

225.00 pd

FILED NO. 15887
BOOK 950 PAGE 296

1987 JUN 18 PM 3:06

J. E. O'Neill
RECORDER
JOHNSON CO. IOWA

DECLARATION OF SUBMISSION OF PROPERTY
TO HORIZONTAL REGIME ESTABLISHING A
PLAN FOR CONDOMINIUM OWNERSHIP
OF PREMISES

This Declaration of Submission of Property to the Horizontal Regime, is made and executed in Iowa City, Iowa, the 18 day of June, 1987, by Wells West Development Company, an Iowa corporation, hereinafter referred to as "Declarant" pursuant to the provisions of the Horizontal Property Act, Chapter 499B, of the 1987 Code of Iowa.

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain real property located in Coralville, Iowa, and more particularly described as follows:

Lots 9 and 10, North Ridge Subdivision Part V,
Coralville Johnson County, Iowa, according to the
plat thereof recorded in Book 24, Page 23, Plat
Records of Johnson County, Iowa,

WHEREAS, Declarant is the owner of the above-described real estate and buildings and other improvements to be constructed upon said real estate and it is the desire and the intention of the Declarant to divide the project into condominiums and to sell and convey the same to various purchasers, pursuant to the provisions of the aforesaid Horizontal Property Act, and to impose upon said property mutually beneficial restrictions, covenants, and conditions; and

WHEREAS, Declarant desires and intends by filing this Declaration to submit the above described property and buildings and other improvements constructed thereon, together with all appurtenances thereto, to the provisions of the aforesaid Act as a condominium project,

NOW, THEREFORE, the Declarant does hereby publish and declare that all property described above is held and shall be held and conveyed subject to the following covenants, conditions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into condominiums and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns. The name of the Condominium shall be Ridge Field II Town Homes.

See file 1669 drawer 27 for drawings

ARTICLE 1. DEFINITIONS

1.01 Act. The "Act" means the Horizontal Property Act of the State of Iowa, Chapter 499B of the Iowa Code of 1987, as amended.

1.02 Articles. The "Articles" or "Articles of Incorporation" mean the Articles of Incorporation of the Ridge Field II Owners Association attached as Exhibit "G", as amended from time to time.

1.03 Association. The term "Association" means Ridge Field II Owners Association and its successors

1.04 Board. The "Board" means the Board of Directors of the Association

1.05 Building. The term "Building" or "Buildings" as used herein, shall have the meaning set out in 499B 2(9) of the Act, and shall include the structures and garages constructed on the real estate hereinafter described. The term shall also refer to any additional structures which may be constructed on land which may be submitted to the Regime, if such additional construction is permitted by this Declaration

1.06 Common Elements. The term "Common Elements" shall mean all common areas of the Regime whether identified as "General Common Elements" or as "Limited Common Elements" as more particularly described in Article 4

1.07 Common Expenses. "Common Expenses" means and includes:

(a) All sums lawfully assessed against the Common Elements by the Managing Agent or Board.

(b) All expenses of administration and management, maintenance, operation, repair, or replacement of and additions to the Common Elements

(c) Expenses agreed upon as Common Expenses by the Unit Owners

(d) Expenses declared to be Common Expenses by this Declaration or by the Bylaws

1.08 Condominium Documents. This Declaration and all Exhibits (including Articles and Bylaws) attached hereto and by which the Ridge Field II Town Homes is established, constitute the "Condominium Documents". Said Condominium Documents shall be filed of record as required by the Act in the office of the Johnson County (hereafter "this County") Recorder.

1.09 Condominium. The terms "Condominium" or "the Property" include all property, real, personal or mixed, including such as are sometimes referred to as "facilities" submitted now or hereinafter to the Regime, or owned by the

Association, if context requires, other than the sole personal property of Declarant or any Unit Owner. The term also includes an undivided interest in the Common Elements.

1.10 Declarant. "Declarant" means Wells West Development Company which has made and executed this Declaration, its successors and assigns, provided such successors or assigns are designated in writing by the Declarant as successors or assigns of the rights of the Declarant set forth in this Declaration.

1.11 Declaration. The term "Declaration" shall mean this instrument by which Ridge Field II Town Homes is established as provided under the Act.

1.12 Garage. The term "Garage" means that part of the structure abutting a driveway and intended for, but not limited to, the storage of an automobile.

1.13 General Common Element. "General Common Element" shall have the meaning set out in 499B 2(4) of the Act as further defined in Article 4.

1.14 Incorporation. Exhibits attached hereto and referred to herein are hereby made a part hereof with the same force and effect as other provisions of this document.

1.15 Limited Common Elements. The term "Limited Common Elements" shall have the meaning set out in 499B 2(5) of the Act, as amended and as further defined in Article 4.

1.16 Majority of the Unit Owners. "Majority of the Unit Owners" means the owners of more than 50 percent of the undivided ownership of the Common Elements. Any specific percentage of Unit Owners means that percentage of Unit Owners who, in the aggregate, own such specified percentage of the entire undivided ownership of the Common Elements.

1.17 Mortgage. "Mortgage" means a security interest, mortgage, or lien granted by a Unit Owner in, to, or against a Unit to secure payment of an indebtedness and duly recorded in the Johnson County Recorder's office.

1.18 Mortgagee. "Mortgagee" means a person who holds a Mortgage as security for payment of an indebtedness.

1.19 Occupant. "Occupant" means a person or persons in possession of a Unit, regardless of whether the person is a Unit Owner.

1.20 Person. "Person" means a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

1.21 Plat. "Plat" means the Building Location Plat attached as Exhibit A.

VOL 950 PEX 297

1.22 Plural and Gender. Whenever the context so permits or requires, the singular shall include the plural and the plural the singular, and the use of any gender shall include all genders

1.23 Project. The term "Project" shall mean the entire parcel of real estate property referred to in this Declaration to be divided into condominiums, including all structures thereon.

1.24 Regime. The term "Horizontal Property Regime" or simply "Regime" shall have the meaning established by the Act and shall include the Property and its improvements, the Declaration and all exhibits thereto, as well as all other components, amendments or modifications (as the context requires) to constitute a condominium project under the Act

1.25 Successors. Reference to Declarant, Owner or to any entity or association shall include the respective successors, grantees and assigns thereof.

1.26 Unit. "Unit" means a substantially completed enclosed space consisting of one or more rooms occupying all or part of a floor or floors in a Building, which enclosed space is not owned in common with the Unit Owners of other Units. Each Unit is numbered as shown on the Plat, and the boundaries of each Unit shall be and are the interior surfaces of its perimeter walls, floors, and ceilings, and a Unit includes the portion of the Building so described, the air space so encompassed, except Common Elements, and the appurtenant deck, Pella Sunroom, Storage Cubicle, Spa and/or Garage, if any. Also appurtenant to each Unit shall be a Backyard which shall consist of that portion of the Limited Common Elements circumscribed by a line extended out from the centerline of the common wall dividing the Units (and in the case of an end Unit, a line extended from the outside wall of the Building) and intersecting a line parallel with and 10 feet from the rear lot line of Lots 9 and 10, North Ridge Subdivision Part V. Except to the extent required for access to other Units and for maintenance of said Limited Common Elements, the Unit Owner to which the Backyard is appurtenant shall have exclusive use of said area, subject to reasonable regulations established by the Board. After approval of the Board, any Unit Owner may install a Pella Sunroom within the parameters of the enclosure of the 10'x12' deck, which shall be maintained at the Unit Owner's expense. Any Unit may be jointly or commonly owned by more than one person. The term "Unit" shall have the same meaning as the term "Apartment" as used in the Act

1.27 Unit Owner or Owner. The term "Unit Owner" or "Owner" means the person or persons who individually or collectively own or are purchasing by recorded contract the aggregate fee simple title to a Unit and the undivided interest in the Common Elements appurtenant thereto, but shall not include those having an interest in a Unit merely as security for the performance of an obligation. Unless specifically provided otherwise herein, the Declarant shall be deemed a Unit Owner so long as it is the legal title holder of any substantially completed Unit. The term "Unit Owner" shall have the same meaning as the term "Co-Owner" as used in the Act. Collectively, all the Unit Owners

operating through membership in and ownership of the Association shall act as and have the same meaning as the Council of Co-owners under the Act

ARTICLE 2. DESCRIPTION OF LAND, BUILDING AND UNITS

2.01 Description of Land. The land submitted to the regime is located in Coralville, Johnson County, Iowa as particularly described in Exhibit "A".

2.02 Plat and Site Plan There is attached hereto as Exhibit "A" pursuant to Section 499B.6 of the Act a Plat of Survey of Land submitted to the Regime. Said Exhibit "A" shows graphically the land submitted to the Regime. There is attached hereto as Exhibit "B" a Site Plan showing the location and dimensions of the Buildings hereby submitted and proposed to be submitted to the Regime. Exhibit "B" further shows graphically the location, dimensions and area of certain Common Elements either as they now exist or as they are proposed.

2.03 Access. Exhibit "B" shows the location of Holiday Road and Lynncrest Drive which are public streets in the City of Coralville, Iowa and provide ingress and egress from the Buildings and Project

2.04 Description of Building The Original Building will consist of an eight (8)-plex townhome with attached Garages in the lower level of each Unit. All Units are two (2) stories with the Garage, living room, bath and kitchen on the first floor, and bedrooms and bath on the second floor. The Building will be built to the specifications set out in the attached Exhibit "J". Declarant expects to amend, and provision is hereby made for amendment of the Declaration upon completion of an additional two (2) Units to be identified as 1732 and 1734 Lynncrest Drive, in the area shown on Exhibits "A", "B", "C", "D", and "E". When completed, these Units shall be constructed to the same specifications set out in Exhibit "J" and shall, unless otherwise indicated be constructed in accordance with the typical Unit described in Exhibit "D", and shall be subject to this Declaration as if originally constructed as part of the project

2.05 Description of the Units. The location of each Unit within the Building, the number of rooms for each Unit and the dimensions thereof, and the area of the Units, the Common Area to which each Unit has access, the particulars of the Building and the dimensions, area and location of all Common Elements affording access to each Unit or otherwise are all shown and depicted by survey, plans and/or graphically, insofar as possible, by the following Exhibits attached hereto,

Exhibits "A" and "B" Plat and Site Plan
Exhibit "C" Survey of Floor Plan
Exhibit "D" Floor Plan with Detail of Typical Unit
Exhibit "E" Complete Building Plans

2.06 Complete Plans and Certificate. There is also attached hereto, as Exhibit "F", pursuant to Section 499B.6 of the Act, a full and exact copy of the complete plans of the Buildings and Exhibit "D-1" attached hereto is a Certificate of the Land Surveyor that Exhibits "A", "B", "C", "D" and "E"

VOL 950 PAGE 298

constitute a correct representation and legal description of the land, buildings and other improvements of the Condominium, and that there can be determined therefrom the identification, location and dimensions and sizes, insofar as possible, of each Unit and/or the Common Elements of the Condominium Regime.

2.07 Identification of Units by Number and/or Letter. Each Unit and its Garage and Storage Cubicle, if any, is identified and described by a street address assigned to it, and such designation, the location of each Unit and the approximate area of each Unit its Garage, Spa and Storage Cubicle, if any, is set forth in Exhibits "B", "C" and "D". Exhibit "F" sets forth the percentage interest of undivided ownership in the land and other Common Elements of the Regime, which is appurtenant to each Unit as explained in detail in Article 3.

ARTICLE 3. OWNERSHIP INTERESTS

3.01 The Condominium. The Condominium consists of Units, and may include decks, Garages, Spas and Storage Cubicles, all of which are separate parcels of real estate, individually owned by the Unit Owners thereof, and of Common Elements which are owned in common by the respective Unit Owners. The Common Elements are either "General Common Elements" or "Limited Common Elements", and the same, together with the Units are described and defined herein.

3.02 Exclusive Ownership and Possession by Owner. Each Unit Owner shall be entitled to exclusive ownership and possession of his or her Unit. Each Unit Owner shall be entitled to an undivided interest in the Common Elements in the percentage expressed in Exhibit "F" of this Declaration. The percentage of the undivided interest of each Unit Owner in the Common Elements as expressed in Exhibit "F" shall have a permanent character and shall not be altered without the consent of the Unit Owner expressed in an amended declaration adopted pursuant to the term of this Declaration and duly recorded. The percentage of the undivided interest in the Common Elements shall not be separated from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each Unit Owner may use the Common Elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other Unit Owners.

An Owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, ceiling, windows and doors bounding his or her Unit, nor shall the Owner be deemed to own the utilities running through his or her Unit which are utilized for, or serve more than one Unit, except as a percentage of an undivided interest in the Common Elements. An Owner, however, shall have the exclusive right to paint, repaint, tile, wax, paper or otherwise refinish and decorate the interior surface of walls, windows and doors bounding his or her Unit.

3.03 Appurtenances. There shall pass with the ownership of each Unit as a part thereof, whether or not separately described, all appurtenances to such Unit and no part of the appurtenant interest of any Unit may be sold, transferred

or otherwise disposed of except in connection with the sale, transfer or other disposition of such Unit itself or of all Units in the Regime

3.04 Undivided Fractional Interest An undivided interest in the Project and other Common Elements of the Regime, regardless of whether such elements are General or Limited Common Elements, shall be appurtenant to each Unit. The amount of such undivided interest appurtenant to each Unit is that fraction (expressed as a percentage) as set forth on Exhibit "F"

3.05 General Common Elements Appurtenant to each Unit shall be a right to use and enjoy the General Common Elements

3.06 Limited Common Elements The exclusive use by Owners of the Limited Common Elements shall be deemed an appurtenance of the Unit or Units for which said elements are reserved provided such use and enjoyment shall be limited to the uses permitted by the Condominium Documents

3.07 Association Membership and Voting Rights Appurtenant to each Unit shall be membership in the Association and one vote in the affairs of the Association and of the Regime, provided however, that the exercise of such voting and membership rights shall be subject to the applicable provisions of the Articles and Bylaws of the Association and of the other Condominium Documents. The actions of the Association shall be deemed the actions of the Owners, and such actions, when taken in accordance with the Bylaws of the Association and this Declaration shall be final and conclusive upon all Unit Owners

3.08 Encroachment Easements If any portion of the Common Elements encroaches upon any Unit or any other portion of the Common Elements, or if any Unit encroaches upon any other Unit or upon any portion of the Common Elements upon completion of construction, or if any of such encroachments shall occur thereafter as a result of shifting or settling of the Building or from alteration, repair or improvement to the Common Elements and/or as a result of repair or restoration of the Common Elements or a Unit, after damage by fire or other casualty, or as a result of condemnation or eminent domain proceedings, then in each of such events a valid easement shall exist for such encroachment and for the maintenance thereof so long as the Building, Common Elements and Units exist

3.09 Cross Easements The appurtenances shall include, so long as the Building, Common Elements and Units exist, easements from each Unit Owner to each other Unit Owner, and to the Association and from the Association to the respective Unit Owners as required as follows

(a) **Ingress, Egress and Maintenance** Easements are reserved for ingress and egress through the Common Elements for access to the Units and through the Common Elements and the Units for purposes of maintenance, repair, replacement or reconstruction of each as authorized

Vol 950 pp 299

(b) Support. Every portion of a Unit contributing to the support of the Building, is burdened with an easement of support for the benefit of all other Units and the Common Elements in or of the Building.

(c) Utility and Other Services. Easements are reserved through the Unit and Common Elements for conduits, ducts, plumbing, wiring, piping and other facilities for the furnishing of utility or other services and facilities to the other Units and Common Elements, provided such easements through a Unit shall be only according to the plans and specifications for the Building as and if varied during construction as herein permitted, unless otherwise agreed by the Unit Owner

3.10 No Partition. The Common Elements and Units shall remain undivided and shall not be the object of an action for partition or division of the co-ownership thereof so long as suitable for a Horizontal Property Regime, and, in any event, all Mortgages must be paid in full or the prior written approval of all Mortgages must be obtained prior to bringing an action for partition.

3.11 Subdivision. No Unit shall be subdivided.

ARTICLE 4. COMMON ELEMENTS

4.01 General Common Elements. General Common Elements shall include all portions of the Project (land and improvements thereon) not included within any Unit except such portions of the Project which are defined as Limited Common Elements in the following paragraph 4.02. The General Common Elements also include, but are not limited to, the following.

(a) The land on which the Building is erected

(b) The foundations, floors, exterior walls of each Unit and of the Building, ceilings and roofs, and entrances and exits or communication ways, and in general all devices or installations existing for common use, except as limited in paragraph 4.02.

(c) All compartments, installations, service mains or entry boxes for public utilities, including electric, cable TV, gas and cold water for common use

(d) Recreational greens, plantings, walks, and parking lot, if any.

4.02 Limited Common Elements. The term "Limited Common Elements" shall consist of those Common Elements which are reserved for the use of one or more Units by this article and amendments hereto and such reservation shall be to the exclusion of all other Units. The following Common Elements are reserved and shall constitute the Limited Common Elements.

(a) All exterior walls of a Building, all walls and partitions separating Units from other Units, interior load bearing walls and all other elements which are structural to a Unit are reserved for that Unit (or Units where partitions separate two Units contained in a building).

(b) The immediate hallways and entrances leading to each Unit, as well as the deck, spa, Pella Sunroom, if any, and stairs are reserved for those Units

(c) The concrete pad (if any) appertaining to each Unit and the air conditioning compressors sitting thereon and all connectors, wiring, etc., serving said compressor.

