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COOK COUNTY RECORDER

SIXTH
AMENDMENT TO
THE DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
1616 CONDOMINIUM ASSOCIATION

This document is recorded for the purpose of amending the Declaration of Condominium Ownership for 1616 Condominium Association (hereafter referred to as "Declaration") for 1616 Condominium Association (hereafter referred to as "Association") which Declaration was recorded on December 17, 1971, as Document No. 21752096 in the Office of the Recorder of Deeds of Cook County, Illinois, against the property (hereafter referred to as "Property") legally described in Exhibit "1" attached hereto.

This amendment is adopted pursuant to the provisions of Section 27 (b)(1) of the Illinois Condominium Property Act (the "Act"), Ill.Rev.Stat. (1983), ch. 30, Par. 327, effective July 1, 1984. This statute provides that, where there is an omission or error in the Declaration, By-Laws or other condominium instruments, the Association may correct the error or omission by an amendment in order to conform to the provisions of the Act. The amendment may be adopted by a vote of two-thirds (2/3) of the members of the Board of Managers unless the Board's action is rejected by a majority of the votes of the unit owners at a meeting of the unit owners duly called for that purpose by a written petition of the unit owners having twenty percent of the votes of the Association filed within thirty (30) days after the action of the Board to approve the amendment.

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RECITALS

WHEREAS, by the Declaration recorded in the Office of the Recorder of Deeds of Cook County, Illinois, the Property has been submitted to the provisions of the Act; and

WHEREAS, provisions of the Act establish certain procedures which the Association is required by law to follow, and which the present Declaration appears to be in conflict with; and

WHEREAS, because of this potential conflict between the language of the Declaration and the Act, there is the potential that litigation could result imposing needless financial expense on the Association and individual unit owners and potentially also calling into question the validity of actions of the Board of Managers or of the Association; and

WHEREAS, Section 27(b)(1) of the Act provides a procedure for amending the Declaration to correct omissions and other errors in the Declaration; and

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WHEREAS, the Board of Managers of the Association by a two-thirds (2/3) vote of the Board at a duly called meeting held October 20, 1992 approved this amendment to the Declaration; and

WHEREAS, the Board of Managers of the Association has given written notice of its action to all unit owners according to the procedures set forth in the Declaration; and

WHEREAS, the unit owners failed to submit a written petition to the Board within thirty days of the Board of Manager's action, as provided by Section 27(b)(3) of the Act;

NOW THEREFORE, Exhibit "C" (By-Laws) of the Declaration of Condominium for 1616 Condominium Association is hereby amended in accordance with the text as set forth in Exhibit "2", which is attached hereto and made a part hereof.

Except as expressly provided in this amendment, the remaining provisions of the Declaration are hereby confirmed and ratified and shall continue in full force and effect without change.

This instrument was prepared by
and upon recording mail to:

David M. Bendoff
Arnstein & Lehr
120 South Riverside Plaza
Suite 1200
Chicago, Illinois 60606

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EXHIBIT "1" LEGAL DESCRIPTION

Units BLA, BLC, BLE, BLF, 1A through and including 10H, as delineated upon Survey of the following described parcel of real property:

Lot A in M.A. Pancoe Subdivision, being Lot 2, (except the South Westerly 100 feet of the North Westerly 130 feet, 3 inches and except the South Easterly 3.5 feet of the South Westerly 100 feet), in Block 2 in Subdivision of Blocks 1 and 2 of Gage's Addition to the Village of Wilmette and 40 feet lying West and adjoining West line of Block 2 thereof, said Addition being a Subdivision of fractional South West 1/4 and fractional North East 1/4 of fractional Section 27, Township 42 North, Range 13, East of the Third Principal Meridian, also the North 5 chains of fractional South East 1/4 and the East 40 feet of fractional North West 1/4 of said Section 27, and also that portion of the South East 1/4 of the South East 1/4 of Section 28, lying East of Chicago, Milwaukee Railroad, in Cook County, Illinois.

Which survey is attached as Exhibit "A" to Declaration of Condominium Ownership made by Kenilworth Arms Corporation and recorded in the Office of the Recorder of Cook County, Illinois, as Document Number 21,752,096,

Commonly known as:

1616 N. Sheridan Road
Wilmette, Illinois 60091

Permanent Index Number 102-05-29-200-1001
through and including 1083

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EXHIBIT "2"
TEXT OF AMENDMENT
TO EXHIBIT "C" (BY-LAWS) OF THE DECLARATION
FOR
1616 CONDOMINIUM ASSOCIATION

1. Article I, Section 1 is hereby amended by adding the following:

"The Association shall have one class of membership."

