

Section 7. CONSENT OF HOLDERS OF SECURITY INTERESTS.

Amendments are subject to the consent requirements of Article XVIII.

XV

AMENDMENT TO BYLAWS

The Bylaws may be amended only by vote of two-thirds (2/3) of the members of the Executive Board, following Notice and Comment to all Unit Owners, at any meeting duly called for such purpose.

XVI

TERMINATION

Termination of the Common Interest Community may be accomplished only in accordance with AS 34.08.260.

XVII

MORTGAGEE PROTECTION

Section 1. INTRODUCTION.

This Article establishes certain standards and covenants which are for the benefit of the holders, insurers and guarantors of certain security interests. This Article is supplemental to, and not in substitution for, any other provisions of the Documents, but in the case of conflict, this Article shall control.

Section 2. PERCENTAGE OF ELIGIBLE MORTGAGEES.

When in this Declaration the approval or consent of a specified percentage of eligible mortgagees is required the percentage shall be determined by comparing the aggregate allocated interests of Units subject to security interests held by eligible mortgagees approving or consenting to the aggregate allocated interest of all Units subject to security interests held by eligible mortgagees.

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)

ASPEN HEIGHTS CONDOMINIUMS

Page 25

DOCUMENT PREPARED BY
JIM CHRISTIE & ASSOCIATES
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Section 3. NOTICE OF ACTIONS.

The Association shall give prompt written notice to each eligible mortgagee and eligible insurer of the following:

(a) Any condemnation or casualty loss affecting a material portion of the Common Interest Community or any Unit in which there is a first security interest held, insured or guaranteed by such eligible mortgagee or eligible insurer, as applicable: If such taking or damage to a Condominium Unit exceeds \$1,000 or exceeds \$10,000 to the Common Interest Community, it shall be deemed material.

(b) Any delinquency in the payment of Common Expense assessments or other default under the Documents for Units subject to a first security interest held, insured, or guaranteed, by such eligible mortgagee or eligible insurer, which remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) Any proposed action which would require the consent of a specified percentage of eligible mortgagees;

(e) Any judgment rendered against the Association;

(f) Any proposed termination of the Common Interest Community;

(g) Any proposed amendment to the Common Interest Community documents effecting a change in:

(i) the boundaries of any Unit or exclusive easement rights appurtenant to the Unit;

(ii) the interest in the Common or Limited Common Elements allocated to a Unit or the liability for Common Expense Assessments allocated to it;

(iii) the voting rights allocated to a Unit; or

(iv) the purpose or use to which any Unit or Common Element has been restricted.

Section 4. CONSENT REQUIRED.

(a) Document Changes. Notwithstanding any lower requirement permitted by this Declaration or the Act, no amendment of any material provision of the Documents and no act or omission that would tend to result in any of the following without amendment shall be effective without the vote of at least sixty-seven percent (67%) of the total allocated votes (or any greater Unit Owner vote required in this Declaration or the Act) and until approved in writing by eligible mortgagees of Units which represent at least 51% of the votes of Units that are subject to mortgages held by eligible mortgagees. The percentages herein refer to allocated interest in accordance with Exhibit A. The foregoing approval requirements do not apply to amendments effected by the exercise of any development right. Material includes, but is not limited to, any provision affecting:

(i) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%);

(ii) assessments, assessment liens or priority of assessment liens;

(iii) voting rights;

(iv) reductions of reserves for maintenance, repair and replacement of Common Elements;

(v) responsibility for maintenance and repairs;

(vi) reallocation of interests in the Common Elements or Limited Common Elements for any purposes except that when Limited Common Elements are reallocated by agreement between Unit Owners, only those Unit Owners and the eligible mortgagees holding security interests in such Units must consent;

(vii) rights to use Common Elements and Limited Common Elements;

(viii) redefinition of any Unit boundaries when boundaries of only adjoining Units are involved, then only those Unit Owners and the eligible mortgagees holding security interests in such Unit or Units must approve such action;

(ix) convertibility of Units into Common Elements or vice versa;

(x) expansion or contraction of the Common Interest Community, or the addition, annexation or withdrawal of property to or from the Common Interest Community;

(xi) hazard insurance or fidelity bond requirements;

(xii) restrictions on leasing of Units;

(xiii) Imposition of restrictions on a Unit Owner's right to sell or transfer his or her Unit;

(xiv) establishment of self-management when professional management had been required previously by any eligible mortgagee;

(xv) restoration or repair of the project after damage or partial condemnation in a manner other than specified in the Declaration;

(xvi) termination of the Common Interest Community after occurrence of substantial destruction or condemnation;

(xvii) the benefits to mortgage holders, insurers or guarantors.

(xviii) So long as Alaska Housing Finance Corporation or Federal National Mortgage Association, or Government National Mortgage Association, or Federal Home Loan Mortgage Corporation or the Federal Housing Administration or the Federal Veterans Administration or their successors or assigns is a first mortgagee or insurer or guarantor Owner of a Unit, the term "Material Amendment" shall include but shall not be limited to any amendment to the "Documents" and any act or omission that would result in a failure to comply with the written requirements of any of the foregoing for condominium projects unless waived in writing by the particular entity whose written requirements are affected.

