By-Laws

Of

The Owners Condominium Plan No. 9710147

Index

These By-laws have been enacted by "The Owners: Condominium Plan No. 9710147" to replace the By-laws set out in the Condominium Property Act, being C-22, RSA 1980, as amended.

Definitions

1. (1) In these by-laws,

(a) "Act" means the Condominium Property Act;

(b) "annual general meeting" means an annual general meeting of the corporation;

(c) "general meeting" means a general meeting of the corporation.

(2) Expressions defined in section 1 of the Act have the same meaning in these by-laws.

(3) The rights and obligations given or imposed on the corporation or the owners under these by-laws are in addition to any rights or obligations given or imposed on the corporation or the owners under the Act

(4) If there is any conflict between these by-laws and the Act, the Act prevails.

Duties of the Owner

2. An owner

(a) shall permit the corporation and its agents, at all reasonable times on notice (except in a case of emergency when no notice is required), to enter in or on his unit for the purpose of

(i) inspecting the unit,

(ii) maintaining, repairing or replacing pipes, wires, cables and ducts existing in or on the unit and used or capable of being used in connection with the enjoyment of any other unit or common property,

(iii) maintaining, repairing or replacing common property, or

(iv) ensuring that the by-laws are being observed,

(b) shall forthwith

(i) carry out all work that may be required pursuant to these by-laws or as required by a local authority or other public authority in respect of his unit, other than any work for the benefit of the building or parcel generally, and

(ii) pay all rates, taxes, charges and assessments that may be payable in respect of his unit,

(c) shall maintain his unit in a state of good repair,

(d) shall notify the corporation forthwith of

  (i) any change in the ownership of the unit, or

  (ii) any mortgage registered against the unit, and

(e) shall not make structural, mechanical or electrical alterations to his unit or to the common property without the prior written consent of the board, which shall not be unreasonably withheld.

Powers of the Corporation

3. The corporation may

(a) acquire personal property to be used

  (i) for the maintenance, repair or replacement of the real or personal property of the corporation or the common property,

  (ii) by owners in connection with their enjoyment of the real and personal property of the corporation or the common property,

(b) borrow money required by it in the performance of its duties or the exercise of its powers,

(c) secure the repayment of money borrowed by it and interest on that money by negotiable instrument, a mortgage of unpaid contributions (whether levied or not), or a mortgage of any property owned by it or by any combination of those means,

(d) grant a lease to an owner under section 41 of the Act,

(e) charge interest under section 41 of the Act,

(f) make an arrangement with an owner or tenant of a unit for the provision of amenities or services by it to the unit or to the owner or tenant of the unit.

Election of the Board

4. (1) The board shall consist of not less than 3 and not more than 7 individuals

(2) Notwithstanding subsection (1), if there are not more than 2 owners, the board may consist of one or more individuals not to exceed 7 in number.

(3) An individual shall not be a member of the board unless that individual is 18 years of age or older.

Eligibility to Sit on the Board

5. (1) A person does not need to be an owner in order to be elected to the board.

(2) Notwithstanding subsection (1),

(a) if a unit has more than one owner, only one owner in respect of that unit may sit on the board at one time, and

(b) an owner who has not paid to the corporation the contributions due and owing in respect of his unit is not eligible for election to the board.

Voting

6. At an election of members of the board each person entitled to vote may vote for the same number of nominees as there are vacancies to be filled on the board.

Term of Office

7. (1) Subject to subsection (2), a member of the board shall be elected at an annual general meeting for a term expiring at the conclusion of the annual general meeting convened in the 2nd year following the year in which he was elected to the board.

(2) At the first general meeting convened under section 24 of the Act

(a) not more than 50% of the members of the board shall be elected for a term expiring at the conclusion of the annual general meeting convened in the year following the year in which they were elected, and

(b) the balance of the members shall be elected for a term expiring at the conclusion of the annual general meeting convened in the 2nd year following they year in which they were elected.

(3) Each member of the board shall remain in office until

(a) the office becomes vacant under section 9 of these by-laws,

(b) the member resigns,

(c) the member is removed under section 8 of these by-laws, or

(d) his term of office expires whichever comes first.

Removal of a Member of the Board

8. Except when the board consists of less than 3 individuals, the corporation may by resolution at a general meeting remove a member of the board before the expiration of his term of office and appoint another individual in his place to hold that office for the remainder of the term.

Vacating of the Office of a Member of the Board

9. The office of a member of the board is vacated if he

(a) becomes bankrupt under the Bankruptcy Act (Canada)

(b) is more than 30 days in arrears in payment of any contribution required o be made by him as an owner

(c) is the subject of a certificate of incapacity issued under the Dependent Adults Act,

(d) is convicted of an indictable offence for which he is liable to imprisonment for a term of not less than 2 years,

(e) resigns his office by serving notice in writing on the corporation, or

(f) is absent for 3 consecutive meetings of the board without permission of the board and its is resolved at a subsequent meeting of the board that his office be vacated

Vacancy

10. When a vacancy occurs on the board under section 9 of these by-laws, the board may appoint an individual to fill that office for the remainder of the former member's term.

