

PLAT

Subdivision/ HPR Ladywood Estates

Legal Description Pt of DE 1/4 S9, T16N, R4E

Owner Ladywood Estates LLC

Cross Reference <u>Y</u>	DMD/VOID STAMP	<input checked="" type="checkbox"/>
<u>02-78168</u>	LAND SURVEYOR	<input checked="" type="checkbox"/>
	TOWNSHIP	<input checked="" type="checkbox"/>
	AUDITOR	<input checked="" type="checkbox"/>
	NOTARY	<input checked="" type="checkbox"/>

Declaration \_\_\_\_\_

Other \_\_\_\_\_

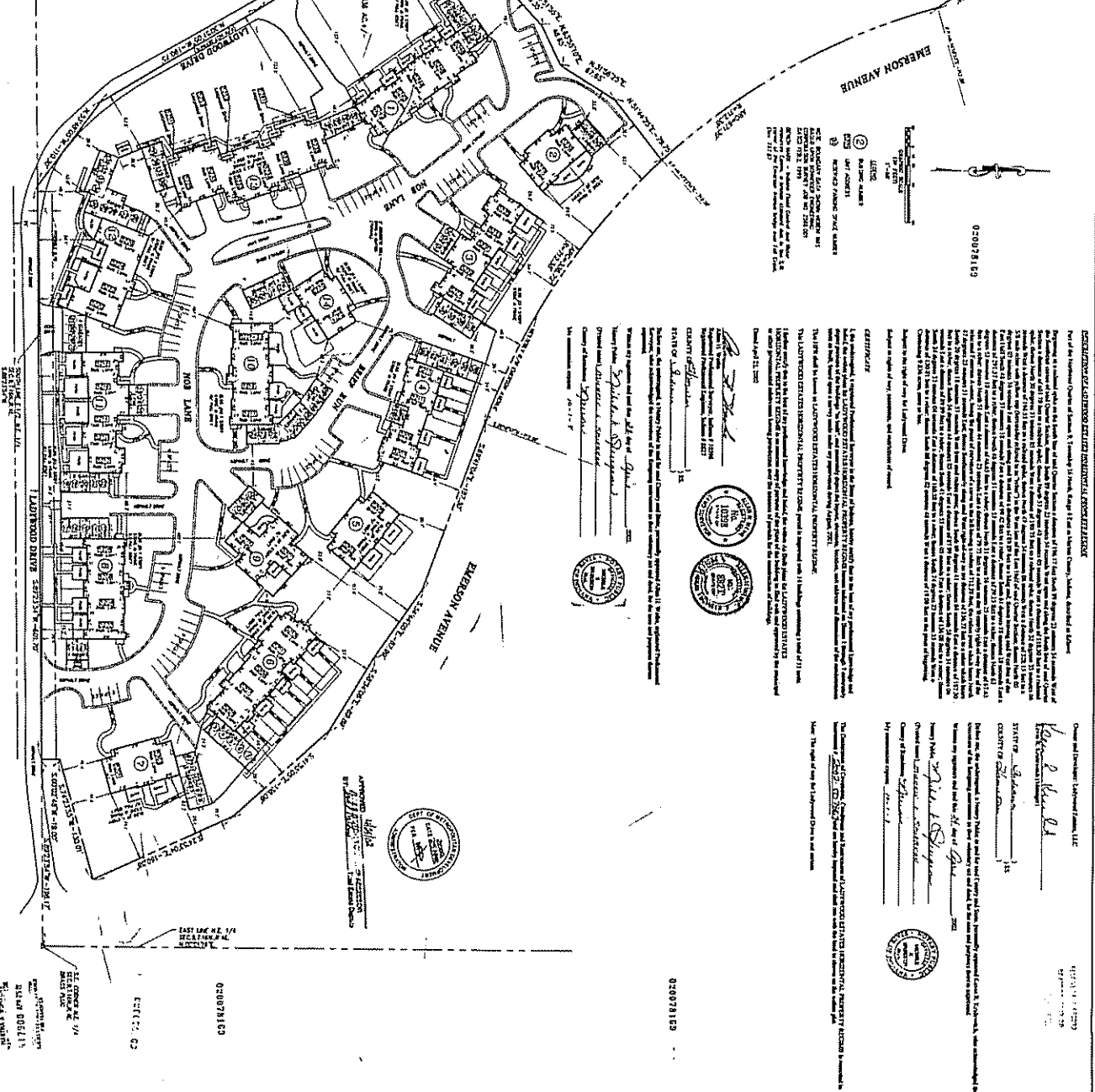
Township Washington

Contact Person Jay Evans  
Phone Number 846-6611

04/25/02 10:23AM HANNA MARTIN HARTON CIV RECORDER  
Inst # 2002-0078169  
JMV 49.00 PAGES: 7

APPROVED BY THE BOARD OF APPEALS, HANCOX COUNTY, MICHIGAN  
 APRIL 15, 1977  
 131

# LADYWOOD ESTATES HORIZONTAL PROPERTY REGIME



020878183

020878183

020878183

NOT INCLUDED

LEGEND

- (1) Building Units
- (2) Unit Access
- (3) Parking Spaces
- (4) Access to Common Areas
- (5) Access to Common Areas
- (6) Access to Common Areas
- (7) Access to Common Areas
- (8) Access to Common Areas
- (9) Access to Common Areas

**DESCRIPTION OF LADYWOOD ESTATES HORIZONTAL PROPERTY REGIME**

Part of the Township of Jackson, County of Houghton, Michigan, described as follows:

That certain parcel of land bounded on the north by the corner of the Township of Jackson, County of Houghton, Michigan, on the east by the corner of the Township of Jackson, County of Houghton, Michigan, on the south by the corner of the Township of Jackson, County of Houghton, Michigan, and on the west by the corner of the Township of Jackson, County of Houghton, Michigan, containing an area of approximately 100,000 square feet, more or less, and being more particularly described as follows:

That certain parcel of land bounded on the north by the corner of the Township of Jackson, County of Houghton, Michigan, on the east by the corner of the Township of Jackson, County of Houghton, Michigan, on the south by the corner of the Township of Jackson, County of Houghton, Michigan, and on the west by the corner of the Township of Jackson, County of Houghton, Michigan, containing an area of approximately 100,000 square feet, more or less, and being more particularly described as follows:

That certain parcel of land bounded on the north by the corner of the Township of Jackson, County of Houghton, Michigan, on the east by the corner of the Township of Jackson, County of Houghton, Michigan, on the south by the corner of the Township of Jackson, County of Houghton, Michigan, and on the west by the corner of the Township of Jackson, County of Houghton, Michigan, containing an area of approximately 100,000 square feet, more or less, and being more particularly described as follows:

That certain parcel of land bounded on the north by the corner of the Township of Jackson, County of Houghton, Michigan, on the east by the corner of the Township of Jackson, County of Houghton, Michigan, on the south by the corner of the Township of Jackson, County of Houghton, Michigan, and on the west by the corner of the Township of Jackson, County of Houghton, Michigan, containing an area of approximately 100,000 square feet, more or less, and being more particularly described as follows:

*[Signatures and official seals]*

City of Jackson, Michigan

City of Jackson, Michigan

City of Jackson, Michigan

Owner and Architect: Jackson Homes, LLC

Design: Jackson Homes, LLC

City of Jackson, Michigan

City of Jackson, Michigan

City of Jackson, Michigan

**LADYWOOD ESTATES  
 HORIZONTAL PROPERTY REGIME**

**AS-BUILT SITE PLAN**

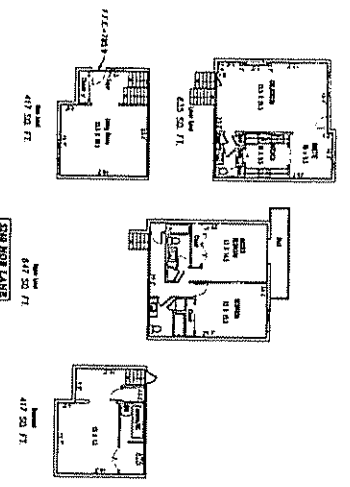
PART OF 1/4 SECTION 36 & 37, T40N, R28E, MICHIGAN COUNTY, MICHIGAN

**WEIHE ENGINEERS, INC.**

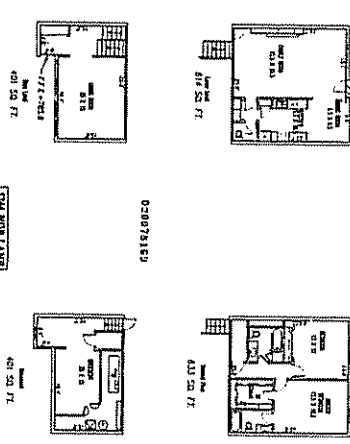
1500 BROWN FOREST AVENUE  
 INDIANAPOLIS, INDIANA 46240  
 (317) 448-1841

CITY ENGINEERS

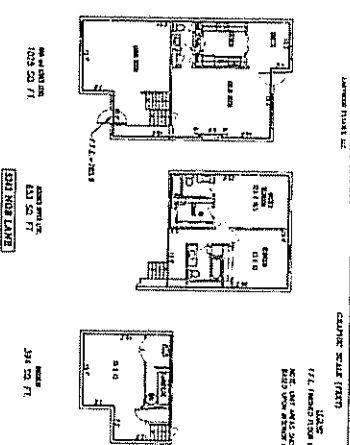
LAND PLANNERS



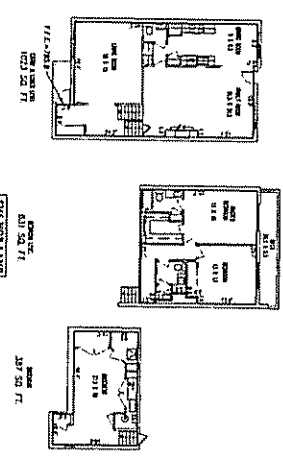
5TH FLOOR  
BUILDING NO. 1  
TOTAL UNIT AREA=2119 SQ FT



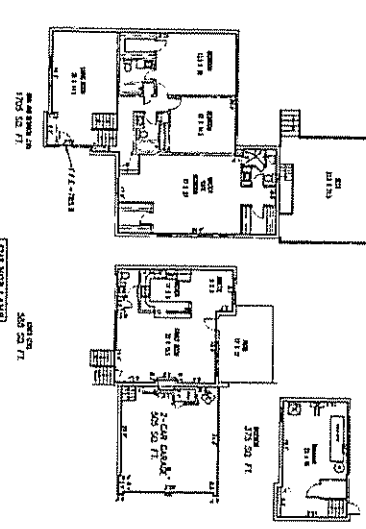
6TH FLOOR  
BUILDING NO. 1  
TOTAL UNIT AREA=2047 SQ FT



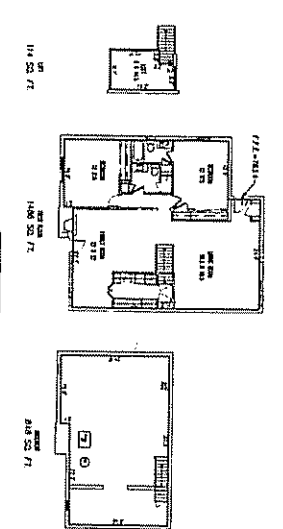
7TH FLOOR  
BUILDING NO. 1  
TOTAL UNIT AREA=2075 SQ FT



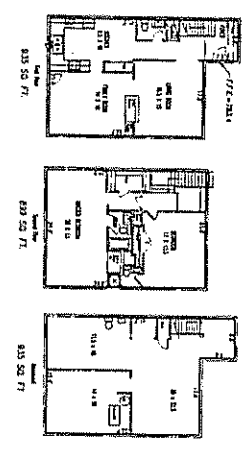
8TH FLOOR  
BUILDING NO. 1  
TOTAL UNIT AREA=2041 SQ FT



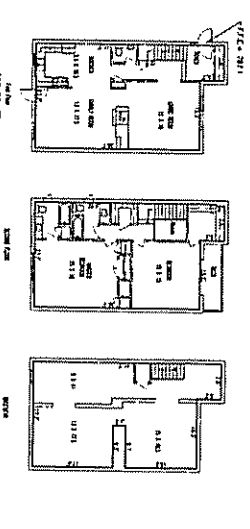
9TH FLOOR  
BUILDING NO. 1  
TOTAL UNIT AREA=2058 SQ FT (INCLUDES GARAGE)



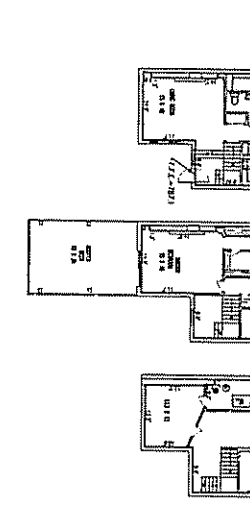
10TH FLOOR  
BUILDING NO. 1  
TOTAL UNIT AREA=2148 SQ FT



11TH FLOOR  
BUILDING NO. 1  
TOTAL UNIT AREA=2179 SQ FT



12TH FLOOR  
BUILDING NO. 1  
TOTAL UNIT AREA=2151 SQ FT



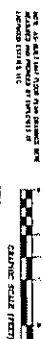
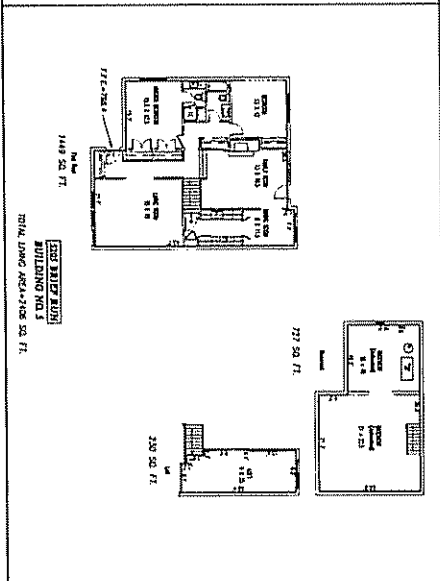
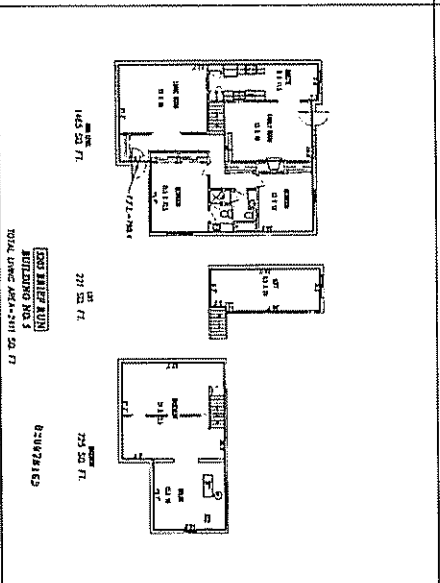
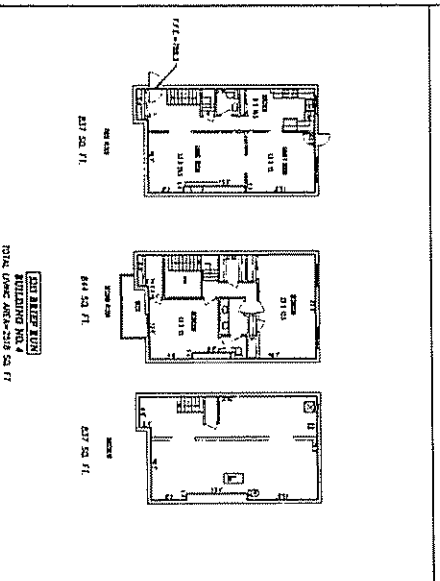
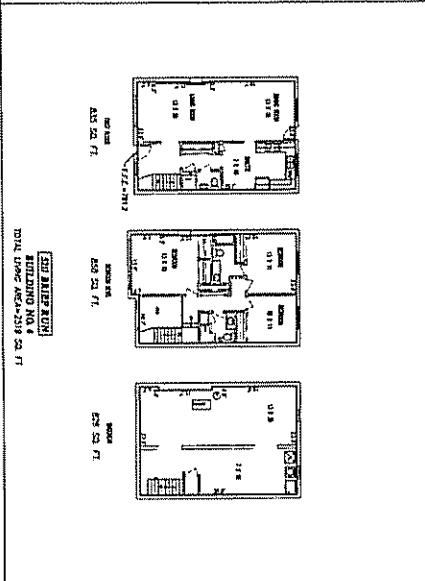
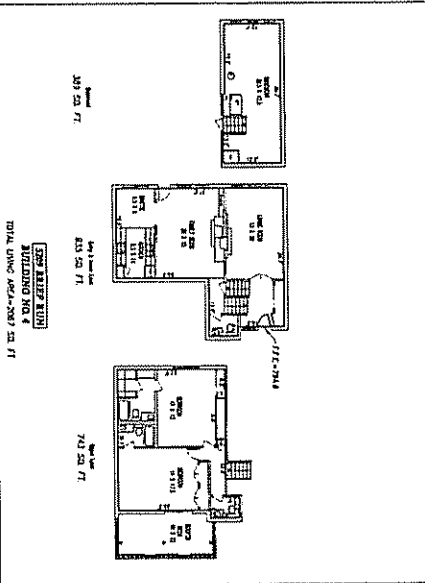
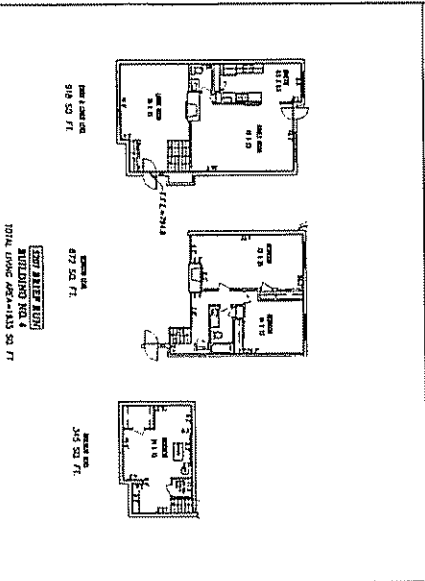
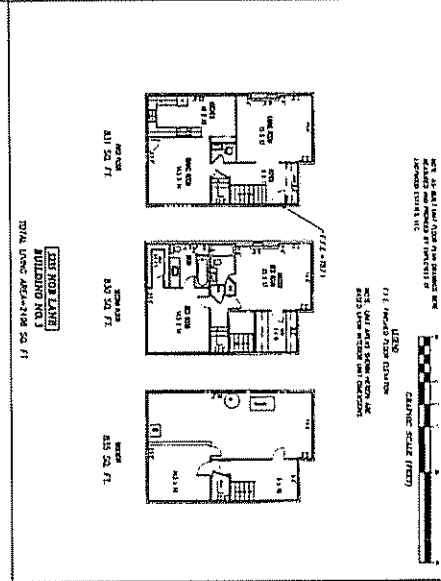
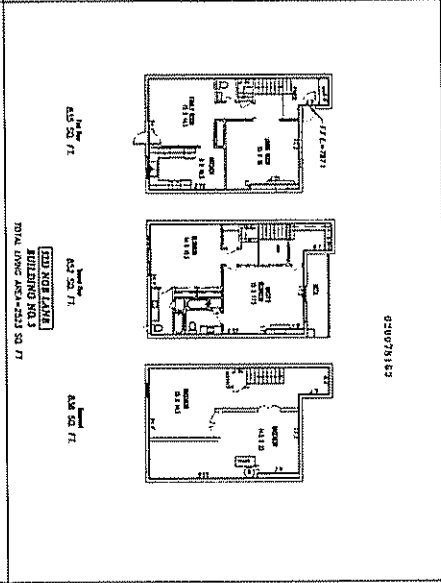
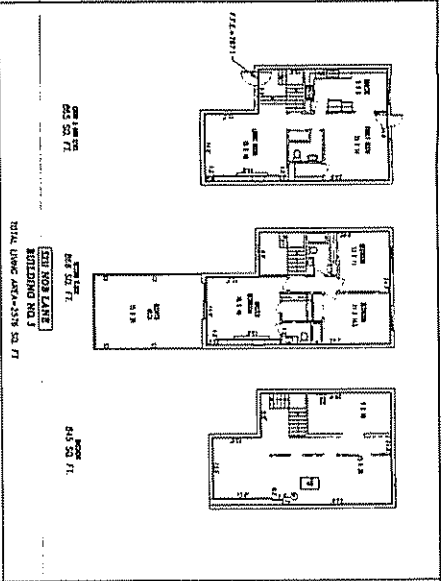
13TH FLOOR  
BUILDING NO. 1  
TOTAL UNIT AREA=2152 SQ FT

SCALE: AS SHOWN ON FLOOR PLANS. DIMENSIONS ARE APPROXIMATE AND SUBJECT TO SURVEY. SEE ARCHITECTURAL DRAWINGS FOR DETAILS.



