

THE VICTORIAN CONDOMINIUM  
CLEVELAND HEIGHTS, OHIO

BY-LAWS

OF

THE VICTORIAN CONDOMINIUM OWNERS' ASSOCIATION

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## EXHIBIT A

### BY-LAWS OF THE VICTORIAN CONDOMINIUM OWNERS' ASSOCIATION

The within By-laws are executed and attached to the Declaration of The Victorian Condominium pursuant to Chapter 5311> Ohio Revised Code. Their purpose is to provide for the establishment of a Unit Owners' Association for the government of the Condominium Property in the manner provided by the Declaration and by these By-laws. All present or future owners or tenants or their employees, or any other person who might use the facilities of the Condominium Property in any manner shall be subject to the covenants, provisions or regulations contained in the Declaration and these By-laws and shall be subject to any restriction, condition or regulation hereafter adopted by the board of managers of the Association. The mere acquisition or rental of any of the dwelling units (hereinafter referred to as "units") located within the Condominium Property described in the Declaration, or the mere act of occupancy of any of the units will constitute acceptance and ratification of the Declaration and of these By-laws.

## ARTICLE I

### THE ASSOCIATION

#### Section 1. Name and Nature of Association.

The Association shall be an Ohio corporation not for profit to be called The Victorian Condominium Owners' Association (or a name similar thereto) which shall act as the Manager of the Condominium Property.

Section 2. Membership. Each unit owner, upon acquisition of title to a unit, shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition by such member of his unit ownership, at which time the successor owner of such unit shall automatically become a member of the Association.

Section 3\* Voting Rights. There shall be one voting member for each unit ownership. Such voting member may be the owner or the group composed of all the owners of a unit membership. The total number of votes of all voting members shall be one hundred (100), and each voting member shall be entitled to exercise that percentage of the total voting power of all members which is equivalent to the percentage of interest of such member's unit in the Common Areas and Facilities of the Condominium Property as set forth in Article VII of the Declaration. If two or more persons, whether fiduciaries, tenants in common or otherwise, own undivided Interests in a unit, each shall



be entitled to exercise such proportion of the voting power of all owners of such unit which is equivalent to such person's proportionate interest in the unit .

Section 4. Proxies. Any member may be represented at a meeting of members or vote thereat, and execute consents, waivers and releases, and exercise any of his other rights, by proxy or proxies. The person appointed as proxy need not be a member of the Association. Designation by a member or members of a proxy to vote or act on his or their behalf shall be made in writing to the board of managers of the Association and shall be revocable at any time by actual notice to the board of managers by the member or members making such designation. Notice to the board of managers in writing or in open meeting of the revocation of the designation of a proxy shall not affect any vote or act previously taken or authorized.

Section 5\* Meetings of Members.

(a) Annual Meeting. The annual meeting of members shall be held at such time and on such date in the month of April of each year as may be fixed by the board of managers and stated in the notice of the meeting, for the election of managers, the consideration of reports to be laid before such meeting and the transaction of such other business as may properly come before the meeting. The first annual meeting of members of the Association shall be held when at least fifty-one percent (51%) of the units are occupied or on December 1, 1971, whichever shall first occur. Thereafter, the annual meeting of members of the Association shall be held on the first Tuesday of April in each succeeding year thereafter, if not a legal holiday and, if a legal holiday, then on the next succeeding business day.

(b) Special Meetings. Special meetings of the members of the Association may be held on any business day when called by the president of the Association or in case of the president's absence, death or disability, the vice president authorized to exercise the authority of the president, or by the board of managers by action at a meeting or by a majority of the members acting without a meeting or by members entitled to exercise at least twenty-five percent (25%) of the voting power of the Association. Upon request in writing delivered either in person or by certified mail to the president or the secretary of the Association by any persons entitled to call a meeting of members, such officer shall forthwith cause to be given to the members entitled thereto notice of a meeting to be held on a date not less than seven (7) or more than forty-five (45) days after the receipt of such request as such officer may fix. If such notice is not given within thirty (30) days after the delivery or mailing of such request, the persons calling the meeting may fix the time of the meeting and give notice thereof. Calls for such meetings shall specify the time, place and purposes thereof. No business other than that specified in the call shall be considered at any special meeting.

(c) Notices of Meetings. Not less than seven (7) nor more than forty-five (45) days before the day fixed for a meeting of the members of the Association, . written notice stating the time, place and purpose of such meeting shall be given by or at the direction of the secretary of the Association or any other person or persons required or permitted by these By-laws to give such notice. The notice shall be given by personal delivery or by mail to each member of the Association who is a unit owner of record as of the day next preceding the day on which notice is given. If mailed, the notice shall be addressed to the members of the Association at their respective addresses as they appear on the records of the Association. Notice of the time, place and purposes of any meeting of members of the Association may be waived in writing, either before or after the holding of such meeting, by any members of the Association, which writing shall be filed with or entered upon the records of the meeting. The attendance of any member of the Association at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him of notice of such meeting.

(d) Place of Meetings. Meetings of the Association shall be held at such place on the Condominium Property as the board of managers shall designate.

(e) Quorum; Adjournment. The members who are entitled to exercise a majority of the voting power of the Association at any meeting, present in person or by proxy, shall constitute a quorum for the transaction of business to be considered at such meeting; provided, however, that no action required by law or by the Declaration or By-laws to be authorized or taken by members entitled to exercise a designated proportion of the voting power may be authorized or taken by a lesser proportion. Members entitled to exercise a majority of the voting power represented at a meeting, whether or not a quorum is present, may adjourn such meeting from time to time, until a quorum shall be present; if any meeting is so adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

(f) Order of Business. The order of business at all meetings of members of the Association shall be as follows:

- (1) Calling of meeting to order.
- (2) Proof of notice of meeting or  
waiver of notice.
- (3) Reading of minutes of preceding  
meeting.
- (4) Reports of officers.
- (5) Reports of Committees.
- (6) Election of Inspectors of election.
- (7) Election of Managers.
- (8) **Unfinished and/or old business.**
- (9) New business.
- (10) Adjournment.

## ARTICLE II

### BOARD OF MANAGERS

Section 1. Number and Qualification, Ex-  
cept as otherwise provided, the board of managers shall consist of five (5) persons, all of whom maintain their respective units as their principal place of residence. If at any time one bank, savings and loan association, insurance company, or other lending institution shall hold mortgages upon more than fifty percent (50%) of the units, such lending institution may designate its representative who shall be a sixth member of the board of managers. Such representative need not be an owner or occupier of a unit. The number of managers may be fixed or changed at any annual meeting or at any special meeting called for that purpose by the affirmative vote of the members entitled to exercise a majority of the voting power.

Section 2. Election of Managers. Managers shall be elected at each annual meeting of members of the Association, but when the annual meeting is not held or managers are not elected thereat, they may be elected at a special meeting called and held for that purpose. Such election shall be by ballot whenever requested by any member; but, unless such request is made, the election may be conducted in any manner approved at such meeting. At a meeting of members of the Association at which managers are to be elected, only persons nominated as candidates shall be eligible for election as managers and the candidates receiving the greatest number of votes shall be elected.

Section 3\* Term of Office; Compensation.  
Each duly elected and qualified manager shall hold office until the annual meeting of members of the Association next succeeding his election and until his successor is elected and qualified, or until his earlier resignation, removal from office or death; provided, however, that at the first annual meeting of the members of the Association, the term of office of three managers shall be fixed so that such term will expire one year from and after the date of the next following annual meeting of members of the Association. The term of office of the remaining two managers shall be fixed so that such term will expire at the date of the next following annual meeting of members of the Association. At the expiration of such initial term of office of each respective manager, his successor shall be elected to serve for a term of two (2) years. Any manager may resign at any time by oral statement to that effect made at a meeting of the board of managers or in a writing to that effect delivered to the secretary of the Association, such resignation to take effect immediately or at such other time as the manager may specify.

Members of the board of managers as such shall serve without compensation; provided, however, that nothing herein contained shall be construed to preclude any



manager from serving the Association in any other capacity and receiving compensation therefor.

Section 4. Removal of Managers.

(a) By the board. The board of managers may remove any manager and thereby create a vacancy in the board if by order of court any manager has been found to be of unsound mind, or if he is adjudicated a bankrupt or if at any time he ceases to hold the required qualifications specified in Section 1 of this Article II.

(b) By the members. At any regular or special meeting of members of the Association duly called, at which a quorum shall be present, all the managers or any individual manager may be removed from office with or without assigning any cause, by the vote of members entitled to exercise at least seventy-five percent (75%) of the voting power of the Association. In case of any such removal, a successor or successors to such manager or managers so removed may then and there be elected to fill the vacancy or vacancies thus created. Any manager whose removal has been proposed by the members of the Association shall be given an opportunity to be heard at such meeting. Failure to elect a manager to fill the unexpired term of any manager removed shall be deemed to create a vacancy in the board.

Section 5. Vacancies. In the event of the occurrence of any vacancy or vacancies in the board of managers, however caused, the remaining managers, though less than a majority of their number, fill any such vacancy for the unexpired term; provided, however, that a vacancy in the position of a representative of a lending institution as provided in Section 1 of this Article II, if any, shall be filled by such lending institution. Members of the Association shall have the right to fill any vacancy in the board of managers (whether the same has been temporarily filled by the remaining managers or not) at any meeting of the members called for that purpose, and any managers elected at any such meeting of members of the Association shall serve until the next annual election of managers and until their respective successors are elected and qualified.

Section 6. Quorum. A majority of the board of managers then in office shall constitute a quorum for the transaction of business and for filling a vacancy on the board; provided that a majority of the managers present at a meeting duly held, whether or not a quorum is present, may adjourn such meeting from time to time; and further provided if any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting. Except as may be otherwise expressly provided in the Declaration or in these By-laws, at each meeting of the Board of Managers at which a quorum is present, all questions and business shall be determined by a majority vote of those present.

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Section 7\* Organization Meeting. Organization meetings of the board of managers shall be held immediately following annual meetings of the members of the Association or, if no annual meeting of the members is held,, or if managers are not elected thereat, then immediately following any special meeting of the members of the Association at which managers are elected, for the purpose of electing officers and transacting any other business. Such organization meeting of managers shall be held at the same place at which such members' meeting was held. Notice of the organization meeting of the board of managers need not be given.

