

7968/0105 30 001 Page 1 of 43
2001-09-28 15:54:33
Cook County Recorder 105.00



**AMENDED AND
RESTATED
DECLARATION OF
CONDOMINIUM
OWNERSHIP
COVENANTS,
CONDITIONS,
RESTRICTIONS AND
BY-LAWS FOR THE
CLIFTON PLACE
CONDOMINIUM**

WITNESSETH

The Board administers the property for the Clifton Place Condominium Association, 2000 North Clifton, Chicago, Illinois pursuant to the Declaration of the Condominium Ownership and of Easements, Restrictions and Covenants for the Conservatory Condominium which was recorded with the Cook County Recorder of Deeds as document 27140624 ("Declaration"). The property is legally described on Exhibit "A" attached hereto.

Pursuant to Section 27(b) of the Illinois Condominium Property Act ("Act") and Article XI of the Declaration, the Board of Directors and the Unit Owners desire to amend the Declaration as follows:

- 1. To revise the provisions of the Declaration which are inconsistent with the Act, as amended.
- 2. To restrict leasing to two years.

RECORDING FEE 105.00
DATE 9/28/01 COPIES 0
OK BY JM 43

WHEREAS, as provided in Section 27(b) of the Act and Article XI of the Declaration, at least two-thirds of the Board and at least two-thirds of the total unit ownership have approved the amendments.

WHEREAS, as required by Article XI of the Declaration the Secretary has mailed a copy of the Amended and Restated Declaration to all holders of first mortgages or trust deeds of record, by certified mail. The affidavit of the Secretary is attached hereto as Exhibit D.

NOW THEREFORE, the Declaration is amended and restated as follows:

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

109093390 30

ARTICLE 1

DEFINITIONS

109093390

As used herein, unless the context otherwise requires, certain words and terms as used in this Declaration are defined as follows:

- (a) **Association.** The Clifton Place Condominium Association, an Illinois not-for-profit corporation.
- (b) **Board.** The Board of Directors of the Association as provided for in the By-Laws.
- (c) **Building.** The building located on the Parcel, forming a part of the Property and containing the Units.
- (d) **Common Elements.** All portions of the Property, including the Limited Common Elements, except the Units, unless otherwise expressed specifically herein. The Common Elements include specifically, but not by way of limitation, the land, foundations, structural parts of the Building (including structural columns within the boundaries of a Unit), outside walks, exterior walls, hallways, entrances and exits, stairways, basement, boilers, roofs, vestibules, pipes, pumps, fans, tanks, wires, conduits, ducts, flues and shafts (except any such apparatus or portion thereof located within a Unit and serving only such Unit; public utility lines, landscaping and all easements created pursuant to this Declaration.)
- (e) **Common Expenses.** The proposed or actual expenses affecting the Property, including reserves lawfully assessed by the Board.
- (f) **Commercial Unit.** Unit 2000-A.
- (g) **Declaration.** The instrument by which the Property was submitted to the provisions of the Act as hereinafter provided, including such amendments, if any, to this instrument as may from time to time be adopted pursuant to the terms hereof.
- (h) **First Mortgage.** Any mortgage (or trust deed) given to secure a mortgage loan made by a bank, savings and loan association, insurance company, mortgage banking company, or other financial institution.
- (i) **First Mortgagee.** The party secured by a First Mortgage and its successors and assigns. A First Mortgagee shall and does expressly include FNMA and FHLMC.
- (j) **Limited Common Elements.** A portion of the Common Elements reserved by this Declaration, or to the extent permitted by law, designated by the Board for the use of a certain Unit or Units to the exclusion of other Units. Limited Common Elements shall include but not be limited to, the rear porches adjacent to the Units, and all associated fixtures, appliances, equipment and structures, as lie outside but contiguous to, the Unit boundaries and serve such only Units, and

UNOFFICIAL COPY

06

00000000

Property of Cook County Clerk's Office

Parking Spaces P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11 and P-12 as delineated on the Plat.

(k) **Majority or Majority of the Unit Owners.** The Unit Owners, without regard to their number, who own more than fifty percent (50%) in the aggregate of the entire undivided ownership interest in the Common Elements. Any specified percentage of the Unit Owners shall mean those Unit Owners who, in the aggregate, own such specified percentage of the entire undivided ownership interest in the Common Elements.

(l) **Mortgage** means the conveyance of real estate or assignment of personal property, without parting with the possession of such property, as security for the performance of an obligation to pay money. As used herein, Mortgage shall include a trust deed in the nature of a mortgage, and *mortgagee* shall include the beneficiary of such trust deed.

(m) **Occupant** means a person or persons, other than Unit Owner, in possession of a Unit.

(n) **Person.** A natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

(o) **Plat.** The plat or plats of survey of the Parcel and all Units in the Property which were recorded with the Declaration and as amended from time to time.

(p) **Property.** All the land, property and space comprising the Parcel, all improvements and structures erected, constructed or contained therein or thereon, including the Building, and all easements, rights and appurtenances belonging thereto, and all furniture, furnishings, fixtures and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, submitted to the provisions of the Act.

(q) **Record, Recorded or Recording.** The recording or placing of record in the Office of the Recorder of Deeds in Cook County, Illinois.

(r) **Unit.** A part of the Property designated and intended for any type of independent use, listed on Exhibit B attached hereto and as delineated on the Plat. Each Unit shall consist of the spaces enclosed and bounded by the horizontal and vertical planes shown on the Plat; provided, however, that no structural components of the Building in which such Unit is located shall be deemed to be part of such Unit. Each Unit shall include any pipes, flues, ducts, shafts, electrical wiring and conduit, plumbing fixtures and individual heating systems and equipment located entirely within a Unit and serving any such Unit. If any pipes, wires, conduits, ducts, flues, shafts, public utility lines, or other apparatus lies partially within and partially outside of the designated boundaries of a Unit, any part thereof serving only that Unit shall be deemed a part of such Unit, while any portions thereof serving more than one Unit shall constitute part of the Common Elements.

(s) **Unit Owner.** The Person or Persons whose estate or interests, individually or collectively, aggregate fee simple absolute ownership of a Unit. For purpose of this Declaration, *Unit Owner* shall include any beneficiary of a trust, shareholder of a corporation or partner of a partnership holding legal title to a Unit.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(t) **Unit Ownership.** A part of the Property consisting of one Unit and the undivided interest in the Common Elements appurtenant thereto.

ARTICLE II

UNITS AND SUBMISSION TO ACT

2.01 **Submission of Property to the Act.** The Property was submitted to the provisions of the Act.

2.02 **Descriptions and Ownership of Units.** All Units are delineated on the Plat and are listed on Exhibit B. The legal description of each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes set forth in the Plat. Every deed, lease, mortgage, or other instrument shall legally describe a Unit by its identifying number or symbol as shown on the Plat and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. Except as provided by the Act, no Unit Owner shall, by deed, plat, court decree or otherwise combine or subdivide or in any other manner cause his Unit to be separated into any tracts or parcels different from the whole Unit as shown on the Plat. A Unit Owner or Unit Owners may combine or subdivide his or their Units pursuant to the Act, and they may, at their own expense, locate or relocate Common Elements affected or required thereby in accordance with the Act.

2.03 **Certain Structures Not Constituting Part of a Unit.** Except as a tenant in common with all other Unit Owners, no Unit Owner shall own any structural components of the Building, including structural columns or pipes, wires, conduits, ducts, flues, shafts or public utility lines situated within his Unit and forming a part of any system serving more than his Unit, or any components of communication, master telecommunications, or refuse collection systems, if any, located in his Unit, whether or not any such items shall be located in the floors, ceilings or perimeter or interior walls of the Unit.

2.04 **Real Estate Taxes.** Real estate taxes shall be separately taxed to each Unit Owner for his Unit and his corresponding percentage of ownership in the Common Elements as provided in the Act. In the event that for any year such taxes are not separately taxed to each Unit Owner, but rather are taxed on the property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective percentage of ownership in the Common Elements, and in said event such taxes shall be included in the Common Expenses assessed pursuant to this Declaration.

ARTICLE III

GENERAL PROVISION AS TO UNITS AND COMMON ELEMENTS

3.01 **Ownership of the Common Elements.** Each Unit Owner shall be entitled to the percentage of ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner, as set forth in Exhibit B attached hereto. The percentage of ownership interests set forth in Exhibit B have been computed and determined in accordance with the Act, and shall remain

UNOFFICIAL COPY

Property of Cook County Clerk's Office

constant unless hereafter changed by recorded amendment to this Declaration either consented to in writing by all of the Unit Owners in accordance with the Act, or consented to in writing by those parties whose consent is required by the Act if the change in percentage is part of a subdivision or combination of Units. Said ownership interests in the Common Elements shall be undivided interests and the Common Elements shall be owned by the Unit Owners as tenants in common in accordance with their respective percentages of ownership.

3.02 Use of the Common Elements. Each Unit Owner shall have the right to use the Common Elements (except Limited Common Elements and portions of the Property occupied pursuant 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 his Unit. Such right to use the Common Elements shall extend not only to each Unit Owner, but also to his agents, servants, tenants, family members, invitees and licensees.

Each Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements contiguous to and serving, or otherwise assigned to, his Unit provided that the use of the same may be transferred between Unit Owners in the manner provided in the Act.

Such rights to use and possess the Common Elements shall be subject to and governed by the provisions of the Act, the Declaration and By-Laws and the rules and regulations of the Association. The Association shall have the authority to impose reasonable charges for the use of, and to lease or grant concessions or easements with respect to, parts of the Common Elements. 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, regulations or resolutions as the Board may adopt or prescribe.

3.03 No Severance of Ownership. No Unit Owner shall execute any deed, mortgage, lease or other instrument affecting title to his Unit Ownership without including therein both his interest in the Unit and his corresponding percentage of ownership in the Common Elements, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described herein.

3.04 Assignment of Limited Common Elements. The Limited Common Element Parking Spaces were sold and assigned by the developer of the Property. Limited Common Elements shall be deemed appurtenant to, and shall run with the title to, the Unit or Units served thereby. The use of Limited Common Elements may be transferred between Unit Owners at their expense in accordance with the provisions of the Act.

3.05 Encroachments and Easements.

(a) **Encroachments.** If by reason of the construction, repair, reconstruction, settlement or shifting of the Building, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements, or any other Unit; or if by reason of the design or construction of any Unit, it shall be necessary or advantageous to a Unit Owner to use or occupy any portion of the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Common Elements for any reasonable use appurtenant to said Unit, which will not unreasonably interfere with the use or enjoyment of the Common Elements by other Unit Owners; or, if by reason of the design or construction of utility and ventilation systems, any pipes, ducts, flues, shafts, or conduits serving more than one Unit encroach or shall hereafter encroach upon any part of any Unit; then in any such event valid easements for the maintenance of such encroachment and for such use of the Common Elements are hereby established and shall exist for the benefit of such Unit, or the Common Elements, as the case may be, so long as all or any part of the Building shall remain standing; provided, however, that in no event shall a valid easement for any encroachment or use of the Common Elements be created in favor of any Unit Owner if such encroachment or use is created by the intentional, willful or negligent conduct of the Unit Owner or his agent or is detrimental to or interferes with the reasonable use and enjoyment of the Property by the other Unit Owners.