**LADYWOOD ESTATES**  
**HORIZONTAL PROPERTY REGIME**  
**FLOOR PLANS**

**WEIHE ENGINEERS, INC.**  
1200 SOUTH COLLEGE AVENUE  
SUITE 1000  
DENVER, CO 80202  
TEL: 303.733.8888  
FAX: 303.733.8889  
WWW.WEIHENGINEERS.COM



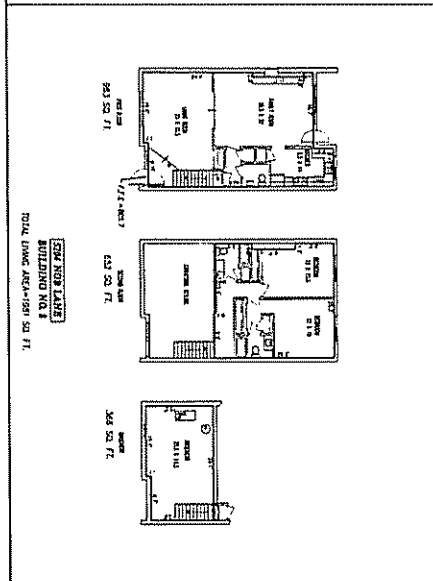
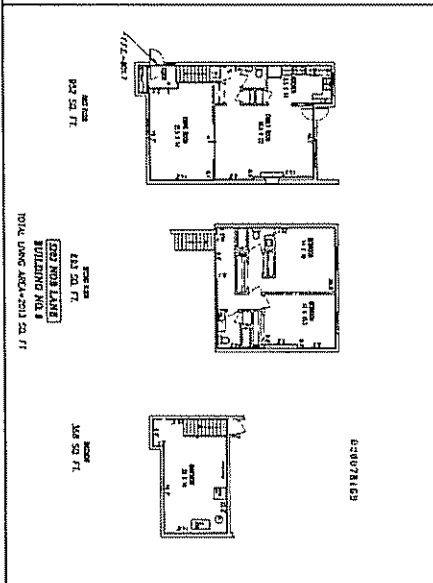
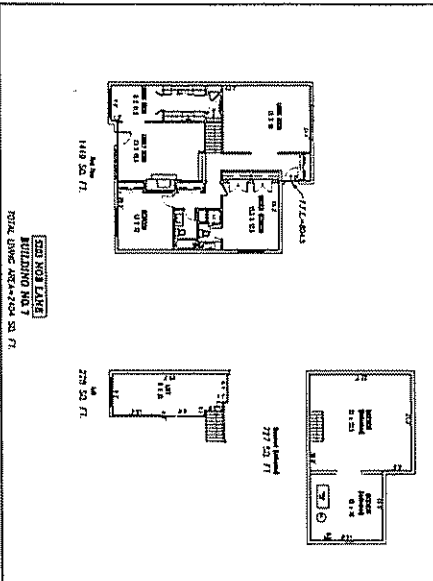
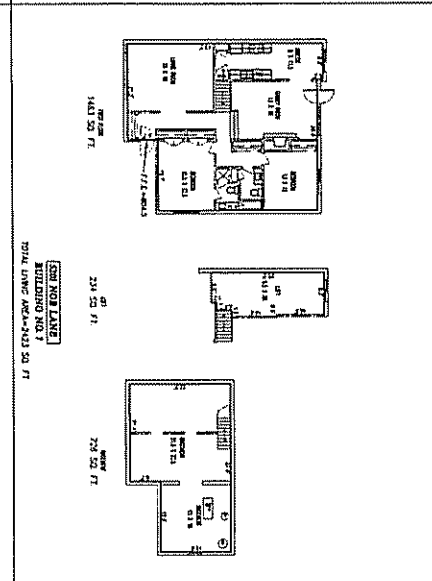
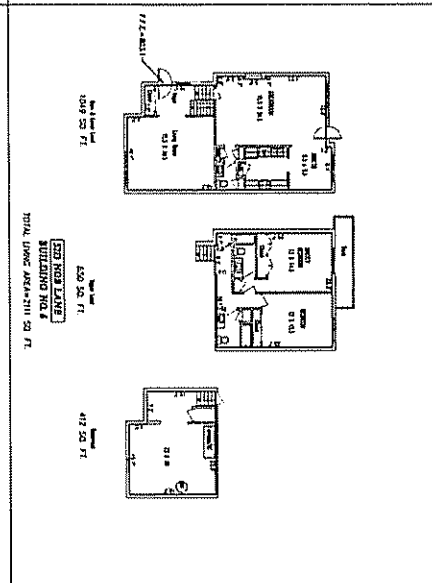
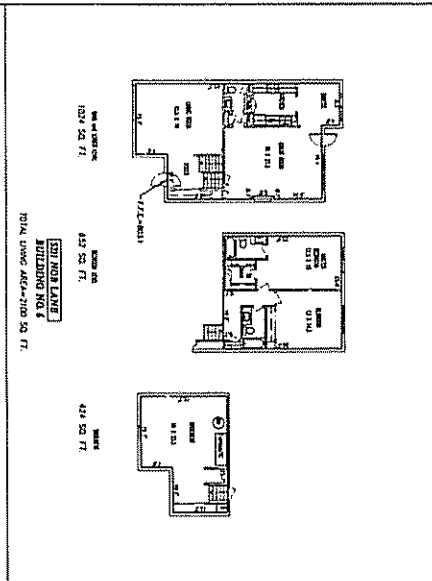
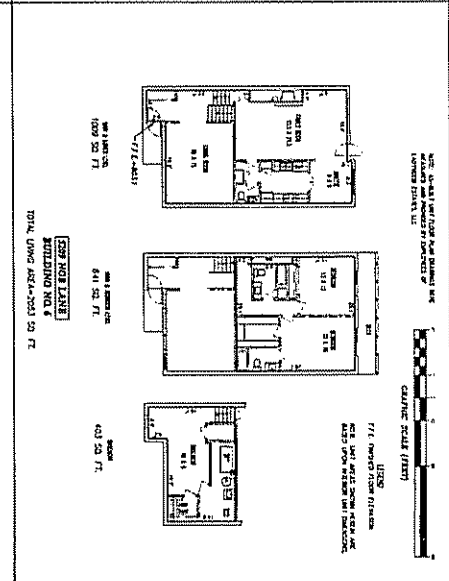
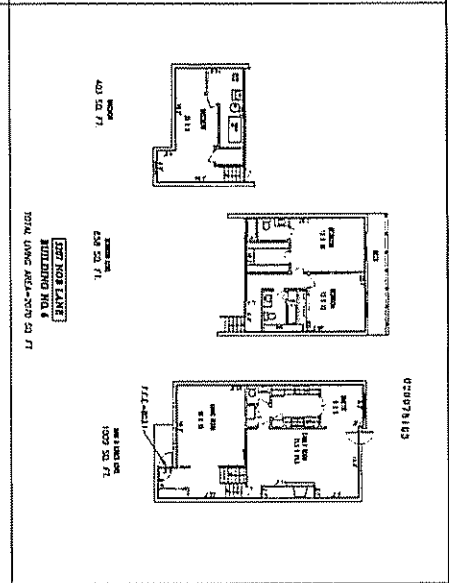
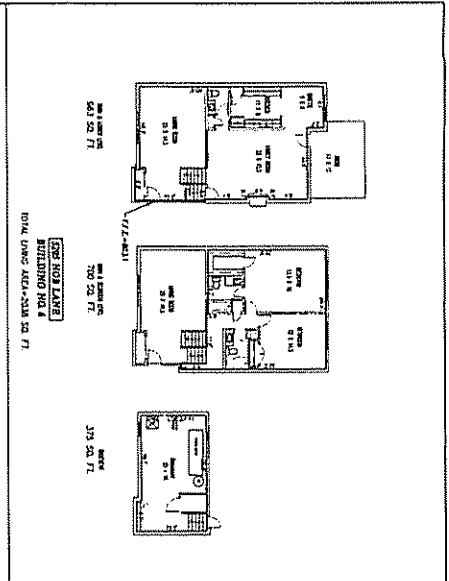
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 7

**LADYWOOD ESTATES**  
**HORIZONTAL PROPERTY REGIME**  
**FLOOR PLANS**

**WEIHE ENGINEERS, INC.**  
 10206 NORTH COLLEGE AVENUE  
 DENVER, COLORADO 80231  
 (303) 946-4900

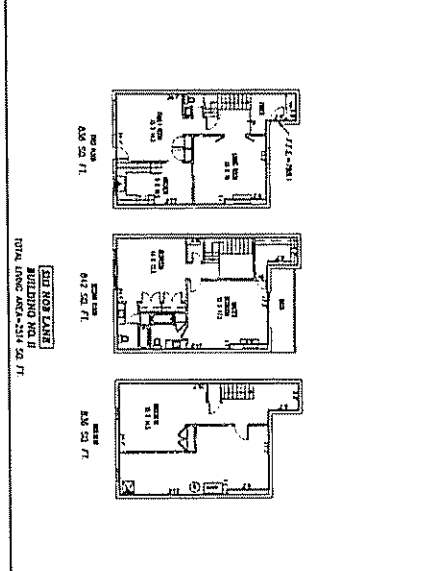
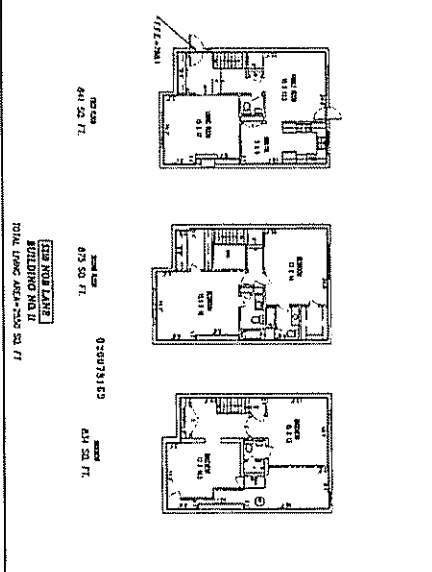
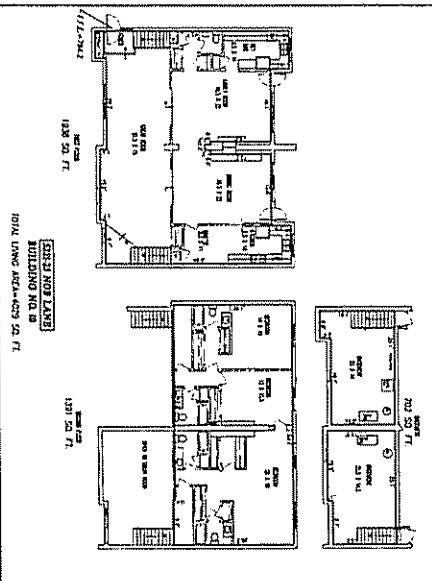
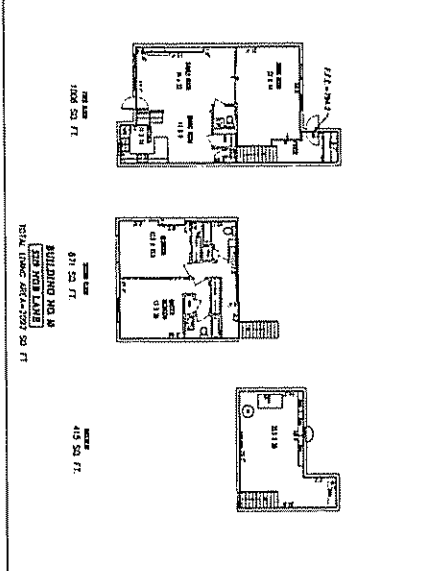
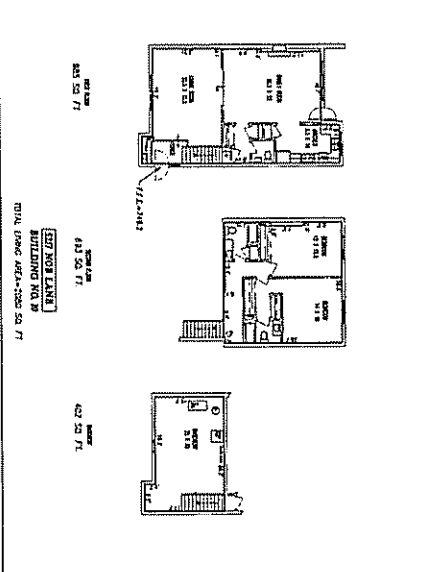
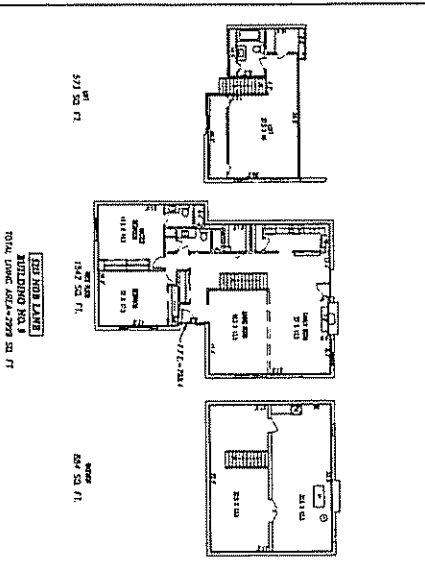
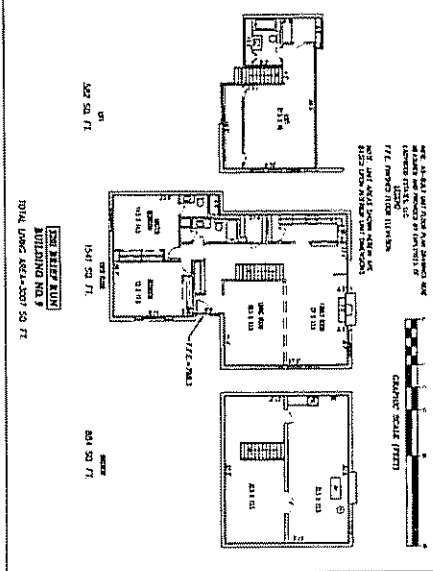
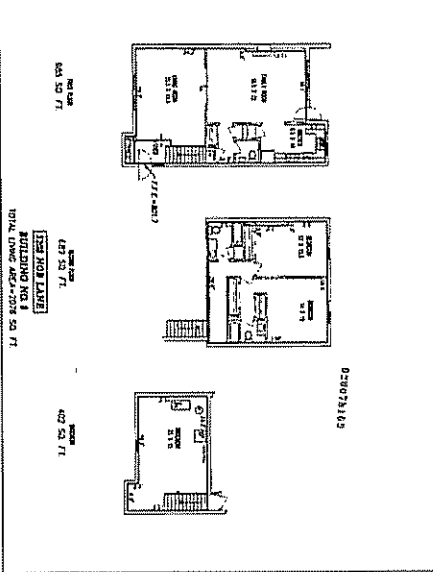
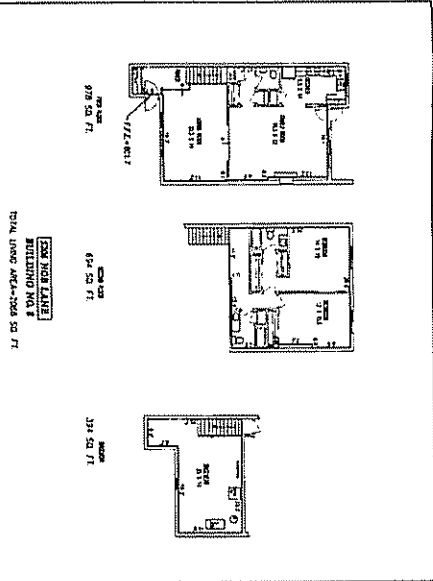
ALLAN H. WEIHE, P.E., L.S.P.  
 PRESIDENT

CIVIL ENGINEER    LAND SURVEYOR    LAND PLANNING



**WEIHE ENGINEERS, INC.**  
 10005 NORTH COLLEGE AVENUE  
 DALLAS, TEXAS 75243-1000  
 (214) 342-1111  
 CIVIL ENGINEERS LAND SURVEYORS LAND PLANNERS  
 ALAN H. WEIHE, P.E., LE  
 FREDERICK

