

BENTLEY PARK OWNERS ASSOCIATION

P.O. Box 348600
Sacramento, CA 95834-8600
Phone: (916) 925-9000
Fax: (916) 567-6230

February 10, 2010

Irma Aranda
Chicago Title Company
675 N. 1st Street, Suite 300
Pasadena, CA 91101

ESCROW DEMAND
Via E-mail: arandai@ctt.com
Phone: (408) 283-3500
Fax: (408) 283-3509

Re: Escrow: # 10-99612579-IR/ Unit: 9534-061/ Wong /Acct: WON061/ Property: 2002 McKenzie Place

Dear Irma:

Pursuant to your request, the seller's assessments are current through February 28, 2009.

Association monthly assessments are \$85.00. Due on the 1st of each month, and are delinquent if received after the 15th. There is a \$10.00 late fee if received after the 15th. The next payment is due **March 1st. **Please collect one month assessments in advance from the buyer, any assessments that may be due from seller and make check payable to Bentley Park Owners Association. ** (Doc's sent via Fed-ex Tracking #7983 6080 5175)**

In accordance with Civil Code Section 1368, the seller must provide to the buyer the Associations CC&R's, Bylaws, Articles of Incorporation, other adopted rules or regulations and certain financial reports. These docs are provided for an additional charge.

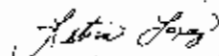
The Transfer fee is \$50.00, the Statement fee is \$50.00, and the Document with questionnaire fee is \$250.00. **Total due to VierraMoore, Inc. is \$350.00.**

****Please make the statement, transfer and additional document fees check payable to VierraMoore, Inc.** Please return both checks, a conformed copy of the grant deed, and a copy of this letter to P.O. Box 348600, Sacramento, CA 95834-8600, upon close of escrow.**

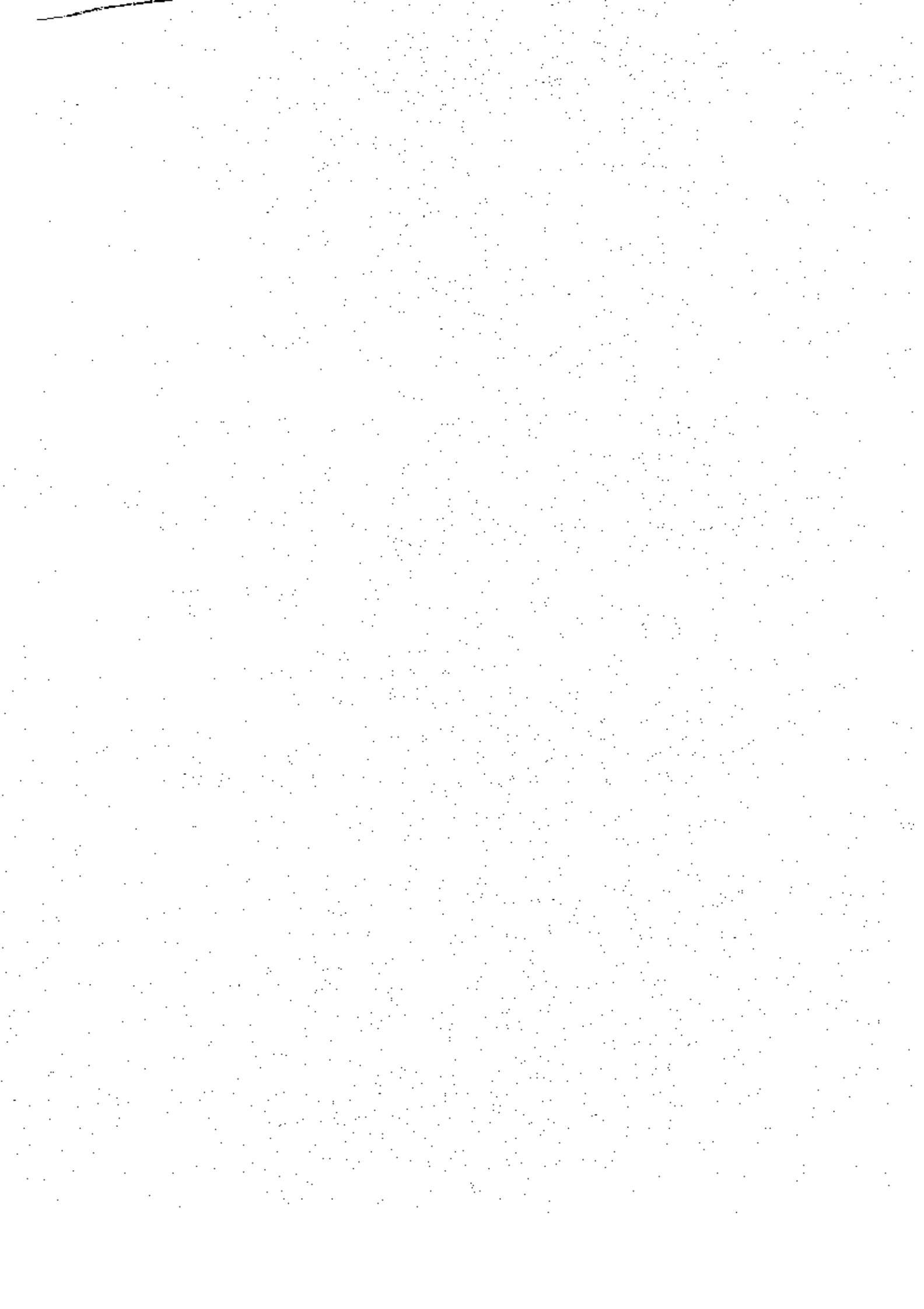
Please note that Dave Anderson of Distinguished Program Group has placed common area insurance. You may contact him at (925) 855-3270 for any required insurance certificates.

If the above- referenced transaction does not close on or before February 28, 2010 please contact me for an updated demand at llopez@vierramoore.com, If you have any questions, please call me at (916) 925-9000 ext. 291.

Sincerely,



Leticia Lopez
Agent on behalf of the Association



Balance Sheet (Accrual)
BENTLEY PARK OWNERS' ASSOC - (HBEN)
Dec 2008

Page 1
2/9/2010
08:53 AM

ASSETS	
UBofC - Cash In Bank	3,325.87
UBofC - Money Market	<u>26,866.05</u>
TOTAL CASH	30,191.92
ACCOUNTS RECEIVABLE	
Dues Receivable	809.00
Late Chgs Receivable	222.60
Violation Fees Receivable	<u>1,073.40</u>
TOTAL ACCTS RECEIVABLE	2,105.00
OTHER ASSETS	
Prepaid Insurance	2,220.63
Prepaid Expenses	<u>56.00</u>
TOTAL OTHER ASSETS	2,276.63
RESERVES	
UBofC - Reserves	31,577.46
UBofC - CD 0.90% 02/03/2010	10,322.53
UBofC - CD 0.90% 02/01/2010	10,236.64
UBofC - CD .70% 11/12/2010	10,180.64
UBofC - CD 1.15% 02/06/2010	<u>10,206.15</u>
TOTAL RESERVES	72,523.32
TOTAL ASSETS	107,096.87
LIABILITIES & CAPITAL	
LIABILITIES	
Accounts Payable	130.00
Prepaid Dues	3,666.00
RESERVES	
Reserves	70,061.22
Reserve Contingency	<u>2,462.10</u>
TOTAL RESERVES	72,523.32
TOTAL LIAB. & RESERVES	76,319.32
CAPITAL	
Retained Earnings	27,627.33
Net Earnings	<u>3,150.22</u>
TOTAL CAPITAL & EQUITY	30,777.55
TOTAL LIAB. & CAPITAL	107,096.87



Budget Comparison (Accrual)
BENTLEY PARK OWNERS' ASSOC - (HBEN)
Dec 2008

	<u>MTD Actual</u>	<u>MTD Budget</u>	<u>\$ Var.</u>	<u>% Var.</u>	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>\$ Var.</u>	<u>% Var.</u>	<u>Annual</u>
INCOME									
Assessments	7,140.00	7,140.00	0.00	0.00	85,680.00	85,680.00	0.00	0.00	85,680.00
Late Charges	75.00	0.00	75.00	0	317.00	0.00	317.00	0	0.00
Interest	541.48	0.00	541.48	0	1,371.03	0.00	1,371.03	0	0.00
Misc Income	0.00	0.00	0.00	0	89.00	0.00	89.00	0	0.00
Violation Fines	-480.00	0.00	-480.00	0	0.00	0.00	0.00	0	0.00
TOTAL INCOME	7,275.48	7,140.00	136.48	1.91	87,457.03	85,680.00	1,777.03	2.07	85,680.00
EXPENSES									
Insurance	296.00	346.25	50.17	14.49	3,481.12	4,155.00	663.88	15.98	4,155.00
Accounting	0.00	133.37	133.37	100.00	1,763.47	1,600.00	-163.47	-10.22	1,600.00
Legal Services	0.00	62.50	62.50	100.00	0.00	750.00	750.00	100.00	750.00
Income Taxes	0.00	5.00	5.00	100.00	60.00	60.00	0.00	0.00	60.00
Management Fee	1,260.00	1,260.00	0.00	0.00	15,120.00	15,120.00	0.00	0.00	15,120.00
Minor Repairs	0.00	168.00	168.00	100.00	305.00	2,016.00	1,711.00	84.87	2,016.00
Landscape Maintenance	2,165.00	2,166.53	-18.37	-0.85	25,220.00	26,000.00	-780.00	-2.99	26,000.00
Landscape Upgrades/Repairs	218.13	365.00	146.87	40.24	11,098.18	4,380.00	-6,718.18	-153.3	4,380.00
Electricity	71.11	183.37	112.26	61.22	-1,395.63	2,200.00	3,595.63	163.44	2,200.00
Water	1,345.73	833.37	-512.36	-61.48	7,792.94	10,000.00	2,207.06	22.07	10,000.00
Misc Contingency	-58.00	184.88	240.88	130.29	1,526.01	2,219.00	690.99	31.14	2,219.00
TOTAL EXPENSES	6,320.05	6,708.37	388.32	6.80	65,983.07	68,500.00	2,516.93	3.67	65,500.00
RESERVES									
Reserves	1,431.67	1,431.67	0.00	0.00	17,180.04	17,180.04	0.00	0.00	17,180.04
Reserve Contingency	523.33	0.00	-523.33	0	1,143.70	0.00	-1,143.70	0	0.00
TOTAL RESERVES	1,955.00	1,431.67	-523.33	-36.55	18,323.74	17,180.04	-1,143.70	-6.65	17,180.04
GRAND TOTAL EXPENSES	7,275.05	7,140.04	-135.01	-1.89	84,306.81	85,680.04	1,373.23	1.60	85,660.24
NET INCOME	1.43	-0.04	1.47	-3.675	3,150.22	-0.04	3,150.25	-7.875	0.04



HOMEOWNERS ASSOCIATION QUESTIONNAIRE

ESCROW #: 99612579-1A

1. The complete Name of the Association is: Bentley Park Owners Assn.
Address: 2002 McKenzie Place, San Jose, CA 95131
2. Is the residential development filed with the State as a Condominium or Planned Unit Development?
() Condominium () PUD
3. Voting control of the Board of Trustees (Directors) has been turned over to the Homeowners Association since 9 / 2004
Month Year
3a. If not yet turned over to owners, anticipated date of transfer is: _____
Month Year
4. Is there more than one association for the project (such as a "Master" or "Umbrella" Association)?
() Yes () No If yes
4a. The complete name of the Master Association is: _____
4b. Voting Control for the Master Association Board of Trustees (Directors) has been turned over from the builder since _____
Month Year
4c. If not turned over, the anticipated transfer date is: _____
Month Year
5. Is the project an apartment conversion? () Yes () No
If yes, the approximate year converted is: _____
6. The project consists of 64 units, 16 rentals, 70 owner-occupied
7. If the project is completely constructed, please complete the below information:
Owner-Occupied Primary Residence #: 70
Second Home Units #: 10
Investor/Rental Units #: 16
8. Does any single Investor or entity own more than ten percent (10%) of the total unit in the project?
() Yes () No
9. Is all construction complete? (This includes all amenities such as: pools, tennis courts, roads, walkways, parking areas, landscaping, club house and renovations associated with conversions.)
() Yes () No. Additionally, if there is a Master Association:
9a. Is construction of all Master Association recreational facilities complete? () Yes () No
9b. Which recreational items are included in the Master Association? _____
10. Can the project be expanded beyond its current size? () Yes () No If yes, number of additional units to be built _____
11. Does the Association allow daily or weekly rentals?
Daily () Yes () No Weekly () Yes () No
12. Are the units on leased land? () Yes () No If yes, please attach a copy of the Lease Agreement.
13. Are there any leased recreational facilities or any common land area leases? () Yes () No
14. Is the project managed by an outside, professional management firm? () Yes () No
If yes, please supply the contact information indicated below:
Dee Casarez Vietrammore, Inc
Name of Individual to Contact Management Co.
610-925-9000
Phone Number
15. Is any space within the project designated only for commercial use? () Yes () No
If yes, what is the number of commercial units? # _____
16. Who does/will retain title to the commercial units?
() HOA Association () Individual Commercial Unit Owners
17. Does the project contain any affordable housing units (also known as "low-to-moderate-income" housing units)? () Yes () No Number of Units: _____
18. Is the Owner's Association currently a party in any type of litigation? () Yes () No



HOMEOWNERS ASSOCIATION QUESTIONNAIRE

If yes, please state the nature of the suit, the other party involved, the amount being sued for and the anticipated settlement date. (Please attach a detailed explanation of court filing.)

19. Does the Declaration or any other constituent document governing the project contain a right of refusal (or to provide a substitute buyer) in favor of the association or developer to purchase any unit in the project offered for sale, lease or transfer? Yes No

19a. If yes, please provide a copy of any such provisions.

20. The fiscal year of the Association is from: 01 / 2010 to 12 / 2010
Month Year Month Year

21. Please provide the amount of the unit assessment/common charges below. If uniform charges, the monthly assessment is \$ 85.00 per month. If not uniform, the monthly assessment range is from \$ _____ to \$ _____.

22. As of the start of the current fiscal year, how many owners are delinquent more than thirty (30) days in their unit assessment charges? # 1
Total amount of outstanding charges is: \$ 411.54

23. Are there any special assessments now approved, or have there been any in the past year?
 Yes No

23a. If yes, state the nature of the assessments:

Assessment was for: _____
Total amount of assessment was \$ _____
Per unit charge was \$ _____

24. The amount currently held in a segregated reserve for future repair and/or replacement of major components of the project is \$ 21,315.00. This amount is adequate for replacement of major components. Yes No
(**PLEASE ENCLOSE PRESENT & PREVIOUS YEAR'S BUDGETS**)

25. Are there any mortgages or other long-term debts currently outstanding for the association?
 Yes No

25a. If yes, please state the terms of the loan and what the funds were borrowed for: _____

** PLEASE NOTE **

Please provide the following documents along with the completed questionnaire. Thank you for your assistance.

1. Homeowner's Association Budget
2. Association Insurance Binder (Hazard, Fidelity, Flood)
3. Management Company Agreement (if applicable).
4. Copy of Declaration Page from the Master Insurance Policy

THE UNDERSIGNED DOES HEREBY CERTIFY THAT INFORMATION ABOVE IS TRUE AND ACCURATE TO THE BEST OF THEIR KNOWLEDGE AS OF: 2/10/2010
Date

Leticia Lopez
Name of Authorized Signer

Agent on behalf of the HOA
Title of Signer

Verranmore, Inc
Organization of Signer

[Signature]
Signature

THIS IS TO BE COMPLETED BY A DIRECTOR OR OFFICER OF THE HOA OR MANAGER OF THE MANAGEMENT COMPANY ONLY.*



NEW BUSINESS:

- A) **RESERVE STUDY 2009:** On a motion made by Director Serrano and seconded by Director Smith and unanimously carried, the Reserve Study proposal presented by J.D. Beatty and Company in the amount of \$1,000.00 was approved.
- B) **Landscape proposal from Aragon:** On a motion made by Director Smith and seconded by Director Serrano the proposal for the tree trimming was denied.
- C) **YEAR-END FINANCIALS:** The 2008 Year End Financials were not approved as Director Smith had a question regarding Replacement funds. Once Management provides the answer to the Replacement Fund question the Board will send a unanimous written consent

OPEN FORUM: There were no homeowners present to hold the open forum.

ADJOURNMENT: There being no further business and no objections, the meeting was adjourned at 7:00 p.m.

NEXT MEETING: The next meeting will be held in July 2009. Location and time for the July meeting to be determined.

**BENTLEY PARK OWNERS ASSOCIATION
MINUTES OF THE
REGULAR BOARD OF DIRECTORS MEETING
HELD
APRIL 20, 2009**

APPROVED

CALL TO ORDER:

President Smith called the meeting to order at 6:35 p.m.

ROLL CALL:

Directors Present: Steve Smith, Sharon Serrano and Pi Sheng Chang

Directors Absent: Santos Haro and Sinclair Serrano,

Also present: Dee Casarez of VierraMoore, Inc.

It was determined that a quorum of the Board was present.

PROOF OF NOTICE:

An Affidavit executed by former Manager attesting to the mailing of the Notice of the Meeting of the Members and a copy of the Notice were presented for filing in the Association's Minute Book.

APPROVAL OF MINUTES: On a motion made by Director Smith and seconded by Director Serrano and unanimously carried the minutes from the January 20, 2009 Board of Directors Meeting were approved with noted correction to next meeting date showing as January 2009. Corrected date should show April 20, 2009.

FINANCIAL REPORTS:

- A) **Balance Sheet/Budget Comparison Report** - The Board of Directors discussed and reviewed in detail the financial reports of the Association for August and March 2009, including the Balance Sheet, Income and Expense Report, Budget Comparison Report and Reserve Balances.
- B) **Accounts Receivable/Payable** - The Board reviewed and discussed the accounts payable and receivables of the Association for August and March 2009.
- C) **CD'S** - None
- D) **Authorization to Write-Off Acct. LY044** - On a motion made by Director Smith and seconded by Director Serrano and unanimously carried the write off in the amount of \$271.03 was approved.

UNFINISHED BUSINESS: NONE

**BENTLEY PARK OWNERS ASSOCIATION
MINUTES OF THE
REGULAR BOARD OF DIRECTORS MEETING
HELD
NOVEMBER 18, 2009**

DRAFT

CALL TO ORDER:

President Smith called the meeting to order at 6:47 p.m.

ROLL CALL:

Directors Present: Steve Smith, Sharon Serrano and Pi Sheng Chang

Directors Absent: Santos Haro and Sinclair Serrano.

Also present: Dee Casarez of VierraMoore, Inc.

It was determined that a quorum of the Board was present.

PROOF OF NOTICE:

An Affidavit executed by former Manager attesting to the mailing of the Notice of the Meeting of the Members and a copy of the Notice were presented for filing in the Association's Minute Book.

APPROVAL OF MINUTES: On a motion made by Director Serrano and seconded by Director Smith and unanimously carried the minutes from the April 20, 2009 Board of Directors Meeting were approved as presented.

FINANCIAL REPORTS:

- A) **Balance Sheet/Budget Comparison Report** - The Board of Directors discussed and reviewed in detail the financial reports of the Association for October 2009, including the Balance Sheet, Income and Expense Report, Budget Comparison Report and Reserve Balances.
- B) **Accounts Receivable/Payable** - The Board reviewed and discussed the accounts payable and receivables of the Association for October 2009
- C) **Authorization to Write-Off Acct. HUY015** - On a motion made by Director Serrano and seconded by Director Chang and unanimously carried the write off in the amount of \$485.00 was approved.

UNFINISHED BUSINESS:

- A) **FINAL RESERVE STUDY – RATIFY:** On a motion made by Director Smith and seconded by Director Serrano and unanimously carried, the reserve study was finalized.
- B) **2010 BUDGET – RATIFY;** On a motion made by Director Smith and seconded by Director Serrano and unanimously carried the budget present to Board by Management was approve and ratified.

- C) **RED CURB PAINTING - RATIFY:** On a motion made by Director Smith and seconded by Director Serrano and unanimously carried the proposal for the red curb painting in the amount of \$935.00 was approved.

NEW BUSINESS:

- A) **PROPOSAL FROM PCC ACCOUNTING FIRM:** On a motion made by Director Serrano and seconded by Director Smith and unanimously carried to table the proposal from PCC until the Board had a longer time to review.
- B) **PROPOSAL FOR BENDER BOARD REPLACEMENT/REPAIR:** On a motion made by Director Serrano and seconded by Director Smith and unanimously carried the proposal for the replacement/repair of the bender board thought-out the community was tabled until the February 2010 meeting.

OPEN FORUM: There were no homeowners present to hold the open forum.

ADJOURNMENT: There being no further business and no objections, the meeting was adjourned at 7:00 p.m.

NEXT MEETING: The next meeting will be held in May 2010. Location and time for the May meeting to be determined.

UNFINISHED BUSINESS:

- A) **Landscape Proposals/Bark:** Management presented revised bid from Aragon to provide bark at a cost of \$2,500. This item is tabled until spring.
- B) **PG&E UTILITY| BILLS/PAXIO:** Management reported that Paxio had reimbursed the Association for the utility bill for Paxio Cable in the amount of \$2,165.59.
- C) **Tree Trimming:** Discussion ensued over whether trees should be lopped. It was noted that the trees were trimmed based on the arborist's recommendations. It was noted that the tree stakas need to be removed.

NEW BUSINESS

- A) **Landscape Maintenance Proposals:** Management presented landscape maintenance proposals from Aragon, \$2,185; Floraterra, \$1,800; Tru-Green \$2,999; and Valley Crest \$3,380. Discussion ensued. On a motion duly made by Director Smith, seconded by Director Serrano and unanimously passed the Board approved the contract renewal with Aragon for a one year term effective January 1, 2008 at the rate of \$2,185.
- B) **New Law/SB528:** Management presented and reviewed the new law regarding Meeting Agenda notices. Management will remind owners to contact Management if they have an issue they want on the agenda.
- C) **Appointment of Board Member:** On a motion duly made by Director Smith, seconded by Director Sinclair Serrano and unanimously passed, the Board appointed Santos Haro to serve the balance Vince Cantore's term.

TIME AND PLACE OF NEXT MEETING: It was discussed and agreed upon by the Board of Directors that the next scheduled meeting will be the Annual Meeting which will be determined at a later date.

ADJOURNMENT: There being no further business and no objections, the meeting was adjourned at 7:45 p.m.

**BENTLEY PARK OWNERS ASSOCIATION
MINUTES OF THE
REGULAR BOARD OF DIRECTOR'S MEETING
HELD
January 29, 2008**

DRAFT

CALL TO ORDER:

The meeting was called to order by Director Smith at 6:30 p.m.

ROLL CALL:

Directors present: Steve Smith, Pi Sheng Chang and Sharon Serrano and Sinclair Serrano

Directors absent: Vince Cantore

Also present: Patti Gish of VierraMoore, Inc.

It was determined that a quorum was present.

PROOF OF NOTICE:

An Affidavit executed by Patti Gish attesting to the mailing of the Notice to the Members and a copy of the Notice was presented for the filing in the Association's Minute Book.

APPROVAL OF MINUTES:

On a motion duly made, seconded and unanimously passed, the minutes of the Board of Directors Meeting held September 6, 2007 were approved as corrected.

FINANCIAL REPORT:

- A) **Balance Sheet/Budget Comparison Report:** The Board of Directors approved December 31, 2007, including the Balance Sheet, Income and Expense Report, Budget Comparison Report and Reserve Balances.
- B) **Accounts Receivable/Payable:** The Board reviewed the accounts payable and receivables of the Association as of December 31, 2007.
- C) **C D Rates:** It was agreed that the Association would purchase 3 CD's each at \$10,000 from the Reserve Account. They are to be at staggered terms at the best rate available.

COMMITTEE REPORTS

- a) **Landscape:** None
- b) **Neighborhood Watch:** None

BENTLEY PARK OWNERS ASSOCIATION
(A California Nonprofit Mutual Benefit Corporation)

**FINANCIAL STATEMENTS
AND SUPPLEMENTARY INFORMATION**

December 31, 2008 and 2007



BENTLEY PARK OWNERS ASSOCIATION

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INDEPENDENT ACCOUNTANTS' REVIEW REPORT



To the Board of Directors and Members
Bentley Park Owners Association

We have reviewed the accompanying balance sheet of Bentley Park Owners Association, a California nonprofit mutual benefit corporation, as of December 31, 2008, and the related statements of revenues, expenses and changes in fund balances and cash flows for the year then ended, in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. All information included in these financial statements is the representation of the management of Bentley Park Owners Association.

A review consists principally of inquiries of association personnel and analytical procedures applied to financial data. It is substantially less in scope than an audit in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

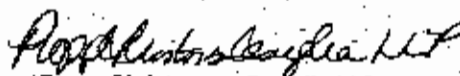
Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in conformity with generally accepted accounting principles.

As discussed in Note 3 to the financial statements, the accompanying statements include estimated amounts for the future replacement and major repairs of common areas. The Association's plans to fund for these expenses are also discussed in Note 3. The final resolution of actual amounts, however, which may be more or less than the amounts provided, as well as timing and funding of payments, are dependent upon future events, the outcome of which are not fully determinable at the present time. We have not applied procedures to determine whether these funds are adequate to meet the future costs, as that is not a requirement of a review engagement.

The supplementary information about future major repairs and replacements on page 7 is not a required part of the basic financial statements but is supplementary information required by the American Institute of Certified Public Accountants. We have compiled the supplementary information from information that is the representation of the management of Bentley Park Owners Association, without audit or review. Accordingly, we do not express an opinion or any other form of assurance on the supplementary information.

Our review was made for the purpose of expressing limited assurance that there are no material modifications that should be made to the financial statements in order for them to be in conformity with generally accepted accounting principles. The information included in the accompanying Schedule of Operating Fund Revenues and Expenses - Budget and Actual is presented only for supplementary analysis purposes. Such information (except for the budget information, which was compiled without audit or review from information that is the representation of management, on which we do not express an opinion or any other form of assurance) has been subjected to the inquiry and analytical procedures applied in the review of the basic financial statements, and we are not aware of any material modifications that should be made to it.

The 2007 financial statements and supplementary information of Bentley Park Owners Association were reviewed by other accountants, whose report dated February 27, 2008, stated that they were not aware of any material modifications that should be made to those statements in order for them to be in conformity with generally accepted accounting principles (except for the budget information, which was compiled without audit or review and on which they did not express an opinion or any other form of assurance).


