

870047438

28.00

(17)

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
THE MOORINGS

This Declaration (hereinafter called the "Declaration") made this 21st day of April, 1987 by and between Schmadeke Development Corp., an Indiana Corporation, (hereinafter called "Declarant A") and Thomas A. Hendrickson and Sandra B. Hendrickson (hereinafter called "Declarant B" or in the aggregate referred to as "Declarants");

WITNESSETH:

Whereas, Declarant A is the owner of real estate in Marion County, Indiana, more particularly described in Exhibit A attached hereto and made a part hereof; and

Whereas, Declarant B is the owner of real estate in Marion County, Indiana adjacent and contiguous to the aforesaid Exhibit A real estate which is more particularly described in Exhibit B attached hereto and made a part hereof; and

Whereas, Declarants propose to create a planned residential community on and within the Exhibit A and Exhibit B real estate with common amenities, landscaping and otherwise, for the pride and benefit of parties who would be residents thereon and therein; and

Whereas, Declarants, by this Declaration, choose to reinforce such pride and benefits by specific assurances to parties who become residents within the Exhibit A and Exhibit B real estate and to their neighbors who surround said real estate.

Now, Therefore, Declarants hereby declare this Exhibit A and Exhibit B real estate ("Property ") be held, transferred, sold, conveyed, hypothecated, encumbered, used, improved and occupied subject to the provisions, agreements, conditions, covenants and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan for the preservation and enhancement of the Property, and are established and agreed upon for the purpose of enhancement and protecting the value, desirability and attractiveness of the Property as a whole and of each of the Lots as designated, or to be designated, as recorded Lots in platted subdivisions within the Property, and which run with the real estate and are binding upon all parties having any right, title or interest in the Property, their heirs, successors and assigns.

APR 29 2 47 PM '87

ARTICLE I

Recitals

The aforesaid recitals are incorporated herein and made a part hereof.

ARTICLE II

Definitions

The following are the definitions of the terms as they are used in this Declaration.

1. "Declarant A" shall mean the owner of the real estate in Marion County, Indiana, his successors or assigns, more particularly described in Exhibit A, attached hereto and by reference incorporated herein.
2. "Declarant B" shall mean the owner of the real estate in Marion County, Indiana, their successors or assigns, more particularly described in Exhibit B, attached hereto and by reference incorporated herein.
3. "Declarants" shall mean the aggregate of Declarant A and Declarant B.
4. "Property" shall mean all that real estate set out in Exhibit A and B, attached hereto and by this reference incorporated herein.
5. "Lot" shall mean any parcel of residential real estate described by one of the plats of the Property, which is recorded in the Office of Recorder, Marion County, Indiana.
6. "Developer" shall mean the person or entity who develops the Property or a portion thereof into platted Lots.
7. "Owner" shall mean a person, partnership, trust or corporation who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.
8. "Builder" shall be a purchaser of a platted lot from Developer for purposes of constructing a Home thereon.
9. "Homeowner" shall mean the Owner of a Lot with a residential improvement thereon.

870047439

10. "Association" shall be The Moorings Owners' Assn., Inc., an Indiana not-for-profit corporation, the membership and powers of which are more fully described in Article X of this Declaration.

11. "Home" shall mean a single family Home on a Lot and the appurtenances thereto.

12. "Percentage Interest" shall mean the percentage of one Lot of an Owner as it relates to total Lots within the total development assumed to be two hundred seventy-one (271) Lots upon completion. If less than said number of Lots are developed the percentage of each Owner shall be adjusted accordingly.

13. "Committee" shall mean The Moorings Development Control Committee, composed of four members as defined in Schedule I of the Commitments recorded as Instrument # 86-0123286 in the Office of Recorder of Marion County, Indiana and in Article IX of this Declaration.

14. "Approvals" shall mean approvals, determinations, permissions, or consents required herein as they are given in writing signed, by two (2) members thereof unless the Committee unanimously agrees that one (1) signature shall suffice.

15. Following the completion of development of the Property with initial construction of homes on lots therein, all of the powers of the initial Committee as defined in the Commitments shall automatically be transferred to the Association and its Board of Directors shall appoint three (3) Owners to continue the functions of the Development Control Committee.

ARTICLE III

Home Size and Use

All Lots in the Property shall be known and designated as residential Lots. No business buildings shall be erected on said Lots and no business may be conducted on any part thereof, other than the home occupations permitted in the Dwellings Districts Zoning Ordinance of Marion County, Indiana. No structure shall be erected, altered, placed or permitted to remain on any residential Lot herein other than one (1) detached single family Home not to exceed thirty-five (35) feet in height, and residential accessory buildings. Any garage or accessory building erected shall be of a permanent type of construction and shall conform to the general architecture and appearance of such Home. The minimum square footage of living space of Homes constructed on all perimeter Lots shall be 1800 square feet for ranch-type, and 2200 square feet for multi-story, provided that a minimum of 1000 square feet shall be on the ground floor.

Perimeter Lots shall be those Lots abutting the north, west and those Lots on the south boundary abutting Beamsreach on the outside boundaries of the Property, excepting the north, east and south boundaries of the 7.593 acres described in Exhibit A shall not be considered a perimeter Lot boundary with the exception of Lots 24 & 25. The perimeter Lots are identified by the capital letter "P" on the Final Plat of each Phase before recording with the Marion County Recorder.

The balance of the Property shall be developed into Lots to the same standards of development as perimeter ("P") Lots as immediately described above, excepting if changing conditions in the marketplace, state of the art changes in development patterns or other unforeseeable conditions should occur during the time of build-out of the entire property, the Declarant, upon petition to the Metropolitan Development Commission and public hearing thereon for what is presently designated an "AP Approval", may reduce living unit sizes excepting on perimeter ("P") Lots for good cause shown provided that in no event shall interior Lots be reduced below a minimum space of 1600 square feet for ranch-type Home and 1900 square feet for multi-story Homes.

The square footage of living space is exclusive of porches, terraces, garages, carports, accessory buildings and basements (excepting finished lower levels such as bi-levels or tri-levels).

ARTICLE IV

Density

The density of the Property will be no greater than 1.87 Lots per acre.

ARTICLE V

Exterior Construction of Homes

The finished exterior of every building constructed or placed on any Lot in the Project shall be subject to the approval of the Committee and shall be of material other than tar paper, rollbrick siding or any other similar material. All driveways must be paved from their point of connection with the abutting street to a point of connection with the garage apron.

870047438

ARTICLE VI

Common Property

Common Property means and includes a proposed lake, swimming pool, bath house, tennis courts, communal parking areas and proposed landscape plans which are to be created for the mutual enjoyment of the Owners in The Moorings under the terms and conditions hereinafter set forth. Theme structures and boulevard entrance with landscaped areas (including areas within public rights-of-way) shall also be designated on the plats as Common Property. The above-described recreational facilities shall be installed at or before the time the one hundredth (100th) Home is completed unless the Association, by its Directors, determines to defer construction until the one hundred fiftieth (150th) Home is completed. Areas designated Common Property in each Phase or plat shall be dedicated to the Association at the time of the conveyance of the last Lot in such Phase or plat.

ARTICLE VII

Occupancy

No Home constructed on any of the Lots shall be occupied or used for residential purposes for human habitation until it shall have been substantially completed. The determination of whether a Home shall have been substantially completed shall be made by the Committee and such decision shall be binding on all parties.

ARTICLE VIII

Fencing, Structures and Landscape Control

In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Project, any fence, mailbox or other structure must be approved by the Committee as to size, location, height and composition before it may be installed. A Lot must have at least two (2) trees growing upon it in the front yard by the time the Home is completed, and if this requires plantings by the Homeowner, the Committee must approve the size and location of such trees. No tree with a trunk diameter of 6 inches or more when measured 4 feet above the ground existing on any Lot or Common Property may be removed without the prior written consent of the Committee.

ARTICLE IX

The Moorings Development Control Committee

1. Powers. Generally, No Home, building structure or improvement of any type or kind shall be constructed or placed on any Lot in the Project without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale as the Committee may require. There shall also be submitted, where applicable, the permits or reports as hereinbefore required. All such plot plans shall be prepared by professional draftsmen, registered land surveyor, engineer or architect.

The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

1.1 The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of this Declaration;

1.2 The design or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures;

1.3 The proposed improvement, or any part thereof, would, in the opinion of the Committee, be contrary to the interests, welfare or rights of all or any part of other Owners.

The Committee shall be composed of William A. Schmadeke, his heirs, successors and assigns and two persons appointed by him, both of whom are knowledgeable in residential development, and one (1) non-voting member selected as a Homeowner from the surrounding neighborhood of Homeowners. Two members' signatures shall be required by the Committee unless by majority agreement

870047-138

of the Committee one member may sign, The Committee shall receive notice of meeting for review of plans and specifications personally or by telephone within forty-eight hours after plans and specifications have been submitted for approval.

After initial construction of all Homes in the Moorings, the Board of Directors of the Association shall select from among its membership three persons to perform all of the services of the original Committee in the reconstruction, remodeling and other applicable functions of the original Committee as herein defined.

2. Duties. The Committee shall approve or disapprove proposed improvements within ten (10) days after all required information shall have been submitted to it. One (1) copy of all submitted material shall be retained by the Committee for its permanent files and the second copy shall be returned to the applicant marked "Approved" and signed as herein provided or "Disapproved" with a statement of reasons for disapproval.

