

144-01-1648

123-01-0386

137
10#

8230351

8211519

CONDOMINIUM DECLARATION

FOR

THE POINT AT WALDEN

REAL PROPERTY RECORDS

REAL PROPERTY RECORDS

TABLE OF CONTENTS

<u>Article</u>	<u>Caption</u>	<u>Page Number</u>
ARTICLE I.	DEFINITIONS	
Section 1.1	Definitions	1
Section 1.2	Definitions of Rights and Responsibilities	4
ARTICLE II.	GENERAL	
Section 2.1	Condominium Map	5
Section 2.2	Division of Property Into Condominium Units	5
Section 2.3	Underground Automobile Parking and Storage Areas	5
Section 2.4	Inseparability of a Condominium Unit	6
Section 2.5	Description of Condominium Unit	6
Section 2.6	Separate Assessment and Taxation- Notice to Assessor	6
Section 2.7	Ownership-Title	6
Section 2.8	Use and Occupancy	6
Section 2.9	Easements for Encroachment	7
Section 2.10	Termination of Mechanic's or Materialmen's Lien Rights and Indemnification	7
Section 2.11	Reservation for Access-Maintenance, Repair and Emergencies	7
Section 2.12	Owner's Maintenance Responsibility of Unit	8
Section 2.13	Compliance with Provisions of Declaration and the By-Laws of the Council	8
Section 2.14	Mortgaging a Condominium Unit- Priority	8
ARTICLE III.	COUNCIL OF CO-OWNERS	
Section 3.1	Administration and Management	9
Section 3.2	Administration and Management During Development and Sale Period	9
Section 3.3	Membership in the Council	10
Section 3.4	Voting of Members	10
Section 3.5	Meetings of the Members	10
Section 3.6	Board of Directors	11
Section 3.7	Actions Without Meetings	11
Section 3.8	Officers	11
Section 3.9	Administration of the Condominium	11
Section 3.10	Accounting and Audit	12
Section 3.11	Right of Entry	13
Section 3.12	Notices	14

TABLE OF CONTENTS

(Continued)

<u>Article</u>	<u>Caption</u>	<u>Page Number</u>
ARTICLE IV.	COMMON EXPENSE FUND: ASSESSMENTS: COLLECTION	
Section 4.1.....	Common Expenses.....	14
Section 4.2.....	Budgets, Establishment of Common Expense Charge and Special Assessments.....	14
Section 4.3.....	Payment of Common Expense Charge and Special Assessment.....	15
Section 4.4.....	Enforcement.....	16
Section 4.5.....	Common Expense Fund.....	17
Section 4.6.....	Liability for Common Expense Upon Transfer of Condominium Unit.....	17
ARTICLE V.	INSURANCE	
Section 5.1.....	General Provisions.....	18
Section 5.2.....	Individual Insurance.....	19
ARTICLE VI.	FIRE OR CASUALTY; REBUILDING	
Section 6.1.....	Council as Attorney-in-Fact.....	19
Section 6.2.....	Determination of Loss.....	20
Section 6.3.....	Rebuilding.....	21
Section 6.4.....	Repair of Residence Units.....	22
Section 6.5.....	Indemnity of Council.....	22
Section 6.6.....	Notice to Mortgagees; Priority.....	22
ARTICLE VII.	EMINENT DOMAIN	
Section 7.1.....	General Provisions.....	23
Section 7.2.....	Taking of Common Elements.....	23
Section 7.3.....	Taking of Units.....	23
Section 7.4.....	Payment of Awards and Damages.....	25
ARTICLE VIII.	OBSOLESCENCE	
Section 8.1.....	Determination of Obsolescence and Decision to Sell.....	26
ARTICLE IX.	AMENDMENT OF DECLARATION, BY-LAWS AND RULES AND REGULATIONS	
Section 9.1.....	Revocation or Amendment to Declaration.....	26
Section 9.2.....	Amendment of By-Laws.....	27
Section 9.3.....	Amendments of Rules and Regulations.....	27
ARTICLE X.	MISCELLANEOUS	
Section 10.1.....	Estoppel Certificate.....	28
Section 10.2.....	No Partition.....	28
Section 10.3.....	Alteration of Boundaries.....	28
Section 10.4.....	Additions, Alterations and Improve- ments to the Common Elements.....	29
Section 10.5.....	Correction of Errors.....	29

TABLE OF CONTENTS

(Continued)

<u>Article</u>	<u>Caption</u>	<u>Page Number</u>
Section 10.6.....	Enforcement.....	29
Section 10.7.....	Severability.....	29
Section 10.8.....	Exhibits.....	29
Section 10.9.....	Mortgagee Matters.....	30
Section 10.10.....	Limitation on Contract Terms.....	30
Section 10.11.....	Easements.....	30
Section 10.12.....	Declarant's Right to Lease or Rent.....	30
Section 10.13.....	Covenant Running with Land.....	30
Section 10.14.....	Resolution of Disputes.....	30
ARTICLE XI. MORTGAGEE JOINDER		
Section 11.1.....	Mortgagee Joinder.....	30
Exhibit "A" - Legal Description of Land		
Exhibit "B" - Condominium Map		
Exhibit "C" - Percentage Ownership Interest in General Common Elements		

144-01-1651

123-01-0389

CONDOMINIUM DECLARATION

FOR

THE POINT AT WALDEN

(A Condominium)

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, THE POINT AT WALDEN, INC., hereinafter called "Declarant", is the owner of a certain tract of land and the improvements thereon situated in Montgomery County, Texas, which property is more particularly described on the attached Exhibit "A", which, by this reference, is made a part hereof; and

WHEREAS, Declarant desires to establish a condominium project under the Condominium Act of the State of Texas (Texas Revised Civil Statutes, Article 1301a); and

WHEREAS, Declarant is developing and improving the real property described in the attached Exhibit "A", by erecting buildings together with certain improvements, structures and facilities as a part thereof, and appurtenances thereto, said buildings being divided into separate, designated condominium units; and

WHEREAS, Declarant does hereby establish a plan for the separate and individual ownership of the area or space contained in each of said condominium units existing in said buildings, and the co-ownership by said unit owners of (a) the real property described in the attached Exhibit "A", and (b) the portion of the improvements not contained within said units, said co-owned property being hereinafter referred to and defined as General and Limited Common Elements;

NOW THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Declarant and any person or entity acquiring or owning an interest in said real property and improvements, their heirs, personal representatives, devisees, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. Unless the context shall expressly provide otherwise:

(a) "Balcony" means a balustraded platform projecting from the wall of a Building having restricted access to and from a Condominium Unit.

(b) "Board" means the Board of Directors of The Point at Walden Council of Co-Owners.

(c) "Building" or "Buildings" means one or more of the building improvements designed for residential occupancy and containing units as

shown on the Map, and all other improvements now or hereafter placed on the Land. The Building and Condominium Units are more completely described on the Map which is attached hereto as Exhibit "B" and made a part hereof for all purposes.

(d) "By-Laws" means the By-Laws of The Point at Walden Council of Co-Owners.

(e) "Common Elements" means and includes the terms General Common Elements and Limited Common Elements unless otherwise expressly indicated.

(f) "Common Expenses" means and includes expenses for the maintenance, repair, operation, management and administration of this condominium regime; expenses declared Common Expenses by the provisions of this Declaration and the By-Laws of The Point at Walden Council of Co-Owners; and all sums lawfully assessed against the General Common Elements by the Board of Directors of the Council. The assessment made or levied by the Board against each for his share of Common Expenses shall be referred to herein as the "Common Expense Charge".

(g) "Condominium Project" or "Condominium Regime" means the Land, the Building and all of the improvements erected upon and rights appurtenant to the Land, the Building and the improvements and which are submitted to the condominium regime by this Declaration.

(h) "Condominium Unit" means the fee simple interest and title in and to a Unit together with the undivided interest in the General and Limited Common Elements appurtenant thereto.

(i) "Council of Co-owners" or "Council" means The Point at Walden Council of Co-owners, an incorporated association (created or to be created), its successors and assigns, the By-Laws of which shall govern the administration of this condominium regime, the members of which shall be all of the owners of the condominium units. Said corporation shall be a non-profit corporation organized pursuant to the Texas Non-Profit Corporation Act.

(j) "General Common Elements" means and includes all of the Land and Buildings except the Condominium Units as defined herein; utility lines, including sewage, water, gas, electrical lines and cables, and all components thereof up to and including the point of entry into the breaker boxes of a Condominium Unit; plumbing fixtures, pipes and hoses installed in the walls of the Buildings or of a Condominium Unit; laundry rooms; maintenance rooms; storage rooms; any interior hallways; roads, yards, shrubs; trees; sidewalks; pavement; all parking area or areas; all common recreational facilities including without limitation the office, swimming pools, and all other areas of the Land and the Building and all apparatus and installations thereon as are necessary or convenient to the operation, maintenance and use of the property as a condominium

144-01-1653

123-01-0391

and which are normally and reasonably in common use, including the air above such Land, all of which shall be owned by the Owners of the separate units, each Owner of a Unit having an undivided percentage interest in such General Common Elements as set forth in the attached Exhibit "C", which, by this reference, is made a part hereof.

(k) "Land" means the real property more particularly described on Exhibit "A" attached hereto and made a part hereof for all purposes.

(l) "Limited Common Elements" means those parts of the General Common Elements which are either limited to and reserved for the exclusive use of an Owner of a Condominium Unit or are limited to and reserved for the common use of more than one but fewer than all of the Condominium Unit Owners. The only Limited Common Elements shall be the structural components of each building (including, without limitation, the roof, walls, foundation, the underground parking and storage areas, the Patios and the Balconies) which shall be limited to use by the Owners of Units in each particular building.

(m) "Managing Agent" means a professional person, firm or entity having and maintaining all licenses and permits which may be required by applicable law and which may be selected by the Declarant or the Board in accordance with the provisions hereof for the purposes of performing any duties, powers or functions of the Board.

(n) "Map" means and includes the engineering survey of the Land locating thereon all of the improvements, the floor plans and any other drawing or diagrammatic plan depicting a part of or all of the improvements and Land.

(o) "Mortgage" means a security interest, mortgage, deed of trust or lien granted by an Owner in and to a Condominium Unit to secure the repayment of a loan made to an Owner, and duly filed for record in the Office of the County Clerk of Montgomery County, Texas.

(p) "Mortgagee" means the person or entity who holds a Mortgage as security for the payment of a debt.

(q) "Owner" means a person, firm, corporation, partnership, association or other legal entity, or any combination thereof, including Declarant, who owns one or more Condominium Units.

(r) "Patio" or "Patios" means the fenced (whether stone or wood) areas or unfenced concrete slabs adjacent and contiguous to the Units on the ground level of the Buildings.

(s) "Rules and Regulations" mean the rules adopted by the Board concerning the management and administration of the Condominium Regime and the use of the General Common Elements in order to assure to all Owners the pleasures and benefits of ownership of a Unit and use of the General and

Limited Common Elements. The initial Rules and Regulations shall be promulgated by the Declarant as part of the By-Laws.

(t) "Special Assessment" means any assessment over and above the Common Expenses deemed by the Board to be necessary for the preservation, management and administration of the Condominium Project, approved by the Council as hereinafter set forth.

(u) "Unit" means an individual air space unit which is contained within the perimeter walls, floors, ceilings, windows and doors of such units (and the Patios, Balconies, wooden decks, and storage areas appurtenant to each unit where applicable) in one of the Buildings as shown on the Map filed herewith, together with all fixtures and improvements therein contained but not including any of the structural components of the Building in such Unit. The term "Unit" shall have the same meaning as the term "Apartment" as was used in the Texas Condominium Act. Included within the boundaries of each Unit, without limitation, shall be any finishing materials applied or affixed to the interior surfaces of the interior walls, floors or ceilings (such as, but without limitation, paint, wallpaper, vinyl wall or floor coverings and carpets); interior walls; and all utility pipes, lines, systems, fixtures or appliances servicing only that Unit. The boundaries of each Unit shall be the interior surfaces of windows and doors, perimeter window frames and door frames and the exterior surfaces of the Balconies and the Patios. Interior trim around windows and doors shall be part of each Unit and shall not be General Common Elements. Visible and exposed plumbing fixtures, lines and pipes shall be part of the Unit in which they are located and shall not be General Common Elements.

Section 1.2 Definitions of Rights and Responsibilities.

(a) Each Owner shall have exclusive ownership of his respective Unit and shall have the common right to share, with all other Owners, in the use of the General Common Elements in accordance with the purpose for which they are intended and the provisions hereof, without hindering or encroaching upon the lawful rights of other Owners.

(b) Where the term "Owner" is used in the granting of licenses, easements or rights to use Units, General Common Elements or Limited Common Elements, the family of such Owner and each member thereof, such Owner's guests, tenants, servants, employees and invitees shall also be entitled to the rights, easements or licenses so granted.

(c) The physical boundaries of each Unit shall be conclusively presumed to be its boundaries regardless of settling, rising or lateral movement of the building and regardless of variances between boundaries shown on the plat and those of the building. None of the rights and

144-01-1655

123-01-0393

obligations of the Owners created herein, or by any deed delivered to any Owner, shall be altered in any way by encroachments or the settlement or shifting of structures or any other cause. As referred to in Section 2.9 herein, there shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners.

ARTICLE II

GENERAL

Section 2.1 Condominium Map. Attached hereto and incorporated herein for all purposes as Exhibit "B" is the Map. The Map sets forth, among other things, the following:

(a) A survey of the Land showing the location of each Building;

(b) A general description and plat of each Unit showing its square footage, building location, floor and Unit number;

(c) A general description of and plat of the parking area or areas.

The Map shall contain the certificate of a public surveyor certifying that the Map substantially depicts the location of the Buildings, the Units, the Unit numbers, the dimensions of the Units and the Building designation by letter. In interpreting the Map the existing physical boundaries of each separate Unit shall be conclusively presumed to be its boundaries. Declarant reserves the right to amend the Map, from time to time, to conform the same according to the actual location of any of the improvements and to establish, vacate and relocate easements, access road easements and on-site parking areas.

Section 2.2 Division of Property Into Condominium Units. The tract of land described in Exhibit "A" hereto and the improvements to be constructed thereon are hereby divided into fee simple estates, each such estate consisting of the separately designated Condominium Units and the undivided interest in and to the General Common Elements and the Limited Common Elements appurtenant to each Unit.

Section 2.3 Underground Automobile Parking and Storage Areas. Underground parking and storage areas intended for the use of an Owner of a particular Unit in Building "B" as shown on the Map attached hereto as Exhibit "B" are unassigned as of the date of recording of this Declaration, but shall be subsequently assigned by Declarant, in its sole discretion, upon or before the conveyance of each individual Unit to the initial Unit Owner (whether Declarant or any other purchaser). At such time as all of the underground parking and storage areas have been designated and assigned by Declarant, Declarant shall file in the appropriate records of Montgomery County an amendment to this Declaration, together with an amended Exhibit illustrating such underground parking and storage assignments, which amendment shall not require the joinder of any other party thereto. Such underground parking and storage areas shall become

Limited Common Elements upon assignment by Declarant, and shall not be conveyed separate from the Unit. Parking areas on the Land, other than the underground parking areas, shall not be designated for use by any particular Unit Owner, but shall be reserved for the common use of all Unit Owners, their guests and invitees.

Section 2.4 Inseparability of a Condominium Unit. Each Unit, the appurtenant undivided interest in the General Common Elements and the appurtenant Limited Common Elements shall together comprise one Condominium Unit, shall be inseparable and may be sold, assigned, leased, devised, or encumbered only as a Condominium Unit. An individual Unit shall not be conveyed separate from the undivided interest in the Common Elements and vice versa, and any conveyance of an individual Unit shall be deemed to also convey the undivided interest of the Owner in the Common Elements.

Section 2.5 Description of Condominium Unit. Every contract for the sale or lease of a Condominium Unit prior to the recording of the Declaration may legally describe a Condominium Unit by its identifying Unit number, the building letter, followed by the words The Point at Walden Condominium, with further reference to the Declaration to be filed for record. Subsequent to the recording of the Declaration, every deed, lease, mortgage, deed of trust, will or other instrument may legally describe a Condominium Unit by its identifying Unit number, the Building letter, followed by the words The Point at Walden Condominium, with further reference to the volume and page wherein this Declaration is filed of record in the Condominium Records of Montgomery County, Texas. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the Unit but also the Common Elements appurtenant thereto. Each such description shall be construed to include a non-exclusive easement for ingress and egress to an Owner's Unit and use of all the General Common Elements, together with the right to the exclusive use of the Limited Common Elements. The initial deeds conveying each Condominium Unit may contain reservations, exceptions and exclusions which the Declarant deems to be consistent with and in the best interests of all Condominium Unit Owners and the Council.

Section 2.6 Separate Assessment and Taxation - Notice to Assessor. Declarant shall give written notice to the assessor of the County of Montgomery, State of Texas, of the creation of condominium ownership in this property, so that each Unit and the undivided interest in the Common Elements appurtenant thereto shall be deemed a parcel and subject to separate assessment and taxation. All taxes, assessments and charges which may become liens prior to the first mortgage under local law shall relate only to the individual Condominium Units and not to the condominium project as a whole.

Section 2.7 Ownership - Title. A Condominium Unit may be held and owned by more than one person in any real property relationship recognized under the laws of the State of Texas.

Section 2.8 Use and Occupancy. All Condominium Units shall be used and occupied for single family residential purposes only. No Unit Owner may lease less than the entire Unit. Any lease agreement shall be required to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the By-Laws and that any failure by the lessee to comply with the terms of such

144-01-1657

123-01-0395

documents shall be a default under the lease. Notwithstanding anything herein contained to the contrary, Declarant and Owners shall have the right to lease Condominium Units on a month-to-month basis or submit Condominium Units to a rental program for the Condominium, so long as the lease or other rental occupancy agreement is subject in all respects to the provisions of this Declaration and the By-Laws. All leases shall be required to be in writing. Other than the foregoing, there is no restriction on the right of any Unit Owner or Declarant to lease his Unit.

Section 2.9 Easements for Encroachments. If any portion of the Common Elements encroaches upon a Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of a Unit encroaches upon the Common Elements, or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Elements or on the Units.

Section 2.10 Termination of Mechanic's or Materialmen's Lien Rights and Indemnification. No labor performed or materials furnished and incorporated in a Unit with the consent or at the request of a Unit Owner or his agent or his contractor or subcontractor shall be the basis for filing of a lien against the Unit of any other Unit Owner not expressly consenting to or requesting the same, or against the Common Elements. Each Owner shall indemnify and hold harmless each of the other Owners from and against all liability arising from the claim of any lien against that of any Owner or against the Common Elements for construction performed or for labor, materials, services or other products incorporated in the Owner's Unit at such Owner's request. The provisions herein contained are subject to the rights of the Managing Agent or Board of Directors of the Council as is set forth in Section 2.11 herein.

Section 2.11 Reservation for Access - Maintenance, Repair and Emergencies. The Owners shall have the irrevocable right, to be exercised by the Managing Agent or Board of Directors of the Association, to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements thereon or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit or Units. Damage to the interior or any part of a Unit or Units resulting from the maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of emergency repairs within another Unit at the instance of the Council, shall be a Common Expense of all of the Owners; provided, however, that if such damage is the result of the misuse or negligence of a Unit Owner, then such Unit Owner shall be responsible and liable for all such damage. All damaged improvements shall be restored to substantially the same condition of such improvements prior to such damage. All maintenance, repairs and replacements as to the Common Elements (unless necessitated by the negligence or misuse of a Unit Owner, in which case such expense shall be charged to such Unit Owner), shall be the common expense of all the Owners.