Propp Christensen Caniglia LLP

February 10, 2009

9261 Sierra College Boulevard
Roseville, California 95661

916.751.2900
916.751.2979 fax

pccllp.com

BENTLEY PARK OWNERS ASSOCIATION

BALANCE SHEETS
December 31, 2008 and 2007

	2008			2007		
	Operating Fund	Replacement Fund	Total	Operating Fund	Replacement Fund	Total
Assets						
Cash, including interest bearing deposits	\$ 30,192	\$ 31,577	\$ 61,769	\$ 28,673	\$ 54,200	\$ 82,873
Investments		40,947	40,947			
Owes and assessments receivable	2,105		2,105	1,347		1,347
Prepaid expenses	2,277		2,277	2,159		2,159
Total assets	\$ 34,574	\$ 72,524	\$ 107,098	\$ 32,179	\$ 54,200	\$ 86,379
Liabilities						
Accounts payable	\$ 130	\$	\$ 130	\$	\$	\$
Income taxes payable				24		24
Assessments received in advance	3,666		3,666	4,527		4,527
Total liabilities	3,796		3,796	4,551		4,551
Fund balances	30,778	72,524	103,302	27,628	54,200	81,828
Total liabilities and fund balances	\$ 34,574	\$ 72,524	\$ 107,098	\$ 32,179	\$ 54,200	\$ 86,379

See accompanying notes and independent accountants' review report.

BENTLEY PARK OWNERS ASSOCIATION

STATEMENTS OF REVENUES, EXPENSES AND CHANGES IN FUND BALANCES

For the Years Ended December 31, 2008 and 2007

	2008			2007		
	Operating Fund	Replacement Fund	Total	Operating Fund	Replacement Fund	Total
Revenues						
Member assessments	\$ 68,500	\$ 17,180	\$ 85,680	\$ 68,500	\$ 17,180	\$ 85,680
Assessment credit				(7,225)		(7,225)
Reimbursements	406		406	1,338		1,338
Interest income	227	1,144	1,371	332	973	1,305
Total revenues	69,133	18,324	87,457	62,945	18,153	81,098
Expenses						
Accounting	1,723		1,723	1,842		1,842
Income taxes	44		44	24		24
Insurance	3,491		3,491	3,896		3,896
Landscaping	37,318		37,318	30,442		30,442
Management fees	15,120		15,120	15,120		15,120
Miscellaneous contingency	1,586		1,586	823		823
Repairs and maintenance	304		304			
Utilities	6,397		6,397	7,945		7,945
Total expenses	65,983		65,983	59,882		59,882
Excess of revenues over expenses	3,150	18,324	21,474	3,053	18,153	21,206
Beginning fund balances	27,628	54,200	81,828	24,575	36,047	60,622
Ending fund balances	\$ 30,778	\$ 72,524	\$ 103,302	\$ 27,628	\$ 54,200	\$ 81,828

See accompanying notes and independent accountants' review report.

BENTLEY PARK OWNERS ASSOCIATION

STATEMENTS OF CASH FLOWS
For the Years Ended December 31, 2008 and 2007

	2008			2007		
	Operating Fund	Replacement Fund	Total	Operating Fund	Replacement Fund	Total
Cash flows from operating activities:						
Excess of revenues over expenses	\$ 3,150	\$ 18,324	\$ 21,474	\$ 3,053	\$ 18,153	\$ 21,206
Adjustments to reconcile excess of revenues over expenses to net cash provided by operating activities:						
(Increase) decrease in:						
Dues and assessments receivable	(758)		(758)	(941)		(941)
Prepaid expenses	(118)		(118)	233		233
Increase (decrease) in:						
Accounts payable	130		130	(613)		(613)
Income taxes payable	(24)		(24)	24		24
Assessments received in advance	(881)		(881)	377		377
Net cash provided by operating activities	1,519	18,324	19,843	2,133	18,153	20,286
Cash flow from investing activities:						
Net purchase of investments		(40,947)	(40,947)			
Net increase (decrease) in cash	1,519	(22,623)	(21,104)	2,133	18,153	20,286
Cash, beginning of year	28,673	54,200	82,873	26,540	36,047	62,587
Cash, end of year	\$ 30,192	\$ 31,577	\$ 61,769	\$ 28,673	\$ 54,200	\$ 82,873
Supplemental disclosure:						
Income taxes paid	\$124		\$124			

See accompanying notes and independent accountants' review report.

BENTLEY PARK OWNERS ASSOCIATION

NOTES TO FINANCIAL STATEMENTS
December 31, 2008 and 2007

NOTE 1: NATURE OF ORGANIZATION

Bentley Park Owners Association is a nonprofit mutual benefit corporation incorporated in May 2004 under the Nonprofit Mutual Benefit Corporation Law of the State of California. The specific and primary purpose for which the organization was formed is to repair, maintain and manage common areas to the extent described in the Declaration of Covenants, Conditions and Restrictions, enforce the rules and regulations adopted by the Board of Directors from time to time, and discharge such other lawful duties and responsibilities required pursuant to the Corporation's Bylaws and the Declaration of Covenants, Conditions and Restrictions. The Association is located in Santa Clara County, California, and consists of 84 units.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Financial Statement Presentation

The financial statements are prepared using the accrual basis of accounting.

Use of Estimates

The presentation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Capitalization Policy and Depreciation

Property and equipment acquired, having a cost of at least \$1,000, to which the Association has normal ownership rights, will be capitalized at cost and depreciated over its estimated useful life using the straight-line method.

Common area property and equipment contributed to the Association by the project developer has not been capitalized on the Association's financial statements.

Income Taxes

Homeowners' associations may be taxed either as homeowners' associations or as regular corporations. For the years ended December 31, 2008 and 2007, the Association elected to be taxed as a homeowners' association. Under that election, the Association is taxed on its nonexempt function income, such as interest earnings. Exempt function income, which consists primarily of member assessments, is not taxable.

Federal and state income taxes were \$33 and \$11, respectively, for the year ended December 31, 2008, and \$18 and \$6, respectively, for the year ended December 31, 2007.

Member Assessments

Association members are subject to monthly assessments to provide funds for the Association's operating expenses, future capital acquisitions, and major repairs and replacements. Assessments receivable at the balance sheet date represent fees due from unit owners. The Association's policy is to retain legal counsel and place liens on the properties of homeowners whose assessments are delinquent.

Dues and Assessments Receivable

At December 31, 2008 and 2007, dues and assessments receivable totaled \$2,105 and \$1,347, respectively. It is the opinion of management and the Board of Directors that the Association will collect these amounts and, accordingly, no allowance for uncollectible amounts is deemed necessary.

Interest Income

Interest income is allocated to the operating and replacement funds in proportion to the interest-bearing deposits of each fund.

BENTLEY PARK OWNERS ASSOCIATION

NOTES TO FINANCIAL STATEMENTS
December 31, 2008 and 2007

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Fund Accounting

The Association's governing documents provide certain guidelines for governing its financial activities. To ensure observance of limitations and restrictions on the use of financial resources, the Association maintains its accounts using fund accounting. Financial resources are classified for accounting and reporting purposes in the following funds established according to their nature and purpose:

Operating Fund

This fund is used to account for financial resources available for the general operations of the Association.

Replacement Fund

This fund is used to accumulate financial resources designated for future major repairs and replacements.

NOTE 3: FUTURE MAJOR REPAIRS AND REPLACEMENTS

The Association is required by its governing documents to set aside funds for future major repairs and replacements. The annual provision to the fund as determined by the Board of Directors is reported as a provision of \$18,324 and \$18,153 for the years ended December 31, 2008 and 2007, respectively. The Association provides for future major repairs and replacements by allocating a fixed amount of the monthly homeowners' assessment dues to an accrued replacement fund. The adequacy of the accrued replacement fund is dependent upon increasing the balance of this fund to a level sufficient to meet future required expenditures.

The amounts set aside as replacement fund balance represent estimates, determined by the Board of Directors, of future major repair and replacement expenditures. Actual expenditures, however, may vary from the estimated amounts and the variations may be material. Therefore, amounts accumulated in the replacement fund may not be adequate to meet future needs. If additional funds are needed, however, the Association has the right, subject to its governing documents, to increase regular assessments or levy special assessments, or it may delay major repairs and replacements until funds are available.

Replacement fund balance as of December 31, 2006	\$36,047
Provisions for year ended December 31, 2007	<u>18,153</u>
Replacement fund balance as of December 31, 2007	54,200
Provisions for year ended December 31, 2008	<u>18,324</u>
Replacement fund balance as of December 31, 2008	<u>\$72,524</u>

An independent consultant updated a reserve study to determine the adequacy of funding for replacements. The report of the study is shown on page 7.

NOTE 4: CASH AND INVESTMENTS

The Association maintains its cash balances in financial institutions insured by the Federal Deposit Insurance Corporation (FDIC). At times, balances may exceed the FDIC limits. However, the Association's cash balances are maintained at Union Bank of California whose CoveragePlus Deposit Insurance protects amounts over the FDIC limits against the risk of bank insolvency.

Investments consist of certificates of deposit with maturities greater than 90 days at the date of purchase.

NOTE 5: ASSESSMENT CREDIT

The Board of Directors resolved to grant a one-month credit to each member for the month of December 2007. The credit totaled \$7,225 for the year ended December 31, 2007.

BENTLEY PARK OWNERS ASSOCIATION

**SUPPLEMENTARY INFORMATION ON FUTURE
MAJOR REPAIRS AND REPLACEMENTS (COMPILED)
December 31, 2008**

An independent consultant updated a study in 2008 to estimate the remaining useful lives and the replacement costs of the components of common property. Replacement costs were based on the estimated costs to repair or replace the common property components at the date of the study. Estimated current replacement costs have not been revised since that date and do not take into account the effects of inflation between the date of the study and the date that the components will require repair or replacement.

The following information is based on the study and presents significant information about the components of common property.

Component	Estimated Current Replacement Costs	Estimated Remaining Life in Years	Replacement Fund Balance
Wood fencing	\$ 37,080	7 to 10	
Backflow devices	563	8	
Irrigation timers	2,535	8	
Irrigation valves	1,780	2	
Plant stock replenishment	2,575	1	
Tree stock adds/removals	5,150	1	
Pole lights - fixtures	13,838	18	
Asphalt major repairs	55,782	17	
Asphalt minor repairs	11,016	7	
Asphalt sealcoat and stripe	8,860	2	
Concrete walkways	3,001	1	
Sanitary water system repairs	65,564	21	
Storm drainage system repairs	98,345	21	
Reserve study update	500	1	
Reserve study inspection	500	2	
Totals	\$ 305,067		\$ 72,524

It is the opinion of the board of directors that the reserve study plan provides adequate funds to meet projected expenditures without relying on special assessments or increases in regular assessments that require a vote of the membership, if the association funds the reserves in accordance with the reserve study's plan.

BENTLEY PARK OWNERS ASSOCIATION

**SCHEDULE OF OPERATING FUND REVENUES AND EXPENSES -
BUDGET AND ACTUAL**

For the Years Ended December 31, 2008 and 2007

	2008		2007	
	Budget (Compiled)	Actual	Budget (Compiled)	Actual
Revenues				
Member assessments	\$ 85,680	\$ 85,680	\$ 85,680	\$ 85,680
Assessment credit				(7,225)
Reimbursements		408		1,338
Interest income		1,371		1,305
Total revenues	85,680	87,457	85,680	81,098
Expenses				
Accounting	1,600	1,723	1,600	1,642
Income taxes	60	44	60	24
Insurance	4,155	3,491	4,155	3,696
Landscaping	30,380	37,318	30,380	30,442
Legal fees	750		750	
Management fees	15,120	15,120	15,120	15,120
Miscellaneous contingency	2,219	1,588	2,219	823
Repairs and maintenance	2,016	304	2,016	
Utilities	12,200	6,397	12,200	7,945
Total expenses	68,500	65,983	68,500	69,892
Excess of revenues over expenses from operations	17,180	21,474	17,180	21,206
Replacement provision	17,180	18,324	17,180	18,153
Excess of revenues over expenses	\$ -	\$ 3,150	\$ -	\$ 3,053

See independent accountants' review report.



BENTLEY PARK

Owners Association NOVEMBER 2009

Got questions? Should you have any questions or comments regarding the Association or the common areas, please contact your Community Manager, Dee Casarez or Property Administrator, Kathy McCormick at (800) 696-7027 or (925) 681-4000. Kathy's extension is 423 and Dee is most easily reached by email at dcasarez@vierramoore.com. Our regular office hours are 8:30 a.m. – 5:00 p.m. Monday thru Friday and we maintain a 24-hour emergency answering service for after hour emergencies. The emergency number is 888-860-9339.

2010 Annual Budget and Assessment: A copy of the adopted 2009 Annual Budget and Assessment is enclosed in accordance with the Association's governing documents and Civil Code Section 1365(a). As of September 30, 2009, the Association has total cash reserves in the amount of \$85,050 set aside for the future replacement costs of the major components in the Community representing 100% of the funding liability of reserves as shown on the Association's balance sheet. The Board does not anticipate that special assessments will be required to repair, replace or restore any major component or to provide adequate reserves therefore. Reserves to defray the future repair, replacement or restoration of the major components have been calculated and established in accordance with the Reserve Study prepared by John D. Beatty and Company. The estimated reserve needs and contributions for 2010 are equal to the total reserves stated in the Budget and Reserve Funding Plan enclosed. A copy of the full Reserve Study is available upon request for a nominal fee of \$25 to cover the cost of copying, handling and mailing.

The regular annual assessments for 2010 are hereby established and levied against each lot in the amount of \$1,020. This amount shall be collected in twelve (12) equal monthly installments in the amount of \$85.

Architectural Review Procedures: In accordance with Civil Code Section 1378, any changes, additions, alterations or modifications to your home or property require the written approval of the Association's Architectural Committee. The procedures for reviewing applications can be found in the Association's adopted Architectural Review Rules and Guidelines previously provided to all owners. If you have misplaced these guidelines or have questions regarding the Architectural Review process, please contact Management.

Enforcement Procedures and Fines: A summary of the Association's Enforcement Procedures and Fine Schedule is attached for your review.

Assessment Collection Policy: Enclosed is an Annual Notice to Members and a copy of the Association's adopted "Assessment Collection Policy" for the collection of the monthly installments of the Annual Assessment levied against the owners interest in the Community. You should carefully review this policy.

Alternative Dispute Resolution: A summary of Sections 1354, 1363.810 – 1363.850 and 1369.510 – 1369.590 of the Civil Code regarding your rights and procedures to sue the Association or another member of the Association regarding the enforcement of the governing documents is also enclosed for your review.

Master Insurance Policy: The Association carries the property and liability policies detailed in the attached Insurance Disclosure for the Association owned common areas and improvements. If you or your lender require an insurance certificate or have questions on coverage's included, please contact the Association's agent, Dava Anderson at (925) 855-3270.

Security Disclaimer: As much as we would like it to be, the Association can never be free of crime. For example, it is possible for someone to enter the property under false pretenses to commit crimes, for residents to commit crimes against their neighbors, for guests of residents to commit crimes, and for employees to commit crimes. As a result, the Association is not and can never be free of crime and cannot guarantee your safety or security. You should NOT rely on the Association to protect you from loss or harm--you should provide for your own security by taking common sense precautions such as carrying insurance against loss; keeping your doors locked; refusing to open your door to strangers; installing a peep hole in your front door; asking workmen for identification; installing a security system; locking your car; etc.

Board of Directors Meeting Minutes: A copy of all minutes of the Board of Director's Meetings of the Association are available to any member who requests them in writing. A nominal fee of \$5.00 per set of minutes is charged to cover the costs of copying, handling and mailing.

Holiday: The offices of VierraMoore, Inc. will be closed November 26th and 27th, December 25th and January 1st in observance of the holidays. The Staff wishes everyone a safe and happy holiday season!

DECEMBER CREDIT: Once again the Board has been diligent during the year which affords them to allow for a credit regarding your December Assessment payments. However you will be sent a regular statement for your records.

NEXT MEETING: The next Regular Board of Directors meeting will be held on November 18th, at the Berryessa Library located at 3355 Noble Avenue, starting at 8:30P.M. As always, the Board welcomes and encourages all members of the community to attend the meeting.

HAPPY HOLIDAY EVERYONE

BENTLEY PARK OWNERS ASSOCIATION
 2010 BUDGET
 84 LOTS
 EFFECTIVE JANUARY 1, 2010

DESCRIPTION	MONTHLY UNIT TOTAL	MONTHLY TOTAL	TOTAL ANNUAL
INCOME			
Assessments	85.00	7,140.00	85,680
TOTAL INCOME	85.00	7,140.00	85,680
EXPENSES			
Insurance	4.12	346.25	4,155
Accounting	1.79	150.00	1,800
Legal Services	0.74	62.50	750
Income Taxes	0.08	7.08	85
Management	15.00	1,260.00	15,120
Minor Repairs	2.00	168.00	2,016
Landscape Maintenance	26.57	2,231.67	26,780
Landscape Upgrades/Repairs	4.35	365.00	4,380
Electricity	2.12	177.92	2,135
Water	9.92	833.33	10,000
Misc. Contingency	1.27	106.58	1,279
Reserves per Study	17.04	1,431.67	17,180
TOTAL EXPENSES	85.00	7,140.00	85,680

ENFORCEMENT PROCEDURES AND FINES

In accordance with the Association's governing documents, the Association must give due process to homeowners who violate the Community's CC&R's or Adopted Rules and Regulations. When an infraction is noticed by regular inspections or reported by a member, the homeowner is normally sent a letter requesting compliance. If the violation continues, a second letter advising the homeowner of the possible penalties for violations and another request to correct is mailed. If the homeowner still fails to comply, a hearing before the Board of Directors is scheduled to hear testimony, assess fines and determine any further courses of action to bring the member into compliance.

FINES

To ensure compliance with the Community's CC&R's or Adopted Rules and Regulations, Owners may be fined not less than \$10.00 nor more than \$50.00 per occurrence or continuation of violations. Fine amounts are to be set by the Board of Directors based on the merits of each violation.

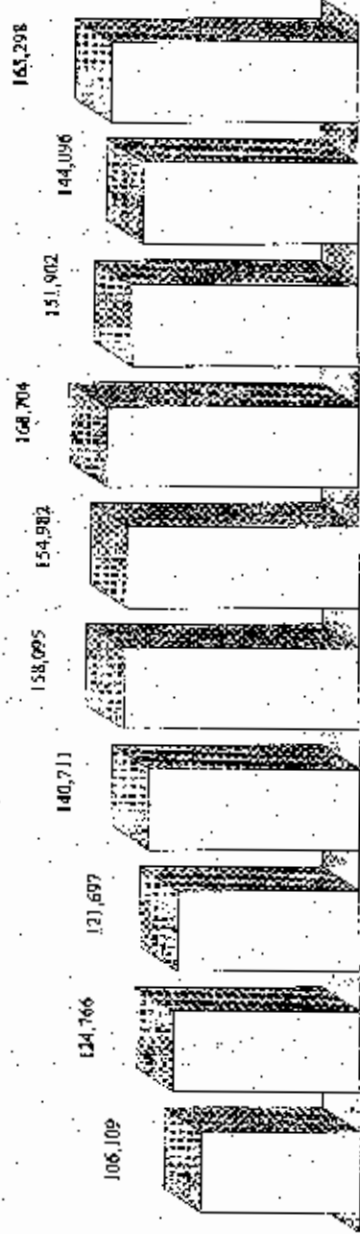
DUE PROCESS REQUIREMENTS

Before the Board imposes any monetary penalties or suspension of membership rights or Common Area use privileges against any member for failure to comply with the Declaration, the Bylaws or the Association Rules, the Board must act in good faith and satisfy each of the following requirements:

1. The member must be given 15 days prior written notice specifying the nature of the damage or violation and stating the time, date and place that the member will have an opportunity to be heard. Notice may be delivered personally or by mail. If the notice is given by mail, it must be sent by first class or registered mail to the last address of the member as shown on the Association's records.
2. The member will be given an opportunity to be heard, orally or in writing, by the Board. Members shall have the opportunity to present witnesses on the member's behalf and to cross-examine any witnesses that may testify against the member. After the hearing, the Board shall determine whether owner damage or a violation has occurred and, if so, may impose a "Reimbursement Assessment" which shall become effective not less than five (5) days after the date of the hearing or the Board may take such other action as may be appropriate.

Funding Plan

Projected Cash Balance



	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Fiscal Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
June 1 ...	106,109	124,766	121,697	140,711	158,095	154,982	164,704	151,902	144,096	163,298
Dec 31 ...	106,109	124,766	121,697	140,711	158,095	154,982	164,704	151,902	144,096	163,298
BEGINNING BALANCE	89,704	106,109	124,766	121,697	140,711	158,095	164,704	151,902	144,096	163,298
EXPENDITURES (Inflated \$)	3,192	1,374	23,291	1,405	3,485	24,158	7,433	37,939	28,641	1,602
RESERVE CONTRIBUTION	17,180	17,180	17,180	17,180	17,180	17,180	17,180	17,180	17,180	18,984
Per Unit Per Month (84 units)	17.04	17.04	17.04	17.04	17.04	17.04	17.04	17.04	17.04	18.03
Percentage Increase to Reserve	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	10.5
SPECIAL ASSESSMENTS	0	0	0	0	0	0	0	0	0	0
INTEREST	2,417	2,850	3,043	3,240	3,689	3,865	3,996	3,958	3,654	3,820
ENDING BALANCE	106,109	124,766	121,697	140,711	158,095	154,982	164,704	151,902	144,096	163,298

Component Quantification

Assumed Annual Inflation Rate..... 1.0%

RESERVE COMPONENTS	Repair %	Current Repair/Replace Cost	Estimated		Quantity	Unit of Measurement	Unit Cost	Notes
			Useful Life	Remaining Life				
FENCING & WALLS:								
1 - Wood Fencing Replace	50%	19,098	15	6	1,200	linear feet	31.83	Allows replacement of 50% of the wood fencing every 15 years.
2 - Wood Fencing Replace	50%	19,098	15	9	1,200	linear feet	31.83	Allows replacement of 50% of the wood fencing every 15 years.
LANDSCAPING:								
3 - Backflow Device Replace		560	12	7	1	device	579.64	
4 - Irrigation Timers Replace		2,611	12	7	2	timers	1,305.59	
5 - Irrigation Valves Replace	10%	1,823	2	1	48	valves	381.92	Allows replacement of 10% of the irrigation valves every 2 years.
6 - Plant Stock Replenishment		2,443	5	3	1	fund	2,652.25	
7 - Tree Stock - Adds / Removals		5,305	5	3	1	fund	5,304.50	
LIGHT FIXTURES:								
8 - Pole Lights - Fixtures Replace		14,251	20	15	9	fixtures	1,583.46	
PAVED SURFACES:								
9 - Asphalt Major Repairs	33%	57,508	20	16	40,340	square feet	4.28	Allows major repairs to 33% of the asphalt every 20 years.
10 - Asphalt Minor Repairs	10%	21,338	10	8	40,350	square feet	2.81	Allows minor repairs to 10% of the asphalt every 10 years.
11 - Asphalt Sealcoat & Strips		7,263	5	3	40,350	square feet	0.18	
12 - Concrete Walkway Repairs	2%	3,071	5	3	12,200	square feet	12.67	Allows repairs to 2% of the concrete walkways every 5 years.
WATER SYSTEMS:								
13 - Sanitary System Repairs		67,531	25	20	1	fund	67,530.53	
14 - Storm Drainage Repairs		101,296	25	20	1	fund	101,295.79	
OTHER:								
15 - Reserve Study Update		500	1	1	1	fund	500.00	
16 - Reserve Study Update Inspection		500	3	3	1	fund	500.00	

Assessment and Reserve Funding Disclosure Summary

This Summary contains information about the Association's assessments and the status of the reserve fund. The Association may periodically update or supplement the information in this Summary. Please contact the Association to determine if a more recently prepared Summary or supplement is available.

As of the date this Summary was prepared:

- (1) The current total assessment per unit is \$ 85.00

NOTE: If assessments vary by the size or type of unit, the assessment applicable to this unit may be found on the attached Variable Assessment Report.

- (2) Additional assessments that have already been scheduled to be imposed or charged, regardless of the purpose, if they have been approved by the Board and/or Members:

Date Assessment is due:	Amount per unit per month (if assessments are variable, see note immediately below):	Purpose of the assessment:

NOTE: If assessments vary by the size or type of unit, the assessment applicable to this unit may be found on the attached Variable Assessment Report.

- (3) Based upon the most recent reserve study and other information available to the Board of Directors, will currently projected reserve account balances be sufficient at the end of each year to meet the association's obligation for repair and/or replacement of major components during the next 30 years?

Yes If the Special Assessment in Note (2) is collected No

- (4) If the answer to #3 is no, what additional assessments or other contributions to reserves would be necessary to ensure that sufficient reserve funds will be available each year during the next 30 years?

Approximate date assessment will be due:	Amount per unit per month:
	\$
	Total:

- (5) The following major components, which are included in the reserve study, are NOT included in the existing reserve funding:

Major Component:	Useful remaining life in years:	Reason this major component was not included:

- (6) Based on the method of calculation in paragraph (4) or subdivision (b) of Section 1365.2.5, the estimated amount required in the reserve fund at the end of the current fiscal year is \$ 74,015, based in whole or in part on the the last reserve study or update, prepared by John D. Bratty & Company. The projected reserve fund cash balance at the end of the current fiscal year is \$ 89,704, resulting in reserves being 100+% funded at this date. If an alternate, but generally accepted, method of calculation is also used, the required reserve amount is \$ 89,704 (beginning balance per management) (see attached explanation).

Assessment and Reserve Funding Disclosure Summary

(7) Based on the method of calculation in paragraph (4) of subdivision (b) of Section 1365.2.5 of the Civil Code, the estimated amount required in the reserve fund at the end of each of the next five budget years is (listed in the table below), and the projected reserve fund cash balance in each of those years, taking into account only assessments already approved and other known reserves, is (listed in the table below), leaving the reserve at (listed in the table below) percent funding. If the reserve funding plan approved by the association is implemented, the projected reserve fund cash balance in each of those years will be (listed in the table below), leaving the reserves at (listed in the table below) percent funding.

Year	Estimated amount required in the reserve fund	Projected reserve fund cash balance	Percent Funded
2	\$ 91,215	\$ 106,199	100+%
3	\$ 110,844	\$ 124,766	100+%
4	\$ 109,186	\$ 121,697	100+%
5	\$ 130,064	\$ 140,711	100+%
6	\$ 149,530	\$ 158,095	100+%

Note: The financial representations set forth in this summary are based on the best estimates of the preparer at that time. The estimates are subject to change.

This Summary was authorized by the Association based on the information available in the Association's most recent reserve study or annual update as of October 29, 2009. This summary supersedes all earlier issued versions."

NOTE: The remainder of Civil Code section 1365.2.5 is not part of the required Assessment and Reserve Funding Disclosure Summary Form, but is included here because the information is needed to properly complete the form.



John D. Beatty
President

For the purposes of preparing a summary pursuant to this section:

- (1) "Estimated remaining useful life" means the time reasonably calculated to remain before a major component will require replacement.
- (2) "Major component" has the meaning used in Section 1365.5. Components with an estimated remaining useful life of more than 50 years may be included in a study as a capital asset or disregarded from the reserve calculation, so long as the decision is revealed in the reserve study report and reported in the Assessment and Reserve Funding Disclosure Summary.
- (3) The form set out in subdivision (a) shall accompany each pro forma operating budget or summary thereof that is delivered pursuant to this article. The form may be supplemented or modified to clarify the information delivered, so long as the minimum information set out in subdivision (a) is provided.
- (4) For the purpose of the report and summary, the amount of reserves needed to be accumulated for a component at a given time shall be computed as the current cost of replacement or repair multiplied by the number of years the component has been in service divided by the useful life of the component. This shall not be construed to require the board to fund reserves in accordance with this calculation.