(d) That portion of the Driveway running between the street and the Unit's Garage and extending from the outside edge of the Driveway closest to the Unit to the centerline cut of the concrete. If the Driveway serving adjacent Units is split, each Unit shall be entitled to the Driveway serving the Unit. If the centerline cut of the concrete is not ascertainable or placed more than 1.0 foot from a line extending to the street from the centerline of the Common Wall between the Units, the extended centerline shall control.

(e) That portion of the land submitted to the Regime immediately to the rear of the Unit designated as the "Backyard" on Exhibits "A" and "B". Said Backyard shall be appurtenant to the Unit for which it is designated and its use shall be subject to such reasonable regulations as the Association may from time to time impose

(f) For 1734 Lyncrest only, a special Limited Common Element may be established in the areas shown on Exhibits A and B for a pet exercise area. If constructed, this area shall be used by the Unit owner only in accordance with such rules and regulations as may be established by the Board.

4.03 Exception. Notwithstanding the reservations made by this Article, the design of the Building, grounds to be submitted and the integrity and appearance of the Regime as a whole are the common interests of all Owners and, as such, shall remain a part of the General Common Elements.

4.04 Use of the Common Elements. Each Unit Owner shall have the right to use the Common Elements (except the Limited Common Elements and portions of the Project subject to leases made by or assigned to the Board) in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy and enjoyment of the respective Unit owned by such Unit Owner. The right to use the Common Elements shall extend not only to each Unit Owner, but also to his or her agents, servants, tenants, family members, customers, invitees, and licensees. However, each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements serving such Unit alone or with adjoining Units

006 PM 056
VOL 950 PM 300

(a) **Restrictions.** The rights to use the Common Elements, including the Limited Common Elements, shall be subject to and governed by the provisions of the Act, Article 7 of this Declaration, and the Bylaws and Rules and Regulations of the Association.

(b) **Association's Authority** The Association shall have the authority to rent, lease, and grant concessions or easements with respect to parts of the Common Elements, subject to the provisions of this Declaration and the Bylaws. All income derived by the Association from leases, concessions, or other sources shall be held and used for the benefit of the members of the Association, pursuant to such rules, resolutions, or regulations as the Board may adopt or prescribe

(c) **Lien** The Association may discharge any mechanic's lien or other encumbrance which, in the Board's opinion, constitutes or may constitute a lien against the Project, the Common Elements, or any portion thereof rather than a lien only against a particular Unit. If less than all the Unit Owners are responsible for any such lien, the responsible Unit Owners shall be jointly and severally liable for the amount necessary to discharge the lien and for all costs and expenses, including attorney's fees, incurred because of such lien

ARTICLE 5. DECLARANT'S RESERVED RIGHTS AND POWERS

5 01 **Declarant's Activities.** Declarant is irrevocably and perpetually empowered notwithstanding any use, restriction or other provision hereof to the contrary, to sell, lease or rent Units to any person and shall have the right to transact on the Project any business relating to construction, repair, remodeling, sale, lease, management or rental of Units, including but not limited to, the right to maintain signs, employees, independent contractors and equipment and materials on the premises, and to use Common Elements (general and limited) to show Units. All signs and all items and equipment pertaining to sales, management, or rentals or construction and any Unit furnished by the Declarant for sales purpose shall not be considered Common Elements and shall remain its separate property. Declarant retains the right to be and remain the Owner of completed but Unsold Units under the same terms and conditions as other Owners, including membership in the Association save for its right to sell, rent or lease. In addition, Unsold Units owned by the Declarant shall only be subject to assessment and lien for "current expenses" of the Association as distinguished from assessments for "reserves" or "emergencies", as referred to in Article 7, paragraphs 7 01 and 7 02 of the Declaration, and Declarant shall furthermore have the option of either paying such current expense assessments on Unsold Units, or, in lieu thereof, to make up any deficiencies existing in the current operational and maintenance expense of the Regime. If the Declarant makes up such deficiencies, the lien of any assessments against Declarant's Unsold Units shall be automatically discharged, but the Association, upon request, shall satisfy or release such lien in writing.

5.02 Easements. Declarant expressly reserves perpetual easements for ingress, egress and utility purposes as may be required across and under the Project submitted hereby.

5.03 Designation of Association Directors. Declarant shall have the right to name all members of the Board until the first annual members' meeting of said Association which shall be held as provided for in the Bylaws. Thereafter the Board shall be selected in the manner specified in the Bylaws of the Association

5.04 Power to Amend. Declarant is empowered to amend this Declaration to include an additional two Units identified as 1732 and 1734 Lyncrest Drive. By accepting a deed to a Unit within this regime, the Unit Owner shall irrevocably empower Declarant to amend this Declaration to include the additional two (2) Units identified above. The Unit Owner, at Declarant's request, shall execute a separate power of attorney in the form attached as Exhibit "K". Each mortgagee expressly consents to Declarant's amendment as above described.

ARTICLE 6 MANAGEMENT OF PROJECT

6.01 The Association. The Association is an Iowa nonprofit corporation organized and existing under Chapter 504A of the 1987 code of Iowa, which shall be the governing body for all the Unit Owners for the maintenance, repair, replacement, administration and operation of the Project, as provided in the Act, this Declaration, the Articles of Incorporation, and the Bylaws. A copy of the Articles and Bylaws are attached hereto as Exhibits "G" and "H", respectively.

(a) Board. The Board of the Association shall be elected and shall serve in accordance with the provisions of the Bylaws.

(b) Fiscal Year. The fiscal year of the Association shall be determined by the Board and may be changed from time to time as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind.

(c) Benefit. All activities undertaken by the Association shall be for the sole benefit of the Unit Owners, and all funds received by the Association shall be held and applied by it for the use and benefit of Unit Owners in accordance with the provisions of this Declaration and the Bylaws.

(d) Members. Each Unit Owner shall be a member of the Association so long as he or she is a Unit Owner, subject to provisions of the Bylaws. A Unit Owner's membership shall automatically terminate when he or she ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously succeed to the former Unit Owner's membership in the Association.

Vol 950 p. 301

6.02 Compliance. All owners, tenants, families, guests and other persons using or occupying the Regime shall be bound by and strictly comply with the provisions of the Bylaws and applicable provisions of other Condominium Documents, and all agreements, regulations and determinations lawfully made by the Association and its directors, officers or agents shall be binding on all such Owners and other persons. A failure to comply with the Bylaws or the provisions of the other Condominium Documents or any agreement or determination thus lawfully made shall be grounds for an action to recover sums due for damages on the part of the Association or any Owner, as applicable, or injunctive relief without waiving either remedy.

6.03 Powers of Association. Each Owner agrees that the Association has and shall exercise all powers, rights and authority granted unto it, the Council of Co-owners, and the Unit Owners as a group by Chapter 504A of the 1987 Code of Iowa as amended, and by the "Act", and such as are more particularly set forth in the Condominium Documents, including but not limited to the making of assessments chargeable to Unit Owners and the creation of a lien on Units thereof, and to the acquisition of a Unit at foreclosure sale and to hold, lease, mortgage or convey the same. Each Owner hereby waives any rights to delay or prevent such foreclosure by the Association which he or she may have by reason of a homestead exemption

6.04 Management of Project The Board shall have the authority to engage the services of an agent to maintain, repair, replace, administer, and operate the Project, or any part thereof, to the extent deemed advisable by the Board, subject to the provisions of paragraph 6.03. The term of a management agreement shall not exceed one year, and the agreement may be terminated by the Association for cause upon 30 days' written notice. The Board shall also have the authority (but shall not be obligated) to engage, supervise, and control such employees as the Board deems advisable to clean and maintain all or any part of the Units to the extent the Board deems it advisable, for all or any portion of the Unit Owners. The cost of such services shall be a Common Expense

6.05 Professional Management. If the Project is approved for mortgage financing by the Federal National Mortgage Association (FNMA) the Board shall hire experienced, professional management services, unless this requirement is waived by FNMA, and the prior written approval of the holders of all first Mortgages shall be required to effect a decision by the Association to terminate professional management and assume self-management

6.06 Units for Building Personnel The Board shall have authority to lease, purchase, and mortgage one or more Units or other residential quarters for building personnel. All rental or debt service paid by the Association pursuant to any such lease agreement or Mortgage shall be a Common Expense. No such Unit or other residential quarters leased or purchased for building personnel shall constitute a part of the Common Elements

6.07 Non-Liability of Directors, Board, Officers, and Declarant. Neither the Directors, the Board, or officers of the Association nor the

Declarant shall be personally liable to the Unit Owners for any mistake of judgment or for any acts or omissions of any nature whatsoever as such Directors, the Board, Officers, or Declarant, except for any acts or omissions found by a court to constitute gross negligence or fraud. The Unit Owners shall indemnify and hold harmless each of the Directors, the Board, officers, and the Declarant, and their respective heirs, executors, administrators, successors, and assigns in accordance with the provisions of the Bylaws.

6.03 Board's Determination Binding. In the event of any dispute or disagreement between any Unit Owners relating to the Project or any questions of interpretation or application of the provisions of the Declaration or Bylaws, the dispute or disagreement shall be submitted to the Board. The determination of the dispute or disagreement by the Board shall be binding on each and all Unit Owners, subject to the right of Unit Owners to seek other remedies provided by law after such determination by the Board

ARTICLE 7. COMMON EXPENSES

7.01 Responsibilities. Each Unit Owner, including the Declarant, shall pay his or her proportionate share of the Common Expenses. Except for its responsibilities as a Unit Owner, as provided herein, the Declarant shall not have any responsibility for the maintenance, repair, or replacement of any part of the Common Elements after the date this Declaration is recorded. Such proportionate share of the Common Expenses for each Unit Owner shall be determined in the manner provided in the Bylaws

7.02 Payment. Payment of Common Expenses, including any prepayment thereof required by contract for sale of a Unit, shall be in such amounts and at such times as determined in the manner provided in the Bylaws. No Unit Owner shall be exempt from payment of his or her proportionate share of the Common Expenses by waiver, non-use, or enjoyment of the Common Elements or by abandonment of his or her Unit. If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof together with interest thereon at the maximum lawful rate in the State of Iowa, accruing from and after the date that the Common Expenses become due and payable, together with costs and reasonable attorney's fees associated with collection, shall constitute a lien on the interest of such Unit Owner in the Project and his or her Unit, subject to the provisions of paragraph 9.02(c).

7.03 Enforcement of Lien. The Board may bring an action at law against the Unit Owner personally obligated to pay the same for collection of his or her unpaid proportionate share of the Common Expenses or foreclose the lien against the Unit or Units owned by such Unit Owner, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each Unit Owner, by acceptance of a deed to or recording a contract for purchase of a Unit, expressly vests in the Board and its agents the right and power to bring all actions against such Unit Owner personally for the collection of such charges as a debt and to enforce the lien by all methods available for the enforcement of such liens. The lien shall be in favor of the Association and shall be for the common benefit of all Unit Owners. The Board acting on behalf

202 34 053 14

of the Unit Owners shall have the power to bid upon an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. The enforcement of the lien hereunder shall at all times be subject to the provisions of paragraph 9.02.

7.04 Separate Real Estate Taxes. Taxes, assessments, and other charges of any taxing or assessing authority shall be separately assessed to each Unit Owner for his or her Unit and the corresponding percentage of ownership in the Common Elements, as provided in the Act. In the event that such taxes or assessments for any year are not separately assessed to each Unit Owner but are assessed on the Project as a whole, each Unit Owner shall pay his or her proportionate share thereof in accordance with his or her respective percentage of ownership interest in the Common Elements, and such taxes or assessments shall be a Common Expense. Without limiting the authority of the Board, the Board shall have the authority to collect from the Unit Owners their proportionate share of taxes or assessments for any year in which taxes are assessed on the Project as a whole.

7.05 Insurance Policies. All insurance policies upon the Project shall be purchased by the Association. The named insured shall be the Association individually and as agent for the Unit Owners, without naming them, and as agent for their Mortgagees. Provision shall be made for the issuance of Mortgage endorsements and memoranda of insurance to the Mortgagees. In addition, all insurance policies shall provide that no cancellation or substantial modification of the policy coverage can occur without at least 10 days written notice to any First Mortgagee(s) who have notified the insurance carrier of their desire to be so notified, setting forth the event causing such cancellation or modification. Such policies shall provide that payment by the insurer for losses shall be made to the Association or an Insurance Trustee designated by the Association, and all policies and their endorsements shall be deposited with the Association or such trustee. Unit Owners may obtain coverage at their own expense for their personal property and other risks. Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense.

7.06 Power of Attorney. The Association, or its designated representative is irrevocably appointed as attorney-in-fact for each Unit Owner and for each Mortgagee to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon payment of claims.

7.07 Insurance Coverage. The Association shall obtain the following minimum insurance coverage:

(a) **Casualty.** All Buildings and Improvements shall be insured in an amount equal to the maximum insurable (100%) replacement value, excluding foundation and excavation costs. All personal property included in the Common Elements shall be insured for its value, all as determined annually by the Board. Such coverage shall afford protection against

(1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement

(2) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location, and use as the Building, including but not limited to vandalism and malicious mischief

(b) Public Liability Public liability insurance in an amount not less than one million dollars (\$1,000,000.00) and with such coverage as shall be required by the Board and with cross liability endorsement to cover liabilities of the Unit Owners jointly and severally and the Association

(c) Worker's Compensation Worker's compensation insurance to meet the requirements of Iowa law

(d) Directors' and Officers' Insurance The Board shall also have authority to and may obtain such insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable, insuring the Project, each member of the Board and officer of the Association and each member of any committee appointed pursuant to the Bylaws of the Association from liability arising from the fact that the person is or was a Director or officer of the Association or a member of such a committee. The premiums for such insurance shall be a Common Expense

(e) Other Such other insurance as the Board shall determine from time to time

7.08 Insurance Trustee, Shares of Proceeds All insurance policies purchased by the Association shall be for the benefit of the Association, the Unit Owners and their Mortgagees as their interests may appear and shall provide that all proceeds covering property losses shall be paid to the Association as trustee or to such other entity as may be designated as Insurance Trustee by the Board of Directors, which trustee is referred to in this Declaration as the "Insurance Trustee". The Insurance Trustee shall not be liable for payment of premiums, the renewal or sufficiency of policies or the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes elsewhere stated in this Declaration and for the benefit of the Unit Owners and their Mortgagees in the following shares:

(a) Common Elements Proceeds on account of damage to Common Elements an undivided share for each Unit Owner, such share being the same as the undivided share in the Common Elements appurtenant to the Unit

(b) Units Proceeds on account of damage to Units shall be held in the following undivided shares:

(1) When the Building is to be restored, for the Unit Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner, which cost shall be determined by the Association.

(2) When the Building is not to be restored, an undivided share for each Unit Owner, such share being in the same proportion to the total proceeds for damaged Units as the square feet in such Unit bear to the total square feet of damaged Units.

(c) Mortgages If a Mortgage endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the Mortgagee and the Unit Owner as their interests may appear, provided, however, that no Mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no Mortgagee shall have any right to apply or have applied to the reduction of a Mortgage debt any insurance proceeds except distributions of such proceeds made to the Unit Owner and Mortgagee pursuant to the provisions of this Declaration.

7 09 Distribution of Proceeds Proceeds of insurance policies received by the Association or Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner.

(a) Expenses of Trust All expenses of the Insurance Trustee shall be paid first or provision shall be made for such payment

(b) Reconstruction or Repair If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost of such as elsewhere provided Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to Unit Owners and their Mortgagees being payable jointly to them This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee.

(c) Failure to Reconstruct or Repair. If it is determined that the damage for which proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to Unit Owners and their Mortgagees being payable jointly to them This is a covenant for the benefit of any Mortgagee of a Unit and may be enforced by such Mortgagee

(d) Certificate. In making distribution to Unit Owners and their Mortgagees, the Insurance Trustee may rely upon a certificate by officers of the Association as to the names of the Unit Owners and their respective shares of the distribution

ARTICLE 8. MAINTENANCE, RECONSTRUCTION, CONDEMNATION

8.01 Maintenance of Units. Responsibility for the maintenance of the Units and restrictions upon the alteration and improvement thereof, shall be as follows:

(a) **By Association.** The Association shall maintain, repair, and replace at the Association's expense:

(1) All portions of a Unit, except interior surfaces, contributing to the support of the Building, which portions shall include but not be limited to the outside walls of the Building and all fixtures on the exterior thereof, boundary walls of Units, floor and ceiling joists and slabs, load-bearing columns and load-bearing walls

(2) Patios and deck railings.

(3) All conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services which are contained in the portions of a Unit maintained by the Association and all such facilities within which such items are contained

(4) If maintenance is required involving more than one Unit, the Association, in order to provide centralized direction, may assume responsibility therefor and provide for the same, in whole or in part, as a Common Expense assessable to all Owners

(5) All incidental damage caused to a Unit by such work shall be promptly repaired at the expense of the Association

(b) **By Unit Owners.** The Unit Owner shall:

(1) Maintain, repair, and replace at his or her expense all portions of the Unit, except the portions to be maintained, repaired, and replaced by the Association, without disturbing the rights of other Unit Owners.

(2) Maintain, repair, and replace at his or her expense the air conditioning equipment serving the Unit, including any portion thereof which may be located outside the Unit, and all appliances, fixtures and heating equipment located in his or her Unit

(3) Maintain and replace all equipment, machines and attachments and fixtures within the Unit, irrespective of whether the same are or might be regarded as personalty or real estate, or as Common Elements for other purposes, such as heating equipment or units, ranges, refrigerators, fans, water heaters or other appliances or equipment, including any fixtures and/or their

connections required to provide water, light, power, telephones, sewage and sanitary service to the Unit

(4) Maintain, at his or her expense, any improvements or alterations subsequently added by Unit Owner and it shall be his duty to perform said maintenance without disturbing the rights of other Unit Owners.

