

CUYAHOGA COUNTY REC
PATRICK J. DMALLEY
DEED 12/28/2001 03:57:16
2001122811

**AMENDMENT NO. 2
TO
DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
BEACON PLACE AT CHURCH SQUARE
WITNESSETH:**

This Amendment to the Declaration of Covenants, Conditions, and Restrictions for Beacon Place at Church Square is made as of December 28, 2001.

RECITALS

- A. The original Declaration of Covenants, Conditions, and Restrictions for Beacon Place at Church Square has been recorded in Volume 96-10152, Page 14 et seq. and recorded Amendment Number One (1) in Volume 97-10010, Page 35 et seq. (the "Declaration") for the housing area known as Beacon Place at Church Square ("Beacon Place"), on the real property attached as Exhibit A hereto and made a part hereof.
- B. Beacon Place is governed by The Beacon Place at Church Homeowners Association, Inc. (the "Association").

NOW, THEREFORE, the undersigned declares that the property described in Exhibit A attached hereto and made a part hereof (the "Property") shall be held, sold and conveyed pursuant to this Declaration and the covenants, conditions and restrictions described therein which are for the purpose of protecting the value and desirability of the Property, and which shall run with the title to the Property and shall be binding on and inure to the benefit of any and all parties having any right, title, or interest in or to the

CUYAHOGA COUNTY RECORDER
200112281177 PAGE 1 of 7

Surety Title Agency, Inc.
ORDER NO. ST 24231B
ESCROW NO. 01-628M

Property or any part thereof, and such parties' respective heirs, representatives, successors and assigns.

1. The terms and powers as of the Declaration notwithstanding the term "Property" shall mean the real property described on Exhibit A attached hereto and made a part hereof.

2. The terms and provisions of Article X, Section 9 of the Declaration to the contrary notwithstanding, pets shall be limited to customary household pets such as cats, dogs, pet fish and parakeets, and cats and dogs shall be kept on a leash at all times when outside on the Property. An Owner shall not keep more than two (2) dogs and/or cats. Each owner must pick up all fecal matter produced by his or her pet on the Property and dispose of such waste in an appropriate waste container. The Board shall have the power to establish and levy and assess fines against any Owner violating Article X, Section 9 of the Declaration, which shall be collected as an assessment by the Association.

3. The terms and provisions of the Declaration to the contrary notwithstanding:

(a) If more than one person owns a portion of a Townhouse or Lot, the collective owners of such Townhouse or Lot shall have one (1) vote for the purposes of any vote or action to be taken by an Owner under the Declaration.

(b) The Board shall have the power to levy and assess fines against any Owner who violates the Declaration; provided that such Owner is first given a written warning and notice to correct such violation and such Owner either (i) fails to correct such violation within ten (10) days after Owner's receipt of such

notice, or (ii) such Owner commits a subsequent violation after receipt of such notice.

(c) Any sign permitted by Article X, Section 10 of the Declaration must be approved by the ARC (as defined in the Declaration) and can only be displayed inside the front window.

(d) The word "overnight" is hereby deleted from the last sentence of Article X, Section 11 of the Declaration.

(e) Any Owner who fails to pay any assessment within fifteen (15) days after receipt of an invoice for such assessment shall be charged with a Ten Dollar and no/cent (\$10.00) per assessment late fee, in addition to any interest due pursuant to Article VI, Section 9 of the Declaration. The cost of collecting any delinquent assessments shall be charged to said delinquent Owner and shall be treated as part of the assessment due and payable by said Owner and shall be collected as such under the Declaration. To the extent permitted by law, any delinquent Owner who is more than six (6) months in arrears in payment of any assessment due under the Declaration shall not be entitled to vote on any Association matter until said arrearage and interest due thereon have been paid in full.

4. For the purposes of the Declaration, each Coach Home shall be treated in the same manner as a Townhouse and the term Coach House shall be included wherever the term Townhouse is provided in the Declaration as applicable.

5. As amended hereby, the Declaration shall remain in full force and effect in accordance with its terms.

6. Each Owner shall maintain the exteriors of said Owner's residence and the related yard area in accordance with rules and regulations to be established by the Board. If any Owner fails to meet such maintenance requirements, the Association, acting through the Board, shall give said Owner thirty (30) days written notice to meet those maintenance requirements. If such Owner fails to meet said requirements within that period, the Board shall have the power and authority to take any and all actions the Board deems appropriate to bring said Owner's residence and/or yard into compliance with the Board's requirements and assess the cost of such compliance against said Owner as an assessment in accordance with this Declaration.

IN WITNESS WHEREOF, the undersigned, being Declarant and Additional Declarant named herein, have executed this Amendment on December 28, 2001.

CUYAHOGA COUNTY RECORDER
200112281177 PAGE 4 of 7

Jan. 4. 2002 12:45PM

SURETY TITLE 216-589-4826

"DECLARANT"

ZAREMBA CLEVELAND COMMUNITIES, INC.
an Ohio corporation

Witnesses:

B. E. Blasinsky

Name: Brian E. Blasinsky

Linda J. Mengelkamp

Name: Linda J. Mengelkamp

By: [Signature]

Its: President

"ADDITIONAL DECLARANT"
BEACON PLACE LIMITED PARTNERSHIP
An Ohio limited partnership

By: Zaremba Cleveland Communities, Inc.
its general partner

B. E. Blasinsky

Brian E. Blasinsky
Print Name

Linda J. Mengelkamp

Linda J. Mengelkamp
Print Name

In Turn by: [Signature]

Its: President

STATE OF OHIO)
COUNTY OF CUYAHOGA)

SS:

This instrument was acknowledged before me this 28 day of December, 2001, by Nathan Zaremba the President of Zaremba Cleveland Communities, Inc., an Ohio corporation on behalf of said corporation.

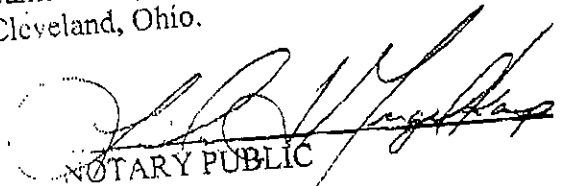
[Signature]
NOTARY PUBLIC

Linda J. Mengelkamp
Notary Public State of Ohio
Recorded In Lake County
Commission Expires April 19, 2005

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said County and State, personally appeared Nathan Zarembo, the President of Zarembo Cleveland Communities, Inc., the General Partner of Beacon Place Limited Partnership, who acknowledged that he executed the foregoing instrument and that the same is his own free act and deed in the foregoing capacity, the free act and deed of such corporation on behalf of such partnership, and the free act and deed of such partnership.

In testimony whereof, I have hereunto set my hand and seal this 08 day of December, 2001, at Cleveland, Ohio.


NOTARY PUBLIC

Linda J. Mengelkamp
Notary Public State of Ohio
Recorded In Lake County
Commission Expires April 19, 2006

This instrument prepared by:

Timothy J. Grendell
6060 Rockside Woods Boulevard
Suite 250
Independence, Ohio 44131
Phone No.: (216) 524-6444

EXHIBIT A**PHASE I - Parcel 1**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S9 through S16 inclusive and T37 through T44 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE I - Parcel 2

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S17 through S24 inclusive and T45 through T52 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE II

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S25 through S32 inclusive and T53 through T60 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE III - Parcel 1

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S1 through S8 inclusive and T29 through T36 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE III - Parcel 2

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots T1 through T28 inclusive and Block B and C as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

356864

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BEACON PLACE AT CHURCH SQUARE

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BEACON PLACE AT CHURCH SQUARE (the "Declaration"), is made on the date hereinafter set forth by ZAREMBA CLEVELAND COMMUNITIES, INC. ("ZCC"), an Ohio corporation (hereinafter referred to as "Declarant"), and BEACON PLACE LIMITED PARTNERSHIP, an Ohio limited partnership (hereinafter referred to as "Additional Declarant").

WITNESSETH:

WHEREAS, Declarant and Additional Declarant are the owners of all of that certain real property in Cuyahoga County, Ohio (the "Property"), which is more particularly described on Exhibit A attached hereto and incorporated herein by reference, and desires to create on such Property a residential community consisting of single-family homes and townhouses; and

NOW, THEREFORE, Declarant and Additional Declarant hereby declare that the Property shall be held, sold, and conveyed pursuant to this Declaration and the covenants, conditions and restrictions described herein, which are for the purpose of protecting the value and desirability of the Property, and which shall run with the title to the Property and shall be binding on and inure to the benefit of any and all parties having any right, title, or interest in or to the Property or any part thereof, and such parties' heirs, representatives, successors and assigns.

ARTICLE I DEFINITIONS

Section 1. "Architectural Review Committee" and "ARC" shall have the meaning ascribed to such terms in Article XI of this Declaration.

Section 2. "Articles" shall mean and refer to the Articles of Incorporation of the Association, including any and all amendments or modifications to those Articles.

Section 3. "Assessment" and "Annual Assessment" and "Special Assessment" shall have the meanings ascribed to such terms in Article V of this Declaration.

Section 4. "Association" shall mean and refer to BEACON PLACE AT CHURCH SQUARE HOMEOWNERS ASSOCIATION, INC., an Ohio nonprofit corporation, and its successors and assigns.

Section 5. "Board of Trustees" shall mean and refer to the Association's Board of Trustees.

Section 6. "Bylaws" shall mean and refer to the Bylaws of the Association, including, without limitation, any and all amendments or modifications to those Bylaws.

Section 7. "Common Area" or "Common Areas" shall mean entrance areas, common landscaping, drainage, open space areas now or hereafter designated or created within the Property and any and all other real property (including any improvements thereon) owned or leased by the association (in fee simple or otherwise) for the common use and enjoyment of the Owners. The initial Common Area shall be that portion of the Property more particularly

98
De

ST 18649
Surety Title Agency, Inc.

described on Exhibit B attached hereto and incorporated herein by reference.

Section 8. For the purpose of this Declaration and the powers, rights, and authorities granted to Declarant herein, "Declarant" shall mean and refer to ZCC and any successor, alternate, or additional Declarant appointed by ZCC by an instrument specifically setting forth that such successor, alternate, or additional Declarant shall have, together with or in lieu of ZCC, Declarant's rights, duties, obligations, and responsibilities, in whole or in part, for all or any portion of the Property.

"Declarant" shall not include any person or party who purchases a Lot from Declarant, unless such purchaser is specifically assigned, by a separate recorded instrument, some or all of Declarant's rights, duties, obligations, or responsibilities under this Declaration with regard to the property conveyed.

Section 9. "General Land Plan" shall have the meaning ascribed to it in Article VII of this Declaration.

Section 10. "Lien" shall have the meaning ascribed to it in Article V of this Declaration.

Section 11. "Lot" shall mean and refer to any plot of land shown as a lot upon any recorded subdivision map or plat of the Property, with the exception of the Common Area. Lots may be vacant land, or they may contain residential structures. A lot containing a detached residential structure is referred to herein as a "Single-family Lot", and any such detached residential structure is referred to herein as "House." A lot containing attached residential structures is referred to herein as a "Townhouse Lot," and any such attached residential structure is referred to herein as a "Townhouse".

Section 12. "Member" shall have the meaning ascribed to it in Article IV of this Declaration.

Section 13. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include Declarant.

Section 14. "Property" shall mean and refer to all of the real estate described on Exhibit A and such additions thereto as may hereafter be brought within the jurisdiction of the Association and made subject to this Declaration by recorded supplemental instrument.

ARTICLE II PURPOSE OF THE ASSOCIATION

Declarant, in order to insure that the Common Area and other areas for which it is responsible will continue to be maintained in a manner that will contribute to the comfort and enjoyment of the Owners and provide for other matters of concern to them, has organized the Association. The purpose of the Association shall be to operate, maintain, and repair the Common Area and any improvements thereon, to maintain certain decorative entranceways and common landscaping on the Property and other features within the Property as designated by the Board of Trustees, to pay for the costs of lighting for the Common Area, if any, and to take such other action as the Association is authorized to take with regard to the Property pursuant to its Articles of Incorporation and Bylaws or this Declaration. The Association may

maintain any other area, on the Property or otherwise, if the Board of Trustees determines such maintenance to be in the best interests of the Owners.

ARTICLE III PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. the right of the Association, from time to time, in accordance with its Articles or Bylaws, to establish, modify, amend, and rescind reasonable rules and regulations regarding use of the Common Area;

B. the right of the Association to charge reasonable admission and other fees for the use of any recreational facility or area situated upon the Common Area, which fees may be used to discharge the general financial obligations of the Association;

C. the right of the Association to suspend the voting rights of, and right to use the Common Area by, an Owner for any period during which any assessment levied under this Declaration against such Owner's Lot remains unpaid and suspend such rights for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

D. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility as provided by its Articles or Bylaws. No such dedication or transfer shall be effective unless an instrument has been recorded, signed by at least one-half (1/2) of each class of Members;

E. the right of the Association to grant easements in and to the Common Area, or any part thereof, as provided by its Articles or Bylaws;

F. the right of the Association to otherwise deal with the Common Area as provided by its Articles or Bylaws;

G. the right of the Association to open the Common Area, including any recreational facilities or areas thereon, for use by non-members of the Association, including the general public;

H. the right of the Association to release or convey its rights to any part of the Common Area, whether or not deeded to the Association, to Declarant or any Owner to facilitate development of residential dwellings, so long as such release or conveyance does not substantially, materially, and adversely affect the function and use of the remaining Common Area;

I. the right of Declarant to transfer or dedicate any portion of the Common Area to a governmental agency having jurisdiction thereof;

J. the right of Declarant and its designees to use Common Area parking areas for parking by its employees and invitees; and

K. the right of the Association to plant, replant, care for and maintain hedges or bushes along the sidewalks throughout the Property. No owner shall in any way

remove, alter, modify, cut, interfere with, or change such hedges or bushes, without the prior written approval of the Board of Trustees.

Section 2. Tenant's Rights. Any Owner may assign its rights in and to the Common Area to a tenant of such Owner's House or Townhouse, subject to this Declaration, the Articles and the Bylaws. Such tenant shall be required to comply with all covenants, conditions and restrictions provided for herein and therein.

Section 3. Prohibition of Certain Activities. No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or any tenant or invitee of any Owner. No noxious, destructive, or offensive activity shall be permitted in or on the Common Area or any part thereof, nor shall any activity be permitted which may be or may become an unreasonable annoyance or nuisance to any other Owner. No Owner may maintain, treat, landscape, sod, place, or erect any improvement or structure of any kind on any Common Area, without the prior written approval of the Board of Trustees.

Section 4. Signs Prohibited in Common Area. No sign of any kind shall be displayed in or on the Common Area, without the prior written consent of the Board of Trustees. This section shall not apply to Declarant or to the Association.

Section 5. Rules and Regulations. No Owner or any tenant or invitee of any Owner shall violate the reasonable rules and regulations governing use of the Common Area promulgated by the Association and amended from time to time.

Section 6. Title to Common Area. No later than the time Declarant no longer exercises voting control over the Association as provided in Article IV of this Declaration continuously for a period of one (1) year, Declarant shall convey, and the Association shall accept, title to any Common Area, subject to such easements, reservations, conditions, and restrictions as may then be of record. Declarant may convey, and the Association shall accept, title at any time prior to the time referred to in this Section 6, at Declarant's option.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 1. Each Owner of a Single-family Lot and each Owner of a Townhouse shall be a member of the Association (a "Member"), and shall be subject to and bound by the Articles, Bylaws, the Association's rules and regulations, and this Declaration. The foregoing does not include persons or entities who hold a leasehold interest or interest merely as security for the performance of an obligation. Ownership shall be the sole qualification for membership. When any Single-family Lot or any Townhouse is owned of record by two or more persons or other legal entities, all such persons or entities shall be Members, but multiple ownership shall not result in additional voting rights. An Owner of more than one Single-family Lot or more than one Townhouse on one or more Townhouse Lots shall be entitled to one membership for each such Lot or Townhouse owned. Membership shall be appurtenant to, and may not be separated from, ownership of a Lot or Townhouse and it shall automatically be transferred by conveyance of that Lot or Townhouse. Declarant shall be a Member so long as it owns one or more Lots.

Section 2. The Association shall have two (2) types of Members: Class A and Class B. All votes shall be cast in the manner provided in the Bylaws. The two types of Members and voting rights related thereto, are as follows:

- A. Class A. Class A Members shall be all Owners with the exception of Declarant. Each Class A Member shall be entitled to one vote for each Townhouse and/or Single-family Lot of which it is the Owner. In the case of any Townhouse and/or Single-family Lot owned of record in the name of two or more persons or entities, all such persons or entities shall exercise their vote as they among themselves determine; provided, however, that in no event shall there be more than one vote with respect to any such Townhouse and/or Single-family Lot.
- B. Class B. Class B Members shall be Declarant. Notwithstanding anything in this Declaration to the contrary, until all of the Lots have been sold and conveyed by Declarant, the Class B Member shall have a total number of votes equal to the number of votes cumulatively held by all other Members, plus one (1), thereby providing the Class B Member with a majority of the votes of the Association. On the date Declarant sells and conveys its last remaining Lot, Class B of the membership shall terminate.

ARTICLE V RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Responsibilities. The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the management and control of the Common Area and shall keep the same in good, clean, and proper condition, order, and repair. The Association shall be responsible for the planting, replanting care and maintenance of the hedges or bushes along the sidewalks throughout the Property and lawn care and landscaping maintenance on each Townhouse Lot; an easement is hereby reserved to the Association on each Townhouse Lot for such purpose. The Association shall be responsible for the payment of all costs, charges, and expenses incurred in connection with the operation, administration, and management of the Common Area, and performance of its other obligations hereunder. The Association shall operate and maintain areas designated by Declarant as Common Areas, whether or not title to those areas has been formally conveyed to the Association. With respect to Single-family Lots, lawn care and landscaping maintenance shall be the responsibility of the Owners. Snow removal shall be the responsibility of Owner's of Single-family Lots and Townhouse Lots.

Section 2. Manager. The Association may obtain, employ, and pay for the services of an entity or person as manager to assist in managing its affairs and carrying out its responsibilities hereunder, as well as such other personnel as the Association shall determine to be necessary or desirable, whether such personnel are engaged, furnished, or employed directly by the Association or such manager. The Association may enter into a Management Agreement for management services with any entity as the Board of Trustees deems appropriate or necessary.

Section 3. Personal Property for Common Use. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as provided in the Articles or Bylaws.

Section 4. Insurance. The Association shall procure and at all times maintain adequate policies of public liability and other insurance as it deems advisable or necessary. The Association may cause all persons responsible for collecting and disbursing Association funds to be insured or bonded with adequate fidelity insurance or bonds.

Section 5. Implied Rights. The Association may exercise (i) any right or privilege given to it expressly by this Declaration, the Articles, the Bylaws, or by law, and (ii) every other right or privilege reasonably implied from the existence of any right or privilege granted herein or therein or reasonably necessary to effectuate the exercise of any right or privilege granted herein or therein.

ARTICLE VI COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Owners for Assessments. Each Owner, by acceptance of a deed for such Owner's Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (a) an annual assessment or charge (the "Annual Assessment"), which shall be paid in quarterly installments, and (b) special assessments for capital improvements and unexpected operating costs (a "Special Assessment"), such assessments to be established and collected as provided herein (the Annual Assessment and each Special Assessment collectively referred to herein as the "Assessments"). The Assessments shall be effective from, and relate back to, the date of recording this Declaration and shall be a charge on the Property and shall be secured by a continuing lien upon the property in favor of the Association against which each such Assessment is made (the "Lien"). The Lien shall also secure interest on unpaid Assessments, fines for violation of this Declaration, the Bylaws or the rules and regulations of the Association, the costs of collecting unpaid Assessments and fines, and court costs for actions enforcing this Declaration and obtaining injunctions, all including reasonable attorney's fees. Notice of the Lien will be given by recording a Claim of Lien in the public records of Cuyahoga County, Ohio, stating the Lot description, the name of the Owner of such Lot, the amount due, and the due date. A Claim of Lien may be filed against a Lot for any unpaid Assessments or other charges hereunder after conveyance of the Lot to an Owner by Declarant. Each Assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment became due. Such Owner's personal obligation for delinquent Assessments shall not pass to such Owner's successors in title unless expressly assumed by such successor.

Section 2. Purpose of Annual Assessment. The Annual Assessment shall be used to promote the recreation, health, safety, and welfare of the residents of the Property, and for the improvement and maintenance of the Common Area and the carrying out of the other responsibilities and obligations of the Association under this Declaration, the Articles, and the Bylaws. Without limiting the generality of the foregoing, the Annual Assessment may be used for the acquisition, improvement, and maintenance of properties, services, and facilities related to the use and enjoyment of the Common Area, including the costs of repair, replacement, and additions thereto, reserves for the future costs thereof, the cost of labor, equipment, supplies, materials, management, and supervision thereof; the costs of repair, replacement, and additions to entrance and directional signage and, pursuant to agreements between Declarant and any homeowners association formed by Owners as may be approved by the Board of Trustees, the payment of taxes and assessments made or levied against the Common Area and any property of the Association; the procurement and maintenance of insurance; the employment of attorneys, accountants, engineers, and other professionals to advise and represent the Association when necessary or useful; and such other needs as may arise.

VOL. 96-10152 PAGE 20

RECORDED THIS DATE
FRANK RUSSO
CUYAHOGA CO., RECORDER
96 OCT 15 AM 10:54

Section 3. Purpose of Special Assessments. Special Assessments shall be for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of capital improvements upon the Common Area, including buildings and fixtures and personal property related thereto and for other purposes as designated by the Association, provided that Special Assessments shall have the assent of sixty percent (60%) of the votes Members who are voting in person or by proxy at a meeting duly called for such purpose. Written notice of any meeting called for the purpose of taking any such action shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of Members or of proxies entitled to cast one-third (1/3) of all votes shall constitute a quorum.