Section 2.12 Owner's Maintenance Responsibility of Unit. An Owner shall be deemed to own, shall have the responsibility of repair, maintenance and replacement (except as otherwise provided hereinbelow) and shall have the right to alter and remodel: the interior non-supporting walls of his Unit; the materials (such as, but not limited to, plaster, gypsum, paneling, wallpaper, paint, tile, carpet and flooring, but not including the sub-flooring) making up the finished surfaces of the interior walls, ceilings and floors of his Unit, including the doors and windows and all related hardware; air handling units, draperies, appliances and all other fixtures, equipment or personal property contained or installed within his Unit commencing at a point where the utilities enter the interior Unit wall; provided however, that any alteration or remodeling of any window treatments shall not be made in a manner which, in the sole opinion of the Board or the Managing Agent (after submission by the Owner of the plans for the proposed alteration or remodeling to the Board or the Managing Agent), changes the appearance of the window from the exterior. The Owner shall be responsible for his own branch water, sewer, or other utility lines, that branch off a main line. The right and responsibility of an Owner to repair, maintain, replace, alter and remodel is coupled with the obligation to perform such functions in a good and workmanlike manner and to replace any materials removed with similar or other types or kinds of materials of equal quality. An Owner shall not be deemed to own lines, pipes, wires, conduits or systems (which for brevity are herein and hereafter referred to as utilities) running through his Unit which serve one or more other Units except in common with the other Owners. Such utilities shall not be disturbed or relocated by an Owner without the written consent and approval of the Council.

Section 2.13 Compliance with Provisions of Declaration and the By-Laws of the Council. Each Owner, tenant and occupant of a Unit shall comply with the provisions of this Declaration and the By-Laws of the Council, and the decisions and resolutions of the Council adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, and for reimbursement of all attorney's fees incurred in connection therewith, which action shall be maintainable by the Managing Agent or Board of Directors in the name of the Council on behalf of the Owners or, in a proper case, by an aggrieved Owner.

Section 2.14 Mortgaging a Condominium Unit - Priority. An Owner shall have the right from time to time to mortgage or encumber his Unit and the interests appurtenant thereto by deed of trust, mortgage or other instrument, but the lien created thereby shall be subject to the terms and provisions of this Declaration, and any mortgagee or other lienholder who acquires a Unit through judicial foreclosure, public sale or other means shall be subject to the terms and provisions of this Declaration. No Unit shall be subject to any unreasonable restraints on alienation which would adversely affect the title or marketability of such Unit, or the ability of the lienholder to foreclose its first mortgage lien, and thereafter to sell or lease such mortgaged Unit.

144-01-1659

123-01-0397

ARTICLE III

COUNCIL OF CO-OWNERS

Section 3.1 Administration and Management. The affairs of the Condominium and Condominium Regime shall be administered by The Point at Walden Council of Co-Owners, a Texas non-profit corporation. The Council shall have all rights, powers and duties of the "Council of Co-Owners", as that term is used in the Texas Condominium Act. The Council shall have the right, power and obligation to provide for the maintenance, repair, replacement, administration and operation of the Condominium and Condominium Regime as provided herein, in the By-Laws and in the Rules and Regulations. The business and affairs of the Council shall be managed by its Board. Without limiting the generality of the foregoing, the Council shall be entitled to enter into such contracts and agreements concerning the Condominium as a whole, the General Common Elements, or the Building, as the Board deems reasonably necessary or appropriate to maintain and operate the Condominium as a viable residential condominium regime, including, without limitation, the right to grant utility and other easements for the uses the Board shall deem appropriate.

Until the election of the first Board (as provided for hereinbelow) the Declarant shall exercise all of the powers, rights, duties and functions of the Board for the benefit of the Owners. Declarant shall appoint and employ as Managing Agent a professional management company which has and actively maintains all necessary licenses which may be required by applicable law, under a management agreement the duration of which may not exceed two (2) years from the date of election of the first Board and may be renewable by agreement of the parties for successive one-year periods. Such contract shall provide for payment to the Managing Agent of a management fee no higher than the fees usually paid to managers of similar multi-story residential buildings (whether rental or condominium) in Houston, Texas and shall otherwise comply with the provisions of Section 10.10 below. Declarant may engage itself or any entity, whether or not affiliated with Declarant, as the Managing Agent. After the election of the first Board, the Board may delegate any of its duties, powers or functions to the Managing Agent under the management agreement entered into by Declarant on behalf of Council or, after the expiration of said management agreement entered into by Declarant on behalf of the Council, to a Managing Agent selected by the Board. The members of the Board shall not be liable for any omission or improper exercise by the Managing Agent of any such duty, power or function so delegated. Such delegation shall be by written instrument executed by a majority of the members of the Board.

Section 3.2 Administration and Management During Development and Sale Period. Notwithstanding the foregoing Section 3.1, Declarant shall remain in control of and be responsible for the administration and management of the Condominium Regime until the termination of the development and sale period. The development and sale period shall be defined as a period of time two (2) years from the date of execution of this Declaration or the date upon which the Declarant has sold ninety percent (90%) of all Condominium Units owned by it, whichever comes first. Declarant shall have the obligation to turn over the administration and management of the Condominium Regime to the Board and the Council within not more than one hundred twenty (120) days

after the completion of transfer to purchasers of title of Units representing ninety percent (90%) of the votes of all Unit Owners. During such period, Declarant, or its designated representatives, shall provide the services, such as office supervision, record keeping, yard maintenance, exterior maintenance and others, which would normally be provided by or arranged for by the Board and shall have and exercise all the powers and functions, including assessment and collection of Common Expenses, delegated hereunder to the Board and other officers of the Council. Declarant shall be reimbursed from the Common Expense Fund for any expenses incurred by Declarant in rendering such services. Declarant and its employees, representatives and agents may maintain a business and sales office, model units and other sales facilities necessary or convenient during the development and sale period. Notwithstanding anything herein contained to the contrary, Declarant and Owners shall have the right to rent Condominium Units and/or submit Condominium Units to a rental program for the Condominium at any time during ownership of same.

Section 3.3 Membership in the Council. Each Owner (and only an Owner) shall be a member of the Council so long as he shall be an Owner and such membership shall automatically terminate when he ceases to be an Owner. Upon the transfer of ownership of a Unit, however achieved, the new Owner succeeding to such ownership shall likewise succeed to membership in the Council. The Council may issue certificates evidencing membership therein.

Section 3.4 Voting of Members. There shall be one vote in the affairs and management of the Council for each Unit, weighted in proportion to the Percentage Ownership Interest of such Unit in the General Common Elements as set forth in Exhibit "C" attached hereto. In the event that ownership interests in a Unit are owned by more than one member of the Council, the members who own fractional interests in such Unit aggregating more than fifty percent (50%) of the whole ownership thereof shall appoint one member who shall be entitled to vote the vote of that Unit at any meeting of the Council. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board; the Board shall be entitled to rely on any such designation until written notice revoking such designation is received by the Board. In the event that a Unit is owned by more than one member and no single member is designated to vote on behalf of the members having an ownership interest in such Unit, then none of such members shall be allowed to vote. All members of the Council may be present at any meeting of the Council and may act at such meetings either in person or by proxy.

The Declarant may exercise the voting rights with respect to Units owned by it.

Section 3.5 Meetings of the Members.

(a) The first meeting of the members of the Council shall be held when called by the initial Board upon ten (10) days written notice to the members. Such written notice may be given at any time but must be given not later than the earlier to occur of (i) seven (7) years following the recordation of this Declaration or (ii) thirty (30) days after at least ninety-five percent (95%) of all of the Units have been sold by the Declarant,

144-01-1661

123-01-0399

a deed therefor recorded and the purchase price paid.

(b) Thereafter, annual meetings of the members of the Council shall be held in accordance with the terms and provisions of the By-Laws.

(c) At the annual meeting, the Board shall present a financial accounting of the Common Expense Fund (as defined hereinafter), itemizing receipts and disbursements for the preceding calendar year, the allocation thereof to each Owner and the estimated Common Expenses for the coming calendar year. Within thirty (30) days after the annual meeting, the statements and estimates presented to the annual meeting by the Board shall be delivered to all Owners.

(d) Special meetings of the members may be called in accordance with the terms and provisions of the By-Laws.

(e) For the purpose of determining the members entitled to notice of a meeting and to vote at any meeting, the membership of the Council shall be determined at the close of business on the twenty-fifth (25th) day preceding such meeting.

Section 3.6 Board of Directors. The Board of Directors shall be elected, removed and replaced and the Board of Directors shall meet in accordance with the terms and provisions of the By-Laws.

Section 3.7 Actions without Meetings. Any action required by this Declaration or by law to be taken at a meeting of the members or 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 entitled to vote with respect to the subject matter thereof or signed by all the members of the Board of Directors, as the case may be. Such consent shall have the same force and effect as a unanimous vote at a meeting.

Section 3.8 Officers. The Officers of the Council shall be elected in accordance with the terms and provisions of the By-Laws and shall consist of a President, a Vice President, a Secretary and a Treasurer and such other Vice Presidents, Assistant Secretaries and Assistant Treasurers as may be convenient or necessary in the judgment of the Board for the administration and operation of the Condominium.

Section 3.9 Administration of the Condominium. The Council, acting through its Board of Directors, its officers or other duly authorized management representatives (including, without limitation, a Managing Agent), shall manage the business and affairs of the Condominium and shall, without limitation, have the power of collection and enforcement set forth herein; for the benefit of all of the Owners in the Condominium shall provide, perform, cause to be performed, maintained, acquired, contracted and paid for out of the Common Expense Fund all services, supplies, materials and laborers necessary for the operation of the Condominium, including, without limitation, the following:

(a) Utility services used in or for the General Common Elements, water and sewer services used by or consumed by the Units and, if not

separately metered or charged, other utility services for the Units. Electricity, telephone and other utility services separately metered or charged shall be paid for by the Owner of the Unit served by such utility services.

(b) The insurance required by Section 5.1 hereof and such other policies of casualty, liability and/or other insurance covering persons, property and risks as are in the best interest of the Condominium.

(c) The services of a Managing Agent and such other persons (including lawyers and accounts) as the Board shall, from time to time, determine are necessary or proper to the daily management, operation and maintenance of the Condominium.

(d) All supplies, tools and equipment reasonably required for use in the management, operation, maintenance, cleaning and enjoyment of the Condominium.

(e) The cleaning, maintenance, repairing, reconstruction and replacement of the Common Elements as the Board shall determine is necessary.

(f) The services of gardeners, security guards and such other persons to the extent necessary for the operation of the Condominium in the manner desired by the members of the Council.

(g) The removal of all trash, garbage and rubbish from garbage receptacles in and around the Building; including the employment of the services of a garbage collection company or agency, public or private, if necessary.

(h) Costs of bookkeeping of the accounts of the Council and the annual accounting provided for herein; legal and accounting services and fees of the Council; premiums of fidelity bonds; taxes or assessments of whatever type assessed or imposed against any of the General Common Elements.

The Board shall not, without the prior requisite authorization of the members of the Council at a meeting of the members, contract for or pay for out of the Common Expense Fund any one item of capital addition or improvement (other than replacement of existing General Common Elements) at a cost in excess of Ten Thousand and No/100 Dollars (\$10,000.00).

Nothing herein shall authorize the Board to furnish to any person services primarily for the benefit or convenience of any Owner or Owners or any other occupant or occupants of any Unit services other than those customarily rendered to all Owners and occupants of the Units. The Board shall have the exclusive right and obligation to contract for all goods, services and insurance in connection with the administration of the Condominium, payment for which is to be made from the Common Expense Fund.

Section 3.10 Accounting and Audit. The Board of Directors shall keep or cause to be kept books of detailed accounts of the receipts and expenditures affecting the

144-01-1663

123-01-0401

Condominium and its administration and specifying the maintenance and repair expenses of the General Common Elements and any other expenses incurred by or on behalf of the Condominium or the Council. Both the books of accounts and all vouchers supporting the entries made therein shall be available for examination at the office of the Council by all Owners and Mortgagees at convenient hours on working days and the Board of Directors shall cause to be established and announced for general knowledge the days and hours within which such books shall be available for inspection. All such books and records shall be kept in accordance with generally accepted accounting procedures, consistently applied, and upon the affirmative vote of a majority (as determined by the By-Laws) of the members, shall be audited at least once a year by an outside auditor pursuant to the terms and provisions of the By-Laws of the Council. In addition, any institutional holder of a first Mortgage on a Unit in the Condominium will, upon request, be entitled to (a) receive an annual audited financial statement of the Condominium within ninety (90) days following the end of any fiscal year of the Condominium, and (b) receive written notice of all meetings of the Council and be permitted to designate a representative to attend all such meetings. The fiscal year of the Council shall be the calendar year unless another period is established by an amendment of the By-Laws.

Section 3.11 Right of Entry. The Council, or its duly authorized representative (including any then-acting Managing Agent), shall have the right and authority to enter any Unit for the purposes of:

- (a) Making necessary repairs therein.
- (b) Performing necessary maintenance or repairs to the General Common Elements, for which the Council is responsible.
- (c) Abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity being conducted or maintained in such Unit.
- (d) Protecting the property rights and welfare of other Owners.
- (e) Enforcing the provisions of this Declaration of Condominium, the By-Laws or the Rules and Regulations promulgated thereunder.
- (f) Removing signs or objectionable displays from windows or Balconies.

Except in the event of an emergency, such right of entry shall be exercised only in the presence of the Owner or other occupant of the Unit which is entered. In all events, such right of entry shall be exercised in such manner as to avoid any unreasonable or unnecessary interference with the possession, use or enjoyment of the Unit by the Owner or occupant thereof and shall, whenever possible, be preceded by reasonable notice to the Owner or occupant thereof. In the event that any damage is caused to the property of any Owner in connection with the exercise of any such right of entry, such damage shall be repaired at the expense of the Council and the Board is authorized to expend Common Expense Funds therefor. The rights of entry herein granted to the Council or its duly authorized representative shall be accomplished

by and exercised subject to such methods and procedures as are set forth in the Rules and Regulations.

Section 3.12 Notices. Any notice permitted or required to be given to a member of the Board or to an Owner may be delivered personally, by mail or by placing such notice in the mail distribution facilities of each Owner if such facilities are present in the Building. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after deposit in the U.S. Mail postage prepaid, addressed to an Owner at his Unit or to such other address as the Owner may have given in writing to the Secretary of the Council for the purpose of service of notices. Any address for purposes of notice may be changed from time to time by notice in writing to the Secretary.

ARTICLE IV

COMMON EXPENSE FUND: ASSESSMENTS: COLLECTION

Section 4.1 Common Expenses. All Owners shall be obligated to pay and are bound to contribute, in proportion to their Percentage Ownership Interests, to the Common Expense Fund as a Common Expense Charge, the expenses of administration of the Condominium Regime and the administration, maintenance and repairs of the Common Elements, and other expenses provided by the terms hereof. From the date of closing a Condominium Unit, the Owner of such unit so closed shall be obligated to pay the Common Expense Charges directly to the Declarant and shall continue to so pay the Common Expense Charges to the Declarant until the control of the Condominium regime is turned over to the Board and the Council, as provided herein. After such time the Common Expense Charges shall be directly payable to the Council. Any amounts paid to the Declarant or the Council, as the case may be, shall be for expenses to be paid by the Declarant or the Council, as the case may be, and for those expenses agreed to be assumed by the Declarant or the Council, as the case may be, pursuant to this Declaration, its By-Laws and Rules and Regulations. The Common Expense Charge shall be assessed in accordance with the provisions hereinafter stated. No Owner shall be exempt from the obligation to make such contribution to the Common Expense Fund by waiver of the use or enjoyment of the Common Elements, or by abandonment of the Unit belonging to him, or under any other circumstances. Assessments for the estimated Common Expenses shall be made monthly in advance on the first day of each month. The Managing Agent or Board of Directors shall prepare and deliver or mail to each Owner an annual statement of actual Common Expenses. In the event ownership of a Unit commences on a day other than the first day of a month, the assessment for that month shall be prorated. In addition, there shall be established a working capital fund for the initial months of operation of the Condominium equal to one (1) months estimated charges for Common Expenses for each Unit.

Section 4.2 Budgets, Establishment of Common Expense Charges and Special Assessments. Until the commencement of the first full fiscal year after the first meeting of the members of the Council is held, the Declarant shall have the right and obligation to establish the annual budgets for each fiscal year projecting all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium and Condominium Regime. Such budget, and all successive budgets, shall

144-01-1665

123-01-0403

contain a reasonable allowance for contingencies and shall establish a reserve fund (the "Replacement Reserve Fund"), contributions to which shall be payable monthly as a part of the Common Expense Charge and to be used for maintenance, repairs and replacements to Common Elements, including those that must be replaced on a periodic basis. Such initial budget, and those adopted thereafter, may also provide for ad valorem tax expenses of the Condominium Project, if the taxing authorities having jurisdiction thereof have not then separately assessed and valued individual Units. The fiscal year of the Condominium shall be the calendar year, unless the Board otherwise provides.

Commencing with the first full fiscal year after the first meeting of the members of the Council is held, the Board or the Managing Agent shall establish an annual budget in advance for each calendar year and such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and for a reasonable addition to the Replacement Reserve Fund. Such budget, and those adopted thereafter, may also provide for ad valorem tax expenses of the Condominium Project if the taxing authorities having jurisdiction thereof have not then separately assessed and valued the individual Units. The Common Expense Charge for such year shall be established by the adoption of such annual budget by the Board. Copies of each such budget shall be delivered to each Owner by such reasonable means as the Board may provide. In the event that the Board at any time determines that the Common Expense Charge so levied is or may prove to be insufficient to pay the costs of operation and management of the Condominium for such fiscal year, or in the event of casualty losses, condemnation losses or other events (including non-payment of the Common Expense Charge by some Owners) which require additional funds be supplied for preservation and operation of the Condominium, the Board of Directors shall have the authority at any time or from time to time to levy such Special Assessment as it shall deem necessary for that purpose. Such Special Assessment shall not be levied, however, without the prior approval of Owners having at least sixty-six and two-thirds percent (66.67%) of the votes in the Council, weighted in accordance with the Percentage Ownership Interest, unless a greater number of votes is required by law.

The failure or delay of the Board to prepare any annual budget or to deliver copies of such budgets to each Owner shall not constitute a waiver or release in any manner of any Owner's obligation to pay the Common Expense Charge whenever the same shall be determined, and in the event of any delay or failure to establish any annual budget each Owner shall continue to pay the Common Expense Charge, monthly, at the rate established for the previous period until a new annual budget is established.

Section 4.3 Payment of Common Expense Charges and Special Assessment. After each such budget is adopted, the Declarant (or the Council, as the case may be) shall determine the Common Expense Charge required for the operation of the Project and the maintenance of the Common Elements and for the allowance for contingencies and Replacement Reserve Fund for the calendar year in question, and the portion thereof allocable to each Owner. The Common Expense Charge shall be allocated among those Owners obligated by this

Declaration to pay same, according to the respective Percentage Ownership Interests of such Owners. As stated earlier, Common Expense Charges shall be due and payable monthly in advance on the first day of each calendar month (or such other day as the Board may designate by written notice to all Owners) during the year for which the Common Expense Charge has been assessed. Special Assessments shall be payable on or before ten (10) days after Owners are invoiced therefor. Payment of Common Expense Charges and Special Assessments shall be in default if such Common Expense Charges and Special Assessments, or any part thereof, are not paid to the Council on or before the due date for such payment. Common Expense Charges and Special Assessments in default shall bear interest at the maximum nonusurious interest rate per annum as may be permitted by applicable law from the date of delinquency until paid. In the event any such charge is not paid by fifteen (15) days from the due date of the Common Expense Charge or Special Assessment, then, at the Board's election, the Common Expense Charge due from the delinquent Owner for the balance of the year shall be accelerated, shall become at once due and payable, and from the date of acceleration shall also bear interest at the maximum nonusurious interest rate per annum as may be permitted by applicable law. The Board shall also have the right, in its discretion, by appropriate resolution of the Board, to establish late fees or delinquency charges to be imposed in addition to the interest to which such delinquent Common Expense Charges and Special Assessments are subject. Each Owner (whether one or more persons) shall be personally liable for the payment of all Common Expense Charges and Special Assessments, interest and late fees (or delinquency charges) which may be levied against such Owner and his Unit pursuant to the provisions hereof.