2. Article I, Section 3 is hereby deleted in its entirety and replaced with the following:

"Section 3. Annual Meetings of Unit Owners shall be held in the Property during the month of April of each year commencing with the month of April 1976, on such day during said month of April and at such hour as may be specified in the written notice of such meeting given by the Board of Directors to all Unit Owners.

The members shall hold an annual meeting, one of the purposes of which shall be to elect members of the Board of Directors.

Special meetings of the members can be called by the President, Board of Directors, or by twenty percent (20%) of Unit Owners.

Written notice of any membership meeting shall be mailed or delivered giving members no less than ten (10) and no more than thirty (30) days notice of the time, place, and purpose of such meeting."

3. Article I, Section 4 is hereby amended by adding the following:

"A Unit Owner may vote by proxy executed in writing by the Unit Owner or by his duly authorized attorney in fact. The proxy shall be invalid after eleven months from the date of its execution, unless otherwise provided in the proxy. Every proxy must bear the date of execution.

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Any proxy distributed for Board elections must give Unit Owners the opportunity to designate any person as the proxy holder and give the Unit Owner the opportunity to express a preference for any of the known candidates for the Board or to write in a name.

Where there is more than one owner of a Unit, if only one of the multiple owners is present at a meeting of the Association, he or she shall be entitled to cast all the votes allocated to that Unit. If more than one of the multiple owners are present, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners. There is majority agreement when any one of the multiple owners cast the votes allocated to that Unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the Unit.

Matters subject to the affirmative vote of not less than two-thirds of the votes of Unit Owners at a meeting duly called for that purpose shall include, but not be limited to: (1) merger or consolidation of the Association; (2) sale, lease, exchange, or other disposition (excluding the mortgage or pledge) of all, or substantially all, of the property and assets of the Association; and (3) the purchase or sale of land or of Units on behalf of all Unit Owners.

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 Property Act or in the condominium instruments shall require 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."

4. Article I, Section 5 is hereby deleted in its entirety and replaced with the following:

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"Section 5. The presence, in person or by proxy, of twenty percent (20%) of the Unit Owners at any meeting of the Association shall constitute a quorum unless the Unit Owners holding a majority of the percentage interest in the Association provide for a higher percentage."

5. Article II, Section 2 is hereby deleted in its entirety and replaced with the following:

"Section 2. Each director shall be a Unit Owner, (or if a Unit Owner is a corporation, partnership or trust, a director may be an officer, partner or beneficiary of such Unit Owner), except for directors nominated or designated by Kenilworth. If a director shall cease to meet such qualifications, during his term, he shall thereupon cease to be a director and his place on the Board shall be deemed vacant.

If there are multiple Owners of a single Unit, only one of the multiple Owners shall be eligible to serve as a member of the Board at any one time.

In the event of a resale of a condominium Unit, the purchaser of a Unit from a seller other than the Developer pursuant to an installment contract to 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 Directors at any meeting of the Unit Owners called for purposes of electing members of the Board, shall have the right to vote for the election of members of the Board of Directors and to be elected to and serve on the Board of Directors unless the seller expressly retains in writing any or all such rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office or be elected and serve on the Board. Satisfactory evidence of an installment contract shall be made available to the Association or its agent. For purposes of this section "installment contract" shall have the same meaning as set forth in Section

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1(e) of "An Act Relating to Installment Contracts to Sell Dwelling Structures", approved August 11, 1967 as amended.

A candidate for election to the Board of Directors or such candidate's representative shall have the right to be present at the counting of ballots at such election."

6. Article II, Section 3 is hereby amended by adding the following:

"The remaining members of the Board may fill a vacancy by a two-thirds (2/3) vote until the next annual meeting of Unit Owners or for a period terminating no later than thirty (30) days following the filing of a petition signed by Unit Owners holding twenty percent (20%) of the votes of the Association requesting a meeting of the Unit Owners to fill the vacancy for the balance of the term. A meeting of the Unit Owners shall be called for the purpose of filling a vacancy on the Board no later than thirty (30) days following the filing of a petition signed by Unit Owners holding twenty percent (20%) of the votes of the Association requesting such a meeting."