3. Liability. Neither the Committee, any agent thereof, the Developer, nor the Association shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

4. Inspection. The Committee may inspect work being performed with its permission to assure compliance with this Declaration and applicable requirements and regulations. Noncompliance shall be grounds for a suit for injunction to prevent violation of the terms of approval by the Committee, the Association or any affected Owner within the Property without the necessity of posting bond.

5. Combining Lots. Whenever two (2) or more contiguous Lots in the Project shall be owned by the same person, and such Owner shall desire to use two (2) or more of said Lots as a site for a single Home, he shall apply in writing to the Committee for permission so to use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such Home shall be treated as a single Lot so long as the Lots remain improved with one single dwelling and do not impair drainage or utility easements.

6. Common Property. Common Property depicted on the recorded plats of the Property shall remain private and neither the Developer's execution or recording of said plats nor the doing of any other act by the Developer is, or is intended to be, or shall be construed as, a dedication to the public of the Common Property. Ownership of the Common Property shall be conveyed in fee simple title, free of financial encumbrance, to the Association upon completion of construction in accordance with the provisions of Article VI. Such conveyance shall be subject

870047-138

to easements and restrictions of record, and such other conditions as the Association may, at the time of such conveyance, deem appropriate. Such conveyance shall be deemed to have been accepted by the Association and those persons who shall from time to time be members thereof upon the recording of a deed or deeds conveying such Common Property to the Association.

ARTICLE X

The Moorings Owners' Assn., Inc.

1. Membership. There has been or will be created, under the laws of the State of Indiana, a not-for-profit corporation, to be known as "The Moorings Owners' Assn., Inc.," which is referred to as the Association. Every Owner of a Lot in the Property shall be a member of the Association. Each Owner of a Lot within the Property shall be subject to all the requirements and limitations imposed in this Declaration and on members of the Association, including those provisions with respect to the payment of assessments imposed by the Association.

2. Associate Membership. In addition to the foregoing, the Board of Directors of the Association may establish associate memberships in the Association for persons who are not otherwise entitled to the benefits of membership by virtue of being Owners of Lots within the Project. Associate members shall have none of the rights of members to vote at meetings of the Association. The Board of Directors of the Association may establish fees or charges for such associate memberships and rule and regulations concerning such associate memberships which may be different from those applicable to members generally.

3. Purposes. The general purpose of the Association is to provide a means whereby those areas within the Property designated Common Property such as, but not limited to, the improvements at major street entrances, lake, swimming pool, bathhouse, tennis courts on the plats thereof, as may be conveyed to the Association or established by it, or may be operated, maintained, repaired and replaced by its members and such other things, but not limited to trash collection, snow removal, security and such other purposes that serve the common good of the association of Owners as determined by The Moorings Development Control Committee.

An additional purpose of the Association is to provide a means for the promulgation and enforcement of regulations necessary to govern the use and enjoyment of such Common Property within the Project as may be conveyed to the Association.

4. Power of Assessment and Collection. The Association shall have all the powers set forth in its Articles of Incorporation, together with all other powers that belong to it by law, including the power to levy a uniform annual assessment against the Lots within the Project as set forth herein and in the By-Laws of the Association, attached hereto.

5. Membership and Voting Rights. Every Owner of a Lot shall be a member of the Association. For purposes of determining classes of membership, a Class A member shall be the Owner of any conveyed Lot containing a Home thereon, and a Class B member shall be the Owner of any undeveloped platted Lot, and each reference to a Lot in this Article shall be deemed to be a conveyed Lot containing a Home or an unconveyed, platted or unplatted, Lot, respectively, as more particularly set forth as follows. The Association shall have two (2) classes of membership:

5.1 Class A. Every person, group of persons or entity, other than who is a record Owner of a fee interest in any improved Lot which is or becomes subject, by covenants of record, to assessment by the Association; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a member. A Class A membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Class A members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record Owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.

5.2 Class B. The Class B members shall be the Declarant and shall be entitled to three (3) votes for each platted Lot owned. For purposes of determining voting rights and duties, it shall be assumed there is a total of two hundred seventy-one (271) platted and unplatted Lots within the Property and Developer shall have the automatic right to plat and record, not to contain in excess of two hundred seventy-one (271) Homes, without the consent or approval of the Association or any other person, firm or corporation. The Class B membership shall cease and be converted to a Class A membership on the happening of either of the following events, whichever occurs earlier: whenever the total votes outstanding of Class A membership equals two hundred three (203), or on

January 1, 1997, in the event all the Lots have not been conveyed to Owners or the Class B memberships have not been surrendered by the then holders thereof for cancellation on the books of the Association. Class B memberships existing, if any, at time of cancellation, shall automatically become Class A memberships excepting such Class A memberships shall not be subject to assessment or the lien of assessment until a Home is constructed thereon. As long as there is a Class B membership, the following actions will require prior approval of the Federal Housing Administration or Veterans Administration: annexation of additional properties; dedication of Common Property; and amendments to this Declaration.

6. Covenant Accepting Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as provided in the By-Laws of the Association.

7. Commencement of Assessments. The annual assessments shall commence as to all Lots with Homes thereon on the first day of the month following the initial conveyance of a Home on the Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year and thereafter until the Board of Directors fixes the permanent annual assessment date. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period.

a. Exception to Assessments. The Declarant as Owner of platted or unplatted lots shall be exempt from any and all assessments but Declarant shall pay any deficits in usual or ordinary expense until such time as assessments upon Lots with Homes thereon is sufficient to meet such expense. Further, Builders or purchasers of undeveloped or partially developed Lots shall pay fifty percent (50%) of the regular assessments commencing on the date they take possession until such time as a Home is constructed and occupied as a dwelling thereon.

8. Uniform Rates. Both annual and special assessments shall be fixed at a uniform rate for all Lots containing a Home.

9. Right To Increase Annual Assessments. Because of uncertainties in usual and ordinary Common Property expenses due to the Indiana real property reassessment, costs of energy, insurance and other unforeseeable operating expenses, the Board of Directors of the Association may increase the budgeted initial temporary assessment by a sum not to exceed ten percent (10%) per annum without vote of the membership. However, any

such increases shall be documented by normal accounting procedures and distributed to the membership to demonstrate that such increases are attributable to increases in operating expenses and no portion of such increase shall inure to the benefit of the Developer and the monies received shall be entirely expended on Association expense.

The maximum annual assessment per Lot may be increased above the maximum percentage set forth above only by a vote of two-thirds (2/3rds) of the Class A members who are voting in person or by proxy, at a meeting duly called for this purpose.

10. Subordination. The lien of the assessments provided for in the By-Laws shall be subordinate to the lien of any first mortgage.

11. Suspension of Privileges. Notwithstanding any other provision contained herein or in the By-Laws, the Board of Directors of the Association shall have the right to suspend the voting rights, if any, and the right to use the facilities of the Association of any member or associate member (i) for any period during which any of the Association's charges owed by the member or associate member remains unpaid; (ii) during the period of any continuing violation of the restrictive covenants for the Property, after the existence of the violation shall have been declared by the Board of Directors of the Association; and (iii) during the period of any violation of the Articles of Incorporation, Bylaws or regulations of the Association.

12. Mortgagees Rights. Unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each first mortgage owned) or the Class A members have given their prior written approval, the Association shall not:

12.1 By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Property, Common Property or improvements located thereon which are owned directly or indirectly by the Association for the benefit of the Lots. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Property by the Association shall not be deemed a transfer within the meaning of this clause.

12.2 Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Homeowner.

12.3 By act or omission, change, waive or abandon any scheme of regulation or enforcement thereof pertaining to the architectural design or exterior appearance of the Homes on

Lots, the exterior maintenance of the dwellings on Lots, the maintenance of common fences or common driveways or the upkeep of lawns and plantings in the Property.

12.4 Fail to maintain fire and extended coverage insurance on insurable Common Property on current replacement cost basis in an amount not less than one hundred percent of the insurance value (based on current replacement cost).

12.5 Use hazard insurance proceeds for losses to Common Property for other than the repair, replacement or reconstruction of such improvements

12.6 Mortgagees, their successors or assigns, shall have the right to examine the books and records of the Association.

12.7 First mortgagees of Homes on Lots may, jointly or singly, pay the taxes or other charges which are in default and which may or have become a charge against any Common Property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Property, and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of all first mortgagees duly executed by the Association, and an original or certified copy of such agreement shall be possessed by the Seller as defined by Sellers' Guides for the Federal Home Loan Mortgage Corp.

12.8 No provision of the constituent documents shall give an Owner or any other party priority over any rights of first mortgagees of Homes within the Property pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Property.

ARTICLE XI

Remedies

1. General. The Association or any party to whose benefit these restrictions insure, including Developer, may proceed at law or in equity to prevent the occurrence of continuation of any violation of this Declaration, but neither Developer nor the Association shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of the covenants, conditions and restrictions of this Declaration.

2. Delay In Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these restrictions contained in this Declaration shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these restrictions.

3. Effect of Becoming An Owner. The Owners subject to this Declaration, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every restriction and agreement herein contained. By acceptance of such deed or execution of such contract, Owner acknowledges the rights and powers of Declarant and the Association with respect to the restrictions contained in this Declaration, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners covenant, agree and consent to and with the Declarant, the Association and to and with the Owners and subsequent Owners affected by this Declaration to keep, observe, comply with and perform such restrictions and agreements.

ARTICLE XII

Duration and Amendment

The foregoing covenants, conditions and restrictions of this Declaration are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2027 A.D., at which time said covenants, conditions and restrictions of this Declaration shall be automatically extended for successive periods of ten (10) years unless changed in whole or in part by vote of those persons who are then Owners of a majority of the Lots in the Project. This Declaration may be amended the first twenty (20) years by an instrument signed by not less than seventy-five percent (75%) of the Owners subject to Mortgagees rights per paragraph 12 of Article X, above. Any amendment must be recorded.

