

UNOFFICIAL COPY

Doc#: 0810522045 Fee: \$226.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 04/14/2008 12:58 PM Pg: 1 of 44



Doc#: 0823846016 Fee: \$122.25
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 08/25/2008 11:40 AM Pg: 1 of 43

*THIS DOCUMENT IS BEING RE-RECORDED FOR THE PURPOSE OF
ADDING THE DEVELOPERS SIGNATURE AND NOTARY PAGE
1242 WEST JACKSON CONDOMINIUM
DECLARATION OF CONDOMINIUM OWNERSHIP,
BYLAWS EASEMENTS, RESTRICTIONS.

After Recording Return to:
The Preparer
Thomas F. Courtney, Attorney at Law
Thomas F. Courtney & Associates
7000 W. 127th Street
Palos Heights, IL 60463
(708) 448-4400

THIS DECLARATION is made and entered into by JDF CONSTRUCTION CO.
for convenience hereinafter referred to as the "Owner" or "Declarant").

RECITALS:

WHEREAS, the Owner is fee simple titleholder of a multi family building that is
commonly described as 1242 West Jackson Boulevard, City of Chicago, Cook
County, Illinois, that is being submitted to the Illinois Condominium Property Act.

The condominium being created includes 7 dwelling condominium units, 8
garage spaces, storage units, and a roof top deck.

The real estate is legally described as:

**LOTS 35 AND 36 IN BLOCK 16, IN REES AND RUCKER'S SUBDIVISION OF
BLOCKS 16 AND 17 IN CANAL TRUSTEE'S SUBDIVISION OF THE WEST 1/2
AND THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP**

RECORDING FEE \$ ~~226~~
DATE 4-14-08 COPIES 6x
OK 89

UNOFFICIAL COPY

**39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN
COOK COUNTY, ILLINOIS.**

Permanent Index Numbers: 17-17-113-036-0000 & 17-17-113-037-0000

Address: 1242 West Jackson Boulevard, Chicago, Il. 60607

WHEREAS, it is the desire and intention of the Owner to enable the Property (as hereinafter defined) which includes, but is not limited to, said real estate together with the building, garage, and other permanent fixtures of whatsoever kind now or hereinafter thereon, and all rights and privileges belonging or in anyway pertaining thereto to be owned by Owners and by each successor in interest of Owners, under that certain type or method of ownership commonly known as "condominium".

WHEREAS, the Owner has further elected by this Declaration to declare that the unit owners, occupants, mortgagees, and other persons acquiring any interest in the Property shall at all times enjoy the benefits of, and shall at all times hold their interests subject to the rights, easements, privileges, and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspect of ownership and to facilitate the proper administration of such Property and are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Property.

NOW THEREFORE, THE OWNER/DECLARANT, 1242 WEST JACKSON, LLC, the legal title holder hereby submits Units 1E, 1W, 2E, 2W, 3E, 3W and 4, the common areas, and the limited common areas as described in Exhibit A, to the Condominium Property Act for the purposes set forth, as follows:

ARTICLE I DEFINITIONS

For the purpose of brevity and clarity, certain words and terms used in this Declaration are defined as follows:

- a. "Act" means the Condominium Property Act of the State of Illinois, as amended from time to time.
- b. "Association" means 1242 WEST JACKSON CONDOMINIUM, its successors and assigns, through its duly elected Board of Managers. The Association may be incorporated.
- c. "Declaration" means the instrument by which Property is submitted to the provisions of this Act, as hereinafter provided, and such declaration as from time to time amended.
- d. "Parcel" means the lot or lots, tract or tracts of land, described in the Declaration, submitted to the provisions of this Act.

UNOFFICIAL COPY

- e. "Property" means 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 fixtures and equipment intended for the mutual use, benefit, or enjoyment of the Unit Owners, submitted to the provisions of this Act.
- f. "Unit" means a part of the Property designed and intended for any type of independent use.
- g. "Common Elements" means all portions of the Property, except the Units including Limited Common Elements, unless otherwise specified.
- h. "Person" means a natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real Property.
- i. "Unit Owner" means the person or persons whose estates or interest, individually or collectively, aggregate fee simple absolute ownership of a Unit.
- j. "Majority" or "majority of the Unit Owners" means the owners or more than 50% in the aggregate in interest of the undivided ownership of the Common Elements. Any specified percentage of the Unit Owners means such percentage in the aggregate in interest of such undivided ownership. "Majority" or "majority of the members of the Board of Managers" means more than 50% of the total number of persons constituting such Board pursuant to the bylaws. Any specified total number of persons constituting such Board pursuant to the bylaws.
- k. "Plat" means a Plat or Plats of Survey of the Parcel and of all Units in the Property submitted to the provisions of this Act, which may consist of a three-dimensional, horizontal, and vertical delineation of all such units.
- l. "Record" means to record in the Office of the Recorder or, whenever required, to file in the office of the Registrar of Titles of the county wherein the Property is located.
- m. "Condominium Instruments" means all documents and authorized amendments thereto recorded pursuant to the provisions of the Act, including declaration, bylaws, and Plat.
- n. "Common Expenses" means the proposed or actual expenses affecting the Property, including reserves, if any, lawfully assessed by the Board of Managers of the Unit Owner's Association.
- p. "Reserves" means those sums paid by Unit Owners which are separately maintained by the Board of Managers for purposes specified by the Board of Managers or the condominium instruments.
- q. "Unit Owners' Association" or "Association" means the Association of all the Unit Owners, acting pursuant to bylaws through its duly elected Board of Managers.

UNOFFICIAL COPY

- r. "Purchaser" means any person or persons other than the Developer who purchase a Unit in a bona fide transaction for value.
- s. "Developer" means JDF CONSTRUCTION CO., or its successors, or any person who submits Property legally or equitably owned by provisions of the Condominium Act, or any person who offers Units legally or equitably owned by him for sale in the ordinary course of his business, including any successor or successors to such Developers' entire interest in the Property other than the purchaser of an individual Unit.
- t. "Limited Common Elements" means a portion of the Common Elements so designated in the declaration as being reserved for the use of a certain Unit or Units to the exclusion of other Units, including but not limited to balconies, terraces, patios, garage parking spaces, parking spaces, garage roof deck, and storage spaces.
- u. "Building" means all structures, attached or unattached, containing one or more Units.
- v. "Affiliate of a Developer" means any person who controls, is controlled by, or is under common control with the Developer. A person "controls" the Developer if the person (i) is a general partner, officer, director, or employer of the Developer, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20% of the voting interest in the Developer (iii) controls in any manner the election of a majority of the directors of the Developer, or (iv) has contributed more than 20% of the capital of the Developer. A person "is controlled by" the Developer if the Developer (i) is a general partner, officer, director, or employer of the person (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20% of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than 20% of the capital of the person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised. A salesman or broker licensed under the "Real Estate Broker's License Act", who is hired and in fact performs no other function for the developer other than the sale of real estate and who has no other relationship to the Developer other than the sale of real estate and who has no other relationship to the Developer shall not be considered an affiliate of the Developer.
- w. "Developer Control" means such control at a time prior to the election of the Board of Managers provided for in Section 18.2(b) of this Act.
- x. "Meeting of Board of Managers" means any gathering of a majority of a quorum of the members of the Board of Managers held for the purpose of discussing Board business.

UNOFFICIAL COPY

ARTICLE II UNITS EXHIBIT A

Legal Descriptions.

Parcel 1:

UNITS 1E, 1W, 2E, 2W, 3E, 3W and 4, all in the 1242 WEST JACKSON CONDOMINIUM as depicted on the Plat of Survey of the following described real estate:

LOTS 35 AND 36 IN BLOCK 16, IN REES AND RUCKER'S SUBDIVISION OF BLOCKS 16 AND 17 IN CANAL TRUSTEE'S SUBDIVISION OF THE WEST 1/2 AND THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

which Plat of Survey is attached as Exhibit "A" to the Declaration of Condominium Ownership, recorded April 14, 2008, 2008, in the Office of the Recorder of Deeds of Cook County, Illinois, as Document Number 0810522045, as amended from time to time, together with its undivided percentage interest in the common elements, in Cook County, Illinois.

Parcel 2:

The exclusive right to the Garage Space number _____, a limited common element ("LCE"), as delineated on the Plat of Survey, and the rights and easements for the benefit of Unit _____, as set forth in the Declaration of Condominium; the Grantor reserves to itself, its successors and assigns, the rights and easements as set forth in the Declaration for the remaining land described therein.

Parcel 3:

The exclusive right to the Roof Deck, a limited common element ("LCE"), as delineated on the Plat of Survey, and the rights and easements for the benefit of Unit 4, as set forth in the Declaration of Condominium; the Grantor reserves to itself, its successors and assigns, the rights and easements as set forth in the Declaration for the remaining land described therein.

