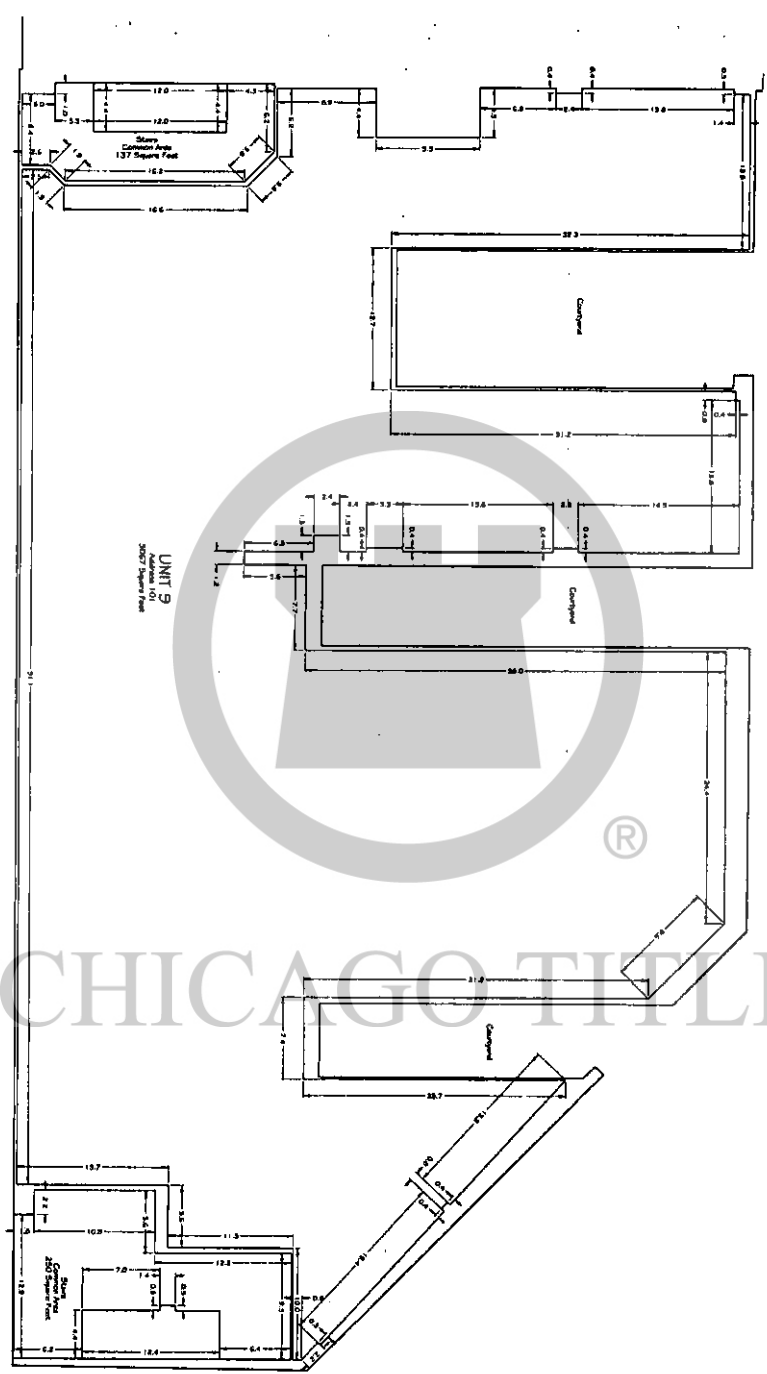


REVISION TO RECORD
 22 APR 1988 BY SJK
 1128-1128PH

COLLECTOR



1128-1128PH

DATE: 11/2/87
 BY: SJK
 CHECKED BY: SJK



Mid-States
 ENGINEERS
 306 E. New York St., Suite 300
 1375 East 44th Street
 1070 East 35th St.

NO. OF UNITS	1
NO. OF STORIES	1
NO. OF UNITS PER STORY	1
NO. OF UNITS PER FLOOR	1
NO. OF UNITS PER WING	1
NO. OF UNITS PER BUILDING	1

DATE	11/2/87
BY	SJK
CHECKED BY	SJK
APPROVED BY	

Horizontal Property Regime
 THE AVENUE CONDOMINIUMS
 FIRST FLOOR

43

●
**Legal Description Missing
At Time Of Recording.**

MCR



CHICAGO TITLE

11/19/02 02:37PM WANDA MARTIN MARION CTY RECORDER
Inst # 2002-0223504

DJS 94.00 PAGES: 43

TABLE OF CONTENTS

	Page
Section 1. Definitions.....	1
Section 2. Name.....	3
Section 3. Description of Units.....	3
Section 4. Boundaries.....	4
Section 5. General Common Areas.....	4
Section 6. Limited Common Areas.....	4
Section 7. Ownership of Common Areas and Percentage Interest.....	5
Section 8. Membership in Association and Percentage Vote.....	5
Section 9. Association.....	6
Section 10. Encroachments and Easements for Common Areas.....	6
Section 11. Easement for Utilities.....	7
Section 12. Restrictions on Use.....	7
Section 13. Maintenance, Decoration, Repairs and Replacements.....	8
Section 14. Alterations, Additions and Improvements; Liens.....	9
Section 15. Assessments.....	10
Section 16. Insurance.....	11
Section 17. Condemnation.....	14
Section 18. Damage and Restoration.....	15
Section 19. Negligence.....	16
Section 20. Real Estate Taxes.....	16
Section 21. Utilities.....	16
Section 22. Amendment of Declaration.....	16
Section 23. Amendments for Mortgage Purchaser.....	18
Section 24. Reservation of Rights.....	18
Section 25. Enforcement of Covenants and Restrictions.....	18
Section 26. Costs and Attorneys' Fees.....	19
Section 27. Acceptance and Ratification.....	19
Section 28. Waiver.....	19
Section 29. Construction and Severability.....	20
Section 30. Notices.....	20
Section 31. Estoppel Certificate.....	20
Section 32. Financial Statement.....	20
Section 33. Sales Office and Models.....	20
Section 34. Remedies Cumulative.....	21
Section 35. Partial Invalidity.....	21
Section 36. Limitation of Liability.....	21

Exhibits:

Exhibit A Real Estate

Exhibit B Code of By-Laws

Exhibit C Percentage Interest of Units

DECLARATION OF THE AVENUE CONDOMINIUM

THIS DECLARATION OF THE AVENUE CONDOMINIUM ("Declaration"), is made this _____ day of November, 2002, by RILEY AREA DEVELOPMENT CORPORATION, an Indiana non-for-profit corporation ("Declarant").

RECITALS:

2002 - 203505

WHEREAS, Declarant is the sole owner of the fee simple title to certain real estate, located in Marion County, Indiana, more particularly described in Exhibit A attached hereto and made a part hereof (the "Real Estate"); and

WHEREAS, to facilitate the development of the Real Estate and enhance the property value of the Real Estate, Declarant, by execution of this Declaration, desires to create the Avenue Condominium ("Condominium") upon the Real Estate, subject to the provisions of IC 32-25-1-1, et seq. ("Act") and the terms and conditions of this Declaration.

NOW THEREFORE, in consideration of the foregoing, Declarant hereby makes this Declaration and declares that the Real Estate and all buildings, improvements and structures located thereon and all easements, rights and appurtenances pertaining thereto shall be a "Condominium" as provided in the Act, subject to and in accordance with the following terms and conditions:

Section 1. Definitions. The following terms whenever used in this Declaration shall have the following assigned meanings:

(a) "Act" means the Condominium Law of the State of Indiana, IC 32-25-1-1, et seq., as amended.

(b) "Assessments" means Regular Assessments and Special Assessments.

(c) "Association" means The Avenue Condominium Association, Inc., an Indiana nonprofit corporation.

(d) "Board of Directors" means the governing body of the Association elected by the Owners in accordance with the By-Laws, which term shall be synonymous with the term "board of directors" as used in the Act.

(e) "Building" shall mean the structure located on the Real Estate, consisting of three (3) stories and a basement, which contains the Units.

(f) "By-Laws" means the Code of By-Laws of the Association providing for the administration and management of the Association, a true copy of which is attached as Exhibit B to this Declaration and incorporated herein by reference.

(g) "Common Areas" means the General Common Areas and the Limited Common Areas.

(h) "Common Expenses" means (i) expenses of administration of the Association, (ii) expenses for the ownership, operation, management, upkeep, maintenance, repair and replacement of the Common Areas, including without limitation, appropriate reserves, (iii) all other costs and expenses incurred by the Association for the benefit of the Common Areas or for the common benefit of all Owners, including but not limited to, costs and expenses for Building security, snow removal and trash removal, and (iv) all expenses declared Common Expenses by the Act, this Declaration or the By-Laws; provided, however, that Common Expenses shall not include any costs of the initial construction of the Building.

(i) "Condominium" means the Avenue Condominium created by this Declaration, as said Declaration may be amended from time to time as herein provided.

(j) "Declarant" means Riley Area Development Corporation, and any successor or assignee (whether by foreclosure of security interest or otherwise) of its interest in this Declaration under an instrument or instruments which expressly state that the successor or assignee thereunder shall become the Declarant for purposes of this Declaration.

(k) "General Common Areas" means those Common Areas the use and enjoyment of which is not limited to certain Units, as further described and defined in Section 5 of this Declaration.

(l) "Limited Common Areas" means those Common Areas, the use and enjoyment of which is limited to a certain Unit or Units, as further described and defined in Section 6 of this Declaration.

(m) "Managing Agent" means any person or entity to which the management responsibilities of the Association are delegated under Section 13 of this Declaration.

(n) "Mortgagee" means the holder, insurer or guarantor of any first mortgage of record on any Unit.

(o) "Owner" means an individual, firm, corporation, partnership, limited liability company, association, trust or other legal entity, or any combination thereof, which owns the fee simple title to a Unit; provided, that persons or entities owning a Unit as tenants in common, joint tenants, tenants by the entireties or any form of joint or divided ownership, shall be deemed one Owner.

(p) "Percentage Interest" means the percentage of undivided interest in the fee simple title to the Common Areas appertaining to each Unit as established pursuant to Section 7 of this Declaration.

(q) "Percentage Vote" means that percentage of the total vote accruing to all of the Units which is applicable to each particular Unit and exercisable by the Owner thereof as established pursuant to Section 8 of this Declaration.

(r) "Plans" means the floor and building plans of the Building and Units and the site plan, survey and elevation plan of the Real Estate and Building, duly certified by a registered architect or licensed professional engineer and recorded in the office of the Recorder of Marion County, Indiana concurrently with the recording of this Declaration as Instrument No. _____.

(s) "Property" means the Real Estate and appurtenant easements, the Building, the Units, and all other improvements of every kind and nature whatsoever, now or hereafter located upon the Real Estate, and used in connection with the operation, use and enjoyment of the Condominium.

(t) "Regular Assessment" shall have the meaning given in the By-Laws.

(u) "Special Assessment" shall have the meaning given in the By-Laws.

(v) "Unit" means any individual unit within the Condominium, each individual unit being more particularly described and identified on the Plans and in Section 3 and Section 4 of this Declaration.

