CONDOMINIUM DECLARATION
FOR
COLLIER SQUARE TOWNHOMES NUMBER II

1078341 9/1 CR

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, LENMARK, INC., hereinafter called "Declarant," is the owner of real property situated in the County of Jefferson, State of Texas, being described by metes and bounds in Exhibit "A" attached hereto, which property is described and depicted on the Sur-or Plat thereof prepared by Kohler & Kohler, which by this reference is made a part hereof; and

WHEREAS, Declarant, as Developer, desires to establish a condominium regime under the Condominium Act of the State of Texas; and

WHEREAS, Declarant has executed plans for the construction of one building and other improvements appurtenant thereto on the property described in said Exhibit "A", which when completed shall consist of ten (10) Condominum Units; and

WHEREAS, Declarant does hereby establish a plan for the individual ownership in fee simple of estates consisting of the area or space contained in each of the ten (10) units of COLLIER SQUARE TOWNHOMES NUMBER II and the ownership by the individual and separate owners thereof, as tenants in common, of all of the remaining property which is hereinafter defined and referred to as the general common elements;

NOW THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and benefit to Declarant, its successors and assigns, and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees, and assigns.

1. DEFINITIONS, unless the context shall expressly provide otherwise:

(a) "Unit" or "Building Unit" means an individual air space unit which is contained within the perimeter walls, floors and ceilings of a building as shown on the map.

(b) "Condominium Unit" means one (1) individual air space unit, together with the interest in the common elements appurtenant to such unit.

(c) "Owner" means a person, firm, corporation, partnership, association or other legal entity, or any combination thereof, who owns one or more condominium units.

(d) "Majority of Unit Owners" means the unit owners with Fifty-One (51%) per cent or more of the votes weighed so as to coincide with percentages assigned in this Declaration.

(e) "General Common Elements" means and includes:

1. The land on which the building is located;
2. The foundation, columns, girders, beams, supports, main walls and roofs;
3. The yards, gardens, parking area, fences, storage spaces, streets, service drives, walks and service easements.
4. The installation consisting of the equipment and materials making up central services such as power, light, gas and the like;
5. All other parts of the property necessary or convenient to its existence maintenance and safety, or normally in common use;

(f) "Limited Common Elements" means a part of the general common elements reserved for the exclusive use of the owner of a condominium unit, the heating and air conditioning system serving one (1) condominium unit only and garage parking areas and other areas indicated on map as appurtenant limited elements to a specific unit only shall be deemed limited common elements.

(g) "Entire premises" or "property" means and includes the land, the building, all improvements and structures thereon, and all rights, easements, and appurtenances belonging thereto.

(h) "Common expenses" means and includes:

1. All sums lawfully assessed against the general common elements by the Managing Agent or Board of Managers;
2. Expenses of administration and management, maintenance, repair or replacement of the general common elements;
3. Expenses agreed upon as common expenses by the owners; and
4. Expenses declared common elements by provisions of this Declaration and by the By-Laws.

(i) "Association of Unit Owners" or "Associations" means a Texas Non-Profit Association, the By-Laws of which shall govern the administration of this condominium property, the members of which shall be all of the owners of the condominium units.

(j) "Map", or "Survey Map", or "Plans" means and includes the engineering survey of the land locating thereon all of the improvements, the floor and elevation plans and any other drawings or diagrammatic plan depicting a part of or all of the improvements, same being herewith filed, consisting of one (1) sheet labeled Exhibit "A", and incorporated herein.

2. The map shall be filed for record simultaneously with the recording of this Declaration as a part hereof, and prior to the first conveyance of any condominium unit. Such map shall consist of and set forth: (1) the legal description of all surface of the land; (2) the linear measurements and locations, with reference to the exterior boundaries of the land, of the building and all other improvements built or to be built on said land by Declarant; (3) floor plans and elevation plans of the building built or to be built thereon showing the location, the building designation, the unit designation and the linear dimensions of each apartment unit, and the limited common elements.

3. The real property is hereby divided in the following separate fee simple estates:

Ten (10) fee simple estates consisting of ten (10) separately designated units, all of such units shall bear a designation of a Building and a Unit Number as follows:

(a) Building One, Unit One (1), 4675 Collier Road;
(b) Building One, Unit Two (2), 4675 Collier Road;
(c) Building One, Unit Three (3), 4675 Collier Road;
(d) Building One, Unit Four (4), 4675 Collier Road;
(e) Building One, Unit Five (5), 4675 Collier Road;
(f) Building One, Unit Six (6), 4675 Collier Road;
(g) Building One, Unit Seven (7), 4675 Collier Road;
(h) Building One, Unit Eight (8), 4675 Collier Road;
(i) Building One, Unit Nine (9), 4675 Collier Road;
(j) Building One, Unit Ten (10), 4675 Collier Road;

(a) The remaining portion of the entire property, referred to as the general common elements, which shall be held in common by the owners, the interest of each therein being hereinafter set forth and each undivided interest being appurtenant to one of the ten (10) units.

(b) The percentage of ownership in the common elements allocated to each apartment is as follows: 10%

4. A portion of the general common elements is set aside and reserved for the exclusive use of individual owners, such areas being the limited common elements. The limited common elements reserved for the exclusive use of the individual owners are the automobile parking spaces, storage spaces and other spaces, which are shown on the map. Such spaces are allocated and assigned by the Declarant to the respective condominium units as indicated on said Exhibit "A". In like manner, heating and air conditioning systems serving only one (1) condominium unit shall be used in connection with the particular unit, to the exclusion of the use thereof by the other owners except by invitation.

5. Each unit and its undivided interest in and to the general common elements appurtenant thereto shall be inseparable and may be conveyed, leased or encumbered only as a condominium unit.

6. Every deed, lease, mortgage, trust deed or other instrument may legally describe a condominium unit by its identifying apartment number and building symbol or designation as shown on the map, followed by the words, and by reference to this recorded Declaration and Map. Every such description shall be deemed good and sufficient for all purposes to convey, transfer, encumber or otherwise affect the general common elements.

7. Declarant shall give written notice to the assessor of the creation of condominium ownership of this property, as is provided by law, so that each unit and its percentage of undivided interest in the general common elements shall be deemed a separate parcel and subject to separate assessment and taxation.

8. A condominium unit may be held and owned by more than one (1) person as joint tenants, or as tenants in common, or in any real property tenancy relationship recognized under the laws of the State of Texas.

9. The general common elements shall be owned in common by all of the owners of the units and shall remain undivided and no owner shall bring any action for partition or division of the general common element. Nothing contained herein shall be construed as a limitation of the right of partition of a condominium unit between the owners thereof, but such partition shall not affect any other condominium unit.

10. Each owner shall be entitled to exclusive ownership and possession of his unit. Each owner may use the general common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners.

11. If any portion of the general common elements encroaches upon a unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of an adjoining apartment unit or units encroaches upon any portion of the general common elements, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. For title or other purposes, such encroachment(s) and easement(s) shall not be considered or determined to be encumbrances either on the general common elements or the apartment units.

