does not comply with any reasonable requirement made by the Board of Directors pursuant to subparagraph (F) above, the Association, upon 15 days' written notice (during which period the Unit Owner may perform the required act or work without further liability), may perform such required act or work at the Unit Owner's sole cost. Such cost shall be an assessment and a lien against the Unit as provided herein. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to this subparagraph, including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Owner or Occupant of the Unit, except that access may be had at any time without notice in an emergency situation.

H. Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary from one term of the Board of Directors to another. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this paragraph. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

ARTICLE XVIII

MORTGAGEE RIGHTS

A. Mortgagee or Unit Owner Consent. Unless at least two-thirds (2/3) of the first Mortgagees give their consent, the Association or the membership shall not:

- (1) by act or omission seek to abandon or terminate the Condominium;
- (2) change the pro rata interest or obligations of any individual Unit for the purpose of (A) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (B) determining the pro rata share of ownership of each Unit in the Common Elements;
- (3) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Elements (the granting of easements or licenses, as authorized herein, shall not be deemed a transfer within the meaning of this clause); or
- (4) use hazard insurance proceeds for losses to any portion of the Condominium (whether to Units or to Common Elements) for other than the repair, replacement, or reconstruction of such portion of the Condominium. The provisions of this subparagraph shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Unit Owners where a larger percentage vote is otherwise required by the Act or the Condominium Instruments for any of the actions contained in this paragraph.

B. Title by Foreclosure. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Unit obtains title pursuant to judicial or non-judicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Unit which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Units, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

C. Notice. Upon written request to the Association, identifying the name and address of the holder and the Unit number or address, any Eligible Mortgagee will be entitled to timely written notice of:

- (1) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit on which there is a first Mortgage held by such Eligible Mortgagee;
- (2) any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to a first Mortgage held by such Eligible Mortgagee which remains unsatisfied

for a period of 60 days, and any default in the performance by an individual Unit Owner of any other obligation under the Condominium Instruments which is not cured within 60 days;

(3) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(4) any proposed action which would require the consent of a specified percentage of Eligible Mortgagees, as specified herein.

D. Mortgagee Consent. In addition to the approval of Owners required under Article XXV, the approval of Eligible Mortgagees holding Mortgages on at least 51% of the Units that are subject to a Mortgage held by an Eligible Mortgagee shall be required to materially amend or add any provision to the Declaration, Bylaws, or Articles of Incorporation governing any of the following:

- (1) voting rights;
- (2) increases in assessments or limitations on such increases, assessment liens, or the priority of such liens;
- (3) reductions in reserves for maintenance, repair, and replacement of the Common Elements;
- (4) responsibility for maintenance and repairs;
- (5) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use;
- (6) redefinition of Unit boundaries;
- (7) convertibility of Units into Common Elements or vice versa;
- (8) expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property from the Condominium;
- (9) hazard insurance or fidelity bond requirements;
- (10) imposition of any new restriction on leasing of Units;
- (11) imposition of any new restriction on the right of an Owner to sell, transfer, or otherwise convey such Owner's Unit
- (12) restoration or repair of the Condominium after damage or partial condemnation;

(13) any provisions that are for the express benefit of Mortgage holders, guarantors, or insurers.

E. Condemnation or Casualty. To the extent not inconsistent with Georgia law, any election to terminate the legal status of the Condominium:

(1) after substantial destruction or condemnation occurs shall require the approval of the Eligible Mortgagees holding first Mortgages on Units allocated at least 51% of the votes of Units subject to Mortgages held by Eligible Mortgagees; and

(2) otherwise shall require the approval of the Eligible Mortgagees holding first Mortgages on Units allocated at least 67% of the votes of Units subject to Mortgages held by Eligible Mortgagees.

F. Identity of Mortgagee. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

G. Implied Consent. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

H. Financial Information. Any holder of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

I. Mortgagee Title Rights. Notwithstanding anything to the contrary herein contained, the provisions of Articles XV and XVI governing sales and leases shall not apply to impair the right of any first Mortgagee to:

- (1) foreclose or take title to a Unit pursuant to remedies contained in its Mortgage; or
- (2) take a deed or assignment in lieu of foreclosure; or
- (3) sell, lease, or otherwise dispose of a Unit acquired by the Mortgagee.

ARTICLE XIX

DECLARANT RIGHTS

A. Rights of Declarant. Notwithstanding anything to the contrary contained elsewhere in this Declaration, any other Condominium Instrument, or the Articles of Incorporation, in accordance with the Act and this Declaration, Declarant shall have the following rights:

3191

BOOK

383

PAGE

(1) Development and Sale Right. Declarant hereby reserves for itself, its affiliates, and their duly authorized agents, representatives, and employees, an easement over, under, across, and to the Condominium for the purpose of construction and improvement of Units, Common Elements, Limited Common Elements, and common facilities, provision of warranty services to Owners, maintenance of sales or leasing offices, management offices, signs, and models on the Condominium, and carrying on sales and marketing activities in connection with the Condominium for so long as Declarant owns any Unit in the Condominium, unless sooner relinquished in writing signed by Declarant. Declarant may maintain one or more offices and models on the Common Elements or in Units which Declarant owns, but only in connection with the management, sale, or rental of Units in the Condominium. There shall be no limit on number, size, location, or relocation of such offices and models. This subparagraph shall not be amended, nor shall the rights of Declarant or its affiliates hereunder be further restricted, without the prior written consent of Declarant.

(2) Development of Adjacent Property. Declarant hereby reserves for itself, its affiliates, and their duly authorized agents, representatives, and employees, an easement over, under, across, and to the Condominium for the purpose of enjoyment, use, access and development of real property adjacent to the Condominium. This easement includes, but is not limited to, the right of ingress and egress over the Condominium for construction of roads and for connecting and installing utilities on such property.

(3) Right to Appoint Association's Directors and Officers. Declarant shall have the right to appoint and remove the members of the Board of Directors and officers of the Association as provided in Articles and Bylaws until the first to occur of the following:

(a) 60 days after 80% of the maximum number of Units permitted pursuant to Article IV have been conveyed to Persons other than Declarant or a Person or Persons constituting the Declarant;

(b) seven years after the date of recording of the Declaration; or

(c) the surrender by Declarant of such right by amendment to this Declaration executed and recorded by Declarant.

(4) Sales and Leases. Notwithstanding anything to the contrary contained herein, Declarant and its affiliates shall have the right to sell or lease Units and to erect and maintain signs to facilitate such sales or leases as they, in their sole discretion, deem appropriate, and shall not be required to comply with the provisions of this Declaration or any Association rules and regulations regarding signs, sales, and leases.

(5) Unsold Units. Declarant shall enjoy the rights and fulfill the duties of an Owner with respect to any unsold Units which it owns.