Section 2. Name. The name by which the Property and the Condominium shall be known is the "The Avenue Condominium."

Section 3. Description of Units. The Real Estate contains nine (9) Units, as shown on the Plans recorded concurrently with the recording of this Declaration. The Units are identified and referred to in the Plans and in this Declaration as Units numbered 1 through 9, inclusive. The legal description for each Unit shall consist of the numeric designation of the particular Unit and reference to this Declaration and any relevant amendments then of record. Each Unit shall consist of all space within the boundaries thereof (as described in the following Section 4) and all fixtures, facilities, utilities, equipment, appliances and structural components within said boundaries which are designed or intended to be solely and exclusively for the enjoyment, use and benefit of the Unit. Not included in any Unit are those fixtures, facilities, utilities, equipment, appliances and structural components designed or intended for the use, benefit, support, safety or enjoyment of more than one Unit, or which may be necessary for the same, or which are specifically defined or described herein as General Common Areas or Limited Common Areas, or which are normally intended for common use; provided, however, that all fixtures, equipment and appliances designed or intended for the exclusive enjoyment, use and benefit of a Unit shall constitute a part of such Unit, even if the same are located wholly or partly outside the boundaries of such Unit.

Section 4. Boundaries. The boundaries of each Unit shall be as shown on the Plans. The horizontal boundaries shall run from the interior face surface of the ceiling above and abutting the Unit (including all drywall or plaster affixed to the ceiling structure) to and including the interior top surfaces of the finished flooring below and abutting the Unit and the vertical boundaries shall be the interior face surface of the boundary walls of each Unit (including all drywall or plaster affixed to the boundary walls structure), except that all glass, screens, doors and the frames surrounding the same shall be deemed a part of the Unit. In the event that any horizontal or vertical boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling of the Unit because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Unit shall be deemed to be, and treated for purposes of occupancy, possession, maintenance, decoration, use and enjoyment as being, in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Unit in and to such space lying outside of the boundary lines of the Unit as indicated on the Plans, but within the walls, floors, and ceilings of the Unit as the same may actually exist.

Section 5. General Common Areas. General Common Areas shall include Common Areas and facilities specified in the Act, including without limitation, the following, except to the extent otherwise specifically designated in Section 3, Section 4 or Section 6 as part of a Unit or as Limited Common Areas:

(a) the land on which the Building is located as more specifically described in the attached Exhibit A;

(b) the foundation, slab, roof, exterior walls and all other structural elements and components of the Building;

(c) except to the extent within a Unit, all lobbies, hallways, corridors, stairs and stairways and Building entrances and exists;

(d) electric, gas, chilled water, domestic water, sanitary sewer, storm sewer, trash area, fire protection, security, telephone, cable, plumbing, heating, ventilating, cooling and other mechanical equipment, systems and facilities serving the Building generally;

(e) lines, mains, pipes, wires, conduits and ducts which serve more than one Unit;

(f) the elevator and all appurtenances thereto; and

(g) all other areas, facilities and appurtenances located outside the boundaries of the Units.

Section 6. Limited Common Areas. Limited Common Areas and those Units to which the use thereof is limited are as follows:

(a) the elevator lobby and corridors on the third floor of the Building through which access to the Units on said third floor is obtained shall be limited to the use of the Units on the third floor of the Building;

(b) the elevator lobby and corridors on the second floor of the Building through which access to the Units on said second floor of the Building is obtained shall be limited to the use of the Units on the second floor of the Building;

(c) the stairs and stairways from the first floor to the second and third floors and the Building entrances and exits for such stairs and stairways shall be limited to the use of the Units on the second and third floors of the Building;

(d) the dumpster and dumpster area located in the basement and designated on the Plans as "Retail Trash Area", shall be limited to the use of the Units on the first floor of the Building; and

(e) any other areas designated and shown on the Plans as Limited Common Areas shall be limited to the Unit or Units to which they appertain as shown on the Plans.

Section 7. Ownership of Common Areas and Percentage Interest. In connection with and as an inseparable part of the ownership of each Unit, each Owner thereof shall have an undivided interest in the Common Areas as a tenant in common with all other Owners equal to the Percentage Interest applicable to the Unit. The Percentage Interest applicable to each Unit shall be determined based upon the size of the Unit in relation to the size of all Units in the Condominium and is specified in Exhibit C attached hereto and made a part hereof. In the attached Exhibit C there is designated the approximate interior square footage of the floor area of each Unit in the Condominium and the Percentage Interest of each Unit determined on the basis of the ratio of the square footage of the floor area of such Unit to the sum of the square footage of the floor areas of all of the Units in the Condominium. The determination of the square footage and corresponding Percentage Interest of each Unit as set forth in Exhibit C shall be conclusive upon the Owners of the respective Unit to which such Percentage Interest relates.

Section 8. Membership in Association and Percentage Vote. In connection with and as an inseparable part of the ownership of each Unit, each Owner shall be a Member of the Association and shall have a Percentage Vote, which such Owner shall be entitled to cast at each meeting of the Association on each matter on which the Owners may vote under the terms of this Declaration, the Articles of Incorporation of the Association, or the By-Laws. The Percentage Vote allocable to each Unit for all matters upon which the Owners are entitled to vote shall be equal to the Percentage Interest appertaining to each Unit. Unless otherwise stated in the Act, the By-Laws, or this Declaration, matters to be undertaken or performed by the Association shall be so undertaken or performed only upon the affirmative vote of Owners having in the aggregate Percentage Votes equal to or greater than fifty-one percent (51%).

Section 9. Association. In order to provide for the operation, management, upkeep, maintenance, repair and replacement of the Common Areas and in compliance with the provisions of the Act, the Association has been or shall be created by Declarant. Each Owner shall be a Member of the Association, but membership shall terminate when such person ceases to be an Owner, and such membership shall automatically transfer to the new Owner along with the transfer of the Unit, whether or not such transfer is stated in the conveyancing instrument.

The Association shall be governed by a Board of Directors, representing all of the Owners in providing for the operation, management, upkeep, maintenance, repair and replacement of the Common Areas and exercising any and all other rights of the Association permitted or required of an association under the Act. Declarant shall appoint the members of the initial Board of Directors of the Association, which shall serve for the period provided in the By-Laws. Thereafter, the Owners shall elect a Board of Directors annually in accordance with and as prescribed by the By-Laws. At all times, at least one of the members of the Board of Directors shall be an owner of a Unit on the first floor of the Building.

The Board of Directors may adopt, amend and 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, the Act and any then existing leases of any Units on the first floor of the Building, as it may deem necessary or advisable from time to time; provided that the Board of Directors shall give written notice to the Owners of the adoption of such rules and regulations and any amendment or rescission thereof. Each Owner and tenant of a Unit shall comply with and shall cause all other occupants of the Unit and their respective guests or invitees to comply with all such rules and regulations adopted from time to time by the Board of Directors of the Association.

Section 10. Encroachments and Easements for Common Areas. If, by reason of the location, construction, settling, or shifting of the Building or for any other reason, a Common Area now encroaches or shall hereafter encroach upon any Unit, then in such event an easement shall exist and run to the Owners and the Association so long as the encroachment exists for the maintenance, use and enjoyment of such encroaching Common Area.

Each Owner shall have an easement in common with each other Owner to use all General Common Areas, wherever located, including the rights of ingress and egress to such Owner's Unit, which such right is perpetual and appurtenant to such Unit, and each Owner of a Unit entitled to use a Limited Common Area shall have an easement in common with other Owners of Units entitled to use such Limited Common Area, to use such Limited Common Area, including the rights of ingress and egress to such Owner's Unit, which such right is perpetual and appurtenant to such Unit.

Declarant hereby declares, creates, grants, conveys and reserves a perpetual, nonexclusive easement for the benefit of the Association and the Managing Agent for the use of all Common Areas, including without limitation all of the basement of the Building in connection with the operation, upkeep, management, maintenance, repair and replacement of the

Common Areas and all equipment and facilities therein and thereon. For such purpose, the Association shall at all times have a key with which to unlock all doors to and within the Unit. The liability of the Association, the Board of Directors and the Managing Agent for damages resulting from the use of the Common Areas shall be limited to damages resulting from recklessness or intentional misconduct, unless otherwise provided in the management contract of the Managing Agent.

Section 11. Easement for Utilities. The Association may hereafter grant such easements as may be required by the various utility companies to provide utility services to the Property and for ingress and egress for purposes of installation, replacement, repair and maintenance of utility lines, mains and other necessary facilities and equipment within the Condominium; provided, however, nothing herein shall permit the substantial impairment of any Owner's use and enjoyment of its Unit and the grantee of any such easement rights shall promptly repair and restore any Property, Units or personal property damaged in the exercise of such easement rights. In addition, the Association shall have the right to grant such other easements and licenses as may be necessary for the proper operation and maintenance of the Condominium.

Section 12. Restrictions on Use.

- (a) Each Unit on the second and third floors of the Building shall be used exclusively for residential purposes.
- (b) Each Unit on the first floor of the Building shall be used exclusively for commercial, retail, service or entertainment purposes.
- (c) Nothing shall be done or kept in a Unit which will result in a cancellation of insurance on the Building or contents thereof or which would be in violation of any zoning, fire or building code or other rule, order or regulation applicable thereto or which will violate any law, statute, code, ordinance, rule, regulation or order of any duly constituted governmental authority or any publicly regulated utility.
- (d) No waste or nuisance shall be committed in the Units or Common Areas.
- (e) No "For Sale," "For Rent" or "For Lease" signs nor any other advertising signs shall be displayed in the windows of the Units on the second or third floors of the Building.
- (f) The Units on the second or third floors of the Building shall hang and maintain in the windows of such Units draperies or blinds having a white or off-white lining or backing and no other window coverings shall be permitted.
- (g) No excessively bright lights nor flashing, blinking or moving signs shall be permitted to be displayed in any window or on the exterior of any Unit.

(h) No animals, other than guide dogs for disabled occupants, employees or patrons of a Unit, shall be kept in any Unit. In the event that in the judgment of the Board of Directors, any such animal kept within a Unit is causing or creating a nuisance or unreasonable disturbance or noise, such animal shall be permanently removed from the Property within ten (10) days after written notice of such determination by the Board of Directors.

(i) Nothing shall be done or permitted in any Unit which will affect the exterior of the Building or impair the structural integrity of the Building or which would structurally change the Building, except as otherwise expressly provided in this Declaration or the By-Laws.

(j) No rubbish, debris or other unsightly material shall be placed in the Common Areas by any Owner, except that, trash and refuse shall be placed in sealed, disposable plastic bags or other containers approved by the Board of Directors and disposed of in such receptacles as shall be provided by the Association for that purpose or shall be placed only at the location for trash collection as is designated by the Board of Directors during the times designated by the Board of Directors. No outside storage of articles, goods or materials shall be permitted.

(k) No activity, sign or other use of any Unit of an obscene, lewd or pornographic nature or inconsistent with a residential (as to the Units on the second and third floors of the Condominium) or the operation of a first class, family oriented, commercial, retail, service or entertainment use, shall be conducted or permitted on the Property.

