

DECLARATION OF
HORIZONTAL PROPERTY OWNERSHIP
LAKE FOREST II
HORIZONTAL PROPERTY REGIME

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Henry G. ...

THIS DECLARATION, made this 2nd day of June,
1980, by LAKE FOREST II DEVELOPMENT CORP., an Indiana
corporation (the "Declarant"),

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner of the fee simple title to
the following described real estate located in Marion County,
Indiana, to-wit:

All that real estate described in Exhibit "A",
attached hereto and incorporated herein.

(hereinafter referred to as "Phase I").

B. Declarant, by execution of this Declaration or
Amendments of Declaration, creates a Horizontal Property Regime
upon the Tract, subject to the provisions of the Horizontal
Property Law of the State of Indiana and the terms and
conditions of this Declaration.

NOW, THEREFORE, Declarant hereby makes this Declaration as
follows:

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

- (a) "Law" means the Horizontal Property Law of the
State of Indiana, Indiana Code §32-1-6-1, et.
seq., as amended. The Law is incorporated herein
by reference.
- (b) "Additional Tract" means the real estate
described in paragraph 16, which may in part or
in whole from time to time be annexed to and
included within Lake Forest II as provided in
paragraph 16.
- (c) "Association" means the unincorporated
association of Co-owners of Lake Forest II, more
particularly described in paragraph 13.
- (d) "Board of Managers" means the governing body of
the Association elected by the Co-owners 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 Law.
- (e) "Building" means one of the structures on the
Tract in which Condominium Units are located.
The Buildings are more particularly described and
identified in the Plans and in paragraph 3 of
this Declaration.

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- (f) "By-laws" means the By-laws of the Association providing for the administration and management of the Property as required by and in conformity with the provisions of the Law. A true copy of the By-laws is attached to this Declaration and incorporated herein by reference.
- (g) "Common Areas" means the common areas and facilities appurtenant to the Property as defined in paragraph 6 of this Declaration.
- (h) "Common Expenses" means expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas and Limited Areas, except as otherwise expressly provided in this Declaration or the By-laws, expenses agreed upon as common expenses of the Association, and all sums lawfully assessed against the Co-owners by the Association or as declared by the Law, this Declaration or the By-laws.
- (i) "Co-owner" or "Co-owners" means the person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof which owns a Condominium Unit in fee simple and an undivided interest in the Common Areas in the percentage specified and established in this Declaration, as it may from time to time be amended.
- (j) "Condominium Unit" means one of the individual apartment units constituting Lake Forest II, each individual apartment unit being more particularly described and identified on the Plans and in paragraphs 4 and 5 of this Declaration.
- (k) "Formula" means the method set forth in paragraph 16 of this Declaration for computing the adjustment to be made to the Percentage Interest appertaining to each Condominium Unit as each Phase is annexed to Lake Forest II.
- (l) "Garage and Storage Areas" shall mean the garage, storage, attic and closet areas intended and designed to serve and be used exclusively by the Co-owner of a particular Condominium Unit as shown and designated on the Plans.
- (m) "Lake Forest II" means the name by which the Property and Horizontal Property Regime shall be known for purposes of this Declaration and the By-Laws. Declarant reserves the right to use the name and style "Lake Forest Estates" to identify Lake Forest II in its dealings with the public.
- (n) "Limited Areas" means the limited common areas and facilities as defined in paragraph 7 of this Declaration.
- (o) "Mortgagee" means the holder of a first mortgage lien on a Condominium Unit.
- (p) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the Common Areas and Limited Areas appertaining to each Condominium Unit as determined in accordance with paragraphs 8 and 16 of this Declaration.

- (q) "Percentage Vote" means that percentage of the total vote accruing to all of the Condominium Units which is appurtenant to each particular Condominium Unit and accrues to the Co-owner thereof. The Percentage Vote to which each Co-owner shall be entitled on any matter upon which the Co-owners are entitled to vote shall be the same percentage as the Percentage Interest appurtenant to such Co-owner's Condominium Unit.
- (r) "Phase" means a part of the Tract upon which Condominium Units are constructed and annexed to Lake Forest II as provided in paragraph 16. Each particular Phase shall be identified by a Roman numeral designation corresponding to the chronological order of annexation.
- (s) "Plans" means the floor and building plans of the Building and Condominium Units in Phase I prepared by Okey Associates, Inc., Architects, under date of _____, and a site plan, survey and elevation of the Tract and Buildings prepared by Mid-States Engineering Co., Inc., certified by Sol C. Miller, a registered land surveyor and engineer, under date of _____, all of which is incorporated herein by reference. "Plans" also shall include the Supplemental Plans which shall be prepared, verified and filed with each Amendment of Declaration, depicting the layout, elevation, location, building numbers and Condominium Unit numbers, and dimensions of the Condominium Unit for the Condominium Units which are constructed on the Phases of the Additional Tract when and if annexed to and made a part of Lake Forest II.
- (t) "Property" means the Tract and appurtenant easements, the Condominium Units, the Buildings, improvements, and property of every kind and nature whatsoever, real, personal and mixed, and all replacements thereof, now or hereafter located upon the Tract and used in connection with the operation, use and enjoyment of Lake Forest II.
- (u) "Square Footage" or "Square Feet" means the square footage or square feet applicable to a particular Condominium Unit as determined in accordance with the Formula contained in paragraph 16. The Square Footage for each Condominium Unit in Phase I is shown on Exhibit "B" attached hereto and the Square Footage for each Condominium Unit in subsequent Phases shall be designated by Declarant upon filing of the appropriate Supplemental Plans and Amendments of Declaration and shall for all purposes remain as so designated even though actual measurement may reveal some deviation.
- (w) "Tract" means the real estate described in Exhibit "A" and referred to as Phase I in paragraph A above, together with the particular Phases of the Additional Tract when and if annexed to Lake Forest II.

