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Breakers Homeowners Association

Document Date (mm/dd/yyyy)

02/24/2024

Document Type

DECLARATION OF COVENANTS & RESTRICTIONS

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First Party

(Grantor or Mortgagor or
Assignor)
(Enter up to five names)

Name(s)

(Last Name, First Name Middle Initial, Suffix)
(or Company Name as written)

Breakers Homeowners Association

Address (Optional)

12 Ross Drive, Brigantine NJ 08203

Second Party

(Grantee or Mortgagee or
Assignee)
(Enter up to five names)

Name(s)

(Last Name, First Name Middle Initial, Suffix)
(or Company Name as written)

Breakers Homeowners Association

Address (Optional)

12 Ross Drive, Brigantine NJ 08203

Parcel Information

(Enter up to three entries)

Municipality

Block

Lot

Qualifier

Property Address

Reference Information

(Enter up to three entries)

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AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") made this 24th day of February 2024, by the Breakers Homeowners' Association (the "Association") pursuant to the direction of the Owners pursuant to a vote dated February 6, 2024.

WITNESSETH:

WHEREAS, pursuant to that certain Declaration of Covenants and Restrictions dated May 11, 1985, and recorded in the Atlantic County Clerk's Office on May 15, 1985, in Deed Book 4061, Page 1, as amended by that certain First Amendment to Declaration and Covenants dated November 22, 1985 and recorded in the Atlantic County Clerk's Office, in Deed Book 4171, Page 188 (collectively referred to herein as the "Prior Declaration") by RPEC, INC doing business as THE BREAKERS INC ("Grantor"), said Grantor under the Prior Declaration subjected the Lots (as defined below) to the covenants and restrictions contained in the Prior Declaration; and

WHEREAS, there are twenty-seven (27) residential lots subject to the Prior Declaration (each a "Lot" or the "Lots" as the case may be) upon which Grantor constructed twenty-seven (27) attached townhouse units (each a "Unit" or "Units", as the case may be), which Lots and Units are commonly known as "The Breakers"; and

WHEREAS, The Breakers Homeowner's Association (the "Association") was created by the Grantor to provide for the preservation and enhancement of The Breakers following the conveyance of the Lots by the Grantor; and

WHEREAS, The Grantor has conveyed all the Lots and the Grantor no longer has any interest in the Lots or The Breakers; and

WHEREAS, the Owners of the Lots pursuant to vote held in accordance with the Prior Declaration and the By-laws of the Association approved this Amended and Restated Declaration of Covenants and Restrictions ("Declaration") to supersede and replace the Prior Declaration in its entirety; and

WHEREAS, each Owner is automatically a member of the Association upon acquiring legal title to a Lot and, incident to such membership, shall be obligated to abide by all the terms and conditions set forth herein and in the By-Laws for the operation, maintenance, governance and administration of The Breakers, including the financial responsibility for the support and maintenance of the Association in the performance of its designated functions described herein.

NOW, THEREFORE, the Association in accordance with the Prior Declaration and on behalf and at the direction of the Owners does hereby adopt this Amended and Restated Declaration of Covenants and Restrictions as follows:

ARTICLE I

CERTAIN DEFINITIONS

In addition to capitalized terms defined elsewhere in this Declaration, the following capitalized terms in this Declaration shall have the following assigned meanings:

1. **"Association"** shall mean and refer to The Breakers Homeowners' Association, its successors, and assigns.
2. **"By-laws"** shall mean and refer to the By-laws of The Association as amended from time to time in accordance therewith.
3. **"Declaration"** shall mean and refer to this Amended and Restated Declaration of Covenants and Restrictions applicable to the Lots and the Units.
4. **"Lot"** shall mean and refer to each fee simple plot of land shown upon the recorded final subdivision or tax map of The Breakers in the City of Brigantine, County of Atlantic and State of New Jersey.
5. **"Unit"** shall mean and refer to a townhouse which is located on an individual Lot in The Breakers.
6. **"Owner"** shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot and the Unit constructed thereon which is a part of The Breakers, including contract sellers, but excluding those having such interest in a Lot and / or Unit merely as security for the performance of an obligation.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

The real property which is subject to this Declaration are the 27 Lots and the Units located on the Lots located in the City of Brigantine, County of Atlantic and State of New Jersey, as more particularly described Exhibit "A" annexed to this Declaration and by this reference, made a part hereof.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

1. **Establishment of Association.** The Association, through its Board of Directors (the "Board"), shall provide for the maintenance and preservation of the Lots and the architectural control of the Units in accordance with this Declaration. The Board shall be elected by the Owners in accordance with the By-laws.
2. **Membership.** Every person, firm, association, corporation, trust or other legal entity who / that is an Owner, shall be a member of the Association and subject to the By-Laws, provided that any person, firm, association, corporation, trust or legal entity who / that holds such title or interest merely as a security for the performance of an obligation shall not be a member of the Association solely by virtue of being a holder of title or interest in a Lot merely as security for the performance of an obligation.
3. **Disputes.** Any disputes between the Association and one or more Owners shall initially be handled in accordance with the Dispute Resolution procedures set forth in the By-laws prior to any party to such dispute initiating legal action. Any disputes strictly between Owners shall be resolved by the Owners in accordance with New Jersey law.

ARTICLE IV

ARCHITECTURAL CONTROL AS TO LOTS AND UNITS

No structure or other permanent improvement shall be commenced, built, erected or maintained upon a Lot, nor shall any exterior addition or change (including change of external color scheme) be made to a Unit until the plans and specifications showing the nature, kind, shape, height, materials, exterior colors and location of same shall have been submitted to and approved by the Board as to harmony of external design, color and location in relation to surrounding Units and Lots. Routine maintenance, replacements and upgrades of existing Unit exterior features (e.g., doors, windows, decks, roofing, siding, etc.) with components of harmonious design and color to other Units shall not require the advance approval of the Board. The Board shall respond to a modification request within 2 weeks of submission by the Unit Owner provided, however, that the Board may elect to delay its decision on the modification request until the next Board meeting. If the Board does not either approve or deny a modification request within 45 days of submission, the modification request shall be deemed approved. The Board shall not take any action on a modification request that is not consistent with applicable law.

Holiday decorations and other aesthetic and harmonious decorations to the Lots or the exterior of the Units shall not require the advance approval of the Board.

No fence or wall shall be constructed or maintained between the Lots.