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Section 8. Regular Meetings. Regular meetings of the board of managers shall be held at such times and places within Cuyahoga County, Ohio as a majority of the board of managers may, by resolution or regulation, from time to time determine; provided, however, that at least four (4) such meetings shall be held during each fiscal year. The secretary shall give notice of each such resolution or regulation to any manager who was not present at the time the same was adopted. At such meetings, any and all business within the power of the managers may be transacted.

Section 9\* Special Meetings. Special meetings of the board of managers may be called by the president or the secretary or any two members of the board of managers to be held at such times and places within Cuyahoga County, Ohio as may be designated in the notice of such meeting.

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Section 10. Notice of Annual or Special Meetings. Written notice of the time, place and purposes of each regular or special meeting shall be given to each manager by the secretary or by the person or persons calling such meeting. Such notice shall state the purpose or purposes of the meeting and may be given to each manager either by personal delivery or by mail, telegram or telephone at least two days before the meeting; provided, however, that attendance of any manager at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him of notice of such meeting and such notice may be waived in writing either before or after the holding of such meeting by any manager, which writing shall be filed with or entered upon the records of the meeting. Such notice shall, in all events, be deemed to have been properly and duly given if mailed at least 48 hours prior to the meeting and directed to the respective residences of the managers as shown upon the secretary's records.

Unless otherwise indicated in the notice thereof, any business may be transacted at any organization, regular or special meeting.

Section 11. Regulations. For the government- of its actions, the board of managers may adopt regulations consistent with the Declaration and these By-laws.

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Section 12. Powers and Duties. Except as otherwise provided by law, the Declaration or the By-laws, all power and authority of the Association shall be exercised by the board of managers. The board of managers shall be responsible for the maintenance, repair and replacement of the Common Areas and Facilities. In carrying out the purposes of the Condominium Property and subject to the limitations prescribed by law, the Declaration or these By-laws, the board of managers, for and on behalf of the Association, may

(a) purchase or otherwise acquire, lease as lessee, hold, use, lease as lessor, sell, exchange, transfer, and dispose of property of any description or any interest therein;

(b) make contracts;

(c) effect insurance;

(d) borrow money, and issue, sell, and pledge notes, bonds, and other evidences of indebtedness of the Association;

(e) levy assessments against unit owners;

(f) employ a managing agent to perform such duties and services as the board may authorize; and

(g) do all things permitted by law and exercise all power and authority within the purposes stated in the Declaration or incidental thereto.

Section 13\* Committees. The board of managers may by resolution provide for such standing or special committees as it deems desirable, and discontinue the same at pleasure. Each such committee shall have such powers and perform such duties, not inconsistent with law, as may be delegated to it by the board of managers. Each such committee shall keep full records and accounts of its proceedings and transactions. All action by any such committee shall be reported to the board of managers at its meeting next succeeding such action and shall be subject to control, revision, and alteration by the board of managers; provided that no rights of third persons shall be prejudicially affected thereby. Each such committee shall fix its own rules of procedure and shall meet as provided by such rules or by resolutions of the board of managers, and it shall also meet at the call of the president of the Association or of any two members of the committee. Unless otherwise provided by such rules or by such resolutions, the provisions of Section 10 of this Article II relating to the notice required to be given of meetings of the board of managers shall also apply to meetings of each such committee. A majority of the committee shall be necessary to constitute a quorum. Each such



committee may act in writing or by telegram or by telephone **with written confirmation, without a meeting, but no such** action shall be effective unless concurred in by all members of the committee. Vacancies in such committees shall be filled by the board of managers or as it may provide.

Section 14. Fidelity Bonds. The board of managers shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate Fidelity Bonds. The premiums on such bonds shall be paid by the Association and shall be a Common Expense.

### ARTICLE III

#### OFFICERS

Section 1. Election and Designation of Officers. The board of managers shall elect a president, a vice president, a secretary and a treasurer, each of whom shall be a member of the board of managers. The board of managers from time to time may also create such offices and appoint such other officers, subordinate officers and assistant officers as in its judgment may be necessary who are not members of the board of managers but who are members of the Association. Any two (2) of such offices, other than that of president and vice president, may be held by the same person, but no officer shall execute, acknowledge or verify any instrument in more than one capacity.

Section 2. Term of Office. The officers of the Association shall hold office during the pleasure of the board of managers, and, unless sooner removed by the board of managers, until the organization meeting of the board of managers following the date of their election and until their successors are chosen and qualified. The board of managers may remove any officer at any time, with or without cause, by a majority vote of the managers then in office. A vacancy in any office, however created, may be filled by the board of managers.

### ARTICLE IV

#### DUTIES OF OFFICERS

Section 1. President. The president shall be chief executive officer of the Association and shall exercise general executive supervision over the business and affairs of the Association and over its several officers, subject, however, to the control of the board of managers. He shall preside at all meetings of members of the Association and shall also preside at meetings of the board of managers. He may execute all authorized deeds, contracts and other obligations of the Association and shall have all

the powers and duties prescribed by Chapter 5311 of the Ohio Revised Code; he shall also have such other authority and shall perform such other duties as the board of managers may from time to time assign to him or otherwise provided for in the Declaration or in these By-laws.

Section 2. Vice President. The vice president shall perform such duties as are conferred upon him by these By-laws or as may from time to time be assigned to him by the board of managers or the president. At the request of the president, or in his absence or disability, the vice president shall perform all the duties of the president, and when so acting, shall have all the power of the president. The authority of the vice president to sign in the name of the Association all deeds, contracts, and other obligations, shall be coordinate with like authority of the president.

Section 3\* Secretary. The secretary shall keep minutes of all the proceedings of the members of the Association and of the board of managers and shall make proper record of the same, which shall be attested by him; shall have authority to execute all deeds, contracts and other obligations of the Association requiring his signature; keep such books as may be required by the board of managers; give notices of meetings of members of the Association and of the board of managers required by law, or by these By-laws or otherwise; and perform such other further duties as may from time to time be assigned to him by the board of managers.

Section 4. Treasurer. The treasurer shall have general supervision of all finances; he shall receive and have in charge all money, bills, notes, documents and similar property belonging to the Association, and shall do with the same as may from time to time be required by the board of managers. He shall keep or cause to be kept adequate and correct accounts of the business transactions of the Association, including accounts of its assets, liabilities, receipts, expenditures, profits and losses, together with such other accounts as may be required, and hold the same open for the inspection and examination of the board of managers, and upon the expiration of his term of office, shall turn over to his successor or to the board of managers all property, books, documents and money of the Association in his hands; and he shall perform such other duties as from time to time may be assigned to him by the board of managers/

Section 5\* Assistant and Subordinate Officers. The board of managers may appoint such assistant and subordinate officers as it may deem desirable. Each such officer shall hold office during the pleasure of the board of managers, and perform such duties as the board of managers may prescribe.

The board of managers may, from time to time, authorize any officer to appoint and remove subordinate officers, to prescribe their authority and duties, and to fix their compensation, if any.



Section 6. Delegation of Authority and Duties. In the absence of any officer of the Association, or for any other reason, the board of managers may deem, sufficient, the board of managers is authorized to delegate the powers or duties, or any of them, of such officer, to any other officer or any manager or the managing agent, if any, and generally to control the action of the officers and to require the performance of duties in addition to those mentioned herein. Nothing herein contained shall be construed so as to preclude the Association, through its board of managers and officers, from delegating to persons, firms or corporations of its choice, including any manager or managing agent, such duties and responsibilities of the Association as the managers of the Association shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

#### ARTICLE V

#### INDEMNIFICATION OF MANAGERS, OFFICERS' AND MEMBERS OF COMMITTEES

Each manager and officer of the Association and each member of any committee appointed by the board of managers shall be indemnified by the Association against the costs and expenses reasonably incurred by him in connection with the defense of any action, suit or proceeding to which he is made a party by reason of his being or having been a manager or officer of the Association or committee member (whether or not he is a manager, officer or committee member at the time of incurring such costs and expenses), except with respect to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for misconduct or negligence in the performance of his duty as such manager, officer or committee member. In case of the settlement of any action, suit or proceeding to which any manager or officer of the Association or committee member is made a party or which may be threatened to be brought against him by reason of his being or having been a manager or officer of the Association or committee member, he shall be indemnified by the Association against the costs and expenses (including the cost of settlement) reasonably incurred by him in connection with such action, suit or proceeding (whether or not he is a manager, officer or committee member at the time of incurring such costs and expenses), if (1) the Association shall be advised by independent counsel that such manager, officer or committee member did not misconduct himself or was not negligent in the performance of his duty as such manager, officer or committee member with respect to the matters covered by such action, suit or proceeding, and the costs to the Association of indemnifying such manager or officer or committee member (and all other managers, officers and committee members, if any, entitled to indemnification hereunder in such case) if such action, suit or proceeding were carried to a final adjudication in their favor could reasonably be expected to exceed the amount of costs and expenses to be reimbursed to such managers, officers and



committee members as a result of such settlement, or (2) disinterested members of the Association entitled to exercise a majority of the voting power shall, by vote at any annual or special meeting of members, approve such settlement and the reimbursement to such manager, officer or committee member of such costs and expenses. The phrase "disinterested members" shall mean all members of the Association, other than (i) any manager, officer or committee member of the Association who at the time is or may be entitled to indemnification pursuant to the foregoing provisions, (ii) any corporation or organization of which any such manager, officer or committee member owns of record or beneficially 10% or more of any class of voting securities, (iii) any firm of which such manager, officer or committee member is a partner, and (iv) any spouse, child, parent, brother or sister of any such manager, officer or committee member. The foregoing rights of indemnification shall inure to the benefit of the heirs and legal representatives of each such manager, officer or committee member, and shall not be exclusive of other rights to which any manager, officer or committee member may be entitled as a matter of law or under the Declaration, any vote of members or any agreement.

#### ARTICLE VI

##### FISCAL YEAR

The fiscal year of the Association shall end on the thirty-first day of December in each year, or on such other day as may be fixed from time to time by the board of managers.

#### ARTICLE VII

##### DETERMINATION AND PAYMENT OF ASSESSMENTS

Section 1. Obligation of Owners to Pay Assessments. -It shall be the duty of every unit owner to pay his proportionate share of the expenses of administration, maintenance and repair of the Common Areas and Facilities and of the other expenses provided for herein. Such proportionate share shall be in the same ratio as his percentage of ownership in the Common Areas and Facilities as set forth in Article VII of the Declaration. Payment thereof shall be in such amounts and at such times as may be determined by the board of managers of the Association, as hereinafter provided.