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2. Declaration. Declarant hereby expressly declares that the Property shall be a Horizontal Property Regime in accordance with the provisions of the Law.

3. Description of Buildings. There are two (2) Buildings containing a total of nine (9) Condominium Units in Phase I as shown on the Plans. The Buildings are both one-story in height and are identified and referred to in the Plans and in this Declaration as Buildings XVI and XIX. Building XVI contains five (5) Condominium Units and Building XIX contains four (4) Condominium Units. The Buildings in the Additional Tract, or Phases thereof, if annexed, shall be identified numerically, the exact number of Buildings and Condominium Units to be identified and referred to in the Supplemental Plans and Amendment of Declaration annexing such Phase or Phases to Lake Forest II.

4. Identification of Condominium Unit. Each Condominium Unit is identified by an arabic number on the Plans.

The legal description for each Condominium Unit shall be in the following form:

"Unit _____ in Lake Forest II Horizontal Property Regime as recorded June 2, 1980, as Instrument #80-32844 in the Office of the Recorder of Marion County, Indiana,"

as amended by later Amendments of Declaration, if any.

5. 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 located within such boundaries and designated and intended solely and exclusively for the enjoyment, use and benefit of the Condominium Unit wherein the same are located, but excluding therefrom that which is 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. The exterior surface of all doors and 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 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 measured between the upper surface of the floor joist or slabs to which the sub-floor is attached, the lower surface of the ceiling joists, the interior surface of the wall studs in the perimeter walls to which the finished walls of each Condominium Unit are attached, and the exterior surface of all exterior windows. In the case of town house Condominium Units or Condominium Units

constituted of two or more stories, the vertical boundaries shall run from the upper surface of the lowest floor joist or slab to the lower surface of the highest ceiling joist and, except as otherwise provided in paragraph 5(a), shall include the ceilings and floors in between. In the event any horizontal or vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling of the Condominium Unit because of inexactness of construction, setting after construction, or for any other reason, the boundary lines of each Condominium Unit shall be deemed to be and treated for purposes of occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Co-owner of each Condominium Unit in and to such space lying outside of the actual boundary line of the Condominium Unit, but within the appropriate wall, floor or ceiling of the Condominium Unit.

6. Common Area and Facilities. Common Area means and includes (1) the Tract, (2) the foundations, columns, girders, beams, supports and roofs of the Buildings, (3) the yards, gardens, sidewalks and driveways except for such portions thereof as are designed to serve particular individual Condominium Units and delineated as such on the Plans, (4) central electricity, gas, water, and sanitary fixtures and serving the Buildings, (5) exterior lighting fixtures and electrical service lighting the exterior of the Buildings except where separately metered to a particular Condominium Unit, (6) pipes, ducts, electrical wiring and conductors, public utility lines and central television antenna wiring, (7) floors, ceilings and perimeter walls, except that portion within the boundaries of a Condominium Unit and except interior walls of all Condominium Units, (8) all facilities and appurtenances located outside of the boundary lines of the Condominium Units, except those areas and facilities expressly defined as Limited Areas.

7. Limited Common Areas and Facilities. Limited Areas and those Condominium Units to which use thereof is limited are as follows:

(a) Garage and Storage Area Spaces. The interiors of the Garage and Storage Areas shall be limited to the exclusive use of a particular Condominium Unit as designated on the Plans. The exclusive use of such Garage and Storage Areas shall pass with title to the Condominium Unit for which such Area is designated, even though not expressly mentioned in the document passing title. The Garage and Storage Areas and use thereof shall be subject to such rules and regulations as the Board of Managers may deem appropriate and adopt. A Co-owner may grant a license to any other Co-owner to use all or part of his Garage Area, provided such license shall expire when the Co-owner granting the license ceases to be a Co-owner of the Condominium Unit for which the Garage Area is designated. Any such license agreement shall be in writing and an executed copy thereof shall be furnished to the Board of Managers and the licensees shall be bound by and subject to all the obligations of the Co-owner with respect to such Garage Area; provided, however, that the Co-owner granting such license shall not be relieved thereby from any of his obligations regarding such Garage Area.

- (b) Porches and Entranceways. The porches and entranceways through which access to a Condominium Unit is obtained are limited to the use of the Condominium Unit served by such entranceway and/or porch, as designated on the Plans.
- (c) Patios and Balconies. The patios, balconies, courtyards and decorative walls and fences are limited to the use of the Condominium Unit or Condominium Units to which they are appurtenant as designated on the Plans.
- (e) Driveways. The driveways, walkways and similar areas used for access to particular individual Condominium Units or the garage serving such Condominium Units are limited to the use of the Condominium Units so served.
- (f) Facilities. The heating, air-conditioning, electrical, mechanical and other facilities, except sewer lines, which lie outside the Condominium Unit but which serve no other Condominium Units in Lake Forest II, as measured from and including the respective utility meters to the Condominium Units, if applicable.