1. Unit Boundaries. Each unit consists of the space enclosed or bounded by the horizontal and vertical planes set forth and identified as a unit in the delineation thereof in Exhibit "A". The number or symbol of such unit followed by the legal description of the Property, as shown on Exhibit "A". Except as provided by the Act, no unit owner shall, by deed, plat or otherwise, subdivide or in any other manner cause the unit to be separated into any tracts or parcels different from the whole unit as shown on Exhibit "A".

UNOFFICIAL COPY

2. Certain Structures Not Constituting Part of a Unit. No structural components of the building, and no pipes, wires, conduits, public utility lines, ducts, flues and shafts situated within a unit and forming part of any system serving one or more other units, nor the common elements, shall be deemed part of said unit.

ARTICLE III

COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

1. Description. Except as otherwise in this declaration provided, the common elements shall consist of all portions of the Property except the units. Without limiting the generality of the foregoing, the common elements shall include the land, outside walks and driveways, landscaping, stairways, entrances and exists, halls, lobby, corridors, mechanical rooms, roof, structural parts of the building, component parts of walls, floors and ceilings, and pipes, ducts, flues, shafts, and public utility lines serving the common elements or more than one unit.

2. Ownership of Common Elements. Each unit owner shall own an undivided interest in the common elements as a tenant in common with all the other unit owners of the Property, and, except as otherwise limited in the declaration, shall have the right to use the common elements for all purposes incident to the use and occupancy of his unit as a place of residence, and such other incidental uses permitted by this declaration, which right shall be appurtenant to and run with his unit. Such right shall extend to each unit owner, and the agents, servants, tenants, family members, and invitees of each unit owner. Each unit owner's interest shall be expressed by a percentage amount and, once determined, shall remain constant and may not be changed without unanimous approval of all unit owners, unless hereafter changed by recorded amendment to this declaration consented to in writing by all unit owners. The Owner has so determined each unit's corresponding percentage of ownership in the common elements as set forth in Exhibit "C" attached hereto, and each unit owner accepts such determination.

3. Limited Common Elements. Except as otherwise in this declaration provided, the limited common elements shall consist of all portions of the common elements set aside and allocated for the restricted use of particular units. Without limiting the generality of the foregoing, the limited common elements shall include the following, balconies, patios, storage rooms, cooling and heating equipment serving only the units, plumbing and electrical pipes, garage parking spaces, parking spaces, roof decks, and ducts and wiring as may serve exclusively a single unit.

UNOFFICIAL COPY

Garage Parking Space Numbers

1. Garage Parking Space numbered GPS-1W for Unit 1W,
2. Garage Parking Space numbered GPS-1E for Unit 1E,
3. Garage Parking Space numbered GPS-2W for Unit 2W,
4. Garage Parking Space numbered GPS-2E for Unit 2E,
5. Garage Parking Space numbered GPS-3W for Unit 3W,
6. Garage Parking Space numbered GPS-3E for Unit 3E,
7. Garage Parking Space numbered GPS-4W for Unit 4,
8. Garage Parking Space numbered GSP-4E for Unit 4,

Roof Deck

1. Roof Deck for benefit of Unit 4

4. Transfer of Limited Common Elements. The use of limited common elements may be assigned or transferred by the Developer, and thereafter by the Board of the Condominium. The transfer shall not diminish or increase the unit owners' percentage interest in the common elements. In the event any building has parking spaces that are not included with the sale of a unit, the Developer shall have the right to sell, assign or transfer those parking spaces to unit owners who desire more than one parking space assignment. The Board of Managers shall have the preemptive right to reassign parking if any owner has a disability or hardship, or if an accommodation is required by a local, state, or federal law or regulation. No transfer shall become effective until the Board of Managers has been notified. Rights and obligations in respect to any limited common element shall not be affected, nor shall any transfer of it be effective, unless a transaction is in compliance with the requirements of this Section and all outstanding assessments are paid.

ARTICLE IV

GENERAL PROVISIONS AS TO UNITS AND COMMON ELEMENTS

1. Submission of Property to Provisions of Act. The property is hereby submitted to the provisions of the Act.
2. No Severance of Ownership. No unit owner shall execute any deed, mortgage, lease or other instrument affecting title to the 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 therein.
3. Easements and Encroachments. a. If any portion of the common elements encroaches upon any unit, or if any unit encroaches upon any portion of the

UNOFFICIAL COPY

common elements or any other unit as a result of the construction, repair, reconstruction, settlement or shifting of any building, a valid mutual easement shall exist in favor of the owners of the common elements and the respective unit owners involved to the extent of the encroachment. A valid easement shall not exist in favor of any unit owner who creates an encroachment by his intentional, willful or negligent conduct or that of his agent.

4. Utility Companies. SBC Telephone Company, Commonwealth Edison Company, Peoples Energy, and all other utilities serving the property are hereby granted the right to lay, construct, renew, operate, and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment related to their service to the property, into and through the common elements, and the units, where reasonably necessary for the purpose of providing utility services to the property including the installation of television cable and equipment.

5. Easements and Rights to Run with Land. All easements and rights described herein are easements and rights running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on the trustee, 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 article, or described in any other part of this declaration, shall be sufficient to create and reserve such easements and right to the respective grantees, mortgagees, and trustees of such unit ownership as fully and completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

ARTICLE V

COMMON EXPENSES, MORTGAGES, AND REAL ESTATE TAXES

1. Common Expenses. Each unit owner shall pay his proportionate share of the common expenses of administration, maintenance, and repair of the common elements and of any other expenses incurred in conformance with the declaration and bylaws or otherwise lawfully agreed upon. 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 thereof shall be in such amounts and at such times as determined in the manner provided in the bylaws. 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 as provided in the Act. The Association shall have no authority to forebear the payment of assessments by any unit owner.

2. Separate Mortgages. Each unit owner shall have the right, subject to the provisions herein, to make a separate mortgage or encumbrance on his respective unit together with his respective ownership interest in the common elements. No unit owner shall have the right or authority to make or create or cause to be made or created any mortgage or encumbrance or other lien on or

UNOFFICIAL COPY

affecting the property or any part thereof, except only to the extent of his unit and his respective ownership interest in the common elements.

3. **Separate Real Estate Taxes.** It is understood that real estate taxes are to 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 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 interest in the common elements together with any attorneys' fees and expenses incurred by the Board of Managers. The determination of the Developer or the initial Board as to tax pro-rations shall be binding on each unit owner.

ARTICLE VI INSURANCE

1. Fire and Hazard Insurance.

a. The Board of Managers shall obtain, except as otherwise provided in this section, insurance for the property against loss or damage by fire and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the common elements and the units. Every insurer issuing a policy against loss or damage by fire and such other hazards as are covered under standard extended coverage to a condominium Association shall print on or attach to the premium notice the following statement:

"The condominium Property Act requires every condominium Association to obtain insurance for the property against loss or damage by fire and such other hazards as are covered under the standard extended coverage provisions for the full insurable replacement costs. This policy may or may not satisfy this requirement. Please examine your policy carefully to determine if it complies with these requirements."

The full insurable replacement cost of the units may include the replacement cost value of betterments and improvements made in and to a unit by a unit owner. Any increase premium charge shall be assessed to that unit owner. Insurance coverage shall be written in the name of, and the proceeds thereof shall be deemed payable to, the Board of Managers, as trustee for each of the unit owners in the percentages established in the declaration. Any insurance policy obtained for the property that fails to contain the trustee provisions required by this paragraph shall be deemed to incorporate such provisions into the policy by operation of law. The Board of Managers, or the persons acting in such capacity shall have authority to designate any corporation qualified to accept and execute trusts in this state to act as agent or trustee for, or as successor trustee to, the Board of Managers for the purpose of collecting and disbursing the proceeds of insurance in the manner provided by the declaration, the bylaws, and the Act. Premiums for insurance and other expenses in connection therewith shall be common expenses.

UNOFFICIAL COPY

b. The Board of Managers shall have the authority and duty to obtain comprehensive public liability insurance 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 of Managers, insuring the Board of Managers, the unit owners' Association, the management agent, and their respective employees, agents, and all persons acting as agents. The developer shall be included as an additional insured in his capacity as unit owner and Board member. The unit owners shall be included as additional insured but only with respect to that portion of the premises not reserved for their exclusive use. The insurance shall cover claims of one or more insured parties against other insured parties. The insurance shall contain a waiver of any rights to subrogation by the insuring company against any of the above-named insured persons. Premiums for such insurance shall be common expenses.

c. The Board of Managers shall notify insured persons concerning the cancellation of insurance obtained pursuant to the terms of this Section.

d. Any insurer defending a claim against the condominium Association shall notify the Association of the terms of the settlement before settling the claim. The Association shall not have power to veto such settlement, unless otherwise provided by contract or statute.

e. At the time of the initial closing of each unit, the Declarant shall have the right to collect from the owner a prorata share of the cost of the insurance from the date of the closing to the date of the expiration of the prepaid insurance policy.

f. Each initial buyer shall deposit with the Condominium Association the estimated real estate taxes from the date of closing to the end of the year based upon the most recent assessed valuation, equalizer, and tax rate. The condominium association shall pay said bill from its funds and bill the owners for their respective under deposit. Any excess or deficiency in the deposit shall be prorated upon receipt of the actual tax bill.