(b) **Easements for Utilities.** All public utility companies and governmental authorities serving the Property are hereby granted the right to install, lay, construct, operate, maintain, renew, repair or replace, conduits, cables, pipes and wires and other equipment into, over, under, along and on any portion of the Common Elements for the purpose of providing the Property with utility services, together with the reasonable right of ingress to and egress from the Property for said purposes. The Board or Association may hereafter grant other or additional easements for utility purposes for the benefit of the Property, over, under, along and on any portion of said Common Elements, and each Owner hereby grants the Board or Association an irrevocable power of attorney to execute, acknowledge and record for and in the name of such Unit Owner, such instruments as may be necessary to effectuate the foregoing. Easements are also declared and granted to install, lay, operate, maintain, repair and replace any pipes, wire, ducts, flues, shafts, conduits, public utility lines, components of the communication systems, if any, or structural components, which may run through the walls of a Unit, whether or not such walls lie in whole or in part within the Unit boundaries.

(c) **Easement to Run with Land.** All easements and rights described herein are easements appurtenant running with the land, and so long as the Property is subject to the provisions of this Declaration, shall remain in full force and effect, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any Unit Owner, purchaser, mortgagee and other person having an interest in the Property, or any part or portion thereof. Reference in the respective deeds of conveyance, or in any mortgage or trust deed, or other evidence of obligation, to the easements and rights described in this Paragraph, or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to respective grantees, mortgagees and trustees of such Unit Ownerships as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

3.06 **Maintenance, Repairs and Replacements.**

(a) **By the Association.** The Board or Association at its expense, shall be responsible for the maintenance, repair and replacement of those portions, if any, of each Unit which contribute to the support of the Building excluding, however, interior wall, ceiling and floor surfaces. In addition, the Board or Association, shall maintain, repair and replace all pipes, wires, conduits, ducts, flues, shafts, and other facilities for the furnishing of utility services which may be located within the Unit boundaries and forming a part of any system servicing more than one Unit, as specified in Section 2.03 hereof, exclusive of any portions of the foregoing which may be located at or beyond the wall

UNOFFICIAL COPY

Property of Cook County Clerk's Office

outlets, or which may be the responsibility of an individual Unit Owner under subparagraph (b) below or any other provisions of this Declaration. Maintenance, repairs and replacements of the Common Elements (except as otherwise specifically provided herein) shall be furnished by the Board or Association as part of the Common Expenses, subject to the By-Laws and the rules and regulations of the Association. The Board shall be permitted access to the patios forming limited Common Elements appurtenant to Units 2006-D and 2010-D as necessary to perform maintenance and cleaning of catch basins located therein and to Units 2004-A, 2006-D and 2008-A to perform rodding out and maintenance of sewer lines connected to rod out stations in the basements of such Units. No permanent floor covering shall be placed over such catch basins or rod out stations.

(b) *By the Unit Owner.* Except as otherwise provided in paragraph (a) above, each Unit Owner, at his own expense, shall furnish and be responsible for:

(i) All of the maintenance, repairs and replacements within his own Unit and of doors and windows and frames and screens appurtenant thereto, and all internal installations of such Unit such as refrigerators, ranges, and other kitchen appliances, lighting fixtures and other electrical fixtures, plumbing fixtures or other installations, and any pipes, ducts, flues, shafts, electrical wiring and conduits, and individual heating, cooling and ventilating system or equipment situated entirely within such Unit and servicing only such Unit; provided, however, that such maintenance, repairs and replacements as may be required for the bringing of water, gas and electricity to the Units shall be furnished by the Board as part of the Common Expenses; and provided further that the Board or Association may provide, by such rules and regulations as may be imposed from time to time, for ordinary maintenance and minor repairs and replacements to be furnished to Units and appliances therein by Building personnel as a Common Expense or as user charges.

(ii) All of the decorating within his own Unit and the Limited Common Elements servicing his Unit as may be required from time to time, including, but not limited to, painting, wallpaper, washing, cleaning, paneling, floor covering, draperies, window shades, 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 ceiling of his Unit, and such Unit Owner shall maintain interior surfaces in good condition at his sole expense. Such maintenance and use shall be subject to the rules and regulations of the Board or Association as may be imposed from time to time. Except with respect to improvements in place as of the date of the recording of this Declaration, each Unit Owner who shall elect to install in any portion of his Unit (other than in bath and powder rooms) hard surfaces floor covering (i.e., tile, slate, ceramic, parquet, etc) shall be first required to install a sound absorbent undercushion of such kind and quality as to prevent the transmission of noise to the Unit below and shall obtain approval of the Board prior to making such installation. If such prior approval is not so obtained, the Board may, in addition to exercising all of the other remedies provided for in this Declaration for breach of any of the provisions hereof, require such Unit Owner to cover all non-conforming work with carpeting, or may require removal of such non-conforming work at the expense of the offending Unit Owner. The interior surfaces of all windows forming part of a perimeter wall of a Unit shall be cleaned or washed at the expense of each respective Unit Owner. The use of and the covering of the interior surfaces of such windows, whether by draperies, shades or other items visible on the exterior of the Building, shall be subject to the rules and regulations of the Board as may be imposed from time to time.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(iii) All of the maintenance, repair and replacements of the Limited Common Elements benefiting his Unit, in whole or in part, to the extent determined by the Board shall be performed by the respective Unit Owner. At the direction of the Board, the Board may perform, or cause to be performed, such maintenance, repairs and replacements of the Limited Common Elements and the cost thereby, and further, at the discretion of the Board, the Board may direct such Unit Owners, in the name and for the account of such Unit Owners, to arrange for such maintenance, repairs, and replacements, to pay the cost thereof with the funds of the Unit Owner, and to procure and deliver to the Board such lien waivers and contractor's or subcontractor's sworn statements as may be required to protect the Property from all mechanics' or materialmen's lien claims that may arise therefrom.

(c) *Nature of Obligations.* Nothing herein contained shall be construed to impose a contractual liability upon the Association for maintenance, repair and replacement, but the Association's liability shall be limited to damages resulting from negligence. The respective obligations of the Association and Unit Owners set forth in this declaration shall not be limited, discharged or postponed by reason of the fact that any such maintenance, repair or replacement is required to cure a latent or patent defect in material or workmanship in the construction of the Building, nor because they may become entitled to proceeds under policies of insurance. In addition, and notwithstanding anything herein above to the contrary, no Unit Owner shall have a claim against the Board or Association for any work (such as certain exterior window cleaning or repair of the Common Elements), ordinarily the responsibility of the Board or Association, but which the Unit Owner himself has performed or paid for, unless the same shall have been agreed to in advance by the Board or Association.

3.07 *Negligence of Unit Owner.* If, due to the negligent act or omission of a Unit Owner, or of a member of his family or household pet or of a guest or other authorized Occupant or visitor of such Unit Owner, damage shall be caused to the Common Elements or to a Unit or Units owned by others, or maintenance, repairs or replacements shall be required which would otherwise be at the Common Expense, then such Unit Owner shall pay for such damages and such maintenance, repairs and replacements as may be determined by the Board.

3.08 *Alterations, Additions, or Improvements.* Except as hereinafter provided in respect to the rights of the Unit Owner of the Commercial Unit, no alteration of any Common Element, Limited Common Element or any additions or improvements thereto, shall be made by any Unit Owner without the prior written approval of the Board. Any Unit Owner may make alterations, additions or improvements within his Unit 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 Limited Common Elements, the Property, or any part thereof, resulting from such alterations, additions or improvements.

In addition, if any Unit Owner or Owners shall desire to subdivide or combine his Unit or Units, and to locate or relocate Common Elements or Limited Common Elements affected or required thereby, all at his or their own expense, he or she shall make written application to the Board: (i) requesting and containing an amendment to the Declaration (including the Plat) at least thirty (30) days prior to the date such work is to be commenced; (ii) setting forth in such application a proposed reallocation to the new Unit or Units of the percentage interest in the Common Elements previously allocated thereto; (iii) further setting forth whether the Limited Common Elements, if any,

UNOFFICIAL COPY

Property of Cook County Clerk's Office

previously assigned to the Unit or Units in question shall be assigned to each new Unit or to fewer than all of the new Units so created; and (iv) containing a survey of the proposed alterations of the affected Unit or Units and the Common Elements and Limited Common Elements appurtenant thereto. No such alteration shall be approved by the Board if it weakens, impairs, or endangers any Common Element, Limited Common Element or Unit. The Board may require any Unit Owner wishing to combine Units to furnish indemnification, insurance certificates, plans and specifications and such other documentation as the Board may, by rules and regulations, determine in respect to such work. If the proposed subdivision or combination is approved by a majority of the Board, it shall become effective upon the (i) execution of an amendment to the Condominium Instruments by the Unit Owners involved, and (ii) Recording thereof in accordance with the provisions of the Act.

3.09 *Joint Facilities.* To the extent that equipment, facilities and fixtures within any Unit or Units shall be connected to similar equipment, facilities or fixtures affecting or serving other Units or the Common Elements, then the use thereof by the individual Unit Owner shall be subject to the rules and regulations of the Board. The authorized representative of the Association or the Board, or of the manager or managing agent for the Building shall be entitled to reasonable access to the individual Units as may be required in connection with maintenance, repairs or replacements of or to the Common Elements, the Limited Common Elements or any equipment, facilities or fixtures affecting or serving other Units, the Common Elements or the Limited Common Elements.

3.10 *User Charges.* The Board may establish, and each Unit Owner shall pay, user charges to defray the expenses of providing services, facilities or benefits which may not be used equally or proportionately by all of the Unit Owners or which, in the judgment of the Board, should not be charged to every Unit Owner. Such user charges may be billed separately to each Unit Owner benefited thereby, or may be added to such Unit Owner's share of the Common Expenses, as otherwise determined, and collected as a part thereof. Nothing herein shall require the establishment of user charges pursuant to this Section 3.10, and the Board may elect to treat all or any portion thereof as Common Expenses.

ARTICLE IV

INSURANCE

4.01 *Fire and Hazard Insurance.* The Board of Managers shall acquire as a common expense, a policy or policies of insurance insuring the Common Elements and the Units against loss or damage from fire, lightning and other hazards contained in the customary fire and extended coverage, vandalism and malicious mischief endorsements for the full insurable replacement value of the Common Elements and the Units written in the name of and to require a provision in such policy that the proceeds thereof shall be payable to the members of the Board, as trustee for each of the Unit Owners in the percentages established in Exhibit "B".

All said policies of insurance (1) shall contain standard mortgage clause endorsements in favor of the mortgagee or mortgagees of each Unit, if any, as their respective interest may appear, (2) shall provide that the insurance, as to the interest of the Board, shall not be invalidated by any act or neglect of any Unit Owners, (3) shall provide that notwithstanding any provision thereof which gives the insurer an election to restore damage in lieu of making a cash settlement therefor, such option shall not be exercisable in the event the Unit Owners elect to sell the property or remove the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Property from the provisions of the Act, (4) shall contain an endorsement to the effect that such policy shall not be terminated for nonpayment of premiums without at least ten (10) days prior written notice to the mortgagee of each Unit, (5) shall contain a clause or endorsement whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, members of the Board, the managing agent, if any, their respective employees and agents and the Unit Owners and Occupants, and (6) shall contain a "Replacement Cost Endorsement". The proceeds of such insurance shall be applied by the Board or by the corporate trustee or agent on behalf of the Board for the Reconstruction of the Building or shall be otherwise disposed of, in accordance with the provisions of this Declaration and Act; and the rights of the mortgagee of any Unit under any standard mortgage clause endorsement to such policies shall, notwithstanding anything to the contrary therein contained at all times be subject to the provisions of the Act with respect to the application of insurance proceeds to reconstruction of the building. The Board may engage in the services of any such bank or trust company authorized to do, execute and accept trusts in Illinois to act as Insurance Trustee and to receive and disburse the insurance proceeds resulting from any loss upon such terms as the Board shall determine consistent with the provisions of this Declaration. The fees of such bank or trust company shall be common expenses.