ARTICLE XIII

Severability

Every one of the covenants, conditions and restrictions of this Declaration is hereby declared to be independent of, and severable from, the rest of the covenants, conditions and restrictions of this Declaration, and of and from every combination of same. Therefore, if any of the covenants, conditions

and restrictions of this Declaration shall be held to be invalid or be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other part of the Declaration.

IN TESTIMONY WHEREOF, witness the signature of Declarants this 21st day of April, 1987.

Schmadeke Development Corp.

By: William A. Schmadeke
William A. Schmadeke, President

Attest: Sandra Sue Murray
Sandra Sue Murray, Secretary

Declarant "A"

Thomas A. Hendrickson
Thomas A. Hendrickson, and

Sandra B. Hendrickson
Sandra B. Hendrickson

Declarant "B"

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Thomas A. Hendrickson and Sandra B. Hendrickson, respectively, who acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 21st day of April 1987.

My commission expires:
August 19, 1990

Kelly A. Tompkins
Kelly A. Tompkins, Notary Public
Residing in Marion County, IN.

870047438

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared William A. Schmadeke and Sandra Sue Murray, the President and Secretary, respectively, of Schmadeke Development Corp., who acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions, and who, having been duly sworn, stated that the representations

Witness my hand and Notarial Seal this 21 day of April, 1987.

My commission expires: Apr 9, 1990

~~Deby M. Brown~~
~~# 576-984~~, Notary Public
Residing in ~~Marion~~ County, IN.

Deby M. Brown
This instrument prepared by William P. LeMond, Attorney at Law,
600 Union Federal Building, Indianapolis, IN. 46204.

code T12/86SCHM.1-6

870047438

EXHIBIT "A"

REAL ESTATE DESCRIPTION

Part of the West 1/2 of the Northeast 1/4 and a part of the Northwest 1/4, all in Section 17, Township 17 North, Range 5 East in Marion County, Indiana, said part being more particularly described as follows: Commencing at the Northeast corner of the West 1/2 of the Northeast 1/4 of said Section 17, which corner lies south 89 degrees, 23 minutes 39 seconds west a distance of 1320.02 feet from the northeast corner of the said 1/2 1/4 section; thence south 00 degrees 01 minutes 45 seconds west along the east line of the said 1/2 1/4 section a distance of 1636.33 feet to the northeast corner of a 7.596 acre tract of land per Instrument #85-74378 in the Office of the Recorder of Marion County, Indiana, and being the PLACE OF BEGINNING of this description; continue thence south 00 degrees 01 minutes 45 seconds west along the east line of the said 1/2 1/4 section a distance of 80.00 feet; thence south 89 degrees 23 minutes 39 seconds west parallel with the north line of the said 1/4 section a distance of 790.00 feet; thence south 00 degrees 01 minutes 45 seconds west parallel with the east line of the said 1/2 1/4 section a distance of 415.86 feet; thence south 89 degrees 23 minutes 39 seconds west parallel with the north line of the said 1/4 section a distance of 540.00 feet to a point on a line being witnessed by the northeast corner of the said 1/2 1/4 section which bears north 00 degrees 04 minutes 36 seconds east a distance of 2132.21 feet and an existing old corner post (at the approximate corner of section) which bears south 00 degrees 04 minutes 36 seconds west a distance of 496.11 feet; thence South 00 degrees 04 minutes 36 seconds west along said line a distance of 496.11 feet to an existing corner fence post marking the south line of Instrument #76-34746 in the office of the said Recorder; thence South 88 degrees 51 minutes 32 seconds west along the south line of said Instrument #76-34746 a distance of 453.73 feet; thence North 00 degrees 04 minutes 36 seconds East a distance of 694.47 feet; thence North 51 degrees 08 minutes 28 seconds West a distance of 444.11 feet; thence South 88 degrees 51 minutes 32 seconds West a distance of 370.17 feet; thence North 00 degrees 04 minutes 36 seconds East a distance of 1250.28 feet to a point that is South 00 degrees 03 minutes 07 seconds West along the west line of said Northwest 1/4 a distance of 400.03 feet and North 89 degrees 20 minutes 53 seconds east parallel with the north line of said Northwest 1/4 a distance of 1481.89 feet from the northwest corner of said Northwest 1/4; thence North 89 degrees 20 minutes 53 seconds East parallel to the north line of said Northwest 1/4 section a distance of 833.09 feet to the southwest corner of a 1.515 acre tract of land per Instrument #85-60121 in the office of said Recorder; (the next three calls are along the boundaries of said 1.515 acre tract); North 00 degrees 39 minutes 07 seconds West a distance of 400.0 feet to the north line of said Northwest 1/4 section; North 89 degrees 20 minutes 53 seconds East along said north line a distance of 165.00 feet; South 00 degrees 39 minutes 07 seconds East a distance of 400.00 feet; thence North 89 degrees 20 minutes 53 seconds East a distance of 171.91 feet to the east line of said Northwest 1/4 Section; thence south 00 degrees 04 minutes 36 seconds West along said east line a distance of 1236.31 feet to the northwest corner of said 7.596 acre tract of land per said Instrument #85-74378 in the Office of said Recorder; thence North 89 degrees 23 minutes 39 seconds East parallel to the North line of the West 1/2 of the Northeast 1/4 of said section a distance of 1329.38 feet to the point of beginning.

End of Description

870047438

~~860054254~~

EXHIBIT "B"

A part of the Northwest 1/4 of Section 17, Township 17 North, Range 5 East in Marion County, Indiana, said part being more particularly described as follows:

COMMENCING at a brass monument marking the Northwest corner of said 1/4 Section; thence South $00^{\circ} 03' 07''$ West (assumed bearing) along the West line of said 1/4 Section a distance of 400.03 feet to the Northwest corner of a 136.043 acre tract of land per Instrument #76-34740 in the office of the Recorder of Marion County, Indiana and being the POINT OF BEGINNING of this description; thence North $89^{\circ} 20' 53''$ East, parallel with the North line of said 1/4 Section and along the North line of said 136.043 acre tract a distance of 1,481.89 feet to a Northwest corner of a 54.108 acre tract of land per Instrument #86-56251 in the office of said Recorder (the next 4 calls are along the westerly boundaries of said 54.108 acre tract); South $00^{\circ} 04' 36''$ West a distance of 1258.28 feet; North $00^{\circ} 51' 32''$ East a distance of 370.17 feet; South $51^{\circ} 08' 20''$ East a distance of 444.11 feet; South $00^{\circ} 04' 36''$ West a distance of 694.47 feet to the South line of said 136.043 acre tract; thence South $88^{\circ} 51' 33''$ West along said South line a distance of 873.71 feet to a stone marking the Southwest corner of the Southwest 1/4 of said 1/4 Section; thence South $89^{\circ} 35' 18''$ West along the South line of said 1/4 1/4 Section a distance of 1323.62 feet to a monument marking the Southwest corner of said 1/4 Section; thence North $00^{\circ} 03' 07''$ East along said West line a distance of 2234.06 feet to the point of beginning. Containing 91.053 acres, more or less. Subject to all legal highways, rights-of-way, easements and restrictions of record.

CERTIFIED: January 23, 1987

870047438

870047439

CODE OF BY-LAWS OF
THE MOORINGS
AND OF
MOORINGS OWNERS' ASSN., INC.

30
47.50

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration of Covenants, Conditions and Restrictions of The Moorings to which these By-Laws are attached and made a part. The Declaration is incorporated herein by reference, and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. Except as otherwise provided in Section 1.02 hereof, the definitions and terms as defined and used in the Declaration shall have the same meaning in these By-Laws and reference is specifically made to Paragraph 1 of the Declaration containing definitions of terms. The provisions of these By-Laws shall apply to the Property and the administration and conduct of the affairs of the Association. These By-Laws shall also constitute the By-Laws of the Association.

Section 1.02. Additional Definitions. Notwithstanding any other definition in the Declaration, the following terms as used in these By-Laws shall have the following meanings:

(a) "Articles" means the Articles of Incorporation of the Association.

(b) "Assessment" means all sums lawfully assessed against the Homeowners or as declared by the Declaration, any Supplementary Declaration, the Articles, or these By-Laws.

(c) "Directors" means all the members of the Board of Directors and "Directors" means any individual member thereof.

(d) "Initial Board" means those individuals appointed by Declarant as Directors pursuant to the power reserved to Declarant by Section 3.02 in their capacity as the Board of Directors.

(e) "Managing Agent" means a reputable and recognized professional property management agent employed by the Board pursuant to Section 3.06.

(f) "Majority Vote" means majority of the Percentage

APR 29 2 47 PM '87

Vote present and voting at any duly constituted meeting of the Members.

(g) "Member" means a member of the Association and "Members" means more than one member of the Association.

(h) "Regular Assessment" means the Assessment levied pursuant to Section 6.02.

(i) "Special Assessment" means the Assessment levied pursuant to Section 6.03.

(j) "Applicable Date" means the earliest of (i) January 1st, 1997, or (ii) four (4) months after seventy-five percent (75%) of the Homes that may be developed on the Real Estate have been conveyed to purchasers, or (iii) the date Declarant files of record in the office of the Recorder of Marion County, Indiana, an instrument waiving and releasing its reserved rights and duties.