12. Subsequent to the completion of the improvements described on the exhibit hereto, labor performed or materials furnished and incorporated in a unit with the consent or at the request of the owner thereof, or his agent or his contractor or subcontractor, shall be the basis for filing of a lien against the general common elements owned by such other owners. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the apartment unit of any other owner, or against the general common elements for construction performed, or for labor, materials, services or other products incorporated in the owner's apartment unit at such owner's request.

13. The administration of this condominium property shall be governed by By-Laws of the Non-Profit Association, hereinafter named and hereinafter referred to as the "Association". A copy of such "By-Laws" is hereto attached and is the last Exhibit hereof and is incorporated herein by reference, and shall be deemed adopted by Declarant as sole owner of the property herein described, and all owners shall be bound thereby. Declarant may, at its/his election, cause to be formed a Texas Non-Profit Corporation bearing said name, in which event such Non-Profit Corporation shall be composed of owners of condominium units as herein set out, and such Non-Profit Corporation shall thereafter act and do things to be done by "Association", and the said Non-Profit Corporation, if formed, shall be bound by, adopt and observe as its By-Laws, the said By-Laws hereto attached. "Association" as here used shall refer to the member owners as a group, both before and after incorporation. In the event of incorporation, a certified copy of the Certificate of Incorporation of such "Association" shall be recorded and which shall provide that three (3) persons shall act as a Board of Managers and shall serve as the Managers until their successors have been elected and qualified. An owner of a condominium unit, upon becoming an owner, shall be a member of this "Association" and shall remain a member for the period of his ownership. The Managing Agent shall be Declarant or whatever person or entity to whom Declarant for purposes of resale may convey and its apartment units in this regime which at the time of such conveyance it has not sold to owner occupants, and the Managing Agent shall perform all of the duties of the Board of Managers until one (1) year after the execution hereof, unless all of the units in this regime are leased or sold prior to the end of such year at which earlier time Declarant shall have the option to cease being such Managing Agent.

14. The owners shall have the irrevocable right, to be exercised by the Managing Agent, or Board of Managers of the Association, to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the general common elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the general or limited common elements or to another apartment unit or units.

15. An owner shall maintain and keep in repair the interior of his own unit, including the fixtures thereon. An owner shall also maintain all electric lines, wires, conduits, or systems and the heating and air conditioning system serving his unit, whether within or without same. An owner shall also maintain all the plumbing serving his unit, and maintenance of sewer lines serving more than one (1) unit and running from the end of a unit's serving sewer line to the point where such sewer line becomes the property of the City of Beaumont shall be "Common Expenses".

16. An owner shall do no act nor any work that will impair the structural soundness or integrity of the building or impair any easement or hereditament. No owner shall in any way alter, modify, add to or otherwise perform any work whatever upon any of the common elements, save with written consent of the Board of Managers first obtained.

17. An owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, ground floor and roof surrounding his unit, nor shall such owner be deemed to own the utilities running through his unit which are utilized for or serve more than one (1) unit, except as a tenant in common. An owner, however, shall be deemed to own and shall maintain the inner decorated and/or finished surfaces of the perimeter and interior walls, floors, ceilings, doors, windows, and such other elements consisting of paint, wall paper and other such finishing materials.

18. Each owner shall comply strictly with the provisions of this Declaration, the By-laws and the decisions and resolutions of the "Association" adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Managing Agent or Board of Managers on behalf of the owner or, in a proper case, by an aggrieved owner.

19. This Declaration shall not be revoked, nor shall any of the provisions herein be amended unless all of the owners of condominium units, and all of the holders of any recorded mortgages or Deed of Trust covering or affecting any or all condominium units unanimously consent and agree to such revocation or amendments by instrument(s) duly recorded.

20. The assessments made shall be based upon the cash requirements deemed to be such aggregate sum as the Managing Agent or Board of Managers of the Association shall from time to time determine is to be paid by all of the owners, including Declarant, to provide for the payment of all estimated expenses growing out of or connected with the maintenance and the operation of the general common elements, which sum may include, among other things, cost of management, taxes, assessments, insurance contracts purchased pursuant to the terms hereof insuring the buildings and the owners thereof and their mortgagees against such risks as may be insured against under the terms hereof, landscaping and care of grounds, common lighting, repairs, and renovations, garbage collection, wages, water charges, legal and accounting fees, management fees, expenses and liabilities incurred by the Managing Agent or Board of Managers under or by reason of this Declaration, the payment of any deficit remaining from a previous period, the creation of a reasonable contingency or other reserve or surplus funds as well as other costs and expenses relating to the general common elements. The omission or failure of the Board to fix the assessment for any month shall not be deemed a waiver, modification or a release of the owners from the obligation to pay.

The Managing Agent or Board of Managers shall obtain and maintain insurance of the type and kind required by a majority of the unit owners, issued by a responsible insurance company authorized to do business in the State of Texas or by more than one (1) responsible insurance company authorized to do business in the State of Texas should the same not be available for purchase from one such company and such insurance may be written in the name of the Managing Agent or in the name of the Board of Managers, as Trustee or Trustees for each unit owner and each unit owner's mortgagee, if any, or it may be written in such other names as a majority of the unit owners may direct. Such insurance shall not prejudice the rights of each owner to insure his unit on his own account and for his own benefit. The "Association" may also be named in such insurance policy or policies as insureds if required by the insuring company or companies. Such insurance shall provide for a standard, non-contributory mortgagee clause in favor of each first mortgagee. It shall also provide that it cannot be

cancelled by either the insured or the insurance company until after ten (10) days prior to written notice to each first mortgagee. Said Managing Agent or Board of Managers shall, upon request of any first mortgagee, furnish a certified copy of such policy and the separate certificate identifying the interest of the mortgagor. All policies of insurance shall provide that the insurance thereunder shall be invalidated or suspended only in respect to the interest of any particular owner guilty of a breach of warranty, act, omission, negligence or non-compliance of any provision of such policy, including payment of the insurance premium applicable to that owner's interest, or who permits or fails to prevent the happening of any event, whether occurring before or after a loss, which under the provisions of such policy would otherwise invalidate or suspend the entire policy, but the insurance under such policy, as to the interests of all other insured owners not guilty of any such act or omission, shall not be invalidated or suspended and shall remain in full force and effect. Determination of maximum replacement value of all condominium units (for insurance purposes) shall be made annually by one or more written appraisals, copies of which shall be furnished forthwith to each mortgagee of a condominium unit. In addition each owner shall be notified of such appraisal(s).

21. All owners shall be obligated to pay the estimated assessments imposed by the Board of Managers or Managing Agent of the Association to meet the common expenses. Except for insurance premiums, the assessments shall be made basically pro-rata according to each owner's percentage interest in and to the general common elements, but not necessarily in such exact proportion if the Board of Managers deem such improper or unfair. Assessments for insurance premiums shall be based upon the proportion of the total premium(s) that the insurance carried on a condominium unit bears to total coverage. Assessments for the estimated common expenses, including insurance, shall be due monthly in advance on or before the fifth (5th) day of each month. Failure to pay by the fifteenth (15th) day of each month shall require the imposition and assessment of a late charge of $5.00. The Managing Agent or Board of Managers shall prepare and deliver, or mail, regularly at least every three (3) months to each owner an itemized statement showing the various estimated or actual expenses for which the assessments are made.

