

AMENDED
DECLARATION
&
BI-LAWS
OF
LA MIRAGE
CONDOMINIUMS

AMENDED
DECLARATION
OF
LA MIRAGE CONDOMINIUMS

THIS DECLARATION is made and executed effective the 22nd day of January, 1999 (the effective date of this Declaration), by LA MIRAGE HOMEOWNERS ASSOCIATION, a Texas, Membership, Non-Profit Corporation ("Association"), pursuant to the provisions of the Texas Condominium Act, Chapter 81, *Texas Property Code* (the "Act") for the purpose of amending by revocation certain documents filed of record in the real property records of the Nueces County Clerk governing the La Mirage Condominium regime, and replacing said revoked documents with this Declaration and the Corporate Bylaws hereto attached and hereby adopted.

WITNESSETH:

WHEREAS, the Association is a nonprofit, membership Texas corporation consisting of all owners of units in La Mirage Condominiums;

WHEREAS, the property which constitutes the La Mirage Condominium regime is the same property as is described on the Plat attached to, and/or filed with, and as part of "The Windjammer Condominiums Documents" which are described in the next paragraph;

WHEREAS, the Windjammer Condominiums Documents were filed for record on November 15, 1983, in the Condominium Records of Nueces County, Texas, at Volume 22, pages 539 et seq., which documents include the following:

- A. A cover page at page 539;
- B. A Declaration and Master Deed, from pages 540 through 545;
- C. Articles of Incorporation of the Windjammer Association, from pages 546 through 549 (this document was deleted by the "Amendment to Condominium Document," hereinafter described);
- D. Condominium Bylaws, from pages 550 through 570;
- E. Corporate Bylaws, from pages 571 through 582;
- F. Legal description of the Project Land, at page 583 ; and
- G. Maps filed in the miscellaneous Map Records of the Nueces County Clerk, at Vol. 8, pages 32-46 (see reference to these maps at end of page 583 aforesaid).

WHEREAS, an "Amendment to Condominium Document" was filed for record on September 10, 1990, in the Condominium Records of Nueces County, Texas, at Volume 27, pages 482 through 492 (this document renamed the Condominium Development and the Association from "Windjammer" to "La Mirage" and amended certain sections of the Windjammer Condominiums documents described above and deleted the Articles of Incorporation of Windjammer Association);

WHEREAS, the Articles of Incorporation of La Mirage Homeowners Association were filed on August 24, 1990, under Charter No. 1163867-1, in the Office of the Secretary of State of the State of Texas, which Articles were created and filed with the Secretary of State Office pursuant to the "Amendment to Condominium Document" described above and replaced the Articles of Incorporation of Windjammer Association;

WHEREAS, the Association desires by recording this Declaration, together with the Bylaws hereto attached to affirm the establishment of La Mirage as a Condominium Project known as "La Mirage Condominiums" under the provisions of the Act, and to amend the governing documents by revoking certain of the governing documents and replacing them with new governing documents as more specifically stated hereinafter;

WHEREAS, it is provided in the original 1983 condominium documents, as amended in 1990, that said documents can be amended as follows: the 1983 Declaration and Master Deed, at Section 13, provides that it can be amended by the affirmative vote of 67% of the ownership interests; Section 9.02 of the 1983 Condominium Bylaws and Section 8.11 of the 1983 Corporation Bylaws, both as amended in 1990 by the Amendment to Condominium Document above described, provide that each of them can be amended by the affirmative vote of a majority of the ownership interest;

WHEREAS, on January 22, 1999, at a special meeting of the Owners, which meeting was duly called, noticed and held, at which a quorum, as defined at Section 1.03(f) of the 1983 Condominium Bylaws and Section 4.06 of the 1983 Corporate Bylaws, was present, 69.3% of the ownership interest in the entire Condominium Project approved and adopted this Declaration and the attached Bylaws.

NOW, THEREFORE, the Association, acting for and on behalf of itself, its members and the Owners of all apartments in La Mirage Condominium project, does hereby affirm the establishment and existence of La Mirage Condominiums, as a condominium project, under the Act and declares as follows:

- I. Except to the extent expressly stated otherwise herein, the following documents are revoked:
 - A. the Declaration and Master Deed filed for record on November 15, 1983, in the Condominium Records of Nueces County, Texas, at Volume 22, pages 540 through 545;
 - B. the Condominium Bylaws filed of record on November 15, 1983, in the Condominium Records of Nueces County, Texas, pages 550 through 570;
 - C. the Corporate Bylaws filed of record on November 15, 1983, in the Condominium Records of Nueces County, Texas, pages 571 through 582;
2. Except insofar as it revoked the Articles of Incorporation of Windjammer Association and substituted or provided for the substitution of new articles of incorporation for the renamed La Mirage Homeowners Association, and except to the extent expressly stated otherwise herein, because the documents which it amended are hereby revoked, rendering the Amendment to Condominium document unnecessary, the "Amendment to Condominium Document" filed for record on September 10, 1990, in the Condominium

Records of Nueces County, Texas, at Volume 27, pages 482 through 492 is revoked;

3. The La Mirage Condominiums shall be held, conveyed, hypothecated, encumbered, leased, rented, occupied, improved, and in any other manner utilized, subject to the provisions of the Act and to the covenants, conditions, restrictions, uses, limitations, and affirmative obligations set forth in this Declaration and the Bylaws attached hereto which shall be deemed to run with all and every portion of La Mirage Condominiums and shall be binding upon the Association, its successors and assigns, and any persons who now own or who in the future acquire any interest in La Mirage Condominiums, their grantees, successors, heirs, executors, administrators, and assigns.

ARTICLE I

DEFINITIONS

Section 1.01 - Definitions. As used herein, unless the context otherwise requires:

- A. "Act" means the "Condominium Act" of the State of Texas, Chapter 81, Texas Property Code.
- B. "Apartment" means one of the 120 separate Apartment spaces into which the Apartment Building or Buildings are divided for individual use and ownership.
- C. "Apartment Building or Buildings" means the building or buildings located on the Project Land and containing 120 apartments.

D. "Association," "Council," "Council of Co-owners," and "Corporation" mean La Mirage Homeowners Association, Inc., a membership, nonprofit, Texas Corporation, composed of all persons owning apartments in La Mirage Condominium project, which corporation shall administer the operation and management of La Mirage Condominiums as a Condominium Project.

E. "Bylaws" means the Bylaws of La Mirage Homeowners Association attached hereto as an Exhibit.

F. "Common Elements" means all portions of the Project Property, except the Apartments. The Common Elements shall consist of both "General Common Elements" and "Limited Common Elements" as hereinafter defined at Section 2.03.A. and B.

G. "Common Expenses" means the expenses as provided for by this Declaration and the Bylaws attached hereto that each Apartment Owner is liable for in proportion to his percentage ownership interest in the Common Elements; all expenditures made and liabilities incurred by the Association for maintenance, repair, operation, management, and administration; all expenses declared common expenses by this Declaration or the Bylaws; and all sums lawfully assessed by the Association against Owners, including, but not limited to, all amounts assessed against an Owner for repairs made by the Association at the expense of such Owner, or as a fine against such Owner; all fees, costs and expenses, including attorney fees, incurred by the Council in the enforcement of the Bylaws or Declaration.

H. "Common Fund" means all funds collected by reason of assessments of the Apartment Owners, or otherwise received from the Apartment Owners, and all funds

received for the use and benefit, or the account, of the Apartment Owners (whether derived from insurance proceeds or any other source).

I. "Condominium Project" means the real estate condominium project established by this Declaration.

J. "Declaration" means this instrument and all exhibits attached hereto or incorporated herein by reference by which the Project Property is submitted to the provisions of the Act, and such Declaration as it may be from time to time lawfully amended.

K. "General Common Elements" means all of the Common Elements as described at Section 2.03.A. hereof, except the Limited Common Elements as described at Section 2.03.B. hereof.

L. "Limited Common Elements" means and shall consist of only those Common Elements described at Section 2.03.B. hereof.

M. "Member," "Owner," "Unit Owner" or "Owner of an Apartment Unit" and similar expressions mean the person or persons whose estates or interest, individually, jointly or collectively, aggregate legal, fee simple, absolute ownership of record of an Apartment Unit and who are members of the Association, but excluding lienholders and those holding legal title under a deed of trust.

N. "Person" means an individual, corporation, partnership, trustee or other legal entity capable of holding title to real estate.

O. "Plat" means: (1) Exhibit B filed of record in the Condominium Records of the Nueces County, Texas Clerk, at Vol. 22, page 583 of such records, which exhibit contains

a metes and bounds description of the project land and (2) the maps recorded in the Miscellaneous Map Records of the Nueces County Clerk, at vol. 8, pages 32-46, which maps were attached to and/or filed with and as a part of the original Windjammer Condominium documents filed of record in the Condominium Records of the Nueces County Clerk at Volume 22, pages 539 et seq., and contain and show, among other things, a survey of the Project Property showing the location of the improvements on the Project Land, including the Apartment Building or Buildings, and a general description and drawing of each Apartment showing its apartment number, building location, floor, and area, as amended by the Amendment to Condominium Document filed of record in the Condominium Records of the Nueces County Clerk at Volume 27, page 482, and as further amended by any lawfully made and recorded documents, if any, reallocating Limited Common Element parking spaces or storage closets in accordance with the prior governing documents of the condominium project which allowed such reallocation.

P. "Project Land" means the land described on the Plat, excluding the improvements thereon, more particularly the land described on Exhibit B filed of record in the Condominium Records of the Nueces County Clerk, at Vol. 22, page 583.

Q. "Project Property" means the Project Land and all improvements, buildings, structures, facilities, fixtures and equipment erected, constructed, placed or contained on or in the Project Land.

R. "Unit" or "Apartment Unit" means an estate or property comprised of an Apartment, as described in the Declaration, together with the undivided interest in the Common Elements allocated and appurtenant to such Apartment.

ARTICLE II
PROJECT PROPERTY
DESCRIPTION AND OWNERSHIP
USE AND MAINTENANCE

Section 2.01 - Land and Building. The Project Land and improvements, including the Apartment Building, are described in the Plat.

Section 2.02 - Apartments. The Apartments are described as follows:

- A. Type. The following are the types of Apartments in the Condominium Project:
1. Efficiency. An efficiency is composed of a combination bedroom, living room and dining room, kitchen, one deck, utility room and one bath.
 2. Two-Bedroom. A two-bedroom unit is composed of two bedrooms, combination living and dining room, kitchen, one deck, two baths, and utility room.
 3. Three-Bedroom. A three-bedroom unit is composed of three bedrooms, combination living and dining room, kitchen, one deck, two baths, and utility room.
- B. Number, Type, Square Footage and Location of Apartments. The number, type, square footage and location of each of the Apartments are shown on the Plat. All information thereon is incorporated herein by reference to the Plat.
- C. Boundaries and Composition. An apartment is an enclosed dwelling space that consists of one or more rooms in a building and has a direct exit to a thoroughfare or to a Common space that leads to a thoroughfare. The boundaries of each Apartment are

the interior surfaces of the perimeter walls, floors, ceilings, windows and doors of such space and the exterior surfaces of balconies or terraces appurtenant to each Apartment. Each Apartment includes both the portions of the Apartment Building as described and the space so encompassed, all fixtures, appliances, equipment, and improvements therein contained, but does not include any of the structural components of the building or other Common Elements passing through such space and serving other Apartments. Each Apartment shall include the interior construction which is not designed or intended for the support, use or enjoyment of any other Apartment.

D. Shortage or Discrepancy. The square footage, size and dimensions of each Apartment as set out or shown in this Declaration or in the Plat are approximate and are shown for descriptive purposes only. There is no warranty, guarantee or representation that any Apartment actually contains the area, square footage or dimensions so shown or set out.

E. Legal Description. The legal description of each Apartment Unit may consist of the identifying symbol of the Apartment and identification by name or other designation of the Apartment Building, all as shown on and with reference to the Plat.

Section 2.03 - Common Elements.