**LADYWOOD ESTATES**  
**HORIZONTAL PROPERTY REGIME**  
**FLOOR PLANS**  
 4  
 7



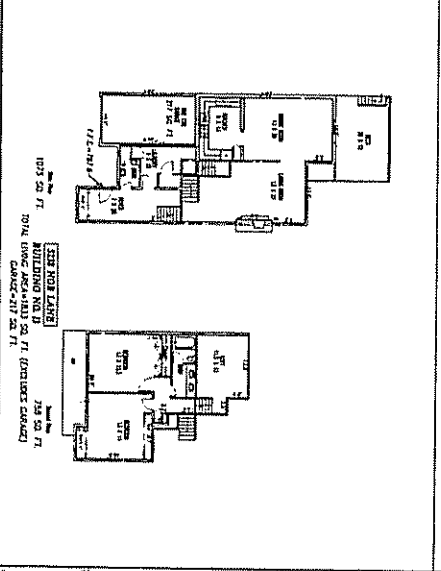
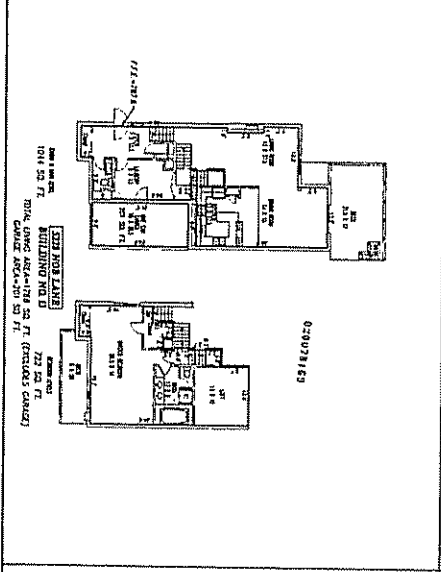
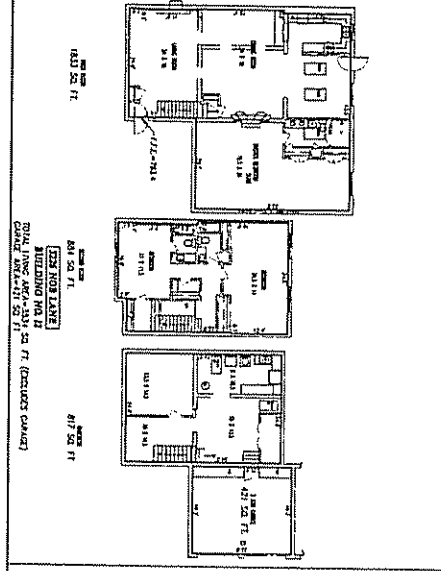
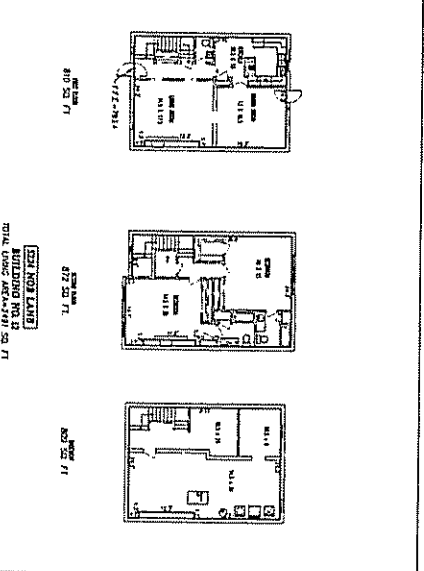
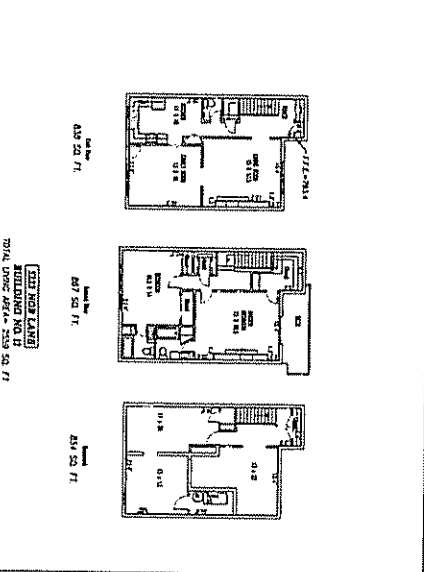
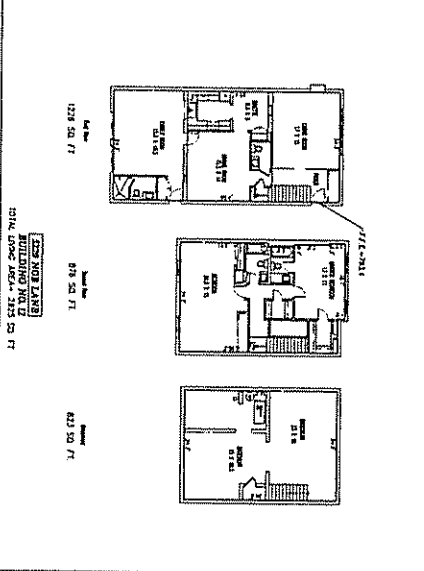
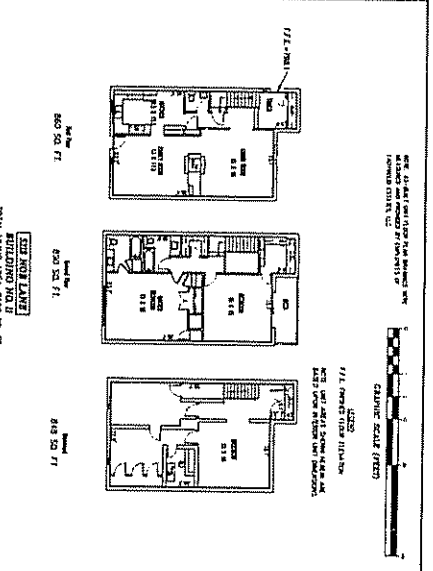
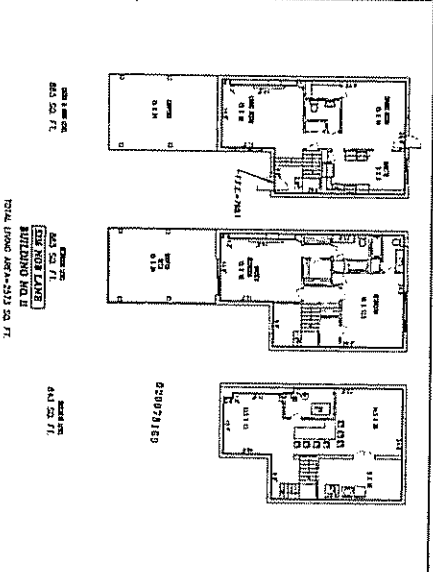
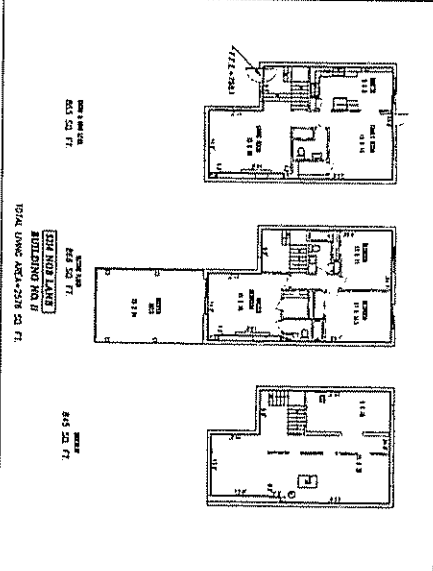
**LADYWOOD ESTATES**  
HORIZONTAL PROPERTY REGIME  
FLOOR PLANS

**WEIHE ENGINEERS, INC.**  
1125 NORTH COLLEGE AVENUE  
DALLAS, TEXAS 75208  
214.444.4444

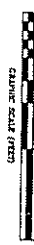
ALAN H. WEIHE, P.E., LL.M.  
PRESIDENT

CIVIL ENGINEER LAND SURVEYOR LAND PLANNING

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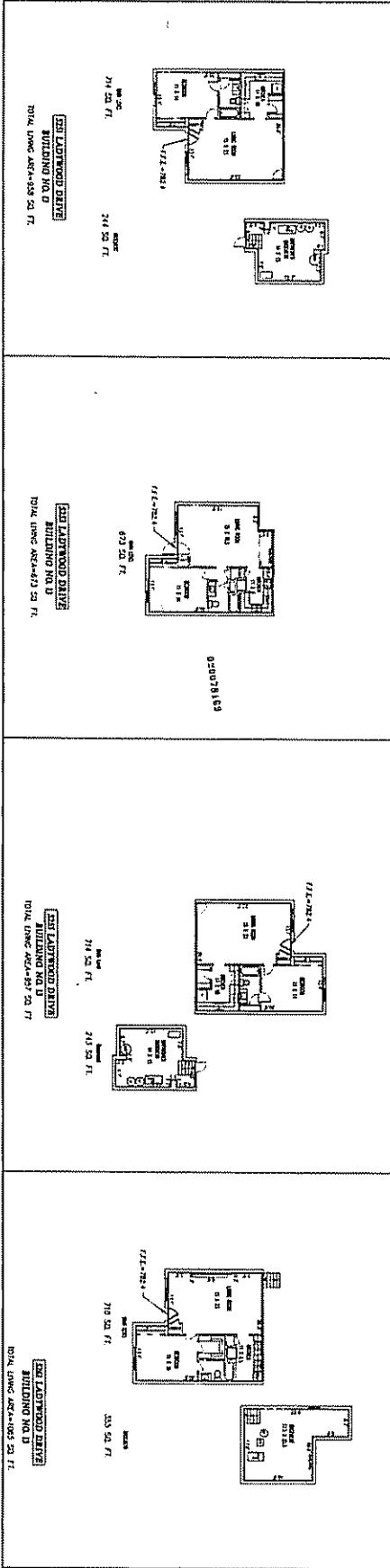
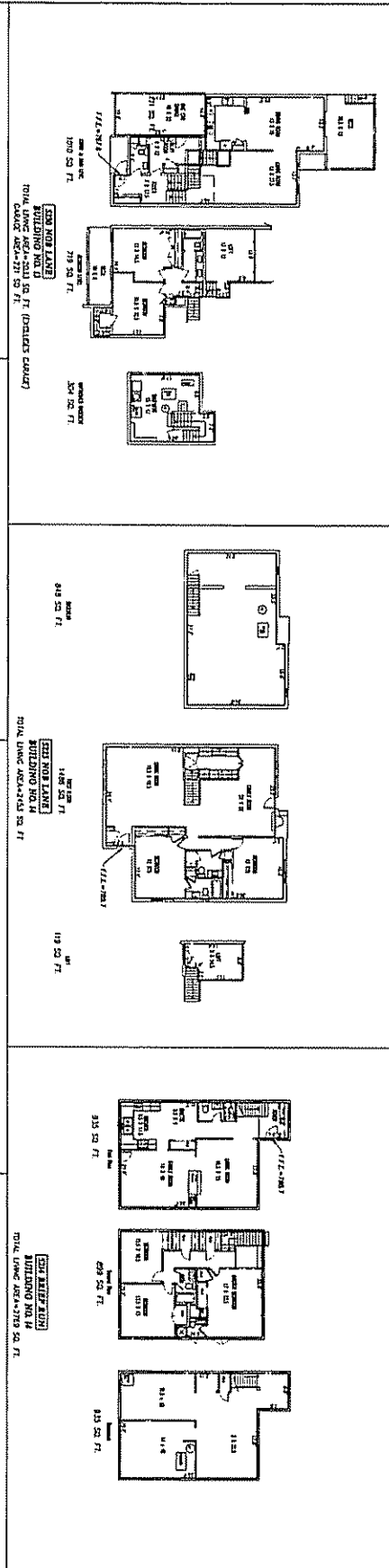
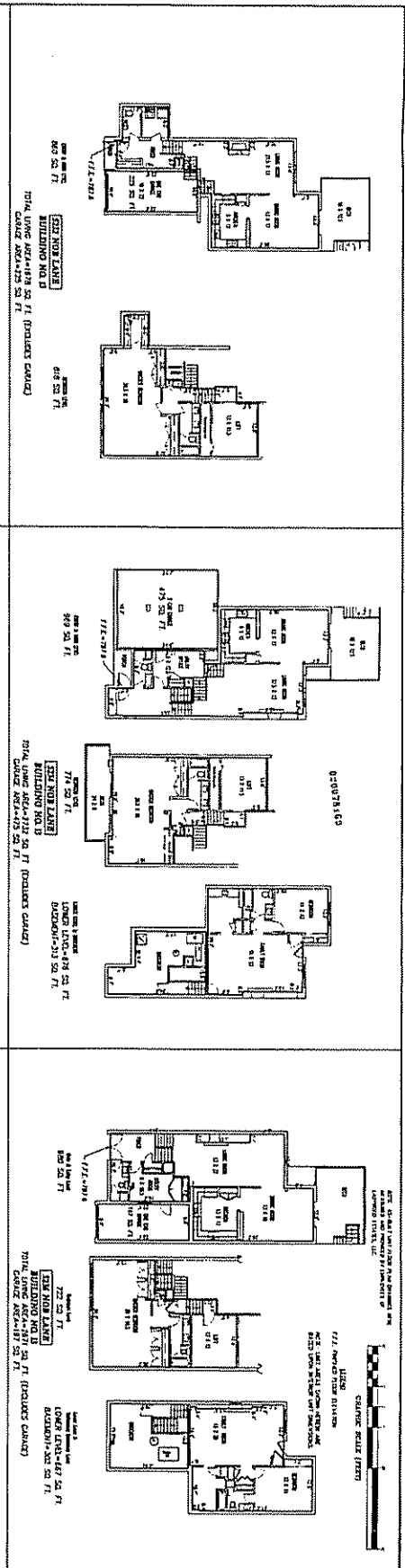


SEE LIST OF UNIT DIMENSIONS AND ROOMS ON DRAWING P. 10  
 ALL DIMENSIONS ARE APPROXIMATE



**LADYWOOD ESTATES**  
**HORIZONTAL PROPERTY REGIME**  
**FLOOR PLANS**

**WEIHE ENGINEERS, INC.**  
 1500 NORTH WELLS STREET  
 CHICAGO, ILLINOIS 60640  
 (312) 344-4451



**WEIHE ENGINEERS, INC.**  
1104 NORTH COLLEGE AVENUE  
CHICAGO, ILLINOIS 60642  
TEL: 312-943-8800  
FAX: 312-943-8801

CIVIL ENGINEERS LAND SURVEYORS LAND PLANNERS

SCALE: AS SHOWN P. 13  
PROJECT: LADYWOOD ESTATES

**LADYWOOD ESTATES**  
**HORIZONTAL PROPERTY REGIME**  
**FLOOR PLANS**



35

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
LADYWOOD ESTATES  
HORIZONTAL PROPERTY REGIME

THIS DECLARATION of the Ladywood Estates Horizontal Property Regime ("Declaration") made this 23 day of April, 2002, by Ladywood Estates, LLC, an Indiana limited liability company ("Ladywood Estates, LLC") (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Ladywood Estates, LLC is the sole owner of the fee simple title to certain real estate and improvements thereon, located in Marion County, Indiana, more particularly described in Exhibit "A" hereto (hereinafter called the Real Estate"); and

WHEREAS, Declarant anticipates that Declarant might become the sole owner of the fee simple title to other real estate adjacent to the Real Estate, more particularly described in Exhibit "B" hereto (hereinafter called "Adjacent Real Estate"), all or part of which Declarant anticipates may be added to the Real Estate by portions to be designated by Declarant from time to time (the Real Estate and Adjacent Real Estate being hereinafter referred to together as the "Tract"); and

WHEREAS, Declarant, by execution of this Declaration, hereby creates a Horizontal Property Regime (the "Regime") upon the Real Estate, subject to the provisions of the Horizontal Property Law of the State of Indiana (the "Act") and the terms and conditions of this Declaration; and

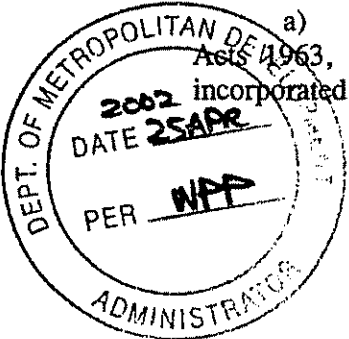
WHEREAS, Declarant anticipates that as portions of the Adjacent Real Estate are from time to time acquired and developed, they may be added to the Regime by amendment to this Declaration, so that the Regime created hereby is to be "expandable", as that term is defined in the Act.

NOW, THEREFORE, Declarant hereby makes this Declaration, and declares that the Real Estate shall be a "Horizontal Property Regime" as provided in the Act, and that said Regime shall be expandable to include all or any part of the Adjacent Real Estate, as the same may be annexed from time to time, subject to and in accordance with the following terms and conditions:

Section 1. Definitions. The following terms, as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

a) "Act" means the Horizontal Property Law of the State of Indiana, Acts 1963, Chapter 349, Sections 1 through 31, as amended. The Act is incorporated herein by reference.

04/25/02 10:23AM NANDA MARTIN MARION CTY RECORDER  
Inst # 2002-0078168  
JUN 79.00 PAGES: 35



APPROVED 4/25/02  
BY: [Signature] REAL ESTATE DEPUTY

MAR 25 1958  
MARTHA A. WOMACKS  
SUPERVISOR

417910 APR 25 8

SECTION  
SUBJECT TO SPECIAL INSPECTION  
FOR TRANSFER

APR 25 1958

APR 25 1958

APR 25 1958

b) "Association" means Ladywood Estates Homeowners Association, Inc., an Indiana not-for-profit corporation, being the association of Homeowners of Ladywood Estates, more particularly described in Section 12 hereof.

c) "Board of Managers" means the governing body of the Association, being the initial Board of Managers referred to in the By-Laws or subsequent Board of Managers elected by the Homeowners in accordance with the By-Laws. The term "Board of Managers," as used herein and in the By-Laws, shall be synonymous with the term "Board of Directors" as used in the Act.

d) "Building" means any structure on the Real Estate or any Additional Section, after annexation, in which Common Areas, Limited Common Areas or one or more Condominium Units are located. The Buildings are more particularly described and identified on the Plans and in Section 2 of this Declaration.

e) "By-Laws" means the Code of By-Laws of Ladywood Estates Homeowners Association, Inc. providing for the administration and management of the Association as required by and in conformity with the provisions of the Act. The By-Laws are incorporated herein by reference.

f) "Common Areas" means the common areas, limited common areas and facilities as defined in Section 5 of this Declaration.

g) "Common Expenses" means expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas and all other costs and expenses incurred by the Association for the benefit of the Common Areas or for the common benefit of all Owners; provided, however, that Common Expenses shall not include any costs of initial construction or initial renovation of any Building or other Property or improvements on any portion of the Tract, nor any costs of repairs covered by any warranty of Declarant as builder of the Condominium Units, nor to any costs or repairs arising out of construction, renovation or other activities on any portion of the Adjacent Real Estate prior to its annexation to the Regime.

h) "Condominium Unit" means any one of the living units constituting Ladywood Estates, each individual living unit being more particularly described and identified on the Plans and in Sections 3 and 4 of this Declaration. "Condominium Unit" includes the undivided interest in the Common Areas and Limited Areas appertaining to such unit.

i) "Declarant" shall mean and refer to Ladywood Estates, LLC, an Indiana limited liability company and, and any successors and assigns of Ladywood Estates, LLC whom it designates in one or more written recorded

instruments to have the rights of Declarant hereunder, including, but not limited to, any mortgagee acquiring title to any portion of the Property pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

j) "Garage Percentage Interest" means that percentage of the total undivided interest accruing to all of the garages and carports which is appurtenant to each Condominium Unit and accrues to the Owner thereof.

k) "Homeowners" means all of the Owners of all of the Condominium Units in the Regime.

l) "Ladywood Estates" means the name by which the Horizontal Property Regime shall be known.

m) "Member" means a Class A or Class B Member of the Association and "Members" means Class A and Class B Members of the Association.

n) "Mortgagee" means the holder, insurer or guarantor of a first mortgage loan on a Condominium Unit.

o) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who or which owns the fee simple title to a Condominium Unit; provided, however, that persons or entities owning a single Condominium Unit as tenants in common, joint tenants, tenants by the entireties, or any form of joint or divided ownership, shall be deemed one Owner for purposes of this Declaration. Persons or entities owning more than one Condominium Unit shall have the status of an owner for each Condominium Unit owned.

p) "Plans" means the floor and building plans of the Buildings and Condominium Units, and the site plans, surveys, and elevation plans of the Real Estate and Buildings, all of which are incorporated herein by reference, and any amendments which pertain to portions of the Adjacent Real Estate annexed to, and made a part of, the Regime by such amendments.

q) "Property" means the Real Estate and appurtenant easements, the Condominium Units, the Buildings, improvements, and property of every kind and nature whatsoever, real, personal or mixed, located upon the Real Estate or any Additional Sections after annexation to the Regime and used in connection with the operation, use and enjoyment of Ladywood Estates, but does not include the personal property of the Owners.

r) "Tract" means the Real Estate and the Adjacent Real Estate, as herein defined.

s) "Unit Percentage Interest" means that percentage of the total undivided interest accruing to all of the Condominium Units which is appurtenant to each particular Condominium Unit and accrues to the Owner thereof.

Section 2. Description of Buildings. There are Buildings containing Condominium Units on the Real Estate as shown on the Plans. A description of the Buildings and the Condominium Units contained or to be contained therein is set forth in the Ladywood Estates Horizontal Property Regime Plat which are recorded as Instrument # 2002-0078169 with the Recorder of Marion County, Indiana, and hereby made a part hereof by this reference.

Section 3. Legal Description, Unit Percentage Interest and Garage Percentage Interest. Each Condominium Unit is identified on the Plans by a number. The legal description for each Condominium Unit shall consist of the identifying number for such Condominium Units as shown on the Plans, and shall be stated as "Condominium Unit (with identifying number) in Ladywood Estates Horizontal Property Regime." The Unit Percentage Interest of each Owner in the Common Areas and Limited Areas as hereinafter defined shall be the same percentage of interest as each Condominium Unit has set forth on Exhibit "C-1" attached hereto and hereby made a part hereof. The Garage Percentage Interest of each Owner in the garages and carports shall be the same percentage of interest as set forth on Exhibit "C-2" attached hereto and hereby made a part hereof.