8. Ownership of Common Areas and Percentage Interest. Each Co-owner shall have an undivided interest in the Common Areas and Limited Areas as tenants in common with all other Co-owners equal to his Condominium Unit's Percentage Interest. Each Condominium Unit's Percentage Interest in the Common Areas and Limited Areas shall be determined in accordance with the Formula set forth in paragraph 16 of this Declaration.

If Lake Forest II consists only of Phase I, each Condominium Unit's Percentage Interest shall be as set forth in Exhibit "B". If any Phase of the Additional Tract is annexed to Lake Forest II, as permitted and contemplated by paragraph 16 of this Declaration, upon execution and recording of the applicable Supplemental Plans and Amendment of Declaration, the Percentage Interest of each Condominium Unit in the Phase or Phases which are a part of Lake Forest II prior to such annexation will automatically be reallocated in accordance with such Amendment of Declaration. The method of determining the Percentage Interest as set forth in this paragraph 8 and paragraph 16 shall not be altered without the unanimous consent of all the Co-owners.

The Percentage Interest appertaining to each Condominium Unit as determined by paragraph 16 also shall be the Percentage Vote allocable to the Co-owner thereof in all matters with respect to Lake Forest II and the Association upon which the Co-owners are entitled to vote, including but not limited to the election of the Board of Managers.

9. Encroachments and Easements for Common Areas. 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 Co-owners and the Association for the maintenance, use and enjoyment of such Common Area or Limited Area.

Each Co-owner shall have an easement in common with each other Co-owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in any of the other Condominium Units, Common Areas or Limited Common Areas and serving his Condominium Unit.

10. Real Property Taxes. Real property taxes are to be separately taxed to each Condominium Unit as provided in the Law. In the event that for any year real property taxes are not separately assessed and taxed to each Condominium Unit, but are assessed and taxed on the Tract and Additional Tract, or a part thereof, as a whole, then each Co-owner shall pay his proportionate share of the real property taxes. Each Co-owner's proportionate share will be determined as follows:

- (a) With respect to the real property taxes assessed against the land, the amount of such taxes shall be multiplied by a fraction, the numerator of which is the total acreage constituting Lake Forest II not separately assessed and the denominator of which is the total acreage which is assessed as a whole.
- (b) With respect to the real property taxes assessed against the improvements, the amount of such taxes shall be multiplied by a fraction, the numerator of which is the total Square Footage of all Condominium Units which are a part of Lake Forest II at the time of such assessment and are not separately assessed and the denominator of which is the total Square Footage of all Condominium Units which are assessed as a whole.
- (c) Each Co-owner's proportionate share then shall be determined by multiplying the sum of the products obtained in (a) and (b) above by a fraction, the numerator of which is the square footage of each Co-owner's Condominium Unit not separately assessed and the denominator of which is the total Square Footage of all Condominium Units not separately assessed.

11. Utilities. Each Co-owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered shall be treated as and paid as part of the Common Expenses.

12. Easement for Utilities and Public and Quasi Public Vehicles. All public and quasi public vehicles, including but not limited to police, fire and other emergency vehicles, trash and garage collection, post office vehicles and privately owned delivery vehicles, shall have the right to enter upon the streets, Common Areas and Limited Areas of Lake Forest II in the performance of their duties. An easement is also granted to all utilities and their agents for ingress, egress, installation, replacement, repairing and maintaining such utilities including but not limited to water, sewers, gas, telephones and electricity on the Property; provided, however, nothing herein shall permit the installation of sewers, electric lines, water lines, or other utilities, except as initially designed and approved by Declarant or as thereafter may be approved by Declarant or as thereafter may be approved by the Board of Managers. By virtue of this easement the electric and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Property and to affix and maintain electric and telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Buildings.

13. Association of Owners. In order to provide for the maintenance, repair, replacement, administration and operation of the Property and in compliance with the provisions of the Law, there is hereby created an association of the Co-owners of the Condominium Units in Lake Forest II to be known as the

"Lake Forest II Co-owners Association". Each Co-owner shall be a member of the Association, but membership shall terminate when such person ceases to be a Co-owner, and will be transferred to the new Co-owner.

The Association shall elect a Board of Managers annually in accordance with and as prescribed by the By-laws. The Co-owners shall be entitled to cast their Percentage Vote for the election of the Board of Managers.

The Board of Managers shall be the governing body of the Association, representing all of the Co-owners in providing for the management, maintenance, repair, replacement and upkeep of the Property. Each member of the Board of Managers is hereby designated as a person qualified to receive service of process on behalf of the Association.

14. Maintenance, Repairs and Replacements. Each Co-owner shall, at his expense, be responsible for the maintenance, repairs, decoration and replacement of his own Condominium Unit, the interiors of the Garage and Storage Areas, the "Facilities" defined in paragraph 7(f) hereinabove, and all landscaping within enclosed courtyards serving the Condominium Units, unless otherwise provided in the By-laws. Each Co-owner shall repair any defect occurring in his Condominium Unit which, if not repaired might adversely affect any Condominium Unit, Common Area or Limited Area. Maintenance, repairs, replacements and upkeep of the Common Areas and, except as otherwise provided, Limited Areas, shall be furnished by the Association as part of the Common Expenses.