Section 2. Preparation of Estimated Budget. On or before the first (1st) day of December of each year, the board of managers shall estimate the total amount necessary to pay the common expenses including, without limitation, the cost of wages, materials, insurance,

services and supplies which will be required during the ensuing calendar year for the rendering of all services., together with such reasonable amount as the board may deem necessary as a reserve for contingencies and replacements, and shall on or before the December 15th next succeeding notify each owner in writing of the amount of such estimate, with reasonable itemization thereof. Said "estimated cash requirement" shall be assessed to the unit owners according to each owner's percentage of ownership in the Common Areas and Facilities as set forth in the Declaration. On or before January 1st of the ensuing year, and the 1st of each and every month of said year, each unit owner shall be obligated to pay to the Association or as it may direct one-twelfth (1/12) of the assessment made pursuant to this section. If said "estimated cash requirement" proves inadequate for any reason, including the non-payment by any unit owner of his assessment, the Association may at any time prepare an adjusted estimate and levy an additional assessment, which shall be assessed to unit owners in proportion to each unit owner's percentage of ownership in the Common Areas and Facilities. The Association shall give written notice of any such additional assessment to all unit owners stating the amount thereof, the reasons therefor and the time when the same shall be effective, which shall be not less than ten (10) days after the mailing of such notice or, if the same is not mailed, the delivery thereof. All owners shall be obligated to pay the adjusted monthly amount. Any amount collected by the Association in excess of the amount required for actual expenses and reserves in any year shall be credited promptly after the same has been determined according to each unit owner's percentage of ownership in the common areas and facilities, to the monthly installments next due from unit owners under the current year's estimate, until exhausted, and any deficiency shall be added, according to each unit owner's percentage of ownership in the common areas and facilities, to the installments due in the succeeding six months after rendering of the accounting.

Section 3» Reserve for Contingencies and Replacements. The Association shall establish and maintain a reserve for contingencies and replacements in such amount as the board may deem necessary. Extraordinary expenditures not originally included in the annual estimate which may be necessary during the year, shall be charged first against such reserve.

Section .4 Budget for First Year. When the first board of managers elected hereunder takes office, the Association shall determine the "estimated cash requirement", as hereinabove defined, for the period commencing on the first day of the second full month after said election and ending on December 31st of the calendar year in which said election occurs. Assessments shall be levied against the unit owners during said period as provided in Section 2 of this Article VII.

Section 5\* Failure to Prepare Annual Budget. The failure or delay of the Association to prepare

or serve the annual or adjusted estimate on any unit owner shall not constitute a waiver or release in any manner of such unit owner's obligation to pay his proportionate share of the common expenses\* including, without limitation, the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, each unit owner shall continue to pay a monthly assessment at the then existing monthly rate established for the previous period until the amount of the monthly assessment is changed as herein provided.

Section 6. Books and Records of Association.

The Association shall keep full and correct books of account and the same shall be open for inspection by any unit owner or any representative of a unit owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by such owner. Upon ten (10) days notice to the board of managers and payment of a reasonable fee, any unit owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such owner.

Section 7. Annual Audit. The books of the Association shall be audited once a year by the board of managers, and such audit shall be completed prior to each annual meeting. If requested by two members of the board of managers, such audit shall be made by a certified public accountant. In addition and at any time requested by the owners of ten (10) or more units, including the Grantor, the board of managers shall cause an additional audit to be made.

Section 8. Annual Statements. At or before the annual meeting of members of the Association, or the meeting held in lieu thereof, the Association shall furnish to each unit owner a financial statement consisting of (a) a balance sheet containing a summary of the assets and liabilities of the Association as of a date not more than four (4) months before such meeting and (b) a statement of the income and disbursements for the period commencing with the date marking the end of the period for which the last preceding statement of income and disbursements required hereunder was made and ending with the date of said balance sheet, or in the case of the first such statement, from the formation of the Association to the date of said balance sheet. The financial statement shall have appended thereto an opinion signed by the president or vice president or the treasurer or an assistant treasurer, if any, of the Association or by a public accountant or firm of public accountants to the effect that the financial statement presents fairly the financial position of the Association and the results of its operations in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding period, or such other opinion as is in accordance with sound accounting practice.



Section 9\* Assessments Prior to Organization of Association. Until such time as the Association is organized\* monthly assessments in the amount of \$75.00 per unit shall be paid by the owner of each unit (excluding those units owned by Grantor) and such sums shall be deposited with a bank or savings and loan association in Cleveland\* Ohio\* for the account of and for the benefit of the Association. Such payments in such amount shall continue to be paid until the amount thereof shall be readjusted in accordance with the provisions of the Declaration and these By-laws immediately following the organization of the Association. During the first six months after the Association has been organized\* Grantor shall pay an amount equal to 60% of his proportionate share of the monthly assessments to the Association for each unit\* the title to which is vested in Grantor. Thereafter\* Grantor shall pay his proportionate share for each such unit.

Section 10. Status of Funds Collected by Association. All funds collected hereunder shall be held and expended solely for the purposes designated herein\* and (except for such special assessments as may be levied hereunder against less than all of the unit owners\* and for such adjustments as may be required to reflect delinquent or pre-paid assessments) shall be deemed to be held for the use, benefit and account of all of the unit owners in proportion to each owner's percentage ownership in the common area and facilities as provided in Article VII of the Declaration.