Declarant shall not be liable for assessments prior to the sale or lease of all units.

Contribution for monthly assessments shall be pro-rated if the ownership of a condominium unit commences on a day other than on the first day of the month.

22. No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the general or common elements, or by abandonment of his unit.

23. All sums assessed but unpaid for the share of common expenses chargeable to any condominium unit, including interest thereon at eight (8%) per cent per annum, shall constitute a lien on such unit superior (prior) to all other liens and encumbrances, except only for:

(a) Tax and Special Assessment liens in favor of any assessing unit; and

(b) All sums unpaid on a first mortgage or first deed of trust of record, including all unpaid obligatory sums as may be provided by such encumbrances, and including additional advances made thereon prior to the arising of such a lien.

To evidence such lien the Board of Managers or Managing Agent may, but shall not be required to, prepare a written notice setting forth the amount of such unpaid indebtedness, the name of the owner of the condominium unit and a description of the condominium unit. Such a notice shall be signed by one (1) of the Board of Managers or by the Managing Agent and may be recorded in the office of the Clerk and Recorder of Jefferson County, Texas. Such lien for the common expenses shall attach from the date of the failure of payment of the assessment.

Such lien may be enforced by foreclosure of the defaulting owner's condominium unit by the Association, in like manner as a mortgage on real property upon the recording of a notice or claim thereof. In any such foreclosure, the owner shall be required to pay the cost and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The owner shall also be required to pay to the Association a reasonable rental for the condominium unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power to bid in the condominium unit at foreclosure sale and to acquire and hold, lease, mortgage and convey same.

The amount of the common expenses assessed against each condominium unit shall also be a debt of the owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing same.

Any encumbrancer holding a lien on a condominium unit may pay any unpaid common expense payable with respect to such unit, and upon such payment such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance.

24. Upon the written request of any owner or any encumbrancer or prospective encumbrancer of a condominium unit, the Association by its Managing Agent or Board of Managers, shall issue a written statement setting forth the unpaid common expenses, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or for pre-paid items, including but not limited to insurance premiums, which shall be conclusive upon the "Association" in favor of all persons who rely thereon in good faith. Unless such request of a statement of indebtedness shall be complied with within ten (10) days, all unpaid common expenses which become due prior to the date of making of such request shall be subordinate to the lien of the person requesting such statement.

The Grantee of a unit shall be jointly and severally liable with the Grantor for all unpaid assessements against the latter for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the Grantee's right to recover from the Grantor the amounts paid by the Grantee therefor; provided, however, that upon written request, any such prospective Grantee shall be entitled to a statement from the Managing Agent or Board of Managers, setting forth the amount of the unpaid assessments, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for advanced payments or for pre-paid items, including but not limited to insurance premiums, which shall be conclusive upon the "Association". Unless such request for a statement of indebtedness shall be complied with within ten (10) days of such request, then such Grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessements against the subject unit.

Upon the sale or conveyance of an apartment, all assessments against a co-owner for his pro-rata share in the expenses as herein described and levied shall first be paid out of the sales price, or by the purchaser, in preference over any other assessments or charges of whatever nature except the following:

(a) Assessments, liens and charges in favor of the State and any political subdivision thereof for taxes past due and unpaid on the apartment; and

(b) Amounts due under first mortgage instruments duly recorded.

26. Any owner shall have the right from time to time to mortgage or encumber his interest by deed of trust, mortgage, or other security instrument. A first mortgage shall be one which has first and paramount priority under applicable law. The owner of a condominium unit may create a second mortgage on the following conditions: (1) that any such second mortgage shall always be subordinate to all of the terms, conditions, covenants, restrictions, uses, limitations, obligations, lien for common expenses, and other payments created by this Declaration and by the By-Laws, (2) that the mortgagee under any second mortgage shall release, for the purpose of restoration of any improvements upon the mortgaged premises, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises, which insurance policies were effected and placed upon the mortgaged premises by the Association. Such release shall be furnished forthwith by a second mortgagee upon written request of the "Association".

27. In the event any owner of a condominium unit shall wish to sell, lease or rent the same, and shall have received a bonafide offer therefor from a prospective purchaser or tenant, the remaining owners shall be given written notice thereof, together with an executed copy of such offer and the terms thereof. Such notice and copy shall be given to the Board of Managers for all of the owners. The remaining owners through the Board of Managers, or a person named by them, shall have the right to purchase or lease or rent the subject apartment upon the same terms and conditions as set forth in the offer therefor, provided written notice of such election to purchase or lease is given to the selling or leasing owner, and a matching down payment or deposit is provided to the selling or leasing owner during the ten (10) day period immediately following the delivery of the notice of the bonafide offer and copy thereof to purchaser or lease.

In the event any owner shall attempt to sell, rent, or lease his condominium unit without affording to the other owners the right of first refusal herein provided, such sale or lease shall be wholly null and void and shall confer no title or interest whatsoever upon the intended purchaser or lessee. Possession of or residence in a condominium unit by any other person than the record owners, their lineal descendants or relatives of their lineal descendants, continuing for a period of ten (10) days, shall be deemed, for this purpose to constitute renting of the condominium unit, whether or not any consideration has been paid therefor, and in such event, the Board of Managers may require the removal of such occupant(s), it being hereby agreed that the Board of Managers, in such event, shall be entitled to the possession of the condominium unit upon demand therefor of and from such occupant, with or without notice to the record owner(s) thereof, and in the event of failure to surrender such possession, the Board of Managers may institute and maintain Forcible Entry and Detainer proceedings for the possession of such unit, and have and retain such possession until the record owner thereof, or his purchaser (in event of sale, all prerequisites of this Declaration having been complied with) retakes physical possession of such premises. During any time when the Board of Managers shall have possession of such unit hereunder, the record owner and all of his guests, licensees and invitees shall be deemed to waive any claim for damages to person or property in or on the units.

The sub-leasing or sub-renting of said interest shall be subject to the same limitations as are applicable to the leasing or renting thereof. The liability of the owner under these covenants shall continue, notwithstanding the fact that he may have leased or rented said interest as provided herein.

In no case shall the right of first refusal reserved herein affect the right of an owner to subject his interest in the project parcel to a trust deed, mortgage, or other security instrument.

The failure of or refusal by the Board of Managers to exercise the right to so purchase or lease shall not constitute or be deemed to be a waiver of such right to purchase or lease when an owner receives any subsequent bonafide offer from a prospective purchaser or tenant.

The provisions of this Article 28 shall not apply to any sale, lease or transfer by Declarant at any time hereafter whether same be a "first sale or letting" or "resale or subletting" of a unit. Declarant shall have the further right to use any unit as offices and sales area and display advertising signs in the premises at any time hereafter until all units have been sold by Declarant.

The right of first refusal as provided herein, shall extend and run from the date of recordation of this Declaration for the period of the lives of the now living descendants of [illegible] JOHN J. TIERNEY and LARRY W. SPILLMAN [illegible] and shall terminate twenty-one (21) years [illegible].

