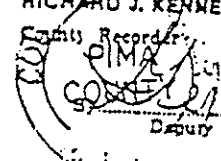


RICHARD J. KENNEDY
County Recorder

Book 6793 Page 973
Date: JUN 2 1982 - 1 15 PM
Request of *John Clark*
Fee: 23.00

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Previously recorded on
October 29, 1981 at Pima
County, Arizona, in Docket
6646, Pages 1022-1126

DECLARATION OF
HORIZONTAL PROPERTY REGIME AND
COVENANTS, CONDITIONS AND RESTRICTIONS
AS AMENDED AND RESTATED*
MONACO CONDOMINIUMS
PIMA COUNTY, ARIZONA

THIS DECLARATION, made on the date hereinafter set forth, by THE MONACO PARTNERSHIP (hereinafter referred to as "Declarant"), is made with reference to the following facts:

A. Declarant is the owner of certain improved real property located in the City of Tucson, County of Pima, State of Arizona, more particularly described in Exhibit "A" attached hereto and incorporated by reference. The property described in Exhibit "A" shall be referred to herein as the "Property". Said property is being platted as a Horizontal Property Regime, according to the plat recorded in the office of the Recorder of Pima County, Arizona, in Docket 34 of Maps, pages 83 thereof.

B. Declarant hereby submits said property and the improvements to be constructed thereon to a Horizontal Property Regime pursuant to Chapter 4.1, Article I, Sections 33-551 to 33-561, inclusive, Arizona Revised Statutes, and does further declare said property subject to the following express conditions as to the use thereof:

1. The name of the Horizontal Property Regime shall be THE MONACO.
2. The entire Horizontal Property Regime shall be composed of Eighty (80) individual apartment units, situate within the above described land. Each apartment unit in the Horizontal Property Regime shall include an individual apartment as defined in sections 1.9 and 2721 hereafter.
3. The cubic content space of each apartment unit, subject to undivided ownership and exclusive control, is as is more fully set forth and described in the recorded plat referred to in (A) above.
4. The Common Elements, of which each apartment unit shall own its designated undivided interest, shall include and consist of all of the property described in (A) above, which is not shown on the plat or defined as an apartment unit, or is not otherwise described as a private patio, private balcony, or a private carport. The structural part of the private patio areas or private balcony areas are in the front and/or rear yards of each of the apartment units which are immediately adjacent to each apartment unit and are shown on the plat, shall be part of the Common Elements. The owner of each apartment unit shall have the right to

exclusively use the private patio or balcony area which is immediately adjacent to his apartment unit.

5. The undivided interest of each apartment unit in the Common Element for Phase I is set forth on Exhibit "B" attached hereto and incorporated by this reference.

6. All reference to vertical dimensions made in this document or on the recorded plat referred to above shall be based upon Bench Marks which are:

(a) A square chipped on inside corner sidewalk, 4.8' south and 6.7' west of southwest corner Unit D-177. El. = 2518.48;

(b) A square chipped on sidewalk 6' north and 5' east of northeast corner Unit F-115. El. = 2512.05.

C. The development shall be referred to as the "Project". The owner of each Unit shall receive title to his individual condominium Unit plus an undivided interest as tenants in common in the common area. Each Unit shall have appurtenant to it a membership in THE MONACO HOMEOWNERS ASSOCIATION, INC., and shall entitle its owner other than the declarant to one vote at association meetings.

D. Declarant intends by this document to impose upon the property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the said condominiums and the owners thereof.

NOW, THEREFORE, Declarant hereby declares that the property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold and improved, subject to the following declarations, limitations, covenants, conditions, restrictions and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the property, and the Project, and every part thereof, in accordance with the plan for the subdivision of the property and the conversion thereof into condominiums. All of the limitations, covenants, conditions, restrictions and easements shall constitute covenants which shall run with the land and shall be binding upon Declarant and its successors and assigns, and all parties having or acquiring any right, title or interest in or to any part of the property or the Project.

ARTICLE 1

Definitions

1.1 "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.

1.2 "Assessments" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the property which is to be paid by each Unit Owner as determined by the Association.

1.3 "Association" shall mean and refer to the MONACO HOMEOWNERS ASSOCIATION, INC., an Arizona non-profit corporation, the members of which shall be the Owners of Units in the Project.

1.4 "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

1.5 "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.

1.6 "Common Elements" shall mean the "General Common Elements: as that term is defined in Arizona Revised Statutes §33-551(1) including without limitation those portions of the property to which title is held by all of the Owners as tenants in common, but excluding the individual condominium units as defined herein. The Common Element includes, without limitation: land; parking and driveway areas; stairs; bearing walls, columns, girders, subfloors, unfinished floors, roofs and foundations; central heating and central air conditioning equipment, reservoirs, tanks, pumps, motors, ducts, flues and chutes, conduits, pipes, plumbing, wires and other utility installations (except the outlets thereof when located within the Unit) required to provide power, light, telephone, gas, water, sewage, drainage, heat, air conditioning and elevator service; sprinklers, sprinkler pipes, and sprinkler heads which protrude into the airspace of the condominium Unit; central television antenna; all facilities and improvements located within the Recreational Common Element; and the laundries, boiler plant and clubhouse.

1.7 "Common Expenses" means and includes the actual and estimated expenses of operating the property and the Association and any reasonable reserve for such purposes as found and determined by the Board and all sums designated common expenses by or pursuant to the Project Documents.

1.8 "Common Interest" means the proportionate undivided interest in the Common Area which is appurtenant to each Unit as set forth in this Declaration.

1.9 "Condominium" shall mean an estate in real property consisting of title to a Unit within the Horizontal Property Regime hereby established and an undivided interest in the Common Element. The ownership of each condominium shall include (1) the ownership of a Unit, private patio area or private balcony area, or carport in some units; (2) an undivided interest in the Common Area; (3) a non-exclusive right to use the Recreational Common Area; and (4) membership in the Association. Each Unit shall be a separate freehold estate consisting of the cubic space described and defined in Article 2 hereof.

1.10 "Condominium Building" shall mean a residential structure containing condominium Units.

1.11 "Condominium Plan" shall mean and refer to the recorded diagrammatic floor plan or plans of the Units built on the property which identifies each Unit and shows its dimensions as set forth on the map.

1.12 "Declarant" shall mean and refer to MONACO PARTNERSHIP and its successors and assigns, but shall not include members of the public purchasing completed condominium Units.

1.13 "Declaration" shall mean and refer to this enabling Declaration.

1.14 "Institutional Lender" shall mean any bank, savings and loan association, insurance company, or other financial institution holding a recorded first mortgage on any Unit.

1.15 "Map" shall mean and refer to that subdivision map recorded October 29, 1981, in Docket 34, pages 83 inclusive of Official Records of Pima County, Arizona, and any subsequently recorded subdivision map and all amendments thereto, which cover the property or a portion thereof, the terms of which and the matters set forth therein are incorporated herein by reference.