7. Article II, Section 4 is hereby deleted in its entirety and replaced with the following:

"An annual meeting of the Board shall be held within ten (10) days following the annual meetings of Unit Owners. Special meetings of the Board shall be held upon the call by the President or by twenty-five (25%) of the Board on not less than forty-eight (48) hours' notice in writing to each director, delivered personally or by mail or telegram. Any director may waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action of the Board without a meeting.

The Board shall meet at least four (4) times annually.

Meetings of the Board shall be open to any Unit Owner except for the portion of any

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meeting held (i) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board of Directors finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) 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 meetings or portions thereof required to be open by tape, film, or other means. The Board may prescribe reasonable rules and regulations to govern the right to make such recordings. Notice of such meetings shall be mailed or delivered to Board members 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. In addition, copies of notices of meetings of the Board of Directors shall be posted in entranceways, elevators, or other conspicuous places in the condominium at least forty-eight (48) hours prior to the meeting of the Board of Directors except where there is no common entranceway for seven (7) or more Units, the Board of Directors may designate one or more locations in the proximity of these Units where the notices of meetings shall be posted."

8. Article II, Section 7(e) is hereby deleted in its entirety and replaced with the following:

"(e) to adopt and amend 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 requirements of Section 18(b) of the Illinois Condominium Property Act, and no quorum is

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required at such meeting of the unit owners; provided, no rule or regulation may impair any rights guaranteed by the First Amendment to the Constitution of the United States or Section 4 of Article I of the Illinois Constitution; nor may any rules or regulations conflict with the provisions of the Illinois Condominium Property Act or the condominium instruments."

9. Article II, Section 7 is hereby amended by adding the following subsection (1):

"(1) The powers and duties of the Board of Directors shall also include, but shall not be limited to, the following matters:

- (1) operation, care, upkeep, maintenance, replacement and improvement of the Common Elements;
- (2) preparation, adoption and distribution of the annual budget for the property;
- (3) levying of assessments;
- (4) collection of assessments from unit owners;
- (5) employment and dismissal of the personnel necessary or advisable for the maintenance and operation of the Common Elements;
- (6) obtaining adequate and appropriate kinds of insurance;
- (7) owning, conveying, encumbering, leasing and otherwise dealing with Units conveyed to or purchased by it;
- (8) keeping of detailed, accurate records of the receipts and expenditures affecting the use and operation of the property;
- (9) having 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

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

- (10) pay real property taxes, special assessments, and any other special taxes or charges of the State of Illinois or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon the real property of the condominium;
- (11) impose charges for late payments of a Unit Owner's 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, Bylaws, and rules and regulations of the Association;
- (12) by a majority vote of the entire Board of Directors assign the right of the Association to future income from common expenses or other sources, and mortgage or pledge substantially all of the remaining assets of the Association;
- (13) record the dedication of a portion of the Common Elements to a public body for use as, or in connection with, a street or utility where authorized by the unit owners under the provisions of Section 14.2 of the Illinois Condominium Property Act;
- (14) record the granting of an easement for the laying of cable television cable where authorized by the Unit Owners under the provisions of Section 14.3 of the Illinois Condominium property Act;
- (15) seek relief on behalf of all Unit Owners when authorized pursuant to subsection (c) of Section 10 of the Illinois Condominium Property Act from or in connection with the assessment or levying of real property taxes, special assessments, and any other special taxes

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or charges of the State of Illinois or of any political subdivision thereof or of any lawful taxing or assessing body.

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

(17) to establish and maintain a system of master metering of public utility services and to collect payments in connection therewith, subject to the requirements of the Tenant Utility Payment Disclosure Act."

10. Article II, Section 7 is hereby amended by adding the following subsection (m):

"(m) The Board of Directors may not enter into a contract with a current Board member or with a corporation or partnership in which a Board member has twenty-five percent (25%) or more interest, unless notice of intent to enter the contract is given to Unit Owners within twenty (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 twenty percent (20%) of the Unit Owners, for an election to approve or disapprove the contract. Such petition shall be filed within twenty (20) days after such notice and such election shall be held within thirty (30) days after filing the petition."

11. Article II, Section 7 is hereby amended by adding the following subsection (n):

"(n) The Board of Directors may disseminate to the 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

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(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."