(5) Maintain, at his or her expense, the Garage, Spa, Deck (except railing) and Storage Cubicle, (if any) appurtenant to the Unit and the interior surface of any said Garage, Spa, Deck and Storage Cubicle, but excluding the garage door, storage cubicle door, and exterior spa door and deck railing, if any, which maintenance is a Common Element

(6) Not paint or otherwise decorate or change the appearance of any portion of the exterior of the Building

(7) Promptly report to the Association any defect or need for repairs, the responsibility for the remedying of which is that of the Association

(8) Maintain in a clean condition any Limited Common Element which is for the exclusive use of his or her Unit and the Association shall not be liable or responsible for any loss or damage caused by theft or otherwise of articles which may be stored by Unit Owner in a Limited Common Element or in a Unit except for the repairs specifically made the responsibility of the Association for damage caused to a Unit through its maintenance.

(c) Alteration and Improvements. Except as may otherwise be reserved to the Declarant, neither a Unit Owner nor the Association shall make any alterations in the portions of a Unit or Building which are to be maintained by the Association, remove any portion thereof, make any additions thereto, or do anything which would jeopardize the safety or soundness of the Building, or impair any easement, without first obtaining approval in writing of Owners of all Units in which such work is to be done and the approval of the Board. A copy of plans for all of such work prepared by an architect licensed to practice in this state shall be filed with the Association prior to starting of the work. Any Unit Owner may make alterations, additions, or improvements within his or her Unit (including minor alterations to the perimeter walls of the Unit caused by nails, screws, staples, and the like) without the prior written approval of the Board, but such Unit Owner shall be responsible for any damage to other Units, the Common Elements, the Project, or any part thereof, resulting from such alterations, additions, or improvements.

3.02 Maintenance of Common Elements.

(a) **By Association** The maintenance and operation of the Common Elements shall be the responsibility and expense of the Association.

(b) **Alteration and Improvement.** After the completion of the improvements included in the Common Elements which are contemplated by this Declaration, there shall be no alteration or further improvement of Common Elements without prior approval in writing of the Unit Owners provided, however, that any alteration or improvement of the Common Elements approved in writing by not less than seventy five percent (75%) of the Unit Owners and which does not interfere with the rights of any Unit Owners without their consent, may be done if the Unit Owners who do not approve are relieved from the initial cost thereof. The share of any cost not so assessed shall be assessed to the other Unit Owners in the same ratio as their shares in the Common Elements bear to each other. There shall be no adjustment in the shares and rights of a Unit Owner in the Common Elements which are altered or further improved, whether or not the Unit Owner contributes to the cost thereof.

4.03 Association's Rights.

(a) **Assessment** At the discretion of the Board, maintenance of, repairs to, and replacements within the Limited Common Elements may be provided and assessed in whole or in part to Unit Owners benefitted thereby, and further, at its discretion, the Board may direct Unit Owners who stand to be benefitted by such maintenance of, repairs to, and replacement within the Limited Common Elements to arrange for such maintenance, repairs, and replacements in the name and for the account of such benefitted Unit Owners, pay the cost thereof with their own funds, and procure and deliver to the Board such lien waivers and contractor's and subcontractor's sworn statements as may be required to protect the Project from all mechanics' or materialmen's lien claims that may arise therefrom.

(b) **Necessary Maintenance.** In addition to the discretionary authority provided herein for maintenance of all or any portion of the Units, the Board shall have the authority to maintain and repair any Unit, if such maintenance or repair is reasonably necessary in the discretion of the Board to protect the Common Elements or preserve the appearance and value of the Project, and the if Unit Owner has failed or refused to perform the maintenance or repair within a reasonable time after written notice of the necessity of the maintenance or repair delivered by the Board, and the Board shall levy a special assessment against the Unit of such Unit Owner for the cost of the necessary maintenance or repair.

(c) **Damage.** If, due to the act or neglect of, a Unit Owner, or his or her agent, servant, tenant, family member, invitee, licensee, or

506
EX-056
104

household pet, damage is caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repair, or replacements are required which would otherwise be a Common Expense, such Unit Owner shall pay for such damage or such maintenance, repair, and replacements, as may be determined by the Association, however, the provisions of this paragraph are subject to the waiver of subrogation rights with respect to casualty damage insured against under the policies of insurance maintained by the Board.

(d) Access. The authorized representatives of the Association or Board, or the Managing Agent with approval of the Board, shall be entitled to reasonable access to the individual Units and Limited Common Elements as may be required in connection with the preservation of any individual Unit or Limited Common Elements in the event of an emergency, or in connection with maintenance of, repairs, or replacements within the Common Elements, Limited Common Elements, or any equipment, facilities, or fixtures affecting or serving other Units, Common Elements, and Limited Common Elements, or to make any alteration required by any governmental authority

(e) Key. In accordance with the right of entry reserved in paragraph (d) above, each Unit Owner shall deposit with the Association if required by it, a complete set of keys to the Unit, Garage, Spa and Storage Cubicle, and consents that, in the case of any emergency originating in or threatening the Unit, the Board or any person authorized by it, may enter the Unit, Garage, Spa or Storage Cubicle for the purpose of remedying or abating such emergency, whether the Owner is present or not.

§ 04 Decorating. Each Unit Owner, at his or her own expense, shall furnish and be responsible for all decorating within his or her own Unit and Limited Common Elements serving such Unit, as may be required from time to time, including painting, wallpapering, washing, cleaning, panelling, floor covering, draperies, window shades, interior curtains, lighting, and other furnishings and decorating. Each Unit Owner shall be entitled to the exclusive use of the interior surfaces of the perimeter walls, floors, and ceilings of his or her Unit, and such Unit Owner shall maintain the interior surfaces in good condition at his or her sole expense, as may be required from time to time. The maintenance and use of interior surfaces shall be subject to the rules and regulations of the Association, but each such Unit Owner shall have the right to decorate such interior surfaces from time to time as he or she may see fit and at his or her sole expense

Decorating of the Common Elements (other than interior surfaces within the Units as above provided and other than Limited Common Elements) and any redecorating of Units, to the extent such redecorating of Units is made necessary by damage to Units caused by Maintenance, repair, or replacement of the Common Elements by the Association, shall be furnished by the Association as part of the Common Expenses. The interior surfaces of all windows forming part of a perimeter wall of a Unit shall be cleaned and washed at the expense of the

Unit Owner of that Unit. No Unit Owner shall decorate the portions of the balcony of his or her Unit visible from outside such Unit in any manner which detracts from the appearance of the Building, and the determination of the Board on such matters shall be final.

8.05 Determination to Reconstruct or Repair. If any part of the Project shall be damaged by casualty, whether it shall be reconstructed or repaired shall be determined in the following manner:

(a) **Common Element.** If the damaged improvement is a Common Element, it shall be reconstructed or repaired unless within 30 days after the casualty seventy five percent (75%) of the Unit Owners determine otherwise.

(b) **Units.** In the event of a partial or total destruction of all or any part of the Building and/or the Property, it shall be the duty of the Association to restore and repair the same to its former condition as promptly as is practical in a lawful and workmanlike manner. The proceeds of any insurance maintained pursuant to its Declaration and/or the Bylaws of the Association, shall be used for such purpose, subject to the rights of first mortgagees whose interest may be protected by said policies. In the event that the amount available from the proceeds from such insurance policies for such restoration and repair shall be at least eighty-five percent (85%) of the estimated cost of restoration and repair, an emergency assessment may be levied by the Association to provide the necessary funds for such reconstruction and repair, over and above the amount of any insurance proceeds available for such purpose. In the event that the amount available from the proceeds of such insurance policies for such restoration and repair shall be less than eighty-five percent (85%) of the estimated cost of restoration and repair, the improvements shall not be replaced or restored unless approved by the vote or written consent of seventy-five percent (75%) of the total number of votes outstanding and entitled to be cast. Notwithstanding the foregoing, unless at least seventy-five percent (75%) of the first mortgagees based on one vote for each mortgagee have given their prior written approval, the Association shall not be entitled to use hazard insurance proceeds for losses to any buildings and/or condominium property for other than repair, replacement or reconstruction of such improvements. In the event of a determination not to replace or restore the improvements on the Condominium property, and provided that in the event of such determination, the Association shall obtain an additional written consent of seventy-five percent (75%) of the first mortgagees, the entire Condominium property shall be deemed owned in common by the Unit Owners and subject to partition and sale, it being understood that no separate part of the property may be thus deemed owned in common and partitioned without an amendment to this Declaration expressly so providing, which amendment must comply with the provisions of the Act. In the event any excess insurance proceeds are remaining, the Board shall retain such sums in the general funds

of the Association. Notwithstanding anything to the contrary contained in this Article, the distribution of any insurance proceeds for any damage or destruction to the Building and/or Condominium property shall be subject to the prior rights of first mortgages.

(c) **Certificate.** An Insurance Trustee may rely upon a certificate by the officers of the Association to determine whether the damaged property is to be reconstructed or repaired

§.06 Reconstruction or Repair.

(a) **Plans and Specifications.** Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original Building, or, if not in accordance with said plan, then according to plans and specifications approved by the Board and by not less than seventy five percent (75%) of the Unit Owners of all damaged Units, which approval shall not be unreasonably withheld and by not less than fifty one percent (51%) of the holders of First Mortgages affected thereby

(b) **Responsibility** If the damage is only to those parts of one Unit for which the responsibility of maintenance and repair is that of the Unit Owner, the Unit Owner shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association

(c) **Estimates of Costs** Immediately after a determination is made to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

(d) **Assessments.** If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair or upon completion of reconstruction and repair are insufficient, assessments shall be made against the Unit Owners in the case of damage to Common Elements, in sufficient amounts to provide funds for the payment of such costs. Such assessments against Unit Owners for damage to Units shall be in proportion to the cost of reconstruction and repair of their respective Units

§.07 Condemnation General If all or part of the Project is taken or threatened to be taken by condemnation the Board and each Unit Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The expense of participation in such proceedings by the Board shall be a Common Expense. The Board may obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses, and other persons as the Board deems necessary or advisable to aid or advise it in matters relating

to such proceedings. All damages or awards for any such taking shall be deposited with the Board, acting as trustee, and such damages or awards shall be applied or paid as provided herein.

8.08 Condemnation of Common Elements. If any action is brought to condemn a portion of the Common Elements, the Board shall have the sole authority to determine whether to defend or resist such action, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of condemnation. After the damages or awards for such taking are determined, such damages or awards shall be paid to each Unit Owner in proportion to his or her ownership interest. The Board may call a meeting of the Association, at which meeting the members by a majority vote may decide whether to replace or restore insofar as possible the Common Elements so taken or damaged.

8.09 Payment of Awards and Damages. Any damages or awards paid to or for the account of any Unit Owner by the Board, acting as trustee, shall be applied first to the payment of any taxes or assessments by governmental authorities past due and unpaid with respect to that Unit, secondly, to amounts due under any Mortgages, thirdly, to the payment of any unpaid Common Expenses or special assessments charged to or made against the Unit, and finally to the Unit Owner.

8.10 Arbitration. In the event of a dispute among the Owners and/or Mortgagees respecting the provisions of this clause, any such party may cause the same to be referred to arbitration in accordance with the then prevailing rules of the American Arbitration Association. In the event of arbitration, the party requesting the arbitration will give immediate notice thereof to the Board, which shall notify all other Owners and Mortgagees as promptly as possible after the reference to arbitration is made, giving all such parties an opportunity to appear at such arbitration proceedings. The decision of the arbitrator in this matter shall be final and conclusive upon all the parties. The arbitrator may include in his determination an award for costs and/or attorney fees against any one or more parties to the arbitration.

ARTICLE 9. MORTGAGE PROTECTIONS

9.01 Right to Mortgage. Each Unit Owner shall have the right, subject to these provisions, to grant separate Mortgages for his or her Unit together with the respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to make or create or cause to be made or created from the date hereof any Mortgage or other lien on or affecting the Project or any part thereof, except only to the extent of his or her own Unit and the respective ownership interest in the Common Elements appurtenant thereto.

9.02 Mortgage Protections. Notwithstanding any and all provisions hereof to the contrary, in order to induce the Federal Home Loan Mortgage Corporation to participate in the financing of the sale of the Units within and contained in the Condominium, the following provisions are added hereto (and to

207
EX-105
JAN 95

the extent that these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

(a) **Notice to Mortgagee of Default.** Each holder of a First Mortgage encumbering any Unit is entitled to written notification from the Association of any default by the Mortgagor of such Unit in the performance of such Mortgagor's obligations under the Declaration, the Articles of Incorporation of the Association or the Bylaws of the Association, which is not cured within thirty (30) days.

(b) **Rights of Mortgagees under Foreclosure.** Each holder of a First Mortgage encumbering any Unit which comes into possession of such Unit pursuant to the remedies provided in such Mortgage, or by foreclosure of such Mortgage, or by Deed (or Assignment) in lieu of foreclosure of such Mortgage shall be exempt from any restriction or the sale or rental of such Unit including, but not limited to, restrictions on the posting of signs pertaining to the sale or rental of such Unit.

(c) **Mortgages Free and Clear of Lien.** Any First Mortgagee who obtains title to a Unit, pursuant to the remedies provided in the Mortgage or foreclosure of said Mortgage, will not be liable for such Unit's unpaid dues or charges which accrue prior to the acquisition of title to such Unit by the Mortgagee.

(d) **Restrictions on Association.** Unless at least seventy-five (75%) of the First Mortgagees's (based on one vote for each first Mortgage owned) or Owner's (other than declarant) of the individual Units have given their prior written approval, the Association shall not be entitled to.

(1) By act or omission seek to abandon or terminate the Project;

(2) Change the pro rata interest or obligations of any individual Unit for the purpose of:

(i) Levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or

(ii) Determining the pro rata share of ownership of each Unit in the Common Elements,

(iii) Partition or sub-divide any Unit,

(iv) By act or omission, seek to abandon, sub-divide, encumber, sell or transfer the Common Elements (The granting of easements for public utilities or for other public purposes consistent with the intended use of the

Common Elements by the Condominium project shall not be deemed a transfer within the meaning of this clause.),

(v) Use hazard insurance proceeds for losses to any Condominium property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such Condominium property, except as provided by statute in case of substantial loss to the Units and/or Common Elements of the Condominium Project.

(e) Mortgagee's Rights. All First Mortgagees shall have the right upon written request to examine the books, records, and financial statements of the Association or the Condominium Project at any time during normal business hours. This right of inspection shall include, but shall not be limited to, inspection of (and copies of if requested) all the Condominium Documents, audited financial statements, and other related materials. Similar inspection privileges shall be extended to prospective Mortgagees upon adequate showing of anticipated purchase of a unit and to such other persons as may be necessary to comply with the lending requirements of the Federal Home Loan Mortgage Corporation, FHMA or FHA.

(f) Maintenance Reserve Fund. The Board shall establish and fund out of regular monthly assessments a reserve fund for the periodic maintenance of the Common Elements in such amounts as the Board deems reasonable to provide for such expenses

(g) Working Capital Reserve Fund. The Board shall establish and fund out of regular monthly assessments a reserve fund for working capital needs equal to at least two (2) month's Common Area assessments for each Unit. This fund may be dissolved by resolution of the Board at any time after one year from the date of its establishment

(h) Notice of Damage. The Association shall give the Federal Home Loan Mortgage Corporation notice (c/o Servicer, at Servicer's address) in writing of any loss to, or taking of, a Common Element of the Condominium Project if such loss or taking exceeds Ten Thousand Dollars (\$10,000 00), or damage to a Unit covered by a Mortgage purchased in whole or in part by Federal Home Loan Mortgage Corporation exceeds One Thousand Dollars (\$1,000 00)

(i) Insurance Proceeds Upon Damage. In the event of substantial damage to or destruction of any Unit or any part of the Common Elements, the Mortgagee of a Unit will be entitled to timely written notice of such damage or destruction, and no provision of this Declaration or another document establishing the Project will entitle the Unit Owner or other party to priority over such Mortgagees with respect to the distribution of any insurance proceeds

808
REV
950
VBL

(j) **Condemnation.** If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the Mortgagee of a Unit will be entitled to timely written notice of any such proceeding or proposed acquisition, and no provision of this Declaration or any other document establishing the Project shall entitle the Unit Owner or other party to priority over such Mortgagee with respect to the distribution of the proceeds of any award or settlement.

(k) **Association Meetings.** Any Mortgagee making a written request to do so shall be entitled to notice of all Association meetings and may designate a non-voting representative to attend all such meetings.

ARTICLE 10. USE AND OCCUPANCY RESTRICTIONS

10 01 Use of Units. Subject to the provisions of this Declaration and the Bylaws, no part of the Project may be used for purposes other than as a single-family dwelling and the related common purposes for which the Project was designed. No more than two persons not related by either marriage or blood shall occupy any Unit at any time without the express written consent of the Board, which consent may be withheld for any reason. Each Unit or any two or more adjoining Units used together shall be used as a single-family dwelling or such other use permitted by this Declaration and for no other purpose, except that a professional and quasi-professional person may use his or her Unit as an ancillary or secondary facility to an office established elsewhere. The foregoing restrictions as to residence shall not be construed to prohibit a Unit Owner from (a) maintaining a personal professional library, (b) keeping personal business or professional records or accounts, or (c) handling personal business or professional telephone calls or correspondence. Such uses are expressly declared customarily incidental to the principal residential use and not in violation of these restrictions.

