

**DECLARATION OF  
 HORIZONTAL PROPERTY OWNERSHIP  
 FOR  
 SCHOOL 80  
 HORIZONTAL PROPERTY REGIME**

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 11-5-71-8 11-5-88  
 FULL TRANSFER

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This Declaration is made this 9TH day of JULY, 1996, by  
920 EAST 62ND STREET CORPORATION, an Indiana corporation (the "Declarant").

Recitals

WHEREAS, Declarant owns certain real estate located in Marion County, Indiana, together with the improvements thereon, all as more particularly described in Exhibit A attached to and made a part of this Declaration (the "Real Estate"); and

WHEREAS, Declarant has improved the Real Estate by renovating and rehabilitating the existing improvements thereon (which improvements consist of a brick building having an upper level, main level and a lower level) into a thirty-two (32) unit multi-family structure (the "Building") and by constructing certain other improvements thereon, all in accordance with the plans prepared and certified by Kenneth Ogden Weiss, a registered architect, under date of \_\_\_\_\_, 19\_\_ (such plans being recorded in the Office of the Recorder of Marion County, Indiana, as the same Instrument Number as this Declaration) (the "Plans"); and

WHEREAS, the Declarant's complete renovation of the Building occurred in 1985; and

WHEREAS, Declarant desires and intends by this Declaration to create a Horizontal Property Regime upon the Real Estate, subject to the provisions of Horizontal Property Law of the State of Indiana, Acts 1963, Chapter 349, Sections 1 through 31, codified at Indiana Code Sec. 32-1-6-1, *et seq.*, as now or hereafter amended, supplemented or replaced (the "Statute"), and the provisions of this Declaration; and

WHEREAS, to provide a means for meeting the purposes and intentions of this Declaration, Declarant has created under the laws of Indiana the School 80 Homeowners Association, Inc., a nonprofit corporation, whose members shall consist of all Owners of Condominium Units within the Property.

NOW, THEREFORE, Declarant hereby creates a Horizontal Property Regime upon the Real Estate, subject to the provisions of the Statute and this Declaration, and declares that the "Property" (as such term is hereinafter defined in Paragraph 1(k) of this Declaration) shall be held, sold, conveyed, mortgaged, leased, used, occupied and improved subject to the following covenants, restrictions, limitations, conditions, obligations and easements, all of which shall run with the land and shall be binding on and shall inure to the benefit of Declarant, its successors and assigns, and any other person or entity hereafter acquiring or having any right, title or

APPROVED 7/9/1996  
WASHINGTON TOWNSHIP ASSESSOR  
BY: DAVID BORDS Real Estate Deputy

interest in all or any part of the Property, and their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. **Definitions.** When used at any time in this Declaration, the capitalized terms defined in the Recitals or elsewhere in this Declaration shall have the respective meanings specified therein and the terms defined in the following subparagraphs of this Paragraph 1 shall have the meanings specified herein.

(a) "Association" means the School 80 Homeowners Association, Inc., an Indiana nonprofit corporation, being the association of all of the Owners.

(b) "Board of Directors" means the governing board of the Association, being the initial Board of Directors referred to in the By-Laws or subsequent Boards of Directors elected pursuant to the By-Laws.

(c) "By-Laws" means the By-Laws for the administration and management of the Association, as the same may be amended from time to time as therein provided. A true copy of the By-Laws is attached to and made a part of this Declaration as Exhibit B.

(d) "Common Areas and Facilities" has the meaning ascribed to it in Paragraph 5 of this Declaration.

(e) "Common Expenses" means and includes (i) expenses of and in connection with the performance of the obligations and duties of the Association, (ii) expenses of administration, operation, management, maintenance, repair, replacement and upkeep of the Common Areas and Facilities and Limited Common Areas (except to the extent the same is otherwise the responsibility or duty of the Owners as provided in this Declaration), (iii) all sums lawfully assessed against the Owners by the Association, (iv) expenses agreed upon by the Owners as Common Expenses, and (v) expenses declared Common Expenses by the Statute, this Declaration and/or the By-Laws.

(f) "Condominium Unit" means each one of the thirty-two (32) individual living units located in the Building, as identified on the Plans and more specifically described in Paragraph 3 of this Declaration, together with the undivided interest in the Common Areas and Facilities and Limited Common Areas allocated to each such living unit.

(g) "Declarant" means and refers to 920 East 62nd Street Corporation, an Indiana corporation, and any successors and assigns of it 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.

(h) "Limited Common Areas" has the meaning ascribed to it in Paragraph 4 of this Declaration.

(i) "Owner" means the record owner, whether one or more persons or entities, from time to time of the fee simple title to a Condominium Unit, including a contract seller, but does not mean any person or entity having an interest in a Condominium Unit solely by virtue of a contract or as security for an obligation.

(j) "Percentage Interest" means the percentage of undivided interest in the Common Areas and Facilities and Limited Common Areas included as part of each Condominium Unit, as specified in Paragraph 6 of this Declaration.

(k) "Property" means the Real Estate, all easements, rights and appurtenances belonging thereto, the Building, all other improvements and structures located on the Real Estate and all articles of personal property intended for common use in connection with the operation of School 80 Condominiums.

(l) "Act" means the Indiana Nonprofit Corporations Act of 1991, as amended, supplemented or replaced from time to time.

(m) "Association Documents" means collectively, the Association's Articles of Incorporation, this Declaration, the By-Laws, and the Rules and Regulations adopted by the Board of Directors, all as the same may be amended from time to time. Any exhibit, schedule or amendment to an Association Document is an integral part of that document.

(n) "Percentage Vote" means the total of the percentage interests and the votes of all Condominium Units in School 80 Condominiums, equalling one hundred percent (100%).

2. Name. The name by which the Property and the Horizontal Property Regime shall be known is "School 80 Condominiums."

3. Description of Condominium Units.

(a) Description. Each Condominium Unit is identified on the Plans by a letter followed by a one or two digit Arabic number and is more particularly described in Exhibit C attached to and made a part of this Declaration. 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 such items designed or intended for the enjoyment, use, benefit, support, service or safety of any other Condominium Unit or which may be necessary for the safety, support, service, maintenance, use and operation of the Building 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 even if the same are located wholly or partly outside the boundaries of such 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 interior unfinished surface of the lowermost floors, uppermost ceilings, perimeter walls, windows and window frames, and doors and door frames of each Condominium Unit.

4. Description of Limited Common Areas. "Limited Common Areas" means those portions of the Property serving exclusively one or more but less than all of the Condominium Units and shall include the exterior surfaces of doors, windows and the frames surrounding the same in the perimeter walls of each Condominium Unit, associated fixtures of such doors, windows and frames, the storage areas designated for the exclusive use of a Condominium Unit and any other areas designated as Limited Common Areas on the Plans. While parking spaces shall not constitute Limited Common Areas, the Board of Directors may, from time to time, assign parking spaces to specific Condominium Units for their exclusive use.

5. Description of Common Areas and Facilities. "Common Areas and Facilities" means all of the Property except those areas and facilities as are expressly designated and defined in this Declaration as part of the Condominium Units or as Limited Common Areas and specifically includes without limitation:

(a) The land upon which the Building is located and all land surrounding the Building as more fully described in Exhibit A attached hereto;

(b) All roofs, exterior perimeter walls, interior walls (except those partition walls wholly within a Condominium Unit), foundations, slabs, columns, girders, beams, supports, other structural members, stairs, staircases, lobbies, halls, corridors, fire escapes and entrances and exits of the Building;

(c) Sidewalks, yard, trees, pavement, parking areas and storage areas (except to the extent the same are otherwise expressly designated and defined in this Declaration as Limited Common Areas);

(d) Exterior lighting fixtures and electrical service lighting the exterior of the Building;

(e) All pipes, wires, conduits, ducts and public utility lines which serve more than one Condominium Unit; and

(f) Central electrical, gas, water, heating, air conditioning, ventilating, sanitary sewer, storm sewer, plumbing, security, fire protective, television and mechanical equipment, systems and facilities serving the Building, if any.

6. **Ownership of Common Areas and Percentage Interest.** Each Owner shall have an undivided interest in the Common Areas and Facilities and Limited Common Areas, as tenants in common with all other Owners, equal to the Percentage Interest allocated to and included as part of his Condominium Unit. The Percentage Interest allocated to and included as part of each respective Condominium Unit is specified in Exhibit D attached to and made a part of this Declaration. All Condominium Units shall have equal Percentage Interests. The Percentage Interest specified in Exhibit D and included as part of each respective Condominium Unit cannot be changed except with the unanimous consent of all Owners and then only if in compliance with all requirements of the Statute.

7. **Interest for Assessments and Voting.** The proportionate shares of each Owner in the Common Expenses of the Common Areas and Facilities and Limited Common Areas, as well as such Owner's proportionate representation for voting purposes in the Association, shall be equal for all purposes and shall be the same percentage as the Percentage Interest allocated to and included as part of such Owner's Condominium Unit as specified in Exhibit D.

8. **Encroachments.** If because of inexactness of construction, settling after construction, shifting or movement of the Building or for any other reason, a Condominium Unit now encroaches or shall hereafter encroach upon any minor portion of another adjacent Condominium Unit or any Common Areas and Facilities or Limited Common Areas, an exclusive easement in and to the space lying outside the actual boundary lines of the Condominium Unit, but within the appropriate wall, floor or ceiling surfaces of the Condominium Unit, for the maintenance, use and enjoyment of such space shall exist and run, so long as the encroachment exists, to the Owner of such encroaching Condominium Unit.

If any portion of the Common Areas and Facilities or Limited Common Areas now encroaches or shall hereafter encroach upon any Condominium Unit, because of inexactness of construction, settling after construction, shifting or movement of the Building or for any other reason, an easement for the encroachment and for the maintenance, use and enjoyment of the same shall exist and run, so long as the encroachment exists, to the Owners and the Association. In the event the Building is partially or totally destroyed, and then rebuilt, minor encroachments of parts of the Common Areas and Facilities or Limited Common Areas upon any Condominium Unit due to such construction shall be permitted, and an easement for the encroachment and for the maintenance, use and enjoyment of the same shall exist and run, so long as the encroachment exists, to the Owners and the Association.

9. Easements.

(a) Easement for Common Areas. Each Owner shall have an easement in common with each other Owner to use all pipes, wires, conduits, ducts, public utility lines and other Common Areas and Facilities located in any other Condominium Unit and serving such Owner's Condominium Unit, which easement shall be perpetual and appurtenant to such Owner's Condominium Unit.

(b) Easement for Ingress and Egress. Each Owner shall have an easement in common with each other Owner over the Common Areas and Facilities for the purpose of ingress to and egress from his Condominium Unit, which easement shall be perpetual and appurtenant to such Owner's Condominium Unit.

(c) Utility Easements. The Board of Directors may hereafter grant such easements as may be required by the various utility companies to provide utility services necessary for the use and operation of the Property upon such terms and conditions and for such consideration as the Board of Directors deems appropriate; provided, however, nothing herein shall permit substantial impairment of any Owner's use and enjoyment of his Condominium Unit, and the grantee of any such easement rights shall be responsible for repair or restoration of damage to any Property caused by its activity pursuant to such easement rights. Each Owner hereby grants the Board of Directors an irrevocable power of attorney to execute, acknowledge, and record for and in the name of each Owner such instruments as may be necessary to effectuate the foregoing. The appointment of the Board of Directors as such Owner's attorney-in-fact shall not be affected by the incompetence of such Owner.

10. Taxes. Real estate taxes shall be separately assessed and taxed to each Condominium Unit, and each Owner shall pay promptly when due the real estate taxes attributable to his Condominium Unit. 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 in accordance with the respective Percentage Interest allocated to such Owner's Condominium Unit.

11. Utilities. Each Owner shall pay for his own utilities which are separately metered. Utilities which are not separately metered, if any, shall be treated as part of the Common Expenses.

12. Homeowners Association. The administration, operation, management, maintenance, repair, replacement and upkeep of the Property and School 80 Condominiums shall be by the Association in accordance with the provisions of the Association Documents and the Statute. Each Owner shall automatically, upon becoming an owner, be a member of the Association and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.



All agreements, resolutions and other actions lawfully taken by the Association shall be binding on all Owners, their successors and assigns.

The Board of Directors shall be the governing body of the Association, representing all of the Owners in providing for the administration, operating, management, maintenance, repair, replacement and upkeep of the Property and School 80 Condominiums in accordance with the provisions of the Association Documents and the Statute. The Board of Directors may adopt, amend or rescind reasonable rules and regulations governing the use, occupancy, operation and enjoyment of the Property, not inconsistent with the provisions of this Declaration, the By-Laws and the Statute, as it may deem necessary or advisable from time to time; provided, that the Board of Directors shall give advance written notice to the Owners of the adoption of such rules and regulations and any amendment or rescission thereof.

13. Covenants and Restrictions.

(a) The Common Areas and Facilities and the Limited Common Areas shall remain undivided; and no owner shall bring any action for partition (unless the Property has been removed from the provisions of the Statute as provided in the Statute), it being agreed that this restriction is necessary in order to preserve the rights of the Owners with respect to the administration, operation and management of the Property.

(b) Except for model Condominium Units and sales and other offices maintained by Declarant as expressly permitted by this Declaration, the Condominium Units shall be occupied and used by the respective Owners only as private dwellings for the Owner's family, tenants and social guests, and for no other purpose.

(c) An Owner shall not be deemed to own the undecorated and/or unfinished surfaces of the perimeter walls, floors, and ceilings surrounding his respective Condominium Unit, nor shall an Owner be deemed to own pipes, wires, conduits, ducts or public utility lines running through his respective Condominium Unit, which are utilized for or serve more than one Condominium Unit, except as tenants in common with the other Owners as herein provided. Such Owner, however, shall be deemed to own the walls and partitions which are contained within such Owner's respective Condominium Unit and also shall be deemed to own the inner decorated and/or finished surfaces of the perimeter walls, floors, and ceilings, including but not limited to plaster, paint and wallpaper.

(d) Each Owner shall pay to the Association all assessments for Common Expenses and other assessments established and collected as more specifically provided in the By-Laws, all in accordance with the provisions of this Declaration, the By-Laws and the Statute.

(e) Each Owner, mortgagee, tenant and occupant of a Condominium Unit or any part of the Property shall be subject to and shall comply with the provisions of the Association Documents and the Statute. The acceptance of a deed to or the acquisition of any interest in or

the act of occupancy of any Condominium Unit shall constitute an agreement that the provisions of the Association Documents are accepted and ratified by such Owner, tenant, mortgagee, occupant or other person. Failure to pay assessments for Common Expenses, or failure to comply with any such provisions, rules, regulations or decisions shall be grounds for an action by the Association or by any aggrieved Owner to recover sums due, for damages, for injunctive relief, for declaratory relief, for any other legal or equitable relief or for any combination of the foregoing; provided, however, there shall be no right of reversion or forfeiture of title resulting from any such failure.

(f) No 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 and Facilities or the Limited Common Areas or by the abandonment of his Condominium Unit.