Except as otherwise provided in Paragraph 27, any transfer by a transferor of [illegible] or by a first mortgagee, upon exercise of a power of sale [illegible] or conveying its interest shall thereupon terminate the [illegible] agreement and the provisions of this paragraph.

In the event of any default on the part of any owner under any first mortgage and [illegible] the holder thereof to foreclose same, any sale under [illegible] delivery of a deed to the first mortgagee in lieu of foreclosure shall be made free and clear of the provisions of Paragraph 28 and the purchaser or grantee under such deed in lieu of foreclosure of such [illegible] shall thereupon and thereafter subject to the provisions of this Declaration and By-Laws. If the purchaser following such foreclosure sale (or grantee under deed given in lieu of such foreclosure) shall be the then holder of the first mortgage, or its nominee, the said holder or nominee may thereafter own and occupy the condominium unit free and clear of the provisions of Paragraph 28, but its grantee shall thereupon and thereafter be subject to all of the provisions hereof.

The transfer of a deceased joint tenant's interest to the surviving joint tenant or the transfer of a deceased's interest to a devisee by Will or his heirs at law under intestacy laws shall not be subject to the provisions of Paragraph 28.

If an owner of a condominium unit can establish to the satisfaction of the Managing Agent or Board of Managers that a proposed transfer is not a sale or lease, then such transfer shall not be subject to the provisions of Paragraph 28.

28. Upon written request of any prospective transferor, purchaser, tenant or an existing or prospective mortgagee of any condominium unit, the Managing Agent or Board of Managers of the Association shall forthwith, or where time is specified, at the end of the time, issue a written and acknowledged certificate in recordable form, evidencing that:

(a) With respect to a proposed lease or sale under Paragraph 28, that proper notice was given by the selling or leasing owner and that the remaining owners did not elect to exercise their option to purchase or lease;

(b) With respect to a deed to a first mortgagee or its nominee in lieu of foreclosure, and a deed from such first mortgagee or its nominee, pursuant to Paragraph 27, that the deeds were in fact given in lieu of the foreclosure and were not subject to the provisions of Paragraph 28;

(c) With respect to any contemplated transfer which is not in fact a sale or lease, that the transfer is not or will not be subject to the provisions of Paragraph 28.

Such certificate shall be conclusive evidence of the facts contained therein.

20. This Declaration hereby makes mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or obsolescence.

Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed from the Declarant or from any owner shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint the Non-Profit Association hereinafter named, or its successor Non-Profit Corporation, if same is hereafter organized, their true and lawful attorney in their name, place and stead, for the purpose of dealing with the property upon its destruction or obsolescence as is hereafter provided. As attorney-in-fact, the Association, or its President and Secretary, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a condominium unit owner which will necessary and appropriate to exercise the powers herein granted. Repair and reconstruction of the improvement(s) as used in the succeeding sub-paragraphs means restoring the improvement(s) to substantially the same condition in which it existed prior to the damage, with each unit and the general and limited common elements having the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be made available to the Association for the purpose of repair, restoration or replacements unless the owners and all first mortgagees agree not to rebuild in accordance with the provisions set forth hereinafter.

(a) In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s) shall be applied by the "Association", as attorney-in-fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed.

(b) If the insurance proceeds are sufficient to repair and reconstruct the improvement(s), and if such damage is not more than Fifty (50%) per cent of all of the general common elements, not including land, such damage or destruction shall be promptly repaired and reconstructed by the "Association", as attorney-in-fact, using the proceeds of insurance and the proceeds of an assessment to be made against all of the owners and their condomonium units. Such deficiency assessment shall be a common expense made pro-rata according to each owner's percentage interest in and to the general common elements and shall be due and payable within Thirty (30) days after written notice thereof. The "Association" shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner, and a lien on his condominium unit and may be enforced and collected as is is provided in Paragraph 23. In addition thereto, the "Association", as attorney-in-

the condominium unit owner refusing or failing to pay such delinquent assessment within the time provided and if none so paid, the "Association" shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the "Association". The proceeds derived from the sale of such condominium unit shall be used and disbursed by the "Association", as attorney-in-fact, in the following order:

1. For payment of the balance of the lien of any first mortgage;
2. For payment of taxes and special assessment liens in favor of any governing entity;
3. For payment of unpaid common expenses;
4. For payment of junior liens and encumbrances in the order of and to the extent of their priority; and
5. The balance remaining, if any, shall be paid to the condominium unit owner.

(c) If more than Fifty (50%) per cent of all of the general common elements, not including land, are destroyed or damaged, and if the owners representing an aggregate ownership interest of one-half (1/2) of said condominium units, or more, do not voluntarily, within One Hundred (100) days thereafter, make provision for reconstruction, which plan must have the unanimous approval or consent of every first mortgagee, the "Association" shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary, the entire remaining premises shall be sold by the "Association", as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The insurance settlement proceeds shall be collected by the "Association", and such proceeds shall be divided by the "Association" according to each unit owner's interest (as such interests appear on the policy or policies) and such divided proceeds shall be paid into as many separate accounts as there are units covered by this Declaration, each such accounts representing one of the condominium units. Each such account shall be in the name of the "Association", and shall be further identified by the number of the apartment unit and the name of the owner. From each separate account, the "Association" as attorney-in-fact shall use and disburse the total amount (of each) of such accounts, without contribution from any account to another, toward the full payment of the lien on any first mortgage against the condominium unit represented by such separate account. There shall be added to each such account, the apportioned amount of the proceeds derived from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's percentage interest in the general common elements. The total funds of each account shall be used and disbursed, without contribution from one account to another, by the "Association", as attorney-in-fact, for the same purposes and in the same order as is provided in sub-paragraph (b) [1] through [5] of this paragraph.

If the owners representing an aggregate ownership interest of three-fourths (3/4) of the condominium units, or more, adopt a plan for reconstruction, which plan has the unanimous approval of all first mortgagees, then all of the owners shall be bound by the terms and other provisions of such plan. Any assessment made in connection with such plan shall be a common expense and made pro-rata according to each owner's percentage interest in the general common elements and shall be due and payable as provided by the terms of such plan but not sooner than Thirty (30) days after written notice thereof.

The "Association" shall have the authority to cause the repair or restoration of the improvements using all of the insurance proceeds for such purpose notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit, and may be enforced and collected as is provided in Paragraph 25.

In addition thereto, the "Association", as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the "Association" shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the "Association". The proceeds derived from sale of such condominium unit shall be used and disbursed by the "Association", as attorney-in-fact, for the same purposes and in the same order as is provided in sub-paragraph (b) [1] through [5] of this paragraph.