The Board of Managers shall adopt such rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas as it deems 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 purposes of inspection of the Common Areas and Limited Areas appurtenant thereto and replacement, repair and maintenance of the same.

15. Alterations, Additions and Improvements. No Co-owner shall make any alterations or additions to the Common Areas or Limited Areas without the prior written approval of the Board of Managers, nor shall any Co-owner make any alterations 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.

16. Annexation of Additional Tract. Declarant hereby reserves the right to construct as many as sixty-six (66) additional Condominium Units on the Additional Tract ("Additional Condominium Units"), all or part of which may be annexed to Lake Forest II in the manner hereinafter set forth. The Additional Tract consists of approximately 10.467 acres, the legal description of which is set forth in Exhibit "C", attached hereto and incorporated herein.

A Proposed General Plan of Development of the buildings and units to be constructed on the Additional Tract consisting of three (3) pages and identified as such, is included with, but are not a part of the Plans and indicates the approximate locations and units proposed by Declarant to be located thereon.

At any time prior to February 1, 1987, Declarant, at its option may, but is not obligated to, cause all or part of the Additional Tract to be annexed to Lake Forest II in Phases, subject to the following conditions:

For example: Upon recording of this Declaration the Percentage Interest of Condominium Unit 61 has been determined by dividing its Square Footage, 1,807, by 16,040, the total of the Square Footage of all the Condominium Units in Phase I. The resulting Percentage Interest of Condominium Unit 61 is 11.26 (rounded off). Assuming that Phase II is subsequently annexed and that the total Square Footage of all the Condominium Units in Phase II is 7,239 square feet, the resulting new Percentage Interest of Condominium Unit 61 is 7.239 square feet, divided by the total Square Footage of all the Condominium Units in Lake Forest II. The resulting quotient multiplied by 100 shall be the Percentage Interest of such Condominium Unit. Upon annexation of an additional Phase, the same method shall be utilized to recalculate the Percentage Interest of each Condominium Unit, using as the divisor the total of the Square Footage of all Condominium Units, including the Square Footage of the Condominium Units being annexed. The quotient shall be rounded off to the fifth decimal place with minor adjustments thereof to be made by Declarant so that the resulting total of all Percentage Interests shall always be exactly 100%.

The Square Footage of each Condominium Unit shall be divided by the total Square Footage of all the Condominium Units in Lake Forest II. The resulting quotient multiplied by 100 shall be the Percentage Interest of such Condominium Unit. Upon annexation of an additional Phase, the same method shall be utilized to recalculate the Percentage Interest of each Condominium Unit, using as the divisor the total of the Square Footage of all Condominium Units, including the Square Footage of the Condominium Units being annexed. The quotient shall be rounded off to the fifth decimal place with minor adjustments thereof to be made by Declarant so that the resulting total of all Percentage Interests shall always be exactly 100%.

The Percentage Interest appurtenant to each Dwelling Unit shall be computed and, upon the annexation of an additional Phase, recomputed, as set forth in the following Formula:

The Percentage Interest appurtenant to each Dwelling Unit shall be computed and, upon the annexation of an additional Phase, recomputed, as set forth in the following Formula:

The Percentage Interest appurtenant to each Condominium Unit shall be based on the ratio that the Square Footage of all each Condominium Unit bears to the total Square Footage of all the Condominium Units now or hereafter annexed to Lake Forest II. The Square Footage applicable to each Condominium Unit shall be the ground floor area within the perimeter walls of a Condominium Unit, if there is only one floor of living area, and the ground and second floor areas within the perimeter walls of such floors of a Condominium Unit if there are two floors of living area, but excluding garage and storage areas in all cases. The area shall be calculated from the interior surfaces of the stud walls in the perimeter walls of each respective Condominium Unit.

Declarant expressly reserves the right not to annex to Lake Forest II any or all of the Additional Tract. No Co-owner shall acquire any rights whatsoever in the Additional Tract except as to those Phases which are annexed to and made a part of Lake Forest II.

(c) Declarant shall be the sole owner of the fee simple title to the Phase to be annexed.

(b) The Condominium Units on any Phase to be annexed shall be constructed with labor and material of comparable quality to the Condominium Units previously constructed on the Tract, although not necessarily of identical floor plan, design, or exterior.

(a) No Phase may be annexed until all of the Condominium Units to be constructed in such Phase have been substantially completed and the Supplemental Plans to be filed with the Amendment of Declaration are completed, certified by the engineer or architect as fully and accurately depicting the layout, location and dimensions of the Condominium Units as built.

Unit 61 shall be determined by dividing 1,807 by 23,279, the total of the Square Footage in Phase I and II, and multiplying the quotient, 7.760% (rounded off), by 100 to result in a Percentage Interest of 7.760.

As each Phase is developed, Declarant shall record an Amendment of Declaration annexing and adding such Phase to this Declaration and making it a part of Lake Forest II. Such Amendment of Declaration shall contain the following:

- (a) a description of the real estate to be annexed;
- (b) a description of the Buildings and Condominium Units described in a manner consistent with this Declaration;
- (c) the Percentage Interest of all Condominium Units in Lake Forest II upon annexation, computed in accordance with the Formula.

A copy of the form of Amendment of Declaration as will be applicable to each Phase is attached hereto, made a part herof, and marked Exhibit "D". The identification of Buildings, Condominium Units, Square Footage and Percentage Interest contained in the attached Amendment of Declaration is assumed for illustrative purposes only.