Section 4.4 Enforcement. In order to secure the payment of the Common Expense Charges and Special Assessments levied hereunder (including interest, late fees or delinquency charges), a vendor's lien and superior title shall be and is hereby reserved in and to each Unit (the Common Expense Charge allocable to each Unit being a portion of the purchase price therefor) and assigned to the Council, without recourse, which lien shall be enforceable through appropriate judicial proceedings by the Council or any Owner on behalf of the Council or by public sale without judicial proceedings. Each Owner, by accepting conveyance of a Condominium Unit, irrevocably grants to the Council a power of sale so that the lien for any unpaid sums required to be paid by this Declaration may be foreclosed at public sale without judicial proceedings in the manner prescribed by law in the State of Texas. In any such proceeding, the Owner shall be obligated to pay the reasonable costs, expenses and attorney's fees incurred for filing the lien and foreclosing the lien. The Council may be the bidder at any such foreclosure sale and may have the amount for which the Unit in question is sold credited on the sums owing to the Council. Said lien and superior title shall be deemed subordinate to a first lien or liens of any bank, insurance company, savings and loan association, university, pension or profit-sharing trust or plan, or other institutional lender which may have heretofore lent or may hereafter lend money in good faith for the purchase or improvements of any Unit. The collection of such Common Expense Charges and/or Special Assessments may, in addition to any other applicable remedy at law or in equity, be enforced by suit for a money judgment and in the event of such suit, the expense incurred in collecting such delinquent assessment, including interest, costs and

144-01-1667

123-01-0405

attorney's fees, shall be chargeable to and be a personal obligation of such defaulting Owner. Except in the circumstances in which a good faith dispute exists as to the amount of the Common Expense Charges or any Special Assessments for which an Owner is liable, an Owner in default in the payment of the Common Expense Charge or any Special Assessment shall not be entitled to vote at any meeting of the Council so long as such default exists. Any Mortgagee or his assigns who obtains title to a Condominium Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage will not be liable for such Unit's unpaid dues or charges which accrue prior to the acquisition of title to such Unit by the Mortgagee, except for claims for a pro-rata share of such dues or charges resulting from a pro-rata reallocation of such dues or charges to all project Units including such mortgaged Unit. Upon request of a Mortgagee, the Council shall give written notification to the Mortgagee of a Condominium Unit of any unpaid assessments remaining unpaid for longer than twenty-five (25) days after the same are due; provided however, that such Mortgagee shall have furnished to the Managing Agent or to the Board of Directors notice of such lien.

Section 4.5 Common Expense Fund. The Common Expense Charges collected shall be paid into the Common Expense Fund to be held and used for the benefit, directly or indirectly, of the Condominium; and such Common Expense Fund may be expended by the Board for the purposes set forth herein, including, without limitation, providing for the enforcement of the provisions of this instrument, the By-Laws of the Council and Rules and Regulations promulgated thereunder; for the maintenance, operation, repair, benefit and welfare of the Common Elements, and generally for doing those things necessary or desirable in the opinion of the Board to maintain or improve the Condominium. The use of the Common Expense Fund for any of these purposes, except as provided herein, is permissive and not mandatory, and the decision of the Board with respect thereto shall be final, so long as made in good faith.

Section 4.6 Liability for Common Expense Upon Transfer of Condominium Unit. The Board of Directors or the Managing Agent shall furnish to any prospective purchaser or Mortgagee of any Condominium Unit, at the request of the Owner, a written certificate as to the amount of the regular and/or Special Assessments which have become due and are unpaid up to a given date in respect to the Condominium Unit to be sold or mortgaged; and in the case of a sale the purchaser shall not be liable nor shall the Condominium Unit purchased be liable or subject to any lien for any unpaid assessment which has become due and is not shown on such certificate for the period of time covered thereby; however, the selling Owner shall be liable for same and in case of his failure or refusal to pay, then the same shall be collectible from all other Owners on a pro rata basis in proportion to their Percentage Ownership Interest, and they shall have recourse against the Selling Owner; but in the case of a Mortgagee, the unpaid assessments not shown on said certificate for the period of time covered thereby shall remain the obligation of the Owner mortgaging his Condominium Unit, but the assessment lien securing same as provided for in this Declaration shall be and remain inferior and secondary to the Mortgage and liens held by the Mortgagee to whom or for whose information said certificate was furnished. A charge not to exceed Twenty-Five and No/100 Dollars (\$25.00) may be levied

in advance by the Board of Directors or the Managing Agent for each certificate so delivered.

ARTICLE V

INSURANCE

Section 5.1 General Provisions. The Board of Directors of the Council, or the Managing Agent, shall have authority to and shall obtain and maintain insurance for the Condominium as follows:

(a) Insurance on the Buildings, including the Units (except as provided in Section 5.2 below) and the Common Elements, against loss or damage by fire and loss or damage by all risks now or hereafter embraced by Texas Multi-Peril Form TxMP 130 and any similar extended coverage policy or endorsement thereto designed for insuring condominium regimes in the State of Texas (with vandalism and malicious mischief endorsements), in amounts sufficient to prevent the Council or the Owners from becoming a co-insurer within the terms of the applicable policies, but in any event in an amount not less than the full insurable replacement cost thereof. The "full insurable replacement cost" of the Building, including the Units and the Common Elements, shall be determined from time to time but not less often than once in a twelve-month period by the Managing Agent, or if there is no Managing Agent, then by the Board and the Board shall have the authority to obtain and pay for an appraisal by a person or organization selected by the Board in making such determination. The cost of any and all such appraisals shall be borne by the Common Expense Fund.

(b) Comprehensive public liability and property damage insurance against claims for personal injury or death or property damage suffered by the public or any Owner, the family, agent, employee or invitee of any Owner, occurring in, on or about the Common Elements or upon, in or above the private driveways, roadways, walkways and passageways, on or adjoining the Condominium, which public liability and property damage insurance shall afford protection in a minimum amount of \$2,000,000.00, combined single limit or to such greater limits as the Board shall deem desirable. Such liability and property damage insurance policy shall contain a cross-liability endorsement wherein the rights of named insureds under the policy or policies shall not prejudice his, her or their action or actions against another named insured.

(c) Such workman's compensation insurance as may be necessary to comply with applicable laws.

(d) Fidelity bonds indemnifying the Council, the Board and the Owners from loss of funds resulting from fraudulent or dishonest acts of any employee of the Council or of any other person handling the funds of the Council. The fidelity bond must name the Council as the named insured and shall be written in such an amount as the

144-01-1669

123-01-0407

Board may deem desirable, but in no event less than one and one-half times the insured's estimated annual operating expenses and reserves. In connection with such coverage, an appropriate endorsement to the bond (or policy) to cover any persons who would serve without compensation should be added if the bond (or policy) would not otherwise cover volunteers.

(e) Such other insurance in such reasonable amounts as the Board shall deem desirable.

The premiums for all insurance acquired on behalf of the Council or the Owners pursuant to the provisions hereof shall be borne by the Common Expense Fund.

All insurance provided for in this Section shall be effected under valid and enforceable policies issued by issuers of recognized responsibility authorized to do business in the State of Texas. Policies of insurance of the character described in Subsections (a) and (b) of this Section 5.1 shall name as insureds the Council and each Owner in the Percentage Ownership Interest established in Exhibit "C" to this Declaration; shall contain standard mortgagee clause endorsements in favor of the Mortgagee or Mortgagees of each Unit, if any, as their respective interest may appear; shall be without contribution with regard to any other such policies of insurance carried individually by any Owner, whether such other insurance covers the Unit owned by such Owner and/or the additions and improvements made by such Owner to his respective Unit; shall provide that such policy shall not be terminated for non-payment of premiums or for any other cause without at least thirty (30) days prior written notice to the Council and each Mortgagee of a Unit.

Section 5.2 Individual Insurance. Each Owner shall be responsible for and may obtain additional insurance at his expense on the contents of his Unit and the furnishings, interior walls, appliances and all parts of the Unit not Common Elements, and personal property therein. All policies of casualty insurance carried by each Owner shall be without contribution with respect to the policies of casualty insurance obtained by the Council for the benefit of all the Owners as above provided. Owners may carry individual policies of liability insurance insuring against the liability of such Owners, at their own cost and expense.

ARTICLE VI

FIRE OR CASUALTY; REBUILDING

Section 6.1 Council as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its damage, destruction or obsolescence.

Title to a Condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declaration or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint the Council or their true and lawful attorney in their name, place and stead for the purpose of dealing with the property

upon its damage, destruction or obsolescence as is herein-after provided. As attorney-in-fact, the Council, by its President and Secretary shall have full and complete authorization, right and power to deal with insurance companies and receive insurance proceeds and to make, execute and deliver any contract, deed or any other instrument with respect to the interest of a Condominium Unit Owner which is necessary and appropriate to exercise the powers herein granted. Any repair, reconstruction or replacement of the improvement(s) shall be improved to substantially the same condition in which it existed prior to the damage, destruction or obsolescence, with each Unit and the General and Limited Common Elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected by the Council shall be available for the purpose of repair, restoration or replacement unless the Owners and all holders of recorded first Mortgages agree not to rebuild in accordance with the provisions set forth hereinafter.

Section 6.2 Determination of Loss. In the event of a fire or other casualty causing damage or destruction to the Building, the Council, by the vote of two-thirds (2/3rds) of the votes (weighted in accordance with the Percentage Ownership Interests) represented at a meeting of the Council called to consider such action, shall, within thirty (30) days thereafter, determine whether such loss comprises the whole or more than two-thirds (2/3rds) of the value of the Condominium Units (the whole property excluding the Land). Unless otherwise provided by law, such determination shall be made by determining whether the cost of necessary repair or reconstruction would exceed two-thirds (2/3rds) of the cost of reconstructing the Building as it existed prior to such fire or other casualty. In the event of fire or other casualty damage which does not comprise more than two-thirds (2/3rds) of the value of the Condominium Units (the whole of the property excluding the Land), unless otherwise unanimously agreed to by the Owners, the Building shall be repaired and reconstructed substantially in accordance with the original plans and specifications for the Building, in accordance with the provisions hereof. Except as provided for herein-after, in the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvements, shall be applied by the Council to such reconstruction and the improvements shall promptly be repaired and reconstructed.

In the event that fire or other casualty damage comprises the whole or more than two-thirds (2/3rds) of the Building (above the foundation), unless otherwise unanimously agreed by the Owners, all proceeds of insurance policies carried by the Council and all accrued and collected Common Expense Charges (after deducting any unpaid Common Expense Charges for which such Owner may be liable) shall be delivered to the Owners or their Mortgagees, as their interests may appear, in proportion to the Percentage Ownership Interests of each Owner as set forth in this Declaration and the Condominium Regime established by this Declaration shall terminate. Upon such termination, the Units and Common Elements shall be deemed to be regrouped and merged into a single estate owned in undivided interests by all Owners as tenants-in-common in the Percentage Ownership Interest previously owned by each Owner in the Common Elements. In such case, unless otherwise unanimously agreed upon by all Owners, the Board, as soon as reasonably possible and as agent for all Owners, the Board, as soon as reasonably

144-01-1671

123-01-0409

possible and as agent for all Owners, shall sell the Condominium, in its then condition, free from the effect of this Declaration, on terms satisfactory to the Board and the net proceeds of such sale shall thereupon be distributed to the Owners or their Mortgagees, as their interests may appear, in proportion to the Percentage Ownership Interest previously owned by each Owner in the Common Elements. If the Board fails to consummate a sale pursuant to the preceding sentence within twenty-four (24) months after the destruction or damage occurs, then the Board shall (or if the Board does not, any Owner, or Mortgagee may) record a sworn statement setting forth such facts and reciting that under the provisions of this Declaration the prohibition against judicial partition provided for in Section 10.2 below has terminated and that judicial partition of the property may be obtained pursuant to the laws of the State of Texas.

Section 6.3 Rebuilding. In the event that it is determined that the Building shall be repaired and reconstructed as provided hereinabove, then all proceeds of insurance policies with respect to such fire or casualty, carried by the Council, shall be paid to a bank (selected by the Board), as trustee, insured by the Federal Deposit Insurance Company (or its successors) and located in Montgomery County, Texas, to be held in trust for the benefit of the Owners and their Mortgagees as their respective interests may appear. The Board shall thereupon contract on behalf of all Owners to repair or rebuild the damaged portions of all Units, the Building and Common Elements substantially in accordance with the original plans and specifications therefor and the funds held in the trust by such depository bank shall be used for this purpose and disbursed by the Board in accordance with the terms of the contract for repair and rebuilding.

In the event that insurance proceeds are insufficient to provide for such repair, restoration or rebuilding, the building costs in excess of the insurance proceeds shall be assessed against all of the Owners directly affected by the damage or destruction. A qualified contractor selected by the Council shall determine (i) the total cost of reconstruction of all of the Units damaged by the casualty, and (ii) the cost of reconstructing each separate Unit damaged by the casualty. The cost of reconstructing a separate Unit shall be the numerator of a fraction, the denominator of which shall be the total cost of reconstructing all of the Units. The difference between the available insurance proceeds and the total cost of reconstructing all of the Units shall be multiplied by the fractions representing each of the separate Units damaged by the casualty and the figures thereby obtained shall be the Special Assessment for the separate Units due to such casualty. Such Special Assessments shall not require the consent of the members of the Council notwithstanding the provisions of Section 4.2 hereof. Notwithstanding anything to the contrary contained herein, such Special Assessment shall be due and payable within thirty (30) days after written notice thereof. If any Owner shall fail to pay such Special Assessments when due, the Board may make up the deficiency by payment from the Common Expense Fund, which payment shall in no way release the Owner who has failed to make payment of such Special Assessment from liability therefor. Such Assessments shall be enforceable as provided for other Special Assessments herein. In addition thereto, the Council as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any Owner refusing or failing to pay such Special Assessment within the time provided, and if not so paid, the Council

144-01-1672

123-01-0410

shall cause to be recorded a notice that the Condominium Unit of the delinquent Owner shall be sold by the Council, as attorney-in-fact, pursuant to the provisions of this paragraph. The delinquent Owner shall be required to pay to the Council the costs and expenses for filing the notices, interest at the maximum non-usurious rate per annum permitted by applicable law on the amount of the Special Assessment and all reasonable attorney's fees. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Council, as attorney-in-fact, in the following order:

- (1) For payment of taxes and Special Assessment liens in favor of any governmental entity and customary expenses of sale;
- (2) For payment of the balance of the lien of any first Mortgage if said Mortgage is not assumed;
- (3) For payment of unpaid Common Expenses and all costs, expenses and fees incurred by the Council with respect to the respective Unit;
- (4) For payment of any Mortgage other than a first Mortgage in the order of and to the extent of their priority with respect to the respective Unit; and
- (5) The balance remaining, if any, shall be paid to the Condominium Unit Owner.

The provisions of this Section may be changed only by unanimous resolution of the Owners and all Mortgagees, adopted subsequent to the date on which such fire or casualty loss occurs.

Notwithstanding anything herein contained to the contrary pursuant to the Texas Condominium Act, if at any time more than sixty-six and two-thirds percent (66-2/3%) of the value of the Condominium Units is destroyed, then in that event, regardless of the amount of insurance available for the repair and reconstruction of same, no repairs or reconstruction shall be initiated by the Council unless there is an unanimous vote by all Condominium Owners to repair and reconstruct same.

Section 6.4 Repair of Residence Units. Each Owner shall be responsible for the reconstruction, repair and replacement of all personal property and other property not a Common Element in or a part of his Unit, including, but not limited to, the floor coverings, wall coverings, interior walls, furniture, furnishings, decorative light fixtures and appliances located therein.

Section 6.5 Indemnity of Council. Each Owner shall be responsible for the costs not otherwise covered by insurance carried by the Council caused by his negligence or misuse or by the negligence or misuse of his immediate family, and his agents or employees in the course of their duties, and shall, to the extent not covered by insurance collected by the Council, indemnify the Council and all Owners against any such costs of reconstruction, repair and replacement of any portion of the Building.

Section 6.6 Notice to Mortgagees; Priority. In the event of substantial damage to or destruction of any Unit or

144-01-1673

123-01-0411

on any part of the Common Elements, the institutional holder of any first Mortgage on a Unit shall be entitled to timely written notice of any such damage or destruction and no provision in this Declaration or in any other document establishing this Condominium Regime shall entitle the Owner or any other party to priority over such institutional holder with respect to the distribution to such Unit of any insurance proceeds.

ARTICLE VII

EMINENT DOMAIN

Section 7.1 General Provisions. If all or any part of the Condominium is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the Board and each Owner shall be entitled to participate in proceedings incident thereto at their respective expense. If any Unit or portion thereof or the Common Elements or any portion thereof is made the subject of a condemnation proceeding or is otherwise sought to be acquired by a condemning authority, then the institutional holder of any first Mortgage on a Unit will be entitled to timely written notice of any such proceeding or the proposed acquisition and no provision of this Declaration will entitle the Owner of a Unit or any other party to priority over such institutional holder with respect to the distribution to such Unit of the proceeds of any award of settlement. The expense of participation in such proceedings by the Board shall be borne by the Common Expense Fund. The Board is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the Board, in its discretion, deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Board, acting as trustee, and such damages or awards shall be applied or pass as provided herein.

Section 7.2 Taking of Common Elements. In the event that an action in eminent domain is brought to condemn a portion of the Common Elements (together with or apart from any Unit), the Board, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of such condemnation proceeding. With respect to any taking of Common Elements only, all damages and awards shall be determined for such taking as a whole and not for each Owner's interest therein. After the damages or awards for such taking are determined, such damages or awards shall be paid to each Owner or his Mortgagee or Mortgagees, as their interest may appear, in proportion to his Percentage Ownership Interest in the Common Elements. The Board may, if it deems advisable, call a meeting of the Owners, at which meeting the Owners, by a majority vote, shall decide whether to replace or restore as far as possible the Common Elements so taken or damaged. In the event it is determined that such Common Elements should be replaced or restored by obtaining other land or building additional structures, this Declaration and the plat attached hereto as Exhibit "B" shall be duly amended by instrument executed by the Board of Directors on behalf of the Owners.

Section 7.3 Taking of Units. In the event that such eminent domain proceeding results in the taking of or damage

to one or more, but less than two-thirds (2/3rds) of the total number of Units, then the damages and awards for such taking shall be determined for each Unit and the following shall apply:

(a) The Council shall determine which of the Units damaged by such taking may be made tenantable for the purposes set forth in this Declaration, taking into account the nature of this Condominium and the reduced size of each Unit so damaged.

(b) The Council shall determine whether it is reasonably practicable to operate the remaining Units of the Condominium, including those damaged Units which may be made tenantable, as a condominium in the manner provided in this Declaration.