A. General Common Elements. The General Common Elements shall consist of all of the Project Property, except the individual Apartments and the Limited Common Elements. Unless and except to the extent expressly declared to be part of the Apartments or Limited Common Elements elsewhere herein, the General Common Elements shall include, but are not limited to, the following:

1. The Project Land;
2. The foundations, bearing walls and columns (including any windows and doors therein), roofs, ceilings and floors, halls, lobbies, garbage and storage rooms and thoroughfares, such as stairways, of the buildings located on the Project Land;
3. The compartments or installations of central services such as power, light, electricity, telephone, gas, cold and hot water, plumbing, reservoirs, water tanks and pumps, incinerators, and the like, and all similar devices and installations existing for common use;
4. The premises and facilities, if any, used for the maintenance or repair of the Condominium Project;
5. Common recreational facilities, such as the swimming pool, tennis courts and the grounds, yards, hot tubs, saunas, playground, and walkways;
6. The elevators and shafts;
7. The parking facilities;
8. The meeting and recreational rooms;
9. The manager's office;
10. The storage units;
11. All other elements desirable or rationally of common use or necessary to the existence, upkeep, and safety of the Condominium Project;
12. The Common Fund.

B. Limited Common Elements. Certain parts of the Common Elements herein called and designated as "limited common elements," are hereby set aside and reserved for the exclusive use of certain Apartments, and such Apartments shall have appurtenant thereto an exclusive easement for the use of such limited common elements. The limited common elements so set aside and reserved are:

1. Those rationally of use for only one Apartment, such as windows, main entry doors, balcony doors, balcony railings, and the pipes, compressor, and other air conditioning equipment servicing a particular Apartment; and
2. Those designated on the Plat as being limited or reserved for the use of one, or more than one but less than all Apartments, which designations show the numbers of such Apartments, such as parking spaces and certain storage closets. Such limited common element parking spaces and storage closets, may be reallocated by Owners of the Apartments to which the same are appurtenant; provided that such limited common elements must remain appurtenant to an Apartment, and, therefore, may not be reallocated to any person or entity which is not an Owner. Such reallocation shall be effected by a recorded assignment executed by Owners between or among whose Apartments the reallocation is made; and a copy of such recorded assignment shall be furnished to the Association, whereupon the Plat shall be deemed amended to reflect such reallocation.

C. Ownership of the Common Elements. Each Owner of an Apartment shall own, as a tenant-in-common, the undivided percentage, ownership interest in the Common

Elements shown below. The percentages of ownership interest in the Common Elements so allocated to the respective Apartments are based on the enclosed living area of each such Apartment as described herein. Such percentage of ownership allocated to each apartment shall remain fixed and constant. The same cannot be changed except by the written consent of each and every Owner and mortgagee of an Apartment Unit in this Condominium Project, duly executed, acknowledged and filed for record as an amendment to this Declaration. The ownership interest in the Common Elements shall remain undivided and shall not be the object of an action for partition or division of the co-ownership so long as the Project Property is suitable for a Condominium Regime. The ownership interest in the Common Elements allocated to each Apartment shall not be separated therefrom or separately sold, conveyed, encumbered or otherwise separately disposed of, and each interest in the Common Elements shall follow the respective Apartment to which it is allocated, and shall be deemed to be conveyed or encumbered with its respective Apartment to which it is allocated even though the description in the instrument of conveyance or encumbrance shall refer only to the Apartment.

<u>APARTMENT NUMBER</u>	<u>APARTMENT TYPE</u>	<u>NUMBER OF SQUARE FEET IN EACH APARTMENT</u>	<u>PERCENTAGE INTEREST ASSIGNED TO EACH APARTMENT</u>	<u>TOTAL PERCENTAGE</u>
101 THRU 112	A'	1250	.95	11.40
114 THRU 118	A'	1250	.95	4.75
119 THRU 130	A	1250	.95	11.40
201 THRU 212	B'	1040	.80	9.60
214 THRU 218	B'	1040	.80	4.00

219 THRU 230	B	1040	.80	9.60
231 THRU 239	A'	1250	.95	8.55
301 THRU 312	C'	1040	.80	9.60
314 THRU 318	C'	1040	.80	4.00
319 THRU 330	C	1040	.80	9.60
331 THRU 339	B'	1040	.80	7.20
431 THRU 439	C'	1040	.80	7.20
100, 200	D	645	.51	1.02
300	D	645	.52	.52
140, 240, 340	D'	700	.52	<u>1.56</u>
				100.00

If units 100, 200 and 300 are misnumbered on the Plat as 141, 241 and 341, they are hereby corrected.

Section 2.04 - Maintenance, Repair, Alteration, Modification and Replacement and Use: Rights and Responsibilities. Notwithstanding the ownership of the various portions of the Condominium Project by virtue of the descriptions of the Apartment and the Common Elements, the provisions of the Bylaws shall govern the issues of maintenance, repair, alteration, modification and replacement rights and responsibilities as between Owners and the Association and rights and responsibilities concerning use of the various elements and parts of the Condominium Project.

ARTICLE III

ADMINISTRATION OF PROJECT PROPERTY

Section 3.01 - Council of Co-Owners.

A. Authority. The Common Elements shall be administered and the Condominium Project is and shall be governed by a Council of Co-Owners which is and

shall be a membership, nonprofit Texas corporation called La Mirage Homeowners Association. The Association shall act for the benefit of all Apartment Owners to provide for the protection, preservation, maintenance and repair of the Limited and General Common elements. In connection therewith, the Association shall operate and administer the Condominium Project and shall pay the Common Expenses and administer the Common Fund. The Association and its affairs shall be administered and managed by a Board of Directors. The Board shall be elected by Association Members, except that in certain cases the Board may fill a vacancy by appointment as provided in the Bylaws.

B. Membership. Generally, but as more particularly set forth in the Bylaws, each Owner of a fee simple legal title to an Apartment, is a Member of the Association.

C. Incorporation. The Council of Co-Owners is incorporated as a membership nonprofit corporation under the provisions of the Texas Nonprofit Corporation Act.

D. Governing Documents. The affairs of the Association and the condominium project shall be governed by the provisions of the Act, this Declaration, the Articles of Incorporation, the Bylaws hereto attached, and such resolutions, rules and regulations as shall be adopted by the Board of Directors from time to time.

E. Amendment of Articles of Incorporation and Bylaws. The Articles of Incorporation and Bylaws may be amended from time to time in the manner therein provided or as provided by law.

F. Membership Voting Rights. Generally, but as more particularly set forth in the Bylaws, the Owner of each Apartment or the Owner's legally authorized representative and proxy shall be entitled to vote, at all member meetings of the Association, the number

of votes appurtenant to such Apartment, as determined by the Owner's proportionate ownership in the Common Elements, unless disqualified for delinquency in the payment of any sum due the Association. Such allocation of votes to each apartment shall remain fixed and constant. The same cannot be changed except by the written consent of each and every owner and mortgagee of an apartment unit in this condominium project, duly executed, acknowledged and filed for record as an amendment to this Declaration.

G. Association Voting Rights. Voting rights attributable to any apartment which shall have been acquired by the Association shall, while owned by the Association, be entitled to be represented at meetings of the members of the Association for purposes of determining the existence of a quorum, and shall be exercised and voted as directed by the Board of Directors of the Association at such meeting. Apartments owned by the Association shall be subject to assessment while owned by the Association.

Section 3.02 - Board of Directors. The Board of Directors shall consist of the number of members with the qualifications set forth in the Bylaws. The Board shall manage the affairs of the Council and shall have such powers, duties, functions, authority and responsibility as shall be specified in the Bylaws.

ARTICLE IV

MISCELLANEOUS

Section 4.01 - Amendments. This Declaration may only be amended at a meeting of the apartment owners at which the amendment is approved by the holders of at least

sixty-seven percent (67%) of the ownership interests in the Condominium Project, and an amendment of the Declaration may not alter or destroy a unit or a limited common element without the consent of the owners affected and the owners' first lien mortgagees.

Section 4.02 - Severability. If any provision of this Declaration or in the Bylaws attached hereto or any part thereof or the application thereof in any circumstances shall be held invalid or unenforceable, the validity or enforceability of the remainder of the Declaration or Bylaws or the application of any such provision or part thereof in any other circumstances shall not be affected thereby.

Section 4.03 - Omissions. In the event of the omission from this Declaration of any provision or stipulation which shall be vital, necessary or expedient for the accomplishment of the purposes and intent of this Declaration, this Declaration shall not thereby fail, in whole or in part, but any and all such omitted matter shall be supplied by inference and/or by reference to the provisions of the Act, under which this Condominium Regime is established, and the provisions of such Act are hereby made a part hereof by reference thereto.

Section 4.04 - Gender and Number. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural and singular, and the use of any gender shall include all genders.

Section 4.05 - Priority among Governing Documents. As between this Declaration and the Articles of Incorporation and Bylaws of the Association, this Declaration shall, to the extent of any conflict, prevail, it being intended that the Articles and Bylaws

supplement and enhance this Declaration and that those documents be interpreted so as to avoid a conflict to the extent it is reasonable to do so.

Section 4.06 - Covenants and Conditions. The Condominium Project, each Apartment and all interests in the Common Elements are expressly subject to:

- A. This Declaration;
- B. The Articles and Bylaws of the Association and Resolutions, Rules and Regulations of the Board;
- C. All governmental building, zoning, platting and similar regulations and laws;
- D. All restrictions, covenants, conditions, easements, encroachments, landowner agreements (if any), or outstanding mineral interests affecting the Condominium Project.
- E. The Texas Condominium Act, Chapter 81, *Texas Property Code*;
- F. The Texas Uniform Condominium Act, Chapter 82, *Texas Property Code*, to the extent said Act is expressly by its own terms made applicable.

Section 4.07 - Headings and Titles. The headings and titles used in this Declaration have been inserted for administrative convenience only and do not constitute matter to be construed in interpretation.

DECLARANT:

LA MIRAGE HOMEOWNERS ASSOCIATION,
A Texas Membership, Non-Profit Corporation

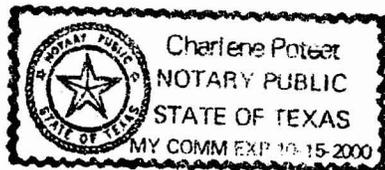
By: Marty Orton
MARTY ORTON, President

ATTEST:

By: Alan Stafford
ALAN STAFFORD, Secretary

CERTIFICATE AND ACKNOWLEDGMENT

BEFORE ME, the undersigned Notary Public, on the 23 day of February, 1999, personally appeared **Marty Orton, President** of La Mirage Home Owners Association, a Texas Membership, Non-Profit Corporation, acknowledged to me that she executed the above and foregoing instrument in the capacities indicated as the act and deed of La Mirage Home Owners Association, and certified to me that the Declaration and the attached By-Laws and the contents of said Declaration and attached By-Laws are true and correct and were duly adopted on January 22, 1999 in accordance with the documents governing La Mirage Condominiums.



Charlene Poter
NOTARY PUBLIC
Charlene Poter
Notary's Printed Name

My commission expires on the _____
Day of _____, _____.

CERTIFICATE AND ACKNOWLEDGMENT

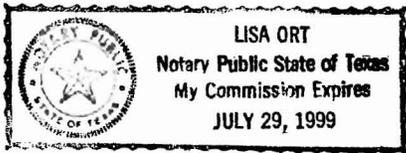
BEFORE ME, the undersigned Notary Public, on the 19 day of February 1999, personally appeared **Alan Stafford, Secretary** of La Mirage Home Owners Association, a Texas Membership, Non-Profit Corporation, acknowledged to me that he executed the above and foregoing instrument in the capacities indicated as the act and deed of La Mirage Home Owners Association, and certified to me that the Declaration and the attached By-Laws and the contents of said Declaration and attached By-Laws are true and correct and were duly adopted on January 22, 1999 in accordance with the documents governing La Mirage Condominiums.

Lisa Ort

NOTARY PUBLIC

Lisa Ort

Notary's Printed Name



My commission expires on the 29
Day of July, 1999.