Section 11. Remedies for Failure to Pay Assessments. If a unit owner is in default in the monthly payment or the aforesaid charges or assessments for thirty (30) days\* the members of the board of managers may bring suit for and on behalf of themselves and as representatives of all unit owners\* to enforce collection thereof or to foreclose the lien therefor as provided in the Declaration; and there shall be added to the amount due the costs of said suit\* together with legal interest and reasonable attorneys' fees to be fixed by the Court. To the extent permitted by the Declaration\* any decision or any statute or law now or hereafter effective\* the amount of any delinquent and unpaid charges or assessments\* and interest\* costs and fees as above provided shall be and become a lien or charge against the unit ownership of the owner involved when payable and may be foreclosed by an action brought in the name of the board of managers as in the case of foreclosure of liens against real estate\* as provided in the Declaration. As provided in the Declaration\* the members of the board of managers and their successors in office\* acting on behalf of the other unit owners\* shall have the power to bid in the interest so foreclosed at foreclosure sale\* and to acquire and hold\* lease\* mortgage and convey the same. Any encumbrancer may from time to time request in writing a written statement from the board of managers setting forth the unpaid common expenses with respect to the unit covered by his encumbrance and unless the request shall be complied with within twenty (20) days\* all unpaid common expenses which become due prior to the date of the making of such request shall be subordinate to the lien of such encumbrance. Any encumbrancer holding a lien on a unit may pay any unpaid

common expenses payable with respect to such unit, and upon such payment such encumbrancer shall have a lien on such unit for the amounts paid at the same rank as the lien of his encumbrance.

Section 12. Security Deposits from Certain Owners. If in the judgment of the board the equity interest of any unit owner (whether, the original owner or a subsequent purchaser or transferee) in his unit at any time is not sufficient to assure realization (whether by foreclosure of any lien for common expenses referred to in Section 11 above, or otherwise) of all assessments, charges or other sums which may be levied by the Association, then, whether or not such unit owner shall be delinquent in the payment of such levies, the Association shall have the right to require such unit owner to establish and maintain a security deposit in an amount which the board deems necessary for such purposes, provided, however, that such security deposit shall in no event exceed an amount which, when added to such unit owner's equity interest in his unit, will equal twenty-five percent (25%) of the purchase price of such unit. In the event that any owner shall fail to pay assessments, charges or other sums which may be due the Association hereunder or shall otherwise violate any covenant, term or condition of the Declaration or these By-laws, the Association shall have the right, but not the obligation, to apply such security deposit in reduction of its alleged damages resulting from such failure or violation, which right shall be in addition to all and other remedies provided for by law or in the Declaration or these By-laws. Upon any sale by such unit owner of his unit, or at such time as such unit owner's equity in his unit is, in the opinion of the board, sufficiently adequate to dispense with the necessity of such security deposit, any unapplied balance of said security deposit remaining to the credit of said unit owner shall be refunded, provided that such owner shall not be in default under any of his obligations under the Declaration or these By-laws. The Association shall have the right to maintain all security deposits held by it as aforesaid in a single bank account and shall not be required to credit interest to any unit owner until such time as such security deposit is refunded. Said security deposit shall at all times be subject and subordinate to the lien for common expenses referred to in the Declaration and Section 11 above and all rights thereto shall inure to the benefit of the lienor.

## ARTICLE VIII

### GENERAL POWERS OF THE ASSOCIATION

#### Section 1. Payments for Common Expenses.

The Association, for the benefit of all the unit owners, shall acquire and pay all common expenses arising with respect to, or in connection with, the Condominium Property, including, without limitation, the following:

(a) The cost of water, waste removal, electricity and telephone, heat, power and other necessary utility service for the Common Areas and Facilities;

(b) Premiums for casualty and liability insurance effected in accordance with the provisions of Article XIII of the Declaration, the amounts and limits of which insurance shall be reviewed annually;

(c) Premiums for workmen's and unemployment compensation coverage to the extent necessary to comply with any applicable laws;

(d) Fees for the services of any person, firm or corporation employed by the Association, including, without limitation, the services of a managing agent for the Condominium Property, the services of any person or persons required for the maintenance or operation of the Condominium Property (including a recreation director, if any), and legal and/or accounting services necessary or proper in connection with the operation of the Condominium Property or the enforcement or interpretation of the Declaration or these By-laws for the organization, operation and enforcement of the rights of the Association;

(e) The cost of landscaping, gardening, snow removal; painting, cleaning, tuckpointing, maintenance, decorating, repair and replacement of the common areas and facilities (but not including the interior surfaces of the units, which the unit owner shall paint, clean, decorate, maintain and repair), the operation of swimming pools and other recreational facilities, if any, situated on the common areas and such facilities as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the common areas and facilities;

(f) The cost of any other materials, supplies, furniture, equipment, labor, services, maintenance, repairs, structural alterations, insurance or assessments which the Association is required to secure or pay for pursuant to the terms of the Declaration or these By-laws or by law or which, in its opinion, shall be necessary or proper for the maintenance and operation of the Condominium Property as a high-quality residential property or for the enforcement of the Declaration and these By-laws;

(g) The cost of any alteration, maintenance or repair of any unit which the board of managers deems necessary for public safety or in