12. Article II, Section 7 is hereby amended by adding the following subsection (o):

(o) The Association shall obtain and maintain fidelity insurance covering persons who control or disburse funds of the Association for the maximum amount of coverage available to protect funds in the custody or control of the Association plus the Association reserve fund. All management companies which are responsible for the funds held or administered by the Association shall maintain and furnish to the Association a fidelity bond for the maximum amount of coverage available to protect funds in the custody of the management company at any time. The Association shall bear the cost of the fidelity insurance and fidelity bond, unless otherwise provided by contract between the Association and a management company. The Association shall be the direct obligee of any such fidelity bond. A management company holding reserve funds of the Association shall at all times maintain a separate account for each Association, provided, however, that for investment purposes, the Board of Directors of the Association may authorize a management company to maintain the Association's reserve funds in a single interest bearing account with similar funds of other associations. The management company shall at all times maintain records identifying all moneys of each association in such investment account. The management company may hold all operating funds of associations which it manages in a single operating account but shall at all times maintain records identifying all moneys of each association in such operating account. Such operating and reserve funds held by the management company for the Association shall not be subject to attachment by any creditor of the management company."

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13. Article III, Section 1(c) is hereby amended by adding the following:

"The Secretary of the Association is hereby designated as the person to mail and receive all notices as provided for in the Condominium Property Act and in this Declaration. Unless otherwise provided by the Condominium Property Act, amendments to the Condominium Instruments authorized to be recorded shall be executed and recorded by the President of the Association or such other officer authorized by the Board of Directors."

14. Article IV, Section 1 is hereby amended by adding the following:

"The Association shall have no authority to forebear the payment of assessments to any Unit Owner.

Each Unit Owner shall receive, at least thirty (30) days prior to the adoption thereof by the Board of Directors, a copy of the proposed annual budget together with an indication of which portions are intended for reserves, capital expenditures or repairs or payment of real estate taxes.

Each Unit Owner shall receive notice, in the same manner as provided for in the Condominium Property Act for membership meetings, of any meeting of the Board of Directors concerning the adoption of the proposed annual budget or any increase or establishment of an assessment.

If an adopted budget requires assessment against the Unit Owners in any fiscal or calendar year exceeding one hundred fifteen percent (115%) of the assessments for the preceding year, the Board of Directors upon written petition by Unit Owners with twenty percent (20%) of the votes of the Association filed within fourteen (14) days of the Board action, shall call a meeting of the Unit Owners within thirty (30) days of the date of filing of the petition to consider the

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budget. 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. In determining whether assessments exceed one hundred fifteen percent 115% of similar assessments in prior years, 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."

15. Article IV, Section 4 is hereby deleted in its entirety and replaced with the following:

"Section 4. The Board of Directors shall annually supply to all Unit Owners an itemized accounting of the common expenses for the preceding year actually incurred or paid, together with an indication of which portions were for reserves, capital expenditures or repairs or payment of real estate taxes and with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net excess or deficit of income over expenditures plus reserves."

16. Article IV, Section 5 is hereby amended by adding the following:

"Any non-recurring common expense, any common expense not set forth in the budget as adopted, and any increase in assessment 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 Unit Owners duly called for the purpose of approving the assessment if it involves proposed expenditures resulting in a total payment assessed to a Unit equal to the greater of five (5) times the Unit's most recent common expense calculated on a monthly basis or three hundred dollars (\$300.00)."

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17. Article IV, Section 8 is hereby deleted in its entirety and replaced with the following:

"Section 8. (a) The Board of Directors 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 or their duly authorized agents or attorneys:

- (1) Copies of the recorded Declaration and Bylaws and any amendments, Articles of Incorporation of the Association, annual reports and any rules and regulations adopted by the Association or its Board of Directors shall be available.
- (2) 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.
- (3) The minutes of all meetings of the Association and the Board of Directors shall be maintained. The Association shall maintain these minutes for a period of not less than seven (7) years.
- (4) Ballots and proxies related thereto for all elections to the Board of Directors and for any other matters voted on by the Unit Owners shall be maintained for a period of not less than one (1) year.
- (5) Such other records of the Association as are available for inspection by members of a not-for-profit corporation pursuant to Section 107.75 of the General Not-For-Profit Corporation Act of 1986 shall be maintained.
- (6) With respect to Units owned by a land trust, if a trustee designates, in writing, a person to cast votes on behalf of the Unit Owner, that

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designation shall remain in effect until a subsequent document is filed with the Association.

- (7) A reasonable fee may be charged by the Association or its Board of Directors for the cost of copying.