(l) No excessive noise, vibration or odors shall be permitted to be heard, felt or smelled outside of any Unit.

(m) No alteration or structural change shall be made or permitted which would jeopardize the soundness or safety of the Condominium, reduce the value of the Condominium or any Units thereof, or impair any easement or hereditaments.

Section 13. Maintenance, Decoration, Repairs and Replacements.

(a) Common Areas. The Association shall operate, maintain, repair, decorate, restore and replace the Common Areas, and the cost thereof shall be part of the Common Expenses. The Association may elect to delegate such duties to a Managing Agent and may enter into a management contract for such purpose. Declarant or an entity affiliated with Declarant may serve as the Managing Agent for the Condominium. Any management contract made or which is deemed to arise between the Association and Declarant (or any affiliate) shall be terminable by the Association without cause and without penalty upon thirty (30) days' written notice. The Association and its Managing Agent shall have the rights, powers and authority permitted or required of an association and/or manager under the Act.

(b) Units. Each Owner shall maintain and repair in a clean, safe and good, order, condition and repair, at its sole cost and expense, its Unit including without limitation all fixtures, appliances, equipment and other improvements and property constituting a part of its Unit

under Section 3 and Section 4 hereof, including without limitation the exterior surfaces and frames of all doors in the perimeter wall of such Unit and all windows and window frames in the perimeter wall of such Unit, and each Owner shall promptly repair any condition or defect existing or occurring in its Unit which, if not repaired, might adversely affect any other Unit or any Common Areas.

(c) General Common Areas or Limited Common Areas. In addition to its or their other rights hereunder, in the By-Laws or in the Act, the Association and the Managing Agent shall have the right from time to time, during reasonable hours and upon reasonable prior notice (except in the case of an emergency, in which event no notice shall be required) to enter into each Unit and the Common Areas adjacent to or accessible from such Unit to maintain, repair and replace such Common Areas, to take emergency action to prevent or repair damage to any Units or Common Areas and/or to enforce the terms of this Declaration. In the event of an emergency or if an Owner fails or is unable to maintain the condition of its Unit or repair any defect for which it is responsible and the Association or the Managing Agent have a reasonable basis for believing that such condition or defect has caused or threatens to cause immediate and substantial harm to any person or to the Unit or any property outside the Unit, or an Owner (or its Unit) is in violation of the terms of this Declaration, the By-Laws or the Act, the Association and the Managing Agent shall have the right to take action to prevent damage, repair (or cause the repair of) such condition or defect or to cure or minimize or take other appropriate action in respect of such violation, and to enter such Owner's Unit for such purpose, and any costs or expenses incurred in connection therewith (including attorneys' fees) shall be payable by such Owner to the Association upon demand. For purposes of enabling the Association and the Managing Agent to exercise their rights under this paragraph (c), each Owner shall provide the Association with keys with which to unlock all doors to and within the Unit, and if not so provided, the Association and the Managing Agent shall have the right to use such means as they deem proper to open doors in an emergency to obtain entry to the Unit to repair a condition or defect which has caused or threatens to cause immediate or substantial harm to any person or to any property outside the Unit. Nothing herein contained shall be construed to represent a contractual liability to any Owner on the part of the Association for maintenance, repair, or replacement of any Unit, General Common Areas or Limited Common Areas. The liability of the Association, the Board of Directors and the Managing Agent for damages resulting from the exercise of the rights granted to them by this paragraph (c) shall be limited to damages resulting from recklessness or intentional misconduct, unless otherwise provided in the management contract in the case of the Managing Agent.

Section 14. Alterations, Additions and Improvements; Liens. No Owner (other than Declarant) shall make any alterations, additions or improvements to the Common Areas or any structural alterations to its respective Unit without the prior written consent of the Board of Directors, which consent may be granted or withheld in the sole discretion of the Board of Directors. Any alteration, addition or improvement made by any Owner wholly or in part outside its respective Unit with the consent of the Board of Directors shall remain the property of that Owner and shall be owned, maintained and insured by that Owner as part of its Unit and

deemed a part thereof for purposes of this Declaration. Upon the sale of its Unit, such alterations, additions or improvements shall be transferred along with such Unit, and the purchaser shall be deemed to assume the prior Owner's ownership, maintenance and insurance obligations. If, in the reasonable discretion of the Board of Directors, such alteration, addition or improvement is not being properly maintained, the Association or Managing Agent may perform or cause to be performed any necessary maintenance work as provided in Section 13(c) above.

No Owner shall cause or permit the filing of any lien or encumbrance whether for labor performed or materials furnished to or for the benefit of such Owner or its Unit or otherwise, which encumbers any other Unit, Common Area or Percentage Interest of any other Owner, and in the event such a lien or encumbrance is filed, such responsible Owner shall cause the removal of record of such lien or encumbrance within thirty (30) days after notice thereof and shall indemnify and hold harmless the Association and the affected Owners from and against any losses, damages, liabilities, claims, costs and expenses, including without limitation attorneys' fees, incurred in connection therewith.

Section 15. Assessments.

(a) **Liability for Assessments.** Each Unit and the Percentage Interest appurtenant thereto shall be subject to the Regular Assessments and Special Assessments for Common Expenses as provided in this Section 15, and all such Assessments shall constitute liens upon such Unit and appurtenant Percentage Interest as of the date of determination of each such Assessment by the Association, as further provided and described in the By-Laws. The date(s) on which Assessments are due and payable shall be as specified in this Declaration or the By-Laws, or if not so specified, then as determined by the Board of Directors. Each Owner shall be personally liable for any and all Assessments which become due and payable during the period in which such Owner holds title to the Unit to which Assessments relate; and if such Owner consists of more than one person or entity, such persons and entities shall be jointly and severally liable for such Assessments. Except as may otherwise be required by the Act, no Owner shall be personally liable for any Assessments which were due and payable prior to the time such Owner took title to the Unit unless it expressly assumes such liability. A conveyance by an Owner of its Unit shall not operate to release or limit the liability of the Owner for Assessments becoming due and payable while such Owner holds or held title to the Unit. The lien of any Assessment shall be subordinate to any first mortgage of record encumbering the Unit to which the Assessment relates in favor of any person or entity not affiliated with such Owner, and any sale or transfer of the Unit pursuant to a foreclosure of such first mortgage or a conveyance in lieu thereof shall extinguish such subordinate lien; provided, however, no such sale or transfer pursuant to a foreclosure of a first mortgage or conveyance in lieu thereof shall relieve the Unit or the purchaser at the foreclosure sale or grantee in the event of a conveyance in lieu thereof from liability for any Assessments thereafter becoming due or from the lien therefor. The unpaid share of any Assessments, the lien of which has been extinguished as provided above, shall be added to Common Expenses, collectible from all Owners (including the Owner acquiring the subject Unit) as or in a new Assessment.

(b) Collection of Assessments. Each Assessment shall be due and payable within twenty (20) days of the due date thereof as specified in this Declaration or in the By-Laws, or if not so specified, then within twenty (20) days of any due date determined by the Board of Directors, and the date marking the end of the applicable time period allowed herein for the payment of such Assessment is hereby termed the "Delinquency Date". Any Assessment which is not paid in full by the Delinquency Date shall be deemed delinquent without further notice or demand to the defaulting Owner. Assessments shall bear interest from the Delinquency Date until paid in full at a rate equal to the lesser of eighteen percent (18%) per annum or the highest rate permitted under applicable law (the "Default Rate"). In the event that any costs or expenses, including without limitation attorneys' fees, are incurred by or on behalf of the Association with respect to the recovery or collection of any delinquent Assessment, all such costs and fees shall be due and payable immediately by such delinquent Owner and shall bear interest from the dates incurred until paid in full at the Default Rate. All interest and all costs and expenses payable hereunder with respect to a delinquent Assessment shall be added to and deemed a part of such delinquent Assessment and shall constitute a lien on the delinquent Owner's Unit and Percentage Interest as of the date on which such delinquent Assessment first became a lien. In the event that any Assessment is not fully paid on or before the Delinquency Date, the Association shall be entitled to accelerate and declare due and payable in full all installments of Assessments due for the year in which such delinquency occurs, and to enforce payment of the same by foreclosure of said lien and/or other appropriate legal proceedings in accordance with the laws of the State of Indiana. All Assessments shall be payable without relief from valuation and appraisal laws.

(c) Temporary Exemption for Declarant. Notwithstanding anything to the contrary contained in this Declaration or the By-Laws, so long as the Declarant, or any successor in interest to Declarant, is an Owner of one or more unoccupied Units offered for the first time for sale, but in any event for not longer than twenty-four (24) months after the closing of the sale of the first Unit by Declarant, Declarant shall be excused from contributing to Common Expenses attributable to its Units and any Assessments therefor shall be deemed to be Common Expenses collectible from all other Owners as provided in the By-Laws.

Section 16. Insurance.

(a) Property Insurance. The Association shall obtain fire and extended coverage insurance insuring the Property (other than the items in each Unit which each Owner is to insure pursuant to Section 16(c) below), including without limitation, the Building, the Units, all fixtures, appliances, and other improvements installed and sold by Declarant as a part of the Units and all Common Areas, building service equipment and supplies and other common personal property belonging to the Association, in an amount equal to the full replacement cost thereof from time to time, as determined by a qualified appraiser. Such insurance shall be in the form of a master casualty policy for the entire Condominium and shall contain the following endorsements, if and to the extent obtainable at a reasonable cost in the State of

Indiana: (i) replacement cost; (ii) inflation guard; (iii) demolition cost; (iv) contingent liability; (v) increased construction cost in connection with building code requirements; and (vi) all matters customarily covered under a "special condominium endorsement." All such policies shall 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 Section 18. In the event that all or any portion of the Condominium shall be determined to be in a flood hazard zone, the Association shall also obtain a master policy of flood insurance on the Property within such flood hazard zone, in an amount at least equal to the lesser of 100% of the current replacement cost of all insurable property within the flood hazard area, or the maximum coverage available for such property under the National Flood Insurance Program. The proceeds shall be payable to the Association, who shall hold and apply such proceeds as trustee for the individual Owners and Mortgagees, as their respective interests shall appear. The proceeds shall be used or disbursed only in accordance with the provisions of this Section 16 and of Section 18 of this Declaration, as applicable, and any surety bond or bonds obtained by the Board of Directors covering the officers of the Condominium as provided in paragraph (d) of this Section shall specifically include protections for any insurance proceeds so received.

(b) Liability Insurance. The Association shall obtain comprehensive general liability insurance, Workmen's Compensation Insurance, Employers Liability Insurance, Officers' and Directors' Liability Insurance and such other liability insurance, with such coverages and limits as the Board of Directors deems appropriate or as maybe required by law; provided, however, that public liability insurance shall have liability limits of not less than One Million Dollars (\$1,000,000.00) combined single limit per occurrence; and provided further, that all such policies shall meet the requirements of paragraph (e) of this Section 16. Such policies shall cover, at a minimum, legal liability of the insureds for property damage, bodily injury and death of persons in connection with the ownership, operation, maintenance or use of the Common Areas, and legal liability arising out of lawsuits related to employment contracts or administration of the Association. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors and any Managing Agent. The individual Owners, as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.