Section 4. Description of Condominium Units.

a) Appurtenances. Each Condominium Unit shall consist of all space within the boundaries thereof, as hereinafter defined, and all portions of the Building situated within such boundaries, including but not limited to all fixtures, facilities, utilities, equipment, appliances, and structural components designed and intended solely and exclusively for the enjoyment, use and benefit of the Condominium Unit wherein the same are located, or to which they are attached, but excluding therefrom that designed or intended for the use, benefit, support, safety or enjoyment of any other Condominium Unit or which may be necessary for the safety, support, maintenance, use, and operation of any of the Buildings or which are normally designed for common use; provided, however, that all fixtures, equipment and appliances designed or intended for the exclusive enjoyment, use and benefit of a Condominium Unit shall constitute a part of such Condominium Unit, whether or not the same are located within or partly within the boundaries of such Condominium Unit. Also, the interior sides and surfaces of all doors and interior and exterior sides and frames of all windows in the perimeter walls of a Condominium Unit, whether or not located within or partly

within the boundaries of a Condominium Unit, and all interior walls and all of the floors and ceilings within the boundaries of a Condominium Unit, are considered part of the Condominium Unit.

b) Boundaries. The boundaries of each Condominium Unit shall be as shown on the Plans without regard to the existing construction and shall be measured between the interior unfinished surface of the floors, ceilings and perimeter walls of each Condominium Unit. In the event any horizontal or vertical or other boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling surface of the Condominium Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Condominium Unit shall be deemed to be and treated for purposes of ownership, occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent appurtenant easements for exclusive use shall exist in favor of the Owner of each Condominium Unit in and to such space lying outside of the actual boundary lines of the Condominium Unit, but within the appropriate wall, floor or ceiling surfaces of the Condominium Unit.

Section 5. Common Areas and Facilities. "Common Areas" shall include the following, except to the extent otherwise specifically designated in this Declaration as being within a Condominium Unit or as a Limited Area:

- a) the Real Estate, excluding the Condominium Units;
- b) the foundations, columns, girders, beams, supports and exterior surfaces of roofs of the Buildings;
- c) the yards, sidewalks, interior and exterior driveways, unenclosed parking areas, attics, stairways, entrances, exits and corridors, except to the extent the same are otherwise classified and defined herein as part of the Condominium Units or Limited Areas;
- d) central electricity, gas, water and sanitary sewer mains serving the Buildings, excluding those separately metered to a particular Condominium Unit;
- e) exterior lighting fixtures and electrical service lighting the exterior of the buildings unless separately metered to a particular Condominium Unit; and
- f) pipes, ducts, electrical wiring and conduits and public floors, roofs and exterior perimeter walls of the Buildings, except to the extent the same are otherwise classified and defined herein as Limited Areas or as part of a Condominium Unit.

**Section 6. Limited Areas and Facilities.** Limited Areas and those Condominium Units to which use thereof is limited are as follows:

a) The entrances and exits of each Building, if any, except: (i) those designated Common Areas on the Plans and (ii) those located within the interior of Condominium Units or designated part of the Condominium Units shall be limited to the use of the Condominium Units of such Building.

b) The parking spaces (including garages and carports), the balconies, and all exterior sides and surfaces of doors and frames surrounding the same in the perimeter walls in each Condominium Unit shall be limited to the exclusive use of the Condominium Unit to which they appertain. It is anticipated that certain parking spaces (garages or carports) will be purchased and owned by Owners and that other parking spaces (garages or carports) will remain unsold and will be owned by the Association and be rented or leased through a licensing arrangement whereby such licensee shall have all privileges and obligations relating to such designated parking space as if such licensee were the owner thereof.

c) Any other areas designated and shown on the Plans as Limited Areas shall be limited to the Condominium Unit or Condominium Units to which they appertain as shown on the Plans.

**Section 7. Ownership of Common Areas, Unit Percentage Interest and Garage Percentage Interest.** Each Owner shall have an undivided interest in the Common Areas and Limited Areas, as tenants in common with all other Owners, equal to his Condominium Unit's Percentage Interest. The Unit Percentage Interest in the Common Areas applicable to each Condominium Unit shall be determined in accordance with the Formula set forth in Section 16(b) hereof. The Unit Percentage Interest in the Common Areas and Limited Areas presently appertaining to each Condominium Unit is specified in Exhibit "C-1" hereto. If any Additional Sections are annexed, as permitted under Section 16(a), then upon execution and recordation of the applicable Amendment to this Declaration, the Percentage of each Condominium Unit which is part of the Regime prior to such annexation shall be recomputed in accordance with the Formula. Such recomputation will have the effect of reducing the Unit Percentage Interest in those Common Areas which are a part of the Regime prior to such annexation, so as to allocate Unit Percentage Interests therein to the Condominium Units added to the Regime by the Amendment. At the same time, such recomputation shall create Unit Percentage Interests in favor of all of the Condominium Units in the Regime immediately following such annexation in the Common Areas created as a result of such annexation. The overall resulting Unit Percentage Interests shall be determined according to the Formula and designated in the Amendment. In any computation of Unit Percentage Interests, the figure obtained shall be rounded to the nearest one-thousandth of a percent, and shall be so presented for all purposes of conveyance and for all purposes contemplated under this Declaration. The Garage Percentage Interest in the garages and carports presently appertaining to each garage and carport is specified in Exhibit "C-2"

hereto. The above-stated provision relating to annexation and recomputation shall also apply to the Garage Percentage Interests.

Section 8. Encroachments, Easements for Common Areas and Ingress and Egress Easements. If, by reason of the location, construction, settling or shifting of a Building, any Common Area or Limited Area now encroaches or shall hereafter encroach upon any Condominium Unit, then in such event an easement shall be deemed to exist and run to the Homeowners and the Association for the maintenance, use and enjoyment of such Common Area or Limited Area. Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in any of the other Condominium Units and serving his Condominium Unit. Each Owner shall have an easement over the Common Areas for the purposes of ingress and egress from his Condominium Unit, and to use all Common Areas wherever located, and such easement shall be perpetual and appurtenant to the Condominium Unit.

Section 9. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Condominium Unit as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Condominium Unit, but are assessed and taxed on the Property as a whole, then each Owner shall pay his proportionate share of such taxes to the extent attributable to the Property in accordance with his respective Unit Percentage Interest and Garage Percentage Interest.

Section 10. Reciprocal Easements to and from Additional Sections. So long as all or any part of the Adjacent Real Estate is not annexed, and commencing at such time as Declarant acquires fee simple title to the Adjacent Real Estate, the Declarant shall reserve unto itself, its successors and assigns, for the use and benefit of that portion of the Adjacent Real Estate not annexed, an easement to enter upon the Common Areas to gain access, ingress and egress to the Adjacent Real Estate not annexed, and to permit renovation or construction of Buildings or other improvements upon such Adjacent Real Estate, and an easement for access to any and all necessary utility lines, mains, and other utility services within the Real Estate for the benefit of the Buildings or improvements upon the Adjacent Real Estate, whether or not such Buildings or improvements are to be added to the Regime. Declarant, or its successors or assigns, shall be responsible for repairing any damage to any Property arising out of the exercise of this easement. The easements reserved shall permit free and unrestricted use and access to the roadways and sidewalks by Declarant and any other owners or residents of the Adjacent Real Estate not annexed, their guests, invitees and all public and quasi-public vehicles.



Declarant specifically intends that the easements granted and reserved pursuant to this Section 10 not merge because the fee simple interests in the Real Estate and the Adjacent Real Estate may hereafter be vested solely in the Declarant. The easements granted and reserved pursuant to this Section 10 shall be easements and covenants running with the land and accruing to the benefit of the Real Estate and the Adjacent Real Estate.

Section 11. Utilities. Each Owner shall pay for those utilities which are separately metered to his Condominium Unit. Utilities which are not separately metered shall be treated as and paid as a part of the Common Expenses, unless otherwise agreed by a majority of the Unit Percentage Interest.

Section 12. Association of Owners. Subject to the rights of Declarant reserved in Section 25 hereof, the maintenance, repair, upkeep, replacement, administration, management and operation of the Property shall be by Ladywood Estates Homeowners Association, Inc. (the "Association"), a not-for-profit corporation organized under the laws of the State of Indiana.

a) Membership. Each Owner of a Condominium Unit shall, automatically upon becoming an owner of a Condominium Unit, be and become a member of the Association and shall remain a member until such time as his ownership ceases, but membership shall terminate when such person ceases to be an owner, and will be transferred to the new Owner.

b) Powers. The Association shall have such powers as are set forth in this Declaration and in the Articles and By-Laws, together with all other powers that belong to it by law.

c) Classes of Membership and Voting Rights. The Association shall have the following two (2) classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Unit owned. When more than one person holds an interest in any Unit, all such persons shall be Members, but in no event shall more than one vote be cast with respect to any Unit.

Class B. Class B member shall be the Declarant. The Declarant shall be entitled to five (5) votes for each Unit owned. The Class B membership shall cease on the happening of any of the following events, whichever occurs earlier: (a) the date upon which the written resignation of the Class B Member is delivered to the Resident Agent of the Association; (b) one hundred twenty (120) days after the date by which seventy five percent (75%) of the Condominium Units (not including any Condominium Units

located in any Additional Sections) have been conveyed to Owners other than Declarant; or (c) December 31, 2005 (hereinafter "Applicable Date").

d) Termination of Class B Membership. Wherever in this Declaration the consent, approval or vote of the Class B Member is required, such requirement shall cease at such time as the Class B Membership terminates, but no such termination shall affect the rights and powers of Declarant set forth in this Declaration.

e) Board of Managers. The Association shall elect a Board of Managers annually (except for an Initial Board of Managers as defined in the By-Laws) in accordance with and as prescribed by the By-Laws. Voting for the election of the Board of Managers shall be in accordance with the voting rights established for Class A and Class B Members as set forth in Subsection (c) of this Section 12, except for such Initial Board of Managers who shall serve on the Initial Board of Managers, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, who shall be deemed a member of the Association and an Owner solely for the purpose of qualifying to act as a member of the Board of Managers and for no other purpose. A person serving on the Initial Board of Managers shall not be deemed or considered a member of the Association nor an Owner of a Condominium Unit for any other purpose unless he is actually an Owner of a Condominium Unit and thereby a member of the Association.

The Board of Managers shall be the governing body of the Association, representing all of the Owners in providing for the management, administration, operation, maintenance, repair, replacement and upkeep of the Property exclusive of the Condominium Units.

f) Right of Action. The Association and any aggrieved Condominium Unit Owner shall have a right of action against any Condominium Unit Owner for failure to comply with the provisions of the Declaration, By-Laws or decisions of the Association which are made pursuant to authority granted the Association in such documents. Condominium Unit Owners shall have a similar right of action against the Association.

Section 13. Use of Common Areas. The Board of Managers shall adopt rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas as it deems appropriate, and may amend and modify the same from time to time as it deems advisable, necessary or appropriate.

The Board of Managers or their designated agent shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency in which case no notice shall be

required), to enter into each individual Condominium Unit for the purpose of inspection of the Common Areas and Limited Areas appurtenant thereto and replacement, repair and maintenance of such Common Areas and Limited Areas.

Section 14. Maintenance, Decoration, Repairs and Replacements.

a) Common Areas. The Association will be responsible for the maintenance, repair, decoration, restoration, and replacement of the Common Areas. Maintenance, decoration, repairs, and replacements of the Common Areas shall be furnished by the Association and the cost thereof shall be part of the Common Expenses. The Association may elect to delegate such duties to a Managing Agent and may enter into a management contract for such purpose, provided that such agent and the terms of such contract are approved by a majority of the vote present or represented at any meeting of the Association. Declarant or an entity affiliated with Declarant may serve as the Managing Agent for the Regime so long as Declarant retains control of the Association, and may perform all property management functions on behalf of the Association. Any management contract made or which is deemed to arise between the Association and Declarant (or any affiliate) shall be terminable by the Association without cause and without penalty upon thirty (30) days' written notice at any time after Declarant relinquishes control of the Association. The Board of Managers has the right to adopt such rules and regulations concerning the maintenance, repairs, use and enjoyment of the Common Areas as it deems appropriate, including the appointment of committees to oversee the same. The Board of Managers shall have the exclusive right to determine the outside decor of each Building, including without limitation the color and type of paint and all other decor appurtenant to the exterior of each Building.

b) Condominium Units. Each Owner shall control and have the right to determine the interior decor of his Condominium Unit, but this shall not include the right to make structural changes to the Unit, nor the right to use interior decor which in the discretion of the Board of Managers adversely affects the external appearance of the Condominium Unit, as more particularly set forth in the By Laws of the Association. No act or omission which constitutes waste shall be committed or suffered in or upon any Condominium Unit, the Common Areas, or Limited Areas. Each Owner shall maintain and repair at his sole cost and expense all fixtures, appliances, equipment, and other improvements constituting a part of his Condominium Unit under Section 4 hereof, and each Owner shall promptly repair any condition or defect existing or occurring in his Condominium Unit which, if not repaired, might adversely affect any Condominium Unit, Common Area or Limited Area. The Board of Managers and the Managing Agent shall have the right at reasonable times and upon reasonable prior notice (except in cases of emergency in which case no notice shall be required) to enter into the Condominium Units and the Common Areas

adjacent to each Condominium Unit to replace, repair, and maintain such Common Areas. In the event that any Owner fails or is unable to maintain or repair any condition or defect for which he is responsible and the Board of Managers or the Managing Agent have a reasonable basis for believing that such condition or defect has caused or threatens to cause immediate and substantial harm to any person or to any property outside such Owner's Condominium, the Board of Managers and the Managing Agent shall each have the right to enter such Owner's Condominium Unit to remedy or repair such condition or defect, and any costs or expenses incurred in connection therewith (including attorneys' fees) shall be payable by such Owner upon demand by the Board of Managers or the Managing Agent. Nothing herein contained shall be construed to represent a contractual liability to any Owner on the part of the Declarant, the Association, or the Board of Managers for maintenance, repair, or replacement of any Condominium Unit, Common Areas, or Limited Areas, and the liability of the Association, the Board of Managers, and the Managing Agent in this regard shall be limited to damages resulting from gross negligence, recklessness, or intentional misconduct, unless otherwise provided in the management contract in the case of the Managing Agent.

Section 15. Alterations, Additions and Improvements. No Owner shall make any alterations or additions to, or which would affect, the Common Areas or Limited Areas without the prior written approval of the Board of Managers, nor shall any Owner make any alteration in or to his respective Condominium Unit and within the boundaries thereof which would affect the safety or structural integrity of the Building in which the Condominium Unit is located. Declarant reserves the right to change the interior design and arrangement of all Condominium Units and alter the boundaries between Condominium Units for so long as Declarant owns the Condominium Units so altered. No such change shall increase the number of Condominium Units or change the Unit Percentage Interest applicable to such Condominium Unit. If Declarant shall make any changes in the Condominium Units so authorized, such changes shall be reflected by a supplement to the Plans and such supplement to the Plans need not be approved by the Association or any other Owners.

Section 16. Subdivision and Expansion. The provisions of this paragraph shall govern the expansion of the Regime and the allocation and reallocation of Unit Percentage Interests and Garage Percentage Interests.

a) Expansion by Sections. Declarant anticipates that it may construct from time to time additional Condominium Units ["Additional Sections"] on various portions of the Adjacent Real Estate, for addition to the Regime in the manner hereinafter set forth. The additional development within the Tract shall be consistent with the density, plan of development, and exterior architectural style of the Condominium Units to be contained upon the Real Estate. Additional Sections shall not be added by Declarant at any time after the expiration of ten (10) years from the date of this Declaration, nor shall Declarant

add any further sections if more than five (5) years have elapsed since the most recent prior section was added to the Regime. At any time, and from time to time, prior to the expiration of said ten (10) year period, Declarant, at its option, may cause all or any part of the Adjacent Real Estate to be added to the Regime, subject to the following conditions:

- 1) An Additional Section may not be annexed unless the Condominium Units to be constructed or renovated in such Additional Section have been substantially completed, and unless the Plans therefor are completed, certified by a licensed professional engineer or registered architect as fully and accurately depicting the layout, location, and dimensions of the Condominium Units, and recorded along with an Amendment conforming to the requirements of Subsection (c) of this Section 16; and
- 2) The Condominium Units on any Additional Sections shall be constructed with labor and material of comparable quality to the Condominium Units previously constructed, in the Declarant's sole discretion, although not necessarily of similar design, either as to interior floor plan or structural design. Declarant reserves the right to determine all developmental standards of each Additional Section.

Declarant expressly reserves the right not to annex all or any of the Adjacent Real Estate. Upon annexation of each Additional Section to the Regime, each Owner shall acquire a Unit Percentage Interest and Garage Percentage Interest, as recomputed in accordance with this Section 16, in the Common Areas and garages and carports in such Additional Section, at which time each Owner thenceforth shall also incur and pay his Unit Percentage Interest and Garage Percentage Interest shares of the Common Expenses attendant with such Additional Section, along with the Common Expenses attendant with the Real Estate and all Additional Sections previously added to the Regime. In no event shall the Regime be merged with any other horizontal property regime, but the Association may cooperate with other homeowners associations in obtaining joint management, maintenance, or repair services in order to increase the cost efficiency of obtaining such services.

b) Unit Percentage Interest and Garage Percentage Interest. The Owner of each Condominium Unit shall have a Unit Percentage Interest appurtenant to his Condominium Unit based upon the number of square feet of usable floor area (whether finished or unfinished) the Owner owns divided by the total number of square feet of usable floor area (whether finished or unfinished) of all of the Condominium Units in the Regime at that time in accordance with Section 7(a)(1) of the Act (hereinafter called the "Formula"). The total Unit

Percentage Interests shall at all times equal one hundred percent (100%), or as close to one hundred percent (100%) as is mathematically possible, after taking into account the rounding thereof as required by Section 7. With respect to the Garage Percentage Interests, each carport shall be weighted with a value of one-half (1/2) and each garage shall be weighted with a value of one (1), in accordance with Exhibit "C-2."

c) Procedures for Amendment. As each Additional Section is developed, Declarant may record an Amendment annexing and adding such Additional Section to this Declaration and making it a part of the Regime. Declarant reserves the right to annex Additional Sections in any manner or order it may choose. Such Amendment shall contain the following:

- 1) A description of the portion of the Adjacent Real Estate to be annexed;
- 2) A description of the Condominium Units described in a manner consistent with this Declaration and the Act; and
- 3) The Unit Percentage Interest and Garage Percentage Interest of each of the Condominium Units in the Regime after such annexation, computed in accordance with the Formula.

d) Rights of Owners Affected by Expansion. Each Owner, by acceptance of a deed to a Condominium Unit, acknowledges, consents, and agrees that the following rights and conditions shall be applicable upon the recording of each Amendment:

- 1) The Condominium Units created from the Additional Section described in each Amendment shall be governed in all applicable respects by the provisions of this Declaration.
- 2) The Unit Percentage Interest and Garage Percentage Interest applicable to each Condominium Unit shall be automatically reallocated in accordance with the figure set forth in such Amendment, which reallocation shall be in accordance with the Formula. On recording of each Amendment, the amount by which the Unit Percentage Interest and Garage Percentage Interest of a Condominium Unit Owner is reduced shall thereupon divest from such Condominium Unit Owner and revert to the Declarant, its successors and assigns.
- 3) Each deed, mortgage, or other instrument affecting a Condominium Unit shall be deemed to be subject to the limitation

that the Unit Percentage Interest and Garage Percentage Interest appurtenant to each Condominium Unit shall be, upon the recording of each Amendment, altered in accordance with each Amendment and the Formula.

4) The Unit Percentage Interest in the Common Areas shall be deemed to include any additional Common Areas annexed hereto by such Amendment. Each Amendment shall grant and convey to the Owners the appropriate Unit Percentage Interest in the Common Areas added by such Amendment, and each deed, mortgage, or other instrument affecting a Condominium Unit shall be deemed to include and attach to such additional Common Areas.

5) The recording of an Amendment shall not alter the amount of the lien for Common Expenses previously assessed to a Condominium Unit which was already a part of the Regime prior to such recording. The lien for the share of Common Expenses from and after such recording shall be assessed and paid based upon the recomputed Unit Percentage Interest and Garage Percentage Interest.

6) Each Owner agrees to execute and deliver such documents as are necessary or desirable to accomplish the annexation of the Additional Sections in the Tract in accordance with the provisions of this Section 16.

e) Removal from Tract In the event Declarant elects not to annex all or part of the Adjacent Real Estate, as permitted by this Section 16, Declarant shall file an Amendment which shall permanently remove that portion of the Adjacent Real Estate which Declarant elects not to annex, and said portion thereafter shall not be subject to any possibility of becoming a part of the Regime. In addition, any portion of the Adjacent Real Estate for which an Amendment has not been filed within ten (10) years of the date hereof shall automatically be removed from the possibility of becoming a part of the Regime. When, because of the annexation of all of the Adjacent Real Estate, the passage of time, or the filing of an amendment under this Subsection (e), the Regime is no longer subject to expansion, the Unit Percentage Interests and Garage Percentage Interests then in effect shall not be altered except in accordance with Section 18 of this Declaration.

Section 17. Insurance.

a) The Homeowners, through the Association, shall purchase a master casualty insurance policy issued in the name of the Association for the use and benefit of the Owners affording fire and extended coverage insurance insuring the Property in an amount consonant with the full replacement value of the Property and improvements including the individual Condominium Units, the Common Areas and Limited Areas and facilities, and further including fixtures, building service equipment and common personal property and supplies belonging to the Association. Certificates of Insurance shall be issued to each Condominium Unit Owner and each Mortgagee upon request and no such policy shall be canceled or substantially modified without at least thirty (30) days prior written notice to the Association and to each Mortgagee listed as Mortgagee in the policies. The insurance policy must contain the standard mortgage clause and must name the Mortgagee or the servicer of the Mortgagee. If a servicer is named as Mortgagee, its name should be followed by the phrase "its successors and assigns." The Board of Managers shall obtain an inflation guard endorsement if available. The Board of Managers shall also obtain "all risk" coverage if available. The Board of Managers shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board of Managers, the Board of Managers may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Mortgagee of each Owner upon the following terms and conditions:

(i) All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association as hereinabove set forth shall be paid to it or to the Board of Managers, who shall act as the insurance trustees and hold such proceeds for the benefit of the insured parties. In the event that the Board of Managers has not posted surety bonds for the faithful performance of its duties as such managers or if such bonds do not exceed the funds which will come into its hands, and there is a damage to a part or all of the Property resulting in a loss, the Board of Managers shall obtain and post a bond for the faithful performance of its duties as insurance trustee in an amount to be determined by a majority of the Owners but not to exceed 125% of the loss, before the Board of Managers shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purpose elsewhere stated herein, and for the benefit of the Owners and



their respective Mortgagees. The proceeds shall be used or disbursed by the Association or Board of Managers, as appropriate, only in accordance with the provisions of this Declaration.

(ii) The interest of each damaged Owner in the trust fund of insurance proceeds shall be the ratio of the direct damage of each damaged Owner to the damages of all Owners directly damaged by any event insured under the said master casualty insurance policy.

b) Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (i) waives its right to subrogation as to any claim against the Association, the Board of Managers, its agents and employees, Owners, their respective agents and guests, and (ii) waives any defense based on invalidity arising from the acts or omissions of the individual Condominium Unit Owners that are not under the control of the Association, and providing further, (x) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as hereinafter permitted and (y) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to Section 18 of this Declaration.

c) The Homeowners, through the Association, shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Managers shall deem appropriate from time to time; however, such coverage shall be for at least Two Million Dollars (\$2,000,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Such comprehensive public liability insurance policy shall cover the Association, the Board of Managers, any committee or organ of the Association or Board of Managers, any managing agent appointed or employed by the Association, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to Ladywood Estates, all Owners of Condominium Units and all other portions of Ladywood Estates. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Areas and Limited Areas, and, if available, legal liability arising out of lawsuits related to employment contracts of the Association. Such policy shall also provide that it may not be canceled or substantially modified by any party without at least thirty (30) days prior written notice to the Association and to each holder of a first mortgage on any Condominium Unit in the Property which is listed as a scheduled holder of a first mortgage in the insurance policy.

d) The Homeowners, through the Association, shall also obtain any other insurance required by law to be maintained, including but not limited to worker's compensation insurance, and such other insurance as the Board of Managers shall from time to time deem necessary, advisable or appropriate, including but not limited to, comprehensive liability insurance on vehicles owned by the Association, officers' and directors' liability policies, contractual and all-written contract insurance, and employer's liability insurance. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, the Board of Managers and any managing agent acting on behalf of the Association.

e) Each Owner shall deem to have appointed the Board of Managers to represent each Owner in any proceedings, negotiations, settlements or agreements with the insurance companies to adjust all losses under policies purchased by the Board of Managers.

f) The premiums for all such insurance hereinabove described shall be paid by the Association as part of the Common Expenses. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner or Mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.

g) In no event shall any distribution of proceeds be made by the Board of Managers directly to an Owner where there is a mortgage endorsement on the certificates of insurance. In such event any remittance shall be to such Owner and Mortgagee jointly.

h) Each Owner shall be solely responsible for, and may obtain, such additional insurance as the Owner deems necessary or desirable at the Owner's own expense affording coverage upon his personal property, the contents of the Owner's Condominium Unit (including, but not limited to, all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by the Owner) and the Owner's personal property stored elsewhere on the Property, and for the Owner's personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions of the master casualty insurance policy to be obtained by the Association. Each Owner may obtain casualty insurance at the Owner's own expense upon the Owner's Condominium Unit but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount

of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph, due to proration of insurance purchased by an Owner under this paragraph the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, an authorized representative, including any trustee with whom the Association may enter into an insurance trust agreement or any successor to such trustee who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose. Each Condominium Unit Owner hereby appoints the Association as attorney-in-fact for the purpose of purchasing and maintaining such insurance, and the following additional purposes: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability related thereto; the execution of all documents necessary in connection therewith; and the performance of all other acts necessary to accomplish such purposes.

Section 18. Casualty and Restoration; Condemnation; Termination.

a) Except as hereinafter provided, damage to or destruction of any Building due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose; provided, however, that repair and reconstruction shall not be compulsory in the event of "complete destruction of all of the Buildings" (hereinafter defined) and shall only be done in accordance with the provisions hereinafter set forth. As used herein, the term "complete destruction of all of the Buildings means a determination, made by a vote of two-thirds (2/3) of all Homeowners at a special meeting of the Association called for the purpose of making such determination, that total destruction of all of the buildings has occurred. A special meeting of the Association shall be called and held within ninety (90) days after any fire or any other casualty or disaster damaging or destroying any of the Buildings. If such a special meeting is not called and held within such ninety (90) day period, or if the determination of whether or not there has been a complete destruction of all the Buildings has not been made within such ninety (90) day period, then it shall be conclusively presumed that the Homeowners determined that there was not a complete destruction of all of the Buildings, and the Association shall proceed with repair and reconstruction as herein provided.

b) If the insurance proceeds, if any, received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance

proceeds, and if the Property is not to be removed from the Horizontal Property Regime, the cost for restoring the damage and repairing and reconstructing the Building or Buildings so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by all of the Owners of Condominium Units in proportion to the ratio that the Unit Percentage Interest of each Condominium Unit bears to the total Unit Percentage Interest of all Condominium Units and in proportion to the ratio that the Garage Percentage Interest of each Owner bears to the total Garage Percentage Interest of all Owners. Any such amounts payable by the Homeowners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein and in the Act.

c) For purposes of subsections (a) and (b) above, repair, reconstruction and restoration shall mean construction or rebuilding of the Condominium Units to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.

d) If, under subsection (a) above, it is determined by the Homeowners at the special meeting of the Association referred to therein that there has been a complete destruction of the Buildings, the Homeowners shall, at said same special meeting, vote to determine whether or not such complete destruction of the Buildings shall be repaired and reconstructed. The Buildings shall not be reconstructed or repaired if it is the determination of the Homeowners at said special meeting that there has been a complete destruction of all of the Buildings, unless by a vote of two-thirds (2/3) of all of the Homeowners a decision is made to rebuild, reconstruct and repair the Buildings. If two-thirds (2/3) of all of the Homeowners vote and decide that the Buildings are to be rebuilt, reconstructed and repaired, the insurance proceeds, if any, received by the Association shall be applied and any excess of construction costs over insurance proceeds, if any, received by the Association shall be contributed and paid as hereinabove provided in subsection (a) and (b).

e) If, in the case of the complete destruction of all of the Buildings, less than two-thirds (2/3) of all of the Homeowners vote in favor of the rebuilding, reconstruction and repair of the Buildings, the Buildings shall not be rebuilt, reconstructed or repaired, and, in such event, the Property shall be deemed and considered as to be removed from the provisions of the Act under Section 28 of the Act and, in accordance with Section 21 of the Act:

(i) the Property shall be deemed to be owned in common by the Condominium Unit Owners;

(ii) the undivided interest in the Property owned in common which shall appertain to each Condominium Unit Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Areas;

(iii) any liens affecting any of the Condominium Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Condominium Unit Owner in the Property; and

(iv) the Property shall be subject to an action for partition at the suit of any Condominium Unit Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, shall be considered as one (1) fund and shall be divided among all the Condominium Unit Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the Property, after first paying out of the respective shares of the Condominium Unit Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Condominium Unit Owner.

f) Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Managers or Association has the responsibility of maintenance and repair, the Board of Managers shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Managers desires.

g) The proceeds of insurance collected on account of any such casualty, and the sums received by the Board of Managers from collections of assessments against Owners on account of such casualty, shall constitute a construction fund which shall be disbursed, if the Building to be reconstructed and repaired, in payment of the costs of reconstruction and repair in the following manner:

(i) If the amount of the estimated cost of reconstruction and repair is less than Five Thousand Dollars (\$5,000.00), then the construction fund shall be disbursed in payment of such costs upon order of the Board of Managers; provided, however, that upon request of a Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereinafter provided in the following subsection (ii).

(ii) If the estimated cost of reconstruction and repair of the Building or other improvement is more than Five Thousand Dollars (\$5,000.00), then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Indiana and employed by the Board of Managers to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, (1) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and material furnished; (2) that there is no other outstanding indebtedness known to the architect for the services and materials described; and (3) that the costs estimated by the architect for the work remaining to be done subsequent to the date of such certificate, do not exceed the amount of the construction fund remaining after payment of the sum so requested.

h) Encroachments upon or in favor of Condominium Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Building was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Building stands.

i) In the event that there is any surplus of monies in the construction fund after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Board of Managers as a reserve or may be used in the maintenance and operation of the Common Areas, or, in the discretion of the Board of Managers, it may be distributed to the Owners in the Buildings affected and their Mortgagees who are the beneficial owners of the fund. The action of the Board of Managers in proceeding to repair or reconstruction damage shall not constitute a waiver of any rights against an Owner for committing willful or malicious damage.

j) In the event of the condemnation of all or any part of the Common Areas or of all or any part of any Building(s) or Condominium Unit(s), the Board of Managers is hereby authorized to negotiate with the condemning authority and/or to contest an award made for the appropriation of such Common Areas, Buildings or Condominium Units. For the purpose of such negotiation and/or contest of such award to the Board of Managers as to Buildings and

Condominium Units, the Board of Managers is hereby declared to be the agent and attorney-in-fact of any Owner affected by the condemnation. This appointment of the Board of Managers shall be deemed coupled with an interest and shall be irrevocable. Nothing contained herein, however, shall preclude any Owner from asserting any rights or claims to compensation which cannot be legally asserted by the Board of Managers.

Awards for the taking of all or part of a Building, Condominium Unit or Lot shall be collected by the Board of Managers and distributed to the affected Owner(s). To the extent possible, negotiated awards or awards resulting from a contest shall specify the allocation of the award among the Owner(s) affected. In the event that an Owner does not agree with the distribution of an award, said Owner shall be entitled to have the dispute settled by arbitration. The protesting Owner shall appoint one arbitrator, the Board of Managers acting as agent for all other affected Owners shall appoint one arbitrator and the two appointed arbitrators shall appoint a third arbitrator. A majority decision of the arbitrators shall be binding on all Owners and shall be enforceable in a court of competent jurisdiction.

Section 19. Covenants and Restrictions. The covenants and restrictions applicable to the use and enjoyment of the Condominium Units and the Common Areas and Limited Areas are set forth in the By-Laws, including the limitation that each of the Condominium Units shall be limited to residential use. These covenants and restrictions are for the mutual benefit and protection of the present and future Owner or Owners. Present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages for any injuries resulting from any violations thereof, but there shall be no right of reversion or forfeiture of title resulting from such violation.

Notwithstanding anything to the contrary contained herein or in the By-Laws, including but not limited to any covenants and restrictions set forth in the By-Laws, Declarant shall have, until the Applicable Date as defined in Article III of the By-Laws, the right to use and maintain any Condominium Units owned by Declarant, such other portions of the Property (other than individual Condominium Units owned by persons other than Declarant) and any portions of the Additional Real Estate not then part of the Regime, all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction, reconstruction or rehabilitation of Condominium Units and sale of Condominium Units or for the conducting of any business or activity attendant thereto, including, but not limited to, model sales offices, management offices and business offices. Declarant shall further have the right to lease Condominium Units owned by Declarant to tenants with a minimum initial term of thirty (30) days. Declarant shall have the right to relocate any or all of the same from time to time as it desires. At no time shall any facilities so used or maintained by Declarant be or become part of the Common Areas, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Property at any time.

**Section 20. Sale, Lease or Other Transfer of Condominium Unit by Owner.** For the purpose of maintaining the congenial and residential character of Ladywood Estates, and for the protection of the Owners with regard to insuring having financially responsible residents, the lease of any Condominium Unit by any Owner other than Declarant shall be subject to the following conditions and restrictions:

a) **Lease.** No Owner shall lease his Condominium Unit or enter into any other rental or letting arrangement for his Condominium Unit for a term of less than ninety (90) days. In any event, Owner shall use the lease form which has been approved by the Board of Managers and subject to rules and regulations as established by the Association from time to time, and a copy of such lease shall be provided by the Owner to the Board of Managers promptly after execution thereof.

b) **Sale.** The Association shall have no right of first refusal to purchase any Condominium Unit which an Owner wishes to sell and an Owner may sell his Condominium Unit free of any such restriction.

**Section 21. Amendment of Declaration.** Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

a) **Notice.** Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered, including any annual meetings

b) **Resolution** A resolution to adopt a proposed amendment may be proposed by the Board of Managers or by majority vote of the Members.

c) **Meeting.** The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws.

d) **Adoption.** Any proposed Material Amendment (as hereinafter defined) to this Declaration must be approved by a vote of not less than two thirds (2/3) of the votes then eligible to be cast. In the event any Condominium Unit is subject to a first mortgage, the Mortgagee (hereinafter referred to as "Eligible Mortgagee") shall be notified of the meeting and the proposed Material Amendment in the same manner as an Owner if the Eligible Mortgagee has given prior notice of its mortgage interest to the Board of Managers in accordance with the By-Laws, and any proposed Material Amendment must be approved by a vote of not less than a majority of Eligible Mortgagees. An Eligible Mortgagee who receives a written request to approve amendments and does not deliver or post to



the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

A change to any of the following shall be deemed to be a Material Amendment:

- (i) voting rights;
- (ii) assessments, assessment liens, or subordination of assessment liens;
- (iii) reserves for maintenance, repair and replacement of Common Areas;
- (iv) responsibility for maintenance and repairs;
- (v) reallocation of interests in the Common Areas or Limited Areas, or rights to their use;
- (vi) boundaries of any Unit;
- (vii) convertibility of Units into Common Areas or vice versa;
- (viii) expansion or contraction of the project, or the addition, annexation or withdrawal of property to or from the project;
- (ix) insurance or fidelity bonds;
- (x) imposition of any restrictions on a Condominium Unit Owner's right to sell or transfer his or her Condominium Unit;
- (xi) a decision by the Association to establish self-management when professional management had been required previously by an Eligible Mortgage holder;
- (xii) restoration or repair of the property (after a hazard damage or partial condemnation) in a manner other than that specified in the documents;

(xiii) any action to terminate the legal status of the Property after substantial destruction or condemnation occurs; or

(xiv) any provision that expressly benefit Mortgage holders, insurers or guarantors.

e) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Association, or the Declarant, if required, and shall be recorded in the Office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

f) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein, the Declarant shall have the right acting alone and without the consent or approval of the Homeowners, the Association, the Board of Managers, any Mortgagees or any other person, to amend or supplement this Declaration, the By-Laws or other documents from time to time if (i) such amendment or supplement is necessary to conform this Declaration to the Act, as amended from time to time, (ii) such amendment or supplement is made to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration or any other governmental agency or any other public, quasi public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (iii) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages, or, (iv) if such amendment or supplement is made to correct clerical or typographical errors. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this Section 21 on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, or other instrument affecting a Condominium Unit and acceptance thereof shall be deemed to be grant and acknowledgment of, and a consent to the reservation of, the power of the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section 21 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

g) Additional Restrictions on Amendments.

1) At least Sixty-Six and two-thirds percent (66 2/3%) of the votes in the Association and the approval of the eligible holders of first mortgages on Condominium Units whose Owners are part of the at least Sixty-Six and two-thirds percent (66 2/3%)

vote if the Condominium Units are subject to a mortgage shall be required to terminate the Condominium Regime for reasons other than substantial destruction or condemnation of the property.

2) As used in this Section, the term "eligible holder" shall mean a holder, insurer or guarantor of a first mortgage on a Condominium Unit who has requested notice in accordance with the provisions of Section 8.03(a) of the By-Laws.

Section 22. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Condominium Units shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws appended hereto, and the rules and regulations as adopted by the Board of Managers as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Condominium Unit shall constitute an agreement that the provisions of this Declaration, the Act, the By-Laws and rules and regulations as each may be amended or supplemented from time to time are accepted and ratified by each such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Condominium Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Condominium Unit or Condominium Units or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

Section 23. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by the Owner's own negligence or by that of any member of the Owner's family, their guests, employees, agents or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by such Owner's use, misuse, occupancy or abandonment of the Owner's Condominium Unit or its appurtenance or of the Common Areas or Limited Areas.

Section 24. Granting of Easements. The Board of Managers or the Association is granted the authority to grant easements to utility companies (excluding transportation companies) upon such terms and conditions and for such consideration as it deems appropriate.

Section 25. Reservation of Rights to Use the Common Areas. Declarant shall have, and hereby reserves, an easement over, across, upon, along, in, through and under the Common Areas and, to the extent necessary, the Limited Areas, for the purposes of installing, maintaining, repairing, replacing, relocating and otherwise servicing utility equipment, facilities and installations to serve the Real Estate, to provide access to and ingress and egress to and from

the Real Estate, to make improvements to and within the Real Estate, and to provide for the rendering of public and quasi public services to the Real Estate. The foregoing easement shall be a transferable easement and Declarant may at any time and from time to time grant similar easements, rights or privileges to other persons and parties for the same purposes. By way of example, but not in limitation of the generality of the foregoing, Declarant, and others to whom Declarant may grant such similar easement, rights or privileges, may so use the Common Areas and, to the extent necessary, the Limited Areas, to supply utility services to the Real Estate and any portions of the Regime which are not part of the Real Estate and to permit public and quasi public vehicles, including but not limited to police, fire and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles, and their personnel to enter upon and use the streets, the Common Areas and to the extent necessary, the Limited Areas of Ladywood Estates in the performance of their duties

Section 26. Initial Management. As set forth in the By-Laws, the Initial Board of Managers consist and will consist of persons selected by Declarant. Prior to the Applicable Date, as defined in Article III of the By-Laws, all contracts or leases, including any management agreement entered into by the Board of Managers shall provide a right of termination without cause or penalty, at any time after the Applicable Date upon ninety (90) days notice to the other party. The Board of Managers has entered or will hereafter enter into a management agreement with S.C. Bodner Co, Inc (the "Managing Agent") for a term which will expire not later than December 31, 2005, unless earlier terminated or extended by agreement of the parties, under which the Managing Agent will provide supervision, fiscal and general management and maintenance of the Common Areas, and, to the extent the same is not otherwise the responsibility of Owners of individual Condominium Units, the Limited Areas, and, in general, perform all the duties and obligations of the Association. Such management agreement is or will be subject to termination by Declarant at any time prior to the expiration of its term, in which event the Association shall thereupon and thereafter resume performance of all of its duties and obligations and functions. Notwithstanding anything to the contrary contained herein, so long as such management agreement remains in effect, Declarant shall have, and Declarant hereby reserves to itself, the exclusive right to manage the Property and to perform all the functions of the Association.