Attachments: Bylaws

Incorporated by Reference:

The Plat

THE BYLAWS OF LA MIRAGE HOMEOWNERS ASSOCIATION

AN EXHIBIT

TO

**DECLARATION
OF
LA MIRAGE CONDOMINIUMS**

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OF
BY-LAWS OF
LA MIRAGE HOMEOWNERS ASSOCIATION

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BYLAWS
OF
LA MIRAGE HOMEOWNERS ASSOCIATION

ARTICLE I
DEFINITIONS

Section 1.01 - Definitions. As used herein, unless the context otherwise requires:

A. "Act" means the "Condominium Act" of the State of Texas, Chapter 81, *Texas Property Code* and, to the extent made applicable by Section 82.002(c), *Texas Property Code*, but not otherwise and only to that extent, Chapter 82, *Texas Property Code*.

B. "Apartment" means one of the 120 separate Apartment spaces into which the Apartment Building or Buildings are divided for individual use and ownership as defined in the Declaration.

C. "Apartment Building" and "Buildings" means the building or buildings located on the Project Land and containing 120 apartments.

D. "Association," "Council," "Council of Co-owners," and "Corporation" mean La Mirage Homeowners Association, Inc., a membership, nonprofit, Texas Corporation, composed of all persons owning apartments in La Mirage Condominium project, which corporation shall administer the operation and management of La Mirage Condominiums as a Condominium Project.

E. "Bylaws" means these Bylaws, the Bylaws of La Mirage Homeowners Association.

F. "Common Elements" means all portions of the Project Property, except the Apartments, and consists of both "General Common Elements" and "Limited Common Elements" as defined in the Declaration.

G. "Common Expenses" means the expenses as provided for by this Declaration and the Bylaws attached hereto that each Apartment Owner is liable for in proportion to his percentage ownership interest in the Common Elements; all expenditures made and liabilities incurred by the Association for maintenance, repair, operation, management, and administration; all expenses declared common expenses by this Declaration or the Bylaws; and all sums lawfully assessed by the Association against Owners, including, but not limited to, all amounts assessed against an Owner for repairs made by the Association at the expense of such Owner, or as a fine against such Owner; all fees, costs and expenses, including attorney fees, incurred by the Council in the enforcement of the Bylaws or Declaration.

H. "Common Fund" means all funds collected by reason of assessments of the Apartment Owners, or otherwise received from the Apartment Owners, and all funds received for the use and benefit, or the account, of the Apartment Owners (whether derived from insurance proceeds or any other source).

I. "Condominium Project" means the real estate condominium project established by the Declaration.

J. "Declaration" means the Declaration approved by the Owners at a special members meeting January 22, 1999, to which these Bylaws are attached, and as it may thereafter be amended.

K. "General Common Elements" means all of the Common Elements, except the Limited Common Elements, all as described in the Declaration.

L. "Limited Common Elements" means and shall consist of only those Common Elements described in the Declaration.

M. "Member," "Owner," "Unit Owner" or "Owner of an Apartment Unit" and similar expressions mean the person or persons whose estates or interest, individually, jointly or collectively, aggregate legal, fee simple, absolute ownership of record of an Apartment Unit and who are members of the Association, but excluding lienholders and those holding legal title under a deed of trust.

N. "Occupant" or "Resident" means the person or persons other than the Owner who is in possession of an Apartment Unit or Units.

O. "Person" means an individual, corporation, partnership, trustee or other legal entity capable of holding title to real estate.

P. "Plat " means: (1) Exhibit B filed of record in the Condominium Records of the Nueces County, Texas Clerk, at Vol. 22, page 583 of such records, which exhibit contains a metes and bounds description of the project land and (2) the maps recorded in the Miscellaneous Map Records of the Nueces County Clerk, at vol. 8, pages 32-46, which maps were attached to and/or filed with and as a part of the original Windjammer Condominium documents filed of record in the Condominium Records of the Nueces County Clerk at Volume 22, pages 539 et seq., and contain and show, among other things, a survey of the Project Property showing the location of the improvements on the Project Land, including the Apartment Building or Buildings, and a general description and

drawing of each Apartment showing its apartment number, building location, floor, and area, as amended by the Amendment to Condominium Document filed of record in the Condominium Records of the Nueces County Clerk at Volume 27, page 482, and as further amended by any lawfully made and recorded documents, if any, reallocating Limited Common Element parking spaces or storage closets in accordance with the prior governing documents of the condominium project which allowed such reallocation.

Q. "Project Land" means the land described on the Plat, excluding the improvements thereon.

R. "Project Property" means the Project Land and all improvements, buildings, structures, facilities, fixtures and equipment erected, constructed, placed or contained on or in the Project Land.

S. "Unit" or "Apartment Unit" means an estate or property comprised of an Apartment, as described in the Declaration, together with the undivided interest in the Common Elements allocated and appurtenant to such Apartment.

ARTICLE II

COUNCIL OF CO-OWNERS

Section 2.01 - Council. The La Mirage Homeowners Association is a Texas membership, nonprofit corporation, which is also known as and referred to as the "Association." The Association is and shall be the governing and administrative body for all Unit Owners for the protection, preservation, upkeep, maintenance, repair and replacement of the Common Elements, and for the government, operation and

administration of the Condominium Regime. The Association is governed by a Board of Directors (the "Board") elected by the members of the Association.

Section 2.02 - Members. Each person who shall be the owner and holder of record of the legal, fee simple title to all or a portion of one or more Apartment Units (hereinafter referred to as "Unit Owner," "Apartment Owner," or "Member") located in or on the property described in the "Declaration of La Mirage Condominiums" to which these Bylaws are attached (hereinafter referred to as the "Declaration"), filed for record in the Condominium Records of Nueces County, Texas, which condominium is located in the City of Port Aransas, County of Nueces, State of Texas (sometimes hereinafter referred to as "Project Property"), shall, for the duration of such ownership, be a member of the Association. Lienholders or mortgagees, trustees under deeds of trust, and holders or owners of rights-of-way easement or similar interest, shall not be deemed to be owners of record of any portion of the Project Property and shall not by reason of any such interest owned or held or acquired by them be or become a member of the Association.

Section 2.03 - Meetings. The Members may take action only at a meeting duly called, noticed and organized in accordance with the Declaration and these Bylaws, except that the Members may take action without a meeting, if a consent in writing, specifying the action so taken, is signed by all of the Members.

Section 2.04 - Annual Meetings. An annual meeting of the members of the Association shall be held each year for the election of directors and the transaction of such other business as may properly be brought before the meeting. The annual meeting shall

be held within one hundred twenty (120) days after the end of each fiscal year (commencing with the 1998-1999 fiscal year which ends September 30, 1999), at a date, time and place designated by the Board. Written notice stating the date, time and place of the meeting shall be mailed or personally delivered to all members not less than ten (10) nor more than fifty (50) days before the meeting.

Section 2.05 - Special Meetings. Special meetings of the members of the Association may be called by the President, by a majority of the members of the Board, or by Members having at least twenty percent (20%) of the votes entitled to be cast at such meeting. Written notice stating the date, time and place of the meeting and the matters to be considered at the meeting shall be mailed or personally delivered to all members not less than ten (10) nor more than fifty (50) days before the meeting.

Section 2.06 - Place of Meetings. All meetings shall be held in the La Mirage Recreation or Community Room on the Project Property, unless it is unavailable, in which event, the meeting shall be held elsewhere on the Project Property, if available, and if not, then at another place in Nueces County, Texas.

Section 2.07 - Notice by Mail. Any notice which is required or allowed to be given to a member of the Association by mail with respect to any meeting or for any other purpose shall be deemed to have been properly delivered on the day it is deposited in an official depository of the United States Postal Service, postage prepaid, and addressed to the member's current address as it appears in the records of the Association.

Section 2.08 - Waiver of Notice. Before or after any meeting, any member may waive notice of the time, date, place and purpose of such meeting by execution of a waiver

thereof in writing. Attendance at a meeting constitutes a waiver of notice, unless attendance is solely for the purpose of objecting to the lack of notice and the member delivers to the President a written objection so stating prior to commencement of the meeting and does not participate in the meeting, in which case said Owner shall not be counted present in determining the existence of a quorum.

Section 2.09 - Votes. The aggregate number of votes for all Members in the Association shall be one hundred (100) which shall be divided proportionately among the respective Members in accordance with and in direct proportion to their respective percentage ownership interest in the Common Elements as allocated to each Apartment in the Declaration.

- a. Votes at any meeting may be cast in person or by proxy;
- b. If any owner is delinquent at the time of the meeting in the payment of any sum due the Association, no vote allocated to any apartment owned by such owner may be cast at such meeting, and if any sum due the Association and allocable to an apartment is delinquent in its payment at the time of the meeting, no owner of that apartment may vote at such meeting the vote allocable to that Apartment;
- c. The term "majority vote of Members" or other fraction or percentage vote of Members, as used in these Bylaws, shall mean more than fifty percent (50%), in the case of a majority, or such other fraction or percentage, of the votes cast at any meeting. The term "majority of Members" or other fraction or percentage of Members, as used in these Bylaws, shall mean the Owners

of Apartment Units who in the aggregate own more than fifty (50%), in the case of a majority, or such other fraction or percentage, of the Common Elements; and

- d. A majority vote of Members shall decide any question brought before any meeting, unless the question is one upon which, by express provision of the Articles of Incorporation of the Association, these Bylaws, the Declaration, or statute, a greater vote is required, in which case such express provision shall govern and control the decision of such question.

Section 2.10 - Quorum. As a general rule, the presence of a quorum of the Members is required to organize a meeting (i.e. to start or call it to order) or to transact business at a meeting.

- a. A quorum of Members for any meeting shall be constituted by Members, or proxies, holding more than fifty percent (50%) of the votes eligible to be cast at the meeting;
- b. The members present in person or by proxy at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum; and
- c. If any meeting of the Members of the Association cannot be organized because a quorum is lacking, then by a majority vote of Members, the meeting may be adjourned from time to time, without notice other than announcement at the meeting until a quorum shall be present or represented, at which time the meeting may be organized or called to order

and any business may be transacted which might have been transacted at the original meeting.

Section 2.11 - Order of Business. The order of business at all meetings of the Association shall be determined by the president or by majority vote of the Members, the latter of which shall take precedence over the determination of the president in the event of conflict between the two.

Section 2.12 - Voting List. At least ten (10) days before each meeting of members the Secretary shall prepare a complete list of members entitled to vote thereat, arranged in alphabetized order or according to unit number, but in either case containing the Member's name and the applicable Unit Number owned by each Owner. For a period of ten (10) days prior to such meeting, such list shall be kept on file at the main office of the Association and shall be subject to inspection by any member during regular business hours. Such list shall be produced at such meeting, and at all times during such meeting shall be subject to inspection by any member. Any member on the list may cure his delinquency before or at the time of the meeting.

Section 2.13 - Method of Voting and Proxies. The vote of each member may only be cast by such member or by a proxy executed in writing by a member or his duly authorized attorney-in-fact.

- a. Each such proxy shall be filed with the Secretary of the Corporation prior to or at the time of the meeting. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise expressly stated in the proxy. If the execution date is not stated on a proxy, such proxy shall be

presumed to have been executed on the date of the meeting at which it is to be first voted on. Each proxy shall be revocable, unless expressly provided therein to be irrevocable or otherwise made irrevocable by law; and

- b. If title to an Apartment is in the name of two or more persons as Owners, all of such persons shall be members of the Association and are referred to herein as "Joint-Owners." Any one of such Joint-Owners may vote at any meeting of the members of the Association and such vote shall be binding upon such other Joint-Owners who are not present at such meeting unless written notice to the contrary has been received by the Board of Directors in which case the unanimous vote of all such Joint-Owners (in person or by proxy) shall be required to cast their vote as members. If two or more of such Joint-Owners are present at any meeting, their unanimous action shall also be required to cast their vote as members of the Association. The vote allocable to an apartment may not be divided among the Joint Owners.