(b) Actions. Notwithstanding any lower requirement permitted by this Declaration or the Act, the Association may not take or permit any of the following actions, without the written approval of eligible mortgagees of Units representing not less than the following percentages of Allocated Interest in the Common Elements described in Article VIII:

(i) convey or encumber the Common Elements or any portion thereof; Eligible Mortgagee approval: Sixty-seven percent (67%). The granting of

BK 3296 PG 574

easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Common Interest Community will not be deemed a transfer within the meaning of this clause;

(ii) Restoration or repair of the property (after a hazard damage or partial condemnation) in a manner other than that specified in the documents or use of hazard insurance proceeds for losses to any condominium property, whether to a Unit or to the Common Elements, for other than the repair, replacement or reconstruction of such improvements: sixty-seven percent (67%);

(iii) the termination of the Common Interest Community for reasons other than a substantial destruction or condemnation, as to which a sixty-seven percent (67%) eligible mortgagee approval is required; provided however that implied approval is to be assumed when an eligible mortgagee fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

(iv) the alteration of any partition or creation of any aperture between adjoining Units (when Unit boundaries are not otherwise being affected), in which case only the Owners of Units affected and eligible mortgagees of those Units need approve the action;

(v) the merger of this Common Interest Community with any other Common Interest Community: sixty-seven percent (67%);

(vi) the granting of any easements, leases, licenses and concessions through or over the Common Elements (excluding, however, any utility easements serving or to serve the Common Interest Community and excluding any leases, licenses or concessions for no more than one year): sixty-seven percent (67%);

(vii) the assignment of the future income of the association, including its right to receive Common expense assessments: sixty-seven percent (67%); and

(viii) by act or omission seek to abandon, partition, subdivide, encumber, annex, expand or withdraw any of the Common Elements or Elements or the sale or transfer of any part thereof: sixty-seven percent (67%).

BK 3296 PG 575

(c) The Association may not change the period for collection of regularly budgeted Common expense assessments to other than monthly without the consent of all eligible mortgagees.

(d) The failure of an eligible mortgagee to respond within thirty (30) days to any written request of the Association for approval of a non-material addition or amendment to the documents shall constitute an implied approval of the addition or amendment.

Section 5. INSPECTION OF BOOKS.

The Association shall permit any eligible mortgagee or eligible insurer to inspect the books and records of the association during normal business hours.

Section 6. FINANCIAL STATEMENTS.

The Association shall provide any eligible mortgagee or eligible insurer which submits a written request, with a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association. Such financial statement shall be audited by an independent certified public accountant if:

(a) the Common Interest Community contains fifty (50) or more Units in which case the cost of the audit shall be a Common expense; or

(b) any eligible mortgagee or eligible insurer requests it, in which case the eligible mortgagee or eligible insurer shall bear the cost of the audit.

Section 7. ENFORCEMENT.

The provisions of this Article are for the benefit of eligible mortgagees and eligible insurers and their successors, and may be enforced by any of them by any available means, at law, or in equity.

Section 8. ATTENDANCE AT MEETINGS.

Any representative of an eligible mortgagee or eligible insurer may attend any meeting which a Unit Owner may attend.

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, ~~et seq.~~)
ASPEN HEIGHTS CONDOMINIUMS
Page 30

DOCUMENT PREPARED BY
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Section 9. APPOINTMENT OF TRUSTEE.

In the event of damage or destruction under Article XXII or condemnation of all or a portion of the community, any eligible mortgagee may require that such proceeds to be payable to a Trustee established pursuant to Article XXII, Section 5. Such Trustee may be required to be a corporate trustee licensed by the State of Alaska. Unless otherwise required, the members of the Executive Board acting by majority vote through the president may act as trustee.

XVIII

ASSESSMENT AND COLLECTION OF COMMON EXPENSES

Section 1. APPORTIONMENT OF COMMON EXPENSES.

Except as provided in Section 2(a) of this Article, all Common Expenses shall be assessed against all Units in accordance with their allocated interests in the Common Elements set forth in Article VIII.

Section 2. COMMON EXPENSES ATTRIBUTABLE TO FEWER THAN ALL UNITS.

(a) Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element which serves only one Unit shall be assessed against the Unit or Units to which the Limited Common Element is assigned.

(b) Any Common Expense for services provided by the Association to any individual Unit at the request of the Unit Owner shall be assessed against the Unit which benefits from such service.

(c) Any insurance premium increase attributable to a particular Unit by virtue of activities in or construction of the Unit shall be assessed against that Unit.

(d) An assessment to pay a judgment against the Association may be made only against the Units in the Common Interest Community at the time the judgment was entered, in proportion to their Common Expense liabilities.

(e) If Common Expense is caused by the misconduct of a Unit Owner, the Association may assess that expense exclusively against the Unit.

(f) Fees, charges, late charges, fines, collection costs, and interest charged against a Unit Owner pursuant to the Documents and the Act are enforceable as Common Expense assessments.