(c) Owner's Insurance. Each Owner shall have the right to purchase any additional insurance as it may deem necessary, and each Owner shall be solely responsible for loss of or damage to the contents of its own Unit, however caused, including without limitation, all floor and wall coverings, appliances, fixtures and betterments installed by the Owner, and for loss of or damage to any of its personal property, whether or not stored or kept in its own Unit. Each Owner shall be solely responsible for obtaining its own insurance to cover any such loss and risk and the Association, Board of Directors and Owners of other Units shall not be liable therefor.

(d) Fidelity Bond. The Association shall obtain a fidelity bond indemnifying the Association, the Board of Directors and the Owners for loss of funds resulting from fraudulent or dishonest acts of any employee, officer or director of the Association or of any other person handling the funds of the Association or of the Owners. When the Managing Agent has the responsibility for handling or administering funds of the Association, the Managing Agent shall maintain fidelity bond coverage for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including without limitation, reserve and working capital funds, in the custody of the Association or the Managing Agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Units plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The premiums on all bonds required herein, except those maintained by the Managing Agent, shall be paid by the Association and included in Common Expenses. The bonds shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days' prior written notice to the Association or Insurance Trustee (as defined in Section 16(f) below).

(e) Policy Requirements. All policies of insurance of the character described in paragraphs (a) and (b) of this Section 16 shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, the Board of Directors, the Declarant, any Managing Agent, their respective employees and agents or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured thereunder, and shall cover claims of one or more insured parties against other insured parties. All such policies shall name the Association, Board of Directors, Managing Agent and any other person or entity acting as agent or employee of the foregoing or otherwise, for the use and benefit of the Owners, as insureds; shall provide that the coverage thereunder is primary even if an Owner has other insurance covering the same loss; shall show the Association or Insurance Trustee, in trust for each Owner and Mortgagee as their interest may appear, as the party to which proceeds shall be payable; shall contain a standard mortgage clause and name all Mortgagees as mortgagee; and shall prohibit any cancellation or substantial modification to coverage without at least ten (10) days prior written notice to the Association and to the Mortgagees. All policies of insurance maintained by the Association pursuant to this Section 16 shall provide such coverages and be in such amounts as may be required from time to time by Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), Federal Housing Administration ("FHA") or Veteran's Administration ("VA"). Upon obtaining or changing any policies of insurance authorized or required by this Section 16, a certificate of insurance setting forth the same shall be sent by the Secretary of the Association to each Owner and each Mortgagee whose interest may be affected thereby.

(f) Insurance Trustee. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom such Association may enter into any insurance trust agreement or any successor to such trustee (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose.

Each Owner hereby appoints the Association, or any Insurance Trustee or substitute Insurance Trustee designated by the Association, as attorney-in-fact for the purpose of purchasing and maintaining such insurance, collecting and appropriately disbursing the proceeds thereof, negotiating losses and executing releases of liability, executing all documents and performing all other acts necessary to accomplish such purposes consistent with or as required under this Declaration.

Section 17. Condemnation. In the event that all or any part of the Condominium shall be taken or condemned by any competent authority, or if any condemnation proceeding shall be instituted with respect to all or any part of the Condominium (any such event herein referred to as a "Taking"), the Association shall have the right to appear and defend in such proceedings on behalf of the Owners affected thereby and to prosecute on behalf of any such Owners any action or proceeding, at law or in equity, as it may deem appropriate for the adequate protection and compensation of all Owners affected by any confiscatory act of any public body. The proceeds obtained by the Association as a result of any permanent Taking of all of the Condominium shall be received by the Association and shall be applied by the Association as follows: (a) the portion of such award which is specifically allocated by the court making such award to the Units taken shall be distributed to the Owners of the Units taken in the manner designated by the court (the "Allocated Award"), and (b) the balance of such award after payment of the Allocated Award shall be paid, first, to reimburse the Association for its costs and expenses in obtaining such award, and the balance, if any, shall be paid to each Owner in the Condominium in proportion to its Percentage Interest as of the date of such Taking. No amounts or damages shall be paid by the Association to any Owner for any partial or temporary Taking, partial loss of use, or impedance of access as to any Unit, except to the extent that the amount of any such award is specifically determined by the court making such award or by the affirmative vote of Owners having in the aggregate Percentage Votes equal to or greater than sixty-seven percent (67%). Nothing in this Section 17 shall be construed to prevent any Owner affected by any condemnation or confiscatory action of any public body from participating in any condemnation proceedings or from prosecuting any action for any recovery for any confiscation of its property, but such Owner shall not be entitled to distribution out of the proceeds received by the Association to the extent that such Owner recovers sums or compensation for the same or similar damages as are the basis of the award to the Association. Nothing herein contained shall be construed to require payment of proceeds to an Owner in derogation of any rights such Owner's Mortgagee may have to such proceeds.

Section 18. Damage and Restoration. In the event of any damage to or destruction of the Property by fire or other casualty or as a result of a Taking, the following provisions shall be applicable:

(a) In the event of damage to or destruction of the Property, a special meeting of the Association shall be called and held within ninety (90) days after the of the occurrence of the damage for the purpose of determining whether a "complete destruction" has occurred. A "complete destruction" shall be deemed to have occurred by the affirmative vote of Owners having in the aggregate Percentage Votes equal to or greater than sixty-seven percent (67%) that a "complete destruction" has occurred. If such a special meeting is not called and held within such ninety (90) day period, or if such determination of whether or not there has been a complete destruction 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.

(b) If there has not been a complete destruction (as determined under the foregoing paragraph (a)), all Units and other Property shall be promptly repaired and restored by the Association (subject to paragraph (d) below). The proceeds of the insurance or Taking award shall be applied to the cost of such repair and restoration. If the insurance proceeds or Taking award are not adequate to cover the cost of repair and restoration or in the event there are no proceeds or award, the amounts needed to complete the repair and restoration beyond available insurance proceeds or Taking award shall be paid by all Owners as a Common Expense. The application and use of such proceeds shall be determined by the Board of Directors of the Association or its Insurance Trustee under Section 16, and when so determined in good faith shall be binding upon all Owners and Mortgagees.

(c) If there has been a complete destruction (as determined under the foregoing paragraph (a)), then unless the Owners decide to rebuild by the affirmative vote of Owners having in the aggregate Percentage Votes equal to or greater than sixty-seven percent (67%), the Property shall not be repaired and restored and the disbursement of insurance proceeds and dissolution of the Condominium shall be as set forth in the By-Laws and the Act.

(d) Restoration, for purposes of paragraphs (b) and (c) above, shall mean construction or rebuilding of the Units and other Property to substantially the same condition as they existed immediately prior to the damage or destruction and with a similar quality of materials and workmanship and similar type of design and architecture, but excluding all improvements, contents and other property added to or kept in or about such Units by any Owner, including without limitation, floor and wall coverings, appliances, fixtures and betterments installed by the Owner.

(e) In the event restoration of Units is necessary, and notwithstanding any provision in Section 16 or Section 18 of this Declaration to the contrary, the insurance funds or Taking award for such repair and restoration shall be disbursed by any Mortgagee (if it elects to do so) which holds mortgages on fifty-one percent (51%) or more of the number of Units that need to be restored, in which event such Mortgagee shall act as an Insurance Trustee hereunder;

otherwise, the insurance funds or Taking award shall be disbursed by the Association or its Insurance Trustee. Such disbursement and payment of funds shall be in the manner and in accordance with the procedure normally used when disbursing funds for initial construction. Each insurer shall be notified of this provision by the Association and each policy of insurance shall comply herewith. Nothing contained in Section 16 or Section 18 hereof shall be construed to require payment of any insurance proceeds or Taking award to an Owner in derogation of any rights such Owner's Mortgagee may have to such insurance proceeds or Taking award.

Section 19. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement of the Property which becomes necessary by reason of the negligence or intentional misconduct of such Owner or any member of such Owner's family or such Owner's or family's guests, employees, agents, lessees, other authorized occupants of or visitors to its Unit, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by or attributable to the use, misuse, occupancy or abandonment of such Owner's Unit or its appurtenances or by any occurrence described in the first sentence of this Section 19.

Section 20. Real Estate Taxes. Real estate taxes shall be separately taxed to each Unit and the Percentage Interest appurtenant thereto, as provided in the Act. In the event that real estate taxes becoming due and payable in any year are not separately assessed and taxed to each Unit, but are assessed and taxed on the Property as a whole, then each Owner shall pay its proportionate share of such real estate taxes. Each Owner's proportionate share shall be equal to its Percentage Interest in the year such real estate taxes become due and payable. Each Owner's proportionate share of such real estate taxes shall be part of the Common Expenses but at the option of the Board of Directors, shall be paid to the Association within twenty (20) days after demand by the Association.

Section 21. Utilities. Each Owner shall pay for those utilities provided to its Unit which are separately billed or metered for its Unit. Utilities which are not separately billed or metered shall be treated and paid as part of the Common Expenses.

Section 22. Amendment of Declaration. Except as otherwise provided in Section 23 and Section 24 of this Declaration, this Declaration may be amended in the following manner:

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

(b) **Resolution.** A resolution to consider adoption of a proposed amendment may be proposed by the Board of Directors or by the Owners of at least fifty-one percent (51%) of the Percentage Vote.

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

(d) Adoption. Any proposed amendment to this Declaration must be approved by the affirmative vote of Owners having in the aggregate Percentage Votes equal to or greater than sixty-seven percent (67%), or such higher percentage as set forth below. In the event any Unit is subject to a mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner, if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions of the By-Laws.

(e) Amendments. No amendment to this Declaration shall be adopted which changes:

- (i) The Percentage Interest with respect to any Unit or the share of an Owner's liability for Common Expenses, without the unanimous approval of all Owners and the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws;
- (ii) The provisions of Section 18 of this Declaration with respect to restoration or repair in the event of fire or other casualty or a Taking, without the approval of Owners having in the aggregate Percentage Votes equal to or greater than sixty-seven percent (67%) and the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws;
- (iii) Any provision of the Declaration or By-Laws which would be deemed to be of a material nature by the U.S. Department of Housing and Urban Development ("HUD") or FNMA under any current Lending Guide or any subsequent, relevant guidelines which FNMA or HUD may issue, or which would be deemed to be of a material nature under the regulations or requirements of the VA, without the approval of Owners having in the aggregate Percentage Votes equal to or greater than sixty-seven percent (67%) and the unanimous approval of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the By-Laws.

Any Mortgagee which has been duly notified of the nature of any proposed amendment shall be deemed to have approved the same if said Mortgagee or a representative thereof fails to appear at the meeting in which such amendment is to be considered (if proper notice of such meeting was timely given to such Mortgagee). In the event that a proposed amendment is one permitted by this Section and is deemed by

the Board of Directors to be one which is not of a material nature, the Board of Directors shall notify all Mortgagees whose interests have been made known to the Board of Directors of the nature of such proposed amendment, and such amendment shall be conclusively deemed not material if no Mortgagee so notified objects to such proposed amendment in writing to the Association within twenty (20) days of the date such notices are mailed and if such notice advises the Mortgagees of the time limitation contained in this sentence.