1.16 "Member" shall mean and refer to a person entitled to membership in the Association as provided herein.

1.17 "Mortgage" shall include a deed of trust as well as a mortgage.

1.18 "Mortgagee" shall include the beneficiary or a holder of a deed of trust as well as a mortgagee.

1.19 "Mortgagor" shall include the trustor of a deed of trust as well as a mortgagor.

1.20 "Owner" or "Owners" shall mean and refer to the record holder or holders of title of a Unit in the Project. This shall include any person having a fee simple title to any Unit, but shall exclude persons or entities having any interest merely as security for the performance of any obligation. Further, if a Unit is sold under a recorded contract of sale to a purchaser who resides in the Unit, the resident purchaser, rather than the fee owner, shall be considered the "Owner" as long as he resides in the Unit as a contract purchaser.

1.21 "Person" means a natural person, a corporation, a partnership, a trustee or other legal entity.

1.22 "Project" shall mean and refer to the entire property including all structures and improvements erected or to be erected thereon.

1.23 "Project Documents" means and includes this Declaration as it may be amended from time to time, the exhibits, if any, attached hereto, the Condominium Plan, the Articles and Bylaws of the Association, and the rules and regulations for the members as established from time to time.

1.24 "Property" or "Properties" means and includes the real property covered by this Declaration and all improvements erected thereon and all property, real, personal or mixed, intended for or used in connection with the Project.

1.25 "Recreational Common Element" shall mean and refer to the area or areas so designated on the Condominium Plan, if any, and all improvements erected thereon. The Recreational Common Area shall be part of the Common Area and as such shall be owned by all Unit Owners as tenants in common as provided in this Declaration.

1.26 "Unit" shall mean and refer to the elements of an individual condominium, as defined in Article 2, which are not owned in common with the Owners of other condominiums in the project.

1/27 "Unit Designation" means the number, letter or combination thereof or other official designation shown on the Condominium Plan.

End of Article 1 Entitled

Definitions

ARTICLE 2

Description of Project, Division of Property, and Creation of Property Rights

2.1 Description of Project

The Project consists of the underlying property with the residential Units and all other improvements located or to be located thereon. The cubic content space of the buildings within the Project with reference to their location on the land, and the cubic content space of each Unit within the buildings is described on the Condominium Plan.

2.2 Division of Property

The property is hereby divided into the following freehold estates and areas:

2.2-1 - Dwelling Units

Each of the Units as separately shown, numbered and designated on the Condominium Plan is bounded by and contained within the interior unfinished surface of the perimeter walls, floors and ceilings of each Unit, and also includes all windows, doors, and electrical outlets located in the perimeter walls thereof. Each unit includes both the portions of the building so described or contained within such boundaries, and the airspace so encompassed. As applicable, each Unit also includes as an appurtenance thereto: (1) the adjacent area encompassing a patio or balcony, as the case may be, the lower boundary of which shall be the unfinished floor surface thereof, the elevation of which is equal to the lower elevation of the Unit to which it is appurtenant, the upper elevation of which shall be a horizontal plane parallel to the floor surface at an elevation equal to the upper elevation of the Unit to which it is appurtenant, and the side boundaries of which shall be vertical planes extending upward from the outside edges of the floor surface, but not including any exterior wall bounding such patio or balcony area (but including the interior finished surface of any such walls); and (2) an exclusive (except as against the Association) easement to use for vehicle parking purposes a parking space specifically designated to a certain Unit, which will be assigned to it by the Declarant prior to sale of that Unit.

The square footage and cubic content of each Unit, excluding that contained in the appurtenant patio or balcony, is set forth within the Condominium Plan. The square footage and cubic content space of any appurtenant patio or balcony can be independently determined from the Condominium Plan. The parking areas, except private carports, are Common Elements and are to be maintained by the Association. The Unit does not include those areas and those things which are defined as "Common Element" below. Each Unit is subject to such encroachments as are now contained in the building or may be later caused or created during the course of construction of the Project. In interpreting deeds and plans, the then existing physical boundaries are of a Unit, whether in its original state or reconstructed substantially in accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or deed, and those of the building.

2.2-2 - Common Elements

The remaining portion of the property, referred to herein as "Common Element" shall include all of the elements set forth in Article 1.6. Each Unit Owner shall have, as appurtenant to his Unit, an undivided interest in the Common Element, all as set forth in the Declaration. The ownership of each condominium shall include a Unit and such undivided interest in the Common Element. The common interest appurtenant to each Unit is declared to be permanent in character and cannot be altered within the consent of all the Unit Owners and the first mortgagees of such Unit Owners, as expressed in an amended declaration. Such common interest cannot be separated from the Unit to which it is appurtenant. Each Unit Owner shall have a non-exclusive right to use the Common Element in accordance with the purposes for which it is intended, without hindering the exercise of or encroaching upon the rights of any other Unit Owners. The Declarant shall reserve and hereby reserves in itself and its successors and assigns an easement over and onto the Common Element for common driveway purposes, for drainage and encroachment purposes, and for ingress to and egress from the Common Element for the purpose of completing improvements thereon or for the performance of necessary repair work.

2.2-3 - Recreational Common Element

That portion of the property designated on the Condominium Plan as "Recreational Common Element" shall be part of the Common Element, and as such shall be owned by all Unit Owners as tenants in common according to this Declaration. The use and benefit by the Owners of Units in the Project is subject to reasonable rules and regulations enacted according to the Bylaws.

2.3 No Separate Conveyance of Undivided Interests

The foregoing interests and exclusive easements are hereby established and are to be conveyed only with the respective Units, and cannot be changed, except as herein set forth. Declarant, its successors, assigns and grantees covenant and agree that the undivided interests in the Common Elements, the exclusive easements of the Restricted Common Elements, and the fee title to the respective Units conveyed therewith, shall not be separated or separately conveyed, and each such undivided interest and exclusive easement shall be deemed to be conveyed or encumbered with its respective Unit, even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the Unit.

2.4 Partition Prohibited

The Common Element shall remain undivided as set forth above. Except as provided by Arizona Revised Statutes, §33-560 or by any applicable successor statute, no Owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the operation and management of the Project. Judicial partition by sale of a single Unit owned by two or more persons and division of the sale proceeds is not prohibited hereby (but partition of title to a single Unit is prohibited).

End of Article 2 Entitled

Description of Project, Division of Property
and Creation of Property Rights

ARTICLE 3

Association, Administration, Membership and Voting Rights

3.1 Association to Manage Common Area

The management of the Common Area Element shall be vested in the Association in accordance with the Bylaws. The Owners of all the Units covenant and agree that the administration of the Project shall be in accordance with the provisions of this Declaration, the Articles, and the Bylaws of the Association, subject to the standards set forth in this Declaration and all applicable laws, regulations and ordinances of any governmental or quasi-governmental body or agency having jurisdiction over the Project.