Section 1.03. Individual Application. All of the Homeowners, future Homeowners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy a Home or any part of the property, shall be subject to the restrictions, terms and conditions set forth in the Declaration, the Articles and these By-Laws and to any rules and regulations adopted by the Board as herein provided.

ARTICLE II

Meetings of Association

Section 2.01. Purpose of Meetings. At least annually, and at such other times as may be necessary, the meetings of the Homeowners shall be held for the purpose of electing the Board (Subject to the provisions of Section 3.02 hereof), approving the annual budget, providing for the collection of Common Expenses and for such other purposes as may be required by the Declaration, the Articles and these By-Laws.

Section 2.02. Annual Meetings. The annual meeting of the Members shall be held on the first Tuesday of April in each calendar year. At the annual meeting, the Homeowners shall (subject to the provisions of Section 3.02 hereof) elect the Board of Directors in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

870047439

Section 2.03. Special Meetings. A special meeting of the Members may be called by resolution of the Board or upon a written petition of Homeowners 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 (references herein to an officer shall be to that officer 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 2.04. Notice and Place of Meeting. All meetings of the Members shall be held at any suitable place in Marion County, Indiana, as may be designated by the Board. Written notice stating the date, time and place of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary to each Member entitled to vote thereat not less than ten (10) days prior to the date of such meeting. The notice shall be mailed or delivered to the Homeowners at the addresses of their respective Homes and not otherwise. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Association with its name and address in accordance with Section 12.01 of these By-Laws. Attendance at any meeting in person by agent or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

(a) Number of Votes. All Persons who own a Home shall jointly (and not severally) be entitled to cast one vote for each Home they own on each matter coming before the meeting as to which they are entitled to vote.

(b) Multiple Homeowner. Where the Homeowner of a Home constitutes or consists of more than one Person, or is a partnership, there shall be only one voting representative entitled to all of the Percentage Vote allocable to that Home. At the time of acquisition of title to a Home by a multiple Homeowner or a partnership, those Persons constituting such Homeowner or the partners shall file with the Secretary an irrevocable proxy appointing one of such Persons or partners as the voting representative for such Home, which shall remain in effect until all of those Persons constituting such multiple Homeowner or a majority of the partners in such partnership designate another voting representative in writing, or 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 or the Homeowner no longer owns

such Home. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall not constitute a permanent relinquishment of his right to act as voting representative for the Home.

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

(d) Proxy. A Homeowner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Homeowner shall duly designate his attorney-in-fact in writing, delivered to the Secretary prior to the commencement of the meeting. Such proxy does not have to be recorded with the Marion County Recorder but shall be maintained as a part of the permanent records of the corporation for at least a two (2) year period.

(e) Pledges. If the vote of a Homeowner or Homeowners has been pledged by mortgage, security agreement, conditional assignment, or other instrument, an executed copy of which has been filed with the Secretary, only the pledgee shall be entitled to cast the vote of such Homeowner or Homeowners upon those matters upon which the Homeowner or Homeowners vote is so pledged.

(f) Quorum. Except where otherwise expressly provided in the Declaration or these By-Laws, a Majority of Homeowners shall constitute a quorum at all meetings of the Members.

Section 2.06. Conduct of Meetings.

(a) Annual Meeting. The President shall act as the chairman of all annual meetings of the Association if he is present. At all annual meetings, the chairman shall call the meeting to order at the duly designated time and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto, unless such reading is waived by a Majority Vote.

5

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

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

(4) Election of Board of Directors. After the Applicable Date, nominations for the Board may be made by any Homeowner from those Persons eligible to serve such nominations must be in writing and presented to the Secretary at least seven (7) days prior to the date of the annual meeting. Voting for the Board will be by paper ballot. The ballot shall contain the name of each Person nominated to serve as a member of the Board. Each Homeowner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to cumulate his votes. Those Persons receiving the highest number of votes shall be elected. Each voting Homeowner shall sign his ballot. Prior to the Applicable Date, the nomination and election of the Board shall be governed by the provisions of Section 3.02 hereof.

(5) Other Business. Other business may be brought before the meeting only by decision of the Board of Directors or upon a written request of a Homeowner submitted to the Secretary of the Association at least seven (7) days prior to the date of the meeting, except that such written request may be waived at the meeting if agreed by a Majority of Homeowners.

(6) Adjournment.

(b) Special Meeting. The President shall act as chairman of any special meetings of the Association if he is present. The chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be the matters for which such meeting was called, as set forth in the notice of such special meeting.

ARTICLE III

Board Of Directors

Section 3.01. Management. The affairs of the Association and The Moorings shall be governed and managed by the Board of Directors. Prior to the Applicable Date, the Board shall be composed of three (3) individuals; after the Applicable Date, the Board shall be composed of nine (9) individuals. No individual shall be eligible to serve as a Director unless he is, or is deemed in accordance with the Declaration to be, a Homeowner excepting as provided in Section 3.02 hereof.

Section 3.02. Initial Board of Directors. The initial Board of Directors shall be William A. Schmaedeke, Dan Polzenlogel and Sandra Sue Murray, all of whom have been or shall be appointed by Declarant or any successor Declarant by reason of obtaining title to all unsold Lots and lands which are a part of the Property. Notwithstanding anything to the contrary contained in, or any other provisions of, these By-Laws and the Declaration (a) The Initial Board shall hold office until the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever, prior to the Applicable Date, every such vacancy shall be filled by an individual appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Homeowner, by acceptance of a deed to a Lot or by acquisition of any interest in a Home by any type of juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Homeowner's agent, attorney-in-fact and proxy, which appointment shall be deemed coupled with an interest and irrevocable until the Applicable Date, to exercise all of said Owner's right to vote and to vote as Declarant determines on all matters as to which Members are entitled to vote under the Declaration and these By-Laws, or otherwise. This Appointment of Declarant as such Homeowner's agent, attorney-in-fact and proxy shall not be affected by subsequent incompetence of the Homeowner granting the same.

Section 3.03. Additional Qualifications. Where a Homeowner consists of more than one individual or is not a natural Person, then one of the individuals constituting the multiple Homeowner, or a partner, an officer or the trustee of a Homeowner shall be eligible to serve on the Board, except that no single Home may be represented on the Board by more than one individual at a time.

Section 3.04. Term of Office and Vacancy. Subject to the provisions of Section 3.02 hereof, three (3) members of the Board shall be elected at each annual meeting of the Association. The Initial Board shall be deemed to elect and re-elected as the Board of Directors at each annual meeting until the Applicable

Date. After the Applicable Date, each member of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date three (3) Directors shall be elected for a three (3) year term, three (3) for a two (2) year term, and three (3) for a one (1) year term so that the terms of one-third (1/3) of the Directors shall expire annually. There shall be separate nominations for the office of each Director to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 3.02 hereof as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Homeowners if a Director is removed in accordance with Section 3.05. The Director so filling a vacancy shall serve until the next annual meeting of the Members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 3.05. Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote or a Majority of Homeowners at a special meeting of the Members duly called and constituted for that purpose. In such case, his successor shall be elected at the same meeting from eligible Homeowners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Members or until his successor is duly elected and qualified.

Section 3.06. Duties of the Board of Directors. The Board shall provide for the administration of The Moorings, the maintenance, upkeep and replacement of the Common Areas and Limited Areas (unless the same are otherwise the responsibility or duty of the Homeowners), and the collection and disbursement of the Common Expenses. After the Applicable Date, the Board may, on behalf of the Association, employ a Managing Agent upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent shall assist the Board in carrying out its duties, which include, but are not limited to:

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

(b) procuring of utilities used in connection with The Moorings, removal of garbage and waste, and snow removal from the Common Areas;

(c) landscaping, painting, decorating, furnishing, maintaining and repairing the Common Areas;

(d) surfacing, paving and maintaining drives, parking areas and sidewalks in Common Areas.

(e) assessment and collection from the Homeowners of the Homeowner's share of the Common Expenses.

(f) preparation of the proposed annual budget;

(g) preparing and delivering annually to the Homeowners a full accounting of all receipts and expenses incurred in the prior year;

(h) keeping a current, accurate and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; and

(i) procuring and maintaining for the benefit of the Homeowners, the Association and the Board the insurance coverages required by Section 8.01 and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable.

(j) making available to Homeowners and Mortgagees current copies of the Declaration, By-Laws and rules and regulations governing The Moorings ("Organizational Documents") and any other books, records and financial statements of the Association. The Board shall also make available to prospective purchasers of Homes current copies of the Organizational Documents and the most recent annual audited financial statement, if such statement has been prepared. "Available" means available for inspection upon request during normal business hours or under other reasonable circumstances. Upon written request by the United States Department of Housing and Urban Development or the Veterans Administration, the Board shall also prepare and furnish within a reasonable time an audited financial statement for the Association for the immediately preceding fiscal year.

Section 3.07. Powers of the Board of Directors. The Board shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

(a) to employ a Managing Agent to assist the Board in performing its duties;

(b) to purchase for the benefit of the Homeowners such equipment, materials, labor and services as may be necessary in the judgment of the Board;

(c) to employ legal counsel, architects, contractors, accountants and other as in the judgment of the Board may be necessary or desirable in connection with the business and affairs of The Moorings;

(d) to employ, designate, discharge and remove such personnel as in the judgment of the Board may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas;

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

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

(g) to adopt, revise, amend and alter from time to time rules and regulations with respect to use, occupancy, operation and enjoyment of the Property.