Section 4. Assessment Rate. Subject to the provisions contained in this Section 4, the Annual Assessment shall be fixed by the Board of Trustees. The Annual Assessment for each Single-family Lot shall be the same, and the Annual Assessment for each Townhouse shall be the same, although the Annual Assessment for Single-family Lots and Townhouses may differ. Upon acquisition of title to a Single-family Lot or Townhouse (whether an initial sale or resale), as evidenced by the recording of the deed with the Cuyahoga County Recorder, each Owner shall promptly pay an amount equal to one quarter (1/4) of the Annual Assessment for such Lot or Townhouse to the Association as that Owner's initial assessment. This initial assessment shall apply to each subsequent resale of a Single-family Lot of Townhouse and shall be paid by each subsequent Owner thereof. The Annual Assessment shall not be increased by more than ten percent (10%) over the Annual Assessment charged for the immediately prior calendar year so long as Declarant owns at least one (1) Lot.

Section 5. Declarant's Assessments. Notwithstanding any provision to the contrary in this Declaration or the Association's Articles or Bylaws, Declarant shall not be obligated for, nor subject to, any Annual Assessment. In lieu of paying an Annual Assessment, Declarant shall be responsible for paying the difference between the Association's operating expenses and the sum of the revenues of the Association from all sources. "All sources" includes, but is not limited to, revenues from the operation of any recreational facilities or areas within the Common Area, accounting service fees, property management fees, guest fees, user fees, and the Annual and Special Assessments levied against the Owners other than Declarant. Such deficiency shall not include contributions to any reserve for replacements, operating reserves, depreciation reserves, capital expenditures or Special Assessments. Declarant may give written notice to the Association prior to January 1 of any year, that it is terminating its responsibility for the deficiency and waiving its right to exclusion from Annual Assessments effective as of the last day of February of such year.

Upon the termination of Declarant's Class B membership pursuant to Article IV of this Declaration, each Lot owned by Declarant that has a completed dwelling for which a certificate of occupancy has been issued shall thereafter be assessed at twenty-five percent (25%) of the Annual Assessment established for Lots owned by Owners other than Declarant. Such Assessment shall be prorated and become payable as to the remaining months of the year, if any, in which such termination occurs. Lots that are owned by Declarant and vacant shall not be subject to any Assessment. Upon transfer of title to a Lot owned by Declarant, the Lot shall be assessed in the amount established for Lots owned by Owners other than Declarant, prorated as of the first day of the month following the date of transfer of title.

Declarant shall not be responsible for any cost associated with a reserve for replacements, operating reserves, depreciation reserves, capital expenditures, or Special Assessments. Declarant shall be assessed only for Lots that are encumbered by this Declaration.

So long as Declarant is obligated to pay any deficiency, the Association, at Declarant's request, shall open the Common Area, including any clubHouse and other recreational facilities or areas within the Common Area, for use by non-members of the Association, including the general public, and shall provide any easements or licenses necessary for access to and from such facilities and for parking.

Section 6. Exemption from Assessments. The Assessments, charges, and liens provided for in this Article VI shall not apply to: (i) Declarant, (ii) the Common Area, (iii) any property dedicated to, or accepted for maintenance by, a public or governmental authority or agency, (iv) any property owned by a public or private utility company or public or governmental body or agency, or (v) any property used for commercial purposes. Notwithstanding the foregoing, any Lots from which Declarant derives rental income or holds an interest as mortgagee shall be assessed at the same amount as Lots owned by Owners other than Declarant, prorated as of and commencing with the month following the execution of such rental agreement or mortgage.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The Annual Assessment provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to an Owner other than Declarant. The first Annual Assessment shall be adjusted according to the number of months remaining in that calendar year. The Board of Trustees shall fix the amount of the Annual Assessment, which shall be paid quarterly, against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. The due dates shall be on the first day of each quarter or on such other dates as may be established by the Board of Trustees. The Association shall, upon demand, and for a reasonable uniform charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments or any installments on a specified Lot have been paid or are delinquent and, if so, the particulars of the delinquencies. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, at trial and on appeal, shall be secured by the Lien.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of eighteen percent (18%) per annum or the maximum rate allowed by law. The Association may bring an action directly against the Owner, exercise its rights pursuant to the Lien, or both. Non-use of the Common Area or abandonment of such Owner's Lot shall not constitute a waiver of liability as to, or other release of, such Owner.

Section 10. Foreclosure. The Lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Ohio, or as otherwise provided by Ohio law. In any such foreclosure, the Owner shall be required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees, at trial and on appeal. All such costs and expenses shall be secured by the Lien. The Owner shall also be required to pay to the Association any Assessments against the Lot which shall become due during the period of foreclosure, and the same shall be secured by the Lien as of the date the Owner's title is divested by such foreclosure. The Association shall have the right and power to bid at the foreclosure sale to acquire the Lot foreclosed, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with the same as the owner

thereof.

Section 11. Subordination of the Lien to Mortgages. The Lien shall be subordinate to any first mortgage which is recorded prior to any Claim of Lien. Sale or transfer of any Lot shall not affect the Lien. However, the sale or transfer of such Lot shall extinguish the Lien with respect to Assessments which became due prior to such sale or transfer. No sale or transfer shall relieve the Owner of such Lot from liability for any Assessments becoming due prior to such sale or transfer or from the Lien.

ARTICLE VII ADDITIONAL PROPERTY

Section 1. Additions.

A. Additions to the Property. Declarant may, but shall not be obligated to, bring additional real estate (the "Additional Property") within the jurisdiction and control of the Association and this Declaration in the manner specified in Section 2 of this Article VII. The Additional Property shall be subject to all the terms of this Declaration, provided it is added within twenty-five (25) years from the date this Declaration is recorded. All Additional Property brought within the jurisdiction and control of the Association and made subject to this Declaration pursuant to this Article shall thereupon and thereafter be included within the term "Property" as defined in this Declaration.

B. General Land Plan. A general land plan (the "General Land Plan") has been prepared by Declarant and may be examined at the offices of Declarant by any person having a valid interest therein. The General Land Plan may be amended or modified by Declarant, in whole or in part, at any time, or discontinued, in Declarant's sole discretion.

Section 2. Procedure for Making Additions to the Property. Declarant may add Additional Property in accordance with the following procedures:

A. Generally. Declarant shall have the right from time to time, subject to majority approval of the Members of the Association, to bring within the jurisdiction and control of the Association and make subject to this Declaration and the General Land Plan, any Additional Property. In Declarant's sole discretion, portions of any Additional Property may be designated as Common Area.

B. Mergers. Upon a merger or consolidation of the Association, the property (whether real or personal or mixed), rights, and obligations of each constituent corporation shall, by operation of law, be transferred to the surviving or consolidated corporation. The surviving or consolidated corporation may administer the conditions, covenants and restrictions established by this Declaration within the Property and any other real property to which such surviving or consolidated corporation may hold title. No such merger or consolidation shall effect any revocation, change, or addition to the covenants, conditions and restrictions established by this Declaration with respect to the Property.

Section 3. General Provisions Regarding Additions to the Property.

A. Declarant shall file of record a Supplement to Declaration of Covenants, Conditions, and Restrictions for any Additional Property, thereby extending the covenants, conditions and restrictions of this Declaration to such Additional Property. Provided Declarant shall have received the approval of a majority of Members, such Supplement shall not require

the joinder or consent of the Association or any of its Members. Such Supplement may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Additional Property or any permitted use thereof. In no event, however, shall such Supplement revoke, modify, or add to the covenants, conditions and restrictions established by this Declaration as such affect the Property.

B. No addition to the Property shall revoke or diminish the rights of the Owners to the utilization of the Common Area as established hereunder.

C. Nothing contained in this Article shall obligate Declarant to make additions to the Property.

Section 4. Voting Rights of Declarant as to the Additional Property. Declarant shall have no additional voting rights due to the Additional Property prior to Declarant's compliance with this Article and the actual addition of such Additional Property. Upon the addition of such Additional Property Declarant shall have the voting rights of a Class B Member as to any lots therein pursuant to Article IV, Section 2 of this Declaration.

Section 5. Assessment Obligation of Declarant as to Additional Property. No assessment shall be made on the Additional Property until such Additional Property is added to the Property in accordance with the provisions of this Article. Thereafter, Declarant shall be exempt from Annual Assessments with regard to Lots within the Additional Property which it owns, upon the same terms and conditions as contained in Article VI, Sections 6 and 7 of this Declaration, including the right as therein provided to waive its exemption, and become subject to Assessment at the rate of twenty-five (25%) of the Annual Assessment established for improved Lots owned by Owners other than Declarant.

Section 6. Voting Rights of Owners other than Declarant as to Additional Property. The Owners of Lots on such Additional Property shall be entitled to the voting rights of Class A Members.

Section 7. Assessment Obligation of Owners other than Declarant as to Additional Property. Any Lots on such Additional Property which are owned by Owners other than Declarant, shall be subject to Assessments in accordance with the terms and provisions of this Declaration.

ARTICLE VIII GENERAL PROVISIONS

Section 1. Deed Restrictions. In addition to the covenants, conditions and restrictions contained in this Declaration, Declarant may record, with respect to the Property or any portion thereof, specific deed restrictions, declarations of covenants, conditions, and restrictions, and/or community association documents, either by master instrument or individually recorded instruments. The covenants, conditions, and restrictions contained in such documents may vary for different parts of the Property. Any portion of the Property made subject to such covenants, conditions and restrictions shall also be subject to this Declaration. The Association shall have the power to enforce all restrictions on any portion of the Property. Nothing contained in this Declaration shall require Declarant to impose restrictions of any kind other than this Declaration on all or any portion of the Property.

Section 2. Enforcement.

A. Persons Entitled to Enforce. Declarant, Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by Declarant, the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. Mediation and Arbitration. In the event of a dispute, claim, or controversy arising out of or relating to the breach, termination, validity, interpretation, enforcement, or implementation of any term or provision of this Declaration ("Dispute"), the Owners and the Association agree to submit the Dispute first to mediation and then to voluntary, binding arbitration, as follows:

In the event the parties cannot successfully negotiate a resolution of the Dispute within thirty (30) days of its occurrence, any party to the Dispute may notify the other parties to the Dispute that the matter will be submitted to mediation in accordance with the Commercial Mediation Rules of the American Arbitration Association ("Mediation Rules") and that all parties to the Dispute shall bear equally the costs of the mediation or as otherwise directed by the mediator. The panel shall consist of one mediator and shall be selected according to the Mediation Rules. The parties agree to participate in good faith in the mediation and negotiations related thereto.

If the Dispute cannot be resolved through mediation, within ten (10) days after the failure to resolve the Dispute through mediation, any party may notify the other parties to the Dispute that the matter will be submitted to voluntary, binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The panel shall consist of one arbitrator and shall be selected according to the Arbitration Rules.

If a person or party is found in the proceedings to be in violation of, or attempting to violate, the provisions of this Declaration, such person or party shall bear all costs and expenses of the Dispute resolution, including court costs and reasonable attorneys' fees, for all mediation, arbitration, trial, and appellate proceedings incurred by the party enforcing the provisions of this Declaration.

C. Nothing contained in this Article VIII shall in any way limit or affect the Association's right to immediately file an action in the appropriate court to collect any assessment or enforce any lien under Article VI hereof. Declarant shall not be obligated to enforce this Declaration or any particular provision hereof and shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person other than itself.

Section 3. Severability. Invalidation of any one of the terms of this Declaration by judgment or court order shall in no way affect any other term, each of which shall remain in full force and effect.

Section 4. Amendment.

A. The covenants, conditions and restrictions of this Declaration shall run with and bind all of the Property, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each. Except as otherwise provided herein, this Declaration may be amended only by recorded instrument signed by not less than two-thirds (2/3) of the Owners. For so long as Declarant owns any Lot in the Property, any amendment of this Declaration must be approved in writing by Declarant. At any time a Class B membership exists, this Declaration may be amended by recorded instrument executed solely by Declarant, without the necessity of the approval of joinder of any other Owner or the Association, and an officer of the Association shall execute a certificate indicating the amendment is consistent with this Declaration.

B. Anything in this Declaration to the contrary notwithstanding, if any amendment to this Declaration is required at any time by an institutional mortgagee, such as a bank, savings and loan association, or insurance company, or any governmental agency, such amendment shall be effective upon recording of such amendment as executed by Declarant, without the necessity of the approval or joinder of any other Owner or the Association. No such amendment may adversely affect the lien or priority of any institutional first mortgage recorded prior to the amendment.

C. Until the completion of the contemplated improvements on the Property, and closing of all Lot sales, Declarant specifically reserves the right, without the joinder of any person or other legal entity, to make amendments to or corrections of this Declaration and its exhibits and in the General Land Plan, as may be required by any lender, governmental authority, or as may, in Declarant's sole judgment, be necessary or desirable. This paragraph shall take precedence over any other provision of this Declaration or its attachments. No such amendment shall impair the security or priority of an institutional first mortgage.

Section 6. Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including without limitation." The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

Section 7. Obligation of Cooperation by Association. Any and all additions to the Common Area by Declarant shall be accepted by the Association. The Association upon request of Declarant and without further consideration shall be required to execute any documents necessary to evidence the acceptance of such addition to the Common Area.

Until such time as Declarant has completed all of the contemplated improvements and easement across all of the Lots within the Property, Declarant hereby reserves to Declarant an construction of water, sewer, drainage, telephone, cable television, water retention, and electric facilities deemed by Declarant necessary for the development and enjoyment of the Property and Common Area and for the conduct of all construction, sales, and marketing activities deemed necessary by Declarant.

Until such time as Declarant has completed all of the contemplated improvements and has sold all of the Lots within the Property, Declarant hereby reserves the right to alter the boundaries of the Common Area whether or not it has been previously deeded to the Association, provided that such alteration does not substantially, materially, and adversely affect the function and use of the Common Area.

The Association and each Owner hereby irrevocably appoints Declarant as their attorney-in-fact to execute and/or deliver any documents, plats, deeds, or other written matters necessary or convenient to accomplish the addition of Common Area or Property or both, to create easements as deemed necessary by Declarant, and to adjust the boundary or boundaries of the Common Area.

Until such time as Declarant has completed all of the contemplated improvements and has sold all of the Lots within the Property, neither the Association nor its Members nor the use of the Common Area by the Association and its Members shall interfere with the completion of the contemplated improvements or the marketing and sale by Declarant of Lots within the Property.

Until Declarant or its assigns has built improvements upon and sold all of its Lots within the Property, Declarant reserves the right to make such use of Lots and the Common Area as may facilitate completion and sale of Lots by Declarant. Without limiting the foregoing, Declarant shall have the right to maintain sales offices, model units, administration offices, and construction offices (which may be construction trailers or temporary or permanent buildings), or any or all of same, on Lots or on the Common Area. Declarant further shall have the right to erect and maintain signs on Lots or on the Common Area, shall have the right to bring prospective purchasers upon the Common Area, shall have the right to use the Common Area for purposes of making sales of Lots, shall have the right to grant the right of use of the Common Area to any prospective buyers of Lots or any other individual or group in Declarant's sole discretion, and shall be entitled to conduct all other marketing activities desired by Declarant.

In addition to all other rights of Declarant, until Declarant has built and sold all of the Lots within the Property, no amendment shall be made to this Declaration, and no rules or regulations shall be adopted by the Association, which shall modify the Assessments or other charges on Declarant's Lots or which shall restrict, impair, or, in Declarant's sole judgment, materially adversely affect the activities of Declarant with regard to construction, use of Common Area, and delegation of use of Common Area, and marketing and sale of the remaining Lots on the Property, whether or not such activities are enumerated in the preceding paragraphs, without the express prior written consent of Declarant.

Section 7. Insurance. Each Owner shall keep its Lot and any improvements thereon insured against loss from casualty at all times in an amount not less than the replacement value of such Lot and improvements. From time to time, the Association may request, and the Owner shall provide, a certificate or certificates evidencing that such coverage is in effect. If any Owner fails to carry the insurance coverage required hereby, the Association may procure and maintain such insurance coverage and such Owner shall promptly reimburse the Association for any premiums paid by the Association for such insurance coverage.

Section 8. General Liability Insurance. Each Owner shall maintain general liability insurance with respect to such Owner's single family Lot, Townhouse lot, House or Townhouse and the Common Area in such amounts and with such insurers as shall be deemed acceptable by the Association. Such general liability insurance shall name the Association as an

additional insured. Upon the Association's request, each Owner shall provide proof of such insurance to the Association.

ARTICLE IX EASEMENTS/COMMON WALLS

Section 1. Each Lot and the Common Area shall be subject to existing easements for public authorities and public utilities purposes (including, but not limited to, fire and police protection, garbage and trash removal, telephone and cable television and other communication services, water and sewage systems, and electric and gas service), and the utilities and applicable governmental agencies having jurisdiction over such services and their employees and agents shall have the right of access to any Lot or the Common Area in furtherance of such easements. The easement areas contained in any Lot whether or not shown on any map or plat, shall at all times be properly maintained by the applicable Owner whether or not the utility company or governmental agency properly maintains the easement area. Additionally, the Owner of each House or Townhouse is hereby granted an easement over the first five feet (5') of the Lot or Common Area immediately abutting said House or Townhouse and the airspace above said easement area for the purpose of (i) building and maintaining the overhanging portion of the roof of said House or Townhouse and any gutters in connection therewith; (ii) installing, maintaining and operating utility equipment (such as gas meters, electric meters and similar devices; and (iii) access to maintain and repair said House or Townhouse.

Section 2. Declarant reserves the right, for itself and its designee (so long as Declarant or said designee owns a Lot) and for the Board of Trustees of the Association, without joinder or consent of any Owner, Member, or other person or entity whatsoever, to grant such additional easements, including, but not limited to, irrigation wells and pumps, cable television, television antennas, electric, gas, water, sewer, or other utility easements, or to relocate any existing utility easement which the Board of Trustees shall deem necessary or desirable for the proper operation and maintenance of the Property, or any portion thereof, or for the general health or welfare of the Owners, provided that such additional utilities or the relocation of existing utilities will not prevent or unreasonably interfere with the use of Lots or the Common Area for permitted purposes.

Section 3. Declarant retains for itself, its successors in interest, agents, employees and assigns, a non-exclusive easement for ingress and egress over and across all streets, roadways, Common Area, driveways, common parking areas, and walkways that may from time to time exist within the Property.

Section 4. Each Lot and the Common Area shall be subject to an easement for the benefit of the adjacent Lot for the reasonable use by the tenant or Owner of such adjacent Lot in complying with its obligations under Article X, Section 3 of this Declaration. Such easement is limited to the ten (10) feet of the subject Lot immediately adjacent to the Lot benefitted by such easement. Any tenant or Owner of such adjacent Lot shall provide the Owner of the subject lot with at least twenty-four (24) hours prior notice of such tenant's or Owner's intention to use the easement granted hereby, and such tenant's or Owners activity thereon shall be subject to reasonable restrictions by the Owner of the subject Lot. The tenant or Owner of such adjacent Lot shall be subject to all conditions, covenants and restrictions contained in this Declaration, including those with respect to nuisances on the Property, and use by such tenant or Owner of the portion of the Lot subject to such easement shall be restricted to reasonable hours. Any damage to the subject Lot shall be

repaired such that the subject Lot is restored to substantially the same condition as existed prior to such tenant's or Owner's use thereof.

Section 5. Each Townhouse that shares a common wall with another Townhouse is hereby granted a support easement as to such common wall. The Owner of a Townhouse shall not in any way structurally alter or impair a common wall with another Townhouse; however, the hanging of photographs or paintings on the interior of a common wall shall be permitted provided such item does not impair the structural integrity of the common wall. The Owner of each Townhouse shall maintain fire and casualty insurance insuring the Owner of an adjoining Townhouse from any damage caused to the adjoining Townhouse by the insuring Owner's negligence.

ARTICLE X USE RESTRICTIONS

Section 1. Model Homes. No trade, business, profession, or other type of commercial activity shall be carried on upon any Lot, except that real estate brokers, Owners, and their agents may show Lots for sale. Every person or entity purchasing a Lot recognizes that Declarant, its agents and designated assigns shall have the right to (i) use Lots and improvements thereon for sales offices, field construction offices, storage facilities, and its own general business offices, (ii) maintain fluorescent-lighted or spot-lighted model homes which are open to the public for inspection seven (7) days per week for such hours as Declarant deems appropriate or necessary, (iii) conduct any other activities on Lots to benefit sales efforts, and (iv) use the parking facilities on the Common Area for parking for its employees and invitees.

Section 2. Use of Accessory Structures. No tent, shack, barn, utility shed, or other building, other than a dwelling and its required garage, shall, at any time, be erected on a Lot, except temporary buildings, offices, or facilities used by Declarant or its contractors, without the prior written consent of Declarant.

Section 3. Maintenance of Improvements. Each Lot Owner shall maintain in good condition and repair all improvements constructed upon such Owner's Lot, including, without limitation, the residential dwelling. No Owner shall change the exterior design or color of the dwelling on such Owner's Lot, including the roof, trim, or other items appurtenant to such dwelling, without the prior written approval of the Board of Trustees of the Association or its Architectural Review Committee, as provided in Article XI hereof.

Section 4. Storage: Clothes Hanging. No Lot shall be used for the storage of rubbish. Outside clothes hanging devices on a Lot shall not be permitted.

Section 5. Lot Upkeep. Owners shall be responsible for lawn care, landscape maintenance and snow removal with respect to such Owner's Lot, except that the Association shall be responsible for lawn care and landscaping maintenance for Townhouse Lots.

Section 6. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No automobile or other vehicle mechanical repairs or like activity shall be conducted on any Lot other than in a garage and concealed from public view.

Section 7. Lawns. Each Lot on which there is a completed dwelling shall be maintained in a neat condition by the Owner thereof. In this context, the word "Lot" shall include that portion of the Property from the outside of the structure on the applicable Lot to the adjacent paved road surface. "Neat" shall require, at a minimum, that the lawn be regularly cut and fertilized and that mulched areas be regularly re-mulched and kept weeded so that its appearance is in harmony with the neighborhood. All improved Lots must have grassed lawns. No landscaped mounds or other landscaping improvements that would impede lawn maintenance shall be permitted on a Lot without the prior written consent of the Board of Trustees. In no event shall any Owner alter lawns or landscaping on the Property if such alteration affects drainage on the Property in any material respect, including, without limitation, an alteration which causes seepage or leakage into any dwelling on the Property.