3.2 Membership

The Owner of a Unit shall automatically, upon becoming the Owner of same, be a member of the Association, and shall remain a member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be in accordance with the Articles and the Bylaws of the Association.

3.3 Transferred Membership

Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of ownership of the Unit to which it is appurtenant, and then only to the new owner or mortgagee. Any attempt to make a prohibited transfer is void. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in his name to the purchaser of his Unit, the Association shall have the right to record the transfer upon its books and thereupon the old membership outstanding in the name of the seller shall be null and void.

3.4 Classes of Membership; Voting Rights of Classes.

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners in Phase I of The Monaco and Phase II, III and IV if The Monaco is expanded to include such Phases, with the exception of the Declarant, shall be entitled to one vote for each Unit owned. When more than one person holds an interest in any Unit, all such persons shall be members. The voting for such Unit shall be exercised as such persons among themselves determine, but in no event shall more than one vote be cast with respect to any Class A Unit.

If any Owner or Owners casts a vote representing a certain Unit, it will thereafter be conclusively presumed for all purposes that such Owner or Owners were acting with the authority and consent of all other Owners of the same Unit.

Class B The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Unit owned in Phase I of The Monaco and Phase II, III and IV if The Monaco is expanded to include such Phases. The total votes which the Declarant shall be entitled to cast may be cast in such proportion on any matter as Declarant may determine. Each Class B membership shall cease and be converted to Class A membership, without further act or deed, upon the happening of any of the following events:

(a) Upon the conveyance by Declarant of any particular Unit to an Owner, other than in connection with an assignment by Declarant of all or substantially all of its rights under this Declaration (including a pledge or assignment by Declarant to any lender as security), with respect to the particular Unit or Units so sold or otherwise disposed of; or

(b) With respect to all remaining Class B memberships, upon the first to occur of the following:

(i) Upon the expiration of One Hundred Twenty (120) days following the first date when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership, or

(ii) Three years after the conveyance of the first Unit to a Unit Owner other than Declarant, unless Declarant shall have expanded the Monaco to include Phases II, III and IV in accordance with paragraph 9.14, in which event the provisions of subparagraph (i) shall apply, provided, however, that each Class B membership shall cease and be converted to Class A membership one year after conveyance of the first Unit to a Unit Owner other than Declarant, in Phase II, III and IV if they are so phased.

If any lender to whom Declarant has assigned, or hereafter assigns, as security all or substantially all of its rights under this Declaration succeeds to the interest of Declarant by virtue of said assignment, the Class B memberships shall

not be terminated thereby, and such lender shall hold the Class B memberships on the same terms as such were held by Declarant pursuant hereto. Pursuant to the terms of this paragraph and paragraph 9.16 hereof, the relative voting strengths of the Declarant and the other Owners may change, and control, even though vested in the other Owners, may nevertheless revert to the Declarant, by virtue of the provisions of such paragraphs upon annexation of Phase II, III and IV to the horizontal property regime in accordance with paragraph 9.16.

3.5 Membership Meetings

Regular and special meetings of members of the Association shall be held with the frequency, at the time and place, and in accordance with the provisions of the Bylaws of the Association.

3.6 Board of Directors

The affairs of the Association shall be managed by a Board of Directors, which shall be established, and which shall conduct regular and special meetings according to the provisions of the Bylaws of the Association.

End of Article 3 Entitled

Association, Administration, Membership and Voting Rights

ARTICLE 4

Maintenance and Assessments

4.1 Creation of the Lien and Personal Obligation of Assessments

Each Owner of any Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) regular annual assessments or charges, and (2) special assessments, for capital improvements and unexpected expenses, such assessments to be established and collected as provided herein and in the Bylaws of the Association. The annual and special assessments, and any other charge made on a Unit pursuant to this Declaration and the Bylaws, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Unit against which each assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such Unit at the time when the assessment fell due. No owner of a Unit may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the Common Area, by the abandonment of his Unit, or by the non-use of the Unit.

4.2 Purpose of Assessments

The assessments by the Association shall be used exclusively to promote the recreation, health, safety and welfare of all the residents in the entire Project for the improvement and maintenance of the Common Area for the common good of the Project. Annual assessments shall include an adequate reserve fund for maintenance, repairs and replacement of the Common Area.

4.3 Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Forty Nine & 07/100 dollars (\$ 49.07) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

4.4 Special Assessments

In addition to the regular annual assessments authorized above, the Board may levy, in any assessment year, a special assessment 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 a capital improvement upon the Common Area, including fixtures and personal property related thereto, or to defray any unanticipated or underestimated expense normally covered by a regular assessment; provided, however, that the aggregate special assessments for any fiscal year shall not exceed five percent (5%) of the budgeted gross expenses of the Association for that assessment year, without the vote or written assent of two thirds (2/3) of the voting power of the Association residing in members other than Declarant. Special assessments may also be levied against an individual Unit and its Owner without a vote of the Association to reimburse the Association for costs incurred in bringing that Owner and his Unit into compliance with the provisions of this Declaration and the Bylaws.

4.5 Allocation of Assessments

The Owners of each Unit shall be assessed their percentage interest as hereinabove set forth as their share of each regular and special assessment.

4.6 Date of Commencement of Annual Assessment; Due Dates

The Association shall have the power and be required to levy monthly assessments, payable at least one (1) month in advance. The Association shall have the authority and power to collect delinquent assessments by action of law or otherwise from the Owners. Payment shall be due on the first day of each month after closing of the sale of the apartment unit, and shall become delinquent ten (10) days after if not fully paid. All delinquent assessments shall become a lien on said apartment unit and shall bear interest at the rate of twelve percent (12%) per annum from the date on which they become delinquent.

4.7 Transfer of Unit By Sale or Foreclosure

Sale or transfer of any Unit shall not affect the assessment lien. However, the sale or transfer of any Unit pursuant to mortgage foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof. Where the mortgagee of a first mortgage of record obtains title to a Unit as a result of foreclosure of any such first mortgage, such mortgagee shall not be liable for the share of the common expenses or assessments by the Association chargeable

to such Unit which became due prior to the acquisition of title to such Unit by such mortgagee. The Associations lien shall be subordinate to the lien of any first mortgage.

4.8 Enforcement of Assessment Obligation; Priorities; Discipline

Any part of any assessment not paid within ten (10) days after the due date shall bear interest at the rate of twelve percent (12%) per annum from the due date until paid. The assessment lien on each respective Unit shall be prior and superior to all other liens, except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage or deed of trust with first priority over other mortgages or deeds of trust) made in good faith and for value. Such lien, when delinquent, may be enforced by sale by the Association, its attorney or other person authorized by this Declaration or by law to make the sale, after failure of the Owner to pay such assessment, in accordance with the provisions of Arizona Revised Statutes, §33-721/33-730, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law; however, the right to foreclose the same shall be in addition to and not in substitution of all the rights and remedies which the Association and Board may have in accordance with the provisions of this Declaration or otherwise. The Association, acting on behalf of the Unit Owners, shall have the power to bid for the Unit at the foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. In the event the Owner against whom the original assessment was made is the purchaser or redemptionor, the lien shall continue in effect and the said lien may be enforced by the Association, or by the Board for the Association, for the respective Unit's assessment that was due prior to the final conclusion of any such foreclosure or equivalent proceedings. Further, any such unpaid assessment shall continue to exist as a personal obligation of the defaulting Owner of the respective Unit to the Association, and the Board may use reasonable efforts to collect the same from said Owner even after he is no longer a member of the Association. Suit to recover a money judgment for unpaid common expenses, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. The Association shall be permitted to suspend an owner's voting rights and rights to use the recreational facilities for any period for which an assessment remains unpaid or for a period not to exceed sixty days (60) for infractions of the Associations published rules and regulations.