(f) Residential or Retail Specific Amendments. In addition to the aggregate Percentage Vote requirement for passage of a resolution adopting an amendment to this Declaration, as to any Amendment, the subject matter of which only affects the Units on the second and third floors of the Building, such resolution to adopt the proposed amendment shall require the affirmative vote of at least sixty seven percent (67%) of the Owners of Units on the second or third floors of the Condominium; and as to any Amendment, the subject matter of which only affects the Units on the first floor of the Building, such resolution to adopt the proposed amendment shall require the affirmative vote of at least sixty seven percent (67%) of the Owners of Units on the first floor of the Condominium.

(g) Recording. Each amendment to the Declaration shall be executed by Declarant only in any case where Declarant has the right to amend this Declaration without any further consent or approval, and otherwise by the President or Vice President and Secretary or Assistant Secretary of the Association. All amendments shall be recorded in the Office of the Recorder of Marion County, Indiana, and no amendment shall become effective until so recorded.

Section 23. Amendments for Mortgage Purchaser. In the event that FNMA, FHLMC, FHA, VA, or other nationally recognized purchaser, guarantor or insurer of a mortgage of any Property in this Condominium should impose any requirements pertaining to the attributes of the Condominium or the provisions of this Declaration or the By-Laws, for purposes of qualifying for or agreeing to the purchasing, insuring or guarantying of any such mortgage, Declarant or the Board of Directors may fully satisfy such requirements and shall have the right to amend this Declaration in accordance therewith, without the approval or consent of any Owner or Mortgagee except as such approval or consent may be required under the Act.

Section 24. Reservation of Rights. Declarant reserves the right to amend this Declaration without the consent of any Owners or the Association or any Mortgagee if (i) such amendment is necessary to conform this Declaration or the By-Laws to the Act, or (ii) such amendment is made to correct clerical or typographical errors. Any mortgage, deed of trust or other security instrument secured by a lien on any Unit shall be subject and subordinate to any such amendment by Declarant under this Section 24.

Section 25. Enforcement of Covenants and Restrictions. The various covenants and restrictions applicable to the use and enjoyment of the Units, as set forth in this Declaration, are for the mutual benefit and protection of the present and future Owners and shall run with the land

and shall be binding upon and inure to the benefit of every Owner and the Board of Directors on behalf of the Association, and their respective heirs, successors and assigns. In addition to any other right or remedy available under this Declaration, the By-Laws or the Act, available relief in any action brought to enforce this Declaration shall include damages and injunctive relief against any violation or attempted violation of these provisions, and the recovery of any damages, costs, interest and expenses incurred, including without limitation attorneys' fees, incurred by any party successfully enforcing this Declaration against any other party, but there shall be no right of reversion or forfeiture of title resulting from any violation. In addition, the Board of Directors is hereby authorized, during the period of any default or delinquency, to take actions to enforce compliance with such provisions, rules, regulations or decisions, including, without limitation, foreclosing the lien for delinquent Assessments, exercising the self-help rights granted herein, pursuing a collection or enforcement action against any breaching Owner or other responsible party, and suspending a defaulting Owner's voting privileges; provided, however, that no such enforcement action shall impair the rights of a Mortgagee hereunder.

Section 26. Costs and Attorneys' Fees. In a proceeding arising because of an alleged failure of an Owner to make any required payments or to comply with any provision of the Declaration, the Act, the By-Laws or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, the party initiating such proceeding shall be entitled to recover its reasonable attorneys' fees incurred in connection with such proceeding, if it is found or agreed in such proceeding that a failure to make payment as required hereby or a violation of this Declaration, the Act, the By-Laws or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, did occur.

Section 27. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Units shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws and the rules and regulations adopted by the Board of Directors, as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Amendments, the Act, the By-Laws and any rules and regulations adopted pursuant thereto, as each may be amended from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. Each Owner agrees to execute and deliver such other documents, if any, as may be necessary or desirable to comply with the Act as it may be amended from time to time. All persons, corporations, partnerships, trusts, associations or other legal entities who may occupy, use, enjoy or control a Unit or Units or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws and the rules and regulations applicable thereto, as each may be amended from time to time.

Section 28. Waiver. No Owner may exempt itself from liability for its contribution toward any Common Expenses or other Assessments by waiver of the use or enjoyment of any of the Common Areas or by abandonment of its Unit. The Association shall not be deemed to have

waived the right to hold a lien on the Unit and foreclose same by any failure to take action when any payment of any Assessment is not timely made when due by any Owner. No delay or failure to take action to enforce the terms of this Declaration, the By-Laws or any rules and regulations adopted by the Board of Directors shall be deemed a waiver of the right to enforce such terms.

Section 29. Construction and Severability. This Declaration shall be construed in accordance with and under the laws of the State of Indiana. This Declaration and the By-Laws are intended to comply with the provisions of the Act and shall be construed whenever possible to be consistent therewith. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration or the By-Laws filed herewith shall not impair nor affect in any manner the validity, enforceability or effect of the rest of this Declaration or the By-Laws, which shall remain in full force and effect.

Section 30. Notices. Any notice required or permitted to be sent under this Declaration or the By-Laws shall be sufficient if delivered personally or sent by first-class United States Mail, postage prepaid, to the address shown on the records of the Association; provided, however, that notices to Mortgagees shall be sent by United States Certified Mail, Return Receipt Requested, or by United States Registered Mail.

Section 31. Estoppel Certificate. Upon written request from any Owner, the Association shall execute and furnish to such Owner within a reasonable time of said written request, a certificate certifying that (i) to the knowledge of the Association such Owner is not in default under this Declaration, the By-Laws or the rules and regulations adopted by the Board of Directors, as are then in effect (or specifying any defaults known to the Association), (ii) the annual or monthly amount and date through which such Owner has paid Assessments, and (iii) any other matters or state of facts reasonably required respecting the Declaration, By-Laws or rules and regulations.

Section 32. Financial Statement. Upon written request from HUD, VA, FNMA, FHLMC or any holder, insurer or guarantor of any first mortgage in connection with an interest or prospective interest in a Unit or the Condominium, the Association shall prepare and furnish to said entity within a reasonable time of said written request an unaudited financial statement of the Association for the preceding fiscal year. The unaudited financial statement shall be available within one-hundred twenty (120)-days of the Association's fiscal year end.

Section 33. Sales Office and Models. Notwithstanding anything to the contrary contained in this Declaration, the By-Laws or any rules or regulations adopted by the Board of Directors, Declarant shall have, and hereby reserves, the right to use the Units owned by Declarant and such other portions of the Property (other than Units owned by persons other than the Declarant) to aid in the sale of Units or for the conduct of any business activity attendant thereto, including as model units and sales or management offices.

Section 34. Remedies Cumulative. The rights and remedies granted or reserved by the Declarant, Association, Board of Directors or Owners hereunder or allowed at law or in equity

shall be cumulative and the exercise of any one right or remedy shall not impair the right to exercise any other right or remedy.

Section 35. Partial Invalidity. If any term, covenant, condition or provision of this Declaration or the application thereof to any person or circumstance shall be invalid or unenforceable, the validity and enforceability of the other terms, covenants, conditions and provisions of this Declaration shall not be affected hereby.

Section 36. Limitation of Liability. Notwithstanding anything to the contrary contained herein, no general or limited partner, member, shareholder, officer, director or employee of Declarant shall be personally liable with respect to any of the terms, covenants, conditions or provisions of this Declaration or the performance or non-performance of Declarant's obligations under this Declaration, nor shall Declarant be liable for any consequential or indirect damages. The liability of Declarant in respect of any of the terms, covenants, conditions or provisions of this Declaration shall be limited to Declarant's interest in and to the Condominium, including without limitation its interest in any Units or Common Areas, and any Owner or other aggrieved party shall look solely to the interest of Declarant and its successors and assigns, in the Condominium for the satisfaction of each and every remedy of such Owner or aggrieved party against Declarant and shall not look to any other assets of Declaration its successors or assigns seeking to enforce Declarant's obligations hereunder or to satisfy any money or deficiency judgment for Declarant's failure to perform such obligations. The term "Declarant" shall mean only the Owner from time to time of one or more Units, which Owner is designated hereunder or in an amendment to this Declaration as a successor Declarant, and in the event of the designation of an Owner as a successor Declarant, the prior Declarant shall be automatically and entirely released and discharged, from and after the date of recording of the Amendment designating the successor Declarant, from all liability with respect to the terms, covenants, conditions and provisions of this Declaration to be performed or observed by Declarant accruing after such date (but not such terms, covenants, conditions and provisions applicable to Declarant as an Owner after such date). Such successor Declarant shall be deemed to have assumed and agreed to perform and observe such terms, covenants, conditions and provisions accruing after the date of recording of the amendment designating it as Declarant hereunder.

[The Remainder of This Page Intentionally Left Blank]

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

MARTHA A. WOMACKS
447925 NOV 19 2002
SUBJECT TO FORMAL ACCEPTANCE
FOR TRANSFER

RILEY AREA DEVELOPMENT CORPORATION

By: William B Gray

Printed: William B Gray

Title: EXECUTIVE DIRECTOR

STATE OF INDIANA)
COUNTY OF MARION)

SS:

Before me, a Notary Public in and for said County and State, personally appeared William B Gray, the Executive Director of Riley Area Development Corporation, who acknowledged the execution of the above and foregoing Declaration of The Avenue Condominium for and on behalf of said corporation.

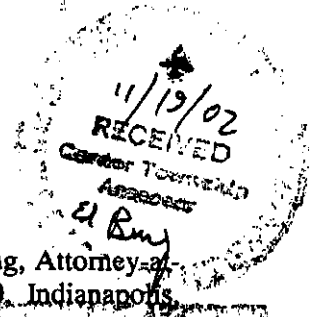
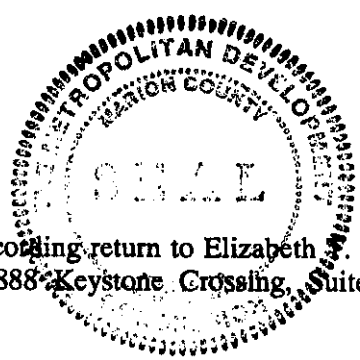
Witness my hand and Notarial Seal this 15th day of November, 2002.

Frances E. Bare

My Commission Expires:
May 7, 2009

Printed Name: FRANCES E. BARE
Notary Public

Resident of Marion County, Indiana.



This instrument was prepared by and after recording return to Elizabeth W. Young, Attorney-at-Law, Robinson Wolenty & Young, LLP, 8888 Keystone Crossing, Suite 710, Indianapolis, Indiana 46240.