Officers of the Corporation

11. (1) At the first meeting of the members of the board held after the general meeting of the corporation at which they were elected, the board shall designate from its members a president, vice-president, secretary and treasurer of the corporation

(2) Notwithstanding subsection (1), the board may designate one person to fill the offices of secretary and treasurer,

(3) In addition to those duties assigned to the officers by the board,

(a) the president or, in the event of his absence or disability, the vice-president,

(i) is responsible for the daily execution of the business of the corporation, and

(ii) shall act as chairman of the meetings of the board;

(b) the secretary or, in the event of his absence or disability, another member of the board designated by the board,

(i) shall record and maintain all the minutes of the board,

(ii) is responsible for all the correspondence of the corporation, and

(iii) shall carry out his duties under the direction of the president and the board;

(c) the treasurer or, in the event of his absence or disability, another member of the board designated by the board, shall

(i) receive all money paid to the corporation and deposit it as the board may direct,

(ii) properly account for the funds of the corporation and keep those books as the board directs,

(iii) present to the board when directed to do so by the board, a full detailed account of receipts and disbursements of the corporation, and

(iv) prepare for submission at the general meeting

(A) a budget for the forthcoming fiscal year of the corporation, and

(B) an audited statement for the most recently completed fiscal year of the corporation.

(4) A person ceases to be an officer of the corporation if he ceases to be a member of the board.

(5) If a person ceases to be an officer of the corporation, the board shall designate from its members a person to fill that office for the remainder of the term.

(6) If a board consists of not more than 3 persons, those persons may perform the duties of the officers of the corporation in such manner as the board may direct.

Majority Vote and Quorum of the Board

12. (1) At meetings of the board, all matters shall be determined by majority vote and in the event of a tie vote, the chairman is entitled to a casting vote in addition to his original vote

(2) A quorum for a meeting of the board is a majority of the members of the board.

Written Resolutions

13. A written resolution of the board signed by all of the members of the board has the same effect as a resolution passed at a meeting of the board duly convened and held.

Seal of the Corporation

14. (1) The corporation shall have a corporate seal that shall not be used except

(a) under the authority of a resolution of the board given prior to its use, and

(b) in the presence of not less than 2 members of the board who shall sign the instrument to which the seal is affixed.

(2) Notwithstanding subsection (1), if there are not more that 2 members of the corporation, one member may be authorized by the board to use the corporate seal and sign the instrument to which the seal is affixed.

Signing Authority

15. The board shall prescribe, by resolution,

(a) those officers or other persons who are authorized to sign cheques, drafts, instruments and documents not required to be signed under the corporate seal, and

(b) the manner, if any, in which those cheques, drafts, instruments or other documents are to be signed.

Powers of the Board

16. (1) The board shall

(a) meet at the call of the president to conduct its business and adjourn and otherwise regulate its meetings as it thinks fit, and

(b) meet when a member of the board gives to the other members not less than 7 days' notice of a meeting proposed by him, specifying the reason for calling the meeting.

(2) The board may employ on behalf of the corporation any agents and employees it thinks necessary to control, manage and administer the real and personal property of the corporation and the common property and in that respect may authorize those persons to exercise the powers of and carry out the duties of the corporation.

(3) The board may, subject to any restriction imposed on it or direction given to it at the general meeting of the corporation, delegate to any of its members or to other persons any or all of its powers and duties as it thinks fit, and may at any time revoke that delegation.

Duties of the Board

17. The board shall:

(a) cause minutes to be kept of its proceedings which shall, unless the board otherwise decides, be kept by the secretary;

(b) cause minutes to be kept of the general meetings which shall, unless the board otherwise decides, be kept by the secretary;

(c) cause proper books of account to be kept in respect of all sums of money received and expended by it, and the matters in respect of which such receipts and expenditures take place, the keeping of said books, unless the board otherwise decides, to be the responsibility of the treasurer;

(d) cause to be prepared proper accounts relating to all moneys of the corporation and the income and expenditures thereof, for each annual general meeting, such preparation, unless the board otherwise decides, to be the responsibility of the treasurer;

(e) on application of an owner or mortgagee or any person authorized in writing by one of them, make the books of account and all minutes of the meetings of the corporation and the meetings of the board available for inspection at all reasonable times, and further provide to any owner or mortgagee who makes specific request therefor copies of all minutes of all meetings of the corporation and of the board;

(f) on application of an owner or mortgagee, or any person authorized in writing by one of the, give a complete statement of the standing of any unit with regard to common expense assessments and with regard to fulfillment of all owners' obligations in connection with the project and/or his unit;

(g) cause to be assessed to each owner in proper proportion his contribution towards common expenses and reserve funds for future maintenance and other common expenses and enforce payment of same as more particularly hereinafter set forth;

(h) unless and except as otherwise resolved by special resolution of the corporation, employ for and on behalf of the corporation an independent professional management agency, agent or manager (herein referred to as the "Manager") to supervise, manage, carry out and perform any and all of the duties of the corporation set out herein, and such other duties as the board may determine from time to time, subject always to the control and direction of the corporation and the board, such Manager to be reasonably fit and suited to perform such duties. Without limiting the generality of the paragraph 17.1 hereof, if any group of persons entitled to vote representing twenty-five percent of the total unit factors of the units shall at anytime be dissatisfied with the fitness or suitability of such Manager employed as aforesaid or the adequacy of the work or service performed by him, such group of persons may by calling of an extraordinary general meeting; and upon such a requisition being made as aforesaid the board shall forthwith call an extraordinary general meeting of the corporation to consider the complaint or complaints of such group of persons, and the continuance or termination of the employment of such Manager and/or terms thereof and/or the employment of a replacement shall be considered and determined by ordinary resolution at such meeting and the board shall govern itself according to such resolution. The Manager employed by the board as aforesaid need not devote his full time to the performance of duties of the Corporation so long as those duties are performed in good and sufficient fashion. Until such time as all units in the condominium are sold by 990863

