

Supplementary 18783/65

CROSS REFERENCE
DE Book 34707 Page 176

GEORGIA, FULTON COUNTY
CLERK OF SUPERIOR COURT
94 APR 28 PM 2:38

DECLARATION OF PROTECTIVE COVENANTS
FOR
CHURCHILL DOWNS

RICHARD B. DOBKIN
GALE G. EVANS
1979 LAKESIDE PARKWAY
SUITE 750
TUCKER, GEORGIA 30084
(404) 938-7200

4/18/94

Deed Book 34707 Pg 176
Filed and Recorded Apr-18-2003 10:59am
2003-0134952
Real Estate Transfer Tax \$0.00
Juanita Hicks
Clerk of Superior Court
Fulton County, Georgia
I HAVE AND AM IN POSSESSION OF THIS DEED AS CLERK OF SUPERIOR COURT OF FULTON COUNTY, GEORGIA

After recording, please return to:

Churchill Downs Homeowners Association
Attn: Secretary
P.O. Box 2551
Alpharetta, GA 30023

STATE OF GEORGIA

COUNTY OF FULTON

AMENDMENTS TO THE CHURCHILL DOWNS COVENANTS AND BYLAWS

The Churchill Downs Declaration of Protective Covenants and Bylaws as recorded in the Fulton County Deed Book 18189 Page 288 have been changed as a result of a vote of the General Membership of the Churchill Downs Homeowners Association on October 26, 1997 as follows:

Article VI, Section 3, Page 298 now reads:

Section 3. Signs.

No sign of any kind shall be erected by an Owner or Occupant within the Community without the written consent of the Board. The homeowners association shall provide the only signs for "garage sale", "home for sale" and/or "home for lease" at the front of subdivision or any common property area. Homeowners may place only (a) such signs as may be required by legal proceedings; and (b) not more than one (1) "For Sale", "For Lease" or Garage Sale sign consistent with the Community-Wide Standard on their lot

Article VI, Section 4, Page 298 now reads:

Section 4. Parking of Homeowner Automobiles, Recreational Vehicles and Trailers.

Regular parking on the street of homeowner automobiles is prohibited with the only exception being temporary extenuating circumstances. Other exceptions must be approved by the Board of Directors. Owners and occupants are encouraged to park their vehicles inside their garages. Parking of commercial vehicles must be approved by the Board of Directors.

The Architectural Control Committee, in reviewing the plans and specifications for any proposed structure, may require that special parking areas be made available for recreational vehicles. No trailer, trailer house, boat, or recreational vehicle shall be parked on any Lot, except on such parking areas as specified; by the Architectural Control Committee pursuant to this Section or within enclosures or behind screening erected in accordance with plans and specifications submitted to and approved by the Architectural Control Committee.

Article VI, Section 5, Page 298 now reads:

Section 5. Occupants Bound

Owners who lease their property must include a copy of the subdivision restrictive covenants with their lease. Tenants must sign an agreement to abide by the terms of the restrictive covenants. This agreement must be submitted to the Board of Directors.

All absentee homeowners must provide their current and permanent address and phone number to the Secretary of the Board of Directors.

All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide sanctions against Owners shall also apply to all Occupants of any Lot even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

Article VI, Section 6, Page 298 now reads:

Section 6. Animals and Pets.

No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board; provided, however, those pets which are permitted to roam free, or, in the sole discretion of the Board, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to the Community may be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Lot be confined on a leash. Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community.

All animals should be kept at a reasonable number without infringing upon the rights and property values of others. Animals kept outdoors must be kept within a fenced yard. Owners are responsible for cleaning up after their pets when walking their pets in common areas. Pets shall be kept off other lots at all times. Owners are encouraged to walk their pets outside of the subdivision.

Article VI, Section 9, Pages 298 and 299 now read:

Section 9. Architectural Standards and Architectural Control Committee.

No exterior construction, alteration, addition, or erection of any nature whatsoever, including any change in landscaping shall be commenced or placed upon any part of the Community, except such as is installed by the Declarant, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. No exterior construction, addition, erection, or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by an Architectural Control Committee consisting of three (3) members elected by the Board as provided for in the Bylaws. The Board may divide the Architectural Control Committee into two (2) subcommittees, with one (1) subcommittee having jurisdiction over modifications and the other having jurisdiction over new construction. The Board may employ for the Architectural Control Committee architects, engineers, or other Persons necessary to enable the Committee to perform its review. The Architectural Control Committee may, from time to time delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified Persons which shall have full authority to act on behalf of the committee or all matters delegated. Written design guidelines and procedures shall be promulgated for the exercise of this review, which guidelines may provide for a review fee in an amount not less than twenty-five (\$25.00) Dollars.