In the event of any loss in excess of \$5,000 in the aggregate at the Board's discretion or request of any Unit Owner the Board shall solicit bids from reputable contractors.

Payment by an insurance company to the Board or to such corporate trustee or agent of the proceeds of any policy, and the receipt or release from the Board or such corporate trustee or agent of the company's liability under such policy, shall constitute a full discharge to inquire into the terms of any trust or agency agreement under which proceeds may be held pursuant hereto, or to take notice of any standard mortgage clause endorsement inconsistent with the provisions hereof or see to the application of any payments of the proceeds of any policy by the Board or the corporate trustee.

Each Unit Owner shall be responsible for insurance on any additions, alterations or improvement, and the contents of his Unit and Limited Common Elements appurtenant thereto, floor and wall coverings, appliances, the furnishings and personal property therein, and the personal property of such Unit Owner stored elsewhere in the Property. Each Unit Owner shall be responsible for the personal liability of such Unit Owner, to the extent not covered by the comprehensive public liability insurance policy referred to in this Article, including liability insurance with respect to occurrences in the Limited Common Elements contiguous to his Unit.

4.02 Appraisal. The full, insurable replacement costs of the Property, including the Units and Common Elements shall be determined from time to time (but not less frequently than once in any twelve-month period) by the Board. The Board shall have the authority to obtain any appraisal by a reputable appraisal company as selected by the Board. The cost of such appraisal shall be a Common Expense.

4.03 Comprehensive Public Liability Insurance. The Board shall have the authority and duty to obtain comprehensive public liability insurance (including coverage for injuries to and death of persons, and property damage), against claims and liabilities arising in connection with the ownership, existence, use or management of the Property in amounts deemed sufficient in the judgment of the Board, insuring the Board, the Association, the managing agent of the Property, if any, and their respective employees, agents and all persons acting as agents. The Unit Owners shall

UNOFFICIAL COPY

Property of Cook County Clerk's Office

be included as additional insureds, but only with respect to that portion of the Property not reserved for their exclusive use. The insurance shall cover claims of one or more insured parties against other insured parties.

Premiums for such insurance and other expenses in connection therewith shall be part of the Common Expenses. The insurance policy or policies shall contain a waiver of any rights to subrogation by the insuring company against any of the above named insured persons. The Board shall notify insured persons concerning the cancellation of insurance obtained pursuant to this Section 3.

4.04 Workmen's Compensation and other Insurance. (a) The Board shall have authority to and shall obtain workmen's compensation insurance in such forms, insuring such persons and entities and in such limits of liability as the Board in its discretion shall deem advisable. The premiums for such insurance and other expenses in connection therewith shall be part of the Common Expenses.

(b) The Board shall have the authority to and shall obtain such insurance as it deems desirable in such amounts, from such sources and in such forms as it deems desirable, insuring the members of the Board, the officers of the Association, the managing agent of the Property, if any, the employees and agents of the foregoing persons and entities, from liability arising from claims and liabilities arising in connection with the ownership, existence, use of management of the Property (to the extent available) and, if deemed advisable by the Board, the streets and sidewalks adjoining the Property.

Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. The Unit Owners shall be included as additional insureds but only with respect to the Common Elements. The premiums for such insurance and other expenses in connection therewith shall be part of the Common Expenses.

(c) The Board shall also have the authority to obtain directors and officers liability insurance pursuant to the provisions of the Illinois General Not For Profit Corporation Act.

4.05 Fidelity Insurance. The Board shall obtain and maintain fidelity insurance covering persons who control or disburse funds of the Association for the maximum amount of coverage available to protect funds in the custody or control of the Association plus the Association reserve fund. All management companies which are responsible for the funds held or administered by the Association shall maintain and furnish to the Association a fidelity bond for the maximum amount of coverage available to protect funds in the custody of the management company at any time. The association shall bear the cost of the fidelity insurance and fidelity bond, unless otherwise provided by contract between the association and a management company. The Association shall be the direct obligee of any such fidelity bond. A management company holding reserve funds of an Association shall at all times maintain a separate account for each association, provided, however, that for investment purposes, the Board may authorize a management company to maintain the Association's reserve funds in a single interest bearing account with similar funds of other associations. The management company shall at all times maintain records identifying all moneys of each association in such investment account. The management company may hold all operating funds of associations which it manages in a single operating account but shall at all times maintain records identifying all

UNOFFICIAL COPY

Property of Cook County Clerk's Office

moneys of each association in such operating account. Such operating and reserve funds held by the management company for the Association shall not be subject to attachment by any creditor of the management company.

4.06 *Waiver.* Each Unit Owner hereby waives and releases any and all claims which he may have against any other Unit Owner, the Association, its officers, members of the Board, the manager and the managing agent of the Property, if any, and their respective employees and agents, for any damage to the Common Elements, the Units, any additions and improvements to the Units, the decorating, furniture, furnishings, fixtures and any personal property located in the Units or Common Elements caused by fire or other casualty to the extent that such damage or casualty is covered by fire or other form of casualty insurance.

4.07 *Notice.* The Board of Managers shall notify insured persons concerning the cancellation of insurance obtained pursuant to the terms of this Article. Any mortgage lender which notifies the Board of Managers in writing that it desires notice of cancellation or change of insurance coverage shall be entitled to same and on demand shall also be entitled to complete data on all insurance policy coverage.

ARTICLE V

DAMAGE, DESTRUCTION, CONDEMNATION AND RESTORATION OF THE BUILDING

5.01 *Sufficient Insurance.* In the event that the improvements forming a part of the Property, or any portion thereof, including any Units, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage, and payable by reason thereof, shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken and the insurance proceeds shall be applied by the Board or the payee of such insurance proceeds in payment thereof; provided, however, that in the event within one-hundred and eighty (180) days after said damage or destruction, the Unit Owners shall elect either to sell the Property as hereinafter provided in Article VI hereof or to withdraw the Property from the provisions of this Declaration, and from the provisions of the Act as therein provided, then such repair, restoration or reconstruction shall not be undertaken. In the event such repair, restoration or reconstruction is not undertaken the net proceeds of insurance policies shall be divided by the Board or the payee of such insurance proceeds among all Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements as set forth in Exhibit B, after first paying out of the share of each Unit Owner the amount of any unpaid liens on his Unit, in the order of the priority of such liens.

5.02 *Insufficient Insurance.*

(a) If the insurance proceeds are insufficient to reconstruct the Building and the Unit Owners and all other parties in interest do not voluntarily make provision for reconstruction of the Building within one-hundred and eighty (180) days from the date of damage or destruction, then the provisions of the Act shall apply.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(b) In the case of damage or other destruction in which fewer than one-half (1/2) of the Units are rendered uninhabitable, upon the affirmative vote of not fewer than three-fourths (3/4) of the Unit Owners voting at a meeting called for that purpose, the Building or other portion of the Property shall be reconstructed. Such meeting shall be held upon the earlier of (i) thirty (30) days following the final adjustment of insurance claims or (ii) ninety (90) days after the date of damage or destruction. At such meeting the Board, or its representative, shall present to the members present an estimate of the cost of repair or reconstruction, and the estimated amount of necessary assessments against each Unit Owner.

(c) In the case of damage or other destruction, upon the affirmative vote of not fewer than three-fourths (3/4) of the Unit Owners at a meeting called for such purpose, any portion of the Property affected by such damage or destruction may be withdrawn from the Act. Upon the withdrawal of any Unit or portion thereof, the percentage of interest in the Common Elements appurtenant to such Unit or portion thereof shall be reallocated among the remaining Units on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is withdrawn, the percentage of interest appurtenant to that Unit shall be reduced accordingly, upon the basis of diminution in market value of the Unit, as determined by the Board. The payment of just compensation, or the allocation of any insurance or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis, which need not be a Unit's percentage interest. Any insurance or other proceeds available in connection with the withdrawal of any portion of the Common Elements, not necessarily including the Limited Common Elements, shall be allocated on the basis of each Unit Owner's percentage interest therein. Any proceeds available from the withdrawal of any Limited Common Elements will be distributed in accordance with the interest of those entitled to their use. Upon the withdrawal of any Unit or portion thereof, the responsibility for the payment of assessments on such Unit or portion thereof by the Unit Owner shall cease.

5.03 Eminent Domain.

In the event any portion of the Property is taken by condemnation or eminent domain proceedings, provision for withdrawal from the provisions of the Act of such portion so taken may be made by the Board. Upon the withdrawal of any Unit or portion thereof due to eminent domain, the percentage of interest in the Common Elements appurtenant to such Unit or the portion thereof shall be reallocated among the remaining Units on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is withdrawn, the percentage interest appurtenant to that Unit shall be reduced accordingly upon the basis of diminution in market value of the Unit, as determined by the Board. The allocation of any condemnation award or other proceeds to any withdrawing or remaining Unit Owner shall be on an equitable basis, which need not be a Unit's percentage interest. Any condemnation award or other proceeds available in connection with the withdrawal of any portion of the Common Elements, not necessarily including the Limited Common Elements, shall be allocated on the basis of each Unit Owner's percentage interest therein. Proceeds available from the withdrawal of any Limited Common Element will be distributed in accordance with the interests of those entitled to their use. Upon the withdrawal of any Unit or portion thereof, the responsibility for the payment of assessments on such Unit or portion thereof by the Unit Owner shall cease.

5.04 Repair, Restoration or Reconstruction of the Improvements.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

As used in this Article, "repair, restoration or reconstruction" of improvements means restoring the improvements to substantially the same condition in which they existed prior to the damage or destruction, with each Unit and Common Elements having the same vertical and horizontal boundaries as before.

ARTICLE VI

SALE OF THE PROPERTY

At a meeting duly called for such purpose the Unit Owners, by affirmative vote of at least seventy-five percent (75%) of the total vote, may elect to sell the Property as a whole. Within ten (10) days after the date of the meeting at which such sale was approved, the Board shall give written notice of such action to the holder of any duly recorded mortgage or trust deed against any Unit entitled to notice under Article XI of this Declaration. Such action shall be binding upon all Unit Owners, and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect such sale; provided, however, that any Unit Owner who did not vote in favor of such action and who has filed written objection thereto with the Board within twenty (20) days after the date of the meeting at which such sale was approved shall be entitled to receive from the proceeds of such sale an amount equivalent to the value of his interest, as determined by an appraisal, less the amount of any unpaid assessments or charges due and owing from such Unit Owner. In the absence of agreement on an appraiser, such Unit Owner and the Board may each select a qualified appraiser, experienced in the appraisal of condominium units in Chicago, Illinois, and the two (2) appraisers so selected shall select a third appraiser, experienced in the appraisal of condominium units in Chicago, Illinois, and the fair market value, as determined by a majority of the three (3) appraisers so selected, shall control. If either party shall fail to select an appraiser, then the one designated by the other party shall make the appraisal. The cost of the appraisal shall be divided equally between such Unit Owner and the Board, and the Board's share of said cost shall be a Common Expense.

ARTICLE VII

CLIFTON PLACE CONDOMINIUM ASSOCIATION

7.01 *Association of Unit Owners and Administration and Operation of the Property.*

The Association is incorporated as an Illinois not-for-profit corporation called "The Clifton Place Condominium Association", which Association shall be the governing body of all of the Unit Owners for the operation of the Property. The Board shall constitute the Board of Managers provided for in the Act and shall be elected and shall serve in accordance with the provisions of the By-laws. The By-laws for the Association shall be the By-Laws attached hereto as Exhibit C and made a part hereof. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it in trust for the use and benefit of Unit Owners in accordance with the provisions of this Declaration and By-Laws. Upon the formation of the Association, every Unit Owner shall automatically be a member therein and a Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously and automatically succeed to the former Unit Owner's membership in the Association. Except as provided in Section 6 of Article I of the By-Laws, the aggregate number of

UNOFFICIAL COPY

Property of Cook County Clerk's Office

votes for all members of the Association shall be One Hundred (100) and shall be divided among the respective Unit Owners in accordance with their respective percentages of ownership interest in the Common Elements, as set forth in Exhibit B hereto.