Section 3. LIEN.

(a) The Association has a lien on a Unit for an assessment levied against the Unit or fines imposed against its Unit Owner from the time the assessment or fine becomes due. Fees, charges, late charges, fines and interest charged pursuant to the Act and the Documents are enforceable as assessments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

(b) A lien under this Section is prior to all other liens and encumbrances on a Unit except: (1) a lien and encumbrances recorded before the recordation of the Declaration; (2) a first Security Interest on a Unit recorded before the date on which the assessment sought to be enforced became delinquent; and (3) liens for real estate taxes and other governmental assessments or charges against the Unit. A lien under this section is also prior to all security interests described in (2) of this Subsection if the Common Expense assessments based on the periodic budget adopted by the Association pursuant to Section 4 of this Article which would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce either the Association's lien or a Security Interest described in Subdivision (2) of this Subsection. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of a lien for other assessments made by the Association. A lien under this Section is not subject to the provisions of AS 09.38.010.

(c) Recording of the Declaration constitutes record notice and perfection of the lien. Further recording of a claim of lien for assessment under this Section is not required.

(d) A lien for an unpaid assessment is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the full amount of the assessment becomes due; provided that if an Owner of a Unit subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings is lifted.

BK # 3296 PG 578

(e) This section does not prohibit an action to recover sums for which subsection (a) of this Article creates a lien or prohibit an Association from taking a deed in lieu of foreclosure.

(f) A judgment or decree in any action brought under this Section shall include costs and reasonable attorney's fees for the prevailing party.

(g) A judgment or decree in an action brought under this Article is enforceable by execution under AS 09.35.010.

(h) Without limiting any other remedy which may be available the Association's lien may be foreclosed as a lien under AS 34.35.005.

(i) In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the Unit Owner to collect all sums alleged to be due from that Unit Owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pendency of the action to the extent of the Association's Common Expense assessments based on a periodic budget adopted by the Association.

(j) The purchaser of a Unit at a foreclosure sale is not liable for any unpaid assessments against that Unit which became due before the sale, other than the assessments which are prior to that security interest under Section 3(b) of this Article and A.S. 34.08.470(b). Any unpaid assessments not satisfied from the proceeds of the sale become Common expenses collectible from all the Unit Owners, including the purchaser. The purchaser is liable for all assessments due after the time of sale and the Association has its lien on the Unit to secure payment.

(k) Any payments received by the Association in the discharge of a Unit Owner's obligation may be applied to the oldest balance due.

Section 4. BUDGET ADOPTION AND RATIFICATION.

Within thirty (30) days after adoption of a proposed budget for the Common Interest Community, the Executive Board shall provide a copy of it to each Unit Owner, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all Unit Owners reject the budget, the budget is ratified. If the proposed budget is rejected, the

periodic budget last ratified by the Unit Owners continue until the Unit Owners ratify a budget proposed by the Executive Board.

Section 5. RATIFICATION OF NONBUDGETED COMMON EXPENSE.

If the Executive Board votes to levy a Common Expense assessment not included in the current budget, other than one enumerated in Section 2 of this Article, in an amount greater than fifteen percent (15%) of the current annual operating budget, the Executive Board shall submit such Common Expense to the Unit Owners for ratification in the same manner as a budget under Section 4 of this Article.

Section 6. CERTIFICATE OF PAYMENT OF COMMON EXPENSE ASSESSMENTS.

The Association upon written request shall furnish to a Unit Owner a statement in recordable form setting out the amount of unpaid assessments against the Unit. The statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Executive Board and each Unit Owner.

Section 7. MONTHLY PAYMENT OF REGULAR COMMON EXPENSES.

All Common Expenses assessed under Sections 1 and 2 of this Article shall be due and payable monthly.

Section 8. ESTABLISHMENT OF WORKING CAPITAL FUND.

At the time a Unit is first conveyed by Declarant the grantee (purchaser) shall pay an amount equal to the projected regular assessments for the Unit for a two-month period to establish the Working Capital Fund described at Section (a) below which is to be used until there are sufficient funds from the regular assessments to cover all ongoing operating expenses. These sums are to be collected by the closing escrow agent.

This fund shall not bear interest. Conveyance of a Unit shall be deemed to transfer all right, title and interest in such fund.

These payments are not to be deemed advance payment of regular assessments. Within sixty (60) days after closing on the first Unit within a phase the Declarant shall pay each unsold Units two month share of the Working Capital Fund into the segregated Working Capital Fund provided for herein. Declarant shall be reimbursed for such payments from funds collected at closing when the unsold Units are sold.

Section 9. ALLOCATION OF ASSESSMENTS.

As collected, the assessments shall be allocated and segregated into a Capital Improvement Reserve Fund and a Working Capital Fund. The Capital Improvement Reserve Fund shall be used for the periodic maintenance, repair and replacement of those Common Elements (and Limited Common Elements for which the Association is responsible) that must be replaced on a periodic basis, shall be maintained out of the regular assessment herein provided for and shall be adequate for the purposes set forth. The Working Capital Fund shall be used to cover the routine operating expenses of the Common Interest Community. The Working Capital Fund shall initially be established in an amount equal to at least two months of estimated assessments for each Unit. As elsewhere herein provided, each unit's share of this Working Capital Fund (Reserve Fund) shall be collected from each purchaser at closing. Use and transfer of these amounts shall be governed by Section 15 hereof.