Ontario Ltd. (the developer), or the first day of February, 1995, whichever last occurs, such developer may act as Manager subject to all the provisions of this paragraph and these by-laws, and carry out and perform all of the duties of the corporation set out herein. Such management shall be terminable by the board on sixty (60) days' notice in any event. If the board so determines, such developer may, subject to all of the provisions of this paragraph and these by-laws, be continued or re-employed as Manager from time to time after the sale of all unites by such developer;

(i) upon written request of an owner, purchaser or mortgagee of a unit provides the particulars and materials required to be provided under Section 36 of the Act (or any provisions passed substitution therefore);

(j) at all times keep and maintain in force all insurance required hereunder and by the Act to be maintained by the corporation and from time to time settle, determine and enter into insurance trust agreements in form and on terms required by the Insurance Trustee;

(k) without limitation of its other duties and powers, exercise and perform the powers and duties of the corporation outlined herein.

Convening of Meetings

17. The board may whenever it thinks fit, and shall upon a requisition in writing made by persons entitled to vote representing twenty-five percent of the total unit factors or units, convene an extraordinary general meeting. The board will convene annual general meetings as and whenever required by the provisions of these by-laws.

Procedure

18. All meetings of the board and general meetings shall be conducted according to the rules of procedure adopted by the board.

General Meetings other than an Annual General Meeting

19. The board:

(a) shall, on the written request of the owners entitled to vote and who represent not less than 15% of the total unit factors for the unites, convene a general meeting, and

(2) may, whenever it considers it proper to do so, convene a general meeting.

Notice of General Meetings

20. (1) When an annual general meeting or a general meeting is to be convened, the board shall, not less than 7 days prior to the day on which the meeting is to be convened, give to each owner written notice of the meeting stating

(a) the place, date and time at which the meeting is to be convened, and

(b) the nature of any special business, if any, to be brought forth at the meeting.

(2) On being notified by a mortgagee entitled to vote under section 21 of the Act that it wished to be notified of general meetings, the board shall give to that mortgagee the same notices required to be given to the owner under subsection (1) of this section.

(3) An annual general meeting or a general meeting or anything done at that meeting is not invalid by reason only that

(a) a person, by accident, was not, in respect of that meeting, given a notice under subsection (1), or

(b) a person did not in fact receive a notice given under subsection (1) in respect of that meeting.

Quorum

21. (1) Except as otherwise provided by these by-laws, no business shall be transacted at an annual general meeting or a general meeting unless a quorum of persons entitled to vote is present or represented by proxy, at the time when the meeting commences.

(2) A quorum for an annual general meeting or a general meeting consists of not less that 25% of all the persons entitled to receive notice under section 20 of these by-laws being present in person or represented by proxy at that meeting.

(3) If within 30 minutes from the time appointed for the commencement of an annual general meeting or a general meeting a quorum is not present, the meeting shall stand adjourned to the corresponding day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the commencement of the meeting, the persons entitled to vote who are present or represented by proxy constitute a quorum for the purpose of that meeting.

Meeting Chairman

22. (1) The president or, in the event of his absence or disability, the vice- president or other person elected at the meeting, shall act as chairman of an annual general meeting or a general meeting

(2) The order of business at an annual general meeting and, as far as practicable at any other general meeting shall be as follows:

(a) call to order by the chairman;

(b) calling of the roll and certifying or proxies;

(c) proof of notice of meeting, waiver or proxies, as the case may be;

(d) reading and disposal of any unapproved minutes;

(e) reports of officers

(f) reports of committees

(g) election of members of the board;

(h) unfinished business;

(i) new business;

(j) adjournment.

Show of Hands

23. (1) At an annual general meeting or a general meeting, a resolution shall be voted on by a show of hands unless a poll is demanded by a person entitled to vote and present in person or by proxy, an unless a poll is so demanded, a declaration by the chairman that a resolution has on the show of hands been carried is conclusive proof of the fact without proof of the number or proportion of votes recorded in favour of or against the resolution.

(2) If a person demands a poll, that person may withdraw that demand and on the demand being withdrawn the vote shall be taken by a show of hands.

Taking of Poll

24. A poll, if demanded, shall be conducted in a manner as directed by the chairman, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Tie Vote

25. In the case of a tie vote taken at an annual general meeting or a general meeting, whether on a show of hands or on a poll, the chairman of the meeting is entitled to a casting vote in addition to his original vote.

Number of Votes

26. (1) If a vote is taken by a show of hands, each person entitled to vote has one vote.

(2) If a vote is taken by a poll, the number of votes that a person may cast shall correspond to the unit factors for the respective units represented by that person.

Votes at an Annual General Meeting or a General Meeting

27. Except for matters requiring a special resolution or unanimous resolution, all matters shall be determined by a majority vote.

Manner of Voting

28. On a show of hands or on a poll, votes may be given either personally or by proxy.

Appointment of Proxy

29. An instrument appointing a proxy shall be in writing under the hand of the person making the appointment of his attorney, and may be either general or for a particular meeting, but a proxy need not be an owner.

Restrictions on Voting

30. (1) Except as provided for in a subsection (2) of this section or section 21 of the Act, there are no restrictions or limitations on an owner's rights to vote at an annual general meeting or a general meeting.

(2) If, at the time of an annual general meeting or a general meeting, an owner has not paid to the corporation all contributions that are due and owing in respect of his unit, that owner is ineligible to cast a vote at that meeting in respect of any resolution other than a special resolution or a unanimous resolution.

(3) An owner's ineligibility to cast a vote does not affect the right of the mortgagee first entitled in priority in respect of a mortgage registered against the title of that owner's unit to vote in accordance with the Act.

Vote by Co-owners

31. (1) If a unit is owned by more than one person, those co-owners may vote personally or by proxy and:

(a) in the case of a vote taken by a show of hands, those co-owners are entitled to one vote between them, and

(b) in the case of a vote taken by a poll, a co-owner is entitled to that portion of the vote applicable to the unit as is proportionate to his interest in the unit.

(2) A co-owner may demand that a poll be taken.

Signed Resolution -- Majority Vote

32. If a resolution of the members of the corporation requires a majority vote, that resolution signed in person or by proxy by all the persons who, at a properly convened annual general meeting or general meeting, would be entitled to vote, has the same effect as a resolution duly passed at the meeting.

Capital Replacement Reserve Fund

33. (1) The board shall establish and maintain a fund called a "Capital Replacement Reserve Fund" to be used for the repair or replacement of:

(a) any real and personal property owned by the corporation and

(b) the common property, when the repair or replacement does not occur annually.

(2) The board may by resolution determine the minimum amount that may be paid from the Capital Replacement Reserve Fund in respect of a single expenditure.

Failure to Comply with By-laws

34. (a) Any infraction or violation of or default under these by-laws or any rules and regulations established pursuant to these by-laws on the part of an owner, his servants, agents, licensees, invitees, occupants or tenants that has not been corrected, remedied or cured within ten (10) days of having received written notification from the Corporation to do so, may be corrected, remedied or cured by the Corporation and any costs or expenses incurred or expended by the Corporation including costs as between a solicitor and his own client on a full indemnity basis, in correcting , remedying or curing such infraction, violation of default shall be charged to such owner and shall be added to and become part or the assessment of such owner for the month next following the date when such costs or expenses are expended or uncured (but not necessarily paid) by the Corporation and shall become due and payable on the date of payment of such monthly assessment and shall bear interest both before and after judgment at the Interest Rate until paid;

(b) In addition, the Corporation may also recover from an owner by an action for debt in any court of competent jurisdiction any sum of money which the Corporation is required to expend as a result of any act of omission by the owner, his servants, agents, licensees, invitees, occupants or tenants, which violates these by-laws or any rules or regulations established pursuant to these by-laws and for which ten (10) days prior written notice has been given by the Corporation and there shall be added to any judgment, all costs of such action including costs as between a solicitor and his own client on a full indemnity basis. Nothing herein shall be deemed to limit any right of any owner to bring an action or proceeding for the enforcement and protection of his rights and the exercise of his remedies;

(c) In addition, the Corporation may also exercise the powers provided n Section 35 and Section 36 of the Act, and accordingly, if the Board determines that a breach of violation of any by-law or of any rules or regulations established pursuant to these by-laws has occurred or is occurring, the Board may impose a penalty by fine as follows:

(i) for a first breach of infraction of a by-law by an Owner (which for the purpose of this by-law includes such Owner’s servants, agents, licensees, invitees, occupants or tenants), the Board may impose a penalty by fine on such Owner not to be less than $25.00 and not to exceed $10,000.00;

(ii) for a second breach or infraction of a by-law by an Owner (which for the purpose of this by-law includes such Owner's servants, agents, licensees, invitees, occupants or tenants), the Board may impose a penalty by fine on such Owner not to be less than $50.00 and not to exceed $10,000.00;

(iii) for a third (or more) breach or infraction of a by-law by an Owner (which for the purpose of this by-law includes such Owner's servants, agents, licensees, invitees, occupants or tenants), the Board may impose a penalty by fine on such Owner not to be less than $100.00 and not to exceed $10,000.00;

(iv) if the breach of infraction of a by-law by an Owner (which for the purpose of this by-law includes such Owner's servants, agents, invitees, occupants or tenants) is in the determination of the Board a continuous infraction or violation of the by-law the Board my impose a penalty by fine on such Owner not to be less than $25.00 per day and not to exceed $10,000.00 in the aggregate. (Each day of a continuing breach shall be deemed a contravention of a by-law);

(d) An owner aggrieved by a fine levied pursuant to by-law 34 (c) may appeal the actions of the Board to an extraordinary general meeting of the owners convened in the manner specified by these by-laws;

(i) The owners convened in an extraordinary general meeting may rescind, amend or confirm the actions of the Board, and in so doing may inquire into all the circumstances of the alleged breach, its rectifications, any fine levied or leviable, the collection of forgiveness of any fine, and generally, to act in their discretion to uphold the by-laws;

(ii) The appeal to the owners shall be conducted according to rules of natural justice. No error in procedure shall operate so as to nullify the proceedings unless the error is sufficiently grave so to prejudice the rights of all or any one of the owners;

(iii) An Owner's right to appeal any penalty imposed by the Board pursuant to By-law 34(c) shall expire sixty (60) days following receipt of the notice specified in By-law 34(c) or the date that proceedings have been commenced against the Owner pursuant to Section 36 of the Act, whichever shall last occur;

(c) The rights and remedies of the Corporation as set forth in this By-law 34 are supplemental to and not in substitution for any other rights or remedies that the Corporation my have under these By-laws, the Act and the Regulations under the Act, at law or at equity, or otherwise. The Corporation may exercise, employ or pursue it rights and remedies under this By-law 34 either selectively, cumulatively or consecutively, and the election by the Corporation to pursue or employ any on right or remedy or to purse or employ several rights or remedies together shall not constitute an election by the Corporation to abandon any of its other rights or remedies, none of which are waived by the Corporation.