Section 2.14 - Cumulative Voting Denied. Cumulative voting shall not be permitted at any meetings of the Members of the Association .

Section 2.15 - Presiding Officer and Minutes. The President shall preside at and the Secretary shall keep the records and minutes of each meeting of members and in the absence of either such officers, his duties shall be performed by some person who is to serve in his stead according to other provisions of these Bylaws, if available, and if not, then by some person appointed by the members.

ARTICLE III

BOARD OF DIRECTORS

Section 3.01 - Number and Qualifications. The number of directors which constitute the Board is seven (7). All members of the Board shall at all times be persons directly or indirectly owning or having an ownership interest in an Apartment Unit which is a part of the Project Property. If any Apartment Unit Owner is a corporation, partnership, trust or other legal entity, an officer, director, shareholder, partner, trustee, or beneficiary of such Apartment Unit Owner may be a member of the Board of Directors.

Section 3.02 - Duties and Authority. The Board shall manage and administer the affairs of the Association and shall have all duties, rights, powers and authority given to it by the Act, the Declaration, the Articles of Incorporation and the Bylaws. Specifically, by way of illustration and not limitation, the Board:

- a. shall elect officers of the Association;
- b. shall administer the affairs of the Association and the Common Elements of the Project Property;
- c. shall keep or cause to be kept, in accordance with generally accepted accounting principles, sufficient books and records with a detailed accounting of the receipts and expenditures affecting the Project, and its administration and specifying the maintenance and repair expenses of the Common Elements, which books and records shall be available for inspection by all Members at convenient hours on working days and shall be audited at least once a year;

- d. may engage the services of a Manager or Managing Agent, who may not be a Board Member, to manage and operate the Common Elements for all of the Unit Owners upon such terms and for such compensation (which shall be part of the Common Expenses), and with such specific duties and authority as the Board may approve or as may be specified in the contract of employment executed by the Board;
- e. shall formulate and enforce policies, rules, and regulations for the administration, management, use, maintenance, repair, replacement, alteration, modification, appearance, and operation of the Condominium Project, the Apartments and the Common Elements;
- f. shall provide for the maintenance, repair, upkeep, protection and replacement of the Common Elements, and insurance for the Project Property, and approve payment vouchers and make payments therefor;
- g. may delegate any of its duties, powers and authority to the Manager or Managing Agent employed by the Board;
- h. shall adopt an annual budget for the estimated Common Expenses each year, and provide the manner of assessing and collecting from the Unit Owners their respective pro-rata shares of such estimated Common Expenses;
- i. shall provide for the designation, hiring and removal of employees and other personnel, including, but not limited to, bookkeepers and accountants, and engage or contract for the services of others, and in general make

purchases of labor, material and/or services for the maintenance, upkeep, repair, replacement, administration, management and operation of the Common Elements;

- j. in general, shall have all such duties, rights and authority to do all such acts and things, as are not by the Act, Declaration or these Bylaws directed to be done or exercised exclusively by the Members;
- k. in general, shall have power and authority, to take any action, not inconsistent with an express provision of the Declaration, Articles of Incorporation, or Bylaws, as is, in its good faith judgment, reasonable or necessary to enforce or carry out the terms and provisions of the Declaration, Articles of Incorporation, Bylaws, or to otherwise promote and protect the project property and/or the interests of the Owners;
- l. shall have all powers and authority allowed or vested in it by Chapter 82, *Texas Property Code* and in particular the provisions of Section 82.002(c), *Texas Property Code*, which provides that certain sections of Chapter 82, including Section 82.102(a)(1)-(7) and (12)-(22), apply to this Condominium Project, as it and they now exist and as they may hereafter be amended;
- m. shall cause an Audit to be made each year of the financial affairs and activities of the Association by an independent certified public accountant designated by the Board. A copy of the Audit or shall be furnished to each member of the Association within one hundred twenty (120) days after the end of each fiscal year.

Section 3.03 - Classification of Directors. The seven (7) directors are divided into three (3) classes, two in Class 1, two in Class 2, and three in Class 3. All Directors shall serve three-year terms. Terms for each director shall commence on the date of election at an annual members' meeting and end at the annual members' meeting three (3) years thereafter. The two Class 2 directors are serving terms commencing in 1996 and ending in the year 1999. The three Class 3 directors are serving terms commencing in 1997 and ending in the year 2000. The two Class 1 directors are serving terms commencing in 1998 and ending in the year 2001. Board Members serving on the effective date of these Bylaws shall continue to serve the terms to which they were elected. The first annual meeting of members and the first board of directors' election under these Bylaws will be held in 1999.

Section 3.04 - Meetings. The Board may take action only at a meeting duly called, noticed and organized in accordance with the Declaration and these Bylaws, except in cases of unanimous written consent, except that the Board may take action without a meeting, if a consent in writing, specifying the action so taken, is signed by all of the members of the Board. Meetings of the Board may be held by any method of communication, including electronic and telephonic, by which each director may hear and be heard by every other director. Meetings of the Board must be open to unit owners, subject to the right of the Board to adjourn a meeting of the Board and reconvene in closed executive session to consider actions involving personnel, pending litigation, contract

negotiations, enforcement actions, matters involving the invasion of privacy of individual unit owners, or matters that are to remain confidential by request of the affected parties and agreement of the Board. The general nature of any business to be considered in executive session must first be announced at the open meeting.

Section 3.05 - First Meeting. The first meeting of each newly elected Board (the annual Board meeting) shall be held without notice immediately following the annual members' meeting in the same place where the annual meeting of members was held. The first Board meeting under these Bylaws will be held immediately after the special meeting of the members at which these By-Laws are approved.

Section 3.06 - Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of all the Board members. Notice of the date, time and place of regular meetings shall be given to each Board member personally or by mail, telefax, telephone or telegraph, at least three (3) days before the date of the meeting.

Section 3.07 - Special Meetings. Special meetings of the Board may be called by the President and shall be called by the Secretary on the written request of two (2) Board members. Notice of the date, time, place and purpose of special meetings shall be given to each Board member personally or by mail, telefax, telephone or telegraph, at least three (3) days before the date of the meeting.

Section 3.08 - Notice by Mail. Any notice which shall be given to a member of the Board by mail with respect to any meeting or for any other purpose shall be deemed to have been properly delivered on the day it is deposited in an official depository of the

United States mail with postage prepaid and addressed to the member's address as it appears on the records of the Council.

Section 3.09 - Waiver of Notice. Before or after any meeting of the Board, any Board Member may waive notice of the time, date, place and purpose of such meeting by execution of a waiver thereof in writing. Attendance by a member of the Board at any meeting of the Board shall be deemed as a waiver of the required notice of such meeting, unless attendance is solely for the purpose of objecting to the lack of notice and the member delivers to the President a written objection so stating prior to commencement of the meeting and does not participate in the meeting, in which case said Board Member shall not be counted present in determining the existence of a quorum.

Section 3.10 - Quorum and Votes. A quorum is required to organize a meeting (i.e. to start or call it to order) or to transact business at a meeting, except where it is expressly provided otherwise in these Bylaws with respect to the filling of vacancies. At all meetings of the Board a majority of the members of the Board shall constitute a quorum for the transaction of business, and the acts and decisions of a majority of the Board members present at any duly-called meeting at which a quorum is present and of which notice was properly given or waived shall be the acts of the entire Board, unless a greater vote is expressly required by the Declaration or these Bylaws. If a quorum shall not be present at any meeting of directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 3.11 - Vacancies. Vacancies on the Board caused by any reason, other than an increase in the authorized number of directors or the removal of a Board member by vote of the Members of the Association, shall be filled for the unexpired term by a vote of the majority of the remaining Board members, even though they may constitute less than a quorum. Each person so elected shall be a Board member, until a successor is elected by the Members of the Association at the next annual meeting or at a special meeting called for that purpose.

Section 3.12 - Resignation. Any member of the Board may resign at any time by giving written notice of resignation to the President, the Vice President or the Secretary, and the resignation shall be effective on the date stated in the resignation or immediately on receipt by the officer to whom delivered if no date is stated.

Section 3.13 - Cessation of Ownership. If any member of the Board who was the Owner of an Apartment Unit or interest therein at the time of his election or appointment to the Board shall at any time sell or otherwise dispose of or voluntarily or involuntarily cease to be the Owner of such Unit or interest therein during his term of office, then upon such termination or cessation of his ownership interest in such Unit, such member shall automatically be deemed to have effectively resigned from the Board and he shall automatically be removed therefrom.

Section 3.14 - Removal by Members. At the annual meeting or at any special meeting called for that purpose, the Members of the Association may by a vote of two-thirds (2/3) of the Members remove any one or more members of the Board, with or without cause, provided that the board member who is the subject of the removal has been given

no less than ten (10) days written notice that an attempt will be made to remove him, and further provided that a successor or successors shall then and there be elected to fill the vacancy or vacancies thus created for the unexpired term of the Board member or members removed. Any Board member whose removal has been proposed shall be given an opportunity to be heard at such meeting.

Section 3.15 - Common or Interested Directors and Officers. Each director and officer shall exercise his powers and duties in good faith and with a view to the interests of the Association. No contract or other transaction between the Association and any of its directors or officers, or between the Association and any corporation, firm, or association in which any of the directors or officers of the Association are directors or officers or are pecuniarily or otherwise interested, is either void or voidable because any such director is present at the meeting of the Board of Directors thereof which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

- a. The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes, and the Board of Directors authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or
- b. The fact of the common directorate or interest is disclosed or known to at least a majority of the members of the Association (by percentage), and the members approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

- c. The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved, or executed.

Any common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors which authorizes, approves, or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if such director were not such director of the Association or not so interested.

Section 3.16 - Indemnification of Directors, Officers and Others. The officers and directors shall not be liable to the Association or its members for any good faith mistake in judgment, but shall be liable to the Association or its members for breach of fiduciary duty, gross negligence, misappropriation, recklessness, or intentional misconduct. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment, except where the making of said contract or commitment constitutes breach of fiduciary duty, gross negligence, misappropriation, recklessness, or intentional misconduct. The Association shall indemnify any director, officer, or employee, or former director, officer, or employee of the Association, against expenses actually and necessarily incurred by him and any amount paid in satisfaction of judgments in connection with any action, suit or proceeding, whether civil or criminal in nature, in which he is made a party by reason of being or having been such a director, officer, or employee (whether or not a director, officer, or employee

at the time such costs or expenses are incurred by or imposed upon him) except in relation to matters as to which he shall be adjudged in such action, suit, or proceedings, to be liable for breach of fiduciary duty or for gross negligence, misappropriation, recklessness, or intentional misconduct. The Association may also reimburse to any director, officer, or employee the reasonable costs of settlement of such action, suit, or proceedings, if it shall be found by a majority of the directors not involved in the matter in controversy, whether or not a quorum, that it was in the best interest of the Association that such settlement be made and that such director, officer, or employee was not guilty of breach of fiduciary duty, gross negligence, misappropriation, recklessness or intentional misconduct. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights to which such director, officer, or employee may be entitled by law or under any bylaw, agreement, vote of members or otherwise. The Association shall obtain a policy of liability insurance insuring all directors, officers, employees, or former directors, officers, or employees against the matters provided in this paragraph in an aggregate limit of which shall in the judgment of the Board be reasonable.

ARTICLE IV

OFFICERS

Section 4.01 - Officers. The officers of the Association shall consist of a President, a Vice President, a Secretary and a Treasurer, and such other offices as the Board may establish, each of whom shall be elected by the Board at its annual meeting. The Board may elect one person to serve as the Secretary-Treasurer but the offices of the Association shall not otherwise be combined. The Board shall have full authority to

remove any officer from office, with or without cause, by the vote of a majority of the members of the entire Board at any time and to elect his successor at any regular meeting of the Board or at any special meeting called for that purpose. All officers must be Board Members and members of the Association.