Section 10. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.

In addition to the regular assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of part or all of the Common Elements, including fixtures and personal property related thereto and general landscaping; provided that any such assessment shall have the ascent of Owners whose aggregate interest in the Common Elements is not less than sixty-seven percent (67%).

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)

ASPEN HEIGHTS CONDOMINIUMS

Page 35

DOCUMENT PREPARED BY
JIM CHRISTIE & ASSOCIATES
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July 24, 1998

Section 11. ACCELERATION OF COMMON EXPENSE ASSESSMENTS.

In the event of default for a period of ten (10) days by any Unit Owner in the payment of any regular or special Common Expense assessment levied against his or her Unit, the Executive Board shall have the right, to declare all unpaid assessments for the pertinent fiscal year to be immediately due and payable.

Section 12. COMMENCEMENT OF COMMON EXPENSE ASSESSMENTS.

The Common expense assessments will commence as to all Units within each phase of the Common Interest Community, including those owned by Declarant, not later than sixty (60) days after conveyance of the first Unit within that Phase to an Owner. Unsold Units that are not occupied may temporarily be accorded a reasonably reduced assessment rate but in any event, the full assessment rate shall apply to all Units no later than sixty (60) days after the first Unit is conveyed.

Section 13. NO WAIVER OF LIABILITY FOR COMMON EXPENSES.

No Unit Owner may exempt himself or herself from liability for payment of the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of the Unit against which the assessments are made.

Section 14. PERSONAL LIABILITY OF UNIT OWNERS.

The Owner of a Unit at the time a Common Expense assessment or portion thereof is due and payable is personally liable for the assessment. Personal liability for the assessment shall not pass to a successor in title to the Unit unless he or she agrees to assume the obligation.

Section 15. USE AND TRANSFER OF FUNDS.

At the time Declarant is to relinquish control in accordance with this Declaration or the Act or the requirements of Alaska Housing Finance Corporation, Government National Mortgage Association, Federal National Mortgage Association, Federal Housing Administration or the Federal Veterans Association, the Working

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)

ASPEN HEIGHTS CONDOMINIUMS

Page 36

DOCUMENT PREPARED BY
JIM CHRISTIE & ASSOCIATES
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July 24, 1998

Capital Fund established in accordance with Section 8 is to be transferred to the Association, if not already transferred. The Working Capital Fund is at all times to be maintained in a segregated account. Declarant may not use any such funds for any of its expenses, reserve contributions or construction costs, or to make up any budget deficits while it is in control. When unsold Units are sold Declarant may, however, reimburse itself for funds it paid to the Association for an unsold Unit's share of the Working Capital Fund by using funds collected at closing when the Unit is sold.

XIX

RIGHT TO ASSIGN FUTURE INCOME

The Association may assign its future income, including its right to receive Common Interest Expense assessments, only by the affirmative vote of Unit of Units to which at least sixty-seven percent (67%) of the votes in the Association are allocated, at a meeting called for that purpose and written approval of sixty-seven percent (67%) of eligible mortgagees.

XX

PERSONS AND UNITS SUBJECT TO DOCUMENTS

Section 1. COMPLIANCE WITH DOCUMENTS.

All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the entering into occupancy of a Unit constitutes agreement that the provisions of the Documents are accepted and ratified by such Unit Owner, tenant, mortgagee or occupant, and all such provisions recorded in the Anchorage Recording District, Third Judicial District, State of Alaska are covenants running with the land and shall bind any persons having at any time any interest or estate in such Unit.

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)
ASPEN HEIGHTS CONDOMINIUMS
Page 37

DOCUMENT PREPARED BY
JIM CHRISTIE & ASSOCIATES
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July 24, 1998

Section 2. ADOPTION OF RULES.

The Executive Board may adopt Rules regarding the use and occupancy of Units, Common Elements and Limited Common Elements and the activities of occupants, subject to Notice and Comment.

XXI

INSURANCE

Section 1. COVERAGE.

To the extent reasonably available, the Executive Board shall obtain and maintain insurance coverage as set forth in this Article. If such insurance coverage is not reasonably available, and the Executive Board determines that any insurance described herein will not be maintained, the Executive Board shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Unit Owners and Eligible Mortgagees at their respective last known address.

Section 2. PROPERTY INSURANCE.

(a) Property insurance covering:

(i) The Association shall at all times secure and maintain a master or blanket policy of fire and hazard insurance included within the term "extended coverage" on: (1) all personal property owned by the Association, and (2) the Common Elements and Limited Common Elements including without limitation, buildings, units, fixtures, equipment, improvements and other property whether part of a Unit or Common Element or Limited Common Element.

(b) Amounts.