7.02 Board's Determination Binding. In the event of any dispute or disagreement between any Unit Owners relating to the Property, or any questions or interpretation or application of the provisions of this Declaration or the By-laws, the determination thereof by the Board shall be final and binding on all Unit Owners.

7.03 Common Expenses. Except as otherwise provided herein, each Unit Owner shall pay his proportionate share of the expenses of administration and maintenance of the Common Elements and of any other expenses incurred in conformance with this Declaration and the By-laws or otherwise lawfully agreed upon (which expenses are sometimes hereinafter referred to as "Common Expenses"), including specifically, but not by way of limitation, expenses for the maintenance and repair of the Common Elements and any and all replacements and additions thereto and the cost of insurance procured by the Board and the reserves established in accordance with this Declaration and the By-laws. Such proportionate share of the Common Expenses for each Unit Owner shall be in the same ratio as his percentage of ownership in the Common Elements. Payment of Common Expenses shall be in such amounts and at such times as determined in the manner provided in the By-laws. If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof, all fines and attorneys' fees shall constitute a lien on the interest of such Unit Owner in the Property as provided in the Act; provided, however, that such lien shall be subordinate to the lien of a prior recorded first mortgage or trust deed on the interest of such Unit Owner, owned or held by a bank, insurance company, savings and loan association, or other lender except for the amount of the proportionate share of Common Expense which become due and payable from and after the date on which the said mortgage or trust deed owner or holder either takes possession of the Unit, accepts a conveyance of any interest therein (other than as security), files suit to foreclose its mortgage or trust deed, or causes a receiver to be appointed. The foregoing provision shall not be amended or rescinded without the prior written consent of all holders of first mortgages of record.

ARTICLE VIII

LEASES

8.01 Limits on the Leasing of Units. It is the intent of the Board that the Owner or contract purchaser of each Unit in the Association shall occupy and use such Unit as a private dwelling and not for business, speculative, hotel, transient or investment purposes; provided, however, that the owner of the Commercial Unit may lease his Unit for commercial purposes and shall not be subject to the restrictions contained in paragraphs 8.01(a) and (b) of this Amended and Restated Declaration. Therefore, upon recording of this Amended and Restated Declaration, the leasing of Units is prohibited except as provided below:

(a) To meet special situations or practical difficulties, each Owner may lease his or her Unit for two (2) terms of one (1) year each which may or may not be consecutive.

(b) Leases in existence at the time this Amended and Restated Declaration is recorded shall not be impaired and shall be permitted to continue for the remainder of the designated lease

UNOFFICIAL COPY

Property of Cook County Clerk's Office

term but shall not be extended for a term which exceeds two (2) years. Subleasing shall be prohibited.

8.02 *Leases of Units.* If a Unit Owner leases a Unit, a copy of such lease shall be furnished to the Board within five (5) days after execution thereof. Each such lease shall be in writing and shall expressly provide that the lessee shall be bound by and shall be subject to all of the non-monetary obligations of the Unit Owner-lessor under this Declaration, the By-laws and rules and regulations of the Association, as from time to time amended, that any failure by the lessee to comply with such obligations shall constitute a default under the lease, and that the Association may exercise against such lessee any and all remedies available to it under Article X hereof, including, but not limited to the right to take possession of the leased Unit. The Unit Owner-lessor shall not be relieved by executing such a lease from any of said obligations. No Unit Owner may lease his Unit for hotel, transient or, except for the owner of the Commercial Unit, other commercial purposes. Unit Owners may not lease less than 100% of each Unit they own, except a Unit Owner owning more than one Unit may lease less than all of his or her Units. No Unit owner may lease his Unit for a term of less than six months or more than two years.

In addition to any other remedies, by filing an action jointly against the tenant and the Owner, the Association may seek to enjoin a tenant from occupying a Unit or seek to evict a tenant under the provisions of Article IX of the Code of Civil Procedure for failure of the Owner to comply with leasing requirements prescribed by this Section or by the Declaration, By-Laws, and rules and regulations. The Board may proceed directly against a tenant, at law or in equity, or under the provisions of Article IX of the Code of Civil Procedure, for any other breach by tenant of any covenants, rules and regulations or bylaws.

An Owner may not assign, delegate, transfer, surrender or avoid the duties, responsibilities or liabilities of an Owner under the Act, the condominium instrument or the rules and regulations of the Association; and such an attempted assignment, delegation, transfer, surrender or avoidance shall be deemed void.

ARTICLE IX

RESTRICTIONS

9.01 (a) *Use and Occupancy Restrictions.* Except for special rights granted Owner of the Commercial Unit in subparagraph (c) hereof, no Unit may be used for purposes other than housing and the related common purposes for which the Property was designed.

(b) *Use of Common Elements.* Except as otherwise provided herein, the Common Elements shall be used for access, ingress and egress to and from the respective Units by the Unit Owners, Occupants, tenants and their agents, servants, family members, invitees and licensees, and for such other purposes incidental to the use of the Units; provided, however, that the patios, storage areas, and other special areas shall be used for the purposes approved by the Board. The use, maintenance and operation of the Common Elements shall not be obstructed, damaged or unreasonably interfered with by any Unit Owner, and shall be subject to any agreement presently in existence or entered into by the Board at some future time, to lease any part of said Common Elements.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

10903390

(c) *Use of Commercial Unit.* (1) Notwithstanding anything contained in this Declaration or the By-laws to the contrary restricting the use of Units to residential and related housing purposes, subject to the following conditions and restrictions, provided that all the other covenants, conditions and restrictions contained in this Declaration and the By-laws are observed and performed, the Unit Owner of the Commercial Unit may use the Commercial Unit for any purpose permitted by law.

(2) The Commercial Unit shall not be used for any of the following purposes:

- (i) restaurant, bar, tavern, package goods store or establishment for manufacture, sale, storage or distributions of food, food products or beverages of any kind;
- (ii) night club, discotheque or similar uses;
- (iii) storage of hazardous or flammable materials or any use which requires use or storage thereof;
- (iv) movie theater;
- (v) adult bookstore;
- (vi) commercial video game or pinball arcade or commercial use of such machines in conjunction with any permitted use.

(3) The Owner of the Commercial Unit shall operate the Commercial Unit for commercial purposes only between the hours of 8:00 o'clock a.m. and 9:00 o'clock p.m. or such other hours as the Board, in its sole discretion, may from time to time determine.

(4) The Owner of the Commercial Unit may not make any alterations or additions to the exterior facade of the Building adjacent to the Commercial Unit (including without limitation the installation of any signs thereon) except as follows: (a) prior to commencement of any such alterations or additions, the Owner of the Commercial Unit shall furnish the Board with: (b) plans, specifications and artists' renderings of any proposed alterations or additions, (c) a building permit therefor, (d) a sworn owner's and contractor's statement for all proposed work disclosing all contractors and subcontractors to be employed in respect thereto, (e) a copy of the Unit Owner's construction contract, (f) certificates of insurance naming the Association, managing agent and their successors and assigns as additional insureds in amounts and coverages satisfactory to the Board and (g) such other documents as the Board may reasonably request, including evidence that all proposed work will be performed free of liens.

(5) All proposed alterations or additions shall conform to the architectural design and color scheme of the Building.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

10909390

- (6) No neon signs may be installed and any other illuminated exterior signs shall be subject to the reasonable approval of the Board.
- (7) The owner of the Commercial Unit shall indemnify, defend and hold the Association and Managing Agent harmless from and against any loss, liability, costs, damages or fees (including reasonable attorneys' fees) arising from or out of the installation and maintenance of such alterations or additions.
- (8) All such alterations or additions shall be made in a good and workmanlike manner, using first class materials, free of all liens and in conformity with all statutes, codes and ordinances.
- (9) All such alterations or additions shall be maintained in good, clean and slightly condition at the sole cost and expense of the owner of the Commercial Unit.

ARTICLE X

REMEDIES

10.01 *Abatement and Enjoinment*: The violation or any restriction or condition or regulation adopted by the Board, or the breach of any covenant or provision herein contained, shall give the Board the right, upon not less than five (5) days notice, in addition to the rights set forth in the next succeeding section:

(a) To enter upon that part of the Property where such violation or breach exists and summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or

The foregoing requirement for five (5) days notice hereinabove set forth shall be inapplicable, and no prior notice need be given, in emergency situations or if the violation or breach results in imminent danger to persons or property. All expenses of the Board in connection with such actions or proceedings, or in connection with any other actions or proceedings taken by the Board to enforce the provisions of this Declaration, the By-laws or rules and regulations of the Association, including court costs and attorney's fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of eight percent (8%) 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 respective share of the Common Expenses, and the Board shall have a lien for all of the same upon the Unit Ownership of such defaulting Unit Owner and upon all of his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere on the Property. Any and all such rights and remedies may be exercised at any time and from time to time cumulatively or otherwise, by the Board.

UNOFFICIAL COPY

01/11/2011

Property of Cook County Clerk's Office

10.02 *Fines.* In addition to any other remedies herein provided, the Board may levy a fine in a reasonable amount not to exceed \$100 per violation against a Unit Owner who, either by his own action or that of any Occupant of his Unit, breaches or violates any provision of this Declaration, the By-Laws or rules and regulations of the Association; provided, however, that before levying any such fine, the Board shall first notify the Unit Owner or Occupant of the Unit in writing of the breach or violation and afford him an opportunity to be heard at a hearing before the Board, or a committee of the Board designated for such purpose, in accordance with the rules and regulations adopted by the Board in the manner provided in the By-Laws.

10.03 *Involuntary Sale.* In addition to any other remedies herein provided, if any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the regulations adopted by the Board, and such violation shall continue for thirty (30) days after notice in writing from the Board, or shall reoccur more than once after such notice, then the Board shall have the power to issue to the defaulting Unit Owner a ten (10) day notice in writing to terminate the right of said defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use or control his Unit, and thereupon an action in equity may be filed by the Board against the defaulting Unit Owner for a decree of mandatory injunction against the Unit Owner or Occupant or, in the alternative, a decree declaring the termination of the defaulting Unit Owner's right to occupy, use or control the Unit owned by him on account of the breach of covenant and ordering that the right, title and interest of the Unit Owner in the Property shall be sold (subject to the lien of any existing mortgage or trust deed) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Unit Owner from reacquiring his interest in the Property at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser thereof shall thereupon be entitled to a deed to the Unit Ownership and, subject to the Board's rights as provided herein, to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall provide, that the purchaser shall take the interest in the Property sold subject to this Declaration.

