

**BYLAWS  
OF  
BRANDON CREEK HOMEOWNERS AND  
RECREATIONAL ASSOCIATION, INC.**

**GENERAL**

**Section 1. Association.** Brandon Creek Homeowners and Recreational Association, Inc. ("Association") is a nonprofit corporation organized under the Colorado Nonprofit Corporation Act.

**Section 2. Purpose.** The purposes of the Association are set forth in the Articles. The general purpose for which the Association is formed is to govern the residential project known as Brandon Creek located in Boulder County, Colorado, pursuant to the Declaration of Covenants, Conditions, and Restrictions of Brandon Creek.

**Section 3. Definitions.**

- (a) "Articles" means the Articles of Incorporation of the Association, as the same may be amended from time to time, the provisions of which shall be applicable to the Project.
- (b) "Association" means Brandon Creek Homeowners and Recreational Association, Inc., a Colorado corporation not-for-profit, its successors and assigns, the Articles, Bylaws, and Rules and Regulations of which shall govern the administration of the Project, the Members of which shall be all of the Owners.
- (c) "Board" or "Board of Directors" means the governing body of the Association.
- (d) "Declaration" means the Declaration of Covenants, Conditions, and Restrictions of Brandon Creek, and all amendments and supplements thereto.
- (e) "First Mortgage" means a Mortgage which has first and paramount priority under applicable law.
- (f) "Lots" means those parcels within the Property which are designated to contain a single-family residence and are designated on the Plat as "Lots" and all now or hereafter constructed improvements thereon.
- (g) "Member" means every individual or entity who is a record owner of a fee or undivided fee interest in any Lot but not including contract purchasers.
- (h) "Mortgage" means any mortgage, deed of trust, or other document pledging a Lot as security for the payment of a debt or obligation.

- (i) "Mortgagee" means any individual, corporation, partnership, trust, company, association, or other legal entity which takes, owns, holds, or receives a Mortgage.
- (j) "Owner" means the record owner, whether one or more persons or entities, of fee simple title to a Lot, including contract sellers, but excluding, however, contract purchasers and those having an interest therein merely as security for the performance of an obligation.
- (k) "Project" means all of the Property, including real property (i.e. lots and common grounds) and improvements annexed thereto pursuant to Article XIII of the Declaration and the Easement Property, and all improvements thereon (i.e. buildings), together with all rights, duties, easements, and appurtenances belonging thereto submitted by the Declaration and all amendments and supplements thereto.
- (l) "Property" means that real property described on Exhibit A to the Declaration, all improvements and structures thereon, and such additional real property as may hereafter be brought within the jurisdiction of the Association through any amendments or supplements to the Declaration.
- (m) "Rules and Regulation" means rules and regulations adopted by the Board pursuant to the Declaration and these Bylaws, as the same may be amended from time to time.

Unless the context shall otherwise require or unless otherwise defined herein, all terms used in these Bylaws shall have the same definitions as set forth in the Declaration.

**Section 4. Persons Subject to Bylaws.** All present or future Owners or Guests, or any other person who might use in any manner the facilities or property of the Project shall be subject to the provisions of the Declaration, the Articles, these Bylaws, and the Rules and Regulations. The mere acquisition, rental, occupancy, or use of any of the Lots or Association property will signify that the Declaration, the Articles, these Bylaws, and all Rules and Regulations are accepted, ratified, and will be complied with by such Owners, Guests, or other persons. Owners shall be obligated to inform their respective Guests and other occupants and users of Lots or Association property of all applicable restrictions and shall be responsible for any noncompliance therewith.

**Section 5. Registered Agent and Office.** The Association shall maintain a registered office and a registered agent in the State of Colorado as required by the Colorado Nonprofit Corporation Act. Such registered office or registered agent may be changed from time to time as provided in the Colorado Nonprofit Corporation Act.

## ARTICLE II

### **MEMBERSHIP, VOTING, QUORUM, MAJORITY OF OWNERS**

**Section 1. Membership.** Ownership of a Lot is required to qualify for membership in this Association. Any person or entity, on becoming an Owner of a Lot shall automatically become a Member of this Association and be subject to these Bylaws. If more than one person or entity owns an interest in any Lot, all such persons or entities shall be Members. Membership shall terminate without any formal Association action whenever any such person or entity ceases to own a Lot, but such termination shall not relieve or release any such former Owner from any liability or obligation to the Association or impair any rights or remedies which the Association may have against such former Owner arising out of or in any way connected with ownership of a Lot and membership in the Association. No certificates of stock or membership shall be issued by the Association, but the Board may, if it so elects, issue membership cards to the Owners. Such membership card shall be surrendered to the Association whenever ownership of the Lot designated thereon shall terminate.