- order to prevent damage to or destruction of any other part of the Condominium Property, and the owner or owners of said unit have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said owner or owners, provided that the Association shall levy a special assessment against such unit owner to the extent of the cost of said maintenance or repair;

(h) The cost of water, waterlines, waste removal and/or any utilities which are not separately metered or otherwise directly charged to individual unit owners, provided that the Association may discontinue payment therefor at any time, in which case each unit owner shall be responsible for direct payment of his share of such expenses as determined by the Association and provided further that the Association may levy additional special assessments against any unit owner to reimburse it for excessive use by such owner of any utility service the expense of which is a common expense;

(i) Any amount necessary to discharge any mechanic's lien or other encumbrance levied against the Condominium Property, or any part thereof, which may in the opinion of the Association constitute a lien against the Condominium Property or against the common areas and facilities, rather than merely against the ownership interests therein of particular unit owners; it being understood, however, that the foregoing authority shall not be in limitation of any statutory provisions relating to the same subject matter. Where one or more unit owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it and any costs incurred by the Association by reason of said lien or liens shall be specially assessed to said owners; and

(j) The amount of any such other costs and expenses designated as "common expense" in the Declaration and in these By-laws.

Section 2. Acquisition, Lease, Sale or Exchange of Real Property. Whenever the board determines to acquire, lease, sell or exchange real property or any interest therein, other than any ownership interest or interest therein, the board shall submit such acquisition, lease, sale or exchange to the vote of the unit owners, and, upon the affirmative vote of the unit owners entitled to exercise not less than a majority of the voting power, the board may proceed with such acquisition, lease, sale or exchange, in the name of the Association and on behalf of

the unit owners, and the costs and expenses incident thereto shall constitute part of the common expenses.

Section 3\* Capital Additions, Alterations or Improvements. The powers of the Association hereinabove enumerated shall be limited in that the Association shall have no authority to acquire and pay for as a common expense the cost of any capital additions, alterations or improvements (as, ~~opposed to~~ ~~maintenence~~, repair and... replacement of the common areas and facilities, or any portion thereof, subject to all the provisions herein and in the Declaration contained) costing in excess of Five Thousand Dollars (\$5,000.00), nor shall the Association authorize any structural alterations, capital additions to, or capital improvements of the common areas and facilities requiring an expenditure in excess of Five Thousand Dollars (\$5,000.00), without in each case securing the prior approval of the members of the Association entitled to exercise 75% of the voting power of the Association; provided, however, that the Association shall proceed with all such approved capital additions, alterations or improvements and shall assess all unit owners for the cost thereof as a common expense. Any capital additions, alterations or improvements costing Two Thousand Dollars (\$2,000.00) or less may be made by the board of managers of the Association without approval of the unit owners, and the cost thereof shall constitute a part of the common expenses.

Section 4. Special Services. The Association may arrange for the provision of any special services and facilities for the benefit of such unit owners and/or occupants as may desire to pay for the same, including, without limitation, the cleaning, repair and maintenance of units and provision of special recreational, educational or medical facilities. Fees for such special services and facilities shall be determined by the board of managers of the Association and may be charged directly to participating unit owners or paid as a common expense, in which case a special assessment shall be levied against such participating unit owners to reimburse the Association therefor.

Section 5\* Right of Access. Each unit shall be subject to the right of access by the Association or its agents or persons so authorized by the board of managers for the purpose of construction, maintenance, repair or service of any common areas and facilities located within the boundaries of a unit or accessible by or through such unit or any portion thereof for which the Association is responsible. The Association or its agents may likewise enter any balcony for the purposes of construction, maintenance, repair or painting. Such entry shall be made with as little inconvenience to the unit owners as practicable, and any damage caused thereby shall be repaired by the Association and the costs of such repair shall be a common expense. The Association reserves the right to retain a pass key to each unit, and no locks or other devices shall be placed on the doors to any unit to obstruct access through the use of such pass key. In the event of any emergency

originating in or threatening any unit at any time or when such access is otherwise deemed necessary by the board of managers of the Association or any maintenance, repair or service is scheduled at a time when the unit owner is absent from his unit, the board or the managing agent, or any representative or any other person designated by either of them, may have access to such unit, whether the unit owner is present or not.

Section 6. Rules and Regulations. The Association, by the affirmative vote of the members entitled to exercise a majority of the voting power of the Association, or the board, by the vote of a majority of the authorized number of managers, may adopt such reasonable rules and regulations and from time to time amend the same supplementing the rules and regulations set forth in the Declaration and these By-laws as it or they may deem advisable for the operation, use, maintenance, conservation and beautification of the Condominium Property or any portion thereof, and for the health, comfort, safety and general welfare of the unit owners and occupants of the Condominium Property. Written notice of such rules and regulations shall be given to all unit owners and occupants, and the Condominium Property shall at all times be maintained subject to such rules and regulations. In the event such supplemental rules and regulations shall conflict with any provisions of the Declaration or of these By-laws, the rules and regulations of the Declaration and of these By-laws shall govern.

Section 7\* No Active Business to be Conducted for Profit. Nothing herein contained shall be construed to give the Association authority to conduct an active business for profit on behalf of all the unit owners or any of them.