Section 3.08. Limitation on Board Action. After the Applicable Date, the authority of the Board to enter into contracts shall be limited to contracts involving a total expenditure of less than \$5,000.00 without obtaining the prior approval of a Majority of Homeowners, except that in the following cases such approval shall not be necessary:

(a) contracts for replacing or restoring portions of the Common Areas damaged or destroyed by fire or other cause where the cost thereof is payable out of insurance proceeds actually received;

(b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Homeowners at the annual meeting; and

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

Section 3.09. Compensation. No Director shall receive any compensation for his services as a Director except to such extent as may be expressly authorized by a Majority of Homeowners. The

Managing Agent shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 3.10. Meetings.

(a) Organization Meeting. The Board shall meet each year within ten (10) days from and including the date of the annual meeting of the Association, at such time and place as shall be fixed at the annual meeting, for the purpose of organization, election of officers and consideration of any other business that may properly be brought before the meeting, and no notice shall be necessary to any newly elected Directors in order legally to constitute such meeting if a quorum is present.

(b) Regular Meetings. Regular meetings of the Board 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. The Secretary shall give notice of regular meeting of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meeting.

(c) Special Meetings. Special meetings of the Board may be called by the president or any two (2) members of the Board. The Director or Directors 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 members of the Board. 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 and at such time within Marion County, Indiana, as shall be designated in the notice.

Section 3.11. 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 or his subsequent consent to the actions taken thereat, 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 3.12. Action Without a Meeting. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if a consent in writing setting forth such actions so taken is signed by all Directors and such written consent is filed with the minutes of the proceedings of the Board.

Section 3.13. Quorum. At all meetings of the Board a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the

870047439

Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 3.14. Non-Liability of Directors. The Directors shall not be liable to the Homeowners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Association shall indemnify and hold harmless and defend each of the Directors against any and all liability to any Persons arising out of contracts made by the Board on behalf of The Moorings or the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of The Moorings or the Association and that in all matters the Board is acting for and on behalf of the Homeowners as their agent. The liability of any Homeowner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the Directors shall be limited to such percentage of the total liability or obligation thereunder as is equal to his Percentage Interest. Every contract made by the Board or the Managing Agent on behalf of The Moorings shall provide that the Board and the Managing Agent, as the case may be, are acting as agent for the Home owners and shall have no personal liability thereunder, except in their capacity as Homeowners (if applicable) and ten only to the extent of their Percentage Interests.

Section 3.15. Additional Indemnity of Directors. The Association shall indemnify, hold harmless and defend any individual, his heirs, assigns and legal representatives made a party to any action, suit or proceeding by reason of the fact that he is or was a Director, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Association shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a Majority of Homeowners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent or any officer or employee thereof, or any accountant, attorney or

8700-17-139

other person employed by the Association to render advice or service unless such director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board.

Section 3.16. Transactions Involving Affiliates. No contract or other transaction between the Association and one or more of its Directors, or between the Association and any Person (including Declarant or any partner of Declarant) in which one or more of the Directors are directors, officers, partners, or employees or are pecuniarily or otherwise interested shall be void or voidable because such Director or Directors are present at the meeting of the Board that authorizes or approves the contract or transaction, or because his or their votes are counted for such purpose if:

(a) the contract or transaction is between the Association and Declarant or any affiliate of Declarant entered into prior to the Applicable Date;

(b) the fact of the affiliation or interest is disclosed or known to the Board or a majority thereof or noted in the minutes, and the Board authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose; or

(c) the fact of the affiliation or interest is disclosed or known to the Homeowner, or a majority thereof, and they approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or

(d) the contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Affiliated or interested Directors may be counted in determining the presence of the quorum of any meeting of the Board thereof that authorizes, approves or ratifies any contract or transaction, and may vote thereat to authorize any contract or transaction with like force and effect as if they were not so affiliated or not so interested.

Section 3.17. Bonds. Blanket fidelity bonds shall be maintained by the Association for all officers, directors and employees of the Association and all other persons handling, or responsible for, funds of or administered by the Association. Where the Managing Agent has the responsibility for handling or administering funds of the Association, the Managing Agent shall be required to 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 bond shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or Managing Agent, as the case may be, at any given time during the term of each bond. In no event, however, may the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Homeowners 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 of expressions. The expense of all such bonds shall be a Common Expense.

ARTICLE IV

Officers

Section 4.01. 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. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their 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 4.02. Election of Officers. The officers of the Association shall be elected annually by the Board at the initial meeting of the Board. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.03. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and the Board, shall have and discharge all the general powers and duties usually vested in the office of 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 Homeowners as he may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 4.04. 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 shall, from time to time, be imposed upon him by the Board or by the President.

Section 4.05. The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 4.06. The Treasurer. The Board shall elect a Treasurer who shall maintain a correct and complete record of accounts showing accurately at all times the financial condition of the Association and who shall perform such other duties incident to the office of Treasurer. He 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. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account or accounts in the name of the Association. The Treasurer may permit the Managing Agent to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

Section 4.07. Assistant Officers. the Board may, from time to time, designate and elect from among the Members an Assistant Secretary and an Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board may prescribe.

ARTICLE V

Management

Section 5.01. Maintenance, Repairs and Replacements.

(a) Homes. Each Homeowner shall, at his expense, be responsible for the maintenance, repairs, decoration and replacement his Home, grounds and appurtenance thereon except as may otherwise be provided herein. Each Homeowner shall promptly perform all maintenance and repair which, if neglected, might adversely affect the Property or the Property of other Homeowners. Such maintenance, repairs and replacements for which each Homeowner is individually responsible at his own expense include, but are not necessarily limited to, water lines, gas lines, plumbing and electric lines that service the Homeowner's Home and Lot.

(b) Common Areas. All maintenance, repairs and replacements to the Common Areas (except as otherwise provided in the Declaration, a Supplemental Declaration, or these By-Laws) shall be furnished by the Association as part of the Common Expenses. The Board of Directors may adopt rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas.

Section 5.02. Limitation of Liability. The Association shall not be liable to any Homeowner for loss or damage, by theft or otherwise, of articles that may be stored upon any of the Common Areas or Limited Areas. No diminution or abatement of Assessments for Common Expenses shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas or from any action taken by the Association to comply with any law, ordinance, order or directive of any municipal or other governmental authority.

Section 5.07. Negligence. Each Homeowner shall be liable for the expenses of any maintenance, repair or replacement rendered necessary by his negligence or by that of his guests, employees, agents or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Homeowner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, or occupancy of the Common Areas.

Section 5.08. Costs and Attorneys' Fees. In any proceeding arising because of failure of a Homeowner to make any payments required by, or to comply with any provisions of, the Declaration, these By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, the Association shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.

ARTICLE VI

Assessments

Section 5.01. Proposed Annual Budget. Annually, on or before the date of the annual meeting of the Association, the Board shall cause to be prepared a proposed annual budget for the current fiscal year estimating the total amount of the common Expenses for the current fiscal year and shall furnish a copy of such proposed budget to each Homeowner at or prior to the time the notice of such annual meeting is mailed or delivered to such Homeowners. The annual budget shall be submitted to the Homeowners at the annual meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments for the current fiscal year. At the annual meeting

of the Homeowners, the budget may be approved in whole or in part or may be amended in whole or in part by a Majority Vote; provided, however, that in no event shall the annual meeting of the Homeowners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall include the amounts required for funding the reserve accounts required by Section 6.04 and 6.05. The failure or delay of the Board to prepare a proposed annual budget and to furnish a copy thereof to the Homeowners shall not constitute a waiver or release in any manner of the obligations of the Homeowners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Association, there is no annual budget approved by the Homeowners as herein provided for such current fiscal year, the Homeowners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

Section 6.02. Regular Assessments. The annual budget as adopted by the Homeowners shall, based on the estimated cash required for the Common Expenses in the current fiscal year and required reserve amounts as set forth in said budget, contain a proposed assessment against each Home based on the Percentage Interest of each Home. Immediately following the adoption of the annual budget, each Homeowner shall be given written notice of such assessment against his respective Home. In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Homeowners to reflect the Assessment against each Home based upon such annual budget as finally adopted by the Homeowners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Home shall be paid in advance in equal quarterly installments, commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of such fiscal year. Payment of the quarterly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Homeowners may elect to pay quarterly assessments semi-annually or annually, in advance. At the election and adoption of the Board, the Regular Assessment may be required to be paid by the Homeowners in advance in equal monthly installments rather than quarterly installments in the event the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget.

(a) if the Regular Assessment based upon the final annual budget adopted by the Homeowners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment that is due shall be paid with such next payment and such next payment, and all payments thereafter during such fiscal year, whether quarterly or monthly, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

(b) if the Regular Assessment based upon the the temporary budget exceeds the Regular Assessment based upon the final budget adopted by the Homeowners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, whether quarterly or monthly, until the entire amount of such excess has been so credited; provided, however, that if a Homeowner had paid his Regular Assessment either semi-annually or annually in advance, then the foregoing adjustments shall be made by a cash payment by, or refund to, the Homeowner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Homeowners.

The Regular Assessment for the current fiscal year of the Association shall become a lien on each separate Home as of the first day of each fiscal year of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that a Homeowner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Home of interest therein, shall not relieve or release such Homeowner or his successor as Homeowner of such Home from payment of the Regular Assessment for such Home as finally determined, and such Homeowner and his successor as Homeowner of such Home shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Association pursuant to Section 12.03 hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Quarterly or monthly (if so determined by the Board) installments of Regular Assessments shall be due and payable

automatically on their respective due dates without any notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statement to Homeowners for the same.

Section 6.03. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Homeowners, unless otherwise provided in these By-Laws or the Declaration, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Home, prorated in accordance with the Percentage Interest of each Home. Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures or to pay for the cost of any repair or reconstruction of damage caused by fire or other cause or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described herein or in the Declaration.

Section 6.04. Reserve for Replacements. The Board of Directors shall cause to be established and maintained a reserve fund for replacements by the allocation and payment to such reserve fund not less often than annually of an amount determined by the Board to be sufficient to meet the costs of periodic maintenance, repair, renewal and replacement of the Common Areas and Limited Areas, including, but not limited to, painting the exterior of buildings, repairing or replacing the recreational facilities, and resurfacing, repairing or replacing parking areas, sidewalks, roofs, the lake and other facilities and appurtenances. In determining the amount, the Board shall take into consideration the expected useful life of such Common Areas and Limited Areas, projected increases in the cost of materials and labor, interest to be earned by such funds, and the advice of Declarant, the Managing Agent and any consultants the Board may employ. Such fund shall be conclusively deemed to be a Common Expense. Such fund shall be deposited in a special account with a lending institution the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacements may be expended only for the purpose of effecting the periodic maintenance, repair, renewal or replacement of the Common Areas and Limited Areas and equipment of the Property. The Board shall annually review the adequacy of the reserve fund. The proportionate interest of any Homeowner in any reserve for replacements shall be considered an appurtenance of his Home and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Home to which it appertains and shall be deemed to be transferred with such Home.

870017139

Section 6.05. General Operating Reserve. The Board of Directors may establish and maintain a reserve fund for general operating expenses of a non-recurring nature by the allocation and payment to such reserve fund not less frequently than annually of such amount as the Board in its discretion determines to be reasonable under the circumstances. Such fund shall be conclusively deemed to be a Common Expense. Such fund shall be deposited in a special account with a lending institution the account of which are insured by an agency of the United States of America or may, in the discretion of the Board, be invested in obligations of or fully guaranteed as to principal by the United States of America. The general operating reserve may be expended only for operating contingencies of a non-recurring nature. The proportionate interest of any Homeowner in any reserve fund for general operating expenses shall be considered an appurtenance of his Home and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Home to which it appertains and shall be deemed to be transferred with such Home.

Section 6.06. Failure of Homeowner to Pay Assessments. No Homeowner may exempt himself from paying Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas of the Buildings, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Home belonging to him. Each Homeowner shall be personally liable for the payment of all Assessments. Where the Homeowner constitutes more than one person, the liability of such persons shall be joint and several. If any Homeowner shall fail, refuse or neglect to make any payment of any Assessment when due, a lien for such Assessment on the Home may be filed and foreclosed by the Board for and on behalf of the Association in the same manner and under the same terms as made and provided under the provisions of the Mechanics Lien laws of the State of Indiana, Chapter 116 of the Acts of the 1909 Indiana General Assembly, as amended to date, I.C. 32-8-3-1 et seq. Upon the failure of the Homeowner to make timely payments of any Assessment when due, the Board may in its discretion accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any Assessment, the Homeowner and any occupant of the Home shall be jointly and severally liable for the payment to the Association of reasonable rental for such Home, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Home and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Assessment without foreclosing or waiving the lien securing the same. In any action to recover an Assessment, whether by foreclosure or otherwise,

the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Homeowner of the respective Home. Such lien shall only be subordinate to the lien of a first mortgage.

Section 6.07. Waiver of Lien Upon Foreclosure.
Notwithstanding anything to the contrary contained in the Declaration and these By-Laws, any sale or transfer of a Home to a Mortgagee pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or a conveyance to any Person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Assessment as to such installments that became due prior to such sale, transfer or conveyance, but extinguishment of such lien shall not relieve the prior Homeowner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Home or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Homeowners (including the party acquiring the Home from which it arose.)

Section 6.08. Initial Budgets and Assessments.
Notwithstanding anything to the contrary contained herein, in the Declaration or otherwise, until the Applicable Date the annual budget and all Assessments shall be established by the Initial Board without meetings of or concurrence of the Homeowners. The agency, power of attorney and proxy granted to the Declarant by each Homeowner pursuant to Section 3.02 hereof shall be deemed to cover and include each Homeowner's right to vote on and approve the annual budget and any Assessments until the Applicable Date.

Section 6.09. Initial and Graduated Assessments. The initial Assessments upon Homeowners shall be \$100.⁰⁰ per Home until swimming pool, tennis courts and bath house are constructed and available for use, at which time the board of the Association shall increase the Assessment without consent of the Members by using generally accepted accounting principals applied on a consistent basis to reflect the increased amount of assessment necessary for usual and ordinary maintenance and replacement reserve necessary to maintain these amenities. Further, at the time of completion of the proposed lake, Assessments shall correspondingly be increased to assure continuous and adequate maintenance of the foregoing amenities including the lake. Provided, however, until such time that Assessments are sufficient to pay usual and ordinary expense, Declarant shall pay any deficits in such costs and expenses but Declarant shall not be obligated to pay Assessments on undeveloped or partially deve-

870047439

loped lots. Payment by Declarant of any shortfall in operating expense and replacement shall be nonrefundable by the Association and any deficit financing by Declarant shall cease whenever the Declarant ceases to have a majority vote in the election of directors of the Association.

ARTICLE VII

Restriction, Entry and Rules and Regulations

Section 7.01. Restrictions on Use. The following restrictions on the use and enjoyment of the Homes and Common Areas and the Property shall be applicable to The Moorings:

(a) All Homeowners, guests, tenants or invitees, and all occupants of any Home or other Persons entitled to use the same and to use and enjoy the Common Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Areas.

(b) No Homeowner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas except with express permission from the Board.

(c) Size and type of "for sale," "for rent" or "for lease" signs or other advertising display shall be maintained or permitted on the property only in accordance with the applicable zoning laws regulating the property.

(d) No use shall be made of any part of the Real Estate which violates the Declaration of Covenants, Conditions and Restrictions of The Moorings, its plat restrictions or these By-Laws, and all Homeowners, members of their families, their guests, tenants, invitees and all occupants or other Persons entitled to use or who may use any part of the Real Estate, shall at all times fully comply with the terms, covenants, provisions, conditions, limitations, restrictions and requirements contained and described in the Commitments Relative to Use or Development of Real Estate dated June 13, 1986, and recorded as Instrument No. 86-0123286 in the Office of the Recorder of Marion County, Indiana.

Section 7.02. Right of Board to Adopt Rules and Regulations. The Board may promulgate such rules and regulations regarding the operation of the Property, including but not limited to the use of the Common Areas and Limited Areas, as it may deem necessary from time to time and such rules as are adopted may be amended by a vote of a majority of the Board. The Board shall cause copies of such rules and regulations and all amendments thereto to be

870047439

delivered or mailed promptly to all Homeowners.

ARTICLE VIII

Insurance

Section 8.01. Coverage. The Board of Directors on behalf of the Homeowners shall obtain, maintain and pay the premiums upon, as a Common Expense, and kept in full force and effect at all times the following insurance coverage underwritten by companies duly authorized to do business in Indiana:

(a) Casualty or physical damage insurance in an amount equal to the full replacement cost of all buildings and improvements (as hereinafter defined) and all personal property owned by the Association with an "agreed amount" and "inflation guard" endorsements, without deduction or allowance for depreciation (as determined annually by the Board with the assistance of the insurance company affording such coverage), such coverage to afford protection against at least the following:

(i) loss or damage by fire or other hazards covered by the standard extended coverage endorsement;

(ii) such other risks as are customarily covered with respect to projects similar in construction, location and use, including, but not limited to, vandalism, malicious mischief, windstorm, water damage, machinery, explosion or damage, and such other insurance as the Board may from time to time determine.

(b) Comprehensive public liability insurance in such amounts as may be considered appropriate by the Board including, but not limited to, water damage, legal liability, hired automobile, non-owned automobile, and any and all other liability incident to the ownership and/or use of the Common Property or any portion thereof. Such coverage shall be for at least Five Hundred Thousand Dollars (500,000.00) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under the insurance policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Areas and Limited Areas, and legal liability arising out of lawsuits related to employment contracts of the Association.

(c) Workmen's compensation and employer's liability insurance in respect to employees of the Association in the amounts and in the form necessary to comply with any applicable law.

(d) Such other policies of insurance, including insurance for other risks of a similar or dissimilar nature, as are or shall hereafter be considered appropriate by the Board of Directors.

The provisions of this Section 8.01 shall not be construed to limit the power or authority of the Board to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association or the Board may deem appropriate from time to time.

Section 8.02. Allocation of Insurance Proceeds. In the event of damage or destruction by fire or other cause to any part of the Property covered by insurance written in the name of the Board as trustee for Homeowners and their Mortgagees, the following provisions shall apply:

(a) Common Areas. Proceeds on account of damage to Common Areas shall be used to repair or restore such Common Areas.

Section 8.03. Certificates. Upon request, the Association shall cause to be issued to each Mortgagee a certificate of insurance evidencing the insurance carried by the Association.

ARTICLE IX

Damage or Destruction

Section 9.01. Procedure for Restoration or Repair. In the event of damage or destruction to the Common Property and Limited Property by fire, other cause or as a result of condemnation, and Restoration or repair of the Property is required or authorized by the Association, such Restoration or repair shall be undertaken in accordance with the provisions of this Article.