Exhibit A

Real Estate



CHICAGO TITLE

EXHIBIT B
CODE OF BY-LAWS OF
THE AVENUE CONDOMINIUM ASSOCIATION, INC.
A NON-PROFIT CORPORATION

ARTICLE I
Identification and Applicability

Section 1.01. Association. The Avenue Condominium Association, Inc. (the "Association") through its Articles of Incorporation dated November ____, 2002 and filed with the Indiana Secretary of State on November ____, 2002 (the "Articles of Incorporation") has been formed as a not-for-profit corporation under the General Not-for-Profit Corporation Act of the State of Indiana, and shall be the governing body for all of the Owners of Units in the Avenue Condominium (as defined in the Declaration below) for the operation, management, maintenance, repair, replacement and administration of the property owned, leased, managed or used by the Association and located within The Avenue Condominiums and Hoosier Retail Flats located in Marion County, Indiana (the "Property"). The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the use and benefit of the Owners in accordance with the provisions contained herein. The Association has been established as an association under the Indiana Condominium Law, IC 32-25-1-1, et seq., (the "Act") and in conjunction with the filing of the Declaration of the Avenue Condominium dated November ____, 2002 and recorded concurrently herewith as Instrument No. _____, in the Office of the Recorder of Marion County, Indiana, as may be amended from time to time (the "Declaration").

Section 1.02. Identification and Adoption. These By-Laws are adopted simultaneously with the execution and filing or recording as applicable of the Articles of Incorporation and the Declaration of the Avenue Condominium. These By-Laws are attached and made a part of the Declaration and the Declaration is incorporated herein by reference and all of the covenants, conditions, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meanings in these By-Laws, and reference is hereby made to the definitions in Section 1 of the Declaration. The provisions of these By-Laws shall apply to the Property and to the administration and conduct of the affairs of the Association. In the event of any conflict between the terms of the Declaration, the Articles of Incorporation or these By-Laws, the terms of the Declaration or Articles of Incorporation shall control.

Section 1.03. Individual Application. All of the Owners, tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Unit or any part of the Property shall be subject to the rules, restrictions, terms and conditions set forth in the

Declaration, these By-Laws, the Articles and the Act, as the same may be amended from time to time.

ARTICLE II Membership

Section 2.01. Membership. Each Owner of a Unit automatically upon becoming an Owner, shall be and become a Member of the Association (a "Member") and shall remain a Member of the Association so long as such Owner owns a Unit.

Section 2.02. Entity or Multiple Owners. When a partnership is an Owner of a Unit or if an Owner of a Unit is comprised of more than one person or entity, then such entity, and all such persons and entities shall be Members of the Association, but only one such Member shall be entitled to vote the Percentage Vote for such Unit, as provided in Section 3.05 below.

Section 2.03. Classes of Membership and Vote. The Association shall have two (2) classes of membership, as follows:

(i) Class A Members. Class A Members shall be all Owners other than Declarant (unless Class B membership has been converted to Class A membership as provided in the following subparagraph (ii), in which event Declarant shall then have a Class A membership so long as Declarant is an Owner). Each Class A Member representing an Owner shall be entitled to its Percentage Vote for each Unit owned by such Owner. The Percentage Vote allocable to each Unit shall be equal to the Percentage Interest appertaining to each Unit. The Percentage Interest appertaining to each Unit shall be determined based upon the size of the Unit in relation to the size of all Units.

(ii) Class B Member. The Class B Member shall be the Declarant. The Class B Member shall be entitled to a Percentage Vote equal to 1.1. The Class B membership shall cease and terminate and be converted to Class A membership (so long as the Class B Member is an Owner) upon the "Transfer Date" (as such term is hereinafter defined in Section 2.04 below).

Section 2.04. Applicable Date. As used herein, the term "Transfer Date" shall mean the date when Declarant is no longer an Owner or such earlier date as determined by Declarant.

ARTICLE III Meetings of Association

Section 3.01. 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, 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 or the Act.

Section 3.02. Annual Meetings. The first annual meeting shall not be held until the time of turnover of control of the Association by Declarant in accordance with the provisions of the following Section 3.06 or at such earlier time or times as may be determined by the Declarant. All subsequent annual meetings shall be held on any date selected by the Board of Directors. At each annual meeting, the Owners shall 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 Members at the meeting.

Section 3.03. Special Meetings. After the Transfer Date, a special meeting of the Members of the Association may be called by resolution of the Board of Directors or upon a written petition of the Owners who have not less than ten percent (10%) of the Percentage Vote. 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 3.04. Notice and Place of Meetings. All meetings of the Members of the Association shall be held at such location in Marion County, Indiana as may be designated by the Board of Directors. Written notice stating the date, time, 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 Owner and, if applicable, to any Mortgagee of which the Association has been notified as required in Article VII of these By-Laws, not less than ten (10) days prior to the date of such meeting. If at any meeting an amendment to the Declaration or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. The notice shall be mailed by First-Class United States Mail, postage prepaid, or delivered to the Owners at their respective addresses as the same shall appear upon the records of the Association, and by United States Certified Mail, Return Receipt Requested to the Mortgagees at their respective addresses as they shall appear on the records of the Association. Notice of any meeting may be waived by any Owner in writing filed with the Secretary of the Association. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 3.05. Voting.

(a) **Number of Votes.** Each Owner shall be entitled to cast its Percentage Vote on each matter coming before the meeting. No Unit's Percentage Vote shall be split.

(b) **Voting by Corporation or Trust.** Where a corporation, limited liability company or trust is an Owner or is otherwise entitled to vote, the trustees may cast the Percentage Vote on behalf of the trust, and the duly authorized agent or other representative of the corporation or limited liability company shall cast the Percentage Vote to which the corporation or limited liability company is entitled.

(c) **Multiple Owners.** When the Owner of a Unit constitutes more than one person or entity or is a partnership, there shall be only one voting representative entitled to cast the Percentage Vote allocable to that Unit. At the time of acquisition of title to a Unit by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the

Secretary of the Association an irrevocable proxy appointing one of such persons or partners as the voting representative for such Unit, which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of competent jurisdiction. Such appointed voting representative may grant a proxy to another to vote in his or her place at a particular meeting or meetings pursuant to paragraph (d) of this Section 3.05, which shall constitute relinquishment of his or her right to act as voting representative for the Unit at such meeting or meetings.

(d) Proxy. An Owner may vote either in person or by its duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate its attorney-in-fact in writing, delivered to an officer of the Association prior to the commencement of the meeting. For purposes of this Section, a proxy granted by facsimile by a Member shall be deemed "executed in writing by the Member."

(e) Voting List. The Secretary or Assistant Secretary of the Association shall at all times keep at the principal office of the Association a complete and accurate list of all Members entitled to vote as or on behalf of an Owner. Such list may be inspected by any Member for any proper purpose at any reasonable time.

(f) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, or the Act, the presence of Owners or their duly authorized representatives holding fifty-one percent (51%) of the total Percentage Votes of all Owners shall constitute a quorum at all meetings. The terms "affirmative vote of the majority of the Owners", as used in these By-Laws, shall mean, unless otherwise expressly indicated, not less than fifty-one percent (51%) of the total Percentage Votes as determined by the applicable provisions set forth in the Declaration, and shall not mean a majority of the persons or votes present or represented at such meeting.

(g) Majority Rule. Unless otherwise expressly provided by the Act, the Articles of Incorporation, the Declaration or these By-Laws, any action may be taken at any meeting of the Members at which a quorum is present upon the affirmative vote of the majority of the Owners.

(h) Conduct of Meetings. Meetings of Members, including the order of business, shall be conducted in accordance with Roberts' Rules of Order, Revised, except insofar as the Articles of Incorporation, these By-Laws or any rule adopted by the Board of Directors or Members may otherwise provide. The Members may, by unanimous consent, waive the requirements of this Section, but such waiver shall not preclude any Member from invoking the requirements of this Section at any subsequent meeting. The Chairman of the 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.

(i) Reading of Minutes. The Secretary or an Assistant Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto.

(ii) Treasurer's Report. The Treasurer or an Assistant 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 year.

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

(iv) Election of Board of Directors. Nominations for the Board of Directors may be made by an Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) 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 its Percentage Vote for each of as many nominees as are to be elected; however, votes shall not be accumulated. Those persons receiving the highest number of votes shall be elected.

(v) 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.

(vi) Committee Reports. Reports of committees designated to supervise and advise on the respective segments of maintenance and operations assigned by the Board of Directors shall be presented.

(vii) 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 for the upcoming year.

(i) Action of Consent. Any action required or permitted to be taken at any Owner's meeting may be taken without a meeting if, prior to such action, a written consent to such action is signed by all the Owners and is filed with the minutes of the Association proceedings.

Section 3.06. Control During Development. Notwithstanding any other provision of the Declaration, the Act, the Articles or these By-Laws, from and after the date of the Declaration until the Transfer Date, the Association shall be governed by the initial Board of Directors appointed by Declarant. In the event any vacancy occurs in the initial Board of Directors for any reason prior to the Transfer Date, each such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed to be a member of the initial Board of Directors. Said initial Board of Directors shall hold exclusively all rights and powers which a Board of Directors or the Association would have under the Declaration, the Act, the Articles or these By-Laws, except as specifically limited in this Section 3.06. Said initial Board of Directors may appoint from time to time from among

the Owners committees to advise and assist it in the performance of its functions. The rights and powers of said initial Board of Directors shall be limited as follows:

(a) The power of assessment shall be limited in that the total Regular Assessments against any Unit shall not be increased in any year after the year in which the Condominium is fully assessed for real estate taxes and such real estate taxes are due and payable, by more than ten percent (10%) over the assessment in the preceding year.

(b) Said initial Board shall have no power to reallocate Percentage Interests or Percentage Votes in a manner not consistent with the Declaration.

(c) Said initial Board shall have no power to determine on behalf of the Owners whether a complete destruction of the Building and other Property has occurred, and the Owners shall be entitled to vote on such matter in accordance with Section 18 of the Declaration and Article X below; provided, however, that this shall not prohibit Declarant from voting on such matter according to the Percentage Vote attached to the Units owned by Declarant.

Declarant shall have the right to waive, on behalf of the Association, the annual meetings and annual accountings provided for in this Article III and in the Declaration, so long as Declarant retains control of the Association. At the time of turnover of control by Declarant, the first annual meeting of the Association will be called, if it has not already been held, at which time the rights and powers of the initial Board of Directors shall terminate and the Association shall thereafter be governed in accordance with the provisions of the Declaration, the Act, the Articles and these By-Laws other than this Section 3.06.

ARTICLE IV ®
Board of Directors

Section 4.01. Board of Directors. The affairs of the Association shall be governed and managed by the Board of Directors (herein sometimes collectively called "the Board" and individually called "the Directors"). The Board of Directors shall be composed of three (3) persons. Except for the initial Board of Directors approved by Declarant as provided in the foregoing Section 3.06, no person shall be eligible to serve as a Director unless he or she is a Member.

Section 4.02. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, limited liability company, trust or other legal entity, then the person entitled to cast the Percentage Vote on behalf of such multiple Owner shall be a Member eligible to serve on the Board of Directors.

At all times, at least one of the members of the Board of Directors shall be an Owner (or a Member representing an Owner) of a Unit on the first floor of the Condominium building.