Section 8. Applicable Laws. The Association shall be subject to and governed by the provisions of any statute adopted at any time and applicable to property submitted to the Condominium form of ownership (including, without limitation, Chapter 5311 of the Ohio Revised Code); provided, however, that all inconsistencies between or among the permissive provisions of any statute and any provision of the Declaration and these By-laws shall be resolved in favor of the Declaration and these By-laws, and any inconsistencies between any statute applicable to associations formed to administer property submitted to the Condominium form of ownership, shall be resolved in favor of the latter statute. In the event of any conflict or inconsistency between the provisions of the Declaration and the Articles or By-laws of the Association, the terms and provisions of the Declaration shall prevail, and the owners and all persons claiming under them covenant to vote in favor of such amendments in the Articles or By-laws as will remove such conflicts or inconsistencies.



## ARTICLE IX

### GENERAL PROVISIONS

Section 1. Grantor's Rights Pending Sale of Fifty-One Percent (51%) of Units. Until such time as the Association is formed, and until such time thereafter as Grantor shall have consummated the sale of fifty-one percent (51%) of all units and a Board is elected at a meeting of the Association, the powers, rights, duties and functions of the Association and its board of managers, including, without limitation, the power to determine the amount of and levy assessments for common expenses and reserves, shall be exercised by Grantor.

Section 2. Non-Waiver of Covenants. No covenants, conditions or restrictions, obligations or provisions contained in the Declaration or these By-laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 3. Agreements Binding. All agreements and determinations lawfully made by the Association in accordance with the procedures established in the Declaration and these By-laws shall be deemed to be binding on all unit owners, their successors and assigns.

Section 4. Notices of Mortgages. Any unit owner who mortgages his unit shall notify the Association in such manner as the Association may direct of the name and address of his mortgagee and thereafter shall notify the Association of the payment, cancellation or other alteration in the status of such mortgage. The Association shall maintain such information in a book entitled "Mortgagees of Units".

Section 5\* Severability. The invalidity of any covenant, restriction, condition, limitation or any other provision of these By-laws, or of any part of the same, shall not impair or affect in any manner the validity, enforceability or effect of any other provision contained in these By-laws or in the Declaration.

Section 6. Perpetuities and Restraints on Alienation. If any of the options, privileges, covenants or rights created by these By-laws shall be unlawful or void for violation of (a) any rule against perpetuities or any analogous statutory provision, (b) any rules restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue in effect for only twenty-one (21) years after the death of the survivor of the now living descendants of Richard M. Nixon, President of the United States, and Carl B. Stokes, Mayor of Cleveland, Ohio.

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ARTICLE XAMENDMENTS

Provisions of these By-laws may be amended by the unit owners at a meeting held for such purpose by the affirmative vote of those entitled to exercise not less than a majority of the voting power. No such amendment shall conflict with the provisions of the Declaration or of Chapter 5311 of the Ohio Revised Code.

IN WITNESS WHEREOF, THE VICTORIAN, the Grantor, acting by and through its duly authorized partners, has executed these By-laws this 22<sup>nd</sup> day of March, 1971.

In the presence of:

THE VICTORIAN

By Quad Service Company

*By [Signature]*

*[Signature: Norman Neudeland]*

And *[Signature: Ralph Robins]*

Authorized Partners

STATE OF OHIO )  
 ) SS.  
COUNTY OF CUYAHOGA )

BEFORE ME, a Notary Public in and for said County and State, personally appeared Will Sukenik, a partner of\* and Ralph Robins, partners of The Victorian, who, having first been sworn, each acknowledged that they did execute the foregoing instrument and that the same was their free act and deed individually and as such partners and the free act and deed of said partnership.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at Cleveland, Ohio, this 22nd day of March, 1971.

•Quad Service Company,

*[Signature]*  
Notary Public •  
PHILLIP G. LEVITT, attorney  
NOTARY PUBLIC FOR THE STATE OF OHIO

This instrument prepared by:

John He Gherlein  
Thompson, Hine and Flory  
Cleveland, Ohio 44114.

EXHIBIT C

Situated in the City of Cleveland Heights, County of Cuyahoga and State of Ohio and known as being part of Original Euclid Township Lot No. 55, and bounded and described as follows:

Beginning on the Northerly line of Mayfield Road, (80 feet wide), at the Southwesterly corner of land conveyed to Peter Vasil, by deed dated January 16, 1942 and recorded in Volume 5421, Page 392 of Cuyahoga County Records; thence Westerly along the Northerly line of Mayfield Road, 219.12 feet to the Easterly end of the curved turnout between said Northerly line and the Easterly line of Inglewood Drive; thence Northwesterly along said curved turnout, 39.96 feet to the Easterly line of Inglewood Drive; thence Northerly along the Easterly line of Inglewood Drive, 223.45 feet to the Southerly end of the curved turnout between said Easterly line and the Southeasterly line of Oak-Ridge Drive; thence Northeasterly along said curved turnout, 130.85 feet to the Southwesterly corner of Sublot No. 10 in The Shaker Heights Improvement Company's Subdivision No. 4, as shown by the recorded plat in Volume 76 of Maps, Page 18 of Cuyahoga County Records; thence Southeasterly along the Southwesterly line of said Sublot, 100.75 feet to an angle therein; thence Easterly along the Southerly line of said Sublot No. 10, 135 feet to the Westerly line of land conveyed to Peter Vasil, as first aforesaid; thence Southerly along the Westerly line of land so conveyed, 350 feet to the place of beginning, be the same more or less, but subject to all legal highways.