Section 9.02. Estimate of Cost. Promptly after the occurrence of the damage or destruction to the Property that the Association has the responsibility to restore or repair, the Board shall obtain reliable and detailed estimates of the cost to restore or repair. In the event of damage after the Applicable Date to any structure exceeding \$25,000.00, the Board shall retain the services of an architect or registered professional engineer to supervise the Restoration or repair and the disbursement of the construction funds.

Section 9.03. Plans and Specifications. Any Restoration or repair must be either substantially in accordance with the Plans or according to plans and specifications approved by a Majority of Homeowners which approval shall not be unreasonably withheld.

Section 9.04. Sealed Bids. After the Applicable Date, the Board shall advertise for sealed bids with any licensed contractor, who may be required to provide a full performance and payment bond for the Restoration or repair of the damaged Property.

Section 9.05. Construction Funds. The funds for payment of the costs of Restoration or repair, which shall consist of the proceeds of insurance held by or payable to the Association, such amounts from the reserve for replacements as are authorized by the Board for the purpose of Restoration or repair, and the funds collected by the Board from Special Assessments against Homeowners, shall be deposited with the Association who shall apply or disburse the same in payment of the costs of Restoration or repair as provided in this Article.

ARTICLE X

Fiscal Management

Section 10.01. Fiscal Year. The fiscal year of the Association shall be fixed by resolution of the Board of Directors.

Section 10.02. Books of Account. Books of account of the Association shall be kept under the direction of the Treasurer in accordance with good accounting practices, and shall include a current, accurate and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses.

Section 10.03. Inspection. All books, records and accounts, and all vouchers accrediting the entries made thereupon, shall be available for examination by a Homeowner or any duly authorized agent or attorney of a Homeowner at any time during normal business hours for purposes reasonably related to his interest as a Homeowner.

Section 10.04. Auditing. Unless otherwise agreed by a Majority of Homeowners, at the close of each fiscal year, the books and accounts of the Association shall be audited by an independent Certified Public Accountant whose report shall be prepared and certified in accordance with generally accepted auditing standards.

Section 10.05. Annual Financial Statement. Prior to the annual meeting of the Association, the Board of Directors shall cause to be prepared and delivered to the Homeowners an annual financial statement, certified to by the Treasurer, showing all income and all disbursements of the Association during the previous fiscal year. To the extent possible, such financial state-

ment shall be based upon the report prepared pursuant to Section 10.04. The requirements of this Section 10.05 shall be satisfied if the Board causes to be delivered to each Homeowner prior to the annual meeting of the Association a copy of the report prepared pursuant to Section 10.04.

Section 10.06. Execution of Association Documents. With the prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Association by either the President or Vice President, and all checks shall be executed on behalf of the Association by such officers, agents, or other individuals as are from time to time so authorized by the Board.

ARTICLE XI

Amendment to By-Laws

Section 11.01. Procedure. Subject to any contrary, overriding or superceding provisions set forth herein or in the Declaration, these By-Laws may be amended by the Board in a duly called meeting for such purpose. Notwithstanding anything to the contrary contained herein or in the Declaration, there shall be no amendment of the Declaration or these By-Laws prior to the Applicable Date without the consent and approval of Declarant.

ARTICLE XII

Mortgages

Section 12.01. Notice to Association. Any Homeowner who places a first mortgage lien upon his Home or the Mortgagee shall notify the Secretary thereof and provide the name and address of the Mortgagee. A record of such Mortgagee's name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the 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 in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Homeowner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration or these By-Laws shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled to vote by virtue of the Declaration or these By-Laws, or proxy granted to such Mortgagee in connection with the mortgage.

Section 12.02. Notices To Mortgagees. The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under Section 12.01 of these By-Laws notice of any of the following:

- (a) Any proposed termination or disposition of Common Areas and their improvements or any condemnation or casualty loss that affects either a material portion of The Moorings or the Home securing its mortgage;
- (b) Any delinquency in the payment of Regular or Special Assessments owed by the Homeowner on which said Mortgagee holds a mortgage, if said delinquency continues for more than sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- (d) Any proposed action that requires the consent of a specified percentage of Mortgagees; and,
- (e) Any proposed amendment of the Organizational Documents effecting a change in (i) the boundaries of any Common Area or Limited Area or the exclusive easement rights appertaining thereto, (ii) the interests in the Common Areas or Limited Areas appertaining to any Home or the liability for Common Expenses appertaining thereto, (iii) the Percentage Vote appertaining to a Home or (iv) the purposes for which any Home or the Common Areas are restricted.

Section 12.03. Notice of Unpaid Assessments. The Association shall, upon request of the Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Home, furnish to such mortgagee or purchaser a statement setting forth the amount of the unpaid Assessments against the Home, which statement shall be binding upon the Association and the Homeowners, and any Mortgagee or grantee of the Home shall not be liable for, nor shall the Home conveyed be subject to a lien for, any unpaid Assessments in excess of the amount set forth in such statement or as such Assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 6.02 hereof.

Section 12.04. Financial Statements. Upon the request of any Mortgagee, the Association shall provide to said Mortgagee the most recent financial statement prepared on behalf of the Association pursuant to Section 10.05 of these By-Laws.

8700-17439

ARTICLE XIII

Miscellaneous

Section 13.01. Membership Certificates. Each Member shall receive a certificate or other emblem of ownership from the Association, signed by the President or Vice President, and Secretary or Assistant Secretary, stating that he is a member of the Association. Such certificates shall be non-transferable and a Member's certificate shall become void and of no force and effect upon sale by a Member of his Home. Such membership certificates or emblems shall be in form and style determined by the Board.

Section 13.02. Personal Interests. No Member shall have or receive any earnings from the Association, except a Member who is an officer, director or employee of the Association may receive fair and reasonable compensation for his services as officer, director or employee, and a Member may also receive principal and interest on monies loaned or advanced to the Association.

Section 13.03. Amendment of By-Laws. These By-Laws may be amended by resolution the Board of Directors at a regular or special meeting and submitted to the Members at an annual or special meeting pursuant to procedures established in Articles II and III hereof with voting rights of Members as prescribed by the Articles of Incorporation of the Association and the Declaration of Covenants, Conditions and Restrictions of The Moorings. A resolution of the Board of Directors submitted to the Members shall require a majority vote of the membership to become effective and seventy-five percent (75%) of the first mortgagees in any matters affecting Mortgagees's rights as defined in said Declaration.

The Moorings Owner's Association, Inc.

By: William A. Schmadeke President

Attest: Sandra Sue Murray Secretary

file 3778
code T12/86SCHM.7--17

870047439

STATE OF INDIANA)
COUNTY OF MARION) SS:

Before me, a Notary Public in and for said County and State, personally appeared William A. Schmadeke and Sandra Sue Murray, the President and Secretary, respectively, of Schmadeke Development Corp., who acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions, and who, having been duly sworn, stated that the representations

Witness my hand and Notarial Seal this 21 day of April, 1987.

My commission expires:

~~December 9, 1990~~
~~Deborah H. Brown~~, Notary Public
576-984 Residing in Marion County, IN.
DEBY N. BROWN

This instrument prepared by William F. LeMond, Attorney at Law, 600 Union Federal Building, Indianapolis, IN. 46204.

code T12/86SCHM.7-.17

8700-17-139

EXHIBIT "A"

REAL ESTATE DESCRIPTION

Part of the West 1/2 of the Northeast 1/4 and a part of the Northwest 1/4, all in Section 17, Township 17 North, Range 5 East in Marion County, Indiana, said part being more particularly described as follows: Commencing at the Northeast corner of the West 1/2 of the Northeast 1/4 of said Section 17, which corner lies south 89 degrees, 23 minutes 39 seconds west a distance of 1328.02 feet from the northeast corner of the said 1/2 1/4 section; thence south 00 degrees 01 minutes 45 seconds west along the east line of the said 1/2 1/4 section a distance of 1636.33 feet to the northeast corner of a 7.596 acre tract of land per Instrument #85-74378 in the Office of the Recorder of Marion County, Indiana, and being the PLACE OF BEGINNING of this description; continue thence south 00 degrees 01 minutes 45 seconds west along the east line of the said 1/2 1/4 section a distance of 80.00 feet; thence south 89 degrees 23 minutes 39 seconds west parallel with the north line of the said 1/4 section a distance of 790.00 feet; thence south 00 degrees 01 minutes 45 seconds west parallel with the east line of the said 1/2 1/4 section a distance of 415.86 feet; thence south 89 degrees 23 minutes 39 seconds west parallel with the north line of the said 1/4 section a distance of 540.00 feet to a point on a line being witnessed by the northeast corner of the said 1/2 1/4 section which bears north 00 degrees 04 minutes 36 seconds east a distance of 2132.21 feet and an existing old corner post (at the approximate corner of section) which bears south 00 degrees 04 minutes 36 seconds west a distance of 496.11 feet; thence South 00 degrees 04 minutes 36 seconds west along said line a distance of 496.11 feet to an existing corner fence post marking the south line of Instrument #76-34746 in the office of the said Recorder; thence South 88 degrees 51 minutes 32 seconds west along the south line of said Instrument #76-34746 a distance of 453.73 feet; thence North 00 degrees 04 minutes 36 seconds East a distance of 694.47 feet; thence North 51 degrees 08 minutes 28 seconds West a distance of 444.11 feet; thence South 88 degrees 51 minutes 32 seconds East a distance of 370.17 feet; thence North 00 degrees 04 minutes 36 seconds East a distance of 1258.28 feet to a point that is South 00 degrees 03 minutes 07 seconds West along the west line of said Northwest 1/4 a distance of 400.03 feet and North 89 degrees 20 minutes 53 seconds east parallel with the north line of said Northwest 1/4 a distance of 1481.89 feet from the northwest corner of said Northwest 1/4; thence North 89 degrees 20 minutes 53 seconds East parallel to the north line of said Northwest 1/4 section a distance of 833.09 feet to the southwest corner of a 1.515 acre tract of land per Instrument #85-60121 in the office of said Recorder; (the next three calls are along the boundaries of said 1.515 acre tract); North 00 degrees 39 minutes 07 seconds West a distance of 400.0 feet to the north line of said Northwest 1/4 section; North 89 degrees 20 minutes 53 seconds East along said north line a distance of 165.00 feet; South 00 degrees 39 minutes 07 seconds East a distance of 400.00 feet; thence North 89 degrees 20 minutes 53 seconds East a distance of 171.91 feet to the east line of said Northwest 1/4 Section; thence south 00 degrees 04 minutes 36 seconds West along said east line a distance of 1236.31 feet to the northwest corner of said 7.596 acre tract of land per said Instrument #85-74378 in the Office of said Recorder; thence North 89 degrees 23 minutes 39 seconds East parallel to the North line of the West 1/2 of the Northeast 1/4 of said section a distance of 1329.38 feet to the point of beginning.