Tenants

35. The corporation is authorized to:

(a) impose and collect deposits under section 44 of the Act,

(b) give notices to give up possession of residential units under section 45 of the Act, and

(c) make applications to the Court under sections 46 and 47 of the Act.

Amendment of By-laws

36. Notwithstanding section 20 of these by-laws, if a by-law is to be amended, repealed or replaced, the persons entitled to vote shall be given written copies of the text of the proposed amendment, repeal or replacement not less than 14 days prior to the day on which the special resolution is to be voted on.

Restrictions in Use

37. (1) In this section,

(a) "occupant" means a person present in or on a unit or in or on the real or personal property of the corporation or the common property with the permission of an owner;

(b) "owner" includes a tenant.

(2) An owner shall not:

(a) use or enjoy the real or personal property of the corporation or the common property in such a manner as to unreasonably interfere with its use and enjoyment by other owners or the occupants;

(b) use his unit in a manner or for a purpose that will cause a nuisance or hazard to any other owner or occupant;

(c) use his unit for a purpose that is illegal;

(d) make undue noise in or on his unit or on or about real property of the corporation or the common property;

(e) keep an animal in or on his unit or on the real property of the corporation or the common property after a date specified in a notice given to him by the board;

(f) in the case of a residential unit, use his unit for a purpose other than for residential purposes;

(g) do anything in respect of his unit, the real or personal property of the corporation or the common property or bring or keep anything on it that will in any way increase the risk of fire or result in an increase of any insurance premiums payable by the corporation;

(h) use a toilet, sink, tub, drain or other plumbing fixture for a purpose other than that for which it is constructed;

(i) hang or place on the real property of the corporation or the common property or within or on a unit anything that is, in the opinion of the board, aesthetically unpleasing when viewed from outside the units;

(j) leave articles belonging to his household on the real property of the corporation or the common property when those articles are not in actual use;

(k) obstruct a sidewalk, walkway, passage, driveway or parking area other than for ingress and egress to and from his unit;

(l) use any portion of the real property of the corporation or the common property except in accordance with the by-laws.

(3) An owner shall ensure that his occupants comply with those requirements that the owner must comply with under subsection (2).

<u>Duties of the Corporation</u>

38. The corporation shall:

(a control, manage and administer the common property for the benefit of all the owners and for the benefit of the entire project;

(b) do all things required of it by the Act, these by-laws, the common property rules and other rules and regulations of the corporation in force from time to time;

(c) where practical (subject always to any obligations imposed by these by-laws or the corporation upon any owners to maintain any part of the common property over which such owners are granted exclusive rights of use by the corporation (including without limitation Privacy Areas), establish and maintain suitable lawns and gardens on the common property;

(d) maintain and repair (including renewal where unreasonably necessary) pipes, wires, cables, ducts, conduits, sumps, plumbing, sewers, and other facilities for the furnishing of utilities for the time being existing in the parcel and capable of being used in connection with the enjoyment of more than one unit or the common property; and

(e) upon written request therefor made by a unit owner or the holder of any mortgage registered against a unit, or the duly authorized agent of such owner or mortgagee, provide such owner with either a duplicate original or certified copy of all fire and other peril, all boiler, and all liability insurance policies and endorsements maintained by the corporation, as well as all renewal certificates or certified copies of replacing policies; and further shall, without request therefor being required, provide the same to the registered first mortgagee of any unit who has notified the corporation of its mortgage, including all renewal certificates or replacing policies issued at any time and from time to time while such mortgage remains undischarged;

(f) call a general meeting of the owners and mortgagees within three months after registration of the condominium plan;

(g) call a general meeting of the owners and mortgagees once in each calendar year, and in all cases allow no more than fifteen months to elapse from one general meeting to the next;

(h) control, manage, administer, maintain and repair all land and chattels and other property whatsoever owned by the corporation;

(i) provide adequate garbage receptacles on the common property for use by all of the owners and provide for regular collection therefrom;

(j) subject to any obligations imposed by these by-laws or the corporation upon any owners to maintain any part of the common property over which such owners are granted exclusive rights of use by the corporation (including without limitation Privacy Areas), maintain the common property notwithstanding that maintenance may be required as a result of reasonable wear and tear, or otherwise; provide and maintain adequate parking facilities for all the owners, and provide and maintain reasonable outside lighting;

(k) maintain and keep in a state of good repair, as may be required as a result of reasonable wear and tear or otherwise the following:

  (i) all outside surfaces of the units, including without limiting the generality of the foregoing, exteriors of doors including garage doors, roofing materials and exteriors of roofs, eavestroughs and exterior drains, and exterior beams and trim (but excluding windows which shall be the responsibility of the unit owner);

  (ii) all fencing, posts, driveways, and sidewalks;

  (iii) all other outside hardware and accoutrements affecting the appearance, usability, value or safety of the parcel or the units;

(l) provide and maintain in full force all such insurance as is required by the Act and by the provisions of these by-laws to be maintained by the corporation and enter into insurance trust agreements from time to time as required by the Insurance Trustee and approved by the board;

(m) at all times keep and maintain for the benefit of the corporation and all owners copies of all warranties, guarantees, drawings and specifications, plans, written agreements, certificates and approvals provided to the corporation pursuant to section 37 (1) of the Act (or any provision passed in substitution therefore).

Estoppel Certificates

39. Any certificate as to the owner's position with regard to common expense assessments or otherwise, issued by the corporation, signed by at least two board members or the Manager, shall be deemed an estoppel certificate, and the corporation and all of the owners shall be estopped from denying the accuracy of such certificate against any mortgagee, purchaser or other person dealing with the unit owner; but this shall not prevent the enforcement against the unit owners of all obligations of the unit owners whether improperly stated in such estoppel certificates or not.