**BENTLEY PARK OWNERS ASSOCIATION
ASSESSMENT COLLECTION POLICY**

EFFECTIVE: AUGUST 1, 2004

In accordance with Civil Code Section 1366 (c) and Article VI, Section 6.2.1, of the Declaration of Covenants, Conditions and Restrictions, monthly installments of the regular annual assessments levied by the Association pursuant to the Declaration shall be due and payable on the first day of each and every month and shall be delinquent 15 days thereafter; if not paid in full. If an assessment is delinquent, the Association shall be entitled to recover the following sums from the responsible owner(s):

1. The amount of all assessment installments then delinquent and which become delinquent during the collection process.
2. Reasonable costs incurred by the Association in collecting the delinquent assessment installment. In order to assure equitable and uniform treatment of all Association members, the Board of Directors hereby determines that reasonable costs of collection shall include, without limitation:
 - A. any reasonable costs incurred by the Association in contracting with a third party such as a management company, accounting firm, or collection agency for collection services;
 - B. reasonable attorney's fees if, in the discretion of the Board of Directors, an attorney is retained to assist the Association in the collection of any delinquent assessment installment; and
 - C. the actual costs incurred by the Association in connection with any court action initiated to collect delinquent assessment installments.
3. A late charge not exceeding 10% of the delinquent assessment installment or \$10.00, whichever is greater.
4. Interest on all sums specified above; including the delinquent assessment installment; reasonable costs of collection; and late charges; at the rate of 12% per annum; said interest to commence 30 days after the installment becomes due and to continue on any unpaid sums until payment is received in full.

The Association shall be entitled to administer and enforce this Assessment Collection Policy either directly or through utilization of the services of a property management company, collection agency, accounting firm and/or attorney firm.

The Association's Board shall be further authorized and empowered to apply the Association's collection costs and any late charges recovered from delinquent owners to the satisfaction of fees incurred with third party contractors retained to assist in the collection process.

If the delinquent assessment installment, together with any late charges, interest and costs incurred is not paid in full within 45 days from the due date, a written notice of default and demand for payment shall be mailed to the delinquent owner(s) advising them of the intent of the Association to record a "Notice of Delinquent Assessment."

If payment in full is not received within 15 days of receipt of the written notice of default and demand for payment, a "Notice of Delinquent Assessment" may be recorded with the Santa Clara County Recorder's Office establishing a lien on the owner's interest for the unpaid delinquent assessment(s) together with late charges, interest and costs incurred for collection including attorney fees, mailing costs and lien preparation and filing costs.

If payment in full is not received within 30 days of the recording of the "Notice of Delinquent Assessment", the Association may initiate a judicial or nonjudicial foreclosure of the lien or bring legal action against the owner personally obligated to pay the delinquent assessment installment without foreclosure or waiver of the lien and/or securing the same.

As a general rule, from and after the time that this Association commences enforcement proceedings to prepare and record the "Notice of Delinquent Assessment", partial payments will not be accepted and all amounts due to this Association, including without limitation current assessments due and preparatory enforcement fees and costs, must be paid to avoid further enforcement action. Notwithstanding the foregoing, acceptance of partial payments by or on behalf of this Association, whether inadvertently or intentionally, shall not constitute a waiver by this Association of its enforcement remedies, and such remedies may proceed as to any remaining balance due to this Association.

All payments will be applied to an owner's account first to the principal sum owed, then in descending order, to interest, late charges, collection expenses unless a payment agreement and forbearance agreement is executed between the Association and the Owner.

The Board of Directors of this Association (the "Board") may from time to time revise this policy, either generally or on a case-by-case basis, where the Board determines that such action would be in the best interests of this Association; provided, however, that no such revisions shall increase the amount of late charges or shorten the time periods for actions specified above unless such revision shall be applied generally to all lots governed by this Association and advance notice thereof is given to the members of this Association.

This Assessment Collection Policy shall also apply to collection of any and all special assessments approved by the Board or the membership.

**ANNUAL NOTICE TO MEMBERS OF
BENTLEY PARK OWNERS ASSOCIATION**

**CIVIL CODE SECTION 1365.1 NOTICE REGARDING
COMMUNITY ASSOCIATION ASSESSMENT RIGHTS AND
FORECLOSURE AND OTHER COLLECTION REMEDIES**

Civil Code section 1365.1 requires that the following notice be provided to each member of an association operating within a California common interest development (as defined in Civil Code section 1351) during the 60-day period immediately preceding the beginning of the association's fiscal year. This notice must be printed in at least 12-point type:

"NOTICE ASSESSMENTS AND FORECLOSURE

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

ASSESSMENTS AND FORECLOSURE

Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of an owner's property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure or without court action, often referred to as nonjudicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or nonjudicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than one thousand eight hundred dollars (\$1,800). For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1,800) or more than 12 months delinquent, an association may use judicial or nonjudicial foreclosure subject to the conditions set forth in Section 1367.4 of the Civil Code. When using judicial or nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Sections 1366, 1367.1, and 1367.4 of the Civil Code)

In a judicial or nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common areas damaged by a member or a member's guests, if the governing documents provide for this. (Sections 1366 and 1367.1 of the Civil Code)

The association must comply with the requirements of Section 1367.1 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 1367.1 of the Civil Code).

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail, including a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 1367.1 of the Civil Code)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (Section 1367.1 of the Civil Code) The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

PAYMENTS

When an owner makes a payment, he or she may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Section 1367.1 of the Civil Code)

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the association as set forth in Article 5 (commencing with Section 1368.810) of Chapter 4 of Title 6 of Division 2 of the Civil Code. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 2 (commencing with Section 1369.510) of Chapter 7 of Title 6 of Division 2 of the Civil Code, if so requested by the owner. Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. (Section 1367.1 of the Civil Code)

MEEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a timeshare may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exist. (Section 1367.1 of the Civil Code)

The board of directors must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 1367.1 of the Civil Code)"

(c) A member of an association may provide written notice by facsimile transmission or United States mail to the association of a secondary address. If a secondary address is provided, the association shall send any and all correspondence and legal notices required pursuant to this article to both the primary and the secondary address

**BENTLEY PARK OWNERS ASSOCIATION
ALTERNATIVE DISPUTE RESOLUTION PROCEDURES DISCLOSURE SUMMARY**

California Civil Code Sections 1354, 1363.810 – 1363.850 and 1369.510 – 1369.390, addresses your rights to sue the Association or another member of the Association regarding the enforcement of the governing documents. The following is a summary of the provisions of these Civil Codes and the Associations adopted procedures:

In general, these Civil Codes encourages parties to a dispute involving enforcement of an Association's governing documents (Declaration of Covenants, Conditions and Restrictions (CC&R's), Bylaws, Articles of Incorporation, Adopted Rules and Regulations and any amendments thereto, etc.) to submit the dispute to a form of alternative dispute resolution (ADR) such as mediation or arbitration prior to filing a lawsuit. The intent of the statute is to promote speedy and cost-effective resolution of such disputes, to better preserve community cohesiveness and to channel disputes away from our State's court system.

In accordance with Civil Code Sections 1363.810 – 1363.850 the Association has adopted the following fair, reasonable and expeditious procedures under Civil Code Section 1363.850 for resolving disputes by alternative dispute resolution:

- A. Mediation or arbitration may be invoked by either the Association or a member by providing written notice to the other party to the dispute.
- B. The recipient shall have 30 days in which to respond to the request.
- C. If the procedure is invoked by a member, the Association shall participate in the procedure at its next regularly scheduled Board meeting in Executive Session.
- D. If the procedure is invoked by the Association, the member may select not to participate in the procedure. If the member participates but the dispute is resolved other than by agreement of the member, the member shall have a right of appeal to the Association's Board of Directors.
- E. ADR shall be resolved within 90 days from the date of the serving of the notice in accordance with paragraph (A) above unless otherwise agreed by the parties.
- F. A resolution of a dispute pursuant to the procedure, that is not in conflict with the law or the governing documents, binds the Association and is judicially enforceable. An agreement reached pursuant to the procedure, that is not in conflict with the law or the governing documents, binds the parties and is judicially enforceable.
- G. Each party shall have the opportunity to provide written or oral testimony at the ADR to explain their position.
- H. A member of the Association shall not be charged a fee to participate in the process.

Under these Civil Codes, the form of alternative dispute resolution may be binding or non-binding and the costs will be borne as agreed to by the parties involved. Any party to a dispute regarding enforcement of the governing documents may initiate the process of ADR by serving a Request for Resolution on another party to the dispute. A Request for Resolution must contain (1) brief description of the nature of the dispute, (2) a request for ADR, and (3) a notice that the party receiving the Request for Resolution is required to respond within 30 days of receipt or the Request will be deemed rejected. If the request is accepted, the ADR must be completed within 90 days of receipt of the acceptance, unless otherwise agreed by the parties. Any Request for Resolution sent to the owner of a separate interest must include a copy of Civil Code 1369.510 et seq. in its entirety.

(continued on next page)

Should the Association or an individual member wish to file a lawsuit for enforcement of the Association's governing documents, the law requires the Association or the individual to file a certificate with the court stating that ADR has been completed prior to the filing of the suit. Failure to file this certificate can be grounds for dismissing the lawsuit. There are limited exceptions to the filing of this required certificate when (1) one of the other parties to the dispute refused ADR prior to the filing of the complaint, (2) preliminary or temporary injunctive relief is necessary, or (3) the statute of limitation period for filing the suit will expire within 120 days of the lawsuit being filed. Each of these exceptions, however, must also be certified in writing to avoid the court's dismissing the action.

Furthermore, in any lawsuit to enforce the governing documents, while the prevailing party may be awarded attorney's fees and costs, under Civil Code 1369.580 the court may consider any party's refusal to participate in ADR prior to the lawsuit being filed when it determines the amount of the award.

FAILURE BY ANY MEMBER OF THE ASSOCIATION TO COMPLY WITH THE ALTERNATIVE DISPUTE RESOLUTION REQUIREMENTS OF SECTION 1369.520 OF THE CIVIL CODE MAY RESULT IN THE LOSS OF YOUR RIGHTS TO SUE THE ASSOCIATION OR ANOTHER MEMBER OF THE ASSOCIATION REGARDING ENFORCEMENT OF THE GOVERNING DOCUMENTS OR THE APPLICABLE LAW.

Assessment collection issues are generally exempt from these Civil Code sections which provides a process for resolving matters through alternative dispute resolution (ADR). However an owner may lift the exception for association assessments through the following steps:

- The owner pays in full all of the assessments in dispute, late charges, interest and all fees and cost associated with preparation and filing of a lien (including mailing costs and attorney fees not to exceed \$425);
- This payment must be made along with a written statement of protest from the owner which is sent to the Association via certified mail, not more than 30 days after a notice of delinquent assessment (lien) is recorded;
- Upon receipt of such a written protest, the Association shall inform the owner of the right to resolve the matter through ADR as set forth in Civil Code Section 1354, a civil action or any other procedures that the Board might establish to resolve this matter. The Association is under no obligation to agree to ADR, even if an owner properly requests ADR;
- An owner may use this exception for ADR for delinquent disputes not more than two (2) times in any single year and not more than three (3) times within any five calendar years;
- If through ADR it is determined that some of the assessments were not correctly levied, the owner is entitled to recovery of interest in a reasonable amount on the amount paid.

Insurance Brokers
O'KANE & TEGAY

LIC. = 0534872

August 11, 2009

**Bentley Park Owners Association
San Jose, CA**

2009-2010 Insurance Disclosure

Property Insurance – Common Areas

Blanket Limit	\$ 76,000
Deductible	\$ 1,000

Granite State Insurance Company -- Effective Date: 08/19/09 - 08/19/10

General Liability – Common Areas

Limit	\$1,000,000 per Occurrence \$2,000,000 Aggregate
Deductible	\$ n/a

Granite State Insurance Company -- Effective Date: 08/19/09 - 08/19/10

Directors & Officers

Limit	\$1,000,000
Deductible	\$ 1,000

Great American Insurance Company – Effective Date: 08/19/09 - 08/19/10

Fidelity Bond

Limit	\$ 25,000
Deductible	\$ 500

Granite State Insurance Company – Effective Date: 08/19/09 - 08/19/10

Mailing Address: P.O. Box 27556 San Francisco, CA 94127
2145-19th Avenue San Francisco, CA 94116 Phone: 415/242-8777 Fax: 415/661-2540

Insurance Brokers
O'KANE & TEGAY

LIC. # 0534872

Umbrella Liability

Limit	\$2,000,000
Deductible	\$ n/a

Granite State Insurance Company – Effective Date: 08/19/09 - 08/19/10

Flood & Earthquake

None

This summary of the association's policies of insurance provides only certain information, as required by subdivision (e) of Section 1363 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any association member may, upon request and provision of reasonable notice, review the association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the association maintains the policies of insurance specified in this summary, the association's policies of insurance may not cover your property, including personal property or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage.

Mailing Address: P.O. Box 27556 San Francisco, CA 94127
2145-19th Avenue San Francisco, CA 94116 Phone: 415/242-8777 Fax: 415/661-2540

**BENTLEY PARK OWNERS ASSOCIATION
RULES AND REGULATIONS**

EFFECTIVE: AUGUST 1, 2004

A. PREAMBLE

A-1. The authority for the Board of Directors to form and enforce rules and regulations is provided by the Declaration of Covenants, Conditions and Restrictions under Section 7.4. A copy of this Declaration was given to each owner at the time of purchase of their lot.

A-2. The Board of Directors may create a Rules and Regulations Advisory Committee. The duty of this committee would be to advise the Board of Directors regarding the Rules, the Bylaws and the Declaration of Covenants, Conditions and Restrictions.

A-3. The Manager of the Bentley Park Owners Association has been instructed by the Board of Directors to require the compliance of all persons on Association properties with the provisions of all Rules, Bylaws and the CC&R. In the instance of a person violating the Rules, the Bylaws or the CC&R, the Manager has further been instructed to do any of the following:

- a) Obtain names and addresses of violators and report to the Board of Directors.
- b) Remove the persons from the Association premises, if necessary.
- c) Call upon a law enforcement agency for assistance.
- d) Call upon residents to assist them in their duty.
- e) In the case of residents' children, make an effort to contact their parents immediately, prior to making the action called for in (b), (c), and (d) above.

A-4. The Rules as contained herein are issued by the Board of Directors. They are supplemental to the conditions of ownership in the Declaration of Covenants, Conditions and Restrictions. If there is any conflict the provisions of the Declaration will prevail.

The Rules are intended as a guide to the conduct and activities of all members, lessees and residents of the Bentley Park Owners Association and their guests, to the end that everyone living in and using the facilities will enjoy the maximum pleasure without annoyance or interference from others. Strict observance and adherence is urgently requested by the Board of Directors. Policing actions because of violations, should not have to be necessary, but might be required.

B. COMMUNITY RELATIONS

B-1. REGISTRATION All members and residents must be registered with the Manager.

- a) Association members are those individuals owning a lot at the Bentley Park community.

- b) Residents are defined as owners and members of their families living on the premises of the project, or lessees and members of their families living on the premises of Bentley Park.
- c) Owners leasing their home retain their voting right in the Association but assign the use of all common facilities of the project to the lessee of their home. The lessee assumes the privileges and responsibilities of membership as hereinafter stated, but does not have a voting right the vote belongs only to the owner. Non-resident owners are not permitted to use any common area facilities when so assigned to a lessee except as a guest of a resident.
- d) The lease or rental agreement must be in writing and must be for a term of not less than 30 days and be subject to the CC&R, Bylaws and adopted rules. The Owner is responsible to provide a copy of the CC&R, Bylaws and these adopted rules and regulations to their tenants at their sole cost. The Owner is required to notify management of the names and phone numbers of their tenants and provide a copy of the rental agreement. Please refer to Section 4.12 of the CC&R.

B-2. GUESTS

- a) Guests must be accompanied by a host or hostess resident of the Association when using the common areas of the Association.
- b) It is the right and duty of each resident to question the presence of any person who appears to be trespassing and/or advise the Manager regarding the situation.

B-3. COMMON AREA DAMAGE Members, lessees and residents are responsible for payment of all cost of repairs for all damage to the Association's property caused by themselves, members of their families or their guests.

B-4. NEIGHBORLY CONDUCT

- a) All activities, whether individual or group, shall be conducted at a noise level that is reasonable and not disturbing to other Association residents. Each owner or resident is responsible for the conduct and behavior of their children, guests, and any visiting children and for any property damage caused by such persons.
- b) Vehicles, toys, or bicycles are not allowed to be parked or placed so they block or interfere with pedestrian traffic on the sidewalks. The placement of unattended tricycles, play toys, or other equipment in front yards and areas visible from adjoining lots is prohibited.
- c) No noxious or offensive activities shall be carried on nor shall anything be done which may be or become an annoyance or nuisance to the residents or which shall in any way interfere with the quiet enjoyment of occupants in the residences.

B-5. EXTERIOR APPEARANCE/SIGNAGE

- a) Curtains, drapes, shutters or blinds may be installed as window coverings. Sunscreens may be approved by the Architectural Committee on a case by case basis. No window shall be covered with aluminum foil, sheets or material not specifically designed for use as a window covering. Exterior window screens that are designed to inhibit sunlight intrusion and which impart an opaque, black appearance to the window are prohibited. The side of all permitted window coverings facing the window shall be white, beige or off-white in color, except that shutters may also have a natural wood color finish.
- b) Commercial signs, advertising or other devices, or miscellaneous paraphernalia shall not be exposed or attached in any fashion to or on windows, fences and exterior walls or any other areas of buildings or grounds, unless written approval has been obtained from the Board of Directors. **NO VENDOR ADVERTISING SIGNS ARE PERMITTED.** Non-commercial signs, posters, flags or banners may be displayed. Such sign or poster may not exceed nine (9) square feet in size and any such flag or banner may not exceed fifteen (15) square feet. **Please refer to Section 4.13 of the CC&R for further restrictions.**
- c) One sign of reasonable dimensions advertising the home for sale or rent may be displayed in the window of a home, yard area or other areas designated by the Association. **Only approved signage specifications may be utilized.**

B-6. COMMON AREA AND "FRONT YARD AREA" LANDSCAPING SYSTEMS

- a) Common area time clocks and lighting systems are to be adjusted and/or set by authorized personnel only.
- b) The Association is responsible for the maintenance of the common area landscaping, including the "front yard area" landscaping. No alterations, removal or additions to the front yard of a lot may be made without the prior approval of the Landscape Committee and Board of Directors.
- c) Should damage be caused to the front yard landscape by an owner installing backyard landscape, the owner is responsible for returning the front yard to its original condition.
- d) The front yard irrigation timers are to be adjusted by authorized personnel only. The system cannot be used to regulate the backyard irrigation system.
- e) Minor improvements, such as flowers, may be installed in the front yards as long as they do not interfere with the irrigation system and are maintained by the resident in a healthy condition.
- f) Owners are responsible for replacing any bark in the "front yard area" landscaping. All replacement bark shall match the initial installed bark or as approved by the Landscape Committee.

B-7. LANDSCAPING MAINTENANCE All landscaping in the Community shall be maintained and cared for in a manner consistent with the standards of design and quality as originally established by the Builder and in a condition comparable to that of other well maintained residential areas in the vicinity of the Project.

- a) All landscaping shall be maintained in a neat and orderly condition.
- b) Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced.
- c) All lawn areas shall be neatly mowed and trees and shrubs shall be neatly trimmed.
- b) Irrigation systems shall be fully maintained in good working condition to ensure continued regular watering of landscape areas, and health and vitality of landscape materials.
- c) Each Owner shall be responsible for irrigating all landscaping located within the Owner's lot and all landscaping in the adjacent private street right of way between the sidewalk and the back of the curb.
- d) **Common area and "front yard area" landscaping maintenance** will be contracted to a professional landscape maintenance company based upon maintenance specifications of the Association and economic costs. A schedule of weekly mowing (weather permitting) edging and weeding will be followed by the contractor. Additional routine seasonal fertilizing, pruning, and other maintenance services will also be performed as directed by the Association and contractor. Normal irrigation repairs will be completed as soon as practical after a report to the Association. Any irrigation main line repairs will be done as soon as possible based upon emergency and damage to property.

Shrub, tree, groundcover and other vegetation replacements for dead, dying, diseased plants or turf will be completed once a month subject to the season, economics, weather and availability of vegetation.

An owner shall not direct any employees of the contractor and shall report all landscape maintenance issues to the Association or its management company.

The normal weekly maintenance of the landscaping is to promote a neat and attractive condition within the economic cost of services. The landscaping will not be manicured or in a perfect condition at all times but will remain in a neat and attractive appearance.

B-8. PARKING

- a) Garages are solely to be used for the parking and storage of cars, boats or similar vehicles. They are not to be used or converted for any type of living or recreational activities. Garages shall be kept clear so as to permit parking of the number of vehicles for which the garage was designed.
- b) Garage doors must remain closed except for entering/exiting and when the garage is in use and attended.

- c) Residents must keep the driveways clean of any oil or other stains at all times.
- d) **No overnight parking is permitted on the private streets or where posted in the Community. Residents may not park in any designated guest parking areas. Violators of the parking restrictions may have their vehicles towed at the Owner's expense.**
- e) Residents may park passenger motor vehicles in the driveway of their Lot so long as no portion of the vehicle extends into the street or across any portion of the sidewalk.
- f) No part of the Common Area (streets) may be used for repair, construction or reconstruction of any vehicle.
- g) No boat, trailer, camper, commercial vehicle, mobile home or recreational vehicle shall be parked or stored where visible from adjacent Lots or streets. No inoperable or abandoned vehicle may be parked or stored in the Community at anytime. No vehicle with a business sign (including lettering on the door) may be parked or stored where visible from adjacent Lots or streets.
- h) **All vehicles must display current license plates.**

B-9. ANTENNAS/SATELLITE DISHES Subject to the requirements of Civil Code Section 1376, as it may be amended from time to time, installation and maintenance of television or video antennae or satellite dishes over one meter in diameter visible from any Common Area or public street must be submitted to the Architectural Committee. Satellite dishes less than one meter do not need approval of the Architectural Committee if they meet the following guidelines:

- a) They are not mounted on the roof or chimney of the residence.
- b) They are located at the rear or side of the residence (except corner lots) in the least conspicuous (obvious) location visible from the common areas or public streets.
- c) All wiring shall be painted to match the exterior of the residence.

B-10. PETS Two normal and customary uncaged household pets and a reasonable number of small caged animals, birds or fish may be maintained within a home under the following conditions:

- a) Whenever pets are outside of the resident's lot, they must be on leash or otherwise under full control of the owner.
- b) Residents must clean up after any mishap performed by their pets.
- c) Residents shall be responsible for any personal injury or property damage caused by their pets.
- d) Pets emitting excessive noise, or in any manner unduly disturbing other residents, may be prohibited by order of the Board of Directors after notice and a hearing.
- e) Residents and guests are not allowed to bring pets onto Association common landscaping areas.
- f) No animals shall be maintained for any commercial purposes.

B-11. SPEED LIMIT The maximum speed limit within the confines of Bentley Park is 25 miles per hour or as posted.

B-12. BUSINESS ACTIVITIES No business or commercial activities of any kind are to be established, maintained, permitted or conducted in any home or on any portion of the common areas in violation of local ordinances, federal or state law or the CC&R Section 4.17.

B-13. TRASH RECEPTACLES Trash containers shall be stored out of view of neighboring Lots or in the garage, except they may be placed at the curbs on the night before and day of the scheduled trash pick up.

B-14. SPORTS FIXTURES No basketball standards, hoops or backboards or other fixed sports apparatus shall be attached to the front of any Residence or erected in the front yard. All sports fixtures proposed for backyards must be approved by the Architectural

Committee. Portable basketball standards must be lowered and stored in garages or back yards when not in use. Portable basketball standards may not be placed on sidewalks or the private streets at any time.

B-15. UNLICENSED MOTORIZED VEHICLES

- a) An unlicensed motorized vehicle is defined for the purposes of this section as "a device consisting of two or more wheels designed to be ridden by one or more persons that is propelled by an electric or gasoline motor and which is not required to be licensed by the State Department of Motor Vehicles".
- b) No unlicensed motorized vehicle, as defined in this section, may be operated on any street or common area under the jurisdiction of the Bentley Park Owners Association.

B-16. EXTERIOR LIGHTING No owner shall remove, damage or disable any exterior light regardless of where located, which is connected to the Associations electric service.

B-17. LANDSCAPING Each Owner shall maintain all landscaping located within the Owner's lot, excluding any Landscape Maintenance Area. If landscaping within the enclosed portions of lots is not installed by Declarant, each Owner shall install permanent landscaping within the Owner's lot within six (6) months after the conveyance of the lot to the Owner.

B-18. ARCHITECTURAL CONTROL

- a) The Architectural Committee has developed guidelines concerning exterior changes to your home and improvements to your lot. These guidelines conform with the CC&R of our Association. The purpose of these guidelines is to provide the required information and forms regarding any exterior changes and modifications of the home so the Committee may render its decision.

- b) Each homeowner shall install permanent landscaping within all portions of their lot within six months of close of escrow. All visible landscape plans must be approved by the Architectural Committee.
- c) When applying for approval, please send as much information as you can and include the following specific items:
 1. Completed Application Form
 2. Exact location: use a scale drawing if applicable.
 3. Slate color, size, composition and description.
 4. Photo, sketch, copy of an advertisement or facsimile.
 5. Contractor's name or company making the item etc.
 6. Two (2) sets of plans.

Please send all applications for approval to THE MANAGEMENT COMPANY at:

Bentley Park Owners Association
c/o VierraMoore, Inc.
2151 Salvio Street, Suite 333
Concord, CA 94520

Please remember that you must get approval BEFORE making any changes or additions.

- d) Alterations, additions or modifications made to your lot or the exterior surfaces of your home must have prior written approval from the Architectural Committee or the Board of Directors. This includes visible landscaping, solar energy systems, fences, walls, sun screens, bamboo blinds, decks, lattices, pools, spas, color changes, sheds, any sports apparatus, etc.
- e) Any alterations that do not have prior written approval by the Committee or Board of Directors will be removed by the homeowner and the area will be restored to its original condition. Should the homeowner fail to comply, the Association will pursue its legal remedies including, but not limited to having the alteration removed at the owner's expense.
- f) In addition, the Board of Directors may also assess fines of not less than \$10.00 per day or more than \$50.00 per day for non-compliance of Board requests to have non-approved alterations restored to their original condition.

E. ENFORCEMENT

Fines: To ensure compliance with the above mentioned rules, Owners may be fined not less than \$10.00 nor more than \$50.00 per occurrence or continuation of violations. Fine amounts are to be set by the Board of Directors based on the merits of each violation.