Insurance shall be secured and maintained in amounts (after application of any deductions) equal to one hundred percent (100%) of replacement cost at the

time the insurance is purchased and at each renewal date. The maximum deductible for insurance policies shall be \$10,000 or one percent (1%) of the policy face amount. The difference between the policy deductible and the actual loss shall be maintained by the Association as a reserve.

The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing said replacement cost of the project facilities and the actual cash value of the personal property, and the cost of such appraisals shall be a Common Expense.

(c) Risks Insured Against. The insurance shall afford protection against "all risk" of direct physical loss commonly insured against.

(d) Other Provisions. Insurance policies required by this Section shall provide that:

(i) The insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner;

(ii) An act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

(iii) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy of the Association provides primary insurance;

(iv) Loss must be adjusted with the Association;

(v) Insurance proceeds shall be paid to any insurance trustee designated in the policy for that purpose, and in the absence of such designation to the Association, in either case to be held in trust for each Unit Owner and such Unit Owner's mortgagee.

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, ~~et seq.~~)

ASPEN HEIGHTS CONDOMINIUMS

Page 39

DOCUMENT PREPARED BY
JIM CHRISTIE & ASSOCIATES
Reginald J. Christie, Jr., Esq.
July 24, 1998

(vi) The Insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each holder of a Security Interest to whom a certificate or memorandum of Insurance has been issued, at their respective last known addresses.

(vii) Notwithstanding any provisions to the contrary herein, the Association shall be required to continuously carry a master condominium policy of casualty insurance, and a fidelity bond, with such coverage and endorsements in form and amounts, including full replacement costs coverage with an agreed-amount endorsement as required by an Eligible Insurer or Eligible Mortgagee during such periods of time an Eligible Insurer or Eligible Mortgagee is or are a mortgagee on a Unit in the project or the Owner of such a Unit.

(viii) The name of the Insured shall be substantially as follows: ASPEN HEIGHTS CONDOMINIUM OWNERS ASSOCIATION, INC., for the use and benefit of the individual Owners".

Section 3. LIABILITY INSURANCE.

Liability insurance, including medical payments insurance, in an amount determined by the Executive Board but in no event less than \$1,000,000, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements, and the activities of the Association.

(a) Other provisions. Insurance policies carried pursuant to this section shall provide that:

(i) Each Unit Owner is an insured person under the policy with respect to liability arising out of interest of the Unit Owner in the Common Elements or membership in the Association.

(ii) The Insurer waives the right to subrogation under the policy against a Unit Owner or member of the household of a Unit Owner;

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)
ASPEN HEIGHTS CONDOMINIUMS
Page 40

DOCUMENT PREPARED BY
JIM CHRISTIE & ASSOCIATES
Reginald J. Christie, Jr., Esq.
July 24, 1998

(iii) An act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy.

(iv) If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance.

(v) The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their last known addresses.

Section 4. FIDELITY BONDS.

A blanket fidelity bond is required for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The bond shall name the Association as obligee and shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond is in force, and in no event less than the sum of three months' assessments plus reserve funds. The bond shall include a provision that calls for ten (10) days' written notice to the Association, to each holder of a Security Interest in a Unit, to each servicer that services a Unit and to the insurance trustee, if any, before the bond can be canceled or substantially modified for any reason.

Section 5. UNIT OWNER POLICIES.

An insurance policy issued to the Association does not prevent a Unit Owner from obtaining insurance for his or her own benefit.

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)

ASPEN HEIGHTS CONDOMINIUMS

Page 41

DOCUMENT PREPARED BY
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July 24, 1998

Section 6. WORKERS' COMPENSATION INSURANCE.

The Executive Board shall obtain and maintain Workers' Compensation Insurance to meet the requirements of the laws of the State of Alaska.

Section 7. DIRECTORS' AND OFFICERS' LIABILITY INSURANCE

The Executive Board shall obtain and maintain directors' and officers' liability insurance, if available, covering all of the Directors and officers of the Association in such limits as the Executive Board may, from time to time determine.

Section 8. OTHER INSURANCE.

The Association may carry other insurance which the Executive Board considers appropriate to protect the Association.

Section 9. PREMIUMS.

Insurance premiums shall be a Common Expense.

Section 10. GENERAL.

So long as the Alaska Housing Finance Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration or the Federal Veterans Administration or their successors or assigns is a mortgagee, insurer, guarantor or an Owner of a condominium Unit in the Project, the Association shall continuously maintain in effect any casualty, flood and liability insurance and fidelity bonds meeting the insurance and fidelity bond requirements as established by any of the foregoing for condominium projects, regardless of other or different requirements of the Association, the Owners, mortgagees or other interested parties.

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)
ASPEN HEIGHTS CONDOMINIUMS
Page 42

DOCUMENT PREPARED BY
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July 24, 1998

XXII
DAMAGE TO OR DESTRUCTION OF PROPERTY

Section 1. DUTY TO RESTORE

The Association and Unit Owners shall promptly repair or replace portions of the Common Interest Community damaged or destroyed if insurance was required to be maintained unless:

- (a) The Common Interest Community is terminated;
- (b) Repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or
- (c) Eighty percent (80%) of the Unit Owners, including each owner of a Unit or assigned Limited Common Element that will not be rebuilt, vote not to rebuild and Mortgagee approval is obtained pursuant to Article XVII.