10 02 Use of Common Elements. The Common Elements shall be used only by the Unit Owners and their agents, servants, tenants, family members, customers, invitees, and licensees for access, ingress to, and egress from the respective Units and for other purposes incidental to use of the Units, provided, however, areas designed for a specific use shall be used for the purposes approved by the Board. The use, maintenance, and operations of the Common Elements shall not be obstructed, damaged, or unreasonably interfered with by any Unit Owner and shall be subject to any lease, concession, or easement presently in existence or entered into by the Board at some future time affecting any part or all of the Common Elements.

10.03 Specific Restrictions. Without limiting the generality of paragraphs 10.01 and 10 02, use of the Project by the Unit Owners shall be subject to the following restrictions:

(a) **Storage.** Nothing shall be stored in the Common Elements without prior consent of the Board.

(b) **Insurance.** Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Project without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in his or her Unit or in or on the Common Elements which will result in the cancellation of insurance on any Unit or any part of the Common Elements or which will be in violation of any law.

(c) **Waste.** No waste shall be committed in or on the Common Elements.

(d) **Signs.** Subject to the Declarant's rights under paragraph 5.01 of this Declaration, no sign of any kind shall be displayed to the public view on or from any Unit or the Common Elements without the prior written consent of the Board or the written consent of the Managing Agent acting at the Board's direction.

(e) **Nuisance.** No noxious or offensive activity shall be carried on in any Unit or on or in the Common Elements, and nothing shall be done therein which may be or become an annoyance or nuisance to the other Unit Owners.

(f) **Common Elements.** Except as otherwise expressly provided, nothing shall be altered or constructed in or removed from the Common Elements, except upon the written consent of the Board.

(g) **Structures.** No structure of a temporary character, trailer, tent, shack, garage, barn, or other outbuildings shall be permitted on the Project at any time, temporarily or permanently, except with the prior written consent of the Board, provided, however, that temporary structures may be erected for use in connection with the construction, repair, or rebuilding of the Building or any portion thereof.

(h) **Clothes Drying.** Outdoor drying of clothes shall not be permitted.

(i) **Parking.** Parking of vehicles in driveways and parking areas shall be subject to the rules and regulations of the Board. Each Unit Owner shall have the right to use a parking space for at least one automobile.

(j) **Planting; Fences.** Except within individual Units, no planting, transplanting, or gardening shall be done, and no fences, hedges, or walls shall be erected or maintained upon the Project, except as approved by the Board.

(k) **Vehicles.** Motorcycles, motorbikes, motor scooters, or other similar vehicles shall not be operated within the Project except for the purpose of transportation directly from a parking space to a point outside the Project or from a point outside the Project directly to a parking space

(l) **Leases.** A Unit Owner may lease his or her Unit, subject to the following conditions (1) the entire Unit must be leased, (2) the lease must be in writing, (3) the lease agreement must provide that its terms are subject to the provisions of the Condominium Documents and that failure by the tenant to comply with such Documents shall constitute a default under the lease, (4) the lease shall also contain an acknowledgment signed by the tenant that the tenant has received true copies of the Declaration and the Bylaws, (5) no Units may be leased for transient or hotel purposes, except by a lender in possession of a Unit following default in a first Mortgage, a foreclosure proceeding, or any deed or other arrangement in lieu of foreclosure; (6) the initial term of any such lease must be not less than thirty (30) days, and (7) such reasonable rules and regulations as the Board may establish from time to time

(m) **Animals.** No animals shall be raised, bred, or kept in any Unit for any commercial purposes. Domestic household pets must be kept in strict accordance with rules and regulations adopted by the Board from time to time.

(n) **Rules and Regulations.** The Association shall have the authority to adopt rules and regulations governing the use of the Property and such rules shall be observed and obeyed by the Owners, their guests and licensees.

(o) **Limited Access to Units.** Agents of or contractors hired by the Association may enter any Unit when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible, provided such entry shall be made with as little inconvenience to the Owners as practicable

(p) **Notice of Lien.** A Unit Owner shall give notice to the Association of every lien against his Unit other than permitted mortgages, taxes, and Association assessments, and of any suit or other proceeding which may affect the title to his Unit, within ten (10) days after the lien attaches or the Owner receives notice of such suit

(q) **Use of Halls.** The halls and passageways of all buildings shall be used only for ingress and egress

(r) **Drapes.** In order to enhance the exterior appearance of the Building, all drapes, having an exterior exposure, shall be lined in white unless the Board otherwise permits

10.04 Transfer of Limited Common Elements. The use of Limited Common Elements may be transferred between Unit Owners having rights thereto at their expense, provided that such transfer is made in compliance with the Act and this paragraph. Rights and obligations with respect to any of the Limited Common Elements shall not be affected, and no transfer thereof shall be effective, unless such transfer is in compliance with this paragraph. Each such transfer shall be made by an amendment to this Declaration executed by all Unit Owners who are parties to the transfer and their Mortgagees and consented to by all other Unit Owners who have any right to use the Limited Common Elements affected thereby. Such amendment shall contain a certificate showing that a copy of the amendment has been delivered to and approved in writing by the Board and shall contain a statement from the Unit Owners involved in the transfer setting forth any reapportionment of their respective shares of ownership in the Common Elements resulting from the transfer, the aggregate sum of which shares shall not be changed by the transfer. If such Unit Owners cannot agree upon the reapportionment, the Board shall make such reapportionment. No such transfer shall be effective until the amendment is recorded. This paragraph shall not be amended, changed, or modified without the prior written consent of all Mortgagees.

ARTICLE 11. REMEDIES

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

11.02 Lien. All expenses of the Board in connection with any such actions or proceedings, including court costs and attorney's fees and other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the maximum lawful rate per annum until paid, shall be charged to and assessed against such defaulting Unit Owner and shall be added to and deemed part of his or her respective share of the Common Expenses. The Board shall have a lien for all such expenses, as well as for non-payment of the respective share of the Common Expenses, upon the Unit and ownership interest in the Common Elements of such defaulting Unit Owner, upon all his or her additions and improvements thereto, and upon all his or her personal property in his or her Unit or located elsewhere on the Project, provided, however, that such lien shall be subordinate to the lien or a prior recorded first Mortgage on the interest of such Unit Owner, except for the amount of the proportionate share of the Common

Expenses which become due and payable from and after the date on which the Mortgagee takes possession of the Unit, accepts a conveyance of any interest therein (other than as security), or files suit or commences other proceedings to foreclose its Mortgage and causes a receiver to be appointed. This paragraph shall not be amended, changed, modified, or rescinded without the prior consent of all Mortgagees.

11 03 Correction of Default. In the event of any such default by any Unit Owner, the Board and the manager or Managing Agent, if so authorized by the Board, shall have the authority to correct such default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board.

11 04 Action by Board. The violation of any restriction, condition, rule or regulation adopted by the Board or the breach of any covenant or provision of this Declaration shall give the Board the right, in addition to any other rights provided in this Declaration (a) to enter upon the Unit or any portion of the Project upon which or as to which such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing, or condition that may exist thereon contrary to the intent and meaning of the provisions hereof and the Board, its employees or agents, shall not be deemed guilty in any manner of trespass, (b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach, (c) to take possession of such Unit Owner's interest in the property and to maintain an action for possession of such Unit in the manner provided by law, or (d) upon such notice as may be specified in the Bylaws, to suspend a member's voting rights and to restrict a member's use of the Common Elements and Limited Common Elements in such manner as the Board deems appropriate.

11 05 Notice; Action at Law or in Equity. If any Unit Owner (either by his or her own conduct or omissions or by the conduct or omissions of any Occupant of his or her Unit) shall violate any provision of the Act, this Declaration, or the rules and regulations of the Association, and if such default or violation shall continue for ten (10) days after written notice to the Unit Owner from the Board or shall occur repeatedly during any ten-day period after such written notice or request to cure such violation from the Board, the Board or an aggrieved Unit Owner may file against the defaulting Unit Owner an action at law for damages or an action in equity for a decree of mandatory injunction against the defaulting Unit Owner or Occupant.

ARTICLE 12. GENERAL PROVISIONS

12 01 Rights and Obligations. Each grantee of the Declarant, by the acceptance of the deed of conveyance or contract of purchase from the Declarant, accepts the same subject to all restrictions, conditions, covenants, reservations, liens, and charges, and the jurisdiction, rights, and powers created or

reserved by this Declaration and the Bylaws. All rights, benefits, and privileges of every character imposed by this Declaration shall be covenants running with the Land, shall bind any person having at any time any interest or estate in the Land, and shall inure to the benefit of such grantee or contract purchaser in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract of purchase.

12.02 Inspection, Waiver. Each purchaser of a Unit shall have full opportunity and shall be under a duty to inspect and examine the Unit to be purchased prior to closing of the transaction and agrees that the Unit is purchased as it actually and physically exists. By recording a deed or purchase contract, each purchaser of a Unit agrees that the square footage, size, and dimensions of each Unit and each area constituting any part of the Common Elements as set out in this Declaration or the Plat are based upon relative percentages and square footages which have been arbitrarily assigned and agreed upon solely for this purpose and do not necessarily reflect or represent the precise percentage of square footages of any specific portion of the Project. The Declarant does not warrant, guarantee, or represent that any Unit or any area constituting any part of the Common Elements contains precisely the area, square footage, or dimensions shown by the Plat. Each purchaser of a Unit expressly waives any claim or demand of any kind or nature against the Declarant or any person whomsoever on account of dimensions actually and physically existing and the size, square footage, and dimensions shown on the Plat. In interpreting deeds, mortgages, deeds of trust, and other instruments for any purpose whatsoever, the existing physical boundaries of any Unit shall be conclusively presumed to be the boundaries regardless of settling, rising or lateral movements of the Building and regardless of variances between boundaries shown on the Plat and the actual boundaries of the Building.

ARTICLE 13 TERMINATION

13.01 Procedure. The Condominium may be terminated in the following manner in addition to the manner provided by the Act:

(a) Destruction. In the event it is determined in the manner elsewhere provided that the Building shall not be reconstructed because of major damage, the Condominium plan of ownership will be thereby terminated in compliance to the provisions of Section 499B § of the Act.

(b) Agreement. The Condominium may be terminated at any time by the approval in writing of all of the Owners and by holders of all liens affecting any of the Units by filing an instrument to that effect, duly recorded as provided in Section 499B § of the Act. It shall be the duty of every Unit Owner and his respective lien holder to execute and deliver such instrument and to perform all acts as in manner and form may be necessary to effect the sale of the project when at a meeting duly convened of the Association, the owners of 100%

of the voting power, and all record owners of mortgages upon Units in the Regime, elect to terminate and/or sell the Project.

(c) **Certificate.** The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by all members of the Association and their respective holders of all liens affecting their interest in the Condominium, certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the office of the County Recorder in this County

13.02 Form of Ownership after Termination After termination of the Condominium, the project will be held as follows

(a) **Tenants in Common.** The property (land and improvements) shall be deemed to be owned in common by the Owners,

(b) **Share of Each Owner.** The undivided interest in the property owned in common which shall appertain to each Unit Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Elements;

(c) **Liens Transferred.** Any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Owner in the Property

(d) **Pooled Fund.** After termination, the net proceeds of sale, together with the net proceeds of the insurance on the property if any, shall be considered as one fund and shall be divided among all the Unit Owners in a percentage equal to the percentage of undivided interest owned by each Unit Owner in the Common Elements, after first paying out of the respective shares of the Owners, to the extent sufficient for that purpose, all liens on the undivided interest in the property owned by each Unit Owner

ARTICLE 14. AMENDMENTS AND MISCELLANEOUS

14.01 Procedure. Except as otherwise provided in this Declaration this Declaration may be amended and such amendment shall be made in the following manner:

(a) **Notice.** Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered. Holders of a first mortgage of record shall receive notice of such proposed amendment as provided in the Bylaws of the Association.

(b) **Resolution.** A resolution adopting a proposed amendment may be proposed by either the Board or by any member of the Association. Except as provided elsewhere, the resolution must be adopted by a vote

of not less than sixty six and two thirds percent (66-2/3%) of all Unit Owners entitled to vote, in person or by proxy.

(c) **Bylaws** In the case of an amendment to this Declaration by reason of an amendment to the Bylaws of the Association, then in the manner specified in such Bylaws

(d) **Limitation.** Subject to the provisions of this paragraph, the provisions of this Declaration shall not be materially amended, including but not limited to an amendment which would change the boundaries of any Unit, the undivided interest in the Common Elements appurtenant to any Unit, the number of votes in the Association allocated to any Unit, except by the affirmative vote of seventy five percent (75%) of the Unit Owners and the prior written approval of seventy five percent (75%) of the holders of all first Mortgages on Units.

(e) **Signatures.** If the Act, this Declaration, or the Bylaws require the consent or agreement of all Unit Owners or of all Mortgages, or both, for any action specified in the Act or in this Declaration, any instrument amending, modifying, or rescinding any provision of this Declaration with respect to such action shall be signed by all Unit Owners or all Mortgages, or both, as the case may be, as required by the Act, this Declaration, or the Bylaws

(f) **Recording.** Any amendment, modification, or rescission of this Declaration pursuant to this paragraph or any other provision of this Declaration or of the Act shall be valid and effective only upon the recording of same with the County Recorder of this County

(g) **Execution and Recording** An amendment adopted pursuant to paragraph 14.01 (b) or (c) above shall be executed by an officer specifically delegated to do so with the formalities required by the Act. Amendment pursuant to paragraphs 2.04 and 3.04 needs to be executed by Declarant only pursuant to the power of attorney set out in this Declaration. Upon the recordation of such instrument in the office of the County Recorder, the same shall be effective against any persons owning an interest in a Unit or the Regime

14.02 Amendment of Ownership Interest. Except as provided in paragraph 3.04, no amendment shall change the percentage of ownership in the Common Elements appurtenant to a Unit, nor increase the Owner's share of the Common Expenses unless the Unit Owner concerned and all Mortgages thereon shall affirmatively join in the adoption of such amendment

14.03 Notices Any written notice given pursuant to this Declaration shall be by personal service in the same manner as for an original notice or by registered or certified mail, return receipt requested, addressed to the person entitled thereto at such person's address as indicated on the records of the

VOL 950 PAGE 312

Association Notice by mail shall be deemed to be delivered when deposited in the United States mail properly addressed with postage prepaid

14.04 Severability If a court of competent jurisdiction shall adjudge to be invalid any provision of this Declaration, such judgment shall not affect, impair, invalidate, or nullify any other provisions of this Declaration, but the affect thereof shall be confined in the provision adjudged invalid and shall be confined to the person, place, and situation with respect of which such judgment is rendered

14.05 Perpetuities and Restraints on Alienation If any of the options, privileges, covenants, or rights created by this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, such provision shall continue only until 21 years after the death of the survivor of the now living descendants of the Governor of Iowa, Terry E. Branstad

14.06 Non-Waiver Failure by any person to enforce at any time or for any period of time any of the provisions of this Declaration or to exercise any right or remedy shall not constitute a waiver of such provision right, or remedy, and shall not prevent such person thereafter from enforcing all or any provisions of this Declaration and exercising any or all rights or remedies

14.07 Interpretation. This Declaration shall be governed by and construed in accordance with the laws of the State of Iowa The table of contents and captions of this Declaration are for convenience only and shall have no effect on its interpretation

Executed at Iowa City, Iowa, on the date first stated above

WELLS WEST DEVELOPMENT COMPANY

NOTARIAL SEAL

By Alan L. Wells
Alan L. Wells, President and Secretary

STATE OF IOWA, JOHNSON COUNTY: ss.

On this 18 day of June 1987, before the undersigned Notary Public in and for the State of Iowa personally appeared Alan L. Wells, to me personally known, being duly sworn, he stated that he is the President and Secretary, of the corporation executing the foregoing instrument, that no seal has been procured by the corporation, and that the instrument was signed on behalf of the corporation by authority of its Board of Directors, and, as such officers, he acknowledged the execution of said instrument to be the voluntary act and deed of the corporation, voluntarily executed by it and by its

[Signature]
Notary Public in and for the State of Iowa

Exhibit "A"

Plat and Description of Land

1. Plat See the plat attached

2 Description of Land. The real estate submitted to the Horizontal Property Regime is described as follows

Lots 9 and 10, North Ridge Subdivision Part V,
Coralville Johnson County, Iowa, according to the
plat thereof recorded in Book 24, Page 23, Plat
Records of Johnson County, Iowa,

Exhibit "B"

Site Plan

See Site Plan attached.