10.04 *Remedies for Failure to Pay Common Expenses or User Charges.* Each Unit Owner shall pay his proportionate share of the Common Expenses. Such proportionate share shall be in the same ratio as his percentage of ownership in the Common Elements as set forth in Exhibit B. Each Unit Owner shall also pay all user charges for which he is responsible pursuant to Section 3.09 of this Declaration. In the event of the failure of an Owner to pay such Common Expenses or user charges when due, the amount thereof shall constitute a lien on the Unit Ownership of such Unit Owner, as provided by the Act; provided, however, that such lien shall be subordinate to the lien of a prior recorded First Mortgage on the interest of such Unit Owner except for the amount of the Common Expenses or user charges which become due and payable from and after the date on which the said First Mortgagee either takes possession of the Unit or accepts a conveyance of any interest therein (other than as security). If any Owner fails to pay any installment of such Common Expenses within thirty (30) days after notice of default, the Board may accelerate the maturity of the remainder of installments of such Common Expenses due from such Unit Owner for the balance of the

UNOFFICIAL COPY

66

Property of Cook County Clerk's Office

assessment year, and may enforce collection thereof and all of such user charges then or thereafter falling due. A "late charge" in the amount of Thirty Five Dollars (\$35.00) per month shall be charged to and assessed against such defaulting Unit Owner until paid, the amount of which late charge shall be subject to review by the Board from time to time. In addition to the foregoing, the Board or its agents shall have such other rights and remedies to enforce such collection as shall otherwise be provided or permitted by law from time to time. Without limiting the generality of the foregoing, if any Unit Owner shall fail to pay his proportionate share of the Common Expenses or any other expenses required to be paid hereunder when due, such rights and remedies shall include the right to take possession of such Unit Owner's interest in the Property and to maintain for the benefit of all the other Unit Owners an action for possession in the manner prescribed by the Act and the provisions of Article IX of the "Code of Civil Procedure" as amended.

ARTICLE XI

AMENDMENTS AND COVENANTS OF MORTGAGEES

11.01 *Amendments.* Except as herein below provided, the provisions of this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescission, approved by the Unit Owners owning not less than two-thirds (2/3) of the total ownership of the Common Elements by written consent or at a meeting of such Unit Owners called pursuant to the By-Laws for such purpose; provided however, that all holders of first mortgages of record have been notified by certified mail of such change, modification or rescission, and an affidavit by the Secretary of the Association certifying to such mailing is made a part of such instrument.

Notwithstanding the provisions of the foregoing paragraph, if the Act or this Declaration requires the consent or agreement of all Unit Owners or of all lien holders for any action specified in the Act or in this Declaration, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such action shall be approved by all the Unit Owners, or all lien holders, or both as required by the Act or this Declaration.

Except to the extent authorized by the other provisions of the Act, no amendment of the Declaration shall change as to any Unit Owner the boundaries of any Unit, the undivided interest in the Common Elements, the number of votes in the Association, or the liability for Common Expenses appertaining to a Unit.

The provisions of Section 10.04 and 11.01 of this Declaration may not be amended, changed, modified or rescinded without the prior written consent of the Board, all Unit Owners and the holders of all bona fide first Mortgages of record against the Units, and any provisions herein which specifically grant rights to holders of bona fide first Mortgages may be amended only with the written consent of all such holders of first Mortgages.

Any change, modification or rescission, whether accomplished under the provisions of any of the preceding four paragraphs, shall be effective upon Recording of the instruments involved, provided, however, that no provisions in this Declaration may be changed, modified or rescinded so as to conflict with the provisions of the Act.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

11.02 *First Mortgagees' Consent.* Notwithstanding any provision of this Declaration or the By-laws to the contrary the prior written approval of two-thirds (2/3) of the First Mortgagees (based upon one vote for each First Mortgage held) will be required for the Association to do or permit to be done any of the following:

- (a) Adoption of an amendment to this Declaration which changes the percentage of ownership in Common Elements as shown in Exhibit "B" attached hereto or which changes Section 10.04 or any other provision of this Declaration or of the By-Laws which specifically grants rights to First Mortgagees;
- (b) The abandonment or termination of the condominium status of the Property, except for abandonment provided by the Act in respect of substantial loss to or condemnation of the Units and Common Elements;
- (c) The partition or subdivision of a Unit;
- (d) The abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Elements, except for the granting of easements for public utilities or for other public purposes consistent with the intended use of the Property;
- (e) The sale of the Property;
- (f) The removal of a portion of the Property from the provision of the Act and this Declaration;
- (g) The effectuation of a decision by the Association to terminate professional management and assume self-management of the Property; or
- (h) The use of hazard insurance proceeds for losses to the Property (whether to Units or to the Common Elements) for other than the repair, replacement, or reconstruction of such Unit or Common Elements; provided, that such consent of First Mortgagees will not be required with respect to any action under (a) through (h) above which occurs as a result of (i) substantial damage due to fire or other casualty (including without limitation, action taken pursuant to Section 5.02), (ii) a taking of a portion or all of the Property by condemnation or eminent domain (including, without limitation, action taken pursuant to Section 5.03).

11.03 *First Mortgagees Right to Notice.* Each Owner shall notify the Association of the name and address of his first Mortgagee and the Association shall maintain a record of such information with respect to all Units in a book entitled "Mortgagees of Units." Each First Mortgagee shall have the right to examine the books and records of the Association at any reasonable time. Upon the specific written request of a First Mortgagee to the Board, the First Mortgagee shall receive some or all of the following as designated in the request:

- (a) Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Association to the Owner of the Unit covered by the First Mortgagee's Mortgage:

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

10903390

- (b) Any audited or unaudited financial statements of the Association which are prepared for the Association and distributed to the Owners;
- (c) Copies of notices of meetings of the Owners and the right to be represented at any such meetings by a designated representative;
- (d) Notice of the decision of the Owners to make any material Amendment to this Declaration, the By-Laws, or the Articles of Incorporation of the Association;
- (e) Notice of substantial damage to or destruction of the Unit covered by the First Mortgagee's Mortgage (in excess of \$1,000.00) or any part of the Common Elements (in excess of \$10,000.00);
- (f) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Property;
- (g) Notice of any default of the Owner of the Unit which is subject to the First Mortgagee's Mortgage, where such default is not cured by the Owner within 30 days after the giving of notice by the Association to the Owner of the existence of the default.

The request of a First Mortgagee shall specify which of the above it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Association. Failure of the Association to provide any of the foregoing to a First Mortgagee who has made a proper request therefor shall not affect the validity of any action which is related to any of the foregoing. The Association need not inquire into the validity of any requests made by a First Mortgagee hereunder and in the event of multiple request from purported First Mortgagees of the same Unit Ownership, the Association shall honor the most recent request received.

11.04 *Insurance Proceeds/Condemnation Awards.* In the event of (i) any distribution of any insurance proceeds hereunder as a result of substantial damage to, or destruction of, any part of the Property or (ii) any distribution of the proceeds of any award or settlement as a result of condemnation or eminent domain proceedings with respect to any part of the Property, any such distribution shall be made to the Owners and their respective First Mortgagees, as their interests appear, and no Owner or other party, shall be entitled to priority over the First Mortgage of a Unit with respect to any such distribution or with respect to such Unit; provided, that, nothing in this Section shall be construed to deny to the Association the right to apply any such proceeds to repair or replace damaged portions of the Property or to restore what remains of the Property after condemnation or taking by eminent domain of a part of the Property.

ARTICLE XII

MISCELLANEOUS

UNOFFICIAL COPY

Property of Cook County Clerk's Office

12.01 *Notices.* Notices provided for in the Act, the Declaration or the By-Laws shall be in writing and shall be addressed to the Board or Association, or any Unit Owner, as the case may be at the Property, Chicago, Illinois (indicating thereon the number of a respective Unit if addressed to a Unit Owner), or at such other address as herein provided. Any Unit Owner may designate a different address or addresses for notices to him by giving notice of his change of address to the Board. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person.

12.02 *Severability.* If any provision of this Declaration or the By-laws, or any section, sentence, clause, phrase, word, or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration or the By-laws and of the application of any such provisions, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the remainder of the Declaration or the By-laws shall be construed as if such invalid part were never included therein.

12.03 *Perpetuities and Restraints on Alienation.* If any of the options, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provisions, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living lawful descendants of George W. Bush, President of the United States.

12.04 *Rights and Obligations.* Each grantee by the acceptance of a deed of conveyance, and each purchaser under a purchase contract therefore, and each tenant under a lease for a Unit, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be the covenants running with the land and shall bind any person having at any time an interest or estate in the Property, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

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

12.06 *Partial Invalidity.* The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, or any part of the same, shall not impair or affect in any

UNOFFICIAL COPY

Property of Cook County Clerk's Office

manner the validity, enforceability or effect of the rest of this Declaration. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of operation.

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

IN WITNESS WHEREOF, the Board has duly executed this Amended and Restated Declaration on the day and year first above written.

BOARD OF DIRECTORS OF THE
CLIFTON PLACE CONDOMINIUM
ASSOCIATION

Sloan Watson - President	<u>Sloan Watson</u>	9.19.01
Bas Bourne - VP & Secretary	<u>Bas Bourne</u>	9.19.01
Julie Nelson - Treasurer	<u>Julie Nelson</u>	9.19.01
Merilee Bernauer - Board Member	<u>Merilee Bernauer</u>	9/19/01
Neva Frank - Board Member	<u>-</u>	

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

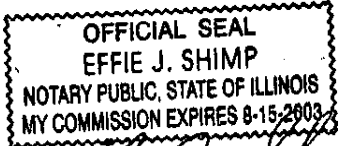
10907390
UNOFFICIAL COPY

STATE OF ILLINOIS }
 } SS.
COUNTY OF COOK }

I, the undersigned, a Notary Public, in and for the County and State aforesaid, do hereby certify that Sloan Watson, Bas Bouma, Julie Nelson, Merilee Bernauer, and _____, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and as their free and voluntary act, and as the free and voluntary act and deed of said Association for the uses and purposes therein set forth.

Given under my hand and official seal, this 19th day of September, 2001.

Commission expires 8-15-03
Notary Public



Effie J. Shimp

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

10909390

EXHIBIT A

LEGAL DESCRIPTION

THE SOUTH 134.0 FEET OF LOTS 19 THROUGH 22 INCLUSIVE, IN SUB BLOCK 7 IN JAMES MORGAN'S SUBDIVISION OF THE WEST 1/2 OF THE SOUTH WEST 1/4 OF BLOCK 10 IN SHEFFIELD'S ADDITION TO CHICAGO, IN SECTION 32, TOWNSHIP 40 NORTH RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Pin Number: 14-32-221-042-1001-1018

Commonly known as 2000-2010 Clifton Street, Chicago, Illinois

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

EXHIBIT B

PERCENTAGE OF OWNERSHIP IN COMMON ELEMENTS

	<i>% of Interest in Common Elements</i>
2000-A	7.219
2000-B	6.931
2000-C	7.219
2002-D	5.487
2002-E	4.909
2002-F	5.169
2004-A	5.487
2004-B	4.764
2004-C	4.909
2006-D	5.487
2006-E	4.764
2006-F	4.909
2008-A	6.353
2008-B	4.764
2008-C	4.909
2010-D	6.642
2010-E	4.909
2010-F	5.169

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

EXHIBIT C

BY-LAWS
OF
THE CLIFTON PLACE CONDOMINIUM ASSOCIATION

ARTICLE I

MEMBERS
(UNIT OWNERS)

Section 1. **Eligibility.** The members of The Clifton Place Condominium Association, an Illinois not-for-profit organization, shall consist of the respective Unit Owners of the Property located at 2000-2010 Clifton Street, Chicago, Illinois, in accordance with the respective percentages of ownership interest in the Common Elements of the Property owned by the respective Unit Owners (these and other terms are used in these By-Laws as they are defined in the Declaration of Condominium Ownership, which Declaration is recorded in the Office of the Recorder of Deeds of Cook County, Illinois. The words "member" and "members", as used in these By-Laws, mean and shall refer to "Unit Owner" or "Unit Owners" as the case may be, as defined in the Declaration of Condominium Ownership). The Association shall have one class of membership and nothing contained in the Declaration or the By-Laws shall permit or allow different classes of membership among the Unit Owners.

Section 2. **Succession.** The membership of each Unit Owner shall terminate when he ceases to be a Unit Owner, and upon the sale, transfer or other disposition of his Unit Ownership in the Property, his membership in the Association shall automatically be transferred to the new Unit Owner succeeding to such Unit Ownership.

Section 3. **Annual Meetings.** Meetings of Unit Owners shall be held at the Property or at such other place in Cook County, Illinois, as may be specified in the notice of the meeting. There shall be an annual meeting of the Unit Owners on or about the anniversary of the initial meeting of the Unit Owners.

Section 4. **Special Meetings.** Special meetings of the Unit Owners may be called by the President or by a majority of the directors of the Board, or by Unit Owners having at least twenty percent (20%) of the votes entitled to be cast at such meeting. Said special meetings shall be called by delivering written notice to all Unit Owners not less than ten (10) days and not more than thirty (30) days prior to the date of said meeting, stating the date, time and place of said special meeting and the matters to be considered. Matters to be submitted at special meetings of the Unit Owners shall first be submitted to the Board, at least ten (10) days prior to the special meeting. The Board shall then submit the matters to the Unit Owners.

Section 5. **Delivery of Notice of Meetings.** Except as otherwise provided herein, notices of meetings may be delivered either personally or by mail to a Unit Owner at the address given to the Board by said Unit Owner for such purpose, or to the Unit Owner's Unit, if no address for such purpose has been given to the Board, provided that any such notice shall be delivered not less than ten (10) days and no more than thirty (30) days prior to the date fixed for such meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

UNOFFICIAL COPY

6/11/11

Property of Cook County Clerk's Office

Section 6. **Voting.** (a) The aggregate number of votes for all Unit Owners shall be one hundred (100), and, except otherwise herein provided, shall be divided among the respective Unit Owners in accordance with their respective percentages of ownership interest in the Common Elements as set forth in Exhibit B to the Declaration. Notwithstanding the foregoing, if 30% or fewer of the Units, by number, possess over 50%, in the aggregate of the Votes in the Association, any percentage vote of the members of the Association specified herein or in the Declaration or Act shall require the specified percentage by number of Units rather than by percentage of interest in the Common Elements allocated to the Units that would otherwise be applicable.

(b) If any Unit Owner consists of more than one person, the voting rights of such Unit Owner shall not be divided but shall be exercised as if the Unit Owner consisted of only one person in accordance with the proxy or other designation made by the persons constituting such Unit Owner. In the absence of a written designation naming the voting member with respect to any such Unit, any one of multiple Unit Owners of such Unit may cast the votes therefore unless protest by any other of such multiple Unit Owners shall be made promptly to the person presiding over such meeting. In the event of such protest, the votes attributable to such Unit shall not be counted.

(c) The affirmative vote of not less than two-thirds (2/3) of the total ownership of the Common Elements is required in order to approve any of the following proposed actions: (i) merger or consolidation of the Association; (ii) sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all of the property and assets of the Association (except that the Board shall have the right to assign its right to future income, including the right to receive assessments for common expenses, in connection with financing repairs, replacements or renovations of the Common Elements); and (iii) the purchase or sale of land or Units on behalf of all Unit Owners.

Section 7. **Quorum.** The presence of voting members in person or by proxy at any meeting of the Unit Owners having twenty percent (20%) of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Unit Owners at which a quorum is present upon the affirmative vote of Unit Owners having a majority of the total votes represented at such meeting.

ARTICLE II

BOARD OF DIRECTORS

Section 1. **Number, Election and Term of Office.** The Unit Owners shall elect the Board consisting of five (5) members. In all elections for members of the Board, each Unit Owner shall be entitled to vote on a non-cumulative voting basis and the candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected for a term of two (2) years each. Terms shall staggered as in effect on the date this Amended and Restated Declaration is recorded. Board members are permitted to succeed themselves in office. The voting members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease such number of persons on the Board or may decrease the term of office of Board members at any annual or special meeting, provided that such number shall not be less than three (3) and that the terms of at least one-third (1/3) of the persons on the Board shall expire annually. The term of a director shall not exceed two (2) years.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Section 2. *Qualification.* Each director shall be a Unit Owner (or, if a Unit Owner is a corporation, partnership or trust, a director may be an Officer, partner or beneficiary of such Unit Owner). If a director shall cease to meet such qualifications during his term, he shall thereupon cease to be a director and his place on the Board shall be deemed vacant. In the event of a sale of a unit pursuant to an installment contract for purchase, during such times as the purchaser resides in the Unit, he or she shall be counted toward a quorum for the purposes of election of members of the Board at any meeting of the Unit Owners called for purpose of electing members of the Board, shall have their right to vote for the election of members of the Board and to be elected to and serve on the Board unless the seller expressly retains in writing any or all of such rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office or be elected and serve on the Board. Satisfactory evidence of the installment contract shall be made available to the Association or its agents.

Section 3. *Vacancies.* Vacancies on the Board shall be filled by a two-thirds vote of the remaining members of the Board until the next annual meeting of Unit Owners or for a period terminating no later than thirty (30) days following the filing of a petition signed by Unit Owners holding twenty percent (20%) of the votes of the Association requesting a meeting of the Unit Owners for the purpose of filling the vacancy. Members of the Board are authorized to fill vacancies among the officers for the unexpired portion of the officers' terms

Section 4. *Meetings.* (a) The Board shall meet at least four times annually, one of the meetings to be held within ten (10) days following the regular annual meeting of Unit Owners. Written notice stating the date, time and place of regular meetings shall be delivered, either personally or by mail or telegram, to a director at the address given to the Board by said director for such purpose not less than forty-eight (48) hours prior to the date of each such meeting.

(b) Special meetings of the Board shall be held upon a call by the President or by a majority of the directors on not less than forty-eight (48) hours notice in writing to each director, delivered personally or by mail or telegram at the address given to the Board by said director for such purpose.

(c) Any director may waive notice of a meeting, or consent to the holding a meeting without notice, or consent to any action of the Board without a meeting. A director's attendance at a meeting shall constitute his waiver of notice of said meeting.

(d) Meetings of the Board shall be open to any owner, except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the particular association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of any employee, or (iii) to discuss violations of rules and regulations of the association or an owner's unpaid share of common expenses that any vote on these matters shall be taken at proceedings at meetings or portions thereof open to any Unit Owner; that any Unit Owner may record the proceedings at meeting or portions thereof required to be open by this act by tape, file or other means that the Board may prescribe reasonable rules and regulations to govern the right to make such recordings, that a notice of such meetings shall be mailed or delivered at least forty eight (48) hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice pursuant to the declaration, bylaws, other condominium instruments, or provision of law other than this subsection before the meeting is convened and that copies of notices

UNOFFICIAL COPY

Property of Cook County Clerk's Office

of meetings of the board shall be posted in entranceways, elevators or other conspicuous places in the condominium at least forty-eight (48) hours prior to the meeting of the Board.

Section 5. **Removal.** Any director may be removed from office, with or without cause, by the vote of Unit Owners owning at least two-thirds (2/3) of the total votes at any special meeting called for that purpose. A successor to fill the unexpired term of a director may be elected by the Unit Owners at the same meeting or any subsequent annual meeting or at a special meeting called for that purpose.

Section 6. **Compensation.** Directors shall receive no compensation for their services unless expressly provided for in a resolution duly adopted at any annual or special meeting of the Unit Owners.

Section 7. **Quorum.** A majority of the members of the Board shall constitute a quorum at any meeting. The Board shall act at meetings by majority vote of the quorum.

Section 8. **Power and Duties.** The Board shall have the following general powers and duties:

- (a) To elect and remove the officers of the Association as hereinafter provided;
- (b) to administer the affairs of the Association and the Property;
- (c) to, at its option, engage the services of a manager, or managing agent to maintain, repair, replace, administer and operate the property, or any part thereof, for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve;
- (d) to formulate policies for the administration, management and operation of the Property and Common Elements thereof;
- (e) to adopt rules and regulations with written notice thereof to all Unit Owners, governing the administration, management, operation, use, conservation and beautification of the Property and the Common Elements (including, but not limited to the Parking Area and the laundry rooms) and for the health, comfort, safety and general welfare of the Unit Owners after a meeting of the owners called for the specific purpose of discussing the proposed rules and regulations, notice of which contains the full text of the proposed rules and regulations. No quorum is required at such meeting of the owners; provided no rule or regulation may impair any rights guaranteed by the First Amendment to the Constitution of the United States or Section 4 of Article I of the Illinois Constitution; nor may any rules or regulations conflict with the provisions of the Act or the condominium instruments;
- (f) to pay for painting, cleaning, outside window washing, tuckpointing, landscaping, maintenance, operation, care, upkeep, improvement, decorating, repair and replacements of the Common Elements (but not including the interior surfaces of the Units and of hallways and doors appurtenant thereto) and such furnishings and equipment for the Common Elements as the Board shall determine are necessary and proper. The term "repair, replacement or restoration" means expenditures to deteriorated or damaged portions of the Property related to the existing decorating, facilities or structural or mechanical components, interior or exterior surfaces, or energy systems and

UNOFFICIAL COPY

Property of Cook County Clerk's Office

equipment with the functional equivalent of the original portions of such areas. Replacement of the Common Elements may result in an improvement over the original quality of such elements or facilities; provided that, if the improvement results in a proposed expenditure exceeding five percent (5%) of the annual budget, the Board, upon written petition by owners with twenty percent (20%) of the votes of the Association delivered to the Board within fourteen (14) days of the Board action to approve the expenditure, shall call a meeting of the owners within thirty (30) days of the date of delivery of the petition to consider the expenditure. Unless a majority of the total votes of the Owners are cast at the meeting to reject the expenditure, it is ratified;

(g) to pay for any other materials, supplies, utilities, furniture, equipment, labor, services, maintenance, repairs or structural alterations which the Board is required to secure or pay for, pursuant to the terms of the Declaration and these By-Laws or which in its opinion shall be necessary or proper for the maintenance and operation of the Property as a first-class condominium apartment building;

(h) to maintain and repair any Unit if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Elements, or any other portion of the Building, and if a Unit Owner has failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Board to said Unit Owner, provided that the Board shall levy a special assessment against such Unit Owner for the cost of said maintenance or repair;

(i) to employ the services of any person or firm to act on behalf of the Unit Owners in connection with real estate taxes and special assessments on the Units, and in connection with any other matter where the respective interests of the Unit Owners are deemed by the Board to be similar and not adverse to each other, the cost of such services to be a Common Expense;

(j) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate such powers to the manager or managing agent (and any such employees or other personnel who may be employees of the managing agent);

(k) to pay for water, waste removal, electricity, gas, telephone and other necessary utility services for the Common Elements and (if not separately metered or charged) for the Units;

(l) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(m) to estimate the amount of the annual budget and to provide the manner of assessing and collecting from the Unit Owners their respective shares of such estimated expenses as hereinafter provided;

(n) to settle all disputes between Unit Owners with regard to adjoining Limited Common Elements;

(o) the Board shall have access to each unit from time to time as may be necessary for the maintenance, repair or replacement of any Common Elements therein or accessible therefrom,

UNOFFICIAL COPY

Property of Cook County Clerk's Office

or for making emergency repairs therein necessary to prevent damage to the Common Elements or to other Units;

(p) to bid for and purchase any Unit Ownership at a sale pursuant to a mortgage foreclosure, or a foreclosure of the lien for Common Expenses under the Act, or at a sale pursuant to any order or direction of a court, or other involuntary sale, upon the consent or approval of Unit Owners owning not less than two-thirds (2/3) of the aggregate of the undivided ownership of the Common Elements;

(q) to impose charges for late payment of an owner's proportionate share of the common expense, or any other expense lawfully agreed upon, and after notice and an opportunity to be heard, to levy reasonable fines for violation of the Declaration, Bylaws, and rules and regulations of the Association;

(r) by a majority vote of the entire Board, to assign the right of the Association to future income from Common Expense or other sources and to mortgage or pledge substantially all of the remaining assets of the Association;

(s) to record the dedication of a portion of the Common Elements to a public body for use as or in connection with a street or utility where authorized by the Owners under the provisions of Section 14.2 of the Act;

(t) to record the granting of an easement for the laying of cable television cable where authorized by the owners under Section 14.3 of the Act;

(u) to seek relief on behalf of all Owners when authorized pursuant to Section 10 of the Act or in connection with the levying of real property taxes, special assessments and any other special taxes or charges of the State of Illinois or of any political subdivision or other lawful taxing or assessing body;

(v) to reasonably accommodate the needs of a handicapped owner as required by the federal Civil Rights Act of 1968, the Human Rights Act and any applicable local ordinances in the exercise of its powers with respect to the use of Common Elements or approval of modifications of an individual Unit;

(w) to disseminate to Owners, if it chooses to do so, biographical and background information about candidates for election to the Board if: (i) reasonable efforts to identify all candidates are made and all candidates are given an opportunity to include biographical and background information in the information to be disseminated; and (ii) the Board does not express a preference in favor of any candidate;

(x) to distribute proxies for Board elections. Such proxies must give owners the opportunity to designate any persons as the proxy holder and must give each Owner the opportunity to express a preference for any of the known candidates for the Board or write in a name;

(y) to adopt, at its discretion, the appropriate rules to conduct elections by secret ballot whereby the voting ballot is marked only with the percentage interest for the unit and the vote itself; provided, that the Board further adopt rules to verify the status of the owner issuing a proxy or

UNOFFICIAL COPY

Property of Cook County Clerk's Office

casting a ballot; and further that a candidate for reelection to the Board or such candidate's representative shall have the right to be present at the counting of ballots at such election; and

(z) to exercise all other powers and duties of the board of managers of Unit Owners as a group referred to in the Act, and all powers and duties of the Board of Directors referred to in the Declaration or these By-Laws.

In the performance of their duties, the officers and members of the Board are required to exercise the care required of a fiduciary of the owners.

Section 9. **Agreement.** All agreements, contracts, deeds, leases, vouchers for payment of expenditures and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the President or any Vice-President and countersigned by the Treasurer of the Board. The managing agent of the Property may be authorized to execute those documents required to enable it to perform its duties under its management agreement. The Board may not enter into a contract with a current Board member or with a corporation or partnership in which a Board member or a member of the Board member's immediate family has twenty-five percent (25%) or more interest, unless notice of intent to enter the contract is given to Owners within twenty (20) days after a decision is made to enter into the contract and the Owners are afforded an opportunity by filing a petition, signed by twenty percent (20%) of the Owners, for an election to approve or disapprove the contract, such petition shall be filed within twenty (20) days after such notice and such election shall be held within thirty (30) days after filing the petition; for purposes of this subparagraph, a Board member's immediate family means the Board member's spouse, parents and children.

Section 10. **Non-Delegation.** Nothing in this Article or elsewhere in these By-Laws shall be considered to grant to the Board or to the officers of the Association any powers or duties which, by law, have been designated to the Unit Owners.

ARTICLE III

OFFICERS

Section 1. **Designation.** At each regular annual meeting, the directors present at said meeting shall elect the following officers of the Association by a majority vote:

(a) a President, who shall be a director and who shall preside over the meetings of the Board and of the Unit Owners, and who shall be the chief executive officer of the Board and the Association and who shall be designated to mail and receive all notices and execute all amendments as provided in the Declaration, these By-Laws or the Act;

(b) a Secretary, who shall be a director and who shall keep the minutes of all meetings of the Board and of the Unit Owners and who shall, in general, perform all the duties incident to the office of Secretary;

(c) a Treasurer, who shall be a director and who shall be responsible for financial records and books of account and the manner in which such records and books are kept and reported; and

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(d) such additional officers as the Board shall see fit to elect.

Section 2. **Powers.** The respective officers shall have the general powers usually vested in such officers, provided that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

Section 3. **Term of Office.** Each officer shall hold office for a term of one (1) year and until his successor shall have been appointed or elected and qualified. Officers are permitted to succeed themselves in office.

Section 4. **Vacancies.** Vacancies in any office shall be filled by the Board by a majority vote of the remaining members thereof at a special meeting of said Board. Any director so elected to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds. Any officer may be removed for cause at any time by a majority of the Board at a special meeting thereof.

Section 5. **Compensation.** The officers shall receive no compensation for their services, unless expressly provided for in a resolution duly adopted at any annual or special meeting of the Unit Owners.

ARTICLE IV

ASSESSMENTS

Section 1. **Annual Budget.** Each year, the Board shall cause to be prepared an estimated annual budget for the ensuing fiscal year. Such budget shall take into account the estimated Common Expenses and cash requirements for the year, including but not limited to such things as salaries, wages, payroll taxes, legal and accounting fees, supplies, materials, parts, services, maintenance, repairs, landscaping, insurance, water, fuel, power, capital expenses or repairs, real estate taxes and all other Common Expenses, as deemed necessary by the Board together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements. The annual budget shall also take into account the estimated net available cash income for the year from the operation or use of the Common Elements, if any. To the extent that the assessments and other cash income collected from the Unit Owners during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account.

Section 2. **Assessments.** A copy of the estimated annual budget for each fiscal year shall be furnished to each Unit Owner at least thirty (30) days prior to its adoption by the Board together with an indication of which portions are intended for reserves, capital expenditures or repairs or payment of real estate taxes. Each Unit Owner shall receive notice in the manner provided for in Section 1.05 above of any meeting of the Board concerning the adoption of the estimated annual budget or any increase or establishment of the assessment. On or before the 1st of the ensuing year and the first of each succeeding month of said year, each Unit Owner shall pay, as his respective monthly assessment for the Common Expenses, one-twelfth (1/12) of his proportionate share of the Common Expenses for such year as shown by the annual budget. Such proportionate share for each Unit Owner shall be in accordance with his respective ownership interest in the Common Elements as set forth in Exhibit B of the Declaration. In the event that the Board shall not approve an

UNOFFICIAL COPY

Property of Cook County Clerk's Office

estimated annual budget or shall fail to determine new monthly assessments for any year, or shall be delayed in doing so, each Unit Owner shall continue to pay each month the amount of his respective monthly assessment as last determined. Each Unit Owner shall pay his monthly assessment on or before the first day of each month to the manager or managing agent of the Property or as may be otherwise directed by the Board.

Section 3. ***Partial Year or Month.*** If any succeeding year, shall be less than a full year, then the monthly assessments for each Unit Owner shall be proportionate to the number of months and days in such period covered by such budget. Commencing with the date of acceptance by each Unit Owner of a deed of conveyance for his Unit, he shall pay his assessment for the following month or fraction of a month, which assessment, except as may be otherwise provided in the Condominium Instruments, shall be in proportion to his respective ownership interest in the Common Elements as set forth in Exhibit B of the Declaration and the number of months and days remaining of the period covered by the current annual budget, and which assessment shall be as computed by the Board.

Section 4. ***Annual Reports.*** Each year, the Board shall cause to be furnished to each Unit Owner an itemized accounting of the Common Expenses for the preceding year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget for the preceding year, and showing the net excess or deficit of income over expenditures plus reserves; and such other information as the Board may deem desirable including but not limited to an indication of which portions were for reserves, capital expenses or repairs or payment of real estate taxes. The Board, at its discretion, may obtain audited financial statements.

Section 5. ***Reserve for Contingencies and Replacements - Supplemental Budget.*** The Board shall build up and maintain a reasonable reserve for contingencies and replacements, which reserve shall be segregated and allocated for specific purposes. All budgets shall provide for reasonable reserves for capital expenditure and deferred maintenance for repair or replacement of the Common Elements. To determine the amount of reserves appropriate for the Association, the Board shall take into consideration the following: (i) the repair and replacement cost, and the estimated useful life, of the Property which the Association is obligated to maintain, including but not limited to structural and mechanical components, surfaces of the buildings and Common Elements, and energy systems and equipment; (ii) the current and anticipated return on investment of Association funds; (iii) any independent professional reserve study which the Association may obtain; (iv) the financial impact on Owners, and the market value of the Units, of any assessment increase needed to fund reserves; and (v) the availability of the Association to obtain financing or refinancing. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year shall be charged first against such portions of the contingency and replacement reserve which remain unallocated.

If the "estimated cash requirement" proves inadequate for any reason or in the event a non-recurring Common Expense is anticipated for any year, then the Board may prepare and approve a supplemental budget covering the estimated deficiency or non-recurring expense for the remainder of such year; provided (i) that each Owner shall receive notice in the same manner as is provided in the Act for membership meeting, of any meeting of the Board concerning the adoption of the proposed annual budget and regular assessments pursuant thereto or to adopt a separate (special) assessment, (ii) that except as provided in subsection (iv) below, if an adopted budget or any separate

UNOFFICIAL COPY

Property of Cook County Clerk's Office

assessment adopted by the Board would result in the sum of all regular and separate assessments payable in the current fiscal year exceeding one hundred fifteen percent (115%) of the sum of all regular and separate assessments payable during the preceding fiscal year, the Board, upon written petition by Owners with twenty percent (20%) of the votes of the Association delivered to the Board within fourteen (14) days of the Board action, shall call a meeting of the Owners within thirty (30) days of the date of delivery of the petition to consider the budget or separate assessment; that unless a majority of the total votes of the owners are cast at the meeting to reject the budget or special assessment, it is ratified; (iii) that any Common Expenses not set forth in the budget or any increase in assessments over the amount adopted in the budget shall be separately assessed against all owners; (iv) that separate assessments for expenditures relating to emergencies or mandated by law may be adopted by the Board without being subject to owner approval or the provisions of item (ii) above or item (v) below. As used herein, "emergency" means an immediate danger to the structural integrity of the Common Elements or to the life, health, safety or property of the Owners; (v) that assessments for additions and alterations to the Common Elements or to Association-owned property not included in the adopted annual budget, shall be separately assessed and are subject to approval of two-thirds (2/3) of the total votes of all Owners; (vi) that the Board may adopt separate assessments payable over more than one fiscal year. With respect to multi-year assessments not governed by items (iv) and (v), the entire amount of the multi-year assessment shall be deemed considered and authorized in the first fiscal year in which the assessment is approved.

Section 6. *Limit on Expenditures.* Unless contained in the annual budget, and except for items constituting operating expenses, the Board shall not approve any non-recurring single expenditure in excess of Five Thousand (\$5,000.00) Dollars unless required for maintenance repair, replacement, protection or operation of the Common Elements, or enter into a contract having a term in excess of two (2) years, without the prior approval of Unit Owners owning two-thirds (2/3) of the total ownership interest in the Common Element.