The Board may from time to time establish and revise the form to be used in the submission of an application for modification to a Lot or the exterior of a Unit. All work on a Lot or the exterior of a Unit requiring a permit from the City of Brigantine shall be obtained by the Owner and a copy of such permit shall be supplied to the Board prior to the Board rendering its decision on the application for modification. The Board may, however, approve a modification request in advance of the issuance of the City of Brigantine permit on the condition that such permit be issued prior to commencement of the modification work.

The Board shall not require any change to any existing Unit or Lot condition as of the date of the approval of this Declaration without the affected Unit owner's consent.

ARTICLE V

RESTRICTIONS AND EASEMENTS AS TO ALL LOTS AND UNITS

1. **Restrictions.** In addition to all the other covenants contained in this Declaration, each Lot and Unit is subject to the following:

- (a) No Owner shall alter the height of the Unit or the Lot area covered by the Unit without first having the advance approval of the Board.
- (b) Each Owner shall promptly repair, rebuild, or replace with new materials of harmonious size, kind, and quality such Owner's Unit and Lot as such property had been prior to its damage or destruction by fire or other casualty.
- (c) All leases of Units shall provide that the lessee shall be subject in all respect to the provisions of the By-Laws and this Declaration and that any failure by the lessee to comply with the terms of these Association documents shall be a default under the lease.
- (d) Except in connection with a project approved by the Board, no tents, trailers, vans, storage tanks or temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot for more than 30 days.
- (e) No boats shall be placed, parked, or stored upon any Lot, nor shall any maintenance or repair to any motor vehicles be performed upon any Lot other than emergency repairs.
- (f) No artificial turf or any other form of artificial Lot coverage material shall be maintained upon a Lot, unless approved by the Board as a modification request.

2. **Utilities.** With regard to existing sanitary sewer connections and/or water connections or electricity, internet lines, telephone lines or cable television and/or other service or utility designed to benefit the Lots at The Breakers, the Lots shall be subject to the right of utility or service companies or governmental authorities to enter upon the Lots, to repair, replace and generally maintain such connections and facilities as provided by law and as provided in any existing recorded easements

affecting the Lots. The Owner of the Lot shall be responsible for restoring the surface of the disturbed area on the Lot to the condition which existed prior to such action to the extent that the utility company or governmental authority is not so responsible or has not done so. Notwithstanding the foregoing, in the event that a Unit owner requests a utility connection or service that results in the disturbance of another Unit owner's Lot, the requesting Unit owner shall be responsible for restoring the surface of the disturbed area on the other Unit owner's Lot to the condition which existed prior to such action.

ARTICLE VI

EXTERIOR MAINTENANCE

1. **Necessary Exterior Repairs by Association Occasioned by Owner Neglect.** Subject to Article VII below regarding maintenance to be performed by the Association, every Owner of a Lot by the acceptance of a deed for the same, or by acceptance of title as devisee or heir, covenants that he, she or it will not permit the Lot or any improvements thereon to be maintained other than in good repair and in a neat, harmonious and aesthetic condition and in accordance with applicable law. In the event any Owner of a Lot shall fail to so maintain such Owner's Lot, and such failure, in the judgment of the Board after discussion at an open Board meeting is both not protected under applicable law and results in a condition of unsightliness tending to adversely affect the value and enjoyment of neighboring Lots, the Board may give notice of such condition to the Owner of the Lot, demanding that such condition be abated within ten (10) days from the date the notice is sent. Notices shall be sent in accordance with the By-Laws and the Unit Owner(s) in question shall be entitled to invoke the dispute resolution provisions of the By-laws.

If the Owner of the Lot does not rectify the condition at the end of such period or does not invoke the dispute resolution provisions of the Bylaws, the Association may cause such work to be performed as is necessary to rectify the conditions. The cost of such work shall be assessed against the Lot upon which the services are performed and shall be added to and become a part of the Annual Assessment to which such Lot and Owner is subject under this Declaration and, as part of such Annual Assessment, it shall be a lien and obligation of the Owner in all respects as provided herein. Payment for any work performed pursuant to this subparagraph shall be due upon presentation to the Owner the Association's invoice therefore.

Default in prompt and full payment within ten (10) days from the date the invoice is sent to the Owner of the Lot shall entitle the Association to the maximum allowable rate of interest on the amount due from the date of the invoice, which interest shall also constitute a lien upon the Lot and the personal obligation of the Owner.

2. **Access to Association at Reasonable Hours.** For the purpose of performing any exterior maintenance after the expiration of the notice period required by subparagraph 1 hereof of this Article,

the Association, through its authorized agents, servants, employees, or contractors, shall have the right to enter upon any Lot within The Breakers between the hours of 8:00 a.m. and 6:00 p.m. except Sundays and Legal Holidays, to perform the exterior work deemed necessary as provided in subparagraph 1 of this Article.

ARTICLE VII

ASSOCIATION SERVICES

The Association shall perform the following services, within The Breakers, assessing costs thereof against all of the Lots within The Breakers as part of the Annual Assessment to which the Lots are subject, as provided in Article VIII hereof, which Annual Assessment shall be a lien upon each Lot and a personal obligation of each Owner, and shall become due and payable in all respects as provided in Article VIII hereof:

- (a) To care for shrubbery and trees and to otherwise maintain the shrubbery and trees on the Lots in a harmonious and aesthetic condition, including tree / shrubbery removal and tree / shrubbery replacement where routine maintenance of the trees / shrubbery is not feasible. At the option of the Board, such services may also include periodic loose leaves and other debris collection and removal from the Lots including pedestrian pathways and / or sidewalks.
- (b) To paint the exterior of the Units, including the appurtenant decks, periodically as determined by the Board.
- (c) To provide independently, or in cooperation (by contract or other arrangement) with appropriate governmental authorities, or other persons, firms or corporations, any other services useful or beneficial to The Breakers which are authorized by the Owners of at least a majority of the Lots.