Exhibit "C"

Survey of Floor Plan

See Survey of Floor Plan attached

Exhibit "D"

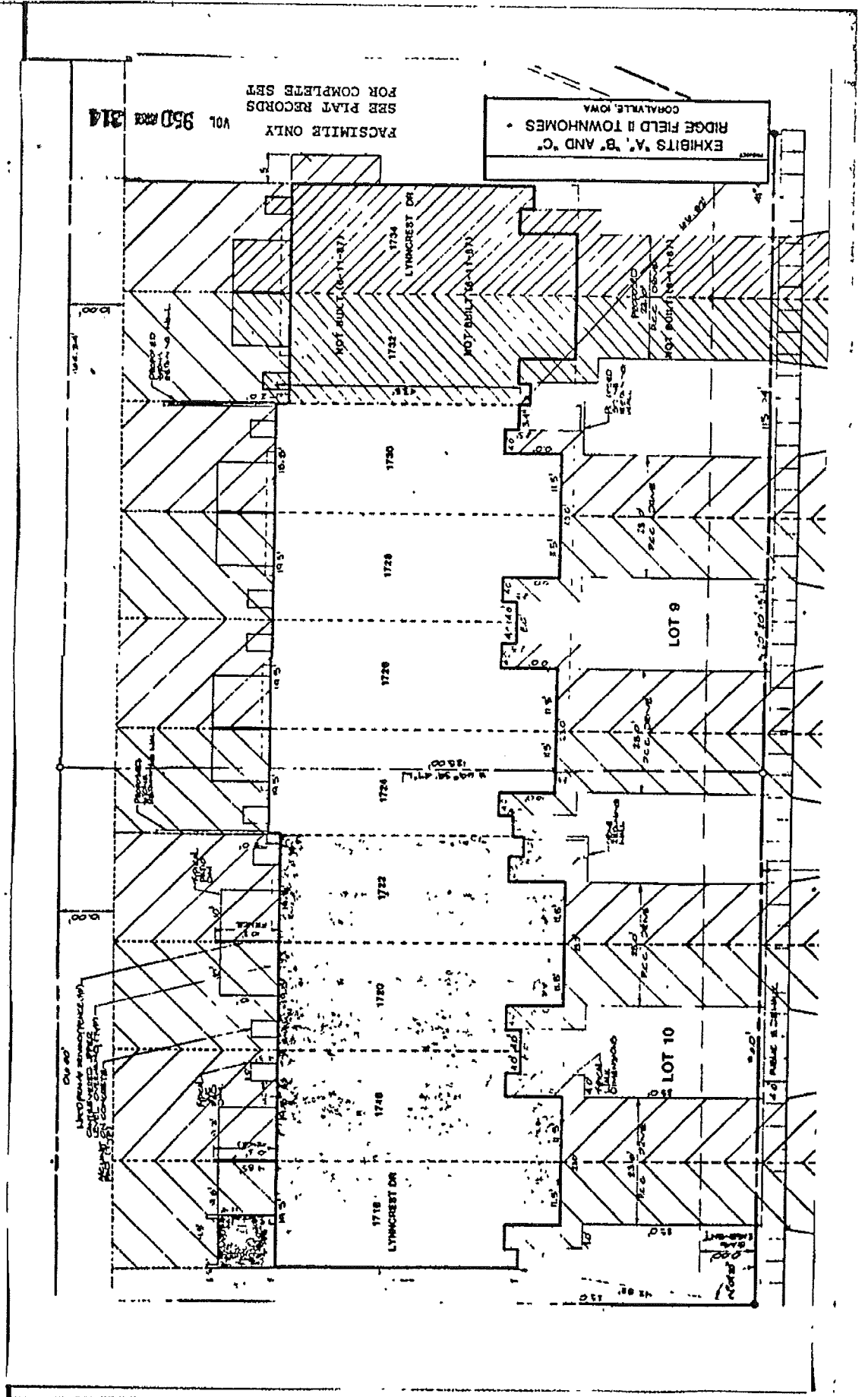
Floor Plan with Detail of Typical Unit

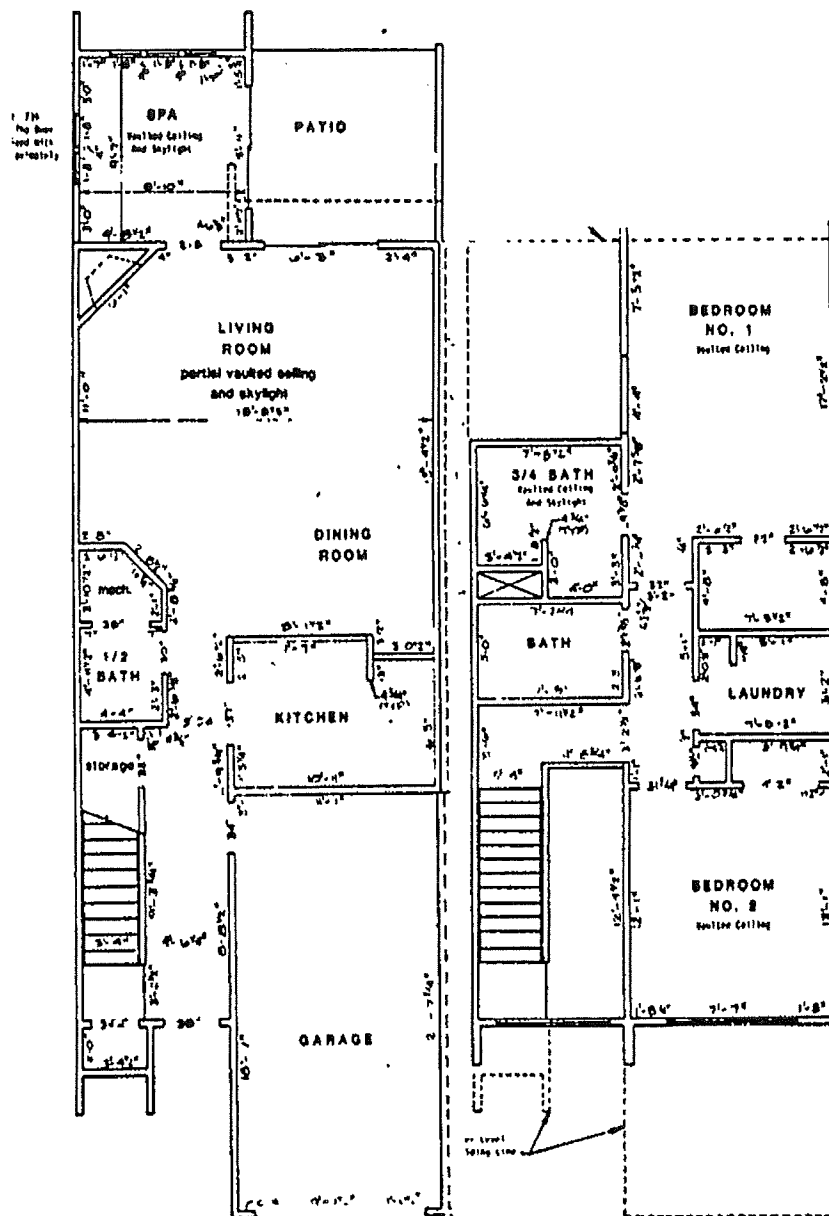
See Floor Plan with Detail of Typical Unit attached

Exhibit "E"

Complete Building Plans

See Complete Building Plans attached





LOWER LEVEL

UPPER LEVEL

FLOOR PLAN

FLOOR PLAN

Scale: 1/8" = 1'-0"

FLOOR PLAN WITH DETAIL OF TYPICAL UNIT

EXHIBIT "D"
RIDGEFIELD II TOWNHOMES
CORALVILLE, IOWA

* FACSIMILE ONLY
See Plat Records for Complete Set VOL 950 315

HALL ENGINEERING COMPANY

CONSULTING ENGINEERS
230 EAST MARKET STREET
IOWA CITY, IOWA 52240

IOWA CITY, IOWA
310/351-007

EXHIBIT D-1

CAITERVILLE, IOWA
BIN/427-4477

RIDGE FIELD II TOWNHOMES

CERTIFICATION OF REGISTERED ENGINEER

STATE OF IOWA)
)
JOHNSON COUNTY) SS.

I hereby state that, at the direction of the Developer - AI Wells Construction, a field survey was made by me, or under my direct supervision, of Ridge Field II Townhomes and that I located the existing structures in the field in relation to the property boundaries and that Exhibits A, B and C are a correct representation of the boundaries and the location of the building structures existing at the time of the survey.

I further state that I have shown all proposed buildings, site development features and common elements, with locations and dimensions, as reported to me, by the Developer, as proposed at the time these Exhibits were prepared.

I further state that I have examined Exhibits D and E and that the dimensions, with notations, shown on Exhibit D are representative of the actual units as constructed and that Exhibit E fairly and accurately reflects the plans of the units as constructed insofar as was revealed through non-destructive investigation following construction. However, interior partition locations vary somewhat due to expected carpentry tolerances.

I further state that I am a Registered Professional Engineer under the laws of the State of Iowa.

Richard C. Buss 6-11-87
Richard C. Buss, P.E. Iowa Reg. No. 9024 Date

On this 11th day of June, 1987, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Richard C. Buss, to me known to be the person who executed the above and foregoing statement and acknowledged the execution of the same to be his own voluntary act and deed.

WITNESS my hand and Notarial Seal the day, month and year last above written.



Ros S. Bingham
Notary Public In and for the State of Iowa
VOL 950 PAGE 316

EXHIBIT "F"

RIDGEFIELD II TOWN HOMES

IDENTIFICATION OF UNITS WITH % OF OWNERSHIP IN COMMON ELEMENTS

1. Description of Units and Ownership Interests. The ownership interests in the Common Elements, a description of each Unit in the Regime and a description of the voting rights and the pro rata share of Common Expenses are set forth below.

Lynnerest Unit Address	% of Ownership of Initial Units	% of Ownership Upon Amendment Adding Additional 2 Units	Votes
1716	12.5	10.00	1
1718	12.5	10.00	1
1720	12.5	10.00	1
1722	12.5	10.00	1
1724	12.5	10.00	1
1726	12.5	10.00	1
1728	12.5	10.00	1
1730	12.5	10.00	1
1732	0.0	10.00	1
1734	<u>0.0</u>	<u>10.00</u>	1
	100.00%	100.00%	

condexf

VOL 950 MAX 317

EXHIBIT "C"

ARTICLES OF INCORPORATION

OF

RIDGE FIELD II OWNERS ASSOCIATION

The undersigned, acting as incorporator of a corporation under the Iowa Nonprofit Corporation Act, Iowa Code Chapter 504A (1985), adopts the following Articles of Incorporation for such Corporation

ARTICLE 1.

Section 1 01. Name. The name of the Corporation is **RIDGE FIELD II OWNERS ASSOCIATION**. The Corporation is referred to in these Articles of Incorporation as the "Association".

ARTICLE 2.

Section 2 01. Duration. The Association shall have perpetual duration.

ARTICLE 3.

Section 3 01. Purposes. The purpose for which the Association is organized is to manage, administer, enforce, and implement the maintenance and operation of Ridge Field II Townhomes, a residential project located in Coralville, Johnson County, Iowa, and established pursuant to the Iowa Horizontal Property Act; to exercise and perform all the functions of a "council of Co-owners" as that term is defined in said Act, and to perform all functions and do any and all things permitted or required by the Declaration establishing Ridge Field II Townhomes pursuant to the Act.

ARTICLE 4.

Section 4.01 Powers. The Association shall have unlimited power to engage in and to do any lawful act concerning any or all lawful purposes for which corporations may be organized under the Iowa Nonprofit Corporation Act.

ARTICLE 5

Section 5.01. Registered Office and Agent. The address of the initial registered office of the Association is 150 East Court Street, Iowa City, Johnson County, Iowa, and the name of its initial registered agent at such address is Dell A. Richard.

ARTICLE 6.

Section 6.01 Initial Board of Directors. The number of directors constituting the initial Board of Directors of the corporation is one (1), and the name and address of the person who is to serve as the initial director is

NAME

ADDRESS

Alan L. Wells

751 Camp Cardinal Road
Coralville, Iowa 52241

Section 6.02. Number of Directors. The number of Directors shall be fixed by the Bylaws, except the initial Board of Directors. The Bylaws may fix the number of Directors either by stating the number or by providing that the number of Directors shall be the number determined by the members from time to time as provided in the Bylaws.

Section 6.03. Removal of Directors. At any meeting of Directors, if the notice of the meeting includes a statement to the effect that the purpose or one of the purposes for which the meeting is called is to remove one or more named Directors, the Directors may remove any or all such named Directors, with or without cause, by the affirmative vote of two-thirds (2/3) of the full number of Directors. In addition, the Bylaws may provide that the failure of a Director to attend a specified number of meetings of the Board of Directors, or other acts or omissions specified in the Bylaws, shall constitute resignation from the Board of Directors. The Bylaws may provide for exceptions, procedures, and additional provisions regarding the foregoing matters. Any vacancy or vacancies in the Board of Directors caused by any such removal may be filled as provided in the Bylaws.

ARTICLE 7.

Section 7.01. Incorporator. The incorporator is Alan L. Wells.

ARTICLE 8

Section 8.01. Restrictions. All the purposes and powers stated in these Articles of Incorporation shall be subject to the following restrictions

(a) The Association shall be operated exclusively for the purposes stated in Article 3.

(b) The Association shall not be conducted for profit, and no part of its net earnings or assets shall inure to the benefit of any member, Director, officer, or other private individual.

(c) No member, Director, or officer of the Association shall receive any dividend, distribution, or compensation from the Association, except reasonable compensation for personal services actually rendered and reasonable reimbursement for authorized expenditures actually incurred.

Section 8.02. Legislative and Political Activities. No substantial part of the activities of the Association shall be carrying on propaganda or otherwise attempting to influence legislation, and the Association shall not participate in nor intervene in (including the publishing or distribution of

VOL 95D PAGE 37A

statements) any political campaigns on behalf of or in opposition to any candidate for public office.

Section 8.03 Disposition of Assets. The assets of the Association are dedicated to the purposes stated in Article 3. In the event of liquidation or dissolution of the Association, its assets shall be applied and distributed as provided by law. However, to the maximum extent permitted by law, such assets shall be distributed exclusively for purposes substantially similar to those stated in Article 3 and within the meaning of Section 501(c) of the Internal Revenue Code and applicable regulations. Such purposes shall be selected by the Board of Directors or by a court of competent jurisdiction if the Board of Directors fails to make such selection. In the event of liquidation or dissolution, such assets shall not be distributed to any corporation or any organization operated for profit.

Section 8.04 Exempt Property. Private property of members, Directors, officers, and employees of the Association shall not be liable for debts of the Association. This provision shall not be amended except with the unanimous vote of the members and Board of Directors.

ARTICLE 9.

Section 9.01 Amendments to Articles of Incorporation. These Articles of Incorporation may be amended by the affirmative vote of two-thirds (2/3) of the members of the Association.

Signed on May 12, 1987



Alan L. Wells
Incorporator

STATE OF IOWA, JOHNSON COUNTY) ss.

On this 12 day of May, 1987, before me, the undersigned a Notary Public in and for the State of Iowa, personally appeared Alan L. Wells, to me known to be the person named in and who executed the foregoing Articles of Incorporation, and acknowledged that he executed the same as his voluntary act and deed.



Notary Public in and for the
State of Iowa

a/condexgl

BYLAWS
OF
RIDGE FIELD II OWNERS ASSOCIATION

TABLE OF CONTENTS

ARTICLE 1 SCOPE AND DEFINITIONS

- Section 1.01 Declaration
- Section 1 02 Definitions

ARTICLE 2 OFFICES AND PLACES OF BUSINESS

- Section 2 01 Registered Office
- Section 2 02 Principal Place of Business
- Section 2 03 Other Places

ARTICLE 3 MEMBERS

- Section 3.01 Identity
- Section 3 02 Succession
- Section 3 03 Co-ownership of Unit
- Section 3 04 Annual Meetings
- Section 3 05 Special Meetings
- Section 3 06 Place of Meetings
- Section 3 07 Notice
- Section 3 08 Voting
- Section 3 09 Voting Lists
- Section 3 10 Quorum
- Section 3 11 Adjourned Meetings
- Section 3 12 Proxies
- Section 3 13 Rules and Order of Business

ARTICLE 4 BOARD OF DIRECTORS

- Section 4 01 General Powers
- Section 4 02 Initial Board
- Section 4 03 Number and Election
- Section 4 04 Election by Ballot
- Section 4 05 Resignation of Director
- Section 4 06 Vacancies
- Section 4 07 Removal of Directors
- Section 4 08 Annual and Regular Meetings

Section 4 09.	Special Meetings	8
Section 4.10.	Place of Board Meetings	8
Section 4 11.	Notice	8
Section 4.12.	Quorum	8
Section 4.13	Adjourned Board Meetings	8
Section 4 14.	Vote Required for Board Action	8
Section 4.15.	Directors' Voting Rights	9
Section 4 16.	Organization	9
Section 4.17	Rules and Order of Business	9
Section 4.18	Presumption of Assent	9
Section 4 19.	Waiver of Notice by Directors	10
Section 4 20.	Informal Action by Directors	10
Section 4 21.	Compensation	10

ARTICLE 5. OFFICERS

Section 5 01.	Required and Optional Officers	10
Section 5 02	Election or Appointment of Officers	10
Section 5 03	Terms and Qualifications of Officers	11
Section 5 04.	Removal of Officers	11
Section 5 05.	Vacancies	11
Section 5 06	Duties and Powers of Officers	11
Section 5.07	President	12
Section 5 08	Vice-Presidents	12
Section 5 09	Secretary	12
Section 5.10	Treasurer	12
Section 5 11	Assistant Secretaries	13
Section 5 12	Assistant Treasurers	13
Section 5 13	Compensation	13

ARTICLE 6 COMMITTEES

Section 6.01	Executive Committee	13
Section 6 02	Nominating Committee	14
Section 6 02	Other Committees	14

ARTICLE 7 BUDGET AND ASSESSMENTS

Section 7 01	Annual Budget	14
Section 7 02	Adoption of Budget	14
Section 7 03	Assessments	14
Section 7 04	Proration	15
Section 7 05	Annual Report	15
Section 7 06	Supplemental Budget	15
Section 7 07	Liens	15
Section 7 08	Records and Statement of Account	15

Section 7.09.	Holding of Funds	15
Section 7 10.	Reserves	15
Section 7.11	Mortgage Foreclosures	16
Section 7.12.	Additional Remedies	16

ARTICLE 8. GENERAL PROVISIONS

Section 8.01.	Seal	16
Section 8.02.	Fiscal Year	16
Section 8 03	Execution of Documents and Instruments	16
Section 8 04	Borrowing	16
Section 8 05.	Checks and Drafts	17
Section 8.06	Indemnification	17
Section 8 07	Limitation of Liability	18
Section 8 08.	Bonds	18
Section 8.09.	Authority to Carry Out Resolutions and Motions	18
Section 8 10	Effect of Partial Invalidity	19
Section 8 11	Enforcement Proceedings	19

ARTICLE 9 AMENDMENTS TO BYLAWS

Section 9 01	Reservation of Right to Amend; Retroactive Effect	19
Section 9 02.	Procedure to Amend, Board Action	20

020
950
VUL

Exhibit "B"

BYLAWS

OF

RIDGE FIELD II OWNERS ASSOCIATION

ARTICLE 1. SCOPE AND DEFINITIONS

Section 1 01 Declaration These are the Bylaws of Ridge Field II Owners Association (hereinafter referred to as "Association") a corporation organized pursuant to Chapter 504A of the 1987 Code of Iowa, as amended, for the purpose of administering Ridge Field II Town Homes, a Horizontal Property Regime (condominium) established pursuant to Chapter 499B of the 1987 Code of Iowa, as amended, located on certain portions of the following land in the City of Coralville, Johnson County, Iowa:

Lots 9 and 10 in North Ridge Subdivision Part V,
Coralville, Johnson County, Iowa, according to the plat
thereof recorded in Plat Book 22, Page 43, Plat Records
of Johnson County, Iowa.