Section 8. Failure to Maintain. If an Owner fails to maintain the exterior of the improvements on such Owner's Lot, either Declarant, or the Association, after giving such Owner at least ten (10) days' written notice, shall be authorized to undertake such maintenance at the Owner's expense. By accepting title to a Lot, each Owner shall be deemed to grant access upon the Owner's Lot and House for such purpose and such entry shall not constitute a trespass. If such maintenance is undertaken by the Association or Declarant, the charge therefor and all costs of enforcement and collection shall be secured by the Lien.

Section 9. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on or in any Lot, except that a reasonable number of cats, dogs, and other household pets may be kept provided they are kept within the residence and are not kept, bred, or maintained for any commercial purposes, or become a nuisance to the neighborhood. No person owning or in custody of an animal shall allow it to stray or go upon another's Lot or property without the consent of the Owner of such other Lot or property. All animals shall be on a leash when outside the Owner's dwelling.

Section 10. Signs. No signs shall be displayed on Lots with the exception of a maximum of one (1) "For Sale" sign not exceeding 36" x 24" in size. The Association may develop uniform sign standards and specifications to which all Owners must adhere. Notwithstanding anything to the contrary herein, Declarant and its assigns shall have the exclusive right to maintain signs of any type and size on Lots which they own and on the Common Area, in connection with the development and sale of Lots.

Section 11. Vehicles. No vehicle shall be parked within the Property except on a paved parking surface, driveway, or within a garage. No trucks or vehicles which are primarily used for commercial purposes, other than those temporarily present on business, nor any trailers, may be parked within the Property. Boats, boat trailers, campers, travel trailers, mobile homes, recreational vehicles, and the like, and any vehicles not in operable condition and validly licensed, shall only be permitted to be kept within the Property if such are kept inside a garage and concealed from public view. For the purpose of the foregoing sentence, the term "kept" shall mean present for either a period of six (6) hours or overnight, whichever is less.

Section 12. Antenna/Satellite Dishes. There shall be no rooftop or exterior antennas, satellite dishes, or "earth stations" or similar signal receiving devices installed on any Lot which are visible from any street, dwelling or Common Area. In no event shall any such antenna, satellite dish, earth station or similar signal receiving device exceed twenty-four (24) inches in height, width, length, or diameter, except with the prior written consent of the Association.

ARTICLE XI
ARCHITECTURAL CONTROL

The Association shall have the sole and absolute right to determine the style and appearance of the residential dwellings, fences, walls, structures, and other improvements to be constructed on the Lots.

After the initial construction on the Lots and after conveyance by deed of such Lots to persons who are not successor, alternate, or additional Declarants or persons who are engaged in the business of constructing residential dwellings for sale to third parties, no exterior change or modification shall be made to any residential dwelling constructed on a Lot, nor shall any mailbox, lawn decoration, lamppost, or other improvements be added to a Lot until the plans and specifications showing the nature, kind, shape, height, materials, and color to be used on the exterior, and location of the same, shall have been submitted to and approved in writing by the Board of Trustees of the Association, or by an Architectural Review Committee composed of three (3) or more representatives appointed by the Board (the "ARC"). In the event that either the Board or the ARC fails to approve or disapprove such design and location within thirty (30) days after such plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. No approval shall be given by the Board of Trustees or the ARC pursuant to the provisions of this Article unless it determines, in its sole discretion, that such approval shall (i) assure harmony of external design, materials, and location in relation to surrounding buildings and topography within the Property; (ii) protect and conserve the value and desirability of the Property as a residential community; (iii) be consistent with the provisions of this Declaration; and (iv) conform to or enhance, in the sole opinion of the Board or the ARC, the aesthetic appearance of the Property. Neither the Association, the Board of Trustees, nor any Member of the Board or the ARC, shall have any liability to anyone by reason of any acts or action taken or omitted to be taken in good faith pursuant to this Article.

IN WITNESS WHEREOF, the undersigned, being Declarant and Additional Declarant named herein, have executed this Declaration on October 10, 1996.

Witnesses:

Melanie R. SASSANO
(As to Both)

Name: Melanie R. SASSANO

David V. Allen
(As to Both)

Name: David V. Allen

"DECLARANT"

ZAREMBA CLEVELAND COMMUNITIES, INC.
an Ohio corporation

By: [Signature]

Its: PRES

And By: Timothy J. Wendell

Its: Asst. Secretary

"ADDITIONAL DECLARANT"

BEACON PLACE LIMITED PARTNERSHIP,
an Ohio limited partnership

By: Zaremba Cleveland Communities, Inc.
its general partner

In Turn By: _____

Its: President

Melanie R. Sassano

Melanie R. SASSANO
Print Name

[Signature]

David V. Allen
Print Name

STATE OF OHIO)
COUNTY OF CUYAHOGA) ss:

This instrument was acknowledged before me this 7th day of October 1996, by Nathan Zaremba the President of Zaremba Cleveland Communities, Inc., an Ohio corporation, on behalf of said corporation.

[Signature]
Notary Public

DAVID V. ALLEN, ATTORNEY AT LAW
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION DATE
SECTION 147.03 R.C.

STATE OF OHIO)
COUNTY OF CUYAHOGA) ss:

This instrument was acknowledged before me this 8th day of October 1996, by Timothy J. Grendell the Assistant Secretary of Zaremba Cleveland Communities, Inc., an Ohio corporation, on behalf of said corporation.

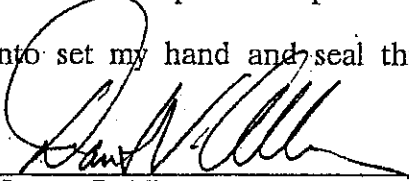
[Signature]
Notary Public

DAVID V. ALLEN, ATTORNEY AT LAW
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION DATE
SECTION 147.03 R.C.

STATE OF OHIO)
COUNTY OF CUYAHOGA) ss:

Before me, a Notary Public in and for said County and State, personally appeared Nathan Zarembo, the President of Zarembo Cleveland Communities, Inc., the General Partner of Beacon Place Limited Partnership, who acknowledged that he executed the foregoing instrument and that the same is his own free act and deed in the foregoing capacity, the free act and deed of such corporation on behalf of such partnership, and the free act and deed of such partnership.

In testimony whereof, I have hereunto set my hand and seal this 7th day of October, 1996, at Cleveland, Ohio.



Notary Public

DAVID V. ALLEN, ATTORNEY AT LAW
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION DATE
SECTION 147.03 R.C.

This instrument prepared by:

Timothy J. Grendell
Taft, Stettinius & Hollister
Bond Court Building
1300 East Ninth Street
Sixth Floor
Cleveland, Ohio 44114-1503

Legal Description
 Beacon Place At Church Square
 Phase 1 - Parcel 1

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S-9 through S-16 inclusive and T-37 through T-44 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records and is further bounded and described as follows:

Beginning at the southeast corner of said subplot S-9;

Course I Thence North $00^{\circ} 18' 31''$ East, 344.00 feet to a point;

Course II Thence South $89^{\circ} 41' 29''$ East, 13.50 feet to a point;

Course III Thence North $00^{\circ} 18' 31''$ East, 82.10 feet to a point of curvature;

Course IV Thence along an arc of a curve deflecting to the left an arc distance of 16.06 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears North $45^{\circ} 42' 51''$ West, 14.39 feet;

Course V Thence South $88^{\circ} 15' 47''$ West, 83.55 feet to a point of curvature;

Course VI Thence along an arc of a curve deflecting to the left an arc distance of 15.35 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears South $44^{\circ} 17' 09''$ West, 13.89 feet;

Course VII Thence South $00^{\circ} 18' 31''$ West, 500.75 feet to a point of curvature;

Course VIII Thence along an arc of a curve deflecting to the left an arc distance of 15.06 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears South $42^{\circ} 50' 19''$ East, 13.68 feet;

Course IX Thence South $85^{\circ} 59' 10''$ East, 83.67 feet to a point of curvature;

Course X Thence along an arc of a curve deflecting to the left an arc distance of 16.35 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears North 47° 09' 40" East, 14.59 feet;

Course XI Thence North 00° 18' 31" East, 83.03 feet to a point;

Course XII Thence North 89° 41' 29" West, 13.50 feet to the Place of Beginning and containing 1.1387 Acres of land as calculated and described in December, 1995 by Joseph Gutoskey P.S. 7567, be the same, more or less, but subject to all legal highways and easements of record. Bearings used herein are to an assumed meridian and are intended to indicate angles only.

Legal Description
Beacon Place At Church Square
Phase 1 - Parcel 2

VOL. 96-10152 PAGE 36

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S-17 through S-24 inclusive and T-45 through T-52 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records and is further bounded and described as follows:

Beginning at the southeast corner of said subplot S-24;

- Course I Thence North $00^{\circ} 18' 31''$ East, 344.00 feet to a point;
- Course II Thence North $89^{\circ} 41' 29''$ West, 13.50 feet to a point;
- Course III Thence North $00^{\circ} 18' 31''$ East, 80.81 feet to a point of curvature;
- Course IV Thence along an arc of a curve deflecting to the right an arc distance of 16.37 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears North $47^{\circ} 12' 56''$ East, 14.60 feet;
- Course V Thence South $85^{\circ} 52' 38''$ East, 83.69 feet to a point of curvature;
- Course VI Thence along an arc of a curve deflecting to the right an arc distance of 15.04 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears South $42^{\circ} 47' 04''$ East, 13.66 feet;
- Course VII Thence South $00^{\circ} 18' 31''$ West, 512.86 feet to a point of curvature;
- Course VIII Thence along an arc of a curve deflecting to the right an arc distance of 16.35 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears South $47^{\circ} 09' 40''$ West, 14.59 feet;
- Course IX Thence North $85^{\circ} 59' 10''$ West, 83.67 feet to a point of curvature;

- Course X Thence along an arc of a curve deflecting to the right an arc distance of 15.06 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears North 42° 50' 19" West, 13.68 feet;
- Course XI Thence North 00° 18' 31" East, 88.21 feet to a point;
- Course XII Thence South 89° 41' 29" East, 13.50 feet to the Place of Beginning and containing 1.1577 Acres of land as calculated and described in December, 1995 by Joseph Gutoskey P.S. 7567, be the same, more or less, but subject to all legal highways and easements of record. Bearings used herein are to an assumed meridian and are intended to indicate angles only.

BY-LAWS
OF
BEACON PLACE AT CHURCH SQUARE
HOMEOWNERS' ASSOCIATION, INC.
(an Ohio not-for-profit corporation)

Table of Contents		<u>Page</u>
ARTICLE I	The Association	1
ARTICLE II	Board of Trustees	3
ARTICLE III	Officers	6
ARTICLE IV	General Powers of the Association	7
ARTICLE V	Determination and Payment of Assessments	9
ARTICLE VI	Indemnification of Trustees and Officers	12
ARTICLE VII	General Provisions	13

CUYAHOGA COUNTY RECORDER
PATRICK J. OMALLEY
DEED 12/06/2001 11:59:25 AM
200112060320

BY-LAWS

OF

BEACON PLACE AT CHURCH SQUARE HOMEOWNERS' ASSOCIATION, INC.

The within "By-Laws" are executed and incorporated by reference in the Declaration of Covenants and Restrictions of Beacon Place at Church Square Homeowners' Association, Inc. recorded in the Cuyahoga County Records at Volume 96-10152, page 14, et seq., as amended by Amendment No. 1 recorded on October 1, 1997 at Volume 97-10010, page 35 (collectively, "Declaration"). The purpose of these By-Laws is to provide for the establishment of a home owners association known as the Beacon Place at Church Square Homeowners' Association, Inc., an Ohio not-for-profit corporation ("Association") for the government of the "Property", "Lots" and the "Common Area" (each as defined in the Declaration) in the manner provided by the Declaration and by these By-Laws. All present or future Members (as defined in the Declaration) or their tenants, invitees, or any other person who might use the facilities of the Common Areas in any manner, shall be subject to the covenants, provisions or regulations contained in the Declaration, these By-Laws and any restriction, condition or regulation hereafter adopted by the Association. The mere acquisition or rental of any of the Lots or the mere act of occupancy of any of the Lots, will constitute acceptance and ratification of the Declaration and of these By-Laws. All defined terms used herein will have the same meanings as ascribed to them in the Declaration. The term "Developer" herein shall also refer to "Declarant" as defined in the Declaration.

ARTICLE I THE ASSOCIATION

Section 1. Name and Nature of Association. The Association shall be an Ohio not-for-profit corporation and shall be called Beacon Place at Church Square Homeowners' Association, Inc.

Section 2. Membership. Subject to the terms of Article IV of the Declaration, each Owner (defined in the Declaration), upon acquisition of title to a Lot, shall automatically become a "Member" of the Association. Such membership shall terminate upon the sale, or other disposition by such Member of his or her Lot ownership, at which time the new Owner of such Lot shall automatically become a Member of the Association.

Section 3. Voting Rights. The Association has two (2) types of Members: Class A Members and Class B Members, as defined in the Declaration. The total number of votes of all voting Class A Members shall be equal to the number of Lots. The total number of votes for the Class B Members will be equal to the number of Class A Members plus one (1). If two (2) or more persons, whether fiduciaries, tenants in common or otherwise, own divided interests in the ownership interest in a Lot, each shall be entitled to exercise such proportion of the voting power for such Lot as shall be equivalent to such person's proportionate interest in the Lot. Voting rights are subject also to the terms of the Declaration.

Section 4. Proxies. Members may vote or act in person or by proxy. The person appointed, as proxy need not be a Member of the Association. Designation by a Member or Members of a proxy to vote or act on his, her or their behalf shall be made in writing to the Secretary of the Association and shall be revocable at any time by actual notice to the Secretary of the Association by the Member or Members making such designation. Notice to the Association in writing or in open meeting of the revocation of the designation of a proxy shall not affect any vote or act previously taken or authorized.

Section 5. Meeting of Members.

(a) Annual Meeting. The annual meeting of Members of the Association for the election of members of the Board of Trustees, the consideration of reports to be laid before such meeting and the transaction of such other business as may properly be brought before such meeting shall be held at the office of the Association or at such other place as may be designated by the President and specified in the notice of such meeting at 7:00 p.m., or at such other time as may be designated by the President. The annual meeting of Members of the Association shall be held within the first quarter of each calendar year.

(b) Special Meeting. Special meetings of the Members of the Association may be held on any business day when called by the President of the Association, or by the Board of Trustees of the Association, or by Members entitled to exercise at least twenty-five percent (25%) of the voting power of the Association. Upon request in writing, delivered either in person or by certified U.S. mail, to the President or the Secretary of the Association by any persons entitled to call a meeting of Members, such officer shall forthwith cause to be given to the Members entitled thereto notice of a meeting to be held on a date not less than seven (7) or more than sixty (60) days after the receipt of such request as such officer may fix. If such notice is not given within thirty (30) days after the delivery or mailing of such requests, the persons calling the meeting may fix the time of the meeting and give notice thereof. Each special meeting shall be called to convene at 7:00 p.m., and shall be held at the office of the Association or at such other place and time as shall be specified in the notice of meeting.

(c) Notice of Meetings. Not less than seven (7) nor more than sixty (60) days before the day fixed for a meeting of the Association, written notice stating the time, place and purpose of such meeting shall be given by or at the direction of the Secretary of the Association or any other person or persons required or permitted by these By-Laws to give such notice. The notice shall be given by personal delivery or by mail to each Member postmarked as of the day next preceding the day on which notice is given. If mailed, the notice shall be addressed to the Members at their respective addresses as they appear on the records of the Association. Notice of the time, place and purposes of the meeting of the Association may be waived in writing either before or after the holding of such meeting, by any Member, which writing shall be filed with or entered upon the records of the meeting. The attendance of any Member at any such meeting without protesting the lack of proper notice prior to or at the commencement of the meeting shall be deemed to be a waiver by him or her of notice of such meeting. Notice of the Annual Meeting may be set conspicuously set forth in a newsletter or other communication; however, notices of special meeting must be in a separate communication.

(d) Quorum - Adjournment. Except as may be otherwise provided by law or by the Declaration, at any meeting of the Members of the Association, the Members entitled to exercise a majority of the voting power of the Association present in person or by proxy shall constitute a quorum for such meeting; provided, however, that no action requiring a designated percentage of Members (whether by law, by the Declaration, or by these By-Laws) may be taken by a lesser percentage; and, provided further, that the Members entitled to exercise a majority of the voting power represented at a meeting, whether or not a quorum is present, may adjourn such meeting from time to time. If any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

Section 6. Order of Business. The order of business at all meetings of the Association shall be as follows:

- (1) Calling of meeting to order.
- (2) Proof of notice of meeting or waiver of notice.
- (3) Reading of minutes of preceding meeting.
- (4) Reports of Officers.
- (5) Reports of Committees.
- (6) Election of Inspectors of election (unless waived by unanimous oral consent of the voting members present).
- (7) Election of Trustees.
- (8) Unfinished and/or old business.
- (9) New business.
- (10) Adjournment.

Section 7. Actions Without a Meeting. All actions which may be taken at a meeting of the Association, except an action for the removal of a Trustee, may be taken without a meeting with a writing, signed by the Members of the Association having a percentage of voting power required to take such action if the same were taken at a meeting. Such writing or writings shall be filed with the Secretary of the Association.

ARTICLE II BOARD OF TRUSTEES

Section 1. Number and Qualifications. The Board of Trustees shall consist of five (5) persons, all of whom must be Members of the Association. The initial number shall be five (5), which number may be changed by a vote of a majority of the Members at an annual meeting or special meeting.

Section 2. Election of Trustees; Vacancies. The Trustees shall be elected at each annual meeting of the Association or at a special meeting called for the purpose of electing Trustees. At a meeting of the Association at which Trustees are to be elected, only persons nominated as candidates shall be eligible for election as Trustees. The candidates receiving the greatest number of votes shall be elected. In the event of any vacancy or vacancies in the Board of Trustees, however caused, the remaining Trustees, though less than a majority of the whole

authorized numbers of Trustees, may fill such vacancy for the unexpired term, by the vote of a majority or their number.

Section 3. Term of Office; Resignations.

(a) Except as otherwise provided in these By-laws, each Trustee shall hold office for a two (2) year term which runs from the time the Trustee is elected until the second following annual meeting of the Members, at which a successor Trustee will be elected. Such terms will be staggered so that a simple majority of Trustee offices will be elected at the annual meetings in odd numbered years and the remaining Trustee offices will be elected at the annual meeting of even numbered years. For example, three (3) Trustees will be elected at the odd numbered year, with the remaining two (2) Trustees elected in even numbered years. Each Trustee will hold their respective office until his or her successor is elected, or until his or her earlier resignation, removal from office or death. At the very first meeting all Trustees will be elected and in the following calendar year the applicable Trustee offices will be up for election even though their original term will be only one (1) year.

(b) Any Trustee may resign at any time by oral statement to that effect made at a meeting of the Board of Trustees or in a writing to that effect delivered to the Secretary of the Association, such resignation to take effect immediately or at such other time as the resigning Trustee may specify.

(c) Trustees shall serve without compensation.

(d) Notwithstanding the above, at the first meeting of the Association where Members other than Declarant are present and twenty-five percent (25%) of the Lots have been sold, twenty-five percent (25%) of the undivided interest in the Common Area and facilities shall be conveyed to the Association by Declarant, the Owners, other than Declarant, shall elect not more than twenty percent (20%) of the Board of Trustees; at such time as the Declarant has sold fifty percent (50%) of the Lots, Declarant will convey an additional twenty-five percent (25%) ownership interest (for a total of fifty percent (50%)) of the undivided interest in the Common Areas to the Association, the Owners, shall be entitled to elect not more than forty percent (40%) of the Board of Trustees; the remaining Trustee positions will be held automatically by the Declarant.

Section 4. Organization Meetings. Immediately after each annual meeting of the Association the newly elected Trustees shall hold an organization meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

Section 5. Regular Meetings. Regular meetings of the Board of Trustees may be held at such times and places as shall be determined by a majority of the Trustees, but at least four (4) such meetings shall be held during each fiscal year.

Section 6. Special Meetings. Special meetings of the Board of Trustees may be held at any time upon request by the President or any two (2) Trustees. Written notice of the time and place of each such meeting shall be given to each Trustee either by personal delivery or by mail,

telegram or telephone at least two (2) days before the meeting. Notice of the meeting need not specify the purposes of the meeting. The attendance of any Trustee at any such meeting without protesting (prior to or at the commencement of the meeting) the lack of proper notice shall be deemed to be a waiver by him or her of notice. Any Trustee may waive notice either before or after the meeting, in writing. Unless otherwise indicated in the notice thereof, any business may be transacted at any organizational, regular or special meeting.

Section 7. Quorum; Adjournment. A quorum of the Board of Trustees shall consist of a majority of the Trustees then in office; provided that a majority of the Trustees present at a meeting duly held, whether or not a quorum is present, may adjourn such meeting from time to time; if any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting. At each meeting of the Board of Trustees at which a quorum is present, all questions and business shall be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration or in these By-Laws.

Section 8. Powers and Duties. Except as otherwise provided by law, the Declaration or these By-Laws, the Board of Trustees shall exercise all power and authority of the Association. In carrying out the purposes of the Declaration or these By-Laws, the Board, for and on behalf of the Association, may do the following (subject to limitations prescribed by applicable law):

- (a) purchase or otherwise acquire, leasehold, use, sell, exchange, transfer and dispose of property of any description or any interest therein not in excess of Five Thousand and NO/100 Dollars (\$5,000.00);
- (b) make contracts for maintenance or repairs of the Common Area;
- (c) effect insurance;
- (d) borrow money, and issue, sell and pledge notes, bonds and other evidence of indebtedness of the Association not in excess of Five Thousand and NO/100 Dollars (\$5,000.00);
- (e) levy assessments against the Owners;
- (f) employ a managing agent to perform such duties and services set forth in the Declaration or these By-Laws as the Board may authorize;
- (g) employ lawyers and accountants to perform such legal and accounting services as the Board may authorize;
- (h) do all things permitted by law and exercise all power and authority incidental to or otherwise within the purposes stated in these By-Laws or the Declaration.
- (i) it shall be the duty of the Board to keep a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Association, or at a special meeting when such statement is requested in writing by one-fourth (1/4) of the voting power of the Association.