ARTICLE VIII

COVENANT FOR MAINTENANCE AND CAPITAL IMPROVEMENT ASSESSMENTS

1. Creation of Lien and Personal Obligation of Assessments.

Each person who accepts a deed for a Lot or accepts title as an heir or designee shall be deemed to have consented to make such payment and to have agreed to all the terms and provisions of this Declaration whether or not reference to this Declaration was included in the contract or deed or other instrument by which he, she or it acquired title. The Annual Assessment, together with such interest thereon and

cost of collection thereof, as hereinafter provided, shall be a charge and shall constitute a continuing lien upon the Lot and Unit against which each assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall also be the personal obligation of the person or persons or entity who was the Owner of such Lot or Unit at the time when the assessment fell due. In the case of co-ownership of a Lot or Unit, all of such co-owners of the Lot shall be jointly and severally liable for such assessments. All disputes shall initially be addressed in accordance with the Dispute Resolution provisions of the By-Laws.

2. **Purpose of Assessments.** The Annual Assessment shall be used exclusively for promoting the health, safety, pleasure and welfare of the Lot and Units and costs and expenses incident to the operation of the Association, including without limitation, the maintenance of the Lots as described in Article VII and all costs and expenses incidental to the operation and administration of the Association.

3. **Change in Annual Assessment.** The Board may change the amount of the Annual Assessment for the succeeding year provided that any such change shall have the assent of the Owners of not less than two thirds (2/3) of Lots at a meeting duly called for that purpose in accordance with the By-Laws, written notice of which shall be sent to all Members at least thirty (30) days in advance and which notice shall set forth that one of the purposes of the meeting to vote on a proposed change in the Annual Assessment.

4. **Period for Which Annual Assessments are Made.** The period for which Annual Assessments are made shall be the twelve (12) months extending from January 1 through and including December 31 each year.

5. **Due Date.** The Annual Assessment may be paid in two installments, the first of which is due prior to June 30th and the second of which is due prior to November 30th. Notwithstanding the foregoing, the Board shall have the power to require that the Annual Assessment be paid in a single installment if such action is approved by the Unit Owners.

6. **Notice of Assessment; Certificate as to Payment.** Written notice of the Annual Assessment shall be sent to every Owner in accordance with the notice provisions of the By-laws. The Association shall, upon the request of any Owner liable for an Annual Assessment, or for the mortgagee of the Owner's Lot, furnish to such Owner or mortgagee a certificate in writing, signed by an officer of the Association, setting forth whether or not such Annual Assessment (and if applicable any Added Assessment) has been paid in whole or in part for such year or any prior years. Such a certificate shall constitute conclusive evidence of the payment of any Annual Assessment, Added Assessment or installment thereof stated to have been paid.

7. **Event of Non-Payment of Assessment; The Personal Obligation of the Owner; The Lien; Remedies of the Association.** If the Annual Assessments (or any installments) are not paid promptly on the date thereof as specified in Paragraph 6 of this Article; then such Annual Assessment shall become delinquent automatically and shall, together with interest thereon, and cost of collection thereof, as hereinafter provided, thereupon become a continuing lien on the Unit and Lot against which it is levied, which lien shall bind such Lot and Unit in the hands of the then Owner, his, her or its heirs, executors, devisees, personal representatives, successors and assigns.

If any installment of the Annual Assessment has not been paid within thirty (30) days after the due date specified in Paragraph 5 of this Article, the entire unpaid amount of such Annual Assessment for such year together with a fifty dollar (\$50.00) late fee plus interest on the unpaid amount of such Annual Assessment at lesser of (i) the rate of eighteen (18%) percent per annum, or (ii) the maximum interest rate that may be charged by the Association under applicable law, may be collected by the Association by the institution of an action at law against the Owner(s) personally obligated to pay the same, or by an action to foreclose the lien against the Lot, and there shall be added to the amount of such Annual Assessment and interest, the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include, in addition to the unpaid Annual Assessment, interest and court costs and attorney's fee of twenty (20%) percent of the unpaid Annual Assessment and accrued interest.

ARTICLE IX

GENERAL PROVISIONS

1. **Duration.** The covenants and restrictions set forth in this Declaration shall run with and bind all the Lots and Units and shall inure to the benefit of and be enforceable by the Association and the Owners of the Lots and Units, their respective successors, assigns, heirs, executors, administrators, and personal representatives. Amendment to this Declaration shall only be made upon the approval of not less than the Owners of at least twenty-one (21) of the Lots. Any such approved amendment to this Declaration shall be recorded in the Atlantic County land records in accordance with New Jersey law.
2. **Enforcement.** Enforcement of this Declaration shall be by any appropriate proceeding in law or equity in any court or administrative tribunal having jurisdiction.
3. **Severability.** Should any covenant or restriction herein contained, or any Article, Paragraph, Subparagraph, sentence, clause, phrase, or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such a judgment shall in no way affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force and effect.

4. **Conflict.** This Declaration supersedes and replaces the Prior Declaration of The Breakers. To the extent of any conflict between this Declaration and the laws of the State of New Jersey or the City of Brigantine, the laws of the State of New Jersey and the City of Brigantine shall control.

5. **Binding Effect.** This Amended and Restated Declaration of Covenants and Restrictions shall bind and inure to the benefit of the Units, the Lots and the Owners, their successors, and assigns.

IN WITNESS WHEREOF, the Breakers Homeowners Association has caused this instrument to be executed the day and year first above written pursuant to the direction of the Owners.

BREAKERS HOMEOWNERS ASSOCIATION

By: John J. Hubbert III
John J. Hubbert, III, President

STATE OF NEW JERSEY

COUNTY OF ATLANTIC

BE IT REMEMBERED, That on this February 24th 2024 before me, the subscriber, personally appeared **John J Hubbert, III** who I am satisfied is the person who signed the within instrument as **President of the Breakers Homeowners Association**, and he / she acknowledged that she / he signed and delivered the same as such officer aforesaid, and that the within instrument is the voluntary act and deed of the Breakers Homeowners Association, made by virtue of a Resolution of its Board of Directors and approval of The Breakers Owners

Madison Morrison
Notary Public



EXHIBIT A
LEGAL DESCRIPTION

ALL THAT CERTAIN lot, tract or parcel of land and premises situate, lying and being in the City of Brigantine, County of Atlantic and State of New Jersey, more particularly described as follows:

BEING Lots 10 through 17 inclusive, Lots 36 through 54 inclusive, and the Northeasterly half of Lot 55, Block SB-6B as shown on a Map of a certain subdivision entitle "Villa De La Mar", duly filed in the Office of the Clerk of Atlantic County on 11/7/80 under the file number 1759.

ALSO KNOWN as Lots 10 through 17 inclusive and Lots 36A, 37A, 38 through 49 inclusive, 50A, 51A, 52A, 53A, and 54A on Block SB-6B as shown on the Official Tax Map of the City of Brigantine.