Section 2. COST.

The cost of repair or replacement in excess of insurance proceeds and reserves is a Common expense.

Section 3. PLANS.

The property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Executive Board, sixty-seven percent (67%) of Unit Owners and sixty-seven percent (67%) of eligible mortgagees.

Section 4. REPLACEMENT OF LESS THAN ENTIRE PROPERTY.

(a) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Common Interest Community;

(b) Except to the extent that other persons will be distributees,

(i) The insurance proceeds attributable to a Unit and Limited Common Elements that is not rebuilt must be distributed to the Owner of the Unit and the Owner of the Unit to which the Limited Common Elements were allocated, or to lien holders, as their interests may appear; and

(ii) The remainder of the proceeds must be distributed to each Unit Owner or lien holder, as their interest may appear, in proportion to the Common Interests of all the Units;

(c) If the Unit Owners vote not to rebuild a Unit, the allocated interests of the Unit are reallocated upon the vote as if the Unit had been condemned under Subsection 34.08.860(a) of the Act, and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting the reallocations.

Section 5. INSURANCE PROCEEDS.

(a) Insurance Trustee.

(i) Notwithstanding any provision in the Declaration to the contrary, a trustee may be appointed to receive and hold insurance proceeds payable to the Association, unit owners and lien holders. The trustee, if one has been appointed, and if not, the Executive Board shall have the exclusive authority to negotiate losses under a policy and shall hold any insurance proceeds received in trust for the Association, unit owners and lien holders as their respective interests may appear. Subject to Section 1 of this Article, proceeds will be used first to pay for the repair and replacement of the damaged property and the remainder, if any, will be distributed to the unit owners and lien holders as required by law and this Declaration. In making distributions, the trustee may rely on written certifications made by the Executive Board setting forth the intention of the Association with respect to repair or replacement of the damaged property and the names and amounts due to persons performing repairs. The trustee, in making disbursements, may rely on a report from

BK 3296 PG 590

a title insurer which states the name and the nature of the estate held by each named person in the damaged property.

(ii) Each and every unit owner shall, and hereby does, appoint any insurance trustee or the Executive Board as his attorney-in-fact for the purpose of purchasing and maintaining insurance required by this Declaration, collecting and distributing proceeds, executing releases and other instruments, and performing all other necessary duties.

(iii) The insurance trustee, or if there is no insurance trustee, then the Executive Board of the Association, acting by the President shall hold any insurance proceeds in trust for the Association, Unit Owners and lien holders as their interests may appear. Subject to the provisions of Section 4 (a) through (c), the proceeds shall be disbursed first for the repair or restoration of the damaged Property. Unit Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely repaired or restored, or the Common Interest Community is terminated.

Section 6. CERTIFICATES BY THE EXECUTIVE BOARD.

The Trustee, if any, may rely on the following certifications in writing made by the Executive Board:

(a) Whether or not damaged or destroyed Property is to be repaired or restored;

(b) The amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

Section 7. CERTIFICATES BY ATTORNEYS.

Title insurance companies or if payments are to be made to Unit Owners or Mortgagees, the Executive Board, and the Trustee, if any, shall obtain and may rely on a title insurance company or attorney's title certificate of title or a title insurance policy based on a search of the records of the Third Judicial District, Anchorage, State

of Alaska, from the date of the recording of the original Declaration stating the names of the Unit Owners and the Mortgagees.

XXIII

RIGHTS TO NOTICE AND COMMENT: NOTICE OF HEARINGSection 1. RIGHT TO NOTICE AND COMMENT.

Before the Executive Board amends the Bylaws or the Rules, whenever the Documents require that an action be taken after "Notice and Comment", and at any other time the Executive Board determines, the Unit Owners have the right to receive notice of the proposed action and the right to comment orally or in writing. Notice of the proposed action shall be given to each Unit Owner in writing and shall be delivered personally or by mail to all Unit Owners at such address as appears in the records of the Association, or published in a newsletter or similar publication which is routinely circulated to all Unit Owners. The notice shall be given not less than five (5) days before the proposed action is to be taken. The right to Notice and Comment does not entitle a Unit Owner to be heard at a formally constituted meeting.

Section 2. RIGHT TO NOTICE AND HEARING.

Whenever the Documents require that an action be taken after "Notice and Hearing", the following procedure shall be observed: The party proposing to take the action (e.g., the Executive Board, a committee, an officer, the manager, etc.) shall give written notice of the proposed action to all Unit Owners or occupants of Units whose interest would be significantly affected by the proposed action. The notice shall include general statement of the proposed action and the date, time and place of the hearing. At the hearing, the affected person shall have the right, personally or by a representative, to give testimony orally, in writing or both (as specified in the notice) subject to reasonable rules of procedure established by the party conducting the meeting to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but not bind the decision makers. The affected persons shall be notified of the decision in the same manner in which notice of the meeting was given.