14. Maintenance and Repair.

(a) By the Owner. Each Owner shall furnish and be responsible for, at his own expense, all maintenance, repairs, decoration and replacements within such Owner's Condominium Unit and the Limited Common Areas reserved for his Condominium Unit, and all equipment serving the same. The maintenance, repairs and replacements which each Owner is responsible to make personally and at his own expense include but are not limited to the maintenance, repair and replacement of all electric, gas, water, heating, air conditioning, ventilating, sewer, plumbing, security, fire protection and telephone equipment, facilities and systems located within the Owner's Condominium Unit; all partitions and interior walls, ceilings and floors; all kitchen fixtures and appliances; all light fixtures; doors, door frames, screens, windows and window frames; and all other accessories appurtenant to the Condominium Unit or belonging to the Owner thereof.

Each Owner shall perform promptly all maintenance and repairs within his own Condominium Unit, which if omitted might adversely affect the value of the Property or otherwise be hazardous to any other Condominium Unit or the Common Areas and Facilities or Limited Common Areas, and such Owner is hereby made expressly responsible for any damage and liability caused by his failure to do so. If such Owner does not perform such maintenance or repair within thirty (30) days after notice from the Board of Directors specifying the needed maintenance or repair, or immediately in the case of emergency (in which event no notice shall be required), the Board of Directors, or its agent, may perform such maintenance or repair, and the Owner of the Condominium Unit so repaired shall pay the cost thereof to the Association.

If, due to the willful, intentional or negligent acts or omissions of an Owner or the tenant or other occupant of such Owner's Condominium Unit, or the family members, guests, invitees, agents, employees or contractors of any of the foregoing, damage shall be caused to the Common Areas and Facilities or to a Condominium Unit or to Limited Common Areas owned by or reserved for the use of others, or if any maintenance, repair or replacement shall be rendered necessary thereby which would otherwise be a Common Expense, then such Owner shall pay the

Association for such damage or such maintenance, repair or replacement, as may be determined by the Board of Directors, except to the extent such loss is covered by the Association's insurance (provided such policy has a waiver of subrogation clause). The amount of any such loss in excess of the available insurance proceeds shall remain the liability of such Owner. Such liability shall be the personal liability of that Owner and a lien on such Owner's condominium Unit.

Maintenance, repairs and replacements to the Common Areas and Facilities or the Condominium Units or Limited Common Areas shall be subject to the rules and regulations adopted from time to time by the Board of Directors. To the extent that equipment, facilities or fixtures located within any Condominium Unit shall be connected to similar equipment, facilities or fixtures affecting or serving other Condominium Units or any Common Areas and Facilities or Limited Common Areas, then the use thereof by the Owner of such Condominium Unit shall be subject to the rules and regulations adopted from time to time by the Board of Directors.

(b) By the Association. The operation, maintenance, repair, replacement and upkeep of the Common Areas and Facilities shall be provided by the Board of Directors on behalf of the Association as part of the Common Expenses, except to the extent such maintenance, repair, replacement or upkeep is the responsibility or duty of the Owner as provided in the Association Documents.

15. Alterations, Additions and Improvements.

(a) No alterations, additions or improvements shall be made in or to a Condominium Unit or in or to the Limited Common Areas reserved for such Condominium Unit which may affect the appearance, safety, structure or mechanical systems of the Building or the Property without the prior written approval of the Board of Directors. The request for any such approval shall be in writing, accompanied by a description of the alteration, addition or improvement, and delivered to the managing agent of the Association, if any, or to the President of the Association. The Board of Directors shall have the obligation to answer any such written request for approval of a proposed alteration, addition or improvement within thirty (30) days after the date of receipt of such request, and failure to do so within the stipulated time shall constitute a consent by the Board of Directors to the proposed alteration, addition or improvement. The consent of the Board of Directors may contain such conditions as the Board of Directors, in its sole discretion, deems appropriate including restrictions on the manner of performing such work and requirements for builders risk and liability insurance; provided, that the provisions of this subparagraph (a) shall not apply to the Declarant.

(b) All alterations, additions or improvements in or to any Condominium Unit or in or to the Limited Common Areas reserved for such Condominium Unit (whether or not affecting the appearance, safety, structure or mechanical systems of the Building or the Property) shall be performed in compliance with all applicable laws, regulations and codes. Each Owner and his

contractors shall cooperate with the Board of Directors and other Owners so as not unduly to inconvenience or disturb the occupants of the Building.

(c) Each Owner shall cause any alteration, addition or improvement which, in the sole opinion of the Board of Directors, is made in violation of the provisions of this Paragraph 15 to be immediately corrected.

16. Right of Entry. The managing agent of Association, if any, or any other person(s) authorized by the Board of Directors or such managing agent shall be entitled to reasonable access to any Condominium Unit for the purpose of making an inspection of or for the purpose of performing any maintenance, repair or replacement of or to the Common Areas and Facilities or Limited Common Areas or any parts thereof, or any equipment, facilities or fixtures affecting or serving other Condominium Units or any Common Areas and Facilities or Limited Common Areas or for the purpose of performing maintenance or repairs of or to the Condominium Unit under the circumstances permitted by the foregoing Paragraph 14 of this Declaration. All owners, tenants and other occupants of a Condominium Unit shall grant the right of entry thereto to such managing agent and/or any other person(s) authorized by the Board of Directors or such managing agent for any such purpose; provided, that the request for entry is made to the Owner in advance and that any such entry is at a time reasonably convenient to the Owner. Notwithstanding anything to the contrary contained in this Declaration, in the case of an emergency, such right entry shall be immediate, whether or not the Owner is present at the time entry is made.

17. Lien for Unpaid Assessments. All sums assessed by the Association, but unpaid, for the share of the Common Expenses chargeable to any Condominium Unit, together with interest, late charges, collection costs of the managing agent (if any), court costs and attorneys' fees, shall constitute a lien on such Condominium Unit prior to all other liens, except only (a) tax liens on the Condominium Unit in favor of any unit of government or special taxing districts and (b) all sums unpaid on a first mortgage of record. Upon the failure of an Owner to pay any such assessment (or periodic installment of such assessment, if applicable) when due, such lien may be filed and foreclosed by suit by the Board of Directors, or its agent, acting on behalf of the Association, under the laws of the State of Indiana governing mechanics' and materialmen's liens, as provided in the Statute. In any such foreclosure action, the Owner of the Condominium Unit subject to such lien shall be required to pay a reasonable rental for the Condominium Unit, if so provided in the By-Laws, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Directors, or its agent, acting on behalf of the Association, shall have the authority to bid at foreclosure sale, and to acquire and hold, lease, mortgage and convey the Condominium Unit. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same.

18. Past Due Assessments Where Title Acquired by Foreclosure or Deed in Lieu of Foreclosure. Where the mortgagee under a first mortgage of record or other purchaser acquires title to a Condominium Unit as a result of foreclosure of the first mortgage or by receipt of a deed in lieu of foreclosure, such acquirer of title, his successors and assigns, shall not be liable for the share of Common Expenses or assessments by the Association chargeable to such Condominium Unit which became due prior to such acquisition of title. Such unpaid expenses or assessments shall be deemed to be Common Expenses collectible from all Owners, including such new Owner; provided, however, that nothing in this Paragraph 18 shall be deemed to relieve the prior Owner from personal liability therefor.

19. Past Due Assessments Where Title Acquired by Voluntary Conveyance. In a voluntary conveyance of a Condominium Unit, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments by the Association to the time of the grant or conveyance. Such joint liability shall be without prejudice to the grantee's right to recover from the grantor amounts paid by the grantee therefor. However, such grantee shall be entitled to a statement from the Board of Directors, or its agent, setting forth the amount of the unpaid assessments, and such grantee shall not be liable for, nor shall the Condominium Unit conveyed be subject to a lien for, any unpaid assessments by the Association in excess of the amount stated therein.

20. Sale, Lease or Other Transfer.

(a) Lease. No Condominium Unit shall be rented by the Owner thereof for transient or hotel purposes, which purposes are defined as rental for any period less than one hundred eighty (180) days. Subject to this restriction, Owners of the respective Condominium Units shall have the absolute right to lease such Condominium Units; provided, that any such lease is made subject to the provisions of the Association Documents.

(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.

21. Insurance.

(a) Casualty Insurance. The Association shall obtain and continue in effect 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 equal to the full replacement value of improvements which, in whole or in part, comprise the Common Areas and Facilities and Limited Common Areas. If the Board of Directors can obtain such coverage for reasonable amounts, it shall also obtain "all risk" coverage. Such insurance coverage shall be for the benefit of each Owner and, if applicable, the Owner's mortgagee under a mortgage of record, as their interests appear.

Certificates of insurance shall be issued to each Owner and mortgagee upon request, and the policy shall not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and to each mortgagee listed as a mortgagee in the policy.

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. The Board of Directors may cause such full replacement value to be determined by a qualified appraiser, if it deems such action advisable. The cost of such appraisal shall be a Common Expense.

All proceeds payable at any time and from time to time under such insurance policy shall be payable to the Association, which shall hold such proceeds as trustee for the individual Owners and mortgagees as their interests appear. The proceeds shall be used or disbursed only in accordance with the provisions of this Declaration. In the event that the members of the Board of Directors have not posted fidelity bonds for the faithful performance of their duties as such directors or if such bonds do not exceed the funds which will come into their hands, and there is a damage to a part or all of the Property resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of their duties in an amount to be determined by the Owners having more than fifty percent (50%) of the total Percentage Vote, which amount shall not exceed 125% of the loss, before the Association shall be entitled to receive the proceeds of the insurance payable as a result of such loss.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable): (i) contain the standard mortgage clause or equivalent endorsement (without contribution) which is commonly accepted by private institutional mortgage investors in the area in which the Property is located; (ii) provide that the insurer waives any defense based on invalidity arising from the acts of the insured; (iii) provide that the insurer waives its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, the Owners, and their respective agents and guests; (iv) provide that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as hereinafter permitted; and (v) provide 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 Paragraph 22 of this Declaration.

(b) Public Liability Insurance. The Association shall also obtain and continue in effect a master comprehensive public liability insurance policy in such amounts as the Board of Directors shall deem appropriate from time to time; provided, however, that such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury (including deaths of persons) and property damage arising out a single occurrence. Such insurance shall cover each Owner and all other persons entitled to occupy any Condominium Unit, the Association, the Board of Directors, any managing agent acting on behalf of the Association and all persons acting or who may come to act as agents or employees of the foregoing with respect to School 80

Condominiums. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and death of persons in connection with the operation, maintenance or use of the Common Areas and Facilities and Limited Common Areas and, if available at a reasonable premium, legal liability arising out of lawsuits related to employment contracts of the Association. Such insurance coverage shall also cover cross-liability claims of one insured against the other. Such policy shall provide that it may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association and to each mortgagee listed as a mortgagee in the policy.

(c) Other Insurance. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workers' compensation insurance, and such other liability insurance as the Board of Directors shall deem necessary, advisable or appropriate. In the event that all or any portion of the Real Estate shall be determined to be in a flood hazard zone, the Association shall also obtain appropriate flood insurance on all Condominium Units and Common Areas and Facilities and Limited Common Areas. 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. Such insurance coverage shall also cover cross-liability claims of one insured against the other.

(d) Premiums. The insurance premiums for any insurance coverage hereinabove described shall be a Common Expense to be paid by assessments levied by the Association.

(e) Notice: Distribution. 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 to each mortgagee whose interest may be affected thereby. Such notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.

In no event shall any distribution of proceeds be made by the Association directly to an Owner where there is a mortgage endorsement on the certificate of insurance. In such event, any remittances shall be to the Owner and his mortgagee jointly.

(f) Separate Insurance. Each Owner shall have the right, at his own expense, to purchase such additional insurance as he may deem necessary. Each Owner shall be solely responsible for loss or damage to the contents of his Condominium Unit, however caused, including but not limited to all floor and wall coverings and fixtures and betterments installed by the Owner, and to his personal property stored elsewhere on the Property, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing subparagraph (a) of this Paragraph 21 relating to the master casualty insurance policy to be obtained by the Association. Each Owner may obtain casualty insurance at his own expense upon his 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, 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 provided in this Declaration.

(g) Insurance Trustee. Notwithstanding any of the foregoing provisions and requirements relating to casualty or liability insurance, there may be named as an insured, on behalf of the Association, an authorized representative, including any trustee with whom such 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 casualty or liability insurance and to perform such other functions as are necessary to accomplish this purpose. Each Owner appoints the Association or any trustee or substitute trustee designated by the Association as attorney-in-fact for the purpose of purchasing and maintaining such insurance, and for the following additional purposes: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purposes. The appointment of such attorney-in-fact shall not be affected by the incompetence of such owner.

## 22. Casualty and Restoration.

(a) Except as hereinafter expressly provided in this Paragraph 22, in the event of damage to or destruction of the Property due to fire or other casualty or disaster, the Association shall promptly cause the same to be repaired, reconstructed and restored as nearly as practicable to its former condition and character. The proceeds of insurance, if any, received by the Association shall be applied to the cost of such repair and reconstruction.

(b) In the event of "complete destruction of the Building" (hereinafter defined), repair and reconstruction shall not be compulsory, but shall be done only in accordance with the following provisions of this Paragraph 22. The phrase "complete destruction of the Building," as used in this Paragraph 22, shall mean a determination, made by the Owners having more than two-thirds (2/3) of the total Percentage Vote ("two-thirds (2/3) of the Owners") at a special meeting of the Association called for the purpose of making such determination, that the total destruction of the Building has occurred. A special meeting of the Association shall be called and held within ninety (90) days after any fire or other casualty or disaster substantially damaging or destroying the Building for the purpose of making the determination of whether or not there has been a complete destruction of the Building. 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 the Building has not been made within such ninety (90) day period, then it shall be conclusively presumed that the Owners determined that there was not a complete destruction of the Building, and the Association shall proceed with repair and reconstruction as herein provided.



(c) If, under the foregoing subparagraph (b) of this Paragraph 22, it is determined by the Owners at the special meeting of the Association referred to therein that there has been a complete destruction of the Building, the Building shall not be reconstructed and repaired unless, by a vote of two-thirds (2/3) of the Owners (taken at the same special meeting referred to in the foregoing subparagraph (b) of this Paragraph 22), a decision is made to repair and reconstruct the Building. If two-thirds (2/3) of the Owners vote to repair and reconstruct the Building, the insurance proceeds, if any, received by the Association shall be applied to the cost of such repair and reconstruction.

Where there has been a determination by the Owners that there has been a complete destruction of the Building, if less than two-thirds (2/3) of the Owners vote in favor of the repair and reconstruction of the Building, the Building shall not be repaired and reconstructed; and, in such event, the Property shall be deemed to be removed from the provisions of the Statute as provided in the Statute, and the disposition of the proceeds of insurance shall be divided among the Owners in accordance with the respective Percentage Interest allocated to each Owner's Condominium Unit and shall be subject to the applicable provisions of the Statute.

(d) If the insurance proceeds, if any, received by the Association as a result of any such fire or other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or if there are no insurance proceeds, and if the Property is not to be removed from the provisions of the Statute, each Owner shall contribute to the cost for restoring the damage and repairing and reconstructing the Property (or the costs thereof in excess of insurance proceeds received, in any) in accordance with the respective Percentage Interest allocated to such Owner's Condominium Unit. Any such amount payable by the Owners 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 Statute.