BEING the same premises conveyed to R.P.E.C., INC by Deed from Mario F. Floriani, Sheriff of the County of Atlantic, in the State of New Jersey, dated March 8, 1984, recorded March 20, 1984 in Deed Book 3897, page 317 in the Atlantic County Clerk's Office.

BY-LAWS
THE BREAKERS HOMEOWNERS' ASSOCIATION

TABLE OF CONTENTS

ARTICLE I-NATURE OF BY-LAWS	Pg. 3
Purpose	
Definitions	
Fiscal Year	
ARTICLE II-MEMBERSHIP AND VOTING RIGHTS	Pg. 3
Membership	
Unit Owner Email Address	
Change of Membership	
Voting Rights	
Proxies and Absentee Ballots	
Suspension of Membership/Voting Rights	
ARTICLE III-MEETINGS OF UNIT OWNERS	Pg. 4
Place of Meeting	
Video Conference Meetings	
Regular Annual Meeting	
Special Meetings	
Notice of Meetings	
Quorum	
Organization	
Voting	
Judges – In Person Meetings	
Order of Business	
ARTICLE IV-BOARD OF DIRECTORS	Pg. 6
Express/Implied Powers and Duties	
Number and Qualification	
Election and Term	
Removal of Members of Board	
Vacancies	
Meeting of Board/Notice/ Waiver of Notice	
Quorum and Adjourned Meetings	
Joinder in Meetings by Approval of Minutes	
Non-Waiver	
Conflict of Interest	
ARTICLE V-BOARD OF DIRECTORS, POWERS AND DUTIES	Pg. 9
General Powers and Privileges	

ARTICLE VI-FISCAL MANAGEMENT	Pg. 9
Annual Assessments	
Determination of Annual Assessments	
Disbursements	
Depositories	
Reserves	
Notice	
Acceleration of Assessment Upon Default	
Interest and Counsel Fees	
Examination of Books	
ARTICLE VII-OFFICERS	Pg. 11
Designation	
Election of Officers	
Duties and Responsibilities	
Other Duties and Powers	
Eligibility of Directors	
ARTICLE VIII-COMPENSATION AND INDEMNIFICATION	Pg. 12
Compensation	
Indemnification	
Exculpability	
ARTICLE IX- DISPUTE RESOLUTION AND ENFORCEMENT	Pg. 12
Dispute Resolution	
Enforcement	
Fines	
Waiver	
ARTICLE X -AMENDMENTS	Pg. 15
ARTICLE XI- MISCELLANEOUS	Pg. 16
Association Membership List	
Dissolution and Distribution of Assets	
ARTICLE XII-CONFLICT, INVALIDITY ARTICLE	Pg. 16
XIII - NOTICE	Pg. 16

AMENDED AND RESTATED
BY-LAWS
OF
THE BREAKERS HOMEOWNERS' ASSOCIATION
Approved February 2024

ARTICLE I - NATURE OF BY-LAWS

Purpose. These By-Laws are intended to govern the administration of The Breakers Homeowners Association hereinafter referred to as "Association", originally organized as a non-profit membership corporation under Title 15 of the Revised Statutes of New Jersey, together with the management, administration, utilization, and maintenance of the Lots described in the Declaration of Covenants and Restrictions for the Association, as amended (the "Declaration").

Definitions. Unless the context clearly indicates otherwise, all definitions set forth in the Declaration are incorporated herein by reference.

Fiscal Year. The fiscal year of the Association shall be on a calendar year basis, or such other basis as the Board of Directors of the Association (the "Board") shall determine.

ARTICLE II- MEMBERSHIP AND VOTING RIGHTS

Membership. Every Unit Owner shall be a member of the Association, subject to the provisions of the Declaration and these By-Laws. Membership in the Association shall terminate when any Unit Owner shall cease to be the record Owner of a Unit.

Unit Owner Email Address. Every Unit Owner shall provide the Board with a single current email address for purposes of notices from the Board and online voting. Unit Owners shall promptly notify the Board of any change in such designated Unit Owner email address.

Change of Membership. Change of membership shall be accomplished by recording in the Office of the Clerk of Atlantic County, New Jersey a deed establishing record title to a Unit, and delivering to the Secretary of the Association a copy of such instrument or such other notice as reasonable to evidence the change in ownership of the Unit. The membership of the prior Unit Owner shall be thereby terminated.

Voting Rights. There shall be twenty-seven (27) votes in the Association. Each Unit shall have appurtenant to it one (1) vote.

If a Unit is owned by more than one (1) person or party, then those persons or parties shall designate one (1) such person or party to vote for the Unit. Such designation shall be in writing and shall be submitted to the Association. Voting on Association matters,

including the election of Directors, shall be anonymous according to procedures established by the Board from time-to-time.

Proxies and Absentee Ballots – In Person Meetings. Subject to the Board directing that all voting on a particular matter shall be via online internet service provider, proxies and absentee ballots shall be permitted with respect to in-person voting on all elections of Directors, and all amendments to the Declaration or these By-laws, or any other matter which is to come before an in-person meeting of the Unit Owners provided such voting is anonymous. All proxies shall be in writing, signed by all individual Unit Owners (or in the case of joint owners by any one of them), or by the Unit Owner(s) duly authorized representative(s) and duly delivered to the Secretary of the Association, or such other person as the President may designate, at least twenty-four (24) hours prior to the commencement of the meeting at which the ballots are to be cast. Proxies may be revoked at any time prior to the opening of the polls, and no proxy shall be voted on after eleven (11) months from its date unless said proxy provides for a longer period, not to exceed three (3) years from the date of execution. All proxies shall be substantially in the form prescribed by the Board from time to time and made available to the Unit Owners. Absentee ballots shall also be available in any vote where proxies are permitted and such absentee ballots shall be collected and counted in such a manner as to preserve the anonymity of the Unit Owner casting the vote.

Online Internet Service Provider Voting. In lieu of or in conjunction with other permitted forms of voting, the Board may designate voting on any matter, including the election of Directors, to be via an online internet service provider provided the Board determines that reasonable safeguards are in place via such online internet service provider to preserve the accuracy and anonymity of the Unit Owner voting.

