

**IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND**

**WATERS LANDING  
ASSOCIATION, INC.**

Plaintiff,

v.

Case No. **485576-V**

**CHURCHILL SENIOR HOUSING  
I, LIMITED PARTNERSHIP**

and

**CHURCHILL SENIOR LIVING II,  
LLC**

and

**CHURCHILL SENIOR HOUSING  
III, LIMITED PARTNERSHIP,**

Defendants.

\* \* \* \* \*

**SECOND AMENDED COMPLAINT**

The Plaintiff Waters Landing Association, Inc., for its Second Amended Complaint against the Defendants, submits as follows.

**Parties, Venue, and Jurisdiction**

1. The Plaintiff is the governing body for the Waters Landing Association, (the “Association”), a community association located in Montgomery County, Maryland.

2. Defendant Churchill Senior Housing I, Limited Partnership (“CSH1”) is the record owner of real property with an address of 21000 Father Hurley Boulevard, Germantown, MD 20874 which is part of the Waters Landing Association.

3. Defendant Churchill Senior Living II, LLC (“CSL2”) is the record owner of real property with an address of 21000 Father Hurley Boulevard, Germantown, MD 20874 which is part of the Waters Landing Association.

4. Defendant Churchill Senior Housing III, Limited Partnership (“CSH3”) is the record owner of real property with an address of 21000 Father Hurley Boulevard, Germantown, MD 20874 which is part of the Waters Landing Association.

5. Jurisdiction and venue are proper in this Court pursuant to Md. Code Ann., Cts. & Jud. Proc. §§ 4-401, 6-103, and 6-201.

#### **Common Allegations**

6. Defendant CSH1 is the record owner of a parcel of real property, which property is subject to the Association’s Declaration of Covenants, Conditions, and Restrictions (“Declaration”), a copy of which is attached as **Exhibit A**, and supplements thereto, attached as **Exhibits B** and **C** (together “Supplemental Declarations”; the Declaration and Supplemental Declarations are hereafter referred to as “the Declarations”). Defendant CSL2 is the record owner of real property which is subject to the Association’s Declarations.

7. Defendant CSH3 is the record owner of real property which is subject to the Association’s Declarations.

8. Pursuant to Article V, Section 1 of the Declaration, each Defendant is obligated to pay General Assessments as may be levied against it by the Association’s Board of Directors (“Board”).

9. Pursuant to Article V, Section 2 of the Declaration, each Defendant is further obligated to pay Neighborhood Assessments as may be levied against it by the Board.

10. Pursuant to Article V, Section 3 of the Declaration, each Defendant is further obligated to pay assessments to The Churchill Community Foundation (“the Foundation”), as set by the Foundation. Pursuant to the Declaration, the Association is to collect the Foundation Assessments from each of the Defendants, and then pay the collected Foundation Assessments to the Foundation.

11. Defendants have failed and refused to pay in full the combined assessments levied by the Association’s Board and the Churchill Foundation.

12. With regard to the Foundation Assessments, the Association has paid the Defendants' shares of the Foundation Assessments since April 2018 in an amount totaling \$35,756.25 to date.

13. Pursuant to Article V, Section 6 of the Declaration, the Association is entitled to the late fees, interest, legal fees and costs of collection incurred in collecting the delinquent assessments.

14. Pursuant to Policy Resolution 2012-02, the Association is entitled to accelerate unpaid assessment installments through the end of the Association's fiscal year, which ends December 31, 2022. A copy of this policy is attached hereto as **Exhibit D**.

**COUNT I - Breach of Contract**  
**Churchill Senior Housing I Limited Partnership**

15. The allegations in paragraphs 1-15 are incorporated by reference, as if fully set forth herein.

16. The Association's Declaration is a binding contract with Defendants CSH1 and CSL2.

17. CSH1 has operated living units on its real property within the Association beginning on or before May 1, 2018 and the Board has duly levied assessments against them beginning on or before that date.

18. CSH1 has breached its obligations by failing to pay the combined assessments in full.

19. CSH1 has refused to pay the late charges imposed by the Declaration as a result of missed or insufficient payments.

20. The Association has issued written demand for payment in full, and Defendant CSH1 has refused to cure its default.

21. The Association is contractually entitled to accelerate all assessments that are to be levied against a delinquent property owner in the current fiscal year.

22. The unpaid assessments and late charges, including accelerated assessments, exceed \$75,000.00.

23. The Association is contractually entitled to recover its reasonable collection costs and attorney fees incurred in remedying Defendant's breach.

WHEREFORE, the Plaintiff Waters Landing Association, Inc. demands judgment against Defendant Churchill Senior Housing I, Limited Partnership in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) in compensatory damages, plus attorney fees, costs, and interest.

**COUNT II - Breach of Contract**  
**Churchill Senior Living II LLC**

24. The allegations in paragraphs 1- 23 are incorporated by reference, as if fully set forth herein.

25. The Association's Declaration is a binding contract with Defendant CSL2.

26. CSL2 has operated living units on its real property within the Association beginning on or before May 1, 2018 and the Board has duly levied assessments against them beginning on or before that date.

27. CSL2 has breached its obligations by failing to pay the combined assessments in full.

28. CSL2 has refused to pay the late charges imposed by the Declaration as a result of missed or insufficient payments.

29. The Association has issued written demand for payment in full, and CSL2 has refused to cure the default.

30. The Association is contractually entitled to accelerate all assessments that are to be levied against a delinquent property owner in the current fiscal year.

31. The unpaid assessments and late charges, including accelerated assessments, exceed \$75,000.00.

32. The Association is contractually entitled to recover its reasonable collection costs and attorney fees incurred in remedying Defendant's breach.

WHEREFORE, the Plaintiff Waters Landing Association, Inc. demands judgment against Churchill Senior Living II, LLC in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) in compensatory damages, plus attorney fees, costs, and interest.

**COUNT II – Declaratory Judgment**  
**Churchill Senior Housing I Limited Partnership, Churchill Senior Living II LLC, &**  
**Churchill Senior Housing III Limited Partnership**

33. The allegations in paragraphs 1 – 32 are incorporated by reference, as if fully set forth herein.

34. A dispute presently exists between the Association and the Defendants in that:

- a. The documents recorded in the Land Records of Montgomery County Maryland clearly establish that the real property owned by Defendants is subject to the Association's Declaration.
- b. The Declaration plainly establishes that each Defendant is required to pay assessments as levied by the Association's Board of Directors.
- c. Nevertheless, Defendants have attempted to repudiate this obligation and refused to pay the assessments, fees, and charges due to the Association.
- d. Defendants obligations under the Declaration are continuing obligations, and Defendants have averred an intention to not comply with these obligations in the future.

WHEREFORE, the Plaintiff Waters Landing Association, Inc. requests this Court enter judgment declaring that:

- a. Each Defendant is a member of the Association and subject to the terms of the Declaration; and
- b. Defendants are obligated to pay assessments levied by the Association's Board of Directors, and any reasonable late charges, collection costs, and attorney fees incurred as a result of non-payment; and
- c. Awarding the Association its costs in this action; and
- d. Granting the Association any other relief it deems just and proper.

### **COUNT III**

#### **Unjust Enrichment / Churchill Foundation Assessments / Churchill Senior Housing I Limited Partnership**

35. The allegations in paragraphs 1-34 are incorporated by reference, as if fully set forth herein.

36. By paying the Defendant's Foundation Assessments on Defendant's behalf, the Plaintiff conferred a benefit on the Defendant.

37. The Defendant was aware of its obligations to pay the Foundation Assessments, and it has been aware that the Plaintiff has paid the Foundation Assessments on its behalf.

38. In the manner set forth above, the Defendant Churchill Senior Housing I Limited Partnership has been unjustly enriched at the expense of the Plaintiff, in the amount of those Foundation Assessment payments made by Plaintiff on behalf of Churchill Senior Housing I Limited Partnership.

39. Since April 2018, the Plaintiff has paid Foundation Assessments in the amount of \$3.75 per month for Defendant's 121 units, resulting on a total payment of \$23,595 on Defendant's behalf, which sum should have been paid by Defendant.

WHEREFORE, the Plaintiff Waters Landing Association, Inc. demands judgment against Defendants Churchill Senior Housing I, Limited Partnership, in the amount of those Foundation Assessment payments made on its behalf, plus attorney fees, costs, and interest.

### **COUNT IV**

#### **Unjust Enrichment / Churchill Foundation Assessments / Churchill Senior Living II LLC**

40. The allegations in paragraphs 1-39 are incorporated by reference, as if fully set forth herein.

41. By paying the Defendant's Foundation Assessments on Defendant's behalf, the Plaintiff conferred a benefit on the Defendant.

42. The Defendant was aware of its obligations to pay the Foundation Assessments, and it has been aware that the Plaintiff has paid the Foundation Assessments on its behalf.

43. In the manner set forth above, the Defendant has been unjustly enriched at the expense of the Plaintiff, in the amount of those Foundation Assessment payments made by Plaintiff on its behalf.

44. To date, the Plaintiff has paid Foundation Assessments in the amount of the amount of \$3.75 per month for Defendant's 134 units, resulting on a total payment of \$35,756.25 on Defendant's behalf, which sum should have been paid by Defendant.

WHEREFORE, the Plaintiff Waters Landing Association, Inc. demands judgment against Churchill Senior Living II, LLC, in the amount of those Foundation Assessment payments made on its behalf, plus attorney fees, costs, and interest.

Respectfully Submitted:

/s/ Benjamin J. Andres

Benjamin J. Andres  
AIS No. 1412160027

/s/ Jeffrey C. Seaman

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Certificate of Service

I certify that a true and correct copy of this Second Amended Answer was filed served via the Court's electronic filing system and via email this 15<sup>th</sup> of September 2022 upon the following:

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/s/ Jeff C. Seaman \_\_\_\_\_

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CLERK'S OFFICE  
MONTGOMERY COUNTY, MD

## DECLARATION OF COVENANTS

## WATERS LANDING ASSOCIATION

THIS DECLARATION, made and entered into in the County of Montgomery, State of Maryland, this 19th day of March, 1981, by THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of New Jersey, hereinafter and in the Exhibits hereto sometimes called the "Grantor":

WHEREAS, the Grantor is the owner in fee simple of certain land and premises located in the County of Montgomery, State of Maryland, and more particularly described on "EXHIBIT A" attached hereto and by this reference made a part hereof, which property is intended to be developed as a community known as "Churchill"; and

WHEREAS, the Grantor desires to provide for the preservation of the values and amenities in said community and for the maintenance of said open spaces and other community and recreational facilities; and to this end, desires to subject the real property described in "EXHIBIT A" hereof to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and the subsequent owners thereof; and

WHEREAS, to accomplish the creation of such a community, Grantor intends to convey parcels of land to various builders who will thereon construct and sell residences and common facilities, subject to the terms of this Declaration, comprising the sub-communities or parts of the Churchill Community, and

WHEREAS, all of the Property is subject or will be caused to be subject to a Declaration creating "The Churchill Community Foundation," an entity to which is charged the responsibility of maintaining certain common areas and facilities which are available to all residents of the "Churchill Town Sector," and

WHEREAS, the Grantor has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an association to which will be delegated and assigned the powers and duties of maintaining and administering the open spaces and other community facilities, administering and enforcing the within covenants and restrictions and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Grantor has formed (or intends to form) WATERS LANDING ASSOCIATION, INC., as a non-profit corporation without capital stock under the General Laws of the State of Maryland for the purposes of carrying out the powers and duties aforesaid.

NOW, THEREFORE, the Grantor hereby declares that the real property described in "EXHIBIT A" hereof is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, restrictions, uses, limitations, obligations easements, equitable servitudes, charges and liens (hereinafter sometimes referred to as "covenants and restrictions") hereinafter set forth, all of which are declared and agreed to be in aid of a plan for improvement of said property, and shall be deemed to run with and bind the land, and shall inure to the benefit of and be enforceable by the Grantor, its successors and assigns, and any person acquiring or owning an interest in said property and improvements, including without limitation, any person, group of persons, corporation, trust or other legal entity, or any combination thereof, who holds such interest solely as security for the performance of an obligation:

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## ARTICLE I

**Section 1. Definitions.** The following words, when used in this Declaration, shall have the following meanings:

(a) "Association" shall mean and refer to WATERS LANDING ASSOCIATION, INC., and its successors and assigns.

(b) "The Property" shall mean and refer to all real property described in "EXHIBIT A" hereof and such additions thereto as may hereafter be made pursuant to the provisions of Article II hereof.

(c) "Living Unit", "Unit" or "Lot" shall mean and refer to all Subdivided Lots which are a part of The Property and to any portion of a structure within The Property intended for use as a one-family residence.

(d) "Common Areas" or "Open Spaces" or "Community Facilities" or "Recreational Facilities" shall mean or refer to all real property now or hereafter acquired by the Association for the benefit, use and enjoyment of its members, with all the improvements thereon, to include private roads, drives, sidewalks, street lights, water lines, sewer lines, storm drainage structures and facilities and related appurtenances.

(e) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit.

(f) "Member" shall mean and refer to every person, group of persons, corporation, trust or other legal entity, or any combination thereof, who holds any class of membership in the Association.

(g) "Developer" and "Declarant" shall mean and refer to the Grantor, its successors and assigns, to include builders to whom Grantor has sold any part of the Property.

(h) "Neighborhood" shall mean and refer to a parcel of land within the Property which is developed and improved by a builder or developer as a community or neighborhood, sometimes herein also referred to as an "Area".

## ARTICLE II

**Section 1. Property Subject to Declaration.** The real property which is, and shall be, held, conveyed, hypothecated or encumbered, sold leased, rented, used, occupied, and improved subject to this Declaration is located in the County of Montgomery, State of Maryland, and is more particularly described on "EXHIBIT A" attached hereto and by this reference made a part hereof.

**Section 2. Additions.** So long as Declarant, or its successors and assigns, are Class B members of the Association, additional property may be annexed to the above-described property without the assent of the Class A members of the Association, if any. Any additional property so annexed, however, must be adjacent to or in the immediate vicinity of the above-described property. The scheme of the within Covenants and Restrictions shall not, however be extended to include any such additional property unless and until the same is annexed to the real property described on "EXHIBIT A", as hereinafter provided. Each increment of land annexed shall be known as a "Neighborhood".

Any annexations made pursuant to this Article, or otherwise, shall be made by recording a Supplementary Declaration of Covenants and Restrictions among the Land Records for Montgomery County, Maryland, which Supplementary Declaration of Covenants and Restrictions shall extend the scheme of the within Covenants and Restrictions to such annexed property. Such Supplementary Declaration may contain such complementary additions and modifications to the Covenants and Restrictions set forth in the within Declaration as may be necessary to reflect the different character or use. if any, of such annexed property provided, however, that in no event shall any such addition or modification be substantially inconsistent with the provisions of the within Declaration.

No additions or Annexations shall be made except in conformity with such conditions as may from time to time be imposed by the Montgomery County Zoning Ordinance and the Maryland-National Capitol Park and Planning Commission.

**Section 3. Supplementary Declarations - Covenant for "Neighborhood Assessments."** The Supplementary Declarations employed to accomplish the annexation of additional lands as aforesaid shall provide, *inter alia*, a covenant for assessment particularized to reflect a fair and equitable allocation of financial responsibility for facilities or services used or enjoyed by members residing in the Neighborhood annexed, as distinguished from members of other Neighborhoods.

**Section 4. "Neighborhood Facilities."** Recreational or other community facilities developed within an Neighborhood and not available for use or enjoyment by members other than those of that Neighborhood shall be the sole financial responsibility of such Neighborhood alone, funded by the Neighborhood Assessment.

**Section 5. Foundation Assessments.** Each Supplementary Declaration annexing an Area, whether therein stated or not, shall be deemed to create and impose a covenant to pay the assessment of the Churchill Community Foundation.

### ARTICLE III

**Section 1. Membership.** The Association shall have two classes of voting membership:

(a) Every person, group of persons, corporation, trust or other legal entity, or any other combination thereof, who is a record owner of a fee interest in any Lot or Living Unit which is or becomes subject by covenants of record to assessment by the Association shall be a Class A member of the Association, provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a member solely on account thereof. Each Class A member shall be entitled to one vote for each Lot or Living Unit in which such member holds the interest required for Class A membership.

(b) The Class B member shall be the Declarant, its nominee or nominees, and shall include every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who shall obtain any Class B membership by specific assignment from the Declarant. The Class B member or members shall have one Class B membership for each lot in which such member holds the interest otherwise required for Class A membership. Each Class B member shall be entitled to three (3) votes for each lot in which such member holds the interest otherwise required for Class A membership. Each Class B membership shall lapse and become a nullity on the first to happen of the following events:

- (i) on January 1, 1998; or
- (ii) upon surrender of said Class B memberships by the then holders thereof for cancellation on the books of the Association; or
- (iii) thirty days (30) following the date on which the total authorized, issued and outstanding Class A memberships equal the total authorized, issued and outstanding Class B memberships multiplied by three (3), each Class B membership shall lapse and become a nullity.

Upon the lapse or surrender of all of the Class B memberships, as provided for in Article III, the Grantor shall continue to be a Class A member of the Association as to each and every lot or living unit in which the Grantor holds the interest otherwise required for such Class A membership.

**Section 2. Declarant's Nominees - Builders.** Each person or entity which shall acquire a portion of The Property for construction thereon of residences, hereinafter called a "Builder", may be assigned a number of Class B memberships from Declarant proportionate to the number of Lots or Living Units acquired by such Builder.

**Section 3. Termination of Class B Membership.** Upon the conveyance of each Lot or Living Unit to a third party, a Builder or Declarant shall surrender for cancellation a proportionate number of Class B memberships.

## ARTICLE IV

**Section 1. Member's Right of Enjoyment.** Every member shall have a right and easement of enjoyment in and to the Common Areas and Community Facilities and Neighborhood Facilities, if any, in such Member's Area and such easement shall be appurtenant to and shall pass with the title to every Lot or Living Unit, subject to the following:

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas and Community Facilities in a manner designed to promote the recreation, scenic enjoyment and welfare of the members and in aid thereof to mortgage said property; and

(b) The right of the Association, to levy reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas by the members of the Association and their guests; and

(c) The right of the Association to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and/or foreclosures, provided, always, however, that the same are in conformity with the other provisions of this Declaration; and

(d) The right of the Association to limit the number of guests of members; and

(e) The right of the Association to suspend the voting rights and the rights to use of the Common Areas and Community Facilities (except for rights to the use of streets, roadways and parking areas, which shall not be subject to suspension for any reason) for any period during which any assessment remains unpaid and for any period not to exceed thirty (30) days for any infraction of any of the published rules and regulations of the Association; and

(f) The right of the Association to dedicate or transfer all or any part of the Common Areas or Community Facilities to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration and subject to such conditions as may be agreed to by the members; provided, however, that no such dedication or transfer or determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by two-thirds (2/3) of all classes of the then members of the Association has been recorded, agreeing to such dedication, transfer, purpose or conditions, and unless written notice of the proposed agreement and action thereunder is sent to each member at least ninety (90) days prior to the taking of any action; and

(g) The right of the Association, acting by and through its Board of Directors, to grant rights-of-way and/or easements for any public utility purpose to any municipal agency, public utility or to the Grantor for the purpose of the installation and/or maintenance of such utilities as may be necessary to serve any of the Common Areas or Community Facilities or to serve any other portion of the Property hereinabove identified; provided, however, that no such easements and/or rights-of-way shall be permanently inconsistent with the enjoyment of the Common Areas and Community Facilities by the members of the Association.

## ARTICLE V

**Section 1. General Assessments.** Each person, group of persons, corporation, trust or other legal entity, or any combination thereof, who becomes an owner of a Lot or Living Unit, by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay the Association, in advance, a monthly sum (hereinafter sometimes referred to as "assessments") equal to one-twelfth (1/12) of the member's proportionate (for the purposes hereof such proportion shall be equal to a fraction, the numerator of which is one (1) and the denominator of which is the total number of Lots, subject to assessment) share of the sum required by the Association as estimated and expressed in an adopted budget by its Board of Directors, to meet its annual expenses, including, but in no way limited, to the following:

(a) the cost of all operating expenses of the Common Areas and Community Facilities and all parts thereof and the costs of services furnished by others and the costs of facilities and services furnished by the Association; and

(b) the cost of necessary management and administration, including fees paid to any Management Agent, which may include Association staff; and

(c) the amount of all taxes and assessments levied against the Association or upon any property which it may own or which it is otherwise required to pay, if any; and

(d) the cost of fire and extended liability insurance on the Common Areas and Community Facilities and the cost of such other insurance as the Association may effect; and

(e) the cost of furnishing water, electricity, heat, gas, garbage and trash collection and/or other utilities, to the Common Areas and Community Facilities; and

(f) the cost of funding all reserves, established by the Association, including, when appropriate, a general operating reserve and/or a reserve for replacements; and

(g) the estimated cost of repairs, maintenance and replacements of the Common Areas and Community Facilities to be made by the Association.

The Board of Directors shall determine the amount of the assessment annually, but may do so at more frequent intervals should circumstances so require. Upon resolution of the Board of Directors and of the Class A members representing a majority of the outstanding Class A memberships, installments of annual assessments may be levied and collected on a quarterly, semi-annual or annual basis rather than on a monthly basis hereinabove provided for.

The Board of Directors of the Association shall make reasonable efforts to fix the amount of the assessment against each and all of the Lots for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and Living Units and assessments applicable thereto which shall be kept in the office of the Association and shall be open for inspection by any Member upon reasonable notice to the Board. Written notice of the assessment shall thereupon be sent to the members. The omission of the Board of Directors, before the expiration of any assessment period, to fix assessments hereunder for that or the next period, shall not be deemed a waiver or modification in any respect of the provisions of this Article, or a release of any member from the obligation to pay the assessment, or any installment thereof, for that or any subsequent assessment period, but the assessment fixed for the preceding period shall continue until a new assessment is fixed. No member may exempt himself from liability for assessments or carrying charges by a waiver of the use or enjoyment of any of the Common Areas or Community Facilities or services or by abandonment of any Lot or Living Unit belonging to him.

**Section 2. Neighborhood Assessment.** In addition to the General Assessment aforesaid, each Owner shall be deemed to covenant and agree to pay to the Association a Neighborhood Assessment, which assessment shall be determined in accordance with the provisions of the Supplementary Declaration imposing these covenants upon the Neighborhood annexed. Such Neighborhood Assessments shall be determined initially by the Board of Directors of the Association, with the advice of the Builder acquiring such Neighborhood. The Neighborhood Assessments, after the initial determination thereof, shall be made by the Board of Directors with the advice of the Area Councils, as provided in the By-Laws of the Association.

**Section 3. Foundation Assessments.** The assessments of The Churchill Community Foundation shall be collected by the Association and paid over to the Foundation.



**Section 4. Special Assessments.** In addition to the regular assessments authorized by this Article, the Association may levy in any assessment year a special assessment or assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement located upon the Common Areas or Community Facilities, including the necessary fixtures and personal property related thereto, or for such other purpose as the Board of Directors may consider appropriate, provided that any such assessment shall have the assent of the members representing two-thirds (2/3) of both classes of the then members of the Association. A meeting of the members shall be duly called for this purpose, written notice of which shall be sent to all members at least ten (10) days but not more than thirty (30) days in advance of such meeting, which notice shall set forth the purpose of the meeting.

**Section 5. Reserve for Replacements.** The Association shall establish and maintain a reserve fund for replacements by the allocation and payment monthly to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense of the Association. The reserve for replacements may be expended for the purpose of effecting the replacement of the Common Areas and Community Facilities, for operating contingencies of a non-recurring nature and for exterior maintenance of Lots and Units, as the same is from time to time provided. The proportionate interest of any Member in any reserve for replacements shall be considered an appurtenance of his Lot or Unit and shall not be separately withdrawn, assigned or transferred or otherwise separated from the lot or unit to which it appertains and shall be deemed to be transferred with such Lot or Unit.

**Section 6. Non-Payment of Assessment.** Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid on the date when due shall be delinquent and shall, together with interest thereon and the cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the Lot or Unit belonging to the member against whom such assessment is levied and shall bind such Lot or Unit in the hands of the then owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the member to pay such assessment shall, however, remain his personal obligation for the statutory period and a suit to recover a money judgment for non-payment of any assessment levied pursuant to this Declaration, or any installment thereof, may be maintained without foreclosing or waiving the lien herein created to secure the same.

Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid within ten (10) days after it is due, may, upon resolution of the Board of Directors, bear interest at a rate not to exceed the maximum legal rate per annum and may, by resolution of the Board of Directors, subject the member obligated to pay the same to the payment of such penalty or "late charge" as the Board may fix, and the Association may bring an action at law against the member personally obligated to pay the same, or foreclose the lien against the Lot or unit then belonging to said member in the manner now or hereafter provided for the foreclosure of mortgages, deeds of trust or other lien on real property in the State of Maryland and subject to the same requirements, both substantive and procedural, or as may otherwise from time to time be provided by law, in either of which events interest, costs and reasonable attorneys fees of not less than twenty percent (20%) of the sum claimed shall be added to the amount of each assessment. The Association shall notify the holder of the first mortgage on any Lot or Unit for which any assessment levied pursuant to this Declaration becomes delinquent for a period in excess of sixty (60) days and in any other case where the owner of such Unit is in default with respect to the performance of any other obligation hereunder for a period in excess of sixty (60) days, but any failure to give such notice shall not affect the validity of the lien for any assessment levied pursuant to this Declaration.

In the event any proceeding to foreclose the lien for any assessment due the Association pursuant to this Article is commenced with respect to any Lot or Unit in the Property, then the owner of such Lot or Unit, upon resolution of the Board of Directors, may be required to pay a reasonable rental for such unit, and the Association shall be entitled to the appointment of a receiver to collect the same.

The Board of Directors may post a list of members who are delinquent in the payment of any assessment or other fees which may be due the Association, including any installment thereof which becomes delinquent, in any prominent location within the project.

**Section 7. Assessment Certificates.** The Association shall upon demand at any time furnish to any member liable for any assessment levied pursuant to this Declaration (or any other party legitimately interested in the same) a certificate in writing signed by an officer of the Association, setting forth the status of said assessment, i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A charge not to exceed Thirty Dollars (\$30.00) may be levied in advance by the Association for each certificate so delivered.

**Section 8. Acceleration of Installments.** Upon default in the payment of any one or more monthly installments of any assessment levied pursuant to this Declaration, or any other installment thereof, the entire balance of said assessment, may be accelerated at the option of the Board of Directors and be declared due and payable in full.

**Section 9. Priority of Lien.** The lien established by this Article shall have preference over any other assessments, liens, judgments or charges of whatever nature, except the following:

- (a) General and special assessments for real estate taxes on the Lot or Unit; and
- (b) The liens of any deeds of trust, mortgage instruments or encumbrances duly recorded on the Lot or Unit prior to the assessment of the lien thereof or duly recorded on said unit after receipt of a written statement from the Board of Directors reflecting that payments on said lien were current as of the date of recordation of said deed of trust, mortgage instrument or encumbrance; and
- (c) The lien of any assessment levied pursuant to a Condominium Declaration.

Notwithstanding any other provisions hereof to the contrary, the lien of any assessment levied pursuant to this Declaration upon any Lot or Unit shall be subordinate to, and shall in no way affect the rights of the holder of any indebtedness secured by any recorded first mortgage (meaning a mortgage with priority over other mortgages) upon such interest made in good faith and for value received, provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such Lot or Unit pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve the purchaser at such sale of the Lot or Unit from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment, which said lien, if any, claimed shall have the same effect and be enforced in the same manner as provided herein.

No amendment to this Section shall affect the rights of the holder of any such mortgage (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder thereof (or of the indebtedness secured thereby) shall join in the execution of such amendment.

The Board of Directors may, in its sole and absolute discretion, extend the provisions of this Section to the holders of mortgages (or the indebtedness secured thereby) not otherwise entitled thereto.

**Section 10. Additional Default.** Any recorded first mortgage secured on a Lot or Unit in the project shall provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default in such mortgage (or the indebtedness secured thereby) but failure to include such a provision in any such mortgage shall not affect the validity or priority thereof and the protection extended to the holder of such mortgage (or the indebtedness secured thereby) by reason of Section 9 of this Article shall not be altered, modified, or diminished by reason of such failure.

**Section 11. Definition.** As used in this Declaration the term "mortgage" shall include deed of trust and the term "holder" or "mortgagor" shall include the party secured by any deed of trust or any beneficiary thereof.

**Section 12. Commencement and Levels of Assessments.**

- (a) The General Assessment upon each Lot or Living Unit shall commence as of the date of the conveyance thereof to the member. Area Assessments shall be included in the General Assessment to the extent then warranted by the completion of Area Facilities or the availability of services or facilities to the Area.

(b) Prior to the date of conveyance to a Class A member or occupancy of each Lot or Living Unit, Declarant or Builder of the Area shall not be subject to Assessments, but shall be deemed to have covenanted and agreed to pay, on account of each Lot or Living Unit held, an amount equal to the reserve for replacements attributable to each such Lot or Living Unit and shall, in addition, be responsible for a fraction of the operating budget of the Association the numerator of which is the number of Lots or Living Units held by each such Builder or Declarant, and the denominator of which is the total number of Lots or Living Units then included in The Property.

(c) The first monthly installment of such annual assessment shall be made for the balance of the month during which a deed for the Lot or Living Unit is recorded ("rounded" to include the full monthly installment in the event such deed is delivered prior to the 15th of the month or one-half of the monthly installment in the event such deed is delivered subsequent to the 15th of the month) and shall become due and payable and a lien on the date a deed for the Lot or Living Unit is delivered to the member. Except as hereinelsewhere provided, the monthly installment of the annual assessment for any Lot or Living Unit for any month after the first month shall become due and payable and a lien on the first day of each successive month.

## ARTICLE VI

**Section 1. Easements for Utilities and Related Purposes.** The Association is authorized and empowered to grant (and shall from time to time grant) such licenses, easements and/or rights-of-way for sewer lines, water lines, electrical cables, telephone cables, gas lines, storm drains, underground conduits and/or such other purposes related to the provision of public utilities to the Project as may be considered necessary and appropriate by the Board of Directors for the orderly maintenance, preservation and enjoyment of the Common Areas and Community Facilities or for the preservation of the health, safety, convenience and/or welfare of the owners of the Lots or Units.

## ARTICLE VII

**Section 1. Architectural and Environmental Review Committee.** Except for construction or development by, for or under contract with the Declarant or Builder, as approved by Declarant, and except for any improvements to any lot or to the Common Areas accomplished by the Declarant concurrently with said construction and development, and except for purposes of proper maintenance and repair, no building, fence, wall or other improvements or structures shall be commenced, directed, placed, moved, altered or maintained upon The Property, nor shall any exterior addition to or change (including any change of color) or other alteration thereupon be made until the complete plans and specifications showing the location, nature, shape, height, material, color, type of construction and any other proposed form of change (including, without limitation, any other information specified by the Architectural and Environmental Review Committee) shall have been submitted to and approved in writing as to safety, harmony of external design, color and location in relation to surrounding structures and topography by an Architectural and Environmental Review Committee designated by the Board of Directors.

Subject to the same limitations as hereinabove provided for, it shall be prohibited to install, erect, attach, apply, paste, hinge, screw, nail, build, alter, remove or construct any lighting, shades, screens, awnings, patio covers, decorations, fences, wall, aerials, antennas, radio or television broadcasting or receiving devices, slabs, sidewalks, curbs, gutters, patios, balconies, porches, driveways, walls or to make any change or otherwise alter (including any alteration in color) in any manner whatsoever the exterior of any improvements constructed upon any Lot or upon any of the Common Areas, or to combine or otherwise join two or more dwellings, or to partition the same after combination, or to remove or alter any windows or exterior doors of any dwelling, or to make any change or alteration within any dwelling which will alter the structural integrity of the building or otherwise affect the property, interest or welfare of any other lot owner, materially increase the cost of operating or insuring any of the common areas or impair any easement, until the complete plans and specifications, showing the location, nature, shape, height, material color, type of construction and any other proposed form of change (including, without limitation, any other information specified by the Architectural and Environmental Review Committee) shall have been submitted to and approved in writing as to safety, harmony of external design, color and location in relation to surrounding structures and topography and conformity with the design concept for the community by the Architectural and Environmental Review Committee designated by the Board of Directors.



**Section 2. Architectural and Environmental Review Committee Operation.** The Board of Directors shall appoint an Architectural and Environmental Review Committee. The Architectural and Environmental Review Committee shall be composed of at least three (3) but not more than eleven (11) natural persons designated from time to time by the Board of Directors of the Association and such persons shall be selected from and serve as representatives of Neighborhoods, provided, however, that at such time as the Association shall contain more than eleven (11) Neighborhood, representatives shall be selected on a regional or district basis to represent more than one Neighborhoods, to the end that there shall not be more than eleven (11) members of the Committee. The affirmative vote of the majority of the members of the Architectural and Environmental Review Committee shall be required in order to adopt or promulgate any rule or regulation, or to make any finding, determination, ruling or order, or to issue any permit, consent, authorization, approval or the like pursuant to the authority contained in this Article. Said Committee may, from time to time, delegate its ministerial and policing functions to the Managing Agent.

**Section 3. Approvals, etc.** Upon approval by an Architectural and Environmental Review Committee of any plans and specifications submitted pursuant to the provisions of this Article, a copy of such plans and specifications, as approved, shall be deposited among the permanent records of such Committee and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. In the event the Committee fails to approve or disapprove any plans and specifications which may be submitted to it pursuant to the provisions of this Article within sixty (60) days after such plans and specifications (and all other materials and information required by the Architectural and Environmental Review Committee) have been submitted to it in writing, then approval will not be required and this Article will be deemed to have been fully complied with.

**Section 4. Appeals.** Any party dissatisfied with a decision of the Architectural and Environmental Review Committee may, within fifteen (15) days after the rendering of such decision, make an appeal thereof to the Board of Directors. Not less than fifteen (15) nor more than sixty (60) days after the noting of such appeal, the Board of Directors shall conduct a hearing thereon. Within fifteen (15) days of such hearing, the Board of Directors may affirm, reverse, modify or remand the decision appealed. The Board of Directors is hereby authorized and empowered to promulgate reasonable rules of procedure for the conduct of such appeals and hearings.

**Section 5. Limitations.** Construction or alterations in accordance with plans and specifications approved by the Architectural and Environmental Review Committee pursuant to the provisions of this Article shall be commenced within six (6) months following the date upon which the same are approved by the Committee (whether by affirmative action or by forbearance from action, as in Section 3 of this Article provided), and shall be substantially completed within twelve (12) months following the date of commencement, or within such other period as the Committee shall specify in its approval. In the event construction is not commenced within the period aforesaid, then approval of the plans and specifications by the Committee shall be conclusively deemed to have lapsed and compliance with the provisions of this Article shall again be required. There shall be no deviation from the plans and specifications approved by the Committee without the prior consent in writing of the Committee. Approval of any particular plans and specifications, or design shall not be construed as a waiver of the right of the Committee to disapprove such plans and specifications, or any elements or features thereof, in the event such plans and specifications are subsequently submitted for use in any other instance.

**Section 6. Certificate of Compliance.** Upon the completion of any construction or alteration or other improvements or structure in accordance with plans and specifications approved by the Architectural and Environmental Review Committee in accordance with the provisions of this Article, the Architectural and Environmental Review Committee shall, at the request of the owner thereof, issue a certificate of compliance which shall be *prima facie* evidence that such construction, alteration or other improvements referenced in such certificate have been approved by the Architectural and Environmental Review Committee and constructed or installed in full compliance with the provisions of this Article and with other such provisions and requirements of the Declaration as may be applicable.

**Section 7. Rules and Regulations, etc.** The Architectural and Environmental Review Committee may from time to time adopt and promulgate with the advice and consent of the Board of Directors such rules and regulations regarding the form and content of plans and specifications to be submitted for approval and may publish and record such statements of policy, standards, guidelines and establish such criteria relative to architectural styles or details, colors, set-backs, materials or other matters relative to architectural review and the protection of the environment, as it may consider necessary or appropriate. No such rules, regulations, statements, criteria or the like shall be construed as a waiver of the provisions of this Article or any provisions or requirement of this Declaration. The Architectural and Environmental Review Committee may charge and collect a reasonable fee for the examination of any plans and specifications submitted for approval pursuant to the provisions of this Article. The decisions of the Architectural and Environmental Committee shall be final except that any member who is aggrieved by any action or forbearance from action by the Committee (or by any policy, standards or guidelines established by the Committee) may appeal the decision of the Architectural and Environmental Review Committee to the Board of Directors and, upon the request of such member, shall be entitled to a hearing before the Board of Directors of the Association, as aforesaid.

**Section 8. Prohibited Uses and Nuisances.** Except for the activities of the Declarant during the construction or development of The Property, or except with the prior written approval of the Architectural and Environmental Review Committee, or as may be necessary in connection with reasonable and necessary repairs or maintenance to any dwelling or upon the connection with reasonable and necessary repairs or maintenance to any dwelling or upon the common areas:

(a) no noxious or offensive trade or activity shall be carried on upon any Lot or within any dwelling, nor shall anything be done therein or thereon, which may be or become an annoyance or nuisance to the neighborhood or any other members. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell or other sound device, except such device as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any dwelling or upon the exterior of any other improvements.

(b) the maintenance, keeping, boarding or raising animals, livestock, or poultry of any kind regardless of number, shall be and is hereby prohibited on any lot or within any dwelling, except that this shall not prohibit the keeping of dogs, cats or caged birds as domestic pets provided that they are not kept, bred, or maintained for commercial purposes and, provided, further, that such domestic pets are not a source of annoyance or nuisance to the neighborhood or other members. The Board of Directors or, upon resolution of the Board of Directors, the Architectural and Environmental Review Committee, shall have the authority, after hearing, to determine whether a particular pet is a nuisance or a source of annoyance to other members, and such determination shall be conclusive. Pets shall be attended at all times and shall be registered, licensed and inoculated as may from time to time be required by law. Pets shall not be permitted upon the Common Areas unless accompanied by an adult and unless they are carried or leashed. The Board of Directors shall have the right to adopt such additional rules and regulations regarding pets as it may from time to time consider necessary or appropriate.

(c) no burning of any trash and no accumulation or storage of litter, lumber, scrap metals, refuse, bulk materials, waste, new or used building materials, or trash or any kind shall be permitted on any Lot.

(d) except as hereinelsewhere provided, no junk vehicle, commercial vehicle, trailer, truck, camper, camp truck, house trailer, boat or other machinery or equipment of any kind or character (except for such equipment and machinery as may be reasonable, customary and usual in connection with the use and maintenance of any dwelling and except for such equipment and machinery as the Association may require in connection with the maintenance and operation of the common areas and community facilities) shall be kept upon The Property nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon and each Member shall be deemed to covenant not to park such vehicles or conduct such activities on any public street within the Property. The Association may, in the discretion of the Architectural and Environmental Review Committee, provide and maintain a suitable area designated for the parking of such vehicles or the like.

(e) trash and garbage containers shall not be permitted to remain in public view except on days of trash collection. No incinerator shall be kept or maintained upon any Lot. Garbage, trash or other refuse shall be placed in covered containers.

(f) no Lot shall be divided or subdivided and no portion of any Lot (other than the entire Lot) shall be transferred or conveyed for any purpose. No portion of any dwelling (other than the entire dwelling) shall be leased. The provisions of this subsection shall not apply to the Declarant and, further, the provisions hereof shall not be construed to prohibit the granting of any easement or right-of-way to any municipality, political subdivision, public utility or other public bond or authority, or to the Association, the Declarant or any other persons for any purpose.

(g) except for hoses and the like which are reasonably necessary in connection with normal lawn maintenance, no water pipe, sewer pipe, gas pipe, drainage pipe, television cable or similar transmission line shall be installed or maintained on any Lot above the surface of the ground.

(h) no Lot shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth.

(i) no sound trees measuring in excess of four inches (4) inches in diameter two (2) feet above the ground shall be removed from any Lot without written approval of the Association acting through the Architectural and Environmental Review Committee or duly appointed subcommittee. The Architectural and Environmental Review Committee may from time to time adopt and promulgate such additional rules and regulations regarding the preservation of trees and other natural resources and wildlife as it may consider appropriate.

(j) no structure of a temporary character, and no trailer, tent, shack, barn, pen, kennel, run, stable, outdoors clothes dryers, playhouse, shed or other buildings shall be erected, used or maintained on any Lot at any time.

(k) except for entrance signs, directional signs, signs for traffic control or safety, community "theme areas" and such promotional sign or signs as may be maintained by the Declarant, its nominees or the Association, no signs or advertising devices of any character shall be erected, posted or displayed upon, in or about any Lot or dwelling including the window thereof. The prohibition aforesaid shall be deemed to include real estate or "for sale" or "for rent" signs, which are not in the conformity with the standard to be promulgated by Declarant.

(l) no structure, planting or other material shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may unreasonably change, obstruct, or retard direction or flow of any drainage channels.

(m) no outside television or radio aerial or antenna, or other aerial or antenna or similar device, for reception or transmission shall be maintained upon the exterior of any dwelling.

(n) no member shall engage or direct any employee of the Association on any private business of the member during the hours such employee is employed by the Association, nor shall any member direct, supervise or in any manner attempt to assert control over any employee of the Association.

**Section 9. Residential Use - Leasing.** All dwellings shall be used for private residential purposes exclusively, except that a professional office may be maintained in a dwelling, provided that such maintenance and use is limited to the person actually residing in the dwelling and, provided, further, that such maintenance and use is in strict conformity with the provisions of any applicable zoning law, ordinance or regulation. As used in this Section, the term "professional office" shall mean rooms used for office purposes by a member of any recognized profession, including doctors, dentists, lawyers, architects and the like, but not including medical or dental clinics. Nothing contained in this Article, or elsewhere in this Declaration, shall be construed to prohibit the Declarant or a Builder from the use of any Lot or dwelling for promotional or display purposes, or as "model homes", a sales office or the like.

No portion of any Lot or Unit (other than the entire Lot) shall be leased for any period. Any owner of any lot who shall lease such lot shall, promptly following the execution of any such lease and upon the request in writing, of the Board of Directors, forward a conformed copy of such lease to the Board of Directors. All such leases shall be in writing. Any such lease shall contain a provision to the effect that the rights of the tenant to use and occupy the premises which are the subject matter of the lease shall be subject and subordinate in all respects to the provisions of this Declaration and to the By-Laws of the Association and to such other reasonable rules and regulations relating to the use of the common elements and community facilities or other "house rules" that the Board of Directors may from time to time promulgate, and any such lease shall provide, further, that any failure by the tenant to comply with the provisions of such documents shall be a default under the lease. The provisions of this subsection shall not apply to any institutional first mortgagee of any Lot who comes into possession of the Lot by reason of any remedies provided by law or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, assignment or deed in lieu of foreclosure.

**Section 10. Party Walls.** Each wall which is built as part of the original construction of the dwelling upon The Property and placed on the dividing line between lots or dwellings or partly on one lot and partly on another shall constitute a party wall, and to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto, provided, however, that common walls between condominium units shall not be thus regarded.

(a) **Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use. Nothing shall be done by any owner which impairs the structural integrity of any party wall or which diminishes the fire protection afforded by any party wall. No owner shall use any party wall for any purpose which creates a hazard or nuisance for any other owner who makes use of the party wall.

(b) **Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(c) **Weatherproofing.** Notwithstanding any other provision of this Section, any owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(d) **Right to Contribution Runs with Land.** The right of any owner to contribution from any other owner under this Section shall be appurtenant to the land and shall pass to such owner's successors in title.

(e) **Encroachments.** If any portion of a party wall shall encroach upon any adjoining lot, or upon the common areas or community facilities, by reason of the repair, reconstruction, settlement or shifting of any building, or otherwise, a valid easement for the encroachment and for the maintenance of the same as long as the building stands, shall exist.

(f) **Applicability.** The provisions of this Section shall not be applicable to condominium units as defined in the Condominium Act or walls which are part of the common elements of any condominium, or to walls which divide dwellings in a multi-family structure, if any should be built on the Property.

**Section 11. Easements.** The common areas and community facilities and each lot and dwelling shall be subject to easements to the benefits of the Association and the owners of the adjoining and abutting Lots and dwellings for maintenance and for the unobstructed and uninterrupted use of any and all pipes, ducts, flues, chutes, conduits, cables and wire outlets and utility lines of any kind, to easements for the maintenance, lateral support of adjoining and abutting dwellings, and to easements for such portions of any dwelling that may overhang any Lot or any portion of the common areas and community facilities, and to easements for the leadwalks and sidewalks serving adjoining and abutting dwellings. Such easements shall not be subject to suspension for any reason.

**Section 12. Community Rules, etc.** There shall be no violation of any rules for the use of the common areas and community facilities or other community rules and regulations not inconsistent with the provisions of this Declaration which may from time to time be adopted by the Board of Directors of the Association and promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere in this Declaration authorized to adopt such rules.

**Section 13. Reconstruction after Fire or Other Casualty Loss.** In the event any dwelling not a condominium is partially or completely destroyed by fire or other casualty, and in the absence of a resolution to the contrary by the Board of Directors, the owner of such dwelling shall promptly restore or reconstruct such dwelling, at his own expense, in accordance with the original plans and specifications or with such amended plans and specifications as may be approved in writing by the Board of Directors at the request of such owner. The provisions of this Section shall not apply to condominium units, as defined in the Condominium Act, when prohibited by the first trust holder, the Veteran's Administration, FNMA, FHLMC or FHA, or when in conflict with any law, ordinance, municipal regulation or the like.

**Section 14. Enforcement - Right to Remove or Correct Violations.** In the event any violation or attempted violation of any of the covenants or restrictions contained in this Article shall occur or be maintained upon any Lot, or in the event of any other conduct in violation of any of the provisions and requirements of this Article, then the same shall be considered to have been undertaken in violation of this Article and without the approval of the Architectural and Environmental Review Committee required herein, and, upon written notice from the Architectural and Environmental Review Committee, such violation shall be promptly removed or abated. In the event the same is not removed, or the violation is not otherwise terminated or abated, within fifteen (15) days (or such shorter period as may be required in any such notice) after notice of such violation is delivered to the owner of the lot upon which such violation exists, or to the member responsible for such violation if the same shall be committed or attempted on premises other than the lot owned by such member, then the Association shall have the right, through its agents and employees (but only after a resolution of the Architectural and Environmental Review Committee) to enter upon such Lot and to take such steps as may be necessary to remove or otherwise terminate or abate such violation and the cost thereof may be assessed against the lot upon which such violation occurred and, when so assessed, a statement for the amount thereof shall become due and payable and a continuing lien upon such lot, and a binding personal obligation of the owner of such lot. The Association shall have the further right, through its agents, employees or committees, to enter upon and inspect any Lot at any reasonable time for the purpose of ascertaining whether any violation of the provisions of this Article or any of the other provisions or requirements of this Declaration, exist on such Lot; and neither the Association nor any such agent or employee shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

## ARTICLE VIII

**Section 1. Duration.** Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any lot or unit subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date of recordation of this Declaration, after which the said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the then owners of a majority of the lots or units has been recorded, agreeing to change said covenants and restrictions in whole or in part. No such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every member at least ninety (90) days in advance of any action taken and no such agreement to change shall be effective with respect to any permanent easements or other permanent rights or interests relating to the Common Areas or Community Facilities herein created. Grantor, its successors and assigns, so long as it holds Class B memberships equal to or greater than the number of Class A memberships outstanding, may modify and amend the covenants and conditions of this Declaration provided that no such amendment shall exempt any Lot or Unit from the obligation to pay assessments, nor shall any such amendment create any unreasonable disproportion of assessments, nor diminish the rights of enjoyment of any Member or Owner or otherwise embarrass or impair the status of any Member or Owner.

**Section 2. Construction and Enforcement.** The provisions hereof shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of The Property. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain or enjoin violation or to recover damages, or both, and against any lot or unit to enforce any lien created hereby; and the failure or forbearance by the Association or the owner of any lot or unit to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The provisions hereof may be enforced, without limitation, by the Association, by any owner or any mortgagee of any Lot or Unit which becomes subject to the provisions hereof and/or by any other person, firm, corporation or other legal entity who has any right to the use of any of the Common Areas or Community Facilities owned by the Association including, again without limitation, any person, firm, corporation or other legal entity who has any right to the use of any of the streets or roadways owned by the Association.

There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or exclusively by recovery of damages.

**Section 3. Amendments by Declarant.** Notwithstanding the foregoing, this Declaration may be amended by the Declarant, without the vote of the members, provided such amendment is accomplished solely for the purpose of causing this Declaration to conform to the requirements of VA, FHA, FNMA or FHLMC and does not adversely affect the property rights of any Member.

**Section 4. Definition** Whenever in this Declaration any action is required to be taken by a specified percentage of "each class of the then members" of the Association, then such action shall be required to be taken separately by the specified percentage of the then Class A members of the Association and the specified percentage of the then Class B members of the Association. Whenever in this Declaration any action is required to be taken by a specified percentage of "both classes of the then members" of the Association, or by a specified percentage of the "then members" of the Association, then such action shall be required to be taken by the specified percentage of the then cumulative membership of the Association.

**Section 5. Incorporation by Reference on Resale.** In the event any owner sells or otherwise transfers his lot or unit, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, restrictions, easements, charges and liens set forth in this Declaration.

**Section 6. Notices.** Any notice required to be sent to any member or owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postpaid, to the last known address of the person who appears as member or owner of the records of the Association at the time of such mailing.

**Section 7. No Dedication to Public Use.** Nothing herein contained shall be construed as a dedication to public use or as acceptance for maintenance of any Common Area or Community Facilities by any public or municipal agency, authority, or utility and no public or municipal agency, authority or utility shall have any responsibility or liability for the maintenance or operation of any said Common Areas or Community Facilities.

**Section 8. Severability.** Invalidity of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provisions hereof, each of which will remain in full force and effect.

**Section 9. Consents.** Any other provision of this Declaration or of the By-Laws to the contrary notwithstanding, the following provisions shall control:

(a) A first mortgagee, upon request, is entitled to written notification from the Association of any default in the performance by any Owner of any obligation under the Declaration or By-Laws which is not cured within (60) days.

(b) Any first mortgagee who obtains title to a Lot pursuant to the remedies provided in the mortgage, or foreclosure of the mortgage, or Deed of Trust (or assignment in Lieu of Foreclosure) will be exempt from any "right of first refusal" hereafter adopted by the Association.

(c) Any first mortgagee who obtains title to a Lot pursuant to the remedies provided in the mortgage or foreclosure of the mortgage will not be liable for such Lot's unpaid dues or charges which accrue prior to the acquisition of title to such Lot by the mortgagee.

(d) Unless The Maryland National Capital Park and Planning Commission and at least seventy-five percent (75%) of the institutional holders of the first mortgages (based upon one vote for each mortgage owned) or owners (other than the sponsor, developer or builder) of the individual Lots or Units have given their prior written approval, the Association shall not be entitled to:

(1) by the act or omission seek and abandon, partition, subdivide, encumber, sell or transfer the common property owned, directly or indirectly by the Association.

The granting of easements for public utilities or for other public purposes consistent with the intended use of such common property by the Association shall not be deemed a transfer within the meaning of this clause;

(2) change the method of determining the obligations, assessments, dues or other charges which may be levied against an owner;

(3) by act or omission change, waive or abandon any scheme of regulations or enforcement thereof, pertaining to the architectural design or the exterior appearance of units, the exterior maintenance of units, the maintenance of the common property party walls or common fences and driveways, or the upkeep of lawns and plantings in the Project;

(4) fail to maintain fire and extended coverage on insurable common property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost);

(5) use hazard insurance proceeds for losses to any common property for other than the repair, replacement or reconstruction of such common property.

(e) Institutional holders of first mortgages shall have the right to examine the books and records of the Association.

(f) First mortgagees of Lots or Units may jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any common property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common property and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Entitlement of such reimbursement is reflected in an agreement in favor of all first mortgagees of Lots duly executed by the Association.

(g) No provision hereof or of the By-Laws shall be construed to give a member or any other party, priority over any rights of first mortgagees of Lots or Units pursuant to their mortgages in a case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of common property.



**Section 10. Casualty Losses.** In the event of substantial damage or destruction to any of the common areas or community facilities, the Board of Directors of the Association shall give prompt written notice of such damage or destruction to the institutional holders of first mortgages of record on the Lots. No provision of this Declaration or By-Laws of the Association shall entitle any member to any priority over the holder of any first mortgage of record on his lot with respect to the distribution to such member of any insurance proceeds paid or payable on account of any damage or destruction of any of the common areas or community facilities.

**Section 11. Condemnation or Eminent Domain.** In the event any part of the common areas and community facilities is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemnation authority, then the Board of Directors of the Association shall give prompt written notice of any such proceedings or proposed acquisition to the institutional holders of first mortgages of record on the Lots. No provision of this Declaration or the By-Laws of the Association shall entitle any Member to any priority over the holder of any first mortgage of record on his Lot or Unit with respect to the distribution to the members of such proceeds of any condemnation or settlement award relating to the taking of any of the Common Areas or Community Facilities.

**Section 12. Captions and Gender.** The captions contained in this Declaration are for convenience only, are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and singular shall include the plural.

## ARTICLE IX

**Section 1. Association's Right to Maintain.** The Association will have the right, but not the obligation, to perform necessary exterior maintenance operations if the owner of the property requiring the same shall not, after due notice of the necessity thereof, accomplish such maintenance or repairs. The cost thereof shall be charged by the Association to the owner of such unit and shall be treated in accordance with the provisions of Article V hereof.

## ARTICLE X

**Section 1. Reciprocal Easements of Declarant and Association.** The Grantor hereby grants unto the Association an easement in, on, upon and across property owned by it, but not conveyed to the Association, to the extent that the same is reasonably necessary for the use and enjoyment of contiguous property subject to the terms of this Declaration. All property subject to the terms of this Declaration shall be subject to an easement for the benefit of the Grantor, its successors and assigns, for the ingress, egress, and passage of its personnel and equipment reasonably necessary to the development of the Community and for the marketing of dwelling units therein.

IN WITNESS WHEREOF, THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation, has caused these presents to be executed in its name and on behalf by its Vice President, and does hereby constitute the said Robert F. Dolan its true and lawful attorney-in-fact to execute, acknowledge and deliver these presents as the act and deed of the THE PRUDENTIAL INSURANCE COMPANY OF AMERICA.

THE PRUDENTIAL INSURANCE COMPANY  
OF AMERICA

By: \_\_\_\_\_

Robert F. Dolan  
Vice President

Joseph W. Sprouls  
Secretary



1981 OCT-1 PM 3:03

Parcel Identifiers

2 1 1737747 and 1988456

### AMENDATORY DECLARATION

This Amendatory Declaration, is made and declared by the PRUDENTIAL INSURANCE COMPANY OF AMERICA, a Corporation organized and existing under the laws of the State of New Jersey, hereinafter called "Grantor," as of this 30<sup>th</sup> day of September, 1981:

MISC.

WITNESSETH:

WHEREAS, Grantor has heretofore executed, acknowledged and caused to be recorded a certain Declaration of Covenants for the Waters Landing Association, being dated March 19, 1981 and recorded March 20, 1981 in Liber 5672 at folio 692, among the Land Records for Montgomery County, Maryland, and

WHEREAS, Grantor has submitted said Declaration of Covenants, together with the By-Laws and the Articles of Incorporation of Waters Landing Association to the Department of Housing and Urban Development for the review and approval of that agency, and

WHEREAS, upon examination of such documents, the Department of Housing and Urban Development has required certain amendments to those documents as a condition precedent to their approval thereof, and

WHEREAS, pursuant to the provisions of Article VIII, Section 3 of said Declaration, Grantor has reserved unto itself the right to amend said Declaration, without the vote of the members thereof, provided such amendment is accomplished solely for the purpose of causing said Declaration to conform to the requirements of the Veterans

MISC. 18.0  
CHECK 18.0  
#55630 C216 R01 715  
OCT 1

Administration, the Federal Housing Administration, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and does not adversely effect the property rights of any member, and

WHEREAS, the amendments required by the Department of Housing and Urban Development, (the Federal Housing Administration) do not adversely affect the property rights of any member.

NOW, THEREFORE, in consideration of the premises and pursuant to the power and authority duly reserved unto it, Grantor hereby declares that the Declaration aforesaid shall be deemed amended in the following regards:

1. Article II, Section 2 is hereby amended by adding thereto a concluding sub-paragraph to read as follows:

No additions or annexations shall be made of land beyond the scope of the land depicted in the Master Plan submitted to the Federal Housing Administration, except upon approval by a majority of the Class A members. No additions or annexations as aforesaid shall be made except upon approval by the Federal Housing Administration.

2. Article II, Section 2 is hereby amended by striking from the second line of the said Section the last two words thereof, to wit, "may be" and inserting in lieu thereof the words "shall be".

3. Article IV, Section 1(a) is hereby amended by adding the following provision to said sub-paragraph (a):

Provided, however, that no such borrowing shall be accomplished until and unless two-thirds of each class of members shall have assented thereto.

Article IV is further amended by adding thereto a new Section to be designated Section 2 captioned "Delegation of Right of Use - Any member of the Association may delegate his rights to the use and enjoyment of the common areas and community facilities to the members of his family who reside permanently with him and to his tenants, contract purchasers and guests, all subject to such reasonable rules and regulations which the Association may adopt and uniformly apply and enforce".

4. Article V Section 2 is hereby amended by adding thereto, at the end of the second line thereof, the following: "as the section shall have been assessed".

Article V Section 3 is amended by adding thereto the following:

The Foundation Assessments derive from a Declaration recorded in Liber 4590 at folio 607 among the Land Records for Montgomery County, Maryland, which Declaration provides that the maximum annual assessment for the Foundation shall be the sum of \$36.00 per annum subject to increase at the rate of 5% per annum plus the amount by which any ad valorem real estate taxes and casualty and other insurance premiums and utility charges payable by the Foundation have increased over amounts payable for the same or similar items for the previous year. Foundation Assessments may be increased above such levels only upon assent of two-thirds of the membership.

Article V, Section 6 is hereby amended in the second paragraph at the tenth line thereof, by striking therefrom the following phrase: "of not less than twenty percent (20%) of the sum claimed".

Article V is hereby amended by adding thereto a new Section numbered 13 to read as follows:

Section 13. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment shall be Five Hundred dollars (\$500.00 ) per lot.

(a) From and after January 1 of the year immediately following the conveyance of the first lot to Owner, the maximum annual assessment may be increased each year not more than Five Percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of a majority of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

5. Article VIII is amended by striking therefrom the following: Beginning in the Ninth line of Section 1 of said Article, the following phrase is stricken in its entirety: "three (3) years in advance of the effective date of such change." And, in addition, beginning in the twelfth line of Section 1 of said Article, commencing with the word "Grantor," the remainder of said Section is stricken in its entirety.

7. Except as hereinabove modified and amended, the Grantor does hereby ratify and confirm the terms and conditions of the Declaration aforesaid.

IN WITNESS WHEREOF, the Prudential Insurance Company of America has caused these presents to be executed in its name and on its behalf by its Vice President, John C. Hoffman, and

does hereby constitute the said John C. Hoffman its true and lawful Attorney in fact to execute, acknowledge and deliver these presents as the act in deed of the Prudential Insurance Company of America.

Attest:

Joseph W. Sprouls  
Assistant Secretary  
Joseph W. Sprouls

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

By John C. Hoffman  
John C. Hoffman, Vice President

STATE OF MARYLAND

SS:

COUNTY OF MONTGOMERY

I HEREBY CERTIFY that before me, a Notary Public in and for the State and County aforesaid, personally appeared John C. Hoffman, Vice President, Prudential Insurance Company of America, and acknowledged that he is the Attorney in Fact duly appointed to execute the within Declaration for the purposes therein contained and that he did so execute the same.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal this 30<sup>th</sup> day of Sept., 1981.

Patrick C. McKeever  
Patrick C. McKeever

My Commission Expires:

7/1/82

I HEREBY CERTIFY that the within instrument was prepared by the undersigned, a member in good standing of the Bar of the Court of Appeals of Maryland.

Patrick C. McKeever  
Patrick C. McKeever


INSTRUMENT RECEIPT  
#55630 C216 R01 115-07

HOWARD M. SMITH  
CLERK CIRCUIT COURT  
MONTGOMERY COUNTY MD.  
RECORDING 279-8391  
LICENSING 279-1889  
OCT 1 81  
MISC. 18.00  
CHECK 18.00

STATE OF MARYLAND :  
COUNTY OF MONTGOMERY: ss:

ON THIS 19th day of March, 1981, before me, the undersigned officer, personally appeared Robert F. Dolan, Vice President of The Prudential Insurance Company of America, and does hereby acknowledge that he is the attorney-in-fact duly appointed to execute the within Declaration for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand.

  
Notary Public  
Patrick C. McKeever

My commission expires  
July 1, 1982

THIS IS TO CERTIFY that the within instrument was prepared by the undersigned, an attorney in good standing of the Bar of the Court of Appeals of Maryland.

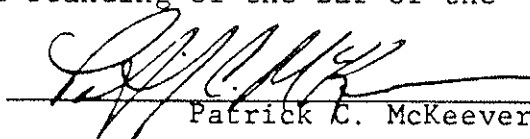
  
Patrick C. McKeever

EXHIBIT A

Parcel lettered "M" in a subdivision known as "Plat No. 64, Section 11, CHURCHILL TOWN SECTOR, GERMANTOWN," as per plat thereof recorded in Plat Book 110 at plat no. 12938 among the Land Records for Montgomery County, Maryland.

ROBERTO M. SMITH  
CLERK CIRCUIT COURT  
MONTGOMERY COUNTY MD.  
RECORDING 279-8391  
LICENSING 279-1889  
MAR 20 81  
CHECK 52 00  
INSTRUMENT RECEIPT  
#35556 0213 R01 T15:20

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) HMS 7445, p. 0182, MSA\_CE63\_7403. Date available 11/14/2005.

LIBER 7445 FOLIO 182  
Parcel Identifier:  
1737747

①

## SECOND AMENDED COMPLAINT EXHIBIT B

### SUPPLEMENTARY DECLARATION OF COVENANTS AND RESTRICTIONS

THIS SUPPLEMENTARY DECLARATION OF COVENANTS AND RESTRICTIONS is made this 17th day of MARCH, 1986, by THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a New Jersey corporation, hereinafter called "Declarant."

NISC.

18.00

#### W I T N E S S E T H :

WHEREAS, Declarant has heretofore caused a certain Declaration of Covenants for the Waters Landings Association to be executed on March 19, 1981 and recorded on March 20, 1981 in Liber 5672 at Folio 692, among the Land Records for Montgomery County, Maryland, which instrument shall hereinafter be called the "Declaration," and

WHEREAS, Declarant wishes to extend the terms, conditions and covenants of said Declaration to additional property owned by it.

NOW, THEREFORE, in consideration of the premises Declarant hereby declares as follows:

1. "Addition of Subject Property." Pursuant to the provisions of Article II, Section 2 of the Declaration, all of the terms, conditions, covenants and restrictions of said Declaration are hereby imposed upon and declared to bind and run with the title to the property described on the attached schedule marked "Exhibit A", and by this reference made a part hereof.

2. "Neighborhood Assessments." Each Lot within the Subject Property shall be deemed subject to a covenant running with the land requiring the owner of each Lot in the Subject Property to pay a pro rata share, reflecting a fair and equitable allocation of financial responsibilities for facilities or services to be used or enjoyed by owners of the Subject Property, as distinguished from the owners of other properties subject to the Declaration. Such Neighborhood Assessment shall be imposed in accordance with the provisions of Article V, Section 2, of the Declaration.

THE PRUDENTIAL INSURANCE  
COMPANY OF AMERICA

By: Vincent E. Goffin  
Vice President



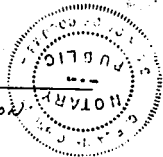
1986 DEC 15 PM 1:12  
CLERK'S OFFICE  
MONTGOMERY COUNTY, MD

DISTRICT OF COLUMBIA )  
 ) ss:  
 CITY OF WASHINGTON )

I HEREBY CERTIFY that before me, a Notary Public in and for the District aforesaid, personally appeared Vinson E. Goffin, known to me to be the Vice President of The Prudential Insurance Company of America and acknowledged the foregoing Supplementary Declaration to be the act and deed of The Prudential Insurance Company of America.

IN WITNESS WHEREOF, I have hereunto set my hand and notary seal this 18th day of March, 1964.

*C. Elaine Gissel*  
 Notary Public  
 C. ELAINE GISSSEL



My Commission Expires: June 30, 1965

I HEREBY CERTIFY that the within instrument was prepared by the undersigned, an attorney in good standing of the Bar of the Court of Appeals of Maryland.

*Patrick C. McKeever*  
 Patrick C. McKeever

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) HMS 7445, p. 0183, MSA\_CE63\_7403. Date available 11/14/2005.



LIBER 7445 FOLIO 184

EXHIBIT A



CLARK • FINEFROCK & SACKETT, INC.

ENGINEERS • PLANNERS • SURVEYORS

DESCRIPTION

PARCEL VC-2 - CHURCHILL

PART OF TRACT V

LIBER 4901 FOLIO 010

Being a piece or parcel of land, situate, lying and being in the Clarksburg (2nd) District of Montgomery County, Maryland; the same being part of Tract V conveyed to The Prudential Insurance Company of America from John C. Walker, III, Substitute Trustee, by a deed dated January 27, 1977 and recorded among the Land Records of the aforesaid County in Liber 4901 at Folio 010; the same being more particularly described as follows:

BEGINNING FOR THE SAME at the end of the North 58° 37' 00" West 506.15 feet line as shown on a plat of dedication entitled "PLAT NO. 54 DEDICATION OF ROADS CHURCHILL TOWN SECTOR GERMANTOWN" and recorded in Plat Book 109 as Plat No. 12745; thence running with the outline of said Plat and also with the southerly right of way line of Waters Landing Drive, being 70.00 feet wide, the following two (2) courses

- 1) South 58° 37' 00" East 506.15 feet to a point; thence
- 2) South 13° 37' 00" East 35.36 feet to a point on the northeasterly right of way of Germantown Drive, being 120.00 feet wide, said point being the end of the North 31° 23' 00" East 140.00 feet line as shown on a plat of dedication entitled "PLAT NO. 55 DEDICATION OF ROADS CHURCHILL TOWN SECTOR GERMANTOWN" and recorded in Plat Book 109 as Plat No. 12746; thence running with the outline of said Plat, the following two (2) courses

PAGE 1 OF 2

DECEMBER 2, 1986

11315 LOCKWOOD DRIVE • SILVER SPRING, MD. 20904 • (301) 593-3400

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) HMS 7445, p. 0184, MSA\_CE63\_7403. Date available 11/14/2005.

LIBER 7445 FOLIO 185

- 3) South  $31^{\circ} 23' 00''$  West 140.00 feet to a point of curvature; thence
- 4) 396.10 feet along the arc of a curve deflecting to the left, having a radius of 2800.00 feet (Chord: South  $27^{\circ} 19' 50''$  West 395.77 feet) to a point; thence leaving said Germantown Drive, the following course
- 5) North  $60^{\circ} 00' 00''$  West 180.00 feet to a point; thence
- 6) North  $72^{\circ} 12' 46''$  West 215.30 feet to a point; thence
- 7) North  $60^{\circ} 00' 00''$  West 169.97 feet to a point on the South  $31^{\circ} 23' 00''$  West 624.71 feet line as shown on a plat of subdivision entitled "PLAT NO. 87 LOTS 471 THRU 520 & PARCEL 'S', BLOCK 20 SECTION 11 A RESUBDIVISION OF LOTS 313 THRU 362 & PARCEL 'L', BLOCK 20, SECTION 11 CHURCHILL TOWN SECTOR GERMANTOWN" and recorded in Plat Book 114 as Plat No. 13451; thence running with part of said line, the following course
- 8) North  $31^{\circ} 23' 00''$  East 618.84 feet to the point of beginning, containing 7.2767 acres of land, more or less.

SUBJECT TO any and all easements, rights of way or easements or covenants of record.

SECOND AMENDED COMPLAINT EXHIBIT C

LIBER 7893 FOLIO 629

DECLARATION OF COVENANTS

THIS DECLARATION OF COVENANTS is made and entered into on this 1st day of July, 1987, by GERMANTOWN RACQUET CLUB LIMITED PARTNERSHIP by its partners, MICHAEL J. ENDLER, KARL J. KORADE, ROBERT O. EISINGER, PAGE EISINGER BUIS and GREGORY B. CHOMERS (hereinafter referred to as the "Declarants.")

MISC. 31.00  
BCHOMERS 31.00  
#62246 C850 R02 103:56  
SEP 2 87

W I T N E S S E T H:

WHEREAS, Michael J. Endler did enter into a certain Lot Purchase Agreement with The Prudential Insurance Company of America, dated April 18, 1986; and

WHEREAS, pursuant to the terms of that Lot Purchase Agreement, the Declarants did agree to enter into the Covenants hereinafter described; and

WHEREAS, said Lot Purchase Agreement did further provide that the property herein described would be subjected to the Declaration of Covenants of the Waters Landing Association dated March 19, 1981 and recorded on March 20, 1981 at Liber 5672, Folio 692 among the Land Records of Montgomery County, Maryland.

WHEREAS, under the provisions of said Lot Purchase Agreement, the Declarants did agree to enter into the Covenants hereinafter described; and

NOW THEREFORE, pursuant to the provisions of the aforesaid Lot Purchase Agreement, the Declarants hereby declare that the real property described on Exhibit "A" attached hereto shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, occupied and improved subject to the following:

87 SEP -2 PH 1:56

CLERK'S OFFICE  
MONTG. CO. MD.

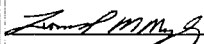
CLERK'S OFFICE  
Document submitted for record  
is a condition not permitting  
any other photographable  
representation.

1. The Declaration of Covenants dated March 19, 1981 and recorded on March 20, 1981 by The Prudential Insurance Company of America at Liber 5672, Folio 692 among the Land Records of Montgomery County, Maryland, which Covenants are styled, "Declaration of Covenants, Waters Landing Association".

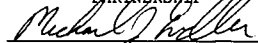
2. A Covenant that if, and at such time as a health club and racquetball facility are constructed on the property described on Exhibit "A" hereto, then that membership in the said health club and racquetball facility shall be offered to the then-general membership of the Waters Landing Association, Inc. The initiation fee and dues for the first year of membership in the club charged to the membership of the Waters Landing Association, Inc. shall be discounted twenty-five percent (25%) below the initiation fee and dues charged to the general public.

These Covenants shall be binding upon the Declarants, their heirs, successors and assigns.

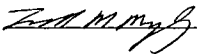
WITNESS:

  
Leonard M. Murphy

GERMANTOWN RACQUET CLUB LIMITED  
PARTNERSHIP

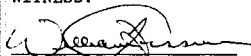
  
MICHAEL J. ENDLER  
Partner


WITNESS:



  
KARL W. KORADE  
Partner

WITNESS:

  
WILLIAM F. GESSNER

  
ROBERT O. EISINGER  
Partner

CLERK'S NOTICE  
Document submitted for record  
is a condition not permitting  
reproduction of photographs  
reproduction.

WITNESS:

William F. Gessner  
William F. Gessner

Page Eisinger Buie  
PAGE EISINGER BUIE  
Partner

WITNESS:

William F. Gessner  
William F. Gessner

GREGORY B. MYERS  
GREGORY B. MYERS  
Partner


STATE OF MARYLAND

:  
: SS;

COUNTY OF MONTGOMERY

On this the       day of July, 1987, before me, the undersigned officer, personally appeared MICHAEL J. ENDLER, of the State and County aforesaid, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.  
WITNESS my hand and official seal.

My Commission Expires: 7/1/90

STRICK C. McKEEVER  
NOTARY PUBLIC  



STATE OF MARYLAND

:  
: SS;

COUNTY OF MONTGOMERY

On this the       day of July, 1987, before me, the undersigned officer, personally appeared KARL J. KORADE, of the State and County aforesaid, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.  
WITNESS my hand and official seal.

My Commission Expires: 7/1/90

STRICK C. McKEEVER  
NOTARY PUBLIC  


LIBER 7893 FOLIO 632

CLERK'S EXEMPTION

Document submitted for record  
in a condition not permitting  
satisfactory photographic  
reproduction.

4

STATE OF MARYLAND

COUNTY OF MONTGOMERY

On this the 1<sup>st</sup> day of July, 1987, before me, the undersigned officer, personally appeared ROBERT O. EISINGER, of the State and County aforesaid, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

WITNESS my hand and official seal.

My Commission Expires:

STATE OF MARYLAND

COUNTY OF MONTGOMERY

On this the 1<sup>st</sup> day of July, 1987, before me, the undersigned officer, personally appeared PAGE EISINGER BUIS, of the State and County aforesaid, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that she executed the same in the capacity therein stated and for the purposes therein contained.

WITNESS my hand and official seal.

My Commission Expires:

STATE OF MARYLAND

COUNTY OF MONTGOMERY

On this the day of July, 1987, before me, the undersigned officer, personally appeared GREGORY B. MYERS, of the State and County aforesaid, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, and acknowledged that he executed the same in the capacity therein stated and for the purposes therein contained.

WITNESS my hand and official seal.

My Commission Expires:

Address of Property:

Address of Sellers:

Address of Purchasers:

Tax I.D.#: 1737747

Title Insurer: Lawyers Title Insurance Corporation

MONTGOMERY COUNTY CIRCUIT COURT (Land Records) HMS 7893, p. 0633, MSA CE63\_7851. Date available 03/21/2025

CLARK'S INSURANCE  
Document submitted to court  
in a condition not permitting  
satisfactory photographic  
reproduction.

EXHIBIT "A"

LIBER 7893 FOLIO 633



CLARK • FINEFROCK & SACKETT, INC.

ENGINEERS • PLANNERS • SURVEYORS

DESCRIPTION  
PARCEL VC-1 - CHURCHILL  
PART OF TRACT V  
LIBER 4901 FOLIO 010

Being a piece or parcel of land, situate, lying and being in the Clarksburg (2nd) District of Montgomery County, Maryland; the same being part of Tract V conveyed to The Prudential Insurance Company of America from John C. Walker, III, Substitute Trustee, by a deed dated January 27, 1977 and recorded among the Land Records of the aforesaid County in Liber 4901 at Folio 010; the same being more particularly described as follows:

BEGINNING FOR THE SAME at the end of the South  $31^{\circ} 23' 00''$  West 195.29 feet line of Parcel Q, Block 20 as shown on a plat of subdivision entitled "PLAT NO. 86 LOTS 392 THRU 431, PARCELS Q & R, BLOCK 20 SECTION 11 CHURCHILL TOWN SECTOR GERMANTOWN" and recorded in Plat Book 114 as Plat No. 13450; thence running with said line and with the extension thereof, the following course

- 1) North  $31^{\circ} 23' 00''$  East 201.16 feet to a point; thence running so as to cross and divide said deed, the following three (3) courses
- 2) South  $60^{\circ} 00' 00''$  East 169.97 feet to a point; thence
- 3) South  $72^{\circ} 12' 46''$  East 215.30 feet to a point; thence

PAGE 1 OF 2

JUNE 22, 1987

CLERK'S OFFICE  
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accurate microfilm photography  
reproduction.

LIBER 7893 FOLIO 634

- 4) South 60° 00' 00" East 180.00 feet to point on the northwesterly right of way line of Germantown Drive, being 120.00 feet wide, said point being located 396.10 feet along the arc of a curve deflecting to the left, having a radius of 2800.00 feet (Chord: South 27° 19' 50" West 395.77 feet) from the northernmost point of curvature of curve #5 as shown on a plat of dedication entitled "PLAT NO. 55 DEDICATION OF ROADS CHURCHILL TOWN SECTOR GERMANTOWN" and recorded in Plat Book 109 as Plat No. 12746; thence running with said right of way line, the following course
- 5) 250.00 feet along the arc of a curve deflecting to the left, having a radius of 2800.00 feet (Chord: South 20° 43' 13" West 249.92 feet) to a point at the end of the South 60° 00' 00" East 605.55 feet line of Parcel M, Block 20 as shown on a plat of subdivision entitled "PLAT NO. 64 PARCELS 'M' AND 'N' SECTION 11 CHURCHILL TOWN SECTOR GERMANTOWN" and recorded in Plat Book 110 as Plat No. 12938; thence running with said line, the following course
- 6) North 60° 00' 00" West 605.55 feet to the point of beginning, containing 130,680 square feet or 3.000 acres of land, more or less.





SECOND AMENDED COMPLAINT EXHIBIT D  
**Waters Landing Association, Inc.**

20000 Father Hurley Boulevard • Germantown, Maryland 20874 • 301-972-3681

www.waterslanding.org • WLA20874@aol.com

**WATERS LANDING HOMEOWNERS ASSOCIATION, INC.**

**POLICY RESOLUTION NO. 2012-02**

**COLLECTION OF ASSESSMENTS**

**WHEREAS**, Article V, Sections 1 of the Declaration of the Waters Landing Homeowners Association, Inc. ("Association") creates an assessment obligation for Owners and Article V, Section 3(b) of the Bylaws empowers the Board of Directors ("Board") to establish and enforce the methods of collecting assessments from Owners; and

**WHEREAS**, the Articles IV and V of the Declaration specify the types of relief the Association may seek under the terms of the Association's Declaration and Bylaws ("Governing Documents") when an Owner is in default, including suspension of voting rights or rights to use facilities or services for nonpayment; and

**WHEREAS**, Article V, Section 1 of the Declaration empowers the Association to establish the due dates of assessments; and

**WHEREAS**, Article V, Section 6 of the Declaration empowers the Board with the authority to establish a late fee and assess interest if any assessment is not paid within the prescribed time after the due date; and

**WHEREAS**, Article V, Section 8 of the Declaration allows the Board to accelerate the entire year's assessments and to declare them to be due and payable in full upon default by an Owner; and

**WHEREAS**, there is a need to establish procedures for the billing and collection of assessments and charges;

**NOW THEREFORE, IT IS HEREBY RESOLVED THAT** the Board of Directors hereby adopts the following assessment collection procedures:

**I. ROUTINE COLLECTIONS**

A. Each fiscal year's annual assessment shall be due and payable in advance, in monthly installments, on or before the first (1<sup>st</sup>) day of each month. ("Due Date"). The fiscal year shall be from January 1 to December 31 of each year. Unless otherwise determined by the Board, all special or additional assessments, shall, unless otherwise specified in the notice, be payable in full with the next periodic installment which is due more than ten (10) days after the date of such notice.

B. All documents, correspondence, and notices relating to assessments or charges shall be mailed or delivered to the address which appears on the books of the Association and it is the responsibility of non-resident Owners to provide current addresses to the Association's managing agent in writing.

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A Not-for-Profit Homeowner Association Serving the Waters Landing Community of Neighborhoods

• Churchill Senior Living • Country Lake • Deep Wood Village • Esprit • The Fields • Gables/Manorwoods • The Gables Apartments • Harbour Place •  
• Highlands • LakeCrest • Lakeforest • Lakeview • Landing Glen • Laurelwood Cove • Logansport • South Shore Harbour • Stonecreek Club •  
• Sunridge/Village • US Homes @ WL • Waterbury Downs North • Waterbury Downs South • Waters Edge • Waters House • Waverly • Woodlands •

C. Non-receipt (or late receipt) of an assessment invoice or coupon booklet shall in no way relieve the Owner of the obligation to pay the amount due by the due date. Questions regarding assessments may be directed to the Association's management company.

D. Unless delinquent accounts have been referred to counsel, Owners must make payment to the Waters Landing Homeowners Association, Inc. and such payment shall be mailed to the Association's management company.

E. Payments are to be accompanied by a payment coupon provided by the Management Agent or the emergency coupon found in the Association newsletter. Non-resident owners must include the property address on the check. Replacement coupons may be obtained from the Management Agent.

F. The term "Charges" shall include, without limitation, late fees, interest, returned check fees, administrative costs associated with mailing and serving delinquent Notices, charges and/or fines imposed for violations of the Association's Governing Documents and/or Rules and Regulations, and all costs and attorney's fees relating to collection efforts that are assessed or incurred pursuant to the Association's Governing Documents. Charges shall be collected in the same manner as an assessment or in such manner as shall be determined by the Board.

## II. REMEDIES FOR NONPAYMENT OF ASSESSMENT

A. Late Fees and Interest. If payment of the total assessments due, including special assessments, is not received by the Association by the fifteenth (15<sup>th</sup>) day of the Due Date, the account shall be deemed late, a late fee of Fifteen Dollars (\$15.00), or the maximum amount allowed under Maryland law, shall automatically be added to the amount due and shall be a part of the continuing lien and personal obligation for assessments, as provided for in Article V of the Declaration, until all sums due and owing shall have been paid in full. Additionally, any assessment payment that is not received by the fifteenth (15<sup>th</sup>) day of the Due Date shall bear interest at a rate of 18% per annum, or the maximum rate allowed under Maryland law until the full amount owed is paid and such late fees and interest shall be part of the continuing lien and personal obligation for assessments.

B. Acceleration: If any assessment installment is not paid by the fifteenth (15<sup>th</sup>) day of the Due Date, the entire balance of the unpaid assessments for the remainder of the fiscal year shall be accelerated and be declared due, payable and collectible in the same manner as the delinquent portion of the assessment.

C. Returned Checks. If a check is returned for insufficient funds, a Twenty-Five Dollar (\$25.00) returned check fee, or the maximum amount allowed by Maryland law, shall be applied to the Owner's account. If a check is returned and assessments are not timely paid, as set forth in Section IIA, above, Late Fees and Interest will be imposed. If the Association receives two or more checks returned for insufficient funds in any single fiscal year from an Owner, the Board may require all future payments to be made by certified check, cashier's check or money order for the remainder of the fiscal year.

D. Late Notice: A "Late Notice" may be sent to Owners who have not paid assessments or charges, in full, by the fifteenth (15<sup>th</sup>) day after the Due Date. Non-receipt of such notice does not relieve the Owner of his financial obligation to pay the Charges associated with the Owner's account, including, but not limited to Late Fees, Interest, attorney's fees and other costs of collection incurred by the Association.

E. **Legal Referral:** If payment in full, of any assessment or Charge is not received by the Association by the thirtieth (30<sup>th</sup>) day after the Due Date, the account may be referred to legal counsel for the Association for collection of same. Nothing herein shall prevent the management company or the Board from referring a delinquent account to counsel at any time deemed appropriate.

F. **Lien:** In accordance with the Maryland Contract Lien Act, if an Owner's account remains delinquent for more than thirty (30) days, the Association, through its managing agent or counsel, shall send a Notice of Intention to Record a Lien to the delinquent Owner. If payment in full of the amount due is not received within thirty (30) days after the Notice of Intention to Record a Lien has been served on the Owner, a Statement of Lien shall be filed which shall include all assessments (including accelerated assessments) and Charges owed, including, but not limited to postage and attorney's fees incurred in collecting the amount owed and filing the Lien. Delinquent Owners are responsible for all costs and attorney's fees associated with filing and releasing any such liens.

G. **Civil Suit:** If payment in full of all amounts owed, including accelerated assessments, is not received by the time the Lien is recorded, a civil suit may be filed personally against the delinquent Owners.

H. **Further Legal Action:** If an account remains delinquent after the filing of a lien and/or civil suit, counsel for the Association shall take other appropriate legal action to collect the amounts due which may include, without limitation, garnishment of wages, rent and/or bank accounts, and the attachment of other vehicles and other assets.

I. **Foreclosure.** If a lien remains unpaid, the Board may authorize legal counsel for the Association to file a suit to enforce the lien and foreclose on the Lot.

J. **Costs and Fees.** All costs and attorney's fees incurred by the Association as a result of collection activity on a delinquent account or violation of the Governing Documents by an Owner or the Owner's tenants, guests, family, residents, employees, agents, lessees or licensees, shall be specifically assessed or charged against the Owner.

K. **Approval of Payment Plans/Settlement.** The Board shall authorize a member of the Board or the management company to approve payment plans and settle accounts.

L. **Application of Payments.** Payments received from an Owner shall be credited to currently outstanding amounts and the amount owed for each category below shall be paid in full before payment is applied to the next category in the following order:

1. Charges for attorney's fees and court costs.
2. All returned check charges, postage, and costs.
3. Fees or other charges imposed for rules violations and damages.
4. Late fees and interest.
5. Annual and special assessments applied first to the oldest amount owed.

N. **Suspension of Rights.** Pursuant to Article IV, Section 1(e) of the Declaration, an Owner's voting rights shall be automatically suspended for any period during which an assessment remains unpaid for more than thirty (30) days. Additionally, pursuant to the same provision, an Owner who fails to pay assessments in full within thirty days (30) day of the Due Day shall be prohibited from using the Common Areas, facilities and services for any period during which any assessment against an Owner's Lot remains unpaid.