(e) If there is any surplus of insurance proceeds after the repair and reconstruction of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Common Areas and Facilities and Limited Common Areas or, in the discretion of the Board of Directors, may be distributed to the Owners and their mortgagees who are the beneficial owners thereof.

(f) The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against an Owner for committing willful or malicious damage.

### 23. Amendment of Declaration.

(a) Generally. Except as expressly provided to the contrary in this Declaration, this Declaration may be amended at any time by a vote of not less than seventy-five percent (75%) of the total Percentage Vote. In the event any Condominium Unit is subject to a mortgage, the mortgagee shall be notified of the meeting of the Association at which the proposed amendment

is to be submitted to a vote and of the proposed amendment in the same manner as an Owner, but only if the mortgagee has given prior notice of its mortgage interest to the Association in accordance with the provisions of the By-Laws.

(b) Special Amendments. No amendment to this Declaration shall be adopted which changes: (i) the Percentage Interest with respect to any Condominium Unit or the applicable share of an Owner's liability for the Common Expenses, without the unanimous consent of the Owners, or (ii) the provisions of Paragraph 22 of this Declaration with respect to reconstruction or repair in the event of fire or any other casualty or disaster, without the unanimous approval of all mortgagees who have given prior notice of their mortgage interest to the Association in accordance with the provisions of the By-Laws.

(c) Additional Restrictions on Amendments.

(i) The consent of all Owners, and the approval of the eligible holders of first mortgages on Condominium Units to which at least sixty-seven percent (67%) of the votes of Condominium Units subject to a mortgage appertain, shall be required to terminate the Horizontal Property Regime.

(ii) The consent of Owners to which at least sixty-seven percent (67%) of the Percentage Vote are allocated and the approval of eligible holders of first mortgages on Condominium Units to which at least fifty-one percent (51%) of the votes of Condominium Units subject to a mortgage appertain shall be required to materially amend any provisions of the Association Documents or to add any material provisions thereto which establish, provide for, govern or regulate any of the following: (1) voting; (2) assessments, assessment liens or subordination of such liens; (3) reserves for maintenance, repair and replacement of the Common Areas and Facilities and Limited Common Areas; (4) insurance or fidelity bonds; (5) rights to use of the Common Areas and Facilities and Limited Common Areas; (6) responsibility for maintenance and repair of the several portions of the Property; (7) expansion or contraction of the Horizontal Property Regime or the addition, annexation or withdrawal of property to or from the regime; (8) boundaries of any Condominium Unit; (9) the interest in the Common Areas and Facilities or Limited Common Areas; (10) the convertibility of Condominium Units into Common Areas and Facilities or Common Areas and Facilities into Condominium Units; (11) leasing of Condominium Units; (12) imposition of any right of first refusal or similar restriction on the right of a Owner to sell, transfer, or otherwise convey his Condominium Unit.

(iii) The consent of owners to which at least sixty-seven percent (67%) of the Percentage Vote are allocated and the approval of eligible holders of first mortgages on Condominium Units to which at least fifty-one percent (51%) of the votes of the Condominium Units subject to a mortgage appertain, shall be required to amend any

provisions included in the Association which are for the express benefit of eligible holders of first mortgages on Condominium Units.

(iv) As used in this subparagraph (c), 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 8.1 of the By-Laws.

(d) 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.

(e) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained in this Declaration to the contrary, Declarant shall have the right acting alone and without the consent of the Owners and 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 Statute, (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 Declarant to vote in favor of, make, or consent to any amendments herein described in this Paragraph 23(e) 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 the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of Declarant to vote in favor of, make, execute and record any such amendments. The appointment of Declarant as such attorney-in-fact shall not be affected by incompetence of the Owner granting the same. The right of Declarant to act pursuant to rights reserved or granted under this Paragraph 23(e) shall terminate at such time as Declarant no longer holds or controls title to any part or portion of the Property.

24. Reservation of Rights by Declarant.

(a) Changes. Declarant reserves the right to change the interior design and arrangement of all Condominium Units and to alter the boundaries between them so long as Declarant owns the Condominium Units so altered. No change shall increase or decrease the number of Condominium Units or change the undivided interest in the Common Areas and Facilities and Limited Common Areas included as part of each Condominium Unit. If Declarant

shall make any such changes, they shall be reflected by a supplement to the Plans. Such supplement to the Plans need not be approved by the Association or by the other Owners.

(b) Sales Offices and Models. Notwithstanding anything to the contrary contained in the Association Documents, Declarant shall have, and hereby reserves, the right to use Condominium Units owned by Declarant and such other portion of the Property (other than Condominium Units owned by persons other than Declarant) as in the sole opinion of Declarant may be reasonably required to aid in the construction and sale of Condominium Units or for the conduct of any business activity attendant thereto, including but not limited to model Condominium Units, storage areas, signs, construction offices, sales offices, management offices and business offices. 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 such facilities so used or maintained by Declarant be considered Common Areas and Facilities.

(c) Easement for Improvements. Declarant shall have, and hereby reserves, an easement over, across, upon, along, in, through and under the Common Areas and Facilities and, to the extent necessary, the Limited Common Areas, for the purposes of installing, maintaining, repairing, replacing, relocating and otherwise servicing utility equipment, facilities and installations to serve the Property, to provide access to and ingress and egress to and from the Property, to make improvements to and within the Property and to provide for the rendering of public and quasi-public services to the Property. 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.

25. Costs and Attorneys Fees. In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of the Statute or the Association Documents, the party initiating such proceeding shall be entitled to recover its costs and expenses, including but not limited to, reasonable attorneys' fees, incurred in connection with such proceeding from such Owner, if it is found or agreed in such proceeding that such failure or default did occur.

26. Severability. Each provision of an Association Document is severable from every other provision, and the invalidity or unenforceability of any one or more provisions shall not change the meaning of or otherwise affect any other provision. To the extent that any provision of the Association Documents is found to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision, then the narrower or partially enforceable construction shall be applied and, to the extent lawful, the provision shall be enforced.

27. Pronouns. The use of the masculine gender herein shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to include plural, and vice versa, as appropriate.

28. **Applicable Law.** This Declaration shall be governed, interpreted, construed and regulated by the laws of the State of Indiana.

29. **Interpretation.** The captions herein are provided only for reference, and shall not be deemed to define, limit or otherwise affect the scope, meaning or effect of any provision. If there is any conflict among the Association Documents, this Declaration shall control, except as to matters of compliance with the Act, in which case the Articles of Incorporation shall control. Particular provisions shall control general provisions, except that a construction consistent with the Statute and the Act shall in all cases control over any construction inconsistent therewith. The provisions of the By-Laws shall control over any conflicting provision of any rule, regulation or other resolution adopted pursuant to any of the Association Documents. The Association Documents shall be construed together and shall be deemed to incorporate one another in full. Any requirements as to the content of one shall be deemed satisfied if the deficiency can be cured by reference to any of the others.

30. **Initial Management.** As set forth in the By-Laws, the initial Board of Directors consists and will consist of persons selected by Declarant. Such initial Board of Directors may enter into a management agreement with Declarant (or a corporation or other entity affiliated with Declarant) or a third party for a term not to exceed one (1) year with either party having the right to terminate upon ninety (90) days notice, under which the management company will provide supervision, fiscal and general management and maintenance of the Common Areas and Facilities and, in general, perform all of the duties and obligations of the Association. Such management agreement may be renewed by the parties for additional terms of one (1) year. In the event no management agreement exists because of termination or otherwise, the Association shall thereupon and thereafter resume performance of all the management duties, obligations and functions. Notwithstanding anything to the contrary contained herein prior to the Applicable Date, Declarant shall have, and Declarant hereby reserves to itself (either through a management company or otherwise), the exclusive right to manage the Property and to perform all the functions of the Association.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year hereinabove first written.

920 EAST 62nd STREET CORPORATION  
"Declarant"

By Joseph Barbieri  
Joseph Barbieri, President

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

Before me, a Notary Public in and for the State of Indiana, personally appeared Joseph Barbieri, the President of 920 East 62nd Street Corporation, who acknowledged the execution of the foregoing Declaration of Horizontal Property Ownership for School 80 Horizontal Property Regime for and on behalf of 920 East 62nd Street Corporation.

Witness my hand and Notarial Seal this 9 day of JULY, 1996.

P. Thomas Murray Jr.  
Signature

P. THOMAS MURRAY JR.  
Printed

My Commission Expires:  
12-20-97

County of Residence: MARION

This instrument was prepared by P. Thomas Murray, Jr., Attorney at Law, P.O. Box 501040, Indianapolis, Indiana 46250. (317) 842-8550.  
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LEGAL DESCRIPTION OF REAL ESTATE

Lots 2, 3, 4, 5, 6, 7 and 8 in Mustard's Broad Ripple Addition as per plat thereof recorded in Plat Book 8, page 144, in the Office of the Recorder of Marion County, Indiana, together with that portion of the First Alley West of Winthrop Avenue, heretofore vacated under Declaratory Resolution No. 15181, 1935 which resolution was recorded November 27, 1935 in Deed Record 941, page 8, that lies between the East side of said Lots 2, 3 and 4 and the West side of said Lots 6, 7 and 8.

Excepting, however, from the above described Lots, that portion of Lots 2 and 3 that was conveyed to the Indianapolis--Marion County Public Library by deed recorded September 7, 1983, as Instrument #83-6491, being more particularly described as follows:

Part of Lots 2 and 3 and part of the vacated alley described in Declaratory Resolution #15181 in Jacob S. Mustard's Broad Ripple Addition, the plat of which is recorded in Plat Book 8, page 144, in the Office of the Recorder of Marion County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of Lot 2 in Jacob S. Mustard's Broad Ripple Addition, as per plat thereof, recorded in Plat Book 8, page 144, in the Office of the Recorder of Marion County, Indiana; thence South 03 degrees 04 minutes 24 seconds West (assumed bearing) on the West line of Lots 2 and 3 a distance of 85.77 feet; thence North 89 degrees 49 minutes 34 seconds East 59.71 feet to an iron pin; thence North 00 degrees 19 minutes 26 seconds West 9.80 feet to an iron pin; thence South 89 degrees 48 minutes 02 seconds East 25.77 feet to an iron pin; thence North 00 degrees 13 minutes 52 seconds West 18.54 feet to the Westerly prolongation of the centerline of an existing wall common to the Broad Ripple Library building and Indianapolis Public School #80 building; thence North 89 degrees 54 minutes 50 seconds East on said Westerly prolongation, the centerline of said common wall and the Easterly prolongation thereof 100.13 feet to the East line of the first alley west of Winthrop Avenue as vacated by Declaratory Resolution #15181 recorded in Deed Record #941, pages 8 and 9 in the Office of the Recorder of Marion County, Indiana (said also being the West line of Lot 6 in said Jacob S. Mustard's Broad Ripple Addition); thence North 00 degrees 31 minutes 15 seconds West on said line 64.00 feet to the Northwest corner of said Lot 6; thence South 87 degrees 34 minutes 19 seconds West 20.01 feet to the Northeast corner of Lot 2 in said Addition; thence South 87 degrees 31 minutes 00 seconds West on the North line of said Lot 2 a distance of 159.05 feet (plat) 160.43 feet (measured) to the Beginning Point.

EXHIBIT A

**CODE OF BY-LAWS OF**  
**SCHOOL 80 HOMEOWNERS ASSOCIATION, INC.**  
**An Indiana Nonprofit Corporation**

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**CODE OF BY-LAWS OF  
SCHOOL 80 HOMEOWNERS ASSOCIATION, INC.**

**An Indiana Nonprofit Corporation**

**ARTICLE I  
NAME**

**Section 1.1. Name.** The name of this corporation is School 80 Homeowners Association, Inc. (hereinafter referred to as "Association").

**ARTICLE II  
IDENTIFICATION & APPLICABILITY**

**Section 2.1. Identification and Adoption.** These By-Laws are adopted simultaneously with the execution of the Declaration of Horizontal Property Ownership for the School 80 Horizontal Property Regime to which these By-Laws are attached and made a part (the "Declaration"). The provisions of these By-Laws shall apply to the School 80 Condominiums and the administration and conduct of the affairs of the Association. These By-Laws shall also constitute the By-Laws of the Association.

**Section 2.2. Individual Application.** Each of the Owners within the School 80 horizontal property regime located in Marion County, Indiana shall automatically and mandatorily be Members in the Association and be entitled to all of the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective deeds to their Condominium Units, covenant and agree to be bound by the conditions, restrictions, and obligations contained in the "Declaration of Horizontal Property Ownership of the School 80 Horizontal Property Regime", said Declaration being recorded in the Marion County Recorder's Office simultaneously with the recording of these By-Laws, the Articles of Incorporation of the Association, the rules and regulations of the Association and of the provisions hereof. All of the Owners, future Owners, tenants, future tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Condominium Unit or any part of the Common Areas and Facilities shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, the Articles of Incorporation, these By-Laws, the Indiana Horizontal Property Act (the "Statute"), and the Indiana Nonprofit Corporation Act of 1991 (the "Act"), all as the same may be amended from time to time, and to any rules and regulations adopted by the Board of Directors as herein provided. The Declaration is incorporated herein by reference. All of the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of the Articles of Incorporation and this Code of By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in the Articles of Incorporation and these Code of By-Laws, and reference is specifically made to Paragraph 1 of the Declaration containing definitions for terms, unless otherwise indicated herein.

**ARTICLE III**  
**MEETINGS OF ASSOCIATION**

**Section 3.1. Purpose of Meetings.** At least annually, and at such other times as may be necessary or appropriate, a meeting of the Owners shall be held for the purpose of electing the Board of Directors (subject to the provisions of Section 4.2 hereof), approving the annual budget, providing for the collection of Common Expenses and for such other purposes as may be required by the Declaration, these By-Laws, the Articles, the Act, or the Statute.

**Section 3.2. Annual Meeting.** The annual meeting for the Owners shall be held in the month of April of each year, with the specific date, time and place to be determined by the Board of Directors. At each annual meeting, the Owners shall (subject to the provisions of Section 4.2 hereof) elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

**Section 3.3. Special Meetings.** A special meeting of the Owners may be called by the President, by resolution of the Board of Directors or upon a written petition of the Owners of not less than ten percent (10%) of the total number of Condominium Units. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

**Section 3.4. Notice and Place of Meetings.** All meetings of the Members of the Association shall be held at any suitable place in Marion County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time, and place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Member entitled to vote thereat not less than ten (10) days prior to the date of such meeting. Any written notice delivered to the Owners as part of a newsletter or other publication regularly sent to the Owners constitutes a written notice. If at any meeting an amendment to the Declaration, the Articles of Incorporation, or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. All notices shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Owners at their respective addresses as the same shall appear upon the records of the Association. If an annual or special meeting of Owners is adjourned to a different date, time or place, written notice is not required to be given of the new date, time or place so long as the new date, time and place is announced at the meeting pursuant to the Act before adjournment. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary of the Association to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Association with its name and address in accordance with Section 8.1 of these By-Laws. Such Mortgagee may designate in writing a representative to attend the meeting. Attendance at any meeting in person, by agent or by proxy shall constitute a waiver of notice of such meeting.