Section 1 02 Definitions. The terms used herein, except to the extent provided otherwise, shall have the same meaning as those terms set out in the Declaration of Condominium establishing the Regime contemplated by these Bylaws

ARTICLE 2. OFFICES AND PLACES OF BUSINESS

Section 2 01 Registered Office The registered office of the Association required by the Iowa Nonprofit Corporation Act to be maintained in the State of Iowa may be, but need not be, the same as its principal place of business. The registered office may be changed from time to time by the Board of Directors as provided by law

Section 2 02 Principal Place of Business. The principal place of business of the Association shall be located at the place, within or without the State of Iowa, fixed by (or pursuant to authority granted by) the Board of Directors from time to time

Section 2 03 Other Places The Association may conduct its business, carry on its operations, have offices, carry out any or all of its purposes, and exercise any or all of its powers anywhere in the world, within or without the State of Iowa

ARTICLE 3. MEMBERS

Section 3 01 Identity The members of the Association shall consist of the respective Unit Owners of the property known as Ridge Field II Town Homes in Coralville, Iowa. The words "member" or "members" as used in these Bylaws mean and refer to "Owner" or "Unit Owners", as the case may be, as defined in the Condominium Declaration. If an Owner is an entity other than a natural person, it shall, within 30 days after recording the deed or other document of title,

designate in writing its representative. Membership shall be appurtenant to and shall not be separated from the ownership of any Unit.

Section 3.02 Succession. The membership of each Owner shall terminate when he or she ceases to be a Unit Owner, and upon the sale, transfer, or other disposition of an ownership interest in the Project, his or her membership in the Association shall automatically be transferred to the new Owner succeeding to such ownership interest. Upon the transfer of ownership of a Unit, however accomplished, the new Owner acquiring or succeeding to such ownership shall provide the Secretary of the Association with a copy of the recorded deed or document of title and a copy of the mortgage, deed of trust, or lien thereon, if any, created in connection with such transfer of title, whereupon such new Owner shall automatically become a member of the Association.

Section 3.03 Co-Ownership of Unit. If more than one person owns an interest in the same Unit, all such persons shall be members and remain jointly and severally liable for all membership obligations. In such cases, or if more than one fiduciary or other official is acting in the premises, the votes entitled to be cast by the Owners of that Unit shall be cast by the person or persons named on a Certificate signed by all Owners of that Unit or fiduciaries or other officials. If such Certificate is not executed and filed with the Association, the number of votes entitled to be cast with respect to that Unit shall not be counted or voted for purposes of a quorum or in determining the outcome of any vote unless all Owners of the Unit or fiduciaries, or officials, are present and concur in the casting of such votes. This restriction, however, shall not affect the total number of votes outstanding and entitled to be cast which shall remain as indicated in Exhibit F, nor shall it affect any percentage of such total number of votes as is required for any purpose as set forth in any of the Condominium Documents.

Section 3.04 Annual Meetings.

(a) **First Annual Meeting.** The first annual meeting of members of the Association shall be held on a date determined by the Board not less than 30 days nor more than 120 days after the date on which the Declarant has consummated the sale of seventy-five (75%) percent of the Units, but, in any event, not later than January 1, 1990. However the Declarant may call the first annual meeting of the members of the Association at any time prior to such date. Subject to the provisions of Section 4.02, the members shall elect Directors at the first annual meeting.

(b) **Regular Annual Meetings.** Subsequent to the first annual meeting, the regular annual meeting of the Association shall be held each year for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. The exact date, time, and place of the regular annual meeting shall be determined by the Board.

Section 3.05 Special Meetings. Special meetings of the members may be called, and a time and place fixed by the President, by one third (1/3) of the Directors, or by at least twenty five percent (25%) of the entire membership.

va 950ms 321

Section 3.06. Place of Meetings. Any meeting of the members may be held at any place within or without the State of Iowa. If no other place is fixed for a meeting of the members, the meeting place shall be the principal place of business of the Association in the State of Iowa.

Section 3.07. Notice. It shall be the duty of the Secretary or his designate to give written notice to members of the time and place of the annual meeting. The person or persons calling a special meeting, pursuant to Section 3.05, shall give like written notice of the time and place of such special meeting. All notices shall set forth the purpose or purposes for which the meeting will be held and no action shall be taken at a special meeting which is not directly related to the purpose of the special meeting as defined in said notice. Notice shall be given by mailing or delivering the same not less than ten (10) nor more than thirty (30) days prior to the date of the meeting. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his or her address as it appears on the records of the Association with postage prepaid.

Section 3.08. Voting. Each Unit shall be entitled to one vote in any election or on any issue upon which a vote is allowed or required. The Unit Owner shall cast the vote, and multiple Owners shall act according to Section 3.03. No fractional votes shall be permitted. A Unit Owner's right to vote shall be automatically suspended for failure to pay when due the assessments levied in accordance with these Bylaws if the failure continued for ten (10) days after written notice of delinquency.

Section 3.09. Voting Lists. At least three (3) days before each meeting of members, a complete list of members entitled to vote at the meeting shall be prepared by the Secretary of the Association, listing the members in alphabetical order with the address of each member shown. The list shall be kept on file at the office of the Association and shall be subject to inspection by any member at any time during usual business hours. The list shall also be available at the time and place of the meeting and shall be subject to the inspection by any member during the meeting.

Section 3.10. Quorum. A quorum at a members' meeting shall consist of the presence of members in person or by proxy, representing a majority of the Units. The acts carried or approved by a vote of a majority of the Units represented at a meeting at which a quorum is present shall constitute the acts of the membership unless a different rule is provided herein or by the Articles of Incorporation, the Declaration or other agreement to which the Association is a party. If neither the President nor the Vice President is able to preside, a chairman shall be elected by the members present at such meeting.

Section 3.11. Adjourned Meetings. Any meeting of the members may be adjourned from time to time and to any place, with notice to all members, by the affirmative vote of a majority of the members present at a meeting even if less than a quorum (notwithstanding Section 3.10) is present. At any adjourned meeting at which a quorum is present, any business may be transacted which might

have been transacted at the original meeting with a quorum present. In the event a quorum is not present at an adjourned meeting, the members present, though less than a quorum, may give notice to all members of an adjourned meeting, and, at such adjourned meeting, ten percent of the members shall constitute a quorum

Section 3 12 Proxies At any membership meeting, a person holding a member's proxy to vote shall be permitted to participate in such meeting and shall be permitted to cast such member's vote on all questions properly coming before such meeting, provided such proxy must be in writing and signed by a member or other person entitled to cast votes, and shall set forth the Unit with respect to which such rights are appurtenant, and the period which the proxy is to be in force and effect. A decision of the Board of Directors as to the sufficiency of any proxy for recognition shall be final and not subject to appeal to the members

Section 3 13 Rules and Order of Business. Except as otherwise expressly required by law, the Declaration, the Articles of Incorporation, or these By-laws, Meetings of members shall be conducted in accordance with Robert's Rules of Order, Revised (as further revised from time to time) Unless otherwise determined by the Board of Directors, the order of business at meetings of members, to the extent applicable, shall be as follows

- (a) Election of Chairman, if required
- (b) Calling roll and certification of proxies
- (c) Proof of notice of meeting or waiver of notice.
- (d) Reading and disposal of any unapproved minutes
- (e) Reports of officers, if applicable.
- (f) Reports of committees, if applicable
- (g) Election of Directors, if applicable.
- (h) Unfinished business
- (i) New Business
- (j) Adjournment

Failure to comply with this Section shall not affect the validity of any action taken at any meeting unless specific and timely objection is made at the meeting and the person complaining sustains direct and material damage because of such failure

ARTICLE 4 BOARD OF DIRECTORS

Section 4 01 General Powers. All of the powers and duties of the corporation (including those existing under the common law and statutes, the Articles of Incorporation and the Condominium Documents shall be exercised by the Board. Such powers and duties of the Directors shall be exercised in accordance with the provisions of the Declaration which governs the use of the land, and shall include in addition to those elsewhere provided for, but shall not be limited to, the following

a. **Assessments.** To make and collect assessments against members for all common expenses

b. **Exercise of Powers.** To use the proceeds of assessments in the exercise of its powers and duties

c. **Maintenance of the Project** The maintenance, repair, replacement and operation of the Condominium property, including all Common Elements, Units, Garages and Storage Cubicles, as applicable, and the construction of new improvements or alterations, if authorized, and making and providing for payment for all such work and approving or delegating to the Treasurer authority to approve vouchers therefor

d. **Maintenance Grounds.** To maintain the lawn and all trees and shrubs at a normally acceptable level which shall include regular watering, fertilizing and mowing. Any trees and shrubs which die shall be replaced with equivalent nursery stock as soon as practical.

e. **Casualty Reconstruction** The reconstruction, repair, restoration, or rebuilding of the Condominium Property, and of any Units as applicable after casualty or otherwise

f. **Regulations** To make and amend regulations restricting the use and occupancy of the Property and in their discretion to permit or forbid an action or conduct as discretion is committed to them in the Condominium Documents

g. **Enforce Regulations.** To enforce by legal means the provisions of the Condominium Documents

h. **Hire Management Agent.** To contract for management of the Condominium and to delegate to such "Management Agent" all powers and duties of the corporation except such as are specifically required by the Condominium Documents to have approval of the Board of Directors or the membership of the corporation, to employ, designate and remove any personnel necessary for the maintenance, repair and replacement of the Common Elements

i. **Pay Taxes, etc** To pay taxes and assessments which are liens against any part of the Condominium other than individual Units, Garages and Storage Cubicles, and the appurtenances thereto, and to assess the same against the Units subject to such liens

j. **Insurance** To carry insurance for the protection of Members of the corporation against casualty, liabilities and other contingencies

k. **Pay Utilities** To pay the cost of all the utility or other services rendered to any of the Condominium property which is not billed directly to Unit Owners

l. **Resolve Disputes re: Interpretation** To interpret and apply the provisions of the Condominium Documents in matters of dispute between Unit Owners or

between Unit Owners and the Association, which determination shall be binding on the Owners

m. **Supervise Actions of the Members.** To conduct or supervise all votes or determinations by members other than a membership meeting.

n **Own Property.** To acquire title to and ownership of, in the name of the Association, Units within the Regime upon judicial sale or otherwise as permitted in the Declaration, and on behalf of all Owners to sell, lease or mortgage such Units and to borrow funds for any legitimate purpose and to assign as security therefor the assessment receivables due the Association, provided the Board may in no manner affect or encumber the Common Elements of the Regime or any Unit or the percentage interest appurtenant to such Unit (except such Units and the appurtenant interests thereto as the Association has acquired upon judicial sale or otherwise as allowed), and provided further, the authority of the Board to borrow in excess of Five Thousand Dollars (\$5,000 00) other than in connection with the mortgage of an acquired Unit to the amount of the loan value thereof shall be exercised only in the event of approval of Unit Owners entitled to cast seventy-five percent (75%) of the total number of votes outstanding and entitled to be cast For purposes of permitted conveyance, lease or encumbrance of Units or assessments receivables, the Board shall be regarded as the irrevocable agent and attorney-in-fact for all Unit Owners and members.

o **Committees.** Appoint committees of the Board and delegate to such committees the Board's authority to carry out certain duties of the Board.

p **Fiscal Year.** Determine the fiscal year of the Association and change the fiscal year from time to time as the Board deems advisable

q **Annual Budget.** Estimate the amount of the annual budget and provide the manner of assessing and collecting from the members their respective shares of such estimated expenses, as provided in these Bylaws.

r **Other Powers** Exercise all other powers and duties of the Council of Co-owners referred to in the Act and all powers and duties of a Board of Directors referred to in the Declaration, these Bylaws, and the Iowa Nonprofit Corporation Act

Section 4 02 Initial Board The affairs of the Association shall be managed by an initial Board of one (1) Director The initial Board shall consist of such person as the Declarant may appoint pursuant to the Declaration and need not be a member of the Association The initial Board shall serve until the first annual members meeting From and after the first annual meeting of members, the Board shall be selected from the members of the Association. An officer or designated agent of a partnership or corporate member shall qualify to serve as a Director

Section 4 03 Number and Election. From and after the first annual meeting, the Board shall be three (3) in number, and at the first meeting, the term of the initial Board shall expire and the full complement of three (3)

323
EX 036
VI

Directors shall be elected. Thereafter, the term of office for each Director shall be three (3) years, except that at the first annual meeting, one (1) Director shall be elected for a one (1) year term, one (1) Director shall be elected for a two (2) year term, and one (1) Director shall be elected for a three (3) year term, so that at each annual meeting subsequent to the first annual meeting, the terms of office of one-third (1/3) of the Board shall expire and new Directors shall be elected accordingly, but there shall be no limitation on the number of terms during which a Director may serve. All Directors shall serve until their successors are duly designated and qualified. Until all Units are sold by the Declarant, the Declarant may appoint one (1) Director to sit as a member of the Board in addition to the Directors elected by the members. Directors appointed by the Declarant shall have the same voting rights as Directors elected by the members.

Section 4.04 Election by Ballot. Each Director shall be elected by ballot (unless such requirement is waived by unanimous consent) and by a plurality of the votes cast at the annual meeting of the members of the Association. Each person entitled to vote shall be entitled to vote for as many nominees as there are vacancies to be filled by election and each director shall be elected by a separate ballot unless provided otherwise by unanimous consent of the members.

Section 4.05 Resignation of Director. Any Director may resign at any time by filing his or her written resignation with the President or Secretary. Resignation shall take effect immediately upon such filing, unless a later effective date is stated therein.

Section 4.06 Vacancies. Any vacancy occurring in the Board for any reason and any Directorship to be filled by reason of an increase in the number of Directors may be filled by the affirmative vote of a majority of the Directors then in office, even if less than a quorum. The Board shall have sole authority to determine whether a vacancy exists. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 4.07. Removal of Directors. The initial Directors shall be subject to removal only by the Declarant. In addition to the provisions of Section 6.03 of the Articles of Incorporation, any elected Director or Directors may be removed for any cause after notice and hearing or reasonable opportunity for hearing, by the affirmative vote of sixty percent (60%) of the full number of members at any regular or special meeting of the members.

Section 4.08 Annual and Regular Meetings. The annual meeting of the Board shall be held within ten (10) days following the annual meeting of members each year for the purpose of electing officers and for the transaction of such other business as may come before the meeting. The exact date, time, and place of the annual meeting shall be determined by the Board or the President. Regular meetings of the Board may be held at the times (but at least every calendar quarter) and places fixed by (or pursuant to authority granted by) resolution or motion adopted by the Board from time to time, without notice other than such resolution or motion. However, unless both the time and place

of such a regular meeting are fixed by the Board, notice of the meeting shall be given as provided in Section 4.11.

Section 4.09 Special Meetings. Special meetings of the Board may be called, and a time and place fixed, by the President, the Secretary, or any two Directors.

Section 4.10. Place of Board Meetings. Any meeting of the Board may be held at any place, within or without the State of Iowa. The place of each meeting of the Board shall be fixed as provided in these Bylaws, or by a waiver or waivers of notice fixing the place of the meeting and signed by all Directors then in office. If no other place is fixed for a meeting of the Board, the meeting place shall be the principal place of business of the Association.

Section 4.11. Notice. Notice of any meeting of the Board shall be given at least seventy-two (72) hours prior thereto in the case of regular meetings and at least forty-eight (48) hours prior thereto in the case of special meetings by written notice delivered personally or mailed to each Director or by oral communication. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the Director at his or her address as it appears on the records of the Association with postage prepaid.

Section 4.12 Quorum. Except as otherwise expressly provided by the Articles or these Bylaws, a majority of the number of Directors fixed by Section 4.03 shall constitute a quorum at any meeting of the Board.