**Section 2. Voting.** Owners shall be entitled to vote on all matters submitted to a vote of the membership of the Association. The vote per Lot and method of exercise shall be as set forth in the Declaration and the Articles. There shall be no voting of fractional shares. Cumulative voting in the election of members of the Board shall not be permitted. Voting by mail shall be allowed in the manner provided in the Colorado Nonprofit Corporation Act.

**Section 3. Quorum.** Except as otherwise provided in these Bylaws the articles, or the Declaration, the presence, in person or by proxy, of 8 Members shall constitute a quorum.

**Section 4. Majority of Owners.** Unless otherwise required by law, the Declaration, the Articles, or these Bylaws, the affirmative vote of a simple majority of those present at a meeting where a quorum is in attendance, whether in person or by proxy, shall be necessary to transact business, take actions, and adopt decisions binding on all Owners.

## **ARTICLE III**

### **MEETINGS**

**Section 1. Place of Meeting.** Annual and special meetings of the Members shall be held at such suitable place or places within the State of Colorado as are convenient for the Owners, as determined by the Board.

**Section 2. Annual Meetings.** The annual meetings of the Association shall be held each year on such date as shall be selected by the Board, provided that such meeting shall occur no later than six (6) months after the end of the Association's fiscal year. At such meetings, the Members shall transact such business of the Association as shall properly come before the meeting, including election of members of the Board.

**Section 3. Special Meetings.** The President or the Board may call a special meeting of the Members at any time, and it shall be the duty of the President to call a special meeting within thirty (30) days after the receipt of written request(s) therefor signed by Owners representing at least twenty-five percent (25%) of the total votes of the Class A Members.

**Section 4. Notice of Meetings.** Written or printed notice of each annual or special meeting of the Members shall be given to each Owner of record, which notice shall state the day, place, and hour of the meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called.

**Section 5. Adjourned Meetings.** If any meeting of Members cannot be convened because a quorum has not attended, or if the business of the meeting cannot be concluded, the Members who are present, either in person or by proxy, may adjourn the meeting from time to time without further notice, until a quorum is present or the business of the meeting is concluded, for a period not to exceed ten(10) days for any one adjournment. At such adjourned meeting at which a quorum is present or represented, any business may be transacted which could have been transacted at the meeting as to which notice was originally given.

**Section 6. Order of Business.** The order of business at all meetings of the Members may be as follows:

- (a) Roll call
- (b) Proof of notice of meeting
- (c) Reading and approval of minutes
- (d) Reports of officers
- (e) Reports of committees
- (f) Election of directors (annual meetings only)
- (g) Unfinished business
- (h) Adjournment

## ARTICLE IV

### **BOARD OF DIRECTORS**

**Section 1. Association Responsibilities.** The Owners of the Lots will constitute the Association, which will have the responsibility of administering the Project and Association property through a Board of Directors.

**Section 2. Number and Qualification.** The affairs of the Association shall be managed and governed by a Board composed of an odd number of not less than three (3) Association Members. All directors elected by a vote of the Members shall be Owners.

**Section 3. Powers and Duties.** The Board shall have the powers and duties necessary or convenient for the administration and management of the affairs of the Association and its property and for the operation and maintenance of a first-class patio home project. The Board may do and perform all such acts and things as are not by law, the Declaration, the Articles, or these Bylaws either prohibited or directed to be exercised and done by the Members.