2. Insufficient Insurance. In case of fire or other disaster, 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 180 days from the date of damage or destruction, the Board of Managers may record a notice setting forth such facts and upon the recording of such notice:

a. The property shall be deemed to be owned in common by the unit owners;

b. The undivided interest in the property owned in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common elements.

c. Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the unit owner

UNOFFICIAL COPY

in the property as provided herein; and

d. The property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the unit owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each unit owner.

3. In case of fire or other disaster in which fewer than 2 of the units are rendered uninhabitable, the building may be reconstructed, but if the insurance proceeds are insufficient to reconstruct, then reconstruction shall only be upon the affirmative vote of not fewer than 3/4 of the owners voting at a meeting called for that purpose. The meeting shall be held within 30 days following the final adjustment of insurance claims, if any. Otherwise, such meeting shall be held within 90 days of the occurrence. At such meeting, the Board of Managers 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.

4. Workmen's Compensation and Other Insurance. The Board of Managers shall acquire, as a common expense, workmen's compensation insurance as may be necessary to comply with applicable laws and such other forms of insurance as the Board, in its judgment, shall elect to obtain, including, but not limited to insurance for the Association, its officers and manager against liability from good faith actions allegedly beyond the scope of their authority.

5. 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 declarant, the manager and managing agent of the building, if any, and their respective employees and agents, for damage to the common elements, the units, or to any personal property located in the units or common elements, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

ARTICLE VII ADMINISTRATION AND OPERATION

1. Administration. The administration of the property shall be vested in the Board of Managers as the governing body for all of the Unit Owners for the maintenance, repair, replacement, administration and operation of the property as provided in the Act, this Declaration, and the By-Laws. The Association may be incorporated as a nonprofit Illinois Corporation. The By-Laws for the Association shall be the By-Laws attached hereto as Exhibit A.

2. Duties and Powers of the Association. The unit owners' Association is responsible for the overall administration of the property through its duly elected Board of Managers. The duties and powers of the Association and its Board

UNOFFICIAL COPY

shall be those set forth in the bylaws, and this declaration; provided, however, that (i) the terms and provisions of the Act shall control in the event of any inconsistency between the Act, on the one hand, and this declaration, the Articles of Incorporation and the bylaws, on the other hand, (ii) the terms and provisions of this declaration shall control in the event of any inconsistency between this declaration, on the one hand, and the Articles of Incorporation and the by-laws on the other hand.

3. **Indemnity.** The members of the Board and the officers thereof or of the Association shall not be liable to the unit owners for any mistake of judgment, or any acts or omissions made in good faith as such members or officers on behalf of the unit owners or the Association unless any such contract shall have been made in bad faith or contrary to the provisions of this declaration. The liability of any unit owner arising out of any contract made by such members or officers or out of the aforesaid indemnity shall be limited to such proportion of the total liability thereunder as his percentage interest in the common elements bears to the total percentage interest of all the unit owners of in the common elements. Each agreement made by such members or officers or the Managers agent, as the case may be, as agents for the unit owners or for the Association.

4. **Board's Determination Binding.** In the event of any dispute or disagreement between any unit owners relating to the property, or any question of interpretation or application of the provisions of the declaration or bylaws, the determination thereof by the Board shall be final and binding on each and all of such unit owners.

5. **Administration of Property Prior to Election of Initial Board of Managers.** Until the election of the initial Board of Managers, the same rights, titles, powers, privileges, trusts, duties and obligations vested in or imposed upon the Board of Managers by the Act and in the declaration and by-laws shall be held and performed by the developer. The election of the initial Board of Managers shall be held not later than sixty (60) days after the conveyance by the developer of three-fourths (3/4) of the units or three (3) years after the recording of the declaration, whichever is earlier. If the initial Board of Managers is not elected by the unit owners at the time so established, the developer shall continue in office for a period of thirty (30) days whereupon written notice of his resignation shall be sent to all of the unit owners entitled to vote at such election.

Within sixty (60) days following the election of a majority of the Board of Managers other than the developer, the shall deliver to the Board of Managers:

- a. All original documents pertaining to the property and its administration such as the declaration, bylaws, Articles of Incorporation, condominium instruments, minutes, and code of regulations;
- b. A detailed accounting by the developer, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance, and operation of the property;

UNOFFICIAL COPY

- c. Association funds, which shall have been at all times segregated from any other moneys of the developer;
- d. A schedule of all personal property, equipment and fixtures belonging to the Association, including documents transferring the property;
- e. Any contract, lease, or other agreement made prior to the election of a majority of the Board of Managers other than the developer by or on behalf of unit owners.

ARTICLE VIII

MAINTENANCE, ALTERATIONS, DECORATING.

1. Maintenance, Repairs, and Replacements. Each unit owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs, and replacements within his own unit. Maintenance, repairs, and replacements of the common elements shall be furnished by the Board as part of the Common expenses, subject to the rules and regulations of the Board. The Board may cause to be discharged any mechanic's lien or other encumbrance which, in the opinion of the Board, may constitute a lien against the property or common elements, rather than against a particular unit and its corresponding percentage of ownership in the common elements. When less than all the unit owners are responsible for the existence of any such line, 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 attorney's fees) incurred by reason of such lien.

2. Whenever the Board shall determine, in its discretion, that any maintenance or repair of any unit is necessary to protect the common elements or any other portion of the building, the Board may cause a written notice of the necessity for such maintenance or repair to be served upon such unit owner, which notice may be served by delivering a copy thereof to any occupant of such unit, or by mailing the same by certified or registered mail addressed to the owner at the unit. If such unit owner fails or refuses to perform any such maintenance or repair within a reasonable time stated in the notice (or any extension thereof approved by the Board), the Board may cause such maintenance and repair to be performed at the expense of such unit owner. If, due to the act or neglect 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 damage and such maintenance, repairs, and replacements, as may be determined by the Board, to the extent not covered by insurance. The Board shall have exclusive authority to take, or refrain from taking, any action pursuant to this Article VIII, Section 1. All expenses which, pursuant to this section 1, are chargeable to any unit owner, may be specifically assessed to such unit owner and shall be payable by such unit owner as prescribed by the Board.

UNOFFICIAL COPY

3. Limited Common Elements and User Charges. Any charge or expense in connection with expenditures for the limited common elements shall be assessed only against that unit to which such limited common elements are assigned. The Board may establish and each Unit Owner shall pay user charges to defray the expense 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 collect as part thereof. Nothing herein shall require the establishment of user charges and the Board may elect to treat all or any portion thereof as Common Expenses.

4. Alterations, Additions, or Improvements. No alterations of any common elements 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, and improvements within his unit without the prior written approval of the Board, but in any event such unit owner shall be responsible for any damage to other units, the common elements, or of the property as a result of such alterations, additions or improvements. 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.

5. Decorating. Each unit owner shall furnish and be responsible for, at his own expense, all of the decorating within his own unit from time to time, including painting, wall papering, washing, cleaning, paneling, floor covering, draperies, window shades, curtains, lamps, and other furnishing and interior decorating. The use of and the covering of the interior surfaces of 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. Decorating of the common elements (other than interior surfaces within the units as above provided), and any redecorating of units to the extent made necessary by any damage to existing decorating of such units caused by maintenance, repair or replacement work on the common elements by the Board, shall be furnished by the Board as part of the common expenses.

6. Until the recording of the additional parcel adding two units, the Declarant shall pay to the condominium association an amount that is equal to the monthly assessments for each of the excepted units that have not been submitted to the condominium.

ARTICLE IX SALE, LEASE OR OTHER ALIENATION

Sale, lease, devise, or gift. A Unit Owner, the purchaser, lessee, devisee, or donee thereunder shall be bound by and be subject to all of the obligations of such Unit Owner with respect to such Unit Ownership as provided in this Declaration and By-Laws. Any Unit Owner shall have the right to lease all (but not less than all) of his dwelling Unit upon such terms and conditions as the

UNOFFICIAL COPY

Owner may deem advisable, except, that no dwelling unit shall be leased for transient or hotel purposes, which are hereby defined as being for a period of less than thirty (30) days or for a period of more than thirty (30) days where hotel services normally furnished by a hotel (such as room service or maid service) are furnished. Any such lease shall be in writing and shall provide that the lease shall be subject to the terms of this Declaration and the By-Laws of the Association and that any failure of the lessee to comply with the terms of this Declaration shall be a default under the lease.

ARTICLE X

DAMAGE OR DESTRUCTION AND RESTORATION OF BUILDING

1. Sufficient Insurance. In the event 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 in payment therefore; 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 XII 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 units owners according to each unit owner's percentage of ownership in the common elements as set forth in Exhibit "B", after first payout 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.