(c) In the event that the Council determines that it is not reasonably practicable to operate the undamaged Units and the damaged Units which can be made tenantable as a condominium, then the Condominium shall be deemed to be regrouped and merged into a single estate owned jointly in undivided interests by all Owners, as tenants-in-common, in the Percentage Ownership Interests previously owned by each Owner in the Common Elements. In such case, unless otherwise unanimously agreed upon by all Owners, the Board, as soon as reasonably possible and as agent for all Owners, shall sell the Condominium, in its then condition, free from the effect of this Declaration, on terms satisfactory to the Board and the net proceeds of such sale shall thereupon be distributed to the Owners or their Mortgagees, as their interests may appear, in proportion to the Percentage Ownership Interest previously owned by each Owner in the Common Elements. If the Board fails to consummate a sale pursuant to the preceding sentence within twenty-four (24) months after the taking occurs, then the Board shall (or if the Board does not, any Owner or Mortgagee may) record a sworn statement setting forth such facts and reciting that under the provisions of this Declaration the prohibition against judicial partition provided for in Section 10.2 below has terminated and that judicial partition of the property may be obtained pursuant to the laws of the State of Texas.

(d) In the event that the Council determines that it will be reasonably practical to operate the undamaged Units and the undamaged Units which can be made tenantable as a condominium, then the damages and awards made with respect to each Unit which has been determined to be capable of being made tenantable shall be applied to repair and reconstruct such Unit so that it is made tenantable. If the cost of such work exceeds the amount of the award, the additional funds required shall be directly assessed against the Owners of those Units which are being repaired or reconstructed so as to be made tenantable. With respect to those Units which may not be made tenantable, the award made with respect to such Unit shall be paid to the Owner of such Unit or his Mortgagee or Mortgagees, as their interests may appear, and the

144-01-1675

123-01-0413

remaining portion of such Units, if any, shall become a part of the Common Elements and repair and use of such Units shall be determined by the Board. Upon the payment of such award for the account of such Owner as provided herein, such Unit shall no longer be a part of the Condominium and the Percentage Ownership Interests in the Common Elements appurtenant to each remaining Unit which shall continue as part of the Condominium shall be proportionately adjusted to distribute the ownership of the undivided interests in the Common Elements among the reduced number of Owners.

(e) The determination by the Council with respect to the matters set forth in items (a) through (d) above shall be by the vote of two-thirds (2/3rds) of the votes (weighted in accordance with the Percentage Ownership Interest) represented at a meeting of the Council called to consider such action.

If the entire Condominium is taken, or two-thirds or more of the Units are taken or damaged by such taking, all damages and awards shall be paid to the accounts of the Owners and Mortgagee or Mortgagees, as their interests may appear, of the Units, as provided herein, in proportion to their Percentage Ownership Interests in the Common Elements and this Condominium Regime shall terminate upon such payment. Upon such termination, the Units and Common Elements shall be deemed to be regrouped and merged into a single estate owned in undivided interest by all Owners as tenants-in-common in the Percentage Ownership Interest previously owned by each Owner in the Common Elements. In such case, unless otherwise unanimously agreed upon by all Owners, the Board, as soon as reasonably possible and as agent for all Owners, shall sell the Condominium, in its then condition, free from the effect of this Declaration, on terms satisfactory to the Board and the net proceeds of such sale shall thereupon be distributed to the Owners or their Mortgagees, as their interests may appear, in proportion to the Percentage Ownership Interest previously owned by each Owner in the Common Elements. If the Board fails to consummate a sale pursuant to the preceding sentence within twenty-four (24) months after the taking occurs, then the Board shall (or if the Board does not, any Owner or Mortgagee may) record a sworn statement setting forth such facts and reciting that under the provisions of this Declaration the prohibition against judicial partition provided for in Section 10.2 below has terminated and that judicial partition of the property may be obtained pursuant to the laws of the State of Texas.

Section 7.4 Payment of Awards and Damages. Any damages or awards provided in this Article to be paid to or for the account of any Owner by the Board, acting as trustee, shall be applied in the following order:

- (1) To the payment of any taxes or assessments by governmental authorities owing with respect to that Unit;
- (2) To amounts due under any first Mortgage;
- (3) To the payment of any Common Expense Charges or Special Assessments charged to or made against the Unit and unpaid;

- (4) To amounts due under any Mortgage other than a first Mortgage; and
- (5) The balance remaining, if any, to the Owner of such condominium Unit.

ARTICLE VIII

OBSOLESCENCE

Section 8.1 Determination of Obsolescence and Decision to Sell. Owners representing an aggregate Percentage Ownership Interest of one hundred percent (100%) of the Condominium may agree that the Common Elements are obsolete and that the entire Condominium should be sold. In such instance, the Board shall forthwith file and record with the County Clerk of Montgomery County, Texas, a notice setting forth such fact or facts, and upon the filing of such notice, the entire Condominium shall be sold by the Board as attorney-in-fact, for all Owners, free and clear of the provisions contained in this Declaration and upon such sale the Condominium Regime shall be terminated. The net sales proceeds shall be apportioned between the Owners on the basis of each Owner's Percentage Ownership Interest in the Common Elements, such apportioned proceeds shall be paid into separate accounts, each such account representing one Unit. Each such account shall be in the name of the Council, and shall be further identified by the number of the Unit and the name of the Owner. From each separate account, the Board, as attorney-in-fact, shall use and disburse the total amount (of each) of such funds, without contribution from one fund to another and such proceeds shall be disbursed in the following order:

- (1) To the payment of any taxes or assessments by governmental authorities owing with respect to that Unit;
- (2) To amounts due under any first Mortgage;
- (3) To the payment of any Common Expense Charges or Special Assessments charged to or made against the Unit and unpaid;
- (4) To any amount due under a Mortgage other than a first Mortgage; and
- (5) The balance remaining, if any, to the Owner of the Condominium Unit.

ARTICLE IX

AMENDMENT OF DECLARATION, BY-LAWS
AND RULES AND REGULATIONS

Section 9.1 Revocation or Amendment to Declaration. This Declaration shall not be revoked unless all of the Owners and all of the holders of a recorded first Mortgage covering or affecting any or all of the Condominium Units unanimously consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless the Owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the General Common Elements shall have given their prior written approval.

144-01-1677

123-01-0415

Unless all of the first Mortgagees and at least seventy-five percent (75%) of the Owners (other than the sponsor, developer, or builder) of the individual Condominium Units have given their prior written approval, the Council shall not be entitled to:

(a) by act or omission, seek to abandon or terminate the Condominium Project, except for abandonment provided by statute in case of substantial loss to the Units and Common Elements;

(b) change the prorata interest or obligations of any individual Condominium Unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (ii) determining the pro rata share of ownership of each Condominium Unit in the Common Elements;

(c) partition or subdivide any Condominium Unit;

(d) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements by the Condominium Project shall not be deemed a transfer within the meaning of this clause);

(e) use hazard insurance proceeds for losses to any Condominium property (whether to Units or to Common Elements) for other than the repair, replacement or reconstruction of such Condominium property, except as provided by statute in case of substantial loss to the Units and/or Common Elements of the Condominium Project; and

(f) effectuate any decision to terminate professional management and assume self-management of the Condominium Project.

Notwithstanding the foregoing and in addition to Section 10.5 herein, during the development and sale period, as defined in Section 3.2 hereof, Declarant may, prior to the first meeting of the members of the Council and without the consent of any Owner, amend this Declaration, Map, By-Laws, and the other Exhibits attached hereto provided that such amendment does not contravene subsections (a) through (f) hereinabove.

Section 9.2 Amendment of By-Laws. The By-Laws of the Council, adopted pursuant to the provisions of this Declaration, may be amended from time to time by the affirmative vote of an aggregate number of members having at least fifty percent (50%) of the votes of all Units, weighted in accordance with their Percentage Ownership Interest and entitled to act on such matters at a meeting of the Council as provided herein.

Section 9.3 Amendments of Rules and Regulations. The Rules and Regulations, originally promulgated by Declarant may be amended from time to time by the Board, as set forth in the By-Laws. The Rules and Regulations are of equal

144-01-1678

123-01-0416

dignity with, and shall be enforceable in the same manner as, the provisions of this Declaration, but in the event of a conflict, this Declaration shall control. Each Owner, by accepting conveyance of a Unit, agrees to comply with and abide by the Rules and Regulations as the same may be amended from time to time.

ARTICLE X

MISCELLANEOUS

Section 10.1 Estoppel Certificate. Any Mortgagee and any prospective purchaser of a Unit shall be entitled, upon written request therefor, to a statement from the Board setting forth the amount of any unpaid Common Expense Charges or Special Assessments not paid by the Owner of a Unit in which such prospective purchaser or Mortgagee has an interest. Any prospective purchaser shall not be liable for nor shall the Unit conveyed be subject to the lien provided for in this Declaration of Condominium for any unpaid Common Expense Charges or Special Assessments made by the Board against the particular Unit involved in excess of the amount set forth in such statement. Any such purchaser shall, however, be liable for any Special Assessments or Common Expense Charges becoming due after the date of any such statement.

Section 10.2 No Partition. The Common Elements shall remain undivided and shall not be subject to an action for partition or division of the co-ownership thereof so long as the Condominium is maintained as a Condominium Regime, in accordance with the provisions hereof, and, in any event, all Mortgages secured by an interest in the Common Elements must be paid in full prior to bringing any action for partition or the consent of all holders of such Mortgages must be obtained; provided, however, that if any Unit shall be owned by two (2) or more Owners as tenants-in-common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition of such Unit as between such co-tenants.

Section 10.3 Alteration of Boundaries. At any time prior to election of the first Board, the Declarant shall have the right, at its sole cost and expense, without the consent of other Owners to (i) make alterations, additions or improvements in, to and upon Units owned by the Declarant (hereinafter called "Declarant-Owned Units"), whether structural or non-structural, interior or exterior, ordinary or extraordinary; (ii) change the layout or number of rooms in any Declarant-Owned Unit; (iii) change the size and/or number of Declarant-Owned Units (including those resulting from such subdivision or otherwise) into one or more Units, combining separate Declarant-Owned Units (including those resulting from such subdivision or otherwise) into one or more Units, altering the boundary walls between any Declarant-Owned Units, or otherwise; and (iv) reapportion among the Declarant-Owned Units affected by such change in size or number pursuant to the preceding clause (iii) their appurtenant interest in the Common Elements; provided, however, that the Percentage Ownership Interest in the Common Elements of any Unit (other than Declarant-Owned Units) shall not be changed by reason thereof unless the Owners and Mortgagees, if any, of such Units shall consent thereto and, provided further, that in no event shall any such alterations, additions or improvements diminish the structural integrity of the Building and the Declarant shall comply with all laws

144-01-1679

123-01-0417

applicable thereto and shall agree to hold all other Owners harmless from any liability arising therefrom. The provisions of this Section may not be added to, amended or deleted without the prior written consent of the Declarant. Subject to the provisions of Section 10.4 below, the Declarant shall also have the authority, at its sole option, cost and expense, to make improvements to the Common Elements without the prior consent of the Board, other Owners or the representative or representatives of holders of any Mortgage. No Owner shall ever be assessed for any such changes or improvements done by the Declarant pursuant to this provision. In the event of any such alteration, combination or improvement, the Declarant, at its sole cost and expense, shall file any amendment to this Declaration necessary to reflect such change or improvement.

Section 10.4 Additions, Alterations and Improvements to the Common Elements. There shall be no additions, alterations or improvements of or to the Common Elements requiring an expenditure in excess of Ten Thousand and No/100 Dollars (\$10,000.00) in any one (1) calendar year without the prior approval of Owners representing an aggregate ownership interest of more than sixty-six and two-thirds percent (66-2/3%) of the General Common Elements.

The limitations set forth herein shall not be applicable to the replacement, repair and maintenance of any Common Element or common property. The Council shall have the right to maintain existing improvements regardless of any present or future encroachments of any Common Element upon another Unit.

Section 10.5 Correction of Errors. Notwithstanding anything to the contrary contained herein, Declarant reserves, and shall have the continuing right until the election of the first Board, without the consent of other Owners or the representatives of any Mortgagee, to amend this Declaration or the By-Laws for the purpose of (i) clarifying or resolving any ambiguities or conflicts herein, (ii) correcting any inadvertent misstatements, errors or omissions herein, and/or (iii) amending this Declaration to set forth the underground parking and storage area assignments as referred to in Section 2.3 herein; provided that no such amendment shall change the stated numbers of Units nor the Percentage Ownership Interest in the Common Elements attributable thereto.

Section 10.6 Enforcement. The Board or any Owner shall have the right to enforce, by any proceedings at law or in equity, all terms and provisions hereof. Failure by the Board or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed to be a waiver of the right to enforce such covenant or restriction thereafter.

Section 10.7 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

Section 10.8 Exhibits. The Exhibits attached hereto are hereby incorporated by reference in this Declaration for all purposes, as if set out verbatim herein.

Section 10.9 Mortgagee Matters. Any Mortgagee, upon reasonable notice, shall be entitled to examine the books and records of the Council. Further, each Mortgagee shall be entitled, with respect to any Unit as to which it has a Mortgage, to written notification from the Council of any default in the performance by an Owner of any obligation under this Declaration, the Articles of Incorporation of the Council, or the By-Laws, and the Council shall furnish such notice to such Mortgagee concurrently with the furnishing thereof to any such defaulting Owner, provided the Council has been requested in writing by such Mortgagee to do so and has been furnished the name and mailing address of such Mortgagee. The Council shall also furnish each such Mortgagee copies of any reports, audits or similar financial information prepared by or on behalf of the Council and furnished to the Owners.

Section 10.10 Limitation on Contract Term. Any contract made by the Council for professional management, or providing for management services whether by the Declarant or otherwise, shall have a maximum term of no more than two (2) years, renewable by agreement of the parties for successive one (1) year periods.

Section 10.11 Easements. Prior to the election of the first Board, the Declarant shall have the right to grant to utility companies and other similar entities, such easements, rights-of-way, and other rights as may be reasonably necessary to service the Condominium and establish, operate or maintain the same as a viable condominium project, without the consent or joinder of other Owners or the representatives of any Mortgagee.

Section 10.12 Declarant's Right to Lease or Rent Units. Declarant shall have the right to rent or lease Units owned by Declarant to such parties and upon such terms and conditions as Declarant may elect, or to submit Units owned by the Declarant to a rental program for the Condominium, subject, however, to the restrictions imposed by Section 2.8 herein. All tenants, lessees or other occupants shall have access to the Condominium and the Common Elements in the same manner as Owners, and shall be bound hereby and by the By-Laws and by the Rules and Regulations.

Section 10.13 Covenant Running with Land. Subject to change pursuant to Section 9.1 hereof, the terms and provisions hereof shall be deemed to be covenants running with the Land and shall be binding upon the Declarant, all Owners, Mortgagees and their respective heirs, legal representatives, successors and assigns.

Section 10.14 Resolution of Disputes. In addition to the Board's other powers conferred by law or hereunder, the Board shall be empowered to create reasonable procedures for resolving disputes between Owners and other Owners, the Board, or the Council, including appointment of committees to consider and recommend resolutions of any such disputes.

ARTICLE XI

MORTGAGEE JOINDER

Section 11.1 Mortgagee Joinder. Western Bank, as the current owner and holder of a lien against the Land, does hereby consent to this Declaration and all of the terms and

144-01-1681

123-01-0419

provisions contained herein and confirms that it is the present owner and holder of said lien and that said lien or any part thereof has not been heretofore assigned. The consent of Western Bank contained herein shall not operate in any way as a release of said lien.

IN WITNESS WHEREOF, Declarant has executed this instrument this 9th day of March, 1981

THE POINT AT WALDEN, INC.

By: *J. Conrad Wilg*
Its: _____

WESTERN BANK

By: *James R. Jones*
Its: Senior Vice President

144-01-1682

123-01-0420

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared S. Conrad Well Jr., President of THE POINT AT WALDEN, INC., a Texas corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said corporation and in the capacity therein stated.

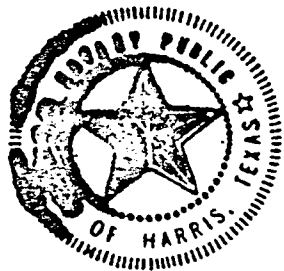
GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 19th day of March, 1981.

Karen Lowther
Notary Public in and for
Harris County, T E X A S
KAREN LOWTHER
Notary Public, State of Texas
My Commission Expires 8-1-85

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Gainer B. Jones Jr., Sr. Vice President of WESTERN BANK, a state banking association, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said association and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 23rd day of March; 1981.



KATHY PEYTON

Kathy Peyton
Notary Public in and for
Harris County, T E X A S
My Commission Expires 5/18/85.

144-01-1683

123-01-0421

Exhibit "A"
Page 1.

C.T.B. AND ASSOCIATES
Surveyors, Planners and Consultants
3207 W. Davis #15
Conroe, Texas 77301
(713) 539-5444

METES AND BOUNDS

BEING 2.6779 acres of land out of and a part of the Thomas Corner Survey, A-10, Montgomery County, Texas, and being more particularly described as follows:

COMMENCING at a found $\frac{1}{2}$ " iron rod for the most Northerly corner of Walden on Lake Conroe, Section Seven B, as recorded in Cabinet C, Sheet 94 of Montgomery County Map Records;

THENCE S $42^{\circ} 01' 32''$ E for a distance of 41.40 feet to a set $\frac{1}{2}$ " iron rod for the POINT OF BEGINNING of the hereafter described tract;

THENCE S $42^{\circ} 01' 32''$ E for a distance of 270.48 feet to an "X" in concrete for corner;

THENCE S $40^{\circ} 50' 48''$ W for a distance of 267.56 feet to a set $\frac{1}{2}$ " iron rod for corner and Point of Curvature;

THENCE following a curve to the right for an arc distance of 134.16 feet, a delta of $32^{\circ} 20' 16''$, a radius of 238.50 feet to a set $\frac{1}{2}$ " iron rod for corner;

THENCE following the below listed bearings and distances to set $\frac{1}{2}$ " iron rods for corners;

1. N $34^{\circ} 39' 54''$ W 28.97 feet;
2. S $71^{\circ} 45' 26''$ W 9.45 feet;
3. S $76^{\circ} 32' 31''$ W 28.02 feet;
4. S $81^{\circ} 24' 10''$ W 39.97 feet;
5. S $71^{\circ} 01' 14''$ W 17.97 feet;
6. S $61^{\circ} 27' 46''$ W 16.46 feet;
7. N $49^{\circ} 50' 09''$ W 12.91 feet;
8. N $23^{\circ} 49' 17''$ W 10.06 feet;
9. N $06^{\circ} 26' 05''$ W 27.13 feet;
10. N $04^{\circ} 38' 56''$ E 170.63 feet;

RECORDERS MEMORANDUM
At the time of recording, this instrument was found to be inadequate for the best photographic reproduction because of illegibility caused by faded, additional and changed were present at the time the instrument was filed and recorded.

144-01-1684

123-01-0422

Exhibit "A"
Page 2

C.T.B. AND ASSOCIATES
Surveyors, Planners and Consultants
3207 W. Davis #15
Conroe, Texas 77301
(713) 539-5444

METES AND BOUNDS cont.