Section 4.03. Term of Office and Vacancy. At the first annual meeting of the Owners, one Director shall be elected to serve a term of one (1) year; one Director shall be elected to serve a term of two (2) years; and one Director shall be elected to serve a term of three (3) years. Thereafter, one-third (1/3) of the Board of Directors shall be elected at each annual meeting of the Association for a term of three (3) years each. No Director of the Association shall be elected for a term of more than three (3) years, but Directors may succeed themselves. Any vacancy or vacancies occurring on the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 4.04 of this Article IV. A Director chosen to fill a vacancy shall hold office until the expiration of the term of the Director causing the vacancy and until that Director or its successor shall be duly elected and qualified

Section 4.04. Removal of Directors. After the tenure of the initial Board of Directors has expired, a Director or Directors may be removed with or without cause upon the affirmative vote of Owners having in the aggregate Percentage Votes equal to or greater than sixty-seven percent (67%). In such case, such Director's successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director selected shall serve until the next annual meeting of the Owners or until such Director's successor is duly elected and qualified.

Section 4.05. 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) Repairing and replacing the General Common Areas and Limited Common Areas;
- (b) Procuring utilities and Building security services, removing garbage, waste, snow and ice from the Common Areas;
- (c) Painting, decorating and furnishing the General Common Areas and Limited Common Areas and the exterior of the Building;
- (d) Assessing and collecting from the Owners, Regular Assessments and Special Assessments for the Common Expenses and other authorized sums;
- (e) Preparing the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of the annual meeting is mailed or delivered;
- (f) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred during each year, which accounting shall be delivered to each Owner simultaneously with delivery of the annual budget;
- (g) Keeping a current, accurate and detailed record of receipts and expenditures affecting the Condominium, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours; and

(h) Procuring and maintaining in force all insurance coverages required by the Declaration to be maintained for the whole Condominium as specified in the Declaration.

Section 4.06. 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 professional managing agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;

(b) To purchase for the benefit of the Owners such equipment, materials, labor and services as may be necessary or desirable in the judgment of the Board of Directors;

(c) To procure for the benefit of the Owners fire and extended coverage insurance covering the Building and the Property to the full insurable value thereof, public liability and property damage insurance, Workmen's Compensation insurance, if necessary, officers and directors liability insurance and all such other insurance as is required or permitted under the Declaration, for the benefit of the Owners and the Association;

(d) To employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board or Directors may be necessary or desirable in connection with the business and affairs of the Association;

(e) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs from Assessments for Common Expenses; [®]

(f) To open and maintain a bank account or accounts in the name of the Association;

(g) To adopt, revise, amend and alter from time to time reasonable rules and regulations, not inconsistent with the provisions of the Declaration, these By-Laws and the Act, with respect to administration of the Association and/or the use, occupancy, operation and enjoyment of the Property; provided that the Board shall give written notice to the Owners of such rules and any revision, amendment or alteration thereof; and

(h) To appoint committees to supervise and interpret the policies and regulations adopted by the Board.

Section 4.07. Limitations on Board Action. After the tenure of the initial Board of Directors, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than Five Thousand Dollars (\$5,000.00), unless the prior approval of Owners having in the aggregate Percentage Votes equal to or greater than fifty-one percent (51%) is obtained, except in the following cases:

(a) Supervision and management of the replacement or restoration of any portion of the 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.

Section 4.08. Compensation. No Director shall receive any compensation for his or her services as such except to such extent as may be expressly authorized by a majority of the Owners.

Section 4.09. Meetings. 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 the Directors. The Secretary shall give notice of regular 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. At any time after the tenure of the initial Board of Directors has expired, a special meeting 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 in Marion County, Indiana as shall be designated in the notice. All meetings of the Board of Directors shall be open to attendance by any Member.

Section 4.10. Meetings May be Attended by Electronic Voice Communication. Any meeting of the Board of Directors may be attended by means of any form of electronic voice communication, provided that all Directors can simultaneously hear the proceedings and be heard by all the other Directors in attendance at the meeting. A quorum for the meeting so held shall be computed on the basis of all persons in voice contact with each other. Any meeting so held shall be a formal meeting of the Board of Directors for all purposes, and any business may be transacted at such meeting that could be transacted if the Directors were assembled in physical proximity to each other.

Section 4.11. Quorum. A majority of the entire Board of Directors shall be necessary to constitute a quorum for the transaction of any business, and the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors unless the act of a greater number is required by the Act, the Declaration, the Articles of Incorporation or these By-Laws.

Section 4.12. Waiver of Notice. Before 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 4.13. Action by Consent. Any action required or permitted to be taken at any Board meeting may be taken without a meeting if, prior to such action, a written consent to such action is signed by all of the Directors and is filed with the minutes of the Board proceedings.

Section 4.14. Committees. The President or the Board of Directors may from time to time create and appoint standing, advisory and special committees of Members and other appropriate individuals to undertake studies, make recommendations and carry on functions for the purpose of efficiently accomplishing the purposes of the Association.

ARTICLE V Officers

Section 5.01. Officers of the Association. The principal officers of the Association shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint such other officers as in its judgment may be necessary. Any two (2) 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 5.02. Election of Officers. The officers of the Association shall be elected annually by the Board at the first meeting of the Board of Directors following each election of Directors and shall hold office for a term of one (1) year and until such officer's successor shall be duly elected and qualified or until resignation, removal or death. Upon recommendation of a majority of all members of the Board of Directors and upon an affirmative vote of a majority of Owners present at a meeting, 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.

Section 5.03. Vacancies. Whenever any vacancy occurs in any Association office for any reason, such vacancy may be filled by the Board of Directors at any meeting thereof, and any officer so elected shall hold office until expiration of the term of the officer causing the vacancy, and until a successor is duly elected and qualified.

Section 5.04. Compensation. No officer shall receive any compensation for his or her services as such, except as fixed by duly authorized and recorded Board action.

Section 5.05. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. After the tenure of the initial Board of Directors, the President shall preside at all meetings of the Association and of the Board of Directors, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Owners as the President may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board of Directors may prescribe from time to time.

Section 5.06. The Vice-President. The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as the Board of Directors or the President may prescribe from time to time.

Section 5.07. The Secretary. The Secretary shall be elected from among the Owners or Directors. The Secretary shall attend all meetings of the Association and of the Board of Directors and shall keep or cause to be kept a true and complete record of proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and shall perform such other duties as from time to time may be prescribed by the Board of Directors. If required, the Secretary shall attest the execution by the Association of deeds, leases, agreements and other official documents. The Secretary shall specifically see that all notices of the Association and the Board of Directors are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 5.08. The Treasurer. The Treasurer shall be elected from among the Owners or Directors. The Treasurer 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 the Treasurer. The Treasurer shall be the legal custodian of all monies, notes, securities and other valuables which may from time to time come into possession of the Association. The Treasurer shall immediately deposit all funds of the Association in some reliable bank or other depository to be designated by the Board of Directors and shall keep such bank account in the name and for the exclusive benefit of the Association. The Treasurer shall furnish at meetings of the Board of Directors, or whenever requested, a statement of the financial condition of the Association, and in general shall perform all duties pertaining to the office of the Treasurer.

ARTICLE VI

Additional Rights and Duties of the Board

Section 6.01. Right of Entry. An Owner or occupant of a Unit shall be deemed to have granted the right of entry to its Unit to the Association or the Managing Agent, or any person authorized by the Board of Directors in case of any emergency, in order to remedy any circumstance threatening such Unit, the Building in which it is located or any person, whether the Owner is present at the time or not. An Owner shall permit persons authorized by the Board of Directors to perform any work, when required, entering upon its Unit as required, for the purpose of performing installations, alterations or repairs to the mechanical, electrical or other utility 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 reasonably convenient to the Owner. In case of emergencies, such right of entry shall be immediate.

Section 6.02. Right of the Board to Adopt Rules and Regulations. The Board may promulgate such reasonable rules and regulations regarding the appearance and operation of the Condominium as the Board of Directors may deem desirable, including but not limited to the use

of the General Common Areas and Limited Common Areas. Such rules as are adopted may be repealed or amended by a vote of a majority of the members of the Board of Directors. 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 of Directors shall be properly and consistently enforced by the Board of Directors.

ARTICLE VII Procedures for Assessments

Section 7.01. Annual Accounting. Annually, after the close of each calendar year and prior to the date for notice of the annual meeting of the Association, the Board of Directors shall cause to be prepared and furnished to each Owner a financial statement showing all receipts and expenses received, incurred and paid by the Association during the preceding calendar year.

Section 7.02. Proposed Annual Budget. Annually, on or before the date for notice of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the ensuing calendar 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. The proposed 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 calendar year. At the annual meeting of the Owners, the proposed annual budget may be approved in whole or in part, only upon the affirmative vote of Owners having in the aggregate votes equal to or greater than fifty-one percent (51%).

Section 7.03. Special Limited Common Area Expenses. In the event the Board anticipates incurring any expenses applicable exclusively or materially and disproportionately to any Limited Common Areas, then such annual budget shall exclude such expenses and such expenses shall be segregated into a separate budget to be submitted for adoption to the Owners of Units entitled to use such Limited Common Areas, and upon adoption thereof by the affirmative vote of a majority of such Owners, an amount equal to such approved budgeted amount divided by the number of Units entitled to use such Limited Common Areas shall be added to the annual amount of the Regular Assessments of the Owner of such Units and payable by such Owners as a part of the monthly installments of Regular Assessments for the ensuing year.

Section 7.04. Regular Assessments. The annual budget as adopted shall, based on the estimated cash requirement for the Common Expenses in the ensuing year as set forth in said budget, contain a proposed annual assessment against each Unit based on the Percentage Interest of each Unit times the total amount of said budget (herein called the "Regular Assessment"). The Regular Assessment against each Unit shall be paid in twelve (12) equal installments, on the first day of each month. Payment of such installments of the Regular Assessment shall be made to the Association or the Managing Agent, as directed by the Board of Directors; provided however, that any Owner may elect to pay Assessments in advance. The Regular Assessment for each year shall become a lien on each separate Unit as of the date of the adoption of the annual

budget. At the closing of the initial sale of each Unit to an Owner, the Association shall be paid by the purchaser of such Unit an amount equal to the pro-rated amount for the month of closing plus the following month's amount. So long as the Declarant is an Owner of one or more unoccupied Units offered for the first time for sale, but in any event for not longer than twenty (24) months after the closing of the sale of the first Unit by Declarant, Declarant shall be excused from contributing to Common Expenses attributable to and/or assessed to its Units and any Assessments therefor shall be deemed to be Common Expenses collectible from all other Owners (other than Declarant). The Owners shall bear the Common Expenses, including without limitation, such Common Expenses attributable to or assessed against such Units owned by Declarant, through payment of an initial Assessment fixed from time to time by the initial Board of Directors as provided in Section 3.06. The Declarant shall be responsible for any deficits during the period in which it controls the Association in the event the Common Expenses for such period exceed the amount assessed against the Owners other than Declarant, and Declarant shall also establish and maintain during such period a reserve fund for the periodic maintenance, replacement or repair of Common Areas based upon its good faith estimates of replacement costs and useful life of such Common Areas. After the turning over of control of the Association to the Owners, each Owner shall pay to the Association a Regular Assessment as set forth above. The total of all such Regular Assessments shall be applied to the payment of the Common Expenses provided for in the annual budget, including expenses for maintenance and repair of the Common Areas, necessary insurance costs, reserve funds for replacements and maintenance, costs of administration and operation of the community activities and facilities of the Association and for any other necessary or appropriate expenses for maintenance and operation of the Condominium.