Suspension of Membership and Voting Rights. The membership rights and voting rights of any Unit Owner may be suspended by action of the Board during the period when such Unit Owner's dues and/or assessments remain unpaid for 30 days or more after notice from the Board; but upon payment of such dues and/or assessments, such Unit Owner's rights and privileges and good standing status shall be automatically restored.

ARTICLE III - MEETINGS OF UNIT OWNERS

Place of In-Person Meeting. Any in-person meetings of the Unit Owners shall be held in Brigantine, New Jersey at such place as may be designated by the Board.

Video Conference Meetings. Any meeting of the Unit Owners may be held via online video conference platform selected by the Board and in accordance with meeting procedures established by the Board for purposes of such online video conference meeting.

Regular Annual Meetings. Regular annual meetings of the Unit Owners may be held at such date and time as shall be determined by the Board, but at least one (1) annual meeting shall be held each year.

Special Meetings. Special meetings of the Unit Owners may be called by the President whenever the President deems such a meeting advisable or shall be called by the Secretary when so ordered by the Board, or upon the written request of members representing not less than twenty-five (25%) percent of all votes entitled to be cast at such meetings. Such request shall state the purpose(s) of such meeting and the matters proposed to be acted upon. Notwithstanding the forgoing, no special meeting may be called to consider any matter which is substantially the same as a matter voted upon at any meeting of the Unit Owners held during the preceding twelve (12) months unless Unit Owners representing at least fifty (50%) percent of all votes entitled to be cast request such a meeting in writing.

Notice of Meeting. Except as otherwise provided by law, notice of each meeting of Unit Owners, whether annual or special, shall be given via email to the email address provided by each Unit Owner to the Board. Except where expressly required by law, no publication of any notice of meeting of Unit Owners shall be required although the Board may at its option post a notice of the meeting on the Association website. Every such notice shall state the time and place (or if applicable, video conference link) of the meeting and shall state briefly the purpose(s) thereof. Notice of any meeting of Unit Owners shall not be required to have been sent to any Unit Owners who attend such meeting whether in person, via video conference or by proxy.

Quorum. At any meeting of the Unit Owners, Unit Owners representing ownership of more than fifty (50%) percent, present in person, via video conference, or by proxy, shall constitute a quorum for the transaction of business, except where otherwise provided herein. In the event that a quorum is not present, the meeting shall be adjourned to a new meeting date established by the Board within 30 days of the originally scheduled date.

Organization. At each meeting of the Association, the President, or, in the President's absence, the Vice President, or in the absence of both, a Chairperson chosen by a majority vote of the Unit Owners present in person, via video conference or represented by proxy and entitled to vote thereat, shall act as a Chairperson, and the Secretary, or at the Secretary's absence, a person whom the Chairperson shall appoint, shall act as Secretary of the meeting.

Voting. Except as otherwise required by these By-Laws, the Declaration or any applicable law (e.g., for amendment of these By-Laws), a quorum being present, a majority of the votes in person, via online voting or by proxy shall be sufficient on those matters which are to be voted on by all the Unit Owners .

Judges – In Person Meetings. If at any in-person meeting of the Unit Owners a vote by ballot shall be taken on any question, the Chairperson of such meeting shall appoint two judges to act thereat with respect to such vote. Each judge so appointed shall first subscribe to an oath faithfully to execute the duties of a judge at such meeting with strict impartiality and according to the best of his / her ability. Such judges shall decide the qualifications of voters and shall report the number of votes represented at the meeting and entitled to vote on such question, shall conduct and accept the votes, and when the voting is completed, shall ascertain and report the number of votes respectively for and against the question. Reports of judges shall be in writing and subscribed to and delivered by them to the Secretary of the meeting. The judges need not, be members of the Association, and any officer of the Association may be a judge on any question other than a vote for or against his or her election to any position with the Association or any other question in which such officer may be directly interested.

Order of Business. The order of business at the annual meeting of the Unit Owners or at any special meetings, whether in person or online, as far as practicable shall be:

- (a) Calling on the roll and certifying the proxies.
- (b) Proof of notice of meeting and waiver at notice.
- (c) Reading and disposal of any unapproved minutes,
- (d) Appointment of judges of election, if appropriate.
- (e) Announcement as to results of online Election of Board, if appropriate.
- (f) Receiving reports of officers.
- (g) Receiving reports of committees.
- (h) Old business.
- (i) New business.
- (j) Adjournment.

Roberts Rules of Order will cover any phase of the Association meeting not specifically covered by the By-Laws or other Association governing documents.

ARTICLE IV - BOARD OF DIRECTORS

Express and Implied Powers and Duties; Delegation Thereof. The property, affairs and business of the Association shall be managed by the Board, which shall have all those powers granted to it by applicable law, the Declaration and these By-Laws.

Number and Qualification. The Association Board shall consist of five (5) members. Only Unit Owners in good standing as to payment of all dues are eligible for election to the Board. Not more than one resident from a single Unit shall serve on the Board simultaneously with another resident of the same Unit.

Election and Term of Board. Each Unit Owner shall vote in accordance with the provisions of these By-Laws and the voting procedures established by the Board for each position to be filled on the Board.

The number of positions open on the Board shall be divided by two (2), and two (2) groups will be formed, Group A and Group B. If an odd number of positions are open, the greater number will be in Group A. Group A shall be elected to a two (2) year term and Group B shall be elected for a one (1) year term. The successful candidates receiving the higher number of votes shall be placed in Group A and elected for a two (2) year term. Successful candidates receiving a lower number of votes will be in Group B, elected for a one (1) year term. The purpose of this provision is to ensure that there will always be some experienced members remaining on the Board.

In the event of a tie vote, the Board will cause a run off election to be held.

No Director shall be elected to more than 3 consecutive terms of office on the Board (regardless of whether or not those terms are 2 years or 1 year). After sitting out at least one annual election, the ineligible Director shall again be eligible to run for the Board. For purposes of this term limitation, co-owners of the same Unit as the ineligible Director shall be subject to the same restriction as the ineligible Director.

Removal of Members of the Board. At any duly held regular or special meetings of the Unit Owners, any one or more of the Directors may be removed with "cause" by a majority of the Unit Owners, and a successor may then or thereafter be elected to fill the vacancy thus created. Any Director whose removal has been proposed shall be given an opportunity to be heard regarding the alleged cause for removal.