Each Co-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 of Declaration:

- (a) The Phase described in each Amendment of Declaration shall be governed in all applicable respects by the provisions of this Declaration.
- (b) The Percentage Interest appurtenant to each Condominium Unit shall be automatically reallocated in accordance with the schedule set forth in such Amendment of Declaration which shall be based upon the Formula upon the recording thereof, as set forth in the Law.
- (c) Each deed, mortgage or other instrument affecting a Condominium Unit shall be deemed given subject to the limitation that the Percentage Interest appurtenant to each Condominium Unit shall be, upon the recording of each Amendment of Declaration, altered in accordance with the Amendment of Declaration, based upon the Formula.
- (d) The Percentage Interest in the Common Areas and Limited Areas appurtenant to each Condominium Unit shall be deemed to include any additional Common Areas and Limited Areas annexed hereto by an Amendment of Declaration, and each deed, mortgage or other instrument affecting a Condominium Unit shall be deemed to include such additional Common Areas and Limited Areas, and the ownership of any Condominium Unit and lien of any mortgage shall automatically include and attach to such additional Common Area and Limited Area upon recording of such Amendment of Declaration.

- (e) The recording of an Amendment of Declaration shall not alter the amount of the lien for Common Expenses assessed to a Condominium Unit in a Phase already a part of Lake Forest II prior to such recording. The lien for the prorata share of Common Expenses for the Phases annexed upon such recording shall be assessed and paid as provided in Section 5.04 of the By-Laws.
- (f) Each Co-owner agrees for himself and all those claiming under him, including Mortgagees, that this Declaration and each Amendment of Declaration is and shall be deemed to be in accordance with the Law and, for the purpose of this Declaration and the Law, any changes in Percentage Interest as set forth in any Amendment of Declaration which is in accordance with the Formula expressed herein shall be deemed to be made by agreement of all Co-owners.
- (g) Each Co-owner agrees to execute and deliver such documents as are necessary or desirable to accomplish the annexation of the Phases in the Additional Tract in accordance with the provisions and intent of this Paragraph 16.
- (h) Each Co-owner, by acceptance of a deed to a Condominium Unit, shall thereby appoint Declarant or its nominee as such Co-owner's attorney-in-fact for the purpose of reallocating from time to time the Percentage Interest appurtenant to such Co-owner's Condominium Unit in accordance with the provisions of this Paragraph 16, and, to the extent required by law to carry out the intent of this Paragraph 16, on behalf of such Co-owner to consent to or vote in favor of the amendment of this Declaration. The appointment of Declarant or its nominee as such attorney-in-fact and the granting of such special power to Declarant or its nominee shall be deemed to be coupled with an interest, shall be irrevocable and binding upon the heirs, successors and assigns of such Co-owner, but shall expire when all of the Additional Tract has been annexed to Lake Forest II or on February 1, 1987, whichever first occurs.

In the event Declarant does not elect to annex to Lake Forest II the Additional Tract or any part thereof, as permitted by this Paragraph 16, Declarant shall file an Amendment of Declaration which shall permanently remove that part of the Additional Tract that has not been annexed from any right to be made a part of Lake Forest II; provided, however, that any Phase for which an Amendment of Declaration has not been filed by February 1, 1987, shall be automatically removed from the possibility of becoming a part of Lake Forest II in the manner provided in this Declaration. Upon the filing of such Amendment of Declaration removing a part of the Additional Tract from the possibility of becoming a part of Lake Forest II in accordance with this Declaration, or February 1, 1987, whichever comes first, the Percentage Interest designated in the Declaration or Amendment of Declaration last filed shall not be altered without the unanimous consent of all Co-owners.

17. Easements to and from Additional Tract. Declarant reserves unto itself, its successors and assigns, for the use and benefit of the Common Areas and that part of the Additional Tract not annexed, if any, the right and easement to enter upon improvements to the Property and the Additional Tract and the doing of all things reasonably necessary and proper in connection therewith, including, without limiting the generality thereof, providing ingress and egress to the Additional Tract and providing free and unrestricted use and access across the roadways and sidewalks of the Tract for the Co-owners and residents of the Additional Tract, their guests, invitees and all public and quasi public vehicles.

The easements granted and reserved in this Paragraph 17 shall be easements and covenants running with the land and accruing to the benefit of the Additional Tract and shall continue until the Additional Tract has all been annexed to Lake Forest II.

18. Insurance. The Association, acting through its Board of Managers, shall obtain fire and extended coverage insurance insuring the Property in an amount equal to the full replacement cost thereof as determined by a qualified appraiser, the amount determined and the insurance renewed at least every three (3) years. The cost of any appraisal shall be a Common Expense. Such insurance shall

(1) provide that notwithstanding any provisions 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 Co-owners do not elect to restore pursuant to Paragraph 19 and

(2) contain a "Replacement Cost Endorsement".

Such insurance coverage shall be for the benefit of the Association, each Co-owner, and, if applicable, the Co-owner's Mortgage. The proceeds shall be payable to the Association, who shall hold such proceeds as trustee for the individual Co-owners and Mortgages as their interests appear. The proceeds shall be used or disbursed only in accordance with the provisions of this Paragraph 18 and Paragraph 19 of the Declaration, as applicable, and any surety bond or bonds as provided in the By-Laws shall specifically include protection for any insurance proceeds so received.