Section 7. *Lien.* It shall be the duty of every Unit Owner to pay his proportionate share of the Common Expenses, in the same ratio as his percentage of ownership in the Common Elements as set forth in Exhibit B of the Declaration, and as assessed in the manner herein provided. If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof shall constitute a lien on the interest of such Unit Owner in the Property; provided, however, that such lien shall be subordinate to the lien of a prior recorded first mortgage on the interest of such Unit Owner, owned or held by a bank, insurance company, savings and loan association, or other lender except for the amount of the proportionate share of Common Expenses which become due and payable from and after the date on which the said mortgage owner or holder either takes possession of the Unit, accepts a conveyance of any interest therein (other than as security), files suit to foreclose its mortgage, or causes a receiver to be appointed. The Association or its successors and assigns, or the Board or its agents shall have the right to maintain a suit to foreclose any such lien, and there shall be added to the amount due, the costs of said suits and other fees and expenses, together with legal interest and reasonable attorneys' fees to be fixed by the court. Furthermore, if any Unit Owner shall fail or refuse to pay when due his proportionate share of the Common Expenses and such Unit Owner withholds possession of his Unit after demand by the Board or the Association in writing setting forth the amount claimed, the Board or the Association shall have the right to possession of such Unit. The Board or the Association shall have the authority to exercise and enforce any and all rights and remedies as provided for in the Act, the Forcible Entry and Detainer Act, the Declaration or these By-Laws or which may be available at law or in equity for the collection of all unpaid assessments.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Section 8. *Records and Statement of Account.*

(a) The Board shall keep and maintain the following records, or true and complete copies of these records at the Association's principal office: (1) the Association's Declaration, Bylaws, and survey, and all amendments; (2) the rules and regulations; (3) articles of incorporation and all amendments; (4) minutes of all meetings of the Association and the Board for the immediately preceding seven (7) years; (5) current policies of insurance; (6) contracts, leases and other agreements in effect or under which the Association or the Unit Owners have obligations or liabilities; (7) a current listing of the names, addresses, and weighted vote of all members entitled to vote; (8) ballots and proxies related to ballots for all matters voted on by the members of the Association during the immediately preceding 12 months; (9) the books and records of account for the Association's current and 10 immediately preceding fiscal years, including but not limited to itemized and detailed records of all receipts and expenditures.

(b) Any member of the Association shall have the right to inspect, examine and make copies of the records described in subdivisions (1), (2), (3), (4), and (5) of subsection (a) of this Section, in person or by agent, at any reasonable time or times, at the Association's principal office. In order to exercise this right, a member must submit a written request to the Association's Board or its authorized agent, stating with particularity the records sought to be examined. Failure of the Board to make available all recorded so requested within thirty (30) days of receipt of the member's written request shall be deemed a denial.

(c) Except as otherwise provided in this section any members of the Association shall have the right to inspect, examine, and make copies of the records described in subdivisions (6), (7), (8), and (9) of subsection (a) of this section, in person or by agent, at any reasonable time or times but only for a proper purpose, at the Association's principal office. To exercise this right, a member must submit a written request, to the Board or its agent, stating with particularity the records sought to be examined and proper purpose for the request. Subject to the provisions of subsection (f) of this, failure of the Board to make available all records so requested within thirty (30) business days of receipt of the member's written request shall be deemed a denial; provided, however, that the Board has adopted a secret ballot election process as provided in the Act shall not be deemed to have denied a member's request for records described in subdivision (8) of subsection (a) of the Section if voting ballots, without identifying Unit numbers, are made available to the requesting member within thirty (30) days of receipt of the member's written request.

(d) In an action to compel examination of records described in subdivision (6), (7), (8), and (9) of subsection (a) of this Section, the burden of proof is upon the member to establish that the member's request is based on a proper purpose. Any member who prevails in enforcement action to compel examination of records described in subdivisions (6), (7), (8), and (9) of subsection (a) of this Section shall be entitled to recover reasonable attorney's fees and costs from the association only if the court finds that the board of directors acted in bad faith in denying the member's request.

(e) The actual cost to the association of retrieving and making requested records available for inspection and examination shall be charged by the Association to the requesting member. If a member requests copies of records, the actual costs to the Association of reproducing the records shall also be charged to the requesting member.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(f) Notwithstanding the provisions of subsection (e) of this section, unless otherwise directed by court order the Association need not make the following records available for inspection, examination, or copying by its members: (1) documents relating to appointment, employment, discipline, or dismissal of association employees; (2) documents relating to actions pending against or on behalf of the Association or its Board in a court or administrative tribunal; (3) documents relating to actions threatened against, or likely to be asserted on behalf of, the Association or the Board in a court or administrative tribunal; (4) documents relating to common expenses or other charges owed by a member other than the requesting member; and (5) documents provided to the Association in connection with the lease, sale or other transfer of a Unit by a member other than the requesting member;

The Board shall, upon receipt of ten (10) days, written notice to it or the Association and upon payment of a reasonable fee, furnish to any Unit Owner a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner. Unit Owners shall be permitted to inspect the financial books and records of the Association, at any reasonable time or times and for any proper purpose, within seventy-two (72) hours after receipt by the Association of a written request for examination thereof. No Unit Owner shall be denied such a request to examine the records as provided above.

Section 9. Discharge of Liens. A Unit Owner is not authorized to act in any manner so as to cause any purported mechanic's lien to be asserted against a Common Element. The Board may cause the Association to discharge any mechanic's lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the Property or the Common Elements, rather than against a particular Unit only. When less than all the Unit Owners are responsible for the existence or assertion of any such lien, the Unit Owners responsible shall be jointly and severally liable for the amount necessary to discharge the same and for all costs and expenses, including attorneys' fees, incurred by reason of such lien. Nothing herein shall be deemed an authorization of a Unit Owner to cause any such lien to attach to a Common Element.

Section 10. Holding of Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such separate or additional assessments as may be levied hereunder or under the Declaration against less than all the Unit Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments or User Charges) shall be deemed to be held, in trust, for the benefit, use and account of all the Unit Owners in the percentages as set forth in Exhibit B of the Declaration.

ARTICLE V Use and Occupancy Restrictions

Section 1. The Property shall be used as follows:

(a) Each Unit Owner shall maintain his Unit and any Limited Common Elements appurtenant thereto, in good condition and in good order and repair, at his own expense, and shall not do or allow anything to be done in his Unit which may increase the cost or cause the cancellation of insurance on other Units or on the Common Elements or which violates any law, statute or ordinance.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

(b) No unlawful, noxious or offensive activities shall be carried on in any Unit or elsewhere on the Property, nor shall anything be done therein or thereon which shall constitute a nuisance or which shall, in the judgment of the Board, cause unreasonable noise or disturbance to others.

(c) No Unit Owner or occupant shall display, hang, store or use any clothing, sheets, blankets, laundry or other articles outside his Unit, or which may be visible from the outside of his Unit (other than draperies, curtains or shades of a customary nature and appearance, subject to the rules and regulations of the Board), or paint or decorate or adorn the outside of his Unit, or install outside his Unit any canopy or awning, or outside radio or television antenna, or other equipment, fixtures or items of any kind, without the prior written permission of the Association, Board, or Managing Agent.

(d) No animals shall be raised, bred or kept in any Unit or in the Common Elements, except that dogs, cats and other household pets may be kept in Units subject to the rules and regulations of the Board, provided that they are not kept, bred or maintained for a commercial purposes. If any pet, because of noise, barking, damage to the Property or complaints of other Unit Owners, becomes an annoyance, the Board may request the Unit Owner to, and the Unit Owner shall at his own expense, remove such pet from the Property.

(e) Trash, garbage and other waste shall be kept only in sanitary containers, and shall be disposed of in a clean and sanitary manner as prescribed from time to time in rules and regulations of the Board.

(f) Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Building or which would structurally change the Building except as is otherwise provided herein. No Unit Owner shall overload the electric wiring in the Building, or operate machines, appliances, accessories or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others. No Unit Owner shall overload the floors of any Unit. The use of waterbeds and similar furnishings and equipment which may cause floor overloads shall be subject to Board approval.

(g) There shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the Common Elements except subject to reasonable rules and regulations of the Board.

(h) Except as to the Commercial Unit, no industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designed for profit, altruism, exploration or otherwise shall be conducted, maintained or permitted in any Unit.

(i) No "For Sale" or "For Rent" signs, advertising or other displays shall be maintained or permitted on any part of the Property.

(j) The Unit restrictions in paragraph (a) and (h) of this Section 1 shall be construed in such a manner as to prohibit a Unit Owner from: (i) maintaining a personal professional library therein; (ii) keeping his personal business or professional records or accounts therein; or (iii) handling his personal business or professional telephone calls or correspondence therefrom. Such

UNOFFICIAL COPY

Property of Cook County Clerk's Office

uses expressly declared customarily incident to the principal resident use and not in violation of paragraphs (a) and (h) in this Section 1.

Section 2. Uses of Commercial Unit - General. Notwithstanding anything to the contrary contained in these By-laws, the Commercial Unit may be used for any purposes permitted in Article IX, Section 9.01(c) of the Declaration.

ARTICLE VI

AMENDMENTS

These By-Laws may be amended or modified from time to time by action or approval of Unit Owners owning at least two-thirds (2/3) of the total ownership interest in the Common Elements as set forth in Exhibit B of the Declaration; provided however, that no amendment or modification of these By-Laws shall conflict with the Declaration or the Act.

Any amendments or modifications of these By-Laws made in accordance with this Article VI shall become effective upon the recording of same.

ARTICLE VII

INDEMNIFICATION

Section 1. **General.** The Association shall 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 (other than an action by or in the right of the Association), by reason of the fact that he is or was a member of the Board or an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by or imposed on him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, has no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which is reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. **Success on Merits.** To the extent that a member of the Board, or an officer of the Association or a member of any committee, appointed pursuant to the By-Laws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceedings referred to in Section 1, or in the defense of any claim, issue or matter therein, he shall be indemnified against any expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Section 3. ***Determination of Right of Indemnity.*** Any indemnification under Section 1 shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the members of the Board, or the officer, or the member of such committee is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 1. Such determination shall be made: (i) by the Board by a majority vote of a quorum consisting of those directors who were not parties to such action, suit or proceeding; or (ii) if such a quorum is not obtainable, or even if obtainable if such quorum of disinterested directors so directs by independent legal counsel in a written opinion; or (iii) by a majority of the members of the Association.

Section 4. ***Advance Payment.*** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition, of such action, suit or proceeding, as authorized by the Board in the specific case, upon receipt of an undertaking by or on behalf of the member of the Board, or the officer, or the member of such committee to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this Article VIII.

Section 5. ***Funding.*** The Board on behalf of the Association shall have the authority to, and if necessary, shall raise by separate assessment any sums required to discharge its obligations under this Article.

Section 6. ***Non Exclusivity.*** The indemnification provided by this Article VIII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The foregoing right of indemnification shall continue as to a person who has ceased to be a member of the Board, or an officer, or a member of such committee, and shall inure to the benefit of the heirs, executors and administrators of such a person.

**THIS DOCUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:**

Kathleen A. Penland
FUCHS & ROSELLI, LTD.
440 WEST RANDOLPH STREET
Suite 500
Chicago, Illinois 60606

000
UNOFFICIAL COPY

Property of Cook County Clerk's Office

EXHIBIT D

CERTIFICATION

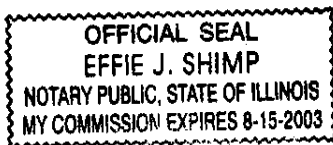
The undersigned, being first duly sworn, deposes and says:

1. I, BAS BOUMA, am the Secretary of the Clifton Place Condominium Association.
2. As of JUNE 28 - Amendment, 2001, more than two-thirds (2/3) of the total unit ownership approved this Amended and Restated Declaration. Sept 19, 2001 - Restatement
2. On 7 28, 2001, I mailed a copy of this Amended and Restated Declaration to which this certification is attached to the holder of each mortgage having a bona fide lien against any unit in the Association.

Bas Bouma, Secretary

Subscribed and sworn to before me
this 28 day of September, 2001.

Effie J. Shimp
Notary Public



Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

COOK COUNTY CLERK'S OFFICE
JAN 10 2008

COOK COUNTY CLERK'S OFFICE
JAN 10 2008

COOK COUNTY CLERK'S OFFICE
JAN 10 2008