End of Description

870047439

~~860050001~~

EXHIBIT "B"

A part of the Northwest 1/4 of Section 17, Township 17 North, Range 5 East in Marion County, Indiana, said part being more particularly described as follows:

COMMENCING at a brass monument marking the Northwest corner of said 1/4 Section; thence South 00° 03' 07" West (assumed bearing) along the West line of said 1/4 Section a distance of 400.03 feet to the Northwest corner of a 136.043 acre tract of land per Instrument #76-34740 in the office of the Recorder of Marion County, Indiana and being the POINT OF BEGINNING of this description; thence North 09° 20' 53" East, parallel with the North line of said 1/4 Section and along the North line of said 136.043 acre tract a distance of 1,481.89 feet to a Northwest corner of a 54.100 acre tract of land per Instrument #06-56251 in the office of said Recorder (the next 4 calls are along the westerly boundaries of said 54.100 acre tract); South 00° 04' 36" West a distance of 1258.28 feet; North 88° 51' 32" East a distance of 370.17 feet; South 51° 08' 20" East a distance of 444.11 feet; South 00° 04' 36" West a distance of 694.47 feet to the South line of said 136.043 acre tract; thence South 80° 51' 33" West along said South line a distance of 873.71 feet to a stone marking the Southwest corner of the Southwest 1/4 of said 1/4 Section; thence South 89° 35' 18" West along the South line of said 1/4 1/4 Section a distance of 1323.62 feet to a monument marking the Southwest corner of said 1/4 Section; thence North 00° 03' 07" East along said West line a distance of 2234.06 feet to the point of beginning. Containing 91.053 acres, more or less. Subject to all legal highways, rights-of-way, easements and restrictions of record.

CERTIFIED: January 23, 1987

870047439



3020 North Post Road
 Indianapolis, Indiana
 46226-0068
 317-898-8282
 317-899-8010 Fax

Engineering
 Surveying
 CIS • LIS
 Geology

③ 124

JOHN R. VON ARX
 MARION COUNTY RECORDER
 181,589 MAY 12 6
 JUSTICE CLERK, AVON, INDIANA
 FOR TRANSFER

Plat Amendment
 THE MOORINGS PHASE 7 AND 7A

This is to certify that I prepared the plats known as "THE MOORINGS PHASE 7", a subdivision in Marion County, Indiana the plat of which is recorded as instrument number 1993-0107186 in the office of the recorder of ~~Marion~~ ^{Marion} County, Indiana and "THE MOORINGS PHASE 7A", a subdivision in Marion County, Indiana, the plat of which is recorded as instrument number 1995-0106854 in the office of the recorder of Marion County, Indiana.

This instrument is filed for the purpose of Amending the common lot lines between Lots 205, 211, 212, 213 and 214 in said plats. Attached to this instrument is EXHIBIT "A", showing both the existing and revised boundaries of said Lots 205, 211, 212, 213 and 214. This instrument and attached EXHIBIT "A" amends said plats, and henceforth said Lots 205, 211, 212, 213 and 214 shall be defined as depicted by the revised boundary on said EXHIBIT "A".

Certified this 6TH day of MAY, 1997

Edward D. Giacoletti

Edward D. Giacoletti
 Registered Land Surveyor - Indiana #S0560



05/12/97 10:37AM JOAN N. ROMERIL MARION CTY RECORDER VFF 25.00 PAGES: 3

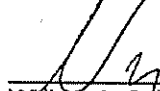
Inst # 1997-0065422

A Partnered Entity with Bohlen, Meyer, Gibson & Associates, Incorporated
 Offices in Indianapolis, Avon, Carmel and Lafayette, Indiana

I, the undersigned, Schmadeke Development Corp, By William A. Schmadeke, President, as owner of said Lots 205, 211, 212, 213 and 214, do hereby certify that the foregoing Lot reconfiguration will be executed in Compliance with the Marion County subdivision control ordinance, and that said reconfiguration is made and submitted with my free consent and desires.

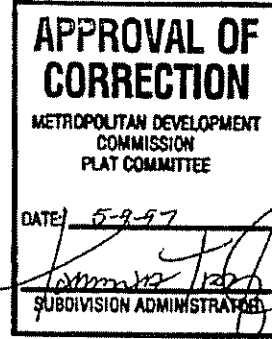
In witness whereof, the undersigned, has hereunto caused his name to be subscribed this 25th day of April 1997.

Owner:
Schmadeke Development Corp.



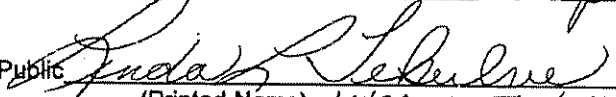
William A. Schmadeke, President

State of Indiana)
County of Marion SS:

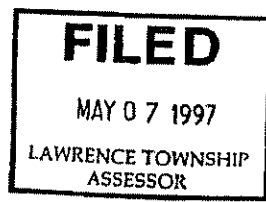


Before me, a notary public, in and for the said county and state, personally appeared the above and acknowledged the execution of the foregoing instrument as his voluntary act and deed and affixed his signature thereto.

Witness my signature and notarial seal this 25th day of April, 1997.

Notary Public 
(Printed Name) LINDA L. TEKULVE

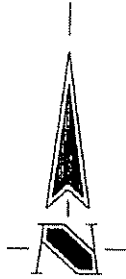
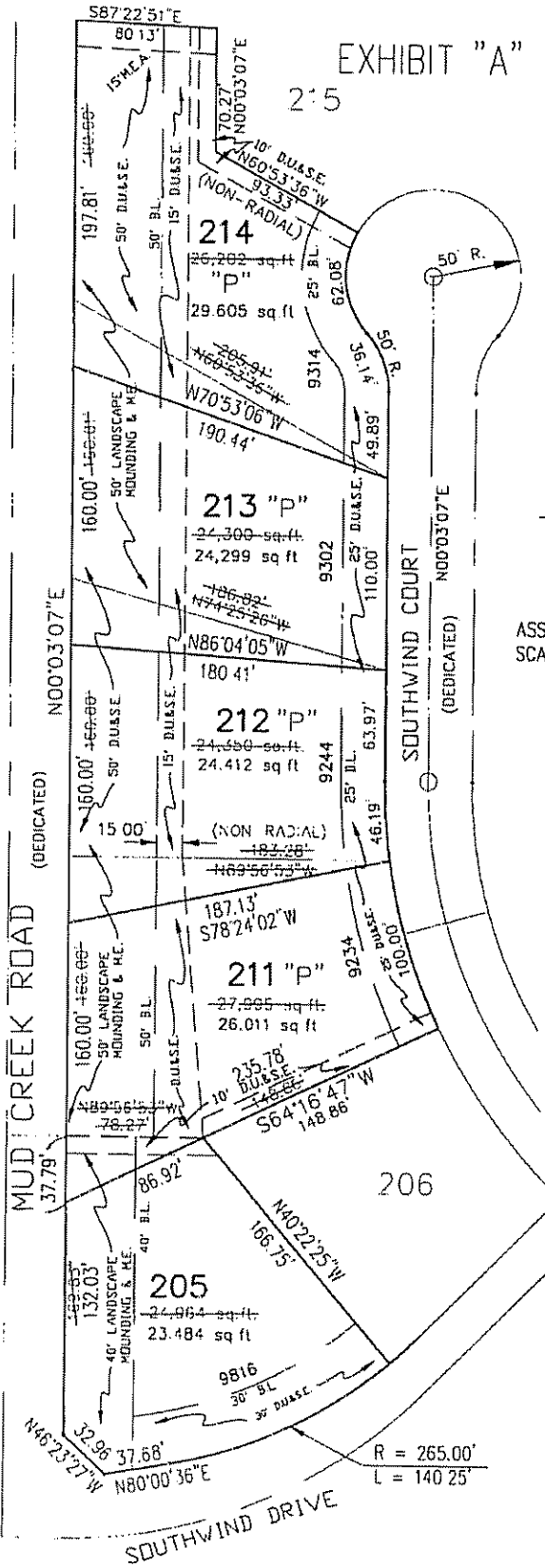
My commission expires 4-15-2000
County of Marion



This instrument prepared by Edward D. Giacoletti
Registered Land Surveyor - Indiana #S0560
Schneider Engineering Corporation

EXHIBIT "A"

2:5



ASSUMED NORTH
SCALE: 1"=80'