11. N 67° 32' 42" E 6.85 feet;
12. N 11° 44' 34" E 10.27 feet;
13. N 37° 30' 53" W 8.25 feet;
14. N 19° 21' 23" E 15.68 feet;
15. N 30° 36' 27" E 32.20 feet;
16. N 40° 09' 23" E 16.42 feet;
17. N 43° 06' 50" E 104.25 feet;

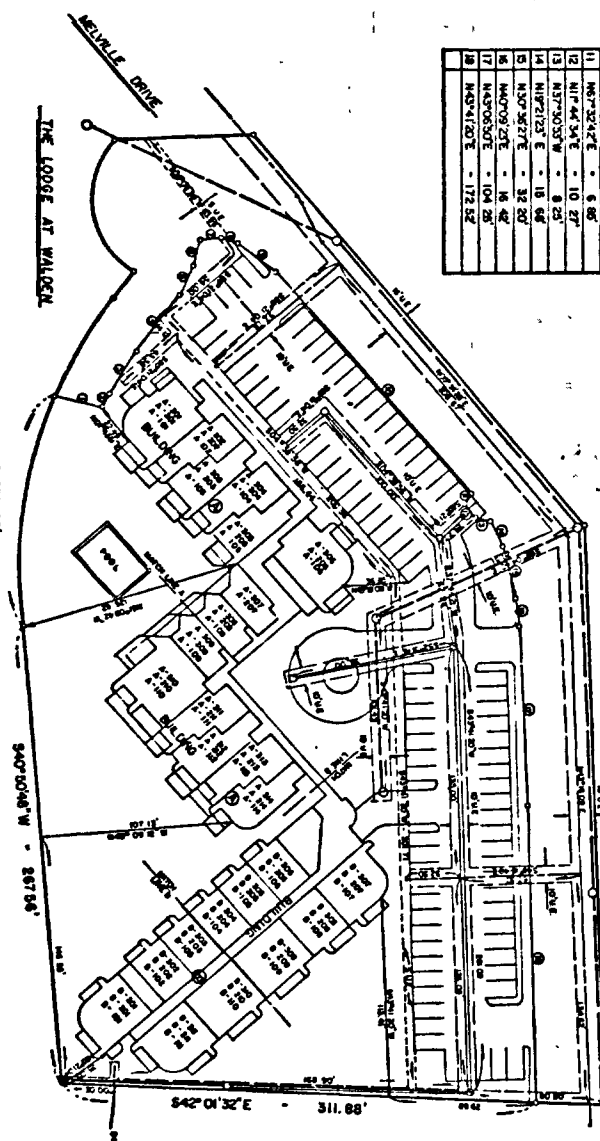
THENCE N 43° 41' 20" E for a distance of 172.52 feet to the
POINT OF BEGINNING and containing 2.6779 acres of land
more or less.

144-01-1685

123-C1-0423

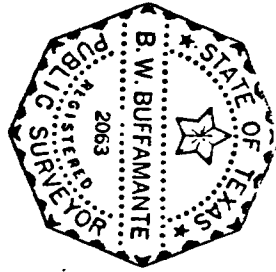
Cabinet 1 8211521
Sheet 56-A

1	N35°39'54"W - 82.97'
2	S77°45'36"W - 9.45'
3	S76°32'31"W - 28.02'
4	S81°24'07"W - 39.97'
5	S71°01'14"W - 17.97'
6	S81°37'46"W - 16.44'
7	N49°50'09"W - 12.91'
8	N03°47'17"W - 10.04'
9	N05°38'03"W - 27.11'
10	N04°38'58"E - 170.53'
11	N05°32'42"E - 6.89'
12	N17°44'54"E - 10.27'
13	N37°50'57"W - 9.23'
14	N18°21'23"E - 18.64'
15	N30°36'27"E - 32.20'
16	N40°09'32"E - 16.42'
17	N43°08'02"E - 104.26'
18	N43°41'02"E - 172.52'



WALDEN ON LAKE CONROE
 AT
 "THE POINT AT WALDEN"
 A CONDOMINIUM PROJECT IN
 RESERVE 'A', SECTION 7B, WALDEN ON
 LAKE CONROE, OUT OF THE THOMAS
 CORNER SURVEY, A-10, MONTGOMERY
 COUNTY, TEXAS

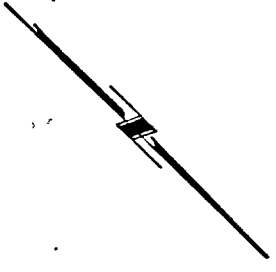
CTB & ASSOCIATES, INC.
 REGISTERED PROFESSIONAL ENGINEERS
 20063
 PUBLIC SURVEY



B.W. Buffamante
 Registered Professional Engineer
 No. 20663, State of Texas

NOTES:
 1. ALL DIMENSIONS ON THIS PROPERTY ARE FROM THE EXISTING LOTS, UNLESS OTHERWISE NOTED.
 2. ALL BUILDING, FLOOR AND ROOMS, UNIT DIMENSIONS ARE TO BE TAKEN FROM PLANS PREPARED BY ARCHITECT AND SHALL BE IN ACCORDANCE WITH THE LATEST EDITION OF THE INTERNATIONAL BUILDING CODE AND ALL APPLICABLE LOCAL ORDINANCES.
 3. B.W. BUFFAMANTE, REGISTERED PROFESSIONAL ENGINEER, HAS REVIEWED THE LOTS, THE UNIT LAYOUTS, THE RESOLUTION BY LETTER.

THE YACHT CLUB AT
 WALDEN



ACREAGE

8-238 90'
 4-32 20' 16"
 1-134 61'

340°10'48"W - 287.96'

LAKE CONROE

342°01'32"E - 311.88'

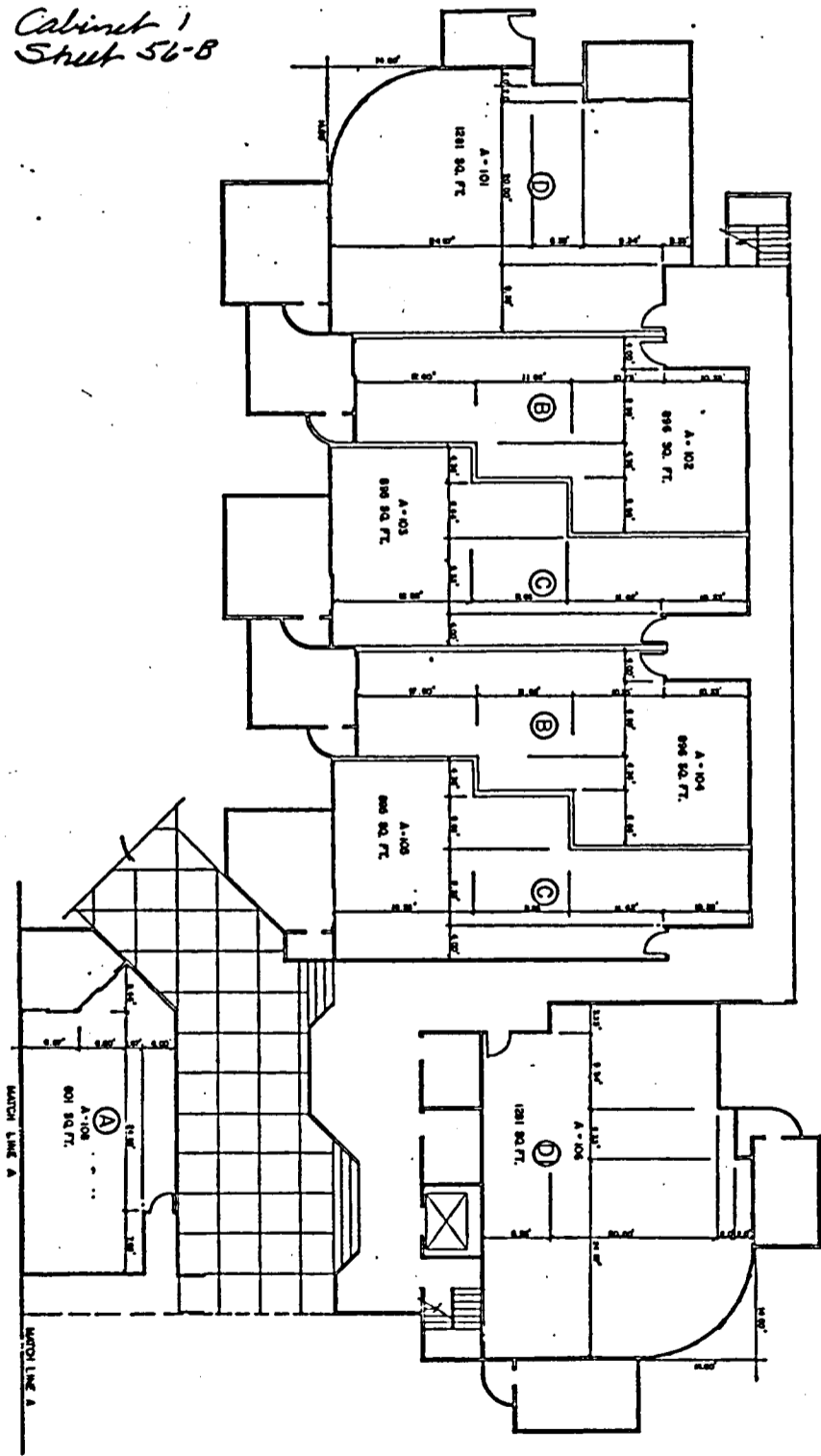
144-01-1686

123-01-0424

*Cabinet 1
Sheet 56-B*

EXHIBIT "B"

FIRST FLOOR-BUILDING "A"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE



SHEET 2 OF 15

144-01-1687

123-01-0425

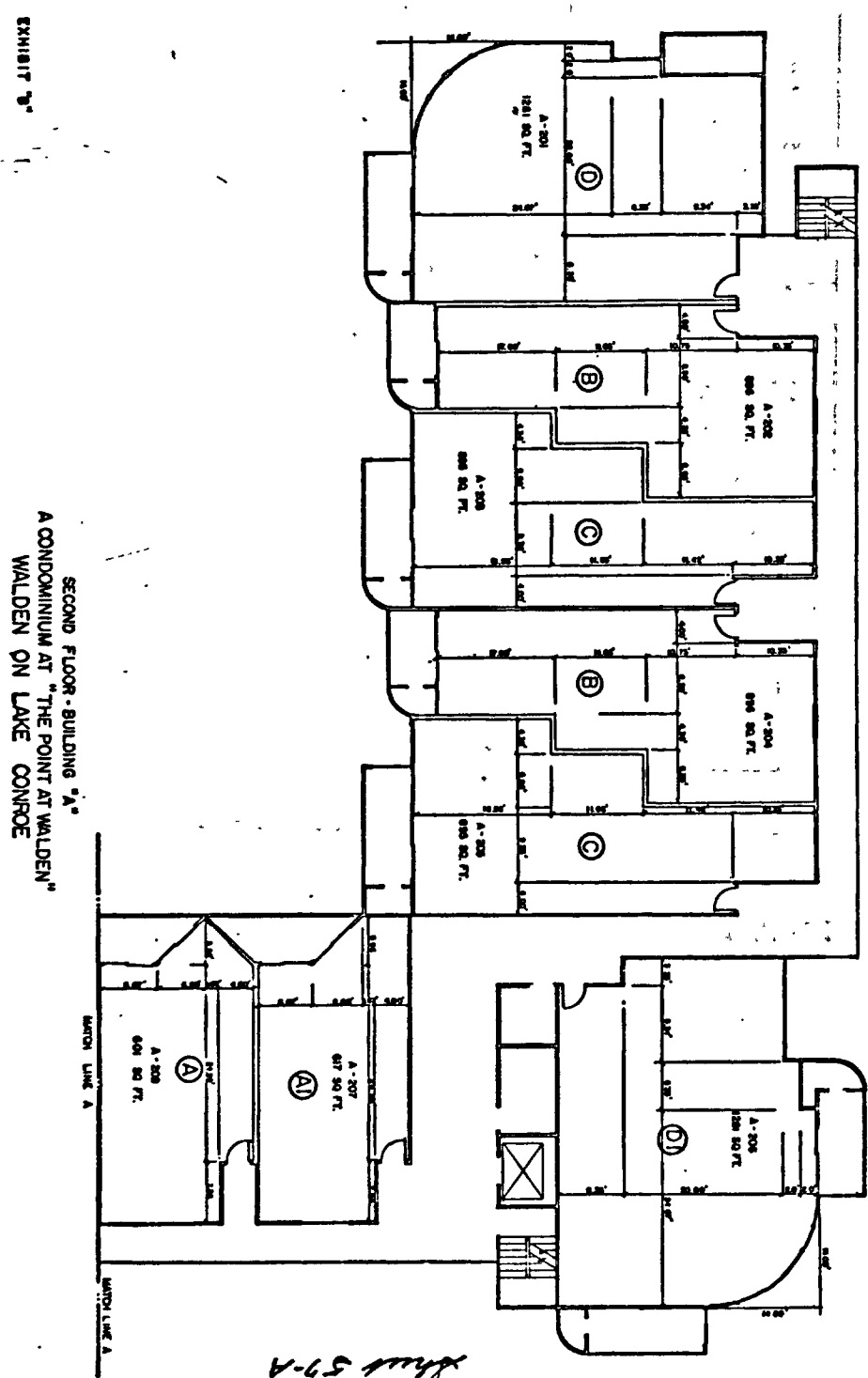
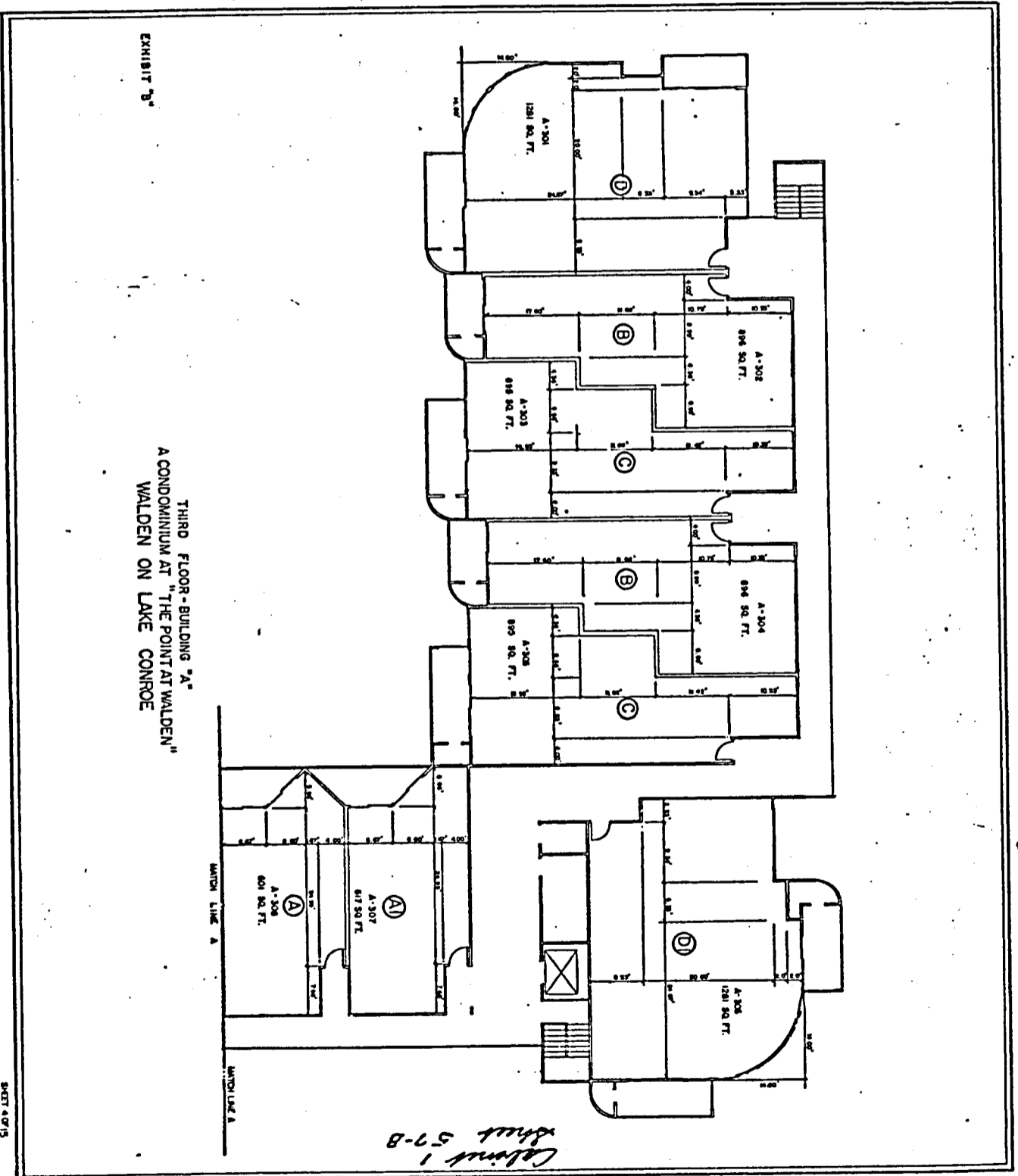


EXHIBIT "B"
SECOND FLOOR - BUILDING "A"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE

144-01-1688

123-01-0426



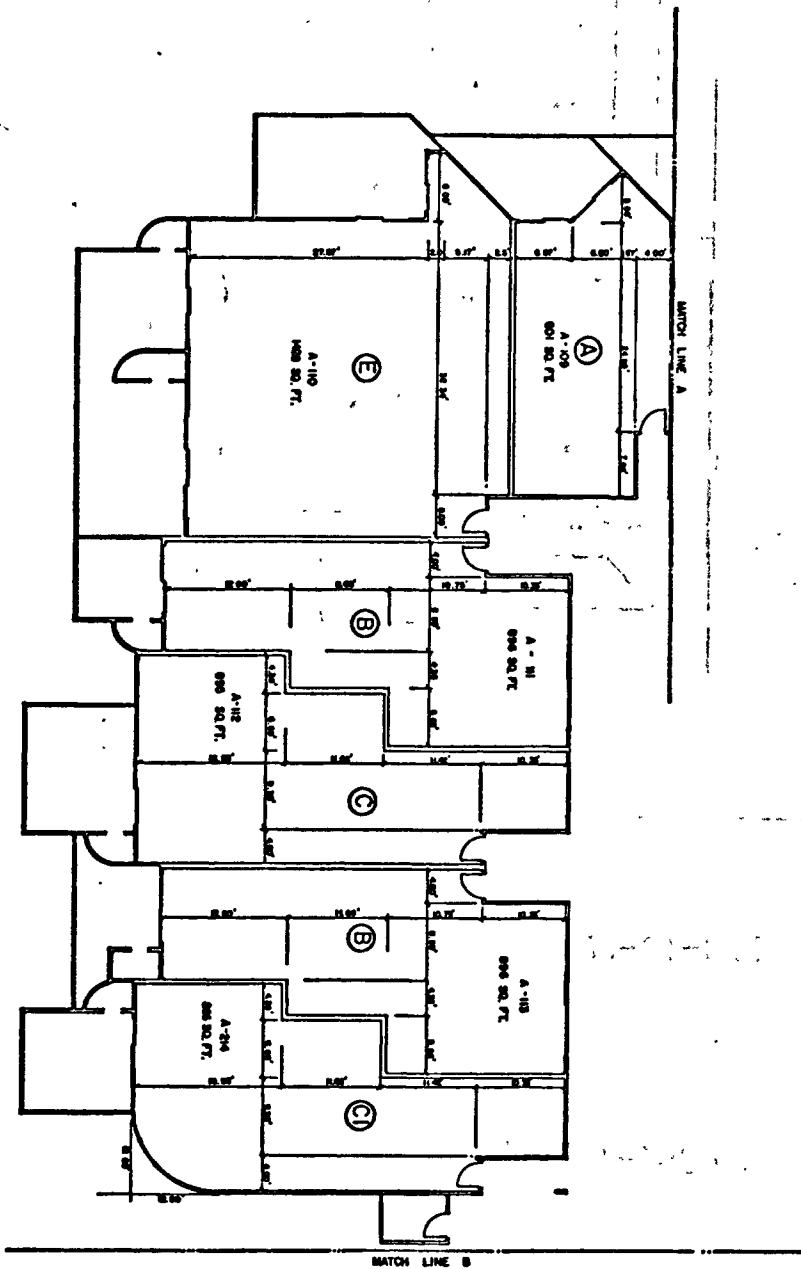
144-01-1689

123-01-0427

*Cabinet 1
Sheet 58-A*

EXHIBIT "B"