(d) The owners representing an aggregate ownership interest of Three-fourths (3/4) of the condominium units covered by this Declaration, or more, may agree that the general common elements of the property are obsolete and that the same should be renewed or reconstructed. In such instance, then the expense thereof shall be payable by all of the owners as common expenses; provided, however, that any owner not agreeing to such renewal or reconstruction may give written notice to the "Association" that such unit shall be purchased by the "Association" for the fair market value thereof. If such owner and the "Association" can agree on the fair market value thereof, then such sale shall be consummated within Thirty (30) days thereafter. If the parties are unable to agree, the date when either party notifies the other that he or it is unable to agree with the other shall be the "commencement date" from which all periods of time mentioned herein shall be measured. Within ten (10) days following the commencement date, each party shall nominate in writing (and give notice of such nomination to the other party), the appraiser who shall be a member of the Beaumont Real Estate Board. If either party fails to make such a nomination, the appraiser nominated shall within five (5) days after default by the other party appoint and associate with him another appraiser (to be selected from the

Beaumont Real Estate Board). If the two (2) appraisers designated by the parties, or selected pursuant hereto in the event of the default of one party, are unable to agree, they shall appoint another appraiser (to be selected from the Beaumont Real Estate Board) to be umpire between them, if they can agree on such person. If they are unable to agree upon such umpire, then each appraiser previously appointed shall nominate two (2) persons (each of whom shall be a member of the Beaumont Real Estate Board), and from the names of the four (4) persons so nominated shall be drawn by lot by any judge of any Court of record in Texas, and the [illegible] shall be the umpire. The nominations [illegible] is to be drawn by lot shall be [illegible] (10) days of the failure of the [illegible] to agree, which in any event shall [illegible] (30) days following the [illegible] Appraiser. The decision of the [illegible] the fair market value or in the case [illegible] the decision of the umpire, [illegible] and binding. The expenses and fees of [illegible] shall be borne equally by the "Association" and the owners. The sale shall be consummated within fifteen (15) days thereafter, and the "Association" as attorney-in-fact, shall disburse such proceeds as is provided in sub-paragraph (b) [1] through [5] of this paragraph.

(e) The owners representing an aggregate ownership interest of Three-fourths (3/4) of the condominium units, covered by this Declaration, or more, may agree that the general common elements of the property are obsolete and that the same should be sold. In such instance, the "Association" shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the "Association's" President and Secretary, the entire premises shall be sold by the "Association", as attorney-in-fact, for all of the owners, free and clear of the provisions contained in this Declaration, the Map and the By-Laws. The sales proceeds shall be apportioned between the owners on the basis of each owner's percentage interest in the general common elements, and such apportioned proceeds shall be paid into as many separate accounts as there are units covered by this Declaration, each such account representing one (1) condominium unit. Each such account shall be in the name of the "Association", and shall be further identified by the number of the unit and the name of the owner. From each separate account, the "Association" as attorney-in-fact, shall use and disburse the total amount (of each) of such funds, without contribution from one fund to another, for the same purposes and in the same order as is provided in sub-paragraph (b) [1] through [5] of this paragraph.

30. Prior to the first conveyance of any condominium unit, Declarant shall execute and deliver a Bill of Sale to the "Association", transferring all items of personal property located on the entire premises and furnished by Declarant, which property is intended for the common use and enjoyment of the condominium unit owners and occupants. The "Association" shall hold title to such property for the use and enjoyment of the condominium unit owners and occupants. No owner shall have any other interest and right thereto, and all such right and interest shall absolutely terminate upon the owner's termination of possession of his condominium unit.

[illegible] notices, demands, or other notices intended to be served upon an [illegible] shall be sufficiently served if sent by ordinary or certified mail, postage pre-paid, addressed [illegible] in care of the unit number and building address of [illegible] demands or other notices intended to be served upon [illegible] or the Board of Managers of the "Association" shall be sent [illegible] certified mail, postage pre-paid, until such address is changed [illegible] address change duly recorded.

[illegible] provisions of this Declaration or any paragraph, [illegible] or word, or the application thereof in any [illegible] such validity shall not affect the validity of the [illegible] and the application of any such provisions, [illegible] phrase or word in any other circumstances shall not [illegible]

[illegible] provisions of this Declaration shall be in addition and [illegible] the Condominium Ownership Act of the State of Texas and to all [illegible] of law.

[illegible] whenever used herein, unless the context shall otherwise provide, [illegible] number shall include the plural, the singular, and the use of any [illegible] shall include all genders.

EXECUTED this 7th day of April, 1981.

LENMARK, INC.

BY: [signature]
W. T. LITTLE, President

THE STATE OF TEXAS *
COUNTY OF JEFFERSON *

BEFORE ME, the undersigned authority, on this day personally appeared W. T. LITTLE, President of Lenmark, Inc., a Texas corporation, known to me to be the person whose name is subscribed to the above and foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER my hand and seal of office this the 7th day of April, 1981.

[signature]
NOTARY PUBLIC IN AND FOR
JEFFERSON COUNTY, TEXAS

[illegible] Notary Public,
[illegible] Texas
My Commission Expires 8-23-84

EXHIBIT "B"

BY-LAWS
OF
COLLIER SQUARE TOWNHOMES NUMBER II

ARTICLE I:

OBJECT
(Plan of Unit Ownership)

1. The purpose for which this Non-Profit Association is formed is to govern the condominium property situated in the County of Jefferson County, State of Texas, which property is described and depicted in Exhibit "A", which by this reference is made a part hereof, and which property has been submitted to the provisions of the Condominium Ownership Act of the State of Texas.

2. All present or future owners, tenants, future tenants, or any other person that might use the facilities of the project in any manner, are subject to the regulations set forth in these By-Laws. The mere acquisition or rental of any of the condominium units (hereinafter referred to as "units") of the project or the mere act of occupancy of any of said units will signify that these By-Laws are accepted, ratified and will be complied with.

ARTICLE II:

MEMBERSHIP, VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

1. MEMBERSHIP. Any person on becoming an owner of a condominium 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 condominium 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 the condominium regime established by the foregoing Declaration, during the period of such ownership and membership in this "Association", or impair the rights or remedies which the Board of Managers or the "Association" or others may have against such former owner and member arising out of or in any way connected with such ownership and membership, and the covenants and obligations incident thereto. No certificates of stock shall be issued by the "Association", but the Board of Managers may, if it so elects, issue one (1) membership card to the owner(s) of a condominium unit. Such membership card shall be surrended to the Secretary whenever ownership of the condominium unit designated thereon shall terminate.

2. VOTING. Voting shall be based upon the percentage of the undivided interest of each unit owner in the general common elements. An owner of an undivided fractional interest in and to a condominium unit shall be entitled to a vote equal to his fractional ownership interest in such unit. Cumulative voting is prohibited.

3. MAJORITY OF UNIT OWNERS. As used in these By-Laws, the term "majority of unit owners" shall mean the unit owners with Fifty-One (51%) per cent or more of the votes weighed so as to coincide with the percentages assigned in the Declaration.

4. QUORUM. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a "majority of unit owners" as defined in Paragraph 3 of this Article shall constitute a quorum.

5. PROXIES. Votes may be cast in person or by proxy. Proxies may be filed with the Secretary before the appointed time of each meeting.

ADMINISTRATION

1. ASSOCIATION RESPONSIBILITIES. The owners of the units will constitute the Association of Unit Owners, hereinafter referred to as "Association," who will have the responsibility of administering the project through a Board of Managers.

2. PLACE OF MEETINGS. Meetings of the Association shall be held at such place as the Board of Managers determine.

3. ANNUAL MEETINGS. The first annual meeting of the Association shall be held on or before one (1) year after the date hereof. Thereafter, the annual meetings of the Association shall be held on the 4th Monday of whatever month the first annual meeting is held in, as that month comes around each succeeding year. At such meetings there shall be elected by ballot of the owners a Board of Managers in accordance with the requirements of Paragraph 5 of Article IV of these Regimes. The owners may also transact other business of the Association as may properly come before them.