For purposes hereof, "cause" shall mean a finding by a majority of the Unit Owners of (a) the willful and intentional failure of the Director to perform his or her assigned duties, dishonesty, gross negligence or misconduct, or (b) the conviction of the Director of, or the entry of a pleading of guilty or nolo contendere by the Director to, any crime involving moral turpitude or any felony. For purposes hereof, no act, or failure to act, on the Director's part shall be deemed "willful" unless it was done, or omitted to be done, by the Director not in good faith and without reasonable belief that the Director's action or omission was in the best interest of the Association.

Vacancies. Vacancies in the Board caused by any reason other than (i) ineligibility to serve as a Director (see Number and Qualification above), or (ii) removal of a Director by a vote of the Unit Owners, shall be filled by a vote of a majority of the remaining Directors at a special meeting of the Board held for that purpose after the occurrence of such vacancy, even though the Directors present at such meeting may constitute less than a quorum. Each person so elected shall be a Director for the remainder of preceding Director's term and until such Director's successor shall be elected. In the event of a tie, the vacancy will not be filled until the tie is broken by the Board or until the next Unit Owner meeting.

Meeting of the Board; Notice; Waiver of Notice. All meetings of the Board where a binding vote of the Board is to be taken shall be open to attendance by all Unit Owners. The Board may at its discretion hold a closed session meeting to discuss one or more

issues but no binding vote shall be taken on the issue(s) discussed in a closed session meeting.

A binding vote is a vote made with a quorum of the Board members present. The Board shall provide a brief explanation of the basis for and cost entailed in the matter that is the subject of any binding vote and include the explanation in the minutes for the meeting. The Board may adopt a policy for comments by Unit Owners during meetings and any policy shall be applied consistently.

The first meeting of the Board following the annual meeting of the Unit Owners shall be held within 5 days thereafter, at such time and place or via video conference as shall be fixed by the Board. Thereafter, regular meetings of the Board may be held at such time and place (or via video conference) as shall be determined from time to time by a majority of the Board, but at least four (4) meetings shall be held each year. Notice of the regular or adjourned meetings of the Board shall be given to each Director by email at least three (3) business days prior to the day of the meeting. Special meetings of the Board may be called by the President and held via video conference on three (3) business days' notice given to each Director by email, which notice shall state the time, video conference link and purposes of the meeting. Any Director may, at any time, waive notice of any meeting of the Board in writing and such waiver shall be deemed equivalent to the giving of notice. Actual attendance by Directors at any meeting of the Board shall constitute a waiver of notice by the Director thereof. If all the Directors are present at any meeting of the Board, no notice shall be required, and any business may be transacted at such meeting.

Quorum and Adjourned Meetings. At the meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business; and the vote of a majority of the Directors present and voting at a meeting at which a quorum is present shall constitute a valid decision. If at any meeting of the Board there shall be less than a quorum present, the meeting shall be adjourned to a new date. At any such adjourned meeting, provided a quorum is present, any business may be transacted which was to have been transacted at the original meeting. The vote of a majority of those present at a Board meeting, provided a quorum is present, shall be necessary for valid action by the Board.

Joinder in Meetings by Approval of Minutes. The transaction of any business at any meeting of the Board however called and notice of wherever held, shall be valid as though a meeting duly held after regular call and notice, if a quorum is present; and either before or after the meeting all the Directors sign a written waiver of notice, or a consent to the holding of the meeting, or an approval of the minutes thereof or of the resolution or act adopted at such meeting. All such waivers, consents or approvals shall be in writing and filed with the Secretary and made a part of the minutes of the meeting even though filed subsequent thereto.

Non-Waiver. All the rights, duties and privileges of the Board shall be deemed to be

continuing and shall not be exhausted by any single act or series of acts. To the same extent, the failure to use or employ any remedy or right hereunder or hereafter granted shall not preclude its exercise in the future nor shall any custom bind the Board.

Conflict of Interest. If a Director becomes aware of any actual or potential conflict of interest on any matter before the Board pursuant to the Dispute Resolution provisions of these By-Laws (a "Conflict"), the Director will promptly inform the Board of such Conflict. The Director will recuse himself / herself from any discussion or voting involving a Conflict of which she / he is aware. Examples of Conflict include but shall not be limited to (i) application by a Director to the Board for a Lot or exterior Unit modification to the Director's property; and (ii) being a direct next-door neighbor of any Unit Owner applicant to the Board for a Lot or exterior Unit modification.

In addition to self-recusal as provided above, a majority of the remaining Directors shall have the authority to declare a Conflict and exclude a Director from participation in any particular matter before the Board for just cause as determined by such majority of remaining Directors.

ARTICLE V - POWERS AND DUTIES OF BOARD OF DIRECTORS

General Powers and Privileges. The Board shall have the following powers:

- (a) To employ legal counsel and to obtain advice from persons, firms or corporations such as, but not limited to, landscape architects, insurance agents, recreation experts, architects, planners, and accountants; and
- (b) To maintain businesslike relations with Unit Owners and to secure full performance by such Unit Owners or occupants of all such items and maintenance for which they are responsible; and
- (c) To enforce obligations of the Unit Owners and do anything and everything else necessary and proper for the sound management of the Association, including the right to bring lawsuits to enforce the terms, conditions and restrictions contained in the Declaration and these By-Laws.

ARTICLE VI - FISCAL MANAGEMENT

Annual Assessments. The Board shall have the duty to collect from each Unit Owner, his, her or their heirs, administrators, successors and assigns, a proportionate part of the Annual Assessment assessed against such Unit Owner as provided in the Declaration, these By-Laws, and in accordance with applicable law.

Determination of Annual Assessments. The amount of monies for common expenses deemed necessary by the Board and the manner of expenditure thereof, including but

not limited to the allocation thereof, shall be in an amount as originally provided in the Declaration and as changed from time to time by the Unit Owners in accordance with the Declaration.

Disbursements. The Board shall take the funds as collected and shall disburse the same for the purposes and in the manner set forth herein and as required by the Declaration, these By-Laws and applicable law.

Depositories. The depository of the Association shall be at such a bank or banks as shall be designated from time to time by the Board and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be according to such procedures as authorized by the Board.

Reserves. The Board shall not be obligated to expend all of the revenues collected in any accounting period, and must maintain reasonable reserves for, among other things, repairs, replacements, emergencies, contingencies of bad weather, or uncollected accounts. Reserves shall be maintained in such accounts or investments as directed by the Board from time to time.