FIRST FLOOR-BUILDING "A"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE



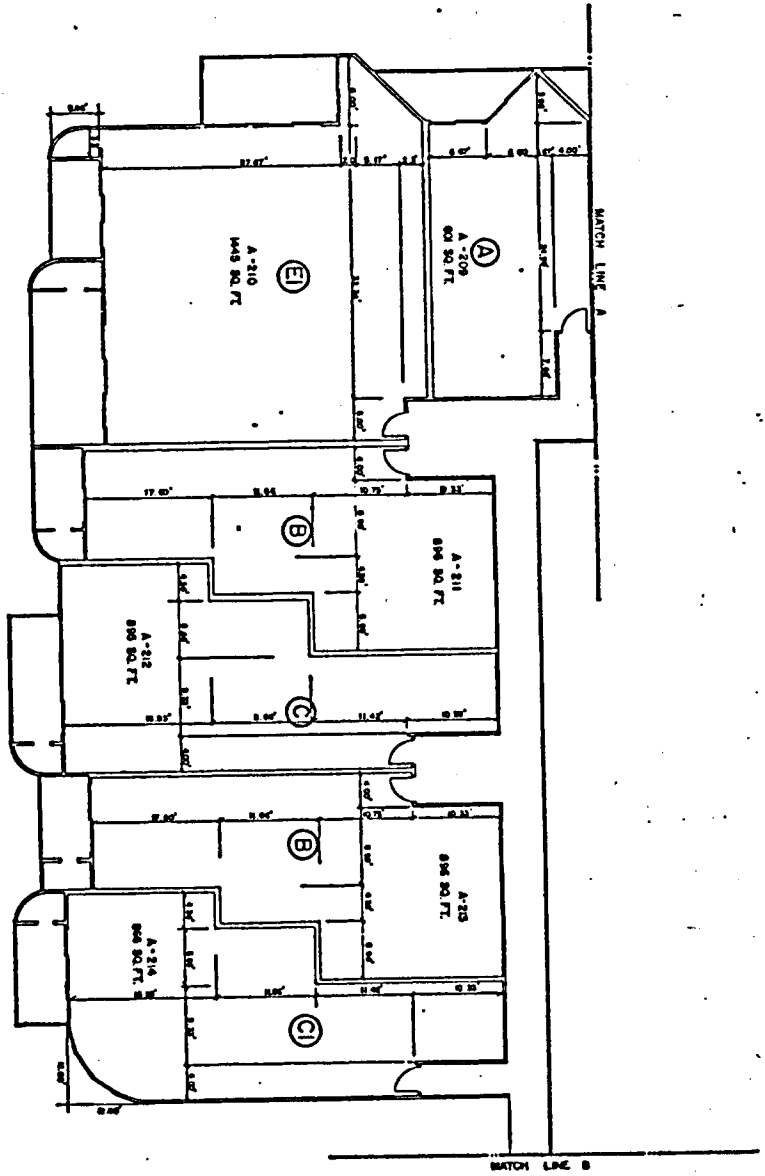
144-01-1630

123-01-0428

*Cabinet 1
Sheet 58-B*

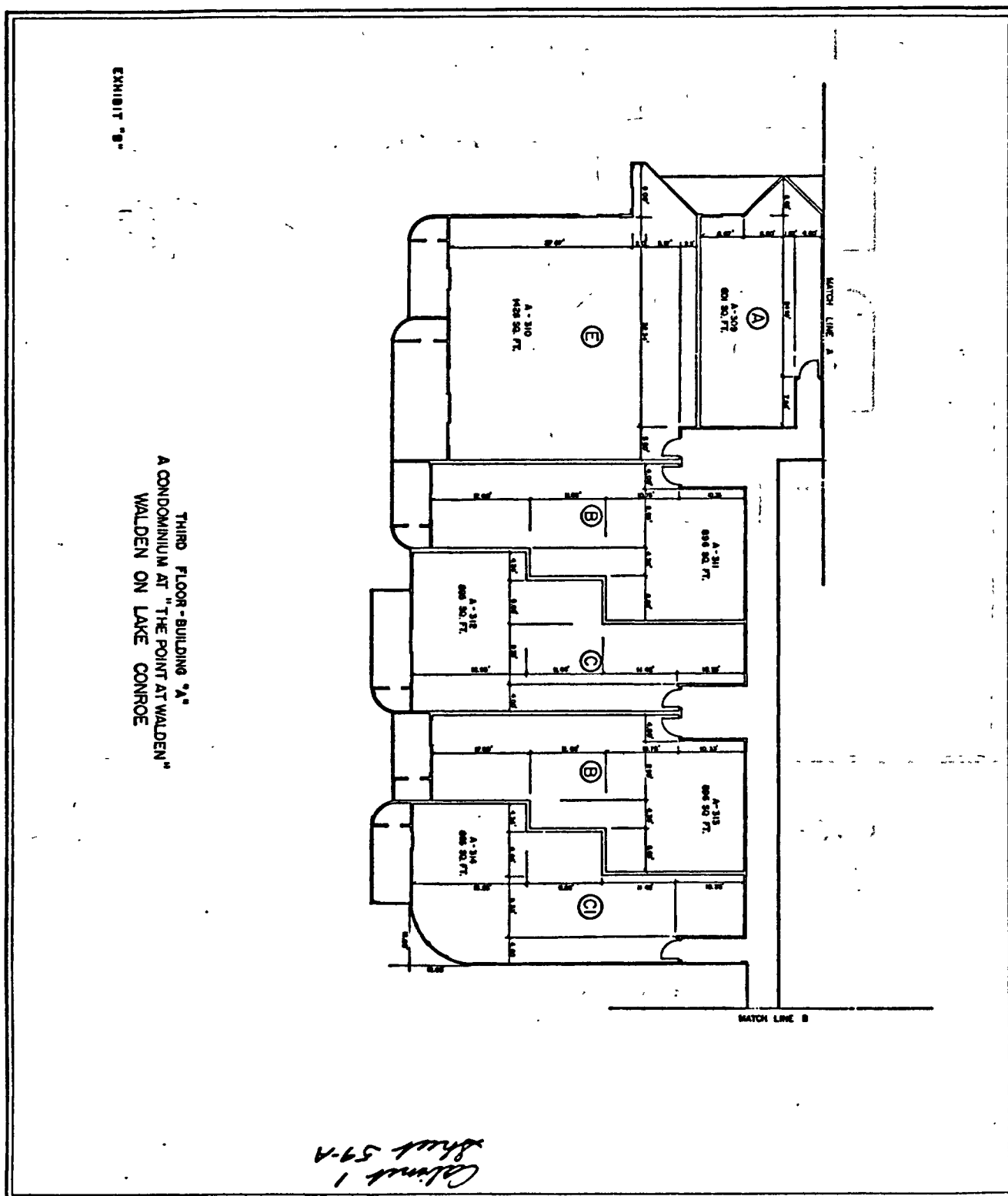
EXHIBIT "B"

SECOND FLOOR - BUILDING "A"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE



144-01-1691

123-01-0429



*Column 1
Sheet 59-A*

144-01-1692

123-01-0430

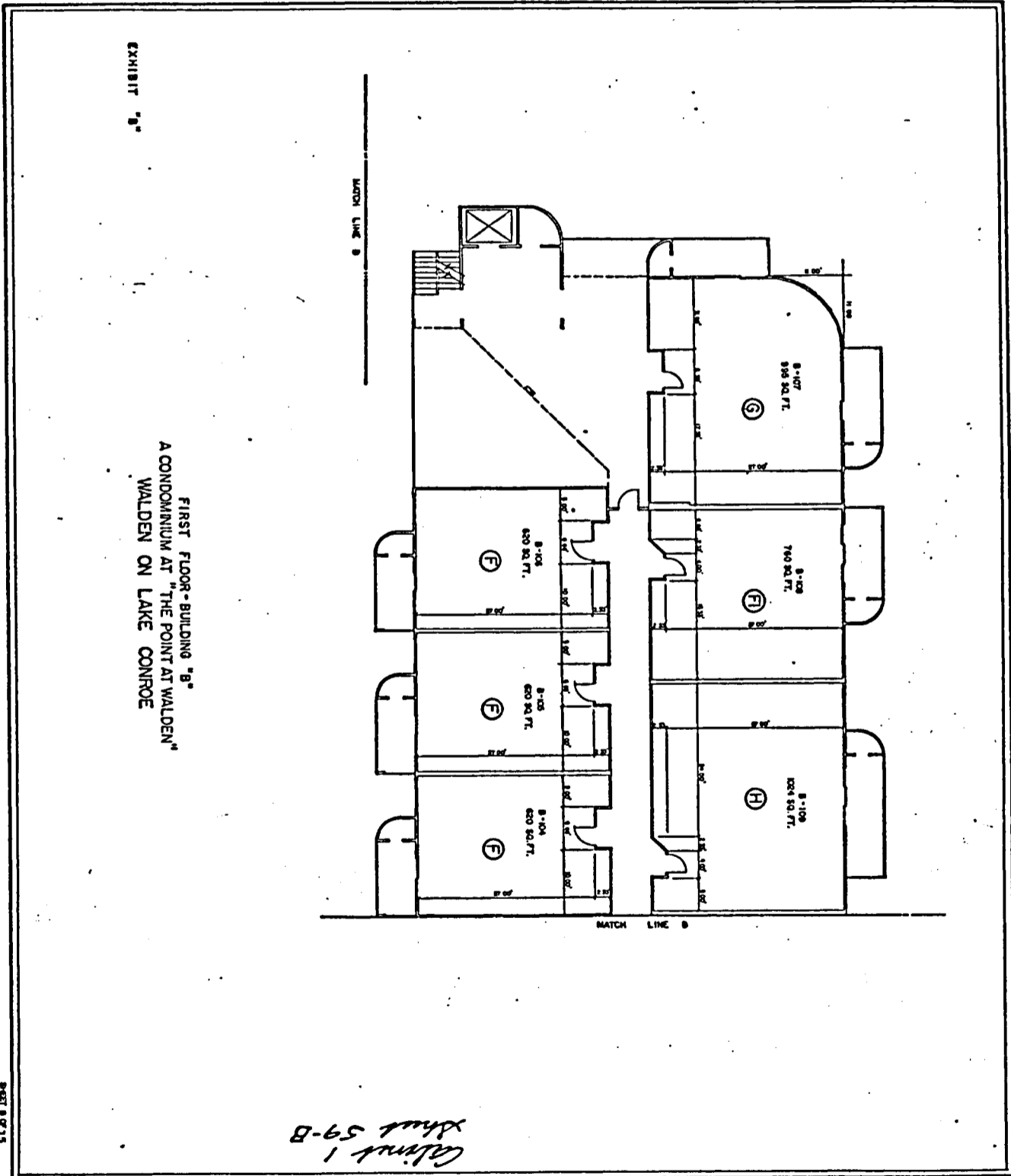


EXHIBIT "B"

FIRST FLOOR - BUILDING "B"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE

MATCH LINE A

MATCH LINE B

Cabinet 1 shall 59-B

SHEET 8 OF 15

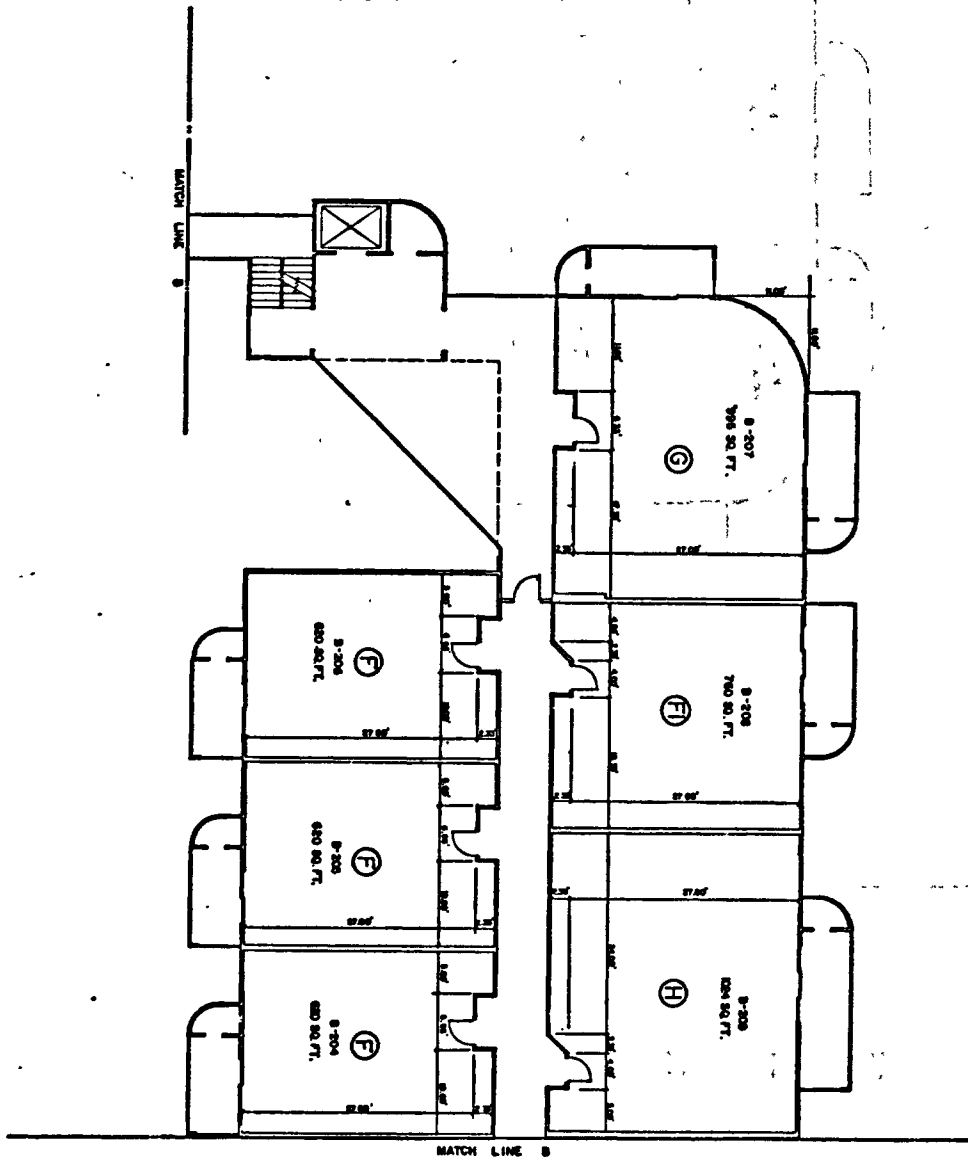
144-01-1693

123-01-C431

*Cabinet 1
Sheet 60-A*

EXHIBIT "g"

SECOND FLOOR - BUILDING "g"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE



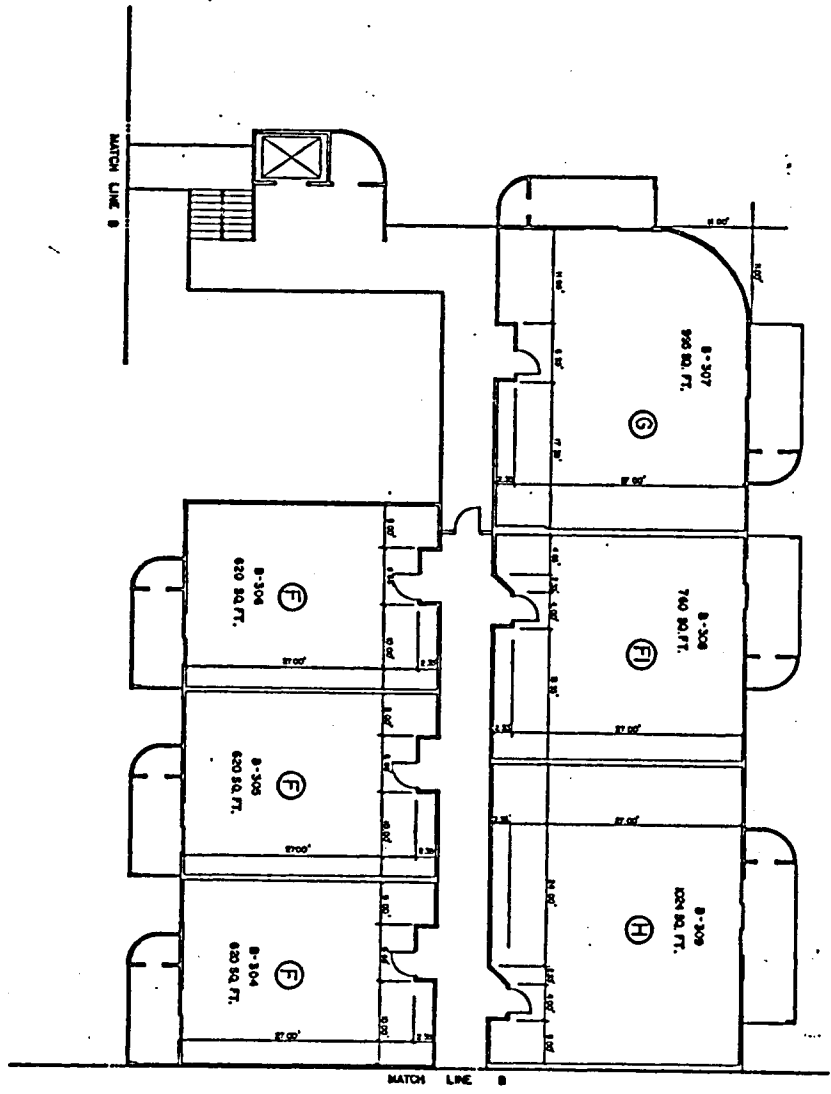
144-01-1694

123-01-0432

*Cabinet 1
Sheet 60-B*

EXHIBIT "B"