Section 27. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the By-Laws or the Act, or to comply with any provision of the Declaration, the By-Laws, the Act, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

Section 28. Failure of Owner to Pay Assessments.

a) No Owner may become exempt from liability for contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or Limited Areas or by abandonment of the Owner's

Condominium Unit. Each Owner shall be personally liable for the payment of all assessments by the Association

b) Upon failure by any Owner to make any payment of assessment on the date when due, the lien against the Owner's Unit may be foreclosed against as provided for by Section 5.05 of the By-Laws and applicable law. Any lien for assessments becoming payable after the recordation of a first mortgage on Owner's Unit shall be subordinate to the first mortgage on the Owner's Unit as more fully set forth in Section 5.05(b) of the By-Laws.

Section 29. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration or the By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration or the By-Laws.

Section 30. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include the masculine, feminine and neuter genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

Section 31. Floor Plans. The Plans setting forth the layout, location, identification numbers, and dimensions of the Condominium Units and the Property are incorporated into this Declaration by reference, and have been filed in the office of the Recorder of Marion County, Indiana, in Horizontal Property Regime file \_\_\_\_\_, as of \_\_\_\_\_, 2002, as Instrument No. 2002-00 78169.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

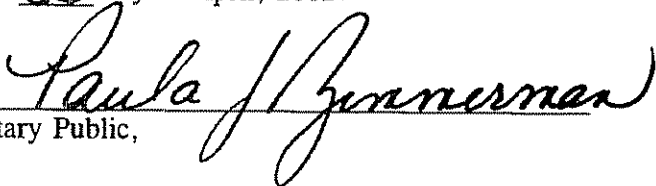
LADYWOOD ESTATES, LLC,  
an Indiana limited liability company

By: Kevin R. Krulewitch  
Kevin R. Krulewitch, Manager

STATE OF INDIANA     )  
  )SS:  
COUNTY OF MARION    )

Before me, the undersigned Notary Public, personally appeared Kevin R. Krulewitch, to me personally known and known to me to be the Manager of Ladywood Estates, LLC, who acknowledged the execution of the above and foregoing Declaration of Horizontal Property Ownership for and on behalf of said Company.

Witness my hand and Notarial Seal this 23 day of April, 2002.

  
\_\_\_\_\_  
Notary Public,

My Commission Expires:

County of Residence:



\_\_\_\_\_  
PAULA J. ZIMMERMAN, Notary Public  
Johnson County Resident  
My Commission Expires: September 13, 2007

Prepared by:

Paul A. Kraft  
Frank & Kraft, A Professional Corporation  
135 North Pennsylvania Street  
Suite 1100  
Indianapolis, Indiana 46204  
(317) 684-1100  
(317) 684-6111 (fax)

EXHIBIT A

Part of the Northeast Quarter of Section 9, Township 16 North, Range 4 East in Marion County, Indiana, described as follows:

Beginning at a railroad spike on the South line of said Quarter Section a distance of 196.17 feet South 89 degrees 23 minutes 54 seconds West of the Southeast corner of said Quarter Section; thence South 89 degrees 23 minutes 54 seconds West upon and along the South line of said Quarter Section a distance of 601.70 feet to a railroad spike; thence North 53 degrees 48 minutes 05 seconds West a distance of 110.30 feet to a railroad spike; thence North 30 degrees 51 minutes 05 seconds West a distance of 190.75 feet to a railroad spike; thence North 32 degrees 35 minutes 06 seconds West a distance of 194.55 feet to a railroad spike; thence North 47 degrees 34 minutes 06 seconds West a distance of 328.15 feet to a 5/8 inch rebar with yellow cap (hereinafter referred to as "rebar") in the West line of the East Half of said Quarter Section; thence North 00 degrees 03 minutes 56 seconds East upon and along said West line a distance of 89.89 feet to a Mag nail; thence leaving said West line of the East Half South 48 degrees 37 minutes 18 seconds East a distance of 99.42 feet to a rebar; thence South 61 degrees 58 minutes 10 seconds East a distance of 291.57 feet to a rebar; thence North 46 degrees 51 minutes 55 seconds East a distance of 39.35 feet to a rebar; thence North 63 degrees 55 minutes 10 seconds East a distance of 46.65 feet to a rebar; thence North 31 degrees 56 minutes 25 seconds East a distance of 67.65 feet to a rebar; thence North 51 degrees 44 minutes 25 seconds East a distance of 79.75 feet to a rebar on the Westerly right-of-way line of the relocated Emerson Avenue, being the point of curvature of a curve to the left having a radius of 712.38 feet, the radius point which bears North 47 degrees 23 minutes 51 seconds East; thence Southeasterly along said West right-of-way an arc distance of 336.72 feet to a rebar which bears South 20 degrees 18 minutes 57 seconds West from said radius point; thence South 69 degrees 41 minutes 04 seconds East a distance of 187.30 feet to a rebar; thence South 54 degrees 44 minutes 05 seconds East a distance of 87.99 feet to a rebar; thence South 58 degrees 34 minutes 06 seconds East a distance of 89.89 feet to a rebar; thence South 41 degrees 55 minutes 05 seconds East a distance of 136.08 feet to a rebar; thence South 24 degrees 53 minutes 04 seconds East a distance of 160.38 feet to a rebar; thence South 74 degrees 23 minutes 55 seconds West a distance of 130.01 feet to a rebar; thence South 00 degrees 02 minutes 48 seconds West a distance of 19.00 feet to the place of beginning. Containing 9.836 acres, more or less.

**EXHIBIT "B"**  
**EXPANDABLE LAND DESCRIPTION**

**NONE AT THIS TIME**



**Exhibit "C-1"**  
**Ladywood Estates, LLC**  
**Unit Percentage Interests**

<u>Address</u>	<u>Condo Usable Floor Sq. Ft.</u>	<u>Basement Usable Floor Sq. Ft.</u>	<u>Total Usable Floor Sq. Ft.</u>	<u>Unit Percentage Interest</u>
5201 Brief Run	2,123	884	3,007	2.38%
5203 Brief Run	1,686	725	2,411	1.91%
5205 Brief Run	1,679	727	2,406	1.91%
5207 Brief Run	1,590	345	1,935	1.53%
5209 Brief Run	1,678	389	2,067	1.64%
5211 Brief Run	1,693	826	2,519	2.00%
5213 Brief Run	1,681	837	2,518	1.99%
5214 Brief Run	1,834	935	2,769	2.19%
5201 Nob Lane	1,697	726	2,423	1.92%
5202 Nob Lane	1,645	368	2,013	1.59%
5203 Nob Lane	1,677	727	2,404	1.90%
5204 Nob Lane	1,615	366	1,981	1.57%
5205 Nob Lane	1,663	375	2,038	1.61%
5206 Nob Lane	1,672	394	2,066	1.64%
5207 Nob Lane	1,667	403	2,070	1.64%
5208 Nob Lane	1,674	402	2,076	1.64%
5209 Nob Lane	1,650	403	2,053	1.63%
5210 Nob Lane	1,716	834	2,550	2.02%
5211 Nob Lane	1,676	424	2,100	1.66%
5212 Nob Lane	1,678	836	2,514	1.99%
5213 Nob Lane	1,699	412	2,111	1.67%
5214 Nob Lane	1,731	845	2,576	2.04%
5215 Nob Lane	2,115	884	2,999	2.38%
5216 Nob Lane	1,730	843	2,573	2.04%
5217 Nob Lane	1,678	402	2,080	1.65%
5218 Nob Lane	1,750	848	2,598	2.06%
5219 Nob Lane	1,677	415	2,092	1.66%
5220 Nob Lane	2,102	823	2,925	2.32%
5221-23 Nob Lane	3,327	702	4,029	3.19%
5222 Nob Lane	1,705	854	2,559	2.03%
5224 Nob Lane	1,682	809	2,491	1.97%
5225 Nob Lane	1,605	848	2,453	1.94%
5226 Nob Lane	2,717	817	3,534	2.80%
5227 Nob Lane	1,760	851	2,611	2.07%
5228 Nob Lane	1,766	0	1,766	1.40%
5229 Nob Lane	1,730	845	2,575	2.04%
5230 Nob Lane	1,729	304	2,033	1.61%
5231 Nob Lane	1,731	845	2,576	2.04%
5232 Nob Lane	1,678	0	1,678	1.33%
5233 Nob Lane	1,687	836	2,523	2.00%

<u>Address</u>	<u>Condo Usable Floor Sq. Ft.</u>	<u>Basement Usable Floor Sq. Ft.</u>	<u>Total Usable Floor Sq. Ft.</u>	<u>Unit Percentage Interest</u>
5234 Nob Lane	2,419	313	2,732	2.16%
5235 Nob Lane	1,661	835	2,496	1.98%
5236 Nob Lane	2,369	302	2,671	2.12%
5237 Nob Lane	1,600	848	2,448	1.94%
5238 Nob Lane	1,833	0	1,833	1.45%
5239 Nob Lane	1,834	935	2,769	2.19%
5240 Nob Lane	1,699	417	2,116	1.68%
5242 Nob Lane	1,681	394	2,075	1.64%
5244 Nob Lane	1,648	401	2,049	1.62%
5246 Nob Lane	1,654	387	2,041	1.62%
5248 Nob Lane	2,293	375	2,668	2.11%
5251 Ladywood	714	244	958	0.76%
5253 Ladywood	673	0	673	0.53%
5255 Ladywood	714	243	957	0.76%
5261 Ladywood	<u>710</u>	<u>355</u>	<u>1,065</u>	<u>0.84%</u>
<b>TOTAL</b>	<b>95,095</b>	<b>31,158</b>	<b>126,253</b>	<b>100.00%</b>

**Exhibit "C-2"**  
**Ladywood Estates, LLC**  
**Garage Percentage Interests**

<u>Assigned Address</u>	<u>Garage/ Carport Number</u>	<u>Numerical Weighting</u>	<u>Garage Percentage Interest</u>
5201 Brief Run	75G, 76G	2	2.40%
5203 Brief Run	71G	1	1.20%
5205 Brief Run	70G	1	1.20%
5207 Brief Run	69G	1	1.20%
5209 Brief Run	65C	0.5	0.60%
5211 Brief Run	64C	0.5	0.60%
5213 Brief Run	63G	1	1.20%
5214 Brief Run	59G, 60G	2	2.40%
5201 Nob Lane	9G	1	1.20%
5202 Nob Lane	2G	1	1.20%
5203 Nob Lane	12G	1	1.20%
5204 Nob Lane	1G	1	1.20%
5205 Nob Lane	3G	1	1.20%
5206 Nob Lane	17G	1	1.20%
5207 Nob Lane	5G	1	1.20%
5208 Nob Lane	13G	1	1.20%
5209 Nob Lane	6G	1	1.20%
5210 Nob Lane	21G, 22G	2	2.40%
5211 Nob Lane	7G	1	1.20%
5212 Nob Lane	18G	1	1.20%
5213 Nob Lane	14G	1	1.20%
5214 Nob Lane	23C	0.5	0.60%
5215 Nob Lane	77G	1	1.20%
5216 Nob Lane	25C	0.5	0.60%
5217 Nob Lane	74G	1	1.20%
5218 Nob Lane	78G	1	1.20%
5219 Nob Lane	73G	1	1.20%
5220 Nob Lane	80G, 81G	2	2.40%
5221-23 Nob Lane	39G, 40G	2	2.40%
5222 Nob Lane	79G	1	1.20%
5224 Nob Lane	28G	1	1.20%
5225 Nob Lane	42G	1	1.20%
5226 Nob Lane	26G, 27G	2	2.40%
5227 Nob Lane	54G	1	1.20%
5228 Nob Lane	1A	1	1.20%
5229 Nob Lane	53C	0.5	0.60%
5230 Nob Lane	2A	1	1.20%
5231 Nob Lane	51C, 56G	1.5	1.80%
5232 Nob Lane	3A	1	1.20%
5233 Nob Lane	57G	1	1.20%
5234 Nob Lane	4A, 5A	2	2.40%

<u>Assigned Address</u>	<u>Garage/ Carport Number</u>	<u>Numerical Weighting</u>	<u>Garage Percentage Interest</u>
5235 Nob Lane	58G	1	1.20%
5236 Nob Lane	6A	1	1.20%
5237 Nob Lane	48C	0.5	0.60%
5238 Nob Lane	7A	1	1.20%
5239 Nob Lane	50C	0.5	0.60%
5240 Nob Lane	85G	1	1.20%
5242 Nob Lane	84G	1	1.20%
5244 Nob Lane	46C	0.5	0.60%
5246 Nob Lane	47C	0.5	0.60%
5248 Nob Lane	43G, 44G	2	2.40%
5251 Ladywood	35G	1	1.20%
5253 Ladywood	36G	1	1.20%
5255 Ladywood	83G	1	1.20%
5261 Ladywood	82G	1	1.20%
Unassigned Carport	24C	0.5	0.60%
Unassigned Carport	45C	0.5	0.60%
Unassigned Carport	49C	0.5	0.60%
Unassigned Carport	52C	0.5	0.60%
Unassigned Carport	66C	0.5	0.60%
Unassigned Carport	67C	0.5	0.60%
Unassigned Carport	68C	0.5	0.60%
Unassigned Garage	4G	1	1.20%
Unassigned Garage	8G	1	1.20%
Unassigned Garage	10G	1	1.20%
Unassigned Garage	11G	1	1.20%
Unassigned Garage	15G	1	1.20%
Unassigned Garage	16G	1	1.20%
Unassigned Garage	19G	1	1.20%
Unassigned Garage	20G	1	1.20%
Unassigned Garage	37G	1	1.20%
Unassigned Garage	38G	1	1.20%
Unassigned Garage	41G	1	1.20%
Unassigned Garage	55G	1	1.20%
Unassigned Garage	61G	1	1.20%
Unassigned Garage	62G	1	1.20%
Unassigned Garage	72G	1	1.20%
Homeowner's Assoc.	29G	1	1.16%
Homeowner's Assoc.	30G	1	1.16%
Homeowner's Assoc.	31G	1	1.17%
Homeowner's Assoc.	32G	1	1.17%
Homeowner's Assoc.	33G	1	1.17%
Homeowner's Assoc.	34G	1	1.17%
<b>TOTAL</b>		<b>83.5</b>	<b>100.00%</b>

Approved 11/22/2005  
Washington Township Assessor  
By: [Signature]  
Real Estate Deputy

**MASTER DECLARATION OF CONVENANTS, CONDITIONS AND RESTRICTIONS OF THE ESTATES AT LADYWOOD & LADYWOOD BLUFF**

[Handwritten initials]

This Declaration is made as of the 22 day of November, 2005 by Oakfield Development II, L.L.C., an Indiana limited liability company ("Declarant").

**WITNESSETH:**

WHEREAS, Declarant is the owner of certain real estate in Marion County, State of Indiana, more particularly described in Exhibit "A" attached hereto and, by this reference, made a part hereof ("Real Estate"); and

WHEREAS, Declarant desires and intends to create on the Real Estate a residential community to be known as Ladywood ("Development") and to sell and convey the residential lots and condominiums situated within the platted areas of the Development, and before doing so, desires to subject to and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions, easements, assessments, privileges, liens and charges ("Restrictions") under a general plan or scheme of improvement for the benefit and complement of the Lots, condominiums and lands and each Owner of all or part thereof in the Development and future Owners thereof as hereinafter provided in this Declaration; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which shall be delegated and assigned the power and duty to enforce the covenants and restrictions contained in this Declaration; collect and disburse the assessments and charges imposed and created hereby and hereunder; and promote the health, safety and welfare of the Owners of the Real Estate and all parts thereof; and

WHEREAS, Declarant has caused to be incorporated under the laws of the State of Indiana a nonprofit corporation under the name of The Estates at Ladywood Homeowners Association, Inc., or similar name, for the purpose of exercising such functions

NOW, THEREFORE, Declarant hereby declares that the Real Estate is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Real Estate and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole, Common Properties, and each of the Lots situated therein. All of the Restrictions shall run with the land and shall be binding upon the Declarant and upon the Owners and any other Persons having or acquiring any rights, title or interest, legal or equitable, in and to the Real Estate or the Development any part of parts thereof subject to this Declaration and/or the Restrictions, and shall inure to the benefit of the Declarant and every one of the Declarant's successors in title to any Real Estate. The Declarant specifically reserves unto itself the right and privilege, prior to the recording of the Plat by the Declarant of all or any portion of the Real

Legal Description Missing  
At Time Of Recording.  
MCR

11/23/05 09:16AM MARTIN HARRISON CTY RECORDER LHM 59.00 PAGES: 26

Inst # 2005-0193616

Estate, to exclude any Real Estate shown on Exhibit A hereto from the Development, or to include additional real estate therein

**ARTICLE I.**  
**DEFINITIONS**

Section 1. The following words and terms, when used herein or in any supplement or amendment hereto, unless the context clearly requires otherwise, shall have the following meanings:

- (a) "Act" shall mean and refer to the Indiana Nonprofit Corporation Act of 1991, as amended, or any successor act;
- (b) "Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2(b) of this Declaration;
- (c) "Architectural Review Board" shall mean and refer to that committee or entity established pursuant to Article VIII, Section 1 of this Declaration for the purposes herein stated;
- (d) "Articles" shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time;
- (e) "Association" shall mean The Estates at Ladywood Homeowners' Association, Inc.
- (f) "Board" or "Board of Directors" shall mean and refer to the governing body of the Association elected, selected or appointed as provided in the Articles, By-Laws and this Declaration and each member thereof shall be designated as a "Director";
- (g) "Building" shall mean and refer to a structure having one or more "Dwelling Units";
- (h) "By-Laws" shall mean and refer to the Code of By-Laws of the Association, as the same may be amended from time to time;
- (i) "Common Expenses" shall mean and refer to expenses of administration of the Association, expenses for upkeep and maintenance of the Common Properties including reserves, all sums lawfully assessed against the Owners by the Association, and all sums, costs and expenses declared by this Declaration to be Common Expenses;
- (j) "Common Properties" shall mean and refer to (i) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate which are not Lots (or blocks which are to be divided into Lots), (ii) to the extent hereinafter established, such improvements located, installed or established in, to, on, under, across or through the Real Estate as are herein declared to be Common Properties whether located, installed or

established entirely or partially on Lots or portions of the Real Estate which are not Lots, or both, and (iii) items deemed Common Properties for purposes of maintenance;

- (k) "Declarant" and "Developer" shall mean and refer to Oakfield Development II, LLC, an Indiana limited liability company, and any of its successors and assigns whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder;
- (l) "Dwelling Unit" shall mean and refer to any building, structure or portion thereof situated on the Real Estate designed and intended for use and occupancy as a residence by one (1) single family, whether such Dwelling Unit is detached or attached to another Dwelling Unit;
- (m) "Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the Common Properties) designed and intended for use as building site for, or developed and improved for use as, a dwelling Unit, as designated by Declarant by its deed of the same to another person. For purposes of this Declaration, a "Lot" shall be any single numbered parcel of land identified as a lot on a recorded subdivision plat of the Real Estate;
- (n) "Mortgagee" shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;
- (o) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot, but in any event shall not include any mortgagee or tenant unless and until such mortgagee or tenant has acquired fee simple title to any Lot, but upon so acquiring title to any Lot such a mortgagee or tenant shall be an Owner;
- (p) "Person" shall mean and refer to an individual, firm, corporation, partnership, association, trust, or other legal entity or any combination thereof;
- (q) "Plat" shall mean and refer to the subdivision plat or plats of the Real Estate recorded in the Office of the Recorder of Marion County, Indiana, as the same may be hereafter amended or supplemented;
- (r) "Private Driveway Easements" shall mean the streets other than public streets as shown on any recorded subdivision plat of the Real Estate whether such plat is heretofore or hereafter recorded;
- (s) "Real Estate" shall mean and refer to the parcel of real estate in Marion County, Indiana, described in the first recital clause of this Declaration, and defined therein as the Real Estate, as well as all additional real estate subjected hereto pursuant to Article II, Section 5 of this Declaration;

- (i) "Restrictions" shall mean and refer to the agreements, covenants, conditions, restrictions, easements, assessments, charges, liens and all other provisions set forth in this Declaration, as the same may be amended from time to time;
- (ii) "Zoning Covenants" shall mean and refer to the written covenants, as amended, heretofore entered in connection with zoning of the Real Estate, if any, which covenants will be recorded in the Office of the Recorder of Marion County, Indiana, such recorded covenants being incorporated herein by reference, as the same may hereafter be amended in accordance with their terms.