**Section 4. Other Powers and Duties.** The Board, on behalf of the Association, shall have the rights, powers, and duties described below, which are in addition to and not in limitation of any other power and duties of the directors:

- (a) To administer and enforce the covenants, conditions, restrictions, easements, uses, limitations, obligations, and all other provisions set forth in the Declaration;
- (b) To establish, make, and enforce compliance with such reasonable Rules and Regulations as may be necessary for the operation, use, and occupancy of the Project, with the right to amend the same from time to time. Such Rules and Regulations shall be adopted, amended, or repealed upon a vote of a majority of the members of the Board. A copy of such Rules and Regulations shall be delivered or mailed to each Member promptly upon the adoption thereof;
- (c) To keep under surveillance and in good order, condition, and repair all of the Common Area and Easement Property, and all items of personal property, if any, used in the enjoyment of the Project, and any other portion of the Project, if required by the Declaration, as it may be amended or supplemented from time to time;
- (d) To obtain and maintain to the extent possible all policies of insurance required by the Declaration;
- (e) To periodically fix, determine, levy, and collect the pro rata Common Expense Assessments and Insurance Assessments to be paid by each of the Owners toward the gross expenses of the Association; to adjust, decrease, or increase the amount of the assessments; to credit any excess of assessments over expenses and cash reserves to the Owners and collect Individual Assessments, Patio home Assessments, and special

assessments. All assessments shall be fixed and Owners notified at least thirty (30) days in advance of each annual assessment period.

(f) To establish and levy penalty assessments by imposing penalties and fines on an Owner for each violation of, or act of non-compliance with, the Declaration, Articles, Bylaws, or Rules and Regulations by such Owner or his Guests; to collect delinquent assessments and interest and late charges thereon by suit or otherwise and to enjoin or seek damages from an Owner as is provided in the Declaration and these Bylaws; and to assess and collect attorneys' fees and court costs expended or incurred by the Association in enforcing the provisions of the Declaration, the Articles, these Bylaws, and the Rules and Regulations;

(g) To protect and defend the Project for loss and damage by suit or otherwise;

(h) To borrow funds and to give security therefore in order to pay for any expenditure or outlay required pursuant to the authority granted by the Declaration, the Articles, or these Bylaws and to execute any instruments creating or evidencing such indebtedness or security therefore as the Board may deem necessary or desirable;

(i) To enter into contracts within the scope of their duties and powers;

(j) To establish bank accounts which are interest bearing or non-interest bearing, as may be deemed advisable by the Board;

(k) To keep and maintain detailed, complete, and accurate books and records showing in chronological order all the receipts, expenses, or disbursements of the Association in appropriate specificity and itemization; to permit inspection thereof during convenient weekday business hours by any of the Owners, their Mortgagees, or their respective authorized representatives;

(l) To hire, designate, and remove the personnel necessary for the operation, maintenance, repair, and replacement of the Common Area, easement Property, and Association property;

(m) To suspend the voting rights and an Owner's right to use the Recreational Facilities or to take any other action authorized in Article IX upon delinquency in the payment of any assessment or for failure to comply with any other provisions of the Declaration, Articles, these Bylaws, or the Rules and Regulations;

(n) To declare the office of a member of the Board to be vacant, at its discretion, in the event such member shall be absent for three consecutive regular meetings of the Board; and

(o) In general, to carry on the administration of the Association and to further the purposes of the Association as stated in the Declaration and the Articles, and to do all of

those things necessary, convenient, or desirable in order to carry out the governing and operating of the Project.

**Section 5. Managing Agent.** The Board may employ a Managing Agent or such other employees as they deem necessary (at such compensation established by the Board) to perform such duties and services as it shall authorize. Such Managing Agent may be either an individual or a professional management company, whichever the Board determines to be able to best serve the interests of the Association. The Board may delegate to the Managing Agent all or any of the powers and duties granted to the Board but, notwithstanding such delegation, the Board shall not be relieved of any responsibility under the Declaration. A managing Agent under contract with the Association may be required to post a fidelity bond in such amount as determined by the Board as a condition of such management contract, if such contract requires handling of funds of the Association.

**Section 6. Vacancies.** Vacancies in the Board caused by any reason other than an increase in the number of Directors or the removal of Directors by a vote of the Members shall be filled by a vote of the remaining Directors, even though they may constitute less than a quorum. Each director so elected shall serve for the unexpired term of his predecessor in office. Any Directorship to be filled by reason of an increase in the number of Directors may be filled by a vote of the majority of the Board for a term of office continuing only until the next election of Directors by the Members.

**Section 7. Removal of Directors.** Subject to the provisions of Section 2 of this Article IV, at any duly called annual or special meeting of the Association any one or more of the Directors may be removed, with or without cause, by a majority of Members and a successor may then and thereby be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Members shall be given an opportunity to be heard at the meeting.