The Association also shall obtain comprehensive public liability insurance in such limits as the Board of Managers shall deem appropriate, together with workmen's compensation insurance and other liability insurance, if deemed necessary or appropriate by the Board of Managers. Such insurance shall inure to the benefit of each Co-owner, each occupant of a Condominium Unit, the Association, the Board of Managers, any Managing Agent or company acting on behalf of the Association, and all persons acting as agents or employees of the foregoing. The premiums for all such insurance shall be paid by the Association as part of the Common Expenses.

Written notice of the obtainment of, changes in, or cancellation of such insurance shall be promptly furnished to each Co-owner and his respective Mortgagee by the Board of Managers, as set forth in the By-Laws.

Each Co-owner shall have the right to purchase additional insurance he may deem necessary, and each Co-owner shall be solely responsible for loss or damage to the contents of his own Condominium Unit, however caused, including all floor and wall coverings, and fixtures and betterments installed by the Co-owner, and his personal property stored elsewhere on the property, and the Association shall have no liability to any Co-owner for loss or damage to the contents of any Condominium Unit. Each Co-owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

19. Casualty and Restoration. In the event of damage or destruction of all or part of the Property by fire or other casualty, the following provisions shall apply:

- (a) Partial Destruction. In case of fire or other casualty or disaster, other than complete destruction of all Buildings, the Property shall be reconstructed and all insurance proceeds applied to such reconstruction.
- (b) Total Destruction. In the event of complete destruction of all Buildings containing Condominium Units, the Buildings shall not be reconstructed, except as otherwise provided herein, and the insurance proceeds, if any, shall be divided among the Co-owners proportionately according to the fair market value of all of the Condominium Units immediately prior to the casualty as compared to all other Condominium Units, as specified in the By-Laws. In the event of substantial destruction of all Buildings containing Condominium Units, a special meeting of the Co-owners shall be convened within sixty (60) days following the date of such complete destruction for the purposes of determining whether or not the Buildings have been totally destroyed and whether or not the Property shall have been considered to be removed from the provisions of the Law. At such meeting, an affirmative vote of two-thirds (2/3) of the Percentage Vote of all of the Co-owners shall be required to determine that total destruction has occurred; otherwise, the Co-owners shall be deemed to have determined that the Buildings have not been totally destroyed. In the event the Co-owners determine that the Buildings have been totally destroyed, then the Property shall be considered to be removed from the provisions of the Law unless by a vote of two-thirds (2/3) of all of the Co-owners, a decision is made to rebuild the Buildings, in which case the insurance proceeds shall be applied to the costs of such rebuilding and any excess of such costs over insurance proceeds shall be contributed as provided herein in the event of less than total destruction of the Buildings. In the event no such meeting is convened within said sixty (60) days following destruction, the Co-owners shall be deemed to have determined that the Buildings have not been totally destroyed.

- (c) Restoration and Payment of Insurance Proceeds.
In all cases in which the Property is to be reconstructed following damage or casualty, all insurance proceeds shall be paid to the Association and any excess of costs of reconstruction over insurance proceeds shall be contributed by the Co-owners, in a special assessment, if required, in the same percentages as the Co-owners contribute to Common Expenses, as set forth herein. Such amounts shall be assessed as part of the Common Expense and shall constitute a lien from the time of assessment as provided herein and in the By-Laws. In the event insurance proceeds exceed the costs of reconstruction, such excess shall remain with the Association as Common Profits.
- (d) Rights upon Removal Following Total Destruction.
In the event it is determined by the Co-owners, in accordance with this Section 19, to not rebuild the Buildings after total destruction thereof, the Property shall be deemed to be owned in common by the Co-owners, the undivided interest in the Property shall be the same as the Percentage Interests, all liens affecting any of the Condominium Units shall be deemed to be transferred to the percentage of undivided interests of the Co-owner in the Property, and the Property shall be subject to an action for partition, all as more particularly set forth in the Law.

20. Offices and Model Condominium Units of the Declarant.
The Declarant reserves the right to occupy and use one or more of the Condominium Units for purposes of a sales office for Declarant's agent, a management office for Declarant or Declarant's agent and/or a model Condominium Unit. Declarant also reserves the right to place upon the Property a trailer to be used as a temporary construction and sales office. All such offices shall be closed or removed promptly from Lake Forest II following the earlier to occur of the conveyance of the fee simple title to the last Condominium Unit to be constructed on the Property or February 1, 1987. Declarant reserves the unlimited right to relocate all such offices and model Condominium Units on the Property prior to such date.

21. Membership in College Park Club, Inc. The Tract is subject to certain covenants and restrictions created by a declaration of covenants and restrictions executed May 15, 1968, and recorded in the Office of the Recorder of Marion County, Indiana, on May 15, 1968, as Instrument No. 68-22374 ("College Park Club Declaration"). For the purpose of said College Park Club Declaration, upon the recording of this Declaration and any subsequent Amendment of Declaration, each Condominium Unit shall be deemed to be a "Lot" as that term is defined in Section 1(d) of such College Park Club Declaration and all the rights and obligations accruing to a Lot as provided therein shall accrue to each Condominium Unit, including, but not limited to, the obligation to pay the monthly assessment as provided in such College Park Club Declaration, which monthly assessments are a lien on each Condominium Unit, and the right to become a member of College Park Club, Inc. and to have one vote for each Condominium Unit owned.