4.9 Tax Assessments

As provided in Arizona Revised Statutes, §33-558, no taxes, assessments or charges which may become liens on any

Unit under Arizona law, shall affect the Common Area as a whole, such taxes, assessments or charges shall only be levied separately on each Unit and its respective appurtenant percentage share of the Common Area.

End of Article 4 Entitled
Maintenance and Assessments

ARTICLE 5

Duties and Powers of the Association

5.1 Duties and Powers

In addition to the duties and powers enumerated in the Bylaws and the Articles, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

5.1-1 - Maintain, repair, replace, restore, operate and manage all of the Common Area and all facilities, improvements, furnishings, equipment and landscaping thereon, and all property that may be acquired by the Association in good condition. This obligation shall not extend to the maintenance of any portion or facility of the Common Area, if any, required to be maintained by an individual Owner under this Declaration or the Bylaws.

5.1-2 - Enforce the provisions of this Declaration by appropriate means, including without limitation, the expenditures of funds of the Association, the employment of legal counsel, and the commencement of actions.

5.1-3 - Maintain such policy or policies of insurance as are required by this Declaration, or as the Board deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its members.

5.1-4 - Grant and reserve easements where necessary for utilities and sewer facilities over the Common Area to serve the Common Area and the Units.

5.1-5 - Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, subject to the Bylaws and restrictions imposed by any governmental or quasi-governmental body or agency having jurisdiction over the Project.

5.1-6 - Adopt reasonable rules not inconsistent with this Declaration, the Articles, or the Bylaws relating to the use of the Common Area and all facilities thereon, and the conduct of Owners and their tenants and guests with respect to the property and other Owners.

5.2 Maintenance of Project By Association

The responsibility of the Association for maintenance and repair shall not extend to repairs or replacements arising out of the willful or negligent act of an Owner. The repair or replacement of a Unit exterior or of any portion of the Common Element resulting from such excluded items shall be the responsibility of such Owner, who does the willful or negligent Act. The Association acting through the Board, shall have the right (but not the obligation) to enter the Unit and make such repairs or replacements as are required to replace the Unit or common element in the condition it was in prior to the willful or negligent act.

5.3 Association Easements and Access To Units

For the purpose of performing the maintenance authorized by this Article or for any other purpose reasonably related to the performance by the Board of its responsibilities under this Declaration, the Association (and its agents and employees) shall have an easement over and onto all portions of the Common Area, and shall also have the right, after reasonable notice to the Owner, and at reasonable hours, to enter any Unit.

End of Article 5 Entitled

Duties and Powers of the Association

ARTICLE 6

Utilities

6.1 Owners' Rights and Duties

The rights and duties of the Owners of Units within the Project with respect to utilities shall be as follows:

6.1-1 - Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections, heating or air conditioning conduits, ducts, or flues are located or installed within the Project, which connections, or any portion thereof lie in or upon Units owned by other than the Owner of a Unit served by said connections, the Owners of any Unit served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the Units or to have the utility companies enter upon the Units in or upon which said connections, or any portion thereof lie, to repair, replace and generally maintain said connections as and when necessary.

6.1-2 - Whenever sanitary sewer, water, electric, gas, television receiving, or telephone lines or connections, heating or air conditioning conduits, ducts, or flues are located or installed within the Project, which connections serve more than one Unit, the Owner of each Unit served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his Unit.

6.2 Easements For Utilities and Maintenance

Easements over and under the property for the installation, repair, and maintenance of sanitary sewer, water, electric, gas, and telephone lines and facilities, heating and air conditioning facilities, cable or master television antenna

lines, drainage facilities, walkways, and landscaping as shown on the map of the property and as may be hereafter required are reserved to service the property to the Association together with the right to grant and transfer the same.

6.3 Association's Duties

The Association shall maintain all utility installations located in the Common Area, except for those installations maintained by utility companies, public, private or municipal. The association shall pay all charges for utilities supplied to the Project, except those metered or charged separately to the Units, which shall be paid by the respective Owners of those Units.

End of Article 6 Entitled

Utilities

ARTICLE 7

Use Restrictions

In addition to all of the covenants contained herein, the use of the property and each Unit therein is subject to the following:

7.1 Use of Individual Units

No Unit shall be occupied and used except for single-family residential purposes by the Owners, their tenants, and social guests, and no trade or business shall be conducted therein, except that Declarant, its successors or assigns, may use any Unit or Units in the Project owned by Declarant for a model home site or sites, and display and sales office, during construction and until the last Unit in the entire Project is sold. No apartment unit may be divided or sub-divided into a smaller unit.

7.2 Nuisances

No noxious, illegal or offensive activities shall be carried on in any Unit, or in any part of the property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to or which may in any way interfere with the quiet enjoyment of each of the Owners of his respective Unit, or which shall in any way increase the rate of insurance for the Project, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of any building.

7.3 Vehicle Restrictions

No trailer, camper, mobile home, commercial vehicle, truck (other than standard size pickup truck), inoperable automobile, boat or similar equipment shall be permitted to remain upon any area within the property, other than temporarily (for purposes of loading and unloading of passengers or personal property), unless placed or maintained within the assigned parking space or carport, or in an area specifically designated for such purpose by the Board. Commercial vehicles shall not include sedans or standard size pickup trucks which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board. (No noisy or smoky vehicles shall be operated on the property.) No off-road unlicensed motor vehicles shall be maintained or operated upon the property, except as reasonably necessary to the execution of the rights or duties of the Association under this Declaration.

7.4 Signs

No signs shall be displayed to the public view on any Units or on any portion of the property, except such signs as are approved by the Board or committee appointed by the Board. "For Sale" or "For Rent" signs shall be allowed, provided they are approved by the Board as to size and content. This provision shall not apply to the Declarant during the sale period of the property.

7.5 Animals

The Board shall have the power to promulgate rules and regulations concerning the keeping of household pets within the Units, and may restrict the number, kind or size of pets kept by an Owner, so long as the power is not exercised capriciously.

7.6 Garbage and Refuse Disposal

All rubbish, trash and garbage shall be regularly removed from the property, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. The Association shall promulgate rules and regulations concerning the type and mode of containerization of garbage and refuse.