**Section 8. Board of Directors Quorum.** At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of a majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board. If less than a quorum is present at any meeting of the Board, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

**Section 9. Action Without Meeting.** Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the members of the Board. Such consent shall have the same force and effect as a unanimous vote of the Board and may be stated as such in any articles or documents filed with the Secretary of State of Colorado under the Colorado Nonprofit Corporation Act. Such action may be carried out via the Internet among Board members.

## ARTICLE V

### OFFICERS

Section 1. **Designation.** The officers of the Association, all of whom must be Members shall be a President, one or more Vice Presidents, a Secretary, and a Treasurer. In addition, the Board may elect or appoint an Assistant Secretary, an Assistant Treasurer, and such other officers and agents as the Board may deem appropriate.

Section 2. **Election of Officers.** The officers of the Association shall be elected annually by the Board at the annual meeting of the Board and shall hold office at the pleasure of the Board.

Section 3. **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 a nonprofit corporation including, but not limited to, the power to appoint, from time to time, committees from among the Members as may be deemed appropriate to assist in the conduct of the affairs of the Association or as may be established by the Board or by the Members of the Association at any regular or special meetings. The President shall see that all orders and resolutions of the Board are carried out. The President must be elected from the Board.

Section 4. **Vice President.** The Vice President shall have all the powers and authority and shall perform all the functions and duties of the President in the absence of the President or in the event of the President's inability for any reason to exercise such powers and functions or to perform such duties. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such duties as are imposed upon him by the President of the Board. The Vice President must be elected by and from the Board.

Section 5. **Secretary.** The Secretary shall keep the minutes of all the meetings of the Board and of all meetings of the Association. The Secretary shall have charge of such books and papers as the Board may direct and shall, in general, perform all the duties incident to the office of Secretary. The Secretary shall comply and keep up-to-date at the principal office of the Association a complete list of Members and their last-known addresses as shown on the records of the Association. Such list shall also show designation of the Lot owned by such Member and the ownership interest attributable thereto. Such list shall be open to inspection by Members and other persons lawfully entitled to inspect the same at reasonable times during the regular business hours. Assistant Secretaries, if any, shall have the same duties and powers, subject to supervision by the Secretary.

Section 6. **Treasurer.** The Treasurer shall have the responsibility for Association funds and securities; shall keep the financial records and books of account of

the Association; shall be responsible for keeping full and accurate accounts of all receipts and disbursements of money and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board; shall disburse such funds as directed by resolution of the Board; and shall prepare an annual budget showing projected income and expenditures to be presented to the membership at its annual meeting and deliver a copy of such budget to each of the Members.

## ARTICLE VI

### **MORTGAGES AND LEASES**

**Section 1. Notice to Association.** Every Owner who leases, transfers, or Mortgages any interest in any Lot shall notify the Association by giving the name and address of his Mortgagee, purchaser, transferee, or tenant to the Secretary of the Association. The Association shall maintain such information in a book entitled "Mortgages and Leases of Living Units."

**Section 2. Notice of Default.** Upon request by a Mortgagee, the Association shall report to such Mortgagee any assessment which remains unpaid for over sixty (60) days or any default of an Owner which remains uncured for over sixty (60) days.

### **MISCELLANEOUS**

**Section 1. Conveyances and Encumbrances.** Association property may be purchased, conveyed, or encumbered for security of monies borrowed by authority of the Association or the Board. Conveyances or encumbrances shall be by instrument executed by the President or Vice President, and by the Secretary, the Treasurer, an Assistant Secretary or an Assistant Treasurer, or executed by such other person or persons to whom such authority may be delegated by the Board.