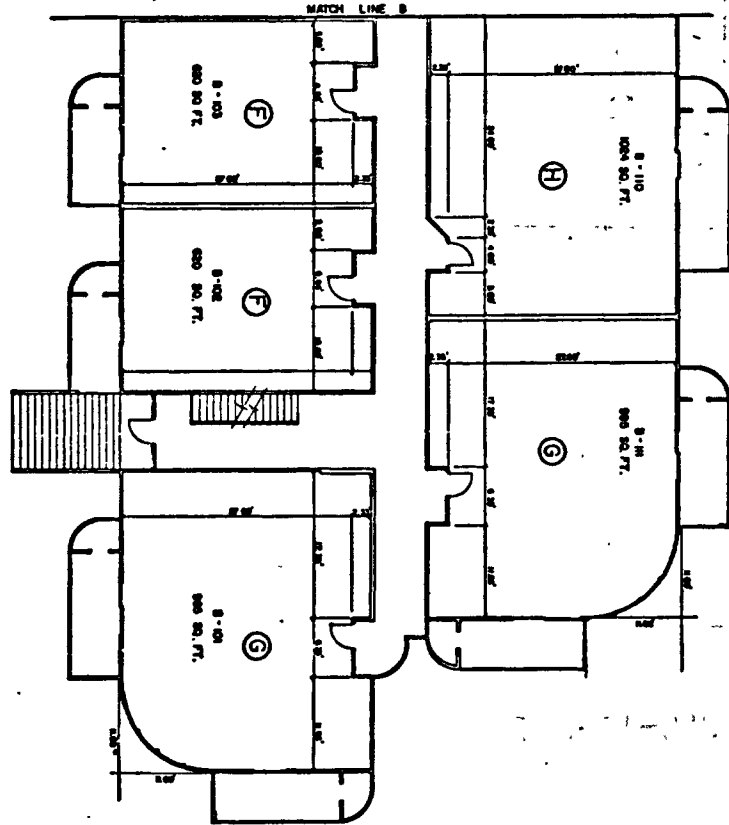
THIRD FLOOR-BUILDING "B"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE



144-01-1695

123-01-0433

EXHIBIT "B"



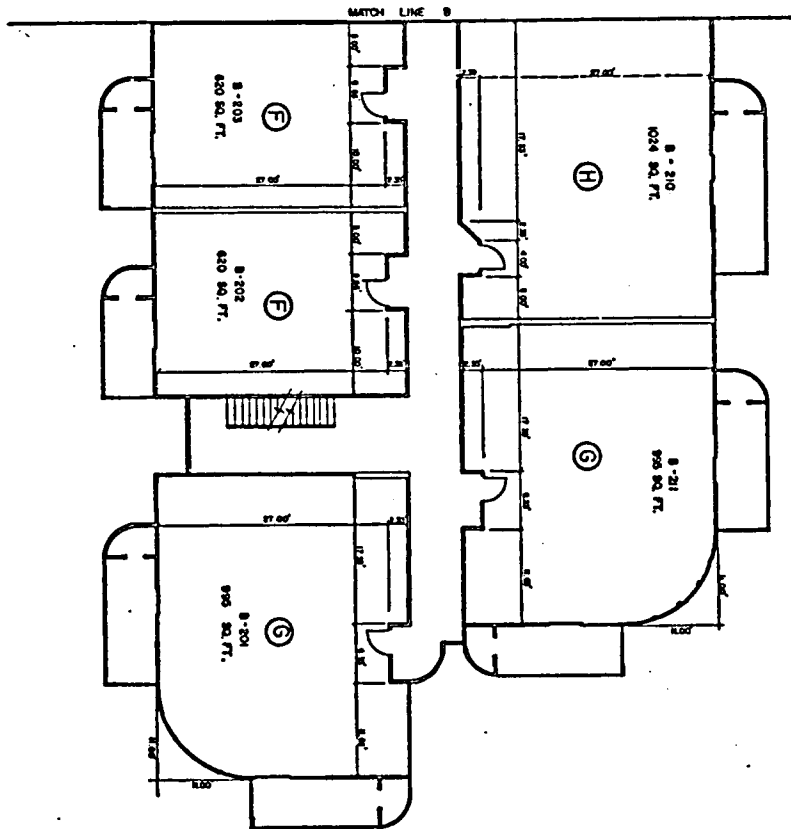
FIRST FLOOR-BUILDING "B"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE

Calend 1
Sheet 67-A

144-01-1696

123-01-0434

EXHIBIT "B"



SECOND FLOOR-BUILDING "B"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE

Sheet 21-B

WALDEN

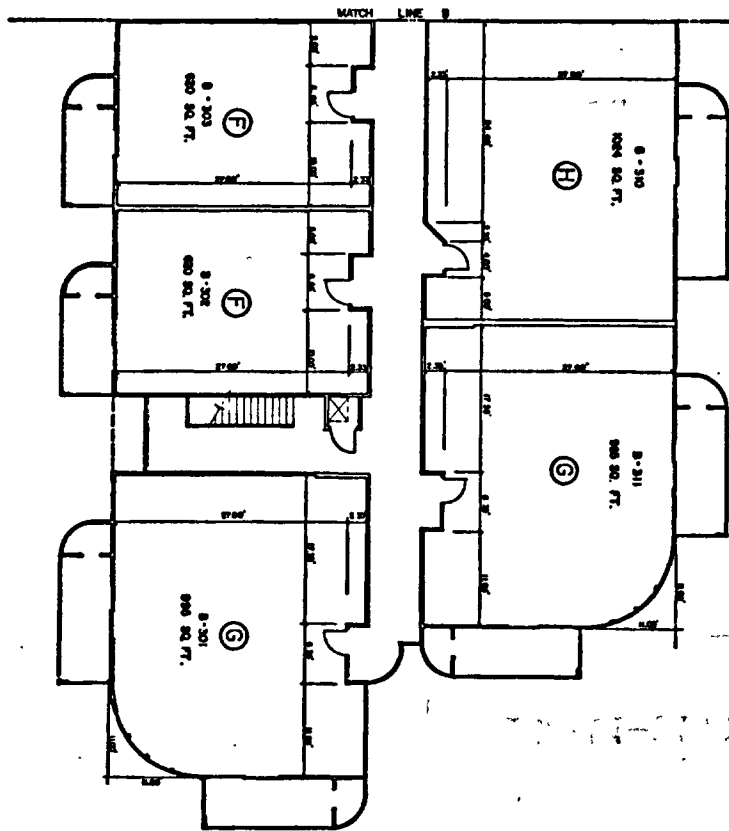
144-01-1697

123-01-0435

*Cabinet 1
Sheet 62-A*

EXHIBIT "B"

THIRD FLOOR - BUILDING "B"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE



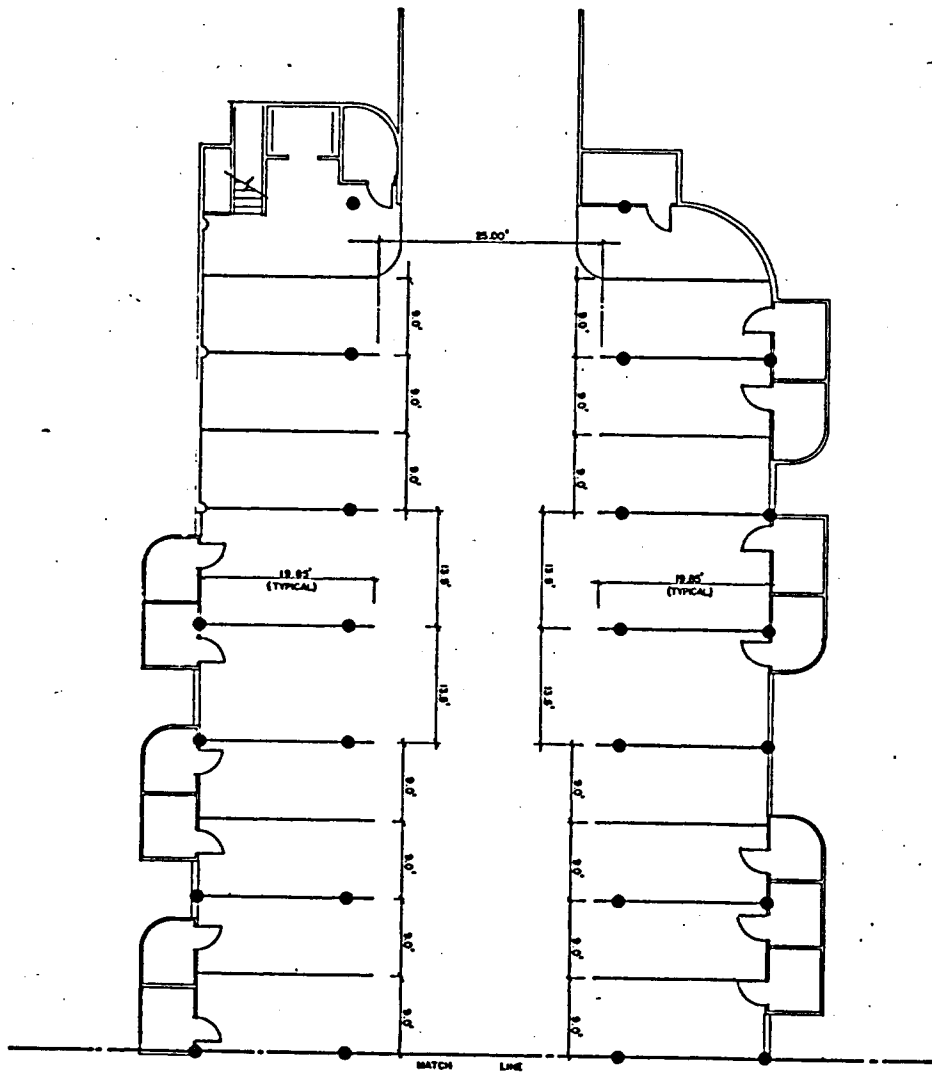
144-01-1698

123-01-0436

*Cabinet 1 -
Sheet 62-B*

Sheet 62-B

UNDERGROUND PARKING GARAGE - BUILDING "B"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE

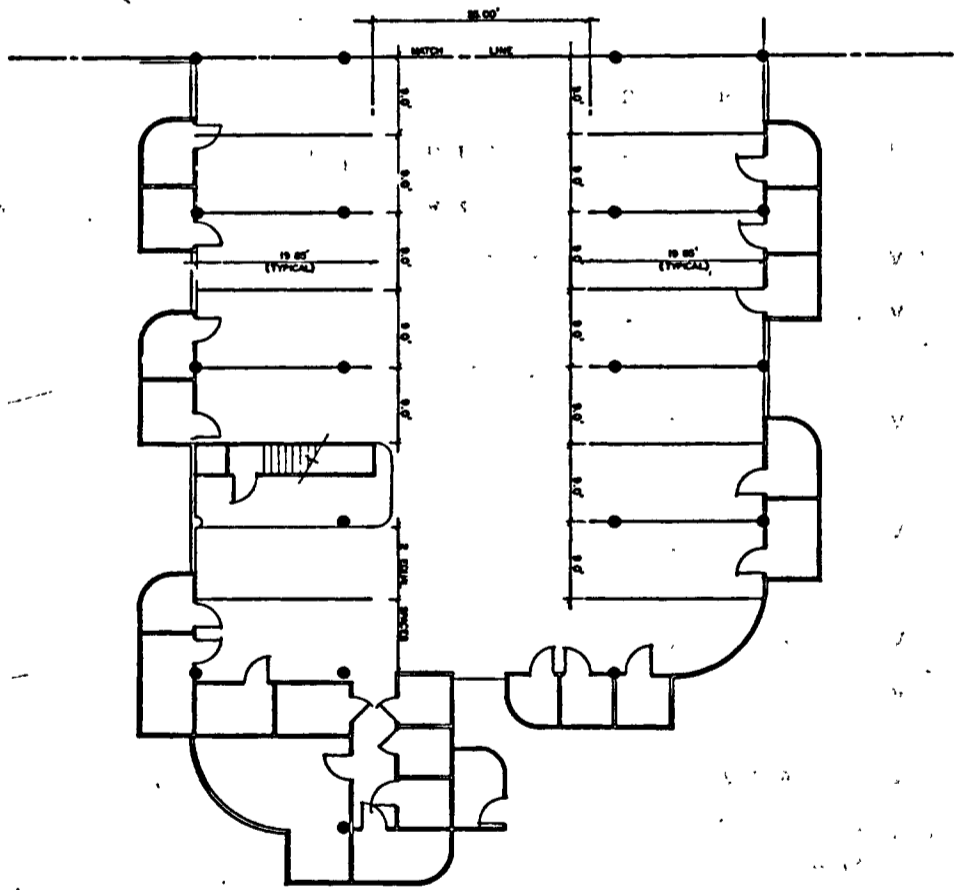


NOTE: AT THE TIME OF RECORDING OF THE ORIGINAL RECORDATION, THE UNDERGROUND GARAGE, AND THE STORABLE AREA, WAS CONSIDERED BY THE COUNTY AND SHALL BE ASSUMED BY THE RECORDOR AS BEING PART OF THE SALE OF EACH UNIT. THE COUNTY SHALL BE HELD HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, THAT MAY BE INCURRED BY ANY PARTY AS A RESULT OF THIS RECORDATION.

144-01-1699

123-01-0437

Sheet 3



UNDERGROUND PARKING GARAGE - BUILDING "B"
A CONDOMINIUM AT "THE POINT AT WALDEN"
WALDEN ON LAKE CONROE

NOTED: AT THE TIME OF RECORDING OF THE ORIGINAL DECLARATION, THE UNDERGROUND PARKING AND THE STORAGE AREAS WERE NOT DEVELOPED BY DECLARANT, BUT WILL BE DEVELOPED BY A THIRD PARTY AND THE RECORDING OF THIS DECLARATION SHALL BE FILED WITHIN FOUR (4) MONTHS.

*Sheet 1
Cabnet 1
Sheet 63-A*

144-01-1700

<u>TYPE UNIT</u>	<u>APPROXIMATE SQ FOOTAGE</u>	<u>PERCENTAGE OF OWNERSHIP</u>	<u>APARTMENT NUMBERS</u>	<u>BUILDING NUMBER</u>
A	601	.926	A 108 A 109 A 208 A 209 A 308 A 309	A
A-1	617	.951	A 207 A 307	A
B	896	1.380	A 102 A 104 A 111 A 113 A 202 A 204 A 211 A 213 A 302 A 304 A 311 A 313	A
C	895	1.379	A 103 A 105 A 112 A 203 A 205 A 212 A 303 A 305 A 312	A
C-1	866	1.334	A 114 A 214 A 314	A
D	1281	1.973	A 101 A 202 A 203	A
D-1	1281	1.973	A 106 A 206 A 306	A
E	1428	2.2001	A 110 A 310	A
E-1	1445	2.226	A 210	A
F	620	.955	B 102 B 103 B 104 B 105 B 106 B 202 B 203 B 204 B 205 B 206 B 302 B 303 B 304 B 305 B 306	B
F-1	760	1.171	B 108 B 208 B 308	B
G	995	1.533	B 101 B 107 B 111 B 201 B 207 B 211 B 301 B 307 B 311	B
H	1024	1.578	B 109 B 110 B 209 B 210 B 309 B 310	B

144-01-1701

123-01-0438

BY-LAWS
OF
THE POINT AT WALDEN COUNCIL OF CO-OWNERS

TABLE OF CONTENTS

<u>Article</u>	<u>Caption</u>	<u>Page Number</u>
ARTICLE I.	VOTING BY OWNERS	
Section 1.01.....	Voting.....	1
Section 1.02.....	Multiple Interests.....	1
ARTICLE II.	MEETINGS	
Section 2.01.....	Annual Meetings.....	2
Section 2.02.....	Notice.....	2
Section 2.03.....	Special Meetings.....	3
Section 2.04.....	Quorum.....	3
Section 2.05.....	Proxies.....	3
Section 2.06.....	Majority Vote.....	3
Section 2.07.....	Cumulative Voting Prohibited.....	4
ARTICLE III.	BOARD OF DIRECTORS	
Section 3.01.....	Number and Qualification.....	4
Section 3.02.....	Election.....	4
Section 3.03.....	Removal and Vacancies.....	4
Section 3.04.....	Compensation and Expenses.....	5
Section 3.05.....	Action by Written Consent.....	5
Section 3.06.....	Organization Meeting.....	5
Section 3.07.....	Regular Meetings.....	5
Section 3.08.....	Special Meetings.....	5
Section 3.09.....	Waiver of Notice.....	6
Section 3.10.....	Quorum.....	6
Section 3.11.....	Consent to Action.....	6
Section 3.12.....	Nomination.....	6
Section 3.13.....	Powers and Duties.....	6
ARTICLE IV.	OFFICERS	
Section 4.01.....	Executive Officers.....	8
Section 4.02.....	President.....	8
Section 4.03.....	Vice President.....	8
Section 4.04.....	Secretary.....	8
Section 4.05.....	Treasurer.....	8
Section 4.06.....	Compensation.....	9

144-01-1702

123-01-0439

TABLE OF CONTENTS

(Continued)

<u>Article</u>	<u>Caption</u>	<u>Page Number</u>
ARTICLE V.	DELEGATION OF BOARD DUTIES	
Section 5.01.....	Delegation of Board Duties.....	9
ARTICLE VI.	RECORDS	
Section 6.01.....	Records.....	9
ARTICLE VII.	AMENDMENT	
Section 7.01.....	Amendment.....	10
ARTICLE VIII.	SEVERABILITY	
Section 8.01.....	Severability.....	10
ARTICLE IX.	INDEMNITY	
Section 9.01.....	Indemnity.....	10
Section 9.02.....	Rights of Indemnification.....	10
Section 9.03.....	Expenses to Defense of Claims.....	11
ARTICLE X.	CONTRACTS, LOANS, CHECKS, DEPOSITS AND TRANSACTIONS	
Section 10.01.....	Contracts.....	11
Section 10.02.....	Checks, Drafts, Etc.....	11
Section 10.03.....	Deposits.....	11
ARTICLE XI.	RULES AND ENFORCEMENT	
Section 11.01.....	Authority.....	11
Section 11.02.....	Non-Waiver.....	12
Section 11.03.....	Injunction.....	12
ARTICLE XII.	MORTGAGES	
Section 12.01.....	Mortgages.....	12
Section 12.02.....	Reports.....	12

144-01-1703

123-C1-0440

BY-LAWS

OF

THE POINT AT WALDEN COUNCIL OF CO-OWNERS

THE POINT AT WALDEN COUNCIL OF CO-OWNERS, a Texas non-profit corporation, is the corporation referred to in the Declaration of Condominium of The Point at Walden Condominium, a condominium regime in Montgomery County, Texas, created pursuant to the provisions of the Texas Condominium Act. This Corporation is and shall have all the powers of the "Co-Owners" as authorized by the Texas Condominium Act. The terms used in these By-Laws shall have the same meanings given to them in the Declaration, unless otherwise specifically provided. In the event of any conflict between the terms and provisions of these By-Laws and the Declaration or the Texas Condominium Act, or both, the Declaration shall control over these By-Laws and the Act shall control over both the Declaration and these By-Laws.

All present or future owners, tenants, future tenants, mortgagees, or future mortgagees, or the employees of either of them, or any persons that might use the facilities of The Point at Walden Condominium in any manner, are subject to these By-Laws and to the Declaration. Any person, firm or corporation acquiring, leasing, occupying, or renting any of the units at The Point at Walden Condominium accepts and ratifies these By-Laws and the Declaration, and agrees that the terms and provisions of both will be complied with.

ARTICLE I.

VOTING BY OWNERS

1.01 Voting. Each Owner shall be entitled to one vote for each Unit owned by such Owner weighted in proportion to the Percentage Ownership Interest of such Unit in the Common Elements.

1.02 Multiple Interests. No Owner, other than the Declarant, shall be entitled to vote at any meeting of the Council until such Owner has presented evidence of ownership of a Unit in the Condominium to the Secretary of the Council. In the event that ownership interests in a Unit are owned by more than one member of the Council, the members who own fractional interests in such Unit aggregating more than

-1-

RECORDER'S MEMORANDUM:

At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All book-outs, additions and changes were present at the time the instrument was filed and recorded.

144-01-1704

123-01-0441

fifty percent (50%) of the whole ownership thereof shall appoint one member who shall be entitled to vote the vote of that Unit at any meeting of the Council. Such designation shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board; the Board shall be entitled to rely upon any such designation until written notice revoking such designation is received by the Board. In the event that a Unit is owned by more than one member and no single member is designated to vote on behalf of the members having an ownership interest in such Unit, then none of such members shall be allowed to vote. All members of the Council may be present at any meeting of the Council and may act at such meetings either in person or by proxy.