2. 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, the Board of Managers may record a notice setting forth such facts and upon the recording of such notice:

(i) The property shall be deemed to be owned in common by the unit owners;

(ii) The undivided interest in the property owned in common which shall pertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common elements;

(iii) Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the unit owner in the property as provided herein; and

UNOFFICIAL COPY

(iv) The property shall be subject to an action, for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the unit owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each unit owner.

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 property shall be reconstructed. The meeting shall be held within thirty (30) days following the final adjustment of insurance claims, if any. Otherwise, such meeting shall be held within ninety (90) days of the occurrence. At such meeting the Board of Managers, 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 owners.

c. In the case of damage or other destruction, upon the affirmative vote of no fewer than three-fourths (3/4) of the unit owners voting at a meeting called for that 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 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 of Managers. The payment of just compensation or the allocation of any insurance or other proceeds to any withdrawing or remaining unit owners 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.

3. Cessation of Common Expenses. 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.

ARTICLE XI EMINENT DOMAIN

1. Reallocation of Common Elements and Condemnation Award. 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 portion thereof

UNOFFICIAL COPY

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 of Managers. 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 elements will be distributed in accordance with the interests of those entitled to their use.

2. Cessation of Common Expenses. 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.

ARTICLE XII SALE OF THE PROPERTY

Sale of entire property. The unit owners through the affirmative vote of voting members having at least three-fourths (3/4) of the total votes, at a meeting duly called for such purpose, 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 ownership entitled to notice under Section 1 of Article XIX 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 or 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 fair market value of this interest, as determined by arbitration as hereinafter provided, less the amount of any unpaid assessments or charges due and owing from such unit owner. In the absence of agreement on the fair market value of such interest, such unit owner and the Board shall each select an appraiser, and two so selected shall select a third, and the fair market value, as determined by said third appraiser, 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 shall be a common expense.

UNOFFICIAL COPY

ARTICLE XIII ASSESSMENTS - MAINTENANCE FUND

1. Estimated Annual Budget and Assessments. Each year on or before November 1, the Board shall estimate the total amount necessary to pay the cost of all common expenses which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements. The annual budget shall set forth with particularity all anticipated common expenses by category as well as all anticipated assessments and other income. The budget shall also set forth each unit owner's proposed common expense assessment. Each unit owner shall receive, at least thirty (30) days prior to the adoption thereof by the Board of Managers, a copy of the proposed annual budget; the annual budget shall also be taken into account the estimated net available cash income for the year from the operation or use of the common elements, if any. If the adopted budget requires assessment against the unit owners in any fiscal or calendar year exceeding 115% of the assessments for the preceding year, the Board of Managers, upon written petition by unit owners with 20 percent of the votes of the Association filed within 14 days of the Board action, shall call a meeting of the unit owners within 30 days of the date of filing of the petition to consider the budget; that unless a majority of the votes of the unit owners are cast at the meeting to reject the budget, it is ratified whether or not a quorum is present, and that in determining whether assessments exceed 115% of similar assessments in a prior year, any authorized provisions for reasonable reserves for repair or replacement of the condominium property, and anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, shall be excluded from the computation. The "estimated annual budget" shall be assessed to the unit owners according to each unit owner's percentage of ownership in the common elements as set forth in Exhibit "B" attached hereto. Each unit owner shall receive notice in the same manner as is provided in this declaration for membership meetings, or any meeting of the Board of Managers concerning the adoption of the proposed annual budget or any increase, or establishment of an assessment. Said meetings of the Board of Managers shall be open to any unit owner, and that notice of such meeting shall be mailed 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 before the meeting is convened. On or before January 1 of the ensuing year, and the first of each and every month of said year, said unit owner jointly and severally shall be personally liable for an obligated to pay to the Board or as it may direct one-twelfth (1/12) of the assessment against his unit ownership made pursuant to this section. On or before April 1 of each calendar year following the year in which the initial meeting is held, the Board shall supply to all unit owners 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 or assessments, and showing the net excess or deficit of income over expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each unit owner's percentage of ownership in the

UNOFFICIAL COPY

common elements to the next monthly installments due from unit owners under the current year estimate, until exhausted, and any net shortage shall be added according to each unit owner's percentage of ownership in the common elements to the installments due in the succeeding six (6) months after rendering of the accounting.

2. Reserves and Adjustments. The Board shall establish and maintain a reasonable reserve for contingencies and replacements. The Developer, until the initial board is elected, will determine and collect the reserve payment from the owners at closing on behalf of the association. Any extraordinary or nonrecurring common expense, any common expense not set forth in the budget as adopted, any increase in assessments over the amount adopted shall be separately assessed against all unit owners. Any such separate assessment shall be subject to approval by the affirmative vote of at least two-thirds (2/3) of the unit owners voting at a meeting of such unit owners duly called for the purpose of approving the assessment if it involves proposed expenditure resulting in a total payment assessed to a unit owner equal to the greater of five (5) times the unit's most recent common expense assessment calculated on a monthly basis or three hundred (\$300.00) dollars. All unit owners shall be personally liable for and obligated to pay their respective adjusted monthly amount.

3. Initial Estimate of Annual Budget. When the first Board elected or appointed hereunder takes office, it shall determine the "estimated annual budget" as hereinabove defined, for the period commencing thirty (30) days after said election and ending on December 31st of the calendar year in which said election occurs. Assessments shall be levied against the unit owners during said period as provided in Section 1 of this Article.

4. Failure to Prepare Estimates. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on the unit owner shall not constitute a waiver or release in any manner of such unit owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the unit owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the next monthly maintenance payment which is due not more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

5. Books and Records. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection by any unit owner or any representative of a unit owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the unit owner. Upon ten (10) days' notice to the Board and payment of a reasonable fee, any unit owner, and mortgagee, assignee, or note holder shall be

UNOFFICIAL COPY

furnished a statement of the account setting forth the amount of any unpaid assessments or other charges due and owing from such unit owner.

6. Use of Funds. All funds collected hereunder shall be held and expended for the purpose designated herein, and (except for such special assessments as may be levied hereunder against less than all the unit owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the benefit, use, and account of all the unit owners in the percentages set forth in Exhibit "C".

7. Insurance. Any insurance premiums assessed on a basis reflecting increased charges for coverage on certain units shall be assessed to such unit.

8. Assessments. If a unit owner is in default in the monthly payment of the aforesaid charges or assessments for thirty (30) days, the members of the Board may bring suit for and on behalf of themselves and as representatives of all unit owners, to enforce collection thereof or to foreclose the lien therefore as hereinafter provided; and there shall be added to the amount due, the costs of said suit, and other fees and expenses together with legal interest and reasonable attorneys' fees to be fixed by the court. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, costs, and fees as above provided, shall be and become a lien or charge against the unit ownership of the unit owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. Such lien shall take effect and be in force when and as provided in the Act; provided, however, that encumbrances owned or held by any bank, insurance company, savings and loan Association, any mortgagee, assignee or holder of a note or other lender shall be subject as to priority after written notice to said encumbrancer of unpaid common expenses only to the lien of all common expenses on the encumbered unit ownership which become due and payable subsequent to the date the encumbrancer either takes possession of the unit, accepts a conveyance of any interest in the unit ownership or has a receiver appointed in a suit to foreclose its lien. 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 bylaw from time to time. Without limiting the generality of the foregoing, if any unit owner shall fail to pay the proportionate share of the common expenses or of any other expenses required to be paid hereunder when due, such rights and remedies shall include: (1) the right to enforce the collection of such defaulting unit owner's share of such expenses (whether due by acceleration or otherwise), together with interest thereon, at the maximum rate permitted by law, and all fees and costs (including reasonable attorneys' fees) incurred in the collection thereof; (2) the right, by giving such defaulting unit owner five days' written notice of the election of the Board so to do, to accelerate the maturity of the unpaid installments of such expenses accruing with respect to the balance of the assessment year; and (3) the right to take possession of such defaulting unit owner's interest in the property, to maintain for the benefit of all the other unit owners an action for possession in the manner prescribed in "an Act in regard to Forcible Entry and Detainer", approved

UNOFFICIAL COPY

February 16, 1874, as amended, and to execute leases of such defaulting unit owner's interest in the property and apply the rents derived therefrom against such expenses.

9. Non-use. No unit owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the common elements or abandonment of his unit.

ARTICLE XIV

COVENANTS AND RESTRICTIONS AS TO USE AND OCCUPANCY

The units and common elements shall be owned, occupied, and used subject to the following covenants and restrictions:

1. General Use. No part of the property shall be used for other than housing and related common purposes for which the property was designed. Each unit or any two or more adjoining units used together shall be used as a residence for a single family or such other uses permitted by this declaration and for no other purpose. That part of the common elements separating any two or more adjoining units used together as aforesaid may be altered to afford ingress and egress to and from such adjoining units in such manner and upon such conditions as shall be determined by the Board in writing.