After Declarant is no longer a Trustee, items (a), (b), (d) and (e) above in this section will require a vote of seventy-five percent (75%) of the Trustees. All of the items in this section shall also be subject to the voting provisions in Article V of the Declaration.

Section 9. Removal of Trustees. At any regular or special meeting of Owners of the Association duly called, any one (1) or more of the Trustees may be removed with or without cause by the vote of Members entitled to exercise at least seventy-five percent (75%) of the voting power of the Association, and a successor or successors to such Trustee or Trustees so removed shall then and there be elected to fill the vacancy or vacancies thus created; provided however, that Declarant may not be removed as a Trustee in the absence of cause which amounts to reckless, wanton or gross neglect or conduct. Any Trustee whose removal has been proposed by the Members shall be given an opportunity to be heard at such meeting.

Section 10. Fidelity Bonds. The Board of Trustees may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate Fidelity Bonds. The premiums on such bonds shall be paid by Association.

Section 11. Declarant as Trustee. Notwithstanding anything in these By-Laws to the contrary, no actions of the Board of Trustees will be taken without the approval of the Declarant.

ARTICLE III OFFICERS

Section 1. Election and Designation of Officers. The Board of Trustees shall elect a President, a Secretary and a Treasurer, each of whom shall be a Trustee. Such elections will be by majority vote of the Trustees. The Board of Trustees may also appoint a vice president, an assistant treasurer and an assistant secretary and such other officers as in their joint judgment may be necessary who are not Trustees but who are Members.

Section 2. Term of Office; Vacancies. The officers of the Association shall hold office until the next organization meeting of the Board of Trustees and until their successors are elected, except in case of resignation, removal from office or death. The Board of Trustees may remove any officer at any time with or without cause by a majority of vote of the Trustees then in office. The Board of Trustees may fill any vacancy in any office.

Section 3. President. The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Board of Trustees. Subject to directions of the Board of Trustees, the President shall have general executive supervision over the business and affairs of the Association. He or she may execute all authorized deeds, contracts and other obligations of the Association and shall have such other authority and shall perform such other duties as may be determined by the Board of Trustees or otherwise provided for in the Declaration or in these By-Laws.

Section 4. Vice President. If one is elected, shall perform the duties of the President whenever the President is unable to act and shall have such other authority and perform such other duties as may determine vice president.

Section 5. Secretary. The Secretary shall keep the minutes of meetings of the Association and of the Board of Trustees, shall give notices of all meetings of the Association and of the Board of Trustees as required by law, these By-Laws or otherwise, and shall have such authority and shall perform such other duties as may be determined by the Board of Trustees.

Section 6. Treasurer. The Treasurer shall receive and have in charge all money, bills, notes and similar property belonging to the Association, and shall do with the same as may be directed by the Board of Trustees. He or she shall keep accurate financial accounts and the Board of Trustees may determine to hold same open for the inspection and examination of the Trustees and shall have such authority and shall perform such other duties as the Board of Trustees may determine.

Section 7. Other Officers. The assistant secretaries and assistant treasurers, if any, and any other officers whom the Board of Trustees may appoint, shall respectively, have such authority and perform such duties as may be determined by the Board of Trustees.

Section 8. Delegation of Authority and Duties. The Board of Trustees is authorized to delegate the authority and duties of any officer to any other officer, to oversee the actions of the officers and to require the performance of duties in addition to those mentioned herein.

ARTICLE IV GENERAL POWERS OF THE ASSOCIATION

Section 1. Common Expenses. The Association, exclusively by the Board of Trustees, for the benefit of all of the Owners, shall acquire and arrange for the following:

(a) Utility Service for Common Areas and Facilities. Water, waste removal, electricity, telephone, heat, power or any other necessary utility service for the Common Areas and facilities.

(b) Casualty Insurance. A policy of fire insurance, with extended coverage, vandalism and malicious mischief endorsements, as provided in the Declaration, the amount of which insurance shall be reviewed annually.

(c) Liability Insurance. A policy insuring the Association, the Trustees and the Owners against any liability to the public or to the Owners incidental to the ownership and/or use of the Common Areas and facilities, as provided in the Declaration, the limits of which policy shall be reviewed annually.

(d) Workers' Compensation. Workers' compensation is insurance to the extent necessary to comply with any applicable laws.

(e) Wages and Fees for Services. The services of any person or persons required for the maintenance of or operation of the Common Areas, and legal and/or

accounting services necessary or proper for enforcement of the terms of Declaration and these By-Laws and for the organization, operation and enforcement of the rights of the Association.

(f) Care of Common Areas and Facilities. Landscaping, gardening, window cleaning, snow removal, painting, cleaning, tuck pointing, maintenance, decorating, repair and replacements of the Common Areas and such furnishings and equipment for the Common Areas as the Association shall determine are necessary and proper. In the event, however, that repair or replacement is due to the intentional or negligent act of an Owner or its tenants, employees, agents, contractors, patrons, patients, customers, invitees or the like, the same shall be assessed to such Owner, which assessment will not be subject to the voting requirements of Article III.

(g) Additional Expenses. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration and these By-Laws or by law which, in its opinion, shall be necessary or proper for the main entrance and operation of the Common Areas as a first class residential development or for the enforcement of the Declaration and these By-Laws.

(h) Discharge of Mechanic's Lien. Any amount necessary to discharge any mechanic's lien or other encumbrances levied against the entire Common Areas or any part thereof which may in the opinion of the Association constitute a lien against the Common Areas, rather than merely against the interests therein of particular Owners; it being understood, however, that the foregoing authority shall not be in limitation of any statutory provisions relating to the same subject matter. Where one (1) or more Owners are jointly and severally responsible for the cost of discharging it and any costs incurred by the Association by reason of said lien or liens should be specially assessed to said Owners.

(i) Certain Maintenance of Units. Maintenance and repair of any Lot if such maintenance or repair is necessary (to enforce the terms of the Declaration), in the discretion of the Board of Trustees, to protect the Common Areas, and the Owner of said Lot have failed or refused to perform said maintenance or repairs within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Owner. The Association shall levy a special assessment against such Lot Owner for the cost of said maintenance or repair.

(j) Association's Right to Enter Lot. After reasonable notice, the Association or its agent may enter any Lot when necessary in connection with any maintenance or construction for which the Association is responsible or authorized. Such entry shall be made with as little as inconvenience to the Owner of the Lot as practicable, and any damage cause thereby shall be repaired by the Association from insurance proceeds, or, in the event, that the damage is not covered by insurance, the damage shall be repaired by the Association at the expense of the maintenance fund.

(k) Capital Additions and Improvements. The Association's powers hereinabove enumerated shall be limited in that the Association shall have no authority to

acquire and pay for out of the maintenance fund any capital additions and improvements (other than for purposes of repairing or restoring portions of the Common Areas, subject to all of the provisions of the Declaration and these By-Laws) having a total cost in excess of Five Thousand Dollars (\$5,000.00), nor shall the Association authorize any structural alterations, capital additions to, or capital improvements of the Common Areas requiring an expenditure in excess of Five Thousand Dollars (\$5,000.00) without in each case the prior approval of the Owners entitled to exercise a majority of the voting power of the Association.

Section 2. Rules and Regulations. The Association, by vote of the Owners entitled to exercise a majority of the voting power of the Association, may adopt such reasonable rules and regulations and from time to time amended the same supplementing the rules and regulations set forth in the Declaration and these By-Laws as it may deem advisable for the maintenance, conservation and beautification of the Common Areas and for the health, comfort, safety and general welfare of the Owners. Written notice of such rules and regulations shall be given to all Owners, and the Common Areas shall at all times be maintained subject to such rules and regulations. In the event such supplement rules and regulations shall conflict with any provisions of the Declaration or of these By-Laws (as may be properly modified from time to time), the provisions of the Declaration and of these By-Laws shall govern.

Section 3. Delegation of Duties. Nothing herein contained shall be construed so as to preclude the Association, through its Board of Trustees and officers, from delegating to persons, firms or corporations of its choice, including any manager or managing agent, such duties and responsibilities of the Association as the Trustees shall from time to time specify and to provide for reasonable compensation for the performance of such duties and responsibilities.

Section 4. Conflict in Laws or Documents. The Association shall be subject to and governed by the provisions of any statute, regulations, laws or rules, adopted at any time by governmental bodies having jurisdiction over the Common Area; provided, however, that all inconsistencies between or among the permissive provisions of any statute and any provisions of the Declaration or these By-Laws, shall be resolved in favor of the Declaration or these By-Laws. In the event of any conflict or inconsistency between the provisions of the Declaration and the By-Laws of the Association, the terms and provisions of the Declaration shall prevail.

ARTICLE V DETERMINATION AND PAYMENT OF ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant for each Lot within the Property owned by it and each other Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association:

(a) An annual assessment for the continued operation, care, maintenance and repair of the Common Area, including, but not limited to, storm sewer easements (both on and off site), retention areas and drainage systems, signs, landscaping and recreation facilities, as provided in this Declaration, and for the Association's performance of its other functions and responsibilities; and

(b) Special assessments for improvements or other capital expenditures, including the acquisition of additional property for use as Common Areas, for emergency, operating, maintenance or repair costs, and for other costs and expenses not anticipated in determining the applicable annual assessment. Each assessment shall be in the same amount for each Lot. Each Lot shall be subject to a lien in favor of the Association securing any and all unpaid annual and special assessments, as hereinafter provided. All annual and special assessments, together with interest thereon as hereinafter provided, shall be a charge upon such Lot and if not paid within thirty (30) days after their due date, the Association shall have a lien upon the Lot for which such assessment has not been paid. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due.

Additionally, the Owners of Lots within the Property identified in the Declaration shall pay as part of their annual assessment the prorated cost for the Association's maintenance of the laws and exterior for their properties, as the Association, acting through its Board, deems appropriate. Such costs shall be included as part of the annual assessment for such Lots.

Section 2. Annual Assessments. The annual assessment shall be determined and levied annually by the Trustees of the Association prior to the date of the annual meeting of the Association, in such amounts as in their discretion shall be reasonably necessary to meet expenses anticipated during the ensuing year and to accumulate reasonable reserves for anticipated future operating or capital expenditures. At the annual meeting of the Association, the amounts of the annual assessment, as levied by the Trustees may be increased or decreased by the affirmative vote of Members entitled to exercise a majority of voting power of the Association. The annual assessment for each calendar year shall be prorated and paid by each Owner in full within thirty (30) days after the annual meeting of the Association.

Section 3. Special Assessments. Special assessments may be levied by the Association from time to time at a meeting of the Members of the affirmative vote of Members entitled to exercise a majority of the voting power of the Association and, if there is more than one class of membership, then by the affirmative vote of Members entitled to exercise a majority of the voting power of each class of membership; provided that written notice shall be given to each Member at least thirty (30) days in advance of the date of such meeting stating that a special assessment will be considered at and discussed at such meeting. Special assessments will be paid in the manner prescribed in the resolution authorizing such assessment (which shall also be set forth in the notice for the meeting at which the assessment will be voted on), which may be payable in installments over a period of years.

Section 4. Default. If an installment of the annual assessment or special assessment is not paid within thirty (30) days after the due date, such delinquent installment or assessment shall bear interest from the due date at the rate of ten percent (10%) per annum, and the Association may after such thirty (30) days period bring an action at law against the Owner responsible for the payment of such assessment, and (additionally or alternatively) may foreclose the lien against the Lot, and in the event a judgment is obtained, such judgment shall include

interest on the assessment or installment amount as above provided, together with the costs of the action and reasonable attorney's fees.

The Association may file in the office of the County Recorder a Notice of Lien to evidence any delinquent assessment or installment, but the Association shall not be under any duty to file such Notice of Lien and its failure or omission to do so shall not in any way impair or affect the Association's lien and other rights in and against the Lot or against the Owner of such Lot.

Section 5. Statement of Unpaid Assessments of Charges. Any prospective grantee or mortgage of a fee or undivided interest in a Lot may rely upon a written statement from the President, Vice President or Treasurer of the Association setting forth the amount of unpaid assessments of charges with respect to such fee or undivided fee interest. In the case of a sale of any such interest, no grantee shall be liable for, nor shall the interest purchased be subject to a lien for, any unpaid assessments which became due prior to the date of such statement and which are not set forth in such statement; nor shall the membership privileges of such grantee (or his household or guests) be suspended by reasons of any such unpaid assessment. In the case of the creation of any mortgage, any lien of the Association for unpaid assessments which became due prior to the date of such statement and which are not set forth in such statement shall be subordinate to such mortgage.

Section 6. Computation and Application of Annual Assessments. The annual assessment to be levied against each Lot shall be equal to the product of the total annual budget for the Association times a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots within the Property. The assessment shall be applied toward payment of the following costs and expenses:

- (a) the discharge of all obligations of the Association as set forth herein or as established by the Association;
- (b) legal and accounting services for the Association;
- (c) the full amount of any taxes and assessments against the Common Area;
and
- (d) the cost of collecting assessments, and expenses of maintaining the Association, and for any and all other purposes which the Association may determine from time to time to be for the general benefit of the Owners and the Lots.

Such assessments may be increased, decreased or adjusted from time to time by the Association, in its reasonable judgment. The Association shall exercise its discretion and judgment as to the amount of its funds to be expended in connection with each of the purposes for which its funds are collected and its discretion in reference thereto shall be binding upon all the interested parties.

Section 7. Exempt Property. The following properties shall be exempt from the assessments and liens created herein:

- (a) the Common Area;
- (b) all properties exempted from taxation by the laws of the State of Ohio, upon the terms and to the extent of such legal exemption; and
- (c) any Lot held by the Declarant or a builder for sale, during construction or as a model for purposes of Declarant's sale activities.

**ARTICLE VI.
INDEMNIFICATION OF BOARD MEMBERS AND OFFICERS**

Each Trustee and officer of the Association, and each former Trustee and officer of the Association, shall be indemnified by the Association against the costs and expenses reasonably incurred by him or her in connection with the defense of any pending or threatened action, suit or proceeding, criminal or civil, to which he or she is or may be made a party by reason of his or her being or having been such Trustee or officer of the Association (whether or not he or she is a Trustee or officer at the time of incurring such cost and expense), except with respect to matters as to which he or she shall be adjudged in such action, suit or proceeding to be liable for misconduct or gross negligence in the performance of his or her duty as such Trustee or officer. In case of the settlement of any action, suit or proceeding to which any Trustee or officer of the Association, or any former Trustee or officer of the Association, is made a party or which may be threatened to be brought against him or her by reason of his or her being or having been a Trustee or officer of the Association, he or she shall be indemnified by the Association against the costs and expenses (including the cost of settlement) reasonably incurred by him or her in connection with such action, suit or proceeding (whether or not he or she is a Trustee or officer at the time of incurring such costs and expenses), if (a) the Association shall be advised by independent counsel that such Trustee or officer did not perpetrate the misconduct or was not grossly negligent in the performance of his or her duty as such Trustee or officer with respect to the matters covered by such action, suit or proceeding, and the cost of the Association of indemnifying such Trustee officer (and all other board members and officers, if any, entitled to indemnification hereunder in such case) if such action, suit or proceeding were carried to a final adjudication in their favor could reasonably be expected to exceed the amount of costs and expenses to be reimbursed to such Trustees and officers as a result of such settlement, or (b) disinterested Owners entitled to exercise a majority of the voting power shall, by vote at any annual or special meeting of the Association, approve such settlement and the reimbursement to such Trustee or officer of such costs and expenses. The phrase "disinterested Owners" shall mean Owners of the Association other than (i) any Trustee or officer of the Association who, at the time, is or may be entitled to indemnification pursuant to the foregoing provisions, (ii) any Corporation or organization of which any such Trustee or officer owns of record or beneficially ten percent (10%) or more of any class of voting securities, (iii) any firm of which such Trustee or officer is a partner, and (iv) any spouse, child, parent, brother or sister of any such Trustee or officer. The foregoing rights of indemnification shall insure to the benefit of the heirs and legal representatives of such Trustee or officer, and shall not be exclusive of other rights to which any Trustee or officer may be entitled as a matter of law or under the Declaration, any vote of Owners or any agreement.

ARTICLE VII GENERAL PROVISIONS

Section 1. Copies of Notice to Mortgage Lenders. Upon written request to the Board of Trustees by the holder of any duly recorded mortgage or trust deed against any Lot, the Board of Trustees shall give such mortgage holder a copy of any and all notices permitted or required by the Declaration or these By-Laws to be given to the Owner whose Lot is subject to such mortgage or trust deed.

Section 2. Service of Notices on Board of Trustees or Association. Notices required to be given to the Board of Trustees will be delivered to any Trustee and notices required to be given to the Association will be delivered to an officer of the Association. All notices will be effective when delivered either personally, by certified U.S. mail or via a nationally recognized overnight courier service addressed to such Trustee or officer at his or her Lot or such other address on record with the Association.

Section 3. Service of Notices on Owners. Notices required to be given any to Owner may be delivered either personally, by U.S. mail or via a nationally recognized overnight courier service, addressed to such party at his, her or its address appearing on the records of the court wherein the estate of such deceased Owner is being administered.

Section 4. Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations or provisions contained in the Declaration or these By-Laws 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.

Section 5. Agreements Binding. All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Declaration and these By-Laws shall be determined to be binding on all Owners, their successors and assigns.

Section 6. Severability. The invalidity of any covenant, restriction, condition, limited or any other provision of these By-Laws or any part of the same shall not impair or affect in any manner the validity, enforceability of effect of the rest of these By-Laws.

Section 7. Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by the Declaration or these By-Laws shall be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the last remaining survivor of the now living descendants of George W. Bush, President of the United States of America and Queen Elizabeth II of England.

Section 8. Definitions. The terms used in these By-Laws (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of these By-Laws

and of any amendment hereto shall have the respective meanings specified in Article I of the Declaration.

Section 9. Amendments of By-Laws. These By-Laws may be amended or modified at any time, or from time to time, only by action or approval of the Owners exercising seventy-five percent (75%) or more of the voting power of the Association.

Section 10. Amendments to Articles of Incorporation. The Articles of Incorporation may be amended or modified at any time, or from time to time, only by action or approval of the Owners exercising seventy-five percent (75%) or more of the voting power of the Association.

IN WITNESS WHEREOF, the undersigned have executed these By-Laws this 9th day of August, 2001.

Witnesses:

Brian E. Blainsky
Print Name → Brian E. Blainsky
Linda J. Mengelkamp
Print Name → Linda J. Mengelkamp

ZAREMBA CLEVELAND COMMUNITIES, INC.
("Declarant" in the Declaration)

By: NATHAN ZAREMBA, President

Witnesses:

Brian E. Blainsky
Print Name → Brian E. Blainsky
Linda J. Mengelkamp
Print Name → Linda J. Mengelkamp

BEACON PLACE LIMITED PARTNERSHIP
("Additional Declarant" in the Declaration)

By: Zaremba Cleveland Communities, Inc., its
general partner
By: NATHAN ZAREMBA, President

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

The foregoing instrument was acknowledged before me this 9 day of August, 2001 by Zaremba Cleveland Communities, Inc., and Beacon Place Limited Partnership, by Zaremba Cleveland Communities, Inc., by Nathan Zaremba, as President, who acknowledged that he did sign the foregoing instrument as such officer on behalf of said entities as the free act and deed of himself and of each entity.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.



NOTARY PUBLIC

Linda J. Mengelkamp
Notary Public State of Ohio
Recorded in Lake County
Commission Expires April 19, 2006

356864

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BEACON PLACE AT CHURCH SQUARE

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BEACON PLACE AT CHURCH SQUARE (the "Declaration"), is made on the date hereinafter set forth by ZAREMBA CLEVELAND COMMUNITIES, INC. ("ZCC"), an Ohio corporation (hereinafter referred to as "Declarant"), and BEACON PLACE LIMITED PARTNERSHIP, an Ohio limited partnership (hereinafter referred to as "Additional Declarant").

WITNESSETH:

WHEREAS, Declarant and Additional Declarant are the owners of all of that certain real property in Cuyahoga County, Ohio (the "Property"), which is more particularly described on Exhibit A attached hereto and incorporated herein by reference, and desires to create on such Property a residential community consisting of single-family homes and townhouses; and

NOW, THEREFORE, Declarant and Additional Declarant hereby declare that the Property shall be held, sold, and conveyed pursuant to this Declaration and the covenants, conditions and restrictions described herein, which are for the purpose of protecting the value and desirability of the Property, and which shall run with the title to the Property and shall be binding on and inure to the benefit of any and all parties having any right, title, or interest in or to the Property or any part thereof, and such parties' heirs, representatives, successors and assigns.

ARTICLE I DEFINITIONS

Section 1. "Architectural Review Committee" and "ARC" shall have the meaning ascribed to such terms in Article XI of this Declaration.

Section 2. "Articles" shall mean and refer to the Articles of Incorporation of the Association, including any and all amendments or modifications to those Articles.

Section 3. "Assessment" and "Annual Assessment" and "Special Assessment" shall have the meanings ascribed to such terms in Article V of this Declaration.

Section 4. "Association" shall mean and refer to BEACON PLACE AT CHURCH SQUARE HOMEOWNERS ASSOCIATION, INC., an Ohio nonprofit corporation, and its successors and assigns.

Section 5. "Board of Trustees" shall mean and refer to the Association's Board of Trustees.

Section 6. "Bylaws" shall mean and refer to the Bylaws of the Association, including, without limitation, any and all amendments or modifications to those Bylaws.

Section 7. "Common Area" or "Common Areas" shall mean entrance areas, common landscaping, drainage, open space areas now or hereafter designated or created within the Property and any and all other real property (including any improvements thereon) owned or leased by the association (in fee simple or otherwise) for the common use and enjoyment of the Owners. The initial Common Area shall be that portion of the Property more particularly

3) 98
R T De

ORDER NO. ST 18649
01-21-77
Surety Title Agency, Inc.

described on Exhibit B attached hereto and incorporated herein by reference.