Section 4.02 - Duties. The duties of the officers of the Association shall be as follows:

- a. The President shall be the chief executive officer of the Association, and shall have general and active management and control of the business and affairs of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall preside at all such Member and Board meetings. The President shall execute contracts, conveyances and other documents on behalf of the Association. He shall perform such other duties as may be prescribed from time to time by the Board or as may in these Bylaws or the Declaration be required.
- b. In the absence of the President or when it is inconvenient for the President to act, the Vice President shall perform the duties and exercise the powers of the President. At any time when the Vice President is performing a duty or exercising a power of the President, any third party dealing with the Association may presume conclusively that the President was absent and that the Vice President was authorized to act in his place. He shall perform such other duties and have such other authority and powers as the Board

may from time to time prescribe, or as the President may from time to time delegate.

- c. The Secretary shall attend all meetings of the Board and of the Members and shall record all business transacted at such meetings in the Minute Book to be kept for that purpose and he shall perform like duties for standing committees, if any, when required. The Secretary shall be responsible for the voting list as elsewhere in these Bylaws directed. The Secretary shall give, or cause to be given, notice of all meetings of the Association and Board, and shall perform such other duties as may elsewhere in these Bylaws or the Declaration be required or as the Board may from time to time prescribe, or as the President may from time to time delegate. The Board may, if it deems it advisable, from time to time, designate one or more persons as Assistant Secretaries, who may perform the duties and exercise the powers of the Secretary when the Secretary is absent or it is inconvenient for him to act. Any third person dealing with the Association may presume conclusively that any Assistant Secretary acting in the capacity of the Secretary was duly authorized to act. They shall perform such other duties and have such other powers as the Board may from time to time, prescribe, or as the President or Secretary may from time to time delegate.
- d. The Treasurer shall be responsible for the custody of corporate funds and securities, shall keep full and accurate accounts and records of receipts, disbursements and other transactions. The Treasurer shall deposit all funds

and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board. The Treasurer shall disburse funds of the Association as may be ordered by the Board taking proper vouchers for such disbursements, and shall render to the President and the Board whenever they may require it an account of all his transactions as Treasurer and of the financial condition of the Association. The Treasurer shall perform such other duties and have such other authority as may in these Bylaws or in the Declaration be required or as the Board may from time to time prescribe, or as the President may from time to time delegate. The Board may, from time to time if it deems advisable, designate one or more persons as Assistant Treasurers who may perform the duties and exercise the powers of the Treasurer if the Treasurer is absent or it is inconvenient for him to act. Any third person dealing with the Association shall be entitled to presume conclusively that any Assistant Treasurer, acting in the capacity of Treasurer, was duly authorized to do so. The Treasurer and/or Assistant Treasurers shall prepare a roster of the members and the assessments applicable thereto, and a record of the payment of such assessments, and such records shall be kept at the principal offices of the Association and shall be open to inspection by any member at any reasonable time during business hours. They shall perform such other duties and have such other powers as the Board may from time to time prescribe, or as the President or Treasurer may from time to time delegate.

Section 4.03 - Terms and Vacancies. The officers of the Association shall hold office for one (1) year and until their successors are elected and qualified, or until their death, resignation or removal from office. Any vacancy occurring in any office of the Association by death, resignation, removal, or otherwise shall be filled by the Board.

Section 4.04 - Compensation of Officers. The officers shall receive no compensation for their services as such.

Section 4.05 - Resignation. Any officer may resign at any time by giving written notice of resignation to the President, the Vice President or the Secretary, and the resignation shall be effective on the date stated in the resignation or immediately on receipt by the officer to whom delivered if no date is stated.

Section 4.06 - Conflicts. See Section 3.15 of these Bylaws.

Section 4.07 - Indemnification. See Section 3.16 of these Bylaws.

ARTICLE V

USE, ALTERATION AND MODIFICATION OF APARTMENTS AND COMMON ELEMENTS AND GENERAL CONDUCT

Section 5.01 - General. The use of and right to alter or modify Apartments and the Project Property and the Common Elements thereof are subject to the following rules:

- a. No nuisances shall be allowed upon the Project Property, nor any use or practice permitted which is the source of annoyance to residents or which interferes with the peaceful possession and proper use of the Project Property by its residents.

- b. No animal shall be kept, except household pets. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor, or unsanitary conditions. No savage or dangerous animal shall be kept. No more than one household pet may be kept without written permission of the Board of Directors. No pets may be permitted to run loose upon the Common Elements, and any Owner who causes any animal to be brought or kept upon the premises of the Condominium Project shall indemnify and hold harmless the Association for any loss, damage, or liability which the Association may sustain as a result of the presence of such animal on the premises, whether or not the Association has given its permission therefor.
- c. No Owner shall do or permit anything to be done or keep or permit to be kept in his Apartment or on the Common Elements any things that will increase the rate of insurance on the Condominium Project.
- d. No Owner shall store any dangerous explosive or inflammable liquids or other materials either in his Apartment or upon the Common Elements.
- e. All parts of the Project Property shall be kept in a clean and sanitary condition, and no rubbish, refuse or garbage shall be allowed to accumulate nor any fire hazard allowed to exist.
- f. No immoral, improper, offensive or unlawful use shall be made of the Project Property or any part thereof.

- g. Each Apartment shall be used and occupied only for residential purposes. The use of the Apartment Unit for residential purposes shall include the right to have such Apartment used as housing accommodations on a rental basis for any period or periods of time. No apartment shall be used or occupied for any professional, office, business or commercial purpose, or for any other non-residential purpose. All leases shall require the lessee to comply with the Declaration and Master Deed, these Bylaws, and the Rules and Regulations of the Association, and shall provide that failure to comply constitutes a default under the lease.
- h. All laws, zoning ordinances and regulations of all governmental bodies having jurisdiction of the Project Property shall be observed.
- i. All Unit Owners shall have the right to use and enjoy the Common Elements, in common with all other Unit Owners, for the purposes of access, ingress and egress, use, occupancy, and enjoyment of, the respective Apartment Unit, but no Owner shall use the Common Elements in any manner inconsistent with the exclusive and irrevocable license and easement of each Owner to use, occupy and enjoy, as the case may be, the Limited Common Elements appurtenant to his respective Apartment.
- j. No Owner shall use his Apartment or the Common Elements:
1. In any manner inconsistent with the purpose of the Condominium Project;

2. In any manner inconsistent with the Articles of Incorporation or Bylaws of the Association, or Resolutions, Rules and Regulations of the Board;
 3. In any manner so as to interfere with, hinder, impede or impair the right of another Owner in the lawful, proper use or enjoyment of his Apartment or the Common Elements.
- k. No Owner may make any alterations in the portions of an Apartment or the Building which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, without prior written approval of the Board.
- l. No Apartment shall be altered, remodeled, subdivided or converted into more than one housing accommodation, nor may a unit be divided and a portion of it sold, nor may units be combined into a single unit, except that an Owner after acquiring an adjoining unit, with the prior written approval of the Board, may remove, alter, and create apertures in an intervening partition, even if the partition in whole or in part is a Common Element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium.
- m. No Apartment Unit Owner shall make any structural modification or substantial alteration in his Apartment Unit or the installations located therein except in the manner and pursuant to the provisions of the Bylaws and this Declaration.

- n. No Owner may make improvements or alterations to the owner's unit that impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium.
- o. The Common Elements (other than the utility areas which will be regulated as to use by the Association) shall not be used for storage of supplies, personal property, or trash or refuse of any kind, except common trash receptacles placed at the discretion of the Board of Directors.
- p. The Common Elements shall not be used in any way for drying, shaking, or airing of clothing or other fabrics.
- q. Stairs, elevators, entrances, sidewalks, yards, driveways, and parking areas shall not be obstructed in any way nor shall unauthorized persons or pets play therein or thereon or use them for other than their intended purposes.
- r. No activities shall be carried on, nor condition maintained by any Owner either in this Apartment or upon the Common Elements which despoils the appearance of the Condominium Project.
- s. No Owner may do anything to jeopardize the safety or soundness of the Building, or impair any easement.
- t. No Owner may alter or change the exterior appearance of the Project Property, including the Apartment Building, whether by the installation of curtains, window shades, window coverings or draperies or any other item in windows or on balconies, placement of posters or signs, or by any other

method or manner, conduct or action, without prior written approval of the Board.

Section 5.02 - Regulation by Board.

- a. The Board shall have the right to formulate and enforce policies, rules, and regulations for the administration, management, use, maintenance, repair, replacement, alteration, modification, appearance and operation of the Condominium Project, the Apartments and the Common Elements, the use of same and conduct of persons in, on or about the premises of same. These rules may include a limitation on the number of occupants per apartment. The Board may, as one aspect of that right, provide for the exclusive use by an Owner and his guests, for specific occasions, of the swimming pool, tennis courts, and all other recreational rooms, areas or facilities, and such use may be conditioned upon, among other things, the payment by the Owner of such assessment as may be established by the Board for the purpose of defraying cost of the use thereof. The Board may, as part of its rules and regulations, establish fees, charges, fines or penalties for violations of the Declaration, Bylaws or its rules and regulations, provided, it complies with the applicable provisions of Chapter 82, *Texas Property Code*, concerning notice and hearing.
- b. Notwithstanding and regardless of ownership, rights of use, easements, or allocation of duties regarding or financial responsibility to pay for

maintenance, repair and replacement, the Board shall have the authority, in its discretion, to control and dictate the timing, means, methods, materials, and all other matters regarding the maintenance, repair, replacement and alteration of all Common Elements whether general or limited.

Section 5.03 - Extension of Rights and Obligations. Such rights to use the Common Elements and the accompanying obligations shall extend to each Unit Owner, the members of the immediate family of each Unit Owner, the lawful Occupants of each Apartment, and the guests and visitors of each Unit Owner.

Section 5.04 - Easements and Access.

- a. Access. The Association, the Board and their delegates shall have the right to enter and inspect each Apartment and to remove violations of the provisions of this Declaration, the Bylaws, and the rules and regulations promulgated by the Board and to maintain, repair and replace the General and Limited Common Elements in each Apartment or elsewhere. The Association or its agents shall have access to each Apartment from time to time during reasonable working hours, upon notice to its Owner, as may be necessary for the maintenance, repair, or replacement of any of the Common Elements. The Association or its agents shall also have access to each Apartment at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Elements or to another Apartment. If requested, each Owner shall furnish to the Board of

Directors a duplicate key to the entrance door to his Apartment and shall furnish a new duplicate key upon any change of locks thereto.

- b. Right to Use General and Limited Common Elements. Each Unit Owner shall be deemed to have an easement in common with all other Unit Owners in, upon, across, over, through and with respect to the General and Limited Common Elements to the extent of the right to use the General and Limited Common Elements and other rights and privileges granted herein.
- c. Utility Easements. An easement shall exist in each Apartment and each portion of the Common Elements for the benefit of each Unit Owner, municipality and utility company for the installation, maintenance, repair, removal or replacement of any and all utility lines, pipes, wires, conduits, facilities and equipment, serving the Project Property as a whole or any individual Apartment, and the ownership of the Apartments and interest in the Common Elements shall be subject to such easements. The Board may hereafter grant easements for utility purposes for the benefit of the Project Property, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, electrical conduits and wires over, under, along and on any portion of the Common Elements. The ownership of the Apartments and interest in the Common Elements shall be subject to such easements.
- d. Easements to Run with Land. All easements and rights described herein are easements appurtenant to and running with the land, perpetually in full force

and effect, and at all times shall inure to the benefit of and be binding upon the Council, its successors and assigns, and any Owner, purchaser, mortgagee and other person having an interest in the Project Property or any part thereof.