Due Process Requirements: Before the Board imposes any monetary penalties or suspension of membership rights or Common Area use privileges against any member for failure to comply with the Declaration, the Bylaws or the Association Rules, the Board must act in good faith and satisfy each of the following requirements:

1. The member must be given 15 days prior written notice specifying the nature of the damage or violation and stating the time, date and place that the member will have an opportunity to be heard. Notice may be delivered personally or by mail. If the notice is given by mail, it must be sent by first class or registered mail to the last address of the member as shown on the Association's records.
2. The member will be given an opportunity to be heard, orally or in writing, by the Board. Members shall have the opportunity to present witnesses on the member's behalf and to cross-examine any witnesses that may testify against the member. After the hearing, the Board shall determine whether owner damage or a violation has occurred and, if so, may impose a "Reimbursement Assessment" which shall become effective not less than five (5) days after the date of the hearing or the Board may take such other action as may be appropriate.



State of California



SECRETARY OF STATE

I, *Kevin Shelley*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 3 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAY 17 2004



Kevin Shelley
Secretary of State



ENDORSED - FILED
 In the office of the Secretary of State
 of the State of California

MAY 10 2004

KEVIN SHELLEY
 Secretary of State

ARTICLES OF INCORPORATION OF BENTLEY PARK OWNERS ASSOCIATION

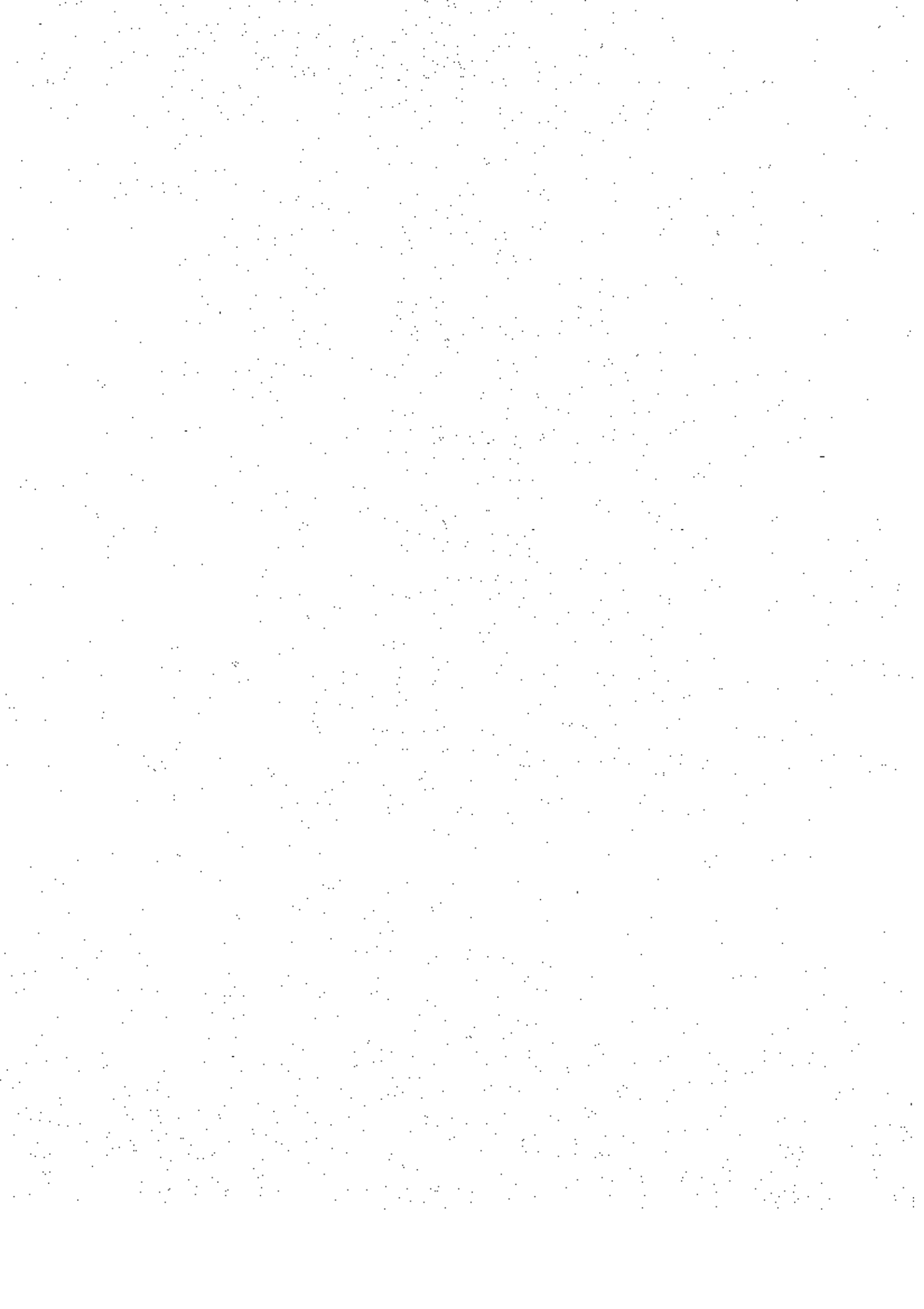
ARTICLE I NAME

The name of the corporation is BENTLEY PARK OWNERS ASSOCIATION.

ARTICLE II PURPOSES OF THE CORPORATION

This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity, other than credit union business, for which a corporation may be organized under such law. This corporation is an association formed to manage a common interest development under the Davis-Stirling Common Interest Development Act. The common interest development is located at Flickinger Avenue and Doxey Place, San Jose, California 95131-0000. The corporation has not yet established a corporate office and has no managing agent.

This corporation does not contemplate pecuniary gain or profit to its Members. The specific and primary purposes for which the corporation is formed are to provide for management, administration, maintenance, preservation and architectural control of the Lots and Common Area within the real property ("Project") situated in the City of San Jose, County of Santa Clara, State of California, commonly known as Bentley Park, a common interest development of the type commonly referred to as a planned development and to promote the health, safety and welfare of all residents within the Project and such additions as may hereafter be brought within the jurisdiction of the corporation for those purposes, all according to that certain Declaration of Covenants, Conditions and Restrictions of Bentley Park ("Declaration") recorded or to be recorded with respect to the Project in the Official Records of the County of Santa Clara, State of California.



ARTICLE III
LIMIT ON POWERS

Notwithstanding any statement herein to the contrary, the corporation shall not engage, except to an insubstantial degree, in any activity or exercise any power that is not in furtherance of its specific and primary purposes. This corporation is intended to qualify as a homeowners association under the applicable provisions of Section 528 of the United States Internal Revenue Code ("IRC") and of Section 23701t of the Revenue and Taxation Code of the State of California ("R&TC"), as each may be amended from time to time. No part of the net earnings of this corporation shall inure to the benefit of any private individual except as expressly provided in IRC Section 528 and R&TC Section 23701t with respect to the acquisition, construction or provision for management, maintenance and care of the Project, other than by a rebate of excess assessments.

ARTICLE IV
GOVERNANCE

The rights of Members, number of Members, manner of election of the Directors and all other matters concerning the operation and governance of the corporation shall be as set forth in the Bylaws.

ARTICLE V
AGENT FOR SERVICE OF PROCESS

The name and address of the corporation's initial agent for service of process is:

John L. Johnson
c/o Pulse Home Corporation
7031 Koll Center Parkway, Suite 150
Pleasanton, CA 94566

ARTICLE VI
AMENDMENTS

Amendments to these Articles of Incorporation shall require the affirmative vote or written assent of the Members as follows:

- A. Fifty-one percent (51%) of all Directors; and
- B. 1. When a one class voting structure is in effect:
 - (i) Fifty-one percent (51%) of the total voting power of all Members; and



(ii) Fifty-one percent (51%) of the total voting power of all Members other than Declarant; or

2. When a two class voting structure is in effect, fifty-one percent (51%) of the total voting power of each class of Members.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of California, the undersigned has executed these Articles of Incorporation this 5th day of May, 2004.

Jeane Miller
Name: Jeane Miller

I hereby declare that I am the person who executed the above Articles of Incorporation and that such instrument is my act and deed.

Jeane Miller
Name: Jeane Miller



**BYLAWS
OF
BENTLEY PARK OWNERS ASSOCIATION**

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BYLAWS
OF
BENTLEY PARK OWNERS ASSOCIATION

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**BYLAWS
OF
BENTLEY PARK OWNERS ASSOCIATION**

**ARTICLE I
NAME**

The name of this nonprofit mutual benefit corporation is "BENTLEY PARK OWNERS ASSOCIATION" ("Association").

**ARTICLE II
DEFINITIONS**

Unless otherwise defined or unless the context clearly requires a different meaning, the terms used in these Bylaws shall have the meanings specified in this Article.

2.1 **DECLARANT RELATED DIRECTOR:** The term "Declarant Related Director" shall mean a person elected to the Board who is (a) a director, officer, employee or agent of Declarant, or (b) an independent contractor employed by Declarant.

2.2 **HOMEOWNER DIRECTOR:** The term "Homeowner Director" shall mean a person elected to the Board who is not a Declarant Related Director.

2.3 **TITLE 7 DECISION:** The term "Title 7 Decision" shall mean any decision whether to file a claim against Declarant under Title 7, Part 2 of Division 2 of the California Civil Code (Sections 895 et seq.) or any decision relating to the prosecution or resolution of such a claim once it is filed.

2.4 **ALL OTHER TERMS:** All other terms used in these Bylaws shall have the meanings set forth in the Declaration of Covenants, Conditions and Restrictions of Bentley Park, a planned development, recorded on May 24, 2004, as Recorder's Series No. 17803971 in the Official Records of the County of Santa Clara, State of California ("Declaration").

**ARTICLE III
POWERS AND DUTIES OF ASSOCIATION AND BOARD**

3.1 **POWERS OF ASSOCIATION:** The Association has the general power to do any and all things that a nonprofit mutual benefit corporation organized under the laws of the State of California may lawfully do for the benefit of its Members. These powers include any and all lawful actions which may be authorized, required or permitted to be done under and by virtue of the Project Documents or which may be necessary and proper for or incidental to the exercise of any of the express powers of the Association or for the peace, health, comfort, safety or general welfare of the Members. The Association shall have all of the powers and duties set forth in the Project Documents, subject to the limitations stated in the Project Documents.

3.2 **POWERS OF BOARD:** Except for the powers specifically reserved to the Members by the Project Documents and except as limited by the laws of the State of California, the Board shall have the authority to exercise all powers and undertake all duties of the Association. The Board may delegate any of its powers to any committee, officer or employee as the Board deems necessary and proper except

that no committee shall have the power to: (i) approve any action which requires the approval of the Members as provided in the Declaration or these Bylaws; (ii) fill vacancies on the Board or any committee; (iii) amend or repeal these Bylaws or adopt new Bylaws; (iv) amend or repeal any resolution of the Board; or (v) appoint Directors, committees of the Board or members thereof. The Board may also appoint or hire any qualified person or entity as manager of the Project. Except as expressly prohibited, the Board may delegate to the manager any of its duties, powers or functions, including the authority to deposit or withdraw funds from the accounts of the Association, but excluding the right to take any action described in Corporations Code Section 7236 and excluding the right to withdraw from any Reserve Account. The manager may additionally be authorized to establish a common trustee account for the deposit of assessments collected.

3.3 LIMITATIONS ON POWERS OF BOARD: Any approval of the Members required by this Section must be obtained either (i) at a meeting, as long as more than fifty percent (50%) of the Members are present in person or by proxy or (ii) by written ballot, as long as the number of votes cast by written ballot is more than fifty percent (50%) of the Members. The meeting must be conducted in compliance with Chapter 5 (commencing with Section 7510) of Part 3 of Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code. The written ballot must be conducted in compliance with Section 7513 of the California Corporations Code. Without the approval of each class of Members, the Board shall be prohibited from taking any of the following actions:

3.3.1 CONTRACTS FOR GOODS OR SERVICES: Entering into a contract with a third person for goods or services for the Common Area or the Association for a term longer than one (1) year, with the following exceptions:

(a) A management contract, the terms of which have been approved by the Federal Housing Administration or the Department of Veterans Affairs;

(b) A contract with a public utility if the rates charged for the materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate;

(c) Prepaid casualty or liability insurance of not more than three (3) years duration, provided that the policy permits for short rate cancellation by the insured;

(d) Agreements for cable television services not to exceed five (5) years in duration provided that the lessor/supplier under the agreement is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more;

(e) Agreements not to exceed five (5) years in duration for the sale or lease of burglar alarm and/or fire alarm equipment, installation and services provided that the supplier(s) is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more; and

(f) A contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one (1) year, without cause, penalty or other obligation, upon ninety (90) days written notice of termination to the other party.

3.3.2 SELLING PROPERTY OF THE ASSOCIATION: During any fiscal year, selling property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

3.3.3 COMPENSATING DIRECTORS AND OFFICERS: Paying compensation to Directors or officers of the Association for their services as Directors or as officers; provided, however, that the Board may cause a Director or officer to be reimbursed for reasonable expenses actually incurred in carrying on the business of the Association.

3.3.4 IMPROVEMENTS TO THE COMMON AREA: Incurring aggregate expenditures for Improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. This limitation shall not apply to any expenditure of funds from the Reserve Account made in accordance with the scheduled expenditures anticipated by the Budget.

3.3.5 BOARD VACANCIES RESULTING FROM REMOVAL: Filling a vacancy on the Board created by the removal of a Director.

3.4 BOOKS AND RECORDS: Declarant shall deliver to the Association copies of the documents identified in and in compliance with the provisions of Title 10 California Code of Regulations Section 2792.23. The Board shall cause a complete record of all of its acts and corporate affairs to be kept. Every Director shall have the absolute right to inspect all books, records and documents of the Association, the membership register and the physical properties owned or controlled by the Association at any reasonable time. A Director is entitled to make extracts and copies of documents. The membership register, including mailing addresses, telephone numbers, and voting rights shall be available for inspection and copying by any Member or duly appointed representative of a Member if the purposes are related to the Member's interest as a Member. The Association shall make the accounting books and records and the Project Documents available for inspection and copying by a Member or the duly appointed representative of a Member, as provided by and in accordance with California Civil Code Section 1365.2.

3.5 MINUTES: All minutes of meetings of the Board, or a summary of the minutes (other than minutes of an executive session) shall be available for inspection and copying by any Member or duly appointed representative of a Member within thirty (30) days of the meeting. If the minutes have not been approved by the Board within the thirty (30) day period, then the minutes shall be marked "proposed but not yet adopted" and shall be available for inspection and copying. Minutes of meetings of the Association and committees of the Association, when adopted, (or summaries of minutes or proposed minutes, as the case may be) shall be available for inspection and copying by any Member or duly appointed representative of a Member in accordance with the provisions of California Civil Code Section 1365.2. All minutes shall be distributed to any Member upon request and upon reimbursement of the costs incurred by the Association in making that distribution. At the time of the distribution of the Association's Budget or Budget summary and at the time of any other general mailing to the entire membership, all Members shall be notified in writing of their rights to copies of the minutes of meetings of the Board and how and where the minutes may be obtained.

3.6 DISTRIBUTION OF PROJECT DOCUMENTS: Within ten (10) days of a written request by a Member, the Association shall provide to the Member current copies of the Project Documents. A charge for the copies may be made by the Association, which shall not exceed the reasonable costs of preparation, reproduction and mailing.

3.7 NOTICE AND HEARING:

3.7.1 PROCEDURE: If (i) a Member or a Member's Invitee appears to have damaged or permitted damage to occur to any portion of the Project which the Association is responsible for maintaining ("Member Damage"), or if a Member appears to be in violation of any provision of the Project Documents and (ii) the provisions of any of the Project Documents require that Notice and Hearing be provided, the Association shall give written notice to the Member specifying the nature of the damage or violation (and providing any other appropriate information) and stating the time, date and place that the Member will have an opportunity to attend and address the Board. The notice shall also state that the Association may levy a Reimbursement Assessment if the Association finds that Member Damage or a violation has occurred. Written notice shall be given at least fifteen (15) days prior to the date set for the hearing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after it has been deposited in the United States mail, first class postage prepaid, addressed to the Member at the address given by the Member to the Board for the purpose of service of notice or to the address of the Member's Lot if no other address has been provided. Any address may be changed from time to time by giving written notice to the Board. The Board shall meet in executive session if requested to do so by the Member who is the subject of the Notice and Hearing.

3.7.2 DETERMINATION: After the hearing has taken place, the Board shall (i) determine whether Member Damage or a violation has occurred and, if so, may impose a Reimbursement Assessment; or (ii) take such other action as may be appropriate. The determination of the Board shall be final. If the Board imposes a Reimbursement Assessment or other discipline on a Member, the Board shall provide the Member a written notification of the determination, by either personal delivery or first-class mail, within fifteen (15) days following the action. No Reimbursement Assessment or other

disciplinary action shall be effective unless the Board fulfills the requirements of this Section 3.7, and no Reimbursement Assessment shall be effective until five (5) days after the date of the written notification of the determination. However, nothing herein shall be construed to prevent the Board from making any emergency repairs or taking any other emergency action it deems necessary and subsequently providing Notice and Hearing.

3.8 TAX EXEMPT STATUS: If the Board elects to obtain and maintain tax-exempt status for the Association, the Board shall cause any annual election for tax-exempt status required under federal or state law to be filed timely and shall cause the Association to comply with the statutes, rules and regulations adopted by federal and state agencies pertaining to such exemptions.

ARTICLE IV MEMBERSHIP AND VOTING

4.1 CLASSES OF MEMBERSHIP: Until the conversion of Class B membership to Class A membership, the Association shall have two (2) classes of Members.

4.1.1 CLASS "A" MEMBERS: Each Owner, except Declarant, shall be a Class A Member. Declarant shall be a Class A Member after the expiration of Class B membership. One (1) vote for each Lot owned by a Class A Member may be cast.

4.1.2 CLASS "B" MEMBER: Until the expiration of Class B membership, Declarant shall be a Class B Member. Three (3) votes for each Lot owned by a Class B Member may be cast. Class B membership shall expire and shall be converted to Class A membership on the first to occur of the following events:

(a) The date which is the second (2nd) anniversary of the first conveyance of title to a Lot which was covered by the originally issued Public Report for the most recent Phase of the Project; or

(b) The date which is the fourth (4th) anniversary of the first conveyance of title to a Lot which was covered by the originally issued Public Report for the first Phase of the Project.

4.2 VOTING GENERALLY:

4.2.1 CASTING VOTES: The vote for each Lot shall be cast as a majority of co-Owners of the Lot shall determine. Any vote cast by a single Member shall be deemed the authorized vote for that Lot. If the majority of co-Owners present in person or by proxy at a meeting cannot agree as to how to cast the vote for the Lot, no vote shall be cast for that Lot. The power to cast a particular Member's vote may be exercised by (i) the Member's conservator; (ii) the guardian of the Member's estate; (iii) the parent(s) entitled to custody of a Member if the Member is a minor; or (iv) the executor or administrator of a deceased Member's estate if the Member's interest in the Lot is subject to estate administration.

4.2.2 VESTING OF VOTING RIGHTS: A Member's voting rights shall vest once payment of the Regular Assessment has commenced for the Member's Lot, but in no event before that time.

4.3 VOTING PROCEDURES: Any action required by law or by the Project Documents to be approved by the Owners, the Members or each class of Members shall be approved, if at all, in accordance with the procedures set forth in this Section.

4.3.1 SPECIFIED PERCENTAGE: All references in this Section 4.3 to the term "Specified Percentage" shall refer to the percentage vote expressly required by the Project Documents, unless no percentage is specified, in which case the action to be approved shall only require a majority vote.

4.3.2 APPROVAL: Approval shall be obtained, if at all, either at a meeting or by written ballot in accordance with either of the following two procedures:

(a) Any action taken at a meeting shall be approved by the vote of the Specified Percentage of the total number of votes which may be cast by the Members who are present at the meeting or represented by proxy. If a quorum is not present after a quorum was initially established, any action taken shall be subject to the requirements of Section 7512 of the California Corporations Code.

(b) Action taken without a meeting shall be approved by the written ballot of the Specified Percentage of the total number of votes which are cast by the Members; as long as the number of votes cast by written ballot is at least equal to a quorum. However, action without a meeting may only be utilized if done in full compliance with Section 7513 of the California Corporations Code. In no circumstances, may Directors be elected by using this procedure.

4.3.3 OF THE MEMBERS: Each provision of the Project Documents or of law which requires the approval of the Members requires all Members to vote as a single group.

4.3.4 OF EACH CLASS: Each provision of the Project Documents which requires the approval of each class of Members shall be approved in accordance with one of the following provisions:

(a) Prior to the conversion of Class B membership to Class A membership, any action for which the Project Documents expressly require the approval of each class of Members shall require the separate approval of the Specified Percentage of each class of Members.

(b) After the conversion of Class B membership to Class A membership, if Declarant owns one or more Lots in the Project, any action for which the Project Documents expressly require the approval of each class of Members shall require the separate approval of (i) the Specified Percentage of the Members and (ii) the Specified Percentage of the Members, excluding the vote of Declarant.

(c) After the conversion of Class B membership to Class A membership, if Declarant does not own one or more Lots in the Project, any action for which the Project Documents expressly require the approval of each class of Members shall require the Specified Percentage of the Members.

4.4 PROXIES: Each Member may vote by proxy. Each proxy shall be in writing, signed and dated by the Member and filed with the Secretary of the Association. No proxy shall be valid as to those matters described in Corporations Code Section 7613(g) unless it sets forth the general nature of the matter as required by Section 7613(g). Every proxy shall be revocable and shall automatically cease upon actual notice to the Association of the conveyance by the Member of the Member's interest in the Lot or the death or judicially declared incompetence of the Member. Any form of proxy or written ballot distributed by any person to the Members shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon except that a candidate for election as a Director need not be named in the proxy or written ballot. The proxy or written ballot shall provide that where the Member specifies a choice the vote shall be cast in accordance with that choice. The proxy shall also identify the person or persons authorized to exercise the proxy and the length of time it will be valid.

4.5 CUMULATIVE VOTING: Cumulative voting applies only when electing or removing Directors. Class A Members shall be entitled to cast a number of votes equal to the number of Directors to be elected multiplied by the number of Lots owned. Class B Members shall be entitled to cast a number of votes equal to the number of Lots owned multiplied by three multiplied by the number of Directors to be elected. Every Member may cumulate votes and give them to a single candidate or distribute them among as many candidates as the Member thinks fit, as long as the name of any candidate for whom the Member casts cumulated votes has been put into nomination prior to the commencement of voting and the Member announces an intention to cumulate votes prior to voting. If one Member announces an intention to cumulate votes, all Members may cumulate votes.

ARTICLE V
DIRECTORS AND OFFICERS

5.1 **GENERALLY:** The affairs of the Association shall be managed by a Board of five (5) Directors. Directors shall be elected at annual meetings. The officers of the Association shall be a President, a Secretary and a Chief Financial Officer (Treasurer).

5.2 **ELECTION OF DIRECTORS:** The initial Board shall be appointed by Declarant and shall hold office until the first annual meeting of Members. Beginning at the first annual meeting, Directors shall be elected as provided in this Section.

5.2.1 **NOMINATION:** Nomination for election to the Board shall be made by a nominating committee. The nominating committee shall consist of a chairman, who shall be a Director, and two or more Members. The committee shall be appointed by the Board and shall be announced at each annual meeting. Members of the nominating committee shall serve from the close of the meeting at which their appointments are announced until the close of the next annual meeting. The nominating committee shall make as many nominations for election to the Board as it determines in its discretion; provided, however, that there must be at least as many nominations as there are vacancies to be filled. Nominations may also be made from the floor. Each candidate shall be identified as a potential Homeowner Director or a potential Declarant Related Director.

5.2.2 **ELECTION:** Election to the Board shall be by secret written ballot. Except as provided in (a) and (b), below, the persons receiving the greatest numbers of votes shall be deemed elected. Each Member may cumulate votes in the manner described in Section 4.5.

(a) **Class A Director Election:** As long as there are two (2) classes of Members, or as long as Declarant is entitled to cast a majority of the votes which may be cast by the Members, one (1) of the Directors must be or have been separately elected solely by a vote of Members other than Declarant ("Class A Director Election"). If, at the time of any election of Directors, there is not then at least one (1) Director who has been elected at a Class A Director Election, then the Class A Members shall elect a Director by secret written ballot before any other Director is elected.

(b) **Requirement of Two (2) Homeowner Directors:** If, at the time of any election of Directors (and after any Class A Director Election has been conducted pursuant to (a), above), there are not at least two (2) Homeowner Directors, then after the secret written ballots are cast, the following candidates shall be deemed elected to the Board: (1) the candidate who receives the greatest number of votes of all candidates who would be a Homeowner Director if elected shall be deemed elected, and (2) the remaining candidates who receive the greatest number of votes shall be deemed elected to fill all remaining positions on the Board.

5.2.3 **TERM OF OFFICE:** The two (2) Homeowner Directors elected at the initial meeting of the Members shall each serve a term of one (1) year. If more than two (2) Homeowner Directors are elected at that meeting, the two (2) Homeowner Directors who received the fewest votes shall each serve a term of one (1) year. The other three (3) Directors and all Directors subsequently elected shall each serve two (2) year terms. Each Director shall hold office until a successor is elected unless the Director resigns, is removed or is otherwise disqualified from serving. Except as provided in Section 3.3.5, the Board may appoint a person to fill a vacancy on the Board and the replacement shall serve the remainder of the term of the replaced Director.

5.3 **REMOVAL OF DIRECTORS:** Unless the entire Board is removed from office by a vote of the Members, an individual Director shall not be removed prior to the expiration of the Director's term if the number of votes cast against removal is greater than the sum arrived at by using the following formula: $X/Y + 1$, where X equals the total number of votes cast at the election to remove the Director and Y equals the number of Directors authorized to be elected by these Bylaws. However, any Director who has been elected solely by Members other than Declarant may be removed from office prior to the expiration of the Director's term only by the vote of not less than fifty-one percent (51%) of Members other

than Declarant. When voting for the removal of a Director, each Member shall be entitled to cumulate votes as described in Section 4.5.

5.4 RESIGNATION OF DIRECTORS: Any Director may resign by giving written notice to the Board. The resignation shall be effective on the date specified in the notice. Unless otherwise provided in the notice, the acceptance of a resignation shall not be necessary to make it effective. The vacancy created by the resignation may be filled by a majority vote of a quorum of the Board. However, if the number of Directors remaining after the resignation is less than a quorum, the vacancy may be filled by the unanimous written consent of all Directors then holding office. The Members may elect a director to fill any vacancy which remains unfilled by the Board for a period in excess of sixty (60) days. Notwithstanding the preceding, if there is only one (1) Homeowner Director, a person who will qualify as a Homeowner Director must be appointed or elected to fill the vacancy.

5.5 ELECTION OF OFFICERS: Officers shall be elected by the Board at the first meeting held after each annual meeting of the Association. The Board may also elect a Vice President and/or such other officers as the affairs of the Association may require. The terms of office shall be prescribed by the Board. Each officer shall hold office until a successor is elected unless the officer resigns, is removed or otherwise is disqualified from serving.

5.6 REMOVAL AND RESIGNATION OF OFFICERS: Any officer may be removed from office by the Board with or without cause. If a Director serving in the office of President or Vice President has been removed pursuant to Section 5.3, the Director shall also be automatically removed from the position as an officer. Any officer removed by the Board shall not be removed from the position of Director except pursuant to Section 5.3. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. The resignation shall be effective on the date specified in the notice. Unless otherwise specified in the notice, the acceptance of a resignation shall not be necessary to make it effective.