Notice

40. Every notice, demand or request permitted or required to be given or served hereunder shall be deemed to be properly and effectively given or served:

(1) Upon the corporation if given as set out in the Act;

(2) Upon an owner by delivery by hand to the owner (and if there is more than one owner then to any one of such owners) or by mail by depositing the notice in a post box, enclosed in a postage-prepaid envelope addressed to the owner at the municipal address of his unit; and

(3) Upon a mortgagee of a unit by delivery by hand to the mortgagee (or if a corporation to a person in authority with such mortgagee) or by mail by depositing the notice in a post box, enclosed in a postage-prepaid envelope addressed to the mortgagee at the municipal address of such mortgagee notified to the corporation; provided, however, that any notice providing for or contemplating any meeting or any acts or steps that would if approved or taken involve or include amendment of these by-laws or the winding up of the corporation shall be given by prepaid registered mail addressed to the mortgagee as aforesaid.

The corporation may change its address for service by resolution of the board and the filing of a notice of change in the form prescribed by or under the Act at the Land Titles Office. A mortgagee of a unit may change its address for service by giving notice in writing of the change to the corporation in manner aforesaid. Any notices, demands or requests served by mail the aforesaid shall be deemed to have been received forty-eight (48) hours after the time of mailing, provided, however, that if there shall be an interruption of mail service, the notice shall not be deemed to have been received until the third day following restoration of normal mail service.

Insurance

41. The board on behalf of the corporation shall obtain and maintain at all times insurance on all of the units (including the bathroom and kitchen fixtures initially installed therein and all the insurable common property and all insurable property both real and personal of any nature whatsoever of the corporation, to the full replacement value thereof without deduction for depreciation, and without restricting the generality of the foregoing such insurance shall provide and include the following:

(a) coverage for fire, extended perils and such other perils as from time to time the board shall deem advisable as is required by the Act;

(b) coverage to the full replacement value of all buildings and other fixed improvements comprising the condominium and all chattels and other property belonging to the corporation or forming part of the common property;

(c) adequate coverage for boiler insurance if any boilers or pressure valves exists;

(d) coverage for such other risks or causes as the board may determine by special resolution of the corporation; and

(e) that no breach of any statutory condition or other condition of any policy by any unit owner or the corporation shall invalidate the insurance or forfeit the insurance and in the event of such breach by any unit owner or the corporation the insurance may only be subject to forfeiture or defense of breach of condition insofar as the separate interest of the person or party in breach are concerned;

(f) that no breach of any statutory or other condition of any policy by the corporation or an owner shall invalidate the policy as against any mortgagee in any way or to any extent;

(g) standard mortgagee endorsements in favour of all mortgagees who have notified their interests to the corporation.

(h) In the event an Owner incurs or suffers damage or loss to his Unit, the common area or causes damage to any Unit that is covered or insured under any insurance policy of the Corporation;

Notwithstanding section 34 of these Bylaws;

i. such Owner shall be responsible for and pay the full amount of repairs up to the cost of the deductible for damage covered under the Corporations Insurance Policy, if, in the sole opinion of the Board, such damage or loss was caused by or arose out of any act or omission by such Owner, his employees, contractors, customers, servants, agents, licensees, invitees or Tenants.

ii. such amount shall be recoverable by the Corporation as a contribution against all other costs, charges and liabilities arising out of any loss that may be sustained or incurred by the Corporation.

(i) Notwithstanding the foregoing;

i. Owners may, and upon written request of any mortgagee shall, carry insurance on their own Units as permitted by the Act, PROVIDED that the liability of the insurers issuing insurance obtained by the Board hereunder shall not be affected or diminished by reason of insurance so carried by any Owner,

ii. PROVIDED that neither the Corporation nor the Board shall be required or have any duty to insure the interests of Tenants against liability or the interests of Tenants or Owners for their improvements and betterments, trade fixtures, furnishings, personal property or other property.

The insuring of any of the foregoing within a Unit is the sole responsibility of the Owner.

Owner's Usage

41. An owner shall not:

(a) use his unit for any purpose that may be illegal or injurious to the regulation of the buildings comprising the condominium or the parcel;

(2) make undue noise in or about any unit or common property; or

(3) keep any animals in his unit or on the common property other than the pets authorized by the board.

One Family Only

42. (a) Each unit shall be occupied only as a one-family residence by the owner of the unit, his family and guests or a tenant of the owner, his family and guests, and for the purposes of this by-law:

(i) "one-=family residence" means a unit occupied or intended to be occupied as a residence by one family alone and containing one kitchen and in which no roomers or boarders are allowed;

(ii) "boarder" means a person to whom room and board is regularly supplied for consideration; and

(iii) "roomer" is a person to whom a room is regularly supplied for consideration.

(b) No unit shall be used in whole or in part for any commercial or professional purpose involving the attendance of the public at such unit, and without limiting the generality of the foregoing no unit or part thereof shall be used as an office by a doctor, dentist, chiropractor, drugless practitioner, or other professional person; provided, however, that the foregoing shall not prevent the developer from completing the condominium project and maintaining a unit or units owned by it as models for display and sale purposes and otherwise maintaining construction offices, displays and signs until all units have been sold by such developer.

Alterations

43. No alterations, additions, decoration, redecoration changes or installations shall be made on or adjoining the outside of any units by any owner without the prior written consent in writing of the Board; and no structural alteration shall be made to the outer boundary of any unit including walls (whether partition walls, bearing walls or otherwise) ceiling and floor or to any bearing walls or structures within the unit or to any exterior door or window and no changes shall be made in the plumbing, drainage system or electrical system within or outside any unit, by any owner without the prior written consent of the board.