BOOK
3191
PAGE
384

ARTICLE XX

RELATIONSHIP TO TOWNHOME ASSOCIATION

A. Townhome Association and Townhome Declaration. Every Owner, by acceptance of a deed to a Unit, acknowledges that, in addition to being subject to and bound by the Condominium Instruments, he or she is subject to the Townhome Declaration and that he or she is automatically a member of and subject to assessment by the Townhome Association.

B. Supremacy of Townhome Declaration. In addition to all of the rights and obligations which have been conferred or imposed upon the Association pursuant to this Declaration, the By-Laws, or the Articles of Incorporation, the Association shall be entitled to exercise any of the rights conferred upon it and shall be subject to all of the obligations imposed upon it pursuant to the Townhome Declaration and the by-laws of the Townhome Association. The Association and all committees thereof shall also be subject to all superior rights and powers which have been conferred upon the Townhome Association, pursuant to the Townhome Declaration and the by-laws of the Townhome Association. The Association shall take no action in derogation of the rights of or contrary to the interests of the Townhome Association. All matters as to which there is disagreement shall be resolved in favor of the Townhome Association.

C. Easement to Townhome Association. The directors, officers, agents, employees, and independent contractors of the Townhome Association shall have a non-exclusive easement to enter upon the Condominium for the purpose of performing or satisfying the duties and obligations of the Townhome Association, and exercising the authority granted to the Townhome Association under the Townhome Declaration and the by-laws and rules of the Townhome Association.

D. Delegation. The Association is responsible for paying dues to the Townhome Association for the Lots upon which the Condominiums are located. The Association may delegate to the Townhome Association the duty to collect Condominium dues for each Unit, and the obligations imposed on the Association pursuant to this Declaration.

E. Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall be cumulative with those of the Townhome Declaration; provided, however, in the event of conflict between or among the provisions of this Declaration, the By-Laws, Articles of Incorporation, or rules and regulations pursuant thereto, and the Townhome Declaration, the by-laws of the Townhome Association, its articles of incorporation, or rules and regulations, those of the Townhome Declaration and the Townhome Association shall be superior to those of this Declaration and the Association. The foregoing priorities shall not prevent enforcement by the Association of provisions or rules which are stricter than those of the Townhome Declaration or Townhome Association.

BOOK 3191
PAGE 385

ARTICLE XXI

ASSOCIATION SERVICES

A. Concierge. The Association shall have the authority, but not the obligation, to employ a Person to act as a concierge for the benefit of the Owners, subject to the right of the Owners to terminate such service pursuant to this subparagraph. The Board shall determine, in its sole discretion, the hours of availability and scope of services to be provided by the concierge and may adopt rules and regulations designed to ensure that the concierge is available to provide such services to all Owners and Occupants who may wish to make use of them. Members that desire additional services may make a request for additional services to the Board. The Association shall have the authority to terminate the concierge service, if any, upon the vote of Owners or their proxies entitled to cast a Majority of the total Association vote, excluding votes held by Declarant, at a duly called and held meeting of the membership.

B. Security and Safety. Each Owner and Occupant, for himself or herself and his or her Occupants, family, guests, licensees, and invitees, acknowledges and agrees that the Association is not an insurer or guarantor of security and shall have no duty to protect persons or personal property on the Condominium from loss, damage, or injury arising from the unlawful or negligent acts of third persons. It shall be the sole responsibility of each Owner and Occupant and each other person entering upon the Condominium to protect his or her own person and property. Neither the Association, its Board of Directors, managing agent, employees, nor the Declarant shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of safety measures undertaken. The Association reserves the right to provide a gated entrance or to leave said gate open at any time in its sole discretion, including specifically the time periods that the Condominium is under construction.

ARTICLE XXII

EMINENT DOMAIN

A. Eminent Domain. In the event of a taking by condemnation or by eminent domain, the provisions of the Act shall govern; provided, however, that any proceeds received for a taking of the Common Elements (other than Limited Common Elements) by condemnation or eminent domain shall, at the Board's option, either be allocated to the Owners pursuant to O.C.G.A. § 44-3-97(a), as amended, or be deposited into the Association's operating account or reserve account to be applied to Common Expenses. Each Eligible Mortgagee shall be entitled to written notice of any such condemnation proceedings, and nothing in the Condominium Instruments shall be construed to give a priority to any Unit Owner in the distribution of proceeds to such Unit.

3191

BOOK

386

PAGE

ARTICLE XXIII

EASEMENTS

A. Over Common Elements. Each Unit Owner and Occupant shall have a right and easement of use and enjoyment in and to the Common Elements (including a perpetual, unrestricted right of access, ingress and egress to and from his or her Unit over those portions of the Condominium designated for such purpose), and such easement shall be appurtenant to and shall pass with the title to such Unit, subject to the rights of the Unit Owners to the exclusive use of the Limited Common Elements assigned to their respective Units and to the right of the Association to control the use and enjoyment of the Common Elements as provided by the terms of this Declaration.

B. For Access, Drainage and Utilities. The Declarant hereby reserves for itself, its affiliates, and the Association, their grantees, successors, and assigns, easements over the Common Elements for installation, maintenance and repair of roads, access ways, drainage facilities and utilities to serve the Condominium and the Additional Property. In addition, each Owner, by accepting any interest in a Unit, is deemed to appoint the Association as such Owner's attorney-in-fact for the purpose of granting permits, licenses and easements over the Common Elements for roads, access ways, drainage facilities, and utilities and other purposes which the Board or Declarant may deem necessary or appropriate to the operation of the Condominium or the development of the Additional Property.

ARTICLE XXIV

GENERAL PROVISIONS

A. Compliance and Enforcement. Each Owner shall comply, and shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply, with all provisions of the Condominium Instruments and the Association's rules and regulations. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants, or Occupants in the event of any such person's violation of the Condominium Instruments, the Association may take enforcement action as authorized in this Declaration, the Bylaws, and the Act against the Owner as if the Owner committed the violation in conjunction with such person. An aggrieved Owner shall also have standing to enforce the Condominium Instruments and the Association rules and regulations by action at law or in equity.

B. Dispute Resolution. Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, a Unit Owner or Occupant must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered to any member of the Board of Directors or the property manager, if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall

BOOK PAGE
3191 387

give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than 7 nor more than 21 days from the date of receipt of the request.

C. No Discrimination. No action shall be taken by the Association or the Board of Directors which would discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or handicap.

D. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

B. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect the application of such provision to other circumstances or affect any other provision(s), which shall remain in full force and effect.

ARTICLE XXV

AMENDMENTS

A. Right to Amend. Except where a higher vote is required for action under any other provisions of the Declaration or by the Act, in which case such higher vote shall be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent (as provided for in the Bylaws), or any combination of affirmative vote and written consent of the members of the Association holding at least 67% of the total eligible vote of the Association. In addition, the approval of Eligible Mortgagees shall be obtained to the extent required under Article XVIII. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Chatham County, Georgia land records.

B. Challenge to Amendment. Any action to challenge the validity of an amendment adopted under this paragraph must be brought within one year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

ARTICLE XXVI

PREPARER

A. This Declaration was prepared by Robert B. Brannen, Jr., Esq., Inglesby, Falligant, Home, Courington & Chisholm, P.C., 17 West McDonough Street, Savannah, Georgia, 31401.