Section 8. For the purpose of this Declaration and the powers, rights, and authorities granted to Declarant herein, "Declarant" shall mean and refer to ZCC and any successor, alternate, or additional Declarant appointed by ZCC by an instrument specifically setting forth that such successor, alternate, or additional Declarant shall have, together with or in lieu of ZCC, Declarant's rights, duties, obligations, and responsibilities, in whole or in part, for all or any portion of the Property.

"Declarant" shall not include any person or party who purchases a Lot from Declarant, unless such purchaser is specifically assigned, by a separate recorded instrument, some or all of Declarant's rights, duties, obligations, or responsibilities under this Declaration with regard to the property conveyed.

Section 9. "General Land Plan" shall have the meaning ascribed to it in Article VII of this Declaration.

Section 10. "Lien" shall have the meaning ascribed to it in Article V of this Declaration.

Section 11. "Lot" shall mean and refer to any plot of land shown as a lot upon any recorded subdivision map or plat of the Property, with the exception of the Common Area. Lots may be vacant land, or they may contain residential structures. A lot containing a detached residential structure is referred to herein as a "Single-family Lot", and any such detached residential structure is referred to herein as "House." A lot containing attached residential structures is referred to herein as a "Townhouse Lot," and any such attached residential structure is referred to herein as a "Townhouse".

Section 12. "Member" shall have the meaning ascribed to it in Article IV of this Declaration.

Section 13. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include Declarant.

Section 14. "Property" shall mean and refer to all of the real estate described on Exhibit A and such additions thereto as may hereafter be brought within the jurisdiction of the Association and made subject to this Declaration by recorded supplemental instrument.

ARTICLE II PURPOSE OF THE ASSOCIATION

Declarant, in order to insure that the Common Area and other areas for which it is responsible will continue to be maintained in a manner that will contribute to the comfort and enjoyment of the Owners and provide for other matters of concern to them, has organized the Association. The purpose of the Association shall be to operate, maintain, and repair the Common Area and any improvements thereon, to maintain certain decorative entrances and common landscaping on the Property and other features within the Property as designated by the Board of Trustees, to pay for the costs of lighting for the Common Area, if any, and to take such other action as the Association is authorized to take with regard to the Property pursuant to its Articles of Incorporation and Bylaws or this Declaration. The Association may

maintain any other area, on the Property or otherwise, if the Board of Trustees determines such maintenance to be in the best interests of the Owners.

ARTICLE III
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

A. the right of the Association, from time to time, in accordance with its Articles or Bylaws, to establish, modify, amend, and rescind reasonable rules and regulations regarding use of the Common Area;

B. the right of the Association to charge reasonable admission and other fees for the use of any recreational facility or area situated upon the Common Area, which fees may be used to discharge the general financial obligations of the Association;

C. the right of the Association to suspend the voting rights of, and right to use the Common Area by, an Owner for any period during which any assessment levied under this Declaration against such Owner's Lot remains unpaid and suspend such rights for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

D. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility as provided by its Articles or Bylaws. No such dedication or transfer shall be effective unless an instrument has been recorded, signed by at least one-half (1/2) of each class of Members;

E. the right of the Association to grant easements in and to the Common Area, or any part thereof, as provided by its Articles or Bylaws;

F. the right of the Association to otherwise deal with the Common Area as provided by its Articles or Bylaws;

G. the right of the Association to open the Common Area, including any recreational facilities or areas thereon, for use by non-members of the Association, including the general public;

H. the right of the Association to release or convey its rights to any part of the Common Area, whether or not deeded to the Association, to Declarant or any Owner to facilitate development of residential dwellings, so long as such release or conveyance does not substantially, materially, and adversely affect the function and use of the remaining Common Area;

I. the right of Declarant to transfer or dedicate any portion of the Common Area to a governmental agency having jurisdiction thereof;

J. the right of Declarant and its designees to use Common Area parking areas for parking by its employees and invitees; and

K. the right of the Association to plant, replant, care for and maintain hedges or bushes along the sidewalks throughout the Property. No owner shall in any way

remove, alter, modify, cut, interfere with, or change such hedges or bushes, without the prior written approval of the Board of Trustees.

Section 2. Tenant's Rights. Any Owner may assign its rights in and to the Common Area to a tenant of such Owner's House or Townhouse, subject to this Declaration, the Articles and the Bylaws. Such tenant shall be required to comply with all covenants, conditions and restrictions provided for herein and therein.

Section 3. Prohibition of Certain Activities. No damage to, or waste of, the Common Area or any part thereof shall be committed by any Owner or any tenant or invitee of any Owner. No noxious, destructive, or offensive activity shall be permitted in or on the Common Area or any part thereof, nor shall any activity be permitted which may be or may become an unreasonable annoyance or nuisance to any other Owner. No Owner may maintain, treat, landscape, sod, place, or erect any improvement or structure of any kind on any Common Area, without the prior written approval of the Board of Trustees.

Section 4. Signs Prohibited in Common Area. No sign of any kind shall be displayed in or on the Common Area, without the prior written consent of the Board of Trustees. This section shall not apply to Declarant or to the Association.

Section 5. Rules and Regulations. No Owner or any tenant or invitee of any Owner shall violate the reasonable rules and regulations governing use of the Common Area promulgated by the Association and amended from time to time.

Section 6. Title to Common Area. No later than the time Declarant no longer exercises voting control over the Association as provided in Article IV of this Declaration continuously for a period of one (1) year, Declarant shall convey, and the Association shall accept, title to any Common Area, subject to such easements, reservations, conditions, and restrictions as may then be of record. Declarant may convey, and the Association shall accept, title at any time prior to the time referred to in this Section 6, at Declarant's option.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS

Section 1. Each Owner of a Single-family Lot and each Owner of a Townhouse shall be a member of the Association (a "Member"), and shall be subject to and bound by the Articles, Bylaws, the Association's rules and regulations, and this Declaration. The foregoing does not include persons or entities who hold a leasehold interest or interest merely as security for the performance of an obligation. Ownership shall be the sole qualification for membership. When any Single-family Lot or any Townhouse is owned of record by two or more persons or other legal entities, all such persons or entities shall be Members, but multiple ownership shall not result in additional voting rights. An Owner of more than one Single-family Lot or more than one Townhouse on one or more Townhouse Lots shall be entitled to one membership for each such Lot or Townhouse owned. Membership shall be appurtenant to, and may not be separated from, ownership of a Lot or Townhouse and it shall automatically be transferred by conveyance of that Lot or Townhouse. Declarant shall be a Member so long as it owns one or more Lots.

Section 2. The Association shall have two (2) types of Members: Class A and Class B. All votes shall be cast in the manner provided in the Bylaws. The two types of Members and voting rights related thereto, are as follows:

- A. Class A. Class A Members shall be all Owners with the exception of Declarant. Each Class A Member shall be entitled to one vote for each Townhouse and/or Single-family Lot of which it is the Owner. In the case of any Townhouse and/or Single-family Lot owned of record in the name of two or more persons or entities, all such persons or entities shall exercise their vote as they among themselves determine; provided, however, that in no event shall there be more than one vote with respect to any such Townhouse and/or Single-family Lot.
- B. Class B. Class B Members shall be Declarant. Notwithstanding anything in this Declaration to the contrary, until all of the Lots have been sold and conveyed by Declarant, the Class B Member shall have a total number of votes equal to the number of votes cumulatively held by all other Members, plus one (1), thereby providing the Class B Member with a majority of the votes of the Association. On the date Declarant sells and conveys its last remaining Lot, Class B of the membership shall terminate.

ARTICLE V
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. Responsibilities. The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the management and control of the Common Area and shall keep the same in good, clean, and proper condition, order, and repair. The Association shall be responsible for the planting, replanting care and maintenance of the hedges or bushes along the sidewalks throughout the Property and lawn care and landscaping maintenance on each Townhouse Lot; an easement is hereby reserved to the Association on each Townhouse Lot for such purpose. The Association shall be responsible for the payment of all costs, charges, and expenses incurred in connection with the operation, administration, and management of the Common Area, and performance of its other obligations hereunder. The Association shall operate and maintain areas designated by Declarant as Common Areas, whether or not title to those areas has been formally conveyed to the Association. With respect to Single-family Lots, lawn care and landscaping maintenance shall be the responsibility of the Owners. Snow removal shall be the responsibility of Owner's of Single-family Lots and Townhouse Lots.

Section 2. Manager. The Association may obtain, employ, and pay for the services of an entity or person as manager to assist in managing its affairs and carrying out its responsibilities hereunder, as well as such other personnel as the Association shall determine to be necessary or desirable, whether such personnel are engaged, furnished, or employed directly by the Association or such manager. The Association may enter into a Management Agreement for management services with any entity as the Board of Trustees deems appropriate or necessary.

Section 3. Personal Property for Common Use. The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as provided in the Articles or Bylaws.

Section 4. Insurance. The Association shall procure and at all times maintain adequate policies of public liability and other insurance as it deems advisable or necessary. The Association may cause all persons responsible for collecting and disbursing Association funds to be insured or bonded with adequate fidelity insurance or bonds.

Section 5. Implied Rights. The Association may exercise (i) any right or privilege given to it expressly by this Declaration, the Articles, the Bylaws, or by law, and (ii) every other right or privilege reasonably implied from the existence of any right or privilege granted herein or therein or reasonably necessary to effectuate the exercise of any right or privilege granted herein or therein.

ARTICLE VI COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Owners for Assessments. Each Owner, by acceptance of a deed for such Owner's Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (a) an annual assessment or charge (the "Annual Assessment"), which shall be paid in quarterly installments, and (b) special assessments for capital improvements and unexpected operating costs (a "Special Assessment"), such assessments to be established and collected as provided herein (the Annual Assessment and each Special Assessment collectively referred to herein as the "Assessments"). The Assessments shall be effective from, and relate back to, the date of recording this Declaration and shall be a charge on the Property and shall be secured by a continuing lien upon the property in favor of the Association against which each such Assessment is made (the "Lien"). The Lien shall also secure interest on unpaid Assessments, fines for violation of this Declaration, the Bylaws or the rules and regulations of the Association, the costs of collecting unpaid Assessments and fines, and court costs for actions enforcing this Declaration and obtaining injunctions, all including reasonable attorney's fees. Notice of the Lien will be given by recording a Claim of Lien in the public records of Cuyahoga County, Ohio, stating the Lot description, the name of the Owner of such Lot, the amount due, and the due date. A Claim of Lien may be filed against a Lot for any unpaid Assessments or other charges hereunder after conveyance of the Lot to an Owner by Declarant. Each Assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment became due. Such Owner's personal obligation for delinquent Assessments shall not pass to such Owner's successors in title unless expressly assumed by such successor.

Section 2. Purpose of Annual Assessment. The Annual Assessment shall be used to promote the recreation, health, safety, and welfare of the residents of the Property, and for the improvement and maintenance of the Common Area and the carrying out of the other responsibilities and obligations of the Association under this Declaration, the Articles, and the Bylaws. Without limiting the generality of the foregoing, the Annual Assessment may be used for the acquisition, improvement, and maintenance of properties, services, and facilities related to the use and enjoyment of the Common Area, including the costs of repair, replacement, and additions thereto, reserves for the future costs thereof, the cost of labor, equipment, supplies, materials, management, and supervision thereof; the costs of repair, replacement, and additions to entrance and directional signage and, pursuant to agreements between Declarant and any homeowners association formed by Owners as may be approved by the Board of Trustees, the payment of taxes and assessments made or levied against the Common Area and any property of the Association; the procurement and maintenance of insurance; the employment of attorneys, accountants, engineers, and other professionals to advise and represent the Association when necessary or useful; and such other needs as may arise.

VOL. 96-10152 PAGE 20

RECORDED THIS DATE
FRANK RUSSO
CUYAHOGA CITY, RECORDER
96 OCT 15 AM 10:54

Section 3. Purpose of Special Assessments. Special Assessments shall be for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of capital improvements upon the Common Area, including buildings and fixtures and personal property related thereto and for other purposes as designated by the Association, provided that Special Assessments shall have the assent of sixty percent (60%) of the votes Members who are voting in person or by proxy at a meeting duly called for such purpose. Written notice of any meeting called for the purpose of taking any such action shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of Members or of proxies entitled to cast one-third (1/3) of all votes shall constitute a quorum.

Section 4. Assessment Rate. Subject to the provisions contained in this Section 4, the Annual Assessment shall be fixed by the Board of Trustees. The Annual Assessment for each Single-family Lot shall be the same, and the Annual Assessment for each Townhouse shall be the same, although the Annual Assessment for Single-family Lots and Townhouses may differ. Upon acquisition of title to a Single-family Lot or Townhouse (whether an initial sale or resale), as evidenced by the recording of the deed with the Cuyahoga County Recorder, each Owner shall promptly pay an amount equal to one quarter (1/4) of the Annual Assessment for such Lot or Townhouse to the Association as that Owner's initial assessment. This initial assessment shall apply to each subsequent resale of a Single-family Lot or Townhouse and shall be paid by each subsequent Owner thereof. The Annual Assessment shall not be increased by more than ten percent (10%) over the Annual Assessment charged for the immediately prior calendar year so long as Declarant owns at least one (1) Lot.

Section 5. Declarant's Assessments. Notwithstanding any provision to the contrary in this Declaration or the Association's Articles or Bylaws, Declarant shall not be obligated for, nor subject to, any Annual Assessment. In lieu of paying an Annual Assessment, Declarant shall be responsible for paying the difference between the Association's operating expenses and the sum of the revenues of the Association from all sources. "All sources" includes, but is not limited to, revenues from the operation of any recreational facilities or areas within the Common Area, accounting service fees, property management fees, guest fees, user fees, and the Annual and Special Assessments levied against the Owners other than Declarant. Such deficiency shall not include contributions to any reserve for replacements, operating reserves, depreciation reserves, capital expenditures or Special Assessments. Declarant may give written notice to the Association prior to January 1 of any year, that it is terminating its responsibility for the deficiency and waiving its right to exclusion from Annual Assessments effective as of the last day of February of such year.

Upon the termination of Declarant's Class B membership pursuant to Article IV of this Declaration, each Lot owned by Declarant that has a completed dwelling for which a certificate of occupancy has been issued shall thereafter be assessed at twenty-five percent (25%) of the Annual Assessment established for Lots owned by Owners other than Declarant. Such Assessment shall be prorated and become payable as to the remaining months of the year, if any, in which such termination occurs. Lots that are owned by Declarant and vacant shall not be subject to any Assessment. Upon transfer of title to a Lot owned by Declarant, the Lot shall be assessed in the amount established for Lots owned by Owners other than Declarant, prorated as of the first day of the month following the date of transfer of title.

Declarant shall not be responsible for any cost associated with a reserve for replacements, operating reserves, depreciation reserves, capital expenditures, or Special Assessments. Declarant shall be assessed only for Lots that are encumbered by this Declaration.

So long as Declarant is obligated to pay any deficiency, the Association, at Declarant's request, shall open the Common Area, including any clubHouse and other recreational facilities or areas within the Common Area, for use by non-members of the Association, including the general public, and shall provide any easements or licenses necessary for access to and from such facilities and for parking.

Section 6. Exemption from Assessments. The Assessments, charges, and liens provided for in this Article VI shall not apply to: (i) Declarant, (ii) the Common Area, (iii) any property dedicated to, or accepted for maintenance by, a public or governmental authority or agency, (iv) any property owned by a public or private utility company or public or governmental body or agency, or (v) any property used for commercial purposes. Notwithstanding the foregoing, any Lots from which Declarant derives rental income or holds an interest as mortgagee shall be assessed at the same amount as Lots owned by Owners other than Declarant, prorated as of and commencing with the month following the execution of such rental agreement or mortgage.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The Annual Assessment provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to an Owner other than Declarant. The first Annual Assessment shall be adjusted according to the number of months remaining in that calendar year. The Board of Trustees shall fix the amount of the Annual Assessment, which shall be paid quarterly, against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner subject thereto. The due dates shall be on the first day of each quarter or on such other dates as may be established by the Board of Trustees. The Association shall, upon demand, and for a reasonable uniform charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments or any installments on a specified Lot have been paid or are delinquent and, if so, the particulars of the delinquencies. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, at trial and on appeal, shall be secured by the Lien.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the lesser of eighteen percent (18%) per annum or the maximum rate allowed by law. The Association may bring an action directly against the Owner, exercise its rights pursuant to the Lien, or both. Non-use of the Common Area or abandonment of such Owner's Lot shall not constitute a waiver of liability as to, or other release of, such Owner.

Section 10. Foreclosure. The Lien may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed in Ohio, or as otherwise provided by Ohio law. In any such foreclosure, the Owner shall be required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees, at trial and on appeal. All such costs and expenses shall be secured by the Lien. The Owner shall also be required to pay to the Association any Assessments against the Lot which shall become due during the period of foreclosure, and the same shall be secured by the Lien as of the date the Owner's title is divested by such foreclosure. The Association shall have the right and power to bid at the foreclosure sale to acquire the Lot foreclosed, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with the same as the owner

thereof.

Section 11. Subordination of the Lien to Mortgages. The Lien shall be subordinate to any first mortgage which is recorded prior to any Claim of Lien. Sale or transfer of any Lot shall not affect the Lien. However, the sale or transfer of such Lot shall extinguish the Lien with respect to Assessments which became due prior to such sale or transfer. No sale or transfer shall relieve the Owner of such Lot from liability for any Assessments becoming due prior to such sale or transfer or from the Lien.

ARTICLE VII ADDITIONAL PROPERTY

Section 1. Additions.

A. Additions to the Property. Declarant may, but shall not be obligated to, bring additional real estate (the "Additional Property") within the jurisdiction and control of the Association and this Declaration in the manner specified in Section 2 of this Article VII. The Additional Property shall be subject to all the terms of this Declaration, provided it is added within twenty-five (25) years from the date this Declaration is recorded. All Additional Property brought within the jurisdiction and control of the Association and made subject to this Declaration pursuant to this Article shall thereupon and thereafter be included within the term "Property" as defined in this Declaration.

B. General Land Plan. A general land plan (the "General Land Plan") has been prepared by Declarant and may be examined at the offices of Declarant by any person having a valid interest therein. The General Land Plan may be amended or modified by Declarant, in whole or in part, at any time, or discontinued, in Declarant's sole discretion.

Section 2. Procedure for Making Additions to the Property. Declarant may add Additional Property in accordance with the following procedures:

A. Generally. Declarant shall have the right from time to time, subject to majority approval of the Members of the Association, to bring within the jurisdiction and control of the Association and make subject to this Declaration and the General Land Plan, any Additional Property. In Declarant's sole discretion, portions of any Additional Property may be designated as Common Area.

B. Mergers. Upon a merger or consolidation of the Association, the property (whether real or personal or mixed), rights, and obligations of each constituent corporation shall, by operation of law, be transferred to the surviving or consolidated corporation. The surviving or consolidated corporation may administer the conditions, covenants and restrictions established by this Declaration within the Property and any other real property to which such surviving or consolidated corporation may hold title. No such merger or consolidation shall effect any revocation, change, or addition to the covenants, conditions and restrictions established by this Declaration with respect to the Property.

Section 3. General Provisions Regarding Additions to the Property.

A. Declarant shall file of record a Supplement to Declaration of Covenants, Conditions, and Restrictions for any Additional Property, thereby extending the covenants, conditions and restrictions of this Declaration to such Additional Property. Provided Declarant shall have received the approval of a majority of Members, such Supplement shall not require

the joinder or consent of the Association or any of its Members. Such Supplement may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Additional Property or any permitted use thereof. In no event, however, shall such Supplement revoke, modify, or add to the covenants, conditions and restrictions established by this Declaration as such affect the Property.

B. No addition to the Property shall revoke or diminish the rights of the Owners to the utilization of the Common Area as established hereunder.

C. Nothing contained in this Article shall obligate Declarant to make additions to the Property.

Section 4. Voting Rights of Declarant as to the Additional Property. Declarant shall have no additional voting rights due to the Additional Property prior to Declarant's compliance with this Article and the actual addition of such Additional Property. Upon the addition of such Additional Property Declarant shall have the voting rights of a Class B Member as to any lots therein pursuant to Article IV, Section 2 of this Declaration.

Section 5. Assessment Obligation of Declarant as to Additional Property. No assessment shall be made on the Additional Property until such Additional Property is added to the Property in accordance with the provisions of this Article. Thereafter, Declarant shall be exempt from Annual Assessments with regard to Lots within the Additional Property which it owns, upon the same terms and conditions as contained in Article VI, Sections 6 and 7 of this Declaration, including the right as therein provided to waive its exemption, and become subject to Assessment at the rate of twenty-five (25%) of the Annual Assessment established for improved Lots owned by Owners other than Declarant.

Section 6. Voting Rights of Owners other than Declarant as to Additional Property. The Owners of Lots on such Additional Property shall be entitled to the voting rights of Class A Members.

Section 7. Assessment Obligation of Owners other than Declarant as to Additional Property. Any Lots on such Additional Property which are owned by Owners other than Declarant, shall be subject to Assessments in accordance with the terms and provisions of this Declaration.

ARTICLE VIII GENERAL PROVISIONS

Section 1. Deed Restrictions. In addition to the covenants, conditions and restrictions contained in this Declaration, Declarant may record, with respect to the Property or any portion thereof, specific deed restrictions, declarations of covenants, conditions, and restrictions, and/or community association documents, either by master instrument or individually recorded instruments. The covenants, conditions, and restrictions contained in such documents may vary for different parts of the Property. Any portion of the Property made subject to such covenants, conditions and restrictions shall also be subject to this Declaration. The Association shall have the power to enforce all restrictions on any portion of the Property. Nothing contained in this Declaration shall require Declarant to impose restrictions of any kind other than this Declaration on all or any portion of the Property.

Section 2. Enforcement.

A. Persons Entitled to Enforce. Declarant, Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by Declarant, the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. Mediation and Arbitration. In the event of a dispute, claim, or controversy arising out of or relating to the breach, termination, validity, interpretation, enforcement, or implementation of any term or provision of this Declaration ("Dispute"), the Owners and the Association agree to submit the Dispute first to mediation and then to voluntary, binding arbitration, as follows:

In the event the parties cannot successfully negotiate a resolution of the Dispute within thirty (30) days of its occurrence, any party to the Dispute may notify the other parties to the Dispute that the matter will be submitted to mediation in accordance with the Commercial Mediation Rules of the American Arbitration Association ("Mediation Rules") and that all parties to the Dispute shall bear equally the costs of the mediation or as otherwise directed by the mediator. The panel shall consist of one mediator and shall be selected according to the Mediation Rules. The parties agree to participate in good faith in the mediation and negotiations related thereto.

