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 By Loell Manning Deputy Book 180 Page 892

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DECLARATION OF COVENANTS
 CONDITIONS AND RESTRICTIONS OF
 THE COLONIAL GARDENS CONDOMINIUMS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, hereinafter called "Declaration" and By-Laws, which are attached hereto as "Appendix C" and made a part hereof are made and executed in Davis county, Utah this 19th day of July, 1979, by COLONIAL GARDENS ASSOCIATES, a Utah General Partnership, authorized to do business in Utah, hereinafter called "Declarant" for itself and its successors, grantees, and assigns, pursuant to the provisions of the Utah Condominium Ownership Act, Utah Code Ann. Section 57-8-1, et. seq. (1953 as amended) hereinafter referred to as Condominium Ownership Act.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain land located in Davis County, Bountiful City, Utah, hereinafter referred to as the "land" and more particularly described in "Appendix A" of the Declaration which is attached hereto and made a part hereof; and,

WHEREAS, fifteen residential buildings consisting of a total of 60 residential condominium units and 60 covered carports and other parking stalls that are not covered and other improvements upon the aforesaid premises have been constructed in accordance with the plans and drawings set forth in the Record of Survey Map filed concurrently herewith, consisting of three sheets prepared and certified by Ron Hiatt, a duly registered Utah Land Surveyor; and,

WHEREAS, Declarant desires by filing this Declaration and the aforesaid Record of Survey Map to submit the above described real property, and the said buildings and other improvements constructed thereon to the provisions of the Utah Condominium Ownership Act as a condominium project known as the COLONIAL GARDENS CONDOMINIUM; and,

WHEREAS, Declarant desires and intends to sell the fee

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title to the individual units contained in said condominium project; together with an undivided ownership interest in the common areas and facilities appurtenant thereto, to various purchasers, subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, Declarant desires and intends by filing this Declaration and Record of Survey Map to submit the property to the provisions of the aforesaid act as a condominium property and to impose upon said property mutually beneficial restrictions for the benefit of said property and the owners thereof; and

WHEREAS, the Declarant intends to develop the above condominium project consisting of 60 residential units and 60 covered carports and to subject the entire property and units as so developed as one condominium project by the filing of a Declaration to accomplish that purpose;

NOW, THEREFORE, for such purposes, Declarant hereby makes the following Declaration containing covenants, conditions and restrictions relating to the condominium project which, pursuant to the provisions of Utah Code Annotated Section 57-8-10 (1953 as amended), shall be enforceable equitable servitudes, where reasonable and shall run with the land.

1. NAME OF THE CONDOMINIUM PROPERTY The name by which the condominium property shall be known is COLONIAL GARDENS CONDOMINIUM.

2. DEFINITIONS. The terms used herein shall have the meaning stated in the Utah Condominium Ownership Act and shall apply to this Declaration and By-Laws as follows, unless the context clearly indicates a different meaning therefore:

A. "Declarant shall mean COLONIAL GARDENS ASSOC. a Utah General Partnership, authorized to do business in Utah, which has made and executed this Declaration.

B. The term "Act" shall mean and refer to the Utah Condominium Ownership Act, Utah Code Annotated, Section 57-8-1, et. seq. (1953 as amended).

C. The term "Condominium" shall mean and refer to the ownership of a single unit in this condominium project

together with an undivided interest in the common areas and facilities of the property.

D. The term "Declaration" shall mean and refer to this instrument by which the COLONIAL GARDENS CONDOMINIUM project is established.

E. The term "property" shall mean and include the land, the buildings, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property for use in connection therewith.

F. The term "condominium project" or "project" shall mean and refer to the entire real estate condominium project referred to in the Declaration.

G. The term "map" shall mean and refer to the Record of Survey Map of the COLONIAL GARDENS CONDOMINIUM, recorded herewith by Declarant in accordance with Utah Code Annotated Section 57-8-13 (1953 as amended).

H. The term "unit" shall mean one of the residential units designated on the Record of Survey Map attached hereto as Appendix "B". Horizontally each unit consists of the area measured horizontally from the unit side of the exterior walls of the building to the unit side of the walls and partitions separating such unit from corridors, stairs, incinerators and other mechanical equipment spaces, and where walls and partitions separate such units from other units, to the side of such walls and partitions on the interior of such units, and where plaster or sheetrock partitions separate such unit from other units, to the centerline of the plaster or sheetrock on the side of each unit consists of the space between the top of the floor to the underside of the ceiling. A Unit shall not include pipes, wires, conduits or other utility lines running through it which are utilized for or which serve more than one unit.

I. The term "unit Owner" shall mean and refer to

the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in this Declaration, which shall include the original purchasers and any other person who may subsequently acquire a unit.

J. The term "association of unit owners" shall mean and refer to all of the unit owners acting as a group in accordance with the Act, the Declaration and By-Laws.

K. The term "unit number" shall mean and refer to the number designating the unit in the Declaration and in the Record of Survey Map.

L. The terms "majority" or "majority of unit owners" shall mean the owners of more than fifty percent (50%) of an undivided interest in the common areas and facilities.

M. The term "management committee" shall mean and refer to a committee composed of persons duly elected thereto by the association of unit owners, as provided by this Declaration or the Act in accordance with the By-Laws attached hereto as Appendix "C". Said committee is charged with and shall have the responsibility and authority to make and enforce all of the reasonable rules and regulations pertaining to the operation and maintenance of the property.

N. The term "manager" shall mean and refer to the person, persons, corporation or other entity selected by the management committee to manage the affairs of the condominium project.

O. The term "common elements" refer to and consist of the entire condominium property, including all parts of the building other than the units, and including, without limitation the following:

- (1) The land on which the buildings are erected.
- (2) All foundations, columns, girders, beams and supports;
- (3) All exterior walls of the building not including the portions thereof on the unit side of such walls;

all walls and partitions separating units from corridors, stairs, incinerators, and other mechanical equipment spaces, other than the portions of the plaster or sheetrock partitions separating units between the center lines of the plaster or sheetrock on each side of such partitions; and all concrete floors and concrete ceilings;

(4) Roof, halls, corridors, lobbies, stairs, stairways, and entrances to the exits from the building;

(5) Basements, sub-basements, yards, gardens, recreational or common facilities, mail rooms, vaults and other areas used in connection therewith, parking and drive-way areas, and storage spaces.

(6) All space devoted to the lodging or use of the superintendant and other persons employed in connection with the operation of the condominium property;

(7) All central and appurtenant installations for services such as power, light, telephone, gas, hot and cold water, heat refrigeration, air conditioning and incinerating (including all pipes, ducts, wires, cables and conduits used in connection therewith, whether located in common areas or in units) and all other mechanical equipment spaces;

(8) All elevators, tanks, pumps, motors, fans, compressors, and control equipment;

(9) All sewer pipes;

(10) All storage spaces, garage space and laundry rooms

(11) All terraces and balconies or patios, provided however, that each unit owner whose unit has sole access to a terrace or balcony or patio shall have an easement for the exclusive use thereof; and

(12) All other parts of the condominium property and all apparatus and installations existing in the building or on the property for common use or necessary or convenient to the existence, maintenance or safety of the condominium.

P. The term "limited common areas and facilities" shall mean and refer to those common areas and facilities designated in the Declaration and the map as reserved for use of a certain unit or units to the exclusion of the other units.

Q. The term "common expense" shall mean and refer to

all expenses of administration, maintenance, repair or replacement of the common areas and facilities, to all items, things, and sums described in the Act which are lawfully assessed against the unit owners in accordance with the provisions of the Act, this Declaration, the By-Laws, such rules and regulations pertaining to the condominium project as the association of unit owners or the management committee may from time to time adopt, and such determinations and agreements lawfully made/or entered into by the management committee.

R. The term "par value" shall mean and refer to the number of points assigned to each unit by Appendix "D", attached hereto and made a part of this Declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different amenities or other characteristics that might result in difference in market value need not be but may be considered substantially identical within the meaning of this term. Any statement or par value shall not be deemed to reflect or control the sale price or fair market transaction shall affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the units owner's association, liability for common expenses, or right to common profits, assigned on the basis thereof.

S. The term "size" shall mean the number of square feet of floor space within each unit as computed by reference to the record of survey map and rounded off to the next highest whole number. Space within the unit shall not include attic, basement or carport spaces.

T. The term "reconstruction of the building(s)" shall mean restoring the building to substantially the same condition in which it existed prior to the fire or other disaster,

with each unit and the common elements having the same vertical and horizontal boundaries as before.

U. Those definitions contained in the Act, to the extent they are applicable to and not inconsistent herewith, shall be and are hereby incorporated herein by reference and shall have the same effect as if expressly set forth herein and made a part thereof.

3. DESCRIPTION OF PROPERTY

A. Description of Land:

The tract of land located in Bountiful City, Davis County, State of Utah, as is more fully described in Appendix "A".

The building consists of 15 residential buildings with a total of 60 residential units. There are 60 carports which are limited common area, and other parking stalls that are not covered which are common area. A building containing clubhouse, whirlpool and sauna is also located on the property, which will be deemed as common area.

The residential buildings are constructed on concrete with reinforcing steel supports. Exterior walls are of brick and frame; interior are of wooden studs, plywood and drywall or plaster. The floors are concrete or wood. The units are supplied with gas and electricity.

The covered parking spaces are of concrete or asphalt and frame construction.

All other details involving the respective descriptions and locations of the buildings and a statement of the number of units and other like details are set forth in the Record of Survey Map which is filed with this Declaration and made a part thereof.

B. Description of Units:

(a) Annexed hereto and made a part hereof as Appendix "D" is a list of all units in the buildings, their unit designations and the percentage of interest of each unit in the common elements (referred to as par value). Annexed hereto and made a part hereof as Appendix "E" is a record of survey map certified by Ron Hiatt and filed with the Davis County Recorder's office simultaneously with the recording of this document which map and additional sheets depict each unit location, each unit's approximate area, the number of rooms and the common areas to which each unit has immediate access.

(b) Each residential unit shall consist of:

(1) The space enclosed within the undecorated interior surface of its perimeter walls, floors, and ceilings (being in appropriate cases the inner surfaces parallel to the roof plane, of the roof rafters, and the projections thereof) projected, where appropriate to form a complete enclosure of space including any pipes, ducts, wires, conduits or structural divisions such as interior walls or partitions which may intervene.

(2) Any finishing material applied or affixed to the interior surfaces of the perimeter walls, floors, and ceilings, including without limitation, paint, lacquer, varnish, wallpaper, tile, and paneling.

(3) Non-Supporting interior walls.

(4) Windows and doors in the perimeter walls, whether located within the bounds of a unit or not, but not including any space occupied thereby to the extent located outside the bounds of the units.

Each covered parking space is defined by the vertical and horizontal dimensions of such units so shown on the map.

Each unit has immediate access to the common areas and facilities.

Any contract for the sale of a unit and any other instrument affecting title to a unit may describe that unit by its identifying number or symbol as designated in the map or maps with the appropriate reference to the map(s) and to this Declaration, as each unit shall appear on the records of the County Recorder of Salt Lake County, Utah in substantially the following fashion:

Unit _____, in Building _____, as shown on the Record of Survey Map For COLONIAL GARDENS CONDOMINIUMS, appearing on the records of the County Recorder of Salt Lake County, State of Utah, in Book _____ at Page _____, of Plats, and as defined and described in the Declaration of Condominium appearing in such records, in Book _____, Page _____, of Records, together with _____ percent of the undivided interest in the common areas and facilities of the COLONIAL GARDENS CONDOMINIUM.

Such description will be construed to describe the unit, together with the appurtenant undivided interest in the common areas and facilities and to incorporate all the rights incident to ownership of a unit and all appurtenant undivided interest and all rights and limitations arising as a result of any amendment of the project.

C. Description of Common Area and Facilities: Except as otherwise provided in this Declaration, the common areas and facilities shall consist of all parts of the condominium property except the units. Without limiting the generality of the foregoing, the common areas and facilities shall include the following whether located within the bounds of a unit or not:

- (a) All structural parts of the building including without limitation, foundations, columns, joists, beams, supports, supporting walls, floors, ceiling and roofs.

(b) Patios, yards, courts and driveways,
(c) The roadways contained therein.
(d) Any utility pipe or line or system servicing more than a single unit, and all ducts, wires, conduits and other accessories used therewith, but excluding any pipe or line or accessory connecting a single unit to a main or central pipe or line or system or to a pipe or line or system servicing more than a single unit.

(e) All other parts of the condominium property necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as common areas and facilities in the amended Record of Survey Map.

(f) The limited common areas and facilities hereinafter described.

(g) All repairs, replacements, or improvement of the foregoing.

D. Description of Limited Common Areas and Facilities:

Each unit owner is hereby granted an irrevocable license to use and occupy the limited common areas and facilities reserved exclusively for the use of his unit, which shall consist of all the common areas and facilities, including but not limited to the balcony and or patio which is intended for the exclusive service of the unit, the use and occupancy of which shall in each case be limited to such unit.

4. SUBMISSION TO CONDOMINIUM OWNERSHIP. Declarant hereby submits the above-described property, tract of land, building, and any improvements constructed thereon or hereafter to be constructed, together with all appurtenances thereto, to the provisions of the Act as a condominium project and this Declaration if submitted in accordance with the terms

of the provisions of the Act and shall be construed and interpreted in accordance therewith.

5. CONVENANTS TO RUN WITH THE LAND. This Declaration containing covenants, conditions and restrictions relating to the project shall be enforceable equitable servitudes shall be binding upon Declarant, its successors and assigns, and upon all unit owners or subsequent unit owners of all or any part of the condominium project, and upon their grantees, mortgagees, successors, heirs, executors, administrators, devisees and assigns.

6. STATEMENT OF USES, PURPOSES AND RESTRICTIONS.

A. Purposes. The purpose of this condominium project is to provide housing and recreation for the unit owners and their prospective families, tenants, guests, and servants in accordance with the provisions for the Utah Condominium Ownership Act.

B. Restriction on Use. The units and common areas, limited common areas and facilities shall be used and occupied only as follows:

(a) No part of the condominium project shall be used for other than housing and the related common purposes for which the condominium property was designated. Each unit shall be used and occupied as a residence for a single family and for no other purpose, unless the management committee choose to use one unit for a management office. Each parking space shall be used only for parking of a vehicle.

(b) There shall be no obstruction of the common areas and facilities nor shall anything be stored in the common areas and facilities without the prior written consent on the management committee except as is otherwise provided herein.

(c) Nothing shall be done or kept in any unit or in the common areas and facilities, or limited common areas, which will increase the rates of insurance on the buildings or units or contents thereof beyond that customarily kept for residential use, without the prior written consent of the management committee. No unit owner shall permit anything to be done or kept in his unit or in the common areas and facilities which is likely to, or will result in the cancellation of insurance on the buildings, or the contents thereof, or which could be in violation of any law or regulation or any governmental authority. No waste shall be committed in the common areas or facilities.

(d) No unit owner shall cause or permit anything (including, without limiting the generality of the foregoing, any sign, awning, canopy, shutter, storm door, screen door, radio or television antenna) to hang, be displayed, or otherwise attach to or be placed on the exterior walls or roof or any part thereof, or to the outside of windows or doors, without prior written consent of the management committee.

(e) No animals or birds of any kind shall be raised, bred or kept in any unit or in the common areas and facilities, or limited common areas or facilities by unit owners, except that dogs, cats and other generally recognized household pets may be kept in units, subject to the rules adopted by the management committee and provided further that any such pet which shall create a disturbance or be a nuisance shall be permanently removed from the condominium project within ten (10) days notice from the management committee.

(f) No noxious or offensive activity of any kind shall be carried on in any unit or in the common areas nor shall anything be done therein, either willfully or intentionally which may be or is likely to become an annoyance or nuisance to the other unit owners or occupants.

(g) Except as otherwise provided herein, nothing shall be done to, or in any unit, to or on any common area and facility, to or on any limited common areas and facility which will impair the structural integrity of the building or any part thereof or which would structurally change the building or any part thereof.

(h) No clothes, sheets, blankets, laundry, bicycles, recreational equipment, storage items, or other articles of any kind shall be hung out, or exposed on any part of the common areas or limited common areas and facilities, in any manner as to be visible from any other unit, except as the rules and regulations of the unit owners association may otherwise provide. The common areas and facilities and limited common areas and facilities shall be kept free from all rubbish, debris and any other unsightly material. Any drapes or curtains placed in units shall be lined with white material under areas where there is exposure to view from the common area.

(i) There shall be no playing, lounging or placing baby carriages, playpens, bicycles, wagons, toys, vehicles, benches, chairs, or other matter in or on any part of the common areas and facilities, except as the foregoing is subject to the rules promulgated by the management committee.

(j) No industry, business trade, occupation or profession of any kind, whether for commercial, religious, educational, charitable, or any other purpose shall be conducted, maintained or permitted on any part of the condominium project except as may be permitted by the management committee and subject to the rules, nor shall any "For Sale" or "For Rent" sign or other window display or advertising be maintained or permitted by any unit owner on any part of the condominium property or in any unit therein, except that:

(1) The Declarant may perform or cause to be performed such work as is incident to the sale, repair or alteration of the condominium property, or to sale or lease of units owned by the Declarant, including advertising and signs showing the location of model units and the like.

(2) The Declarant or its agent may place "For Sale" or "For Rent" signs on any unsold or unoccupied units and may place such other signs on the condominium property for the purpose of facilitating the sale or lease of units by any unit owner, mortgagee or the association of unit owners.

(3) The association of unit owners or the management committee or its agents or representatives may place "For Sale" or "For Rent" signs on any units or the condominium property for the purpose of facilitating the sale or lease of units by any unit owner, mortgagee or the association of unit owners.

(4) One unit may be acquired and used by the management committee for the use as a management office.

k. The COLONIAL GARDENS CONDOMINIUM has been designed for family living, however, no disturbance or noise may be caused which would be noxious to other unit owners. Declarant disclaims any responsibility or obligation to unit owners, and make no representations or warranty regarding any present or future restrictions or children. The management committee shall have authority to preclude children if they desire and to prescribe reasonable rules and regulations for the purpose of effectuating the purpose of this subparagraph.

(1) Boats, campers, recreational vehicles and extra automobiles shall be subject to the rules and regulations promulgated by the management committee. The management committee shall have the power to designate areas for the location of boats, campers,

recreational vehicles and extra automobiles and the like or preclude them from the condominium village or take whatever action is deemed reasonable and necessary in maintaining the Colonial Garden as a high quality residential community. The management committee shall also have the power to designate and assign all parking places and locations for unit owners as well as visitor and/or reserved parking areas.

7. OWNERSHIP AND USE.

A. Ownership of a Unit. Except with respect to any of the common areas and facilities located within the bounds of a unit, each unit owner shall be entitled to the exclusive ownership and possession of his unit and to the ownership of an undivided interest in the common area and facilities in the percentage expressed in Appendix "D" hereof.

B. Prohibition Against Subdivision of Unit. No unit owner shall, by deed, plat or otherwise, subdivide or in any manner cause his unit to be separated into tracts or parcels smaller than the unit shown on the map.

C. Ownership of Common Areas and Facilities. The common areas and facilities shall be owned by the unit owners as tenants in common, and ownership thereof shall remain undivided. No action for partition of any part of the common areas and facilities shall be maintainable, except as specifically provided in the Utah Condominium Ownership Act, nor may any unit owner otherwise waive or release any rights in the common areas and facilities.

D. Use of Common Areas and Facilities. Except with respect to the limited common areas, each unit owner may use the common areas and facilities in accordance with the purposes for which they are intended, provided such use shall also be consistent with this Declaration and the By-Laws which right of use shall be appurtenant to and run with the unit. The management committee may regulate the use of common areas so as to insure its use to conform with its intended design.

E. Interest in Common Areas and Facilities. The percentage of interest in the common areas and facilities of each unit has been determined by assigning points to each unit

according to size and other factors that differentiate each unit from the other units.

F. Use and Maintenance of Limited Common Areas and Facilities. A unit owner's use and occupancy of the limited common areas and facilities reserved for his exclusive use shall be subject to and in accordance with the provisions of this Declaration and By-Laws. Each unit owner shall be responsible for the maintenance and repair of the interior of any limited common area reserved for his exclusive use. The management committee shall have responsibility for the maintenance and repair of the exterior of any limited common areas. The management committee may provide insurance for, or otherwise take such measures as it may deem appropriate to insure the maintenance and repair of such limited common areas.

8. The name and address of the person in Salt Lake County, State of Utah, appointed as first agent to receive service of process for all matters pertaining to the project under the Utah Condominium Ownership Act is:

Randolph S. Mellor
453 North 400 East
Bountiful, UT 84010

The agent may be changed from time to time by filing appropriate instruments.

9. Percentage of Ownership and Voting Rights. The percentage of ownership in the common areas and facilities of the condominium shall be controlling for all purposes, including voting. The common expenses shall be allocated in accordance with the percentage of ownership. The percentage of ownership in the common areas and facilities and the number of votes in the association of unit owners shall be set forth in Appendix "D".

10. Easements.

A. The management committee may hereafter grant easements for utility purposes for the benefit of the condominium property including the right to install, lay, maintain, repair

and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, and electrical conduits and wires over, under, along and through any portion of the common areas and facilities.

B. Declarant shall have a transferable easement over and on the common areas and facilities for the purpose of making improvements on the land within the project or on any additional land under this Declaration and the Act, and for the purpose of doing all things reasonable necessary and proper in connection with the same.

C. Declarant and his duly authorized agents, representatives and employees shall have the right to maintain sales offices and model units on the land within the project. Declarant may use two (2) unoccupied units for model units and two (2) unoccupied units for sales and rental offices, the Clubhouse shall also be used by Declarant provided that as Declarant ceases to use the Clubhouse, Declarant shall have no further rights and interest therein.

D. To the extent that any damage is inflicted on any part of the condominium project by any person or persons utilizing the easements reserved by this Declaration or created by subsections "A" or "B" or "C" of this section 10, the Declarant together with person or persons causing the same, shall be jointly and severally liable for the prompt repair of the damage and for the restoration of the same to condition compatible with the remainder of the condominium project.

E. Each unit shall be subject to such easements as may be necessary for the installation, maintenance, repair or replacement of any common areas and facilities located within the boundaries of such unit.

F. In the event that, by reason of the construction, reconstruction, settlement or shifting of a building, any part of the common areas and facilities encroach or shall hereafter encroach upon any part of any unit or any part of any unit encroaches or shall hereafter encroach upon any part of the common areas and facilities or any other unit, valid easements for such encroachment and the maintenance of such encroachment are hereby established and shall exist for the benefit of such unit and the common areas and facilities, as the case may be, so long as all or any part of the building containing any such unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any unit owner or owners of the common areas and facilities if such encroachment occurred due to the willful conduct of such unit owner or owners.

11. EXCLUSION OF WARRANTIES.

Each unit and all common areas and limited common areas are sold by Declarant "As Is" without any warranty, express or implied, as to any structural or mechanical defects whether they be apparent or latent. The Declarant does not warrant the merchantability of any part of the units, the common areas or the limited common areas. The Declarant does not warrant that any part of any unit, the common area or the limited common area is fit for any particular purpose. Anyone purchasing a condominium waives any right he may have to bring an action against Declarant for breach of warranty. No suit whether in equity or at law shall be maintainable against Declarant by the unit owners individually or the association of unit owners by reason of any alleged breach of an express or implied warranty.

12. MORTGAGE PROTECTION. Notwithstanding anything herein to the contrary, it is hereby declared, certified and agreed as follows:

A. Mortgagee's Right to Notification and Default. Any holder of the first or second mortgage of any unit is entitled to written notification from the management committee of any default by the Mortgagor of such unit in the performance of such mortgagor's obligations under the Declaration which has not been cured within thirty (30) days.

B. Priority of Mortgagee over Certain Assessments. Any holder of a first or second mortgage or a deed of trust on any unit which comes into possession of the unit pursuant to the remedies provided in the mortgage or trust deed or by assignment in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged unit which accrue prior to acquisition of title to such unit by the mortgagee (except for claims for a pro rata share of such assessments or charges resulting from a pro rata share of such assessments or charges resulting from a pro rata relocation of such assessments or charges to all units including the mortgaged unit). After a foreclosure, however, a lien may be created to secure all assessments which may be enforceable as provided herein.

C. Prohibitions Imposed on Owners. Unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned) or owners (other than the sponsor, developer, or builder) of the individual condominium units have given their prior written approval, the Condominium Homeowners Association shall not be entitled to:

1. Change the pro-rata interest or obligation of any unit for the purposes of assessments and charges, determining shares of the common areas and facilities of the project and allocating distributions of hazard insurance proceeds or condemnation awards;
2. Partition or subdivide any condominium unit;
3. By act or omission seek to abandon or terminate the condominium project;
4. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common elements, (the granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause.
5. Use hazard insurance proceeds for losses to any of the unit, limited common, or common areas for other than the repair replacement or

reconstruction of such condominium property, except as provided by statute in case of substantial loss to the units and/or common elements of the condominium project.

13. AMENDMENT. The unit owners shall have the right to amend this Declaration and/or the map upon the approval and consent of unit owners representing not less than one half (1/2) of the undivided interest in the common areas and facilities provided, however, that any unit owner in the common areas and facilities must by consented to by all unit owners. Further provided, that no amendment shall have the effect of altering any right, privilege, liability or obligation of Declarant without the written consent of the Declarant first had and obtained. Provided further that any amendment that affects the right of mortgage holders requires their written consent to the amendment. Any amendment shall be effected by the recordation of an instrument wherein the management committee certifies that the unit owners representing their required percentage of the undivided interests in the common areas and facilities have approved and consented to any such amendment.

14. SEVERABILITY. The individuality of any one or more phrases, sentences, clauses, paragraphs or sections hereof shall not affect the remaining portions of this instrument or any part hereof, all of which are inserted subject to their being held valid in law and in the event that one or more of the sentences, phrases, clauses, paragraphs, or sections contained therein should be invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, section or sections had not been inserted.

15. TOPICAL HEADINGS. The topical headings of the paragraphs contained in this Declaration are for convenience only and do not define, limit or control the interpretation of the paragraphs of this Declaration.

15. GENDER. The singular, whenever used herein, shall be construed to mean the plural whenever applicable.

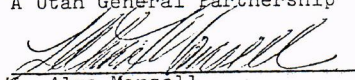
and the necessary changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

17. EFFECTIVE DATE AND CONDITION. This Declaration shall take effect upon recordation of the same.

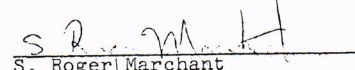
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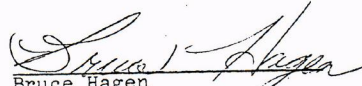
COLONIAL GARDENS ASSOCIATES
A Utah General Partnership


Randolph S. Mellor


L. Alma Mansell


David L. Mansell


S. Roger Marchant



Bruce Hagen

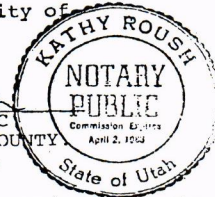
ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF DAVIS

On the 19 day of July A.D. 1979, personally appeared before me, the undersigned Notary Public, in and for said County of Davis, in said State of Utah, Randolph S. Mellor, L. Alma Mansell, David L. Mansell, S. Roger Marchant and Bruce Hagen, signers of this Record of Survey Map and Declaration of Covenants, Conditions and Restrictions of the Colonial Gardens Condominiums, who duly acknowledged to me that they are partners in "Colonial Gardens Associates", a Joint Venture, and that they did sign the same on behalf of and by authority of said Partnership.

April 2, 1983
MY COMMISSION EXPIRES


NOTARY PUBLIC
residing in DAVIS COUNTY



APPENDIX "A"

TO THE DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS OF
THE COLONIAL GARDENS CONDOMINIUMSDESCRIPTION

Beginning at the intersection of the West Line of 4th East Street and the North line of 4th North Street in Bountiful City, said point being North $0^{\circ}03'20''$ East 54 feet and West 33 feet from the Bountiful City Survey Monument at 4th North and 4th East Streets, said point being also described as 59.68 feet East of the Southwest corner of Lot 1, Block 56, Plat "A" Bountiful Townsite Additional Survey; thence North $0^{\circ}03'20''$ East 437.19 feet to the boundary line as established by the boundary line agreement recorded in Book 110 of Official records as Page 481, as Entry No. 159302; thence North $89^{\circ}24'$ West along said boundary 453 feet; thence South $0^{\circ}22'$ West 213.81 feet; thence South $0^{\circ}03'20''$ West 110.13 feet; thence East 288.19 Feet; thence South $0^{\circ}03'20''$ West 118 feet to the North line of 4th North Street; thence East 176.57 feet along the North line of 4th North Street to the point of beginning.

APPENDIX "C"

BY-LAWS OF THE COLONIAL GARDENS CONDOMINIUM

ARTICLE 1Plan of Condominium Unit Ownership

Section 1. Condominium Unit Ownership. The property located at 439 North 400 East Bountiful City, Utah and more particularly described as Appendix "A", hereinafter called the condominium, has been submitted to the provisions of Utah Condominium Ownership Act, by the declaration recorded in the office of the County Recorder, Salt Lake County, simultaneously herewith.

Section 2. Applicability of By-Laws. The provisions of these By-Laws are applicable to the condominium and to the use and occupancy thereof. The term condominium property as used herein shall include the land, the buildings, and all other improvements thereon, all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provisions of the Utah Condominium Ownership Act.

Section 3. Application. All present and future owners, mortgagees, leasees, and occupants of apartment units and their employees, and any other persons who may use the facilities of the condominium in any manner are subject to these By-Laws, the Declaration, and rules and regulations pertaining to the use and operation of the condominium property. The acceptance of a deed or conveyance or the entering into of a lease, or the act of occupancy of an apartment unit shall constitute an acceptance of the provisions of these instruments and an agreement to comply therewith.

Section . Office. The office of the condominium and the management shall be located at 453 North 400 East Unit 6-B, Bountiful, UT 915

ARTICLE II

Management Committee

Section 1. Number and Qualification. The affairs of the condominium shall be governed by the management committee. Until one and one-half year has elapsed from the time the Declaration and By-Laws have been recorded or at such earlier time as the Declarant in its sole discretion may determine, and thereafter until their successors shall have been elected by the unit owners the Declarant shall have the right to select the management committee. The management committee during the course of conversion shall consist of such of the partners and agents of the Declarant as shall have been designated by the Declarant. Thereafter the management committee shall be composed of nine persons, all of whom shall be the owners, spouses of owners, or mortgagees of condominium units; or, in the case of partnership owners or mortgagees, members or employees of such partnership, or in the case of corporate owners or mortgagees, officers, shareholders or employees of such corporations; or in the case of fiduciary owners or mortgagees, fiduciaries or officers, or employees of such fiduciaries. At all times no fewer than three (3) members of the management committee shall be selected from individuals owning or having mortgages on two bedroom townhouse condominium units. At all times no fewer than two (2) members of the management committee shall be selected from individuals owning or having mortgages on 3 bedroom condominium units. Also a minimum of two (2) members owning or having mortgages on 1 bedroom condominium units.

Section 2. Powers and Duties. The management committee shall have the powers and duties necessary for the administration of the affairs of the condominium, except as such powers and duties as by law or by the Declaration or by these By-Laws may not be delegated to the management committee by the unit owners. The powers and duties to be exercised by the management committee shall include, but shall not be limited to the following:

- (a) Operation, care, upkeep and maintenance of the common elements, including the pool and clubhouse;
- (b) Determination of the amounts required for operation, maintenance, and other affairs of the condominium;
- (c) Collection of the common charges from the unit owners;
- (d) Employment and dismissal of personnel as necessary for the efficient maintenance and operation of the condominium;
- (e) Adoption and amendment of rules and regulations covering the details of the operation and use of the condominium property;
- (f) Opening of bank accounts on behalf of the condominium and designating the signatories required therefor;
- (g) Obtaining insurance for the condominium property, including the condominium units, pursuant to the provisions contained in the declaration; and
- (h) Making repairs, additions and improvements to, or alterations of, the condominium property, and repairs to and reconstruction of the property in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.
- (i) Acquiring by purchase or lease such capital assets and equipment as may be necessary for the conversion of the condominium including but not limited to a condominium unit to be used as an office, all office furniture, office equipment, maintenance equipment; trucks and the like.
- (j) Taking all steps necessary to incorporate the association of unit owners under the provisions of the Utah Business Corporation Act Section 16-10-1 et seq. Utah Code Annotated (1953 as amended).

Section 3. Managing Agent and Manager. The management committee may employ for the condominium a managing agent

and a manager at a compensation established by the management committee to perform shall authorize, including, but not limited to the duties listed in subdivisions (a), (c), (d), (g) and (h) of Section 2 of this Article II. The management committee may delegate to the manager or managing agent, all of the powers granted to the management committee by these By-Laws other than the powers set forth in subdivisions (b), (e), (f), (j) and (i) of Section 2 of this Article II. Any agreement for a professional management of the condominium project, or any other contract providing for services by the Declarant must provide for termination by either party with or without cause or the payment of a termination fee on 90 days or less written notice. The maximum time period for such contracts or agreements is three years.

Section 4. Election and Term of Office. At the first annual meeting of the units owners, the term of office of three members of the management committee shall be fixed at three years and the term of office of three members of the management committee shall be fixed at two years and the term of office of three members of the management committee shall be fixed at one year. At the expiration of the initial term of office of each respective member of the management committee, his successor shall be elected to serve for a term of three years. The members of the management committee shall hold office until their respective successors shall have been elected by the unit owners.

Section 5. Removal of Members of Management Committee. At any regular or special meeting of unit owners, after the unit owners have assumed the management responsibility, any one or more of the members of the management committee may be removed with or without cause by a majority of the unit owners and a successor may then and there or thereafter be elected to fill the vacancy thus created. Any member of the management committee whose removal has been proposed by the unit owners shall be given an opportunity to be heard at the meeting.

Section 6. Vacancies. Vacancies in the management committee caused by any reason other than the removal of a member thereof by a vote of the unit owners, shall be filled by vote of a majority of the remaining members at a special meeting of the management committee held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the management committee for the remainder of the term of the member so removed and until a successor shall be elected at the next annual meeting of the unit owners.

Section 7. Organization Meeting. The first meeting of the members of the management committee following the annual meeting of the unit owners shall be held within ten (10) days thereafter, at such time and place as shall be fixed by the unit owners at the meeting at which such management committee shall have been elected, and no notice shall be necessary to the newly elected members of the management committee in order legally to constitute such meeting, providing a majority of the whole management committee shall be present therat.

Section 8. Regular Meetings. Regular meetings of the management committee may be held at such time and place as shall be determined from time to time by a majority of the members of the management committee, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the management committee shall be given to each member of the management committee, by mail or telephone at least three business days prior to the day named for such meeting.

Section 9. Special Meetings. Special meetings of the management committee may be called by the president on three business days' notice to each member of the management committee, given by mail or telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the management committee shall be called by the president or secretary in like manner and on like notice on the written request of at least three members of the management committee.

Section 10. Waiver of Notice. Any member of the management committee may, at any time, waive notice of any meeting of the management committee in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the management committee at any meeting of the management committee shall constitute a waiver of notice by him of the time and place thereof. If all the members of the management committee are present at any meeting of the management committee, no notice shall be required and any business may be transacted at such meeting.

Section 11. Quorum of Management Committee. At all meetings of the management committee, a majority of the members thereof shall constitute a quorum for the transaction of business, and the vote of a majority of the members of the management committee present at a meeting at which a quorum is present shall constitute the decision of the management committee. If, at any meeting of the management committee there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice.

Section 12. Fidelity Bonds. The management committee shall obtain adequate fidelity bonds for all officers and employees of the condominium handling or responsible for condominium funds. The premiums on such bonds shall constitute a common expense.

Section 13. Compensation. No member of the management committee shall receive any compensation from the condominium for acting as such.

Section 14. Liability of the Management Committee. The members of the management committee including Declarant, shall not be liable to the unit owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The unit owners shall indemnify and hold harmless each member of the management committee including Declarant against all contractual liability to others arising out of contracts made by the management committee on behalf of the condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. The members of the management committee including Declarant shall have no personal liability with respect to any contract made by them on behalf of the association of unit owners. It is intended that the liability of any unit owner arising out of any contract made by the management committee or out of the indemnity in favor of the members of the management committee shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interests of all the unit owners in the common elements. Every agreement made by the management committee or by the managing agent or by the manager on behalf of the condominium shall provide that the members of the management committee or the managing agent,

Or the manager, as the case may be, are acting only as agents for the unit owners and shall have no personal liability thereunder (except as unit owners), and that each unit owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interests of all unit owners in the common elements.

Section 15. Right of Entry. The management committee or its duly authorized agents shall have the right to enter any or all units in the case of an emergency originating in or threatening such unit or any part of the project, whether or not the unit owner or occupant thereof is present at the time. The committee or its duly authorized agent shall also have the right to enter into any and all of said units at all reasonable times as required for the purpose of performing emergency installations, alterations, or repairs to the mechanical, electrical or other utility devices or installations located therein or thereon, provided, however, that such emergency, installation, alteration or repair is necessary to prevent damage or threatened damage to such unit or units in the project; and provided further, that the unit owner affected by such entry shall first be notified thereof if available and if time and circumstances shall permit.

Section 16. Administrative Rules and Regulations. The management committee shall have the power to adopt, establish and amend by resolution, such building management, and operational rules as it may deem necessary for the maintenance, operation, management and control of the project and the committee may from time to time by resolution, alter, amend and

repeal such rules. When a copy of any amendment or alteration or provision for repeal of any rule or rules has been furnished to the unit owners, such amendment, alteration, or repeal shall be deemed to be a part of such rules. Unit owners shall at all times, obey such rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision it being understood that such rules shall apply to, and be binding upon all unit owners and/or occupants of any unit.

Section 17. Obligation to Comply with Rules. Each unit owner, tenant or occupant of a unit shall comply with the provisions of the Act, Declaration, By-Laws, the rules and regulations, all agreements and determinations lawfully made and/or entered into by the management committee or unit owners, when acting within the scope of their authority and any failure to comply with any of the provisions thereof shall be grounds for an action by the management committee for injunctive relief and/or to recover for any loss or damage resulting therefrom.

ARTICLE III

Unit Owners

Section 1. Annual Meetings. Promptly after the Declarant has given notice of its intention to give up control of the management committee or one and one-half years after recordation of the Declaration has elapsed, whichever shall first occur, the Declarant shall notify all unit owners of the first annual meeting of the unit owners which shall be held within thirty (30) days thereafter on a call issued by the president. At such meeting the officers and directors of the Declarant shall resign as members of the management committee and all

responsibility and obligations Declarant may have shall cease, and all unit owners, including the Declarant, shall elect a new management committee which shall immediately assume all such responsibilities and obligations on behalf of the unit owners. Thereafter, the annual meetings of the unit owners shall be held on the 15th day of January of each succeeding year, unless such date shall occur on a Saturday or Sunday, in which event the meeting shall be held on the succeeding Monday. At such meetings the management committee shall be elected by ballot of the unit owners in accordance with the requirements of Section 4 of Article II of these By-Laws. After 75% or more of the units shall have been sold by the Declarant and paid for, the unit owners, other than the Declarant shall be entitled to elect at least three members of the management committee, each of whom shall serve for a term of three years. So long as the Declarant shall own one or more apartment units, the Declarant shall be entitled to elect at least one member of the management committee who shall serve for a term of one year. The unit owners may transact such other business at such meetings as may properly come before them.

Section 2. Place of Meetings. Meetings of the unit owners shall be held at the principal office of the condominium or at such other suitable place convenient to the owners as may be designated by the management committee.

Section 3. Special Meetings. It shall be the duty of the president to call a special meeting of the unit owners if so directed by resolution of the Management Committee or upon a petition signed and presented to the Secretary by unit owners owning a total of at least 25% of the common interest. The notice of any special meeting shall state the time, place,

and purpose of the meeting. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings. The Secretary shall mail to each unit owner of record a notice of each annual or special meeting of the unit owners, at least ten (ten) but not more than twenty (20) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, at the building or at such other address as such unit owner shall have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this section shall be considered service of notice.

Section 5. Adjournment of Meetings. If any meeting of unit owners cannot be held because a quorum has not attended, a majority in common interest of the units owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time the original meeting was called.

Section 6. Order of Business. The order of business at all meetings of the unit owners shall be as follows:

- (a) Roll Call;
- (b) Proof of notice of meeting;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Report of management committee;
- (f) Reports of committees;
- (g) Election of inspectors of election (when so required);
- (h) Election of members of the management committee (when so required);
- (i) Unfinished business; and
- (j) New business.

Section 7. Title to Condominium Units. Title to condominium units may be taken in the name of an individual or in the names of two or more persons, as tenants in common or as joint tenants, or in the name of a corporation or partnership, or in the name of a fiduciary.

Section 8. Voting. The owner or owners of each condominium unit, or some person designated by such owner or owners to act as proxy on his or their behalf and who need not be an Owner, shall be entitled to cast the votes appurtenant to such condominium unit at all meetings of unit owners. The designation of any such proxy shall be made in writing to the Secretary, and shall be revocable at any time by written notice to the Secretary by the Owner or Owners so designating. The total number of votes of all unit owners shall be 60 and each unit owner (including the Declarant and the management committee or its designee, shall then hold title to one or more condominium units) shall be entitled to cast the number of votes at all meetings of the unit owners as is designated on Appendix "D" attached to the Declaration along with this appendix. A fiduciary shall be the voting member with respect to any condominium unit owned in a fiduciary capacity.

Section 9. Majority of Unit Owners. As used in these By-Laws the term "majority of unit owners" shall mean those unit owners having more than 50% of the total authorized votes of all unit owners present in person or by proxy and voting at any meeting of the unit owners, determined in accordance with the provisions of Section 8 of this Article III.

Section 10. Quorums. Except as otherwise provided in these By-Laws or Declaration, the presence in person or by proxy of unit owners having one-third of the total authorized votes of all unit owners shall constitute a quorum at all meetings of the unit owners.

Section 11. Majority Vote. The vote of a majority of unit owners at a meeting at which a quorum shall be present shall be binding upon all unit owners for all purposes except where a higher percentage vote is required by law, by the Declaration, or by these By-Laws.

ARTICLE IV

Officers

Section 1. Designation. The principal officers of the condominium shall be the President, the Vice President, the Secretary, the Treasurer, all of whom shall be elected by the management committee. The management committee may appoint an Assistant Treasurer, and Assistant Secretary, and such other officers as in its judgment may be necessary. The President and Secretary must be members of the management committee.

Section 2. Election of Officers. Officers shall be elected annually by the management committee, and shall hold office at the pleasure of the management committee.

Section 3. Removal of Officers. Upon the affirmative vote of a majority of the members of the management committee any officer may be removed, either with or without cause, and his successor may be elected at any regular meeting of the management committee or at any special meeting of the management committee called for such purpose.

Section 4. President. The President shall be the chief executive officer of the condominium. He shall preside at all

meetings of the unit owners and of the management committee. He shall have all of the general powers and duties which are incident to the office of president of a corporation organized under the Business Corporation Act of the State of Utah, including but not limited to the power to appoint from among the unit owners any committee which he decides is appropriate to assist in the conduct of the affairs of the condominium.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the management committee shall appoint some other member of the management committee to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the management committee or by the President.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the unit owners and of the management committee. He shall have charge of such books and papers as the management committee may direct; and he shall, in general, perform all the duties incident to the office of secretary of a corporation organized under the Business Corporation Act of the State of Utah.

Section 7. Treasurer. The Treasurer shall have the responsibility for condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial statements. He shall be responsible for the deposit of all moneys and other valuable effects in the name of the management committee, or the managing agent, in such depositories as may from time

to time to be designated by the management committee, and he shall, in general, perform all the duties incident to the office of treasurer of a corporation organized under the Business Corporation Act of the State of Utah.

Section 8. Agreements, Contracts, Deeds, Checks, Etc.

All agreements, contracts, deeds, leases, checks and other instruments of the condominium shall be executed by any two officers of the condominium or by such other person or persons as may be designated by the management committee.

Section 9. Compensation of Officers. No officer shall receive any compensation from the condominium for acting as such.

ARTICLE V

Operation of the Property

Section 1. Determination of Common Expenses and Common Charges. The management committee shall from time to time, and at least annually, prepare a budget for the condominium, determine the amount of the common charges required to meet the common expenses of the condominium and allocate and assess such common charges against the unit owners according to their respective common interests. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the management committee pursuant to the provisions of Section 2, of this Article V and the fees and disbursements of the management committee. The common expenses may also include such amounts as the management committee may deem proper for the operation and maintenance of the condominium property, including, without limitation, an amount for working capital of the condominium, for a general operating reserve and shall include for a reserve

fund for maintenance, repairs, and replacement of common elements requiring periodic replacement (rather than by special assessment), and to make up any deficit in the common expenses for any prior year. The management committee shall advise each unit owner in writing of the amount of common charges payable by him and shall furnish copies of each budget on which such common charges are based to all unit owners and to their mortgagees. In the event that such assessment shall result in any excess for any one year, the management committee may refund the excess to the unit owners or apply such excess to assessments for the succeeding year.

That portion of the common assessments payable by each unit owner in and for each year or for a portion of a year shall be a sum within the limits and on the conditions hereinabove provided bearing to the aggregate amount of such cash requirements for each year, or portion of a year, determined as aforesaid, to the same ratio as the unit owner owns an undivided interest in the common areas and facilities and such assessments together with any additional sums accruing under this Declaration, By-Laws or the Act shall be payable monthly in advance, or in such payments and installments as shall be required by the management committee, and at such times as shall be provided by the management committee.

The management committee shall have absolute discretionary authority to prescribe the manner of maintaining and operating the project and to determine the cash requirements of the management committee to be paid as aforesaid by the owners under this Declaration. Any such determination by the management committee within the bounds of the Act, By-Laws or this Declaration shall be final and conclusive on the unit owners, and any expenditures made by the management committee within the bounds of the Act, By-Laws, or Declaration shall be deemed necessary and proper for such purpose as against the unit owners.

Section 2. Insurance. The management committee shall be required to obtain and maintain, to the extent obtainable, the following insurance:

- (a) Fire insurance with extended coverage, vandalism, and malicious mischief endorsements, insuring the entire condominium buildings (including all of the condominium units and the bathroom and kitchen fixtures initially installed therein by the Declarant, but not including furniture furnishing, or other personal property supplied or installed by unit owners), together with all air conditioning equipment and other service machinery contained therein; such insurance shall cover the condominium, the management committee, and all unit owners and their mortgagees, as their interests may appear, in an amount equal to the full replacement value of the buildings, without deduction for depreciation. Each policy shall contain a standard mortgagee clause in favor of each mortgagee of an condominium unit which shall provide that proceeds shall be payable to such mortgagee as its interest may appear, subject, however, to payment provisions in favor of the management committee for repair, replacement or reconstruction as provided for herein;
- (b) Workmen's compensation insurance;
- (c) Boiler and machinery insurance, where appropriate;
- (d) Plate glass insurance;
- (e) Water damage insurance, and flood hazard insurance.
- (f) Such insurance necessary to meet F.H.L.M.C. specifications;
- (g) Such other insurance as the management committee may determine.

All such policies shall provide that adjustment of loss shall be made by the management committee, and that the net proceeds thereof shall be payable to the management committee subject to the respective mortgagees to receive proceeds for any purpose other than repaid, replacement, or reconstruction.

All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on coinsurance or of invalidity arising from any acts of the insured, and shall provide that such policies may not be cancelled or substantially modified without at least ten days' prior written notice to all of the insureds, including all mortgagees of condominium units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgagees of condominium units at least ten days prior to expiration of the then current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the management committee shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the building including all of the condominium units and all of the common elements therein, without deduction for depreciation, for the purpose of determining the amount of fire insurance to be effected pursuant to this section.

The management committee shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the management committee may from time to time determine, covering each member of the management committee, the managing agent, the manager, and each unit owner. Such public liability coverage shall also cover cross liability claims of one insured against another. The Board of Directors shall review such limits once each year.

Unit owners shall not be prohibited from carrying other insurance for their own benefit provided that all policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the management committee shall not be affected or diminished by reason of any such additional insurance carried by any unit owners.

Section 3. Repair or reconstruction after damage.

In the event of damage to or destruction of any building as a result of fire or other casualty (unless 75% or more of the building is destroyed or substantially damaged and 75% or more of the unit owners do not duly and promptly resolve to proceed with repair or restoration), the management committee shall arrange for the prompt repair and reconstruction of the buildings (including any damaged condominium units, and any kitchen or bathroom fixtures initially installed therein by the Declarant, but not including any wall, ceiling or floor decorations or coverings or other furniture, furnishings, fixtures, or equipment installed by unit owners in the condominium units), and the management committee shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a common expense and the management committee may assess all the unit owners for such deficit as part of the common charges.

If 75% or more of the building is destroyed or substantially damaged and 75% or more of the unit owners do not duly and promptly resolve to proceed with repair or reconstruction, the condominium property shall be subject to an action for partition at the suit of any unit owner or lienor, as if owned in common, in which event the net proceeds of sale,

together with the net proceeds of insurance policies (or if there shall have been a repair or restoration pursuant to the first paragraph of this Section 3, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration then the excess of such insurance proceeds) shall be divided by the management committee among all the unit owners in proportion to their respective common interests, after first paying out of the share of each unit owner the amount of any unpaid liens or mortgages on his condominium unit, in the order of the priority of such liens or mortgages.

Section 4. Payments of Common Charges. All unit owners shall be obligated to pay the common charges assessed by the management committee pursuant to the provisions of Section 1 of Article V at such time to times as the management committee shall determine.

No unit owner shall be liable for the payment of any part of the common charges assessed against his condominium unit subsequent to a sale, transfer, or other conveyance by him thereof (made in accordance with the provisions of Section 1 of Article VII of these By-Laws). A purchaser of a condominium unit shall be jointly and severally liable for the payment of common charges assessed against such condominium unit subsequent to the acquisition by him of such condominium. A mortgagee or other purchaser of a condominium unit at a foreclosure sale of such condominium unit shall not be liable for such condominium unit shall not be subject to a lien for the payment of common charges which accrue prior to the acquisition of title to such unit by the mortgagee.

Section 5. Collection of Assessments. The management committee shall assess common charges against the unit owners

from time to time and at least annually and shall take prompt action to collect from a unit owner any common charge due which remains unpaid by him for more than 30 days from the due date for its payment.

Section 6. Default in Payment of Common Charges.

(a) If any unit owner shall fail or refuse to make any payment of the common expenses when due, the amount thereof shall constitute a lien on the interest of the owner of the property, and upon the recording of notice thereof by the management committee shall be a lien upon the unit owner's interest in the property prior to all other liens and encumbrances, recorded and unrecorded, except only:

- (1) tax and special assessment liens' and
- (2) prior recorded encumbrances which are

superior as a matter of law.

(b) In the event of default by any unit owner in paying to the management committee the assessed common charges, such unit owner shall be obligated to pay interest at the legal rate on such common charges from the date due thereof, together with all expenses, including attorney's fees, incurred by the management committee in any proceeding brought to collect such unpaid common charges. The management committee shall have the right and duty to attempt to recover such common charges, together with interest thereon, and the expenses of the proceeding, including attorney's fees, in an action brought against such unit owner, or by foreclosure of the lien on such condominium unit.

(c) Upon payment of a delinquent assessment the management committee shall cause a satisfaction of lien filed in cases where a notice of lien had been filed.

(d) If a unit owner shall at any time let or sublet the unit and shall be in default for a period of one month in the payment of any assessments, the management committee may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenant of the owner occupying the unit the rent due or becoming due and payment and discharge of such tenant or subtenant and the owner of the unit to the extent of the amount so paid. No action on the part of the management committee under this section shall have the effect of relieving its unit owner of primary liability.

Section 7. Foreclosure of Liens for Unpaid Common Charges. In any action brought by the management committee to foreclose a lien on a condominium unit because of unpaid common charges, the unit owner shall be required to pay a reasonable rental for the use of his condominium unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect such rental. The management committee, acting on behalf of all unit owners, shall have power to purchase such condominium unit at the foreclosure sale and to acquire hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the same. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

Section 8. Statement of Common Charges. The management committee shall promptly provide any unit owner, who makes a request in writing with a written statement of his common charges.

Section 9. Abatement and Enjoining of Violations.

The violation of any rule or regulation adopted by the management committee, or the breach of any By-Law contained herein, or the breach of any provision of the declaration, shall give the management committee the right, in addition to any other rights available at law or set forth in these By-Laws:

(a) to enter the condominium unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the management committee shall not thereby be deemed guilty in any manner of trespass; or

(b) to enjoin, abate or remedy such thing or condition by appropriate legal proceedings.

Section 10. Maintenance and Repair.

(a) All maintenance of and repairs to any apartment unit, structural or non-structural, ordinary or extraordinary, (other than maintenance of and repairs to any common elements contained therein not necessitated by the negligence, misuse, or neglect of the owner of such condominium unit) shall be made by the owner of such condominium unit. Each unit owner shall be responsible for all damages to any other condominium unit and to the common elements resulting from his failure to effect such maintenance and repairs.

(b) All maintenance, repairs, and replacements to the common elements, whether located inside or outside of the condominium units (unless necessitated by the negligence, misuse, or neglect of a unit owner, in which case such expense shall be charged to the unit owner) shall be made by the management committee and be charged to all the unit owners as a common expense.

Section 11. Terraces, Balconies and Patios. A

terrace, balcony or patio to which a condominium unit has sole access, shall be for the exclusive use of the owner of such condominium unit. Such unit owner shall keep such balcony, terrace or patio free and clean of snow, ice, and any accumulation or water, and shall make all repairs thereto resulting from his negligence, misuse, or neglect. All other repairs in, to, or with respect to such terrace, balcony or patio shall be made by the management committee as a common expense.

Section 12. Use of Condominium Units. In order to provide for congenial occupancy of the condominium property and for the protection of the values of the condominium units, the use of the condominium property shall be subject to the following limitations:

(a) The condominium units shall be used for residences only, except as the association may choose to purchase and use a unit as a management office.

(b) The common elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incidental to the use and occupancy of condominium units.

(c) No nuisances shall be allowed on the condominium property nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the peaceful possession or proper use of the condominium property by its residents.

(d) No immoral, improper, offensive, or unlawful use shall be made of the condominium property or any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be complied with. Such compliance shall be accomplished

t the sole expense of the unit owners or the management committee whichever shall have the obligation to maintain or repair such portion of the condominium property.

(e) No portion of a condominium unit (other than the entire condominium unit) may be rented, and no transient tenants may be accommodated therein.

Section 13. Additions, Alterations or Improvements by Unit Owners. No unit owner shall make any structural addition, alteration or improvement in or to his condominium unit, without the prior written consent thereto of the management committee. The management committee shall have the obligation to answer any written request by a unit owner for approval of a proposed structural addition, alteration or improvement in such unit owner's condominium unit within 15 days of such request and failure to do so within the stipulated time shall constitute a consent by the management committee to the proposed addition, alteration or improvement. Any application to any governmental authority for a permit to make an addition, alteration or improvement in or to any condominium unit shall be executed by the management committee. The management committee shall not be liable to any contractor, subcontractor, materialman or to any person sustaining personal injury or property damage, for any claim arising in connection with such addition, alteration or improvement. The provisions of this Section 13 shall not apply to condominium units owned by the Declarant until such condominium units shall have been initially sold by the Declarant and paid for.

Section 14. Water Charges and Sewer Rents. Water shall be supplied to all of the condominium units and the common elements through one or more building meters and the management

committee shall pay, as a common expense, all charges for water consumed on the condominium property, together with all related sewer rents arising therefrom, promptly after the bills therefore are rendered. In the event of a proposed sale of a condominium unit by the owner thereof, the management committee, on request of the selling unit owner, shall execute and deliver to the purchaser of such condominium unit or to the purchaser's title insurance company, a letter agreeing to pay all charges for water and sewer rents affecting the property as of the date of closing of title to such condominium unit or to the purchaser's title insurance company, a letter agreeing to pay all charges for water and sewer rents affecting the property as of the date of closing of title to such condominium unit promptly after such charges shall have been billed by the appropriate collector.

Section 15. Gas. Gas shall be supplied to all condominium units through the building meter or meters and the bills for the same shall be paid by the management committee as a common expense.

Section 16. Electricity. Electricity shall be supplied by the public utility company serving the area directly to each condominium unit through a separate meter and each unit owner shall be required to pay the bills for electricity serving the common elements shall be separately metered, and the management committee shall pay all bills for electricity consumed in such portions of the common elements, as a common expense.

Section 17. Taxes. Each unit and its percentage of undivided interest in common area and facilities shall be

deemed to be a parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law including, but not limited to, advalorem liens and special assessments.

ARTICLE VI

Mortgages

Section 1. Mortgage of Condominium Units. No unit owner shall mortgage his condominium unit except by a mortgage made to a bank, trust company, insurance company, federal savings and loan association, pension fund, or other institution lender. Any such mortgage shall be substantially in the form on file with the management committee, except for such form changes or additions as may be required in order to permit the particular institutional lender to make the mortgage loan.

Section 2. Notice to Management Committee. A unit owner who mortgages his condominium unit shall notify the management committee of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the management committee. The management committee shall maintain such information in a book entitled "Mortgages of Condominium Units."

Section 3. Notice of Unpaid Common Charges. The management committee, whenever so requested in writing by a mortgagee of a condominium unit, shall promptly report any then unpaid common charges or other default by the owner of the mortgaged condominium unit.

Section 4. Notice of Default. The management committee when giving notice to a unit owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such condominium unit whose name and address has theretofore been furnished to the management committee.

Section 5. Examination of Books. Each unit owner and each mortgagee of a condominium unit shall be permitted to examine the books of account of the condominium at reasonable times on business days, but not more often than once a month.

ARTICLE VII

Sales and Leases of Units

Section 1. Sales and Leases. No unit owner may sell or lease his condominium unit or any interest therein except by complying with the provisions of this section. A unit owner's sale of his condominium unit shall include the sale of:

(a) the undivided interest in the common elements appurtenant thereto; and

(b) the interest of such unit owner in any other assets of the condominium, hereinafter collectively called the appurtenant interests.

Section 2. No Severance of Ownership. No unit owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his condominium unit without including therein the appurtenant interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to

include the interest of interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the appurtenant interests of any condominium unit may be sold, transferred or otherwise disposed of except as part of a sale, transfer, or other disposition of the condominium unit to which such interests are appurtenant, or as part of a sale, transfer or other disposition of such part of the appurtenant interests of all condominium units.

Section 3. Gifts and Devises, Etc. Any unit owner shall be free to convey or transfer his condominium unit by gift, or to devise his condominium unit by will, or to pass the same by intestate, without restriction.

Section 4. Payment of Assessments. No unit owner shall be permitted to convey, mortgage, pledge, hypothecate, sell, or lease his condominium unit unless and until he shall have paid in full to the management committee all unpaid common charges theretofore assessed by the management committee against his condominium unit and until he shall have satisfied all unpaid liens against such condominium unit, except permitted mortgages.

ARTICLE VIII

Condemnation

Section 1. Condemnation. In the event of a taking in condemnation or by eminent domain, part or all of the common elements, the award made for such taking shall be payable to the management committee subject to the rights of any mortgage holders to receive part or all of a given distribution according to the terms of the restricted mortgages. If 75% or more of the unit owners duly and promptly approve the repair and reconstruction of such common elements, and the management committee shall disburse the proceeds of such award to the contractors

engaged in such repair and reconstruction in appropriate progress payments. In the event that 75% or more of the unit owners do not duly and promptly approve the repair and reconstruction of such common elements, the management committee shall disburse the net proceeds of such award in the same manner as they are required to distribute insurance proceeds where there is no repair or restoration of the damage, as provided in Section 3 of Article V of these By-Laws.

ARTICLE IX

Records

Section 1. Records and Audits. The management committee or the managing agent shall keep detailed records of the actions of the management committee and the managing agent, minutes of the meeting of the management committee, minutes of the meetings of the unit owners, and financial records and books of account of the condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each condominium unit which, among other things, shall contain the amount of each assessment of the common charges against such condominium unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. A written report summarizing all receipts and expenditures of the condominium shall be rendered by the management committee to all unit owners at least quarter annually. In addition, an annual report of the receipts and expenditures of the condominium, shall be rendered by the management committee to all unit owners and to all mortgagees of condominium units who have requested the same, promptly after the end of each fiscal year.

ARTICLE XMiscellaneous

Section 1. Notices. All notices to the management committee shall be sent by registered or certified mail, in care of the managing agent, or if there is no managing agent, to the office of the management committee or to such other address as the management committee may hereafter designate from time to time. All notices to any unit owner shall be sent by registered or certified mail to the building or to such other address as may have been designated by him from time to time, in writing, to the management committee. All notices to mortgagees of condominium units, shall be sent by registered or certified mail to their respective addresses as designated by them from time to time, in writing, to the management committee. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

Section 2. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

Section 3. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws, or the intent of any provisions thereof.

Section 4. Gender. The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 5. Waiver. No restriction, condition, obligation or provision contained in 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 thereof which may occur.

ARTICLE XI

Amendments to By-Laws

Section 1. Amendments to By-Laws. Except as provided otherwise herein and except for the provisions herein for the benefit of any first mortgagee, these By-Laws may be modified or amended by the vote of 51% of the holders of the common interest of all unit owners at a meeting of unit owners duly held for such purposes; however, Section 1 of Article III, insofar as it provides that the Declarant, so long as it is the owner of one or more condominium units, may vote the votes appurtenant thereto; and this Section 1 of Article XI, may not be amended without the consent in writing of the Declarant, so long as the Declarant shall be the owner of one or more condominium units.

APPENDIX "D"

946

TO THIS DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS OF
THE COLONIAL GARDENS CONDOMINIUMS

<u>Unit No.</u>	<u>%Par Value</u>	<u>No. Of Votes</u>
1 - A	1.66667%	1
1 - B	1.57658%	1
1 - C	1.75676%	1
1 - D	1.66667%	1
<hr/>		
2 - A	1.66667%	1
2 - B	1.57658%	1
2 - C	1.75676%	1
2 - D	1.66667%	1
<hr/>		
3 - A	1.66667%	1
3 - B	1.57658%	1
3 - C	1.75676%	1
3 - D	1.66667%	1
<hr/>		
4 - A	1.66667%	1
4 - B	1.57658%	1
4 - C	1.75676%	1
4 - D	1.66667%	1
<hr/>		
5 - A	1.66667%	1
5 - B	1.57658%	1
5 - C	1.75676%	1
5 - D	1.66667%	1

6 - A	1.66667%	1
6 - B	1.57658%	1
6 - C	1.75676%	1
6 - D	1.66667%	1
<hr/>		
7 - A	1.66667%	1
7 - B	1.57658%	1
7 - C	1.75676%	1
7 - D	1.66667%	1
<hr/>		
8 - A	1.66667%	1
8 - B	1.57658%	1
8 - C	1.75676%	1
8 - D	1.66667%	1
<hr/>		
9 - A	1.66667%	1
9 - B	1.57658%	1
9 - C	1.75676%	1
9 - D	1.66667%	1
<hr/>		
10 - A	1.66667%	1
10 - B	1.57658%	1
10 - C	1.75676%	1
10 - D	1.66667%	1
<hr/>		
11 - A	1.66667%	1
11 - B	1.57658%	1
11 - C	1.75676%	1
11 - D	1.66667%	1

12 - A	1.66667%	1
12 - B	1.57658%	1
12 - C	1.75676%	1
12 - D	1.66667%	1

13 - A	1.66667%	1
13 - B	1.57658%	1
13 - C	1.75676%	1
13 - D	1.66667%	1

14 - A	1.66667%	1
14 - B	1.57658%	1
14 - C	1.75676%	1
14 - D	1.66667%	1

15 - A	1.66667%	1
15 - B	1.57658%	1
15 - C	1.75676%	1
15 - D	1.66667%	1

Total 60

1.000002

60

538652

DECLARATION OF COVENANTS
 CONDITIONS AND RESTRICTIONS OF
 THE COLONIAL GARDENS CONDOMINIUMS

See Blanket Request 10/5-2/3

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, hereinafter called "Declaration" and By-Laws, which are attached hereto as "Appendix C" and made a part hereof are made and executed in Davis County, Utah this 19th day of July, 1979, by COLONIAL GARDENS ASSOCIATES, a Utah General Partnership, authorized to do business in Utah, hereinafter called "Declarant" for itself and its successors, grantees, and assigns, pursuant to the provisions of the Utah Condominium Ownership Act, Utah Code Ann. Section 57-8-1, et. seq. (1953 as amended) hereinafter referred to as Condominium Ownership Act.

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain land located in Davis County, Bountiful City, Utah, hereinafter referred to as the "land" and more particularly described in "Appendix A" of the Declaration which is attached hereto and made a part hereof; and,

WHEREAS, fifteen residential buildings consisting of a total of 60 residential condominium units and 60 covered carports and other parking stalls that are not covered and other improvements upon the aforesaid premises have been constructed in accordance with the plans and drawings set forth in the Record of Survey Map filed concurrently herewith, consisting of three sheets prepared and certified by Ron Hiatt, a duly registered Utah Land Surveyor; and,

WHEREAS, Declarant desires by filing this Declaration and the aforesaid Record of Survey Map to submit the above described real property, and the said buildings and other improvements constructed thereon to the provisions of the Utah Condominium Ownership Act as a condominium project known as the COLONIAL GARDENS CONDOMINIUM; and,

WHEREAS, Declarant desires and intends to sell the fee

Black's

title to the individual units contained in said condominium project; together with an undivided ownership interest in the common areas and facilities appurtenant thereto, to various purchasers, subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, Declarant desires and intends by filing this Declaration and Record of Survey Map to submit the property to the provisions of the aforesaid act as a condominium property and to impose upon said property mutually beneficial restrictions for the benefit of said property and the owners thereof; and

WHEREAS, the Declarant intends to develop the above condominium project consisting of 60 residential units and 60 covered carports and to subject the entire property and units as so developed as one condominium project by the filing of a Declaration to accomplish that purpose;

NOW, THEREFORE, for such purposes, Declarant hereby makes the following Declaration containing covenants, conditions and restrictions relating to the condominium project which, pursuant to the provisions of Utah Code Annotated Section 57-8-10 (1953 as amended), shall be enforceable equitable servitudes, where reasonable and shall run with the land.

1. NAME OF THE CONDOMINIUM PROPERTY The name by which the condominium property shall be known is COLONIAL GARDENS CONDOMINIUM.

2. DEFINITIONS. The terms used herein shall have the meaning stated in the Utah Condominium Ownership Act and shall apply to this Declaration and By-Laws as follows, unless the context clearly indicates a different meaning therefore:

A. "Declarant shall mean COLONIAL GARDENS ASSOC. a Utah General Partnership, authorized to do business in Utah, which has made and executed this Declaration.

B. The term "Act" shall mean and refer to the Utah Condominium Ownership Act, Utah Code Annotated, Section 57-8-1, et. seq. (1953 as amended).

C. The term "Condominium" shall mean and refer to the ownership of a single unit in this condominium project

together with an undivided interest in the common areas and facilities of the property.

D. The term "Declaration" shall mean and refer to this instrument by which the COLONIAL GARDENS CONDOMINIUM project is established.

E. The term "property" shall mean and include the land, the buildings, all improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property for use in connection therewith.

F. The term "condominium project" or "project" shall mean and refer to the entire real estate condominium project referred to in the Declaration.

G. The term "map" shall mean and refer to the Record of Survey Map of the COLONIAL GARDENS CONDOMINIUM, recorded herewith by Declarant in accordance with Utah Code Annotated Section 57-8-13 (1953 as amended).

H. The term "unit" shall mean one of the residential units designated on the Record of Survey Map attached hereto as Appendix "B". Horizontally each unit consists of the area measured horizontally from the unit side of the exterior walls of the building to the unit side of the walls and partitions separating such unit from corridors, stairs, incinerators and other mechanical equipment spaces, and where walls and partitions separate such units from other units, to the side of such walls and partitions on the interior of such units, and where plaster or sheetrock partitions separate such unit from other units, to the centerline of the plaster or sheetrock on the side of each unit consists of the space between the top of the floor to the underside of the ceiling. A Unit shall not include pipes, wires, conduits or other utility lines running through it which are utilized for or which serve more than one unit.

I. The term "unit Owner" shall mean and refer to

the person or persons owning a unit in fee simple and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in this Declaration, which shall include the original purchasers and any other person who may subsequently acquire a unit.

J. The term "association of unit owners" shall mean and refer to all of the unit owners acting as a group in accordance with the Act, the Declaration and By-Laws.

K. The term "unit number" shall mean and refer to the number designating the unit in the Declaration and in the Record of Survey Map.

L. The terms "majority" or "majority of unit owners" shall mean the owners of more than fifty percent (50%) of an undivided interest in the common areas and facilities.

M. The term "management committee" shall mean and refer to a committee composed of persons duly elected thereto by the association of unit owners, as provided by this Declaration or the Act in accordance with the By-Laws attached hereto as Appendix "C". Said committee is charged with and shall have the responsibility and authority to make and enforce all of the reasonable rules and regulations pertaining to the operation and maintenance of the property.

N. The term "manager" shall mean and refer to the person, persons, corporation or other entity selected by the management committee to manage the affairs of the condominium project.

O. The term "common elements" refer to and consist of the entire condominium property, including all parts of the building other than the units, and including, without limitation the following:

- (1) The land on which the buildings are erected.
- (2) All foundations, columns, girders, beams and supports;
- (3) All exterior walls of the building not including the portions thereof on the unit side of such walls;

all walls and partitions separating units from corridors, stairs, incinerators, and other mechanical equipment spaces, other than the portions of the plaster or sheetrock partitions separating units between the center lines of the plaster or sheetrock on each side of such partitions; and all concrete floors and concrete ceilings;

(4) Roof, halls, corridors, lobbies, stairs, stairways, and entrances to the exits from the building;

(5) Basements, sub-basements, yards, gardens, recreational or common facilities, mail rooms, vaults and other areas used in connection therewith, parking and driveway areas, and storage spaces.

(6) All space devoted to the lodging or use of the superintendant and other persons employed in connection with the operation of the condominium property;

(7) All central and appurtenant installations for services such as power, light, telephone, gas, hot and cold water, heat refrigeration, air conditioning and incinerating (including all pipes, ducts, wires, cables and conduits used in connection therewith, whether located in common areas or in units) and all other mechanical equipment spaces;

(8) All elevators, tanks, pumps, motors, fans, compressors, and control equipment;

(9) All sewer pipes;

(10) All storage spaces, garage space and laundry rooms

(11) All terraces and balconies or patios, provided however, that each unit owner whose unit has sole access to a terrace or balcony or patio shall have an easement for the exclusive use thereof; and

(12) All other parts of the condominium property and all apparatus and installations existing in the building or on the property for common use or necessary or convenient to the existence, maintenance or safety of the condominium.

P. The term "limited common areas and facilities" shall mean and refer to those common areas and facilities designated in the Declaration and the map as reserved for use of a certain unit to the exclusion of the other units.

The term "common expense" shall mean and refer to

all expenses of administration, maintenance, repair or replacement of the common areas and facilities, to all items, things, and sums described in the Act which are lawfully assessed against the unit owners in accordance with the provisions of the Act, this Declaration, the By-Laws, such rules and regulations pertaining to the condominium project as the association of unit owners or the management committee may from time to time adopt, and such determinations and agreements lawfully made/or entered into by the management committee.

R. The term "par value" shall mean and refer to the number of points assigned to each unit by Appendix "D", attached hereto and made a part of this Declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different amenities or other characteristics that might result in difference in market value need not be but may be considered substantially identical within the meaning of this term. Any statement or par value shall not be deemed to reflect or control the sale price or fair market transaction shall affect the par value of any unit, or any undivided interest in the common areas and facilities, voting rights in the units owner's association, liability for common expenses, or right to common profits, assigned on the basis thereof.

S. The term "size" shall mean the number of square feet of floor space within each unit as computed by reference to the record of survey map and rounded off to the next highest whole number. Space within the unit shall not include attic, basement or carport spaces.

T. The term "reconstruction of the building(s)" shall mean restoring the building to substantially the same condition in which it existed prior to the fire or other disaster,

with each unit and the common elements having the same vertical and horizontal boundaries as before.

U. Those definitions contained in the Act, to the extent they are applicable to and not inconsistent herewith, shall be and are hereby incorporated herein by reference and shall have the same effect as if expressly set forth herein and made a part thereof.

3. DESCRIPTION OF PROPERTY

A. Description of Land:

The tract of land located in Bountiful City, Davis County, State of Utah, as is more fully described in Appendix "A".

The building consists of 15 residential buildings with a total of 60 residential units. There are 60 carports which are limited common area, and other parking stalls that are not covered which are common area. A building containing clubhouse, whirlpool and sauna is also located on the property, which will be deemed as common area.

The residential buildings are constructed on concrete with reinforcing steel supports. Exterior walls are of brick and frame; interior are of wooden studs, plywood and drywall or plaster. The floors are concrete or wood. The units are supplied with gas and electricity.

The covered parking spaces are of concrete or asphalt and frame construction.

All other details involving the respective descriptions and locations of the buildings and a statement of the number of units and other like details are set forth in the Record of Survey Map which is filed with this Declaration and made a part thereof.

B. Description of Units:

(a) Annexed hereto and made a part hereof as Appendix "D" is a list of all units in the buildings, their unit designations and the percentage of interest of each unit in the common elements (referred to as par value). Annexed hereto and made a part hereof as Appendix "B" is a record of survey map certified by Ron Hiatt and filed with the Davis County Recorder's office simultaneously with the recording of this document which map and additional sheets depict each unit location, each unit's approximate area, the number of rooms and the common areas to which each unit has immediate access.

(b) Each residential unit shall consist of:

(1) The space enclosed within the undecorated interior surface of its perimeter walls, floors, and ceilings (being in appropriate cases the inner surfaces parallel to the roof plane, of the roof rafters, and the projections thereof) projected, where appropriate to form a complete enclosure of space including any pipes, ducts, wires, conduits or structural divisions such as interior walls or partitions which may intervene.

(2) Any finishing material applied or affixed to the interior surfaces of the perimeter walls, floors, and ceilings, including without limitation, paint, lacquer, varnish, wallpaper, tile, and paneling.

(3) Non-Supporting interior walls.

(4) Windows and doors in the perimeter walls, whether located within the bounds of a unit or not, but not including any space occupied thereby to the extent located outside the bounds of the units.

Each covered parking space is defined by the vertical and horizontal dimensions of such units so shown on the map.

Each unit has immediate access to the common areas and facilities.

Any contract for the sale of a unit and any other instrument affecting title to a unit may describe that unit by its identifying number or symbol as designated in the map or maps with the appropriate reference to the map(s) and to this Declaration, as each unit shall appear on the records of the County Recorder of Salt Lake County, Utah in substantially the following fashion:

Unit _____, in Building _____, as shown on the Record of Survey Map for COLONIAL GARDENS CONDOMINIUMS, appearing on the records of the County Recorder of Salt Lake County, State of Utah, in Book _____ at Page _____, of Plats, and as defined and described in the Declaration of Condominium appearing in such records, in Book _____, Page _____, of Records, together with _____ percent of the undivided interest in the common areas and facilities of the COLONIAL GARDENS CONDOMINIUM.

Such description will be construed to describe the unit, together with the appurtenant undivided interest in the common areas and facilities and to incorporate all the rights incident to ownership of a unit and all appurtenant undivided interest and all rights and limitations arising as a result of any amendment of the project.

C. Description of Common Area and Facilities: Except as otherwise provided in this Declaration, the common areas and facilities shall consist of all parts of the condominium property except the units. Without limiting the generality of the foregoing, the common areas and facilities shall include the following whether located within the bounds of a unit or not:

(a) All structural parts of the building including without limitation, foundations, columns, joists, beams, supports, supporting walls, floors, ceiling and roofs.

(b) Patios, yards, courts and driveways,

(c) The roadways contained therein.

(d) Any utility pipe or line or system servicing more than a single unit, and all ducts, wires, conduits and other accessories used therewith, but excluding any pipe or line or accessory connecting a single unit to a main or central pipe or line or system or to a pipe or line or system servicing more than a single unit.

(e) All other parts of the condominium property necessary or convenient to its existence, maintenance and safety, or normally in common use, or which have been designated as common areas and facilities in the amended Record of Survey Map.

(f) The limited common areas and facilities hereinafter described.

(g) All repairs, replacements, or improvement of the foregoing.

D. Description of Limited Common Areas and Facilities:

Each unit owner is hereby granted an irrevocable license to use and occupy the limited common areas and facilities reserved exclusively for the use of his unit, which shall consist of all the common areas and facilities, including but not limited to the balcony and or patio which is intended for the exclusive service of the unit, the use and occupancy of which shall in each case be limited to such unit.

4. SUBMISSION TO CONDOMINIUM OWNERSHIP. Declarant hereby submits the above-described property, tract of land, building, and any improvements constructed thereon or hereafter to be constructed, together with all appurtenances thereto, to the provisions of the Act as a condominium project and this Declaration if submitted in accordance with the terms

of the provisions of the Act and shall be construed and interpreted in accordance therewith.

5. CONVENANTS TO RUN WITH THE LAND. This Declaration containing covenants, conditions and restrictions relating to the project shall be enforceable equitable servitudes shall be binding upon Declarant, its successors and assigns, and upon all unit owners or subsequent unit owners of all or any part of the condominium project, and upon their grantees, mortgagees, successors, heirs, executors, administrators, devisees and assigns.

6. STATEMENT OF USES, PURPOSES AND RESTRICTIONS.

A. Purposes. The purpose of this condominium project is to provide housing and recreation for the unit owners and their prospective families, tenants, guests, and servants in accordance with the provisions for the Utah Condominium Ownership Act.

B. Restriction on Use. The units and common areas, limited common areas and facilities shall be used and occupied only as follows:

(a) No part of the condominium project shall be used for other than housing and the related common purposes for which the condominium property was designated. Each unit shall be used and occupied as a residence for a single family and for no other purpose, unless the management committee choose to use one unit for a management office. Each parking space shall be used only for parking of a vehicle.

(b) There shall be no obstruction of the common areas and facilities nor shall anything be stored in the common areas and facilities without the prior written consent on the management committee except as is otherwise provided herein.

(c) Nothing shall be done or kept in any unit or in the common areas and facilities, or limited common areas, which will increase the rates of insurance on the buildings or units or contents thereof beyond that customarily kept for residential use, without the prior written consent of the management committee. No unit owner shall permit anything to be done or kept in his unit or in the common areas and facilities which is likely to, or will result in the cancellation of insurance on the buildings, or the contents thereof, or which could be in violation of any law or regulation or any governmental authority. No waste shall be committed in the common areas or facilities.

(d) No unit owner shall cause or permit anything (including, without limiting the generality of the foregoing, any sign, awning, canopy, shutter, storm door, screen door, radio or television antenna) to hang, be displayed, or otherwise attach to or be placed on the exterior walls or roof or any part thereof, or to the outside of windows or doors, without prior written consent of the management committee.

(e) No animals or birds of any kind shall be raised, bred or kept in any unit or in the common areas and facilities, or limited common areas or facilities by unit owners, except that dogs, cats and other generally recognized household pets may be kept in units, subject to the rules adopted by the management committee and provided further that any such pet which shall create a disturbance or be a nuisance shall be permanently removed from the condominium project within ten (10) days notice from the management committee.

(f) No noxious or offensive activity of any kind shall be carried on in any unit or in the common areas nor shall anything be done therein, either willfully or intentionally which may be or is likely to become an annoyance or nuisance to the other unit owners or occupants.

(g) Except as otherwise provided herein, nothing shall be done to, or in any unit, to or on any common area and facility, to or on any limited common areas and facility which will impair the structural integrity of the building or any part thereof or which would structurally change the building or any part thereof.

(h) No clothes, sheets, blankets, laundry, bicycles, recreational equipment, storage items, or other articles of any kind shall be hung out, or exposed on any part of the common areas or limited common areas and facilities, in any manner as to be visible from any other unit, except as the rules and regulations of the unit owners association may otherwise provide. The common areas and facilities and limited common areas and facilities shall be kept free from all rubbish, debris and any other unsightly material. Any drapes or curtains placed in units shall be lined with white material under areas where there is exposure to view from the common area.

(i) There shall be no playing, lounging or placing baby carriages, playpens, bicycles, wagons, toys, vehicles, benches, chairs, or other matter in or on any part of the common areas and facilities, except as the foregoing is subject to the rules promulgated by the management committee.

(j) No industry, business trade, occupation or profession of any kind, whether for commercial, religious, educational, charitable, or any other purpose shall be conducted, maintained or permitted on any part of the condominium project except as may be permitted by the management committee and subject to the rules, nor shall any "For Sale" or "For Rent" sign or other window display or advertising be maintained or permitted by any unit owner on any part of the condominium property or in any unit therein, except that:

(1) The Declarant may perform or cause to be performed such work as is incident to the sale, repair or alteration of the condominium property, or to sale or lease of units owned by the Declarant, including advertising and signs showing the location of model units and the like.

(2) The Declarant or its agent may place "For Sale" or "For Rent" signs on any unsold or unoccupied units and may place such other signs on the condominium property for the purpose of facilitating the sale or lease of units by any unit owner, mortgagee or the association of unit owners.

(3) The association of unit owners or the management committee or its agents or representatives may place "For Sale" or "For Rent" signs on any units or the condominium property for the purpose of facilitating the sale or lease of units by any unit owner, mortgagee or the association of unit owners.

(4) One unit may be acquired and used by the management committee for the use as a management office.

k. The COLONIAL GARDENS CONDOMINIUM has been designed for family living, however, no disturbance or noise may be caused which would be noxious to other unit owners. Declarant disclaims any responsibility or obligation to unit owners, and make no representations or warranty regarding any present or future restrictions or children. The management committee shall have authority to preclude children if they desire and to prescribe reasonable rules and regulations for the purpose of effectuating the purpose of this subparagraph.

(1) Boats, campers, recreational vehicles and extra automobiles shall be subject to the rules and regulations promulgated by the management committee. The management committee shall have the power to designate areas for the location of boats, campers,

recreational vehicles and extra automobiles and the like or preclude them from the condominium village or take whatever action is deemed reasonable and necessary in maintaining the Colonial Garden as a high quality residential community. The management committee shall also have the power to designate and assign all parking places and locations for unit owners as well as visitor and/or reserved parking areas.

7. OWNERSHIP AND USE.

A. Ownership of a Unit. Except with respect to any of the common areas and facilities located within the bounds of a unit, each unit owner shall be entitled to the exclusive ownership and possession of his unit and to the ownership of an undivided interest in the common area and facilities in the percentage expressed in Appendix "D" hereof.

B. Prohibition Against Subdivision of Unit. No unit owner shall, by deed, plat or otherwise, subdivide or in any manner cause his unit to be separated into tracts or parcels smaller than the unit shown on the map.

C. Ownership of Common Areas and Facilities. The common areas and facilities shall be owned by the unit owners as tenants in common, and ownership thereof shall remain undivided. No action for partition of any part of the common areas and facilities shall be maintainable, except as specifically provided in the Utah Condominium Ownership Act, nor may any unit owner otherwise waive or release any rights in the common areas and facilities.

D. Use of Common Areas and Facilities. Except with respect to the limited common areas, each unit owner may use the common areas and facilities in accordance with the purposes for which they are intended, provided such use shall also be consistent with this Declaration and the By-Laws which right of use shall be appurtenant to and run with the unit. The management committee may regulate the use of common areas so as to insure its use to conform with its intended design.

E. Interest in Common Areas and Facilities. The percentage of interest in the common areas and facilities of each unit has been determined by assigning points to each unit

according to size and other factors that differentiate each unit from the other units.

F. Use and Maintenance of Limited Common Areas and Facilities. A unit owner's use and occupancy of the limited common areas and facilities reserved for his exclusive use shall be subject to and in accordance with the provisions of this Declaration and By-Laws. Each unit owner shall be responsible for the maintenance and repair of the interior of any limited common area reserved for his exclusive use. The management committee shall have responsibility for the maintenance and repair of the exterior of any limited common areas. The management committee may provide insurance for, or otherwise take such measures as it may deem appropriate to insure the maintenance and repair of such limited common areas.

8. The name and address of the person in Salt Lake County, State of Utah, appointed as first agent to receive service of process for all matters pertaining to the project under the Utah Condominium Ownership Act is:

Randolph S. Mellor
453 North 400 East
Bountiful, UT 84010

The agent may be changed from time to time by filing appropriate instruments.

9. Percentage of Ownership and Voting Rights. The percentage of ownership in the common areas and facilities of the condominium shall be controlling for all purposes, including voting. The common expenses shall be allocated in accordance with the percentage of ownership. The percentage of ownership in the common areas and facilities and the number of votes in the association of unit owners shall be set forth in Appendix "D".

10. Easements.

A. The management committee may hereafter grant easements for utility purposes for the benefit of the condominium property including the right to install, lay, maintain, repair

and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, and electrical conduits and wires over, under, along and through any portion of the common areas and facilities.

B. Declarant shall have a transferable easement over and on the common areas and facilities for the purpose of making improvements on the land within the project or on any additional land under this Declaration and the Act, and for the purpose of doing all things reasonable necessary and proper in connection with the same.

C. Declarant and his duly authorized agents, representatives and employees shall have the right to maintain sales offices and model units on the land within the project. Declarant may use two (2) unoccupied units for model units and two (2) unoccupied units for sales and rental offices, the Clubhouse shall also be used by Declarant provided that as Declarant ceases to use the Clubhouse, Declarant shall have no further rights and interest therein.

D. To the extent that any damage is inflicted on any part of the condominium project by any person or persons utilizing the easements reserved by this Declaration or created by subsections "A" or "B" or "C" of this section 10, the Declarant together with person or persons causing the same, shall be jointly and severally liable for the prompt repair of the damage and for the restoration of the same to condition compatible with the remainder of the condominium project.

E. Each unit shall be subject to such easements as may be necessary for the installation, maintenance, repair or replacement of any common areas and facilities located within the boundaries of such unit.

F. In the event that, by reason of the construction, reconstruction, settlement or shifting of a building, any part of the common areas and facilities encroach or shall hereafter encroach upon any part of any unit or any part of any unit encroaches or shall hereafter encroach upon any part of the common areas and facilities or any other unit, valid easements for such encroachment and the maintenance of such encroachment are hereby established and shall exist for the benefit of such unit and the common areas and facilities, as the case may be, so long as all or any part of the building containing any such unit shall remain standing; provided, however, that in no event shall a valid easement for any encroachment be created in favor of any unit owner or owners of the common areas and facilities if such encroachment occurred due to the willful conduct of such unit owner or owners.

11. EXCLUSION OF WARRANTIES.

Each unit and all common areas and limited common areas are sold by Declarant "As Is" without any warranty, express or implied, as to any structural or mechanical defects whether they be apparent or latent. The Declarant does not warrant the merchantability of any part of the units, the common areas or the limited common areas. The Declarant does not warrant that any part of any unit, the common area or the limited common area is fit for any particular purpose. Anyone purchasing a condominium waives any right he may have to bring an action against Declarant for breach of warranty. No suit whether in equity or at law shall be maintainable against Declarant by the unit owners individually or the association of unit owners by reason of any alleged breach of an express or implied warranty.

12. MORTGAGE PROTECTION. Notwithstanding anything herein to the contrary, it is hereby declared, certified and agreed as follows:

A. Mortgagee's Right to Notification and Default. Any holder of the first or second mortgage of any unit is entitled to written notification from the management committee of any default by the Mortgagor of such unit in the performance of such mortgagor's obligations under the Declaration which has not been cured within thirty (30) days.

B. Priority of Mortgagee over Certain Assessments. Any holder of a first or second mortgage or a deed of trust on any unit which comes into possession of the unit pursuant to the remedies provided in the mortgage or trust deed or by assignment in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against the mortgaged unit which accrue prior to acquisition of title to such unit by the mortgagee (except for claims for a pro rata share of such assessments or charges resulting from a pro rata share of such assessments or charges resulting from a pro rata relocation of such assessments or charges to all units including the mortgaged unit). After a foreclosure, however, a lien may be created to secure all assessments which may be enforceable as provided herein.

C. Prohibitions Imposed on Owners. Unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned) or owners (other than the sponsor, developer, or builder) of the individual condominium units have given their prior written approval, the Condominium Homeowners Association shall not be entitled to:

1. Change the pro-rata interest or obligation of any unit for the purposes of assessments and charges, determining shares of the common areas and facilities of the project and allocating distributions of hazard insurance proceeds or condemnation awards;
2. Partition or subdivide any condominium unit;
3. By act or omission seek to abandon or terminate the condominium project;
4. By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common elements, (the granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer within the meaning of this clause.
5. Use hazard insurance proceeds for losses to any of the unit, limited common, or common areas for other than the repair replacement or

reconstruction of such condominium property, except as provided by statute in case of substantial loss to the units and/or common elements of the condominium project.

13. AMENDMENT. The unit owners shall have the right to amend this Declaration and/or the map upon the approval and consent of unit owners representing not less than one half (1/2) of the undivided interest in the common areas and facilities provided, however, that any unit owner in the common areas and facilities must be consented to by all unit owners. Further provided, that no amendment shall have the effect of altering any right, privilege, liability or obligation of Declarant without the written consent of the Declarant first had and obtained. Provided further that any amendment that affects the right of mortgage holders requires their written consent to the amendment. Any amendment shall be effected by the recordation of an instrument wherein the management committee certifies that the unit owners representing their required percentage of the undivided interests in the common areas and facilities have approved and consented to any such amendment.

14. SEVERABILITY. The individuality of any one or more phrases, sentences, clauses, paragraphs or sections hereof shall not affect the remaining portions of this instrument or any part hereof, all of which are inserted subject to their being held valid in law and in the event that one or more of the sentences, phrases, clauses, paragraphs, or sections contained therein should be invalid, this instrument shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, section or sections had not been inserted.

15. TOPICAL HEADINGS. The topical headings of the paragraphs contained in this Declaration are for convenience only and do not define, limit or control the interpretation of the paragraphs of this Declaration.

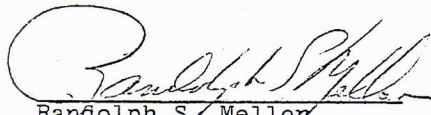
15. GENDER. The singular, whenever used herein, shall be construed to mean the plural whenever applicable

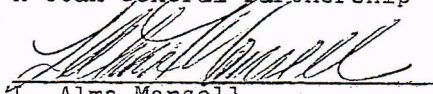
and the necessary changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

17. EFFECTIVE DATE AND CONDITION. This Declaration shall take effect upon recordation of the same.

DECLARANT:

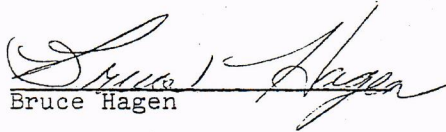
COLONIAL GARDENS ASSOCIATES
A Utah General Partnership


Randolph S. Mellor


L. Alma Mansell


David L. Mansell


S. Roger Marchant



Bruce Hagen

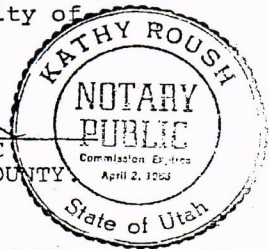
ACKNOWLEDGMENT

STATE OF UTAH
COUNTY OF DAVIS

On the 19 day of July A.D. 1979, personally appeared before me, the undersigned Notary Public, in and for said County of Davis, in said State of Utah, Randolph S. Mellor, L. Alma Mansell, David L. Mansell, S. Roger Marchant and Bruce Hagen, signers of this Record of Survey Map and Declaration of Covenants, Conditions and Restrictions of the Colonial Gardens Condominiums, who duly acknowledged to me that they are partners in "Colonial Gardens Associates", a Joint Venture, and that they did sign the same on behalf of and by authority of said Partnership.

April 2, 1983
MY COMMISSION EXPIRES


NOTARY PUBLIC
residing in DAVIS COUNTY



APPENDIX "A"

TO THE DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS OF
THE COLONIAL GARDENS CONDOMINIUMSDESCRIPTION

Beginning at the intersection of the West Line of 4th East Street and the North line of 4th North Street in Bountiful City, said point being North $0^{\circ}03'20''$ East 54 feet and West 33 feet from the Bountiful City Survey Monument at 4th North and 4th East Streets, said point being also described as 59.68 feet East of the Southwest corner of Lot 1, Block 56, Plat "A" Bountiful Townsite Additional Survey; thence North $0^{\circ}03'20''$ East 437.19 feet to the boundary line as established by the boundary line agreement recorded in Book 110 of Official records as Page 481, as Entry No. 159302; thence North $89^{\circ}24'$ West along said boundary 453 feet; thence South $0^{\circ}22'$ West 213.81 feet; thence South $0^{\circ}03'20''$ West 110.13 feet; thence East 288.19 Feet; thence South $0^{\circ}03'20''$ West 118 feet to the North line of 4th North Street; thence East 176.57 feet along the North line of 4th North Street to the point of beginning.

BY-LAWS OF THE COLONIAL GARDENS CONDOMINIUM

ARTICLE 1Plan of Condominium Unit Ownership

Section 1. Condominium Unit Ownership. The property located at 439 North 400 East Bountiful City, Utah and more particularly described as Appendix "A", hereinafter called the condominium, has been submitted to the provisions of Utah Condominium Ownership Act, by the declaration recorded in the office of the County Recorder, Salt Lake County, simultaneously herewith.

Section 2. Applicability of By-Laws. The provisions of these By-Laws are applicable to the condominium and to the use and occupancy thereof. The term condominium property as used herein shall include the land, the buildings, and all other improvements thereon, all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection therewith, all of which are intended to be submitted to the provisions of the Utah Condominium Ownership Act.

Section 3. Application. All present and future owners, mortgagees, leasees, and occupants of apartment units and their employees, and any other persons who may use the facilities of the condominium in any manner are subject to these By-Laws, the Declaration, and rules and regulations pertaining to the use and operation of the condominium property. The acceptance of a deed or conveyance or the entering into of a lease, or the act of occupancy of an apartment unit shall constitute an acceptance of the provisions of these instruments and an agreement to comply therewith.

Section 1. Office. The office of the condominium and the management shall be located at 453 North 400 East Unit 6-B, Bountiful, U

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ARTICLE II

Management Committee

Section 1. Number and Qualification. The affairs of the condominium shall be governed by the management committee. Until one and one-half year has elapsed from the time the Declaration and By-Laws have been recorded or at such earlier time as the Declarant in its sole discretion may determine, and thereafter until their successors shall have been elected by the unit owners the Declarant shall have the right to select the management committee. The management committee during the course of conversion shall consist of such of the partners and agents of the Declarant as shall have been designated by the Declarant. Thereafter the management committee shall be composed of nine persons, all of whom shall be the owners, spouses of owners, or mortgagees of condominium units; or, in the case of partnership owners or mortgagees, members or employees of such partnership, or in the case of corporate owners or mortgagees, officers, shareholders or employees of such corporations; or in the case of fiduciary owners or mortgagees, fiduciaries or officers, or employees of such fiduciaries. At all times no fewer than three (3) members of the management committee shall be selected from individuals owning or having mortgages on two bedroom townhouse condominium units. At all times no fewer than two (2) members of the management committee shall be selected from individuals owning or having mortgages on 3 bedroom condominium units. Also a minimum of two (2) members owning or having mortgages on 1 bedroom condominium units.

Section 2. Powers and Duties. The management committee shall have the powers and duties necessary for the administration of the affairs of the condominium, except as such powers and duties as by law or by the Declaration or by these By-Laws may not be delegated to the management committee by the unit owners. The powers and duties to be exercised by the management committee shall include, but shall not be limited to the following:

- (a) Operation, care, upkeep and maintenance of the common elements, including the pool and clubhouse;
- (b) Determination of the amounts required for operation, maintenance, and other affairs of the condominium;
- (c) Collection of the common charges from the unit owners;
- (d) Employment and dismissal of personnel as necessary for the efficient maintenance and operation of the condominium;
- (e) Adoption and amendment of rules and regulations covering the details of the operation and use of the condominium property;
- (f) Opening of bank accounts on behalf of the condominium and designating the signatories required therefor;
- (g) Obtaining insurance for the condominium property, including the condominium units, pursuant to the provisions contained in the declaration; and
- (h) Making repairs, additions and improvements to, or alterations of, the condominium property, and repairs to and reconstruction of the property in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.
- (i) Acquiring by purchase or lease such capital assets and equipment as may be necessary for the conversion of the condominium including but not limited to a condominium unit to be used as an office, all office furniture, office equipment, maintenance equipment; trucks and the like.
- (j) Taking all steps necessary to incorporate the association of unit owners under the provisions of the Utah Business Corporation Act Section 16-10-1 et seq. Utah Code Annotated (1953 as amended).

Section 3. Managing Agent and Manager. The management committee may employ for the condominium a managing agent

and a manager at a compensation established by the management committee to perform shall authorize, including, but not limited to the duties listed in subdivisions (a), (c), (d), (g) and (h) of Section 2 of this Article II. The management committee may delegate to the manager or managing agent, all of the powers granted to the management committee by these By-Laws other than the powers set forth in subdivisions (b), (e), (f), (j) and (i) of Section 2 of this Article II. Any agreement for a professional management of the condominium project, or any other contract providing for services by the Declarant must provide for termination by either party with or without cause or the payment of a termination fee on 90 days or less written notice. The maximum time period for such contracts or agreements is three years.

Section 4. Election and Term of Office. At the first annual meeting of the units owners, the term of office of three members of the management committee shall be fixed at three years and the term of office of three members of the management committee shall be fixed at two years and the term of office of three members of the management committee shall be fixed at one year. At the expiration of the initial term of office of each respective member of the management committee, his successor shall be elected to serve for a term of three years. The members of the management committee shall hold office until their respective successors shall have been elected by the unit owners.

Section 5. Removal of Members of Management Committee. At any regular or special meeting of unit owners, after the unit owners have assumed the management responsibility, any one or more of the members of the management committee may be removed with or without cause by a majority of the unit owners and a successor may then and there or thereafter be elected to fill the vacancy thus created. Any member of the management committee whose removal has been proposed by the unit owners shall be given an opportunity to be heard at the meeting.

Section 6. Vacancies. Vacancies in the management committee caused by any reason other than the removal of a member thereof by a vote of the unit owners, shall be filled by vote of a majority of the remaining members at a special meeting of the management committee held for that purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum, and each person so elected shall be a member of the management committee for the remainder of the term of the member so removed and until a successor shall be elected at the next annual meeting of the unit owners.

Section 7. Organization Meeting. The first meeting of the members of the management committee following the annual meeting of the unit owners shall be held within ten (10) days thereafter, at such time and place as shall be fixed by the unit owners at the meeting at which such management committee shall have been elected, and no notice shall be necessary to the newly elected members of the management committee in order legally to constitute such meeting, providing a majority of the whole management committee shall be present therat.

Section 8. Regular Meetings. Regular meetings of the management committee may be held at such time and place as shall be determined from time to time by a majority of the members of the management committee, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the management committee shall be given to each member of the management committee, by mail or telephone at least three business days prior to the day named for such meeting.

Section 9. Special Meetings. Special meetings of the management committee may be called by the president on three business days' notice to each member of the management committee, given by mail or telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the management committee shall be called by the president or secretary in like manner and on like notice on the written request of at least three members of the management committee.

Section 10. Waiver of Notice. Any member of the management committee may, at any time, waive notice of any meeting of the management committee in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the management committee at any meeting of the management committee shall constitute a waiver of notice by him of the time and place thereof. If all the members of the management committee are present at any meeting of the management committee, no notice shall be required and any business may be transacted at such meeting.

Section 11. Quorum of Management Committee. At all meetings of the management committee, a majority of the members there of shall constitute a quorum for the transaction of business, and the vote of a majority of the members of the management committee present at a meeting at which a quorum is present shall constitute the decision of the management committee. If, at any meeting of the management committee there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice.

Section 12. Fidelity Bonds. The management committee shall obtain adequate fidelity bonds for all officers and employees of the condominium handling or responsible for condominium funds. The premiums on such bonds shall constitute a common expense.

Section 13. Compensation. No member of the management committee shall receive any compensation from the condominium for acting as such.

Section 14. Liability of the Management Committee. The members of the management committee including Declarant, shall not be liable to the unit owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The unit owners shall indemnify and hold harmless each member of the management committee including Declarant against all contractual liability to others arising out of contracts made by the management committee on behalf of the condominium unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. The members of the management committee including Declarant shall have no personal liability with respect to any contract made by them on behalf of the association of unit owners. It is intended that the liability of any unit owner arising out of any contract made by the management committee or out of the indemnity in favor of the members of the management committee shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interests of all the unit owners in the common elements. Every agreement made by the management committee or by the managing agent or by the manager on behalf of the condominium shall provide that the members of the management committee or the managing agent,

or the manager, as the case may be, are acting only as agents for the unit owners and shall have no personal liability thereunder (except as unit owners), and that each unit owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interests of all unit owners in the common elements.

Section 15. Right of Entry. The management committee or its duly authorized agents shall have the right to enter any or all units in the case of an emergency originating in or threatening such unit or any part of the project, whether or not the unit owner or occupant thereof is present at the time. The committee or its duly authorized agent shall also have the right to enter into any and all of said units at all reasonable times as required for the purpose of performing emergency installations, alterations, or repairs to the mechanical, electrical or other utility devices or installations located therein or thereon, provided, however, that such emergency, installation, alteration or repair is necessary to prevent damage or threatened damage to such unit or units in the project; and provided further, that the unit owner affected by such entry shall first be notified thereof if available and if time and circumstances shall permit.

Section 16. Administrative Rules and Regulations. The management committee shall have the power to adopt, establish and amend by resolution, such building management, and operational rules as it may deem necessary for the maintenance, operation, management and control of the project and the committee may from time to time by resolution, alter, amend and

repeal such rules. When a copy of any amendment or alteration or provision for repeal of any rule or rules has been furnished to the unit owners, such amendment, alteration, or repeal shall be deemed to be a part of such rules. Unit owners shall at all times, obey such rules and see that they are faithfully observed by those persons over whom they have or may exercise control and supervision it being understood that such rules shall apply to, and be binding upon all unit owners and/or occupants of any unit.

Section 17. Obligation to Comply with Rules. Each unit owner, tenant or occupant of a unit shall comply with the provisions of the Act, Declaration, By-Laws, the rules and regulations, all agreements and determinations lawfully made and/or entered into by the management committee or unit owners, when acting within the scope of their authority and any failure to comply with any of the provisions thereof shall be grounds for an action by the management committee for injunctive relief and/or to recover for any loss or damage resulting therefrom.

ARTICLE III

Unit Owners

Section 1. Annual Meetings. Promptly after the Declarant has given notice of its intention to give up control of the management committee or one and one-half years after recordation of the Declaration has elapsed, whichever shall first occur, the Declarant shall notify all unit owners of the first annual meeting of the unit owners which shall be held within thirty (30) days thereafter on a call issued by the president. At such meeting the officers and directors of the Declarant shall resign as members of the management committee and all

responsibility and obligations Declarant may have shall cease, and all unit owners, including the Declarant, shall elect a new management committee which shall immediately assume all such responsibilities and obligations on behalf of the unit owners. Thereafter, the annual meetings of the unit owners shall be held on the 15th day of January of each succeeding year, unless such date shall occur on a Saturday or Sunday, in which event the meeting shall be held on the succeeding Monday. At such meetings the management committee shall be elected by ballot of the unit owners in accordance with the requirements of Section 4 of Article II of these By-Laws. After 75% or more of the units shall have been sold by the Declarant and paid for, the unit owners, other than the Declarant shall be entitled to elect at least three members of the management committee, each of whom shall serve for a term of three years. So long as the Declarant shall own one or more apartment units, the Declarant shall be entitled to elect at least one member of the management committee who shall serve for a term of one year. The unit owners may transact such other business at such meetings as may properly come before them.

Section 2. Place of Meetings. Meetings of the unit owners shall be held at the principal office of the condominium or at such other suitable place convenient to the owners as may be designated by the management committee.

Section 3. Special Meetings. It shall be the duty of the president to call a special meeting of the unit owners if so directed by resolution of the Management Committee or upon a petition signed and presented to the Secretary by unit owners owning a total of at least 25% of the common interest. The notice of any special meeting shall state the time, place,

and purpose of the meeting. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings. The Secretary shall mail to each unit owner of record a notice of each annual or special meeting of the unit owners, at least ten (ten) but not more than twenty (20) days prior to such meeting, stating the purpose thereof as well as the time and place where it is to be held, at the building or at such other address as such unit owner shall have designated by notice in writing to the Secretary. The mailing of a notice of meeting in the manner provided in this section shall be considered service of notice.

Section 5. Adjournment of Meetings. If any meeting of unit owners cannot be held because a quorum has not attended, a majority in common interest of the units owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time the original meeting was called.

Section 6. Order of Business. The order of business at all meetings of the unit owners shall be as follows:

- (a) Roll Call;
- (b) Proof of notice of meeting;
- (c) Reading of minutes of preceding meeting;
- (d) Reports of officers;
- (e) Report of management committee;
- (f) Reports of committees;
- (g) Election of inspectors of election (when so required);
- (h) Election of members of the management committee (when so required);
- (i) Unfinished business; and
- (j) New business.

Section 7. Title to Condominium Units. Title to condominium units may be taken in the name of an individual or in the names of two or more persons, as tenants in common or as joint tenants, or in the name of a corporation or partnership, or in the name of a fiduciary.

Section 8. Voting. The owner or owners of each condominium unit, or some person designated by such owner or owners to act as proxy on his or their behalf and who need not be an Owner, shall be entitled to cast the votes appurtenant to such condominium unit at all meetings of unit owners. The designation of any such proxy shall be made in writing to the Secretary, and shall be revocable at any time by written notice to the Secretary by the Owner or Owners so designating. The total number of votes of all unit owners shall be 60 and each unit owner (including the Declarant and the management committee or its designee, shall then hold title to one or more condominium units) shall be entitled to cast the number of votes at all meetings of the unit owners as is designated on Appendix "D" attached to the Declaration along with this appendix. A fiduciary shall be the voting member with respect to any condominium unit owned in a fiduciary capacity.

Section 9. Majority of Unit Owners. As used in these By-Laws the term "majority of unit owners" shall mean those unit owners having more than 50% of the total authorized votes of all unit owners present in person or by proxy and voting at any meeting of the unit owners, determined in accordance with the provisions of Section 8 of this Article III.

Section 10. Quorums. Except as otherwise provided in these By-Laws or Declaration, the presence in person or by proxy of unit owners having one-third of the total authorized votes of all unit owners shall constitute a quorum at all meetings of the unit owners.

Section 11. Majority Vote. The vote of a majority of unit owners at a meeting at which a quorum shall be present shall be binding upon all unit owners for all purposes except where a higher percentage vote is required by law, by the Declaration, or by these By-Laws.

ARTICLE IV

Officers

Section 1. Designation. The principal officers of the condominium shall be the President, the Vice President, the Secretary, the Treasurer, all of whom shall be elected by the management committee. The management committee may appoint an Assistant Treasurer, and Assistant Secretary, and such other officers as in its judgment may be necessary. The President and Secretary must be members of the management committee.

Section 2. Election of Officers. Officers shall be elected annually by the management committee, and shall hold office at the pleasure of the management committee.

Section 3. Removal of Officers. Upon the affirmative vote of a majority of the members of the management committee any officer may be removed, either with or without cause, and his successor may be elected at any regular meeting of the management committee or at any special meeting of the management committee called for such purpose.

Section 4. President. The President shall be the chief executive officer of the condominium. He shall preside at all

meetings of the unit owners and of the management committee. He shall have all of the general powers and duties which are incident to the office of president of a corporation organized under the Business Corporation Act of the State of Utah, including but not limited to the power to appoint from among the unit owners any committee which he decides is appropriate to assist in the conduct of the affairs of the condominium.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the management committee shall appoint some other member of the management committee to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the management committee or by the President.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the unit owners and of the management committee. He shall have charge of such books and papers as the management committee may direct; and he shall, in general, perform all the duties incident to the office of secretary of a corporation organized under the Business Corporation Act of the State of Utah.

Section 7. Treasurer. The Treasurer shall have the responsibility for condominium funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial statements. He shall be responsible for the deposit of all moneys and other valuable effects in the name of the management committee, or the managing agent, in such depositories as may from time

to time to be designated by the management committee, and he shall, in general, perform all the duties incident to the office of treasurer of a corporation organized under the Business Corporation Act of the State of Utah.

Section 8. Agreements, Contracts, Deeds, Checks, Etc.

All agreements, contracts, deeds, leases, checks and other instruments of the condominium shall be executed by any two officers of the condominium or by such other person or persons as may be designated by the management committee.

Section 9. Compensation of Officers. No officer shall receive any compensation from the condominium for acting as such.

ARTICLE V

Operation of the Property

Section 1. Determination of Common Expenses and Common Charges. The management committee shall from time to time, and at least annually, prepare a budget for the condominium, determine the amount of the common charges required to meet the common expenses of the condominium and allocate and assess such common charges against the unit owners according to their respective common interests. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the management committee pursuant to the provisions of Section 2, of this Article V and the fees and disbursements of the management committee. The common expenses may also include such amounts as the management committee may deem proper for the operation and maintenance of the condominium property, including, without limitation, an amount for working capital of the condominium, for a general operating reserve and shall include for a reserve

fund for maintenance, repairs, and replacement of common elements requiring periodic replacement (rather than by special assessment), and to make up any deficit in the common expenses for any prior year. The management committee shall advise each unit owner in writing of the amount of common charges payable by him and shall furnish copies of each budget on which such common charges are based to all unit owners and to their mortgagees. In the event that such assessment shall result in any excess for any one year, the management committee may refund the excess to the unit owners or apply such excess to assessments for the succeeding year.

That portion of the common assessments payable by each unit owner in and for each year or for a portion of a year shall be a sum within the limits and on the conditions hereinabove provided bearing to the aggregate amount of such cash requirements for each year, or portion of a year, determined as aforesaid, to the same ratio as the unit owner owns an undivided interest in the common areas and facilities and such assessments together with any additional sums accruing under this Declaration, By-Laws or the Act shall be payable monthly in advance, or in such payments and installments as shall be required by the management committee, and at such times as shall be provided by the management committee.

The management committee shall have absolute discretionary authority to prescribe the manner of maintaining and operating the project and to determine the cash requirements of the management committee to be paid as aforesaid by the owners under this Declaration. Any such determination by the management committee within the bounds of the Act, By-Laws or this Declaration shall be final and conclusive on the unit owners, and any expenditures made by the management committee within the bounds of the Act, By-Laws, or Declaration shall be deemed necessary and proper for such purpose as against the unit owners.

Section 2. Insurance. The management committee shall be required to obtain and maintain, to the extent obtainable, the following insurance:

(a) Fire insurance with extended coverage, vandalism, and malicious mischief endorsements, insuring the entire condominium buildings (including all of the condominium units and the bathroom and kitchen fixtures initially installed therein by the Declarant, but not including furniture furnishing, or other personal property supplied or installed by unit owners), together with all air conditioning equipment and other service machinery contained therein; such insurance shall cover the condominium, the management committee, and all unit owners and their mortgagees, as their interests may appear, in an amount equal to the full replacement value of the buildings, without deduction for depreciation. Each policy shall contain a standard mortgagee clause in favor of each mortgagee of an condominium unit which shall provide that proceeds shall be payable to such mortgagee as its interest may appear, subject, however, to payment provisions in favor of the management committee for repair, replacement or reconstruction as provided for herein;

- (b) Workmen's compensation insurance;
- (c) Boiler and machinery insurance, where appropriate;
- (d) Plate glass insurance;
- (e) Water damage insurance, and flood hazard insurance.
- (f) Such insurance necessary to meet F.H.L.M.C. specifications;
- (g) Such other insurance as the management committee may determine.

All such policies shall provide that adjustment of loss shall be made by the management committee, and that the net proceeds thereof shall be payable to the management committee subject to the respective mortgagees to receive proceeds for any purpose other than repair, replacement, or reconstruction.

All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on coinsurance or of invalidity arising from any acts of the insured, and shall provide that such policies may not be cancelled or substantially modified without at least ten days' prior written notice to all of the insureds, including all mortgagees of condominium units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all mortgagees of condominium units at least ten days prior to expiration of the then current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the management committee shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the building including all of the condominium units and all of the common elements therein, without deduction for depreciation, for the purpose of determining the amount of fire insurance to be effected pursuant to this section.

The management committee shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the management committee may from time to time determine, covering each member of the management committee, the managing agent, the manager, and each unit owner. Such public liability coverage shall also cover cross liability claims of one insured against another. The Board of Directors shall review such limits once each year.

Unit owners shall not be prohibited from carrying other insurance for their own benefit provided that all policies shall contain waivers of subrogation and further provided that the liability of the carriers issuing insurance obtained by the management committee shall not be affected or diminished by reason of any such additional insurance carried by any unit owners.

Section 3. Repair or reconstruction after damage.

In the event of damage to or destruction of any building as a result of fire or other casualty (unless 75% or more of the building is destroyed or substantially damaged and 75% or more of the unit owners do not duly and promptly resolve to proceed with repair or restoration), the management committee shall arrange for the prompt repair and reconstruction of the buildings (including any damaged condominium units, and any kitchen or bathroom fixtures initially installed therein by the Declarant, but not including any wall, ceiling or floor decorations or coverings or other furniture, furnishings, fixtures, or equipment installed by unit owners in the condominium units), and the management committee shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a common expense and the management committee may assess all the unit owners for such deficit as part of the common charges.

If 75% or more of the building is destroyed or substantially damaged and 75% or more of the unit owners do not duly and promptly resolve to proceed with repair or reconstruction, the condominium property shall be subject to an action for partition at the suit of any unit owner or lienor, as if owned in common, in which event the net proceeds of sale,

together with the net proceeds of insurance policies (or if there shall have been a repair or restoration pursuant to the first paragraph of this Section 3, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration then the excess of such insurance proceeds) shall be divided by the management committee among all the unit owners in proportion to their respective common interests, after first paying out of the share of each unit owner the amount of any unpaid liens or mortgages on his condominium unit, in the order of the priority of such liens or mortgages.

Section 4. Payments of Common Charges. All unit owners shall be obligated to pay the common charges assessed by the management committee pursuant to the provisions of Section 1 of Article V at such time to times as the management committee shall determine.

No unit owner shall be liable for the payment of any part of the common charges assessed against his condominium unit subsequent to a sale, transfer, or other conveyance by him thereof (made in accordance with the provisions of Section 1 of Article VII of these By-Laws). A purchaser of a condominium unit shall be jointly and severally liable for the payment of common charges assessed against such condominium unit subsequent to the acquisition by him of such condominium. A mortgagee or other purchaser of a condominium unit at a foreclosure sale of such condominium unit shall not be liable for such condominium unit shall not be subject to a lien for the payment of common charges which accrue prior to the acquisition of title to such unit by the mortgagee.

Section 5. Collection of Assessments. The management committee shall assess common charges against the unit owners

from time to time and at least annually and shall take prompt action to collect from a unit owner any common charge due which remains unpaid by him for more than 30 days from the due date for its payment.

Section 6. Default in Payment of Common Charges.

(a) If any unit owner shall fail or refuse to make any payment of the common expenses when due, the amount thereof shall constitute a lien on the interest of the owner of the property, and upon the recording of notice thereof by the management committee shall be a lien upon the unit owner's interest in the property prior to all other liens and encumbrances, recorded and unrecorded, except only:

- (1) tax and special assessment liens' and
- (2) prior recorded encumbrances which are superior as a matter of law.

(b) In the event of default by any unit owner in paying to the management committee the assessed common charges, such unit owner shall be obligated to pay interest at the legal rate on such common charges from the date due thereof, together with all expenses, including attorney's fees, incurred by the management committee in any proceeding brought to collect such unpaid common charges. The management committee shall have the right and duty to attempt to recover such common charges, together with interest thereon, and the expenses of the proceeding, including attorney's fees, in an action brought against such unit owner, or by foreclosure of the lien on such condominium unit.

(c) Upon payment of a delinquent assessment the management committee shall cause a satisfaction of lien filed in cases where a notice of lien had been filed.

(d) If a unit owner shall at any time let or sublet the unit and shall be in default for a period of one month in the payment of any assessments, the management committee may, at its option, so long as such default shall continue, demand and receive from any tenant or subtenant of the owner occupying the unit the rent due or becoming due and payment and discharge of such tenant or subtenant and the owner of the unit to the extent of the amount so paid. No action on the part of the management committee under this section shall have the effect of relieving its unit owner of primary liability.

Section 7. Foreclosure of Liens for Unpaid Common Charges. In any action brought by the management committee to foreclose a lien on a condominium unit because of unpaid common charges, the unit owner shall be required to pay a reasonable rental for the use of his condominium unit and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect such rental. The management committee, acting on behalf of all unit owners, shall have power to purchase such condominium unit at the foreclosure sale and to acquire hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the same. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

Section 8. Statement of Common Charges. The management committee shall promptly provide any unit owner, who makes a request in writing with a written statement of his common charges.

Section 9. Abatement and Enjoining of Violations.

The violation of any rule or regulation adopted by the management committee, or the breach of any By-Law contained herein, or the breach of any provision of the declaration, shall give the management committee the right, in addition to any other rights available at law or set forth in these By-Laws:

(a) to enter the condominium unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the management committee shall not thereby be deemed guilty in any manner of trespass; or

(b) to enjoin, abate or remedy such thing or condition by appropriate legal proceedings.

Section 10. Maintenance and Repair.

(a) All maintenance of and repairs to any apartment unit, structural or non-structural, ordinary or extraordinary, (other than maintenance of and repairs to any common elements contained therein not necessitated by the negligence, misuse, or neglect of the owner of such condominium unit) shall be made by the owner of such condominium unit. Each unit owner shall be responsible for all damages to any other condominium unit and to the common elements resulting from his failure to effect such maintenance and repairs.

(b) All maintenance, repairs, and replacements to the common elements, whether located inside or outside of the condominium units (unless necessitated by the negligence, misuse, or neglect of a unit owner, in which case such expense shall be charged to the unit owner) shall be made by the management committee and be charged to all the unit owners as a common expense.

Section 11. Terraces, Balconies and Patios. A:

terrace, balcony or patio to which a condominium unit has sole access, shall be for the exclusive use of the owner of such condominium unit. Such unit owner shall keep such balcony, terrace or patio free and clean of snow, ice, and any accumulation or water, and shall make all repairs thereto resulting from his negligence, misuse, or neglect. All other repairs in, to, or with respect to such terrace, balcony or patio shall be made by the management committee as a common expense.

Section 12. Use of Condominium Units. In order to provide for congenial occupancy of the condominium property and for the protection of the values of the condominium units, the use of the condominium property shall be subject to the following limitations:

(a) The condominium units shall be used for residences only, except as the association may choose to purchase and use a unit as a management office.

(b) The common elements shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incidental to the use and occupancy of condominium units.

(c) No nuisances shall be allowed on the condominium property nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the peaceful possession or proper use of the condominium property by its residents.

(d) No immoral, improper, offensive, or unlawful use shall be made of the condominium property or any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be complied with. Such compliance shall be accomplished

t the sole expense of the unit owners or the management committee whichever shall have the obligation to maintain or repair such portion of the condominium property.

(e) No portion of a condominium unit (other than the entire condominium unit) may be rented, and no transient tenants may be accommodated therein.

Section 13. Additions, Alterations or Improvements by Unit Owners. No unit owner shall make any structural addition, alteration or improvement in or to his condominium unit, without the prior written consent thereto of the management committee. The management committee shall have the obligation to answer any written request by a unit owner for approval of a proposed structural addition, alteration or improvement in such unit owner's condominium unit within 15 days of such request and failure to do so within the stipulated time shall constitute a consent by the management committee to the proposed addition, alteration or improvement. Any application to any governmental authority for a permit to make an addition, alteration or improvement in or to any condominium unit shall be executed by the management committee. The management committee shall not be liable to any contractor, subcontractor, materialman or to any person sustaining personal injury or property damage, for any claim arising in connection with such addition, alteration or improvement. The provisions of this Section 13 shall not apply to condominium units owned by the Declarant until such condominium units shall have been initially sold by the Declarant and paid for.

Section 14. Water Charges and Sewer Rents. Water shall be supplied to all of the condominium units and the common elements through one or more building meters and the management

committee shall pay, as a common expense, all charges for water consumed on the condominium property, together with all related sewer rents arising therefrom, promptly after the bills therefore are rendered. In the event of a proposed sale of a condominium unit by the owner thereof, the management committee, on request of the selling unit owner, shall execute and deliver to the purchaser of such condominium unit or to the purchaser's title insurance company, a letter agreeing to pay all charges for water and sewer rents affecting the property as of the date of closing of title to such condominium unit or to the purchaser's title insurance company, a letter agreeing to pay all charges for water and sewer rents affecting the property as of the date of closing of title to such condominium unit promptly after such charges shall have been billed by the appropriate collector.

Section 15. Gas. Gas shall be supplied to all condominium units through the building meter or meters and the bills for the same shall be paid by the management committee as a common expense.

Section 16. Electricity. Electricity shall be supplied by the public utility company serving the area directly to each condominium unit through a separate meter and each unit owner shall be required to pay the bills for electricity serving the common elements shall be separately metered, and the management committee shall pay all bills for electricity consumed in such portions of the common elements, as a common expense.

Section 17. Taxes. Each unit and its percentage of undivided interest in common area and facilities shall be

deemed to be a parcel and shall be subject to separate assessment and taxation by each assessing unit and special district for all types of taxes authorized by law including, but not limited to, advalorem liens and special assessments.

ARTICLE VI

Mortgages

Section 1. Mortgage of Condominium Units. No unit owner shall mortgage his condominium unit except by a mortgage made to a bank, trust company, insurance company, federal savings and loan association, pension fund, or other institution lender. Any such mortgage shall be substantially in the form on file with the management committee, except for such form changes or additions as may be required in order to permit the particular institutional lender to make the mortgage loan.

Section 2. Notice to Management Committee. A unit owner who mortgages his condominium unit shall notify the management committee of the name and address of his mortgagee and shall file a conformed copy of the note and mortgage with the management committee. The management committee shall maintain such information in a book entitled "Mortgages of Condominium Units."

Section 3. Notice of Unpaid Common Charges. The management committee, whenever so requested in writing by a mortgagee of a condominium unit, shall promptly report any then unpaid common charges or other default by the owner of the mortgaged condominium unit.

Section 4. Notice of Default. The management committee when giving notice to a unit owner of a default in paying common charges or other default, shall send a copy of such notice to each holder of a mortgage covering such condominium unit whose name and address has theretofore been furnished to the management committee.

Section 5. Examination of Books. Each unit owner and each mortgagee of a condominium unit shall be permitted to examine the books of account of the condominium at reasonable times on business days, but not more often than once a month.

ARTICLE VII

Sales and Leases of Units

Section 1. Sales and Leases. No unit owner may sell or lease his condominium unit or any interest therein except by complying with the provisions of this section. A unit owner's sale of his condominium unit shall include the sale of:

(a) the undivided interest in the common elements appurtenant thereto; and

(b) the interest of such unit owner in any other assets of the condominium, hereinafter collectively called the appurtenant interests.

Section 2. No Severance of Ownership. No unit owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his condominium unit without including therein the appurtenant interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to

include the interest of interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the appurtenant interests of any condominium unit may be sold, transferred or otherwise disposed of except as part of a sale, transfer, or other disposition of the condominium unit to which such interests are appurtenant, or as part of a sale, transfer or other disposition of such part of the appurtenant interests of all condominium units.

Section 3. Gifts and Devises, Etc. Any unit owner shall be free to convey or transfer his condominium unit by gift, or to devise his condominium unit by will, or to pass the same by intestate, without restriction.

Section 4. Payment of Assessments. No unit owner shall be permitted to convey, mortgage, pledge, hypothecate, sell, or lease his condominium unit unless and until he shall have paid in full to the management committee all unpaid common charges theretofore assessed by the management committee against his condominium unit and until he shall have satisfied all unpaid liens against such condominium unit, except permitted mortgages.

ARTICLE VIII

Condemnation

Section 1. Condemnation. In the event of a taking in condemnation or by eminent domain, part or all of the common elements, the award made for such taking shall be payable to the management committee subject to the rights of any mortgage holders to receive part or all of a given distribution according to the terms of the restricted mortgages. If 75% or more of the unit owners duly and promptly approve the repair and reconstruction of such common elements, and the management committee shall disburse the proceeds of such award to the contractors

engaged in such repair and reconstruction in appropriate progress payments. In the event that 75% or more of the unit owners do not duly and promptly approve the repair and reconstruction of such common elements, the management committee shall disburse the net proceeds of such award in the same manner as they are required to distribute insurance proceeds where there is no repair or restoration of the damage, as provided in Section 3 of Article V of these By-Laws.

ARTICLE IX

Records

Section 1. Records and Audits. The management committee or the managing agent shall keep detailed records of the actions of the management committee and the managing agent, minutes of the meeting of the management committee, minutes of the meetings of the unit owners, and financial records and books of account of the condominium, including a chronological listing of receipts and expenditures, as well as a separate account for each condominium unit which, among other things, shall contain the amount of each assessment of the common charges against such condominium unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. A written report summarizing all receipts and expenditures of the condominium shall be rendered by the management committee to all unit owners at least quarter annually. In addition, an annual report of the receipts and expenditures of the condominium, shall be rendered by the management committee to all unit owners and to all mortgagees of condominium units who have requested the same, promptly after the end of each fiscal year.

ARTICLE XMiscellaneous

Section 1. Notices. All notices to the management committee shall be sent by registered or certified mail, in care of the managing agent, or if there is no managing agent, to the office of the management committee or to such other address as the management committee may hereafter designate from time to time. All notices to any unit owner shall be sent by registered or certified mail to the building or to such other address as may have been designated by him from time to time, in writing, to the management committee. All notices to mortgagees of condominium units, shall be sent by registered or certified mail to their respective addresses as designated by them from time to time, in writing, to the management committee. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

Section 2. Invalidity. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the balance of these By-Laws.

Section 3. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws, or the intent of any provisions thereof.

Section 4. Gender. The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 5. Waiver. No restriction, condition, obligation or provision contained in 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 thereof which may occur.

ARTICLE XI

Amendments to By-Laws

Section 1. Amendments to By-Laws. Except as provided otherwise herein and except for the provisions herein for the benefit of any first mortgagee, these By-Laws may be modified or amended by the vote of 51% of the holders of the common interest of all unit owners at a meeting of unit owners duly held for such purposes; however, Section 1 of Article III, insofar as it provides that the Declarant, so long as it is the owner of one or more condominium units, may vote the votes appurtenant thereto; and this Section 1 of Article XI, may not be amended without the consent in writing of the Declarant, so long as the Declarant shall be the owner of one or more condominium units.

TO THIS DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS OF
THE COLONIAL GARDENS CONDOMINIUMS

<u>Unit No.</u>	<u>%Par Value</u>	<u>No. Of Votes</u>
1 - A	1.66667%	1
1 - B	1.57658%	1
1 - C	1.75676%	1
1 - D	1.66667%	1
<hr/>		
2 - A	1.66667%	1
2 - B	1.57658%	1
2 - C	1.75676%	1
2 - D	1.66667%	1
<hr/>		
3 - A	1.66667%	1
3 - B	1.57658%	1
3 - C	1.75676%	1
3 - D	1.66667%	1
<hr/>		
4 - A	1.66667%	1
4 - B	1.57658%	1
4 - C	1.75676%	1
4 - D	1.66667%	1
<hr/>		
5 - A	1.66667%	1
5 - B	1.57658%	1
5 - C	1.75676%	1
5 - D	1.66667%	1

6 - A	1.66667%	1
6 - B	1.57658%	1
6 - C	1.75676%	1
6 - D	1.66667%	1

7 - A	1.66667%	1
7 - B	1.57658%	1
7 - C	1.75676%	1
7 - D	1.66667%	1

8 - A	1.66667%	1
8 - B	1.57658%	1
8 - C	1.75676%	1
8 - D	1.66667%	1

9 - A	1.66667%	1
9 - B	1.57658%	1
9 - C	1.75676%	1
9 - D	1.66667%	1

10 - A	1.66667%	1
10 - B	1.57658%	1
10 - C	1.75676%	1
10 - D	1.66667%	1

11 - A	1.66667%	1
11 - B	1.57658%	1
11 - C	1.75676%	1
11 - D	1.66667%	1

12 - A	1.66667%	1
12 - B	1.57658%	1
12 - C	1.75676%	1
12 - D	1.66667%	1

13 - A	1.66667%	1
13 - B	1.57658%	1
13 - C	1.75676%	1
13 - D	1.66667%	1

14 - A	1.66667%	1
14 - B	1.57658%	1
14 - C	1.75676%	1
14 - D	1.66667%	1

15 - A	1.66667%	1
15 - B	1.57658%	1
15 - C	1.75676%	1
15 - D	1.66667%	1

Total 60

1.000002

60