**Section 2. Fiscal Year.** The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of each year.

## ARTICLE VII

### NONCOMPLIANCE

**Section 1. Suspension of Privileges.** In the event of an alleged violation of the Declaration, the Articles, these Bylaws, or the Rules and Regulations of the Association, and after written notice of such alleged violation is given to the Owner or any Guest of the Owner alleged to be in default (“Respondent”) in the manner herein provided, the Board shall have the right, after affording the Respondent an opportunity for an appropriate hearing as hereinafter provided, and upon an affirmative vote of a majority of all directors, to take any one or more of the following actions: (a) to levy a penalty assessment as provided in the Declaration; (b) to suspend or condition the right of said Owner to use the Recreational Facilities, if any, or other Common Area and easement Property owned, operated, or maintained by the Association; (c) to suspend such Owner’s voting privileges as an Owner, as further provided in the Declaration; or (d) to record a notice of noncompliance against the Lot of the Respondent in the real property records of the County of Boulder, Colorado. Any such suspension shall be for a period of not more than sixty (60) days for any non-continuing infraction. If there is a continuing infraction (including nonpayment of any assessment after it becomes delinquent), suspension may be imposed for so long as the violation continues. The failure of the Board to enforce the provisions of the Declaration, the Articles, these Bylaws, the Rules and Regulations, or the decisions or resolutions of the Association or the Board shall not constitute a waiver of the right to enforce them thereafter. The remedies set forth above and otherwise provided by these Bylaws shall be cumulative and none shall be exclusive. However, any individual Owner must exhaust all available internal remedies of the Association prescribed by these Bylaws or by the Rules and Regulations of the Association before that Owner may resort to a court of law for relief with respect to any alleged violation of the Declaration, the Articles, these Bylaws, the Rules and Regulation, or the decisions or resolutions of the Association or the Board, provided that the foregoing limitation pertaining to exhausting administrative remedies shall not apply to the Board or to any Owner where the complaint alleges nonpayment of any type of assessment.

**Section 2. Written Complaint.** A hearing to determine whether a right or privilege of a Respondent under the Declaration, the Articles, or these Bylaws should be suspended or conditioned shall be initiated by the filing of a written Complaint with the President of the Association or other presiding members of the Board. Any Owner, officer, or member of the Board or the Architectural Control Committee may file such Complaint. The Complaint shall constitute a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the Respondent is charged and a reference to the Specific provisions of the Declaration, the Articles, these Bylaws, the Rules and Regulations, or the decisions or resolutions of the Association or the Board which the Respondent is alleged to have violated. A copy of the Complaint shall be delivered to the Respondent in accordance with the notice procedures set forth in Section 7 of this Article VII of these Bylaws, together with a statement which shall be substantially in the Following form:

**“Unless a written request for a hearing signed by or on behalf of the person named as Respondent in the accompanying Complaint is delivered or mailed to the Board of Directors within fifteen (15) days after you were served with the Complaint, you will thus have waived your right to a hearing and the Board of Directors may proceed upon the Complaint without a hearing. The request for a hearing shall be made by delivering or mailing a ‘Notice of Defense’ substantially in the form as shown below to the Board of Directors at the following address:**

**P.O. Box  
Boulder, CO 803**

**You may, but need not, be represented by counsel at any or all stages of these proceedings. If you desire the names and addresses of witnesses or an opportunity to inspect any relevant writings or items in file in connection with this matter in the possession, custody, or control of the Board, you may contact the Board at such address.”**

The Respondent shall be entitled to a hearing on the merits of the matter if the Notice of Defense is timely filed with the Board. The Respondent may file a separate statement by way of mitigation, even if he does not file a Notice of Defense.

The Notice of Defense shall be substantially in the following form:

**“To: Board of Directors of Brandon Creek Homeowners and Recreational Association, Inc.:**

**Having received notification of the Complaint filed against me on \_\_\_\_\_, I do hereby wish to exercise my right to have a hearing before a Tribunal appointed by the President of the Association.**

**Additional information of the following types is required by me :**

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**Signed:** \_\_\_\_\_

**Owner of Lot:** \_\_\_\_\_

**Dated:** \_\_\_\_\_

**Section 3. Tribunal.** The President shall appoint a hearing committee (“Tribunal”) of three (3) natural persons who are Owners upon receipt of a written Complaint as provided in Section 2 of this Article VII. In appointing the members of the Tribunal, the president shall make a good faith effort to avoid appointing next-door neighbors of the Respondent or any Owners who are witnesses to the alleged violation

giving rise to the Complaint. The appointments of the President shall be final, except that the Respondent may challenge any member of Tribunal for cause, where a fair and impartial hearing cannot be afforded, at any time prior to the taking of evidence for the hearing. In the event of such challenge, the Board shall meet to determine and vote on the sufficiency of the challenge. The President may not vote on such matter. If such a challenge is sustained, the President shall appoint another Owner to replace the challenged member of the Tribunal. All decisions of the Board in this regard shall be final. The Tribunal shall elect a Chairman to preside at the hearing, who shall appoint a hearing officer who shall not be a member of the Tribunal and who shall present evidence. The Chairman shall ensure that a proper record of all proceedings is maintained.