**Section 3.5. Voting.**

(a) **Number of Votes.** To avoid fractional votes and to facilitate the orderly conduct of the meeting, each Owner shall be entitled to cast that number of votes on each matter coming before the meeting which is equal to the percentage of ownership in the Common Areas and Facilities applicable to the Owner's Condominium Unit or Units as set

forth in Exhibit "D" of the Declaration. Since all Condominium Units have the same percentage interest, each Owner has the equivalent of one (1) vote per Condominium Unit. Subject to Section 4.2 hereof, in voting for directors, each Owner (or his or her representative) shall be entitled to cast such number of votes for each directorship being filled at that meeting, and the candidate(s) receiving the highest number of votes shall fill the available directorship(s); provided that no Owner shall be allowed to accumulate his or her votes. To the extent provided in the Act, and except as otherwise provided in the Association Documents, plurality voting shall be permitted such that at a meeting, if a quorum exists, action on a matter is approved if the votes cast in favor of the action exceed the votes opposing the action.

(b) Multiple Owners. When more than one (1) person or entity constitutes the Owner of a particular Condominium Unit, all such persons or entities shall be Members of the Association, but all of such persons or entities shall have only such number of votes applicable to the Condominium Unit which is equal to the percentage of ownership in the Common Areas and Facilities applicable to the Owner's Condominium Unit as set forth in Exhibit "D" to the Declaration, which votes shall be exercised as they among themselves determine, but in no event shall more than such number of votes be cast with respect to any such Condominium Unit.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled. The secretary of such corporation or a trustee of such trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of the Association stating who is authorized to vote on behalf of said corporation or trust.

(d) Proxy. An Owner may vote either in person or by his or her duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Secretary of the Association prior to the commencement of the meeting. No such proxy shall remain valid for longer than eleven (11) months from the date of its execution, unless a longer term is specified in the proxy.

(e) Quorum. Except where otherwise expressly provided in the Association Documents, the Statute or the Act, the presence of Owners or their duly authorized representatives owning at least a majority of the total Percentage Vote shall constitute a quorum at all meetings. Unless otherwise required herein or by the Act, the Owners at a meeting at which a quorum is initially present may continue to do business until adjournment, notwithstanding the withdrawal of enough Owners to leave less than a quorum. As used elsewhere in these By-Laws, the term "Majority of Owners" shall mean, unless otherwise expressly indicated, more than fifty percent (50%) of the total Percentage Vote, and the term "Majority of the Vote" shall mean a majority of the votes of the Owners present or represented at such meeting at which a quorum is present.

**Section 3.6. Conduct of Annual Meeting.** The Chairman of the annual meeting shall be the President of the Association. The President shall call the meeting to order at the duly designated time, and business will be conducted in the following order:

(1) **Reading of Minutes.** The Secretary shall read the minutes of the last annual meeting and the minutes of any regular or special meeting of the Members held subsequent thereto, unless such reading is waived by a Majority of the Vote as defined in Section 3.5(e) hereof.

(2) **Treasurer's Report.** The Treasurer shall report to the Owners concerning the financial condition of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior year and the proposed budget for the current fiscal year.

(3) **Budget.** The proposed budget for the current year shall be presented to the Owners for approval or amendment.

(4) **Election of Board of Directors.** Nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Nominations shall also be made by the Nominating Committee which shall consist of a Chairman who shall be a Director, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors at least three (3) months prior to each annual meeting. Nominations shall also be sought by the Board through a notice or newsletter to the Owners prior to the annual meeting seeking nominations. Such nominations (whether from an Owner or the Nominating Committee) must be in writing and presented to the Secretary of the Association at least thirty (30) days prior to the annual meeting. Voting for the Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he or she is entitled for as many nominees as are to be elected; however, no Owner shall be entitled to accumulate his or her votes. Those persons receiving the highest number of votes shall be elected.

(5) **Other Business.** Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a Majority of the Vote as defined in Section 3.5(e) hereof.

(6) **Committee Reports.** Reports of committees designated to supervise and advise on the respective segments of maintenance and operations prescribed in the Declaration or assigned by the Board of Directors shall be presented.

(7) **Adjournment.** Upon completion of all business before the Association, the President, upon the motion of any Owner, may adjourn the meeting; provided, however, that no annual meeting shall be adjourned until a budget is approved by the Owners.

Section 3.7. Conduct of Special Meeting. The President of the Association shall act as Chairman of any special meetings of the Association. The Chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

Section 3.8. Written Ballots. In lieu of any annual or special meeting of the Owners, written ballots may be utilized in the manner prescribed in the Act.

**ARTICLE IV**  
**BOARD OF DIRECTORS**

Section 4.1. Board of Directors. The affairs of the Association shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). Except for the Initial Board of Directors appointed by the Declarant as provided in the following Section 4.2, the Board of Directors shall be composed of three (3) persons who each own at least one (1) Condominium Unit. The number of Directors comprising the Board may be increased by resolution adopted by not less than a majority of the Board of Directors, but said number shall not exceed five (5). If the number of Directors is ever greater than three (3), said number may be decreased by resolution adopted by not less than a majority of the Board. In no event shall the number of Directors be less than three (3) nor more than five (5) and no reduction in the number of Directors shall have the effect of removing a Director from office prior to the expiration of his or her term. In the event the number of Directors is increased as provided herein, the election of the additional Director or Directors shall be by a vote of the Members according to a procedure established by the Board by resolution.

Section 4.2. Initial Board of Directors. The initial Board of Directors shall be Joseph Barbieri, Carolyn Barbieri and Liza Mullins (hereafter referred to as the "Initial Board of Directors"), all of whom have been or shall be appointed by the Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, the Association Documents, the Act or the Statute:

(a) The Initial Board of Directors shall hold office until the earlier of:

- (i) December 31, 1999, or
- (ii) Ninety (90) days after the date by which twenty-five (25) Condominium Units have been conveyed to Owners,

the earlier date being hereinafter referred to as the "Applicable Date".

(b) In the event any vacancy or vacancies occur in the Initial Board of Directors for any reason or cause whatsoever prior to the Applicable Date, each such vacancy shall be filled by a person appointed by the Declarant, who shall thereafter be deemed a member of the Initial Board of Directors.

Each Owner, by acceptance of a deed to a Condominium Unit or acquisition of any interest in a Condominium Unit, shall be deemed to have appointed the Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date,

to exercise all of said Owner's rights as a member of the Association to vote and to vote as the Declarant determines on all matters as to which members are entitled to vote under the Association Documents, the Act, the Statute or otherwise. This appointment of the Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same.

**Section 4.3. Additional Qualifications.** Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then 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 Condominium Unit may be represented on the Board of Directors by more than one person at a time.

**Section 4.4. Term of Office and Vacancy.** Subject to Section 4.2 above, one (1) member of the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board of Directors shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting of the members of the Association until the Applicable Date. After the Applicable Date, each member 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 member of the Board shall be elected for a three (3) year term, one for a two (2) year term, and one for a one (1) year term so that the terms of one-third (1/3) of the Directors shall be elected at each annual meeting of the Association. Subject to the provisions of Section 4.2 above, any vacancy or vacancies occurring in the Board caused by a death, resignation, or otherwise other than a vacancy created by removal or an increase in the number of Directors, shall be filled until the next annual meeting of the Members through a vote of a majority of the remaining Directors. At the first annual meeting of the Members following any such vacancy, a Director shall be elected by the Owners to serve for the balance of the term of the Director in respect to whom there has been a vacancy. Each Director shall hold office throughout the term of his or her election until his or her successor is elected and qualified.

**Section 4.5. Removal of Directors.** After the Applicable Date, a Director or Directors elected by the Owners, or elected by the Directors to fill a vacancy, may be removed by the Owners with or without cause if the number of votes cast to remove would be sufficient to elect the Director(s) at a meeting to elect Directors. A Director or Directors may be so removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting to serve for the remainder of the term(s) of the removed Director(s).

**Section 4.6. Duties of the Board of Directors.** The Board of Directors shall perform or cause to be performed, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Protection, repair and replacement of the Common Areas and Facilities, unless the same are otherwise the responsibility or duty of the Owners; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

- (b) Procuring of utilities, removal of garbage and waste if not provided by the municipality, and snow removal from the Common Areas;
- (c) Landscaping, painting, decorating, and furnishing of the Common Areas and Facilities;
- (d) Surfacing, paving, and maintaining driveways, parking areas, and sidewalks, and the regulation of the use thereof;
- (e) Assessment and collection from the Owners of the Owners' pro-rata share of the Common Expenses;
- (f) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time the notice of annual meeting is mailed or delivered;
- (g) Preparing annually a full accounting of all receipts and expenses incurred during each year, which accounting shall be made available to any Owner upon request;
- (h) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the School 80 Condominiums, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination upon written request by any Owner at any time during normal business hours;
- (i) Procuring and maintaining in force all insurance coverage required by the Declaration and the Statute, as amended;
- (j) Performing such other duties as may be reasonably inferred from the provisions of the Declaration, the Act, or the Statute.

**Section 4.7. Powers of the Board of Directors.** The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of its duties. These powers include, but are not limited to, the power:

- (a) To employ a reputable and recognized professional managing agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties; provided, however, any management agreement shall be terminable for cause upon thirty (30) days written notice and terminable without cause upon sixty (60) days written notice, and any such agreement may not exceed one (1) year, renewable by agreement of the parties for successive one (1) year periods;
- (b) To purchase for the benefit of the Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;
- (c) To procure for the benefit of the Owners fire and extended coverage insurance covering the buildings and improvements of the School 80 Condominiums to the full insurable value thereof, to procure public liability and property damage insurance and Worker's Compensation Insurance, if necessary, and to procure all such other insurance as



is required or permitted under the Declaration, the Act, or the Statute, all as amended, for the benefit of the Owners, the Association, and the Mortgagees;

(d) To employ legal counsel, architects, engineers, 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;

(e) 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 Areas;

(f) To include the costs of all of the above and foregoing as Common Expenses of the Association and to pay all of such costs therefrom;

(g) To open and maintain a bank account or accounts in the name of the Association and to designate the signatories thereto;

(h) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the School 80 Condominiums which are not inconsistent with the provisions of the Declaration, these By-Laws and the Statute, provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, alteration, or rescission thereof;

(i) To perform any maintenance or repair to any Condominium Unit or Limited Common Area to the extent and under the circumstances permitted by the Declaration;

(j) Assignment of parking spaces to specific Condominium Units for their specific use.

**Section 4.8. Limitations on Board Action.** After the Applicable Date, the authority of the Board of Directors to enter into contract shall be limited to contracts involving a total expenditure of less than Two Thousand Five Hundred Dollars (\$2,500.00), unless the prior approval of a Majority of Owners (as defined in Section 3.5(e) hereof) is obtained, except in the following cases:

(a) Supervision and management of the replacement or restoration of any portion of the Common Areas and Facilities or Limited Common Areas damaged or destroyed by fire or other casualty, where the cost thereof is payable out of insurance proceeds actually received; and,

(b) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting. However, specific items within the budget need not be approved separately by the Owners at the annual meeting. The Board may also reallocate funds to items in the budget so long as the total budgeted funds are not exceeded and by doing so, the total budget will not be increased; and

(c) Expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

**Section 4.9. Compensation.** No Director or Officer shall receive any compensation for his or her services as such except to such extent as may be expressly authorized by a Majority of Owners as defined in Section 3.5(e) hereof. The Managing Agent, if any, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

**Section 4.10. Meetings and Notice.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. No written or verbal notice need be given to Directors for regularly scheduled Board meetings of which the Directors are already aware. For all other Board meetings, the Secretary shall give notice of such meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings. Special meetings of the Board may be called by the President or any two (2) members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice. To the extent provided in the Act, a Director may conduct or participate in a regular or special meeting of the Board of Directors through the use of conference telephone or any means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting.

**Section 4.11. Waiver of Notice.** Before or after any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**Section 4.12. Quorum.** At all meetings of the Board, unless the Act or these By-Laws provide otherwise, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

**Section 4.13. Bond.** The Board of Directors may require the Managing Agent, Treasurer and such other officers as the Board deems necessary to provide surety bonds, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bond shall be a Common Expense.

**Section 4.14. Informal Action by Directors.** Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board and such written consent is filed with the minutes of proceedings of the Board or committee.

Section 4.15. Standards of Conduct and Liability of Directors and Officers. The standard and duty of conduct for and the standard or requirements for liability of the Directors and Officers of the Association shall be as set forth in the Act, as the same may be amended from time to time.

## **ARTICLE V OFFICERS**

Section 5.1. Officers of the Association. The principal officers of the Association shall be the President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 5.2. Election of Officers. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each election thereof. Each officer shall hold office for one (1) year or until his successor shall have been duly elected and qualified, unless earlier removed by the Board of Directors. Upon recommendation of a majority of all members of the Board or upon an affirmative vote of a Majority of Owners (as defined in Section 3.5(e) hereof), any officer may be removed either with or without cause and his or her successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose. Notwithstanding the foregoing, prior to the Applicable Date, only the Initial Board of Directors shall have the power to elect or remove the Officers.

Section 5.3. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of a nonprofit corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Owners as he or she may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 5.4. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall perform all duties incumbent upon the President during the absence or disability of the President. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall authenticate the Association's records, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 5.5. The Treasurer. The Board shall elect from among the Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Treasurer. The Treasurer shall be legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Association. He or she shall immediately deposit all funds of the Association coming into his or her hands in some reliable bank or other depository to be designated by the Board and shall

keep such bank account in the name and for the exclusive benefit of the Association. The Treasurer may permit the Managing Agent, if any, to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

**Section 5.6. Assistant Officers.** The Board of Directors may from time to time designate and elect from among the Owners an Assistant Secretary and Assistant Treasurer, who shall have such powers and duties as the Officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board of Directors may prescribe.

## **ARTICLE VI ADDITIONAL RIGHTS AND DUTIES OF BOARD**

**Section 6.1. Right of Entry.** An Owner or occupant of a Condominium Unit shall be deemed to have granted the right of entry to his Condominium Unit to the Board, the Managing Agent, or any person authorized by the Board in case of any emergency, in order to remedy any circumstance threatening his or her Condominium Unit, the Building, or any other property or person, whether the Owner is present at the time or not. The Board of Directors shall have the right to retain keys for each Condominium Unit. Any Owner shall permit persons authorized by the Board to perform any work, when required, to enter his Condominium Unit for the purpose of performing installations, alterations, or repairs to the mechanical or electrical facilities or equipment, or to make structural repairs, provided that requests for entry are made in advance and that such entry is at a time convenient to the Owner. In case of emergencies, such right or entry shall be immediate.

**Section 6.2. Right of Board to Adopt Rules and Regulations.** The Board may promulgate such reasonable rules and regulations regarding the operation of the School 80 Condominiums as the Board may deem desirable, including but not limited to the use of the Common Areas, Limited Common Areas and Condominium Units. Such rules as are adopted may be repealed or amended by a vote of a majority of the Board. The Board shall cause copies of all such rules and regulations, including any amendments or repeals thereof, to be delivered or mailed promptly to all Owners at least fifteen (15) days prior to the effective date thereof. Any rule or regulation promulgated by the Board shall be properly and consistently enforced by the Board.

## **ARTICLE VII INDEMNIFICATION**

**Section 7.1. Indemnification of Directors.** To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director of the Association shall be indemnified by the Association as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as hereinafter amended.

**Section 7.2. Indemnification of Officers.** To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was an officer of the Association shall be indemnified by the Association as provided in the Indiana Nonprofit Corporation Act of 1991, as it now exists or as hereinafter amended. In addition, every person (and the heirs and personal representatives of such person) who is or was an officer of the Association shall be indemnified by the Association to the same and fullest extent that directors are indemnified by the

Association as provided for in the Indiana Nonprofit Corporation Act of 1991, as it now exists or is hereinafter amended.

## **ARTICLE VIII NOTICES AND MORTGAGES**

**Section 8.1. Notice to Association.** Any Owner who places a first mortgage lien upon his or her Condominium Unit or the Mortgagee thereof shall notify the Secretary of the Association and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration, these By-Laws, or the Statute shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgages and the name and address of the Mortgagee are furnished to the Secretary, either by Owner or by the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these By-Laws shall be required, and no Mortgagee shall be entitled to vote on any matter on which he otherwise may be entitled to vote by virtue of the Declaration or By-Laws or proxy granted to such Mortgagee in connection with the mortgage.

**Section 8.2. Notice of Unpaid Assessments.** Upon ten (10) days written notice to the Association and the payment of a reasonable fee, the Association shall deliver to any Owner, Mortgagee, prospective Mortgagee, title insurance company, purchaser or other prospective transferee of a Condominium Unit, a written statement setting forth the amount of all unpaid assessments, if any, with respect to the subject Condominium Unit, together with the amount of the current assessments for Common Expenses and the date(s) such assessments become due and payable. Any such written statement shall be binding upon the Association in favor of any person relying thereon in good faith, and any Mortgagee or grantee of the Condominium Unit shall not be liable for nor shall the Condominium Unit conveyed be subject to any lien for any unpaid assessments in excess of the amount set forth in such statement.

**Section 8.3. Notices to Mortgagees.** The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under Section 8.1 of these By-Laws of any of the following:

- (a) Any condemnation or casualty loss that affects a material portion of the Common Areas or the building(s) or improvements on any Condominium Unit securing its mortgage;
- (b) Any delinquency in the payment of Regular or Special Assessments owed by the Owner of any Condominium Unit on which said holder, insurer, or guarantor holds a mortgage, if said delinquency continues for more than sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and,
- (d) Any proposed action that requires the consent of a specified percentage of Mortgagees.

**ARTICLE IX**  
**MISCELLANEOUS**

**Section 9.1. Fiscal Year.** The fiscal year of the Association shall be the calendar year.

**Section 9.2. Personal Interests.** Except as permitted under Section 4.8 hereof, no Member of the Association shall have or receive any earnings from the Association; provided, however, that a Member who is an officer, director, employee, or agent of the Association may be reimbursed for expenses incurred on the Association's behalf.

**Section 9.3. Contracts, Checks, Notes, Etc.** All contracts and agreements entered into by the Association and all checks, drafts and bills of exchange and orders for the payment of money shall, in the conduct of the ordinary course of business of the Association, unless otherwise directed by the Board of Directors, or unless otherwise required by law, be signed by the Treasurer, and at least one other officer of the Association.

**ARTICLE X**  
**AMENDMENT TO BY-LAWS**

**Section 10.1. Amendment.** These By-Laws may be amended in the same manner as an amendment to the Declaration, except as prohibited by any provision of the Declaration, the Act, the Statute, or these By-Laws, as the same may be amended from time to time. Amendments to these By-Laws shall be recorded in the Office of the Recorder of Marion County, Indiana. Notwithstanding anything to the contrary contained herein or in the Declaration, there shall be no amendment to the Declaration or these By-Laws prior to the Applicable Date without the consent and approval of the Declarant.

**ARTICLE XI**  
**ASSESSMENTS**

**Section 11.1. Creation of the Lien and Personal Obligation for Assessments.** Each Owner of any Condominium Unit by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Regular Assessments; and (2) Special Assessments, such assessments to be established and collected as hereinafter provided. The Regular and Special Assessments, together with late charges, collection costs of the Managing Agent (if any), court costs, reasonable attorney's fees, and any other obligation which may be charged to an Owner pursuant to the Association Documents, shall be a charge on the Condominium Unit as of the first day of each year, and shall be a continuing lien upon the property against which each such assessment or charge is made. Each such assessment or charge, together with late charges, collection costs of the Managing Agent (if any), court costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

**Section 11.2. Annual Accounting.** Annually, within ninety (90) days after the close of the Association's fiscal year, the Board of Directors shall cause to be prepared and made available for inspection to each Owner a financial statement prepared by a certified public accountant, which statement shall show all receipts and expenses received, incurred and paid during the preceding year.

**Section 11.3. Proposed Annual Budget.** 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 for the ensuing year, estimating the total amount of the Common Expenses for the ensuing year, and furnish a copy of such proposed budget to each Owner prior to the annual meeting together with the notice of said meeting. "Common Expenses" means the actual and estimated cost to the Association for maintenance, management, operation, insurance, repair, improvement and replacement of Common Areas and, where applicable, Limited Common Areas, and any other cost or expense incurred by the Association for the benefit of the same or the Owners. The annual budget 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 ensuing fiscal year. At the annual meeting of the Owners, the budget shall be approved in whole or in part or may be amended in whole or in part by a Majority of the Vote as defined in Section 3.5(e) hereof; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved at such meeting, either the proposed annual budget or the proposed annual budget as amended. The failure or delay of the Board of Directors to prepare a budget and furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of such Owner's obligation to pay the Common Expenses as herein provided, whenever determined, and in the absence of an annual budget, either because of a lack of a quorum at an annual meeting or otherwise, the Owner shall continue to pay the then existing monthly assessment until such new annual budget and monthly assessment is established at the next annual meeting or, at the option of the Board of Directors, based upon one hundred ten percent (110%) of such last approved budget until the next annual meeting.

**Section 11.4. Regular Assessments.** Promptly following the adoption of the annual budget, the Board of Directors shall give written notice of the assessment against each respective Condominium Unit based on its Percentage Interest (herein called the "Regular Assessment"). The Regular Assessment against each Condominium Unit shall be assessed on a yearly basis commencing on the first day of the month following the annual meeting and shall be due and payable in twelve (12) equal monthly installments, in advance, on the first day of each month. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, or otherwise, as directed by the Board of Directors. The Regular Assessment shall automatically become a lien on that Condominium Unit on the date it is due and payable.

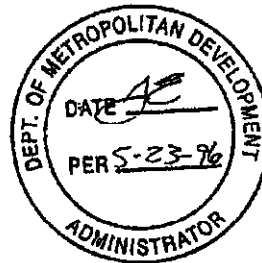
In addition to meeting the estimated cash requirements for the Common Expenses, the annual budget and the Regular Assessment shall be established to include the establishment and maintenance of an adequate replacement reserve fund for capital expenditures and replacement and repair of the Common Areas and Facilities, which replacement reserve fund shall be used only for those purposes and not for usual and ordinary repair expenses of the School 80 Condominiums. Such reserve fund shall be maintained in a separate, federally insured, interest bearing account with a bank or savings and loan association authorized to conduct business in Marion County.

**Section 11.5. Special Assessments.** From time to time, Common Expenses of an unusual or extraordinary nature or otherwise not anticipated may arise. At such time and with the approval of a Majority of the Owners as defined in Section 3.5(e) hereof at a special meeting called for such purpose, the Board of Directors shall have the full right, power and authority to make and levy special assessments which, upon resolution of the Board of Directors, shall become a lien on each Condominium Unit,

**DESCRIPTION OF PERCENTAGE INTERESTS  
OF CONDOMINIUM UNITS**

The percentage of undivided interest of the Owners of the respective Condominium Units in the Common Areas and Facilities and Limited Common Areas are as follows:

<u>Unit No.</u>	<u>Percentage Interest</u>
U-1	0.03125
U-2	0.03125
U-3	0.03125
U-4	0.03125
U-5	0.03125
U-6	0.03125
U-7	0.03125
U-8	0.03125
M-1	0.03125
M-2	0.03125
M-3	0.03125
M-4	0.03125
M-5	0.03125
M-6	0.03125
M-7	0.03125
M-8	0.03125
M-9	0.03125
M-10	0.03125
M-11	0.03125
M-12	0.03125
M-13	0.03125
M-14	0.03125
M-15	0.03125
M-16	0.03125
M-17	0.03125
M-18	0.03125
L-1	0.03125
L-2	0.03125
L-3	0.03125
L-4	0.03125
L-5	0.03125
L-6	0.03125
<b>TOTAL</b>	<b>100%</b>



**EXHIBIT D**



prorated in accordance with the Percentage Interest of each Unit, payable in a lump sum or installments as directed by the Board of Directors (herein called "Special Assessment").

**Section 11.6. Rate of Assessments.** Each Owner shall pay the Regular Assessments and Special Assessments according to the percentage interest of such Owner's Condominium Unit as set forth in the Declaration and Exhibit "D" thereto. Since all Owners have the same percentage interest, such assessments shall be paid equally by the Owners.

**Section 11.7. Failure of Owner to Pay Assessments.** No Owner may exempt himself or herself from paying Regular or Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and Limited Areas and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or Limited Areas, or by abandonment of the Condominium Unit belonging to such Owner. 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 or Special Assessments when due, the lien for such assessment on the Owner's Condominium Unit may be foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Regular or Special Assessments within ten (10) days after such are due, the Board, in its discretion, may:

- (1) impose a late charge, which will be considered an addition to the assessment, in an amount to be determined by the Board of up to twenty-five percent (25%) of the amount of the Assessment;
- (2) accelerate the entire balance of the unpaid Assessments for the remainder of the fiscal year and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary;
- (3) suspend such Owner's right to use the recreational facilities within School 80 Condominiums, if any, as provided in the Act; and
- (4) suspend such Owner's right to vote as provided in the Act.

In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Condominium Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Condominium Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Condominium Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular or Special Assessments without foreclosing or waiving the lien securing the same. In any action to recover a Regular or Special Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to collection costs of the Managing Agent (if any), court costs, and reasonable attorney's fees, from the Owner of the respective Condominium Unit.

**Section 11.8. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the property

subject to assessment. Notwithstanding anything contained in this section or elsewhere in the Declaration or these By-Laws, any sale or transfer of a Condominium Unit to a mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provide by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular or Special Assessment as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Condominium 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 or Special Assessments thereafter becoming due or from the lien therefor. 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 Condominium Unit from which it arose).

Section 11.9. Initial Budgets and Assessments Prior to the Applicable Date. The purpose of this section is to provide for the maintenance and upkeep of School 80 Condominiums and for the payment of the Common Expenses during the period prior to the Applicable Date. Accordingly, and notwithstanding anything to the contrary contained in the Association Documents, the Act, the Statute or otherwise, until the Applicable Date, the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board of Directors without meetings of or concurrence of the Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 4.2 hereof shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Regular Assessments and Special Assessment until the Applicable Date.

Payment of the Regular Assessments and Special Assessments prior to the Applicable Date with respect to each Condominium Unit shall commence on the date of the conveyance of such Condominium Unit to a new Owner other than the Declarant. In addition, at the initial closing of each Condominium Unit, the purchaser or new owner is required to pay a sum equal to the full Regular Assessment applicable to such Condominium Unit for two (2) months as his or her initial contribution to the working capital of the Association. Such amounts shall be used by the Association for Common Expenses. This amount is not an advance payment of Regular Assessments and will not be held in any trust or reserve account. Additionally, at each closing, the purchaser of a Condominium Unit shall pay his pro rata share of the Regular Assessment due in the month of closing. Thereafter, payment of the Regular Assessment shall be made on the first day of each calendar month.

Ten percent (10%) of the Regular Assessment paid prior to the Applicable Date shall be designated as a replacement reserve fund for maintenance, repairs or replacement of Common Areas that must be repaired on a periodic basis. That portion of the Regular Assessment collected by the Declarant prior to the Applicable Date applicable to the replacement reserve shall be held by the Initial Board of Directors and, if required, applied to the replacement of the Real Estate. To the extent that such replacement reserve is not so applied, the balance thereof shall be retained by the Association at the Applicable Date.

Notwithstanding any other provisions in these By-Laws or the Declaration to the contrary, until the earlier of:

- a. the Applicable Date; or
- b. the first (1st) day of the twenty-fourth (24th) calendar month following the month in which the closing of the sale of the first Condominium Unit occurs;

the Declarant shall not be liable for payment of any Regular Assessments or Special Assessments to the Association for any unoccupied Condominium Units owned by Declarant which are offered for the first time for sale. However, if the Common Expenses incurred by the Association during such time period exceed the amounts assessed against the other Owners, then the Declarant shall pay the excess. Furthermore, prior to the Applicable Date or the first (1st) day of the twenty-fourth (24th) calendar month following the month in which the closing of the sale of the first Condominium Unit occurs, whichever is sooner, the Declarant guarantees that the monthly payment of Regular Assessments shall not exceed One Hundred Twenty-Five Dollars (\$125.00). However, the Declarant shall have the right to increase said monthly payment up to no more than One Hundred Forty Dollars (\$140.00) commencing January 1, 1998.

## **ARTICLE XII** **RESTRICTIONS**

Section 12.1. Restrictions on Use. The following restrictions on the use and enjoyment of the Condominium Units, Common Areas and Facilities, Limited Areas and the Property shall be applicable to the School 80 Condominiums and are in addition to those set forth in the Declaration. These are as follows:

- (a) Except for model Condominium Units and sales and other offices maintained by the Declarant as expressly permitted by the Declaration, all Condominium Units shall be used exclusively for residential purposes and the occupancy of a single family, all as permitted under local zoning ordinances. "Single Family" is defined as a single housekeeping unit, operating on a nonprofit, non-commercial basis between its occupants with a common kitchen and dining area. No Condominium Unit may be partitioned or subdivided.
- (b) No additional buildings shall be erected or located on the Property other than the Building designated in the Declaration and shown on the Plans.
- (c) Nothing shall be done or kept in any Condominium Unit or in the Common Areas or Limited Areas which will cause an increase in the rate of insurance on any Building or the contents thereof. No Owner shall permit anything to be done or kept in his Condominium Unit or in the Common Areas or Limited Areas which will result in a cancellation of insurance on any Building or contents thereof, or which would be in violation of any law or ordinance.
- (d) No nuisance shall be permitted, including without limitation any activities which are unsafe or hazardous with respect to any person or property, and no waste shall be committed in the Condominium Units, Common Areas or Limited Areas.

- (e) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows or balconies or placed on the outside walls of the Building, and no sign, awning, canopy, shutter, satellite dish, or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roof or any other parts of any Building without the prior consent of the Board.
- (f) No animals, livestock or poultry of any kind shall be raised, bred or kept in any part of the School 80 Condominiums, except that small dogs, cats or customary household pets in reasonable numbers may be kept in a Condominium Unit; provided that such pet is not kept, bred or, maintained for any commercial purpose, and does not create a nuisance. All pets (including cats) shall be taken outdoors only under leash or other restraint and while attended by its owner, and an Owner shall be fully liable for any injury or damage to persons or property, including the Common Areas or Limited Areas, caused by his or her pet. The Owner shall be responsible for the cleaning of any Common Area or Limited Areas made dirty by his or her pet's excrement, and shall be fully liable for the expenses of any cleaning not performed by the Owner. The tethering of pets in any area outside the Owner's home does not constitute "attended." The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet which, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the School 80 Condominiums upon ten (10) days' written notice from the Board to the respective Owner. The appropriate governmental authorities shall have an easement across the Property to enforce local animal control laws and ordinances.
- (g) Nothing shall be done or permitted in any Condominium Unit which will impair the structural integrity of any Building or which would structurally change any Building, except as otherwise provided in the Declaration or these By-Laws; nor shall the premises be used in any unlawful manner or in any manner to cause injury to the reputation of the Property or to be a nuisance, annoyance, inconvenience or damage to other residents of the Building or neighborhood, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machines, or by loud persons and objectionable odors.
- (h) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on any part of the Common Areas or Limited Areas. The Common Areas and Limited Areas shall be kept free and clear of rubbish, debris and other unsightly materials.
- (i) No industry, business, manufacturing, mercantile, storing, trade, or any commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Property; provided, however, that an Owner may maintain an office or home business in the Unit if: (1) such office or business generates no significant number of visits or unreasonable parking usage (both as determined by the Board of Directors) by clients, customers or other persons related to the business; (2) no equipment or other items related to the business are stored, parked or otherwise kept outside such Owner's Unit; (3) there are no employees or independent

contractors within the Unit other than the Owner or other resident; (4) such Owner has obtained approvals for such use as may be required by the appropriate local and state governmental agencies; (5) the Owner has obtained written approval from the Board of Directors; and (6) all other provisions of these By-Laws, the Declaration and the rules and regulations are complied with. The Board may require the Owner to pay any increase in the rate of insurance or other costs for the Association which may result from such use. No Unit shall be used or rented for transient, motel or hotel purposes.

- (j) No "For Sale", "For Rent" or "For Lease" signs or other window or advertising displays or posters shall be maintained or permitted on any part of the Property or any Condominium Unit without the prior written consent of the Board; provided, however, that the Declarant shall have the right to place or allow to be placed "For Sale" or "For Lease" signs on or about the Property in connection with any unsold or unoccupied Condominium Unit owned by the Declarant.
- (k) All Owners and members of their families, their guests, or invitees, and all occupants of any Condominium Unit or other persons entitled to use the same and to use and enjoy the Common Areas and Limited Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Condominium Units, Common Areas and Limited Areas.
- (l) No boats or other watercraft, campers, recreational vehicles, trailers of any kind, buses, mobile homes, commercial or business trucks or vans, motorcycles, mini-bikes, or any other vehicles of any description other than normal passenger trucks less than one ton, vans or automobiles, shall be permitted, parked or stored anywhere within the Property. "Commercial" vehicles are vehicles on which commercial lettering or equipment is visible or which are larger than normally used for noncommercial purposes. No Owners or other residents shall repair or restore any vehicle of any kind within the Property, except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility. No junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept on the Property.
- (m) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas or Limited Areas, except with the express written permission from the Board.
- (n) No Owner shall be allowed to place or cause to be placed in the lobbies, vestibules, stairways, hallways or areas of a similar nature and used for a similar purpose, both Common and Limited, any furniture, packages or objects of any kind, without the prior written consent of the Board. Such areas shall be used for no other purpose than for normal transit through them.
- (o) All trash or refuse shall be stored in appropriate containers inside the Condominium Unit (including the garage) or designated trash areas and made accessible for the programmed trash collection system established by the Board of Directors.

- (p) The architectural integrity of the Building and the exterior of the Condominiums Units shall be preserved without modification, and, to that end, without limiting the generality of the foregoing, no exterior change, addition, structure, projection, decoration, improvement or other feature shall be erected or placed upon or attached to the Building; no addition or change to or replacement of (except, so far as practicable, with identical kind) any exterior light, door knocker or other exterior hardware, exterior door or door frames, or exterior window or window frames of a Condominium Unit shall be made; no painting (except in a uniform color designated by the Board of Directors) or other decoration shall be done on any exterior part or surface of any Condominium Unit nor on the interior surface of any window; no drapes, curtains, blinds or shades shall be placed in exterior windows unless the side facing the exterior is white or beige in color; provided, that the foregoing restrictions may be waived in specific cases by the Board of Directors and provided further, that the provisions of this subparagraph (p) shall not apply to the Declarant.
- (q) No Owner, tenant, or other occupant shall install wiring for electrical or telephone installation or television antenna, satellite dishes, or similar items on the exterior on the Building or do anything which would protrude through the walls or roof of the Building; provided, that the provisions of this subparagraph (q) shall not apply to the Declarant.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute this Code of By-Laws and certify the truth of the facts herein stated, this 9 day of JULY, 1996.

920 East 62nd Street Corporation, by:

Joseph Barbieri  
Joseph Barbieri, President

STATE OF INDIANA     )  
                                  )  
COUNTY OF HAMILTON  )

Before me a Notary Public in and for said County and State, personally appeared Joseph Barbieri, the President of 920 East 62nd Street Corporation, who acknowledged execution of the foregoing Code of By-Laws of School 80 Homeowners Association, Inc. for and on behalf of said corporation and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal this 9 day of JULY, 1996.

P. THOMAS MURRAY, JR.  
Notary Public

P. Thomas Murray, Jr.  
Signature

My Commission Expires:

12-20-97

Residence County: MARION

school80.by1  
July 9, 1996  
This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., Attorney at Law, P.O. Box 501040, Indianapolis, IN 46250. (317) 842-8550.

**DESCRIPTION OF CONDOMINIUM UNITS**

<u>Upper Level:</u>		Area
<u>Unit No.</u>	<u>Description</u>	<u>(Livable Sq. Ft.)</u>
U-1	2 bedrooms, 1-1/2 baths	1,000
U-2	2 bedrooms, 2 baths	1,170
U-3	1 bedroom, 1-1/2 baths, den	900
U-4	2 bedrooms, 2 baths, office	1,350
U-5	1 bedroom, 1-1/2 baths	900
U-6	1 bedroom, 1-1/2 baths	870
U-7	2 bedrooms, 2 baths	1,185
U-8	2 bedrooms, 2 baths	970
 <u>Main Level:</u>		
M-1	2 bedrooms, 2 baths, den	1,420
M-2	1 bedroom, 1-1/2 baths, den	900
M-3	1 bedroom, 1-1/2 baths, den, 2 story	990
M-4	1 bedroom, 1-1/2 baths, den, 2 story	970
M-5	1 bedroom, 1-1/2 baths, den, 2 story	940
M-6	1 bedroom, 1-1/2 baths, den, 2 story	1,140
M-7	1 bedroom, 1-1/2 baths, den, 2 story	1,070
M-8	1 bedroom, 1-1/2 baths, den, 2 story	960
M-9	1 bedroom, 1-1/2 baths, den, 2 story	1,000
M-10	1 bedroom, 1-1/2 baths, den, 2 story	1,000
M-11	1 bedroom, 1-1/2 baths	900
M-12	2 bedrooms, 1-1/2 baths, loft	1,400
M-13	1 bedroom, 1-1/2 baths, loft	1,050
M-14	1 bedroom, 1-1/2 baths, loft	1,015
M-15	1 bedroom, 1-1/2 baths, loft	1,120
M-16	1 bedroom, 1 full bath, 2 1/2 baths, loft	1,385
M-17	2 bedrooms, 1-1/2 baths, loft	1,530
M-18	2 bedrooms, 2 baths, den	1,265
 <u>Lower Level:</u>		
L-1	1 bedroom, 1-1/2 baths, den	1,000
L-2	1 bedroom, 1-1/2 baths	910
L-3	1 bedroom, 1-1/2 baths	900
L-4	1 bedroom, 1 bath, den	825
L-5	2 bedrooms, 2 baths	1,215
L-6	2 bedrooms, 2 baths	1,035

**EXHIBIT C**



Jan 1-16-85

850008033

230  
14

on Special Exceptions Sheet Item 15

NOTE: Article VI, Section 3(b) of the rules of the Metropolitan Development Commission requires use of this form in recording commitments made with respect to zoning and approval cases in accordance with I.C. 36-7-4-607

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL

In accordance with I.C. 36-7-4-607, the owner of the real estate located in Maric County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

Legal Description:

See attached Exhibit A which is hereby incorporated by reference.

Statement of COMMITMENTS:

1. Former IPS School 80 shall be developed as condominiums.
2. The parking area shall be developed in substantial conformity with the preliminary site plan file-dated November 27, 1984.
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

RECEIVED FOR RECORD  
JAN 3 2 56 PM '85  
REC'D IN RECORDS  
RECORDS SECTION

These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon:

(a) the adoption of rezoning petition # 84-Z-107 by the City-County Council changing the zoning classification of the real estate from a D-5 zoning classification to a D-8 zoning classification; or

~~(b) the adoption of approval petition # \_\_\_\_\_ by the Metropolitan Development Commission; and shall continue in effect for as long as the above-described parcel of real estate remains zoned to the \_\_\_\_\_ zoning classification or until such other time as may be specified herein.~~

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various Township Assessors of Marion County which list the current owners of record. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning or approval under the rules in force at the time the commitment was made); and

3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The undersigned hereby authorizes the Division of Development Services of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of petition # 84-Z-107.

IN WITNESS WHEREOF, owner has executed this instrument this 15th day of January, 1985.

Signature \_\_\_\_\_ (Seal) Signature Joseph Barbieri (Seal)  
Printed \_\_\_\_\_ Printed Joseph Barbieri

850005033

STATE OF INDIANA )  
COUNTY OF MARION ) SS:

Before me, a Notary Public in and for said County and State,  
personally appeared Joseph Barbieri,  
owner(s) of the real estate who acknowledged the execution of the  
foregoing instrument and who, having been duly sworn, stated that  
any representations therein contained are true.

Witness my hand and Notarial Seal this 15th day of January  
January, 1985.



Signature Harry F. McNaught, Jr.  
Printed Harry F. McNaught, Jr.  
County of Residence Marion

My Commission expires:  
July 9, 1988

This instrument was prepared by Harry F. McNaught, Jr.

850008033

LEGAL DESCRIPTION

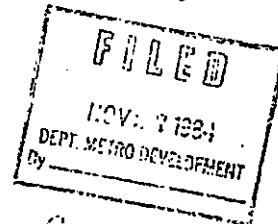
Lots 2, 3, 4, 5, 6, 7 and 8 in Mustard's Broad Ripple Addition as per plat thereof recorded in Plat Book 8, page 144, in the Office of the Recorder of Marion County, Indiana, together with that portion of the First Alley West of Winthrop Avenue, heretofore vacated under Declaratory Resolution No. 15181, 1935 which resolution was recorded November 17, 1935 in Deed Record 941, Page 8, that lies between the East side of said Lots 2, 3 and 4 and the West side of said Lots 6, 7 and 8.

Excepting, however, from the above described Lots, that portion of Lots 2 and 3 that was conveyed in the Indianapolis-Marion County Public Library by Deed recorded September 7, 1983, as Instrument #83-6431, being more particularly described as follows:

Part of Lots 2 and 3 and part of the vacated alley described in Declaratory Resolution #15181 in Jacob S. Mustard's Broad Ripple Addition the plat of which is recorded in Plat Book 8, page 144, in the Office of the Recorder of Marion County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of Lot 2 in Jacob S. Mustard's Broad Ripple Addition, as per plat thereof, recorded in Plat Book 8, Page 144, in the Office of the Recorder of Marion County, Indiana; thence South 03 degrees 04 minutes 24 seconds West (assumed Bearing on the West line of Lots 2 and 3 a distance of 85.77 feet; thence North 89 degrees 49 minutes 34 seconds East 59.71 feet to an iron pin; thence North 00 degrees 19 minutes 26 seconds West 9.80 feet to an iron pin; thence South 89 degrees 48 minutes 02 seconds East 25.77 feet to an iron pin; thence North 00 degrees 13 minutes 52 seconds West 18.54 feet to the Westerly prolongation of the centerline of an existing wall common to the Broad Ripple Library building and Indianapolis Public School #80 building; thence North 89 degrees 54 minutes 50 seconds East on said Westerly prolongation, the centerline of said common wall and the Easterly prolongation thereof 100.13 feet to the East line of the first alley west of Winthrop Avenue as vacated by Declaratory Resolution #15181 recorded in Deed Record #941, Pages 8 and 9 in the Office of the Recorder of Marion County, Indiana (said also being the West line of Lot 6 in said Jacob S. Mustard's Broad Ripple Addition); thence North 00 degrees 31 minutes 15 seconds West on said line 64.00 feet to the Northwest corner of said Lot 6; thence South 87 degrees 34 minutes 19 seconds West 20.01 feet to the Northeast corner of Lot 2 in said Addition; thence South 87 degrees 31 minutes 00 seconds West on the North line of said Lot 2 a distance of 159.05 feet (plat) 160.43 feet (measured) to the Beginning Point.

850002033



81-2-107

DULY ENTERED  
FOR TAXATION

850060126

JUL 22 1985 1875 MUTUAL DECLARATION AND GRANT OF EASEMENT

COUNTY AUDITOR

*Page 2 of 3*  
This Mutual Declaration and Grant of Easement is made this 18<sup>th</sup> day of July, 1985, by the INDIANAPOLIS-MARION COUNTY PUBLIC LIBRARY (the "Library") and 920 EAST 62ND STREET CORPORATION, an Indiana corporation (the "Corporation").

WHEREAS, the Corporation owns certain real estate more particularly described in Exhibit A attached to and made a part of this Declaration (the "Corporation Property");

WHEREAS, the Library owns certain real estate immediately adjacent to the Corporation Property, as more particularly described in Exhibit B attached to and made a part of this Declaration (the "Library Property");

WHEREAS, the Corporation intends to develop the existing improvements located on the Corporation Property as residential condominiums;

WHEREAS, the Library anticipates that such development will enhance property values in the area, including the value of the Library Property;

NOW, THEREFORE, in consideration of the foregoing premises and of the mutual grants of easements herein contained, the Corporation and the Library agree as follows:

1. Grant of Easements by Library. The Library hereby declares for the benefit of the Corporation Property and grants and conveys to the Corporation and all future owners of all or any part of the Corporation Property, their mortgagees, grantees, heirs, successors and assigns, the following easements appurtenant to the Corporation Property:

(a) A non-exclusive easement fifteen (15) feet in width, centered on the center line of the sanitary sewer lines presently located under the area cross-hatched on the attached Exhibit C and providing sanitary sewer service to the Corporation Property, for access to, use of and maintenance, repair and replacement of such sanitary sewer lines.

(b) A non-exclusive easement fifteen (15) feet in width, centered on the center line of the storm sewer lines presently located under the Library Property and providing storm sewer service to the Corporation Property, for access to, use of and maintenance, repair and replacement of such storm sewer lines.

Provided, however, that the foregoing descriptions of the easement areas shall not be deemed a limitation on the rights of the grantee of such easements to go on the Library Property temporarily to exercise its rights of access to and maintenance, repair and replacement of the sanitary sewer lines or storm sewer lines, as the case may be, pursuant to this paragraph 1.

2. Grant of Easement by Corporation. The Corporation hereby declares for the benefit of the Library Property and grants and conveys to the Library and all future owners of all or any part of the Library Property, their mortgagees, grantees, heirs, successors and assigns, a non-exclusive easement fifteen (15) feet in width, centered on the center line of the storm sewer lines presently located under the Corporation Property and providing storm sewer service to the Library Property, for access to, use of and maintenance, repair and replacement of such storm sewer lines.