If the Dispute cannot be resolved through mediation, within ten (10) days after the failure to resolve the Dispute through mediation, any party may notify the other parties to the Dispute that the matter will be submitted to voluntary, binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The panel shall consist of one arbitrator and shall be selected according to the Arbitration Rules.

If a person or party is found in the proceedings to be in violation of, or attempting to violate, the provisions of this Declaration, such person or party shall bear all costs and expenses of the Dispute resolution, including court costs and reasonable attorneys' fees, for all mediation, arbitration, trial, and appellate proceedings incurred by the party enforcing the provisions of this Declaration.

C. Nothing contained in this Article VIII shall in any way limit or affect the Association's right to immediately file an action in the appropriate court to collect any assessment or enforce any lien under Article VI hereof. Declarant shall not be obligated to enforce this Declaration or any particular provision hereof and shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person other than itself.

Section 3. Severability. Invalidation of any one of the terms of this Declaration by judgment or court order shall in no way affect any other term, each of which shall remain in full force and effect.

Section 4. Amendment.

A. The covenants, conditions and restrictions of this Declaration shall run with and bind all of the Property, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each. Except as otherwise provided herein, this Declaration may be amended only by recorded instrument signed by not less than two-thirds (2/3) of the Owners. For so long as Declarant owns any Lot in the Property, any amendment of this Declaration must be approved in writing by Declarant. At any time a Class B membership exists, this Declaration may be amended by recorded instrument executed solely by Declarant, without the necessity of the approval of joinder of any other Owner or the Association, and an officer of the Association shall execute a certificate indicating the amendment is consistent with this Declaration.

B. Anything in this Declaration to the contrary notwithstanding, if any amendment to this Declaration is required at any time by an institutional mortgagee, such as a bank, savings and loan association, or insurance company, or any governmental agency, such amendment shall be effective upon recording of such amendment as executed by Declarant, without the necessity of the approval or joinder of any other Owner or the Association. No such amendment may adversely affect the lien or priority of any institutional first mortgage recorded prior to the amendment.

C. Until the completion of the contemplated improvements on the Property, and closing of all Lot sales, Declarant specifically reserves the right, without the joinder of any person or other legal entity, to make amendments to or corrections of this Declaration and its exhibits and in the General Land Plan, as may be required by any lender, governmental authority, or as may, in Declarant's sole judgment, be necessary or desirable. This paragraph shall take precedence over any other provision of this Declaration or its attachments. No such amendment shall impair the security or priority of an institutional first mortgage.

Section 6. Interpretation. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including without limitation." The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

Section 7. Obligation of Cooperation by Association. Any and all additions to the Common Area by Declarant shall be accepted by the Association. The Association upon request of Declarant and without further consideration shall be required to execute any documents necessary to evidence the acceptance of such addition to the Common Area.

Until such time as Declarant has completed all of the contemplated improvements and has sold all of the Lots within the Property, Declarant hereby reserves to Declarant an easement across all of the Common Area and additions to the Common Area for the construction of water, sewer, drainage, telephone, cable television, water retention, and electric facilities deemed by Declarant necessary for the development and enjoyment of the Property and Common Area and for the conduct of all construction, sales, and marketing activities deemed necessary by Declarant.

Until such time as Declarant has completed all of the contemplated improvements and has sold all of the Lots within the Property, Declarant hereby reserves the right to alter the boundaries of the Common Area whether or not it has been previously deeded to the Association, provided that such alteration does not substantially, materially, and adversely affect the function and use of the Common Area.

The Association and each Owner hereby irrevocably appoints Declarant as their attorney-in-fact to execute and/or deliver any documents, plats, deeds, or other written matters necessary or convenient to accomplish the addition of Common Area or Property or both, to create easements as deemed necessary by Declarant, and to adjust the boundary or boundaries of the Common Area.

Until such time as Declarant has completed all of the contemplated improvements and has sold all of the Lots within the Property, neither the Association nor its Members nor the use of the Common Area by the Association and its Members shall interfere with the completion of the contemplated improvements or the marketing and sale by Declarant of Lots within the Property.

Until Declarant or its assigns has built improvements upon and sold all of its Lots within the Property, Declarant reserves the right to make such use of Lots and the Common Area as may facilitate completion and sale of Lots by Declarant. Without limiting the foregoing, Declarant shall have the right to maintain sales offices, model units, administration offices, and construction offices (which may be construction trailers or temporary or permanent buildings), or any or all of same, on Lots or on the Common Area. Declarant further shall have the right to erect and maintain signs on Lots or on the Common Area, shall have the right to bring prospective purchasers upon the Common Area, shall have the right to use the Common Area for purposes of making sales of Lots, shall have the right to grant the right of use of the Common Area to any prospective buyers of Lots or any other individual or group in Declarant's sole discretion, and shall be entitled to conduct all other marketing activities desired by Declarant.

In addition to all other rights of Declarant, until Declarant has built and sold all of the Lots within the Property, no amendment shall be made to this Declaration, and no rules or regulations shall be adopted by the Association, which shall modify the Assessments or other charges on Declarant's Lots or which shall restrict, impair, or, in Declarant's sole judgment, materially adversely affect the activities of Declarant with regard to construction, use of Common Area, and delegation of use of Common Area, and marketing and sale of the remaining Lots on the Property, whether or not such activities are enumerated in the preceding paragraphs, without the express prior written consent of Declarant.

Section 7. Insurance. Each Owner shall keep its Lot and any improvements thereon insured against loss from casualty at all times in an amount not less than the replacement value of such Lot and improvements. From time to time, the Association may request, and the Owner shall provide, a certificate or certificates evidencing that such coverage is in effect. If any Owner fails to carry the insurance coverage required hereby, the Association may procure and maintain such insurance coverage and such Owner shall promptly reimburse the Association for any premiums paid by the Association for such insurance coverage.

Section 8. General Liability Insurance. Each Owner shall maintain general liability insurance with respect to such Owner's single family Lot, Townhouse lot, House or Townhouse and the Common Area in such amounts and with such insurers as shall be deemed acceptable by the Association. Such general liability insurance shall name the Association as an

additional insured. Upon the Association's request, each Owner shall provide proof of such insurance to the Association.

ARTICLE IX EASEMENTS/COMMON WALLS

Section 1. Each Lot and the Common Area shall be subject to existing easements for public authorities and public utilities purposes (including, but not limited to, fire and police protection, garbage and trash removal, telephone and cable television and other communication services, water and sewage systems, and electric and gas service), and the utilities and applicable governmental agencies having jurisdiction over such services and their employees and agents shall have the right of access to any Lot or the Common Area in furtherance of such easements. The easement areas contained in any Lot whether or not shown on any map or plat, shall at all times be properly maintained by the applicable Owner whether or not the utility company or governmental agency properly maintains the easement area. Additionally, the Owner of each House or Townhouse is hereby granted an easement over the first five feet (5') of the Lot or Common Area immediately abutting said House or Townhouse and the airspace above said easement area for the purpose of (i) building and maintaining the overhanging portion of the roof of said House or Townhouse and any gutters in connection therewith; (ii) installing, maintaining and operating utility equipment (such as gas meters, electric meters and similar devices; and (iii) access to maintain and repair said House or Townhouse.

Section 2. Declarant reserves the right, for itself and its designee (so long as Declarant or said designee owns a Lot) and for the Board of Trustees of the Association, without joinder or consent of any Owner, Member, or other person or entity whatsoever, to grant such additional easements, including, but not limited to, irrigation wells and pumps, cable television, television antennas, electric, gas, water, sewer, or other utility easements, or to relocate any existing utility easement which the Board of Trustees shall deem necessary or desirable for the proper operation and maintenance of the Property, or any portion thereof, or for the general health or welfare of the Owners, provided that such additional utilities or the relocation of existing utilities will not prevent or unreasonably interfere with the use of Lots or the Common Area for permitted purposes.

Section 3. Declarant retains for itself, its successors in interest, agents, employees and assigns, a non-exclusive easement for ingress and egress over and across all streets, roadways, Common Area, driveways, common parking areas, and walkways that may from time to time exist within the Property.

Section 4. Each Lot and the Common Area shall be subject to an easement for the benefit of the adjacent Lot for the reasonable use by the tenant or Owner of such adjacent Lot in complying with its obligations under Article X, Section 3 of this Declaration. Such easement is limited to the ten (10) feet of the subject Lot immediately adjacent to the Lot benefitted by such easement. Any tenant or Owner of such adjacent Lot shall provide the Owner of the subject lot with at least twenty-four (24) hours prior notice of such tenant's or Owner's intention to use the easement granted hereby, and such tenant's or Owners activity thereon shall be subject to reasonable restrictions by the Owner of the subject Lot. The tenant or Owner of such adjacent Lot shall be subject to all conditions, covenants and restrictions contained in this Declaration, including those with respect to nuisances on the Property, and use by such tenant or Owner of the portion of the Lot subject to such easement shall be restricted to reasonable hours. Any damage to the subject Lot shall be

repaired such that the subject Lot is restored to substantially the same condition as existed prior to such tenant's or Owner's use thereof.

Section 5. Each Townhouse that shares a common wall with another Townhouse is hereby granted a support easement as to such common wall. The Owner of a Townhouse shall not in any way structurally alter or impair a common wall with another Townhouse; however, the hanging of photographs or paintings on the interior of a common wall shall be permitted provided such item does not impair the structural integrity of the common wall. The Owner of each Townhouse shall maintain fire and casualty insurance insuring the Owner of an adjoining Townhouse from any damage caused to the adjoining Townhouse by the insuring Owner's negligence.

ARTICLE X USE RESTRICTIONS

Section 1. Model Homes. No trade, business, profession, or other type of commercial activity shall be carried on upon any Lot, except that real estate brokers, Owners, and their agents may show Lots for sale. Every person or entity purchasing a Lot recognizes that Declarant, its agents and designated assigns shall have the right to (i) use Lots and improvements thereon for sales offices, field construction offices, storage facilities, and its own general business offices, (ii) maintain fluorescent-lighted or spot-lighted model homes which are open to the public for inspection seven (7) days per week for such hours as Declarant deems appropriate or necessary, (iii) conduct any other activities on Lots to benefit sales efforts, and (iv) use the parking facilities on the Common Area for parking for its employees and invitees.

Section 2. Use of Accessory Structures. No tent, shack, barn, utility shed, or other building, other than a dwelling and its required garage, shall, at any time, be erected on a Lot, except temporary buildings, offices, or facilities used by Declarant or its contractors, without the prior written consent of Declarant.

Section 3. Maintenance of Improvements. Each Lot Owner shall maintain in good condition and repair all improvements constructed upon such Owner's Lot, including, without limitation, the residential dwelling. No Owner shall change the exterior design or color of the dwelling on such Owner's Lot, including the roof, trim, or other items appurtenant to such dwelling, without the prior written approval of the Board of Trustees of the Association or its Architectural Review Committee, as provided in Article XI hereof.

Section 4. Storage: Clothes Hanging. No Lot shall be used for the storage of rubbish. Outside clothes hanging devices on a Lot shall not be permitted.

Section 5. Lot Upkeep. Owners shall be responsible for lawn care, landscape maintenance and snow removal with respect to such Owner's Lot, except that the Association shall be responsible for lawn care and landscaping maintenance for Townhouse Lots.

Section 6. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No automobile or other vehicle mechanical repairs or like activity shall be conducted on any Lot other than in a garage and concealed from public view.

Section 7. Lawns. Each Lot on which there is a completed dwelling shall be maintained in a neat condition by the Owner thereof. In this context, the word "Lot" shall include that portion of the Property from the outside of the structure on the applicable Lot to the adjacent paved road surface. "Neat" shall require, at a minimum, that the lawn be regularly cut and fertilized and that mulched areas be regularly re-mulched and kept weeded so that its appearance is in harmony with the neighborhood. All improved Lots must have grassed lawns. No landscaped mounds or other landscaping improvements that would impede lawn maintenance shall be permitted on a Lot without the prior written consent of the Board of Trustees. In no event shall any Owner alter lawns or landscaping on the Property if such alteration affects drainage on the Property in any material respect, including, without limitation, an alteration which causes seepage or leakage into any dwelling on the Property.

Section 8. Failure to Maintain. If an Owner fails to maintain the exterior of the improvements on such Owner's Lot, either Declarant, or the Association, after giving such Owner at least ten (10) days' written notice, shall be authorized to undertake such maintenance at the Owner's expense. By accepting title to a Lot, each Owner shall be deemed to grant access upon the Owner's Lot and House for such purpose and such entry shall not constitute a trespass. If such maintenance is undertaken by the Association or Declarant, the charge therefor and all costs of enforcement and collection shall be secured by the Lien.

Section 9. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on or in any Lot, except that a reasonable number of cats, dogs, and other household pets may be kept provided they are kept within the residence and are not kept, bred, or maintained for any commercial purposes, or become a nuisance to the neighborhood. No person owning or in custody of an animal shall allow it to stray or go upon another's Lot or property without the consent of the Owner of such other Lot or property. All animals shall be on a leash when outside the Owner's dwelling.

Section 10. Signs. No signs shall be displayed on Lots with the exception of a maximum of one (1) "For Sale" sign not exceeding 36" x 24" in size. The Association may develop uniform sign standards and specifications to which all Owners must adhere. Notwithstanding anything to the contrary herein, Declarant and its assigns shall have the exclusive right to maintain signs of any type and size on Lots which they own and on the Common Area, in connection with the development and sale of Lots.

Section 11. Vehicles. No vehicle shall be parked within the Property except on a paved parking surface, driveway, or within a garage. No trucks or vehicles which are primarily used for commercial purposes, other than those temporarily present on business, nor any trailers, may be parked within the Property. Boats, boat trailers, campers, travel trailers, mobile homes, recreational vehicles, and the like, and any vehicles not in operable condition and validly licensed, shall only be permitted to be kept within the Property if such are kept inside a garage and concealed from public view. For the purpose of the foregoing sentence, the term "kept" shall mean present for either a period of six (6) hours or overnight, whichever is less.

Section 12. Antenna/Satellite Dishes. There shall be no rooftop or exterior antennas, satellite dishes, or "earth stations" or similar signal receiving devices installed on any Lot which are visible from any street, dwelling or Common Area. In no event shall any such antenna, satellite dish, earth station or similar signal receiving device exceed twenty-four (24) inches in height, width, length, or diameter, except with the prior written consent of the Association.

ARTICLE XI
ARCHITECTURAL CONTROL

The Association shall have the sole and absolute right to determine the style and appearance of the residential dwellings, fences, walls, structures, and other improvements to be constructed on the Lots.

After the initial construction on the Lots and after conveyance by deed of such Lots to persons who are not successor, alternate, or additional Declarants or persons who are engaged in the business of constructing residential dwellings for sale to third parties, no exterior change or modification shall be made to any residential dwelling constructed on a Lot, nor shall any mailbox, lawn decoration, lamppost, or other improvements be added to a Lot until the plans and specifications showing the nature, kind, shape, height, materials, and color to be used on the exterior, and location of the same, shall have been submitted to and approved in writing by the Board of Trustees of the Association, or by an Architectural Review Committee composed of three (3) or more representatives appointed by the Board (the "ARC"). In the event that either the Board or the ARC fails to approve or disapprove such design and location within thirty (30) days after such plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. No approval shall be given by the Board of Trustees or the ARC pursuant to the provisions of this Article unless it determines, in its sole discretion, that such approval shall (i) assure harmony of external design, materials, and location in relation to surrounding buildings and topography within the Property; (ii) protect and conserve the value and desirability of the Property as a residential community; (iii) be consistent with the provisions of this Declaration; and (iv) conform to or enhance, in the sole opinion of the Board or the ARC, the aesthetic appearance of the Property. Neither the Association, the Board of Trustees, nor any Member of the Board or the ARC, shall have any liability to anyone by reason of any acts or action taken or omitted to be taken in good faith pursuant to this Article.

IN WITNESS WHEREOF, the undersigned, being Declarant and Additional Declarant named herein, have executed this Declaration on October 10, 1996.

Witnesses:

Melanie R. SASSANO
(As to Both)

Name: Melanie R. SASSANO

David V. Allen
(As to Both)

Name: David V. Allen

"DECLARANT"

ZAREMBA CLEVELAND COMMUNITIES, INC.
an Ohio corporation

By: [Signature]

Its: Pres

And By: Timothy J. Wendell

Its: Asst. Secretary

"ADDITIONAL DECLARANT"

BEACON PLACE LIMITED PARTNERSHIP,
an Ohio limited partnership

By: Zaremba Cleveland Communities, Inc.
its general partner

In Turn By: _____

Its: President

Melanie R. Sassano

Melanie R. SASSANO
Print Name

David V. Allen

David V. Allen
Print Name

STATE OF OHIO)
COUNTY OF CUYAHOGA) ss:

This instrument was acknowledged before me this 7th day of October 1996, by Nathan Zaremba the President of Zaremba Cleveland Communities, Inc., an Ohio corporation, on behalf of said corporation.

David V. Allen
Notary Public

DAVID V. ALLEN, ATTORNEY AT LAW
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION DATE
SECTION 147.03 R.C.

STATE OF OHIO)
COUNTY OF CUYAHOGA) ss:

This instrument was acknowledged before me this 8th day of October 1996, by Timothy J. Grendell the Assistant Secretary of Zaremba Cleveland Communities, Inc., an Ohio corporation, on behalf of said corporation.

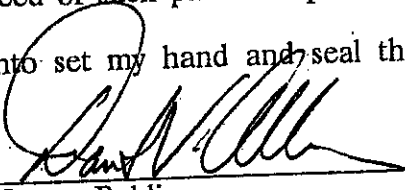
David V. Allen
Notary Public

DAVID V. ALLEN, ATTORNEY AT LAW
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION DATE
SECTION 147.03 R.C.

STATE OF OHIO)
COUNTY OF CUYAHOGA) ss:

Before me, a Notary Public in and for said County and State, personally appeared Nathan Zarembo, the President of Zarembo Cleveland Communities, Inc., the General Partner of Beacon Place Limited Partnership, who acknowledged that he executed the foregoing instrument and that the same is his own free act and deed in the foregoing capacity, the free act and deed of such corporation on behalf of such partnership, and the free act and deed of such partnership.

In testimony whereof, I have hereunto set my hand and seal this 7th day of October, 1996, at Cleveland, Ohio.



Notary Public

DAVID V. ALLEN, ATTORNEY AT LAW
NOTARY PUBLIC - STATE OF OHIO
MY COMMISSION HAS NO EXPIRATION DATE
SECTION 147.03 R.C.

This instrument prepared by:

Timothy J. Grendell
Taft, Stettinius & Hollister
Bond Court Building
1300 East Ninth Street
Sixth Floor
Cleveland, Ohio 44114-1503

Legal Description
Beacon Place At Church Square
Phase 1 - Parcel 1

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S-9 through S-16 inclusive and T-37 through T-44 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records and is further bounded and described as follows:

Beginning at the southeast corner of said subplot S-9;

- Course I Thence North $00^{\circ} 18' 31''$ East, 344.00 feet to a point;
- Course II Thence South $89^{\circ} 41' 29''$ East, 13.50 feet to a point;
- Course III Thence North $00^{\circ} 18' 31''$ East, 82.10 feet to a point of curvature;
- Course IV Thence along an arc of a curve deflecting to the left an arc distance of 16.06 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears North $45^{\circ} 42' 51''$ West, 14.39 feet;
- Course V Thence South $88^{\circ} 15' 47''$ West, 83.55 feet to a point of curvature;
- Course VI Thence along an arc of a curve deflecting to the left an arc distance of 15.35 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears South $44^{\circ} 17' 09''$ West, 13.89 feet;
- Course VII Thence South $00^{\circ} 18' 31''$ West, 500.75 feet to a point of curvature;
- Course VIII Thence along an arc of a curve deflecting to the left an arc distance of 15.06 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears South $42^{\circ} 50' 19''$ East, 13.68 feet;
- Course IX Thence South $85^{\circ} 59' 10''$ East, 83.67 feet to a point of curvature;

- Course X Thence along an arc of a curve deflecting to the left an arc distance of 16.35 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears North 47° 09' 40" East, 14.59 feet;
- Course XI Thence North 00° 18' 31" East, 83.03 feet to a point;
- Course XII Thence North 89° 41' 29" West, 13.50 feet to the Place of Beginning and containing 1.1387 Acres of land as calculated and described in December, 1995 by Joseph Gutosky P.S. 7567, be the same, more or less, but subject to all legal highways and easements of record. Bearings used herein are to an assumed meridian and are intended to indicate angles only.

Legal Description
Beacon Place At Church Square
Phase 1 - Parcel 2

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S-17 through S-24 inclusive and T-45 through T-52 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records and is further bounded and described as follows:

Beginning at the southeast corner of said subplot S-24;

- Course I Thence North $00^{\circ} 18' 31''$ East, 344.00 feet to a point;
- Course II Thence North $89^{\circ} 41' 29''$ West, 13.50 feet to a point;
- Course III Thence North $00^{\circ} 18' 31''$ East, 80.81 feet to a point of curvature;
- Course IV Thence along an arc of a curve deflecting to the right an arc distance of 16.37 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears North $47^{\circ} 12' 56''$ East, 14.60 feet;
- Course V Thence South $85^{\circ} 52' 38''$ East, 83.69 feet to a point of curvature;
- Course VI Thence along an arc of a curve deflecting to the right an arc distance of 15.04 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears South $42^{\circ} 47' 04''$ East, 13.66 feet;
- Course VII Thence South $00^{\circ} 18' 31''$ West, 512.86 feet to a point of curvature;
- Course VIII Thence along an arc of a curve deflecting to the right an arc distance of 16.35 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears South $47^{\circ} 09' 40''$ West, 14.59 feet;
- Course IX Thence North $85^{\circ} 59' 10''$ West, 83.67 feet to a point of curvature;

- Course X Thence along an arc of a curve deflecting to the right an arc distance of 15.06 feet to a point of tangency, said curve having a radius of 10.00 feet and a chord which bears North 42° 50' 19" West, 13.68 feet;
- Course XI Thence North 00° 18' 31" East, 88.21 feet to a point;
- Course XII Thence South 89° 41' 29" East, 13.50 feet to the Place of Beginning and containing 1.1577 Acres of land as calculated and described in December, 1995 by Joseph Gutoskey P.S. 7567, be the same, more or less, but subject to all legal highways and easements of record. Bearings used herein are to an assumed meridian and are intended to indicate angles only.