Section 7.05. Special Assessments. In addition to the Regular Assessments authorized above, the Association may levy such special assessments as may be necessary for the purpose of defraying, in whole or in part: (1) the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, and (2) the expense of any other contingencies or events not provided for in the annual budget or the reserves and working capital of the Association; provided that no special assessments shall be levied without the affirmative vote of Owners having in the aggregate Percentage Votes equal to or greater than fifty-one percent (51%) at a meeting duly called for this purpose. Each Owner of a Unit shall pay to the Association a special assessment based on its Percentage Interest times the total sum approved to meet the costs and expenses as heretofore provided (herein called the "Special Assessment"); provided however, in the event such cost or expense is exclusively or materially and disproportionately applicable to any Limited Common Area, the Owners of Units entitled to the use of such Limited Common Areas shall be the Owners whose majority of Percentage Votes are required for approving the Special Assessment, and such Owners shall share in the payment of such Special Assessment in the same proportion as set forth in Section 7.03 above. The Association may, in connection with the levy of any Special Assessment, specify that the same shall be payable in installments and specify the due dates thereof.

Section 7.06. Adjustments. In the event that the approved budget and Regular Assessments plus the reserves and working capital of the Association prove insufficient to meet the Association's actual expenses in any year, such deficiencies may be corrected through one or more Special Assessments. In the event Regular Assessments exceed actual expenses plus

approved reserves and working capital fund amounts in any year, such surplus shall be retained and used to offset expenses in the next year(s) or returned to the Owners in proportion to their Percentage Interests, as the Board of Directors shall elect.

Section 7.07. Temporary Budget and Assessments. If for any reason an annual budget and the annual Assessments for any year have not been determined as of the beginning of such year, the budget and Assessments in effect during the preceding year shall continue in effect until such time as the annual budget and annual Assessments are determined in accordance with the Declaration and these By-Laws; provided however, that said preceding budget and Assessments may be increased by up to ten percent (10%) as the Board of Directors may deem necessary in said temporary budget and Assessments.

Section 7.08. Reserve and Working Capital Funds. The Association shall establish a reserve fund for the repair and replacement of those Common Areas that must be replaced periodically, based upon good faith estimates of the useful lives and replacement costs of such Common Areas made or obtained by the Association. The reserve fund shall be funded through the payments by the Owners of Common Expenses and not by an extraordinary or Special Assessment. Extraordinary expenditures not originally included in the annual budget that become necessary during the year shall be charged first against the reserve fund so established before any Special Assessment is made or levied therefor. In addition to the reserve fund, a working capital fund shall be established and maintained by the Association. At the closing of the initial sale of each Unit to an Owner, the Association shall be paid by the purchaser of such Unit an amount equal to two (2) months' installments of the Regular Assessment for Common Expenses for such Unit, which amount shall be retained by the Association as working capital, which amount shall be adjusted annually so as to keep on deposit an amount at least equal to two (2) months of the Regular Assessment for Common Expenses for such Unit for said calendar year. Amounts paid or deposited into the working capital fund shall not relieve an Owner from this responsibility for the Regular Assessments due in accordance with this Article VII. All amounts held by the Association pursuant to this Section 7.08 shall be maintained in a federally-insured, interest-bearing account in a bank doing business in Marion County, Indiana, and all interest thereon shall be added to and deemed a part of such fund.

Section 7.09. Status of Funds. All funds collected pursuant to this Article VII shall be held and expended by the Association solely for the purposes designated herein, and, except for any Special Assessments that may be levied hereunder against less than all of the Owners, and except for such adjustments as may be required to reflect delinquent or prepaid assessments, shall be deemed to be held for the use, benefit and account of all of the Owners for the payment of Common Expenses in accordance with the Owners' respective Percentage Interests.

ARTICLE VIII Amendment to By-Laws

Subject to the Act and the Articles of Incorporation, the power to make, alter, amend or repeal all or any part of these By-Laws is vested in the Board of Directors. The affirmative vote of a majority of the members of the Board of Directors shall be necessary to effect any such changes in

these By-Laws. Where the amendment of the By-Laws would affect the terms and conditions contained in the Articles of Incorporation of the Association or the Declaration that are subject to approval by the Owners or Mortgagees, then such amendment of the By-Laws shall be subject to the same percentage requirements of Owners or Mortgagees as contained in the Articles of Incorporation of the Association or the Declaration for an amendment to the Articles of Incorporation of the Association or the Declaration, respectively. An amendment to these By-Laws shall be valid only if the amendment is set forth in an amendment the Declaration and the amendment the Declaration, with the amendment to these By-Laws annexed thereto, is recorded in the office of the Recorder of Marion County, Indiana.

ARTICLE IX
Notices and Mortgagees

Section 9.01. Notice to Association. Any Owner who places a first mortgage lien upon its 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 notice required to be given to the Mortgagee pursuant to the terms of the Declaration or these By-Laws shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at 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 otherwise be required by the Declaration or these By-Laws shall be required, and no such Mortgagee shall be entitled to vote on any matter on which it 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 9.02. Notice of 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 any interest in a Unit, a written statement setting forth the amount of all unpaid Assessments, if any, with respect to the subject 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.

Section 9.03. Financing Statements. The Association, upon the request of any Mortgagee, shall provide to said Mortgagee the most recent financial statement prepared on behalf of the Association pursuant to Section 7.01 of these By-Laws.

Section 9.04. Notices to Mortgagees. The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under Section 9.01 of these By-Laws of any of the following:

(a) Any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its mortgage;

(b) Any lapse or cancellation of any insurance policy or fidelity bond maintained by the Association; and

(c) Any proposed action that requires the consent of a specified percentage of Mortgagees.

ARTICLE X
Dissolution Upon Complete Destruction

If, as a result of damage to or destruction of the Property by fire or other casualty or as a result of a Taking, the Owners determine (pursuant to the provisions of the Declaration) that a complete destruction has occurred and that the Property will not be rebuilt, then

(a) the Property shall not be reconstructed;

(b) the insurance proceeds from the fire and casualty insurance on the Property or the taking award, if any, shall be divided among the Owners and disbursed to them (or their respective Mortgagees, as applicable), in the same percentage as their Percentage Interests;

(c) the Property shall be considered removed from the Condominium; and

(d) the Association shall prepare and record a removal instrument.

Upon the recording of such removal instrument, the Property shall be removed from the applicability of the Act, and the Property shall be considered to be owned in common by the Owners. The undivided interest in the Property owned in common by each Owner shall be the Percentage Interest of such Owner in effect immediately prior to such recording of the removal instrument. Upon such removal, the Property shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property (after deducting costs incurred by the Association in collecting such proceeds) not previously disbursed, if any, shall be considered one (1) fund and divided among and disbursed to all Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the Property, after first paying out of the respective shares of the Owners, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by each Owner.

ARTICLE XI
Miscellaneous

Section 11.01. Corporate Seal. The Association shall have no corporate seal.

Section 11.02. Execution of Contracts and Other Documents. Unless otherwise ordered by the Board of Directors, all written contracts and other documents entered into by the Association shall be executed on the Association's behalf by the President or a Vice President, and, if required, attested by the Secretary or an Assistant Secretary.

Section 11.03. Fiscal Year. The Association's fiscal year shall begin on January 1 of each year and end on the immediately following December 31.



CHICAGO TITLE

Exhibit C

Percentage Interest of Units

Interior Unit No.	Floor Area	Percentage Interest
1 450 Massachusetts Avenue, Suite 202	832	4.6%
2 450 Massachusetts Avenue, Suite 201	614	3.4%
3 450 Massachusetts Avenue, Suite 205	1,850	10.2%
4 450 Massachusetts Avenue, Suite 204	1,957	10.8%
5 450 Massachusetts Avenue, Suite 203	1,026	5.7%
6 450 Massachusetts Avenue, Suite 302	823	4.6%
7 450 Massachusetts Avenue, Suite 301	621	3.4%
8 450 Massachusetts Avenue, Suite 303	1,026	5.7%
9	9,328	51.6%



CHICAGO TITLE

MARTHA A. WOMACKS
RECORDER

449208 DEC -2 2002

DULY ENTERED FOR RECORDATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

3

CORRECTION AND RATIFICATION OF DECLARATION

THE AVENUE CONDOMINIUMS LIMITED PARTNERSHIP, an Indiana limited partnership ("Avenue") hereby makes this Correction and Ratification of Declaration this 22ND day of November, 2002.

WITNESSETH:

WHEREAS, Avenue is the sole owner of the fee simple title to certain real estate, located in Marion County, Indiana, more particularly described in Exhibit A attached hereto and made a part hereof (the "Real Estate"), and

WHEREAS, the general partner of Avenue, Riley Area Development Corporation, an Indiana non-profit corporation executed and recorded that certain Declaration of The Avenue Condominium including the Code of By-Laws of The Avenue Condominium Association, Inc., dated November 15, 2002, and recorded on November 19, 2002, as Instrument No. 2002-0223504, in the Office of the Recorder of Marion County, Indiana (the "Declaration"), and

WHEREAS, Exhibit A to the Declaration was inadvertently omitted from the Declaration, and

WHEREAS, Avenue desires to correct the Declaration and ratify and confirm the Declaration as provided herein,

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Avenue hereby makes this Correction and Ratification of Declaration.

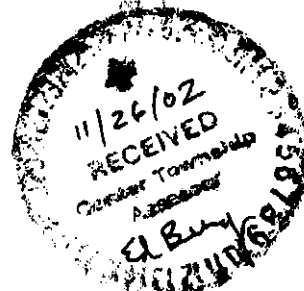
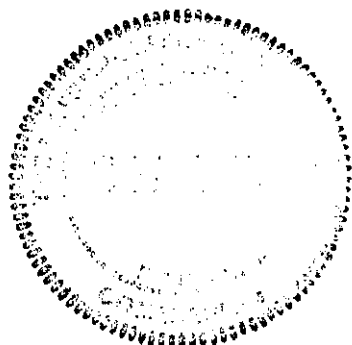
1. Correction. The legal description of the Real Estate, attached hereto as Exhibit A, incorporated herein by reference, is hereby added to the Declaration.
2. Ratification. Avenue hereby ratifies and confirms the Declaration as amended, as establishing the Avenue Condominium on the Real Estate.
3. Definitions. The terms used in this Addendum shall have the definitions set forth in the Lease, except as otherwise provided herein.

EXHIBIT A

Units 1 through 9 of The Avenue Condominiums, a Horizontal Property Regime in the City of Indianapolis, as per plat thereof recorded November 19, 2002, as Instrument No. 2002-0223505 in the Office of the Recorder of Marion County, Indiana.



CHICAGO TITLE



INSTRUMENT REMOVED
By
GENTER TOWNSHIP ASSASSOR