Section 4.13. Adjourned Board Meetings. Any meeting of the Board may be adjourned from time to time and to any place, without further notice, by the affirmative vote of a majority of the Directors present at the meeting, even if less than a quorum (notwithstanding Section 4.12 and 3.14) is present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the original meeting with a quorum present.

Section 4.14. Vote Required for Board Action. Except as otherwise expressly provided in these Bylaws, the affirmative vote of a majority of the Directors present at a meeting at which a quorum is present shall be required and shall be sufficient to adopt any motion or resolution or take any action at any meeting of the Board. However, the following actions may be taken by the affirmative vote of a majority of the Directors present at the meeting, even if a quorum is not present (notwithstanding Section 4.12): election or appointment of a temporary chairman or temporary secretary for the meeting (if necessary), or adoption of any motion to adjourn or recess the meeting or any proper amendment to any such motion. Whenever the minutes of any meeting of the Board state that any motion or resolution was adopted or that any action was taken at the meeting, the minutes shall be prima facie evidence that the motion or resolution was duly adopted or that the action was duly taken by the required vote. The minutes need not state the number of Directors voting for and against the motion, resolution, or action.

Section 4.15 Directors' Voting Rights. Each Director (including, without limitation, any Director who is also an officer of the Association and any Director presiding at a meeting) may vote on any question at any meeting of the Board except as otherwise expressly provided in these Bylaws.

Section 4.16. Organization. The President, or a Vice-President, as provided in these Bylaws, shall preside at each meeting of the Board. If the President and each Vice-President are absent or decline to preside, the Board may elect or appoint a temporary chairman to preside at the meeting. The Secretary or an Assistant Secretary, as provided in these Bylaws, shall act as secretary of each meeting of the Board. If the Secretary and each Assistant Secretary are absent or decline to act, the Board may elect or appoint a temporary secretary for the meeting.

Section 4.17. Rules and Order of Business. The Board may adopt any rules, not inconsistent with applicable law or the Articles or these Bylaws, which the Board deems advisable for the conduct of its meetings. Except as otherwise expressly required by law, the Declaration, the Articles of Incorporation, these Bylaws, or such rules, meetings of the Board shall be conducted in accordance with Robert's Rules of Order, Revised (as further revised from time to time). Unless otherwise determined by the Board the order of business at its first meeting held after each annual meeting of members, and at other meetings of the Board to the extent applicable, shall be:

- (1) Roll call or other determination of attendance and quorum
- (2) Proof of notice of meeting or waiver of notice.
- (3) Reading and disposal of any unapproved minutes
- (4) Reports of officers and committees.
- (5) Election of officers.
- (6) Unfinished business.
- (7) New business
- (8) Adjournment

Failure to comply with this Section shall not affect the validity of any action taken at any meeting unless (a) specific and timely objection is made at the meeting and (b) the person complaining sustains direct and material damage because of such failure.

Section 4.18 Presumption of Assent. A Director who is present at a meeting of the Board (or a committee of Directors) at which action on any corporate matter is taken, shall be presumed to have assented to the action taken unless his or her dissent or abstention is entered in the minutes of the meeting or unless the Director files a written dissent or abstention with the person acting as secretary of the meeting before its adjournment or forwards the dissent or abstention by registered or certified mail to the Secretary of the Association immediately after adjournment of the meeting. The right to dissent or abstain from voting shall not apply to a Director who voted in favor of the action.

Section 4 19 Waiver of Notice by Directors. Whenever any notice is required to be given to any Director under any provision of law, the Declaration, the Articles, or these Bylaws, a waiver thereof in writing signed by the Director or Directors entitled to the notice, whether signed before or after the time of the meeting or event of which notice is required, shall be equivalent to the giving of the notice. Neither the business to be transacted at, nor the purpose of any meeting of the Board need be specified in any waiver of notice of the meeting. The attendance of any Director at any meeting of the Board shall constitute a waiver by the Director of any notice of the meeting to which he or she would otherwise be entitled, and shall constitute consent by the Director to the time and place of the meeting and the transaction of all business which may come before the meeting. However, a Director's attendance shall not constitute a waiver if the Director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened and if he or she expressly states such objection promptly after the meeting begins

Section 4 20 Informal Action by Directors. Any action required by law, the Declaration, the Articles, or these Bylaws to be taken by vote of or at a meeting of the Board (or a committee of Directors), or any action which may or could be taken at a meeting of the Board (or a committee of Directors), may be taken without a meeting if a consent in writing setting forth the action taken is signed by all Directors then in office (or all members of the committee, as the case may be). Such consent shall have the same force and effect as a unanimous vote, and any officer may state or certify that the action was taken by a unanimous vote. The signing by each Director (or each member of the committee) of any one of several duplicate originals or copies of the written consent shall be sufficient. The written consent shall be filed with the Secretary as part of the minutes of the Association. The action shall be deemed to be taken on the date of the written consent as stated therein or on the date of filing with the Secretary, whichever of these two dates occurs first.

Section 4 21 Compensation. A Director may be paid for his or her actual reasonable expenses in the performance of his or her duties. However, no Director shall receive compensation for attending meetings of the Board, unless expressly provided for in resolutions duly adopted by a majority of the members of the Association. However, nothing shall preclude any Director from serving the Association in any other capacity and receiving compensation therefor.

ARTICLE 5. OFFICERS

Section 5 01 Required and Optional Officers. The officers of the Association shall be a President, one or more Vice-Presidents (the number to be determined by the Board from time to time), a Secretary, and a Treasurer. The Board may also elect or appoint one or more Assistant Secretaries, one or more Assistant Treasurers, and any other officers which the Board deems advisable.

Section 5 02 Election or Appointment of Officers. At its first meeting following the annual meeting the Board shall elect the officers required by Section 5.01 and may elect or appoint any other officers and agents which the

526 147 056 IN

Board deems advisable. If in any year the election of officers does not take place at such meeting, the election shall be held as soon thereafter as is convenient. Any election may be conducted by written ballot, but need not be conducted by written ballot unless required by a rule or motion adopted by the Board. Failure to hold one or more annual elections of officers shall not end the term of any officer, shall not cause any vacancy, and shall not affect the validity of any act of the Association or of any officer, and the term of each officer shall continue as provided in Section 5.03.

Section 5.03. Terms and Qualifications of Officers. The term of each officer shall begin at the time of his or her election, unless otherwise ordered by the Board. Unless sooner removed as provided in Section 5.04 or unless the office is abolished, each officer shall serve for a term ending at the time of the next election of officers referred to in the first two sentences of Section 5.02. However, any officer may resign at any time by delivering a written resignation to the President or Secretary of the Association. The resignation shall take effect immediately upon delivery, unless it states a later effective date. Except for the President and Vice-Presidents, officers need not be Directors of the Association. Any two or more offices may be held by the same person.

Section 5.04. Removal of Officers. Any officer or agent of the Association may be removed by the Board whenever in its judgment the best interests of the Association will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer or agent shall not of itself create contract rights.

Section 5.05. Vacancies. Any vacancy occurring in any office for any reason may be filled by the Board, or the Board may authorize any officer or committee to fill the vacancy. An officer elected or appointed to fill a vacancy shall serve for a term as provided in Section 5.03. However, if an officer is elected or appointed to fill a vacancy caused by the resignation of a predecessor whose resignation has not yet become effective, the new officer's term shall begin when the predecessor's resignation becomes effective.

Section 5.06. Duties and Powers of Officers. Except as otherwise expressly provided by law or the Articles, the duties and powers of all officers and agents of the Association may be determined and defined from time to time by the Board. Unless otherwise determined by the Board, the officers referred to in the following Sections shall have the duties and powers stated in the following Sections, in addition to all duties and powers prescribed by law, the Declaration, the Articles, or other provisions of these Bylaws. However, the Board at any time may change, add to, limit, transfer to another officer or agent, or abolish any or all of the duties and powers of any officer or agent of the Association (including, without limitation, the duties and powers stated in the following Sections and in other provisions of these Bylaws). Any person who holds two or more offices at the same time may perform or exercise any or all duties and powers of either or both offices in either or both capacities.

Section 5.07 President. The President shall be the principal executive officer of the Corporation and, subject to the control of the Board shall in general supervise and control all the business and affairs of the Association. He or she shall, when present, preside at all meetings of the Board and the members. The President shall have authority to sign, execute, and acknowledge on behalf of the Corporation, all deeds, mortgages, bonds, contracts, leases, reports, and all other documents or instruments necessary or proper to be executed in the course of the Association's regular business, or which shall be authorized by resolution of the Board, and, except as otherwise provided by law or the Board, may authorize the Vice-President(s) or other officer(s) or agent(s) of the Association to sign, execute, and acknowledge such documents or instruments in his or her place. In general the President shall perform all duties incident to the office of President and such other duties as may be prescribed from time to time by the Board.

Section 5.08. Vice-Presidents. Subject to Section 5.06, in the absence of the President or in event of his or her death or inability to act, the Vice-President (if more than one, the Vice-Presidents in the order designated by the Board or, in the absence of any designation, in the order in which their names appear in the minutes showing their election) shall perform the duties and exercise the powers of the President (including, without limitation, all duties and powers of the President under all provisions of the Articles and these Bylaws or prescribed by the Board, or arising in any other way). Each Vice-President shall also have any other duties and powers prescribed by the Board or the President.

Section 5.09 Secretary. Subject to Section 5.06, the Secretary shall:

- (a) when present, act as secretary of each meeting of members and of the Board,
- (b) keep minutes of all meetings of members and of the Board in minute books,
- (c) see that all notices are given and that records are made and filed as required by law and the Articles and these Bylaws;
- (d) be the custodian of the Association's records;
- (e) have all the usual duties and powers of the Secretary of a corporation and any other duties and powers prescribed by the Board or the President.

Section 5.10 Treasurer Subject to Section 5.06, the Treasurer shall:

- (a) have charge of all funds, securities, and evidences of indebtedness belonging to the Association,
- (b) receive and give receipts for money payable to the Association;

Vol 950 Page 326

(c) cause the Association's funds to be deposited in the name of and to the credit of the Association in depositories designated by or pursuant to authority granted by the Board,

(d) cause the Association's funds to be disbursed when and as authorized,

(e) see that correct and complete books and records of account are kept, in accordance with generally accepted accounting principles uniformly and consistently applied;

(f) see that correct financial statements are prepared and presented to the Board from time to time, in accordance with generally accepted accounting principles uniformly and consistently applied, and

(g) have all the usual duties and powers of the Treasurer of a corporation and any other duties and powers prescribed by the Board or the President

Section 5 11 Assistant Secretaries Subject to Section 5.04, in the absence of the Secretary or in event of his or her death or inability or refusal to act, the Assistant Secretary (if more than one, the Assistant Secretaries in the order designated by the Board or, in the absence of any designation, in the order in which their names appear in the minutes showing their election or appointment) shall perform the duties and exercise the powers of the Secretary. Each Assistant Secretary shall also have any other duties and powers prescribed by the Board, the President, or the Secretary.

Section 5 12 Assistant Treasurers. Subject to Section 5 04, in the absence of the Treasurer or in event of his death or inability or refusal to act, the Assistant Treasurer (if more than one, the Assistant Treasurers in the order designated by the Board or, in the absence of any designation, in the order in which their names appear in the minutes showing their election or appointment) shall perform the duties and exercise the powers of the Treasurer. Each Assistant Treasurer shall also have any other duties and powers prescribed by the Board, the President, or the Treasurer

Section 5 13 Compensation. An officer may be paid for his or her actual reasonable expenses in the performance of his or her duties. However, no officer shall receive compensation for attending meetings of the Board, unless expressly provided for in resolutions duly adopted at an Association members' meeting. However, nothing shall preclude any officer from serving the Association in any other capacity and receiving compensation therefor.

ARTICLE 6. COMMITTEES

Section 6 01 Executive Committee The Board may elect or appoint an Executive Committee consisting of the President, a Vice-President, and one or more other members of the Board. Except as otherwise provided by law, the Executive Committee shall have and may exercise all the duties and powers of the Board in the interim between meetings of the Board. However, the Executive Committee shall have no duties or powers to elect or remove officers, adopt,

alter, amend, or repeal Bylaws; or fill vacancies on the Board. Any action taken by the Executive Committee shall be reported to the Board after such action is taken, and the Board shall ratify, modify, or disaffirm the acts of the Executive Committee.

Section 6 02 Nominating Committee. At least thirty 30 days prior to the annual meeting of members, the President shall appoint, subject to approval of the Board, a Nominating Committee of at least three members. At least 15 days prior to the annual meeting, the Nominating Committee shall submit in writing to the members the names of nominees for each Directorship to be filled. Additional nominations may be made from the floor at the annual meeting.

Section 6 03 Other Committees. The Board may provide for and appoint such additional committees as the Board deems necessary to achieve the purposes of the Association. The Board at any time may increase or decrease the number of members of, remove any member of, adopt rules and regulations for, change the functions of, or terminate the existence of any such committee.

ARTICLE 7. BUDGET AND ASSESSMENTS

Section 7 01 Annual Budget. The Board of Directors shall prepare or cause to be prepared for each fiscal year (a) an annual budget of estimated Common Expenses and (b) assessments to be levied against each Unit. The annual budget shall take into account the estimated Common Expenses and cash requirements for the year, including, without limitation, salaries, wages, payroll taxes, legal and accounting fees, working capital fund, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, power and similar items. The annual budget shall also take into account any surplus or deficit from the current fiscal year and the estimated available cash income from the lease, operation, or use of the Common Elements. The annual budget shall provide for a reserve for contingencies and a reserve for replacements in such amounts as may be determined by the Board.

Section 7 02 Adoption of Budget. The Board shall adopt an annual budget and shall levy assessments against each Unit. After the annual budget and assessments are adopted by the Board, copies shall be distributed to each member at least 30 days prior to the beginning of the fiscal year to which the budget and assessments apply. The annual budget and the assessments shall become effective unless disapproved by a vote of a majority of the total members of the Association prior to the first day of the new fiscal year. In the event the membership disapproves the annual budget or assessments or the Board fails for any reason to adopt a budget or assessments for the succeeding fiscal year, the budget or assessments in effect for the current year shall be repeated for the succeeding fiscal year until such time as an annual budget and assessments are approved for such succeeding year.

Section 7 03 Assessments. The annual budget shall include assessments for each member, and each member shall pay on or before the first day of each month his or her proportionate share of the Common Expenses for each year as shown by the annual budget. Payment shall be in monthly installments of 1/12 of

va 950 m 327

the member's proportionate share. However, until all units are sold, the Board shall have the power to assess unoccupied units a different amount from those units which are occupied

Section 7.04. Proration. If the first or any succeeding fiscal year shall be less than a full year, assessments for each member shall be proportionate to the number of months and days in such fiscal year.

Section 7.05 Annual Report. Within one hundred twenty (120) days after the end of each fiscal year or as soon thereafter as is practicable, the Board shall furnish to each member a statement for the preceding fiscal year, showing receipts and expenditures and such other information as the Board may determine

Section 7.06. Supplemental Budget If it shall appear to the Board at any time that the assessments, determined in accordance with the annual budget for the year, are or will be insufficient to cover the estimated Common Expenses for the remainder of such year, the Board may prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year. Copies of such supplemental budget shall be distributed to each member. The supplemental budget and the assessments made in the supplemental budget shall become effective unless disapproved by a vote of a majority of the total members of the Association within fifteen (15) days after copies are mailed to members

Section 7.07. Liens. If any member fails or refuses to pay the monthly assessment when due, the amount thereof, together with interest thereon at the maximum lawful rate in the State of Iowa from and after the date the assessment is due and payable, shall constitute a lien on the interest of such member as provided in the Declaration

Section 7.08 Records and Statements of Account. The Board shall cause records required by the Act and the Declaration to be kept, including detailed and accurate records of the receipts and expenditures affecting the Common Elements and Limited Common Elements. Payment vouchers may be approved in such manner as the Board may determine. Upon written request and payment of a reasonable fee, the Board shall furnish to any member a statement of his or her account setting forth the amount of any unpaid assessments or other charges due and owing from such member, which statement of account shall be conclusive evidence of the amount of unpaid assessments or other charges due as of the date of such statement.

Section 7.09 Holding of Funds. All funds collected pursuant to the Declaration and these Bylaws shall be held and expended for the purposes outlined in said documents, and, except for special assessments that may be levied against less than all the members and for such adjustments as may be required to reflect delinquent or prepaid assessments, shall be held for the benefit, use, and account of all members. Any person who handles funds of the Association shall be subject to Section 8.08

Section 7.10 Reserves. The Board shall establish reserve funds as required by the Declaration

Section 7 11 Mortgage Foreclosures. Where a Mortgagee or purchaser of a Unit obtains title as a result of foreclosure of a first mortgage, such Mortgagee or purchaser, its successors and assigns, shall not be liable for the assessments chargeable to such Unit due prior to the acquisition of title and such unpaid assessment shall thereafter be deemed to be a Common Expense collectible from all Unit Owners, including the Mortgagee or purchaser, its successors and assigns. The Owner of a Unit pursuant to a voluntary conveyance or by inheritance or devise shall be jointly and severally liable with the grantor or prior Unit Owner for all unpaid assessments, whether generally or "specially" levied against said Unit and the grantor or prior Unit Owner thereof, but without prejudice to the right of such grantee or devisee to recover from the prior Owner the amounts paid therefor

Section 7.12 Additional Remedies. If any installment of any assessment of any kind or character is in default for more than thirty (30) days, the Board of Directors may accelerate the remaining installments and declare the entire amount thereof due and payable within twenty (20) days after written notice thereof is mailed to the Owner in default at his address carried upon the corporate records

ARTICLE 8. GENERAL PROVISIONS

Section 8 01 Seal. The Association shall have no seal unless otherwise ordered by the Board. The Board may decide at any time that the Association shall have a seal, and thereafter the Association shall have a seal until otherwise ordered by the Board

Section 8 02. Fiscal Year. The fiscal year of the Association shall be determined by the Board from time to time

Section 8 03 Execution of Documents and Instruments. All deeds and conveyances of real estate, mortgages of real estate, and leases of real estate (for an initial term of five years or more) to be executed by the Association shall be signed in the name of the Association by the President, or a Vice-President and signed or attested by the Secretary or an Assistant Secretary. All other documents or instruments to be executed by the Association (including, without limitation, contracts, agreements, bonds, reports, releases, promissory notes, and evidences of indebtedness, and deeds, conveyances, mortgages, and leases other than those referred to in the preceding sentence) shall be signed in the name of the Association by any one or more officers of the Association. However, from time to time the Board or President may change, add to, limit, transfer to another officer or agent, or abolish the authority of any officer or officers to sign any or all documents or instruments, or may authorize the execution of any document or instrument by any person or persons. Such action may be either general or continued to specific instances.