5.7 DUTIES OF OFFICERS: Unless otherwise (i) directed by the Board or (ii) required by law, officers shall perform the duties described herein:

5.7.1 PRESIDENT: The President or other person designated by the President shall (i) preside at all meetings of the Board and of the Members; (ii) see that orders and resolutions of the Board are carried out; and (iii) sign all leases, mortgages, deeds, promissory notes and other written instruments.

5.7.2 VICE PRESIDENT: The Vice President, if any, shall act in the place and stead of the President in the event of the President's absence or inability or refusal to act.

5.7.3 SECRETARY: The Secretary shall (i) record the votes and keep the minutes of all meetings and proceedings of the Board and the Association; (ii) serve notice of meetings of the Board and the Association; and (iii) keep appropriate current records showing the Members together with their addresses.

5.7.4 CHIEF FINANCIAL OFFICER: The Chief Financial Officer shall (i) receive and deposit into appropriate bank accounts all monies of the Association; (ii) disburse funds as directed by resolutions of the Board; (iii) keep proper books of account; and (iv) prepare or cause to be prepared all budgets and financial statements.

ARTICLE VI MEETINGS OF MEMBERS

6.1 ANNUAL MEETINGS: The first annual meeting of the Association shall be held within six (6) months after the date of the closing of the sale of the first Lot in the Project. The second annual meeting of the Association, and every annual meeting thereafter, shall be set by the Board so as to occur no later than fifteen (15) months after the date of the previous annual meeting. The specific day and time

of each meeting shall be determined by the Board. Meetings shall be held within the Project or at a location as close to the Project as possible.

6.2 SPECIAL MEETINGS: A special meeting of the Members must be promptly scheduled by the President, or, if the President refuses or is unable to, by any Director, upon (i) a vote of the Board itself; or (ii) receipt by the Board of a written request for such a meeting signed by Members entitled to cast not less than five percent (5%) of the total votes which may be cast by the Members. Special meetings of the Members may also be called at any time by the President or the Board.

6.3 NOTICE: Except where the Project Documents require otherwise, written notice of regular and special meetings of the Members shall be given by or at the direction of the Secretary or other person authorized to call the meeting. Notice of each meeting shall be given to each Member entitled to vote at the meeting and shall be addressed to the Member at either (i) the most recent address appearing on the books of the Association or (ii) the address supplied by the Member to the Association for the purpose of notice. Notices for a meeting called pursuant to Sections 6.1 or 6.2(i) shall be personally delivered or mailed first class with postage prepaid at least ten (10) but not more than ninety (90) days before the meeting; however, notices for a meeting called pursuant to Section 6.2(ii) shall be given at least thirty-five (35) but not more than ninety (90) days after receipt by the Board of the request. Notice by mail other than first class shall be made at least twenty (20) but not more than ninety (90) days before each meeting. Notices of meetings shall specify the place, day and hour of the meeting and any matters the Board intends to present for action by the Members. Notices of special meetings shall also state the purpose of the special meeting. Except as otherwise provided in these Bylaws or by law, any proper Association matter may be presented at a meeting for action. If mailed, notices shall be deemed to be delivered twenty-four (24) hours after their deposit in the United States mail, first class postage prepaid.

6.4 QUORUM: The presence at the meeting of Members and proxies entitled to cast one-third (1/3) of the total number of votes which may be cast by the Members shall constitute a quorum for any action, unless a higher percentage is required by the Davis-Stirling Common Interest Development Act. If a quorum is not present or represented at any meeting, a majority of the Members present in person shall have the power to adjourn the meeting to another time with no notice other than an announcement at the meeting. If a time and place for the reconvened meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the reconvened meeting after adjournment, notice of the time and place of the reconvened meeting shall be given to Members in the manner prescribed for regular meetings. The quorum for the reconvened meeting shall be twenty-five percent (25%); however, if fewer than one-third (1/3) of the total number of votes which may be cast by the Members are present in person or by proxy, the only business that may be transacted are those items which were generally described in the notice of the meeting.

6.5 PARLIAMENTARY PROCEDURE: Meetings of Members shall be conducted in accordance with a recognized system of parliamentary procedure which shall be adopted by the Board.

6.6 TITLE 7 DECISIONS: Declarant shall not cast any votes in any Title 7 Decision submitted to Members. Any such Title 7 Decision may be approved only by Members other than Declarant.

ARTICLE VII MEETINGS OF DIRECTORS

7.1 MEETING DEFINED: The term "meeting" shall mean any congregation of a majority of the members of the Board at the same time and place to hear, discuss or deliberate upon any item of business scheduled to be heard by the Board.

7.2 REGULAR MEETINGS: Regular meetings of the Board shall be held quarterly unless the Board determines that the business to be transacted requires more frequent meetings. In that event, regular meetings shall be held at intervals determined by the Board but not less frequently than quarterly. Regular meetings shall be held at the time and place fixed by the Board.

7.3 SPECIAL MEETINGS: Special meetings of the Board shall be held when called by written notice signed by the President of the Association or by any two Directors other than the President.

7.4 EMERGENCY MEETINGS: Emergency meetings of the Board may be called by the President of the Association or by any two (2) Directors other than the President, (i) if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board and (ii) which, of necessity, make it impracticable to provide notice in accordance with the provisions of Section 7.5, below.

7.5 NOTICE TO DIRECTORS: Notice of any meeting of the Board, except an emergency meeting, shall be communicated to each Director not less than four (4) nor more than fifteen (15) days prior to the date fixed for such meeting; provided, however, that notice of a meeting need not be given to any Director who signs a waiver of notice or a written consent to the holding of such meeting. The notice shall specify the time, place and purpose(s) of the meeting. If the notice is mailed, it shall be deemed to be delivered twenty-four (24) hours after deposit in the United States mail with first class postage fully prepaid. If notice is given by telegram, facsimile or electronic mail, notice shall be deemed to be delivered when transmitted. The attendance of a Director at the meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called or convened.

7.6 NOTICE TO MEMBERS: The Secretary shall post a notice of the time and place of all Board meetings in a conspicuous place within the Common Area. Notice shall also be given by mail to any Owner who has requested notification of Board meetings by mail. If there is no suitable location for posting within the Common Area, the Board shall communicate the notice by any means it deems appropriate, including by newsletter or similar means of communication. Notices shall be posted not less than four (4) days prior to the scheduled time of the meeting, except for emergency meetings of the Board.

7.7 QUORUM: A majority of the Directors then in office, but not less than two (2), shall constitute a quorum for the transaction of business. Every action taken and every decision made by the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for the meeting, and any such action shall be regarded as the act of the Board. It is expressly intended that after the Declarant Related Directors leave a meeting as required by Section 7.8, (i) the Homeowner Directors shall have the right to transact business relating to Title 7 Decisions and (ii) the decision of both Homeowner Directors if there are only two (2) Homeowner Directors, or of a majority of the Homeowner Directors if there are more than two (2) Homeowner Directors, shall constitute a proper and valid action of the Board.

7.8 TITLE 7 DECISIONS: All Declarant Related Directors are hereby declared to have a conflict of interest and are hereby expressly prohibited from voting or participating in any discussions related to any Title 7 Decision. In addition, the Declarant Related Directors are required to leave any meeting in which a Homeowner Director announces that such Director would like to begin discussions or a vote on a Title 7 Decision. Any vote on any Title 7 Decision shall require the approval of a majority of the Homeowner Directors present at the meeting, but not less than two (a majority of a quorum). The discussion and voting on the Title 7 Decision shall be conducted after all other business either scheduled for that meeting or which any Director intends to present to the Board for discussion or decision (other than a Title 7 Decision) has been completed. After the Declarant Related Directors have left the meeting, the Homeowner Directors may discuss or decide Title 7 Decisions; however, no other business shall be transacted until the Declarant Related Directors are notified of their right to re-enter the meeting and participate in all discussions and voting on other than Title 7 Decisions.

7.9 PARTICIPATION BY MEMBERS: Meetings of the Board shall be open to all Members. Members may speak at any meeting they are entitled to attend, subject to the reasonable time limits established by the Board.

7.10 EXECUTIVE SESSION: If the nature of the business is first announced in open session, with the approval of a majority of the Directors present at a meeting in which a quorum for the

transaction of business has been established, the Board may vote to adjourn and reconvene in executive session to consider, discuss and vote upon litigation, matters that relate to the formation of contracts with third parties, Member discipline, personnel matters or to meet with a Member, upon the Member's request, regarding the Member's payment of assessments, as specified in California Civil Code Sections 1367 or 1367.1. In any matter relating to the discipline of a Member, the Board shall meet in executive session if requested by that Member and that Member shall be entitled to attend the executive session. Any matter discussed in executive session shall be noted generally in the minutes immediately following the meeting that is open to the entire membership.

7.11 ACTION WITHOUT A MEETING: The Directors shall have the right to take any action that may be required for the efficient and expeditious operation and conduct of the Association's business without a meeting if (i) the Board would have the power and authority to act at a meeting and (ii) the written consent of all Directors to such action is obtained. Unless mailed, an explanation of the action taken without a meeting must be posted in a conspicuous place within the Common Area within three (3) days after the consent of all Directors is obtained; provided, if there is no suitable location for posting within the Common Area, the Board shall communicate the explanation by any means it deems appropriate. Any action taken by written consent shall have the same effect as if it were taken at a duly noticed meeting of the Board.

ARTICLE VIII INDEMNIFICATION

8.1 GENERALLY: A Director, officer, committee member, employee or other agent of the Association (collectively "Agent") who is a party to or is threatened to be made a party to any proceeding (including a proceeding by or on behalf of the Association) by reason of the fact that such Agent is or was an agent of the Association shall be indemnified by the Association against all expenses and liabilities actually and reasonably paid or incurred in connection with the proceeding to the maximum extent permitted by the California Nonprofit Mutual Benefit Corporation Law. Terms used in this Article shall have the same meaning as in Section 7237 of the California Corporations Code.

8.2 APPROVAL: Upon written request to the Board by any Agent seeking indemnification, the Board shall promptly determine whether the applicable standard of conduct set forth in the California Nonprofit Mutual Benefit Corporation Law has been met. If so, the Board shall authorize indemnification. If pursuant to limitations imposed by Section 7237 of the California Corporations Code the Board cannot authorize indemnification because more than fifty percent (50%) of the Directors are parties to the proceeding for which indemnification is sought, the Board shall promptly call a special meeting of Members. At the meeting, the Members shall determine whether the applicable standard of conduct set forth in the California Nonprofit Corporation Law has been met. If so, the Members shall authorize indemnification. Members or other persons seeking to be indemnified shall not be entitled to vote on the question of indemnification.

8.3 ADVANCING EXPENSES: Prior to the final disposition of a proceeding described in Section 8.1, the Association shall advance the costs of defense incurred by the Agent if the Agent (i) agrees to reimburse the Association and (ii) provides assurances of the Agent's ability to reimburse the Association. At the final disposition of the proceeding, the Agent shall reimburse the Association unless it was determined that the Agent is entitled to be indemnified by the Association.

8.4 NON-LIABILITY OF OFFICIALS: To the fullest extent permitted by law, and except as may be limited by Section 7236 of the California Corporations Code, no Agent shall be liable to any Member, Owner, the Association or any other party for any damage, loss, claim, liability or prejudice suffered or claimed as a result of any decision, approval, disapproval, course of action, act, inaction, omission, error, or negligence which was (i) made in good faith and (ii) reasonably believed by such Agent to be within the scope of such Agent's duties as a Director, officer or committee member.

8.5 CONTRACTUAL INDEMNITY: The provisions of this Article shall not affect any right to indemnification to which persons other than officers and directors may be entitled to by contract or otherwise.

**ARTICLE IX
AMENDMENTS**

9.1 PROCEDURE: Except as provided in the Declaration, these Bylaws may be amended if all of the following requirements are satisfied:

9.1.1 APPROVAL OF MEMBERS: Each class of Members has approved the amendment.

9.1.2 SPECIFIC PROVISIONS: Sections 7.7 and 7.8, this Section 9.1 and any provision which deals with (a) Homeowner Directors, (b) Declarant Related Directors, or (c) a Title 7 Decision may not be amended without the consent of Declarant until all claims that could be filed pursuant to Chapter 4, Title 7, Part 2 of Division 2 of the California Civil Code (Sections 910 et seq.) are barred by statutes of limitation.

9.2 RECORDS OF AMENDMENTS: Whenever an amendment or a new Bylaw is adopted, it shall be added in the appropriate place in the Association's minute book. If any Bylaw repeals any portion of these original Bylaws, either the date of the meeting at which the Bylaws or portion thereof was repealed or the date written consent was filed with the Secretary shall be stated therein.

**ARTICLE X
CONFLICT**

In the case of any conflict between the Articles and these Bylaws, the Articles shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

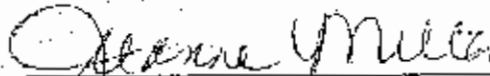
CERTIFICATION

I, the undersigned, do hereby certify that:

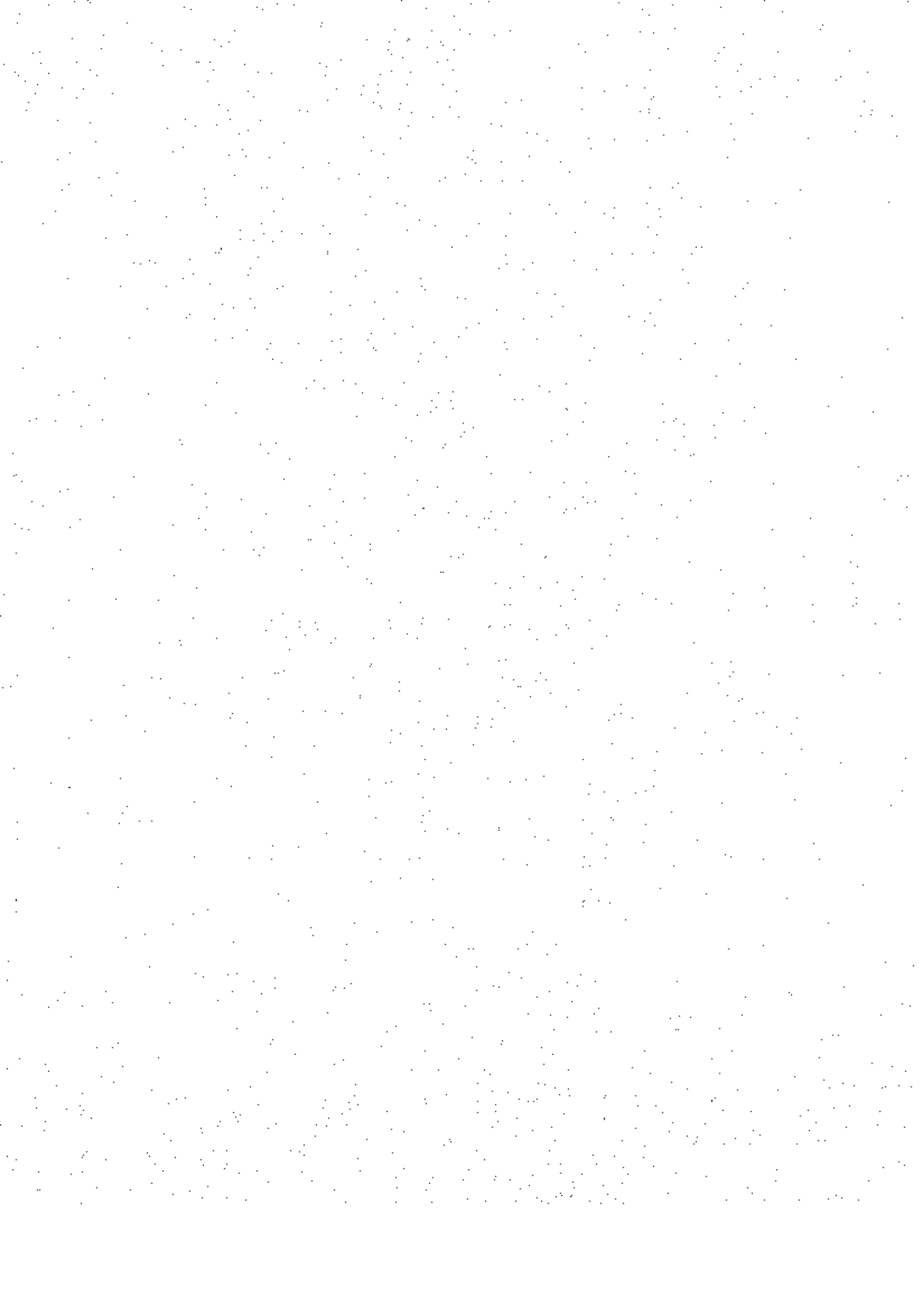
I am the incorporator of Bentley Park Owners Association, a California nonprofit mutual benefit corporation; and

The foregoing Bylaws are hereby adopted as the original Bylaws of the Association.

Dated: May 27, 2004



Incorporator



754558

RECORDED AT THE REQUEST OF:
First American Title
WHEN RECORDED RETURN TO:

Pulte Homes
7031 Koll Center Parkway
Suite 150
Pleasanton, CA 94566

DOCUMENT: 17803971



Pages: 38

Fees.... \$18.00
Taxes...
Copies...
AMT PAID 118.00

BRENDA DAVIS
SANTA CLARA COUNTY RECORDER
Recorded at the request of
First American Title Company

RDE # 001
5/24/2004
8:00 AM

DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS OF BENTLEY PARK

A Common Interest Development

If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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CONDITIONS AND RESTRICTIONS
OF
BENTLEY PARK
A Common Interest Development**

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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
BENTLEY PARK
A Common Interest Development**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BENTLEY PARK ("Declaration") is made by PULTE HOME CORPORATION, a Michigan corporation ("Declarant").

**ARTICLE I
APPLICABILITY OF DECLARATION**

1.1. **FACTS:** This Declaration is made with reference to the following facts:

1.1.1 **Property Owned by Declarant:** Declarant is the owner of all the real property and Improvements thereon located in the City of San Jose, County of Santa Clara, State of California, described as follows:

Lots 1 through 6, inclusive, and 61 through 84, inclusive, and Lots A and D, as shown on the subdivision map of Tract No. 9534, filed for record on February 4, 2004, in Book 767 of Maps at Pages 42 through 45, inclusive, in the Official Records of the County of Santa Clara, State of California.

1.1.2 **Nature of Project:** Declarant intends to develop the Subject Property and the Additional Property as a Common Interest Development which shall be a planned development as defined in California Civil Code Section 1351(k). The Project is intended to be created in conformity with the provisions of the Davis-Stirling Common Interest Development Act (California Civil Code, Section 1350 et seq.). To establish the Project, Declarant desires to impose on the Subject Property, and any property annexed thereto, these mutually beneficial restrictions, easements, assessments and liens under a comprehensive general plan of improvement and development for the benefit of all of the Owners, the Lots and Common Area within the Subject Property and any property annexed thereto.

1.1.3 **Phases of Project:** The Subject Property and the Additional Property are intended to be developed in two (2) or more Phases. The first Phase consists of the Subject Property. Prior to annexation, the Additional Property will not be subject to any provision of this Declaration. Declarant may, but has no obligation to, annex all or any portion of the Additional Property to the Project by recording a Declaration of Annexation in compliance with the provisions of this Declaration.

1.2 **APPLICABILITY OF RESTRICTIONS:** Pursuant to California Civil Code Sections 1353 and 1354, Declarant hereby declares that the Project and all Improvements thereon are subject to the provisions of this Declaration. The Project shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the covenants, conditions and restrictions stated in this Declaration. All such covenants, conditions and restrictions are declared to be in furtherance of the plan for the subdivision, development and management of the Project as a Common Interest Development. All of the limitations, easements, uses, obligations, covenants, conditions, and restrictions stated in this Declaration shall run with the Project and shall inure to the benefit of and be binding on all Owners and all other parties having or acquiring any right, title or interest in any part of the Project. After recordation of a Declaration of Annexation, the property described therein will constitute a part of the Project and will be subject to this Declaration.

1.3 **BOUNDARY MODIFICATIONS:** If the boundaries of real property change as a result of one or more subsequently recorded final maps, amended final maps, parcel maps, amended parcel maps, certificates of correction, lot line adjustments and/or records of survey, then, for all purposes of this Declaration:

1.3.1 **Added to Common Area:** Property which is removed from a Lot or a Common Area parcel and added to a Common Area parcel shall thereafter be part of that Common Area parcel;

1.3.2 **Added to Lot:** Property which is removed from a Lot or a Common Area parcel and added to a Lot shall thereafter be part of that Lot;

1.3.3 **Removed From Declaration:** Property which is removed from a Lot or Common Area parcel and added to real property which is not subject to this Declaration shall no longer constitute a part of such Lot or Common Area and shall no longer be subject to this Declaration.

1.3.4 **Added to Declaration:** Property not subject to this Declaration which is added to a Lot or Common Area parcel shall be part of the Lot or Common Area parcel to which it is added and shall automatically be subject to all provisions of this Declaration.

ARTICLE II DEFINITIONS

Unless otherwise defined or unless the context clearly requires a different meaning, the terms used in this Declaration, the Map and any grant deed to a Lot shall have the meanings specified in this Article.

2.1 **ADDITIONAL CHARGES:** The term "Additional Charges" shall mean costs, fees, charges and expenditures, including without limitation, attorneys' fees, late charges, interest and recording and filing fees actually incurred by the Association in collecting and/or enforcing payment of assessments, fines and/or penalties.

2.2 **ADDITIONAL PROPERTY:** The term "Additional Property" shall mean the real property described on Exhibit "A" and all Improvements situated on such real property.

2.3 **ALTERATION:** The term "Alteration" shall mean constructing, performing, installing, remodeling, repairing, replacing, demolishing and/or changing any improvement or changing the color, hue, intensity, tone or shade of any Improvement.

2.4 **ARTICLES:** The term "Articles" shall mean the Articles of Incorporation of Bentley Park Owners Association, which are or shall be filed in the Office of the Secretary of State of the State of California.

2.5 **ASSOCIATION:** The term "Association" shall mean Bentley Park Owners Association, its successors and assigns, a nonprofit mutual benefit corporation incorporated under the laws of the State of California.

2.6 **BOARD:** The term "Board" shall mean the Board of Directors of the Association.

2.7 **BUDGET:** The term "Budget" shall mean a pro forma operating budget prepared by the Board in accordance with Section 6.7.1 of this Declaration.

2.8 **BYLAWS:** The term "Bylaws" shall mean the Bylaws of the Association and any amendments thereto.

2.9 **CITY:** The term "City" shall mean the City of San Jose, California.

2.10 COMMON AREA: The term "Common Area" shall mean Lots A and D, as shown on the Map. The term "Common Area" shall also mean any property described as Common Area in a Declaration of Annexation and any real property estate or interest owned by the Association. Common Area includes all Improvements situated thereon or therein.

2.11 COUNTY: The term "County" shall mean the County of Santa Clara, State of California.

2.12 DECLARANT: The term "Declarant" shall mean Pulte Home Corporation, a Michigan corporation. The term "Declarant" shall also mean any person or entity if (i) a notice signed by Declarant and such person or entity has been recorded in the County in which such person or entity assumes the rights and duties of Declarant to some portion of the Subject Property or the Additional Property, or (ii) such person or entity acquires all of the Subject Property and all of the Additional Property then owned by a Declarant which must be more than one (1) Lot. There may be more than one Declarant at any given time.

2.13 DECLARATION: The term "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions of Bentley Park and includes any subsequently recorded amendments.

2.14 DECLARATION OF ANNEXATION: The term "Declaration of Annexation" shall mean any instrument recorded in the County which extends the provisions of this Declaration to all or a portion of the Additional Property or any other property.

2.15 FIRST MORTGAGE: The term "First Mortgage" shall mean a Mortgage which has priority under the recording statutes of the State of California over all other Mortgages encumbering a specific Lot.

2.16 FIRST MORTGAGEE: The term "First Mortgagee" shall mean the Mortgagee of a First Mortgage. The term "First Mortgagee" shall also include an insurer or governmental guarantor of a First Mortgage including, without limitation, the Federal Housing Authority and the Department of Veterans Affairs.

2.17 IMPROVEMENTS: The term "Improvements" shall mean everything constructed, installed or planted on real property, including without limitation, buildings, streets, fences, walls, paving, pipes, wires, grading, landscaping and other works of improvement as defined in Section 3106 of the California Civil Code, excluding only those Improvements or portions thereof which are dedicated to the public or a public or quasi-public entity or utility company, and accepted for maintenance by the public, such entity or utility company.

2.18 INVITEE: The term "Invitee" shall mean any person whose presence within the Project is approved by or is at the request of the Association or a particular Owner, including, but not limited to, lessees, tenants, and the family, guests, employees, licensees or invitees of Owners, tenants or lessees.

2.19 LANDSCAPE MAINTENANCE AREA: The term "Landscape Maintenance Area" shall mean the unenclosed portions of each Lot. Each Landscape Maintenance Area includes all landscaping within the Landscape Maintenance Area and the landscape irrigation systems and components, for the Landscape Maintenance Area, including wiring, automatic valves, controllers and timers, wherever located.

2.20 LOT: The term "Lot" refers to a Separate Interest as defined in California Civil Code Section 1351(f) and shall mean Lots 1 through 6, inclusive, and 61 through 84, inclusive, as shown on the Map. The term "Lot" shall also mean any Lot described as such in a Declaration of Annexation. Lot includes all Improvements situated thereon or therein.

2.21 MAINTAIN: The term "Maintain" or "Maintained" (but not the word "maintenance") shall mean taking all actions reasonably necessary to keep an Improvement in first class condition and repair, which actions include but are not limited to regular inspections, painting, maintenance, refinishing, repairing, replacing and reconstructing the Improvement, and in the case of landscaping, irrigating and fertilizing the landscaping. The Owners and the Association shall have no responsibility to Maintain any Improvement Maintained by a third party or the public or a quasi-public entity or utility company even if

the third party or the public or a quasi-public entity or utility company public fails to perform all actions required by this Section.

2.22 MAINTENANCE MANUAL: The term "Maintenance Manual" shall mean the Association Maintenance Manual, if any, and the Owner Maintenance Manual, unless otherwise provided.

2.22.1 Association Maintenance Manual: The term "Association Maintenance Manual" shall mean the documents which establish procedures, practices, specifications, scopes and intervals for the Association to Maintain the Improvements for which the Association is responsible. The Association Maintenance Manual may be provided to the Association by Declarant no later than the time of conveyance of the Common Area to the Association. If Declarant does not provide a Maintenance Manual to the Association, then the Association may prepare and adopt an Association Maintenance Manual.

2.22.2 Owner Maintenance Manual: The term "Owner Maintenance Manual" shall mean the documents which establish procedures, practices, specifications, scopes and intervals for the Owner to Maintain the Improvements for which an Owner is responsible. The Maintenance Manual applicable to each Lot shall be provided by Declarant to the initial Owner (other than a Declarant) to acquire that Lot from Declarant.