4. SPECIAL MEETINGS. It shall be the duty of the President to call a Special Meeting of the owners as directed by Resolution of the Board of Managers, or upon a petition signed by a majority of the owners and having been presented to the Secretary. The notice of any Special Meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a Special Meeting except as stated in the notice unless by consent of four-fifths (4/5) of the owners present, either in person or by proxy.

5. NOTICE OF MEETINGS. It shall be the duty of the Secretary to mail a notice of each annual or Special Meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each owner of record at least five (5) but not more than ten (10) days prior to such meeting. The mailing of a notice in the manner provided in this paragraph shall be considered notice served.

6. ADJOURNED MEETING. If any meeting of owners cannot be organized because a quorum has not attended, the owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

7. ORDER OF BUSINESS. The order of business at all meetings of the owners of units shall be as follows:

(a) Roll call;
(b) Proof of Notice of Meeting or Waiver of Notice;
(c) Reading of Minutes of preceding meeting;
(d) Reports of Officers;
(e) Reports of Committees;
(f) Election of Managers;
(g) Unfinished business;
(h) New business.

ARTICLE IV

BOARD OF MANAGERS

1. NUMBER AND QUALIFICATIONS. The affairs of this Association shall be governed by a Board of Managers composed of three (3) persons. The following persons shall act in such capacity and shall manage the affairs of the Association until one (1) year after the date hereof, unless all of the units of this regime are leased or sold prior to the end of such year at which earlier time they will have the option to cease being members of the Board of Managers or unless their successors are elected prior to the end of such year, to-wit:

L. M. FULBRIGHT, EDWIN J. TERRY, and LARRY W. SPILLMAN

BY-LAWS
OF
COLLIER SQUARE TOWNHOMES NUMBER II

ARTICLE I:

OBJECT
(Plan of Unit Ownership)

1. The purpose for which this Non-Profit Association is formed is to govern the condominium property situated in the County of Jefferson County, State of Texas, which property is described and depicted in Exhibit "A", which by this reference is made a part hereof, and which property has been submitted to the provisions of the Condominium Ownership Act of the State of Texas.

2. All present or future owners, tenants, future tenants, or any other person that might use the facilities of the project in any manner, are subject to the regulations set forth in these By-Laws. The mere acquisition or rental of any of the condominium units (hereinafter referred to as "units") of the project or the mere act of occupancy of any of said units will signify that these By-Laws are accepted, ratified and will be complied with.

ARTICLE II:

MEMBERSHIP, VOTING, MAJORITY OF
OWNERS, QUORUM, PROXIES

1. MEMBERSHIP. Any person on becoming an owner of a condominium 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 condominium 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 the condominium regime established by the foregoing Declaration, during the period of such ownership and membership in this "Association", or impair the rights or remedies which the Board of Managers or the "Association" or others may have against such former owner and member arising out of or in any way connected with such ownership and membership, and the covenants and obligations incident thereto. No certificates of stock shall be issued by the "Association", but the Board of Managers may, if it so elects, issue one (1) membership card to the owner(s) of a condominium unit. Such membership card shall be surrended to the Secretary whenever ownership of the condominium unit designated thereon shall terminate.

2. VOTING. Voting shall be based upon the percentage of the undivided interest of each unit owner in the general common elements. An owner of an undivided fractional interest in and to a condominium unit shall be entitled to a vote equal to his fractional ownership interest in such unit. Cumulative voting is prohibited.

3. MAJORITY OF UNIT OWNERS. As used in these By-Laws, the term "majority of unit owners" shall mean the unit owners with Fifty-One (51%) per cent or more of the votes weighed so as to coincide with the percentages assigned in the Declaration.

4. QUORUM. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a "majority of unit owners" as defined in Paragraph 3 of this Article shall constitute a quorum.

5. PROXIES. Votes may be cast in person or by proxy. Proxies may be filed with the Secretary before the appointed time of each meeting.

ADMINISTRATION

1. ASSOCIATION RESPONSIBILITIES. The owners of the units will constitute [illegible] owners, hereinafter referred to as "Association," who [illegible] of administering the project through a Board of [illegible]

2. [illegible] Meetings of the Association shall be held at such [illegible] determine.

3. [illegible] The first annual meeting of the Association shall be [illegible] after the date hereof. Thereafter, the annual [illegible] shall be held on the 4th Monday of whatever month [illegible] so that [illegible] around each succeeding [illegible] shall be elected by [illegible] of the owners a Board [illegible] the requirements of Paragraph 5 of Article IV of [illegible] also transact other business of the Association [illegible]

4. [illegible] It shall be the duty of the President to call a [illegible] as directed by Resolution of the Board of [illegible] signed by a majority of the owners and having been [illegible] The notice of any Special Meeting shall state the [illegible] and the purpose thereof. No business shall be [illegible] except as stated in the notice unless by consent [illegible] of the owners present, either in person or by proxy.

5. NOTICE OF MEETINGS. It shall be the duty of the Secretary to mail a notice of each Annual or Special Meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each owner of record at least five (5) but not more than ten (10) days prior to such meeting. The mailing of a notice in the manner provided in this paragraph shall be considered notice served.

6. ADJOURNED MEETING. If any meeting of owners cannot be organized because a quorum has not attended, the owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

7. ORDER OF BUSINESS. The order of business at all meetings of the owners of units shall be as follows:

(a) Roll call;
(b) Proof of Notice of Meeting or Waiver of Notice;
(c) Reading of Minutes of preceding meeting;
(d) Reports of Officers;
(e) Reports of Committees;
(f) Election of Managers;
(g) Unfinished business;
(h) New business.

ARTICLE IV

BOARD OF MANAGERS

1. NUMBER AND QUALIFICATIONS. The affairs of this Association shall be governed by a Board of Managers composed of three (3) persons. The following persons shall act in such capacity and shall manage the affairs of the Association until one (1) year after the date hereof, unless all of the units of this regime are leased or sold prior to the end of such year at which earlier time they will have the option to cease being members of the Board of Managers or unless their successors are elected prior to the end of such year, to-wit:

L. M. FULBRIGHT, EDWIN J. TERRY, and LARRY W. SPILLMAN

[illegible] The Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Association and for the operation and maintenance of a first-class Residential Condominium Project. The Board of Managers may do all such acts and things as are not by these Bylaws or by the foregoing Condominium Declaration directed to be exercised and done by the owners.

[illegible] AND DUTIES. The Board of Managers shall be empowered and shall have the duties as follows:

(a) To administer and enforce the covenants, conditions, restrictions, uses, limitations, obligations, and all other provisions set forth in the Condominium Declaration [illegible] the property to the provisions of the Condominium Ownership Act of the State of Texas.

(b) To establish, make and enforce compliance with such reasonable house rules as may be necessary for the operation, use and occupancy of this condominium 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 member promptly upon the adoption thereof.

(c) To keep in good order, condition and repair all of the general and limited common elements and all items of personal property used in the enjoyment of the entire premises.

