

GOVERNING DOCUMENT

This document is made in settlement of the issues by and between Hawthorn of Aurora Homeowners Association, Inc., an Ohio non-profit corporation ("HOA") and Aurora Shores Homeowners Association, Inc., an Ohio non-profit corporation ("ASHA") and Hawthorn of Aurora Limited Partnership, an Ohio limited partnership ("LP"). It is intended to be incorporated into the Journal Entry in United States District Court Case Numbers 1:97CV778 and 5:97CV1964.

The parties hereto consent to incorporate this document into the Journal Entry whereby the mutual use and enjoyment of Aurora Lake, is preserved. The parties hereto desire to equitably divide the costs, obligations and responsibilities of Aurora Lake to resolve all disputes between them regarding the use and enjoyment of Aurora Lake in accordance with the terms, covenants and conditions hereinafter set forth, and set forth in said Journal Entry.

In consideration of the mutual covenants and agreements herein contained, the parties hereto do hereby covenant and agree as follows:

1. Formation of ALA. HOA, ASHA and LP shall form an Ohio corporation pursuant to Chapter 1702 of the Ohio Revised Code named Aurora Lake Association, Inc. (hereinafter referred to as "ALA").

2. Conveyance of Aurora Lake. ASHA, HOA and LP shall convey to ALA their respective rights, titles, and interests in and to the subaqueous soil of Aurora Lake excluding channels.. The conveyances will be conditioned upon ALA maintaining Aurora Lake for the use and enjoyment of the members in good standing of HOA and ASHA consistent with

EXHIBIT A

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of the dam*

this agreement. Except that ASHA shall retain title to the dam, spillway and associated property. ASHA shall be responsible for the maintenance and costs with respect to the dam.

3. Board of Trustees: ALA shall have a Board of Trustees consisting of five (5) individuals. HOA shall appoint three (3) Trustees and ASHA shall appoint two (2) Trustees ("Appointed Trustees"). All actions of the Board of Trustees require an affirmative vote of three (3) members of the Board, except as otherwise noted herein.

- a) Each Trustee shall have only one vote;
- b) The Board of Trustees for ALA shall meet a minimum at the discretion of the Board as needed. The place of said meetings shall be open to the Members of HOA and ASHA unless issues of litigation, potential or threatened, personnel, land acquisition or contract negotiations are being discussed. The meetings shall be conducted pursuant to Robert's Rules of Order. It shall be the responsibility of HOA and ASHA to notify its residents of said meetings.
- c) If a Trustee quits, resigns or is otherwise unable to participate in any particular meeting, the appointing Board of the homeowner's association who originally appointed said Trustee shall have the right to immediately appoint an interim Trustee who shall have all the rights, powers and responsibilities of the originally appointed Trustee. The majority in favor of HOA shall be maintained as called for in the Judgment Entry in that HOA shall have the right to appoint three (3) Trustees until such time as Hawthorne of Aurora Limited Partnership has sold, conveyed or assigned 855 of the 1139 housing units (including condominiums and clusters) platted in the Hawthorn of Aurora subdivision.

4. Responsibilities of ALA. ALA shall be responsible for all matters necessary to manage, supervise, preserve, improve and maintain Aurora Lake, including, but not limited to, the payment of taxes and insurance thereon, aquatic and environmental studies, control

for eutrophication and pollution, stocking of fish, dredging, repair, erosion control, including the cost of labor, materials, equipment, management and supervision thereof.

5. Uniform Rules and Regulations. The Board of Trustees of ALA shall adopt uniform rules and regulations governing the use of Aurora Lake. The Board of Trustees of ALA shall review the rules currently promulgated by HOA and ASHA and may amend, modify, revoke in whole or in part, the rules and regulations promulgated for the use and enjoyment of Aurora Lake. However, in no event will the Board of Trustees of ALA permit boats on the lake that exceed twenty (20) feet or sail boats that exceed twenty-three (23) feet. When promulgating rules, the Board of Trustees of ALA shall first consider the health and safety of the members, tenants or lessees of HOA and ASHA who use Aurora Lake. HOA and ASHA shall be responsible for notifying and distributing the rules and regulations that are promulgated by the Board of Trustees of ALA, to its respective members, tenants or lessees.