The Architectural Committee shall make a decision on all plans within thirty (30) days. In the event of dispute, The Board of Directors shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its designee or the representatives thereof shall have the right, during reasonable hours, to enter upon any Lot to inspect any Lot and any improvements thereon for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In the event the Architectural Committee fails to approve or to disapprove such design and location within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required, and this Section will be deemed to have been fully complied with.

BYLAWS

Article III, Board of Directors: Number, Powers, Meetings

Article III, Section 3 now reads:

A. Composition and selection.

Section 3. Number of Directors.

The Board shall consist of seven (7) members.

Article III, Section 5 now reads:

Section 5. Election and Term of Office.

(b) At annual meetings of the membership thereafter, directors shall be elected. All eligible members of the Association shall vote on all directors to be elected, and the candidate(s) receiving the most votes shall be elected; provided, however, the initially elected directors shall serve the remainder of their terms.

The term of all directors and officers shall be no more than one (1) year, or the election of new officers and directors at the next annual meeting of the membership, whichever comes first. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

Article IV, Officers

Article IV, Section 1 now reads:

Section 1. Officers.

The offices of the Association shall be a President, Vice President, Secretary, and Treasurer. Any two (2) or more offices may be held by the same Person, excepting the offices of President and Secretary. All officers shall be selected only from among the members of the Board of Directors. The voting members of the Board of Directors shall then consist of four (4) officers and three (3) non-officers. Whenever possible, Board members should be geographically represented among the homeowners.

Article VI, Architectural Control Committee

Article VI, Section 1 now reads:

Section 1. Election and Term of Office.

The Board shall establish an Architectural Control Committee consisting of three (3) members elected annually by the Board at the first meeting of the Board, following each annual meeting of the members. Each member of the Committee shall serve a one year term and may be re-elected for subsequent one (1) year terms.

Deed Book 34707 Pg 180
Filed and Recorded Apr-18-2003 10:59am
2003-0134953
Real Estate Transfer Tax \$0.00
Juanita Hicks
Clerk of Superior Court
Fulton County, Georgia
I HATE THE WAY I HATE I HATE I HATE I HATE I HATE I HATE I HATE I HATE I HATE

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STATE OF GEORGIA

COUNTY OF FULTON

**AMENDMENTS TO THE CHURCHILL DOWNS
COVENANTS AND BYLAWS**

The Churchill Downs Covenants and Bylaws as recorded in the Fulton County Deed Book 18189 Page 288 have been changed as a result of a vote of the General Membership of the Churchill Downs Homeowners Association on December 14, 2002 as follows:

Article VI, Section 17, Page 300 now reads:

Section 17. Fences.

No fence or fencing type barrier kind shall be placed, erected, allowed, or maintained any portion of the Community, including any Lot, without the written consent of the Architectural Committee. No chain link fences will be permitted except as follows:

- (a) The chain link fence plan is both pre and post approved by the Board of Directors.
- (b) The chain link fence location is maintained inside an approved wooden perimeter fence.
- (c) The chain link fence is painted a dark green color.
- (d) The chain link fence has wood woven lattice work board attached in a manner that it completely hides the chain link fence from neighbor or street view.

Under no circumstances shall any fence be placed, erected, allowed or maintained closer to any street than the front corners of the residence constructed on such Lot. The Architectural Committee may issue guidelines detailing acceptable fence styles or specifications.

Article VI, Section 18, Page 300 now reads:

Section 18. Detached Structures.

Detached structures may be placed, erected, allowed, or maintained upon any lot with the prior written consent of the Architectural Committee. The following restrictions shall apply to sheds:

- (a) Only one (1) outside shed will be allowed per lot with an existing approved wooden fence. If there is no wooden fence on the lot, a shed will not be allowed.
- (b) New sheds must be below the fence line. If an existing shed is higher than the fence line, it must be covered with shrubbery high and thick enough to hide the shed from street view.
- (c) Sheds must be adequately hidden from the street or neighbor view by fence and/or shrubbery. Architectural Committee approval must be obtained to meet the (adequately hidden) criteria.
- (d) The shed must be maintained in excellent visual and physical condition at all times. It must meet the same color code as the house residing on the same lot.

The shed may be no more than ten feet by ten feet and located in a place approved by the Board of Directors. The actual shed size approved will depend on how large the lot size permits the construction of a shed to be without it being considered an "eye sore."