(d) To insure and keep insured all of the insurable general common elements of the property in an amount equal to their maximum replacement value as provided in the Declaration. Maximum replacement value shall be determined annually by one (1) or more written appraisals. The type and kind of such insurance contracts shall be determined by what a majority of the unit owners direct. Further, to obtain and maintain an owners, landlord and tenant comprehensive liability insurance policy covering the entire premises in amounts not less than ONE HUNDRED THOUSAND AND NO/100 ($100,000.00) DOLLARS per person and THREE HUNDRED THOUSAND AND NO/100 ($300,000.00) DOLLARS per accident and FIFTY THOUSAND AND NO/100 ($50,000.00) DOLLARS property damages and also such other types and kinds of insurance covering such other risks as a majority of the unit owners shall direct. 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 condominium units and their first mortgagees.

(e) To fix, determine, levy and collect the monthly pro-rated 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 expense, or because of emergencies. All monthly or other assessments shall be in itemized statement form and shall set forth the detail of the various expenses for which the assessments are being made.

(f) To collect delinquent assessments by suit or otherwise and to enjoin or seek damages from an owner as is provided in the Declaration and these by Laws.

(g) To protect and defend the entire premises from loss and damage by suit or otherwise.

[illegible]

(i) [illegible] contracts within the scope of their [illegible]

(j) [illegible] a bank account for the common [illegible] and for all separate funds which are required, [illegible] by the Board of Managers.

(k) [illegible] full and accurate books and [illegible] of the receipts, expenses or [illegible] examination thereof at any [illegible] of the owners, and to cause a [illegible] and accounts by a competent [illegible] once each year.

(l) [illegible] annually to each owner a [illegible] all receipts, expenses or disbursements [illegible] statement.

(m) [illegible] once each quarter.

(n) To [illegible] the personnel necessary for the maintenance [illegible] of the general and limited common [illegible]

(o) In general to carry on the administration of this Association and to do all of those things necessary [illegible] in order to carry out the communal aspect of Condominium ownership.

4. MANAGING AGENT. The Managing Agent shall be Declarant in the foregoing Declaration or whatever person or entity to whom such Declarant for purposes of [illegible] all his units in this regime which at the time of such [illegible] not sold to owner occupants and such Managing Agent shall have [illegible] and shall perform the duties of the Board of Managers until [illegible] after the date hereof, unless all units in this regime are leased [illegible] to the end of such year at which earlier time Declarant shall have [illegible] to cease being such Managing Agent. Declarant will receive no [illegible] for serving as Managing Agent. Subsequent to one (1) year after [illegible] hereof, or subsequent to the lease or sale of all units in this regime, [illegible] first in time, the Board of Managers may employ for the [illegible] a Managing Agent at a compensation to be established by the Board [illegible] such duties and services as the Board shall authorize including, but not limited to, the duties listed in Paragrpah 3 of this Article, but such subsequently employed Managing Agent may not be Declarant unless Declarant is to serve without compensation.

5. ELECTION AND TERM OF OFFICE. At the first annual meeting of the Association the term of office of one (1) Manager shall be fixed for three (3) years. The term of office of one (1) Manager shall be fixed at two (2) years, and the term of office of one (1) Manager shall be fixed at one (1) year. At the expiration of the initial term of office of each respective Manager, h[illegible] successor shall be elected to serve a term of three (3) years. The three (3) persons acting as Managers shall hold office until their successors have been elected and hold their first meeting.

6. VACANCIES. Vacancies on the Board of Managers caused by any reason other than the removal of a Manager by a vote of the Association shall be filled by vote of the majority of the remaining Managers, even though they may constitute less than a quorum, and each person so elected shall be a Manager until a successor is elected at the next annual meeting of the Association.

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

8. FIRST ORGANIZATIONAL MEETING. The first meeting of a newly elected Board of Managers shall be held within ten (10) days of election at such place as shall be fixed by the Managers at the meeting at which such Managers were elected, and no notice shall be necessary to the newly elected Managers in order legally to constitute such meeting, providing a majority of whole Board shall be present.

9. REGULAR MEETINGS. Regular meetings of the Board of Managers may be held at such time and place as shall be determined from time to time, by a majority of the Managers, but at least four (4) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Managers shall be given to each Manager, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

10. SPECIAL MEETING. Special meetings of the Board of Managers may be called by the President on three (3) days' notice to each Manager, 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 Managers shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Managers.

11. WAIVER OF NOTICE. Before or at any meeting of the Board of Managers, any Manager may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Manager at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

12. BOARD OF MANAGER'S QUORUM. At all meetings of the Board of Managers, a majority of the Managers shall constitute a quorum for the transaction of business, and the acts of the majority of the Managers present at a meeting at which a quorum is present shall be the acts of the Board of Managers. If, at any meeting of the Board of Managers, 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.

13. FIDELITY BONDS. The Board of Managers may require that all officers and employees of the Association handling or responsible for Association funds, shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Association.

ARTICLE V

OFFICERS

1. DESIGNATION. The officers of the Association shall be a President, a Secretary, and a Treasurer, all of whom shall be elected by and from the Board of Managers.

2. [illegible] OF OFFICERS. The officers of the Association shall be elected [illegible] by the Board of Managers at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

3. [illegible] OF OFFICERS. Upon an affirmative vote of a majority of the [illegible] Board of Managers, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Managers, or at any special meeting of the Board called for such purposes.

4. 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 Managers. 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.

5. SECRETARY. The Secretary shall keep all the Minutes of all meetings of the Board of Managers and the Minutes of all meetings of the Association; he shall have charge of such books and papers as the Board of Managers may direct; and he shall, in general, perform all the duties incident to the office of Secretary.

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 list shall also show opposite each member's name the number or other appropriate designation of the apartment unit owned by such members and the garage or parking space and storage space assigned for use in connection with such apartment unit. Such list shall be open to inspection by members and other persons lawfully entitled to inspect the same at reasonable time during regular business hours.

6. 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 depositaries as may from time to time be designated by the Board of Managers.

ARTICLE VI

INDEMNIFICATION OF OFFICERS AND MANAGERS

The Association shall indemnify every Manager or Officer, his heirs, executors and administrators, against all loss, costs and expense, including counsel fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a Manager or Officer of the Association, except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful

[illegible] in the performance of his duty for such damage or injury to relatives of the person involved. The foregoing rights shall not be exclusive of other rights to which such manager or director may be entitled. All liability, loss, damage, cost and expense incident to or arising by reason of [illegible] in connection with the foregoing indemnification provisions shall be charged and paid by the Association as common expenses, provided, however, that nothing in this Article VI contained shall be deemed to obligate the Association to indemnify any member or owner of a condominium unit, who is [illegible] or officer of the Association, with respect to any duties or obligations assumed or liabilities incurred by him under and by virtue of the [illegible] Association as a member or owner of a Condominium unit covered hereby.