Upon ten (10) days notice to the manager or Board of Directors and payment of a reasonable fee, any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

- (b) In the event of any resale of a condominium Unit by a Unit Owner other than the Developer, such Unit Owner shall obtain from the Board of Directors and shall make available for inspection to the prospective purchaser, upon demand, the following:

- (1) A copy of the Declaration, Bylaws, other condominium instruments and any rules and regulations.
- (2) A statement of any liens, including a statement of the account of the Unit setting forth the amounts of unpaid assessments and other charges due and owing as authorized and limited by the provisions of Section 9 of the Illinois Condominium Property Act or the condominium instruments.
- (3) A statement of any capital expenditures anticipated by the Association within the current or succeeding two (2) fiscal years.
- (4) A statement of the status and amount of any reserve for replacement fund and any portion of such fund earmarked for any specific project by the Board of Directors.
- (5) A copy of the statement of financial condition of the Association for the last fiscal year for which such statement is available.

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- (6) A statement of the status of any pending suits or judgments in which the Association is a party.
- (7) A statement setting forth what insurance coverage is provided for all Unit Owners by the Association.
- (8) A statement that any improvements or alterations made to the Unit, or the Limited Common Elements assigned thereto, by the prior Unit Owner are in good faith believed to be in compliance with the condominium instruments.
- (9) The identity and mailing address of the President of the Association or of the other officer or agent as is specifically designated to receive notices.

The President of the Association or such other officer as is designated by the Board shall furnish the above information when requested to do so in writing and within thirty (30) days of the request.

Within fifteen (15) days of the recording of a mortgage or trust deed against a Unit Ownership given by the Owner of that Unit to secure a debt, the Owner shall inform the Board of Directors of the Association of the identity of the lender together with a mailing address at which the lender can receive notices from the Association. If a Unit Owner fails or refuses to inform the Board as required under this Subsection, then that Unit Owner shall be liable to the Association for all costs, expenses and reasonable attorneys fees and such other damages, if any, incurred by the Association as a result of such failure or refusal.

The Board of Directors may establish and charge to the Unit Seller a reasonable fee covering the direct out-of-pocket cost of providing such information and copying."

18. Article V is hereby amended by adding the following Section 8:

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"Section 8. The provisions of the Condominium Property Act, the Declaration, Bylaws, other condominium instruments and rules and regulations that relate to the use of the individual Unit or the Common Elements shall be applicable to any person leasing a unit and shall be deemed to be incorporated in any lease executed or renewed on or after August 30, 1984. With regard to any lease entered into subsequent to August 10, 1990, the Unit Owner leasing the Unit shall deliver a copy of the signed lease to the Board or if the lease is oral, a memorandum of the lease, not later than the date of occupancy or ten (10) days after the lease is signed, whichever occurs first. In addition to any other remedies, by filing an action jointly against the tenant and the Unit Owner, the Association may seek to enjoin a tenant from occupying a unit or seek to evict a tenant under the provisions of Article IX of the Code of Civil Procedure for failure of the lessor-owner to comply with the leasing requirements prescribed by this Section or by the Declaration, Bylaws, and rules and regulations. The Board of Directors may proceed directly against a tenant, at law or in equity, or under the provisions of Article IX of the Code of Civil Procedure, for any other breach by tenant of any covenants, rules, regulations or Bylaws."

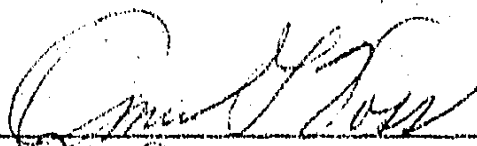
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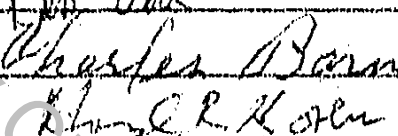
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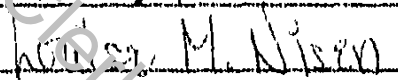
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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

We, the undersigned, are at least two-thirds (2/3) of the members of the Board of Managers of the 1616 Condominium Association established by the aforesaid Declaration of Condominium Ownership. By our signatures below, we hereby approve of and consent to this Amendment to the Declaration. In witness, whereof we have signed this document and cast our votes in favor of this Amendment at a duly called meeting of the Board of Managers of 1616 Condominium Association held on OCTOBER 20, 1992.



Charles Barnes


Charles R. Kohn


Louise M. Nison

BOARD OF MANAGERS OF
1616 CONDOMINIUM ASSOCIATION

ATTEST: 
Secretary

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