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the day and year above first written.

Signed, sealed and delivered this 27th day of December, 2006 in the presence of:

Melissa Beche
Unofficial Witness

Melissa Mathews
Notary Public

My Commission Expires: 7/21/2008

[NOTARIAL SEAL]



Declarant:

R.P. XIV, LLC,
a Georgia limited liability company

By: Fred Williams, Jr.
Fred L. Williams, Jr., Manager

BOOK PAGE
3191 389

EXHIBIT "A"

All those certain lots, tracts, or parcels of land known as LOTS 612, 623, 719, 726, 758, AND 765, THE COVE AT NEWPORT, A CONDOMINIUM, lying and being in the 8th G.M. District, City of Port Wentworth, County of Chatham, State of Georgia, as shown upon that certain plat prepared by Michael A. Hussey, G.R.L.S. No. 2509, entitled "The Cove at Newport A Condominium, A Condominium Plat of Lots 612, 623, 719, 726, 758, and 765 Being a Subdivision of The Cove at Newport, 8th G.M. District, Meadow Lakes Subdivision, Port Wentworth, Chatham County, Georgia," dated _____, 2006, and recorded in Condominium Book ____, Page ____, Chatham County, Georgia records, which plat is incorporated herein by specific reference and made a part hereof.

3191

BOOK

390

PAGE

EXHIBIT "B"

PLATS, PLANS AND NUMBER OF UNITS

PLATS: "The Cove at Newport A Condominium, A Condominium Plat of Lots 612, 623, 719, 726, 758, and 765 Being a Subdivision of The Cove at Newport, 8th G.M. District, Meadow Lakes Subdivision, Port Wentworth, Chatham County, Georgia," dated November 10, 2006, and recorded in Condominium Book 2C, Page 316, Chatham County, Georgia records.

BOOK
3191

PLANS: Plan entitled "4-Unit Condominium, The Cove at Newport, A Condominium, Port Wentworth, Georgia," Units 28A, 28B, 28C, and 28D, as prepared by Registered Architect Roy D. Ogletree, Jr., dated March 15, 2006, pages A1-A4.

PAGE
391

Plan entitled "4-Unit Condominium, The Cove at Newport, A Condominium, Port Wentworth, Georgia," Units 42A, 42B, 42C, and 42D, as prepared by Registered Architect Roy D. Ogletree, Jr., dated March 15, 2006, pages A1-A4.

Plan entitled "4-Unit Condominium, The Cove at Newport, A Condominium, Port Wentworth, Georgia," Units 43A, 43B, 43C, and 43D, as prepared by Registered Architect Roy D. Ogletree, Jr., dated March 15, 2006, pages A1-A4.

Plan entitled "4-Unit Condominium, The Cove at Newport, A Condominium, Port Wentworth, Georgia," Units 44A, 44B, 44C, and 44D, as prepared by Registered Architect Roy D. Ogletree, Jr., dated March 15, 2006, pages A1-A4.

Plan entitled "4-Unit Condominium, The Cove at Newport, A Condominium, Port Wentworth, Georgia," Units 58A, 58B, 58C, and 58D, as prepared by Registered Architect Roy D. Ogletree, Jr., dated March 15, 2006, pages A1-A4.

Plan entitled "4-Unit Condominium, The Cove at Newport, A Condominium, Port Wentworth, Georgia," Units 59A, 59B, 59C, and 59D, as prepared by Registered Architect Roy D. Ogletree, Jr., dated March 15, 2006, pages A1-A4.

NUMBER OF UNITS:

The Condominium will contain a maximum of 24 Units.
Currently, the Condominium contains 24 Units.

EXHIBIT "D"

Articles of Incorporation and Bylaws of The Cove at Newport Condominium Association, Inc.

BOOK	PAGE
3191	392

Clock#: 895677
FILED FOR RECORD
1/08/2007 03:24pm
PAID: 62.00
Daniel W. Massey, Clerk
Superior Court of Chatham County
Chatham County, Georgia

WILLIAMS & PINE, LLC
6005 ABERCORN STREET SUITE 201
SAVANNAH, GA 31405
Pc: (912) 358-5550

Return to:
Inglesby, Falligant, Horae,
Courington & Chisholm, P.C.
P.O. Box 1368
Savannah, Georgia 31402-1368
Attn: Robert B. Braunen, Jr., Esq.

BOOK
3191
PAGE
393

FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM

THIS FIRST AMENDMENT is made as of the 27th day of December, 2006, by R.P. XIV, LLC, a Georgia limited liability company (hereinafter "Declarant").

WITNESSETH:

WHEREAS, Declarant made that Declaration of Condominium for The Cove at Newport, a Condominium (hereinafter "Declaration"), dated December 27, 2006, and recorded in Deed Book 3191 page 348, Chatham County, Georgia records;

WHEREAS, pursuant to Article XIX of the Declaration, Declarant has certain rights under the Declaration, including the right to appoint and remove the members of the Board of Directors and officers of the Association until the surrender of such rights by amendment to the Declaration;

WHEREAS, Declarant desires to modify and amend the provisions of the Declaration to provide for the foregoing;

NOW THEREFORE, Declarant hereby amends the Declaration to surrender its rights as Declarant under the Declaration, including the right to appoint and remove the members of the Board of Directors and officers of the Association pursuant to Article XIX, Section (A)(3)(c) of the Declaration.

IN WITNESS WHEREOF, Declarant has executed this First Amendment as of the day and year first written above.

Signed, sealed and delivered this 27th day of December, 2006 in the presence of:

Melissa Beebe
Unofficial Witness

Melissa Williams
Notary Public

My Commission Expires: 7/21/2008

[NOTARIAL SEAL]

Declarant:

R.P. XIV, LLC,
a Georgia limited liability company

By: Fred Williams Investments, LLC, a
Georgia limited liability company, as
Manager

By: Fred Williams, Jr.
Fred H. Williams, Jr., Manager

BOOK
3191
PAGE
394

E:\Brannen\DOCS\Fred Williams\Condo - Cove at Newport\First Amendment to Condo Dec.wpd



BOOK 3191
PAGE 395

**CONDOMINIUM DOCUMENTS FOR
THE COVE AT NEWPORT,
A CONDOMINIUM**

**Prepared By:
INGLESBY, FALLIGANT, HORNE,
COURINGTON & CHISHOLM, P.C.
Post Office Box 1368
Savannah, Georgia 31402-1368
(912) 232-7000
Attn: Robert B. Brannen, Jr., Esq.**

**DISCLOSURE MATERIALS
FOR
THE COVE AT NEWPORT, A CONDOMINIUM**

Pursuant to O.C.G.A. §44-3-111(b), a contract for the sale of a unit in a new condominium is voidable by the buyer for a period of seven days after the seller has furnished to the prospective buyer all of the following, as applicable:

- (1) A copy of the floor plan of the unit which is the subject of this contract;
- (2) A copy of the Declaration of Condominium and all amendments to date;
- (3) A copy of the Articles of Incorporation and By-Laws of the condominium association and all amendments to date;
- (4) A copy of any ground lease or other underlying lease of all or any part of the condominium (NOT APPLICABLE);
- (5) A copy of every management, maintenance and other contract for the management and operation of either the association, the condominium, or the facilities to be used by the unit owners having a term in excess of one year (NOT APPLICABLE);
- (6) The estimated or actual operating budget for the condominium for the current year and a schedule of estimated or actual expenses pertaining to each condominium unit for the current year;
- (7) A copy of any lease of recreational or other facilities that will be used only by the unit owners (NOT APPLICABLE);
- (8) A copy of any lease of recreational or other facilities that will or may be used only by the unit owners in common with any other person (NOT APPLICABLE);
- (9) A copy of a statement setting forth the extent of and conditions or limitations applicable to the declarant's commitment to build and submit additional units, additional recreational or other facilities, or additional property. (NOT APPLICABLE)

ACKNOWLEDGMENT OF RECEIPT

By my signature below, I hereby acknowledge receipt of a binder containing the above Disclosure Materials for The Cove at Newport, a Condominium, on the ___ day of _____, ____.

Signature

Printed Name

BOOK 3191
PAGE 396

THE COVE AT NEWPORT, A CONDOMINIUM

INDEX

- 1) Disclosure Statement
- 2) Floor plan for The Cove at Newport, a Condominium
- 3) Declaration of The Cove at Newport, a Condominium
 - (A) Exhibit "A" - Legal Description of Submitted Property
 - (B) Exhibit "B" - Legal Description of Additional Property
 - (C) Exhibit "C" - Description of Plans
 - (D) Exhibit "D" - Articles of Incorporation and Bylaws of The Cove at Newport Condominium Association, Inc.
- 4) Articles of Incorporation for The Cove at Newport Condominium Association, Inc. (See Declaration)
- 5) Bylaws of The Cove at Newport Condominium Association, Inc. (See Declaration)
- 6) Management Contract for The Cove at Newport Condominium Association, Inc. (NOT APPLICABLE)
- 7) Estimation of Budgets and Scheduled Expenses for The Cove at Newport Condominium Association, Inc.
- 8) Statement of Declarant's Commitment Regarding Additional Property (NOT APPLICABLE)
- 9) Condominium Rules and Regulations (NOT APPLICABLE)
- 10) Declaration of Covenants, Conditions and Restrictions for The Cove at Newport, a Townhome Community

BOOK
3191
PAGE
397

**THE COVE AT NEWPORT,
A CONDOMINIUM**

CONDOMINIUM DISCLOSURES

Declarant is not committed to build or submit to the condominium additional units, recreational or other facilities, or additional property.

At such time as you execute a sales contract, the contract will contain the following required disclosures complying with the requirements of the "Georgia Condominium Act", O.C.G.A. § 44-3-70 et. seq.:

- (1) THIS CONTRACT IS VOIDABLE BY PURCHASER UNTIL AT LEAST SEVEN DAYS AFTER ALL OF THE ITEMS REQUIRED UNDER CODE SECTION 44-3-111 OF THE "GEORGIA CONDOMINIUM ACT" TO BE DELIVERED TO PURCHASER HAVE BEEN RECEIVED BY PURCHASER. THE ITEMS SO REQUIRED ARE: (1) A FLOOR PLAN OF THE UNIT, (2) THE DECLARATION AND AMENDMENTS THERETO, (3) THE ASSOCIATION'S ARTICLES OF INCORPORATION AND BYLAWS AND AMENDMENTS THERETO, (4) ANY GROUND LEASE, (5) ANY MANAGEMENT CONTRACT HAVING A TERM IN EXCESS OF ONE YEAR, (6) THE ESTIMATED OR ACTUAL BUDGET FOR THE CONDOMINIUM, (7) ANY LEASE OF RECREATIONAL OR OTHER FACILITIES THAT WILL BE USED ONLY BY THE UNIT OWNERS, (8) ANY LEASE OF RECREATIONAL OR OTHER FACILITIES THAT WILL OR MAY BE USED BY THE UNIT OWNERS WITH OTHERS, (9) A STATEMENT SETTING FORTH THE EXTENT OF THE SELLER'S COMMITMENT TO BUILD OR SUBMIT ADDITIONAL UNITS, ADDITIONAL RECREATIONAL OR OTHER FACILITIES, OR ADDITIONAL PROPERTY, AND (10) IF THIS CONTRACT APPLIES TO A CONDOMINIUM UNIT WHICH IS PART OF A CONVERSION CONDOMINIUM, A STATEMENT DESCRIBING THE CONDITION OF CERTAIN COMPONENTS AND SYSTEMS, A STATEMENT REGARDING THE EXPECTED USEFUL LIFE OF CERTAIN COMPONENTS AND SYSTEMS, AND CERTAIN INFORMATION REGARDING ANY NOTICES OF VIOLATIONS OF COUNTY OR MUNICIPAL REGULATIONS. A DATED, WRITTEN ACKNOWLEDGMENT OF RECEIPT OF ALL SAID ITEMS SIGNED BY THE PURCHASER SHALL BE PRIMA-FACIE EVIDENCE OF THE DATE OF DELIVERY OF SAID ITEM.

- (2) UNLESS ALL OF THE ITEMS REQUIRED UNDER CODE SECTION 44-3-111 OF THE "GEORGIA CONDOMINIUM ACT" TO BE DELIVERED TO PURCHASER HAVE BEEN RECEIVED BY PURCHASER AT LEAST SEVEN DAYS PRIOR TO PURCHASER'S EXECUTION OF THIS CONTRACT, THIS CONTRACT IS OF NO FORCE OR EFFECT AND SHALL NOT BE BINDING ON ANY PARTY. THE ITEMS SO REQUIRED ARE: (1) A FLOOR PLAN OF THE UNIT, (2) THE DECLARATION AND AMENDMENTS THERETO, (3) THE ASSOCIATION'S ARTICLES OF INCORPORATION AND BYLAWS AND AMENDMENTS THERETO, (4) ANY GROUND LEASE, (5) ANY MANAGEMENT CONTRACT HAVING A TERM IN

BOOK
3191
PAGE
398

EXCESS OF ONE YEAR, (6) THE ESTIMATED OR ACTUAL BUDGET FOR THE CONDOMINIUM, (7) ANY LEASE OF RECREATIONAL OR OTHER FACILITIES THAT WILL BE USED ONLY BY THE UNIT OWNERS, (8) ANY LEASE OF RECREATIONAL OR OTHER FACILITIES THAT WILL OR MAY BE USED BY THE UNIT OWNERS WITH OTHERS, AND (9) A STATEMENT SETTING FORTH THE EXTENT OF THE SELLER'S COMMITMENT TO BUILD OR SUBMIT ADDITIONAL UNITS, ADDITIONAL RECREATIONAL OR OTHER FACILITIES, OR ADDITIONAL PROPERTY. A DATED, WRITTEN ACKNOWLEDGMENT OF RECEIPT OF ALL SAID ITEMS SIGNED BY THE PURCHASER SHALL BE PRIMA-FACIE EVIDENCE OF THE DATE OF DELIVERY OF SAID ITEMS.

- (3) ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE SELLER. FOR CORRECT REPRESENTATIONS, REFERENCE SHOULD BE MADE TO THIS CONTRACT AND THE DOCUMENTS REQUIRED BY CODE SECTION 44-3-111 OF THE "GEORGIA CONDOMINIUM ACT" TO BE FURNISHED BY A SELLER TO A PURCHASER.
- (4) THE ESTIMATED MONTHLY ASSOCIATION DUES THE FIRST YEAR AFTER COMPLETION OF THE CONDOMINIUM IS \$100.00.
- (5) PURCHASER SHALL PAY A ONE-TIME FEE OF \$100.00 TO THE ASSOCIATION AT CLOSING TO FUND THE ASSOCIATION.
- (6) AT CLOSING AND EACH YEAR THEREAFTER, PURCHASER SHALL PAY A CAPITAL RESERVE ACCOUNT FEE TO THE ASSOCIATION, CURRENTLY IN THE AMOUNT OF \$100.00 PER YEAR.
- (7) SELLER SHALL FURNISH TO PURCHASER AT OR PRIOR TO CLOSING A TRUE, CORRECT, AND COMPLETE COPY OF A DULY ISSUED CERTIFICATE OF OCCUPANCY COVERING THE UNIT.
- (8) THE ESTIMATED MONTHLY TOWNHOME ASSOCIATION DUES THE FIRST YEAR AFTER COMPLETION OF THE CONDOMINIUM IS \$50.00, WHICH IS PAID THROUGH A PORTION OF THE MONTHLY ASSOCIATION DUES.

BOOK 3191
PAGE 399

**BYLAWS
OF
THE COVE AT NEWPORT
CONDOMINIUM ASSOCIATION, INC.**

GENERAL

Article I

1.1. Applicability.

These Bylaws provide for the governance of The Cove at Newport, a Condominium, in accordance with the Georgia Condominium Act, O.C.G.A. §44-3-70, *et seq.* (the "Act"), the Articles of Incorporation for The Cove at Newport Condominium Association, Inc. filed with the Secretary of State for the State of Georgia, as they may be amended (the "Articles"), and the Declaration of Condominium for The Cove at Newport, a Condominium, recorded by R.P. XIV, LLC, (the "Declarant") in the Chatham County, Georgia land records, as it may be amended (the "Declaration").

1.2. Name.

The name of the corporation is The Cove at Newport Condominium Association, Inc. (the "Association").

1.3. Definitions.

Capitalized terms used in these Bylaws shall be defined as set forth herein and in Article II of the Declaration. Unless the context otherwise requires, all other terms used in these Bylaws generally shall have their normal, commonly accepted meanings or the meanings specified in the Act.

1.4. Purpose.

The Association shall be responsible for administering the Condominium, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Condominium, and performing all of the other acts that may be required to be performed by the Association by the Georgia Condominium Act and the Declaration. Except as to those matters which either the Georgia Condominium Act, the Condominium Instruments, or the Georgia Nonprofit Corporation Code specifically make subject to a vote of the membership, the Board of Directors may carry out such responsibilities without a vote of the membership.

BOOK
3191

PAGE
402

Article II MEMBERSHIP AND VOTING RIGHTS

2.1. Membership.

The Owner of each Unit in the Condominium shall automatically become a member of the Association upon taking record title to such Unit and shall remain a member for the entire period of such ownership. If record title to a Unit is held by more than one Person, the membership shall be shared in the same manner as the title, but there shall be only one membership and one vote per Unit, as further provided in Article VII of the Declaration.

Membership does not include persons who hold an interest in a Unit merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to the Unit, shall be transferred automatically by transfer of record title to the Unit, and may be transferred only in connection with the transfer of record title.

2.2. Voting.

Each Unit shall be entitled to one vote equal to every other Unit's vote. A vote may be cast by the Owner of the Unit or by a lawful proxy. In the event the Owner is a corporation, partnership, trust, or other legal entity, other than a natural person, the vote may be cast by the President, managing partner, executor, or chief executive officer of such legal entity or his or her designee. When more than one Person owns a particular Unit, the vote for such Unit shall be exercised as they determine between or among themselves, but in no event shall more than one vote be cast with respect to any Unit. In the event that two or more persons representing a Unit attempt to cast the vote for such Unit, such persons shall not be recognized and such vote shall not be counted.

No Owner shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, if that Owner is shown on the books or management accounts of the Association to be more than 60 days delinquent in any payment due the Association, or is under suspension for the infraction of any provision of the Declaration, these Bylaws, or any rule. If the votes attributable to any Unit have been suspended, neither the votes, the Unit to which they are attributable, nor the Owner thereof shall be counted for purposes of determining the number of eligible votes, Owners, or Units with respect to any matter requiring approval under the Condominium Instruments.

Except as otherwise specifically provided in the Condominium Instruments, any decision requiring a vote or approval of the Owners or Members shall be determined by a Majority of the votes cast.

2.3. Proxies.

Any member entitled to vote may do so by written proxy duly executed by the member, setting forth the meeting at which the proxy is valid. To be valid, a proxy must be dated and filed with the Secretary prior to the opening of the meeting for which it is to be used. Proxies may be filed by personal delivery to the Secretary, by U. S. Mail, or by telefax transmission to the office of the Association or the Association's property manager with confirmation of receipt. A proxy may

BOOK
PAGE
319T
403

be revoked only by written notice delivered to an officer of the Association prior to exercise of such proxy, except that attendance at the meeting of the member who has given a proxy shall automatically invalidate the proxy for that meeting unless otherwise expressly stated in the proxy. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

2.4. Action Without a Meeting; Consent.

Any action which the Act, the Georgia Nonprofit Corporations Code, or the Condominium Instruments require to be taken at a meeting of the members may be taken without a meeting if written consent to such action is signed by Owners of all Units. Any other action requiring consent or approval of members may be obtained by obtaining the requisite vote or approval at a meeting, by written consent, or by any combination thereof, provided that the total number of votes cast at least equals the required quorum for a meeting. The consent form for obtaining any such written consent shall:

(a) be in writing and shall be delivered or sent to the Owners of all Units; provided, however, that written consents to be counted in combination with an affirmative vote at an Association meeting need only be sent or delivered to those Owners who did not vote in person or by proxy at such meeting and shall be sent or delivered no more than 21 days following the date of the meeting;

(b) state the date by which it must be received by the Association in order to be counted. Such date shall not be less than 7 nor more than 120 days from the date the written consents are sent or delivered;

(c) identify by whose authority it was prepared and delivered and the name and location of the person authorized to receive it on behalf of the Association;

(d) specify the number of votes necessary to approve the action;

(e) describe in detail the nature of the amendment or matter requiring action;

(f) afford a choice between approval and disapproval of each matter; and

(g) be signed and dated by the voting Owner, and identify the Unit for which such Owner is voting.

The Association shall maintain the written consents approving any action in its files for a period of at least four years.

BOOK
3191
PAGE
404

MEETINGS OF MEMBERS

Article III

3.1. Annual Meetings.

The first annual meeting of the members of the Association shall be held within one year of the date of incorporation. Subsequent annual meetings shall be held within 30 days of each anniversary of the first annual meeting at a time, date, and place set by the Board.

3.2. Special Meetings.

Special meetings of the members may be called for any purpose, at any time, by the President or the Secretary. In addition, the President or Secretary shall call a special meeting upon the request of two or more members of the Board of Directors or upon written petition signed by members entitled to cast at least 25% of the total votes in the Association. Any such petition shall state the purpose or purposes for which the meeting is requested and the issue or issues to be considered by the membership, which issues shall be limited to matters upon which the members are entitled to vote under the Act, the Georgia Nonprofit Corporations Code, or the Condominium Instruments.

3.3. Notice of Meetings.

It shall be the duty of the Secretary to mail or cause to be delivered to the Owner of each Unit a notice of each annual or special meeting of the Association at least 21 days prior to each annual meeting and at least 7 days prior to each special meeting. The notice shall state the purpose of any special meeting, as well as the time and place where the meeting is to be held. Notices shall be delivered personally or mailed to the Owner of each Unit at the address of the Unit, unless the Owner has designated a different address for notices by written notice to the Secretary, in which case notice shall be delivered or mailed to such other address. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered proper service of notice.

3.4. Waiver of Notice.

Waiver of notice of meeting of the members shall be deemed the equivalent of proper notice. Any member may waive notice in writing of any meeting of the membership, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or by proxy, shall be deemed a waiver by such Owner and all co-Owners of his or her Unit of notice of the time, date, and place of such meeting, unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless an objection is raised at such meeting to lack of proper notice prior to such business being transacted.

BOOK
3191
PAGE
405

3.5. Quorum.

Except as otherwise provided in these By-Laws or in the Declaration, the presence of Members representing 40% of the total Class "A" votes in the Association shall constitute a quorum at all Association meetings.

In the absence of a quorum at a meeting, the Members entitled to vote at such meeting shall have the power to do the following:

a) adjourn the meeting to another time within thirty (30) days after the adjourned meeting by announcing the time and place of the following meeting at the adjourned meeting; in this event no additional notice shall be required, or

b) adjourn the meeting and later schedule a subsequent meeting within forty-five (45) days after the adjourned meeting; in this event, the subsequent meeting will be subject to the initial notice requirements and the notice must state that the subsequent meeting is being held due to lack of quorum.

In either event, the quorum requirement for the subsequent meeting shall be one-half (1/2) of the quorum requirement for the adjourned meeting. The reducing quorum requirement may take place multiple times for multiple subsequent meetings (reducing by fifty percent (50%) each time subject to the minimum quorum requirement referred to below), provided all notice requirements and time periods in this paragraph for re-scheduling said meetings are complied with, until a meeting is held at which a quorum is present. In no event shall the quorum requirement be reduced beyond ten percent (10%) of the total number of votes of the Members.

Voting Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

3.6. Adjournment.

Any meeting of the members may be adjourned from time to time for periods not exceeding 7 days by vote of the Majority of the eligible votes represented at such meeting, regardless of whether a quorum is present. Any business which could be transacted properly at the original session of the meeting may be transacted at an adjourned session, and no additional notice of such adjourned session shall be required.

3.7. Conduct of Business.

Roberts Rules of Order (latest edition) shall govern conduct of any meeting of the membership when not in conflict with the Condominium Instruments, unless the Board votes to dispense with or modify such rules by resolution. Unless otherwise provided in the notice calling the meeting, the order of business for any annual meeting shall be: Roll Call, Proof of Notice, Reading of Minutes, Officers' Reports, Old Business, Elections (if any), New Business, Adjournment.

Article IV BOARD OF DIRECTORS

A. Composition and Selection.

4.1. Number and Qualification.

The affairs of the Association shall be governed by a Board of Directors consisting of three or five directors, as specified below, each of whom shall have one equal vote on matters coming before the Board. Except for those directors appointed by the Declarant pursuant to Article XIX of the Declaration, the directors shall be Owners or spouses of Owners. In the case of an Owner which is a corporation, partnership, limited liability company, trust, or other legal entity, the officer, director, partner, trustee, employee or other individual whom the Owner designates in writing to the Secretary of the Association as the representative of such Owner shall be eligible to serve as a director; provided, any such individual serving as a director shall be deemed to have resigned as a director upon the Association's receipt of notice from the designating Owner of termination of such individual's relationship with such Owner. No more than one person at a time may serve as a director for any one Unit.

4.2. Selection of Directors and Term of Office.

(a) Directors During Declarant Control Period. The Board initially shall consist of the three directors identified in the Articles of Incorporation, each of whom shall serve, and may be removed and replaced, at the discretion of the Declarant so long as the Declarant is entitled to appoint directors pursuant to Article XIX of the Declaration (the "Declarant Control Period"). The Declarant may, but shall not be obligated to, permit the Owners to elect one or more directors to serve during the Declarant Control Period and, in such event, the number of directors on the Board may be increased by Board resolution to a total of five. The terms of all such directors, whether appointed or elected pursuant to this subparagraph, shall expire upon election of their successors pursuant to Section 4.2(b).

(b) Directors After Declarant Control Period. Upon termination of the Declarant Control Period, the number of directors shall be fixed at five. Within 60 days thereafter, the President shall call a meeting of the members at which an election shall be held to elect all five directors. The three candidates receiving the greatest number of votes shall be elected to serve until the second annual meeting following their election and the two candidates receiving the next greatest number of votes shall be elected to serve until the first annual meeting following their election; provided, in the event that two or more candidates receive the same number of votes and such determination is not possible, the directors shall decide among themselves who shall serve which terms. Upon expiration of the initial term of each director so elected and thereafter, successors shall be elected to serve for two-year terms or until their successors are elected, whichever is longer. Directors may be elected to serve any number of consecutive terms.

(c) Nominations. At least 30 days prior to any election of directors, the Board shall appoint a Nominating Committee consisting of at least one member of the Board of Directors and at least two other members of the Association who are not then serving as directors. The Nominating Committee may nominate any number of qualified individuals, but not less than the number of directors to be elected. The members of the Nominating Committee and the Committee's

BOOK
PAGE
319T
407

nominations shall be announced at least 14 days prior to the election. Nominations shall also be allowed from the floor, if the election is held at a meeting, or if the election is held by ballot without a meeting, space shall be provided on the ballot to write in the name of a candidate. Each candidate nominated prior to the balloting shall be given a reasonable opportunity to communicate his or her qualifications to the membership prior to the close of the balloting. No member shall be nominated for election to the Board of Directors, nor permitted to run for election, if more than 30 days past due in the payment of any assessment. Failure to comply with this paragraph shall not invalidate the election of directors who were not nominated in accordance with the provisions hereof.