2. Obstruction of Common Elements and Unit Maintenance. There shall be no obstruction of the common elements nor shall anything be stored in the common elements without prior consent of the Board except as herein expressly provided. Each unit owner shall be obligated to maintain and keep in good order and repair his own unit.

3. Prohibited Use. Nothing shall be done or kept in any unit, or in the common elements, which will increase the rate of insurance on the building or contents thereof, applicable for residential use, without the prior written consent of the Board. No unit owner shall permit anything to be done or kept in his unit, or in the common elements which will result in the cancellation of insurance on the building, or contents thereof, or which would be in violation of any law. No waste shall be committed in the common elements. No unit owner shall overload the electric wiring in the building, or operate any machines, appliances, accessories, or equipment in such manner as to cause, in the judgment of the Board, an unreasonable disturbance to others, or connect any machines, appliances, accessories, or equipment to the heating or plumbing system, without the prior written consent of the Board.

4. Unit Owner Insurance. Each unit owner shall be responsible for his own insurance on his personal property in his own unit, his personal property stored elsewhere on the property and his personal liability to the extent not covered by the liability insurance for all the unit owners obtained by the Board as hereinbefore provided.

UNOFFICIAL COPY

5. **Exterior Attachments.** Unit owners shall not cause or permit anything to be placed on the outside walls of the building and no sign, awning, canopy, shutter, radio, or television antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior consent of the Board.
6. **Window Treatment.** The use and the covering of the interior surfaces of the glass windows and/or doors appurtenant to the units of the building, whether by draperies, shades, or other items visible from the exterior of the building shall be subject to the rules and regulations of the Board.
7. **Floor Coverings.** In order to enhance the soundproofing of the building, the floor covering for all occupied units shall meet a certain minimum standard as may be specified by rules and regulations of the Board.
8. **Pets, etc.** No animals, reptiles, rabbits, livestock, fowl, or poultry of any kind shall be raised, bred, or kept in any unit or in the common elements, except that dogs, cats, or other household pets may be kept in units, subject to rules and regulations adopted by the Board, provided that they are not kept, bred, or maintained for any commercial purpose, and provided further that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the property upon three (3) days' written notice from the Board.
9. **Nuisances.** No noxious or offensive activity shall be carried on in any unit or in the common elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other unit owners or occupants.
10. **Unsightliness.** No clothes, sheets, blankets, laundry, or any kind of other articles shall be hung out or exposed on any part of the common elements. The common elements shall be kept free and clear of rubbish, debris, and other unsightly materials.
11. **Personal Effects.** 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 that personal property may be stored in the common storage area designated for that purpose.
12. **Commercial Activities.** No industry, business, trade, occupation, or profession of any kind, commercial, religious, educational, or otherwise, designated for profit, altruism, exploration, or otherwise, shall be conducted, maintained, or permitted in any unit.
13. **"For Sale" and "For Rent" Signs.** No "For Sale" or "For Rent" signs, advertising, or other displays shall be maintained or permitted on any part of the property except at such location and in such form, as shall be determined by the Board; provided that the right is reserved by the trustee, the developer, and their agents, to maintain on the property until the sale of the last unit, all models, sales offices, and advertising signs, banners, and lighting in connection therewith, at

UNOFFICIAL COPY

such locations and in such forms as they shall determine, together with the right of ingress, egress, and transient parking therefore through the common elements and said right is irrevocable and not amendable by the Board.

14. Common Elements. Nothing shall be altered or constructed in or removed from the common elements, except upon the written consent of the Board.

15. Exceptions. The unit restrictions in paragraphs 1 and 12 of this Article XVII shall not, however, be construed in such a manner as to prohibit a unit owner from: (a) maintaining his professional library therein, (b) keeping his personal business or professional records or accounts therein, or (c) handling his personal business or professional telephone calls or correspondence there from which uses are declared customarily incident to the residential use and not in violation of Sections 1 and 12 of this Article XVII.

ARTICLE XV REMEDIES, ARBITRATION, AND LEGAL DISPUTES

1. Abatement and Injunction. The violation of any restriction, condition, or regulation adopted by the Board, or the breach of any covenant or provision herein contained, shall give the Board the right, 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 the provisions hereof, and the trustee, the developer, or their successors or assigns, or 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 proceeding, either at law or equity, the continuance of any breach. All expenses of the Board in connection with such actions or proceeds, including court costs and attorneys' fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the rate of twelve percent (12%) 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 his personal property in his unit or located elsewhere on the property. Any and all of such rights and remedies may be exercised at any time, from time to time, cumulatively or otherwise, by the Board.

2. Involuntary Sale. If any unit owner (either by his own conduct or by the conduct of any 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 re-occur 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 rights 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 members of the Board against the

UNOFFICIAL COPY

defaulting unit owner for a decree of mandatory injunction against unit owner or occupant or, in the alternative, or 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 said violation, 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) 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 the unit owner. Upon the confirmation of such sale, the purchaser there shall thereupon be entitled to a deed to the unit ownership and, 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.

3. Arbitration. Any dispute concerning the meaning and interpretation of this declaration and by laws, disputes between owners and the Board of Manager, and or concerning the Declarant, Owner, or Developer shall be first submitted to binding arbitration in accordance with the Rules of the American Arbitration Association.

4. Litigation. The Board of Managers shall not have any prior authority to initiate or make an engagement for any litigation or prosecution of a cause of action at law or equity unless the cost to the Association is limited in writing to not exceed \$1,000.00. The Board of Managers shall only exceed this limitation of \$1,000.00 if approved by the affirmative vote of 2/3 of the owners at special meeting called for the sole purpose of waiving this provision.

ARTICLE XVI GENERAL PROVISIONS

1. Notice to Mortgagees. Upon written request to the Board, the holder of any duly recorded mortgage or trust deed against any unit ownership shall be given a copy of any and all notices permitted or required by this declaration to be given to the unit owner whose unit ownership is subject to such mortgage or trust deed. A mortgagee shall have the right to inspect the books of the condominium upon forty eight (48) hours' notice directed to the Treasurer of the Association or if the Treasurer is unknown, to any other Officer of the Association, including, but not limited to, all records of receipts and disbursements, bank account records, savings deposits, contracts, and all matters effecting the condominium and the unit owners' interest therein.

2. Notices to Board, Association, and Unit Owners. Notices provided for in this declaration and in the Act shall be in writing and shall be addressed to the Board

UNOFFICIAL COPY

or Association, or any unit owner, as the case may be, at the unit owners last known address and to the Board in care of its secretary or at such other address as herein provided. The Association or Board may designate a different address or addresses for notices to them, respectively, by giving written notice of such change of address to all unit owners. Any unit owner may also designate a different address for notices to him by giving written notice of his change of address to the Board or Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail or when delivered in person with written acknowledgment of the receipt thereof, or if addressed to a unit owner, when deposited in his mailbox in the building or at the door of his unit in the building.

3. Notice to Decedent. Notices required to be given any devisee or person representative of a deceased unit owner may be delivered either personally or by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased unit owner is being administered.

4. Binding Effect. Each grantee of the trustee, by acceptance of a deed of conveyance, or each purchaser under any contract for such deed of conveyance, 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 covenants running with the land, and shall bind any person having at any time any interest or estate in the property or any unit, and shall inure to the benefit of such unit owner in like manner as though the provisions of the declaration were recited and stipulated at length in each and every deed of conveyance.

5. 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.

6. Amendment. Except as otherwise provided in the Act, this declaration and bylaws, the provisions of the condominium instruments may be amended, changed, or modified by an instrument in writing setting forth such amendment, change, or modification, signed and acknowledged by all of the members of the Board, at least three-fourths (3/4) of the unit owners, and the approval of any mortgagees required under the provisions of the condominium instruments, and containing an affidavit by an officer of the Board certifying that a copy of the amendment, change, or modification has been mailed by certified mail to all mortgagees having bona fide liens of record against any unit, not less than ten (10) days prior to the date of such affidavit. Any amendment, change or modification shall conform to the provisions of the Condominium Property Act and shall be effective upon recordation thereof. The right to add-on shall expire ten years after the recording of the declaration. No change, modification, or amendment which affects the rights, privileges, or obligations of the trustee or the developer shall be effective without the prior written consent of the trustee or the

UNOFFICIAL COPY

developer. Except to the extent authorized by the provisions of the Act, and the developer's right to add-on additional units, no amendment to the condominium instruments shall change the boundaries of any unit or the undivided interest in the common elements, the number of votes in the Unit Owner's Association, or the liability for common expenses appertaining to a unit; The developer's right to amend shall be effective without notice and without consent of the unit owners and mortgagees. The developer's power to amend this Declaration from time to time while the developer holds an interest in the premises shall be construed to be as broad as legally possible without notice. Each unit owner or mortgagee acquiring any interest in the premises by accepting a conveyance in the property consent to the developer's amendments so made that are necessary in the sole discretion of the developer in conformity with the Condominium Act of the State of Illinois

7. **Invalidity.** The invalidity of any covenant, restriction, condition, limitation, or any other provision of this Declaration, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration and By-Laws.