7.7 Radio and Television Antennas

No alteration to or modification of a central radio or television antenna system or cable television system, whichever is applicable, shall be permitted, and no Owner may be permitted to construct, use, or operate his own external radio or television antenna without the consent of the Board.

7.8 Right To Lease

The respective Units shall not be rented by the Owners thereof for transient or hotel purposes, which shall be defined as (a) rental for any period less than twenty (20) days, or (b) any rental if the occupants of the Unit are provided customary hotel service such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Subject to the foregoing restrictions, the Owners of the respective Units shall have the absolute right to lease the Units provided that the lease is made subject to the covenants, conditions, restrictions, limitations and uses contained in this Declaration and the Bylaws, and any reasonable rules and regulations published by the Association.

7.9 Clothes Lines

No exterior clothes lines shall be erected or maintained and there shall be no outside laundering or drying of clothes.

7.10 Power Equipment and Car Maintenance

No power equipment, work shops, or car maintenance (other than emergency work or minor repairs requiring less than one (1) day's work) shall be permitted on the property, except with prior written approval of the Board. Approval shall not be unreasonably withheld and in deciding whether to grant approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

7.11 Liability of Owners For Damage To Common Area

The Owner of each Unit shall be liable to the Association for all damages to the Common Area or improvements thereon caused by such Owner.

End of Article 7 Entitled

Use Restrictions

ARTICLE 8

Architectural Control

8.1 Architectural Control

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

8.2 Exterior Maintenance

In addition to maintenance of the Common Elements, the Association shall provide maintenance or repair of the buildings, fences, walls or other structures, including the roof, and the trees, shrubs, grass, walls and other exterior items around any apartment unit. An Owner shall not do any painting of the exterior portions of his apartment unit, including fences, without seventy-five percent (75%) approval of all members of the Board of Directors.

8.3 Land Use and Building Type

Each apartment unit shall only be used for residential purposes. No apartment unit may be divided or sub-divided into a smaller unit.

8.4 Antennae

No outside visible antennae of any type shall be erected or maintained anywhere on the property by any Owner, except for those approved by the Declarant prior to the sale of that Owner's apartment unit. The Association may provide for a master antennae system to serve the entire property, as a part of its duties and powers.

End of Article 8 Entitled

Architectural Control

ARTICLE 9

General Provisions

9.1 Enforcement

The Association and/or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, lines and charges now or hereafter imposed by this Declaration, and in such action shall be entitled to recover costs and reasonable attorneys' fees as are ordered by the Court; provided, however, that an individual Owner shall have no right to enforce the collection of any assessment levied against any other Owner under Article 4 above. Failure by any such person or entity to enforce any such provision shall in no event be deemed a waiver of the right to do so thereafter.

9.2 Invalidity Of Any Provision

Should any provision of this Declaration be declared invalid or in conflict with any law of the jurisdiction where the Project is situate, the validity of all other provisions shall remain unaffected and in full force and effect.

9.3 Amendments

The provisions of this Declaration may be changed, modified or amended by an instrument in writing setting forth such change, modification or amendment, signed by Owners of Units to which not less than ninety percent (90%) of the undivided ownership of the Common Elements is appurtenant and acknowledged during the first twenty (20) years from the date of recordation of this declaration and thereafter signed by Owners of Units to which not less than seventy five percent (75%) of the undivided ownership of the common elements is appurtenant and acknowledged; provided, however, that seventy-five percent (75%) of all Institutional Holders and, so long as any Class B membership remains outstanding, the Veterans Administration, shall have consented in writing to any such change, modification or amendment. The institutional holders shall be required to provide the Association with their address so that the Association can contact them regarding amendments. All amendments must be recorded.

9.4 Encroachment Easements

Each Unit within the property is hereby declared to have an easement over all adjoining Units and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Unit agree that minor encroachments over adjoining Units or Common Area shall be permitted and that there shall be a valid easement for the maintenance of said encroachments so long as they shall exist.

9.5 Mortgage Protection Clause

9.5-1 - Rights of First Mortgages

(a) No breach of any of the covenants, conditions and restrictions contained in this Declaration, nor the enforcement of any lien provisions herein, shall render invalid the lien of any first mortgage (meaning a mortgage with first priority over any other mortgage) on any Unit made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee sale, or otherwise;

(b) All amenities pertaining to the Condominium Project and located on the property (such as parking, recreation and service areas) are a part of the Condominium Project and shall be covered by and subject to a mortgage on a Unit to the same extent as are the Common Elements;

(c) An action to abate the breach of any of these covenants, restrictions, reservations and conditions may be brought against the purchasers who have acquired title through foreclosure of a first mortgage and the subsequent Sheriff's Sale (or through any equivalent proceedings), and the successors in interest to said purchasers.

(d) During the pendency of any proceedings to foreclose a first mortgage (including any period of redemption) or from the time a trustee under a first deed of trust has given notice of sale pursuant to power of sale conferred under a deed of trust and pursuant to law, the Institutional Lender, or a receiver appointed in any such action, may but need not exercise any or all of the rights and privileges of the Owner in default of a Unit including, but not limited to, the right to vote as a member of the Association in the place and stead of the defaulting Owner;

(e) At such time as the Institutional Lender shall become record Owner of a Unit, the Institutional Lender shall be subject to all of the terms and conditions of this Declaration including, but not limited to, the obligation to pay all assessments and charges accruing thereafter, in the same manner as any other Unit Owner.

9.5-2 - Notice To Lenders

All Institutional Lenders that have filed with the Association an appropriate request shall be entitled to receive the following notices in writing from the Association pertaining to any Unit in which they have an interest:

(a) Notice of any proposed change in the Project documents, which notice shall be given sixty (60) days prior to the effective date of such change;

(b) Notice of default by the Owner or trustor of any deed of trust on a Unit (the beneficial interest in which is held by said Institutional Lender) in the performance of such Owner's or trustor's obligations under the Project documents, which default is not cured within sixty (60) days;

(c) Notice of any damage or destruction to any individual Unit subject to a mortgage (the beneficial interest in which is held by said Institutional Lender), which damage exceeds Two Thousand Five Hundred Dollars (\$2,500.00) which notice shall be given timely upon the Board's obtaining knowledge of such damage or destruction;

(d) Notice of any damage or destruction to any portion of the Common Area or facilities or improvements thereon, which damage or destruction is substantial or may be restored only at a cost exceeding Ten Thousand Dollars (\$10,000.00), which notice shall be given timely upon the Board's obtaining knowledge of such damage or destruction;

(e) Notice of any proceeding or other action taken or proposed for the acquisition of any Unit or portion thereof or the Common Area or any portion thereof by any condemnation, eminent domain or similar proceeding, shall be given timely upon the Board's obtaining knowledge of such proceeding; and

(f) Notice of all meetings of the Association which notice shall be given thirty (30) days prior to the date of any such meeting, and each Institutional Lender shall be permitted to designate a representative to attend all such meetings.

9.5-3 - Changes Requiring Lender Approval

Without the vote of at least two-thirds (2/3) of the Institutional Lenders (based upon one (1) vote for each mortgage or deed of trust owned) or of the Owners other than Declarant, the Association shall not be entitled to:

(a) Abandon the condominium status or partition or subdivide a unit or the common elements.

(b) Change the percentage interest of unit owners.

(c) By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer any portion or element of the Common Area (the granting of easements for public utilities or for other public purposes consistent with the intended use of such property shall not be deemed a transfer within the meaning of this clause);

(d) Use hazard insurance proceeds for losses or damages to any portion of the property for other than the repair, replacement or reconstruction thereof, except as provided by law in case of substantial loss or damage to the Units and/or the Common Area;

9.5-4 - Mortgage Priority; Right To Inspect Records

notwithstanding any language contained in this Declaration to the contrary, no Unit Owner and no other party shall have priority over any rights of Institutional Lenders pursuant to their mortgages in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or taking of Condominium Units and/or any portion or element of the Common Area. Institutional Lenders shall have the right to examine the books and records of the Association during normal business hours and to receive the annual financial statement of the Association within ninety (90) days following the end of the fiscal year of the Association.

9.5-5 - Compliance With FHLMC Regulations

The Declarant intends that the Project shall comply with all requirements of the Federal Home Loan Mortgage Corporation (FHLMC) pertaining to the purchase by FHLMC of conventional home loans. Declarant and all Unit Owners therefore agree that in the event the Project or any of the Project documents do not comply with the FHLMC requirements, the Board shall have the power (on behalf of the Association) to enter into any agreement with FHLMC (or its designee) reasonably required by FHLMC to allow the Project to comply with such requirements.

9.5-6 - Payment of Taxes and Insurance Premiums By Mortgagees

Institutional Lender may, pay any taxes, assessments or other charges which are in default and which may or have become a lien or charge against the Unit for which they hold a mortgage or deed of trust.

9.5-7 - Owner's Right To Sell Unit

The right of any Owner to sell, transfer or otherwise convey his Unit shall not be subject to any right of first refusal, or any similar restriction in favor of the Association.

9.6 Owner's Right and Obligation To Maintain and Repair

Except for those portions of the Project which the Association is required to maintain and repair, each Unit Owner shall, at his sole cost and expense, maintain and repair his Unit, keeping the same in good condition. Additionally, each Owner shall maintain, repair and replace as necessary any separate air conditioning and/or water heating unit which services his Unit, and further, any windows of a Unit which are damaged shall be repaired within seven (7) days of such damage. Each Owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his Unit. In the event an Owner fails to maintain his Unit as provided herein in a manner which the Board deems necessary to preserve the appearance and value of the property, the Board may notify Owner of the work required and request it be done within thirty (30) days from the giving of such notice. In the event Owner fails to carry out such maintenance within said period, the Board may cause such work to be done and may specially assess the cost thereof to such Owner, and, if necessary, lien his Unit for the amount thereof.

9.7 Entry For Repairs

The Board or its agents may enter any Unit when necessary in connection with the maintenance, landscaping or construction for which the Association is responsible. Such entry shall be made upon reasonable notice and with as little inconvenience to the Owner as practicable and any damage caused thereby shall be repaired by the Board at the expense of the Association. No Owner shall do any act or create any obstruction which would unreasonably interfere with the right or ability of the Association to perform any of its obligations or exercise any of its rights under this Declaration.

9.8 Insurance; Damage or Destruction

9.8-1 Association Liability Insurance

The Association shall obtain and continue in effect comprehensive public liability insurance insuring the Association, the agents and employees of each and the Owners and the respective family members, guests and invitees of the Owners against any liability incident to the ownership or use of the Common Area and facilities in the Common Area, and including, if obtainable, a cross-liability endorsement insuring each insured-against liability to each other insured, and a "severability of interest" endorsement precluding the insurer from denying coverage to one Owner because of

the negligence of other Owners or the Association. Such insurance shall be in amounts deemed appropriate to the Board.

9.8-2 - Master Hazard Insurance

Additionally, the Association shall obtain and continue in effect a master or blanket policy of multi-peril insurance on the Project, providing as a minimum fire and extended coverage and all other coverage in the kinds and amounts required by Institutional Lenders according to FHLMC regulations, coverage to be obtained on a replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based upon replacement cost) of all improvements on the Project. Such policy shall contain extended coverage and replacement costs endorsements, if available, and may also contain vandalism and malicious mischief coverage, special form endorsement, stipulated amount clause and a determinable cash adjustment clause, or a similar clause to permit cash settlement covering full value of the improvements on the Project in the event of destruction and a decision not to rebuild pursuant to this Declaration. If the Project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards, a "blanket" policy of flood insurance on the Project shall be maintained in an amount equal to the aggregate outstanding principal balance of all mortgage loans on the individual Units or the maximum limit of coverage available under the National Flood Insurance Act of 1968, as amended, whichever is less. Such policies shall be in form and amount as determined by the Board, shall name as insured the Association, the Owners and all mortgages as their respective interest may appear, and shall provide that any proceeds be paid to the Association for the use and benefit of the Owners and mortgagees as their interests may appear. Such policy shall not be required to insure the personal property or customized items within any individual Units, which shall be the responsibility and risk of the Unit Owners.

9.8-3 - Additional Association Insurance

The Association may purchase such other insurance as it may deem necessary, including without limitation plate-glass insurance, workers' compensation, directors liability, and errors and omissions insurance, and shall purchase fidelity coverage against dishonest acts by any directors, managers, trustees, employees or volunteers of the Association who are responsible for handling funds belonging to or administered by the Association. The fidelity insurance shall provide coverage in an amount not less than one and

one-half (1-1/2) times the Association's estimated annual operating expenses and reserves.

9.8-4 - Choice of Carriers; Insurance Premiums

The insurance policies required under this Article 9.8 shall be acquired from carriers meeting the qualifications of the Federal Home Loan Mortgage Corporation. Insurance premiums shall be a common expense to be included in the assessments levied by the Association. The acquisition of insurance by the Association shall be without prejudice to the right of any Unit Owner to obtain additional individual condominium insurance.

Institutional lender may pay overdue premiums and may secure new insurance coverage upon the Unit for which it holds the incumbrance.

9.8-5 - Proceeds From Insurance

If any of the Project improvements are damaged by fire or other casualty, insurance proceeds payable to the Association shall be used to rebuild or repair such damage substantially in accordance with the original plans and specifications therefor. Custom-built items added by Owners to their Units shall be rebuilt or replaced at the expense of Owners or their insurers. Any excess insurance proceeds shall be deposited to the general funds of the Association. In the event the proceeds of the Association's insurance policy are insufficient to rebuilt or repair a Unit or Units, and the Owner or Owners of said Unit or Units do not have sufficient funds, whether insurance proceeds or personal funds, to rebuild and restore said Unit or Units, then the Association may use funds from its general account or, if necessary, from levying a special assessment on all Unit Owners (or on those responsible for the damage) to restore or rebuild said Unit or Units.

9.8-6 - Total Destruction

In the event the property subject to this Declaration is totally or substantially damaged or destroyed, the Institutional Lenders shall receive timely notice thereof. The repair, reconstruction or disposition of insurance proceeds shall be as provided by an agreement approved by more than seventy five percent (75%) of the votes of each class of membership and one hundred (100%) percent of the Institutional Lenders. If as a result of the Total or

substantial destruction, the Association votes to terminate the condominium regime it must be by unanimous vote of all unit owners and institutional lenders or lien holders.

9.8-7 - Personal Liability Insurance

In addition to the master policies which the Association shall carry, the Board shall have the power to request each Unit Owner, at their sole option, at his expense, to carry personal liability insurance covering damage to property or injury to the person of others within the Project resulting from negligence of the Owner or his agents, in an amount up to One Hundred Thousand Dollars (\$100,000.00) for each occurrence.

9.8-8 - Waiver of Subrogation; Notice of Cancellation

All property and liability insurance carried by the Association or the Owners shall contain provisions whereby the insurer waives rights of subrogation as to the Association, officers and directors, and any members, their guests, agents and employees. All insurance carried by the Association shall contain a provision requiring the insurer to notify Institutional Lenders requesting such notice, at least thirty (30) days in advance of the effective date of any reduction in or cancellation of the policy.

9.9 Condemnation

In the event of any taking of any Unit in the Project by eminent domain, the Owner of such Unit shall be entitled to receive the award for such taking and after acceptance thereof he and his mortgagee shall be divested of all interest in the Project if such Owner shall vacate his Unit as a result of such taking. The remaining Owners shall decide by a two-thirds (2/3) vote whether to rebuild or repair the Project, or take other action. The remaining portion of the Project shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking and to readjust proportionately the percentages of undivided interest of the remaining Owners in the Project. In the event of a taking by eminent domain of more than one Unit at the same time, the Association shall participate in the negotiations, and shall propose the method of division of the proceeds of condemnation, where Units are not valued separately by the condemning authority or by the court. The Association should give careful consideration to

the allocation of percentage interests in the Common Area in determining how to divide lump sum proceeds of condemnation. In the event any Unit Owner disagrees with the proposed allocation, he may have the matter submitted to arbitration under the rules of the American Arbitration Association.

9.10 Limitation of Restrictions On Declarant

Declarant is performing certain work in connection with the conversion of the property to a condominium. The completion of that work and the sale, rental, and other disposal of said Units is essential to the establishment and welfare of the property as a residential community. In order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

9.10-1 - Prevent Declarant, its contractors or sub-contractors from doing on the property or any Unit, whatever is reasonable necessary or advisable in connection with the completion of the work; or

9.10-2 - Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the property such structures as may be reasonable and necessary for the conduct of its business of completing said work and establishing said property as a residential community and disposing of the same in parcels by sale, lease or otherwise; or

9.10-3 - Prevent Declarant from conducting on any part of the property its business of completing the work of establishing a plan of Unit ownership and of disposing of said property in Units by sale, lease or otherwise; or

9.10-4 - Prevent Declarant from maintaining such sign or signs on any of the property as may be necessary for the sale, lease or disposition thereof.

9.11 Owner's Compliance

Each Owner, tenant or occupant of a Unit shall comply with the provisions of the Project Documents and all decisions and resolutions of the Association or its duly authorized representative, and failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due for damages (including costs and attorneys' fees) and/or for injunctive relief. All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the Bylaws shall be deemed to be binding on all Owners of Units, their successors and assigns.

9.12 Termination of Horizontal Property Regime

This Horizontal Property Regime may be terminated by the agreement of all of the Owners and Institutional Lenders pursuant to Arizona Revised Statutes, §33-556, or any amendment thereto, or as provided herein. After termination of the Horizontal Property Regime, the Owners shall own the Property and all assets of the Association as tenants in common in undivided shares, and their respective Institutional Lenders and Lienors shall have first mortgages and liens upon the respective undivided shares of the Owners. Such undivided shares of the Owners shall be the same as the undivided shares in the Common Area appurtenant to the Owners' Units prior to the termination (unless otherwise expressly set forth herein).

9.13 Violation of Declaration; Remedies

The following provisions are in addition to and not in lieu of any other terms and conditions contained in the Declaration relating to remedies:

9.13-1 The Association shall have the right to enter upon any Unit premises, and any limited Common Element to effectuate emergency repairs and the Association shall also have a reasonable right of entry thereupon to effect other repairs, improvements, replacement or maintenance as is necessary.

9.13-2 In the event of any default by an Owner or occupant under the provisions of this Declaration, the Articles, the Bylaws, or the rules and regulations of the Association, the Association, its successors or assigns, acting through the Board or an authorized agent, shall have each and all of the rights and remedies which may be provided for in this Declaration, the Articles, the Bylaws, or said rules and regulations, or which may be available at law, and may prosecute any action or other proceedings against

such defaulting Owner and/or occupant for enforcement or foreclosure of its lien and the appointment of a receiver for the Unit without notice, without regard to the value of such Unit or the solvency of such Owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof.

Nothing contained in this Declaration shall preclude the Association, its agents, the Board, Declarant, an aggrieved Owner, an Institutional Lender or other person having an interest in the property from exercising any available remedy at law or in equity. The proceeds of any judicial sale foreclosing the lien of the Association shall first be paid to discharge court costs, other litigation costs including, but without limitation, reasonable attorneys' fees and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in a final judgment. Any balance of proceeds, after satisfaction of all charges, unpaid assessments, interest, late charges, and other liens, shall be paid to the Owner. Upon the conformation of the sale, the purchasers thereupon shall be entitled to a deed to the Unit and to immediate possession of the Unit, and may apply to the court for a writ of restitution for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the judgment shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration. All expenses of the Association in connection with any action or proceedings, including court costs and reasonable attorneys' fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the highest rate which may be charged individuals under law, shall be charged to and assessed against such defaulting Owner, and shall be added to and deemed part of his respective share of the Common Expenses, and shall be a lien upon the Unit of such defaulting Owner and upon all of his additions and improvements thereto. The Association, acting through the Board or its authorized agent, shall have the authority to correct any default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Owner, and such assessment shall constitute a lien against the defaulting Owner's Unit. Any and all such rights

and remedies may be exercised at any time and from time to time, cumulatively or otherwise. The liens provided for in this Article 9 shall be and are junior and subordinate to first mortgages, and shall be foreclosed in the same manner as a realty mortgage and/or a mechanic's lien in the State of Arizona.

9.13-3 If any Owner (either by his conduct or by the conduct of any occupant of his Unit) shall violate any of the provisions of this Declaration, or the provisions of the Articles, Bylaws or the rules and regulations, as then in effect, and such violation shall continue for fifteen (15) days after notice in writing, or shall occur repeatedly during any fifteen (15) day period after written notice or request to cure such violation, then the Association, acting through the Board or any authorized agents, or any other Owner, or an encumbrance holder, shall have the power to file an action against the Owner or Occupant requiring the defaulting Owner to comply with the provisions of this Declaration, the Articles or the Bylaws, or the rules and regulations, and granting other appropriate relief including money damages, reasonable attorneys' fees, and court costs. Anything to the contrary herein notwithstanding, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration shall not defeat or adversely affect the lien of any Institutional Lender upon any Unit, but except as herein specifically provided, each and all of said covenants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Owner of a Unit whose title thereto is acquired by foreclosure, trustee sale, sale, deed in lieu of foreclosure or otherwise.

9.14 Waiver; Remedies Cumulative

No failure to delay on the part of any person in exercising any right, power or privilege hereunder, and no course of dealing between or among the persons subject hereto, shall operate as a waiver of any provision hereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof nor the exercise of any other right, power or privilege. The rights and remedies herein expressly provided are cumulative and not

exclusive of any rights or remedies which any person subject hereto would otherwise have. No notice to or demand on any person in any case shall entitle such person to any other or further notice or demand in similar or other circumstances or constitute a waiver of rights to any other or further action in any circumstances,

9.15 Judicial Proceedings

All owners agree that any matter arising under this Declaration may be finally adjudged or determined in any court or courts of the State of Arizona, or of the United States of America having jurisdiction in the State of Arizona, and such Owners hereby submit generally and unconditionally to the jurisdiction of such courts and of any of them in respect to any such matter; provided, however, as to those matters to be submitted to arbitration pursuant to any provision hereof, such arbitration provisions shall be controlling and prevail. For the purposes of instituting or defending any action with respect to the Common Area, or with respect to any matter affecting the Owners with respect to the Common Area, and further in connection with enforcing this Declaration, the Articles, Bylaws and any rules and regulations adopted pursuant to this Declaration, the Articles or the Bylaws, or in any other instance where the Board or the members of the Association deem it necessary for the best interests of the Condominium as a whole, the Association, acting by and through its Board, shall be deemed the real party in interest and is hereby authorized to commence and prosecute any such proceedings or to defend any such action. Nothing contained in this paragraph 9.15 shall be deemed or construed to impose upon the Association, its members or the Board, any liabilities or obligations nor grant to any third party or parties any rights that any of said above named parties would not otherwise have if this paragraph were not contained herein.

9.16 Plan of Development

Declarant hereby explicitly reserves the right to expand the horizontal property regime created hereby without the consent of any Unit Owner or any mortgagee to include the real property legally described on Exhibit "C", "D" and "E", attached hereto by recordation of a deed of annexation and legally describing the property and the Units in Phase II, Phase III and Phase IV. The property in Phase II, Phase III and Phase IV shall pay all liens, taxes and assessments which may affect such property prior to the time the same is annexed pursuant to VAR 4360(A)(4). Phase I, II, III and IV of THE MONACO are planned to contain in total 266 Units. However, neither Declarant nor any other person has any obligation to submit any of the real property not included within the horizontal property regime created hereby to such horizontal property regime or to develop such real property in accordance with such plan or otherwise. The right of Declarant to create Phase II, III and IV by submission of all or a portion of the real property described on Exhibit "C", "D" and "E" to this horizontal property regime shall expire on May 1, 1987. In the

event the horizontal property regime created hereby is expanded to include Phase II, III and IV, each Owner in Phase II, III and IV shall become a member of the Association and shall be entitled to exercise the same voting rights as Owners in Phase I of THE MONACO and as provided in paragraph Article 3, Section 3.4. Upon the creation of Phase II, III and IV, the relative voting strength of the Declarant and the Owners will change and control of the Association, even though vested in owners other than Declarant at the time of the creation of Phase II, III and IV to the horizontal property regime created hereby additional Common Elements will be created. However, the respective interest in and to the Common Elements appurtenant to each Unit in Phase I shall be reduced to that proportion that the value of each Unit bears to the total value of all Units in Phase I and Phase II, Phase I, II and III, Phase I, II, III and IV which shall represent an undivided interest in and to all of the Common Elements in Phase I and II, Phase I, II and III, Phase I, II, III and IV as is reflected in Exhibit "F", "G" and "H". As a result there will be a smaller interest in a greater number of Common Elements appurtenant to each Unit in Phase I. Upon the submission of the real property legally described on Exhibit "C", "D", and/or "E" to the horizontal property regime created hereby, such property shall in all respects be subject to and the ownership and use thereof shall be governed in accordance with all of the covenants, conditions and restrictions set forth in this declaration of horizontal property regime. Notwithstanding anything contained herein to the contrary, Declarant shall have no right to expand the horizontal property regime created hereby by recordation of a deed of annexation relative to Phase II, III and IV without the prior written consent of the Veteran's Administration.

9.17 Fidelity Bonding. The Association shall obtain and maintain bonds covering all persons or entities which handle funds of the Association, including without limitation any professional manager employed by the Association and any of such professional manager's employees, in amounts not less than one hundred fifty percent (150%) of the estimated annual budget of the Association from time to time.

9.18 Lease Terms. Each owner of a Unit shall have the right to lease the Unit provided that the lease is in writing and that the initial term of the lease is more than thirty (30) days.

9.19 Governing Law This Declaration and the rights and obligations of the parties hereunder shall be construed in accordance with and be governed by the laws of the State of Arizona.

EOF, the undersigned, being the Declarant
executed this Declaration this _____ day of _____,

THE MONACO PARTNERSHIP

By *J. J. Moore*

Its *General Partner*

By _____

Its _____

STATE OF *Arizona*)
County of *Pima*) ss.

The foregoing instrument was acknowledged before me
this *2nd* day of *June*, 19*82*, by *John J. Moore*
and _____, the *General Partner* and
_____ respectively of THE MONACO PARTNERSHIP.

MY Commission Expires:

My Commission Expires March 15, 1983

John Nathan Griffin
Notary Public

CONSENT TO RECORDATION OF DECLARATION

Seafirst Corporation, Sutter Trust Company Division, which is the holder of a recorded Deed of Trust covering the property described in the foregoing Declaration, hereby acknowledges that it has read and approves the Declaration of Horizontal Property Regime and Covenants, Conditions and Restrictions, and agrees that the lien of said Deed of Trust shall be subject and subordinate to the Declaration.

DATED: 6/2, 1982.

SEAFIRST CORPORATION, SUTTER TRUST COMPANY DIVISION

BY: Wilton E. Smith
Its: A.V.P.

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

The foregoing instrument was acknowledged before me this 13th day of June, 1982, by Wilton E. Smith, as Assistant Vice President of Seafirst Corporation, Sutter Trust Company Division.

Rita Kathryn Giffen
Notary Public

MY COMMISSION EXPIRES:

My Commission Expires March 15, 1988