Declarant hereby expressly provides that none of the Common Areas or Limited Areas of Lake Forest II shall be deemed to be "Common Properties" as defined in Section 3, Article II, Section 3 of the College Park Club Declaration.

22. Covenants and Restrictions. The covenants and restrictions applicable to the use and enjoyment of the Condominium Units are set forth in the By-Laws. These covenants and restrictions are for the mutual benefit and protection of the present and future Co-owners and shall run with the land and inure to the benefit of and be enforceable by any Co-owner or by the Association. Present or future Co-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.

23. 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.
- (b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Managers or the Co-owners of at least a majority of the Percentage Vote.
- (c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.
- (d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy five per cent (75%) in the aggregate of the Percentage Vote. In the event any Condominium Unit is subject to a first mortgage, and the Mortgagee has given prior notice of its mortgage interest to the Board of Managers in accordance with the provisions of the By-Laws, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as a Co-owner.
- (e) Special Amendments. No amendment to this Declaration shall be adopted which changes
 - (1) the Percentage Interest with respect to any Condominium Unit or the applicable share of a Co-owners liability for the Common Expenses, without the approval of one hundred per cent (100%) of the Co-owners, except as otherwise provided in paragraphs 8 and 16 relating to annexation of the Additional Tract; or
 - (2) the provisions of paragraph 19 of this Declaration with respect to reconstruction or repair in the event of fire or casualty, without the unanimous approval of all Mortgagees whose mortgage interest have been made known to the Board of Managers in accordance with the provisions of the By-Laws; or
 - (3) the provisions of paragraph 16 of this Declaration except by Declarant in the manner provided therein; or

- (4) the provisions of paragraph 17 of this Declaration without the consent of the holder of the fee simple title to the Additional Tract; or
 - (5) the provisions of paragraph 25 of this Declaration without the consent of the first mortgagee(s) of all or any part of the Property.
- (f) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the Office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

24. Removal From Provisions of the Law. An affirmative vote of one hundred percent (100%) of the Co-owners shall be required to remove the Property from the provisions of the Law and such vote may only be taken at a Special Meeting of the Association called for such purpose. Such removal may only be effected in accordance with the Law, as amended, and, upon such removal, unless determined otherwise by a vote of ninety percent (90.0%) of the Co-owners to the contrary taken at the same meeting as the vote for removal, each Co-owner shall have and retain exclusive possession of his former Condominium Unit and Limited Areas assigned thereto without payment of rent or any other charge therefor to any other tenant in common and may not exclude any other tenant in common from any part of the former Common Areas. In addition to the right to compel the partitioning of the Property following removal, any tenant in common or mortgagee thereof shall have the right to petition the Marion County Superior or Circuit Courts for a Receiver who shall have the power and duty to operate and govern the Property according to equitable principles for the purpose of preserving the fair market values of the Condominium Units and the Property until the tenants in common shall have determined, in the Court's discretion, a mutually acceptable means of self-government or shall have sold and conveyed the Property. The Court shall not order a plan of self-government nor remove the Receiver, in the event a Receiver is appointed; unless and until a majority of the tenants in common and their respective Mortgagees shall likewise have approved the plan or until the Property is sold.

25. Miscellaneous Provisions With Respect To Mortgagees. The following provisions are intended for the benefit of each Mortgagee of a Condominium Unit, and to the extent, if any, that any other provisions of this Declaration and the By-laws appended hereto conflict with the following provisions, the following provisions shall control:

(a) Any Mortgagee of a Condominium Unit who takes title to said Condominium Unit pursuant to the remedies provided in the Mortgage, or foreclosure of the Mortgage, or Deed in lieu of foreclosure shall, to the extent permitted by law, take such properties free of any claims for unpaid Assessments or charges in favor of the Association against said mortgaged Condominium Unit which accrue prior to the time such Mortgagee takes title to said Condominium Unit.

(b) Upon request in writing from a Mortgagee, such Mortgagee shall have the right:

(i) To examine the books and records of the Association during normal business hours;

(ii) To receive any annual audited or unaudited financial statements which are prepared and distributed by the Association to the Co-owners at the end of each of its respective fiscal years; and,