8. **Perpetuities and Restraints.** 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 provision, (b) the rules 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 last to die of the now living lawful descendants of Thomas F. Courtney, Sr.

9. **Liens.** In the event any lien exists against two (2) or more units and the indebtedness secured by such lien is due and payable, the unit owner of any such unit so affected may remove such unit and the undivided interest in the common elements appertaining thereto from such lien by payment of the proportional amount of such indebtedness attributable to such unit. In the event such lien exists against the units or against the property, the amount of such proportional payment shall be computed on the basis of the percentage set forth in the declaration. Upon payment as herein provided, it is the duty of the encumbrancer to execute and deliver to the unit owner a release of such unit and the undivided interest in the common elements appertaining thereto from such lien. The owner of such unit shall not be liable for any claims, damages, or judgments entered as a result of any action or inaction of the Board of Managers of the Association other than for mechanics' liens as hereinafter set forth. Each unit owner's liability for any judgment entered against the Board of Managers or the Association, if any, shall be limited to his proportionate share of the indebtedness as set forth herein, whether collection is sought through assessment or otherwise. A unit owner shall be liable for any claim, damage, or judgment entered as a result of the use or operation of his unit, or caused by his own conduct. Before conveying a unit, a developer shall record or furnish purchaser releases of all liens affecting that unit and its common element interest which the purchaser does not expressly agree to take subject to or assume, or the developer shall provide a surety bond or substitute collateral for or insurance

UNOFFICIAL COPY

against such liens. After conveyance of such unit, no mechanic's lien shall be created against such unit or its common element interest by reason of any subsequent contract by the developer to improve or make additions to the property. If, as a result of work expressly authorized by the Board of Managers, a mechanic's lien claim is placed against the property or any portion of the property, each unit owner shall be deemed to have expressly authorized it and consented thereto, and shall be liable for the payment of his unit's proportionate share of any due and payable indebtedness.

10. Release of Claims. Each unit owner hereby waives and releases any and all claims which he may have against any other unit owner, occupant, the Association, its officers, members of the Board, the trustee, the developer, the managing agent, and their respective employees and agents, for damage to the common elements, the units, or to any personal property located in the units or common elements, caused by fire or other casualty, to the extent that such damage is covered by fire or other form of casualty insurance.

11. Construction. The provisions of this declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first-class condominium apartment building.

12. Headings. The headings and captions contained herein are inserted for convenient reference only and shall not be deemed to construe or limit the sections and articles to which they apply.

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

UNOFFICIAL COPY

ARTICLE XVII FIRST MORTGAGEE'S RIGHTS

1. First Mortgagees' Consent. Notwithstanding the other Articles of this Declaration, the prior written approval of 75% of the First Mortgagees will be required for the Association to do or permit to be done any of the following:

- a. the abandonment or termination of the condominium;
- b. the abandonment, partition, subdivision, encumbrance, sale or transfer of the common elements, except for the dedication of portions of the common elements or the granting of easements for public utilities or for other public purposes consistent with the intended use of the Condominium Property;
- c. the removal of a portion of the Condominium Property from the provisions of the Act and this Declaration;
- d. the use of hazard insurance proceeds for losses to the Condominium Property (whether to Dwelling Units or to the common elements) for other than repair, replacements or reconstruction of such Dwelling Units 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 Article X, (ii) a taking a portion or all of the Condominium Property by condemnation or eminent domain (including without limitation, action taken pursuant to Article XI.

ARTICLE XVIII NOTICE TO FIRST MORTGAGEES

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 dwelling 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, notice of assessment, or any other notices or statements provided under this Declaration by the Association to the owner of the Dwelling Unit covered by the first mortgagee's mortgage;
- 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;

UNOFFICIAL COPY

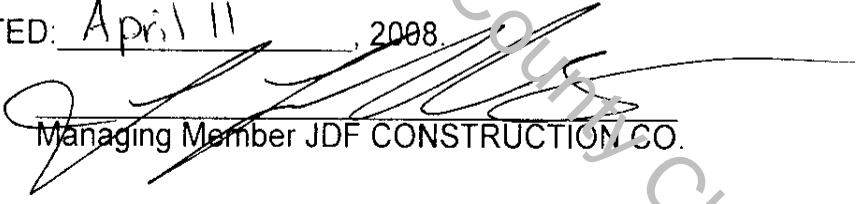
e. notice of substantial damage to or destruction of any Dwelling Unit (in excess of \$5,000.00) or any part of the common elements (in excess of \$10,000.00);

f. notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Condominium Property; or

g. notice of any default of the owner of the dwelling Unit which is subject to the First Mortgagee's mortgage, where such default is not cured by the owner within thirty (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 therefore 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 request made by a first mortgagee hereunder and in the event of multiple requests from purported first mortgagees of the same Unit Ownership, the Association shall honor the most recent request received.

IN WITNESS WHEREOF, JDF CONSTRUCTION CO., pursuant to the authority vested in its Manager, hereby subscribes to and executes this Declaration of Condominium for 1242 WEST JACKSON CONDOMINIUM.

DATED: April 11, 2008.

BY:  Managing Member JDF CONSTRUCTION CO.

Clerk's Office

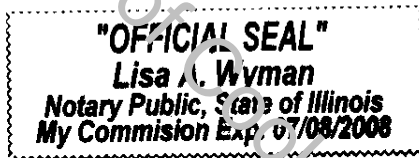
UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, THE UNDERSIGNED a Notary Public in and for said County in the State aforesaid, do hereby certify that John Fullard Managing Member, of the JDF CONSTRUCTION CO., appeared before me and subscribed and swore to this Declaration of Condominium as his free and voluntary act and on behalf of the JDF CONSTRUCTION CO. as a free and voluntary act for the uses and purposes set forth.

GIVEN under my hand and Notarial Seal this 11 day of April, 2008.

MY COMMISSION EXPIRES: 7/8/08
Lisa A. Wyman
NOTARY PUBLIC



[Handwritten Signature]
County Clerk's Office

UNOFFICIAL COPY

EXHIBIT A SURVEY
See Attached

Property of Cook County Clerk's Office



UNOFFICIAL COPY

EXHIBIT B BY-LAWS

ARTICLE I

The name of the Condominium Association is the
1242 WEST JACKSON CONDOMINIUM

ARTICLE II BOARD OF MANAGERS

1. Board of Managers (Board of Directors).

a. The direction and administration of the property shall be vested in a Board of Managers, consisting of three persons who shall be appointed or elected in the manner herein provided. Each member of the Board shall be one of the unit owners and may or may not reside on the property, provided, however, that in the event a unit owner is a corporation, partnership, trust, or other legal entity other than a natural person or persons, then any officer, director, or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust or manager of such other legal entity, shall be eligible to serve as a member of the Board.

b. At the initial meeting, the Voting members shall elect THREE Board Members. In all elections for members of the Board, each Voting Member shall be entitled to cumulate his votes in the manner provided by law 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. Members of the Board elected at the initial meeting shall serve until the first annual meeting. One person receiving the highest number of votes at the first annual meeting shall be elected to the Board for a term of two (2) years. The remaining two (2) persons receiving the highest number of votes at the first annual meeting shall be elected to the Board for a term of one (1) year. Upon the expiration of the terms of office of the Board of Managers so elected at the first annual meeting and thereafter, successors shall be elected for a term of one year each. The voting members having at least 2/3rds of the total votes may from time to time increase or decrease such number of persons on the Board or may increase or decrease the term of office of Board members at any annual meeting or special meeting, provided that such number shall not be less than three and that the terms of at least 1/3 of the persons on the Board shall expire annually and that no Board member shall be elected to a term in excess of two years; A Board members may succeed themselves. Members of the Board shall receive no compensation for their services, unless expressly authorized by the Board and with the approval of voting members having at least 2/3 of the total votes. Any vacancy occurring in the Board by reason of death, removal or resignation of a member of the Board shall be filled by a 2/3rds vote of the remaining members of the Board. A member elected by

UNOFFICIAL COPY

the Board to fill a vacancy shall serve until the next meeting of the members. If a petition is filed with the Board signed by members holding 20% of the votes of the Association requesting a meeting of the members to fill the vacancy for the balance of the unexpired term of office of his predecessor, the term of the member so elected by the Board shall be terminated 30 days after the filing of the petition and a meeting of the members for the purpose of filling such vacancy for such unexpired term shall be called no later than 30 days following the filing of such petition. Members of the Board, including those appointed by the developer, may resign at any time by written resignation delivered or mailed to any officer of the Association, which resignation shall be effective upon receipt of said resignation. If, as a result of the death, removal or resignation of a member of the Board, no member of the Board remains in office, a special meeting of members may be called to fill all vacancies for the unexpired terms of the members of the Board.

c. The Board shall elect from among its members a president who shall preside over both its meetings and those of the voting members, and who shall be the chief executive officer of the Board and the Association and who shall execute amendments to the condominium instruments; a secretary who shall keep the minutes of all meetings of the Board and of the voting members, who shall mail and receive all notices, and who shall, in general, perform all the duties incident to the office of secretary; a treasurer to keep the financial records and books of account; and such additional officers as the Board shall see fit to elect.

d. Any Board member may be removed from office by affirmative vote of the voting members having at least 2/3rds of the total votes, at any special meeting called for the said purpose. A successor to fill the unexpired term of a Board member removed may be elected by the voting members at the same meeting or any subsequent annual meeting or special meeting called for that purpose.

e. The Board shall meet at least four times annually on the dates established at the first organizational meeting, and at such other times as the Board deems necessary. Meetings of the Board shall be open to any unit owner. Notice of a meeting shall be mailed or delivered at least 48 hours prior thereto, unless a written waiver of such notice is signed by the persons entitled to such notice. Copies of notices of meetings of the Board shall be posted in entrances, elevators, or other conspicuous places in the condominium at least 48 hours prior to the meeting of the Board of Managers.