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings herein attributed to them.

## ARTICLE II.

### Declarations: Common Properties and Rights Therein; Easements

Section 1. Declarations Declarant hereby expressly declares that the Real Estate shall be held, transferred, and occupied subject to the Restrictions. Subsequent owners or contract purchasers of any Lot (i) by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act or occupancy of any Lot, shall accept such deed, execute such contract or occupy the Lot subject to each of the Restrictions and agreements herein contained. By acceptance of such deed, execution of such contract or occupancy of the Lot, each Owner, contract purchaser or occupant acknowledges the rights and powers of Declarant and of the Association with respect to these Restrictions, and also for himself, his heirs, personal representatives, successors and assigns, covenants, agrees and consents to and with Declarant, the Association, and the Owners and subsequent Owners of each of the other Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

Section 2. Easement to Owners Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Properties, subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot. The Private Driveway Easements shall be for the private use of the Owners, and their licensees, invitees and guests for purposes of ingress and egress to Lots and shall not be for general public use. Governmental vehicles, including but not limited to, police, fire and other emergency vehicles, and privately owned delivery trucks shall have the right to enter upon and use such easements for ingress to and egress from public streets in the performance of their duties.

Section 3. Easement to Association Declarant hereby grants a non-exclusive easement in favor of the Association for the maintenance of the Common Properties (including items deemed Common Properties for maintenance only, which includes but is not limited to Owners' lawns). Such easement shall permit the Board or its agents to enter onto any Lot to maintain, make emergency repairs, or do other work reasonable necessary of the proper maintenance or operation of the Development.



Section 4. Encroachment Easements. If any Dwelling Unit encroaches upon another Dwelling Unit, Lot or Common Property as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements, a valid easement shall be deemed to exist and run to the Owner of the encroaching improvement for the encroachment and for the maintenance thereof so long as such encroachment exists.

Section 5. Additional Phases of Development.

- (a) Declarant hereby reserves the right to expand the Real Estate covered hereby by acquiring and developing one (1) or more parcels of real estate adjacent to the Real Estate or additional acquired parcels. Upon acquisition of additional real estate: (i) such real estate shall be included in the definition of Real Estate; (ii) lots located therein, the owners thereof and its common area and the common area costs associated therewith shall be included in the definitions of Lots, Owners, Common Properties and Common Expenses, respectively; and (iii) such additional Lots shall be added to the Assessment Schedule;
- (b) Declarant hereby reserves the right to construct a jogging trail and other related facilities for the benefit of the Lots and the Owners. All costs and expenses to construct, operate and maintain such facilities shall be included in the definition of Common Expenses;
- (c) All additional real estate and facilities acquired and/or developed pursuant to Section 5 (a) or Section 5 (b), above, shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens set forth in this Declaration.

Section 6. Division of Common Property. The Development will be developed into three (3) separate sub areas titled Ladywood Bluffs, Ladywood Cottages and Ladywood Gardens. Both Ladywood Bluffs and Ladywood Cottages shall be single-family detached Dwelling Units and Ladywood Gardens shall be a horizontal property regime under Ind. Code Chapter 32-25-1 (the "Condominium Act"). Pursuant to Indiana law, Ladywood Gardens will have a separate set of declarations and covenants as required by the Condominium Act. In the event of any conflict between the covenants and restrictions for Ladywood Gardens and this document, this document shall prevail except in circumstances where the provision of the covenants and restrictions for Ladywood Gardens is required by the Condominium Act.

Common Property other than any Private Driveway Easements within the portion of the Development known as the Ladywood Gardens Horizontal Property Regime shall be governed by and owned by Lot Owners pursuant to the terms and conditions of the Declaration for Ladywood Gardens. Common Property within any other area of the Development outside of the Ladywood Gardens Horizontal Property Regime shall be owned and operated pursuant to the terms of this Declaration.

### **ARTICLE III.**

#### **Obligations of Declarant as to Common Properties; Dedication**

**Section 1. Agreement to Construct and Convey Common Properties** Declarant has constructed or provided for or will construct or provide for the Common Properties required by, and in accordance with, the Zoning Covenants and such other Common Properties deemed appropriate by it

Upon final construction or provision of the Common Properties, Declarant covenants to convey all of its right, title and interest in and to the Common Properties to the Association and all such right, title and interest in and to the Common Properties (whether owned in fee, by leasehold or in the nature of an easement or license) shall thereupon be the property of the Association, whether or not the same may be located entirely or partially on any one or more of the Lots

**Section 2. Dedication** The public streets shown on the Plat, if any, excepting the Private Driveway Easements, are hereby dedicated to the public for the use and benefit of the public

### **ARTICLE IV.**

#### **Association; Membership; Voting; Functions**

**Section 1. Membership in Association** Declarant and each Owner of a Lot shall, automatically upon becoming an Owner, be and become a member of the Association and shall remain a member until such time as his ownership of a Lot ceases, but membership shall terminate when such Owner ceases to be an Owner, and shall be transferred to the successor Owner of his Lot; provided, however, any Person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a member of the Association until and unless such person acquires fee simple title to such Lot, at which time such Person shall thereupon be and become an Owner and a member of the Association.

**Section 2. Voting Rights** The Association shall have two (2) classes of members (singularly, a "Member", and collectively, the "Members"), with the following voting rights:

- (a) **Class A Members** Class A Members shall be all Owners, with the exception of the Class B Member, and shall be entitled to one (1) vote for each Lot owned by such member with respect to each matter submitted to a vote of members upon which Class A members are entitled to vote. When more than one (1) Person constitutes the Owner of a particular Lot, all such Persons shall be Members of the Association, but all of such Persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.
- (b) **Class B Members** The Class B Member shall be the Declarant and all successors and assigns of the Declarant designated by the Declarant as the Class B Member in a written notice mailed or delivered to the resident agent of the Association. The Class B Member shall be the only Member

eligible to vote on all matters requiring a vote of the Members of the Association until the Applicable Date (as hereinafter defined). The Class B membership shall cease and terminate upon the Applicable Date which is the date seventy-five percent (75%) of the Lots have been sold by Declarant (the "Applicable Date").

Section 3. Functions. The Association has been formed for the purpose of providing for the maintenance, administration, operation and ownership of the Common Properties, to pay taxes assessed against and payable with respect to the Common Properties, to pay any other necessary expenses and costs in connection with the Common Properties and to perform such other functions as may be designated for it to perform under this Declaration.

#### ARTICLE V. Board of Directors

Section 1. Management. The business and affairs of the Association shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, including a person appointed by the Declarant as provided in Section 2 of this Article V.

Section 2. Initial Board of Directors. The initial Board of Directors shall be composed of the persons designated in Articles (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by the Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, this Declaration, the Articles, the By-Laws or the Act (a) the Initial Board shall hold office until the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reasons or cause whatsoever, prior to the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by the Declarant, who shall thereafter be deemed a member of the Initial Board. Each Person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by the Declarant to fill a vacancy shall be deemed a Member of the Association and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such Person serving on the Initial Board shall be deemed or considered a Member of the Association nor an Owner of a Lot for any other purpose (unless he/she is actually the Owner of a Lot and thereby a Member of the Association).

Section 3. Additional Qualifications. Where an Owner consists of more than one Person or is a partnership, corporation, trust or other legal entity, then, in such event, one of the Persons constituting the multiple Owner or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one Person at any time.

Section 4. Term of Office and Vacancy. Subject to the provision of Section 2 of this Article V, one-third (1/3) of the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board shall be deemed to be elected at each annual meeting of the Association. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date provided herein. After the Applicable Date, one-third (1/3) of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date one-third (1/3) of the Board of

Directors shall be elected for a three (3) year term, one-third (1/3) for a two (2) year term, and one-third (1/3) for a one (1) year term so that the terms of one-third (1/3) of the members of the Board shall expire annually. There shall be separate nominations for the office of each member of the Board to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 2 of this Article V as to the Initial Board, any vacancy or vacancies occurring on the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the Members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 5. Removal of Directors A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

Section 6. Duties of the Board of Directors The Board of Directors shall be the governing body of the Association representing all of the Owners and being responsible for the functions and duties of the Association, including but not limited to, providing for the administration of the Real Estate, the management, maintenance, and upkeep of the Common Properties (unless the same are otherwise the responsibility or duty of Owners), and the collection and disbursement of the Common Expenses. After the Applicable Date, the Board may, on behalf of the Association, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, to be reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but not be limited to:

- (a) maintenance and upkeep of the Common Properties (or items deemed Common Properties for purposes of maintenance only);
- (b) snow removal from Private Driveways, Easements and public streets dedicated to the public in the Plat;
- (c) assessment and collection from the Owners of the Owner's respective shares of the Common Expenses;
- (d) preparation of the proposed annual budget and the Assessment Schedule, copies of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
- (e) preparing and delivering annually to the Owners a full accounting for all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;

- (f) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Properties and the business and affairs of the Association, specifying and itemizing the Common Expenses; all records and vouchers shall be available at the principal office of the Association for examination by an Owner at any time during normal business hours;
- (g) procuring and maintaining for the benefit of the Association and the Board such insurance coverage as the Board, in its sole discretion, may deem necessary or advisable; and
- (h) paying taxes assessed against, and payable with respect to, the Common Properties and paying any other necessary expenses and costs in connection with the Common Properties;
- (i) making available to Owners and Mortgagees, and to holders, insurers or guarantors of any first mortgage, current copies of this Declaration, By-Laws or other rules concerning the Development and the books, records and financial statements of the Association. As used herein, "available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances;
- (j) making available to any Mortgagee or any holder, insurer or guarantor of a first mortgage, upon request, a copy of the Association's financial statements for the immediately preceding fiscal year.

Section 7. Powers and Authority of the Board of Directors The Board of Directors shall have such powers and authority as are reasonable and necessary to accomplish the performance of their duties. These powers and authority include, but shall not be limited to, the power and authority:

- (a) to employ a Managing Agent to assist the Board in performing its duties; provided that no employment agreement with the Declarant (or a corporation or other entity affiliated with the Declarant) as Managing Agent or for any other service shall be for more than three (3) years after the Applicable Date and after the Applicable Date any such agreement shall be subject to termination by either party without cause and without payment of a termination fee upon ninety (90) days prior written notice to the other party;
- (b) to purchase, lease or otherwise obtain for the Association, to enable it to perform its functions and duties, such equipment, materials labor and services as may be necessary in the judgment of the Board of Directors;
- (c) to employ legal counsel, architects, contractors, accountants and others as, in the judgment of the Board of Directors, may be necessary or desirable in connection with the business and affairs of the Association;

- (d) to employ, designate, discharge and remove such personnel as, in the judgment of the Board of Directors, may be necessary for the maintenance, upkeep, repair and replacement of the Common Properties;
- (e) to include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs from the funds of the Association as Common Expenses;
- (f) to open and maintain a bank account or accounts in the name of the Association;
- (g) to promulgate, adopt, revise, amend and alter, from time to time, such additional rules and regulations with respect to the use, occupancy, operation and enjoyment of the Real Estate and the Common Properties (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulation so adopted by the Board shall be promptly delivered to all Owners

Section 8. Limitations on Board Action The Board's powers and authority are subject to the following limitations:

- (a) After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure per contract of less than \$2,500.00 without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary:
  - i. proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and
  - ii. expenditures necessary to deal with emergency conditions in which the Board of Directors reasonable believes there is insufficient time to call a meeting of the Owners.
- (b) The Board shall not, without the prior written approval of at least sixty-seven percent (67% of the Owners (other than Declarant):
  - i. by act or omission, abandon, partition, subdivide, encumber, sell or transfer the Common Properties owned by the Association (provided, the granting of easements for public utilities or for other public purposes shall not be deemed a transfer within the meaning of this clause);
  - ii. except as specifically provided herein, change, waive or abandon any scheme or regulations, or enforcement thereof, pertaining to the architectural design of the exterior appearance of Dwelling Units, the exterior maintenance of Dwelling Units, the

- maintenance of side walls in the Common Properties or common fences, or the upkeep of lawns in the Development;
- iii use hazard insurance proceeds for losses to any of the Common Properties for other than the repair, replacement or upgrading of Common Properties

Section 9. Compensation No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense

Section 10. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless and defend each of the Directors against any and all liability to any Person, arising out of contracts made by the Board or actions taken by the Board on behalf of the Association, unless any such contract or action shall have been made or taken in bad faith. It is intended that the Directors shall have no personal liability with respect to any contracts made or actions taken by them on behalf of the Association

Section 11. Additional Indemnity of Directors The Association shall indemnify, hold harmless and defend any Person, his heirs, assigns and legal representatives, made a party to any action suit or proceeding by reason of the fact that he is or was a Director of the Association, against the reasonable expenses, including attorneys' fees, actually or necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Association shall also reimburse to any such Director the reasonable costs of settlement or judgment rendered in any action, suit or proceeding if it shall be found by a majority vote of the Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for gross negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a director be deemed guilty of or liable for gross negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 12. Bond. The Board of Directors shall obtain fidelity insurance covering the Managing Agent (if any), the treasurer of the Association, and such other officers as the Board deems necessary to cover the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication and other acts of fraud or dishonesty, in such sums as may be determined by the Board of Directors, and any such coverage shall specifically include protections for any insurance proceeds received for any reason by the

Board. The expense of any such bonds shall be a Common Expense. The amount of the bonds shall be based upon the judgment of the board of Directors and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or its Managing Agent at any time during the term of the bond. In no event shall the aggregate amount of such bonds be less than a sum equal to three (3) months aggregate assessments on all Lots, plus reserve funds.

Section 13. Initial Management The Initial Board may enter into a management agreement with the Declarant (or a corporation or other entity or entities designated by the Declarant) for a term or terms as determined by the mutual agreement of the Initial Board and the Declarant, under which the Declarant (or such designated corporation, entity or entities) will provide supervision, fiscal and general management and maintenance of the Common Properties and, in general, perform all of the duties and obligations of the Association. Such management agreement is or will be subject to termination by the Declarant (or its designee) at any time prior to the expiration of its term, in which event the Association shall thereupon and thereafter resume performance of all of its duties, obligations and functions. Notwithstanding anything to the contrary contained in this Declaration, so long as such management agreement remains in effect, the Declarant (or its designee) shall have, and the Declarant hereby reserves to itself (or to its affiliate, as appropriate), the exclusive right to manage the Real Estate and Common Properties and to perform all the functions of the Association.

#### ARTICLE VI. Maintenance, Repairs and Replacements

Section 1. By Owners Except as provided in Section 2(b) of this Article, or any sub-declaration for a specific area of the Development, each Owner shall, at his own expense, be responsible for, and shall promptly perform as the need therefore arises, all maintenance, repairs, decoration and replacement of his own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot. Each Owner shall promptly perform all maintenance and repairs of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling Unit or any part of the Common Properties.

#### Section 2. Common Properties Laws by the Association

- (a) Maintenance, repairs and upkeep of the Common Properties shall be furnished by the Association, as part of its duties, and the cost thereof shall constitute a part of the Common Expenses.
- (b) The Association, as part of its duties, and as part of the Common Expenses, shall provide for:
  - (i) Snow removal for the public streets; and

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Properties (or items deemed Common Properties for purposes of maintenance only as it deems necessary.



- (c) Notwithstanding any obligation or duty of the Association to maintain any of the Common Properties (or items deemed Common Properties for purposes of maintenance only), if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Properties (or items deemed as such for purposes of maintenance only) or if maintenance, repairs or replacements shall be required thereby and the cost thereof would otherwise be a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, in such amounts as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of the foregoing shall be added to and become a part of the assessment to which such Owner's Lot is subject.
- (d) The Authorized representatives of the Association, the Board and the Managing Agent for the Association (if any) shall be entitled to reasonable access to any Lot as may be required in connection with maintenance only, or repairs of or to the Commons Properties and items deemed as Common Properties for purposes of maintenance only, including, but not limited to, access of any easements reserved by the Plat of any portion of the Real Estate for such purposes.

**ARTICLE VII.**  
**Real Estate Taxes; Utilities**

**Section 1. Real Estate Taxes** Real estate taxes on each Lot, and on any Dwelling Unit or other improvements on each Lot, are to be separately assessed and taxed to each Lot and shall be paid by the Owner of such Lot. Any real estate taxes or other assessments against the Common Properties shall be paid by the Association and treated as a Common Expense.

**Section 2. Utilities** Each Owner shall pay for his or her own utilities which shall be separately metered to each Lot and Dwelling Unit.

**ARTICLE VIII.**  
**Architectural Control**

**Section 1. The Architectural Review Board** As a standing committee of the Association, there shall be, and hereby is, established an architectural review board consisting of three (3) or more Persons as may, from time to time, be provided in the By-Laws (the "Architectural Review Board"). Until the Applicable Date, the Declarant shall appoint the members of the Architectural Review Board. After the Applicable Date, the Architectural Review Board shall be appointed by the Board of Directors.

**Section 2. Purposes** The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Real Estate and of improvements

located thereon in such manner as to reserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography.

Section 3. Conditions No improvements, alterations, repairs, change of colors, excavations, changes in grade or other work which in any way alters the exterior of any Lot, Dwelling Unit or other improvements located on any Lot from its natural or improved state existing on the date such Lot and Dwelling Unit was first conveyed in fee by the Declarant to an Owner, shall be made or done without the prior approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. No building, fence, wall, Dwelling Unit, or other structure shall be commenced, erected, maintained, improved, altered, made or done on any Lot by a Lot Owner without the prior written approval of the Architectural Review Board; provided this restriction shall not be applicable to the original construction of a Dwelling Unit on a Lot whether such construction occurs before or after the Applicable Date.

Section 4. Procedures In the event the Architectural Review Board fails to approve, modify or disapprove in writing a written application within (60) days after its receipt of such application (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt) have been given to it, approval shall be deemed granted by the Architectural Review Board. A decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a two thirds (2/3) vote of the Directors then serving. The Architectural Review board may establish committees consisting of two (2) or more of its members to perform any of its functions which committees shall exercise such powers of the Board as may be delegated to them.