Revised

97-10910 Pg. 35
Oct. 1 1997

AMENDMENT NO. 1
TO
DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
BEACON PLACE AT CHURCH SQUARE

THIS AMENDMENT ("AMENDMENT") TO THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR BEACON PLACE AT CHURCH SQUARE (the "Declaration"), is made on the date hereinafter set forth by ZAREMBA CLEVELAND COMMUNITIES, INC. ("ZCC"), an Ohio corporation (hereinafter referred to as "Declarant"), and BEACON PLACE LIMITED PARTNERSHIP, an Ohio limited partnership (hereinafter referred to as "Additional Declarant").

WITNESSETH:

WHEREAS, Declarant and Additional Declarant are the owners of all of that certain real property in Cuyahoga County, Ohio (the "Property"), which is more particularly described on Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, Declarant and Additional Declarant have recorded that certain Declaration of Covenants, Conditions and Restrictions in Volume 9640153, Page 19 of the Cuyahoga County Records (the "Declaration").

NOW, THEREFORE, Declarant and Additional Declarant hereby declare that the additional property described in Exhibit B attached hereto and made a part hereof (the "Additional Property") shall be held, sold, and conveyed pursuant to this Declaration and the covenants, conditions and restrictions described therein which are for the purpose of protecting the value and desirability of the Property and Additional Property, and which shall run with the title to the Property and Additional Property, and which and inure to the benefit of any and all parties having any right, title, or interest in or to the Property and Additional Property or any part thereof, and such parties' respective heirs, representatives, successors and assigns.

IN WITNESS WHEREOF, the undersigned, being Declarant and Additional Declarant named herein, have executed this Amendment on

OCTOBER 1, 1997.

"DECLARANT"

Witnesses:

ZAREMBA CLEVELAND COMMUNITIES, INC.
an Ohio corporation

Joan A Troff

Name: JOAN A. TROFF

By: [Signature]

Its: PRESIDENT

[Signature]

Name: Katherine Cunningham

"ADDITIONAL DECLARANT"

BEACON PLACE LIMITED PARTNERSHIP
An Ohio limited partnership

Joan A Troff

JOAN A. TROFF
Print Name

By: Zaremba Cleveland Communities, Inc.
its general partner

In Turn By: [Signature]

Its: PRESIDENT

[Signature]
Katherine Cunningham
Print Name

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

This instrument was acknowledged before me this 1st day of
OCTOBER, 1997, by Nathan Zaremba the President of Zaremba
Cleveland Communities, Inc., an Ohio corporation on behalf of said corporation.

Joan A Troff
NOTARY PUBLIC

JOAN A. TROFF, Notary Public
State of Ohio, Cuyahoga County
My Commission Expires April 25, 1998

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said County and State, personally appeared NATHAN ZAREMBA, the PRESIDENT of Zaremba Cleveland Communities, Inc., the General Partner of Beacon Place Limited Partnership, who acknowledged that he executed the foregoing instrument and that the same is his own free act and deed in the foregoing capacity, the free act and deed of such corporation on behalf of such partnership, and the free act and deed of such partnership.

In testimony whereof, I have hereunto set my hand and seal this 1st day of OCTOBER, 1997, at Cleveland, Ohio.



NOTARY PUBLIC

JOAN A. TROPF, Notary Public
State of Ohio, Cuyahoga County
My Commission Expires April 25, 1998

This instrument prepared by:

Timothy J. Grendell
6060 Rockside Woods Boulevard
Suite 250
Independence, Ohio 44131
Phone No.: (216) 524-6444

EXHIBIT A

PHASE I - Parcel 1

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S9 through S16 inclusive and T37 through T44 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE I - Parcel 2

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S17 through S24 inclusive and T45 through T52 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE II

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S25 through S32 inclusive and T53 through T60 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE III - Parcel 1

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S1 through S8 inclusive and T29 through T36 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE III - Parcel 2

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots T1 through T28 inclusive and Block B and C as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

EXHIBIT B

PHASE II

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S25 through S32 inclusive and T53 through T60 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE III - Parcel 1

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S1 through S8 inclusive and T29 through T36 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE III - Parcel 2

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots T1 through T28 inclusive and Block B and C as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

CUYAHOGA COUNTY REC
PATRICK J. O'MALLEY
DEED 12/28/2001 03:57:15
2001122811

**AMENDMENT NO. 2
TO
DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
BEACON PLACE AT CHURCH SQUARE
WITNESSETH:**

This Amendment to the Declaration of Covenants, Conditions, and Restrictions for Beacon Place at Church Square is made as of December 28, 2001.

RECITALS

A. The original Declaration of Covenants, Conditions, and Restrictions for Beacon Place at Church Square has been recorded in Volume 96-10152, Page 14 et seq. and recorded Amendment Number One (1) in Volume 97-10010, Page 35 et seq. (the "Declaration") for the housing area known as Beacon Place at Church Square ("Beacon Place"), on the real property attached as Exhibit A hereto and made a part hereof.

B. Beacon Place is governed by The Beacon Place at Church Homeowners Association, Inc. (the "Association").

NOW, THEREFORE, the undersigned declares that the property described in Exhibit A attached hereto and made a part hereof (the "Property") shall be held, sold and conveyed pursuant to this Declaration and the covenants, conditions and restrictions described therein which are for the purpose of protecting the value and desirability of the Property, and which shall run with the title to the Property and shall be binding on and inure to the benefit of any and all parties having any right, title, or interest in or to the

CUYAHOGA COUNTY RECORDER
200112281177 PAGE 1 of 7

Surety Title Agency, Inc.
ORDER NO. ST 24231B
ESCROW NO. 01-628M

Property or any part thereof, and such parties' respective heirs, representatives, successors and assigns.

1. The terms and powers as of the Declaration notwithstanding the term "Property" shall mean the real property described on Exhibit A attached hereto and made a part hereof.

2. The terms and provisions of Article X, Section 9 of the Declaration to the contrary notwithstanding, pets shall be limited to customary household pets such as cats, dogs, pet fish and parakeets. and cats and dogs shall be kept on a leash at all times when outside on the Property. An Owner shall not keep more than two (2) dogs and/or cats. Each owner must pick up all fecal matter produced by his or her pet on the Property and dispose of such waste in an appropriate waste container. The Board shall have the power to establish and levy and assess fines against any Owner violating Article X, Section 9 of the Declaration, which shall be collected as an assessment by the Association.

3. The terms and provisions of the Declaration to the contrary notwithstanding:

(a) If more than one person owns a portion of a Townhouse or Lot, the collective owners of such Townhouse or Lot shall have one (1) vote for the purposes of any vote or action to be taken by an Owner under the Declaration.

(b) The Board shall have the power to levy and asses fines against any Owner who violates the Declaration; provided that such Owner is first given a written warning and notice to correct such violation and such Owner either (i) fails to correct such violation within ten (10) days after Owner's receipt of such

notice, or (ii) such Owner commits a subsequent violation after receipt of such notice.

(c) Any sign permitted by Article X, Section 10 of the Declaration must be approved by the ARC (as defined in the Declaration) and can only be displayed inside the front window.

(d) The word "overnight" is hereby deleted from the last sentence of Article X, Section 11 of the Declaration.

(e) Any Owner who fails to pay any assessment within fifteen (15) days after receipt of an invoice for such assessment shall be charged with a Ten Dollar and no/cent (\$10.00) per assessment late fee, in addition to any interest due pursuant to Article VI, Section 9 of the Declaration. The cost of collecting any delinquent assessments shall be charged to said delinquent Owner and shall be treated as part of the assessment due and payable by said Owner and shall be collected as such under the Declaration. To the extent permitted by law, any delinquent Owner who is more that six (6) months in arrears in payment of any assessment due under the Declaration shall not be entitled to vote on any Association matter until said arrearage and interest due thereon have been paid in full.

4. For the purposes of the Declaration, each Coach Home shall be treated in the same manner as a Townhouse and the term Coach House shall be included wherever the term Townhouse is provided in the Declaration as applicable.

5. As amended hereby, the Declaration shall remain in full force and effect in accordance with its terms.

6. Each Owner shall maintain the exteriors of said Owner's residence and the related yard area in accordance with rules and regulations to be established by the Board. If any Owner fails to meet such maintenance requirements, the Association, acting through the Board, shall give said Owner thirty (30) days written notice to meet those maintenance requirements. If such Owner fails to meet said requirements within that period, the Board shall have the power and authority to take any and all actions the Board deems appropriate to bring said Owner's residence and/or yard into compliance with the Board's requirements and assess the cost of such compliance against said Owner as an assessment in accordance with this Declaration.

IN WITNESS WHEREOF, the undersigned, being Declarant and Additional Declarant named herein, have executed this Amendment on December 28, 2001.

CUYAHOGA COUNTY RECORDER
200112281177 PAGE 4 of 7

"DECLARANT"

Witnesses:

ZAREMBA CLEVELAND COMMUNITIES, INC.
an Ohio corporation

[Signature]

Name: Brian E. Blainke

By: [Signature]

Its: President

[Signature]

Name: Linda J. Mengelkamp

"ADDITIONAL DECLARANT"
BEACON PLACE LIMITED PARTNERSHIP
An Ohio limited partnership

[Signature]

By: Zaremba Cleveland Communities, Inc.
its general partner

Brian E. Blainke
Print Name

In Turn By: [Signature]

[Signature]

Its: President

Linda J. Mengelkamp
Print Name

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

This instrument was acknowledged before me this 28 day of December, 2001, by Nathan Zaremba the President of Zaremba Cleveland Communities, Inc., an Ohio corporation on behalf of said corporation.

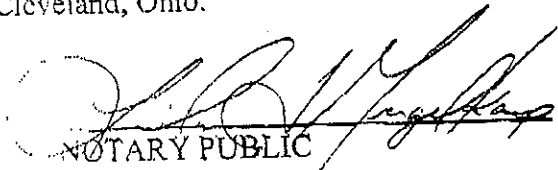
[Signature]
NOTARY PUBLIC

Linda J. Mengelkamp
Notary Public State of Ohio
Recorded In Lake County
Commission Expires April 19, 2006

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

Before me, a Notary Public in and for said County and State, personally appeared Nathan Zaremba, the President of Zaremba Cleveland Communities, Inc., the General Partner of Beacon Place Limited Partnership, who acknowledged that he executed the foregoing instrument and that the same is his own free act and deed in the foregoing capacity, the free act and deed of such corporation on behalf of such partnership, and the free act and deed of such partnership.

In testimony whereof, I have hereunto set my hand and seal this 28 day of December, 2001, at Cleveland, Ohio.



NOTARY PUBLIC

Linda J. Mengelkamp
Notary Public State of Ohio
Recorded In Lake County
Commission Expires April 19, 2006

This instrument prepared by:

Timothy J. Grendell
6060 Rockside Woods Boulevard
Suite 250
Independence, Ohio 44131
Phone No.: (216) 524-6444

CUYAHOGA COUNTY RECORDER
200112281177 PAGE 6 of 7

EXHIBIT A**PHASE I - Parcel 1**

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S9 through S16 inclusive and T37 through T44 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE I - Parcel 2

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S17 through S24 inclusive and T45 through T52 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE II

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S25 through S32 inclusive and T53 through T60 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE III - Parcel 1

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots S1 through S8 inclusive and T29 through T36 inclusive as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

PHASE III - Parcel 2

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original 100 Acre Lot No. 399 and further known as being Sublots T1 through T28 inclusive and Block B and C as shown on plat of Beacon Place at Church Square Subdivision as recorded in Volume 276, Page 41 of Cuyahoga County Map Records.

BY-LAWS
OF
BEACON PLACE AT CHURCH SQUARE
HOMEOWNERS' ASSOCIATION, INC.
(an Ohio not-for-profit corporation)

Table of Contents

	<u>Page</u>
ARTICLE I The Association	1
ARTICLE II Board of Trustees	3
ARTICLE III Officers	6
ARTICLE IV General Powers of the Association	7
ARTICLE V Determination and Payment of Assessments	9
ARTICLE VI Indemnification of Trustees and Officers	12
ARTICLE VII General Provisions	13

CUYAHOGA COUNTY RECORDER
PATRICK J. OMALLEY
DEED 12/06/2001 11:59:25 AM
200112060320

BY-LAWS
OF
BEACON PLACE AT CHURCH SQUARE HOMEOWNERS' ASSOCIATION, INC.

The within "By-Laws" are executed and incorporated by reference in the Declaration of Covenants and Restrictions of Beacon Place at Church Square Homeowners' Association, Inc. recorded in the Cuyahoga County Records at Volume 96-10152, page 14, et seq., as amended by Amendment No. 1 recorded on October 1, 1997 at Volume 97-10010, page 35 (collectively, "Declaration"). The purpose of these By-Laws is to provide for the establishment of a home owners association known as the Beacon Place at Church Square Homeowners' Association, Inc., an Ohio not-for-profit corporation ("Association") for the government of the "Property", "Lots" and the "Common Area" (each as defined in the Declaration) in the manner provided by the Declaration and by these By-Laws. All present or future Members (as defined in the Declaration) or their tenants, invitees, or any other person who might use the facilities of the Common Areas in any manner, shall be subject to the covenants, provisions or regulations contained in the Declaration, these By-Laws and any restriction, condition or regulation hereafter adopted by the Association. The mere acquisition or rental of any of the Lots or the mere act of occupancy of any of the Lots, will constitute acceptance and ratification of the Declaration and of these By-Laws. All defined terms used herein will have the same meanings as ascribed to them in the Declaration. The term "Developer" herein shall also refer to "Declarant" as defined in the Declaration.

ARTICLE I
THE ASSOCIATION

Section 1. Name and Nature of Association. The Association shall be an Ohio not-for-profit corporation and shall be called Beacon Place at Church Square Homeowners' Association, Inc.

Section 2. Membership. Subject to the terms of Article IV of the Declaration, each Owner (defined in the Declaration), upon acquisition of title to a Lot, shall automatically become a "Member" of the Association. Such membership shall terminate upon the sale, or other disposition by such Member of his or her Lot ownership, at which time the new Owner of such Lot shall automatically become a Member of the Association.

Section 3. Voting Rights. The Association has two (2) types of Members: Class A Members and Class B Members, as defined in the Declaration. The total number of votes of all voting Class A Members shall be equal to the number of Lots. The total number of votes for the Class B Members will be equal to the number of Class A Members plus one (1). If two (2) or more persons, whether fiduciaries, tenants in common or otherwise, own divided interests in the ownership interest in a Lot, each shall be entitled to exercise such proportion of the voting power for such Lot as shall be equivalent to such person's proportionate interest in the Lot. Voting rights are subject also to the terms of the Declaration.

Section 4. Proxies. Members may vote or act in person or by proxy. The person appointed, as proxy need not be a Member of the Association. Designation by a Member or Members of a proxy to vote or act on his, her or their behalf shall be made in writing to the Secretary of the Association and shall be revocable at any time by actual notice to the Secretary of the Association by the Member or Members making such designation. Notice to the Association in writing or in open meeting of the revocation of the designation of a proxy shall not affect any vote or act previously taken or authorized.

Section 5. Meeting of Members.

(a) Annual Meeting. The annual meeting of Members of the Association for the election of members of the Board of Trustees, the consideration of reports to be laid before such meeting and the transaction of such other business as may properly be brought before such meeting shall be held at the office of the Association or at such other place as may be designated by the President and specified in the notice of such meeting at 7:00 p.m., or at such other time as may be designated by the President. The annual meeting of Members of the Association shall be held within the first quarter of each calendar year.

(b) Special Meeting. Special meetings of the Members of the Association may be held on any business day when called by the President of the Association, or by the Board of Trustees of the Association, or by Members entitled to exercise at least twenty-five percent (25%) of the voting power of the Association. Upon request in writing, delivered either in person or by certified U.S. mail, to the President or the Secretary of the Association by any persons entitled to call a meeting of Members, such officer shall forthwith cause to be given to the Members entitled thereto notice of a meeting to be held on a date not less than seven (7) or more than sixty (60) days after the receipt of such request as such officer may fix. If such notice is not given within thirty (30) days after the delivery or mailing of such requests, the persons calling the meeting may fix the time of the meeting and give notice thereof. Each special meeting shall be called to convene at 7:00 p.m., and shall be held at the office of the Association or at such other place and time as shall be specified in the notice of meeting.

(c) Notice of Meetings. Not less than seven (7) nor more than sixty (60) days before the day fixed for a meeting of the Association, written notice stating the time, place and purpose of such meeting shall be given by or at the direction of the Secretary of the Association or any other person or persons required or permitted by these By-Laws to give such notice. The notice shall be given by personal delivery or by mail to each Member postmarked as of the day next preceding the day on which notice is given. If mailed, the notice shall be addressed to the Members at their respective addresses as they appear on the records of the Association. Notice of the time, place and purposes of the meeting of the Association may be waived in writing either before or after the holding of such meeting, by any Member, which writing shall be filed with or entered upon the records of the meeting. The attendance of any Member at any such meeting without protesting the lack of proper notice prior to or at the commencement of the meeting shall be deemed to be a waiver by him or her of notice of such meeting. Notice of the Annual Meeting may be set conspicuously set forth in a newsletter or other communication; however, notices of special meeting must be in a separate communication.

(d) Quorum – Adjournment. Except as may be otherwise provided by law or by the Declaration, at any meeting of the Members of the Association, the Members entitled to exercise a majority of the voting power of the Association present in person or by proxy shall constitute a quorum for such meeting; provided, however, that no action requiring a designated percentage of Members (whether by law, by the Declaration, or by these By-Laws) may be taken by a lesser percentage; and, provided further, that the Members entitled to exercise a majority of the voting power represented at a meeting, whether or not a quorum is present, may adjourn such meeting from time to time. If any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

Section 6. Order of Business. The order of business at all meetings of the Association shall be as follows:

- (1) Calling of meeting to order.
- (2) Proof of notice of meeting or waiver of notice.
- (3) Reading of minutes of preceding meeting.
- (4) Reports of Officers.
- (5) Reports of Committees.
- (6) Election of Inspectors of election (unless waived by unanimous oral consent of the voting members present).
- (7) Election of Trustees.
- (8) Unfinished and/or old business.
- (9) New business.
- (10) Adjournment.

Section 7. Actions Without a Meeting. All actions which may be taken at a meeting of the Association, except an action for the removal of a Trustee, may be taken without a meeting with a writing, signed by the Members of the Association having a percentage of voting power required to take such action if the same were taken at a meeting. Such writing or writings shall be filed with the Secretary of the Association.

ARTICLE II BOARD OF TRUSTEES

Section 1. Number and Qualifications. The Board of Trustees shall consist of five (5) persons, all of whom must be Members of the Association. The initial number shall be five (5), which number may be changed by a vote of a majority of the Members at an annual meeting or special meeting.

Section 2. Election of Trustees; Vacancies. The Trustees shall be elected at each annual meeting of the Association or at a special meeting called for the purpose of electing Trustees. At a meeting of the Association at which Trustees are to be elected, only persons nominated as candidates shall be eligible for election as Trustees. The candidates receiving the greatest number of votes shall be elected. In the event of any vacancy or vacancies in the Board of Trustees, however caused, the remaining Trustees, though less than a majority of the whole

authorized numbers of Trustees, may fill such vacancy for the unexpired term, by the vote of a majority or their number.

Section 3. Term of Office; Resignations.

(a) Except as otherwise provided in these By-laws, each Trustee shall hold office for a two (2) year term which runs from the time the Trustee is elected until the second following annual meeting of the Members, at which a successor Trustee will be elected. Such terms will be staggered so that a simple majority of Trustee offices will be elected at the annual meetings in odd numbered years and the remaining Trustee offices will be elected at the annual meeting of even numbered years. For example, three (3) Trustees will be elected in an odd numbered year, with the remaining two (2) Trustees elected in even numbered years. Each Trustee will hold their respective office until his or her successor is elected, or until his or her earlier resignation, removal from office or death. At the very first meeting all Trustees will be elected and in the following calendar year the applicable Trustee offices will be up for election even though their original term will be only one (1) year.

(b) Any Trustee may resign at any time by oral statement to that effect made at a meeting of the Board of Trustees or in a writing to that effect delivered to the Secretary of the Association, such resignation to take effect immediately or at such other time as the resigning Trustee may specify.

(c) Trustees shall serve without compensation.

(d) Notwithstanding the above, at the first meeting of the Association where Members other than Declarant are present and twenty-five percent (25%) of the Lots have been sold, twenty-five percent (25%) of the undivided interest in the Common Area and facilities shall be conveyed to the Association by Declarant, the Owners, other than Declarant, shall elect not more than twenty percent (20%) of the Board of Trustees; at such time as the Declarant has sold fifty percent (50%) of the Lots, Declarant will convey an additional twenty-five percent (25%) ownership interest (for a total of fifty percent (50%)) of the undivided interest in the Common Areas to the Association, the Owners, shall be entitled to elect not more than forty percent (40%) of the Board of Trustees; the remaining Trustee positions will be held automatically by the Declarant.

Section 4. Organization Meetings. Immediately after each annual meeting of the Association the newly elected Trustees shall hold an organization meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

Section 5. Regular Meetings. Regular meetings of the Board of Trustees may be held at such times and places as shall be determined by a majority of the Trustees, but at least four (4) such meetings shall be held during each fiscal year.