ARTICLE II.

MEETINGS

2.01 Annual Meetings. The first meeting of the members of the Council shall be held when called by the initial Board upon ten (10) days written notice to the members. Such written notice may be given at any time but must be given not later than the earlier to occur of (i) seven (7) years following the recordation of the Declaration of Condominium for The Point at Walden, or (ii) thirty (30) days after at least ninety-five percent (95%) of all of the Units have been sold by the Declarant, a deed therefor recorded, and the purchase price paid. Thereafter, an annual meeting of the members of the Council shall be held at such place as may be designated by the Board at 8:00 o'clock p.m. on the third Tuesday in January of each calendar year (or the first business day thereafter if such day is a governmental or religious holiday). At the discretion of the Board, the annual meeting of the members of the Council may be held at such other reasonable time (not more than sixty (60) days prior to or subsequent to the aforesaid date) as may be designated by written notice of the Board delivered to the members not less than ten (10) nor more than sixty (60) days prior to the date fixed for said meeting.

2.02 Notice. Any notice permitted to or required to be given to a member of the Board or to an Owner may be delivered personally, by mail or by placing such notice in the mail distribution facilities of each Owner if such facilities are present in the Buildings. If delivery is made by mail, it shall be deemed to have been delivered

RECORDER'S MEMORANDUM
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All book-ends, additions and changes were present at the time the instrument was filed and recorded.

144-01-1705

123-01-0442

seventy-two (72) hours after deposit in the U.S. Mail postage prepaid, addressed to an Owner at his Unit or to such other address as the Owner may have given in writing to the Secretary of the Council for the purpose of service of notices. Any address for purposes of notice may be changed from time to time by notice in writing to the Secretary. For the purpose of determining the members entitled to a notice of a meeting and to vote at any meeting, the membership of the Council shall be determined at the close of business on the twenty-fifth (25) day preceding such meeting.

2.03 Special Meetings. Special meetings of the members may be called by the President or any Vice President at any time or may be called upon petition to the President by members having at least ten percent (10%) of the votes in the Council or by a majority of the Board of Directors. Written or printed notice stating the place, day and hour of such special meeting and the purpose or purposes for which the meeting is called shall be delivered to each member not less than three (3) nor more than twenty-one (21) days before the date of such meeting.

2.04 Quorum. The presence in person or by proxy of the Owners representing an aggregate of more than fifty percent (50%) of total vote of all Units weighted in accordance with their Percentage Ownership Interest shall constitute a quorum for holding any meeting of the Council. If, however, such quorum shall not be present or represented at any meeting of the Council, the Owners present in person or represented by proxy shall have the power to adjourn and reconvene the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such reconvened meeting, at which a quorum shall be present or represented by proxy, any business may be transacted as was set out in the notification of the original meeting.

2.05 Proxies. At any meeting of the Council, votes may be cast in person or by proxy. Proxies must be filed with the Secretary of the Council at or before the appointed time of each meeting of the Council.

2.06 Majority Vote. When a quorum is present at any meeting of the Council, the vote by Owners present in person or by proxy at such meeting of a majority (an aggregate of more than fifty percent (50%) of the total vote of all Units weighted in accordance with their Percentage Ownership

RECORDER'S MEMORANDUM
At the time of recording this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discoloration, etc. All back-outs, additions and changes were present at the time the instrument was filed and recorded.

144-01-1706

123-01-0443

Interest) shall decide any question brought before such meeting unless the question is one upon which, by express provisions of the Act, the Declaration or the By-Laws, a different percentage is required, in which case such express provision shall govern and control a vote on such question.

2.07 Cumulative Voting Prohibited. At all meetings of the Council, cumulative voting shall not be permitted.

ARTICLE III

BOARD OF DIRECTORS

3.01 Number and Qualification. The Board of Directors shall consist of five (5) persons who are members of the Council, spouses of members, or in the event that a Unit is owned by a corporation or other business entity, an officer or director of such entity or other designated representative who resides in the Unit owned by such entity; with the exception of the members of the first Board who shall be appointed by the Declarant (and any replacement Directors selected by the Declarant or the members of the first Board prior to the first meeting of the Council).

3.02 Election. The Directors shall be elected by the members at the first meeting of the members and at each annual meeting thereafter. At the initial meeting of the members of the Council, three (3) Directors shall be elected for a term of two (2) years and two (2) Directors shall be elected for a term of one (1) year. Thereafter, at the annual meeting of the members, the members shall elect either three (3) or two (2) Directors, as the case may be, each to serve for a term of two (2) years, in order to fill the positions of the Directors whose terms have expired at the time of the annual meeting. The candidates receiving the highest number of votes up to the number of members of the Board to be elected shall be deemed elected. All votes shall be cast by secret written ballot. Cumulative voting for the election of the Directors shall not be permitted.

The members of the Board (other than members of the initial Board) shall serve for a term of two (2) years commencing at the time of their election until their death, resignation, removal or until they are no longer members of the Council, whichever is earlier.

3.03 Removal and Vacancies. Any Director may be removed from the Board with or without cause, by a vote of

-4-

RECORDER'S MEMORANDUM:
At the time of recording, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All back- outs, additions and changes were present at the time the instrument was filed and recorded.

144-01-1707

123-01-0444

Owners representing in the aggregate at least two-thirds (2/3rds) of the total vote of all Units weighted in accordance with their Percentage Ownership Interest, by Owners voting in person or by proxy at a special meeting called for such purpose or at an annual meeting. In such an event, a successor for such Director as has been removed shall be selected by a vote of the Council. Except as to vacancies created by removal of Directors by vote of the Council, vacancies in the Board occurring between annual meetings of the Council shall be filled by the remaining Directors.

3.04 Compensation and Expenses. No member of the Board shall receive any compensation from the Council for acting as such but shall be reimbursed for reasonable expenses incurred while serving in such capacity.

3.05 Action by Written Consent. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

3.06 Organization Meeting. The organization meeting of a newly elected Board shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors so elected at the meeting at which they were elected, and no further notice of the organization meeting shall be necessary.

3.07 Regular Meetings. The annual meeting of the Board shall be held each year immediately following the annual meeting of the Council, at the place of such annual meeting, for the election of officers and consideration of any other business that may be properly brought before such annual meeting. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, at least two (2) days prior to the date named for such meeting.

3.08 Special Meetings. Special meetings of the Directors may be called by the President and must be called by the Secretary of the Board at the written request of two (2) of the Directors. Not less than three (3) days notice of the meeting shall be given personally by mail, telephone or

REPORTER'S MEMORANDUM
At the time of recording of this instrument was found to be inadequate to the best photographic reproduction because of its small size, carbon copy, additions and changes were present at the time the instrument was filed and recorded.

144-01-1708

123-01-0445

telegraph, which notice shall state the time, place and purpose of the meeting.

3.09 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and such waiver, if in writing and signed by such Director, shall be deemed equivalent to the giving of notice.

3.10 Quorum. A quorum at Board meetings shall consist of a majority of the entire Board present at such meetings. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except where approval by a greater number is required by the Declaration or by the By-Laws.

3.11 Consent to Action. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

3.12 Nomination. Nomination for election to the Board shall be made by a nominating committee which shall consist of a chairman who shall be a member of the Board, and two or more Owners, who shall have been appointed by the Board prior to each annual meeting of the members (except the initial nominating committee, which shall be determined by the initial Board) to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine but not less than the number of vacancies that are to be filled. Nominations may also be made from the floor at the annual meeting.

3.13 Powers and Duties. All of the powers and duties of the Council existing under the Act, the Declaration and the By-Laws shall be exercised exclusively by the Board, its agents, contractors or employees, subject only to approval by Owners when such is specifically required. Such powers and duties shall include, but shall not be limited to, the following, subject, however, to the provisions of the Act, the Declaration and the By-Laws;

(1) To make and collect assessments against the Owners for the purposes outlined in the Declaration of the Condominium and all of its property and facilities;

RECORDER'S MEMORANDUM
At the time of recordation, this instrument was found to be inadequate for the best photographic reproduction for the best photographic reproduction, carbon copy, etc. All books, additions and changes were present at the time the instrument was filed and recorded.

144-01-1709

123-01-0446

- (2) To use the proceeds of assessments in the exercise of its powers and duties;
- (3) To maintain, repair, replace and operate the Condominium;
- (4) To purchase insurance upon the Condominium and for the protection of the Owners as required by, and pursuant to the Declaration;
- (5) To reconstruct improvements after casualty and further improve the Condominium;
- (6) To amend the original Condominium Rules and Regulations adopted by the Declarant and attached hereto as Exhibit "A" and to make and enforce such other regulations as it deems necessary respecting the use of the Condominium;
- (7) To arrange for and purchase water, sewer, garbage, electrical, chilled water, gas and other necessary utility services for the Common Elements and (to the extent not separately metered and charged) for the Units;
- (8) To contract for management of the Condominium and to delegate to the Managing Agent all powers and duties of the Board except such as are specifically required by the Act, the Declaration and the By-Laws to have approval of the Owners;
- (9) To employ (and dismiss) personnel to perform the services required for proper operation of the Condominium;
- (10) To cause to be kept a complete record of all its acts and affairs and to present a statement thereof to the Owners at the annual meeting of the Council or at any special meeting when such statement is requested in writing by twenty-five percent (25%) or more of the votes of the Council requesting such special meeting; and
- (11) To engage in rental contracts with the individual Owners as the sole rental agent, this being a contract with each Owner at his option. Nothing herein shall require the Owner to rent his Unit and further

RECORDER'S MEMORANDUM
At the time of recording, this instrument was found to be inadequate in the best photographic reproduction in terms of legibility, carbon, or photo copy, discolored paper, etc. All back-ends, additions and changes were present at the time the instrument was filed and recorded.

144-01-1710

123-01-0447

Nothing herein shall require the Owner to use the Managing Agent, or any employee of the Managing Agent, it being understood that the Owner may, at his discretion, either rent or not rent his Unit, and if he does desire to rent his Unit, it is understood that he may use any rental agent he so desires.

ARTICLE IV.

OFFICERS

4.01 Executive Officers. The executive officers of the Council shall be a President, a Vice President, a Treasurer and a Secretary, all of whom shall be elected annually by the Board and who may be pre-emptorily removed by vote of the Board at any meeting. Any person may hold two or more offices except the President shall not also be the Secretary. The Board shall, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Council.

4.02 President. The President shall be the chief executive officer of the Council and shall have all of the powers and duties which are usually vested in the office of President of an organized association including, but not limited to, the power to appoint committees from among the Owners from time to time that, in the exercise of discretion, are determined appropriate to assist in the conduct of the affairs of the Council.

4.03 Vice President. The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President and shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board.

4.04 Secretary. The Secretary shall keep the minutes of all proceedings of the Board and Council and shall attend to the giving and serving of all notices to the Owners and Directors and other notices required by law; shall keep the records of the Council, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an organized association and as may be required by the Board or the President.

4.05 Treasurer. The Treasurer shall have the responsibility for the funds and securities belonging to the

-8-
RECORDER'S MEMORANDUM
At the time of recording, this instrument was found to be inadequate for the best photographic reproduction because of illegibility; carbon or photo copy, discolored paper, etc. All books, out, additions and changes were present at the time the instrument was filed and recorded.

144-01-1711

123-01-0448

Council; shall have the responsibility for keeping full and accurate accounts of all reports and disbursements of the Council; shall be responsible for the deposit of all monies and valuable effects in the name of and to the credit of the Council in such depositories as may from time to time be designated by Council; and shall perform all other duties incident to the office of Treasurer.

4.06 Compensation. The compensation of all officers and employees of the Council shall be fixed by the Board. This provision shall not preclude the Board from employing a Director as an employee of the Council nor preclude the contracting with a Director for the management of the Condominium.

ARTICLE V.

DELEGATION OF BOARD DUTIES

5.01 Delegation of Board Duties. Notwithstanding anything contained herein otherwise to the contrary, but subject to the provisions of the Texas Condominium Act and the Declaration, the Board may delegate any of its duties, powers or functions to a Managing Agent, provided that any such delegation shall be revocable upon notice by the Board. The members of the Board shall not be liable for any omission or improper exercise by the Managing Agent of any such duty, power or function so delegated by written instrument executed by a majority of the Board.

ARTICLE XI.

RECORDS

6.01 Records. The Board or the Managing Agent shall keep or cause to be kept a set of books with a detailed account of the receipts and expenditures affecting the Condominium and its administration and specify the maintenance and repair expenses of the Common Elements and any other expenses incurred by or on behalf of the Condominium. Both the books and vouchers accrediting the entries made thereon shall be available for examination by all the Owners and Mortgagees (or their designees) at convenient hours on working days. All books and records shall be kept in accordance with generally accepted accounting procedures.

RECORDERS MEMORANDUM:
At the time of recording, this instrument was found to be inadequate for the best photographic reproduction for the purpose of legibility carbon or photo copy, distilled paper, etc. All books, data, additions and changes were present at the time the instrument was filed and recorded.

144-01-1712

123-01-0449

ARTICLE VII.

AMENDMENT

7.01 Amendment. These By-Laws may be amended from time to time by the affirmative vote of members having at least fifty-one percent (51%) of the number of votes (weighted in accordance with the Percentage Ownership Interest) entitled to act upon such matters at a meeting of the Council as provided herein.

ARTICLE VIII.

SEVERABILITY

8.01 Severability. The invalidity of any provision or provisions of these By-Laws shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of these By-Laws, and, in such event, all of the other provisions of these By-Laws shall continue in full force and effect as if such invalid provision had never been included herein.

ARTICLE IX.

INDEMNITY

9.01 Indemnity. The Council shall indemnify the Board of Directors (and each member thereof) and its Officers (each of them) against expenses and liabilities (including the cost and expense of defending against any such alleged liability) reasonably incurred by such person or persons by reason of his being or having been a Officer or Director of the Council, except in cases where such Director or Officer is adjudged guilty by a court of competent jurisdiction of willful misfeasance of malfeasance, bad faith, gross negligence or reckless disregard of the duties involved in the conduct of his office.

9.02 Rights of Indemnification. The rights of indemnification herein provided may be insured against by policies maintained by the Council; shall be severable, shall not affect any other rights to which any Director or Officer may now or hereafter be entitled, shall continue as to a person who has ceased to be such Director or Officer and shall inure to the benefit of the heirs, executors and administrators of such a person. Nothing contained herein shall

RECORDER'S MEMORANDUM
At the time of recording, this instrument was found to be inadequate for the best photographic reproduction being of illegibility, carbon or photo copy, discolored paper, etc. All books, tabs, additions and indexes were present at the time the instrument was filed and recorded.

144-01-1713

123-01-0450

affect any rights to indemnification to which Council personnel other than Directors and Officers may be entitled by contract or otherwise under law.

9.03 Expenses to Defense of Claims. Expenses in connection with the preparation and presentation of a defense to any claim, action, suit or proceeding of the character described in Section 9.01 hereof may be advanced by the Council prior to final disposition thereof upon receipt of an undertaking by or on behalf of the Director or Officer, secured by a surety bond or other suitable insurance issued by a company authorized to conduct such business in the State of Texas, to repay such amount if it is ultimately determined that he is not entitled to indemnification under this Article.

ARTICLE X.

CONTRACTS, LOANS, CHECKS, DEPOSITS AND TRANSACTIONS

10.01 Contracts. Subject to the limitations set forth in the Declaration, the Board of Directors may authorize any Officer or Officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Council, and such authority may be general or confined to the specific instances.

10.02 Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Council shall be signed by such Officer or Officers, agent or agents of the Council and in such manner as shall, from time to time, be determined by Resolution of the Board of Directors.

10.03 Deposits. All funds of the Council not otherwise employed shall be deposited, from time to time, to the credit of the Council in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE XI

RULES AND ENFORCEMENT

11.01 Authority. The Board and/or the Managing Agent shall have the power to make such Rules and Regulations as are deemed necessary for the safe and efficient operation and administration of the Condominium; to prescribe and

RECORDER'S MEMORANDUM
At the time of recording this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All back-logs, additions and changes were present at the time the instrument was filed and recorded.

144-01-1714

123-01-0451

enforce penalties for violations of the Rules and Regulations and By-Laws of the Council of Co-Owners; to assess and fix charges to be levied against the members of the Council of Co-Owners and to exercise such other powers as may be necessary or proper to attain the object of the Council of Co-Owners.

11.02 Non-Waiver. The failure of the Board or the Managing Agent or any Owner to enforce any covenant, restriction or other provision of the Condominium Act, the Declaration, these By-Laws or the Rules and Regulations adopted pursuant thereto shall not constitute a waiver of the right to do so thereafter.

11.03 Injunction. In addition to any other rights or remedies available to any Owner, any violation or threatened violation of any of the Rules and Regulations or By-Laws of the Council of Co-Owners may be enjoined or prevented by suit for injunction by the Owner or the Board or the Managing Agent of the Condominium Regime.

ARTICLE XII.

MORTGAGES

12.01 Mortgages. An Owner who mortgages his Unit shall notify the Council of Co-Owners of such mortgage, giving the name and address of his Mortgagee; and the Council of Co-Owners shall maintain such information in a book kept for that specific purpose.

12.02 Reports. The Council of Co-Owners shall at the request of a Mortgagee of a Unit report any unpaid assessments due from the Owner of such Unit.

IN WITNESS WHEREOF, these By-Laws are adopted by The Point at Walden, Inc., a Texas corporation, this 19th day of March, 1982.

THE POINT AT WALDEN, INC.,
a Texas Corporation

By: J. Conrad Walden
Its:

-12-

RECORDER'S MEMORANDUM
At the time of recording, this instrument was found to be inadequate for the best photographic reproduction because of illegibility, carbon or photo copy, discolored paper, etc. All block-outs, additions and changes were present at the time the instrument was filed and recorded.

144-01-1715

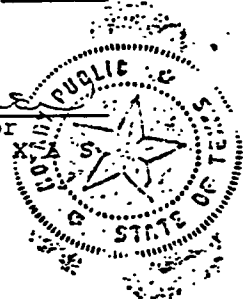
123-01-0452

THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §

BEFORE ME, the undersigned authority, on this day personally appeared S. Conrad Wilde, President of THE POINT AT WALDEN, INC., a Texas corporation, and acknowledged to me that he executed the same for the purposes and consideration therein expressed for said corporation, as the act and deed of said corporation and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 19th day of March, 1982.

Roy Harris
Notary Public in and for
Montgomery County, T E X A S



This instrument has been recorded more than once.
Roy Harris, County Clerk
Montgomery County, Texas

FILED FOR RECORD

1982 MAR 29 PM 3:38

Roy Harris
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify that this instrument was filed in the Public Records on the date and at the time stated above and was duly RECORDED in the official Public Records of Real Property of Montgomery County, Texas.

MAR 29 1982

Roy Harris
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

RECORDER'S MEMORANDUM:
At the time of recordation, this instrument was found to be inadequate for the best photostatic reproduction because of illegibility, or photo copy, discolored paper, etc. All back-outs, additions and changes were present at the time the instrument was filed and recorded.

FILED FOR RECORD

-13-

1982 JUL 27 AM 8:39

Roy Harris
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify that this instrument was filed in the Public Records on the date and at the time stamped herein by me, and was duly RECORDED in the official Public Records of Real Property of Montgomery County, Texas.

JUL 27 1982

Roy Harris
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS