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07/07/2003 01:16 PM 82.00
Book - 8835 Pg - 3855-3867
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**Revised Declaration and By-Laws of the
Capstone Condominium Project**

A vote was conducted on June 30, 2003 with 48 of the 48 homeowners who were polled via a ballot to approve or disapprove the revision of the existing Declaration and By-Laws dated October 14, 1994 as amended on February 5, 1999 and October 27, 1999. The revision was approved by 31 (65 %) of the homeowners.

I. PURPOSE/EFFECTUATION OF REVISION

1. The Management Committee recommended to the homeowners that the By-Laws be updated and clarified through two communications with draft proposals requesting written changes, additions, and omissions. A request for a vote with a final copy of the revision was distributed to each homeowner advising the homeowners that the revision could be approved with a majority vote of the homeowners. There were 37 of the 48 ballots returned and presented to the Management Committee at a special committee meeting held on July 2, 2003 where the ballots were counted (31 approved and 6 disapproved) and the final vote was tabulated.

2. Accordingly, in accordance with Title 57, Section 8, and Title 16, Chapter 10a, Utah Code Annotated (1953 as amended), the Declaration and By-Laws were revised and amended to read as follows; and the Signers were authorized and instructed to sign and record the Revised Declaration and By-Laws.

3. SURVEY MAPS: June 17, 1970, December 30, 1971 and February 15, 1977, Record of Survey Maps covering Phase No. 1, Phase No. 2, and Phases 3 and 4 respectively, were filed for record in the office of the Salt Lake County Recorder, State of Utah, in accordance with the Condominium Ownership Act.

4. EFFECTIVE DATE: This Revised Declaration and By-Laws shall take effect upon recording in the Office of the County Recorder, Salt Lake County, State of Utah.

II. DEFINITIONS

- 1. "Act" – Utah Condominium Ownership Act.
- 2. "Committee" – Management Committee of Capstone Condominium Project.
- 3. "Common Areas and Facilities":

a. real property recorded as the entirety of the tract belonging to the Capstone Condominium Project;

b. roofs and exterior surfaces of each home and exterior surfaces of patio fences;

c. installations for and equipment connected with utility services such as electricity, gas, water and sewer including all pipes, wires, conduits or other utility lines running through each building and utilized by more than one Unit.

d. all other installations and facilities included within Capstone for common use such as swimming pool, tennis court, outdoor lighting, fences, landscaping, sidewalks, open parking spaces and streets.

4. "Unit"- is one home space, including garage, patio(s) and/or balcony.

5. "Owner" - homeowner as defined by the Act.

6. "Building" - structure containing two Units.

7. "Common Expenses"- sums expended by Committee on behalf of Unit Owners to properly maintain Capstone.

8. "Capstone Home Owners Association" - Unit Owners acting as a group.

9. "Mortgage" - first mortgage as well as a deed of trust on any Condominium Unit.

10. "Mortgagee" - beneficiary under or holder of a deed of trust.

11. "Tract"- real property of Capstone Condominium Project.

III. SUBMISSION

There is hereby submitted to the provisions of the Act the Tract associated with Capstone, situated in Salt Lake County, State of Utah.

TOGETHER WITH all easements, rights-of-way and other appurtenances and rights incident to, appurtenant to, or accompanying above-described parcel of real property.

All of the foregoing is subject to: all liens for current and future taxes, assessments, and charges imposed or levied by governmental or quasi-

governmental authorities; any Patent reservations or exclusions; any mineral reservations of record and rights incident thereto; and any easements or rights way enforceable at law or in equity.

Street address of Capstone Condominium Project is 3369 South Honeycut Road, Salt Lake City, Utah. 84106

IV. COVENANTS, CONDITIONS, AND RESTRICTIONS

1. **DESCRIPTION OF CAPSTONE:** Twenty four buildings each comprising two homes, 48 fully enclosed two-car garages, asphalt roadways, open parking spaces, concrete sidewalks, wooden fences, concrete patios, cedar balconies, swimming pool, tennis court, poolhouse, outdoor lighting and landscaping.

2. **DESCRIPTIONS AND LEGAL STATUS OF UNITS.** Survey Maps show Unit Number of each Unit, its location and dimensions and Common Areas and Facilities to which it has access.

3. **COMPUTATION OF UNDIVIDED INTERESTS.** Each homeowner has a 1/48 interest in the Common Areas and Facilities.

4. **CONVEYANCING.** Any deed, lease, mortgage, deed of trust or other instrument conveying or encumbering a Unit shall describe the interest or estate involved substantially as follows:

Unit No. Contained within Capstone Condominium Project as identified in Survey Maps recorded in Salt Lake County, Utah, as Entry No. 2357253, Book II at Page 27 and as Entry No. 2438958, Book KK at Page 83 (as said Record of Survey Maps may have heretofore been amended or supplemented) and in the Revised and Restated Declaration of Condominium of the Capstone Condominium Project recorded in Salt Lake County, Utah, as Entry No. 2930711, Book 6250 at Page 2743 (as said Declaration may have heretofore been amended or supplemented). TOGETHER WITH the undivided ownership interest in Capstone's Common Areas and Facilities appurtenant to said Unit. (The referenced Declaration of Condominium providing for periodic alteration both in the magnitude of said undivided ownership interest and in the composition of Common Areas and Facilities to which said interest relates).

By-Laws of the Capstone Home Owners Association ("Association"):

BYLAWS

- i. Capstone Condominium Project is managed, operated and maintained by the Committee on behalf of the Owners. The Committee, a legal entity, has the responsibility, authority, and power to:
 - a. Grant or create reasonable utility and similar easements over, under across, and through Common Areas and Facilities;
 - b. Execute and record amendments to the Declaration, Bylaws and Record of Survey Maps which have been approved by a majority of the Owners;
 - c. Purchase, otherwise acquire, and accept title to any interest in real property approved by a majority of Owners;
 - d. Perform and/or engage proper and necessary accounting and administrative services; no formal legal action shall be commenced without the knowledge and approval of a majority of Owners;
 - e. Enter into contracts for normal maintenance or contracts for improvements costing no more than \$10,000 each. Additions and/or changes and/or improvements which would materially alter the nature of Capstone must, regardless of cost, be authorized by at least 65% of Owners;
 - f. Promulgate and enforce rules, regulations, and procedures necessary to insure that Capstone is managed, operated, maintained and used in a manner consistent with the interests of all the Owners;
 - g. Delegate any of its duties or functions to any person or firm to act as manager of any duty or function so delegated by written agreement, provided such delegation can be revoked upon written notice by the Committee. Any transfer of overall management functions of the Committee must be approved by a majority vote of Owners; and
 - h. Perform any other acts and enter into any other transactions reasonably necessary to perform its responsibilities on behalf of all Owners.

2. In carrying out its responsibilities the Committee shall:
- a. Collect all dues, fees, and assessments;
 - b. Pay all authorized expenses;
 - c. Keep common areas and facilities clean, functional, attractive, well maintained, and in good condition and repair;
 - d. Enforce remedies available to collect delinquent dues, fees, and assessments. Such action may be taken against the Owner or the Unit. Any relief obtained shall include Capstone Home Owners Association's cost and expenses and reasonable attorneys' fees.
 - e. Develop an Annual Budget, monthly and year end Financial Statements, and Annual Condition Report. Monthly Financial Statements shall be available to Owners throughout the year. The Annual Budget and Condition Report shall be presented to all Owners prior to the annual meeting. The Budget is to provide for (1) an itemization of expenditures anticipated for the fiscal year (July 1 through June 30), (2) justification for any anticipated major expenditures, and (3) a recommendation for the amount of Capital Expense Reserve Fund Assessment. The Condition Report is to cover actions of the Committee during the past year, condition of Capstone, and future needs and solutions for existing or future problems. The year-end Financial Statement is to provide a breakdown of income received and disbursements made during the previous fiscal year including any existing deficit or surplus and all unpaid dues, fees, and assessments.
 - f. Determine dues, fees, and assessments so as to sustain proper operation and maintenance of Capstone. Justification for increases in dues and fees, and assessments must be presented to Owners at the Annual Meeting or a Special Meeting of Owners and must be approved by the majority of homeowners.
 - g. Schedule an independent (other than a Committee Member) audit of the financial books, records, and procedures at least once each fiscal year and prior to annual meeting according to standard accounting practices;

- h. Enforce the Bylaws, responsibilities of Owners, and all rules, regulations, and procedures.**
- (1) When a violation of the Bylaws, rules or regulations occurs, the Committee shall attempt to obtain voluntary compliance by sending the noncompliant homeowner a letter advising him or her of the violation and request cooperation and compliance.
- (2) When voluntary compliance is not obtained and if the violation is not remedied within seven days or if the violation is repeated, the Committee will send a second notice requiring a payment of a \$25.00 fine.
- (3) Upon the third violation, or after 14 days of a continuing violation, a third notice shall be sent requiring a payment of a \$50.00 fine.
- (4) If the violation(s) are not corrected and the fines are not paid after 30 days, legal action shall be initiated. These steps are not optional, and shall be carried out by the Committee. The Unit owner shall pay all costs incurred by Capstone to stop and correct violations.
- i. Maintain, and make readily available, up-to-date- records on all Owners, or designees, so as to have immediate access to the Unit should an emergency arise.**
- j. Secure insurance:**
- **Property Insurance:** The policy shall contain no Co-insurance penalty for under insurance, or if it does, it shall be amended to delete the penalty. The valuation of the property, and claim settlements shall be on a replacement cost basis,
 - Insurance to cover perils not covered by the property policy, such as earthquakes or floods, shall be secured as directed by a majority vote of Owners,
 - Commercial general liability insurance covering an amount no less than \$1,000,000 per occurrence, and \$2,000,000 annual aggregate limit. Non-owned and hired auto coverage must also be either included in the general liability insurance, or must be separately covered,
 - Fidelity bond covering no less than \$50,000, and

- Committee and officers errors and omissions insurance.
- When a claim is filed, the deductible for that claim shall be born by the appropriate homeowner as determined by the Committee. Insurance obtained by Capstone shall cover common areas and facilities, and all buildings, including garages. Exceptions that shall not be covered by insurance purchased by Capstone are:
 - Owners personal property and furnishings,
 - All electronic equipment, including but not limited to computer systems, sound systems, television or radio systems, or other electronic systems or equipment added by any owner or tenant.
 - Anything added by any owner, past or present, or tenant that was not part of the original unit, including but not limited to all window coverings, sky lights, hot tubs, Jacuzzis, awnings, athletic or exercise equipment, shop equipment or tools, hobby equipment, antennas or aerials.

Owners are advised to buy unit owners insurance to cover personal property, furnishings, and the above exceptions that will not be insured by Capstone.

- k. Publish rules, regulations and procedures. All rules, regulations, and procedures shall be distributed to all Owners upon promulgation, and prior to the annual meeting.
- l. Appoint and participate in standing or temporary Committees, as needed. Each Committee may consist of a Chair and two or more members, and may include a member of the Management Committee.

3. Composition of the Management Committee of Capstone Condominium Project:

- a. Only Owners shall be on the Committee.
- b. The Committee shall be composed of five or more members.
- c. The term of office shall be at least one year. No Owner may be a member of the Committee for more than five consecutive years, without a break of at least two years.

- d. Committee shall be elected at the Annual Meeting.
- e. Committee officers shall be elected by the Committee, and shall include:
 - (1) President – exercises general supervision over Capstone and the Committee, presides over all meetings, and executes instruments on behalf of Capstone.
 - (2) Vice President – has all the powers of the President should the president be absent or unable to act,
 - (3) Secretary – keeps minutes of all meetings, and maintains all necessary records and files.
 - (4) Treasurer – has custody and control of funds. Upon request, will furnish Committee a bond in the amount specified. Prepares required monthly and year-end financial statements. Prepares checks for payments of bills and always obtains a second authorized signature. (i.e., no blank checks signed for convenience.)
 - (5) Maintenance Subcommittee Chairperson.
 - (6) Landscape Subcommittee Chairperson.
- f. The Vice President position may be combined with any other committee position (Secretary, Treasurer, etc.).
- f. Any member who fails to attend three successive meetings automatically forfeits their membership on the Committee,
- g. The Committee appoints new members for vacancies between Owners meetings,

4. Committee Pay: Members shall not be paid for being on the Committee and for carrying out management responsibilities that are an inherent part of Committee membership. In addition to membership on the Committee, members may be hired as employees or contracted with as independent contractors to accomplish specific jobs that are in addition to the management responsibilities of the Committee. Committee members may be reimbursed for reasonable expenses incurred in the performance of their duties provided valid receipts with a request for reimbursement are submitted to the President for approval. In the

President's absence, the Vice President or Secretary may approve the requests. Committee members may also claim mileage at the rate established by the IRS provided the request for reimbursement is supported by a mileage log showing beginning and ending odometer readings with the date, origin and destination.

5. **Committee Meetings:** If necessary, for continuity of management, the new Committee shall meet with the old Committee within 48 hours of the Annual Meeting. Meetings thereafter will be held at regular intervals, normally monthly, at the discretion of the Committee. A quorum consists of a majority of the Committee then in office.

6. **Committee Liability:** No Committee member shall be liable for any mistake of judgment, negligence, or on other grounds except for willful misconduct or bad faith on the part of the individual member. Owners shall indemnify and hold harmless each Committee member, acting in his/her capacity, from and against all liability to third parties arising out of any contract entered into by the Committee or Officers on behalf of Owners.

7. Owners Meetings:

- a. **Annual Meeting:** The Annual Meeting is to be held subsequent to the end of the fiscal year (June 30th) and no later than August 31st each year. The specific time and place is to be designated by the Committee. Written notice, preliminary agenda, financial statements, President's and other Committee Members' Reports, and the proposed budget and any proposed assessments are to be delivered to Owners at least 10 but not more than 15 days before the Annual Meeting.
- b. **Special Meetings:** May be called by the President, any three members of the Committee, or upon written request to the Committee from one-fourth of Owners. Notice shall be provided to all Owners at least 10 and not more than 15 days in advance of the meeting. The meeting shall be limited to the specific business set out in the proposed agenda, which will be provided to all Owners as part of the notice for the meeting.
- c. **Voting:** There is one (1) vote per Unit. Owners may designate another Owner as proxy in writing. Proxies are to be in writing, signed by the Owner, and filed with the Committee before commencement of the meeting.
- d. **Quorum:** Twenty five (25) Owners must be present at Owner's meetings, either in person or by proxy. Otherwise, the meeting is to be adjourned and rescheduled within 30 days.

8. Unit Owners are Responsible For:

- a. **COMPLIANCE:** Compliance with the Bylaws, rules, and regulations. Unit Owners are responsible to insure that family, guests, and especially renters comply.
- b. **USE:** Units shall be occupied and used only as a private residence. Common areas and facilities are to be used in a manner consistent with their community nature and use restrictions.
- c. **LIMITATIONS:** No Unit shall be used, occupied, or altered so as to (1) detract from the appearance or value of any other Unit; (2) create a nuisance; or (3) interfere with the rights of any owner in a way, which would result in an increase in insurance costs.
- d. **CHANGES:** Owners shall not make any structural changes, alterations, improvements or additions; or changes, alterations, improvements or additions to the exterior of the Unit without first submitting a written request to the Committee and receiving written authorization from the Committee. As a condition of authorization, owners, and all successors, must accept full responsibility for the authorized change.
- e. **VEHICLES:** All vehicles located on the property of Capstone must be properly and currently licensed and in operating condition. The Committee shall immediately impound any vehicle that is not properly and currently licensed or in operating condition.