Notice. The Board shall give notice to each Unit Owner, in writing, and to any Unit mortgagee that notifies the Board that it requires same, of the amount estimated by the Board for the annual assessment for the next ensuing period, directed to the Unit Owner at his or her last known address by email, ordinary mail, or by hand delivery. Said notice shall be conclusively presumed to have been made in the amount of the last prior year's assessment, and monthly installments on such assessment shall be due and upon each installment payment date until changed by an amended assessment. In the event the annual assessment proves to be insufficient, nothing herein shall serve to prohibit or prevent the Board from imposing a lump sum assessment in the case of any immediate need or emergency which cannot be met by reserve funds earmarked for such contingency.

The Board shall, upon the request of any Unit Owner or of any mortgagee, furnish to such Unit Owner or mortgagee, an email from the Treasurer or the President setting forth whether assessments for such Unit have been paid in full and if such assessments have not been paid in full, a statement as to the delinquent amount due. Such email shall constitute conclusive evidence of the payment of the assessments therein stated to have been paid.

Acceleration of Assessment Installment Upon Default. If a Unit Owner shall be in default in the payment of an installment upon any assessment, the Board may accelerate the remaining installments of the assessment for the remaining term of the annual assessment, upon notice to the Unit Owner, and the then unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than five (5) days after the emailing of such notice to the Unit Owner. Notice shall also be mailed to the mortgagee of record, if such mortgagee has previously provided

written notice to the Board requesting that such notice of default also be sent to the mortgagee.

Interest and Counsel Fees. The Board at its option shall have the right in connection with the collection of any assessment, or other charge, to impose a late charge up to the legal maximum if such payment is made after the due date of the assessment. In the event that the Board effectuates collection of said charges by resort to legal counsel, the Board may add to the aforesaid charge or charges reasonable attorneys' fees.

Examination of Books. Each Unit Owner shall be permitted to examine the books of account of the Board at a reasonable time on business days; provided, however, that the Treasurer has been given at least ten (10) days prior written notice of the Unit Owner's desire to make such an examination.

ARTICLE VII - OFFICERS

Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer who shall all be members of the Board. The Board may also appoint such other Assistant Treasurers and Assistant Secretaries as in their judgment may be necessary or convenient. Any two (2) offices, except that of President and Vice President, may be held by one (1) person.

Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the first Board meeting following each annual meeting of Unit Owners, and such officers shall hold office at the pleasure of the Board.

Duties and Responsibilities of Officers.

(a) President The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board. The President shall have all of the general powers and duties which are usually vested in the office of the President of an association, including but not limited to the power to appoint committees from among the members of the Association from time to time as the President may in the President's discretion deem appropriate to assist in the conduct of the affairs of the Association.

(b) Vice President. The Vice President shall take the place of the President and perform the President's duties whenever the President shall be absent or unable to act due to Conflict or otherwise. If neither the President nor the Vice President is able to act, the Board shall appoint some other Director to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon the Vice President by the Board.

(c) Secretary. The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Unit Owners; the Secretary shall have charge of such

books and papers as the Board may direct; and the Secretary shall, in general, perform all the duties incident to the office of the Secretary.

(d) Treasurer. The Treasurer shall have responsibility for the Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall be responsible for the deposit of all monies and other valuable effects in the same, and to the credit of the Association in such depositories as may from time to time be authorized by the Board.

Other Duties and Powers. The officers shall have such other duties, powers and responsibilities as shall, from time to time, be authorized by the Board.

Eligibility of Directors. Nothing herein contained shall prohibit a Director elected by the Unit Owners from being an officer appointed by the Board.

ARTICLE VIII - COMPENSATION AND INDEMNIFICATION OF OFFICERS AND DIRECTORS

Compensation. No compensation shall be paid to any Director for acting as an officer or Director. Nothing herein stated shall prevent any officer or Director from being reimbursed for out-of-pocket expenses or compensated for services rendered in any other capacity to or for the Association.

Indemnification. Each Director and officer of the Association, and their delegatee, shall be indemnified by the Association against the actual amount of net loss including counsel fees, reasonably incurred by or imposed upon such Director or officer in connection with any action, suit or proceeding to which such Director or officer may be made a party by reason of being or having been a Director or officer of the Association, except as to matters as to which the Director or officer shall be finally found in such action to be liable for gross negligence or willful misconduct.

Exculpability. Neither the Board as a body nor any Director nor any officer of the Association, nor the delegees or appointees or any of them, shall be personally liable to any member in any respect for any action or lack of action rising out of the execution of the duties of his or her office in the absence of a showing of bad faith, and each Unit Owner shall be bound by the good faith actions of the Board and officers of the Association in the execution of the duties of Directors and officers.

ARTICLE IX- DISPUTE RESOLUTION AND ENFORCEMENT

Dispute Resolution. Any dispute between the Association, acting through the Board, and one or more Unit Owners shall be addressed in accordance with the following provisions of this Section prior to the matter being taken to court by any party to such dispute.

Option 1. If the Unit Owners involved in the dispute and the Board all agree, the following procedure shall be used:

The mediation procedures set forth by the NJ Community Associations Institute at <https://cainj.org/adr-mediation> shall be used. The parties are also free to mutually agree on a different commercial ADR mediation provider such as the American Arbitration Association or the New Jersey Mediation Board. If this option is selected by all the parties to the dispute, all costs of such mediation shall be shared equally by the parties.

In the event that the Board is not willing to agree to use this mediation option but the Unit Owners involved in the dispute are willing to pay all the costs of such mediation option, then this Option shall be used for the mediation with the involved Unit Owners selecting the mediation service provider and the involved Unit Owners paying all the costs charged by the mediation service provider.

Option 2. If the Unit Owners involved in the dispute and the Board do not all agree on the procedure set forth in Option 1, and the Unit Owners are not willing to pay all the costs charged by the mediation service provider, the following procedure shall be used:

The dispute shall be heard before a panel of three arbitrators, one of whom shall be selected by the Board on behalf of the Association, the second of whom shall be selected by the Unit Owners(s) involved in the dispute and third of whom shall be selected by the other two arbitrators. None of the arbitrators shall be Board members. The selected arbitrators shall not be personally involved in the dispute and may or may not be Unit Owners. The arbitrators shall require that each of the parties to the dispute submit their respective positions in writing within 10 days of the 3 arbitrators' selection to the panel. The arbitrators may at their discretion choose to have an in person hearing or video conference hearing where the parties can explain their positions and answer questions from the panel. The arbitrators shall render their decision in writing within 30 days after the deadline for the parties' submission of their respective positions in the dispute to the panel. Any party not satisfied with the panel's decision may take the matter to court in accordance with New Jersey law.