Section 5.05 - Encroachments. If any portion of the Common Elements shall actually encroach upon any Apartment or if any Apartment shall actually encroach upon any portion of the Common Elements, as the Common Elements and utilities actually and physically exist, or as shown by the respective plats attached hereto, then there shall be deemed to be mutual easements for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In no event shall an easement for any encroachment be created in favor of any Unit Owner if such encroachment occurred due to the willful conduct of said Owner. In the event the Apartment Building, or any part thereof, is totally or partially destroyed, and then rebuilt, the Owners of the Apartment agree that all encroachments of or upon the Common Elements and facilities due to reconstruction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 5.06 - Utilities. Each Owner of an Apartment Unit shall be individually responsible for and shall pay for all telephone, electricity and all other utility services furnished to his Apartment which are separately metered or billed by the respective utility companies or other party furnishing same. Utilities not separately metered or billed to the individual Apartments shall be part of the Common Expenses, and each Unit Owner shall pay his pro rata part thereof as in the case of other Common Expenses. In the event that

electricity or other utility services utilized or constructed in connection with Common Elements have been or are connected or constructed for the sake of convenience in such a manner that the cost of such services is separately metered or billed to an individual Apartment Unit Owner, the Council shall reimburse such Unit Owner for the additional charges incurred in connection with such services. The amount of such reimbursement shall be borne by all Apartment Unit Owners as part of the Common Expenses of the Condominium Project.

Section 5.07 - Separate Taxes. Taxes, assessments and other charges of the State, or of any political subdivision, or of any special improvement district, or any other taxing or assessing authority, shall be assessed by such authorities against and collected on each individual Apartment, which shall include its percentage of the Common Elements. Each Apartment shall be carried on the tax books as a separate and distinct entity for that purpose, and not on the property as a whole. Each Apartment Owner shall be individually responsible for payment of such separate taxes, assessments and charges. No Apartment Unit Owner shall have the right or authority to make or create or to cause to be made or created any mortgage, encumbrance or lien on or affecting the Project Property or any part thereof, except only to the extent of his individual Apartment Unit which includes his respective undivided interest in the Common Elements.

ARTICLE VI

MAINTENANCE, REPLACEMENT, REPAIR, ALTERATION RESPONSIBILITIES AND FINANCIAL RESPONSIBILITIES,

Section 6.01 - General Standards. The Project Property shall be maintained and such repairs and alterations shall be made as are reasonably required, in the judgment of the Board, to keep the property in a safe, good, aesthetically pleasing condition. All repairs and replacements to Common Elements shall be substantially similar to the original construction and installation and shall be of first-class quality, however, the Board may vary from these standards to the extent it deems reasonable or necessary for the good and in the best interest of the Project as a whole.

Section 6.02 - Owners Obligations. Each Apartment Owner shall, at his sole expense:

- a. As to all portions of his Apartment, unless and except to the extent expressly otherwise provided hereinafter, the Owner shall maintain, repair and replace same;
- b. As to the exterior doors of an apartment, including the main entry and patio doors, except for painting and routine maintenance of surfaces exposed to the exterior, the Owner shall maintain, repair and replace said doors, including all door hardware, weather stripping, locking mechanisms, and door sill, routine cleaning and replacement of glass, and replacement of doors, which shall be of the same color, grade, and style as all other Apartment exterior doors, unless otherwise approved or required by the Board;
- c. As to the balcony railings of his Apartment balcony, the Owner shall maintain, repair and replace said railings, and all railings shall be the same

- color, grade and style as all other Apartment balcony railings, unless otherwise approved or required by the Board;
- d. As to the heating and cooling systems of an Apartment and components thereof, including all components lying outside the boundaries of an Apartment, the Owner shall maintain, repair and replace same;
 - e. As to the balconies or patios of an Apartment, including floor, wall and ceiling surfaces, the Owner shall be responsible for routine cleaning;
 - f. As to the windows of an Apartment, the Owner shall be responsible for routine interior cleaning and for maintenance, repair and replacement of locking mechanisms;
 - g. As to the storage closets of an Apartment, the Owner shall be responsible for maintenance, repair and replacement of said closets, and said closets shall be of the same color, grade and style as all other Apartment closets, unless otherwise approved or required by the Board;
 - h. As to plumbing and related systems and components thereof lying within boundaries of an Apartment, including components attached thereto, and any other items which serve one Apartment, but lie within the walls of, although outside its legally defined boundaries, the Owner shall maintain, repair and replace same;
 - i. As to electrical and related systems and components thereof, including fixtures and lights lying within the boundaries of an Apartment, and all switches, wall sockets lines, and any other items which serve one Apartment,

but lie within the walls of, although outside its legally defined boundaries, the Owner shall maintain, repair and replace same;

- j. Each Owner shall be responsible for all damage to any other Apartments or to the Common Elements resulting from Owner's negligence or misuse of his Apartment or the Common Elements or failure to maintain, repair or replace any item as required hereunder or failure to take reasonable precautions to prevent damage to other Apartments or the Common Elements.
- k. Each Owner shall perform his maintenance, repair and replacement responsibilities in such manner as shall not unreasonably disturb or interfere with the other Owners.
- l. Each Owner shall promptly report to the Association any defect or need for repairs for which the Association is responsible.
- m. Each Owner is vicariously responsible for any and all damage to an Apartment or Common Elements which is caused by the negligence, misconduct or neglect of his tenants, guests and invitees.

Section 6.03 - The Association. The Association shall:

- a. At its sole expense, maintain, replace, repair and alter all Common Elements and Apartments to the extent the Owner is not solely, financially responsible; and
- b. Maintain, repair and replace all items for which an Owner is responsible, if the Board determines it is in the best interest of the Association to do so,

provided that the Owner shall nevertheless be individually assessed therefor.

Notwithstanding and regardless of ownership, rights of use, easements, allocation of maintenance, repair and replacement responsibilities, or allocation of financial responsibility to pay for maintenance, repair and replacement, the Board shall have the authority, in its discretion, to control the timing, means, methods and materials and all other matters regarding the maintenance, repair, replacement and alteration of all Common Elements, whether General or Limited.

ARTICLE VII

INSURANCE AND CASUALTY

Section 7.01 - Blanket Property and General Liability Insurance. The terms and provisions of Section 82.111, *Texas Property Code*, are made applicable to this Condominium Project by Section 82.002(c), *Texas Property Code*, and shall govern the insurance obligations of the Association and the Board. The Board shall obtain and continue in effect such insurance as is required by Section 82.111, *Texas Property Code*, and such other insurance as it determines is reasonable. Such insurance shall be written in the name of, and the proceeds may be payable to, the Association, or to any person designated by the Association, as Insurance Trustee for the Owners of each Apartment in proportion to their respective interests in the Common Elements, and additionally as individually specified per Unit, or both. Each Apartment Unit Owner, and each mortgagee, if any, shall be a beneficiary of such insurance in proportion to the ownership interest in the Common Elements as established by this Declaration, even though not expressly

named in the policy of insurance as an insured or beneficiary. All costs, charges and premiums for such insurance shall be a Common Expense and each Owner shall pay his pro rata part thereof as in the case of other Common Expenses. The proceeds from all blanket insurance shall be held by the designated beneficiary as a part of the Common Fund and shall be used and paid out as hereinafter provided, consistent with the Act. The Board shall furnish notice to Owners of the policy limits of insurance coverage carried so Owners may increase their insurance coverage as desired.

Section 7.02 - Individual Insurance. Each Unit Owner shall be responsible for insurance on the contents of the Owner's Unit and any additions and improvements thereto, and all decorations, furnishings and personal property therein, or stored on the Project Property. Personal liability not covered by liability insurance for all the Apartment Unit Owners obtained as a part of the Common Expenses shall be the responsibility of each Owner.

Section 7.03 - Repair or Reconstruction After Fire or Casualty. The terms and provisions of Section 82.111, *Texas Property Code*, govern repair and replacement in the event of fire or other casualty resulting in damage to or destruction of the Project Property or a portion thereof.

ARTICLE VIII
BUDGET,
ASSESSMENTS AND CHARGES,
DEFAULT AND REMEDIES

Section 8.01 - Budget and Fiscal Year. The Board of Directors shall establish an annual budget in advance for each fiscal year and such budget shall project all Common Expenses for the forthcoming year which may be required for the proper administration, operation, management, and maintenance of the Condominium Project and of the Association, including reasonable allowances for working capital, contingencies, and reserves for maintenance, repairs, and replacements, and reserves for shared maintenance expenses created by any contract or agreement of record. The annual budget shall be approved by the Board, and copies thereof shall be furnished to each Member not later than thirty (30) days after the beginning of such year. The Board shall establish the fiscal year for the Association. In the event the Board does not do so, the fiscal year shall be October 1 to the following September 30. As of the effective date of these Bylaws, the fiscal year is October 1 to September 30.

Section 8.02 - Common Expenses and Fund. The Common Expenses shall include, but shall not be limited to:

- a. all expenses incurred by the Association in performing its functions, duties, and obligations authorized or required by the Declaration, these Bylaws or the Board;
- b. all costs incurred by the Association including, but not limited to, any costs incurred in satisfaction of any liability arising from, caused by, or in connection with the Association's administration, operation, maintenance, or use of the Condominium Project;

- c. all expenses incurred by the Association for repair, replacement, construction, acquisition, maintenance, alteration, or operation of Common Elements;
- d. cash reserves for proper Association purposes including, but not limited to, contingencies for the year and a reserve for replacements of the Common Elements;
- e. all costs incurred by the Association in connection with the enforcement of the Declaration, Bylaws, and the rules and regulations of the Board;
- f. the deductible amounts, if any, specified in the insurance policy or policies insuring the Building, structures and Apartments of the Condominium Project; and
- g. salaries, wages, payroll taxes, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, water service, power and other utilities, professional and management fees and costs.

The Common Fund shall be held, administered and accounted for by the Board, as Trustee for the benefit of all of the Owners of Apartments in the Condominium Project. The Common Fund is the property of the Apartment Owners and constitutes a part of the General Common Elements. The Common Fund shall be administered and disbursed by the Board according to the terms of this Declaration, the Bylaws, and as determined by the Board from time to time.

Section 8.03 - Assessments. The Board shall have full power and authority to assess or charge the members of the Association for funds required for the performance

of its purposes. There shall be no increase or decrease in assessments, because of the use or non-use of Limited Common Elements appurtenant to an Apartment or of General Common Elements. Each Owner and Joint Owner of an Apartment shall be jointly and severally liable for all assessments which may be levied against such Owner or Owners by the Association. No Owner may exempt himself from liability for his contribution toward the Common Expenses or from liability for payment of assessments by waiver of the use or enjoyment of any of the Common Elements or by the abandonment of the Apartment. No reallocation of Limited Common Elements as allowed in the Declaration shall affect the proportionate ownership allocable to an Owner in the Common Elements or the Owner's obligation to pay assessments on the basis of that ownership. Annual, special and individual assessments may be levied as follows:

- a. Annual Assessments. The annual assessment levied against Owners for the fiscal year of the Association shall be established by the adoption of the annual budget for such year by the Board of Directors. Each Owner shall be obligated to pay his proportionate share of the Common Expenses for such year as estimated in and shown by such annual budget. Such proportionate share for each Unit Owner shall be in the ratio of his respective ownership in the Common Elements as set forth in the Declaration. Unless the board otherwise directs, on or before the first day of the first month each fiscal year and on each succeeding month of the fiscal year covered by the annual budget, each Member shall pay to the Board or such other person as the Board may designate, as his respective

monthly assessment for the Common Expenses, one-twelfth (1/12th) of his proportionate share of the Common Expenses for such year as estimated in and shown by such budget, and each installment not paid within thirty (30) days after its due date will bear interest at the rate of ten percent (10%) per annum from and after its due date until paid. In the event that the Board shall not approve an estimated annual budget for any fiscal year, or until such time as the Board approves an estimated annual budget for a new fiscal year and notifies each Member of such, it shall be deemed that the last adopted budget was readopted for the new year and each Member shall continue to pay each month the amount of his respective monthly assessment as last determined. No Member shall be relieved of his obligation to pay his portion of assessments or Common Expenses because a budget is not timely adopted.