2. Meetings of the Board. Meetings of the Board shall be open to any unit owner, except for the portion of any meeting held 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 of Managers finds that such an action is probable or imminent; to consider information regarding appointment, employment or dismissal of any employee or to discuss violations of rules and regulations of the Association or a unit owner's unpaid share of common expenses; any vote on these matters shall be taken at a meeting or portion thereof open to any unit owner; any unit owner may record the proceedings at a meeting required to be open by the act by tape, film or other means; the Board may prescribe reasonable rules and regulations to govern the right to make such recordings.

UNOFFICIAL COPY

ARTICLE III POWERS AND DUTIES OF THE BOARD

1. The powers and duties of the Board of Managers shall exercise for the Association all powers, duties, and authority vested in the Association by law or the condominium instruments except for such powers, duties, and authority reserved by law to the members of the Association. The powers and duties of the Board of Managers shall include, but shall not be limited to, the following matters:

a. Operation, care, upkeep, maintenance, replacement, and improvement of the common elements.

b. Preparation, adoption, and distribution of the annual budget for the property.

c. Levying of assessments.

d. Collection of assessments from unit owners. The Association shall have no authority to forbear the payment of assessments by any unit owner.

e. Employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the common elements.

f. Obtaining adequate and appropriate kinds of insurance.

g. Owning, conveying, encumbering, leasing, and otherwise dealing with units conveyed to or purchased by it.

h. Adoption and amendment of rules and regulations covering the details of the operation and use of the property, after a meeting of the unit 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 and which conforms to the notice provisions of the declaration or as provided by the Act. No rules or regulations 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. No quorum of the unit owners shall be required at a meeting called to for purposes of discussing amendments of rules and regulations.

i. Keeping of detailed, accurate records of the receipts and expenditures affecting the use and operation of the property.

j. To 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, or for making emergency repairs therein necessary to prevent damage to the common elements or to other unit or units.

k. To pay 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.

UNOFFICIAL COPY

- l. To impose charges for late payments of a unit owners proportionate share of the common expenses, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, levy reasonable fines for violation of the Declaration, By-Laws, and rules and regulations of the Association.
- m. To assign the Associations right to future income and to mortgage or pledge substantially all of the remaining assets of the Association upon the affirmative vote of the entire Board.
- n. To record the dedication of a portion of the common elements to a public body by use as, or in connection with street or utility.
- o. To record the grant of an easement for the laying of cable television cable.
- p. Upon authorization by the affirmative vote of not less than a majority of the voting members at a meeting duly called for such purposes, the Board, acting on behalf of all unit owners, shall have the power to seek relief from or in connection with the assessment or levy of any real property taxes, special assessments and any other special taxes or charges of the State of Illinois or any political subdivision thereof, or any other lawful taxing or assessing body, which are authorized by law to be assessed and levied on real property and to charge and collect all expenses incurred in connection therewith as common expenses.
- q. To reasonably accommodate the needs of a handicapped unit owner as required by the Human Rights Act in the exercise of its powers with respect to the use of common elements or approval of modifications in an individual unit.
- r. The Board or its agent, upon reasonable notice, may enter any unit when necessary in connection with any maintenance or construction for which the Board is responsible. Such entry shall be made with as little inconvenience to the unit owner as practicable, and any damage caused thereby shall be repaired by the Board as a common expense.
- s. Each unit owner shall receive notice, in the same manner as is provided in the Declaration and By-Laws for membership meetings, of any meeting of the board of managers concerning the adoption of the proposed annual budget and regular assessments pursuant thereto or to adopt a separate (special) assessment, except as provided relating to emergencies below, if an adopted budget or any separate assessment adopted by the board would result in the sum of all regular and separate assessments payable in the current fiscal year exceeding 115% of the sum of all regular and separate assessments payable during the preceding fiscal year, the board of managers, upon written petition by unit owners with 20 percent of the votes of the Association delivered to the board within 14 days of the board action, shall call a meeting of the unit owners within 30 days of the date of delivery of the petition to consider the budget or separate assessment; unless a majority of the total votes of the unit owners are cast at the meeting to reject the budget or separate assessment, it is ratified, (iii) that any common expense not set forth in the budget or any increase in assessments over the amount adopted in the budget shall be separately assessed against all unit

UNOFFICIAL COPY

owners, except that separate assessments for expenditures relating to emergencies or mandated by law may be adopted by the board of managers without being subject to unit owner approval. 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 unit owners. 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 of the total votes of all unit owners. The board of managers may adopt separate assessments payable over more than one fiscal year. With respect to multi-year assessments, 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.

t. Any agreements entered into by the Board or developer shall contain a provision that the Board may terminate and cancel the agreement without cause or penalty upon ninety (90) days' written notice and, in the event a cause exists for cancellation, then upon thirty (30) days' written notice without penalty. This provision shall, upon recording this Declaration, be enforceable notwithstanding the failure of the Board to incorporate this provision in any contract.

u. The board of managers may not enter into a contract with a current board member or with a corporation or partnership in which a board member has 25% or more interest, unless notice of intent to enter the contract is given to unit owners within 20 days after a decision is made to enter into the contract and the unit owners are afforded an opportunity by filing a petition, signed by 20% of the unit owners, for an election to approve or disapprove the contract; such petition shall be filed within 20 days after such notice and such election shall be held within 30 days after filing the petition;

2. Fiduciary Duty of Board. In the performance of their duties, the officers and members of Board are required to exercise, whether appointed by the developer or elected by the unit owners, the care required of a fiduciary or the unit owners.

3. Collection of Assessments. The collection of assessments from unit owners by an Association, Board of Managers, or their duly authorized agents shall not be considered acts constituting a collection agency for purposes of the Collection Agency Act.

4. Records of Board. The representative of the Board shall maintain the following records of the Association available for examination and copying at convenient hours of weekdays by the unit owners or their mortgagees and their duly authorized agents or attorneys:

a. Copies of the recorded declaration and by-laws and any amendments, articles of incorporation for the Association, annual reports and any rules and regulations adopted by the Association or its Board of Managers shall be available. Prior to the organization of the Association, the developer shall maintain and make available the records set forth in this subsection (a) for examination and copying.

UNOFFICIAL COPY

- b. Detailed accurate records in chronological order of the receipts and expenditures affecting the common elements, specifying and itemizing the maintenance and repair expenses of the common elements and any other expenses incurred, and copies of all contracts, leases, or other agreements entered into by the Association shall be maintained.
- c. The minutes of all meetings of the Association and the Board of Managers shall be maintained for a period of not less than seven years.
- d. Such other records of the Association as are available for inspection by members of a not-for-profit corporation pursuant to Section 25 of the General Not-For-Profit Corporation Act, approved July 19, 1943 as amended, shall be maintained.
- e. If due to any act or neglect of a unit owner, a member of his family, a household pet, guest or other authorized occupant, visitor or invitee of such unit owner, damage shall be cause in the common elements or to one or more units owned by others, and maintenance, repairs or replacements shall be required which would otherwise be a common expense, such unit owner shall pay for such damage, and for such maintenance, repairs and replacements to the extent not covered by insurance, as determined by the Board.