Section 6. Special Meetings. Special meetings of the Board of Trustees may be held at any time upon request by the President or any two (2) Trustees. Written notice of the time and place of each such meeting shall be given to each Trustee either by personal delivery or by mail,

telegram or telephone at least two (2) days before the meeting. Notice of the meeting need not specify the purposes of the meeting. The attendance of any Trustee at any such meeting without protesting (prior to or at the commencement of the meeting) the lack of proper notice shall be deemed to be a waiver by him or her of notice. Any Trustee may waive notice either before or after the meeting, in writing. Unless otherwise indicated in the notice thereof, any business may be transacted at any organizational, regular or special meeting.

Section 7. Quorum; Adjournment. A quorum of the Board of Trustees shall consist of a majority of the Trustees then in office; provided that a majority of the Trustees present at a meeting duly held, whether or not a quorum is present, may adjourn such meeting from time to time; if any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting. At each meeting of the Board of Trustees at which a quorum is present, all questions and business shall be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration or in these By-Laws.

Section 8. Powers and Duties. Except as otherwise provided by law, the Declaration or these By-Laws, the Board of Trustees shall exercise all power and authority of the Association. In carrying out the purposes of the Declaration or these By-Laws, the Board, for and on behalf of the Association, may do the following (subject to limitations prescribed by applicable law):

- (a) purchase or otherwise acquire, leasehold, use, sell, exchange, transfer and dispose of property of any description or any interest therein not in excess of Five Thousand and NO/100 Dollars (\$5,000.00);
- (b) make contracts for maintenance or repairs of the Common Area;
- (c) effect insurance;
- (d) borrow money, and issue, sell and pledge notes, bonds and other evidence of indebtedness of the Association not in excess of Five Thousand and NO/100 Dollars (\$5,000.00);
- (e) levy assessments against the Owners;
- (f) employ a managing agent to perform such duties and services set forth in the Declaration or these By-Laws as the Board may authorize;
- (g) employ lawyers and accountants to perform such legal and accounting services as the Board may authorize;
- (h) do all things permitted by law and exercise all power and authority incidental to or otherwise within the purposes stated in these By-Laws or the Declaration.
- (i) it shall be the duty of the Board to keep a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Association, or at a special meeting when such statement is requested in writing by one-fourth (1/4) of the voting power of the Association.

After Declarant is no longer a Trustee, items (a), (b), (d) and (e) above in this section will require a vote of seventy-five percent (75%) of the Trustees. All of the items in this section shall also be subject to the voting provisions in Article V of the Declaration.

Section 9. Removal of Trustees. At any regular or special meeting of Owners of the Association duly called, any one (1) or more of the Trustees may be removed with or without cause by the vote of Members entitled to exercise at least seventy-five percent (75%) of the voting power of the Association, and a successor or successors to such Trustee or Trustees so removed shall then and there be elected to fill the vacancy or vacancies thus created; provided however, that Declarant may not be removed as a Trustee in the absence of cause which amounts to reckless, wanton or gross neglect or conduct. Any Trustee whose removal has been proposed by the Members shall be given an opportunity to be heard at such meeting.

Section 10. Fidelity Bonds. The Board of Trustees may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate Fidelity Bonds. The premiums on such bonds shall be paid by Association.

Section 11. Declarant as Trustee. Notwithstanding anything in these By-Laws to the contrary, no actions of the Board of Trustees will be taken without the approval of the Declarant.

ARTICLE III OFFICERS

Section 1. Election and Designation of Officers. The Board of Trustees shall elect a President, a Secretary and a Treasurer, each of whom shall be a Trustee. Such elections will be by majority vote of the Trustees. The Board of Trustees may also appoint a vice president, an assistant treasurer and an assistant secretary and such other officers as in their joint judgment may be necessary who are not Trustees but who are Members.

Section 2. Term of Office; Vacancies. The officers of the Association shall hold office until the next organization meeting of the Board of Trustees and until their successors are elected, except in case of resignation, removal from office or death. The Board of Trustees may remove any officer at any time with or without cause by a majority of vote of the Trustees then in office. The Board of Trustees may fill any vacancy in any office.

Section 3. President. The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Board of Trustees. Subject to directions of the Board of Trustees, the President shall have general executive supervision over the business and affairs of the Association. He or she may execute all authorized deeds, contracts and other obligations of the Association and shall have such other authority and shall perform such other duties as may be determined by the Board of Trustees or otherwise provided for in the Declaration or in these By-Laws.

Section 4. Vice President. If one is elected, shall perform the duties of the President whenever the President is unable to act and shall have such other authority and perform such other duties as may determine vice president.

Section 5. Secretary. The Secretary shall keep the minutes of meetings of the Association and of the Board of Trustees, shall give notices of all meetings of the Association and of the Board of Trustees as required by law, these By-Laws or otherwise, and shall have such authority and shall perform such other duties as may be determined by the Board of Trustees.

Section 6. Treasurer. The Treasurer shall receive and have in charge all money, bills, notes and similar property belonging to the Association, and shall do with the same as may be directed by the Board of Trustees. He or she shall keep accurate financial accounts and the Board of Trustees may determine to hold same open for the inspection and examination of the Trustees and shall have such authority and shall perform such other duties as the Board of Trustees may determine.

Section 7. Other Officers. The assistant secretaries and assistant treasurers, if any, and any other officers whom the Board of Trustees may appoint, shall respectively, have such authority and perform such duties as may be determined by the Board of Trustees.

Section 8. Delegation of Authority and Duties. The Board of Trustees is authorized to delegate the authority and duties of any officer to any other officer, to oversee the actions of the officers and to require the performance of duties in addition to those mentioned herein.

ARTICLE IV GENERAL POWERS OF THE ASSOCIATION

Section 1. Common Expenses. The Association, exclusively by the Board of Trustees, for the benefit of all of the Owners, shall acquire and arrange for the following:

(a) Utility Service for Common Areas and Facilities. Water, waste removal, electricity, telephone, heat, power or any other necessary utility service for the Common Areas and facilities.

(b) Casualty Insurance. A policy of fire insurance, with extended coverage, vandalism and malicious mischief endorsements, as provided in the Declaration, the amount of which insurance shall be reviewed annually.

(c) Liability Insurance. A policy insuring the Association, the Trustees and the Owners against any liability to the public or to the Owners incidental to the ownership and/or use of the Common Areas and facilities, as provided in the Declaration, the limits of which policy shall be reviewed annually.

(d) Workers' Compensation. Workers' compensation is insurance to the extent necessary to comply with any applicable laws.

(e) Wages and Fees for Services. The services of any person or persons required for the maintenance of or operation of the Common Areas, and legal and/or

accounting services necessary or proper for enforcement of the terms of Declaration and these By-Laws and for the organization, operation and enforcement of the rights of the Association.

(f) Care of Common Areas and Facilities. Landscaping, gardening, window cleaning, snow removal, painting, cleaning, tuck pointing, maintenance, decorating, repair and replacements of the Common Areas and such furnishings and equipment for the Common Areas as the Association shall determine are necessary and proper. In the event, however, that repair or replacement is due to the intentional or negligent act of an Owner or its tenants, employees, agents, contractors, patrons, patients, customers, invitees or the like, the same shall be assessed to such Owner, which assessment will not be subject to the voting requirements of Article III.

(g) Additional Expenses. Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration and these By-Laws or by law which, in its opinion, shall be necessary or proper for the main entrance and operation of the Common Areas as a first class residential development or for the enforcement of the Declaration and these By-Laws.

(h) Discharge of Mechanic's Lien. Any amount necessary to discharge any mechanic's lien or other encumbrances levied against the entire Common Areas or any part thereof which may in the opinion of the Association constitute a lien against the Common Areas, rather than merely against the interests therein of particular Owners; it being understood, however, that the foregoing authority shall not be in limitation of any statutory provisions relating to the same subject matter. Where one (1) or more Owners are jointly and severally responsible for the cost of discharging it and any costs incurred by the Association by reason of said lien or liens should be specially assessed to said Owners.

(i) Certain Maintenance of Units. Maintenance and repair of any Lot if such maintenance or repair is necessary (to enforce the terms of the Declaration), in the discretion of the Board of Trustees, to protect the Common Areas, and the Owner of said Lot have failed or refused to perform said maintenance or repairs within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Owner. The Association shall levy a special assessment against such Lot Owner for the cost of said maintenance or repair.

(j) Association's Right to Enter Lot. After reasonable notice, the Association or its agent may enter any Lot when necessary in connection with any maintenance or construction for which the Association is responsible or authorized. Such entry shall be made with as little as inconvenience to the Owner of the Lot as practicable, and any damage cause thereby shall be repaired by the Association from insurance proceeds, or, in the event, that the damage is not covered by insurance, the damage shall be repaired by the Association at the expense of the maintenance fund.

(k) Capital Additions and Improvements. The Association's powers hereinabove enumerated shall be limited in that the Association shall have no authority to

acquire and pay for out of the maintenance fund any capital additions and improvements (other than for purposes of repairing or restoring portions of the Common Areas, subject to all of the provisions of the Declaration and these By-Laws) having a total cost in excess of Five Thousand Dollars (\$5,000.00), nor shall the Association authorize any structural alterations, capital additions to, or capital improvements of the Common Areas requiring an expenditure in excess of Five Thousand Dollars (\$5,000.00) without in each case the prior approval of the Owners entitled to exercise a majority of the voting power of the Association.

Section 2. Rules and Regulations. The Association, by vote of the Owners entitled to exercise a majority of the voting power of the Association, may adopt such reasonable rules and regulations and from time to time amended the same supplementing the rules and regulations set forth in the Declaration and these By-Laws as it may deem advisable for the maintenance, conservation and beautification of the Common Areas and for the health, comfort, safety and general welfare of the Owners. Written notice of such rules and regulations shall be given to all Owners, and the Common Areas shall at all times be maintained subject to such rules and regulations. In the event such supplement rules and regulations shall conflict with any provisions of the Declaration or of these By-Laws (as may be properly modified from time to time), the provisions of the Declaration and of these By-Laws shall govern.

Section 3. Delegation of Duties. Nothing herein contained shall be construed so as to preclude the Association, through its Board of Trustees and officers, from delegating to persons, firms or corporations of its choice, including any manager or managing agent, such duties and responsibilities of the Association as the Trustees shall from time to time specify and to provide for reasonable compensation for the performance of such duties and responsibilities.

Section 4. Conflict in Laws or Documents. The Association shall be subject to and governed by the provisions of any statute, regulations, laws or rules, adopted at any time by governmental bodies having jurisdiction over the Common Area; provided, however, that all inconsistencies between or among the permissive provisions of any statute and any provisions of the Declaration or these By-Laws, shall be resolved in favor of the Declaration or these By-Laws. In the event of any conflict or inconsistency between the provisions of the Declaration and the By-Laws of the Association, the terms and provisions of the Declaration shall prevail.

ARTICLE V DETERMINATION AND PAYMENT OF ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant for each Lot within the Property owned by it and each other Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association:

(a) An annual assessment for the continued operation, care, maintenance and repair of the Common Area, including, but not limited to, storm sewer easements (both on and off site), retention areas and drainage systems, signs, landscaping and recreation facilities, as provided in this Declaration, and for the Association's performance of its other functions and responsibilities; and

(b) Special assessments for improvements or other capital expenditures, including the acquisition of additional property for use as Common Areas, for emergency, operating, maintenance or repair costs, and for other costs and expenses not anticipated in determining the applicable annual assessment. Each assessment shall be in the same amount for each Lot. Each Lot shall be subject to a lien in favor of the Association securing any and all unpaid annual and special assessments, as hereinafter provided. All annual and special assessments, together with interest thereon as hereinafter provided, shall be a charge upon such Lot and if not paid within thirty (30) days after their due date, the Association shall have a lien upon the Lot for which such assessment has not been paid. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due.

Additionally, the Owners of Lots within the Property identified in the Declaration shall pay as part of their annual assessment the prorated cost for the Association's maintenance of the laws and exterior for their properties, as the Association, acting through its Board, deems appropriate. Such costs shall be included as part of the annual assessment for such Lots.

Section 2. Annual Assessments. The annual assessment shall be determined and levied annually by the Trustees of the Association prior to the date of the annual meeting of the Association, in such amounts as in their discretion shall be reasonably necessary to meet expenses anticipated during the ensuing year and to accumulate reasonable reserves for anticipated future operating or capital expenditures. At the annual meeting of the Association, the amounts of the annual assessment, as levied by the Trustees may be increased or decreased by the affirmative vote of Members entitled to exercise a majority of voting power of the Association. The annual assessment for each calendar year shall be prorated and paid by each Owner in full within thirty (30) days after the annual meeting of the Association.

Section 3. Special Assessments. Special assessments may be levied by the Association from time to time at a meeting of the Members of the affirmative vote of Members entitled to exercise a majority of the voting power of the Association and, if there is more than one class of membership, then by the affirmative vote of Members entitled to exercise a majority of the voting power of each class of membership; provided that written notice shall be given to each Member at least thirty (30) days in advance of the date of such meeting stating that a special assessment will be considered at and discussed at such meeting. Special assessments will be paid in the manner prescribed in the resolution authorizing such assessment (which shall also be set forth in the notice for the meeting at which the assessment will be voted on), which may be payable in installments over a period of years.

Section 4. Default. If an installment of the annual assessment or special assessment is not paid within thirty (30) days after the due date, such delinquent installment or assessment shall bear interest from the due date at the rate of ten percent (10%) per annum, and the Association may after such thirty (30) days period bring an action at law against the Owner responsible for the payment of such assessment, and (additionally or alternatively) may foreclose the lien against the Lot, and in the event a judgment is obtained, such judgment shall include

interest on the assessment or installment amount as above provided, together with the costs of the action and reasonable attorney's fees.

The Association may file in the office of the County Recorder a Notice of Lien to evidence any delinquent assessment or installment, but the Association shall not be under any duty to file such Notice of Lien and its failure or omission to do so shall not in any way impair or affect the Association's lien and other rights in and against the Lot or against the Owner of such Lot.

Section 5. Statement of Unpaid Assessments of Charges. Any prospective grantee or mortgagee of a fee or undivided interest in a Lot may rely upon a written statement from the President, Vice President or Treasurer of the Association setting forth the amount of unpaid assessments of charges with respect to such fee or undivided fee interest. In the case of a sale of any such interest, no grantee shall be liable for, nor shall the interest purchased be subject to a lien for, any unpaid assessments which became due prior to the date of such statement and which are not set forth in such statement; nor shall the membership privileges of such grantee (or his household or guests) be suspended by reasons of any such unpaid assessment. In the case of the creation of any mortgage, any lien of the Association for unpaid assessments which became due prior to the date of such statement and which are not set forth in such statement shall be subordinate to such mortgage.

Section 6. Computation and Application of Annual Assessments. The annual assessment to be levied against each Lot shall be equal to the product of the total annual budget for the Association times a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots within the Property. The assessment shall be applied toward payment of the following costs and expenses:

- (a) the discharge of all obligations of the Association as set forth herein or as established by the Association;
- (b) legal and accounting services for the Association;
- (c) the full amount of any taxes and assessments against the Common Area; and
- (d) the cost of collecting assessments, and expenses of maintaining the Association, and for any and all other purposes which the Association may determine from time to time to be for the general benefit of the Owners and the Lots.

Such assessments may be increased, decreased or adjusted from time to time by the Association, in its reasonable judgment. The Association shall exercise its discretion and judgment as to the amount of its funds to be expended in connection with each of the purposes for which its funds are collected and its discretion in reference thereto shall be binding upon all the interested parties.

Section 7. Exempt Property. The following properties shall be exempted from the assessments and liens created herein:

- (a) the Common Area;
- (b) all properties exempted from taxation by the laws of the State of Ohio, upon the terms and to the extent of such legal exemption; and
- (c) any Lot held by the Declarant or a builder for sale, during construction or as a model for purposes of Declarant's sale activities.

ARTICLE VI INDEMNIFICATION OF BOARD MEMBERS AND OFFICERS

Each Trustee and officer of the Association, and each former Trustee and officer of the Association, shall be indemnified by the Association against the costs and expenses reasonably incurred by him or her in connection with the defense of any pending or threatened action, suit or proceeding, criminal or civil, to which he or she is or may be made a party by reason of his or her being or having been such Trustee or officer of the Association (whether or not he or she is a Trustee or officer at the time of incurring such cost and expense), except with respect to matters as to which he or she shall be adjudged in such action, suit or proceeding to be liable for misconduct or gross negligence in the performance of his or her duty as such Trustee or officer. In case of the settlement of any action, suit or proceeding to which any Trustee or officer of the Association, or any former Trustee or officer of the Association, is made a party or which may be threatened to be brought against him or her by reason of his or her being or having been a Trustee or officer of the Association, he or she shall be indemnified by the Association against the costs and expenses (including the cost of settlement) reasonably incurred by him or her in connection with such action, suit or proceeding (whether or not he or she is a Trustee or officer at the time of incurring such costs and expenses), if (a) the Association shall be advised by independent counsel that such Trustee or officer did not perpetrate the misconduct or was not grossly negligent in the performance of his or her duty as such Trustee or officer with respect to the matters covered by such action, suit or proceeding, and the cost of the Association of indemnifying such Trustee officer (and all other board members and officers, if any, entitled to indemnification hereunder in such case) if such action, suit or proceeding were carried to a final adjudication in their favor could reasonably be expected to exceed the amount of costs and expenses to be reimbursed to such Trustees and officers as a result of such settlement, or (b) disinterested Owners entitled to exercise a majority of the voting power shall, by vote at any annual or special meeting of the Association, approve such settlement and the reimbursement to such Trustee or officer of such costs and expenses. The phrase "disinterested Owners" shall mean Owners of the Association other than (i) any Trustee or officer of the Association who, at the time, is or may be entitled to indemnification pursuant to the foregoing provisions, (ii) any Corporation or organization of which any such Trustee or officer owns of record or beneficially ten percent (10%) or more of any class of voting securities, (iii) any firm of which such Trustee or officer is a partner, and (iv) any spouse, child, parent, brother or sister of any such Trustee or officer. The foregoing rights of indemnification shall inure to the benefit of the heirs and legal representatives of such Trustee or officer, and shall not be exclusive of other rights to which any Trustee or officer may be entitled as a matter of law or under the Declaration, any vote of Owners or any agreement.

ARTICLE VII GENERAL PROVISIONS

Section 1. Copies of Notice to Mortgage Lenders. Upon written request to the Board of Trustees by the holder of any duly recorded mortgage or trust deed against any Lot, the Board of Trustees shall give such mortgage holder a copy of any and all notices permitted or required by the Declaration or these By-Laws to be given to the Owner whose Lot is subject to such mortgage or trust deed.

Section 2. Service of Notices on Board of Trustees or Association. Notices required to be given to the Board of Trustees will be delivered to any Trustee and notices required to be given to the Association will be delivered to an officer of the Association. All notices will be effective when delivered either personally, by certified U.S. mail or via a nationally recognized overnight courier service addressed to such Trustee or officer at his or her Lot or such other address on record with the Association.

Section 3. Service of Notices on Owners. Notices required to be given any to Owner may be delivered either personally, by U.S. mail or via a nationally recognized overnight courier service, addressed to such party at his, her or its address appearing on the records of the court wherein the estate of such deceased Owner is being administered.

Section 4. Non-Waiver of Covenants. No covenants, restrictions, conditions, obligations or provisions contained in the Declaration or these By-Laws 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.

Section 5. Agreements Binding. All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Declaration and these By-Laws shall be determined to be binding on all Owners, their successors and assigns.

Section 6. Severability. The invalidity of any covenant, restriction, condition, limited or any other provision of these By-Laws or any part of the same shall not impair or affect in any manner the validity, enforceability of effect of the rest of these By-Laws.

Section 7. Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by the Declaration or these By-Laws shall be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the last remaining survivor of the now living descendants of George W. Bush, President of the United States of America and Queen Elizabeth II of England.

Section 8. Definitions. The terms used in these By-Laws (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of these By-Laws

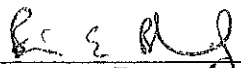
and of any amendment hereto shall have the respective meanings specified in Article I of the Declaration.

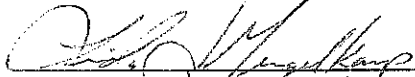
Section 9. Amendments of By-Laws. These By-Laws may be amended or modified at any time, or from time to time, only by action or approval of the Owners exercising seventy-five percent (75%) or more of the voting power of the Association.

Section 10. Amendments to Articles of Incorporation. The Articles of Incorporation may be amended or modified at any time, or from time to time, only by action or approval of the Owners exercising seventy-five percent (75%) or more of the voting power of the Association.

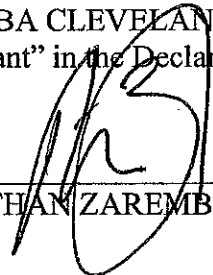
IN WITNESS WHEREOF, the undersigned have executed these By-Laws this 9th day of August, 2001.

Witnesses:

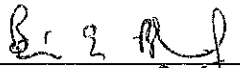

Print Name → Brian E. Blain

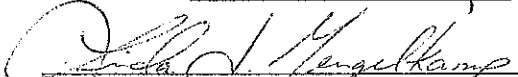

Print Name → Linda J. Mengelkamp

ZAREMBA CLEVELAND COMMUNITIES, INC.
("Declarant" in the Declaration)

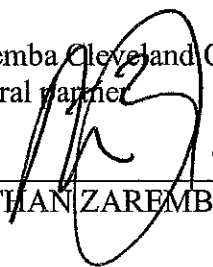
By: 
NATHAN ZAREMBA, President

Witnesses:


Print Name → Brian E. Blain


Print Name → Linda J. Mengelkamp

BEACON PLACE LIMITED PARTNERSHIP
("Additional Declarant" in the Declaration)

By: Zarembo Cleveland Communities, Inc., its
general partner
By: 
NATHAN ZAREMBA, President

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

The foregoing instrument was acknowledged before me this 9 day of August, 2001 by Zaremba Cleveland Communities, Inc., and Beacon Place Limited Partnership, by Zaremba Cleveland Communities, Inc., by Nathan Zaremba, as President, who acknowledged that he did sign the foregoing instrument as such officer on behalf of said entities as the free act and deed of himself and of each entity.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.



NOTARY PUBLIC

Linda J. Mengelkamp
Notary Public State of Ohio
Recorded in Lake County
Commission Expires April 19, 2006