Section 8 04 Borrowing. No money shall be borrowed on behalf of the Association and no evidence of indebtedness shall be issued in its name unless

328
950
M

authorized by (or pursuant to authority granted by) the Board. Authorization may be either general or confined to specific instances.

Section 8 05 Checks and Drafts. All checks and drafts issued in the name of the Association shall be signed by the person or persons and in the manner authorized by (or pursuant to authority granted by) the Board.

Section 8 06 Indemnification. The Association may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, by reason of the fact that he or she is or was a Director, officer, member, employee, or agent of the Association, or is or was serving at the request of the Association as a Director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with the action, suit, or proceeding, in the manner and to the extent provided in this Section.

(a) **According to Law** Indemnification may be made in the manner and to the extent provided by Iowa law

(b) **Good Faith.** Indemnification may be made if and to the extent that either the Board or independent legal counsel (in a written opinion) determines that the person to be indemnified acted in good faith and in the manner he or she believed to be in or not opposed to the best interests of the Association. The Board may make this determination (notwithstanding Sections 4 12 and 4 14) by a vote or consent which includes either (1) the votes or consents of a majority of a quorum consisting of Directors who were not parties to the action, suit or proceeding, or (2) a unanimous vote or consent of all Directors who were not parties to the action, suit, or proceeding (whether or not constituting a quorum) if there is at least one such Director.

(c) **By Agreement** Indemnification may be made in accordance with any agreement authorized by the Board before the commencement of the action, suit, or proceeding

(d) **Agreement Supersedes Law.** Subsections (a), (b), and (c) of this Section provide independent and alternative methods of indemnification. Restrictions, prohibitions, and unfavorable presumptions contained in the law governing indemnification referred to in Subsection (a) shall not apply to indemnification under Subsection (b) or (c).

(e) **Expenses Paid by Association.** Expenses incurred in defending any action, suit, or proceeding referred to in this Section may be paid by the Association in advance of the final disposition of the action, suit, or proceeding, upon authorization by any of the methods referred to in this Section and upon receipt of an undertaking by or on behalf of the person to be indemnified to repay such amount unless it is ultimately determined that he or she is entitled to be indemnified by the Association as provided in this Section

(f) **Success of Defense.** To the extent that a person referred to in this Section has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in this Section or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred in connection therewith

(g) **General Comments** Any indemnification of a person may be both as to action in his or her official capacity and as to action in another capacity while holding such official capacity, shall continue as to a person who has ceased to be a Director, officer, member, employee, or agent, and shall inure to the benefit of the heirs, executors, and administrators of the person

(h) **Special Assessment** The Association and the Board shall have the power and responsibility for raising, by special assessment or otherwise, any sums required to discharge the obligations under this Section; provided, however, that the liability of any member shall be limited to such proportion of the total liability hereunder as the member's fractional share of interest in the Common Elements bears to the total interest of all the members in the Common Elements

Section 8 07 Limitation of Liability. No Director or officer of the Association shall be liable to the Association for any act, omission, or negligence, except that he or she shall be liable for loss directly resulting from his or her willful or reckless misconduct. This Section is in addition to all other limitations of liability contained in applicable law, the Declaration, the Articles or other provisions of these Bylaws. The liability of Directors and officers shall be limited or removed to the maximum extent provided either by this Section or by other provisions of these Bylaws or the Articles or by applicable law, and these Bylaws shall be liberally construed to carry out this purpose

Section 8 08 Bonds The Board shall require Fidelity Bonds from all Directors, officers or agents handling or responsible for Association funds in all cases required by FHA 1st mortgage insurance, except any insurance trustee, and shall procure an audit of the accounts and financial records of the Association not less than every two (2) years. The expenses of such matters, including required bonds, shall be Common Expenses of the Association

Section 8 09 Authority to Carry Out Resolutions and Motions. Each resolution or motion adopted by the Board shall be deemed to include the following provision, unless the resolution or motion expressly negates this provision: "The officers of the Association are severally authorized on behalf of the Association to do all acts and things which may be necessary or convenient to carry out the intent of this resolution (motion), including, without limitation, the authority to make, execute, deliver, file, and perform all appropriate contracts, agreements, certificates, documents, and instruments." The foregoing provision shall automatically be a part of the resolution or motion even though

626
MAY 03 1964
MAY 03 1964

not stated in the minutes, and any officer may state or certify that the foregoing provision is included in the resolution or motion

Section 8.10. Effect of Partial Invalidity. If a court of competent jurisdiction adjudges to be invalid any clause, sentence, paragraph, section, or part of the Articles or these Bylaws, the judgment or decree shall not affect, impair, invalidate, or nullify the remainder of the Articles or these Bylaws, but the effect shall be confined to the clause, sentence, paragraph, section, or part adjudged to be invalid.

Section 8.11 Enforcement Proceedings. Except as provided in Section 3.08, the Board shall not impose a fine, suspend voting rights, or infringe upon any other rights of a member or occupant for violations of restrictions, conditions, covenants, rules or regulations unless and until the following procedure is completed

(a) **Demand.** Written demand to cease and desist an alleged violation shall be served upon the alleged violator specifying the alleged violation, the action required to abate the violation, and a time period not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one or a statement that any further violation of the same nature may result in the imposition of sanction after notice if the violation is not continuing

(b) **Notice.** Within twelve (12) months of such demand, if the violation continues past the period stated in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board shall serve the violator with written notice of a hearing to be held by the Board. The notice shall contain the nature of the alleged violation, the time and place of the hearing, which shall be not less than ten (10) days from the giving of the notice, an invitation to attend the hearing and produce any statement, evidence, and witnesses on his or her behalf, and the proposed sanction to be imposed

(c) **Hearing.** The hearing shall be held in executive session pursuant to the notice affording the Member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer or Director who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any. The person subject the procedure and hearing set forth herein shall have the right to present evidence (the formal rules of evidence shall not apply to the hearing) and to be represented by counsel at his or her own expense

ARTICLE 9. AMENDMENTS TO BYLAWS

Section 9.01 Reservation of Right to Amend; Retroactive Effect. The Association reserves the right from time to time to amend these Bylaws in the

manner now or hereafter permitted by the Declaration, the Articles, and these Bylaws, whether or not the amendment constitutes or results in a fundamental change in the purposes or structure of the Association. The original Bylaws of the Association and each amendment to the Bylaws (unless otherwise expressly stated in the amendment or in the resolution adopting it) shall be effective retroactively to the beginning of the Association's existence and (to the maximum possible extent) shall apply to acts, transactions, and events occurring and rights and liabilities arising before adoption of the Bylaws or the amendment. The preceding sentence and the retroactive effect of the Bylaws and amendments shall not invalidate or impair any act or transaction which would otherwise be valid. Wherever used in these Bylaws with respect to the Bylaws, the word "amend", "amended", or "amendment" includes and applies to the amendment, alteration, or repeal of any or all provisions of the Bylaws or the adoption of new Bylaws.

Section 9 02. Procedure to Amend, Board Action. Subject to Articles 9 and 14 of the Declaration, any amendment to these Bylaws may be adopted at any meeting of the Board of Directors by the affirmative vote of seventy five percent (75%) of the number of Directors fixed by Section 4.03. Notice of any proposed amendment to the Bylaws and the time and place of the meeting at which the proposed amendment is to be considered shall be given to all members at least ten (10) days prior to such meeting

condexh

036
REV 036
401 950 JAN 330

EXHIBIT "I"

RULES AND REGULATIONS FOR RIDGE FIELD II OWNERS ASSOCIATION

1. Automobiles may be parked only in the areas provided for that purpose. Campers, boats or other recreational or similar non-automobile vehicles shall be parked on the premises for no more than 48 hours without the written consent of the Board.
2. No radio or television antenna or any wiring for any purpose may be installed on the exterior of the building without the written consent of the Board.
3. An Owner may identify his Unit with a name plate of a type and size approved by the Board and mounted in a place and manner approved by the Board. No other signs may be displayed except "for sale" or "for rent" signs approved by the Association and "for sale" signs in connection with the initial sale or rent of the Units.
4. Alteration and repair of the building is the responsibility of the Association, except for the interior of the Units. No work of any kind is to be done upon the exterior building walls or upon interior boundary walls without first obtaining the approval of the Association.
5. No Unit Owner shall make or permit any disturbing noises in the buildings, or do or permit anything to be done therein which will interfere with the rights, comforts, or conveniences, of other Unit Owners. No Unit Owner shall play upon or suffer to be played upon any musical instrument or operate or permit to be operated a phonograph or radio or television or other loudspeaker in such Owners' Unit between the hours of 12 00 midnight and the following 6 00 A M, if the same shall disturb or annoy other occupants of the Building.
6. Each Unit Owner shall keep his Unit in a good state of presentation and cleanliness, and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows thereof of any dirt or other substance.
7. No vehicle belonging to a Unit Owner or to a member of the family or guest, tenant or employee of a Unit Owner shall be parked in such a manner as to impede or prevent ready access to any entrance to or exit from the property by another vehicle.
8. Complaints regarding the services of the Building shall be made in writing to the Board or to the managing agent or to the manager.
9. Unit Owners shall not cause or permit any unusual or objectionable noises or odors to be produced upon or to emanate from their respective Units.

- 10 No Unit Owner or any of his or her agents, visitors or employees shall, at any time, place into or keep in his or her Unit any inflammable, combustible, or explosive fluid, material, chemical or substance, except for normal household use.
- 11 Until the organizational meeting of the Unit Owners is held, the Declarant shall have the right but not the obligation to designate and mark one parking space in the common parking lots in the project for the exclusive use of Owner or Owners of each Unit in the Project. Thereafter, the Board shall have such right
12. No animals or reptiles of any kind shall be raised, bred or kept in any Unit or in the Common Elements, except that 1) a dog of less than 10 lbs; 2) not more than two (2) cats, or 3) other household pets approved in writing by the Board may be kept in a Unit, provided that said pet(s) are not kept, bred or maintained for any commercial purpose; and provided further than any such pet which in the opinion of the Board is causing or creating a nuisance shall be permanently removed from the property upon three (3) days written notice from the Board.
- 13 Any consent or approval given under these rules and regulations may be added to, amended or repealed at any time by resolution of the Board
- 14 These rules and regulations may be amended, modified or altered only as provided in the Bylaws
- 15 If the Owner of Unit 1734 Lyncrest, elects to construct a pet enclosure in the area so designated, said Owner shall first submit complete drawings to scale showing the construction design, materials and screening materials proposed by said Owner. Only after approval of the Board shall construction be commenced. Owner shall at all times keep said enclosure in a clean and odor-free condition. Owner's right to use said enclosure may be revoked by the Board if, after ten (10) days written notice to Owner that use of the pet enclosure is creating a nuisance, the Owner fails to take remedial action to abate the problem

These rules and regulations have been approved by the Board of Directors of Ridge Field II Owners Association on the 18 day of June, 1987.

Ridge Field II Owners Association

By Alan L. Wells
Alan L. Wells,
President and Secretary

131
950
VOL

EXHIBIT "J"

RIDGE FIELD E TOWNSHIPS

Division 1. Site Work and Concrete.

- a. Sodding to be supplied by contractor to cover all disturbed areas, any other area on site will be seeded with a blue grass mixture.
- b. All frost footings to be 43" minimum depth, 10" width.
- c. Walls to be 48" x 8"

Division 2. Materials, rough and finish carpentry.

1. Materials

- a. Framing, bracing and nailers and blocking will be spruce or whitewood for 2 x 4" and 2 x 6" #2 or better fir for larger members. All wall studs to be placed 16" O.C
- b. Cabinets by Medallion
- c. Wall sheathing - 1/2" CDX Plywood Corners
- d. Siding - Redwood, 1/2" Calotex
- e. Corner boards - 1 x 4 and 1 x 3 Redwood
- f. Roof sheathing - 1/2" CDX plywood or Ox board
- g. Roof underlayment 15 lb felt 235 lb asphalt shingles
- h. Gutters and downspouts prefinished brown or white aluminum
- i. Prefabricated roof trusses, 2' O C., 2 x 10 Floorjoists 16" O C.
- j. All decks to be nailed and glued with PL 400 or equal
- k. Subflooring - 3/4" or 5/8" tongue and groove plywood or Ox board
- l. All exterior wood decks or where wood plates are in contact with concrete to be pressure treated or wolmanized members
- m. Exterior railing to be pressure treated and/or to be wolmanized 2" x 2" spindles with 2" x 6" face and top rail or Redwood 2" x 4" posts with 1" x 8" railing
- n. Interior railings to be 2" x 6" or 2" x 8" Oak in main stairways
- o. Interior trim: Casing and interior doors shall be Oak with 1 3/8", hollowcore doors, 2 1/4" base, 1 1/2" casing. Unit entry doors shall have Weiser key in knob locks and separate dead bolt locks installed and interior

locks are Unifair in brass finish. Main entry doors to building are Peachtree

p. Windows to be Peachtree Casement insulated glass and Velux Skylights

Division 3. Sound Control and Insulation

- a. Top floor flat ceilings shall have 12" blown cellulose (R-18)
- b. Exterior side walls 3 1/2" fiberglass batts (R-13)
- c. 1/2" Sound board to be used on all walls adjacent to common areas or double 5/8 Sheetrock
- d. Vaulted ceilings (R-19)

Division 4. Finishes

1 Drywall

- a. Ceilings to be 5/8" Gypsum board meeting UL standards with acoustic texture
- b. Walls to be 1/2" Gypsum board meeting UL standards with light orangepeel finish
- c. Walls and ceilings to be sprayed one coat of antique white semi-gloss washable latex paint

2. Floor Treatments

- a. All appliances shall be CK or comparable appliances
- b. Building will be prewired for phone

Division 5. Specialties

1 Materials

- a. Shelving - #2 Pine of 3/4" particle board painted antique white with wood closet pole
- b. Closets - 1 x 4" #2 Pine
- c. Plastic laminate tops for kitchen and bath counters

Division 6. Mechanical

1 Plumbing

- a. Underground lines cast iron, waste and vent lines will be Sch. 40 plastic, waterline will be type "H" copper
- b. Toilets - Crane

950 HX 332

- c. Lavatories - Corbier
- d. Faucets - Bath Delux
- e. Tubs - Fiberglass
- f. Kitchen sink Dorton 3321 stainless steel sink with Moen trim
- g. 40 gallon water heater with dishwasher hook-up, separate meters for each unit
- h. Garbage disposal - in sink 333 In-Sinkerator
- i. Washer hook-ups with grey Gray box in wall installation in each unit
- j. Two outside freezeproof faucets, meters are included

2. Heating

- a. Furnace - Lennox gas forced hot air
- b. Cooling - Lennox
- c. Each unit will have its own gas and electric meter

3. Electric

- a. Electrical wiring is to meet National Electrical Code
- b. Kitchen and dining to have ceiling lamps

EXHIBIT "K"

POWER OF ATTORNEY

The undersigned, _____, owner(s) of Unit No. _____ Lyncrest Drive, Coralville, Iowa, in the Condominium known as Ridgefield II Town Homes, consisting of the property submitted to the provisions of the Iowa Horizontal Property Act, Chapter 499B of the 1987 Code of Iowa, and pursuant to Declaration dated and recorded in the Office of the Johnson County Recorder on June _____, 1987, in Book _____, pages _____. Records of Johnson County, Iowa, and on the Floor Plans on file in said office, do hereby constitute Wells West Development Company, or its designated representatives, hereafter "Wells", as the true and lawful attorney-in-fact for the undersigned, coupled with an interest, with power of substitution, to:

Amend the Declaration or any exhibit attached thereto for the purpose of adding two additional Units to be identified as 1732 and 1734 Lyncrest. Included in this power shall be the authority to adjust the undersigned's percentage interest in the Common Elements from 12 5% to 10% in the manner set out in Exhibit F. This power of attorney expressly authorizes Wells to cause new exhibits to be recorded showing the details of the two new Units.

Wells shall also have any and all powers reasonably necessary in order to carry out the purposes of this power.

This power of attorney shall be irrevocable.

IN WITNESS WHEREOF, the undersigned has/have executed this Power of Attorney this _____ day of _____, 19____.

STATE OF IOWA, COUNTY OF JOHNSON) ss.

On this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared _____, to me known to be the identical person(s) named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in and for the State of Iowa

cc: clerk

950723-333