#### ARTICLE IX. Assessments

Section 1. Annual Accounting Annually, after the close of each fiscal year of the Association and prior to the date of the annual meeting of the Association next following the end of such fiscal year, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by an accountant or firm of accountants engaged by the Association, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 2. Proposed Annual Budget and Assessment Schedule Annually, on or before the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget and assessment schedule setting forth the percentage of expenses to be allocated to each of the Lots (the "Assessment Schedule") for the current fiscal year and shall furnish copies of such proposed budget and Assessment Schedule to each Owner prior to or with the notice to Owners of such annual meeting. The annual budget and Assessment Schedule shall be submitted to the Owners at the annual meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the current fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners; however, in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. At the annual meeting of the Owners, the proposed Assessment Schedule must be approved in whole by a majority vote of the Owners. If such

approval is not obtained. Regular Assessments and any Special Assessments shall be allocated based upon the most recently approved. The annual budget, the Regular Assessments and all other sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Properties which replacement reserve fund shall be used for such purposes and not for usual and ordinary repair expenses of the Common Properties. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Properties shall be maintained by the Association in an interest bearing account with one or more banks or savings and loan associations authorized to conduct business in Marion County, Indiana and insured by a Federal depository agency as selected from time to time by the Board. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the assessments herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Association, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

Section 3. Regular Assessments The annual budget as adopted by the Owners shall, based on the estimated cash requirements for the Common Expenses in the current fiscal year as set forth in such budget and contain a proposed assessment against each Lot. The preceding notwithstanding, all Owners of Condominium Units (as that term is defined in the Ladywood Horizontal Property Regime Declarations) shall not be required to pay for private streets outside of the Ladywood Horizontal Property Regime, and Common Expenses for private streets outside of the Ladywood Horizontal Property Regime shall be assessed only against the Owners abutting such street.

Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget for such year by the Owners, to reflect the assessment against each Lot for the entire year, based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, as hereinabove provided. The Regular Assessment against each Lot shall be paid in advance annually; provided, however, Declarant is authorized to collect an amount equal to the prorated annual assessment due for the period from closing until January 1<sup>st</sup> of the next year. Payment of the annual installment of the Regular Assessment shall be made to the Board of Directors of the Managing Agent, as directed by the Board of Directors. At the election and option of the Board, the Regular Assessment may be required to be paid by the Owners in advance in equal quarterly or semi-annual installments rather than an annual installment. In the event the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget

- (a) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the

temporary budget, such excess shall be paid within thirty (30) days of the issuance of written notice to Owners of such excess

- (b) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be made by a cash payment or refund to the Owners who have previously paid such Regular Assessments on or before the fifteenth (15<sup>th</sup>) day of the second (2<sup>nd</sup>) full month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners

The Regular Assessment for the current fiscal year of the Association shall become a lien on each separate Lot and Dwelling Unit as of the first day of each fiscal year of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by such date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot and Dwelling Unit or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot and Dwelling Unit from payment of the Regular Assessment for such Lot and Dwelling Unit from payment of the Regular Assessment for such Lot and Dwelling Unit as finally determined, and such Owner and his successor as Owner of such Lot and Dwelling Unit shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Association prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all Persons to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Semi-annual or quarterly (if so determined by the Board) installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statements to Owners for the same.

Section 4. Special Assessments From time to time, Common Expenses of an unusual, extraordinary or capital nature not included in the budget or not otherwise anticipated may arise. At such time, unless otherwise provided in this Declaration, the Articles, the By-Laws or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot and Dwelling Unit, prorated based upon the percentages assigned to each Lot pursuant to the Assessment Schedule (herein called "Special Assessment"); provided, that any such assessment shall have the consent of fifty-one percent (51%) of the votes of Members who are voting in person or by proxy at a meeting duly called for such purpose. Without limiting the generality of the foregoing, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repairs or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefore under the circumstances described in this Declaration.

Section 5. Failure of Owner to Pay Assessments

- (a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expense of administration and of maintenance and repair of the Common Properties and items deemed Common Properties for purposes of maintenance only, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Properties or by abandonment of the Lot owned by him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one Person, the liability of such Persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessment or Special Assessment when due, the lien for such assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board for and on behalf of the Association as a mortgage on real property or as otherwise provided by law. Upon the failure of an Owner to make timely payments of any Regular Assessment or Special Assessment, when due, the Board may in its discretion, accelerate the entire balance of the unpaid assessments and declare the same immediately due and payable, notwithstanding any other provision hereof to the contrary. In any action to foreclose the lien for any assessments provided for in this Declaration, the Owner and any occupant of the Lot and Dwelling Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot and Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits there from for the benefit of the Association to be applied to the unpaid Regular Assessments and/or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment, without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment and/or Special Assessment whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit costs and expense of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such assessments were due, until paid, at a rate per annum equal to the "prime or base interest rate" then being charged by National City Bank, Indianapolis, Indiana to its largest and best corporate customers (or if such Bank is no longer in existence, then such rate charged by another national bank in Marion County, Indiana, as designated by the Board) plus two percent (2.0%).
- (b) The lien of the assessments provided for herein shall be subordinate to the lien of the first mortgage on any Lot or Dwelling Unit. Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles or By-Laws, any sale or transfer of a Lot and Dwelling Unit to a Mortgagee pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or a conveyance to any Person at a public sale in the manner

provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any regular Assessment or Special Assessment as to such installments which become due prior to such sale, transfer or conveyance; provided, however, the extinguishment of such lien shall not relieve the prior Owner from personal liability therefore. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments thereafter becoming due or from the lien thereof. Such unpaid share of any Regular Assessments or Special Assessments the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot and Dwelling Unit from which such unpaid share arose)

Section 6. Initial Budgets and Assessments Notwithstanding anything to the contrary contained herein, in the Articles, in the By-Laws, in the Act or otherwise, until the Applicable Date the annual budget, Assessment Schedule and all Regular Assessments and Special Assessments shall be established by the Initial Board without meetings of or concurrence by the Owners. An initial fee of Two Hundred Fifty Dollars and No/100 (\$250.00) shall be assessed to each single family dwelling which shall be prorated depending on time of closing for that year. In addition, a one (1) time capital assessment fee of Five Hundred Dollars and No/100 (\$500.00) per Lot shall be paid to the Association upon the sale of a Lot by Declarant to a third-party Owner. This capital assessment fee shall not be prorated.

All Regular Assessments shall be determined for each year by the Initial Board, in its sole discretion, based upon the estimated cash requirements for the Common Expenses for such year.

Notwithstanding the foregoing or anything else contained herein, until the Applicable Date, the Declarant, or any builder or developer having title to a Lot, shall not be required to pay any Regular or Special Assessments.

#### ARTICLE X, Mortgages

Section 1. Notice to Association Any Owner, who places a first mortgage lien upon his Lot or Dwelling Unit, or the Mortgagee, shall notify the Secretary of the Association of such lien and provide the name and address of the Mortgagee. A record of such Mortgagee's name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the term of this Declaration, the By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown on such record in the time provided. Unless notification of any such mortgage lien and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required and no Mortgagee shall be entitled by virtue of this Declaration, the By-Laws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Association shall, upon request of a Mortgagee who has furnished the Association with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower Owner of any obligations of such borrower Owner under this Declaration or the By-Laws which is not cured within sixty (60) days.

Section 2. Notice of Certain Actions or Conditions. The Association shall, upon request of a Mortgagee who has furnished the Association with its name and address as hereinabove provided, furnish such Mortgagee with written notice of:

- i any condemnation loss or any casualty loss which affects a material portion of the Development or any Dwelling Unit on which there is a first mortgage;
- ii any default in the performance by its borrower Owner of any obligations of such borrower Owner under this Declaration or the By-Laws which is not cured within sixty (60) days;
- iii any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and
- iv any proposed action which would require the consent or approval of Mortgagees.

Section 3. Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot and Dwelling Unit, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot and Dwelling Unit, which statement shall be binding upon the Association and the Owners, and any Mortgagee or purchaser of the Lot and Dwelling Unit shall not be liable for nor shall the Lot and Dwelling Unit conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to herein.

Section 4. Unpaid Taxes and Insurance. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which have or may become a lien against any Common Properties (excluding items deemed Common Properties for maintenance only) for any Common Expenses (excluding items deemed Common Properties for maintenance only), and the Mortgagees making such payments shall be entitled to immediate reimbursement therefore by the Association.

## ARTICLE XI. Insurance

Section 1. Public Liability Insurance. The Association shall also purchase a comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover all of the Common Properties and shall insure the Association, the

Board of Directors, or any committee of the Association or Board, any Managing Agent appointed or employed by the Association, all persons acting or who may act as agents or employees of any of the foregoing with respect to the Real Estate or the Development. Such public liability insurance policy shall contain "severability of interest" clauses or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners.

Section 2. Casualty Insurance

- (a) The Association shall purchase a casualty insurance policy with an "agreed amount and inflation guard endorsement" or its equivalent affording first and extended coverage insuring all Common Properties owned by the Association, including, but not limited to, utilities and recreational equipment in an amount equal to the full replacement value of the improvements. If the Board of Directors can obtain such coverage for reasonable amounts, it shall also obtain "all risk" coverage for the Common Properties. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The costs of any such appraisal shall be a Common Expense of all Owners. Such insurance coverage shall be for the benefit of each Owner and, if applicable, the Mortgagee of each Owner.
- (b) The sole duty of the Board in connection with any insurance proceeds shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners. The proceeds shall be used or disbursed by the Association or the Board, as appropriate, only in accordance with the provisions of this Declaration. Such casualty insurance policies and "all risk" coverage's, except flood and earthquake coverage's, if obtained, shall (to the extent that same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, the Owners, their Directors, its agents and employees, the Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further to the extent obtainable upon reasonable terms (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Association does not elect to restore.

Section 3. Other Insurance The Association shall also obtain any other insurance required by law to be maintained, including, but not limited to, worker's compensation and occupational disease insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate, including, but not limited to, liability



insurance on vehicles owned or leased by the Association and officers' and directors' liability policies. Such insurance shall inure to the benefit of each Owner, the Association, the Board of Directors and any Managing Agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Association.

Section 4. General Provisions. The premiums for all insurance hereinabove described shall be paid by the Association as part of the Common Expenses. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner and Mortgagee whose interest may be affected thereby, which notice shall be promptly furnished to each Owner and Mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association. All policies shall also contain an endorsement to the effect that such policy shall not be terminated for non-payment of premiums without at least thirty (30) days prior written notice to the Owner and Mortgagee of each Lot and Dwelling Unit.

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a Mortgagee endorsement on the certificate of insurance or insurance policy or the Board has notice of a Mortgagee as it applies to such Owner's share of such proceeds. In such event, any remittances shall be to the Owner and his Mortgagee jointly. The same restriction on distribution shall apply to the distribution of any condemnation awards in connection with any taking of any of the Common Properties. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds in excess of amounts needed to repair damage or pay off any first mortgage or any condemnation awards by made by the Association to any Owners or Mortgagees if to do so would be in violation of the Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Association; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Association for use in the payment of its expenses of operation.

Section 5. Insurance by Owners. Each Owner shall be solely responsible for and may obtain such insurance as he deems necessary or desirable, at his own expense, affording coverage for additional living expenses, coverage on his personal property, the contents of his Dwelling Unit, his personal property stored anywhere on the Real Estate, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association.

## **ARTICLE XII.**

### **Casualty and Restoration; Condemnation; Termination**

Section 1. Casualty and Restoration. In the event of damage to or destruction of the structure or exterior of any of the Common Properties due to fire or any other casualty or disaster, the Association shall promptly cause the same to be repaired and reconstructed. The

proceeds of insurance carried by the Association, if any, shall be applied to the cost of such repair and reconstruction

If the insurance proceeds, if any, received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds the cost for restoring the damage and repairing and reconstructing any Common Properties (excluding items deemed Common Properties for Maintenance only) so damaged or destroyed (or the cost thereof in excess of insurance proceeds received, if any) shall be assessed by the Association against all of the Owners in equal shares as a Special Assessment as part of the Common Expenses as a Special Assessment and shall constitute a lien from the time of assessment as provided herein

Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Association has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary.

Encroachments upon any Lot which may be created as a result of such reconstruction of repair of any Common Properties shall not constitute a claim or basis of a proceeding or action for the Owner upon whose Lot such encroachment exists.

Section 2. Total or Partial Condemnation In the event of the condemnation of all or any part of the Common Properties, Board is hereby authorized to negotiate with the condemning authority and/or to contest an award made for the appropriation of such Common Properties.

### ARTICLE XIII. Specific Restrictions

Section 1. Specific Restrictions The following are specific restrictions that are binding upon the Architectural Review Board, run with the Real Estate and may not be amended except by appropriate amendment of these Declarations. It is the intent of these Declarations to specifically restrict the Development as follows:

- (a) Land Use. All Lots shall be used for residential purposes unless designated for other use on the Plat. No temporary or mobile-living facility shall be used on any Lot at any time.
- (b) Subdividing Lots. No Lot or Lots shall be re-subdivided by the Owner.
- (c) Water and Sewage System. No individual water supply system or sewage system shall be permitted on any Lot. The water and sewage disposal systems constructed by the Developer, the Association or the City of Indianapolis, Indiana shall be the only means of water supply and sewage disposal.

Section 2. Use of Development Property

(a) Protective Covenants

- i. Nuisances No noxious or offensive trade or activity shall be conducted upon any Lot nor shall anything be done thereon which may become a nuisance or annoyance to the neighborhood or the Owner of a Lot. No commercial business, trade or activity of any commercial nature shall be carried on upon a residential Lot in the Development. No junk or disabled motor vehicles, whether licensed or unlicensed, shall be kept upon any Lot in the Development for a period exceeding fifteen (15) days. The keeping of poultry, cows, hogs, goats, horses or livestock of any nature is strictly prohibited. Dogs shall be kept under the control of Owners at all times, by leash, pens or other means and shall not be permitted to wander through the Development. No Lot shall be used for the storage of any property or thing that will cause such Lot to appear unclean or untidy or that will be obnoxious to the eye nor shall any substance, thing or material be kept upon any Lot that will emit fire or obnoxious odors or that will cause any noise which might disturb the peace, quiet, comfort or serenity of the Owners. There shall be no discharge of any firearms and there shall be no hunting with firearms or bows and arrows or otherwise upon any part of the Development.
- ii. Garbage and Refuse Disposal No Lot shall be used or maintained as a dumping ground for rubbish, nor may garbage or rubbish be buried on such Lots. Rubbish, garbage and other waste shall be kept in sanitary containers concealed from the streets, parks and fairways and in such manner as to avoid an unsightly appearance until removed from the premises by a garbage and rubbish removal service or the Owner. All equipment for the storage or disposal of garbage and rubbish shall be kept in a clean and sanitary condition at all times. Burning of trash, leaves or other refuse is prohibited.
- iii. Vacant Lots Owners of vacant Lots shall be required to maintain, at the Owner's expense, their Lots in a clean, neat, sanitary, attractive and uncluttered manner. Weeds shall be cut as necessary to preserve a clean appearance. If the Owner fails or refuses to maintain said Lot, the Association shall have the right to enter upon such Lot and perform such work as necessary, charging the Lot Owner any cost of such maintenance.
- iv. Signs Each Lot may display a marker containing only the resident's name and the Owner's name and address. No signs advertising products, services, professions, facilities or real estate shall be displayed on any Lot at any time. No sign shall exceed five (5) square feet unless approved by the Architectural Review Board.

- v. Other Restrictions. In addition to the provisions of this Article, the Board of Directors may adopt general rules and regulations to implement the purposes set forth in this Declaration, including but not limited to, rules to regulate animals, antennas, signs, fences, walls and screens, mailboxes, storage tanks, awnings, storage and use of recreational vehicles, storage and use of machinery, use of outdoor drying lines, trash containers, and planting, maintenance and removal of vegetation in the Development. The Board of Directors may adopt general rules and regulations appropriate to each Lot, which rules and regulations may vary among Lots. Such general rules may be amended by a two-thirds (2/3) vote of the Board of Directors.
  - vi. Exceptions. The Board of Directors may authorize exceptions to or variances from the general rules and regulations adopted pursuant to subsection (v) if the Board of Directors can show good cause and acts in accordance with adopted guidelines and procedures.
- (b) Maintenance of Lot. Each Owner shall keep all Lots owned by him, and all improvements thereon or thereon, in good order and repair and free of debris including, without limitation, the seeding, watering, and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management as determined by the Architectural Review Board or Board of Directors. In the event an Owner of any Lot in the Development shall fail to maintain the premises and the improvements situated on a Lot, as provided herein, the Association, after notice to the Owner as provided by the By-Laws and approval by two-thirds (2/3) vote of the Board of Directors, shall have the right to enter upon said Lot to correct drainage and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. All costs related to such correction, repair or restoration shall become a Special Assessment upon such Lot.

Section 3. Easements. All easements mentioned herein include the right of reasonable ingress and egress for the exercise of other rights reserved. No structure, including fences, shall be built on any sewer or utility easement, if such structure would interfere with the utilization of such easement for the purpose intended or violate any applicable legal requirement or the terms and conditions of any easement specifically granted to a Person who is not an Owner by an instrument recorded in the Office of the Recorder of Marion County, Indiana.

Section 4. Enforcement. The Association, or any Owner, shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, but neither Developer nor the Association shall be liable for damage of any kind to any Person for failure either to abide by, enforce or carry out any of the Restrictions. In addition, the Board of Directors shall

have the discretion to establish and amend fines for infractions of the requirements set forth in this Declaration. No delay or failure by any Person to enforce any of the Restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that Person of the right to do so thereafter, or an estoppel of that Person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the Restrictions. In any action to enforce this Declaration, the Person seeking enforcement shall be entitled to recover all costs of enforcement, including attorneys' fees, if it substantially prevails in such action.

Section 5. Interpretation. The underlined titles preceding the various paragraphs and subparagraphs of this Declaration are for convenience of reference only, and none of them shall be used as an aid to the construction of any provision of this Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

Section 6. Duration. The foregoing covenants and restrictions are for the mutual benefit and protection of the present and future Owners and the Association, and shall run with the land and shall be binding on all parties and all Persons claiming under them until January 1, 2025, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by majority vote of those Persons who are then the Owners of Lots in the Development; provided, however, the lapse or amendment of the terms and conditions of this Declaration shall not in any manner affect or amend the terms of the Declaration for the Ladywood Gardens Horizontal Property Regime, which terms and conditions shall not be affected by such lapse or amendment, but instead shall continue unaffected.

Section 7. Severability. All provisions and restrictions in this Declaration are hereby declared to be independent of, and severable from, the rest of the provisions and restrictions and of and from every other one of the provisions and restrictions, and of and from every combination of the provisions and restrictions. Therefore, if any of the provisions and restrictions herein shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the provisions and restrictions.

Section 8. Amendment by Declarant Only. Notwithstanding any other provision of this Declaration, the Declarant shall have the right acting alone and without the consent or approval of the Owners, the Association, the Board of Directors, any Mortgagees or any other persons, to amend or supplement this Declaration or other documents from time to time if (i) such amendment or supplement is made to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities; (ii) to induce any such agencies or entities to make, purchase, sell, insure or guarantee first mortgages; or (iii) if such amendment or supplement is made to correct clerical or typographical errors. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make or consent to any amendments described in this Section 8 on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage or other instrument affecting a Dwelling Unit and

acceptance thereof shall be deemed to be grant and acknowledgment of, and a consent to the reservation of, the power of the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section 8 shall terminate at such time as Declarant no longer holds or controls title to any part or portion of the Real Estate

IN WITNESS WHEREOF, OAKFIELD DEVELOPMENT II, LLC, an Indiana limited liability company, has caused this Declaration to be executed as of the date first written above

OAKFIELD DEVELOPMENT II, LLC  
An Indiana limited liability company

By: [Signature]  
Ryan G. Thomas, Member

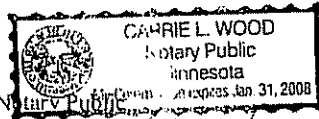
STATE OF INDIANA )  
COUNTY OF HAMILTON ) SS

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Ryan G. Thomas, a Member of Oakfield Development II, LLC, an Indiana limited liability company, and having been duly sworn, acknowledged execution of this Declaration of Covenants, Conditions and Restrictions of the Ladywood Bluff Subdivision

Witness my hand and Notarial Seal this 22 day of Nov,  
2005

My Commission Expires:  
1/31/08

Residing in Crown Point County



Printed Name  
Carrie L. Wood

11/22/05  
J.A.