- b. Special Assessments. Should the Board of Directors at any time determine in the sole discretion of such Board of Directors, that the Assessments levied are or may prove to be insufficient to pay the Common Expenses in any fiscal year for any reason, including non-payment of assessments by an Owner, then such Board of Directors shall have the authority at any time and from time to time to levy such additional assessment or assessments (special assessments) as it shall deem to be necessary for that purpose. As is the case with annual assessments, each Owner shall be obligated to pay his proportionate share of each special assessment, and such proportionate

share for each Unit Owner shall be in the ratio of his respective ownership in the Common Elements as set forth in the Declaration. The Board shall fix the due date for payment of special assessments and an interest rate to be charged for special assessments which are not timely paid. Each special assessment shall be due and payable by each member at the time and in the manner set forth in the resolution fixing such special assessment. In the absence of specific provision therefor in such resolution, each special assessment shall be due and payable on or before thirty (30) days from and after the date of notification of the adoption of such assessment and all sums not paid on or before the date when due shall bear interest at the rate of ten percent (10%) per annum from the date when due until paid.

c. Individual Assessments. An Owner shall be individually assessed for the following, and all such individual assessments shall be due and payable on demand and shall bear interest at the rate of 10% per annum from due date, unless the Board otherwise provides:

1. items with respect to which it is his sole responsibility to pay;
2. all costs incurred by the Board in the enforcement of the Declaration, Bylaws or rules and regulations of the Board against said Owner, including, but not limited to, court costs and attorney fees;
3. dues, fees, late fees, fines, penalties, and interest owed by the Owner, as provided elsewhere herein or in the rules and regulations of the Board;

If in any taxable year, the income of the Association from assessments exceeds the sum of (i) total expenses of the Association for which payment has been made or liability incurred within such taxable year, and (ii) reasonable reserves as may have been created by the Board of Directors, such excess may be utilized in accordance with a vote of Owners at a meeting called for such purpose, which vote shall be to return such excess to Owners or to apply such excess to the following year's assessments or otherwise as the Members may vote.

Section 8.04 - Lien for Assessments. The Association shall have a continuing lien upon each Apartment and the interests in the Common Elements appurtenant thereto, and on the rents and insurance proceeds received or to be received by the Unit Owner and relating to the Owner's Unit in order to secure the payment by the Owner of such Apartment of all sums owed by said Owner to the Association, including, but not limited to, assessments required or permitted to be levied, all fines, dues, fees, charges, penalties, late fees and interest which may be levied or charged, any other amount due the Association by the Unit Owner or levied against the Unit or its Owners by the Association, and all expenses, including reasonable attorney's fees, incurred by the Association in the performance of its duties. Such lien shall attach from the due date of each such assessment or other sum. The lien shall be prior to all other liens, except that such lien shall be subordinate, secondary and inferior to:

- a. A lien for real property taxes and other governmental assessments or charges against the unit unless otherwise provided by Section 32.05, *Tax Code*;

- b. A lien or encumbrance recorded before the Declaration is recorded;
- c. A first vendor's lien or first deed of trust lien recorded before the date on which the assessment sought to be enforced becomes delinquent; and
- d. A lien for construction of improvements to the unit or an assignment of the right to insurance proceeds on the unit if the lien or assignment is recorded or duly perfected before the date on which the assessment sought to be enforced becomes delinquent.

The claim and the lien securing such claims shall be freely assignable. The lien may be foreclosed, without prejudice and subject to the aforesaid prior liens, by the holder thereof in the same manner as either a vendor's lien, or as is provided for foreclosure of a contractual deed of trust lien on real property under Texas law. The lien carries with it a Power of Sale in connection with the lien. By written resolution, the Board may appoint from time to time an officer, agent, trustee or attorney of the Association to exercise the Power of Sale on behalf of the Association. An Association shall exercise its Power of Sale pursuant to Section 51.002, Texas Property Code, as it now exists and as it may hereafter be amended. No such foreclosure shall affect or impair any such prior liens. The Council shall have the power to bid on the Apartment Unit foreclosed on at any foreclosure sale, and to acquire, hold, lease, mortgage and convey the same on behalf of the Council. The purchaser acquiring title to such Apartment at any such foreclosure sale, and the purchaser's successors and assigns, shall not be liable for the share of the unpaid Common Expenses or assessments by the Council chargeable to such Apartment which

became due prior to acquisition of such title at such foreclosure sale, to the extent such amounts are not recovered by the Council from the proceeds of such foreclosure sale.

Section 8.05 - Self Help/Abatement. The violation of any rule or regulation adopted by the Board, or the breach of any restriction, covenant, obligation, limitation or provision herein or in the Declaration contained, shall give the Board the right, in addition to all other rights, to enter upon the property in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass.

Section 8.06 - Default Remedies General.

- a. In the event of any default by any Unit Owner under the provisions of the Act, Declaration, Bylaws or the rules or regulations of the Board, the Association, or its authorized representative, shall have each and all of the rights and remedies which may be provided by the Act, Declaration, Bylaws, or said rules and regulations or which may be otherwise available at law or in equity.
- b. The Association, or its authorized representative, may prosecute any action or other proceeding against such defaulting Unit Owner and/or others for enforcement of any lien or to enforce compliance with the particular matter in respect to which default was made, by injunctive relief or otherwise, or for

the collection of any sums, debts, damages, costs or expenses in default or arising from any such default.

- c. All expenses of the Board or Council, or their authorized representative, in connection with any such action or proceedings shall be part of the Common Expenses and collectible as other Common Expenses to the extent not collected from the defaulting Unit Owner or other party.
- d. The Board shall be further empowered and authorized to correct or cure any such matter in default and to do whatever may be necessary for such purpose, and all expenses in connection therewith, including attorney's fees, shall be charged to and assessed against such defaulting Unit Owner and shall be secured in the same manner as assessments for Common Expenses.

Section 8.07 - Acceleration. In the event an Owner defaults in the payment of an assessment which is to be paid in installments, the Board may, after written notice, accelerate and declare immediately due and payable the entirety of said assessment and all other assessments.

Section 8.08 - Waiver and Rights Cumulative. The failure of the Association or the Board or of any Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, these Bylaws, or the rules and regulations adopted by the Board shall not constitute a waiver to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association or the Board or any Owner pursuant to any terms, provisions, covenants or conditions of the

Declaration, these Bylaws, or the rules and regulations of the Board shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be available to such party at law or in equity.

ARTICLE IX

SALE, LEASING OR OTHER ALIENATION

Section 9.01 - Resale or Sublease by Council. If the Association shall purchase, rent or lease any Apartment Unit as herein provided, the Board shall have the authority at any time thereafter to sell, sub-rent or sublease the same on behalf of the Association, upon such terms and for such price as the Board may deem proper, and all net proceeds or deficit therefrom, shall become part of the Common Fund or shall be divided among all the Unit Owners in proportion to their respective ownership interests in the Common Elements, in such manner as the Board may determine.

Section 9.02- Responsibility of Transferees for Unpaid Assessments. Upon the transfer of any Apartment Unit, all unpaid assessments against the transferring Owner for his pro rata share of the Common Expenses shall be first be paid out of the sale price or by the transferee 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 Unit; and
- b. Amounts due under mortgage instruments duly recorded.

Section 9.03 - Certificate of Assessment. Any prospective transferee or encumbrancer of an Apartment, upon written request, shall be entitled to a certificate from the Board as to the amount of unpaid Common Expenses, if any, of the subject Apartment. Such Apartment shall not be liable or subject to any lien for unpaid assessments in excess of the amount set forth in said certificate. If such request for a certificate is not complied with within twenty (20) days of such request, and such transfer or encumbrance is thereafter consummated, then the prospective transferee or encumbrancer shall not be liable for, nor shall the subject Apartment thereafter be subject to a lien for, any unpaid Common Expenses or assessments due prior to the date of such request.

Section 9.04 - No Severance of Ownership. The appurtenant interests in the Common Elements and easements shall not be severable from the ownership of the Apartment to which appurtenant, and no attempted or purported severance of such ownership shall be effective. No part of the Common Elements and easements of any Apartment may be sold, transferred, leased or otherwise disposed of, except as part of a sale, transfer, lease or other disposition of the Apartment Unit to which such interests are appurtenant, or as part of a sale, transfer, lease or other disposition of such part of the appurtenant interests of all Apartments.

Section 9.05 - Non-Partition. General and Limited Common Elements shall remain undivided and shall not be the object of an action for partition or division of the co-ownership so long as suitable for a Condominium Regime.

ARTICLE X

MISCELLANEOUS

Section 10.01 - Records. The records of all resolutions, rules and regulations adopted by the Board from time to time shall be kept in the Minute Book.

Section 10.02 - Amendment of Bylaws. The Bylaws of the Association may be altered, amended or repealed, and new Bylaws may be adopted by the vote of a majority of Members.

Section 10.03 - Declaration. The Association shall at all times be subject to, and operated in conformity with, the terms of the Declaration.

Section 10.04 - Notice. Whenever notice is required or allowed to be given to any director or Association Member, and no provision is made as to how such notice shall be given, it shall not be construed to mean only personal notice, but any such notice may be given (a) in writing, by mail, postage prepaid, addressed to such director or member at his current address as it appears in the records of the Association, or (b) by any other method permitted by law. Any notice required or permitted to be given by mail shall be deemed to be given on the day it is deposited into an official depository of the United States Postal Service, postage prepaid, and properly addressed to the most current address of such person according to the records of the Association.

Section 10.05 - Gender and Number. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Section 10.06 - Table of Contents: Headings. The table of contents and headings used in these bylaws have been inserted for administrative convenience only and do not constitute matter to be construed in interpretation.

Adopted and Approved by the La Mirage Homeowners Association at a special meeting of the Members of said Association, at which a quorum of Members was present, on January 22, 1999, by a vote of 69.3 for and 12.4 against out of a possible 100 votes.

Marty Orton
President, Marty Orton

Alan Stafford
Secretary, Alan Stafford

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Official Records
of NUECES County, TX.
ERNEST M. BRIONES
COUNTY CLERK
Rec. \$ 157.00

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of Race, Color, Religion, Sex, Handicap, Familial Status or National Origin, is invalid and unenforceable under FEDERAL LAW, 3/12/89

151/6
Michael G. Morris
Attorney at Law
First Bank Building
5350 South Staples
Suite 222
Corpus Christi, Texas
78411-4660