Signs

44. No signs, billboards, notices or other advertising matter of any kind shall be placed on any part of a unit without the written consent of the board first being obtained; provided, however, that the foregoing shall not prevent the developer from displaying such signs, billboards, notices or advertising material as may be necessary for sale purposes until all units have been sold by the developer, nor will it prevent an owner from displaying reasonable “For Sale” signs in respect of the offering of his unit for sale (the acceptability of any such signs to be determined by the board).

Tenants and Occupiers

45. An owner who leases or grants possession of his unit to any tenant or occupier shall:

(a) comply with the damage deposit requirements (if any) of the corporation;

(b) cause the tenant or occupier to undertake in writing to be bound by and comply with the by-laws of the corporation; and

(c) give notice in writing to the corporation of the tenancy or other occupancy accompanied by the written undertaking of the tenant, tenants or occupiers to be bound by the by-laws of the corporation;

provided that nothing herein shall in any way remove, waive or alter the responsibility for each owner for the performance of all by-laws for all persons using or occupying his unit.

Obstructions

46. No owner shall erect or plant or cause to be erected or planted any fence, screen, barrier, awning, shade, partition, tree, shrub or flower on, or which overhangs any part of, the property not exclusively occupied such owner, without the prior written consent of the board or the management agent. No owner shall erect or plant or cause to be erected or planted any fence, screen, barrier, awing, shade, partition, tree or hedge upon the area adjoining his unit without written consent of the board. The consents required by this by-law may be arbitrarily withheld.

Personal Belongings

47. All owners will cause all articles belonging to their household, other than patio furniture and other articles appropriately kept on the area adjacent to their respective units, to be kept in their respective units when not in actual use, and each owner will comply with all reasonable requests of the board of its representative that bicycles, toys and like articles belonging to the owner's household be put away inside such owner's unit when not in actual use.

Parking Area

48. The parking stall or stalls and parking plug-in facilities appurtenant thereto (if any) assigned to any unit by the board are for the sole use of the owner of such unit. Each unit shall be assigned at least one parking stall by the board, the location of which shall be selected by the Board in its sole discretion and shall be subject to change from time to time by the board, provided that in making any changes the board shall have due regard to the interests of all of the owners and occupants within the condominium project situate on the parcel and will not unfairly or unreasonably discriminate against any owners or occupants. If any parking plug-in facility is provided with or in connection with any parking stall, any person given the right to exclusive use of such stall shall be responsible for keeping such facility in good repair and condition at all times during the period of such owner's entitlement to exclusive use; and the corporation may at its option require such owner to pay all electrical charges for and in connection with such facility and may cause such facility to be connected to such owner's electrical meters.

Care and Maintenance of Maintenance Areas

49. Each owner shall (whether or not he is granted any exclusive right or license to use) keep and maintain all portions of all lawns, shrubs and other landscaping in or upon the maintenance area immediately adjacent to his unit in neat, trim, clean and well-groomed condition and in a generally well-cared-for state consistent with good and proper lawn and landscaping care, and shall keep all walkways, sidewalks and parking pads within or upon such maintenance area free and clear of obstruction, dirt, snow, ice and refuse of any kind; provided, however, that such obligations to provide care and maintenance may be terminated or suspended by the corporation in its sole discretion for any such area as to which no right to exclusive use is enjoyed or held by any owner at or during the time of such termination or suspension.

The area and location of the area adjacent to each unit shall be determined by the board.

The corporation and its servants and agents shall, notwithstanding the grant of any right, license or privilege of exclusive use of any area to any owner, have and enjoy free and uninterrupted right at any and all times and from time to time to enter upon, pass and repass over, and occupy any and all parts of such area for the purpose of carrying out any of the duties or functions of the corporation.

Common Expenses

50. The common expenses of the corporation shall, without limiting the generality thereof, include the following:

(a) all levies or charges on account of electricity, water, gas and fuel services supplied to the corporation;

(b) the cost of and charges for all management fees;

(c) all costs and charges on account of landscaping, and maintenance of and snow removal from common property;

(d) all reserves for repairs and replacements of common property and portions of units or buildings, the repair or replacement of which is the responsibility of the corporation;

(e) all costs of and charges for maintenance and repair of those portions of each unit for which the corporation is responsible;

(f) all costs of and charges for maintenance and repair of common property for which the corporation is responsible;

(g) all costs and charges for insurance for which the corporation is responsible;

(h) all costs of and charges for all manner of consultation professional and servicing assistance required by the corporation including without limiting the generality of the foregoing all legal and accounting fees and disbursements;

(i) the amount of all costs and expenses whatsoever, including (without limitation) all maintenance and repair costs, taxes, financing charges, common expense unit charges, and all utilities charges, for on in respect of any unit owned by the corporation itself;

(j) reserves for future maintenance and expenses.