Vehicles shall not be parked at an entrance to or in front of a garage or walkway or at any other location within Capstone, which would impair vehicular or pedestrian access, or snow removal

The Committee shall develop additional, detailed parking rules as needed.
- f. **PETS:** should any pet become offensive to other Owners (i.e., excessive/continual barking, running loose, intruding in other's private property, unpleasant odors/mess from urine/poop, etc.), the Committee shall follow the steps outlined in paragraph 2.h. to obtain the pet owner's voluntary compliance. Complaints about pets must be made in writing. The Committee may develop additional rules about pets if needed.
- g. **DUES & CAPITAL EXPENSE RESERVE FUND ASSESSMENT:** Each unit's dues and assessment shall be an amount determined

by the Management Committee and approved by the majority of homeowners at the Annual Meeting that represents a 1/48th share of common expenses. Payment shall be made to Capstone Home Owners Association on the first day of each month. Payments are overdue after the 15th day of each month. Any Owner that does not make payment on or before the 15th day of each month shall pay a late fee of \$25.00. The Committee shall initiate legal action to collect unpaid dues and/or fees when any dues or fees are not paid by 60 days from the original due date, that is the first of the month 60 days after the original due date. The above is not optional. Written notice should be given for late dues, but since every owner has been informed of this requirement, Capstone's ability to collect dues is not dependent on written notice being given.

- h. **MAINTENANCE:** Owners must maintain and repair the interiors of the units, which includes garages, and all equipment and appurtenances so that they are in good order, condition and repair; and in a clean, attractive, and sanitary condition. This includes, but is not limited to, all doors and windows, interiors of patios and balconies, garages and anything added by any Owner.
- i. **INSURANCE:** Owners are responsible to pay any deductible required by their individual unit owner's insurance policy.
- j. **LEASING OF UNITS (For purposes of this section leasing is the same as renting.):**
 - (1) All leases of Units shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and Bylaws, and rules, and that failure of the lessee to comply with the terms of said documents shall be a default under the lease.
 - (2) All leases shall be presented to the Management Committee for approval at least 30 days prior to the proposed occupancy.
 - (3) No owner shall be permitted to lease the Unit for transient or hotel (short term) purposes, and no Lease shall be for a period of less than one year.
 - (4) Owners may lease less than the entire Unit, so long as they are a resident in that Unit at Capstone. It shall be the Owners responsibility to insure that these Bylaws and all rules are complied with. The Committee must require the Owner to

terminate the lease if the lessee and all guests do not comply with these Bylaws and all rules.

(5) Subparagraph (1) above shall not apply to leases existing as of October 27, 1999; the date the amendment on Leasing of Units was added to the Bylaws.

k. **FIRE EXTINGUISHERS AND SMOKE ALARMS:** At least one fire extinguisher and smoke alarm shall be maintained on each floor.

l. No signs shall be placed on any common areas and facilities, including the exteriors of any buildings, except for one (1) for sale sign per unit. The Management Committee must approve the size and location of a "for sale" sign in advance. Any sign not approved in advance by the Management Committee must be removed immediately, with no notice, by the Management Committee. No other signs may be placed on the common areas and facilities, except those placed by the Management Committee for the benefit of Capstone Home Owners Association.

9. **AMENDMENTS:** The Declaration and Bylaws may be amended by a majority vote of owners. No amendment, under any circumstances, shall dilute or impair the ownership of any Owner. Amendments will not take effect until recorded in the office of the Salt Lake County Recorder after which owners will be provided an updated copy.