ARTICLE VII

OBLIGATIONS OF THE OWNER

1. Assessments. All owners, upon completion of the purchase thereof, or occupancy by such owner or tenant, whichever occurs first shall be obligated to pay the monthly assessments imposed by the Association to meet the common expenses. The assessments shall be made pro-rata according to percentage interest in and to the general common elements and shall be due monthly in advance. A member shall be deemed to be in good standing and entitled to vote at any annual or a Special Meeting of members, within the meaning of these By-Laws, if and only if he shall have fully paid all assessments made or levied against him and the Condominium unit owned by him.

2. MAINTENANCE AND REPAIR.

(a) Every owner must perform promptly at his own expense all maintenance and repair work within his own unit, which if omitted would affect the project in its entirety, or in a part belonging to other owners.

(b) All the repairs of internal installations of each unit such as water, light, gas power, sewage, telephone, air conditioners, sanitary installations, electrical fixtures and all other accessories, equipment and fixtures belonging to the unit area shall be at the expense of each unit's owner. External installations of each unit such as electric lines, wires, conduits or systems and heating and air conditioning systems shall be maintained by the owner of the unit exclusively served by same. An owner shall also maintain all the plumbing serving exclusively his unit, and maintenance of sewer lines serving more than one unit and running from the end of a unit's single sewer line to the point where such sewer line becomes the property of the City of Beaumont, shall be "common expenses."

(c) Damage to exterior doors and windows shall be repaired by and at the expense of the owner, provided, however, if such damage or loss is covered by insurance, such owner shall be entitled to reimbursement to the extent of the insurance payment. Replacement or repair of exterior doors or windows required because of ordinary wear and tear and deterioration shall be paid for out of the assessments levied and collected by the Board of Managers.

(d) 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 element damaged by his negligence or by the negligence of his tenants or agents.

[illegible] ... [illegible] ... [illegible] ... [

8. RULES AND REGULATIONS.

(a) All owners shall promptly and completely comply with each of the rules and regulations herein contained or hereafter properly adopted for the utilization of any recreational facilities that may be afforded. All owners and their guests shall achieve maximum utilization of such facilities consonant with the rights of each of the owners thereto.

(b) Nothing shall be done in any unit, nor shall same be occupied or used for any purpose, nor shall any commodity, product, or personal property be [illegible] or thereon, which shall cause such improvements to be uninsurable against loss by fire, by the perils included in an extended coverage endorsement under the rules of the State of Texas Insurance Commission, or which might cause [illegible] policy or policies covering said premises to be cancelled or [illegible] company.

(c) Owners and occupants of units shall at all times exercise extreme [illegible] to be made loud or objectionable noises in [illegible] to disturb owners, tenants, or other [illegible] units in the condominium regime established by the [illegible]. No unit shall be used or occupied in such manner as to [illegible] with the enjoyment of occupants of adjoining units, nor shall any [illegible], or immoral or illegal activity be committed or permitted to occur in or on any unit or upon any part of the common elements of the condominium regime established by the foregoing Declaration.

(d) The common area is intended for use for the purpose of affording vehicular and pedestrian movement within the condominium, and of providing access to the units. No part of the common area shall be obstructed so as to interfere with its use for the purposes hereinabove recited, nor shall any part of the common area (common elements) be used for general storage purposes after the completion of the construction of the units by developer, nor anything done thereon in any manner which shall increase the rate for hazard and liability insurance covering said area and improvements situated thereon.

(e) No owner or tenant of a condominium unit shall post any advertisements, signs, or posters of any kind in or on the project except as authorized by the "Association".

(f) Garages and storage areas shall at all times be kept free of an unreasonable accumulation of debris and rubbish of any kind. Parking of automobiles or other vehicles shall be only in the spaces designated as parking space for each unit. No unattended automobiles or other vehicles shall at any time be left in the alleyways or driveways or streets in such manner as to impede the passage of traffic or to impair proper access to parking areas.

(g) No owner or lessee shall install wiring for electrical or telephone installation, television antennae, machines or air conditioning units or any other devices whatsoever on the exterior of the project or that protrude through the walls or out of the windows, or on the roof of the project save as are expressly in writing previously approved by the "Association".

(h) No owner or other occupant of any condominium unit shall make any alteration or improvement to the common elements of the condominium or remove any planting, structure, furnishings or other equipment or object therefrom except with the written consent of the "Association".

9. DESTRUCTION OR OBSOLESCENCE. Each owner shall, upon becoming an owner of a condominium unit, execute a power of attorney in favor of "Association", irrevocably appointing the "association" his attorney-in-fact to deal with the owner's condominium unit upon its destruction or obsolescence as is provided in Paragraph 29 of the foregoing Condominium Declaration.

ARTICLE VIII

AMENDMENTS TO PLAN OF APARTMENT OWNERSHIP

1. BY-LAWS. These By-laws may be amended by the "Association" at a duly constituted meeting for such purpose, and no amendment shall take effect unless approved by owners representing at least seventy (70%) percent of the aggregate interest of the undivided ownership of the general common elements.

ARTICLE IX

MORTGAGES

1. NOTICE OF "ASSOCIATION". An owner who mortgages his unit shall notify the "Association" through the Managing Agent, if any, or the President of the Board of Managers, giving the name and address of his mortgagee. The "Association" shall maintain such information in a book entitled "Mortgagees of Units".

2. NOTICE OF DEFAULT. The "Association" shall give to the holder of each [illegible] written notification of any default by the mortgagor of [illegible] mortgagor's obligations under these By-laws [illegible] which is not cured within thirty (30) days and [illegible] shall be entitled to receive such written [illegible] shall allow all first mortgagees of a unit to [illegible] of the condominium project. The "Association" [illegible] Mortgage Corporation notice (care of the Servicer [illegible]) in writing of any loss to, or taking of, the common [illegible] of the Condominium project if such loss or taking exceeds TEN THOUSAND & NO/100 ($10,000.00) DOLLARS.

ARTICLE X

COMPLIANCE

These By-laws are set forth to comply with the requirements of the State of Texas Condominium Ownership Act. If any of these By-laws conflict with the provisions of said statute, it is hereby agreed and accepted that the provisions of the statute will apply.

ARTICLE XI

This "Association" is not organized for profit. No member, member of the Board of Managers or persons 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 thereof, 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 Managers; provided, however, always (1) that reasonable compensation may be paid to any member other than Declarant 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 of the Board of Managers 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 XII

The Registered Office and the Principal Office for the transaction of business of this "Association" shall be AMERICAN REAL ESTATE, 985 I.H. 10 North, P.O. Box 7466, Beaumont, Texas, 77706, and the Registered Agent shall be L. M. FULBRIGHT.

ARTICLE XIII

The persons who shall be authorized to execute any and all instruments of conveyance or encumbrances, including promissory notes, shall be the President and the Secretary of this "Association".

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals at Beaumont, Texas, this the [illegible] day of [illegible]

[illegible]

[illegible]

FILED FOR RECORD

1078341

COUNTY CLERK
JEFFERSON COUNTY, TEXAS

APR 9 8 00 AM '81

STATE OF TEXAS
COUNTY OF JEFFERSON

I hereby certify that this instrument was FILED for RECORD on the date and at the time stamped hereon; and duly RECORDED without delay in the Volume and Page of the above named RECORDS of Jefferson County, Texas as stamped hereon by me.

COUNTY CLERK
JEFFERSON COUNTY, TEXAS