90 32844

- (iii) To receive written notification from the Association of any default in the performance by the respective Co-owner/Mortgagor of the Co-owner's obligations under this Declaration which are not cured within sixty (60) days following the date of such default.
- (c) No provision of this Declaration or the By-Laws appended hereto or any similar instrument pertaining to the Property or the Condominium Units shall be deemed to grant to any Co-owner or any other party any priority over any rights of Mortgages pursuant to their respective mortgages in the case of distribution to Co-owners of insurance proceeds or condemnation awards in connection with losses to or a condemnation of any part of the Property. In the event of any casualty to a Condominium Unit or condemnation of all or any part of a Condominium Unit, the Mortgages of such Condominium Unit shall be entitled to timely written notice of such loss and/or condemnation upon specific written request therefor.
- (d) There shall be included in the Common Expenses and the Regular and Interim Assessments amounts sufficient to establish an adequate reserve fund for maintenance, repairs and replacement of those portions of the Common Areas which must be replaced on a periodic basis.
- (e) Unless at least two-thirds (2/3) of the Mortgages (based upon one vote for each first mortgage held) of Condominium Units shall have given their prior written approval, the Co-owners shall not be entitled to:
 - (i) By act or omission, seek to abandon or terminate the Horizontal Property Regime, except insofar as such abandonment is provided for in paragraph 19 of this Declaration;
 - (ii) Except as provided in paragraph 16 of this Declaration, change the Percentage Interest of any Co-owner;
 - (iii) Partition or subdivide any Condominium Unit;
 - (iv) Except as provided in paragraph 16 of the Declaration, by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Areas; or,
 - (v) Use hazard insurance proceeds paid to the Association for losses to the Property for purposes other than the repair, replacement, or reconstruction of such improvements, except as provided by Law in case of substantial loss to the Condominium Units and/or the Common Areas.
- (f) Each Mortgagee shall be furnished notice in writing by the Association of any damage or destruction to or taking of the Common Areas if such damage or destruction or taking exceeds Fifty Thousand Dollars and No Cents (\$50,000.00) or if such damage, destruction or taking with respect to any one Condominium Unit exceeds Five Thousand Dollars (\$5,000.00).
- (g) Any Mortgagee who obtains title to a Condominium Unit pursuant to the remedies provided in its respective mortgage, or foreclosure of said mortgage, or acceptance of a deed in lieu of such foreclosure, will be exempt from any right of first refusal held by the Association pursuant to the provisions now or hereafter contained in this Declaration.

32844 80

31. Floor Plans. The Plans, as described in paragraph 1(s) of this Declaration, are incorporated into this Declaration by reference, and have been filed in the Office of the Recorder of Marion County, Indiana, in Horizontal Property Plan File No. 80-32844, as of June, 1980, as Instrument Number 80-32844.

30. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability or effect of any other portion of this Declaration or the attached By-Laws.

29. Waiver. No Co-owner may exempt himself from liability for his 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 his Condominium Unit.

28. Costs and Attorneys' Fees. In any proceeding arising because of failure of a Co-owner to make any payments required or to comply with any provisions of the Declaration, the Law, the By-Laws, 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 reasonable attorneys' fees incurred in connection with such default or failure.

27. Negligence. Each Co-owner shall be liable for the expense of any maintenance, repair or replacement rendered necessarily by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees, to the extent that such expense is not repaid by the proceeds of insurance carried by the Association, including, without limiting the generality thereof, payment by such Co-owner of the deductible portion of the insurance proceeds. A Co-owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Condominium Unit or its apportionances or of the Common Areas or Limited Areas.

26. Acceptance and Ratification. All present and future Co-owners, mortgagees, tenants and occupants of the Condominium Units shall be subject to and shall comply with the provisions of this Declaration, and Law, the By-Laws appended hereto, and the rules and regulations as adopted by the Board of Managers as each may be amended from time to time. The acceptance of a Unit shall constitute an agreement that the provisions of this Declaration, the amendments of Declaration, the Law, the By-Laws and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Co-owners, 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. Each Co-owner agrees to execute and deliver such other documents, if any, as may be necessary or desirable to comply with the Law as it may be amended from time to time. 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 Law, the By-Laws, and the rules and regulations applicable thereto as each may be amended from time to time.

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

LAKE FOREST II DEVELOPMENT CORP.

By Melvin Blavin
President

ATTEST:

[Signature]
Secretary

CONSENT

The undersigned, The Indiana National Bank, a national banking association having its principal office at One Indiana Square, Indianapolis, Indiana 46266 ("Bank"), as holder of the first mortgage on the Real Estate herein described as Phase I of the Lake Forest II Horizontal Property Regime, which mortgage is dated August 3, 1979 and recorded August 8, 1979 as Instrument No. 79-58219 in the Office of the Recorder of Marion County, Indiana, hereby consents to the recording of the above Declaration of Lake Forest II Horizontal Property Regime and the By-laws appended thereto and further agrees as follows:

1. Unless and until Bank shall have foreclosed said Mortgage or accepted a deed in lieu of such foreclosure, Bank shall for all purposes be deemed to be a "Mortgagee," as defined in said Declaration and By-laws and shall have all the rights of a Mortgagee thereunder.

2. Upon the foreclosure of the above-referenced mortgage and purchase by Bank at any foreclosure sale or acceptance by Bank of a deed in lieu thereof, Bank shall thereafter have sixty (60) days within which to elect to be deemed to be the Declarant of the Lake Forest II Horizontal Property Regime, and, following such election, shall have all the rights, privileges and duties of said Declarant and shall be subject to the liabilities of the Declarant from and after the date upon which Bank shall have acquired title in the manner aforesaid.

3. Notwithstanding anything contained in the Mortgage, Loan Agreement or other security documents executed by Declarant in connection with the mortgage loan from Bank secured by said Phase I, Bank hereby agrees that in the event of any conflict between the terms and provisions of the Declaration and By-laws, on the one hand, and the said Mortgage, Loan Agreement, and other security documents, on the other hand, the terms and provisions of the Declaration and By-laws shall control and Declarant and Bank shall abide thereby.

IN WITNESS WHEREOF, Bank has caused this Consent to be executed by its duly authorized officers this 2nd day of June, 1980.

THE INDIANA NATIONAL BANK

By: [Signature]
A.J.P.

ATTEST:

[Signature]
ASSY. 5804