Disputes strictly between Unit Owners that do not involve the Association may, at the mutual election of the disputing Unit Owners, be addressed in accordance with either of the following options prior to the parties seeking resolution in accordance with New Jersey law.

Option 1. The mediation procedures set forth by the NJ Community Associations Institute at <https://cainj.org/adr-mediation> shall be used. The parties are also free to mutually agree on a different commercial ADR mediation provider such as the American Arbitration Association or the New Jersey Mediation Board. If this option is selected by

all the parties to the dispute, all costs of such mediation shall be shared equally by the parties.

Option 2. If the Unit Owners involved in the dispute do not all agree, the following suggested procedure may be used:

The dispute shall be heard before a panel of three arbitrators, one of whom shall be selected by each of the disputing parties and the third of whom shall be selected by the other two arbitrators. The selected arbitrators shall not be personally involved in the dispute and may or may not be Unit Owners. The arbitrators shall require that each of the parties to the dispute submit their respective positions in writing within 10 days of the 3 arbitrators' selection to the panel. The arbitrators may at their discretion choose to have an in person hearing or video conference hearing where the parties can explain their positions and answer questions from the panel. The arbitrators shall render their decision in writing within 30 days after the deadline for the parties' submission of their respective positions in the dispute to the panel.

Any party not satisfied with the results of the above alternate dispute procedure may take the matter to court in accordance with New Jersey law.

Enforcement. The Association shall have the power, at its sole option, to enforce the Declaration and the terms of these By-Laws, by any or all the following:

- sending notice to the offending party to cause certain things to be done or undone;
- restoring the Association to its original position and charging the breaching party with the entire cost or any part thereof;
- complain to the duly constituted authorities, or by taking any other action before any court, summary or otherwise, as may be provided by law.

Any attorneys' fees incurred by the Association by reason of enforcement of the Declaration or these By-laws shall be charged to the applicable breaching Unit Owner(s). Collection of the attorneys' fees may be enforced against the Unit Owner(s) involved as if the attorneys' fees were a common expense owed by the particular Unit Owner(s).

In the event of any litigation between the Association and Unit Owners after exhaustion of the foregoing dispute resolution proceedings, the Court shall have the power at its discretion to also award attorneys' fees to the prevailing party as determined by the Court.

Fines. If permitted by applicable law, the Association shall also have the power to levy fines against any Unit Owner(a) for violation(s) of any provision contained in the Declaration or these By-Laws, except that no fine may be levied for more than \$100.00 for any one violation; but for each day a violation continues after at least 30 days' notice

it shall be considered a separate violation. Collection of the fines may be enforced against the Unit Owner(s) involved as if the fine were a common expense owed by the Unit Owner(s).

Waiver. No restriction, condition, obligation or covenant contained in these By-Laws shall be deemed to have been abrogated or waived by reason of the failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

ARTICLE X - AMENDMENTS

These By-Laws, or any of them, may be altered or repealed at any meeting of the Unit Owners duly constituted for such purpose, a quorum being present, by an affirmative vote of at least two-thirds (2/3) of the total votes entitled to be cast.

Notice of the Unit Owner meeting to amend the By-Laws shall be provided to all Unit Owners at least 14 days prior to the date of the meeting. Such notice shall prominently state that it is for a proposed amendment to the By-Laws and include a copy of the proposed language. The amendment shall be drafted in clear language and in a manner that is consistent with the By-Laws and applicable law. The amendment shall be delivered in accordance with the notice provisions of these By-Laws together with the notice of the meeting at least 14 days prior to the meeting.

The notice of the Unit Owner meeting may include an absentee ballot with instructions for returning the ballot. If a proxy ballot procedure is being used for the meeting, an absentee ballot shall also be included. The instructions shall allow return of the proxy or absentee ballot by facsimile or electronic means provided that such return protects the anonymity of the voter. All ballots received at least one business day prior to the meeting shall be timely.

If an insufficient number of ballots or proxies are received at the special meeting to determine whether the proposed amendment has been approved or rejected, then the meeting shall be adjourned to a future date established by the Board. The period between the original special meeting and the next special meeting for the amendments to the By-Laws shall not be longer than 11 months from the date the notice of the original meeting was sent. If the proxies or ballots received prior to the extension date are valid under the By-Laws, then they remain valid for the adjourned special meeting.

When an amendment is approved, a copy shall be provided to all Unit Owners and the Board shall cause the amendment to be recorded in the Atlantic County, New Jersey Clerk's office.

The Board shall not amend the By-Laws without a vote open to all Unit Owners as detailed above.

ARTICLE XI - MISCELLANEOUS

Association Membership List. The Association is required to keep an updated list of all members in the Association and a list of all mortgagees that provide the Association with notice of such mortgagee's lien on a Unit. This list will contain the names, addresses, email addresses and telephone numbers of the Unit Owners and such mortgagees. The purpose of this list is to allow the Association to give notice to the Unit Owners and mortgagees as required by the By-Laws or applicable law.

ARTICLE XII - CONFLICT: INVALIDITY

Conflict. Anything to the contrary herein notwithstanding, if any provision of this instrument is in conflict with the Declaration, or with the requirements of any applicable law, then the requirements of said Declaration or applicable law shall be deemed controlling with priority given to applicable law.

Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the enforceability or affect the balance of the By-Laws.

ARTICLE XIII - NOTICE

Any notice required to be sent to any Unit Owner under the provisions of the Declaration or Articles of Incorporation or these By-Laws shall be deemed to have been properly sent and notice hereby given, when emailed to the Unit Owner at the last known email address of the Unit Owner as set forth in the records of the Association at the time of such notice. Notice to one of two or more co-owners of a Unit shall constitute notice to all co-owners. It shall be the obligation of every Unit Owner to immediately notify the Secretary of the Association in writing of any change of email address. It shall also be the obligation of every Unit Owner if there are multiple owners of a Unit to provide written notice to the Board as to the designated contact person for purposes of notices to such multiple Unit Owners. In the absence of such written notice to the Board of a designated contact person, the Board may email notices to any of the Unit Owners at the last known email address of a Unit Owner as set forth in the records of the Association at the time of such notice.