*On Special Exception Sheet #16*

RECORDED FOR RECORD  
JUL 22 10 09 AM 1985

Grant of Easement was duly authorized by proper procedures, rules and regulations of the Library.

IN WITNESS WHEREOF, both the Library and the Corporation have executed this Mutual Declaration and Grant of Easement as of the date first above written.

920 EAST 62<sup>ND</sup> STREET CORPORATION

INDIANAPOLIS-MARION COUNTY PUBLIC LIBRARY

By Carolyn Barbieri Raymond E. Gnat

Printed Carolyn Barbieri Printed Raymond E. Gnat

Title President Title Director of Public Libraries

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for the State of Indiana, personally appeared Raymond E. Gnat the Director of the Indianapolis-Marion County Public Library, who having been duly sworn, acknowledged the execution of the foregoing Mutual Declaration and Grant of Easement for and on behalf of the Indianapolis-Marion County Public Library.

Witness my hand and Notarial Seal this 16th day of July, 1985.

Evelyn D. Keen  
Notary Public  
Printed

My commission expires:  
February 13, 1987  
I am a resident of  
Marion County, Indiana.

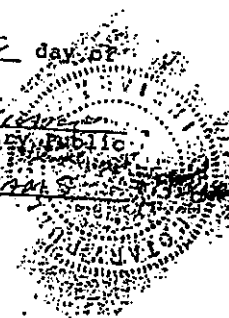
STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for the State of Indiana, personally appeared Carolyn Barbieri the President of 920 East 62nd Street Corporation, who having been duly sworn, acknowledged the

execution of the foregoing Mutual Declaration and Grant of  
Easement for and on behalf of 920 East 62nd Street  
Corporation.

Witness my hand and Notarial Seal this 18 day of  
July, 1985.

Linda R Williams  
Notary Public  
LINDA R WILLIAMS  
Printed



My commission expires:  
2-7-88  
I am a resident of  
Morgan County, Indiana.

This instrument was prepared by Mary K. Lisher, attorney at  
law, Baker & Daniels, 810 Fletcher Trust Building,  
Indianapolis, Indiana 46204.

Lots 2, 3, 4, 5, 6, 7 and 8 in Mustard's Broad Ripple Addition as per plat thereof recorded in Plat Book 8, Page 144, in the Office of the Recorder of Marion County, Indiana, together with that portion of the First Alley West of Winthrop Avenue, heretofore vacated under Declaratory Resolution No. 15181, 1935 which resolution was recorded November 27, 1935 in Deed Record 941, Page 8, that lies between the East side of said Lots 2, 3 and 4 and the West side of said Lots 6, 7 and 8.

Excepting, however, from the above described Lots, that portion of Lots 2 and 3 that was conveyed to the Indianapolis-Marion County Public Library by deed recorded September 7, 1983, as Instrument #83-64791, being more particularly described as follows:

Part of Lots 2 and 3 and part of the vacated alley described in Declaratory Resolution #15181 in Jacob S. Mustard's Broad Ripple Addition, the plat of which is recorded in Plat Book 8, Page 144, in the Office of the Recorder of Marion County, Indiana, more particularly described as follows:

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EXHIBIT A

85 60125

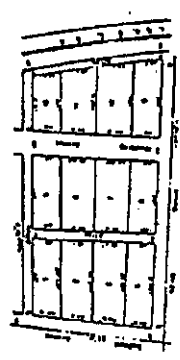
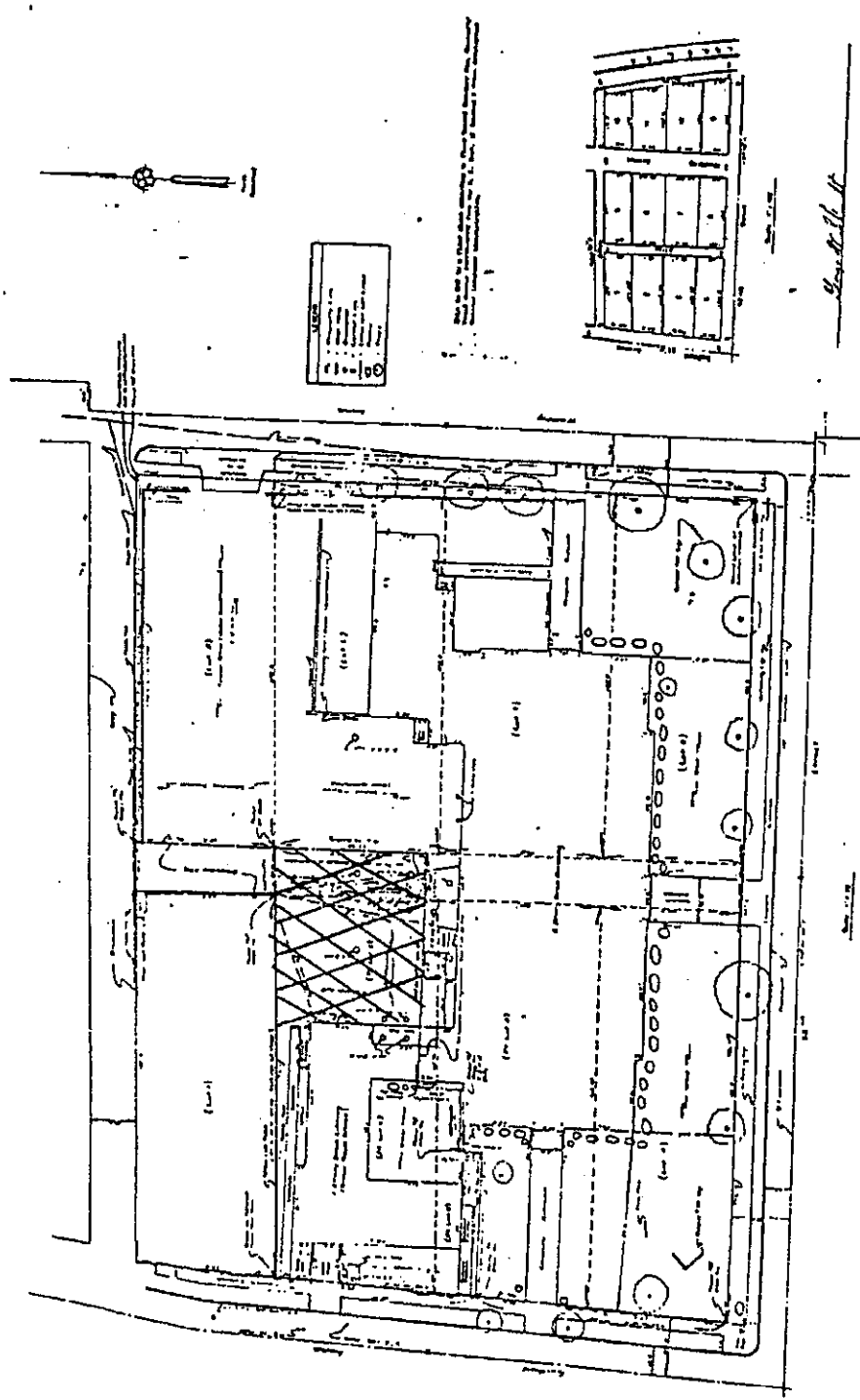


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EXHIBIT B

85 60126



Project No.	100-100000
Sheet No.	100-100000-1
Date	10/10/50
Scale	1/4" = 1'-0"
Author	J. H. Smith
Check	A. B. Jones
Approved	C. D. Brown



*Handwritten signature or initials*

EXHIBIT C

85 60126

*on Special Questions sheet*

*96-45470*

*1200  
②*

### DESIGNATION OF PARKING SPACE

The School 80 Homeowners Association, Inc., acting pursuant to Paragraph 4 of the Declaration of Horizontal Property Ownership for School 80 Horizontal Property Regime, ~~AS INST #~~ 96-93527, hereby designates and reserves two (2) Parking Spaces within the School 80 Horizontal Property Regime for the use and benefit of the undersigned Owner of Condominium Unit No. M-1 for the exclusive use of said Owner and those individuals residing in said Owner's Unit. This designation shall also inure to the benefit of the Owner's successors in title to said Unit, subject to the terms herein. Said Parking Spaces shall be marked with a "Reserved" sign. If the Owner is not a resident in the Condominium Unit, the Owner shall have no right to the use of said Parking Spaces; rather, the Owner's tenant(s) or other residents within said Unit shall have the *pk* *jk* exclusive right to use said Parking Spaces. Unit M-1 is entitled to two Parking Spaces. *fm*

Notwithstanding the foregoing, the Association, acting through its Board of Directors, reserves the right to withdraw this designation at any time upon written notice to the Owner and substitute another designated Parking Spaces so long as the Owner has the same number of designated Parking Spaces. The Association's Board may do so, in its sole discretion, to accommodate the needs of another resident(s) in the School 80 condominiums due to such other resident's handicap, disability or other similar circumstances.

Owner's Name: HUNT CLUB, INC.

School 80 Homeowners Association, Inc., by:

*[Signature]*  
Signature of Officer

Date: 9/6/96

JOAN BOBICHA, SECY-TREAS.  
Printed & Title

Acceptance by Owner:

*[Signature]* *Fort Hunt Club, Inc.*  
Owner's Signature

\_\_\_\_\_  
Owner's Signature

JAMES L. KOENIG 9/6/96  
Owner's Printed Name          Date

\_\_\_\_\_  
Owner's Printed Name          Date

STATE OF INDIANA )  
COUNTY OF HAMILTON )

Before me a Notary Public in and for said County and State, personally appeared Joseph Sabatelli, the SECRETARY of School 80 Homeowners Association, Inc., who acknowledged execution of the foregoing Designation of Parking Space for and on behalf of said corporation and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal this 6th day of September, 1996.

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

Signature \_\_\_\_\_

Residence County: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



STATE OF INDIANA )  
COUNTY OF HAMILTON )

Before me a Notary Public in and for said County and State, personally appeared JAMES L. KENIG, the CEO of HUNT CLUB, INC., who acknowledged execution of the foregoing Designation of Parking Space for and on behalf of said corporation and who, having been duly sworn, stated that the representations contained herein are true.

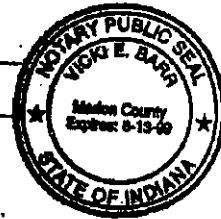
Witness my hand and Notarial Seal this 6th day of September, 1996.

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

Signature \_\_\_\_\_

Residence County: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., Eads & Murray, Attorneys at Law, P.O. Box 501040, Indianapolis, IN 46250. (317) 842-8550

07/25/2013 10:12 AM

JULIE L. VOORHIES

MARION COUNTY IN RECORDER

FEE: \$ 41.50

PAGES: 10

By: SC

**AMENDMENTS TO THE  
DECLARATION OF  
HORIZONTAL PROPERTY OWNERSHIP  
AND CODE OF BY-LAWS FOR  
SCHOOL 80  
HORIZONTAL PROPERTY REGIME**

These Amendments to the Declaration of Horizontal Property Ownership and the Code of By-Laws for the School 80 Horizontal Property Regime and of School 80 Homeowners Association, Inc. were made as of the 4<sup>th</sup> day of January, 2000.2001

**WITNESSETH THAT:**

WHEREAS, the School 80 Horizontal Property Regime located in Marion County, Indiana was originally created and formed pursuant to the Indiana Horizontal Property Act codified at Indiana Code § 32-1-6-1 et seq., as amended, and pursuant to a certain "Declaration of Horizontal Property Ownership for School 80 Horizontal Property Regime," dated July 9, 1996, and recorded in the Office of the Recorder of Marion County, Indiana on July 9, 1996, as Instrument No. 96-00093598 ("Declaration"), to which were attached as an exhibit the Code of By-Laws of School 80 Homeowners Association, Inc. ("By-Laws"), said By-Laws being recorded on the same date and under the same Instrument No. 96-00093598; and

WHEREAS, Paragraph 23 of the Declaration provides that the Declaration may be amended at any time by a vote of not less than seventy-five percent (75%) of the total Percentage Vote; and

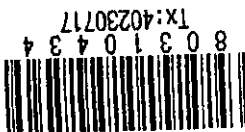
WHEREAS, Section 10.1 of the By-Laws provides that amendments to the By-Laws are to be in the same manner as amendments to the Declaration; and

WHEREAS, the School 80 Homeowners Association, Inc. ("Association") has not received notice from any Mortgagee as described in Section 8.2 of the By-Laws; and

WHEREAS, the Owners of Condominium Units within the School 80 Horizontal Property Regime, being members of the Association, desire to adopt certain amendments to the Declaration and By-Laws as set forth herein; and

WHEREAS, the Owners of twenty-five (25) of the thirty-two (32) Condominium Units voted in favor of amending the Declaration and By-Laws pursuant to the terms below; and

WHEREAS, the Owners of the twenty-five (25) Condominium Units who voted in favor of amending the Declaration and By-Laws pursuant to the terms and conditions below constitute more than seventy-five percent (75%) of the total Percentage Vote in School 80; and



(D)

NOW, THEREFORE, the Declaration and By-Laws are amended as follows:

**Declaration**

1. Paragraph 4 of the Declaration is hereby deleted in its entirety and replaced with the following:

4. Description of Limited Common Areas. "Limited Common Areas" means those portions of the Property serving exclusively one or more but less than all of the Condominium Units and shall include the exterior surfaces of doors, windows and the frames surrounding the same in the perimeter walls of each Condominium Unit, associated fixtures of such doors, windows and frames, the storage areas designated for the exclusive use of a Condominium Unit, the Garage Units designated for the exclusive use of a Condominium Unit (as hereafter more particularly described) and any other areas designated as Limited Common Areas on the Plans. While parking spaces shall not constitute Limited Common Areas, the Board of Directors may, from time to time, assign parking spaces to specific Condominium Units for their exclusive use. Garage Units shall be assigned to specific Condominium Unit and shall thereafter be deemed permanently assigned to and considered Limited Common Area exclusively for the Condominium Unit to which they were assigned. Any conveyance or other transfer of a Condominium Unit to which a Garage Unit has been assigned shall be deemed to include the Garage Unit permanently assigned to and considered Limited Common Area exclusively for and appurtenant to said Condominium Unit, and cannot thereafter be separately conveyed, assigned or otherwise transferred. The Garage Units and the Condominium Units to which they are permanently assigned are set forth in the exhibit attached to and made a part of this Declaration as Exhibit E.

2. Paragraph 14 of the Declaration is hereby deleted in its entirety and replaced with the following:

14. Maintenance and Repair.

(a) By the Owner. Each Owner shall furnish and be responsible for, at his own expense, all maintenance, repairs, decoration and replacements within such Owner's Condominium Unit and the Limited Common Areas reserved for his Condominium Unit, and all equipment serving the same. The maintenance, repairs and replacements which each Owner is responsible to make personally and at his own expense include but are not limited to the maintenance, repair and replacement of all electric, gas, water, heating, air conditioning, ventilating, sewer, plumbing, security, fire protection and telephone equipment, facilities and systems located within the Owner's Condominium Unit and Limited Common Area; all partitions and interior walls, ceilings and floors; all kitchen fixtures and appliances; all light fixtures; doors, door frames, screens, windows and window frames; and all other accessories appurtenant to the Condominium Unit or Limited Common Area or belonging to the Owner thereof.

Each Owner shall perform promptly all maintenance and repairs within his own Condominium Unit, which if omitted might adversely affect the value of the Property or otherwise be hazardous to any other Condominium Unit or the Common Areas and Facilities or Limited Common Areas, and such Owner is hereby made expressly responsible for any damage and liability caused by his failure to do so. If such Owner does not perform such maintenance or repair within thirty (30) days after notice from the Board of Directors specifying the needed maintenance or repair, or immediately in the case of emergency (in which event no notice shall be required), the Board of Directors, or its agent, may perform such maintenance or repair, and the Owner of the Condominium Unit so repaired shall pay the cost thereof to the Association.

If, due to the willful, intentional or negligent acts or omissions of an Owner or the tenant or other occupant of such Owner's Condominium Unit, or the family members, guests, invitees, agents, employees or contractors of any of the foregoing, damage shall be caused to the Common Areas and Facilities or to a Condominium Unit or to Limited Common Areas owned by or reserved for the use of others, or if any maintenance, repair or replacement shall be rendered necessary thereby which would otherwise be a Common Expense, then such Owner shall pay the Association for such damage or such maintenance, repair or replacement, as may be determined by the Board of Directors, except to the extent such loss is covered by the Association's insurance (provided such policy has a waiver of subrogation clause). The amount of any such loss in excess of the available insurance proceeds shall remain the liability of such Owner. Such liability shall be the personal liability of that Owner and a lien on such Owner's condominium Unit.

Maintenance, repairs and replacements to the Common Areas and Facilities or the Condominium Units or Limited Common Areas shall be subject to the rules and regulations adopted from time to time by the Board of Directors. To the extent that equipment, facilities or fixtures located within any Condominium Unit or Limited Common Area shall be connected to similar equipment, facilities or fixtures affecting or serving other Condominium Units or any Common Areas and Facilities or Limited Common Areas, then the use thereof by the Owner of such Condominium Unit shall be subject to the rules and regulations adopted from time to time by the Board of Directors.

(b) By the Association. The operation, maintenance, repair, replacement and upkeep of the Common Areas and Facilities shall be provided by the Board of Directors on behalf of the Association as part of the Common Expenses, except to the extent such maintenance, repair, replacement or upkeep is the responsibility or duty of the Owner as provided in the Association Documents.

(c) Garage Units. Notwithstanding anything herein to the contrary, the operation, maintenance, repair, replacement and upkeep of the exterior of the Garage Units and the interior common walls of the Garage Units shall be the responsibility of the Association; provided, however, that the cost thereof shall be paid by the Owners of the Condominium Units to which

the Garage Units have been assigned pursuant to a Garage Assessment as per Article XI of the By-Laws.

By-Laws

3. Article XI of the By-Laws is hereby deleted in its entirety and replaced with the following:

**ARTICLE XI**  
**ASSESSMENTS**

Section 11.1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Condominium Unit by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Regular Assessments; (2) Special Assessments and (3), if applicable, a Garage Assessment, such assessments to be established and collected as hereinafter provided. The Regular and Special Assessments and Garage Assessments, together with late charges, collection costs of the Managing Agent (if any), court costs, reasonable attorney's fees, and any other obligation which may be charged to an Owner pursuant to the Association Documents, shall be a charge on the Condominium Unit as of the first day of each year, and shall be a continuing lien upon the property against which each such assessment or charge is made. Each such assessment or charge, together with late charges, collection costs of the Managing Agent (if any), court costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 11.2. Annual Accounting. Annually, within ninety (90) days after the close of the Association's fiscal year, the Board of Directors shall cause to be prepared and made available for inspection to each Owner a financial statement prepared by a certified public accountant, which statement shall show all receipts and expenses received, incurred and paid during the preceding year.

Section 11.3. Proposed Annual Budget. 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 for the ensuing year, estimating the total amount of the Common Expenses for the ensuing year, and furnish a copy of such proposed budget to each Owner prior to the annual meeting together with the notice of said meeting. "Common Expenses" means the actual and estimated cost to the Association for maintenance, management, operation, insurance, repair, improvement and replacement of Common Areas and, where applicable, Limited Common Areas (except for the Garage Units), and any other cost or expense incurred by the Association for the benefit of the same or the Owners. The annual budget 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 ensuing fiscal year. At the annual meeting of the Owners, the budget shall be approved in whole or in part or may be amended in whole or in part by a Majority of the Vote as defined in Section 3.5(e) hereof; provided, however, that in no

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event shall the annual meeting of the Owners be adjourned until an annual budget is approved at such meeting, either the proposed annual budget or the proposed annual budget as amended. The failure or delay of the Board of Directors to prepare a budget and furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of such Owner's obligation to pay the Common Expenses as herein provided, whenever determined, and in the absence of an annual budget, either because of a lack of a quorum at an annual meeting or otherwise, the Owner shall continue to pay the then existing monthly assessment until such new annual budget and monthly assessment is established at the next annual meeting or, at the option of the Board of Directors, based upon one hundred ten percent (110%) of such last approved budget until the next annual meeting. The proposed Garage Budget estimating the total amount of the Garage Expenses for the ensuing year shall be prepared and presented in the same manner and at the same time as the Annual Budget, but need only be adopted by a majority of the Owners of Condominium Units to which Garage Units have been assigned.

**Section 11.4. Regular Assessments.** Promptly following the adoption of the annual budget, the Board of Directors shall give written notice of the assessment against each respective Condominium Unit based on its Percentage Interest (herein called the "Regular Assessment"). The Regular Assessment against each Condominium Unit shall be assessed on a yearly basis commencing on the first day of the month following the annual meeting and shall be due and payable in twelve (12) equal monthly installments, in advance, on the first day of each month. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, or otherwise, as directed by the Board of Directors. The Regular Assessment shall automatically become a lien on that Condominium Unit on the date it is due and payable.

In addition to meeting the estimated cash requirements for the Common Expenses, the annual budget and the Regular Assessment shall be established to include the establishment and maintenance of an adequate replacement reserve fund for capital expenditures and replacement and repair of the Common Areas and facilities, which replacement reserve fund shall be used only for those purposes and not for usual and ordinary repair expenses of the School 80 Condominiums. Such reserve fund shall be maintained in a separate, federally insured, interest bearing account with a bank or savings and loan association authorized to conduct business in Marion County.

**Section 11.5. Garage Assessments.** Promptly following the adoption of the Garage Budget, the Board of Directors shall give written notice of the assessment against each respective applicable Condominium Unit based on an equal pro rata basis (herein called the "Garage Assessment"). The Garage Assessment against each applicable Condominium Unit shall be assessed on a yearly basis commencing on the first day of the month following the annual meeting and shall be due and payable in twelve (12) equal monthly installments, in advance, on the first day of each month. Payment of the monthly installments of the Garage Assessment shall be made to the Board of Directors or the Managing Agent, or otherwise, as directed by the Board

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of Directors. The Garage Assessment shall automatically become a lien on that Condominium Unit on the date it is due and payable.

In addition to meeting the estimated cash requirements for the Garage Budget and the Garage Assessment shall be established to include the establishment and maintenance of an adequate replacement reserve fund for capital expenditures and replacement and repair of the Garage Units, which replacement reserve fund shall be used only for those purposes and not for usual and ordinary repair expenses of the School 80 Condominiums. Such reserve fund shall be maintained in a separate, federally insured, interest bearing account with a bank or savings and loan association authorized to conduct business in Marion County.

**Section 11.6. Special Assessments.** From time to time, Common Expenses of an unusual or extraordinary nature or otherwise not anticipated may arise. At such time and with the approval of a Majority of the Owners as defined in Section 3.5(e) hereof at a special meeting called for such purpose, the Board of Directors shall have the full right, power and authority to make and levy special assessments which, upon resolution of the Board of Directors, shall become a lien on each Condominium Unit, prorated in accordance with the Percentage Interest of each Unit, payable in a lump sum or installments as directed by the Board of Directors (herein called "Special Assessment").

From time to time, Garage Expenses of an unusual or extraordinary nature or otherwise not anticipated may arise. At such time and with the approval of a majority of the Owners of Condominium Units to which Garage Units have been assigned at a special meeting called for such purpose, the Board of Directors shall have the full right, power and authority to make and levy special assessments which, upon resolution of the Board of Directors, shall become a lien on each such applicable Condominium Unit, prorated on an equal basis, payable in a lump sum or installments as directed by the Board of Directors (herein called "Special Garage Assessment").

**Section 11.7. Rate of Assessments.** Each Owner shall pay the Regular Assessments and Special Assessments according to the percentage interest of such Owner's Condominium Unit as set forth in the Declaration and Exhibit "D" thereto. Since all Owners have the same percentage interest, such assessments shall be paid equally by the Owners. As applicable, each Owner of a Condominium Unit to which a Garage Unit has been assigned shall pay the Garage Assessments and Special Garage Assessments prorated on an equal basis.

**Section 11.8. Failure of Owner to Pay Assessments.** No Owner may exempt himself or herself from paying Regular or Special Assessments, or, if applicable, Garage Assessments or Special Garage Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and Limited Areas and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or Limited Areas, or by abandonment of the Condominium Unit belonging to such Owner. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Each Owner of a Condominium Unit to which a Garage Unit has been assigned shall be personally liable for

the payment of all Garage Assessments and Special Garage 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 or Special Assessments, or Garage Assessment or Special Garage Assessment, when due, the lien for such assessment on the Owner's Condominium Unit may be foreclosed by the Board for and on behalf of the Association as provided by law. Upon the failure of an Owner to make payments of any Regular or Special Assessments or Garage Assessments or Special Garage Assessments within ten (10) days after such are due, the Board, in its discretion, may:

- (1) impose a late charge, which will be considered an addition to the assessment, in an amount to be determined by the Board of up to twenty-five percent (25%) of the amount of the Assessment;
- (2) accelerate the entire balance of the unpaid Assessments for the remainder of the fiscal year and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary;
- (3) suspend such Owner's right to use the recreational facilities within School 80 Condominiums, if any, as provided in the Act; and
- (4) suspend such Owner's right to vote as provided in the Act.

In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Condominium Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Condominium Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Condominium Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular or Special Assessments, or, as applicable, to the Garage Assessment or Special Garage Assessment. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Assessments without foreclosing or waiving the lien securing the same. In any action to recover an Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to collection costs of the Managing Agent (if any), court costs, and reasonable attorney's fees, from the Owner of the respective Condominium Unit.

Section 11.9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the property subject to assessment. Notwithstanding anything contained in this section or elsewhere in the Declaration or these By-Laws, any sale or transfer of a Condominium Unit to a mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provide by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Assessment as to such installments which became due prior to such sale, transfer or conveyance; provided, however,

that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Condominium Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Assessments thereafter becoming due or from the lien therefor. 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 Condominium Unit from which it arose).

Section 11.10. Initial Budgets and Assessments Prior to the Applicable Date. The purpose of this section is to provide for the maintenance and upkeep of School 80 Condominiums and for the payment of the Common Expenses during the period prior to the Applicable Date. Accordingly, and notwithstanding anything to the contrary contained in the Association Documents, the Act, the Statute or otherwise, until the Applicable Date, the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board of Directors without meetings of or concurrence of the Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 4.2 hereof shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Regular Assessments and Special Assessment until the Applicable Date.

Payment of the Regular Assessments and Special Assessments prior to the Applicable Date with respect to each Condominium Unit shall commence on the date of the conveyance of such Condominium Unit to a new Owner other than the Declarant. In addition, at the initial closing of each Condominium Unit, the purchaser or new owner is required to pay a sum equal to the full Regular Assessment applicable to such Condominium Unit for two (2) months as his or her initial contribution to the working capital of the Association. Such amounts shall be used by the Association for Common Expenses. This amount is not an advance payment of Regular Assessments and will not be held in any trust or reserve account. Additionally, at each closing, the purchaser of a Condominium Unit shall pay his pro rata share of the Regular Assessment due in the month of closing. Thereafter, payment of the Regular Assessment shall be made on the first day of each calendar month.

Ten percent (10%) of the Regular Assessment paid prior to the Applicable Date shall be designated as a replacement reserve fund for maintenance, repairs or replacement of Common Areas that must be repaired on a periodic basis. That portion of the Regular Assessment collected by the Declarant prior to the Applicable Date applicable to the replacement reserve shall be held by the Initial Board of Directors and, if required, applied to the replacement of the Real Estate. To the extent that such replacement reserve is not so applied, the balance thereof shall be retained by the Association at the Applicable Date.

Notwithstanding any other provisions in these By-Laws or the Declaration to the contrary, until the earlier of:

- a. the Applicable Date; or

- b. the first (1st) day of the twenty-fourth (24th) calendar month following the month in which the closing of the sale of the first Condominium Unit occurs;


the Declarant shall not be liable for payment of any Regular Assessments or Special Assessments to the Association for any unoccupied Condominium Units owned by Declarant which are offered for the first time for sale. However, if the Common Expenses incurred by the Association during such time period exceed the amounts assessed against the other Owners, then the Declarant shall pay the excess. Furthermore, prior to the Applicable Date or the first (1st) day of the twenty-fourth (24th) calendar month following the month in which the closing of the sale of the first Condominium Unit occurs, whichever is sooner, the Declarant guarantees that the monthly payment of Regular Assessments shall not exceed One Hundred Twenty-Five Dollars (\$125.00). However, the Declarant shall have the right to increase said monthly payment up to no more than One Hundred Forty Dollars (\$140.00) commencing January 1, 1998.

4. All other provisions of the Declaration and By-Laws shall remain the same and in full force and effect, provided, however, that to the extent that any other provisions of the Declaration or By-Laws are or appear to be inconsistent with the above amendments, such other provisions shall be deemed as amended and interpreted so as to be consistent with such amendments.

5. The undersigned persons hereby represent and certify that all requirements for and conditions precedent to the above amendments have been fulfilled and satisfied.

IN WITNESS WHEREOF, we, the undersigned, do hereby execute these Amendments and certify the truth of the facts herein stated, this 4<sup>th</sup> day of January, 2000/2001

School 80 Homeowners Association, Inc., by:

  
\_\_\_\_\_  
Christopher Day, President

ATTEST:

  
\_\_\_\_\_  
LYNN BURMEISTER, Secretary

This document is provided for resale under IC 36.2.1

STATE OF INDIANA )  
 )  
COUNTY OF MARION )

Before me a Notary Public in and for said County and State, personally appeared Christopher Day and Lyn Burmeister, the President and Secretary, respectively, of School 80 Homeowners Association, Inc., who acknowledged execution of the foregoing for and on behalf of said corporation and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal this 4 day of January, 2008.



Dora Beth Seashore  
Notary Public, Signature

DORA BETH SEASHORE  
Printed

My Commission Expires:

March 14, 2008

Residence County: Marion

This instrument prepared by, and should be returned to, Terence L. Eads, Eads & Murray, P.C., Attorneys at Law, 7321 Shadeland Station, Suite 250, Indianapolis, IN 46256. (317) 842-8550.

I AFFIRM UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO REDACT EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.

Peter Rozelle

for resale under IC 36.2.1