**Section 4. Notice of Hearing.** The Tribunal shall serve a notice of hearing, as provided herein, on all parties at least ten (10) days prior to the hearing. The hearing shall be held no sooner than thirty (30) days after the Complaint is mailed or delivered to the Respondent, as provided in Section 7 of this Article VII of these Bylaws. The notice to the Respondent shall be substantially in the following form but may include other information:

**“You are hereby notified that a hearing will be held before a Tribunal appointed by the President of Brandon Creek Homeowners and Recreational Association, Inc. at**

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**on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_), at the hour of \_\_\_\_\_, upon the charges made in the Complaint served upon you. You may be present at the hearing; may, but need not, be represented by counsel; may present any relevant evidence; and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to compel the attendance of witnesses and the production of books, documents, or other items by applying to the Board of Directors of the Association.”**

**Section 5. Hearing.**

(a) In the event that the Tribunal has commenced to hear the matter and a member of the Tribunal is forced to withdraw prior to a final determination by the Tribunal, the remaining members shall continue to hear the case and the hearing officer shall replace the withdrawing member. Oral evidence may be taken. However, use of affidavits and written interrogatories in lieu of oral testimony shall be encouraged by the Tribunal.

(b) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross examine witnesses on any matter relevant to the issues; to impeach any witness; and to rebut the evidence against him. If Respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.

(c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

(d) Neither the person filing the Complaint nor the Respondent must be in attendance at the hearing. The hearing shall be open to all Owners, to the extent the capacity of the hearing room permits. In rendering a decision, official notice may be taken at any time of any generally accepted matter within the Declaration, the Articles, these Bylaws, the Rules and Regulations, the decisions or resolutions of the Association or the Board, or the workings of the Association. Persons present at the hearing shall be informed of the matters to be noticed by the Tribunal, and these matters shall be made a part of the record of proceedings. The Tribunal may grant continuances on a showing of good cause.

**Section 6. Decision.** If the Respondent fails to file a Notice of Defense as provided in Section 2 of this Article VII or fails to appear at a hearing, the Tribunal may take action based upon the evidence presented to it without notice to the Respondent. However, the Respondent may make any showing by way of mitigation. After all testimony and documentary evidence have been presented to the Tribunal, the Tribunal shall vote by secret written ballot upon the matter, with a majority of the entire Tribunal controlling. The Tribunal will prepare written findings of fact and recommendations for consideration by the Board, a copy of which shall be posted by the Board at a conspicuous place where all Owners shall have access, and a copy shall be served by the President on each person involved in the matter and his attorney, if any. The Tribunal shall make its determinations only in accordance with these Bylaws and the Declaration of Covenants. Disciplinary action and levy of a fine under the Declaration, the Articles, these Bylaws, or the Rules and Regulations shall be imposed only by the Board and in accordance with the findings and recommendations of the Tribunal. The Board may adopt the recommendations of the Tribunal in their entirety, or the Board may reduce the proposed penalty and adopt the balance of the recommendations. In no event shall the Board impose more stringent disciplinary action than that recommended by the Tribunal. The decision of the Board shall be in writing and shall be served and posted in the same manner as the findings and recommendations of the Tribunal. The decision of the Board shall become effective ten (10) days after it is served upon the Respondent, unless a longer period is ordered in writing by the Board. On its own motion or on petition by any party, the Board may order a reconsideration at any time within fifteen (15) days following service of its decision on the involved parties. However, no motion against the Respondent arising from the alleged violation shall take effect prior to the expiration of: (a) fifteen (15) days after the Respondent's receipt of the Notice of Hearing, and (b) ten (10) days after the hearing required herein, if any.

Section 7. Notices. Any notices, demands, or other communications required or permitted to be given by any provision of this Article VII shall be given in writing, delivered personally or sent by U. S. Mail, postage prepaid, addressed to the person for whom intended at the address then appearing in the records of the Association for such person. Notice shall be considered given when personally delivered or mailed, and shall be considered received on the earlier of the day on which such notice is actually received by the party to whom it is addressed or on the third day after such notice is given.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

BOARD OF DIRECTORS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned Secretary or Treasurer of the Association does hereby certify that the above and foregoing Bylaws were duly adopted by the Board of Directors of the Association as the Bylaws of the Association on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, and that they do now constitute the Bylaws of the Association.

\_\_\_\_\_  
Secretary or Treasurer