2.23 MAP: The term "Map" shall mean the subdivision map of Tract No. 9534, recorded on February 4, 2004, in Book 767 of Maps at Pages 42 through 45, inclusive, in the Official Records of the County, including any subsequently recorded amended final maps, parcel maps, certificates of correction, lot line adjustments and/or records of survey. The term "Map" shall also mean any recorded subdivision map described in a Declaration of Annexation.

2.24 MEMBER: The term "Member" shall mean an Owner.

2.25 MORTGAGE: The term "Mortgage" shall mean any duly recorded mortgage or deed of trust encumbering a Lot.

2.26 MORTGAGEE: The term "Mortgagee" shall mean a Mortgagee under a Mortgage as well as a beneficiary under a deed of trust.

2.27 NOTICE AND HEARING: The term "Notice and Hearing" shall mean the procedure which gives an Owner notice of an alleged violation of the Project Documents and the opportunity for a hearing before the Board.

2.28 OPERATING RULES: The term "Operating Rules" shall mean the rules adopted by the Board, including the Architectural Standards.

2.29 OWNER: The term "Owner" shall mean the holder of record fee title to a Lot, including Declarant as to each Lot owned by Declarant. If more than one person owns a single Lot, the term "Owner" shall mean all owners of that Lot. The term "Owner" shall also mean a contract purchaser (vendee) under an installment land contract but shall exclude the contract vendor and any person having an interest in a Lot merely as security for performance of an obligation.

2.30 PARTY FENCE: The term "Party Fence" shall mean any portion of a fence or wall which is constructed and placed so as to physically separate one (1) Lot from another Lot, whether the fence or wall is situated approximately along a common Lot boundary or an easement boundary.

2.31 PHASE: The term "Phase" shall mean any Lots and/or Common Area which are simultaneously made subject to the provisions of this Declaration either by recording this Declaration or by recording a Declaration of Annexation. More than one Phase may be established in any Declaration of Annexation.

2.32 PROJECT: The term "Project" shall mean the Subject Property and any property described in a Declaration of Annexation.

2.33 **PROJECT DOCUMENTS:** The term "Project Documents" shall mean the Articles, Bylaws, this Declaration and the Operating Rules.

2.34 **PUBLIC REPORT:** The term "Public Report" shall mean a Final Subdivision Public Report issued by the Department of Real Estate of the State of California for one or more Phases of the Project.

2.35 **RESIDENCE:** The term "Residence" shall mean a dwelling situated on a Lot, including any garage also situated on a Lot.

2.36 **SUBJECT PROPERTY:** The term "Subject Property" shall mean the real property described in Section 1.1.1, above, and all improvements thereon.

2.37 **VISIBLE:** The term "Visible" shall mean the item described can be seen by a six (6) foot tall person standing on the described area, or if no area is described, on any portion of the street which provides access to the Residence.

ARTICLE III OWNERSHIP AND EASEMENTS

3.1 **NON-SEVERABILITY:** The interest of each Owner in the use and benefit of the Common Area shall be appurtenant to the Lot owned by the Owner. Any conveyance of any Lot shall automatically transfer the right to use the Common Area without the necessity of express reference in the instrument of conveyance. The ownership interests in the Common Area and Lots described in this Article are subject to the easements described, granted and reserved in this Declaration. Each of the easements described, granted or reserved herein shall be established upon the recordation of this Declaration and shall be enforceable as equitable servitudes and covenants running with the land for the use and benefit of the Owners and their Lots superior to all other encumbrances applied against or in favor of any portion of the Project.

3.2 **OWNERSHIP OF LOTS:** Title to each Lot in the Project shall be conveyed in fee to an Owner.

3.3 **OWNERSHIP OF COMMON AREA:** Title to or a legal ownership interest in the Common Area in each Phase shall be conveyed to the Association prior to or concurrently with the conveyance of the first Lot in that particular Phase to an Owner. The Association shall be deemed to have accepted the Common Area conveyed to it when (i) a grant deed conveying title to the Common Area has been recorded in the Official Records of the County and (ii) assessments for the Phase in which the Common Area is located have commenced.

3.4 **OWNERSHIP OF PARTY FENCES:** Each Owner of a Lot upon which a Party Fence is situated shall own that portion of the fence or wall from the surface which faces the Owner's Lot up to the center of the Party Fence.

3.5 **EASEMENTS:** The easements and rights specified in this Article are hereby created and shall exist whether or not they are also set forth in individual grant deeds to Lots. By reference in this Declaration, each grant deed to a Lot shall be deemed to be conveyed with the benefit of and subject to all applicable easements set forth in this Section.

3.5.1 **Adjoining Property:** Declarant shall have, and hereby expressly reserves, a right and easement over and across the Common Area for the purposes of reasonable ingress to and egress from, over and across the Project, including private roads and pathways, to the Additional Property until all of the Additional Property is annexed to the Project.

3.5.2 Annexation of Additional Property: Upon the recordation of a Declaration of Annexation, the Lots and the Owners of Lots in the annexed Phase shall have all of the rights and easements specified in this Article and the Lots and the Owners of Lots in the Project prior to annexation shall have all of the easements specified in this Article as though the annexed Phase were initially part of the Project.

3.5.3 Association: The Association and its duly authorized agents and representatives shall have a non-exclusive right and easement as is necessary to perform the duties and obligations of the Association set forth in the Project Documents, including the right to enter upon Lots, subject to the limitations contained in this Declaration.

3.5.4 Common Area: Every Owner shall have a non-exclusive right and easement for the ingress, egress, use and enjoyment of 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 to grant, convey and dedicate fee title to or easements over all or any portion of the Common Area; and

(b) Any easement which affects the Common Area or which is set forth in the deed which conveys the Common Area to the Association.

3.5.5 Encroachment: Non-exclusive rights and easements are reserved and granted (i) for the benefit of each Lot, as dominant tenement, over, under and across each other Lot and the Common Area, as servient tenement, and (ii) for the benefit of the Common Area, as dominant tenement, over, under and across each Lot, as servient tenement. Such easements shall be for the purposes of encroachment, support, occupancy and use of such portions of Lots and/or Common Area as shall be encroached upon, used and occupied by the dominant tenement as a result of any original construction design, accretion, erosion, deterioration, decay, errors in original construction, movement, settlement, shifting or subsidence of any building or structure or any portion thereof. If any portion of the Project is partially or totally destroyed, the encroachment easement shall exist for any replacement structure which is rebuilt pursuant to the original construction design. The easement for the encroaching Improvement shall exist for as long as the encroachment exists, provided that no easement for encroachment shall be created due to the willful misconduct of the Association or any Owner. Any easement for encroachment may but need not be cured by repair or restoration of the Improvement.

3.5.6 Governmental Entities: All governmental and quasi-governmental entities, agencies and utilities and their agents shall have a non-exclusive easement over the Common Area for the purposes of performing their duties within the Project.

3.5.7 Landscape Maintenance Areas: The Association shall have a non-exclusive easement over the Landscape Maintenance Areas to maintain and irrigate the Landscape Maintenance Areas.

3.5.8 Mailboxes: Each Owner whose mailbox is not located on that Owner's Lot shall have a non-exclusive easement to use and maintain the mailbox over those portions of the Project on which the mailbox is located.

3.5.9 Map: The Common Area and Lots are subject to all easements and rights of way shown on the Map.

3.5.10 Party Fences: Each Owner of a Lot containing a Party Fence shall have a reciprocal non-exclusive easement over and across such portions of the contiguous Lot as are necessary to maintain the Party Fence.

3.5.11 Storm Drains: There are reserved and granted for the benefit of each Lot and the Common Area, over, under, across and through the Project, except Residences, non-exclusive easements for surface and subsurface storm drains and the flow of water in accordance with natural drainage patterns

and the drainage patterns and Improvements installed or constructed by Declarant. Additionally, this Declaration and each Lot and the Common Area shall be subject to all easements granted by Declarant to install and Maintain drainage Improvements necessary for the development of the Project.

3.5.12 **Support:** The Association and each Owner shall have a non-exclusive right and easement appurtenant to the Common Area and to all Lots through each Lot and the Common Area to support and Maintain the Common Area and all Lots.

3.5.13 **Utilities:** Each Owner shall have a non-exclusive right and easement over, under, across and through the Project, except for portions of the Project on which a structure is situated, for utility lines, pipes, wires and conduits installed by Declarant. Additionally, this Declaration and each Lot and the Common Area shall be subject to all easements granted by Declarant to install and Maintain utilities necessary for the development of the Project.

ARTICLE IV USE RESTRICTIONS

4.1 **ALTERATIONS:** Except as otherwise specifically provided in this Declaration, no Alteration may be made to any Improvement until plans have been submitted and approved pursuant to Article XI.

4.2 **ANIMALS:** An Owner may keep not more than a total of two (2) dogs, cats and other customarily uncaged household pets within the Owner's Lot. Each Owner may also keep a reasonable number of small caged animals, birds or fish. Unless the Operating Rules increase the number or type of animals which may be kept, no other animals or pets are permitted in the Project. The Board shall have the right to prohibit the keeping of any pet which, after Notice and Hearing, is found to be a nuisance to other Owners. No animals may be kept for commercial purposes. No dog shall be allowed in the Common Area unless it is under the control of a responsible person by leash or other means. Each Owner or Invitee shall restore the Common Area to the condition it was in immediately preceding its use by any dog permitted on the Common Area by the Owner or Invitee.

4.3 **ANTENNAS AND SATELLITE DISHES:** No outside television antenna, microwave or satellite dish, aerial, or other such device (collectively "Video Antennas") with a diameter or diagonal measurement in excess of one (1) meter shall be erected, constructed or placed on any Common Area or Lot. Video antennas with a diameter or diagonal measurement of one (1) meter or less may be installed only if they conform to the Architectural Standards and, if then required by the Architectural Standards, any necessary approval is obtained in accordance with the provisions of Article XI. Reasonable restrictions which do not significantly increase the cost of the Video Antenna system or significantly decrease its efficiency or performance may be imposed.

4.4 **DRAINAGE:** No Owner shall make any Alteration to the drainage patterns and facilities in the Project until plans have been submitted and approved pursuant to Article XI and any public authority with jurisdiction over the Alteration.

4.4.1 **Positive Drainage:** This Declaration provides notice to each Owner to devote great care and attention to grading and to establishing and maintaining positive drainage away from the entire foundation line of the Owner's Residence. Positive drainage is achieved by shaping Lot grades, establishing drainage "swales" or installing underground area drains. The swales and drains provide a receptacle and conduit to drain water away from the foundation, and the rear, side and front of the Residence to offsite drainage disposal. Swales also prevent drainage water from moving across a Lot to another Lot, Common Area or other property. This Declaration also provides notice to each Owner that if existing drainage swales established on the Lot and around the Residence are interrupted, blocked, filled, or otherwise altered, serious damage can result. Drainage must not be allowed to pond in a yard or run against or under a Residence, foundation, garage floor, driveway or other Improvement. Serious damage can result even during a short period of time.

Each Owner shall verify that all aspects of positive drainage are maintained after the installation of landscaping, grade changes or any modification to drainage systems by Owner or Owner's Invitees. Owners must use due care, install low flow irrigation systems and provide other landscaping measures which will not contribute to subsurface ground water intrusion to adjoining Lots or Common Area.

4.4.2 Down Spouts: If a Residence constructed by Declarant has a roof gutter system and down spouts which are directly connected to the Project's storm drainage system, the Residence shall remain connected to the Project storm drainage system at all times. The Owner of such a Residence may not alter the Residence in any manner which results in additional roof waters draining anywhere other than directly into the Project's storm drainage system.

4.5 EXTERIOR LIGHTING: No Owner shall remove, damage or disable any exterior light, regardless of where located, which is connected to the Association's electric service.

4.6 INVITEES: Each Owner shall be responsible for compliance with the provisions of the Project Documents by that Owner's Invitees. An Owner shall promptly pay any Reimbursement Assessment levied and/or any fine or penalty imposed against an Owner for violations committed by that Owner's Invitees.

4.7 LANDSCAPE MAINTENANCE AREAS: No Alteration may be made by an Owner within a Landscape Maintenance Area without first obtaining approval of the Board. Unless otherwise determined by the Board, any Owner who adds landscaping in any Landscape Maintenance Area shall Maintain the additional landscaping. The Association shall not be responsible for any damage caused to any such added landscaping as long as the damage occurs in the ordinary course of the Association's regular landscape maintenance program.

4.8 MINERAL EXPLORATION: No Lot shall be used to explore for or to remove any oil, hydrocarbons or minerals of any kind without the approval of the Board and only if permitted by local ordinances.

4.9 OPERATING RULES: Owners and their Invitees shall comply with all provisions of this Declaration, the Bylaws and the Operating Rules.

4.10 PARKING: Vehicles shall not be parked anywhere in the Project except in compliance with the provisions of this Section.

4.10.1 Common Area: Passenger motor vehicles may be parked in designated spaces within the Common Area. No part of the Common Area may be used for repair, construction or reconstruction of any vehicle.

4.10.2 Driveways: The driveway on a Lot may be used by the residents of the Lot to park passenger motor vehicles as long as no portion of the vehicle extends into the street or across any portion of a sidewalk.

4.10.3 Garages: Vehicles of any type may be parked in a garage. Garage doors shall remain closed, except when the garage is in use. Garages shall be kept sufficiently clear so as to permit parking of the number of vehicles for which the garage was designed.

4.10.4 Guest Parking: No resident may park any vehicles in any space designated as "guest parking."

4.10.5 Removal: As long as applicable ordinances and laws are observed, including the requirements of Section 22658.2 of the California Vehicle Code if applicable, any vehicle which is parked in violation of the provisions of this Declaration may be removed.

4.10.6 Vehicle Restrictions: No boat, trailer, camper, commercial vehicle, mobile home or recreational vehicle shall be parked or stored where Visible from adjacent Lots or streets. No inoperable

or abandoned vehicle may be parked or stored in the Project at anytime. No vehicle with a business sign (including lettering on doors) may be parked or stored where visible from adjacent Lots or streets.

4.11 REFUSE: All garbage, trash and accumulated waste material shall be placed in appropriate covered containers. Containers for recyclable materials need not be covered. Any containers provided by the Association may be stored in locations designated by the Board. Containers provided by Owners may be placed on Common Area or where Visible only on the night before and the day that pick-up is to occur.

4.12 RENTAL OF LOTS: An Owner shall be entitled to rent or lease a Lot, if: (i) there is a written rental or lease agreement specifying that the tenant shall be subject to all provisions of the Project Documents and a failure to comply with any provision of the Project Documents shall constitute a default under the agreement; (ii) the period of the rental or lease is not less than thirty (30) days; (iii) the Owner gives notice of the tenancy to the Board and has otherwise complied with the terms of the Project Documents; and (iv) the Owner gives each tenant a copy of the Project Documents. Upon satisfaction of the foregoing conditions all rights to the use and enjoyment of the Common Area shall be exercised by the tenant rather than by the Owner of the leased or rented Lot; however, the Owner shall not be relieved of the obligations and duties imposed by this Declaration.

4.13 SIGNS: All signs displayed in the Project shall be attractive and compatible with the design of the Project and shall comply with all applicable state and federal laws and local ordinances. The only signs of any kind which may be displayed to the public view on or from any Lot or the Common Area shall be as follows:

4.13.1 Declarant: Signs may be displayed by Declarant on Common Area or unsold Lots, as Declarant deems appropriate, advertising Lots owned by Declarant for sale or rent;

4.13.2 Legal Proceedings: Signs required by legal proceedings may be displayed;

4.13.3 Non-Commercial: Non-commercial signs, posters, flags, or banners may be displayed in accordance with the provisions of California Civil Code Section 1353.6. Any such sign or poster may not exceed nine (9) square feet in size and any such flag or banner may not exceed fifteen (15) square feet in size.

4.13.4 Project Identification: Appropriate signs may be displayed by the Association to identify the Project;

4.13.5 Sale or Rent: One (1) sign of reasonable dimensions may be placed on a Lot advertising the Lot for sale or rent; and

4.13.6 Signs Approved By Board: Other signs, posters and notices approved by the Board or specified in the Operating Rules or in this Declaration may be posted in locations designated by the Board.

4.14 SPORTS EQUIPMENT: No basketball standards, fixed sports apparatus or similar equipment shall be attached to the exterior of any Residence or permanently placed on any Lot except in accordance with the provision of Article XI. Portable or movable basketball equipment or other movable sports apparatus may not remain overnight on any Lot where Visible from adjacent Lots or streets without the prior approval of the Board.

4.15 SURROUNDING PROPERTIES: The Project is located in the vicinity of surrounding properties which are used for various purposes. Owners should expect these surrounding properties to include domestic and wild animals, mice, rats, rodents, snakes, arachnids, arthropods, worms, ants, flies and other insects and vermin.

4.16 TAXES: Each Owner shall be obligated to pay any taxes or assessments assessed by the County Assessor against that Owner's Lot and personal property. Until such time as real property taxes have been segregated by the County Assessor, they shall be paid by the respective Owners. The

proportionate share of the taxes for a particular Lot shall be determined by dividing the initial Lot sales price or, in the case of unsold Lots, the price the Lot is then being offered for sale by Declarant ("Offered Price"), by the total initial sales prices and Offered Prices of all Lots. If an Owner fails to pay that Owner's proportionate share in accordance with the preceding sentence, the Association shall collect such share, including that Owner's interest and penalties, from the delinquent Owner.

4.17 USE AND OCCUPANCY OF RESIDENCES: Each Residence may be used for (i) residential purposes, (ii) uses within Residences which cannot be prohibited under federal or state law and (iii) uses permitted by local ordinance (provided that home occupations must be conducted in a manner that does not materially and adversely impact the ability of other Owners to use and enjoy the Project). Otherwise, no business of any kind shall be established, operated, permitted or constructed in any portion of the Project, except for the business of Declarant in completing the development and disposition of the Lots in the Project. No Residence shall be permanently occupied by any more than two (2) persons per bedroom. No Owner may permit or cause anything to be done or kept upon or in a Lot which might obstruct or interfere with the rights of other Owners or which would be noxious, harmful or unreasonably offensive to other Owners. Each Owner shall comply with all of the requirements of all federal, state and local governmental authorities, and all laws, ordinances, rules and regulations applicable to the Owner's Lot.

4.18 USE OF COMMON AREA: All use of Common Area is subject to the Operating Rules. All persons residing within the Project may enjoy the use of all facilities in the Common Area as long as they abide by the terms of the Project Documents. There shall be no obstruction of any part of the Common Area. Nothing shall be stored or kept in the Common Area without the prior consent of the Board. Nothing shall be done or kept in the Common Area which will increase the rate of insurance on the Common Area without the prior consent of the Board. No Owner shall permit anything to be physically done or kept in the Common Area or any other part of the Project which might result in the cancellation of insurance on any part of the Common Area, which would interfere with rights of other Owners, or which would be a nuisance, noxious, harmful or unreasonably offensive to other Owners. No Owner or Invitee shall perform any act which results in damage to the Common Area. The provisions of this Declaration concerning using, Maintaining and managing the Common Area are subject to any rights or limitations established by any easements or other encumbrances which encumber the Common Area.

ARTICLE V IMPROVEMENTS

5.1 MAINTAINING COMMON AREA AND IMPROVEMENTS: Except as otherwise specifically provided in this Declaration or a Declaration of Annexation, the Association shall Maintain the Common Area, all Improvements situated in, upon or under the Common Area and any Improvements which a Declaration of Annexation provides are to be Maintained by the Association. The Association shall provide for all necessary services and cause all acts to be done which may be appropriate or proper to Maintain the Common Area and Improvements in first class condition.

5.1.1 Regular Inspections by Association: The Association shall regularly inspect all major components of the Common Area at least once each year. One of the primary purposes of the inspection shall be to determine how to extend the life of Common Area Improvements and to prevent damage to such Improvements resulting from the Association's neglect or the failure to properly and adequately Maintain.

5.1.2 Compliance With Association Maintenance Manual: The Association shall Maintain the Project in compliance with all applicable requirements imposed by the Association Maintenance Manual.

5.1.3 Records: The Association shall keep appropriate records to document that it has performed all inspections and Maintained all improvements in compliance with the Association Maintenance Manual.

5.2 ALTERATIONS TO COMMON AREA:

5.2.1 Approval: Alterations to any Improvements situated in, upon or under the Common Area may be made only by the Association. A proposal for an Alteration to an Improvement may be made at any meeting. A proposal may be adopted by the Board, subject to the limitations contained in the Bylaws.

5.2.2 Funding: Expenditures to Maintain an existing capital Improvement for which reserves have been collected may be made from the Reserve Account. Subject to the limitations set forth in Section 6.5, the Board may levy a Special Assessment to fund any Alteration of an Improvement for which no reserve has been collected.

5.3 MAINTAINING LOTS AND RESIDENCES: Except as otherwise specifically provided in this Declaration or a Declaration of Annexation, each Owner shall Maintain the Owner's Lot, including the Residence and other Improvements located thereon, in compliance with the provisions of the Owner Maintenance Manual, in a manner consistent with the standards established by the Project Documents and in compliance with the Architectural Standards.

5.3.1 Driveways: Each Owner shall Maintain all portions of the driveway which provides access between the Owner's Residence and the street which provides access to that Lot. Each Owner shall keep the surface of the driveway on their Lot clean and free from oil and grease.

5.3.2 Landscape Maintenance Areas: The Association shall Maintain all landscaping within Landscape Maintenance Areas.

5.3.3 Mailboxes: Each Owner shall Maintain the mailbox which serves that Owner's Lot, wherever it is located. If more than one mailbox is supported by a single structure, the Owners of the mailboxes shall jointly Maintain the support structure.

5.3.4 Sidewalks: Each Owner shall Maintain all walkways on the Owner's Lot which serve exclusively that Owner's Lot. The Association shall Maintain all other walkways on Landscape Maintenance Area.

5.3.5 Storm Drainage: The Association shall Maintain all portions of the storm drainage system which connect individual storm drain lines serving individual Residences to the main storm drain system at the outlet in the public right-of-way. Each Owner shall clean all catch basins and storm drainage Improvements within the Owner's Lot, so that the Improvement functions as it was designed to function.

5.3.6 Utility Lines Serving A Single Lot: Each Owner shall Maintain those portions of all utility lines which (i) are not Maintained by the public or a quasi-public entity or utility company and (ii) serve only that Owner's Lot, irrespective of whether the utility line is located on Common Area or on one (1) or more Lots.

5.3.7 Utility Lines Serving More Than One Lot: The Association shall Maintain those portions of all utility lines which (i) are not Maintained by the public or a quasi-public entity or utility company and (ii) serve more than one (1) Lot, irrespective of whether the utility line is located on Common Area or on one (1) or more Lots.

5.4 ALTERATIONS TO LOTS AND RESIDENCES: Alterations may be made to the interior of an Owner's Residence, if the Alterations do not impair the structural integrity of the Residence and if the Owner complies with all laws and ordinances regarding alterations and remodeling. Any proposals for Alterations on Lots or to the exteriors of Residences shall be made in accordance with the provisions of Article XI.

5.5 MAINTAINING FENCES AND WALLS: If a fence is attached to the top of a wall, that wall shall be deemed to be part of the fence for purposes of this Section.

5.5.1 Party Fences: The Owners of a Party Fence shall Maintain it and shall share the costs of Maintaining it equally except that all costs of Maintaining the Party Fence which are a result of the negligent or willful action of an Owner shall be borne by that Owner. An Owner who Maintains a Party Fence is entitled to and has a right of contribution from the other Owners of the Party Fence which shall be appurtenant to the Lot and shall pass to the successor(s) in interest of the Owner entitled to contribution.

5.5.2 Other Fences and Walls: Except as provided in Sections 5.5.1, the Owner of a Lot shall Maintain all fences, fence posts, gates and walls which are either situated entirely within the boundaries of an Owner's Lot or which separate the Owner's Lot from property located outside the boundaries of the Project; provided, however, the Association shall maintain the exterior surface (facing away from the Owners' Lots) of the masonry walls constructed by Declarant. If any portion of a wall extends across the common boundary of two (2) Lots, the adjacent Owners shall cooperate as necessary to permit each Owner to Maintain the portion of the wall which is on that Owner's Lot.

5.6 LANDSCAPING: All landscaping in the Project shall be Maintained in a manner consistent with the standards of design and quality as originally established by Declarant. All landscaping shall be kept in a neat and orderly condition. Any weeds shall be removed and any diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees and shrubs shall be neatly trimmed. Other specific restrictions on landscaping may be established in the Operating Rules. Irrigation systems, if any, shall be kept in good working condition to ensure continued regular watering of landscape areas, and health and vitality of landscape materials.

5.6.1 Common Area: The Association shall Maintain all landscaping located in Common Area.

5.6.2 Landscape Maintenance Areas: The Association shall Maintain all landscaping within Landscape Maintenance Areas.

5.6.3 Lots: Each Owner shall Maintain all landscaping located within the Owner's Lot, excluding any Landscape Maintenance Area. If landscaping within Lots is not installed by Declarant, each Owner shall install permanent landscaping within the Owner's Lot within six (6) months after (i) the conveyance of the Lot to the Owner or (ii) the issuance of a certificate of occupancy for the Residence, whichever occurs later.

5.6.4 Public Right-of-Way: The Association shall Maintain all landscaping located within the public right-of-way which adjoins Landscape Maintenance Area.

5.7 ASSOCIATION'S RIGHT TO ENTER AND MAINTAIN: If an Owner fails to Maintain an Improvement which that Owner is obligated to Maintain pursuant to this Declaration, and if the Association determines, after Notice and Hearing is provided pursuant to the provisions of the Bylaws, that work must be performed to Maintain the Improvement to preserve the attractiveness, quality, nature and/or value of the Project, the Association may Maintain the Improvement at the expense of the Owner which shall be charged to the Owner as a Reimbursement Assessment. In order to effectuate the provisions of this Declaration, the Association may enter any Lot whenever entry is necessary to Maintain an Improvement which the Association is authorized to undertake pursuant to this Section. Entry within a Lot shall be made with as little inconvenience to an Owner as practicable and only after reasonable advance written notice of not less than forty-eight (48) hours, except in emergency situations.

5.8 DAMAGE AND DESTRUCTION — ASSOCIATION: The term "restore" shall mean repairing, rebuilding or reconstructing a damaged Improvement to substantially the same condition and appearance in which it existed prior to fire or other casualty damage. If fire or other casualty damage extends to any Improvement which is insured under an insurance policy held by the Association, the

Association shall proceed with the filing and adjustment of all claims arising under the existing policies. The insurance proceeds shall be paid to and held by the Association.

5.8.1 Bids: Whenever restoration is to be performed pursuant to this Section, the Board shall obtain such bids from responsible licensed contractors to restore the damaged Improvement as the Board deems reasonable; and the Board, on behalf of the Association, shall contract with the contractor whose bid the Board deems to be the most reasonable.

5.8.2 Sufficient Proceeds: The costs of restoration of the damaged Improvement shall be funded pursuant to the provisions and in the priority established by this Section 5.8.2. A lower priority procedure shall be utilized only if the aggregate amount of funds then available pursuant to the procedures of higher priority are insufficient to restore the damaged Improvement. The following funds and procedures shall be utilized:

1. The first priority shall be any insurance proceeds paid to the Association under existing insurance policies.

2. The second priority shall be all Reserve Account funds designated for the repair or replacement of the capital Improvement(s) which has been damaged.

3. The third priority shall be funds raised by a Special Assessment against all Owners levied by the Board up to the maximum amount permitted without the approval of the Members in accordance with the limitations set forth in Section 6.5.

4. The fourth priority shall be any funds raised by a Special Assessment against Owners levied by the Board pursuant to a vote of the Members pursuant to Section 5.8.3.

5.8.3 Additional Special Assessment: If the total funds available to restore the damaged Improvement pursuant to the first three priorities described in Section 5.8.2 are insufficient to restore the damaged Improvement, then a special meeting of the Members shall be called for the purpose of voting whether to impose an additional Special Assessment and deciding upon the amount thereof. The Board shall then contract for the restoration of the damaged Improvement as described above, making use of whatever funds are then available to it.

5.9 DAMAGE OR DESTRUCTION — OWNERS: If all or any portion of a Lot or Residence is damaged by fire or other casualty and the loss is not covered by an insurance policy held by the Association, the Owner of the Improvement shall either (i) restore the damaged Improvements or (ii) remove all damaged Improvements, including foundations, and leave the Lot in a clean and safe condition. Any restoration under (i) preceding must be performed so that the Improvements are in substantially the same condition in which they existed prior to the damage, unless the Owner complies with the provisions of Article XI. Unless extended by the Board, the Owner must commence such work within one hundred twenty (120) days after the damage occurs and must complete the work within one (1) year thereafter.

5.10 CONDEMNATION OF COMMON AREA: If all or any portion of the Common Area is taken for any public or quasi-public use under any statute, by right of eminent domain or by purchase in lieu of eminent domain, the entire award shall be deposited into the Current Operation Account until distributed. The Association shall distribute such funds equally to all Owners and shall represent the interests of all Owners.

ARTICLE VI
FUNDS AND ASSESSMENTS

6.1 **COVENANTS TO PAY:** Declarant and each Owner covenant and agree to pay to the Association the assessments and any Additional Charges levied pursuant to this Article VI.

6.1.1 **Liability for Payment:** The obligation to pay assessments shall run with the land so that each successive record Owner of a Lot shall in turn be liable to pay all such assessments. No Owner may waive or otherwise escape personal liability for assessments or release the Owner's Lot from the liens and charges hereof by non-use of the Common Area, abandonment of the Lot or any other attempt to renounce rights in the Common Area or the facilities or services within the Project. Each assessment shall constitute a separate assessment and shall also be a separate, distinct and personal obligation of the Owner of the Lot at the time when the assessment was levied and shall bind the Owner's heirs, devisees, personal representatives and assigns. Any assessment not paid when due is delinquent. The personal obligation of an Owner for delinquent assessments shall not pass to a successive Owner unless the personal obligation is expressly assumed by the successive Owner. No such assumption of personal liability by a successor Owner (including a contract purchaser under an installment land contract) shall relieve any Owner from personal liability for delinquent assessments. After an Owner transfers fee title of record to a Lot, the Owner shall not be liable for any charge thereafter levied against that Lot.

6.1.2 **Funds Held in Trust:** The assessments collected by the Association shall be held by the Association for and on behalf of each Owner and shall be used solely to operate and Maintain the Project as provided in this Declaration.

6.1.3 **Offsets:** No offsets against any assessment shall be permitted for any reason, including, without limitation, any claim that the Association is not properly discharging its duties.

6.2 **REGULAR ASSESSMENTS:**

6.2.1 **Payment of Regular Assessments:** Regular Assessments for each fiscal year shall be established when the Board approves the Budget for that fiscal year. Regular Assessments shall be levied on a fiscal year basis; however, each Owner shall be entitled to pay the Regular Assessment in twelve (12) equal monthly installments, one installment payable on the first day of each calendar month during the fiscal year, as long as the Owner is not delinquent in the payment of any monthly installment. If an Owner fails to pay any monthly installment by the sixtieth (60th) day after the date the installment was due, the Board may terminate that Owner's right to pay the Regular Assessment in monthly installments and declare the then unpaid balance of the Regular Assessment for that year immediately due and payable. Regular Assessments shall commence for all Lots in each Phase on the first day of the first month following the month in which the first Lot in that Phase is conveyed to an Owner and may commence prior to that date at the option of Declarant.

6.2.2 **Allocation of Regular Assessments:** The total amount of the Association's anticipated revenue attributable to Regular Assessments as reflected in the Budget for that fiscal year shall be allocated equally among the Lots. After annexation of each Phase, the allocation and assessment of the charges in the Budget shall be reallocated equally among all Lots in the Project, including those in the annexed Additional Property. For the first fiscal year, the Budget shall be substantially based upon the operating budget accepted by the Department of Real Estate of the State of California. After a new Phase has been annexed, the Board shall approve a Budget, which is substantially based upon the operating Budget accepted by the Department of Real Estate of the State of California in connection with the Public Report for that Phase, for the remainder of the current fiscal year for use upon the commencement of Regular Assessments against Lots in the new Phase.

6.2.3 **Exemptions from Regular Assessment:** Notwithstanding the provisions of Section 6.2, the Board shall exempt each Owner of a Lot which satisfies paragraph (a), below, and may

exempt all Owners if paragraph (b), below, is satisfied, from the payment of a portion of the Regular Assessment levied against that Lot as described in those paragraphs.

(a) Lots: An Owner of a Lot is exempt from payment of that portion of the Regular Assessment which is allocated for defraying operating expenses and reserves directly attributable to landscaping situated on Lots for which the Association is responsible until any such landscaping which is to be installed on the Owner's Lot is installed and no one other than the Association has any obligation to Maintain the landscaping.

(b) Other Common Area: Each Owner may be exempted from payment of that portion of the Regular Assessment which is allocated for defraying operating expenses and reserves directly attributable to the existence and use of a common facility (including landscaping) that is not complete at the time Regular Assessments commence until the first to occur of the following events: (i) a notice of completion of the common facility is recorded; (ii) the common facility has been placed into use; or (iii) in the case of landscaping, the landscaping is installed and no one other than the Association has any obligation to Maintain the landscaping.

6.2.4. Non-Waiver of Assessments: If before the expiration of any fiscal year the Association fails to fix Regular Assessments for the next fiscal year, the Regular Assessment established for the preceding year shall continue until a new Regular Assessment is fixed.

6.3 SPECIAL ASSESSMENTS: Subject to the limitations set forth in Section 6.5, Special Assessments may be levied in addition to Regular Assessments for (i) constructing capital Improvements, (ii) correcting an inadequacy in the Current Operation Account, (iii) defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of Improvements in the Common Area, or (iv) paying for such other matters as the Board may deem appropriate for the Project. Special Assessments shall be levied in the same manner as Regular Assessments.

6.4 REIMBURSEMENT ASSESSMENTS: The Association shall levy a Reimbursement Assessment against an Owner to (a) reimburse the Association for the costs of repairing damage caused by that Owner or that Owner's Invitee or (b) if a failure to comply with the Project Documents has resulted in (i) an expenditure of monies, including attorneys' fees, by the Association to bring the Owner or the Owner's Lot or Improvements into compliance or (ii) the imposition of a fine or penalty. A Reimbursement Assessment shall be due and payable to the Association when levied. A Reimbursement Assessment shall not be levied by the Association until Notice and Hearing has been provided in accordance with the Bylaws. Reimbursement Assessments may not be enforced by lieu.

6.5 LIMITATIONS ON ASSESSMENTS: All Regular and Special Assessments levied by the Board must comply with the provisions of Section 1366 of the California Civil Code, including the written ballot limitations and special voting and quorum requirements.

6.6 ACCOUNTS:

6.6.1 Types of Accounts: Assessments collected by the Association shall be deposited into at least two (2) separate accounts with a responsible financial institution, which accounts shall be clearly designated as (i) the Current Operation Account and (ii) the Reserve Account. The Board shall deposit those portions of the assessments collected for current maintenance and operation into the Current Operation Account and shall deposit those portions of the assessments collected as reserves for replacement and deferred maintenance of major components which the Association is obligated to Maintain into the Reserve Account.

6.6.2 Reserve Account: Withdrawal of funds from the Reserve Account shall require the signatures of either two (2) Directors or one (1) Director and one (1) officer of the Association who is not a Director. The Association may expend funds from the Reserve Account only for the purposes set forth in Section 1365.5 of the California Civil Code.

6.6.3 Current Operation Account: All other costs properly payable by the Association shall be paid from the Current Operation Account.

6.7 BUDGET, FINANCIAL STATEMENTS, REPORTS AND STUDIES:

6.7.1 Preparation and Distribution of Budget: The Board shall annually prepare, adopt and distribute a Budget in accordance with the requirements of Section 1365 of the California Civil Code. A summary of the Budget may be distributed in lieu of the entire Budget if the requirements set forth in Section 1365 of the California Civil Code are satisfied.

6.7.2 Annual Report: The Board shall annually prepare and distribute an annual report in accordance with the requirements of Section 1365 of the California Civil Code.

6.7.3 Assessments and Foreclosure: During the sixty (60) day period preceding the beginning of each Association fiscal year, the Association shall prepare and distribute the following notices to Owners by first-class mail:

(a) The notice required by Section 1365.1 of the California Civil Code;

(b) The statement of the Association's policies and practices in enforcing its remedies against Owners for defaults in the payment of Regular and Special Assessments, including the recording and foreclosing of liens against Lots required by Section 1365 of the California Civil Code; and

(c) Notice of any increase in Regular Assessments or the levy of any Special Assessments in accordance with the provisions of California Civil Code Section 1366.

6.7.4 Quarterly Reconciliation: If then required by Section 1365 of the California Civil Code, at least quarterly, the Board shall: (i) cause a current reconciliation of the Association's Operating Account(s) to be made and review the same; (ii) cause a current reconciliation of the Association's Reserve Account to be made and review the same; (iii) review the current year's actual reserve revenues and expenses compared to the current year's Budget; (iv) review the most current account statements prepared by the financial institution where the Association has its Operation and Reserve Accounts; and (v) review an income and expense statement for the Association's Operation and Reserve Accounts.

6.7.5 Reserve Account Study: The Board shall (i) cause a study of the Reserve Account to be conducted, (ii) review the study annually and (iii) consider and implement necessary adjustments to the Board's analysis of the Reserve Account requirements as a result of that review in compliance with the provisions of California Civil Code Section 1365.5.

6.7.6 Statement of Outstanding Charges: Within ten (10) days of a written request by an Owner, the Association shall provide a written statement to the Owner which sets forth all information required by California Civil Code Section 1368. A charge for the statement may be made by the Association, not to exceed the reasonable costs of preparation and reproduction of the statement.

6.7.7 Schedule of Monetary Penalties: If the Board adopts a policy imposing any monetary penalty on or charging any fee to any Owner for a violation of the Project Documents by that Owner or that Owner's Invitee, the Board shall adopt a schedule of the monetary penalties that may be assessed for those violations. The penalties must be consistent with the Project Documents. A copy of the schedule shall be personally delivered or mailed by first-class mail, postage prepaid, to each Owner by the Board. Each time the schedule is modified, the Board shall again deliver a copy to each Owner, either personally or by first-class mail, postage prepaid.

6.8 ENFORCEMENT OF ASSESSMENTS: Prior to recording a lien against an Owner's Lot for failure to pay assessments, the Association shall prepare and serve the notice required by and in compliance with the provisions of California Civil Code Section 1367.1.

6.8.1 Procedures: In addition to all other remedies provided by law, the Association, or its authorized representative, may enforce the obligations of the Owners to pay each assessment provided for in this Declaration in any manner provided by law or by either or both of the following procedures:

(a) By Suit: The Association may commence and prosecute a suit at law against any Owner personally obligated to pay a delinquent assessment. The suit shall be prosecuted in the name of the Association. Any judgment rendered in any action shall include the amount of the delinquency, and such additional costs, fees, charges and expenditures ("Additional Charges") and any other amounts as the court may award. A proceeding to recover a judgment for unpaid assessments may be prosecuted without the necessity of foreclosing or waiving the lien established herein.

(b) By Lien: The Association or a trustee nominated by the Association may commence and prosecute proceedings to establish and/or foreclose assessment liens in accordance with the provisions of California Civil Code Section 1367.1.

6.8.2 Additional Charges: In addition to any other amounts due or any other relief or remedy obtained against an Owner who is delinquent in the payment of any assessments, each Owner agrees to pay such Additional Charges as the Association may incur or levy in collecting the monies due and delinquent from that Owner. All Additional Charges shall be included in any judgment in any suit or action brought to enforce collection of delinquent assessments or may be levied against a Lot as a Reimbursement Assessment. Additional Charges shall include, but not be limited to, the following:

(a) Attorneys' Fees: Reasonable attorneys' fees and costs incurred in the event an attorney(s) is employed to collect any assessment or sum due, whether by suit or otherwise;

(b) Late Charges: A late charge in an amount to be fixed by the Board in accordance with the then current laws of the State of California to compensate the Association for additional collection costs incurred in the event any assessment or other sum is not paid when due or within any "grace" period established by law;

(c) Costs of Suit: Costs of suit and court costs incurred as are allowed by the court;

(d) Interest: Interest on the delinquent assessment and Additional Charges at a rate fixed by the Board in accordance with the then current laws of the State of California; and

(e) Other: Any such other additional costs that the Association may incur in the process of collecting delinquent assessments or sums.

6.8.3 Satisfaction of Lien: All amounts paid by an Owner toward a delinquent assessment shall be credited first to reduce the principal amount of the debt. Within twenty-one (21) days of payment or other satisfaction of a delinquent assessment for which a Notice of Delinquent Assessment was recorded pursuant to California Civil Code Section 1367.1(d), the Association shall record a certificate stating the satisfaction and release of the assessment lien.

6.8.4 Lien Eliminated By Foreclosure: If the Association has recorded a Notice of Delinquent Assessment and the lien is eliminated as a result of a foreclosure of a Mortgage or a transfer pursuant to the remedies provided in the Mortgage, the new Owner of the Lot shall pay to the Association a pro-rata share of the Regular Assessment for each month remaining in the Association's fiscal year after the date of the foreclosure or transfer pursuant to the remedies provided in the Mortgage.

6.8.5 Waiver of Homestead Protections: Each Owner, does hereby waive, to the extent permitted by law, the protections of any declared homestead or homestead exemption or redemption laws under the laws of California as applied to any action to enforce or collect assessments levied by the Association.

6.9 SUBORDINATION OF LIEN: Notwithstanding any provision to the contrary, the liens for assessments created pursuant to this Declaration shall be subject and subordinate to and shall not affect the

rights of the holder of a First Mortgage made in good faith and for value. Upon the foreclosure of any First Mortgage on a Lot, any lien for assessments which became due prior to such foreclosure shall be extinguished; provided, however, that after such foreclosure there shall be a lien on the interest of the purchaser at the foreclosure sale to secure all assessments, whether Regular or Special, charged to such Lot after the date of such foreclosure sale, which lien shall have the same effect and shall be enforced in the same manner as provided herein. For purposes of this Section, a Mortgage may be given in good faith or for value even though the Mortgagee has constructive or actual knowledge of the assessment lien provisions of this Declaration.

ARTICLE VII
MEMBERSHIP IN AND DUTIES OF THE ASSOCIATION

7.1 **THE ORGANIZATION:** The Association is a nonprofit mutual benefit corporation. Its affairs shall be governed by and it shall have the powers set forth in the Project Documents.

7.2 **MEMBERSHIP:** Each Owner (including Declarant for so long as Declarant is an Owner), by virtue of being an Owner, shall be a Member of the Association. No other person shall be accepted as a Member.

7.2.1 **Appurtenant to Ownership:** Association membership is appurtenant to and may not be separated from the ownership of a Lot. Membership shall terminate upon termination of Lot ownership. Ownership of a Lot shall be the sole qualification for Association membership. Membership shall not be transferred, pledged or alienated in any way except upon transfer of title to the Owner's Lot (and then only to the transferee of title to such Lot). Any attempt to make a prohibited transfer is void. Membership shall not be related to the use or non-use of the Common Area and may not be renounced. The rights, duties, privileges and obligations of all Members shall be as provided in the Project Documents.

7.2.2 **Annexation:** Upon the commencement of Regular Assessments in a subsequent Phase, the Owners of the Lots described in the Declaration of Annexation for that Phase shall become Members.

7.3 **VOTING:** Any action required by law or by the Project Documents to be approved by the Owners, the Members or each class of Members shall be approved, if at all, in accordance with the procedures set forth in the Bylaws.

7.4 **OPERATING RULES:** Operating Rules appropriate for the operation and management of the Project, which are consistent with the Project Documents, may be adopted and changed in accordance with the provisions of California Civil Code Section 1357.100 et seq. The Operating Rules may also include architectural rules, regulations and guidelines ("Architectural Standards") which shall interpret and implement the provisions of this Declaration by setting forth the standards and procedures for architectural review and guidelines for architectural design, placement of buildings, color schemes, exterior finishes and materials, landscaping, fences, and similar features which may be used in the Project; provided, however, that the Architectural Standards may not be in derogation of the minimum standards established by this Declaration. The Architectural Standards may include a schedule of fees for processing submittals (which shall not exceed the amount necessary to defray all costs incurred in processing the submittals) and establish the time and manner in which such fees will be paid. The Architectural Standards may also impose specific requirements on individual Lots if those requirements are reasonable in light of specific Lot topography, visibility or other factors.

7.5 **TRANSFERS OF COMMON AREA:** Subject to any applicable provision in the Bylaws, the Board shall have the power and right in the name of the Association and all of the Owners as their attorneys-in-fact to grant, convey, dedicate, mortgage, or otherwise transfer to any Owner or other person or entity, fee title, easements, exclusive-use easements, security rights or other rights or licenses in, on, over or under the Common Area that, in the sole discretion of the Board, are in the best interests of the

Association and its Members. Notwithstanding anything herein to the contrary, in no event shall the Board take any action authorized hereunder that would permanently and unreasonably interfere with the use, occupancy and enjoyment by any Owner of that Owner's Lot without the prior written consent of that Owner.

7.6 **INSURANCE:** The Board shall make every reasonable effort to obtain and keep in full force and effect the insurance policies as provided in this Section. If the Board is unable to purchase a policy or if the Board believes that the cost of the policy is unreasonable, the Board shall call a special meeting of Members to determine what action to take. The Board shall comply with any resolution concerning insurance coverage adopted at such a meeting.

7.6.1 **General Provisions and Limitations:** All insurance policies shall be subject to and, where applicable, shall contain the following provisions and limitations:

(a) **Underwriter:** All policies (except earthquake insurance) shall be written with a company legally qualified to do business in the State of California and (i) holding a "B" or better general policyholder's rating and a "6" or better financial performance index rating as established by Best's Insurance Reports, (ii) reinsured by a company described in (i), above, or (iii) if such a company is not available, the best rating possible or its equivalent.

(b) **Named Insured:** Unless otherwise provided in this Section, the named insured shall be the Association or its authorized representative, as a trustee for the Owners. However, all policies shall be for the benefit of Owners and their Mortgagees, as their interests may appear.

(c) **Authority to Negotiate:** Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, that no Mortgagee having an interest in such losses may be prohibited from participating in any settlement negotiations related thereto.

(d) **Contribution:** In no event shall the Association's insurance coverage be brought into contribution with insurance purchased by Owners or their Mortgagees.

(e) **General Provisions:** To the extent possible, the Board shall make every reasonable effort to secure insurance policies providing for the following:

(i) A waiver of subrogation by the insurer as to any claims against the Board, the manager, the Owners and their respective servants, agents and guests;

(ii) That the policy will be primary, even if an Owner has other insurance which covers the same loss;

(iii) That no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association and to each First Mortgagee listed as a scheduled holder;

(iv) An agreed amount endorsement, if the policy contains a coinsurance clause;

(v) A guaranteed replacement cost or replacement cost endorsement; and

(vi) An inflation guard endorsement.

(f) **Term:** The period of each policy shall not exceed three (3) years. Any policy for a term greater than one (1) year must permit short rate cancellation by the insureds.

(g) **Deductible:** The policy may contain a reasonable deductible and the amount of the deductible shall be added to the face amount of the policy in determining whether the insurance equals replacement cost.

7.6.2 **Types of Coverage:** Unless the Association determines otherwise pursuant to Section 7.6, the Board shall obtain at least the following insurance policies in the amounts specified:

(a) Property Insurance: A Special Form or "All-Risk" policy of property insurance for all insurable Common Area Improvements, including fixtures and building service equipment, against loss or damage by fire or other casualty, in an amount equal to the full replacement cost (without respect to depreciation) of the Common Area, and exclusive of land, foundations, excavation and other items normally excluded from coverage. A replacement cost endorsement shall be part of the policy.

(b) Liability Insurance: A combined single limit policy of liability insurance in an amount not less than Three Million Dollars (\$3,000,000.00) covering the Common Area and all damage or injury caused by the negligence of the Association, the Board or any of its agents or the Owners against any liability to the public or to any Owner incident to the use of or resulting from any accident or intentional or unintentional act of an Owner or a third party occurring in or about any Common Area. If available, each policy shall contain a cross liability endorsement in which the rights of the named insured shall not be prejudiced with respect to any action by one named insured against another named insured.

(c) Worker's Compensation: Worker's compensation insurance to the extent necessary to comply with all applicable laws of the State of California or the regulations of any governmental body or authority having jurisdiction over the Project.

(d) Fidelity Bond: A fidelity bond naming the Board, the Owners, the Association and such other persons as the Board may designate as obligees, in an amount equal to at least one-fourth (¼) of the total sum budgeted for the Current Operation Account and Reserve Account for the current fiscal year. The fidelity bond shall contain a waiver of any defense based on the exclusion of persons serving without compensation.

(e) Directors and Officers: Errors and omissions insurance covering individual liability of Directors and officers for their negligent acts or omissions while acting in their capacities as Directors and officers in an amount equal to at least the minimum amount specified in Section 1365.7(a)(4) of the California Civil Code.

(f) Other Insurance: Other types of insurance as the Board determines to be necessary to fully protect the interests of the Owners.

(g) Insurance by Owner: Each Owner, at that Owner's sole cost and expense, shall obtain insurance coverage which the Owner considers necessary or desirable to protect that Owner and that Owner's Lot, Residence and personal property; provided, however, that no Owner shall be entitled to procure insurance coverage which decreases the amount which the Association, on behalf of all Owners and their Mortgagees, may realize under any insurance policy which the Association may have in effect at any time.

7.6.3 Annual Review: The Board shall review the adequacy of all insurance, including the amount of liability coverage and the amount of property damage coverage, at least once every year. At least once every three years, the review shall include a replacement cost appraisal of all insurable Common Area Improvements without respect to depreciation. The Board shall adjust the policies to provide the amounts and types of coverage and protection that are customarily carried by prudent owners of similar property in the area in which the Project is situated.

7.6.4 Annual Notice to Members: The Association shall provide a summary of the Association's property damage, general liability, earthquake and flood insurance policies as required by Section 1365 of the California Civil Code.

ARTICLE VIII DEVELOPMENT RIGHTS

8.1 LIMITATIONS OF RESTRICTIONS: Declarant is undertaking the work of developing Lots and other Improvements within the Project. The completion of the development and the marketing, sale, lease, rental and/or other disposition of the Lots is essential to the establishment and welfare of the Subject Property and the Additional Property as a residential community. In order that the work may be completed and the Project established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be interpreted to deny Declarant the rights set forth in this Article.

8.2 RIGHTS OF ACCESS AND COMPLETION OF CONSTRUCTION: Until five (5) years after all of the Additional Property has been annexed to the Project, Declarant, its contractors and subcontractors shall have the right to: (i) obtain reasonable access over and across the Common Area of the Project and/or do within any Lot owned or controlled by it whatever is reasonably necessary or advisable in connection with the completion of the Project; and (ii) erect, construct and use on the Common Area of the Project and/or within any Lot owned or controlled by it such structures as may be reasonably necessary for the conduct of its business to complete the work, establish the Project as a residential community and dispose of the Project in parcels by sale, lease, rental or otherwise. Each Owner acknowledges that: (a) the construction of the Project may occur over an extended period of time; (b) the Owner's quiet use and enjoyment of the Owner's Lot may be disturbed as a result of the noise, dust, vibrations and other nuisances associated with construction activities; and (c) the nuisances will continue until the completion of the construction of the entire Project.

8.3 SIZE AND APPEARANCE OF PROJECT: Declarant shall not be prevented from increasing or decreasing the number of Lots that may be annexed to the Project or from changing the exterior appearance of Residences or Common Area structures, the landscaping or any other matter directly or indirectly connected with the Project in any manner deemed desirable by Declarant, if Declarant obtains all governmental consents required by law.

8.4 MARKETING RIGHTS: Declarant shall have the right to: (i) construct, establish and use model homes, signs, banners, flags, inflatable balloons, blimps, sales offices, sales and construction trailers, leasing offices, rental offices, storage areas, parking lots and related facilities in any Lots owned or controlled by Declarant or Common Area within the Project as are necessary or reasonable, in the opinion of Declarant, for the sale, lease, rental or other disposition of the Lots; (ii) make reasonable use of the Common Area and facilities for the sale, lease, rental or other disposition of Lots; (iii) use any Lots owned or controlled by Declarant in accordance with any promotional programs established from time to time by Declarant; and (iv) conduct its business of disposing of Lots by sale, lease, rental or otherwise; provided, however, Declarant shall pay the Association reasonable rent for the use of any Common Area facilities, if Declarant's use of those Common Area facilities materially interferes with the full use and enjoyment of the Common Area facilities by Owners.

8.5 TITLE RIGHTS: This Declaration shall not be construed to constitute a limitation on Declarant's title rights to the Additional Property prior to its annexation, nor shall it impose any obligation on Declarant or any other person or entity to improve, develop or annex any portion of the Additional Property. This Declaration shall not be construed to limit the right of Declarant at any time prior to such an annexation to establish additional licenses, easements, reservations, restrictions and rights-of-way for itself, utility companies or others as reasonably necessary for the proper development and disposition of property owned by Declarant.

ARTICLE IX
RIGHTS OF MORTGAGEES

9.1 **CONFLICT:** Notwithstanding any contrary provision in the Project Documents, the provisions of this Article shall control with respect to the rights and obligations of Mortgagees specified herein.

9.2 **INSPECTION OF BOOKS AND RECORDS:** Upon request, any Owner or First Mortgagee shall be entitled to inspect and copy the books, records and financial statements of the Association, the Project Documents and any amendments thereto during normal business hours.

9.3 **FINANCIAL STATEMENTS FOR MORTGAGEES:** If an audited financial statement for the immediately preceding fiscal year is available, the Association shall provide a copy to any Mortgagee who makes a written request for it. If an audited financial statement is not available and the Project contains fifty (50) or fewer Lots, any Mortgagee who desires to have an audited financial statement of the Association may cause an audited financial statement to be prepared at the Mortgagee's expense. If an audited financial statement is not available and the Project contains more than fifty (50) Lots, the Association, at its expense, shall prepare an audited financial statement for the immediately preceding fiscal year. The audited financial statement shall be available within one hundred twenty (120) days of the end of the Association's fiscal year. The Association shall provide a copy of any audited financial statement to any Mortgagee who makes a written request for it.

9.4 **MORTGAGE PROTECTION:** A breach of any of the conditions or the enforcement of any lien provisions contained in this Declaration shall not defeat or render invalid the lien of any First Mortgage made in good faith and for value as to any Lot in the Project; but all of the covenants, conditions and restrictions contained in this Declaration shall be binding upon and effective against any Owner of a Lot if the Lot is acquired by foreclosure, trustee's sale or otherwise.

ARTICLE X
AMENDMENT AND ENFORCEMENT

10.1 **AMENDMENTS:**

10.1.1 **Approval:** Prior to the conveyance of the first Lot to an Owner other than a Declarant, any Project Document may be amended by Declarant alone. After the conveyance of the first Lot, the Project Documents may be amended if each of the following requirements is satisfied:

(a) The approval of each class of Members is obtained; provided, however, that no provision of this Declaration which provides for a vote of more than fifty-one percent (51%) may be amended by a vote less than the percentage specified in the Section to be amended.

(b) The provisions of Article VIII and this Section 10.1.1(b) may not be amended without the consent of Declarant until three years (3) after all of the Additional Property has been annexed to the Project.

(c) The provisions of Article XII, Section 11.1.3 and this Section 10.1.1(c) may not be amended without the consent of Declarant until all of the Additional Property has been annexed to the Project and all of the Lots in the Project owned by Declarant have been conveyed.

(d) The provisions of Section 10.3 and this Section 10.1.1(d) may not be amended nor shall other provisions be adopted that purport to supercede them without the consent of Declarant.

10.1.2 Restatement: After an amendment is duly approved in accordance with the preceding requirements, the Board may prepare a restatement of the Declaration and record the restatement of the Declaration which restates the entire text of the original document, with these exceptions: (a) changes incorporating all amendments approved by the Owners; (b) changes made to rearrange or delete the text for consistency with the approved amendments; and (c) changes made to delete material no longer legally effective or legally required. Upon recordation of the restatement, the restatement shall supersede the Declaration and all prior amendments in their entirety, without, however, affecting the priority of the Declaration in the chain of title to all properties that are subject to the Declaration, as established by the Declaration's initial date of recordation.

10.1.3 Recordation: Any amendment to this Declaration shall be effective upon the recordation in the Official Records of the County of either (a) a restatement approved by the Board as provided above which includes a statement executed by the President and Secretary of the Association which certifies that the required percentage of Members has approved all amendments made by the restatement and that the form of the restatement was duly approved by a resolution of the Board, or (b) an amending instrument which sets forth the terms of the amendment and includes a statement executed by the President and Secretary of the Association which certifies that the required percentage of Members has approved all amendments made by the amending instrument.

10.2 ENFORCEMENT:

10.2.1 Rights to Enforce: Subject to the provisions of Section 10.3, Declarant, the Association and/or any Owner shall have the power to enforce the provisions of the Project Documents in any manner provided by law or in equity and in any manner provided in this Declaration. In addition to instituting appropriate legal action, the Association may temporarily suspend an Owner's voting rights and/or levy a fine against an Owner in a standard amount to be determined by the Board from time to time. No determination of whether a violation has occurred may be made until Notice and Hearing has been provided to the Owner pursuant to the Bylaws. If legal action is instituted by the Association, any judgment rendered shall include all appropriate Additional Charges. Notwithstanding anything to the contrary contained in this Declaration, the Association has no power to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of the Owner's Lot and Residence, including access thereto, due to the Owner's failure to comply with the provisions of the Project Documents unless the loss or forfeiture is the result of an order of a court or an order pursuant to a final and binding arbitration decision. The provisions of this Declaration are equitable servitudes, enforceable by any Owner or the Association against the Association or any other Owner or resident in the Project. Except as otherwise provided, Declarant, the Association or any Owner(s) has the right to enforce, in any manner permitted by law or in equity, any and all of the provisions of the Project Documents, including any decision made by the Association, upon the Owners, the Association or upon any property in the Project.

10.2.2 Violation of Law: The Association may treat any Owner's violation of any state, municipal or local law, ordinance or regulation, which creates a nuisance to the other Owners in the Project or to the Association, in the same manner as a violation of the Project Documents by making such violation subject to any or all of the enforcement procedures set forth in this Declaration, as long as the Association complies with the Notice and Hearing requirements.

10.2.3 Remedies Cumulative: Each remedy provided in this Declaration is cumulative and not exclusive.

10.2.4 No Waiver: The failure to enforce the provisions of any covenant, condition or restriction contained in this Declaration will not constitute a waiver of any right to enforce any such provisions or any other provisions of this Declaration.

10.3 DISPUTES WITH DECLARANT: For purposes of this Section 10.3 only, the term "Declarant" includes each of Declarant's partners, officers, agents, employees, affiliated parent and subsidiary companies, successors and assigns, design centers, contractors, subcontractors, design

professionals, engineers, inspectors and material suppliers who provided labor, services or materials to any portion of the Project.

10.3.1 Agreement to Arbitrate: Any claim, controversy, cause of action, liability or dispute ("Claims") between an Owner and Declarant (including construction defect claims of the kind described in California Civil Code Section 895 et seq. which have not been resolved in the non-adversarial procedures set forth in California Civil Code Sections 910 through 938) shall be resolved in accordance with any binding arbitration provisions set forth in the purchase agreement between the Owner and Declarant or, if Owner did not acquire its Lot from Owner, then in accordance with any binding arbitration provisions referenced in any document recorded before or concurrently with the grant deed by which Declarant initially conveyed the Lot. Any Claims between an Owner and the Association (including construction defect claims of the kind described in California Civil Code Section 895 et seq. which have not been resolved in the non-adversarial procedures set forth in California Civil Code Sections 910 through 938) shall be resolved by binding arbitration pursuant to the Federal Arbitration Act (Title 9 of the United States Code) as provided in this Section 10.3.

10.3.2 Rules: Claims shall be resolved in accordance with the construction industry arbitration rules of the AAA, the AAA's Supplementary Procedures for Consumer/Residential Construction Disputes (collectively, the "Rules") and the terms of this Declaration.

10.3.3 Preliminary Procedures: If state or federal law requires Owner or Declarant to take steps or procedures before commencing an action in court, then Owner or Declarant must take such steps or follow such procedures, as the case may be, before commencing the arbitration. For example, any claims or disputes pursuant to California Civil Code Section 895 et seq. as hereafter amended, may be subject to the non-adversarial procedures set forth in California Civil Code Sections 910 through 938, prior to the initiation of any arbitration or small claims court proceeding against Declarant. In addition, nothing contained herein shall be deemed a waiver or limitation of the provisions of California Civil Code Sections 1368.4, 1375, 1375.05 or 1375.1.

10.3.4 Arbitrator: The dispute shall be heard and determined by a single neutral arbitrator. The arbitrator shall have expertise in the area of the dispute. Selection of the arbitrator shall comply with California Code of Civil Procedure Sections 1297.121 and 1297.124. The arbitrator shall be selected according to the Rules, but in no event more than sixty (60) days from the date the administrator receives the claims. If the parties cannot mutually agree upon an arbitration agency, the dispute shall be referred to the local office of the AAA.

10.3.5 Joinder: The parties may join other parties as provided in the Rules except that Owner may not join Claims against Declarant with the Claims of any other Owners. The parties may include Declarant's subcontractors and suppliers in the arbitration to the extent they involve Owner's Claims.

10.3.6 Location: The venue of the arbitration may be in the Residence, if Owner agrees, but otherwise shall be held in the County unless the parties agree otherwise. The arbitration shall commence, be conducted and conclude promptly, in accordance with the Rules.

10.3.7 Award: The arbitrator is authorized to provide all recognized remedies available in law or equity for the Claims. The award of the arbitrator shall be in compliance with the statutes and case law of the state of California then in effect and shall be accompanied by detailed written findings of fact and conclusions of law. Any award rendered by the arbitrator may be confirmed, entered and enforced, in any court having jurisdiction.

10.3.8 Confidential: Except as may be required by law or for confirmation of the award, neither the parties nor the arbitrator may disclose the existence, content or results, of the arbitration hearing without the prior written consent of both parties.

10.3.9 Fees: Declarant will advance the fees and costs necessary to initiate and conduct the arbitration. If Declarant is the prevailing party in the arbitration, the arbitrator may, to the extent

permitted by law and the Rules, direct Owner to reimburse Declarant for up to one-half of the fees Declarant has advanced. Each party shall bear their own attorney fees and costs.

10.3.10 Small Claims Court: This Section shall not apply to any Claim that can be properly brought by Owner without legal counsel in small claims court. However, any appeal from the small claims jurisdiction to a higher court shall be governed by this Section.

10.3.11 Statute of Limitation: The arbitration must be filed within the applicable warranty period or within the statute of limitations applicable to the Claim.

10.3.12 Severability: If the arbitrator or any court determines that any provisions of this arbitration section are unenforceable for any reason, that provision shall be severed, and proceedings set forth in this Section shall be conducted under the remaining enforceable terms of this Section.

ARTICLE XI

ARCHITECTURAL AND LANDSCAPING CONTROL

11.1 APPLICABILITY:

11.1.1 Generally: Except as otherwise provided in this Declaration, proposals for Alterations (which includes all landscaping) are subject to the provisions of this Article and may not be made until approved in accordance with the provisions of this Article.

11.1.2 Exceptions: The provisions of this Declaration requiring architectural approvals do not apply to repainting or refinishing any Improvement in the same color, hue, intensity, tone, and shade or repairing or replacing any Improvement with the same materials. The provisions of this Declaration requiring architectural approvals include planting or removing landscaping; provided, however, the Rules may exempt landscaping or other limited Improvements within enclosed rear yards of Lots. The Architectural Standards may establish additional exceptions from time to time.

11.1.3 Declarant Exemption: The provisions of this Declaration requiring architectural approvals do not apply to the original construction of any Improvements on a Lot by Declarant, its agents, contractors or employees.

11.1.4 Relationship to Governmental Approvals: Proposals for Alterations may also be subject to review and approval by state or local governmental entities or agencies. Satisfying the provisions of this Declaration does not automatically satisfy any requirement for governmental approval, permitting or inspection. All approvals, permits and inspections which are required under local, state or federal law for any proposed Alteration are the responsibility of the Owner and must be obtained by the Owner in addition to the approvals required by this Declaration.

11.2 RESERVATION TO DECLARANT: Notwithstanding the power of the Board to appoint committees, Declarant hereby reserves to itself the right to appoint an Architectural Committee in accordance with the provisions of this Article. When there is no longer any Member appointed by Declarant on the Committee, the Board may decide to dissolve the Committee and undertake the Committee's responsibilities.

11.3 MEMBERS: The Architectural Committee ("Committee") shall consist of a chairman and two (2) additional members. Persons appointed to the Committee by the Board shall be Members of the Association. Persons appointed to the Committee by Declarant need not be Members of the Association. All members will serve until the expiration of the term for which they were appointed, if specified by the Board, or until they resign or are replaced. Declarant may appoint all of the original members of the Committee and all replacements until the first anniversary of the issuance of the Public Report for the first Phase of the Project. After the date which is one (1) year from the date of issuance of the Public Report

for the first Phase of the Project and until the conveyance of ninety percent (90%) of the total of all Lots in the Project and all Lots proposed for the Additional Property or the fifth (5th) anniversary of the issuance of the Public Report for the first Phase of the Project, whichever first occurs, the Board will have the power to appoint one member of the Committee and Declarant may appoint the remaining members of the Committee. Thereafter, the Board shall appoint all of the members of the Committee or dissolve the Committee as provided in Section 11.2, above. Upon the conveyance of one hundred percent (100%) of all Lots, the term of any remaining members appointed by Declarant will terminate and replacement members shall be appointed by the Board. The Board may appoint a replacement for any member of the Committee originally appointed by the Board who resigns or otherwise fails to act. Declarant may appoint a replacement for any member of the Committee originally appointed by Declarant who resigns or otherwise fails to act, unless such member resigns in order to enable the Board to appoint a member as required by this Section. If Declarant fails to appoint a replacement it is authorized to appoint within fifteen (15) days after receiving notice of the vacancy, the Board shall appoint the replacement.

11.4 DUTIES AND POWERS:

11.4.1 Duties: The Committee shall review and approve, conditionally approve, or deny all plans, submittals, applications and requests made or tendered to it by Owners or their agents, pursuant to the provisions of this Declaration. In connection therewith, the Committee may investigate and consider the architecture, design, layout, landscaping, energy conservation measures, water conservation measures, fence detail, and other features of the proposed Improvements.

11.4.2 Powers: The Committee may adopt procedures for the transaction of business, scheduling of meetings, conduct of meetings and related matters. The Committee may also adopt criteria, consistent with the purpose and intent of this Declaration to be used in making its determination to approve, conditionally approve or deny any matter submitted to it for decision.

11.4.3 Consultants: With the consent of the Board, the Committee may hire and the Association shall pay consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the Committee in performing its duties.

11.5 APPLICATION FOR APPROVAL OF IMPROVEMENTS: Any Owner, except Declarant and its designated agents, who wants to perform any Alteration for which approval is required shall notify the Committee in writing of the nature of the proposed work and shall furnish such information as may be required by the Architectural Standards or reasonably requested by the Committee.

11.6 BASIS FOR APPROVAL OF IMPROVEMENTS: As conditions precedent to approval of any matter submitted to it, the Committee must ordinarily be able to find that (i) the plans and specifications conform to this Declaration and to the Architectural Standards in effect at the time the proposal was submitted and (ii) the proposed Alteration will be aesthetically consistent with the other Improvements in the Project as to harmony of exterior design, landscaping, color schemes, exterior finishes, visibility with respect to existing structures and environment, and placement of structures with respect to topography and finished grade elevation.

11.7 FORM OF APPROVALS, CONDITIONAL APPROVALS AND DENIALS: All approvals, conditional approvals and denials must be in writing. Any denial of a proposal must state the reasons for the decision to be valid. Any proposal which has not been rejected in writing within sixty (60) days from the date of submission will be deemed approved.

11.8 WORK: Upon approval of the Committee, the Owner must diligently proceed with the commencement and completion of all work so approved. Completion of the work approved must occur within one (1) year following the approval of the work unless the Architectural Committee grants an extension. This Section shall not be interpreted to extend any other time period imposed by this Declaration. If the Owner fails to complete the work within the required time period, the Committee may notify the Owner in writing of the non-compliance and proceed in accordance with the provisions of Section 11.10, below.

11.9 DETERMINATION OF COMPLIANCE: Any work performed, whether or not the Owner obtained proper approvals, may be inspected and a determination of compliance made as follows:

11.9.1 Notice of Completion: Upon the completion of any work performed by an Owner for which approval was required, the Owner must give written notice of completion to the Committee.

11.9.2 Inspection: Within sixty (60) days after the Committee's receipt of the Owner's notice of completion, or, if the Owner fails to give a written notice of completion to the Committee within the completion period specified in Section 11.8, above, a designee of the Committee may inspect the work performed and determine whether it was performed and completed in substantial compliance with the approval granted. If the Committee finds that the work was not performed or completed in substantial compliance with the approval granted or if the Committee finds that the approval required was not obtained, the Committee shall notify the Owner in writing of the non-compliance. The notice shall specify the particulars of non-compliance and require the Owner to remedy the non-compliance.

11.10 FAILURE TO REMEDY THE NON-COMPLIANCE: If the Committee has determined that an Owner has not constructed an Improvement consistently with the specifications of the approval granted or within the time permitted for completion and if the Owner fails to remedy such non-compliance in accordance with the provisions of the notice of non-compliance, then after the expiration of thirty (30) days from the date of such notification, the Committee shall notify the Board, and the Board shall provide Notice and Hearing to consider the Owner's continuing non-compliance. At the Hearing, if the Board finds that there is no valid reason for the continuing non-compliance, the Board shall determine the estimated costs of correcting it. The Board shall then require the Owner to remedy or remove the same within a period of not more than forty-five (45) days from the date of the Board's determination. If the Owner does not comply with the Board's ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board may either remove the non-complying Improvement or remedy the non-compliance. The costs of such action shall be assessed against the Owner as a Reimbursement Assessment.

11.11 WAIVER: Approval of any plans, drawings or specifications for any work proposed, or for any other matter requiring approval shall not be deemed to constitute a waiver of any right to deny approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

11.12 APPEAL OF DECISION OF COMMITTEE: This Section does not apply if the Board has dissolved the Committee or during the period of time that a majority of the Members of the Architectural Committee have been appointed by Declarant. If the Owner who applied or who the Committee determined should have applied for approval of an Alteration on a Lot or Residence disputes the jurisdiction or powers of the Committee, the interpretation or application of an Architectural Standard or a decision of the Committee applicable to the denial or conditional approval of the Owner's application (collectively referred to as "decision"), that Owner may appeal such decision to the Board. The Board shall notify the Owner of the time, date and place of a hearing to review the decision of the Committee. The notice shall be given at least fifteen (15) days prior to the date set for the hearing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after it has been deposited in the United States mail, first class, postage prepaid, addressed to the Owner at the address given by the Owner to the Board for the purpose of service of notices or to the address of the Owner's Lot if no other address has been provided. After the hearing has taken place, the Board shall notify the Owner of its decision. The decision shall become effective not less than five (5) days after the date of the hearing. The determination of the Board shall be final.

11.13 NO LIABILITY: If members of the Architectural Committee have acted in good faith, neither the Committee nor any member will be liable to the Association or to any Owner for any damage, loss or prejudice suffered or claimed due to: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any property within the Project; or (d) the execution and filing of any estoppel certificate, whether or not the facts therein are correct.

11.14 EVIDENCE OF APPROVAL OR DISAPPROVAL: After a determination of compliance is made pursuant to Section 11.9, the Board may issue a written Notice of Architectural Determination. The Notice of Architectural Determination must be executed by any two (2) Directors and shall certify that as of the date of the Notice either (i) the work completed complies with the provisions of this Declaration and the approval(s) issued by the Architectural Committee ("Notice of Approval") or (ii) the work completed does not comply with the provisions of this Declaration or the approval(s) issued by the Architectural Committee ("Notice of Disapproval"). A Notice of Disapproval must also identify the particulars of the non-compliance. Any successor in interest of the Owner will be entitled to rely on a Notice of Architectural Determination with respect to the matters set forth. Each Owner must disclose to the Owner's subsequent purchaser any Notice of Disapproval unless the Owner has a subsequently issued Notice of Approval which covers the same Alteration. The Notice of Architectural Determination will be conclusive as between the Association, the Architectural Committee, Declarant and all Owners and such persons deriving any interest through any of them. Any Owner may make a written request that the Board prepare and execute a Notice of Architectural Determination, and the Board must do so within sixty (60) days of its receipt of the request.

ARTICLE XII ANNEXATION

12.1 PROPERTY WHICH MAY BE ANNEXED: Property may be added to the Project by annexation only in accordance with the provisions of this Article.

12.1.1 Additional Property: All or any portion of the Additional Property may be added to the Project as one or more subsequent Phases without the approval of the Association or any Owner if the annexation of the Phase is in substantial conformance with a plan of phased development approved by the Department of Real Estate of the State of California. The issuance of a Public Report for a Phase by the Department of Real Estate of the State of California shall be evidence that the annexation of that Phase was in substantial conformance with a plan of phased development.

12.1.2 Other Property: Property other than the Additional Property may be annexed to the Project only with the approval of two-thirds (2/3) of each class of Members.

12.2 PROCEDURE FOR ANNEXATION: In addition to any required approval by Members, a final subdivision map(s) or final parcel map(s) and a Declaration of Annexation for the property to be annexed must be recorded. The Declaration of Annexation must: (i) describe the portion of the Additional Property to be annexed; (ii) describe any Common Area within the Additional Property to be annexed; (iii) set forth the ownership of any such Common Area; and (iv) specify that all of the covenants, conditions and restrictions of this Declaration will apply to the annexed Additional Property in the same manner as if it were originally covered by this Declaration. The Declaration of Annexation must also provide that if and only if at the time of the first conveyance of a Lot in a Phase Declarant has rented or leased Lots in that Phase for a period of at least one (1) year after the most recent review of a budget for that Phase by the Department of Real Estate, Declarant shall pay to the Association the following amount: an amount equal to that portion of the Regular Assessment which would have been attributable to each Lot in that Phase and which would have been allocable to reserves for replacement and deferred maintenance of Common Area Improvements had Regular Assessments in that Phase commenced at the time of the most recent review of a budget for that Phase. Such amount, if any, must be paid to the Association prior to or concurrently with the first conveyance of a Lot in that Phase. The Declaration of Annexation may also (i) impose any additional covenants, conditions and restrictions on the Additional Property that are necessary to include the property in the Project and to reflect differences in nature, if any, of the Improvements to be constructed on the Additional Property and (ii) provide for a specified date on which assessments will commence for Lots in that Phase, provided that the date specified may not be later than the first day of the first month following the month in which the first Lot in that Phase is conveyed to an Owner. No Declaration of Annexation may diminish the covenants, conditions or restrictions established

by this Declaration or discriminate between the Owners in the Project. No Declaration of Annexation may alter or change the general common plan or scheme created by this Declaration or affect the provisions hereof as covenants running with the land or as equitable servitudes.

12.3 EFFECT OF ANNEXATION: After complying with the procedures for annexation and upon the commencement of assessments for Lots in the annexed Phase, Owners of Lots in the annexed Phase will be Members, will be subject to this Declaration and will be entitled to use all Common Area in the Project. The Association must reallocate the Regular Assessments so as to assess each Owner of a Lot in the Project for a proportionate share of the total expenses of the Project.

12.4 DEANNEXATION AND AMENDMENT: Declarant has the right, at its sole option, to (i) amend a Declaration of Annexation by executing and recording an amendment of the Declaration of Annexation provided that the amendment is consistent with this Article, or (ii) remove from the Project any property described in a recorded Declaration of Annexation for a Phase by executing and recording a rescission of the Declaration of Annexation, as long as all of the following conditions are satisfied at the time of the execution and recordation of the amendment or rescission: (a) no Lot in that Phase has been conveyed to an Owner; (b) no Common Area in that Phase has been conveyed to the Association; and (c) assessments have not commenced for any Lot in the annexed property.

ARTICLE XIII MISCELLANEOUS PROVISIONS

13.1 BINDING: This Declaration is for the benefit of and binding upon all Owners, their respective heirs, legatees, devisees, executors, administrators, guardians, conservators, successors, purchasers, tenants, encumbrancers, donees, grantees, mortgagees, lienors and assigns.

13.2 BONDED OBLIGATIONS: When Common Area Improvements have not been completed prior to the issuance of the original Public Report to which the Common Area is subject and the Association is the obligee under a bond or other arrangement ("Bond") to secure performance of the commitment of Declarant to complete the Improvements, the following provisions apply.

13.2.1 Improvements Complete: If all Improvements in the planned construction statement appended to the Bond are covered by one or more recorded notices of completion, the Board shall execute whatever documents are required by the surety to release the Bond.

13.2.2 Improvements Not Complete: If a notice of completion has not been filed within sixty (60) days after the completion date specified for that Improvement in the planned construction statement appended to the Bond, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond. If the Association has given a written extension for the completion of any Common Area Improvements, the Board shall consider and vote whether to take action if a notice of completion has not been filed within thirty (30) days after the expiration of the most recent extension.

13.2.3 Action by Members: If the Board decides not to act or fails to initiate action to enforce bonded obligations, then upon receipt by the Board of a petition for a special meeting signed by Members entitled to cast five percent (5%) or more of the total number of votes which may be cast by the Members, the Board shall call a special meeting of the Members. If the Board has failed to initiate action, the Members shall determine whether they wish to initiate action. If the Board has decided not to initiate action, the Members shall determine whether to override the Board's decision. The meeting shall be held not less than thirty-five (35) nor more than forty-five (45) days after receipt of the petition by the Board. At the meeting, the approval of the Members, excluding the vote of Declarant, to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association. The Board shall

thereafter implement the decision by initiating and pursuing appropriate action in the name of the Association.

13.2.4 Release of Bond: On satisfaction of Declarant's obligation to complete the Common Area Improvements, the Association shall acknowledge in writing that it approves the release of the Bond and shall execute any other documents as may be reasonably necessary to effect the release of the Bond. The Association may not condition its approval on the satisfaction of any condition other than completion of the Common Area Improvements. If the Association breaches any of the foregoing obligations, it will be liable to Declarant for any damages incurred thereby, including reasonable attorneys' fees. Any dispute between Declarant and the Association regarding the completion of Common Area Improvements shall be resolved in accordance with the provisions of the escrow instructions which accompany the Bond.

13.3 CONFLICT: To the extent there are conflicts or inconsistencies between a Maintenance Manual and this Declaration, the provision which requires the highest standard of Maintenance shall prevail. In the event of any conflicts or inconsistencies between this Declaration and the Bylaws or the Operating Rules, this Declaration shall prevail.

13.4 CONSTRUCTION OF PROVISIONS: The provisions of this Declaration are to be liberally construed to effect its purpose of creating a uniform plan for the development and operation of a planned development pursuant to the provisions of the Davis-Stirling Common Interest Development Act, Section 1350 et seq. of the California Civil Code.

13.5 DOCUMENTS TO BE GIVEN TO PURCHASERS: As soon as practical before transferring title to the Lot, the Owner shall give to the purchaser copies of all documents and statements required by California Civil Code Section 1368.

13.6 EXHIBITS: All exhibits attached to this Declaration are incorporated by this reference as though fully set forth herein.

13.7 GENDER, NUMBER AND CAPTIONS: As used herein, the singular includes the plural and masculine pronouns include feminine pronouns, where appropriate. The title and captions of each paragraph hereof are not a part thereof and shall not affect the construction or interpretation of any part hereof.

13.8 REQUIRED ACTIONS OF ASSOCIATION: The Association shall at all times take all reasonable actions necessary for the Association to comply with the terms of this Declaration or to otherwise carry out the intent of this Declaration.

13.9 SEVERABILITY OF PROVISIONS: The provisions hereof shall be deemed independent and severable, and the invalidity or unenforceability of any one provision will not affect the validity or enforceability of any other provision hereof.

13.10 SUCCESSOR STATUTES: Any reference in the Project Documents to a statute will be deemed a reference to any amended or successor statute.

13.11 TERM OF DECLARATION: This Declaration will continue for a term of fifty (50) years from its date of recordation. Thereafter, this Declaration will be automatically extended for successive periods of ten (10) years until two-thirds (2/3) of the Owners approve a termination of this Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Declaration on the 5th day of May, 2004.

DECLARANT:

PULTE HOME CORPORATION,
a Michigan corporation

By: *John L. Johnson*
Name: John L. Johnson
Title: Attorney in Fact

STATE OF CALIFORNIA
COUNTY OF Alameda } ss.

On May 5, 2004, before me, Jeanne Miller, Notary Public, personally appeared John L. Johnson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Jeanne Miller
Notary Public

EXHIBITS

A Description of Additional Property (Section 2.2)

All of Tract 9534, excluding those lots shown in Section 1.1 herein, recorded February 4, 2004, in Book 767 of Maps, at Pages 42 through 45, inclusive, in the Official Records of the County of Santa Clara, State of California.