(d) Election Procedures. Subject to Section 2.2, for each election the members shall be entitled to cast the entire vote attributable to their respective Units for each directorship to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled who receive the most votes shall be elected. Voting shall be by written ballot unless dispensed with by unanimous consent at the meeting at which the election is to be conducted.

4.3. Removal of Directors.

At any regular or special meeting of the Association duly called, any director elected by the members may be removed, with or without cause, by a Majority of the total votes represented in person or by proxy at such meeting, and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members shall be given at least 10 days' notice of the calling of the meeting and the purposes thereof and shall be given an opportunity to be heard at the meeting prior to a vote being taken on the issue of his removal. Additionally, any director elected by the members who has had three consecutive unexcused absences from Board meetings, or who is more than 60 days delinquent in the payment of any assessment, may be removed from office upon the affirmative vote of a Majority of the total number of directors.

4.4. Vacancies.

Vacancies on the Board of Directors caused by any reason, other than the removal of a director by vote of the membership or by the Declarant, may be filled by a vote of a Majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. Each person so selected shall serve until a successor shall be elected at the next annual or special meeting of the membership to fill the unexpired portion of the term. Vacancies on the Board of Directors caused by removal of a director by vote of the Association shall be filled by the membership in accordance with Section 4.3.

B. Meetings.

4.5. Organizational Meeting.

The first meeting of the Board of Directors after each election of directors shall be held within 10 days after the election at such time and place as a Majority of the directors may determine.

4.6. Regular Meetings.

Board meetings shall be held regularly at such time and place as the Board shall determine by resolution, with at least one meeting each calendar quarter. No notice shall be required for Board meetings held in accordance with a regular schedule which the Board has adopted by resolution.

4.7. Special Meetings.

Special meetings of the Board may be called by the President or by any two directors.

4.8. Notice; Waiver of Notice.

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The notice shall be given to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, computer, or other electronic mail, messaging or communication device, with printed confirmation of successful transmission. All such notices shall be given at or sent to the director's telephone number, fax number, electronic mail address, or mailing or physical address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the time set for the meeting. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least 72 hours before the time set for the meeting.

(b) Any director may, at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any Board meeting shall also constitute a waiver of notice by him or her of the time and place of such meeting. If all directors are present at any Board meeting, no notice shall be required and any business may be transacted at the meeting.

4.9. Quorum; Telephonic Participation.

A majority of directors shall constitute a quorum for the transaction of business at any Board meeting. One or more directors may participate in and vote during any regular or special meeting of the Board by telephone conference call or similar communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and those directors so participating shall be deemed present at such meeting and counted for purposes of establishing a quorum. Except as otherwise provided in the Condominium Instruments, a decision of the Board of Directors shall be by vote of a Majority of those directors present at a duly called meeting at which a quorum is established.

4.10. Conduct of Meetings.

The President shall preside over all meetings of the Board of Directors. The Secretary shall keep a minute book recording therein all resolutions which the Board adopts and all transactions and proceedings occurring at Board meetings. Except as modified or dispensed with by Board

resolution, *Roberts Rules of Order* (latest edition) shall govern the conduct of the meetings of the Board when not in conflict with the Act, the Condominium Instruments, or any Board resolution.

4.11. Open Meetings.

All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board. Notwithstanding the above, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

4.12. Action Without a Meeting.

Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the directors consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board of Directors.

C. Powers and Duties.

4.13. Powers.

The Board of Directors shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Condominium and may do all such acts and things as are not by the Declaration, Articles of Incorporation, or these Bylaws directed to be done and exercised exclusively by the members. The Board may enter into contracts on behalf of the Association with any Person for the performance of various duties and functions as it deems appropriate in the exercise of its business judgment. Except to the extent restricted by law, the Board may transfer any and all functions of the Association, in whole or in part, to any other entity.

4.14. Duties.

In addition to such other duties as the Condominium Instruments may specifically impose upon the Board, the Board shall be responsible for the following:

- (a) preparing and adopting an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment (Unless otherwise determined by the Board of Directors, the annual assessment for each Unit's proportionate share of the Common Expenses shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month);
- (c) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility as defined in Paragraph 2(b) of the Declaration;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, repair, and replacement of the Common Elements, Association property, and the Area of Common Responsibility and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(f) opening of bank accounts on behalf of the Association and designating the signatories required;

(g) making or contracting for the making of repairs, additions, and improvements to, or alterations of the Common Elements in accordance with the other provisions of the Declaration and these Bylaws, after damage or destruction by fire or other casualty;

(h) obtaining and carrying insurance against casualties and liabilities, as provided in the Act and the Declaration, and paying the premium cost thereof;

(i) paying the costs of all services rendered to the Association or its members and not directly chargeable to specific Owners;

(j) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred; and

(k) imposing sanctions for violations of, and otherwise enforcing by any legal means, the provisions of the Condominium Instruments and Association rules, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case (i) the Association's position is not strong enough to justify taking any or further action; or (ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or (iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (iv) it is not in the Association's best interest, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

D. Delegation.

The Association is responsible for paying dues to the Townhome Association for the Lots upon which the Condominiums are located. The Board may delegate to the Townhome Association the duty to collect Condominium dues for each Unit and any other obligations imposed on the Association pursuant to Article XX of the Declaration.

Article V OFFICERS

5.1. Designation.

The principal officers of the Association shall be the President, Secretary, and Treasurer, all of whom shall be appointed by Declarant during the Declarant Control Period and thereafter shall be elected by and from the Board of Directors. The Board of Directors may appoint such other subordinate officers as in its judgment may be necessary. The President and Secretary shall be directors; other officers may be, but shall not be required to be, directors. Except for the offices of Secretary and Treasurer, which may be held by the same person, no person may hold more than one office.

5.2. Election of Officers.

The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board following each annual meeting of the members and shall hold office at the pleasure of the Board of Directors and until a successor is elected.

5.3. Removal of Officers.

Upon the affirmative vote of a Majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and a successor may be elected.

5.4. President.

The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code.

5.5. Vice President.

The Vice President, if any, shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

5.6. Secretary.

The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with Georgia law. If no Vice President is appointed, the Secretary shall act in the President's absence and shall have all the powers, duties, and responsibilities of the President when so acting.

5.7. Treasurer.

The Treasurer shall have the responsibility for the Association's funds and securities and shall, together with such managing agent, be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association in such depositories as the Board may designate from time to time. The Treasurer shall cause the budget to be prepared as provided below. The Association may retain a managing agent to assist the Treasurer in the performance of his duties.