ARTICLE IV MEMBERS UNIT OWNERS

1. Membership and Voting Rights. The Association shall have one class of membership composed of the Unit Owners of the Property, each of who shall be a member of the Association. With respect to each Unit Ownership, only one person with respect to each unit ownership who shall be entitled to vote at any meeting of the unit owners. Such voting members shall be the unit owner or one of the group composed of all the unit owners of a unit ownership or may be some person designated by such unit owners to act as proxy (but a proxy shall be invalid after 11 months after its date of execution) on his or their behalf and who need not be a unit owner. Such designations shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board of the death or judicially declared incompetence of any designator, or by written notice to the Board by the unit owner or unit owners. Any or all unit owners of a unit ownership, and their designee, if any, may be present at any meeting of the voting members. In the event of a resale of a unit from a seller other than the developer pursuant to an installment contract for purchase shall during such times as he or she resides in the unit be counted toward a quorum for purposes of election of members of the Board of Managers and to be elected and serve on the Board of Managers 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 to and serve on the Board. Only the voting member of the unit ownership may vote or take any other action as a voting member either in person or by proxy. The total number of votes of all voting members shall be 100, and each unit owner or group of unit owners shall be entitled to the number of votes equal to the total of the

UNOFFICIAL COPY

percentage of ownership in the common elements applicable to his or their unit ownership as set forth in Exhibit "C". The Association shall have one class of membership only and that nothing contained in these condominium instruments shall permit or allow different classes of membership among the unit owners.

2. Meetings.

a. Meetings of the voting members shall be held at the property or at such other place in Cook County, Illinois, as may be designated in any notice of a meeting. The presence in person or by proxy at any meeting of the voting members of at least a majority of the voting members and voting members having at least a majority of the total votes shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the voting members at which a quorum is present upon the affirmative vote of the voting members having a majority of the total votes represented at such meeting.

b. The initial meeting of the voting members shall be held upon written notice, not less than twenty (21) days prior to the meeting called by the owner or developer. The initial meeting shall be held not later than sixty (60) days after the conveyance by the developer of 75% of the units or three (3) years after the recording of the declaration, whichever is earlier. After the election of the initial Board annual meetings shall be held as established by the Board and shall provide to a unit owner upon request within 3 working days the names, addresses, telephone number (if available), and weighted vote of each unit owner entitled to vote at the meeting. A unit owner shall be provided with the same information within 3 working days of a request, with respect to each subsequent meeting to elect members of the Board. If the initial Board is not elected by the unit owners at the time of the initial meeting, the developer shall continue in office for a period of 30 days whereupon written notice of his resignation shall be sent to all of the unit owners entitled to vote.

c. The board of managers may disseminate to unit owners biographical and background information about candidates for election to the board if: (1) no preference is expressed in favor of any candidate; and (2) 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.

d. Special meetings of the voting members may be called at any time for the purpose of considering matters which, by the terms of this declaration, require the approval of all or some of the voting members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by the president of the Board, a majority of the Board, or by the voting members having 20% of the total votes and delivered not less than ten (10) days or more than thirty (30) days prior to the date fixed for said meeting. The notices shall specify the date, time, and place of the meeting and the matters to be considered. Matters to be submitted at special meetings of the voting members shall first be submitted to the Board of Managers, at least ten (10) days prior to the special meeting, who shall then submit the matters to the voting members.

UNOFFICIAL COPY

e. A unit owner may vote by proxy executed in writing by the unit owner or by his duly authorized attorney in fact but the proxy shall be invalid after 11 months from the date of its execution, unless otherwise provided in the proxy, and that every proxy must bear the date of execution;

3. Notices of Meetings. Notices of meetings required to be given herein may be delivered either personally or by mail to the person entitled to vote there at, addressed to each such person at the address given by him to the Board for the purpose of service of such notice, or to the unit of the unit owner with respect to which such voting right appertains, if no address has been given to the Board.

4. Miscellaneous.

a. No merger or consolidation of the Association; sale, lease exchange, mortgage, pledge, or other disposition of all, or substantially all of the property and assets of the Association; and the purchase or sale of land or of units on behalf of all unit owners shall be effectuated unless there is an affirmative vote of three-fourths (3/4) of the votes of unit owners, except as otherwise provided for in the declaration.

b. When thirty percent (30%) or fewer of the units, by number, possess over fifty percent (50%) in the aggregate of the votes in the Association, any percentage vote of members specified in the condominium instruments, or the Act, shall require instead the specified percentage by number of units rather than by percentage of interest in the common elements allocated to units that would otherwise be applicable.

ARTICLE V

OFFICER/OFFICES FOR NOTICES

The Secretary of the Condominium Association is designated the officer and agent to mail and receive all notices and execute amendments to condominium instruments as provided for under the Act and in the condominium instruments. The Association's principal office shall maintain on the premises in Chicago, Illinois, unless otherwise designated within the State of Illinois.

ARTICLE VI

Board Committees

1. Board Committees. The Board by resolution adopted by a majority of the Directors in office, may designate one or more committees, each of which shall consist of two more Directors, which committees, to the extent consistent with law and as provided in said resolution, shall have and exercise the authority of the Board in the management of the Association; but the designation of such committees and delegation thereto of authority shall not operation to relieve the Board, or any individual Director, of any responsibility imposed upon it or him by law.

2. Special Committees. Other committees having and exercising the authority of the Board in the management of the Association may be designated by a

UNOFFICIAL COPY

resolution adopted by a majority of the Directors present at a meeting at which a quorum is present, except as otherwise provided in such resolution, members of each such committee shall be Unit Owners, and the president of the Association shall appoint the members thereof. Any member thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interest of the Association shall be served by such removal.

3. Term. Each member of a committee shall continue as such until the next annual meeting of the Board and until his successor is appointed, unless the committee shall be sooner terminated, or unless such member shall be removed from such committee, or unless such member shall cease to qualify as a member thereof.

4. Chairman. One member of each committee shall be appointed chairman.

5. Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

6. Quorum. Unless otherwise provided in the resolution of the Board designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

7. Rules. Each committee may adopt rules for its own government not inconsistent with these By-Laws or with rules adopted by the Board.

ARTICLE VII

SAVING PROVISION AGAINST INVALIDITY

Any portion of any condominium instrument which contains provisions contrary to the Illinois Condominium Property Act shall be void as against public policy and ineffective. Any such instrument, which fails to contain the provisions required by the Act, shall be deemed to incorporate such provisions by operation of law.

UNOFFICIAL COPY

CERTIFICATE

State of Illinois)
County of Cook) ss.

_____ hereby certifies that:

1. He is one of the managing members of JDF CONSTRUCTION CO., an Illinois Corporation, Developer of 1242 WEST JACKSON BOULEVARD, CHICAGO, IL.

2. A Notice of Intent (Notice) in the form and substance required by Section 30 of the Illinois Condominium Property Act is not required because there are no tenants or occupants of the property.

JDF CONSTRUCTION CO., an Illinois Corporation

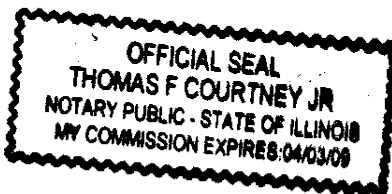
By: _____
Managing Member

STATE OF ILLINOIS)
COUNTY OF COOK) SS

I, _____, a Notary Public in and for the County and State aforesaid, do hereby certify that John Fullard, as a Manager of JDF CONSTRUCTION CO., an Illinois Corporation, personally known to me to be the same person whose name is subscribed to the Certificate, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, for the uses and purposes set forth therein.
Given under my hand and notarial seal this 4/1 day of _____, 2008.

My Commission Expires: _____

Thm + S



UNOFFICIAL COPY

EXHIBIT C PERCENTAGE INTEREST OF CONDOMINIUM

Percentage Interest	Address
UNIT 1E	1242 West Jackson Blvd, Chicago, Ill.
UNIT 1W	1242 West Jackson Blvd, Chicago, Ill.
UNIT 2E	1242 West Jackson Blvd, Chicago, Ill.
UNIT 2W	1242 West Jackson Blvd, Chicago, Ill.
UNIT 3E	1242 West Jackson Blvd, Chicago, Ill.
UNIT 3W	1242 West Jackson Blvd, Chicago, Ill.
UNIT 4	1242 West Jackson Blvd, Chicago, Ill.
	<u>23.26</u>
	100.00

Property of Cook County Clerk's Office

UNOFFICIAL COPY

"CONSENT OF MORTGAGEE"

State Bank of Countryside, holder of two Mortgages on the Property dated June 20, 2007 and recorded June 28, 2007 as Document No. 0717935277 and dated January 25, 2007 and recorded February 22, 2007 as Document No. 075346039 hereby consents to the execution and recording of the within Declaration of Condominium Ownership and agrees that the said Mortgage is subject thereto and to the provisions of the Condominium Property Act of the State of Illinois.

IN WITNESS WHEREOF, State Bank of Countryside has caused this Consent of Mortgagee to be executed by it duly authorized officer on its behalf this 9 day of April, 2008.

STATE BANK OF COUNTRYSIDE
By: [Signature]
Print name: Susan L. Jutzi, Sr. V.P.
Its: _____

ATTEST:

[Signature: Joan Micka]

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County and State, do hereby certify that Susan L. Jutzi, Sr. V.P. and Joan Micka, Vice Pres.
_____ and _____,

respectively of State Bank of Countryside, personally appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of the Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 9 day of April, 2008.

[Signature: Therese A. LeFevour]
NOTARY PUBLIC

My Commission Expires:

