

Revised
November 28, 1990

VOL 622 PAGE 309

274
LAND USE RESTRICTION AGREEMENT

BY AND BETWEEN
RESOLUTION TRUST CORPORATION
AND
DIVERSIFIED RESIDENTIAL, INC.

(Sales of Single Family Properties to
Public Agencies and Non Profit Organizations)

**NOTE: THIS DOCUMENT MUST BE RECORDED AND TIME STAMPED IMMEDIATELY
PRIOR TO THE DEED**

Filed By
Kerrville Title Company

RETURN TO:
KERRVILLE TITLE COMPANY
1416 Sidney Baker
Kerrville Texas 78028

FILED FOR RECORD
at 11 o'clock P.M.

JAN 14 1992
PATRICIA DYE
Clerk County Court, Kerr County, Texas
By Patricia Dye

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LAND USE RESTRICTION AGREEMENT
SALES OF SINGLE FAMILY PROPERTIES TO
PUBLIC AGENCIES AND NONPROFIT ORGANIZATIONS)

THIS LAND USE RESTRICTION AGREEMENT (this "Agreement") is made and entered into this 24th day of October, 1991, by and between Resolution Trust Corporation, established pursuant to Section 501(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("RTC"), acting in its capacity as receiver for CAPITOL CITY FEDERAL SAVINGS ASSOCIATION, and DIVERSIFIED RESIDENTIAL, INC., a Texas non-profit corporation ("Owner").

Recitals

Owner is a public agency or a nonprofit organization which has purchased from RTC one or more eligible single family properties located on the parcels of land described on Exhibit A attached hereto and incorporated herein by reference, together with the improvements located thereon (said land and improvements are hereinafter collectively referred to as the "Property"), each of which constitutes an "eligible residential property" as defined in Section 21A(c)(9)(E) of the Federal Home Loan Bank Act (12 U.S.C. § 1441a(c)(9)(E)), as amended.

Pursuant to Section 21A(c) of the Federal Home Loan Bank Act (12 U.S.C. § 1441a(c)), as amended, Owner must agree to comply with certain occupancy, rental and resale restrictions with respect to the Property, and the parties hereto have entered into this Agreement to evidence Owner's agreement to comply with such restrictions.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows.

ARTICLE I

Definitions

Section 1.1. General. Capitalized terms used in this Agreement shall have, unless the context clearly requires otherwise, the meanings specified in this Article I. Certain additional terms may be defined elsewhere in this Agreement.

(a) "Act" means Section 21A of the Federal Home Loan Bank Act (12 U.S.C. § 1441a), as amended, or any corresponding

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provision or provisions of succeeding law as it or they may be amended from time to time.

(b) "Agency" means the State Housing Finance Agency or any agency, corporation or authority of the United States government that normally engages in activities related to the preservation of affordable housing and which is a successor to or assignee of RTC with respect to its powers and responsibilities hereunder.

(c) "Annual Income" means "income" as defined in Section 3(b)(4) of the United States Housing Act of 1937 and as determined in accordance with the regulations thereunder promulgated by the Secretary.

(d) "Agreement" means this Land Use Restriction Agreement, as it may from time to time be amended.

(e) "Lower-Income Families" means families and individuals whose Annual Incomes do not exceed the applicable income limit for lower-income families in the area in which the Property is located, as established by the Secretary under Section 3(b)(2) of the United States Housing Act of 1937.

(f) "Owner" means Diversified Residential,*, as set forth at the beginning of this Agreement, or any successor in title to any portion of the Property, except households which are Lower-Income purchasers of individual Single Family Properties.
*Inc., a Texas non-profit corporation.

(g) "Qualified Single Family Tenant" means a family or individual tenant of a Single Family Property that satisfies the requirements of Section 2.1 of this Agreement with respect to such Single Family Property.

(h) "Regulations" means the regulations promulgated pursuant to the Act by RTC or any successor agency, as amended from time to time.

(i) "Related Entity" means, with respect to Owner: (i) any spouse, parent, child, grandchild, brother or sister of Owner; or (ii) any person or entity (A) that directly or indirectly controls or is controlled by or is under common control with Owner, (B) that is an officer of, partner in or trustee of, or serves in a similar capacity with respect to, Owner or of which Owner is an officer, partner or trustee, or with respect to which Owner serves in a similar capacity, or (C) that is the beneficial owner, directly or indirectly, of 10% or more of any class of equity securities of Owner or of which Owner is directly or indirectly the owner of 10% or more of any class of equity securities.

(j) "RTC" means the Resolution Trust Corporation, as set forth at the beginning of this Agreement.

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(k) "Secretary" means the Secretary of Housing and Urban Development.

(l) "Single Family Property" means that portion of the Property, if any, that constitutes "eligible single family property" under Section 21A(c)(9)(F) of the Act (12 U.S.C. § 1441a(c)(9)(F)).

(m) "State" means the state(s) in which the Property is located; provided, however, that if the Property is located in more than one state, "State" shall mean the state of location of that portion of the Property which is the subject of inquiry or dispute.

(n) "State Housing Finance Agency" means the public agency, authority, corporation, or other instrumentality of the State that has the authority to provide residential mortgage loan financing throughout the State.

(o) "Term" means, with respect to each Single Family Property governed by this Agreement, the period commencing on the date hereof and continuing until the earliest to occur of the following:

(1) the date upon which there is an involuntary loss of the particular Single Family Property by Owner caused by seizure, condemnation, foreclosure, deed in lieu of foreclosure or a change in federal law which prevents RTC or the Agency from enforcing this Agreement; provided, however, that in the event of loss of the property caused by foreclosure or deed in lieu of foreclosure, and if at any time thereafter, Owner or a Related Entity of Owner acquires an ownership interest in such property, then the covenants and restrictions set forth in this Agreement shall be revived and shall remain in force until the further occurrence of an event described in this subsection;

(2) the date upon which there is a total involuntary loss of the use of the particular Single Family Property for residential housing purposes by Owner caused by fire or other casualty;

(3) the date upon which RTC or the Agency determines, in accordance with its Regulations, (i) that all or a portion of the particular Single Family Property is obsolete as to physical condition, location, or use, or (ii) that the property is obsolete as to physical condition, location, or use, and that no reasonable program of modifications is feasible to return the such property to useful life;

(4) the date which is the later of (i) forty (40) years from the date of this Agreement or (ii) fifty (50) years from the

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date the particular Single Family Property was initially occupied; or

(5) the date on which title to a Single Family Property is conveyed to a Lower-Income Family.

(p) "Very Low-Income Families" means families and individuals whose Annual Incomes do not exceed the applicable income limit for very low-income families in the area in which the particular Single Family Property is located, as established by the Secretary under Section 3(b)(2) of the United States Housing Act of 1937.

Notwithstanding the foregoing, the termination of the Term with respect to any individual Single Family Property shall in no way affect the Term for the remainder of the Property.

Section 1.2. Generic Terms. Unless the context clearly indicates otherwise, where appropriate the singular shall include the plural and the masculine shall include the feminine or neuter, and vice versa, to the extent necessary to give the terms defined in this Article I and/or the terms otherwise used in this Agreement their proper meanings.

ARTICLE II

Rental, Occupancy and Sale of Single Family Property

Section 2.1. Rental, Occupancy and Sale of Single Family Property.

(a) During the Term, Owner will either

(i) sell each Single Family Property to a Lower-Income Family; or

(ii) maintain each Single Family Property as single family rental housing and hold such housing available for rental to Lower-Income Families on a continuous basis until it shall --

(I) sell such Single Family Property to a public agency or nonprofit organization that agrees to abide by the restrictions set forth in this Agreement; or

(II) sell such Single Family Property to a Lower-Income Family without further restrictions.

(b) The determination of whether the tenant of a Single Family Property is a Lower-Income Family or a VeryLow-Income Family shall be made prior to admission of such family or

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individual to occupancy in such Single Family Property, except that with respect to families or individuals occupying Single Family Properties on the date hereof, such determination shall not be required. Thereafter such determinations shall be made at least annually on the basis of an examination or reexamination of the current income of the family or individual. If the Annual Income of a tenant exceeds the applicable income limit for Lower-Income Families by more than 125% of the applicable income limit for Lower-Income Families, the Owner shall not be required to terminate the tenancy of such tenant, but when such Single Family Property becomes vacant, it must be once again held available for rental to Lower-Income Families.

Section 2.2 Rent Limitations for Qualified Single Family Tenants.

(a) The rent charged by Owner for a Single Family Property occupied by Very-Low Income Families shall not exceed the maximum rent permitted to be charged Very Low-Income Families for dwellings of the applicable size in the area, as established by RTC or the Agency or the Secretary and provided to the Owner, upon request, by RTC or the Agency. Such maximum rent shall be not greater than 30% of the adjusted income of a family whose income equals 50% of area median income, with adjustment for the size of family which is assumed to occupy a dwelling of particular type.

(b) The rent charged by Owner for a Single Family Property occupied by Lower-Income Families other than Very Low-Income Families shall not exceed the maximum rent permitted to be charged Lower-Income Families other than Very Low-Income Families for dwellings of the applicable size in the area, as established by RTC or the Agency or the Secretary and provided to the Owner, upon request, by RTC or the Agency. Such maximum rent shall be not greater than 30% of the adjusted income of a family whose income equals 65% of area median income, with adjustment for the size of family which is assumed to occupy a dwelling of particular type.

ARTICLE III

Administration

Section 3.1. Lease Provisions. All tenant leases entered into with Qualified Single Family Tenants during the Term shall contain provisions wherein each individual lessee (i) certifies the accuracy of the information provided in connection with the examination or reexamination of Annual Income of the household of such lessee, and (ii) agrees that the Annual Income and other eligibility requirements shall be deemed substantial and material obligations of his or her tenancy, that he or she will comply

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promptly with all requests for information with respect thereto from Owner or RTC or the Agency, and that his or her failure to provide accurate information regarding such requirements (regardless of whether such inaccuracy is intentional or unintentional) or refusal to comply with a request for information with respect thereto shall be deemed a violation of a substantial obligation of his or her tenancy and constitute cause for immediate termination thereof.

Section 3.2. Examination and Reexamination of Incomes.

(a) Owner shall be responsible for determination of the Annual Income and family composition of Qualified Single Family Tenants, and for reexamination of Annual Income and family composition of such tenants at least annually, in accordance with procedures prescribed by RTC or the Agency.

(b) As a condition of admission to occupancy of a Single Family Property, Owner shall require the household head and other such household members as it designates to execute an RTC or Agency approved release and consent authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to Owner and to RTC or the Agency such information as Owner or RTC or the Agency determines to be necessary. Owner shall also require the household to submit directly documentation determined to be necessary. Information or documentation shall be determined to be necessary if it is required for purposes of determining or auditing a household's eligibility as a Qualified Single Family Tenant, or for verifying related information. The use or disclosure of information obtained from a household or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of this Agreement.

(c) Owner shall not be deemed to be in violation of Article II of this Agreement if, in determining Annual Income and family composition of a Qualified Single Family Tenant, (i) Owner has relied in good faith upon information which is supplied to Owner by the tenant, (ii) Owner has no reason to believe such information is false, and (iii) Owner shall have complied with all requirements of RTC or the Agency with respect to verification of household income and family composition.

Section 3.3. Certification by Owner. On each annual anniversary during the Term, Owner shall submit to RTC or the Agency a certification, in a form prescribed by RTC or the Agency, as to Owner's compliance with all of the terms and provisions of this Agreement.

Section 3.4. Maintenance of Documents. All tenant lists, applications, leases, waiting lists, income examinations and reexaminations relating to the Property shall at all times be kept separate and identifiable from any other business of Owner

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which is unrelated to the Property, and shall be maintained, as required by RTC or the Agency, in a reasonable condition for proper audit and subject to examination and photocopying during business hours by representatives of RTC or the Agency.

Section 3.5. Compliance Review. RTC or the Agency periodically will monitor Owner's compliance with the requirements of this Agreement. In conducting its compliance review, RTC or the Agency will rely primarily on information obtained from Owner's records and reports, findings from on-site monitoring, and audit reports. RTC or the Agency may also consider relevant information gained from other sources, including litigation and citizen complaints.

Section 3.6. Administrative Fee. In order to compensate RTC or the Agency for the review performed pursuant to Section 3.5, Owner shall pay to RTC (in its corporate capacity and not as receiver for the savings institution identified on the first page of this Agreement) or the Agency, as applicable, an annual administrative fee in an amount prescribed from time to time by RTC or the Agency, which amount, for the first twelve month period of this Agreement, shall not exceed \$150 per Single Family Property, and for each twelve month period thereafter, shall not exceed \$150 for each such Single Family Property multiplied by the increase in the Consumer Price Index for All Urban Consumers (CPI-U) published by the Bureau of Labor Statistics of the United States Department of Labor (or any generally recognized successor to such Index) between the date hereof and the latest publication of such Index immediately preceding the applicable anniversary date of this Agreement.

Section 3.7. Releases. RTC or the Agency shall execute such document as may be required to evidence release all or any portion of the Property from the covenants and restrictions set forth in this Agreement based upon the expiration of the Term as provided in Section 1.1(o) hereof (subject in the event of foreclosure or deed in lieu of foreclosure, to revival as set forth in Section 1.1(o)(1)), upon receipt from Owner of a certification as to the occurrence of the event giving rise to such expiration and such other evidence as RTC or the Agency may reasonably require. Upon the request of the Owner, RTC or the Agency will execute a release with respect to any Single Family Property that is no longer governed by this Agreement.

ARTICLE IV

Representations and Warranties of Owner

Section 4.1. Representations and Warranties. Owner represents and warrants to RTC that:

(a) **Valid Execution.** Owner has validly executed this Agreement and the same constitutes the binding obligation of the

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Owner. Owner has full power, authority and capacity (i) to enter into this Agreement, (ii) to carry out Owner's obligations as described in this Agreement and (iii) to assume responsibility for compliance with all applicable federal rules and regulations, including, without limitation, the Regulations.

(b) No Conflict or Contractual Violation. To the best of Owner's knowledge, the making of this Agreement and Owner's obligations hereunder:

(i) will not violate any contractual covenants or restrictions (A) between Owner or any third party or (B) affecting the Property;

(ii) will not conflict with any of the instruments that create or establish Owner's authority;

(iii) will not conflict with any applicable public or private restrictions;

(iv) do not require any consent or approval of any public or private authority which has not already been obtained; and

(v) are not threatened with invalidity or unenforceability by any action, proceeding or investigation pending or threatened, by or against (A) Owner, without regard to capacity, (B) any person with whom Owner may be jointly or severally liable, or (C) the Property or any part thereof.

(c) No Litigation. No litigation or proceedings are pending or, to the best of Owner's knowledge, threatened against Owner which if adversely determined could individually or in the aggregate have an adverse effect on title to or the use and enjoyment or value of the Property, or any portion thereof, or which could in any way interfere with the consummation of this Agreement.

(d) No Bankruptcy. There is not pending or to best knowledge threatened against Owner any case or proceeding or other action in bankruptcy, whether voluntary or otherwise, any assignment for the benefit of creditors, or any petition seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for Owner under any present or future federal, state or other statute, law, regulation relating to bankruptcy, insolvency or relief for debtors.

Section 4.2. Indemnification. Owner agrees to indemnify and hold harmless RTC or the Agency from and against all liabilities, losses, claims, damages, judgments, costs and expenses (including, without limitation, reasonable attorneys'

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fees) incurred by RTC or the Agency as a result of any inaccuracy in any of the representations and warranties contained in Section 4.1.

ARTICLE V

Enforcement and Remedies

Section 5.1. Remedies of RTC or the Agency. (a) If Owner defaults in the performance of obligations under this Agreement or breaches any covenant, agreement or restriction set forth herein, and if such default remains uncured for a period of sixty (60) days after notice thereof shall have been given by RTC or the Agency (or for an extended period approved in writing by RTC or the Agency if such default stated in such notice can be corrected, but not within such 60-day period, unless Owner does not commence such correction or commences such correction within such 60-day period but thereafter does not diligently pursue the same to completion within such extended period), RTC or the Agency shall be entitled to apply to any court having jurisdiction of the subject matter for specific performance of this Agreement, for an injunction against any violation of this Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Agreement, or for such other relief as may be appropriate, it being acknowledged that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of Owner's default. RTC or the Agency shall be entitled to reasonable attorneys' fee in any such judicial action in which RTC or the Agency shall prevail.

(b) Each right, power and remedy of RTC or the Agency provided for in this Agreement now or hereafter existing at law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by RTC or the Agency of any one or more of the rights, powers or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by RTC or the Agency of any or all such other rights, powers or remedies.

Section 5.2. Remedies of Other Parties. The occupancy requirements set forth in Sections 2.1 and 2.2 of this Agreement also shall inure to, and may be judicially enforced against Owner by, affected Lower-Income Families and Very Low-Income Families. As used herein, the term "affected Lower-Income Families and Very Low-Income Families" shall include families or individuals who are renting a Single Family Property or who are eligible to rent

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a Single Family Property. Any of the persons or entities described above shall be entitled to judicially enforce Sections 2.1 or 2.2 of this Agreement in the same manner that RTC or the Agency may seek judicial enforcement in accordance with Section 5.1, and any such party that prevails in any such judicial action shall be entitled to reasonable attorneys' fees.

Section 5.3. Avoidance of Sale. Any purported sale of a Single Family Property which is not carried out fully in compliance with the requirements of Section 2.1 hereof shall be void and without effect, and RTC or the Agency shall be empowered to seek a judicial declaration to such effect. Upon a determination by RTC or the Agency that any such purported sale is void, if the prior Owner of such Single Family Property shall fail to occupy or operate such property, RTC or the Agency may rent or dispose of such Single Family Property for the benefit of the Owner thereof, in accordance with the terms of this Agreement.

Section 5.4. Reliance Upon Information. In carrying out its obligations hereunder, Owner shall be entitled to rely upon information provided by RTC or the Agency with respect to (i) income limits applicable to Lower-Income Families and Very Low-Income Families, (ii) the method for calculating the incomes of such families and (iii) the maximum rents which may be charged to such families pursuant to Section 2.2 hereof.

ARTICLE VI

Miscellaneous

Section 6.1. Amendments. This Agreement may not be amended or modified except by written instrument signed by each party hereto.

Section 6.2. Notices. All notices required or permitted to be given under this Agreement must be in writing and will be deemed to have been duly given if delivered personally or mailed, postage prepaid, by registered or certified United States mail, return receipt requested, addressed to the parties at the following addresses:

If to RTC: Resolution Trust Corporation.
10100 Reunion Place
San Antonio, TX 78216

If to the Owner: Diversified Residential, Inc.
856 Bonita
Hitchcock, TX 7753

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(If to the Agency:)

Either party may change its address for notice purposes by giving notice to the other party in accordance with this Section 6.2.

Section 6.3. Entire Agreement. This Agreement contains the entire understanding between the parties hereto with respect to the subject matter hereof.

Section 6.4. Governing Law. This Agreement, as it may affect the rights, remedies and obligations of RTC or the Agency, shall be governed by and construed in accordance with federal law. Insofar as federal law does not apply, the provisions of this Agreement shall be governed by and construed in accordance with the laws of the State.

Section 6.5. Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

Section 6.6. Binding Effect; Covenants Running with the Land. During the Term, this Agreement and the covenants, reservations and restrictions contained herein shall be deemed covenants running with the land and shall pass to and be binding upon Owner's heirs, assigns and successors in title to the Property, or if the Property shall not include title to land, but shall include a leasehold interest in land, this Agreement and the covenants, reservations and restrictions contained herein shall bind the leasehold interest as well as the Property and shall pass to and be binding upon all heirs, assigns and successors to such interests; provided, however, that upon expiration of the Term in accordance with the terms hereof said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments. If a portion or portions of the Property are conveyed, all of such covenants, reservations and restrictions shall run to each portion of the Property. Owner, at its cost and expense, shall cause this Agreement to be duly recorded or filed and re-recorded or refiled in such places, and shall pay or

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cause to be paid all recording, filing, or other taxes, fees and charges, and shall comply with all such statutes and regulations as may be required by law, in the opinion of qualified counsel, in order to establish, preserve and protect the ability of RTC or the Agency to enforce this Agreement. Any conveyance of all or any portion of the Property in contravention of the terms of this Agreement shall be null and void and of no force or effect.

Section 6.7. Counterparts. This Agreement and any amendments hereto may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

Section 6.8. Section Titles. Section titles and the table of contents are for descriptive purposes only and shall not control or limit the meaning of this Agreement as set forth in the text.

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IN WITNESS WHEREOF, the undersigned have hereunto affixed their signatures and seals as of the date first above written.

RESOLUTION TRUST CORPORATION in
its capacity as Receiver of CAPITOL CITY
for FEDERAL SAVINGS ASSOCIATION

By: [Signature]
Title: ALBERT L. BOND
Supervisory Financial Institution Specialist
Resolution Trust Corporation

OWNER: DIVERSIFIED RESIDENTIAL, INC., a Texas
non-profit corporation

By: [Signature]
Title: PRESIDENT
Print Name: JOHN C. NEAL

[AGENCY:

By: [Signature]
Title: PRESIDENT

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ACKNOWLEDGEMENTS

STATE OF TEXAS }

COUNTY OF _____ }

JOHN C. NEAL

This instrument was acknowledged before me on this _____ day of December, 1991, by _____, acting in his/her capacity as _____ of, and on behalf of, RESOLUTION TRUST CORPORATION in its capacity as Receiver for CAPITOL CITY FEDERAL SAVINGS ASSOCIATION.

Notary Public, State of Texas

STATE OF TEXAS }

COUNTY OF HARRIS }

This instrument was acknowledged before me on this 13th day of December, 1991, by John C. Neal, acting in his/her capacity as President of DIVERSIFIED RESIDENTIAL, INC., a Texas non-profit corporation, on behalf of said corporation.



Carla Walker

Carla Walker, Notary Public,
State of Texas
My Commission Expires 4/1/92

[Agency Acknowledgement]

STATE OF TEXAS }

COUNTY OF HARRIS }

This instrument was acknowledged before me on the 13th day of December, 1991, by John C. Neal, President of (Agency) _____, a Texas non-profit corporation, on behalf of said corporation.



Carla Walker

Carla Walker, Notary Public,
State of Texas
My Commission expires 4/1/92

ACKNOWLEDGEMENTS

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STATE OF TEXAS }

COUNTY OF Harris }

This instrument was acknowledged before me on this 2nd day of December, 1991, by Alfred R. Bona, acting in his/her capacity as President of, and on behalf of, RESOLUTION TRUST CORPORATION in its capacity as Receiver for CAPITOL CITY FEDERAL SAVINGS ASSOCIATION.



Suzanne Delashant
Notary Public, State of Texas

STATE OF TEXAS }

COUNTY OF HARRIS }

This instrument was acknowledged before me on this 13th day of December, 1991, by John C. Neal, acting in his/her capacity as President of DIVERSIFIED RESIDENTIAL, INC., a Texas non-profit corporation, on behalf of said corporation.

John C. Neal
Notary Public, State of Texas

[Agency Acknowledgement]

STATE OF TEXAS }

COUNTY OF _____ }

This instrument was acknowledged before me on the _____ day of _____, 1991, by _____ of _____ on behalf of said _____.

Notary Public, State of Texas

EXHIBIT A

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1. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 102, Building M, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

2. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 103, Building M, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

3. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 109, Building P, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

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4. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 115, Building P, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

5. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 119, Building Q, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

6. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 120, Building Q, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.62463% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

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7. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 122, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.65227% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

8. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 123, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.65227% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

9. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 128, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.65227% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

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10. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 130, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 1.65227% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

11. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 131, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

12. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 132, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

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13. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 133, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

14. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 134, Building K, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

15. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 137, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

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16. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 139, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

17. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 140, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

18. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 143, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

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19. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 144, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

20. All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being Unit 145, Building L, Quinlan Crossing Condominiums, a condominium regime in Kerr County, Texas, as specified in that certain Declaration of Quinlan Crossing Condominiums, which is of record in Volume 1, Page 471 of the Condominium Records of Kerr County, Texas, together with an undivided 2.12714% ownership interest in the General Common Elements as described in said Declaration; and together with the exclusive use of the limited common elements appurtenant to said Unit, all as described in said Declaration.

Together with the right of ingress to and egress from said property and the right to use, for all proper purposes, in common with the Grantors, their heirs, executors, and administrators, and all other occupants from time to time, any and all portions of the project designated by statute and the declaration as common elements.

RECORDED IN Real Property
FILE DATE: Jan 14 1992
FILE TIME: 4:11 O'CLOCK PM
VOL. 622 PAGE 369
RECORDING DATE

THIS DOCUMENT, HEREIN, WHICH REFLECTS THE SALE, TRANSFER OR USE OF THE DESCRIBED REAL PROPERTY, HAS BEEN FILED FOR RECORD AND IS SUBJECT TO THE FEDERAL LAW, 44 U.S.C. § 3101, WHICH PROVIDES THAT ANY INFORMATION CONTAINED HEREIN IS UNCLASSIFIED AND IS TO BE MADE AVAILABLE TO THE PUBLIC.

JAN 14 1992



PATRICIA DYE
COUNTY CLERK, KERR COUNTY
BY Patricia Dye
Deputy



Patricia Dye
COUNTY CLERK, KERR COUNTY TEXAS

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QUINLAN CROSSING CONDOMINIUM
HOMEOWNERS' ASSOCIATION, INC.TOTHE PUBLICNOTICE OF FILING OF ARTICLES AND BYLAWS

THE STATE OF TEXAS X

X

KNOW ALL MEN BY THESE PRERESENTS:

COUNTY OF KERR

X

Quinlan Crossing Condominiums Homeowners' Association, Inc., (the "Association") being the property owners association for Quinlan Crossing Condominiums, does hereby file the attached Articles of Incorporation and Bylaws of the Association, pursuant to Section 202.006 of the Texas Property Code.

Quinlan Crossing Condominiums Homeowners'
Association, Inc.

By:

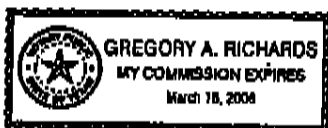
Its:

Robert D. Fromm
PRESIDENT

THE STATE OF TEXAS X

COUNTY OF KERR X

This instrument was acknowledged before me on this the 8 day of July, 2004, by Robert D. Fromm as President of Quinlan Crossing Condominiums Homeowners' Association, Inc., for and on behalf of said corporation.



[Signature]
Notary Public in and for the State of Texas

FILED FOR RECORD
at 2:25 o'clock P.M

JUL 13 2004

JANNETT PIEPER
Clerk County Court, Kerr County, Texas
[Signature] Deputy

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U U O S S S
In the Office of the
Secretary of State of Texas

NOV 20 1988

DEPT 1-0
CONDOMINIUM SECTION

ARTICLES OF INCORPORATION
OF
QUINLAN CROSSING CONDOMINIUMS
HOMEOWNERS' ASSOCIATION, INC.

We, the undersigned natural persons of the age of eighteen (18) years or more, at least two of whom are citizens of the State of Texas, acting as Incorporators of a Corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following as Articles of Incorporation for such Corporation:

ARTICLE I

Name

The name of the Corporation created hereby is QUINLAN CROSSING CONDOMINIUMS HOMEOWNERS' ASSOCIATION, INC., hereinafter sometimes called the "Corporation" or the "Association."

ARTICLE II

Non-Profit

The Corporation is a non-profit corporation.

ARTICLE III

Duration

The period of its duration is perpetual.

ARTICLE IV

Purposes

The purposes for which the Corporation is organized are:

To operate, manage, maintain and administer the affairs and Association Property of QUINLAN CROSSING CONDOMINIUMS, a Condominium Project established pursuant to Chapter 81 of the Texas Property Code and that certain Declaration, which Condominium Project ("Project,") will be located on the following described property, viz.:

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J U S S S U 2 3 J

6.71 acres of land, more or less, out of the B. F. CAGE SURVEY NO. 116, Abstract No. 106, and the PATRICK FLEMING SURVEY NO. 666, Abstract No. 145, in the City of Kerrville, Kerr County, Texas.

To enter into and perform any contract and to exercise all powers that may be necessary or convenient to the operation, management, maintenance and administration of the affairs and Association Property of QUINLAN CROSSING CONDOMINIUMS as a Condominium Project in accordance with the Texas Condominium Act and with the Declaration.

It is the intention of the Incorporators to create a "home-owners' association," as that term is defined in Section 528(o) of the Internal Revenue Code of 1954, as amended. The term "Association Property," shall have the same meaning as defined in said Section of said Internal Revenue Code.

ARTICLE V

Membership and Voting Rights

Each Owner shall be a member of the Corporation and no other person or entity shall be entitled to membership. No Owner shall be required to pay any consideration whatsoever solely for his membership in the Corporation.

No part of the net earnings of the Association shall inure (other than by acquiring, constructing or providing management, maintenance and care of the Association Property, and other than by way of a rebate of excess membership dues, fees or assessments) to the benefit of any member or other person, firm or corporation whatsoever. The share of an Owner in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner, except as an appurtenance to his Unit in the Project.

The Owner of each Unit shall be entitled to one (1) vote, the value of which shall equal the Common Interest assigned to said Owner's Unit as provided in said Declaration. However, no Owner, other than the Declarant, shall be entitled to vote at any meeting of the Corporation until he has presented evidence of ownership of a Unit in the Condominium Project to the Corporation. The vote of each Owner may only be cast by such Owner or by a proxy given by such Owner to his or her spouse or

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to another Owner or to his duly authorized representative. If title to a Unit shall be in the name of two or more persons, any one of such persons may vote as the Owner of the Unit at any meeting of the Corporation and such vote shall be binding on such other persons who are not present at such meeting until written notice to the contrary has been received by the Corporation, in which case the unanimous action of all such persons (in person or by proxy) shall thereafter be required to cast their vote as Owner, any earlier vote by one of such persons at any meeting theretofore conducted to be binding upon such other person or persons as though all such persons had cast a unanimous vote on any such occasion. If two or more persons, as Owner of a Unit, are present at any meeting of the Corporation, then unanimous action shall also be required to cast their vote as Owner.

Any Unit Owner in default of any provision of the Declaration or of any of the Rules and Regulations adopted by the Board of the Association shall not be entitled to vote at any meeting of the Corporation so long as such default is in existence.

The terms "Owner," "Unit," "Condominium Project," "Common Interest" and "Declarant," as used herein, shall have the same meaning as set forth in the Declaration.

ARTICLE VI

Board of Directors

The initial Board of Directors shall consist of four (4) persons who need not be members of the Corporation. The number of Directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of Directors until the first annual meeting of Directors and until their respective successors are elected and qualified are:

Kenneth M. Jastrow, II
919 Congress Avenue
Austin, Texas 78701

William C. Horabin
919 Congress Avenue
Austin, Texas 78701

William D. Taylor
919 Congress Avenue
Austin, Texas 78701

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Bobby Hitt
919 Congress Avenue
Austin, Texas 78701

ARTICLE VII**Registered Agent**

The street address of the initial registered agent of the Corporation is 919 Congress Avenue, Austin, Texas 78701, and the name of its Registered Agent at such address is: Bobby Hitt.

ARTICLE IX**Incorporators**

The names and street addresses of the Incorporators are:

Kenneth M. Jastrow, II
919 Congress Avenue
Austin, Texas 78701

William C. Horabin
919 Congress Avenue
Austin, Texas 78701

William D. Taylor
919 Congress Avenue
Austin, Texas 78701

Bobby Hitt
919 Congress Avenue
Austin, Texas 78701

IN WITNESS WHEREOF, we have hereunto set our hands this the
20TH day of NOVEMBER, 1986.


Kenneth M. Jastrow, II


William C. Horabin

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William D. Taylor
 William D. Taylor

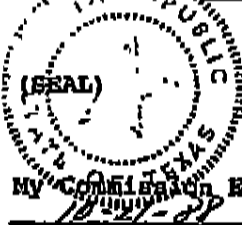
Bobby B. Hitt
 Bobby Hitt

STATE OF TEXAS *

COUNTY OF TRAVIS *

BEFORE ME, the undersigned authority on this day personally appeared Kenneth M. Jastrow, William C. Horabin, William D. Taylor and Bobby Hitt, who, being by me first duly sworn, declared that they are the persons whose names are subscribed to the within instrument as Incorporators, and that the statements contained therein are true.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 20th day of November, 1986.



My Commission Expires: 10-27-87

Donald N. Goldston
 Notary Public, State of Texas
 (Type/Print Name of Notary)

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AMENDED AND RESTATED BY-LAWS
OF
QUINLAN CROSSING CONDOMINIUMS
HOMEOWNERS' ASSOCIATION, INC.

The name of this non-profit corporation shall be QUINLAN CROSSING CONDOMINIUMS HOMEOWNERS' ASSOCIATION, INC., (the "Association").

ARTICLE I

Purposes and Parties

1.1 Purpose Expressed. The purpose for which the Association is formed is to govern the Condominium Regime known as QUINLAN CROSSING CONDOMINIUMS, situated in the County of Kerr, which property is described in that certain Declaration ("Declaration"), and which property shall be submitted to the regime created by the Texas Condominium Act by the recording of the Declaration and the Exhibits thereto. All definitions and terms contained in said Declaration shall apply hereto and are incorporated herein by reference.

1.2 Parties Bound. All present and future Owners, tenants, and future tenants of any unit, or any other person who might use in any manner the facilities of the Project are subject to the provisions and any regulations set forth in these By-laws. The mere acquisition, lease or rental of any Unit or the mere act of occupancy of the Unit will signify that these By-Laws are accepted, approved, ratified and will be complied with.

ARTICLE II

Membership, Voting, Majority of Owners,
Quorum, Proxies

2.1 Membership. Except as is otherwise provided in these By-laws, ownership of a Unit is required in order to qualify for membership in this Association. Any person on becoming an Owner of a Unit shall automatically become a Member of this Association and be subject to these By-laws. Such membership shall terminate without any formal Association action whenever such person ceases to own a Unit, but such termination shall not relieve or release any such former Owner from any liability or obligation incurred under or in any way connected with this Association during the period of such ownership and membership in this Association, or impair any rights or remedies which the owners have, either through the Board of Directors of the Association or directly against such former Owner and Member, arising out of or in any way connected with ownership and membership and the covenants and obligations incident thereto.

2.2 Voting. The Owner or Owners of each Unit shall be entitled to one (1) vote, the value of which shall equal the Common Interest, assigned to said Owner's or Owners' Unit as provided in said Declaration.

2.3 Majority of Owners. As used in these By-laws, the term "Majority of Owners" shall mean those voting Owners holding fifty-one percent (51%) of the Common Interest.

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2.4 Quorum. Except as otherwise provided in these By-laws, the presence in person or by proxy of thirty-three percent (33%) of the Common Interest of the Owners shall constitute a quorum. In the event a quorum is not present, then the meeting shall be adjourned, and notice of a new meeting for the same purposes within two (2) to four (4) weeks shall be sent by mail, at which meeting the number of Owners represented in person or by proxy shall be sufficient to constitute a quorum. An affirmative vote of a majority of the Owners present, either in person or by proxy, shall be required to transact the business of the meeting.

2.5 Proxies. Votes may be cast in person or by written proxy. No proxy shall be valid after eleven (11) months from the date of its execution unless specifically provided in the proxy. All proxies must be filed with the Secretary or Assistant Secretary of the Association before the appointed time of each meeting. A proxy granted to the Declarant pursuant to the provisions of the Declaration shall, however, be effective without the necessity of any further writing, act or deed.

ARTICLE III

Administration

3.1 Association Responsibilities. The owners will constitute the Association, which will have the responsibility of administering the project through a Board of Directors. In the event of any dispute or disagreement between any Owners relating to the Project, or any questions of interpretation or application of the provisions of the Project Documents, such dispute or disagreement shall be submitted to the Board. The determination of such dispute or disagreement by the Board shall be binding on each and all such Owners, subject to the right of Owners to seek other remedies provided by law after such determination by the Board.

3.2 Place of Meetings. Meetings of the Association shall be held at such suitable place, convenient to the Owners, as the Board of Directors may determine.

3.3 Annual Meetings. The first annual meeting of the Association shall be held within one hundred twenty (120) days from the date upon which there has occurred the conveyance by the Declarant of all Units in the Project, or sooner at the option of Declarant; but, in any event, the first meeting of the Association shall be held within five (5) years following the conveyance of the first Unit by the Declarant. Thereafter, the annual meetings of the Association shall be held within forty-five (45) days prior to the expiration of the current fiscal year. At such meetings there shall be elected by ballot of the Owners a Board of Directors in accordance with the requirements of Section 4.5 of these By-laws. The owners may also transact such other business of the Association as may properly come before them.

3.4 Special Meetings. It shall be the duty of the President to call a special meeting of the Owners as instructed by any member of the Board of Directors or by an officer of the Association or upon a petition signed by the Owners holding at least 51% of the Common Interest and having been presented to the Secretary or Assistant Secretary of the Association. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business except as stated in the notice shall be transacted at special meeting. Any such meetings shall be held within thirty (30) days after receipt by the President of such instruction or petition.

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3.5 **Notice of Meetings.** It shall be the duty of the Secretary or Assistant Secretary of the Association to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place it is to be held, to each Owner of record and to each Institutional Lender (who may designate a representative to attend such meetings), at least ten (10) days, but not more than thirty (30) days, prior to such meeting. The mailing of a notice in the manner provided in this Section shall be considered notice served.

3.6 **Order of Business.** The order of business at all meetings of the Owners of the Project shall be as follows:

- 3.6.1 Roll call and certifying proxies;
- 3.6.2 Proof of notice of meeting or waiver of notice;
- 3.6.3 Reading and disposal of unapproved minutes;
- 3.6.4 Reports of officers;
- 3.6.5 Reports of committees;
- 3.6.6 Election of Directors;
- 3.6.7 Unfinished business;
- 3.6.8 New business; and
- 3.6.9 Adjournment.

3.7 **Minutes of Meetings.** Minutes of all annual and special meetings of the Members of the Association shall be maintained in writing. Also, any action required to be taken at any annual or special meeting of the Members, or which may be taken at any such meeting, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Members of the Association.

ARTICLE IV

Board of Directors

4.1 **Number and Qualification.** Until the first annual meeting of the Association, the affairs of this Association shall be governed by a Board of Directors consisting of the three (3) persons named to serve in such capacity in the Articles of Incorporation of the Association. At each annual meeting, there shall be elected a minimum of five (5) Members of the Association to the Board of Directors who shall thereafter govern the affairs of this Association until their successors have been duly elected and qualified.

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4.2 **Powers and Duties.** The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of a residential condominium project in keeping with the character and quality of the neighborhood in which it is located. The Board of Directors may do all such acts and things except as by law or these By-laws or by the Declaration may not be delegated to the Board of Directors.

4.3 **Other Powers and Duties.** Such powers and duties of the board of Directors shall include, but shall not be limited to the following, all of which shall be done for and on behalf of the Owners of the Condominiums;

4.3.1 To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations and all other provisions set forth in the Declaration, the By-laws of the Association and supplements and amendments thereto;

4.3.2 To establish, make and enforce compliance with such reasonable Rules and Regulations as may be necessary for the operations, use and occupancy of the Project, with the right to amend same from time to time. A copy of such rules and regulations shall be delivered or mailed to each Owner promptly upon the adoption thereof;

4.3.3 To acquire, construct, manage, maintain and keep in good order, condition and repair all of the General and Limited Common Elements, to the extent required by the provisions of the Declaration, and all items of common personal property used by the Owners in the enjoyment of the entire premises, except as such duty may be specifically designated herein to each Owner;

4.3.4 To insure and keep insured all of the insurable Common Elements of the Project. Further, to obtain and maintain comprehensive public liability insurance as provided in the Declaration. To insure and keep insured all of the fixtures, equipment and personal property acquired by the Association for the benefit of the Association and the Owners of the Units and their Mortgagees, as provided in the Declaration. Worker's compensation insurance may be carried if the Board wishes to do so and if permitted by law. Each Owner may obtain additional insurance at his own expense for his own benefit. Insurance coverage on the furnishings and other items of personal property belonging to an Owner and casualty and public liability insurance coverage within each Unit are specifically made the responsibility of each Owner;

4.3.5 To prepare a Common Expense budget for the Project, at least annually; to determine the amount of common charges payable by the Owners to meet the Common Expenses and to allocate and assess such amounts among the Owners according to the Declaration and these By-laws; by a majority vote of the Board to decrease or increase the amount of the monthly Assessments; to levy and collect special Assessments whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operating or maintenance expenses or costs, or additional capital expenses, or because of emergencies, or for any reason expressed in the Declaration;

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4.3.6 To collect delinquent Assessments by suit or otherwise and to enjoin and seek damages from an Owner who may be in default as is provided in the Declaration and these By-laws. To provide for and enforce a per diem late charge and to collect interest;

4.3.7 To protect and defend the entire Project from loss and damage by suit or otherwise;

4.3.8 To borrow funds in order to pay for any expenditure or outlay required pursuant to authority granted by the provisions of the Declaration and these By-laws, and to execute all such instruments evidencing such indebtedness as the Board of Directors may deem necessary. Such indebtedness shall be the several obligation of all of the Owners in the same proportion as their Common Interests;

4.3.9 To enter into contracts within the scope of their duties and powers;

4.3.10 To establish a bank account or accounts for the common treasury and for all separate funds which are required or may be deemed advisable by the Board of Directors;

4.3.11 To make repairs, additions, alterations and improvements to the Common Elements consistent with managing the Project in a manner in keeping with the character and quality of the neighborhood in which it is located, the best interests of the Owners and the Declaration and these By-laws;

4.3.12 To keep and maintain full and accurate books and records showing all the Receipts, expenses or disbursements and to permit examination thereof at any reasonable time by each of the Owners, and to cause a complete audit of the books and accounts by a certified or public accountant, once a year;

4.3.13 To prepare and deliver annually to each Owner a statement showing receipts, expenses and disbursements since the last such statement;

4.3.14 To meet at least once each quarter, provided that any Board of Directors meeting may be attended and conducted by telephone or other device which permits all of the Directors in attendance to participate in such meeting, and provided further that any action required to be taken at any meeting of the Board of Directors, or any action which may be taken at such meetings, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members of the Board;

4.3.15 To designate the personnel necessary for the maintenance and operation of the General and Limited Common Elements;

4.3.16 In general, to carry on the administration of this Association and to do all of those things necessary and reasonable in order to carry out the governing and the operation of this Project;

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4.3.17 The Board of Directors may employ for the Association a management agent ("Managing Agent") who may be delegated and shall exercise some or all of the powers granted to the Board of Directors by the Declaration and these By-laws as determined by the Board, except for the powers of attorney-in-fact set forth in the Declaration. Any agreement for professional management of the Project, or any other contract providing for services by the Declarant, may provide for a contract term of no longer than three (3) years and must provide for termination by either party without cause or payment of a termination fee on ninety (90) days or less written notice.

4.3.18 To prepare and file annual tax returns with the federal government and to make such elections as may be necessary to reduce or eliminate the tax liability of the Association. Without limiting the generality of the foregoing, the Board may, on behalf of the Association, elect to be taxed under Section 528 of the Internal Revenue Code or any successor statute conferring income tax benefits on homeowners' associations. In connection therewith, the Board shall take such steps as are necessary to assure that the income and expenses of the Association for any taxable year shall meet the limitations and restrictions provided in said Section 528 of the Internal Revenue Code or any successor statute conferring benefits on homeowners' associations as are in effect from time to time. Initially the Board shall comply with the following limitations and restrictions:

4.3.18.1 At least sixty percent (60%) of the gross income of the Association for any taxable year shall consist solely of amounts received as membership dues, fees or assessments from Unit Owners;

4.3.18.2 At least ninety percent (90%) of the expenditures of the Association for any taxable year shall be for the acquisition, construction, management, and maintenance and care of Association Property;

4.3.18.3 No part of the net earnings of the Association shall inure (other than by acquiring, constructing, or providing management, maintenance and care of Association property and other than by a rebate of excess membership dues, fees or Assessments) to the benefit of any private Member or individual. In addition, the Board shall take such steps as are necessary to insure that substantially all of the Units will be used as residences.

4.4 No Waiver of Rights. The omission or failure of the Association or any Owner to enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations or other provisions of the Declaration, the By-laws or the rules and regulations adopted pursuant thereto, shall not constitute or be deemed a waiver, modification or release thereof, and the Board of Directors or the Managing Agent shall have the right to enforce the same thereafter.

4.5 Election and Term of Office. At the annual meeting of the Association, the term of office of each of the five (5) elected Directors shall be fixed at one (1) year. At the expiration of the term of office of each respective Director, his successor shall be elected to serve a term of one (1) year. The Directors shall hold office until their successors have been elected and have qualified, except as is otherwise provided.

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4.6 Vacancies. Vacancies in the Board of Directors caused by death, resignation or disqualification, i.e., by any reason other than the removal of a Director by a vote of the Association, shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall be a Director until a successor is elected at the next annual meeting of the Association.

4.7 Removal of Directors. At any regular or special meeting duly called, any one or more of the Directors may be removed with or without cause by a majority of Owners, and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting.

4.8 Organization Meetings. Exclusive of the initial such Organization Meeting, the first meeting of a newly elected Board of Directors following the annual meeting of the Owners shall be held within ten (10) days thereafter at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, providing a majority of the whole Board shall be present. The initial Organization Meeting shall be conducted by the Board appointed in the Articles as soon as practicable after such Articles are filed with the Secretary of State of the State of Texas and, in any event, at such time as may lawfully be designated by at least a majority of the Incorporators.

4.9 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least one such meeting shall be held during each calendar quarter. Notice of regular meetings of the Board of Directors shall be given to each Director personally or by mail, telephone or telegraph, at least five (5) days prior to the day named for such meeting.

4.10 Special Meetings. Special meetings of the Board of Directors may be called by the President on five (5) days notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary or Assistant Secretary of the Association in like manner and on like notice on the written request of one or more Directors.

4.11 Waiver of Notice. Before or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

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4.12 **Board of Directors' Quorum.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.13 **Fidelity Bonds.** The Board of Directors may require that all officers and employees of the Association or of the Managing Agent, if any, handling or responsible for Association funds shall furnish fidelity bonds in accordance with the Declaration. The premiums on such bonds shall be a Common Expense.

4.14 **Compensation.** No member of the Board of Directors shall receive any compensation for acting as such.

ARTICLE V**Fiscal Management**

5.1 **Management.** The provisions for fiscal management of the Project for and on behalf of all of the Owners as set forth in the Declaration shall be supplemented by the following provisions:

5.1.1 The funds and expenditures of the Owners by and through the Association shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall be Common Expenses:

5.1.1.1 Current expense, which shall include all funds and expenditures within the year for which the funds are budgeted, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves and to additional improvements;

5.1.1.2 Reserve for deferred maintenance, which shall include funds for maintenance items, which occur less frequently than annually;

5.1.1.3 Reserve for replacement (sinking fund), which shall include funds for repair or replacement required because of damage, wear or obsolescence.

5.2 **Fiscal Year.** The fiscal year for the Association shall be established by the Board of Directors.

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ARTICLE VI

Officers

6.1 **Designation.** The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Directors, and such assistant officers as the Board of Directors shall, from time to time, elect. Such officers need not be members of the Board of Directors, but, after the first annual meeting of the Association, each shall be either an Owner of the Unit or, if the Owner is a firm, partnership, corporation, association or other legal entity, the authorized representative of such entity, or the Declarant or his representative(s). The offices of President and Treasurer may be held by the same person, and the offices of Vice President and Secretary or Assistant Secretary may be held by the same person.

6.2 **Election of Directors.** The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board (including the organization meeting conducted by the original Directors named in the Articles of Incorporation) and shall hold office subject to the continuing approval of the Board.

6.3 **Resignation and Removal of Officers.** Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

6.4 **Vacancies.** A vacancy in any office because of the death, resignation, removal, disqualification or otherwise of the officer previously filling such office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

6.5 **President.** The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of president of an association, including, but not limited to, the power to appoint committees from among the Owners, from time to time as he may in his discretion decide is appropriate, to assist in the conduct of the affairs of the Association or as may be established by the Board or by the Members of the Association at any regular or special meetings.

6.6 **Vice President.** The Vice President shall have all the powers and authority and perform all the functions and duties of the President, in the absence of the President, or his inability for any reason to exercise such powers and functions or perform such duties, and also perform any duties he is directed to perform by the President.

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6.7 **Secretary.** The Secretary shall keep all the minutes of the meetings of the Board of Directors and the minutes of all meetings of the Association; he/she shall have charge of such books and papers as the Board of Directors may direct; and he/she shall, in general, perform all the duties incident to the office of Secretary as is provided in the Declaration and By-laws. The Secretary shall compile and keep up to date at the principal office of the Association a complete list of Members and their last known addresses as shown on the records of the Association. Such lists shall also show opposite each Member's name the number or other appropriate designation of the Unit owned by such Member, the undivided percentage interest in the Common Elements of such Member and a description of the Limited Common Elements assigned for exclusive use in connection with such Unit. Such list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at reasonable times during regular business hours.

6.8 **Assistant Secretary.** The Assistant Secretary, if any, shall have all the powers and authority to perform all the functions and duties of the Secretary in the absence of the Secretary or in the event of the Secretary's inability for any reason to exercise such powers and functions or to perform such duties, and also to perform any duties he is directed to perform by the Secretary.

6.9 **Treasurer.** The Treasurer shall have responsibility for Association funds and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors. In the event a Managing Agent has the responsibility of collecting and disbursing funds, the Treasurer shall review the accounts of the Managing Agent within fifteen (15) days after the first day of each month.

ARTICLE VII

Indemnification of Officers,
Directors and Managing Agent

7.1 **Indemnification.** The Association shall have the power to indemnify any Officer or Director thereof and the Declarant, who was or is a party, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (whether or not by or in the right of the Association) by reason of the fact that such person is or was a Director or Officer of the association against all loss expenses (including, but not limited to, attorney's fees and costs of the proceeding), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with or in defense of such action, suit or proceeding if such person acted in good faith and in a manner which such person reasonably believed to be in or not opposed to the best interests of the Association; provided, that with respect to: (1) any criminal action or proceeding, such person had no reasonable cause to believe that his conduct was unlawful; or (2) any civil claim, issue or matter, such person shall not be guilty of gross negligence or willful misconduct in the performance of his duties to the Association. Termination of any action, suit or

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proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that such person had reasonable cause to believe that his conduct was unlawful, that such person did not act in good faith or in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, or that such person is guilty of gross negligence or willful misconduct in the performance of his duties to the Association, all such matters being determined solely and exclusively for the purpose of indemnification as herein provided.

7.1.1 Indemnification under the preceding paragraph shall be made by the Association only as authorized in each specific case upon the determination that indemnification of such person is proper in the circumstances because he has met the applicable standards of conduct as set forth herein. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding; or (2) if such a quorum is not obtainable by (a) independent legal counsel in a written opinion, or (b) the Members of the Association, and no Member shall be disqualified from voting because he is or was a party to any such action, suit or proceeding. Indemnification so determined may be paid, in part, before the termination of such action, suit or proceeding upon the receipt by the Association of an undertaking by or on behalf of the person claiming such indemnification and to repay all sums so advanced if it is subsequently determined that he is not entitled thereto as provided in this Article.

7.1.2 To the extent that a Director or Officer of the Association has been successful on the merits or otherwise in the defense of any action, suit or proceeding, whether criminal or civil, such person shall be indemnified against such expenses (including costs and attorney's fees) actually and reasonably incurred in connection therewith.

7.1.3 Indemnification provided herein shall be exclusive of any and all other rights and claims to which those indemnified may be entitled as against the Association, and every Director, Officer or employee thereof under any By-law, resolution, agreement or law and any request for payment hereunder shall be deemed a waiver of all such other rights, claims or demands as against the Association and each Director, Officer and employee thereof. The indemnification provided herein shall inure to the benefit of the heirs, executors, administrators and successors of any person entitled thereto under the provisions of this Article.

7.1.4 The Association may purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association against any liability asserted against him and incurred by him in any such capacity, or arising out of his status of such, whether or not the association would have the power to indemnify him against such liability under the provisions of this Article.

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7.1.5 All liability, loss, damage, cost and expense incurred or suffered by the Association by reason, or arising out of or in connection with, the foregoing indemnification provisions shall be treated and handled by the Association as Common Expenses; provided, however, that nothing in this Article VII contained shall be deemed to obligate the Association to indemnify any Member or Owner of a Unit who is or has been a Director or Officer of the Association with respect to any duties or obligations assumed or liability incurred by him under and by virtue of the Declaration and these By-laws that were assumed or incurred outside of his conduct specifically related to the fulfillment of his duties as an Officer or Director of the Association.

7.2 Other. The Board of Directors, Officers or the Managing Agent shall enter into contracts or other commitments as agents for the Association, and they shall have no personal liability for any such contract or commitment (except such liability as may be ascribed to them in their capacity as Owners), provided, however, that such exclusion of personal liability shall apply to the Managing Agent only so long as it is acting within its scope of authority, and the liability of any Owner on such contract or commitment shall be limited to such proportionate share of the total liability thereof that the Common Interest of each Owner bears to the aggregate Common Interest of all of the Owners.

ARTICLE VIII

Amendments to By-Laws.

8.1 Amendments to By-Laws. Except as may be expressed to the contrary in the Declaration, these By-laws may be amended in writing by the majority of Owners; provided, however, that such authority may be delegated by the majority of Owners to the board as allowed by the Texas Non-Profit Corporation Act.

ARTICLE IX

Evidence of Ownership, Registration of Mailing Address and Designation of Voting Representative

9.1 Proof of Ownership. Except for those Owners who purchase a Unit from Declarant, any person, on becoming an Owner of a Unit, shall furnish to the Managing Agent or Board of Directors a true and correct copy of the original or certified copy of the recorded instrument vesting that person with an interest or ownership in the Unit, which copy shall remain in the files of the Association. A Member shall not be deemed to be in good standing nor shall he be entitled to vote at any annual or special meeting of Members unless this requirement is first met.

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9.2 **Registration of Mailing Address.** The Owner or several Owners of an individual Unit shall have one and the same registered mailing address to be used by the Association for mailing of monthly statements, notices, demands and all other communications, and such registered address shall be the only mailing address of a person or persons to be used by the Association. Such registered address of an Owner or Owners shall be deemed to be the mailing address of the Unit owned by said Owner or Owners unless a different registered address is furnished by such Owner(s) to the Managing Agent or Board of Directors within fifteen (15) days after transfer of title, or after a change of address; and such registration shall be in written form and signed by all of the Owners of the Unit or by such persons as are authorized by law to represent the interest of (all of) the Owner(s) thereof.

9.3 **Designation of Voting Representative—Proxy.** If a Unit is owned by one individual, his right to vote shall be established by the record title thereto. If title to a Unit is held by more than one individual or by a firm, corporation, partnership, association or other legal entity, or any combination thereof, such Owners shall execute a proxy appointing and authority one individual or alternate individuals to attend all annual and special meetings of Members and thereat to cast whatever vote the Owners themselves might collectively cast if they were personally present. Such proxy shall be effective and remain in force unless voluntarily revoked, amended or sooner terminated by operation of law; provided, however, that no proxy shall be valid after eleven (11) months from the date of execution unless specifically provided therein. Also, within thirty (30) days after such revocation, amendment or termination, the Owners shall reappoint and authorize one individual or alternate individuals to attend all annual and special meetings as provided by this Paragraph 9.3.

9.4 **Conditions Precedent to Good Standing.** The requirements herein contained in this Article IX shall be first met before an Owner of a Unit shall be deemed in good standing and entitled to vote at an annual or special meeting.

ARTICLE X

Obligations of the Owners

10.1 **Assessments.**

10.1.1 **Regular Assessments.** Regular Assessments shall be due monthly in advance on the first day of each month. After Regular Assessments have been set by the Board of Directors, The Board of Directors shall prepare and deliver or mail to each Owner an individual statement of the amount which the Owner is to pay monthly; thereafter, monthly statements may be prepared and delivered or mailed only in the amount of the monthly installment of the Regular Assessment, upon the levy of a Special Assessment or in the event an Owner becomes delinquent in payment of any part of an Assessment. The Regular Assessments shall be based upon the cash requirements for Common Expenses estimated in good faith by the Board of Directors as provided in the

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Declaration. Regular Assessments shall include an adequate reserve for maintenance, repairs and replacement of the Common Elements. However, in the event that the cash requirements for Common Expenses exceed the amount estimated therefore during any Budget Year, the Board of Directors may from time to time and at any time, make pro rata increases in the Regular Assessments so as to include amounts sufficient to recoup operating deficits; and such increases shall be due and payable by the Owners monthly, subject to the limitation upon such increases during any Budget Year as expressed in the Declaration. The omission or failure to fix the Regular Assessment, or any increase thereof, for any period of time shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay such. The Declarant's obligations, if any, to pay Regular Assessments shall be as expressed in the Declaration.

10.1.2 Special Assessments. In addition to the Regular Assessments, the Board may levy, in any Budget Year, one or more Special Assessments applicable to that Year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvements upon the Common Elements, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated expense or any action or undertaking normally covered by Regular Assessments (and, where necessary, for taxes assessed against the Common Elements, the Association or the Project as a whole), or to defray the costs not covered by insurance proceeds of any reconstruction, repair or replacement of any part of the Project, or to defray the costs not covered by an award in condemnation of the reconstruction, repair or replacement of any part of the Project. Also, if the Association provides or furnishes or arranges for any utility service to be delivered to any Unit, then the costs of such service (including, without limitation, a reasonable amount to cover the expenses of the association for making any such service available and for collecting the costs thereof) may be allocated in any reasonable manner among the Units benefiting from any such service; and the amount thereof allocated to a Unit shall be a Special Assessment levied against such Unit and its Owner and may be collected monthly or at such other intervals as the Board may direct. Special Assessments shall be allocated and levied as otherwise provided in the Declaration.

10.1.3 Voting. A Member shall be deemed in good standing and entitled to vote at any annual or special meeting of the Members, within the meaning of these By-laws, if, and only if, he shall have paid all Assessments made or levied against him and the Unit owned by him.

10.1.4 Owner's Personal Obligation for Payment of Assessments. The amount of total Assessments against each Unit shall be the personal and individual debt of the Owner thereof. The Board of Directors shall have the responsibility to take prompt action to collect any unpaid Assessment in accordance with the terms of the Declaration.

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10.1.5 **Declarant's Obligation for Payment of Assessments.** During the development and sale period, the Declarant shall be responsible for payment of Association Assessments for unsold Units to the extent provided in the Declaration. Otherwise, so long as the Declarant owns one or more of the Units, he shall be subject to the provisions of the Declaration and these By-laws.

10.2 **Vendor's Lien.** The obligations of each Owner to pay Assessments shall be secured by a Vendor's Lien retained in said Owner's Deed to his Unit, said Vendor's Lien being more particularly described in the Declaration.

10.3 **Notice of Lien or Suit.** An Owner shall give notice to the Association of every lien or encumbrance upon his Unit, other than for taxes and special assessments, and notice of every suit or other proceeding which may affect the title to his Unit, and such notice shall be given within five (5) days after the Owner has knowledge thereof.

10.4 **Owner's Maintenance and Repair.**

10.4.1 Maintenance and repair shall be according to the Declaration. An Owner shall maintain and keep in repair the interior of his own Unit, including the fixtures thereof. All fixtures and equipment installed within the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by the Owner thereof (unless the cost of said maintenance and repair is otherwise herein designated a Common Expense). An Owner shall do no act nor omit to do any act that will impair the structural soundness or integrity of any Building or impair any easement or hereditament (nor shall he make any changes to the individual patio or balcony appurtenant to his unit, if any, except with approval of the Board of Directors).

10.4.2 An Owner shall be obligated to reimburse the Association promptly upon receipt of its statement for any expenditures incurred by it in repairing or replacing any General or Limited Common Elements damaged by his negligence or by the negligence of his tenants or agents or guests.

10.5 **Mechanic's Lien.** Each Owner agrees to indemnify and hold each of the other Owners harmless from any and all claims of mechanic's lien filed against other Units and the appurtenant Common Elements for labor, materials, services or other products incorporated in the Owner's Unit. In the event such a lien is filed and/or a suit for foreclosure of mechanic's lien is commenced, then within ten (10) days thereafter such Owner shall be required to deposit with the Association cash or negotiable securities equal to double the amount of such claim plus interest twelve percent (12%) per annum for one (1) year together with the sum equal to ten percent (10%) of the amount of such claim, but not less than TWO HUNDRED FIFTY and NO/100THS DOLLARS (\$250.00), which latter sum may be sued by the Association for any costs and expenses incurred, including attorney's fees incurred for legal advice and counsel. Except as is

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otherwise provided, such sum or securities shall be held by the Association pending final adjudication or settlement of the claim or litigation. Disbursement of such funds or proceeds shall be made by the Association to insure payment of or on account of such final judgment or settlement. Any deficiency, including attorney's fees incurred by the Association, shall be paid forthwith by the subject Owner, and his failure to so pay shall entitle the Association to make such payment, and the amount thereof shall be a debt of the Owner, and a lien against his Unit may be foreclosed as is provided in the Declaration for non-payment of Assessments. All advancements, payments, costs and expenses, including attorney's fees, incurred by the Association shall be forthwith reimbursed to it by such Owner(s), and the Owner(s) shall be liable to the Association for the payment of interest at the rate of twelve percent (12%) per annum on all sums paid or incurred by the Association.

10.6 General.

10.6.1 Each Owner shall comply strictly with the provisions of the recorded Declaration and these By-laws and amendments thereto.

10.6.2 Each Owner shall always endeavor to observe and promote the cooperative purposes for the accomplishment of which this Project was declared.

10.7 Use of Common Elements and Limited Common Elements. Each Owner may use the General Common Elements and Limited Common Elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other Owners.

10.8 Right of Entry.

10.8.1 An Owner shall grant the right of entry to the Managing Agent or to any other person authorized by the Association in case of an emergency originating in or threatening his Unit, whether the Owner is present at the time or not.

10.8.2 An Owner shall permit other Owners, or their representative, to enter his unit for the purpose of performing installations, alterations or repairs to which the mechanical, electrical or utility services which, if not performed, would affect the use of other Unit(s); provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of an emergency, such right of entry shall be immediate.

10.9 Rules and Regulations.

10.9.1 The initial Rules and Regulations, which shall be effective until amended or supplemented by the Association.

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10.9.2 The Board of Directors, pursuant to Section 4.3.2 of these By-laws, reserves the power to establish, make and enforce compliance with such additional rules as may be necessary or desirable for the efficient and enjoyable operation use and occupancy of this Project with the right to amend same from time to time. Copies of such Rules and Regulations shall be furnished to each Owner prior to the date when the same shall become effective.

ARTICLE XI

Abatement and Enjoinment of Violations by Owners

11.1 Abatement and Enjoinment. The violation or breach of any Rule or Regulation or of any By-law or of any provision of the Declaration shall give the Board or Managing Agent the right, in addition to any other rights set forth in the Declaration or herein, (1) to enter the Unit in which, or as to which, such violation or breach exists and to abate and remove, at the expense of the defaulting Unit Owner, any person, structure, thing or condition that may exist therein contrary to the provision thereof; and (2) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach or violation. No such entry, abatement or removal may be undertaken which results in the alteration or demolition of items of construction or which result in physical injury to persons or property; otherwise, the Board or the Managing Agent shall be liable for trespass or damages by reason of any such entry, abatement or removal.

ARTICLE XII

Committees

12.1 Designation. The Board of Directors, may, but shall not be required to, appoint an executive committee, and it may designate and appoint members to the standing committees.

12.2 Executive Committee. The executive committee shall consist of at least three (3) persons who are Members and who shall be appointed by the Board of Directors from the members of the Board. One Member shall be the President. The executive committee shall regulate its internal economy, approve expenditures and commitments, act and carry out the established policies of the Association and report to the Directors at each meeting of the Board. The executive committee may hold regular meetings, monthly or as it may in its discretion determine. Special meetings may be called at any time by the chairman of the committee or by any of its members, either personally or by mail, telephone or telegraph, and a special meeting may be held by telephone.

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12.3 **Nominating Committee.** Before each annual meeting of the Association, the Board of Directors may appoint a committee of three (3) members who shall nominate candidates for the Board. The names of the candidates shall be submitted on or before sixty (60) days before the election. Members may submit names of candidates other than those submitted by the nominating committee at least thirty (30) days prior to the election. Unless such names are submitted, either by the nominating committee or by the Members, no person shall be elected whose name is not so submitted unless no nominations are made, in which event the names of candidates shall be submitted at the election by the Members.

12.4 **Architectural Control and Other Committees.** Unless and until the Declarant has appointed an Architectural Control Committee in accordance with the Declaration, the Board shall either perform the functions of the Architectural Control Committee or shall appoint (together with Declarant as provided in the Declaration) a separate Architectural Control Committee consisting of three (3) Members who shall serve concurrent one (1) year terms. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

12.5 **Vacancies.** A vacancy in any committee shall be filled by the President until the next meeting of the Board of Directors.

ARTICLE XIII**Non-Profit Association**

13.1 **Association Not for Profit.** This Association is not organized for profit. No Member, member of the Board of Directors, Officer or person from whom the association may receive any property or funds shall receive or shall be lawfully entitled to receive any pecuniary profit from the operation hereof, and in no event shall any part of the funds or assets of the Association be paid as salary or compensation to, or distributed to, or inure to the benefit of, any member of the Board of Directors, Officer or Member; provided, however, always (1) that reasonable compensation may be paid to any Member, Director or Officer while acting as an agent or employee of the Association for services rendered in effecting one or more of the purposes of the Association, and (2) that any Member, Director or Officer may, from time to time, be reimbursed for his actual and reasonable expenses incurred in connection with the administration of the affairs of the Association.

ARTICLE XIV**Execution of Documents**

14.1 **Officers Authorized.** The persons who shall be authorized to execute any and all contracts, documents, instruments of conveyance or encumbrances, including promissory notes, shall be two, one of each of the President or any Vice President, and the Secretary or any Assistant Secretary, of the Association.

VOL. 1370 PAGE 0144**ARTICLE XV****Proxy to Trust**

15.1 Proxies. Owners shall have the right to irrevocably constitute and appoint their Mortgagees their true and lawful attorneys and to vote their Unit membership in this Association at any and all meetings of the Association and to vest in such beneficiary or his nominees any and all rights, privileges and powers that they have as Owners under the By-laws of this Association or by virtue of the Declaration. Such proxy shall become effective upon the filing of the notice by the beneficiary with the Secretary or Assistant Secretary of the Association at such time or times as the beneficiary shall deem its security in jeopardy by reason of the failure, neglect or refusal of the Association, the Managing Agent, or the Owners to carry out their duties as set forth in the Declaration. Such proxy shall be valid until such time as a release of the beneficiary's deed of trust is executed and a copy thereof delivered to the Secretary or Assistant Secretary of the Association, which shall operate to revoke such proxy. Nothing herein contained shall be construed to relieve Owners or to impose upon the beneficiary of the deed of trust the duties and obligations of an Owner. Also, nothing herein contained shall be construed as affecting the proxy or proxies granted to Declarant by each owner as expressed in the Declaration, each such proxy so granted to the Declarant to have precedence and priority over any other proxy given, within the limitations imposed thereon by the language of the Declaration.

ARTICLE XVI**Conflicting or Invalid Provisions**

16.1 Severability. Notwithstanding anything contained herein to the contrary, should all or part of any Article of these By-laws be in conflict with the provision of the Texas Non-Profit Corporation Act or the Texas Condominium Act, as amended, such Acts shall control; and should any part of these By-laws be invalid or inoperative for any reason, the remaining parts, so far as is possible and is reasonable, shall be valid and operative.

ARTICLE XVII**Notices**

17.1 Notices. All notices to Members of the Association shall be given by delivering the same to each Owner in person or by depositing the notices in the U.S. Mail, postage prepaid, addressed to each Owner at the address last given by each Owner to the Secretary of the Association. If an Owner shall fail to give an address to the Secretary for mailing of such notices, all such notices shall be sent to the Unit of such Owner, and all Owners shall be deemed to have been given notice of the meetings upon the proper mailing of the notices to such addresses irrespective of the actual receipt of the notices by the Owners. Notice of levy of an Assessment may be made in accordance with the foregoing provisions regarding the giving and delivery of notices to Members or may be made in accordance with the provision of the Declaration.

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By our signatures hereto, the undersigned, being all of the Directors of the Association, hereby adopt the foregoing By-laws for the Association as of this 1st day of JUNE, 2004

Robert D. Fromm
Robert D. Fromm, Director

Carmen Corona
Carmen Corona, Director

Brad Kolb
Brad Kolb, Director

Teresa Holm
Teresa Holm, Director

Clarence Bonham
Clarence Bonham, Director

Provisions herein which restrict the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law. THE STATE OF TEXAS }
COUNTY OF KERR }
I hereby certify that this instrument was FILED in the File Number Sequence on the date and at the time stamped hereon by me and was duly RECORDED in the Official Public Records of Kerr County, Texas on

JUL 14 2004



Janet Ripper
COUNTY CLERK, KERR COUNTY, TEXAS

RECORD Real Property
VOL. 1370 PG. 120
RECORDING DATE

JUL 14 2004



Janet Ripper
COUNTY CLERK, KERR COUNTY, TEXAS

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Greg Richards
2804 Thompson Dr. Suite B
Kerrville, Texas 78028

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