MANAGEMENT AND ADMINISTRATION

Article VI

6.1. Compensation.

Directors and officers of the Association may be compensated for their service as such only if and to the extent authorized by Majority of the votes represented in person or by proxy at a meeting of the membership. Directors and officers shall be entitled to reimbursement for expenses incurred on behalf of the Association in carrying out their duties as directors or officers upon Majority vote of the entire Board of Directors.

6.2. Conflicts of Interest.

An officer or director shall not be precluded from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as an officer or director, provided that (a) the officer's or director's interest is disclosed to the Board, and (b) the contract is approved by a Majority of the directors present at a meeting of the Board of Directors at which a quorum is established, excluding any director having an interest in the transaction (although any such director may be counted for purposes of establishing a quorum). The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed and to discuss the proposed contract unless another director requests that he or she leave the room during the discussion.

6.3. Management Agent.

The Association, acting through the Board of Directors, may employ for the Condominium a professional management agent or agents at a compensation established from time to time by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Section 4.14. Declarant or an affiliate of Declarant may be employed as managing agent or manager. The Board may delegate to one of its members the authority to act on the Board's behalf on all matters relating to the duties of the managing agent or manager, if any, which might arise between Board meetings.

The Association shall not be bound, either directly or indirectly, by any management contract executed during the Declarant Control Period unless such contract contains a right of termination which may be exercised by the Association, with or without cause and without penalty, at any time after termination of the Declarant Control Period upon not more than 90 days' written notice.

No remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Association. Any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board.

6.4. Committees.

The Board may establish such committees as it deems desirable to serve such purposes as the Board may designate by resolution establishing the committee. Unless such resolution otherwise provides, the members of a committee shall be appointed by the Board and shall serve at the pleasure of the Board. The Board may remove any committee member, with or without cause, at any time and with or without a successor being named.

6.5. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such person or persons as may be designated by resolution of the Board of Directors.

6.6. Borrowing.

The Association, acting through the Board of Directors, shall have the power to borrow money for the purpose of repair or restoration of Common Elements without the approval of the members of the Association. The Association, acting through the Board, may also borrow money for other purposes; provided, the Board shall obtain membership approval in the same manner as required for a special assessment under the Declaration if the proposed borrowing is (a) for the purpose of modifying or improving the Common Elements beyond the initial standard or adding amenities to the Condominium, or (b) for any other purpose if the total amount of such borrowing exceeds or would exceed \$20,000.00 outstanding debt at any one time.

6.7. Indemnification of Officers, Directors and Committee Members.

The Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under the Articles of Incorporation and Georgia law. The Association shall indemnify and forever hold each officer, director and committee member harmless from any and all liability to others on account of any contract, commitment or action taken in good

faith on behalf of the Association. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

6.8. Accounts and Reports.

(a) The following accounting standards shall be followed unless the Board by resolution specifically determines otherwise:

- (i) accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (ii) accounting and controls should conform to generally accepted accounting principles; and
- (iii) cash accounts of the Association shall not be commingled with any other accounts.

(b) Commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

- (i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;
- (ii) a statement reflecting all cash receipts and disbursements for the preceding period;
- (iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;
- (iv) a balance sheet as of the last day of the preceding period; and
- (v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent.

An annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (A) a balance sheet; (B) an operating (income) statement; and (C) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant; provided, upon written request of any holder, guarantor or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement. During the Declarant Control Period, the annual report shall include certified financial statements.

6.9. Fiscal Year.

The fiscal year shall be set by resolution of the Board of Directors. In the absence of a resolution by the Board, the fiscal year shall run from January 1 of each year until December 31 of that year.

6.10. Books and Records.

All members of the Association, every director, and any holder, insurer or guarantor of a first Mortgage on a Unit, or the duly appointed representative of any of the foregoing, shall, upon written request to the Association, be entitled to inspect the books and records of the Association and current copies of the Condominium Instruments and the Association rules. Such right to inspect shall be limited to purposes reasonably related to the requesting party's interest in a Unit. Such inspection shall be during normal business hours at the office of the Association or such other reasonable place as the Board may designate as the depository of such books and records. The party conducting the inspection shall be entitled to make copies of documents upon payment of the reasonable cost of reproducing the same, except that a director shall be entitled to a copy of documents requested in his or her capacity as a director at the Association's expense.

BOOK
3191
PAGE
416

ENFORCEMENT

Article VII

7.1. Authority and Sanctions.

The Board shall have the power to impose reasonable fines for violations of the Declaration, Bylaws, or any rule or regulation of the Association, which fines shall constitute a lien upon the Unit owned or occupied by the violator, and to suspend an Owner's or occupant's right to use recreational facilities within the Common Elements and the Owner's right to vote for any violation of any duty imposed under the Declaration, these Bylaws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Unit. In the event that any occupant of a Unit violates the Declaration, Bylaws, or a rule or regulation and a fine is imposed, the fine shall first be assessed against such occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Unit Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Act or of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

7.2. Notice and Hearing Procedure.

The Board shall not impose a fine (a late charge shall not constitute a fine) or suspend the right to use recreational facilities within the Common Elements unless and until the following procedure is followed:

- (a) Notice. Written notice shall be given to the violator specifying:
 - (i) the nature of the alleged violation and the proposed sanction to be imposed;

(ii) that the violator may, within 10 days from the date of the notice, submit a written request to the Association or managing agent, if any, for a hearing to challenge the allegations, the proposed sanction, or both;

(iii) the name and address to whom any such request for a hearing is to be addressed;

(iv) that the alleged violator shall be entitled to make a statement, and present relevant evidence and witnesses on his or her behalf at the hearing; and

(v) that all rights to have the sanction reconsidered are waived if a hearing is not requested within 10 days of the date of the notice.

(b) Hearing. If the alleged violator timely challenges the proposed action, the Board shall set a time and date for a hearing which shall be held before the Board of Directors in executive session and the alleged violator shall be given a reasonable opportunity to be heard and to present relevant evidence and witnesses on his or her behalf. The Board shall give the alleged violator at least 10 days' prior written notice of the time, date and place of the hearing. A copy of the notice, together with a statement of the date and manner of delivery, shall be signed by the person who delivered such notice and filed with in the Association records along with minutes containing a written statement of the results of the hearing and the sanction, if any, imposed. Section 7.2(b) shall be deemed complied with if a hearing is held and the violator attends and is provided an opportunity to be heard, notwithstanding the fact that the notice requirements contained herein are not technically followed.

7.3. Additional Enforcement Rights.

Notwithstanding anything to the contrary in this Article, the Association, acting through its Board of Directors, may elect to enforce any provision of the Act, the Declaration, these Bylaws, or the rules and regulations by:

(a) self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations), except that judicial proceedings shall be instituted before the Association may alter or demolish any items of construction undertaken by an Owner; or

(b) suit at law or in equity to enjoin any violation or to recover monetary damages or both;

without the necessity for compliance with the procedure set forth in this Article. In the event of any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

BOOK
3191
PAGE
417