*edit adopt
w/RS + reg*

Rules

- a) The rules and regulations for use of Aurora Lake by members of HOA and ASHA, shall include, but shall not be limited to, to facilitate and sponsor seminars for lake safety, registration of boats by the Ohio Department of Boat Registration, wind surfing, display of decals, number of boats permitted to be registered by respective members, speed limits, horse power under restrictions contained herein, marking of buoyed areas, time and parameters of water skiing, direction of boats on the lake, requirements regarding observers in the boat, age of observers, number of water skiers, water skiing safety, liability of homeowners for violations, the use of jet skis, the use of life jackets, the use of parasails, the size limit on fish.
- b) The Board of Trustees of ALA shall determine a registration procedure that shall be used by HOA and ASHA for the registration of watercraft. However, HOA and ASHA shall not permit any watercraft to be licensed for use on Aurora Lake without first showing proof of insurance, in an amount to be determined by the Board of Trustees of ALA. HOA and/or ASHA

and ALA shall be listed as additional insureds under the policies of insurance. All registered owners/operators of a watercraft shall be required to indemnify and agree to hold harmless and defend ALA, HOA and ASHA from liabilities, claims and demands for personal injury or property damage arising out of or caused by any act or omission of the ALA, its sub-contractors, agents or employees, or arising in or about Aurora Lake at any time during the term of this Agreement.

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6. Annual Lake Budget. ALA shall prepare an annual lake operating budget. The ALA budget shall take into consideration all matters necessary to supervise, preserve, improve and maintain Aurora Lake, including, but not limited to, the payment of taxes and insurance thereon, aquatic and environmental studies, control of eutrophication and pollution, stocking of fish, repair, erosion control, including the cost of labor, materials, equipment, management and supervision thereof.

7. Funding Sources.

- a) HOA and ASHA shall pay thirty-five Dollars (\$35.00) annually for each living unit in their respective associations. This payment may be made on May 1st of each year. It is anticipated, however, that the first payment shall be within thirty (30) days from the signing of this Journal Entry. A late payment charge of one and one-half percent (1 1/2%) per month shall be imposed on any payment or portion thereof not received by May 1.
- b) Annual fees may be raised not more than ten percent (10%) per annum unless there is unanimous approval of the Board of Trustees.
- c) HOA and ASHA reserve the right to improve their shoreline and may do so without approval from ALA. It shall be the responsibility of ALA, HOA and ASHA to prevent erosion of the shoreline. For the purpose of this agreement, a shoreline shall be defined as that area where the water meets the shore at its summer pool level and extended for a distance of twenty-five (25) feet into the lake. In order to preserve the shoreline, the parties hereto agree that the speed limit within twenty-five (25) yards of the shoreline shall be

five (5) miles per hour. ALA reserves the right to establish additional no wake zones.

- d) ALA shall be permitted to surcharge owners of boats with horsepower in excess of fifty horsepower (50HP) in an amount to be determined by vote of the trustees. The initial surcharge shall be maintained for the first two(2) boating seasons which shall be the 1999 and 2000 calendar years and shall be as follows: 50 -100 horsepower, \$100.00; 100 - 200 horsepower, \$150.00; 200 -300 horsepower, \$200.00; and over 300 horsepower, \$250.00. However, current homeowners listed in Exhibits "B" and "C" together with first time homeowners of HOA not yet constructed shall be exempted so long as they are homeowners. Said exemption shall not be assignable or transferable.

8. Privilege to use Aurora Lake. HOA and ASHA shall determine who are members in good standing pursuant to their governing documents and HOA and ASHA shall independently have the exclusive authority to determine who among its members have privilege to use Aurora Lake. HOA and ASHA shall notify ALA which of their respective members are eligible to be registered by ALA to use Aurora Lake. All boats and watercraft thereafter registered by ALA shall have full access to the lake, inlets and channels in accordance with the rules and regulations promulgated by the Board of Trustees of ALA.

9. Homeowners Defined. Notwithstanding the provisions of Paragraph 8, the privilege to operate a boat on Aurora Lake shall be limited to eligible condominium unit owners, cluster unit owners or homeowners in residence in HOA or ASHA. A lessee of a condominium unit owner, cluster unit owner or homeowner in residence in HOA or ASHA may assume the owners' rights to operate a boat on Aurora Lake if the lessee applies for a decal with prior written approval from their homeowner or unit owner and otherwise

complying with all registration, title, and insurance requirements. The title of the boat may be in the name of the lessee. The owners of Hawthorn Ltd. Partnership shall not be limited to horsepower boats or be charged a fee.

10. Insurance. ALA shall at all times commencing with the date upon which the Agreement begins, carry or cause to be carried and by its sub-contractors where applicable, sufficient insurance with an insurance carrier or carriers licensed to do business in Ohio and acceptable to HOA and ASHA and in limits approved by both. ALA shall furnish HOA and ASHA duplicate policies of insurance as set forth above, together with certificates and receipts showing that such insurance is in full force and fully paid. Each of such policies shall contain a provision to the effect that they may not be canceled except upon ten (10) days prior written notice to HOA and ASHA. HOA and ASHA shall be included as an additional insured on all insurance policies.

11. Indemnification. ALA hereby indemnifies and agrees to hold harmless and defend HOA and ASHA against all liabilities, claims and demands for personal injury or property damage arising out of or caused by any act or omission of the ALA, its sub-contractors, agents or employees, or arising in or about Aurora Lake at any time during the term of this Agreement.

12. Binding Arbitration. Any controversy relating to this Agreement shall be settled by mediation with mutual agreement of the parties. If mediation is not successful, then the parties with mutual agreement, shall submit this matter to arbitration in accordance with the then existing rules of the American Arbitration Association and judgment upon the award rendered may be entered in any court or record having jurisdiction.

13. Binding Agreement. The terms, provisions, covenants and conditions contained in this Agreement shall apply to, inure to the benefit of, and be binding upon the parties hereto and upon their respective legal representatives, and assigns except as otherwise herein expressly provided. This document is incorporated into the Journal Entry of the United States District Court for the Northern District of Ohio, consolidated Case Numbers 1:97CV778 and 5:97CV1964.

14. Modification of Agreement. This Agreement may not be altered, changed or amended except by an affirmative vote of the Board of Trustees of ALA and ratified by the governing boards of HOA and ASHA.

15. Assignability. It is expressly agreed that ALA may not assign its interest without the written consent of the governing boards of HOA, Hawthorne Ltd. Partnership and ASHA. ASHA shall not assign its interest in the dam or spillways without the written consent of HOA, Hawthorn Ltd. Partnership and ALA.

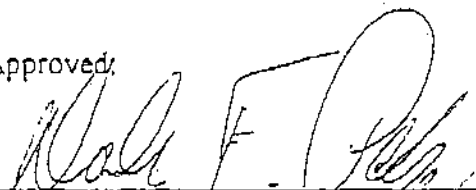
16. Governing Law. This Agreement is intended to be performed in accordance with, and only to the extent permitted by all applicable laws of the State of Ohio.

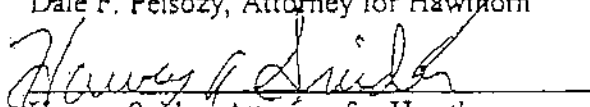
17. Merger. This document supersedes any and all other agreements, either oral or in writing, between the parties hereto prior to the date of journalization, with respect tot he subject matter of this contract and contains all of the covenants, agreements, and other obligations between the parties hereto with respect to the subject matter of this contract. No waiver, alteration or modification of this Agreement or any agreement in connection therewith shall be valid unless in writing and duly executed by all parties hereto.

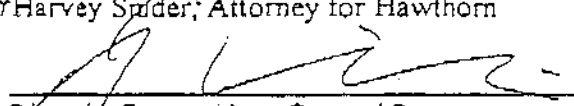
18. Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable, that shall not affect or impair, in any way, the validity, legality, or enforceability of the remainder of this Agreement.

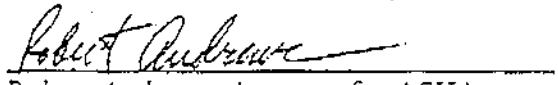
19. Construction of Terms. The section headings contained herein are for convenience only and do not define, limit or construe the contents of such sections.


Approved:

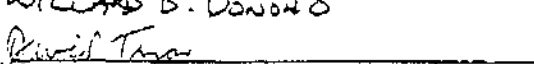

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