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, at 199.)

ASPEN HEIGHTS CONDOMINIUMS

Page 46

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JIM CHRISTIE & ASSOCIATES
Reginald J. Christie, Jr., Esq.
July 24, 1998

Section 3. APPEALS.

Any person having a right to Notice and Hearing shall have the right to appeal to the Executive Board from a decision of persons other than the Executive Board by filing a written notice of appeal with the Executive Board within ten (10) days after being notified of the decision. The Executive Board shall conduct a hearing within thirty (30) days, giving the same notice and observing the same procedures as were required for the original meeting.

XXIV

EXECUTIVE BOARD

Section 1. MINUTES OF EXECUTIVE BOARD MEETINGS.

The Executive Board shall permit any Unit Owner to inspect the Minutes of Executive Board meetings during normal business hours. The Minutes shall be available for inspection within fifteen (15) days after any such meeting.

Section 2. POWERS AND DUTIES.

The Executive Board may act in all instances on behalf of the Association subject to and, except as provided in this Declaration, the Bylaws or the Act. The Executive Board shall have, subject to the limitations contained in this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws, Rules and regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves;
- (c) Collect assessments for Common Expenses from Unit Owners;

- (d) Hire and discharge managing agents;
- (e) Hire and discharge employees and agents, other than managing agents, and independent contractors;
- (f) Institute, defend or intervene in litigation or administrative proceedings in the Association's name on behalf of the Association or two or more Unit Owners on matters affecting the Common Interest Community;
- (g) Make contracts and incur liabilities;
- (h) Regulate the use, maintenance, repair, replacement and modification of the Common Elements;
- (i) Cause additional improvements to be held as a part of the Common Elements;
- (j) Acquire, hold, encumber and convey in the Association's name any right, title or interest to real property or personal property, but Common Elements may be conveyed or be made subject to a Security Interest only pursuant to Section 34.08.430 of the Act and this Declaration;
- (k) Grant easements for any period of time including permanent easements, and leases, licenses and concessions for no more than one year, through or over the Common Elements;
- (l) Impose and receive payments, fees or charges for the use, rental or operation of the Common Elements, other than Limited Common Elements described in Subsections of (2) and (4) of Section 34.08.100 of the Act, and for services provided to Unit Owners;
- (m) Impose charges or interest or both for late payment of assessments and, after Notice of Hearing, levy reasonable fines for violations of this Declaration, and the bylaws, Rules and regulations of the Association;

BK 3296PG594

(n) Impose reasonable charges for the preparation and recordation of amendments to this Declaration, resale certificates required by Section 34.08.590 of the Act or statements of unpaid assessments;

(o) Provide for the indemnification of the Association's officers and Executive Board and maintain Directors' and officers' liability insurance;

(p) Subject to other provisions of this Declaration, Assign the Association's right to future income, including the right to receive Common Expense assessments;

(q) Exercise any other powers conferred by this Declaration or by the Bylaws;

(r) Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association;

(s) Exercise any powers necessary and proper for the governance and operation of the Association; and

(t) By resolution, establish committees of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Unit Owners and the Executive Board by any Unit Owner within forty-five (45) days of publication of such notice, and such committee action must be ratified, modified or rejected by the Executive Board at its next regular meeting.

Section 3. EXECUTIVE BOARD LIMITATIONS.

The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community or to elect members of the Executive Board or determine the qualifications, powers and duties, or terms of office of Executive Board members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)
ASPEN HEIGHTS CONDOMINIUMS
Page 49

DOCUMENT PREPARED BY
JIM CHRISTIE & ASSOCIATES
Reginald J. Christie, Jr., Esq.
July 24, 1998

XXV

CONDEMNATION

If part or all of the Common Interest Community is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with Section 34.08.740 of the Act.

XXVI

MISCELLANEOUS

Section 1. CAPTIONS.

The captions contained in the documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the documents nor the intent of any provision thereof.

Section 2. GENDER.

The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural, and vice versa, whenever the context of the document so require.

Section 3. WAIVER.

No provision contained in the documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 4. INVALIDITY.

The invalidity of any provision of the documents does not impair or affect in any manner the validity, enforceability or effect of the remainder, and in such event, all of the other provisions of the documents shall continue in full force and effect.

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)
ASPEN HEIGHTS CONDOMINIUMS
Page 50

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JIM CHRISTIE & ASSOCIATES
Reginald J. Christie, Jr., Esq.
July 24, 1998

BK 3296 PG 596

Section 5. CONFLICT.

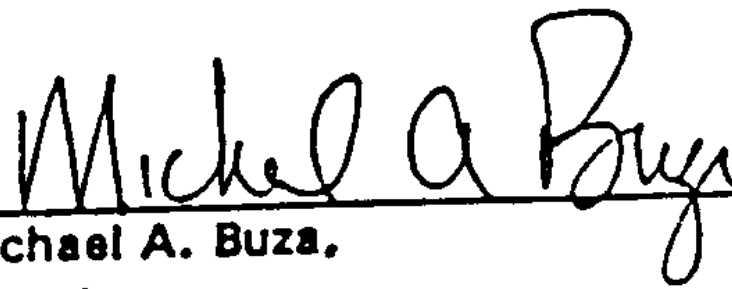
The documents are intended to comply with the requirements of the Act and Chapter 10.20 of the Alaska Statutes (Non Profit Corporation Law). In the event of any conflict between the documents and the provisions of the statutes, the provisions of the statutes shall control. In the event of any conflict between this Declaration and any other document, this Declaration shall control.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed on the day and year first hereinabove written.

TBA, INC.:



Kevin Breeland,
President



Michael A. Buza,
Secretary

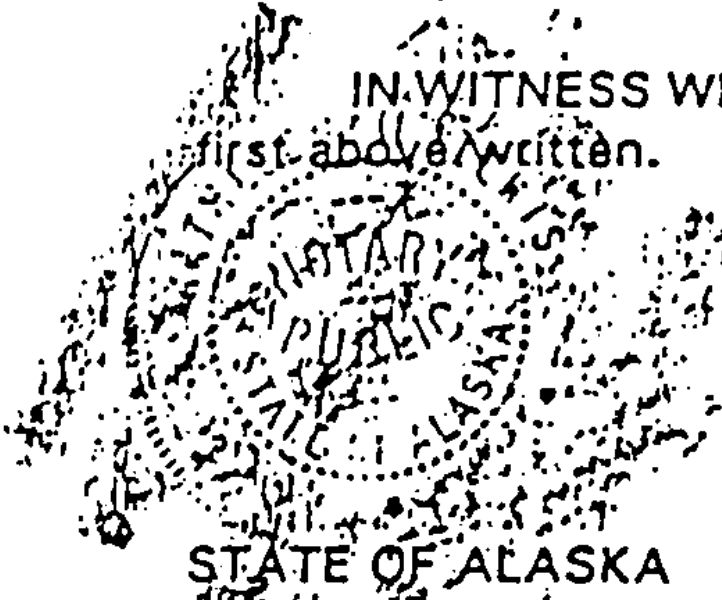
DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)
ASPEN HEIGHTS CONDOMINIUMS
Page 51

DOCUMENT PREPARED BY
JIM CHRISTIE & ASSOCIATES
Reginald J. Christie, Jr., Esq.
July 24, 1998

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 29th day of July, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Kevin Braeland, known to me to be the President, of TBA, Inc., an Alaska corporation, and known to be the person named in and who executed the foregoing instrument for and on behalf of said corporation, by authority duly vested in him he stated that he signed and sealed the same freely and voluntarily for the uses and purposes therein mentioned, pursuant to the Corporation's by-laws or a Resolution of its Board of Directors.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

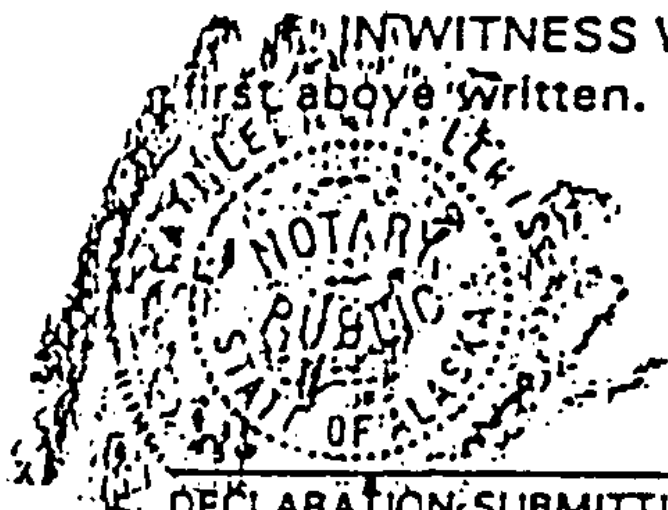


Kathleen D. Lewis
NOTARY PUBLIC
My Commission Expires: 6.1.2002

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 29th day of July, 1998, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Michael A. Buza, known to me to be the Secretary, of TBA, Inc., an Alaska corporation, and known to be the person named in and who executed the foregoing instrument for and on behalf of said corporation, by authority duly vested in him he stated that he signed and sealed the same freely and voluntarily for the uses and purposes therein mentioned, pursuant to the Corporation's by-laws or a Resolution of its Board of Directors.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Kathleen D. Lewis
NOTARY PUBLIC
My Commission Expires: 6.1.2002

DECLARATION SUBMITTING REAL PROPERTY TO THE UNIFORM COMMON INTEREST OWNERSHIP ACT
(AS 34.08, et seq.)
ASPEN HEIGHTS CONDOMINIUMS
Page 52

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ANCHORAGE
RECORDING DISTRICT

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1998 JUL 29 PH 3:23

REQUESTED BY
Jim Christie & Assoc

DOCUMENT PREPARED BY
JIM CHRISTIE & ASSOCIATES
Reginald J. Christie, Jr., Esq.
July 24, 1998