LAMIRAGE/BYLAWS.DOC

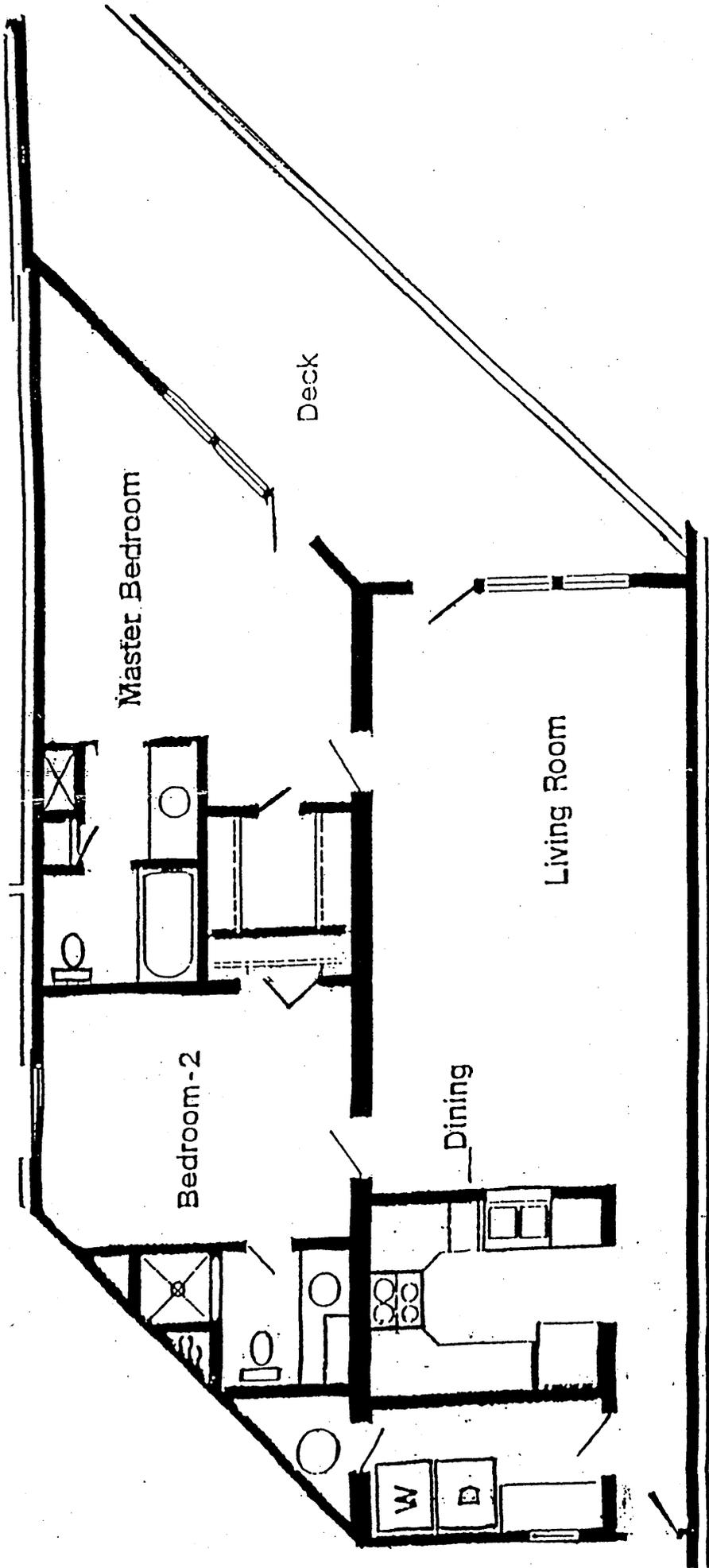
51

STATE OF TEXAS
COUNTY OF NUECES
I hereby certify that this instrument was FILED in File Number _____ Sequence on the date and at the time stamped herein by me, and was duly RECORDED, in the Official Public Records of Nueces County, Texas

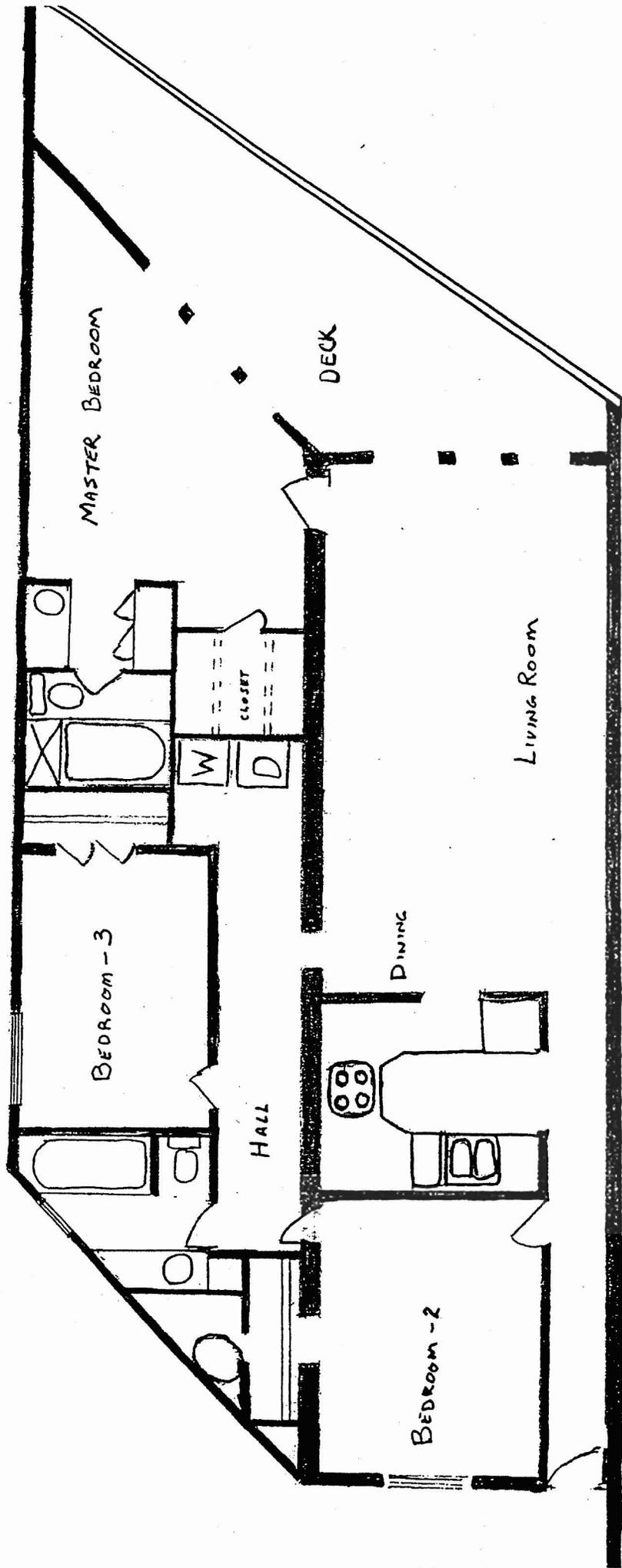


Ernest M. Briones
COUNTY CLERK
NUECES COUNTY, TEXAS

.015144
CCMS



2-BEDROOM



3 - BEDROOM

60 Absolute Units

SOUTH WING (17) 2Bdr (5) 3Bdr.

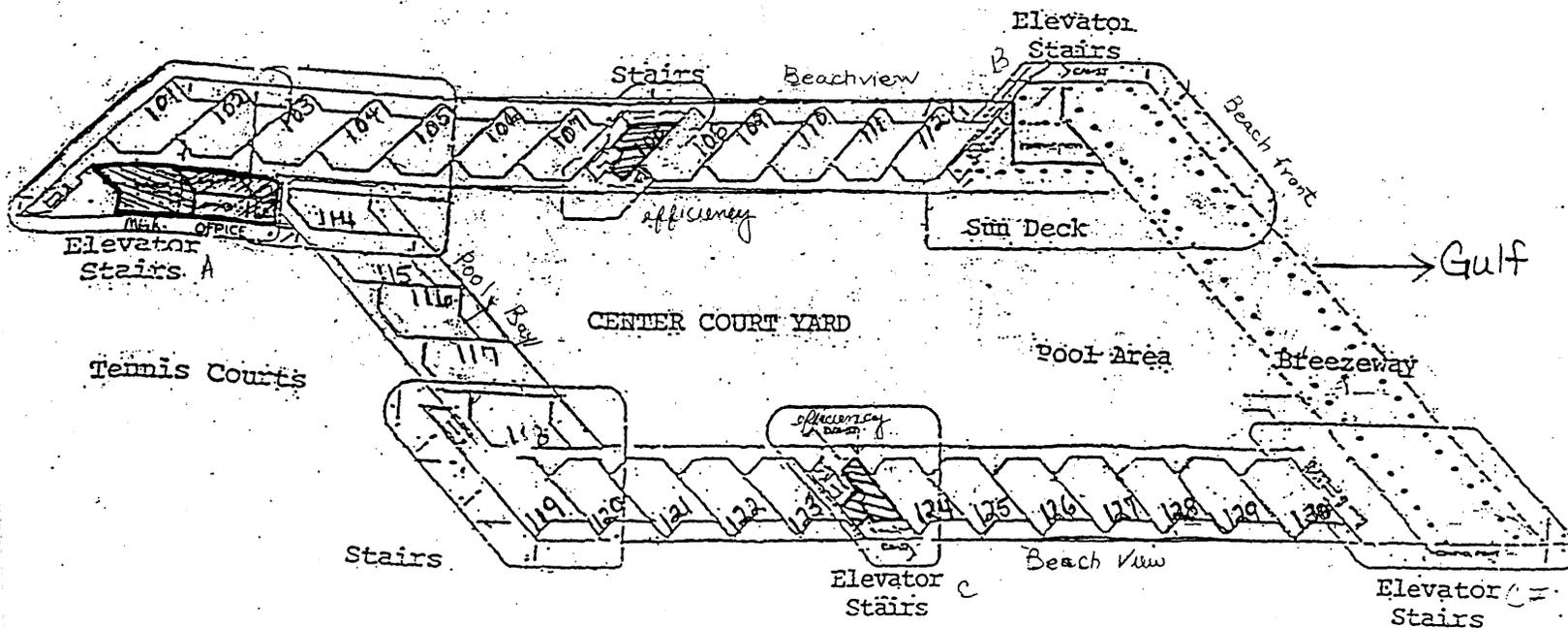
NORTH WING (16) 2Bdr (5) 3Bdr.

GULF Wing (6) 2 Bdr. (3) 3 Bdr.

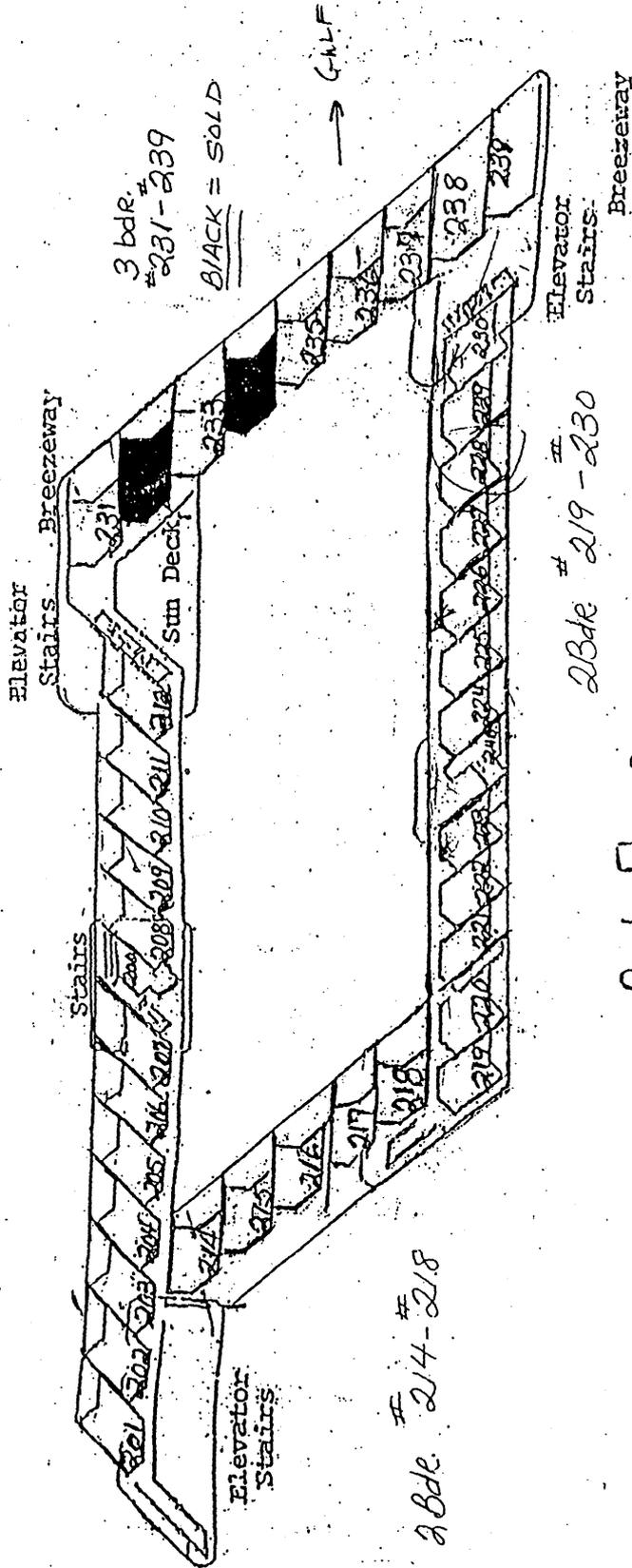
Bay Wing (6) 2 Bdr. (2) 3 Bdr.

45-2⁵ 15-3⁵

1st FLOOR 3/R



2 Bde. # 201-212



2 Bde. # 214-218

2 Bde # 219-230

2nd Floor

3rd FLOOR