Assessment for Common Expenses

51. (a) At least thirty (30) days prior to the beginning of each calendar year, the board or, at its request, the Manager, shall estimate the amount of the common expenses that will be incurred or required in such calendar year (including a reasonable allowance for contingencies and replacements plus any deficiencies from the previous year and less any expected income and any surplus from the fund collected in the previous year) which estimate of common expenses is herein called “estimated common expenses”. Each year’s estimated common expenses shall be apportioned, levied and assessed to and upon the owners in proportion to the unit factors as shown on the

Condominium Plan. The corporation shall be libel for the amount of any assessment against completed units owned by the corporation. In addition thereto, the Board may levy and assess the owners in like proportion for cost and charges for common expenses, estimated or incurred, from the date of registration of the Condominium Plan to the end of the calendar year in which registration occurred or for such other period, not extending beyond the first anniversary of the date of registration of the Plan, as the board may determine. If the amounts so estimated prove inadequate for any reason, including non-payment of an owner's assessment, the Board may at any time, and from time to time, levy a further assessment or such further assessments as are required in like proportions as hereinbefore provided. Each owner shall be obligated to pay any and all assessments made pursuant to this provision to the board or the Manager to the account of the corporation, as directed by notice, in equal monthly installments on or before the first day of each month during the calendar year for which such assessment is made or in such other reasonable manner as the board or the Manager with the consent of the board (as the case may be) shall designate, and further pay interest on all assessments or payments in arrears at the rate of twelve (12%) per centum per annum or such other rate of interest as may be approved by special resolution calculated from the due date until payment. Unless other arrangements are approved by the board or the Manager in writing, each owner shall be responsible to deliver to the board, or the Manager to the account of the corporation, on an annual basis, twelve post dated cheques representing the amount of the estimated monthly assessments made pursuant to this provision, for the next ensuing twelve month period. In the event that any owner neglects or refuses to provide the post dated cheques, after receiving written demand for same in writing from the board or the Manager, then such owner shall pay an ongoing additional administration charge of $20.00 per month for each month that the owner is in default of supplying the post dated cheques, which charge shall be added to the monthly assessments due from such owner.

(b) The omission by the board before the expiration or any year, to fix the assessments hereunder for that or for the next year, shall not be deemed a waiver or modification in any respect of the provisions of these by-laws, or release of the owner or owners from their obligations to pay the assessments, or any installments thereof for that or any subsequent year, but the monthly installments fixed for the preceding year shall continue until new installments are fixed.

No owner can exempt himself from liability for his contributions toward the common expenses by waiver of use or enjoyment of any of the common property or by vacating or abandoning his unit.

(c) The treasurer of the board or the Manager shall keep detailed accurate records in chronological order of the receipts and expenditures affecting the common property, specifying and itemizing the common expenses incurred.

Records and vouchers authorizing the payments involved shall be available for examination by an owner at convenient business hours on week days.

Default in Payment of Assessments and Lien for Unpaid Assessments, Installments and Payments

52. (a) The corporation shall ad does have a lien and charge upon and against the estate or interest of the owner for any unpaid assessment, installment or payment (including interest on arrears) due to the corporation in respect of his unit, which lien shall be a first, paramount lien against such estate or interest subject only to the rights and priorities of the mortgagee under any mortgage registered against such unit prior to the date that the assessment, installment or payment fell due and the rights of any municipal or local authority in respect of unpaid realty taxes, assessments or levies of any kind against the unit title or interest of such owner but subject also to the provisions of the Act and the Land Titles Act of Alberta. The corporation shall have the right to file a caveat against the unit title or interest of such owner in respect of the lien or charge for the amount of such unpaid assessment, installment or payment and for so often as there shall be any such unpaid assessment, installment or payment, provided that each such caveat shall not be registered until after the expiration of thirty (30) days following the due date for the first payment in arrears. The corporation shall be entitled to be paid by the defaulting owner the costs incurred in preparing and de-registering the caveat and in discharging the caveat until all arrears of the owner (including interest and all such costs) are fully paid. As further and better security, each owner responsible for any such unpaid assessment, installment or payment which is in arrears for more than thirty (30) days shall, upon demand of and at the sole option of the corporation, give to the corporation a mortgage or encumbrance for the full amount thereof providing for their payment on demand with interest thereon at the rate of twelve (12%) per centum per annum, or such other rate of interest as may be approved by special resolution, calculated from the due date of the same, and the corporation shall be entitled to enforce its lien, charge and security, and pursue such remedies as may be available to it at law or in equity, from time to time. Nothing herein shall restrict or abrogate any rights or remedies given to the corporation by or under the Act.

(b) Any other owner or person, firm or corporation whatsoever may pay any unpaid assessment, installment or payment after the expiration of thirty (30) days following the due date for the payment by the owner in default, with respect to a unit, and upon such payment being made, such party, person, firm or corporation shall have a first, paramount lien, subject to the estates or interests hereinbefore mentioned, and shall be entitled to file a caveat in respect of the amount so paid on behalf of the owner in default, and shall be entitled to enforce his lien, thereby created, in accordance with the other terms and conditions of this provision.

(c) Notwithstanding any other term, condition or provision herein contained or implied, each unpaid assessment, installment or payment shall be a separate, distinct and personal debt and obligation of the owner against whom the same is assessed and such subsequent owners as the Act may provide and collectible as such. Any action, suit or proceeding to recover such debt or to realize on any judgment, therefore, shall be maintainable as a separate action, suit or proceeding without foreclosing, or waiving the lien, charge or security securing the same.

Mortgage Protection

53. Notwithstanding all other provisions hereof, the corporation's lien, charge or security provided for in paragraph 53 hereof shall be subject always and subordinate to, and shall not affect the rights of, the holder of any mortgage registered against a unit prior to the recording of the corporation's lien or charge upon the unit title, and the corporation or the board shall, upon the request of such registered mortgagee, at the expense of the corporation, execute and deliver such postponements, agreements or instruments or subordination as the mortgagee shall reasonably require to fully and effectively establish or maintain its priority over the assessments, installments or payment due to the corporation.