Deed Book 34707 Pg 181
Filed and Recorded Apr-18-2003 10:59am
2003-0134954
Real Estate Transfer Tax \$0.00
Juanita Hicks
Clerk of Superior Court
Fulton County, Georgia
I AM NOT A PART OF THIS DOCUMENT

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STATE OF GEORGIA

COUNTY OF FULTON

**AMENDMENTS TO THE CHURCHILL DOWNS
COVENANTS AND BYLAWS**

The Churchill Downs Covenants and Bylaws as recorded in the Fulton County Deed Book 18189 Page 288 have been changed as a result of a vote of the General Membership of the Churchill Downs Homeowners Association on March 30, 2003 as follows:

Article VI, Section 2, Page 988 now reads:

Section 2. Use of Lots.

All lots shall be used for single family residential purposes exclusively. No business or business activity shall be carried on or upon any Lot at any time except with the prior written approval of the board. The leasing of a Residence by the Owner thereof shall not be considered a trade or business within the meaning of this section. Number of Occupants in a dwelling on a Lot must comply with all Zoning, and Code Ordinances of Fulton County.

Article VI, Section 3, Page 298 now reads:

Section 3. Signs.

Except as may be required by legal proceedings, no signs, advertising posters or billboards of any kind shall be erected, placed, or permitted to remain on the property without prior written consent of the Board. One professional security sign not to exceed ten (10") inches by ten (10") inches in size may be displayed on a lot, and one (1) professionally lettered "For Rent" or "For Sale" sign not to exceed two (2') feet by two (2') feet in size may be displayed on a lot. The board shall have the right to erect reasonable and appropriate signs on behalf of the Association. The Board also shall have the authority to adopt regulations permitting temporary signs on Lots announcing births, birthdays, garage sales, political candidates, or other events for limited period of time.

Article VI, Section 4, Page 298 now reads:

Section 4. Parking of Homeowner Automobiles, Recreational Vehicles and Trailers.

Regular parking on the street of homeowner automobiles is prohibited with the only exception being temporary extenuating circumstances. Other exceptions must be approved by the Board of Directors. Vehicles shall be parked on the lot within the approved parking areas, those approved areas are the lots garage or driveway. Parking of commercial vehicles must be approved by the Board Directors. No trailer, trailer house, boat, or recreational vehicle shall be parked on any Lot, except on such parking areas as specified; by the Architectural Control Committee pursuant to this Section or within enclosures or behind screening erected in accordance with plans and specifications submitted to and approved by the Architectural Control Committee.

Article VI, Section 5, Page 298 now reads:

Section 5. Occupants Bound.

All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide sanctions against Owners shall also apply to all Occupants of any Lot even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner. No more than eight (8) lots in Churchill Downs Subdivision may be leased at any time. All lot owners must provide written notice to the Board of his or her intention to Lease their lot, and provide the terms of the Lease. Owners who lease their property must include a copy of the subdivision restrictive covenants with their lease. Tenants must sign an agreement to abide by the terms of the restrictive covenants and the signed agreement should be forwarded to the Secretary of the Board. All absentee homeowners must provide the Name and Phone number of the new occupant of the property. Homeowners must also provide their current, permanent address, and phone number to the Secretary of the Board.

Article VI, Section 15, Page 300 now reads:

Section 15. Guns & Fireworks.

The use of firearms or fireworks in the Community is prohibited. The term "firearms" includes, "B-B" guns, pellet guns, paintball guns, and firearms and fireworks of all types.

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TABLE OF EXHIBITS

EXHIBIT	NAME
"A"	Property Submitted
"B"	Bylaws of Churchill Downs Homeowner's Association, Inc.
"C"	Additional Property

THIS DECLARATION is made on the date hereinafter set forth by Beazer Homes Georgia, Inc., a Georgia corporation (hereinafter called "Declarant").

BACKGROUND STATEMENT

Declarant is the owner of the real property described in Article II, Section 1, of this Declaration.

Declarant desires to subject the real property described in Article II, Section 1, hereof to the provisions of this Declaration to create a residential community of single-family housing and to provide for the subjecting of other real property to the provisions of this Declaration.

NOW, THEREFORE, Declarant hereby declares that the real property described in Article II, Section 1, of this Declaration, including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property hereby made subject hereto, and shall be binding on all Persons having any right, title, or interest in all or any portion of the real property now made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

Article I Definitions

The following words, when used in this Declaration or in any amendment thereof (unless the context shall prohibit), shall have the following meanings:

- (a) "Association" shall mean and refer to Churchill Downs Homeowners Association, Inc., a nonprofit Georgia corporation, its successors and assigns.
- (b) "Board of Directors" or "Board" of the Association shall be the appointed or elected body, as applicable, having its normal meaning under Georgia corporate law.
- (c) "Bylaws" shall refer to the Bylaws of Churchill Downs Homeowners Association, Inc., attached to this Declaration as Exhibit "B" and incorporated herein by this reference.
- (d) "Common Property" shall mean and refer to the Retention Pond and Entranceway, more particularly described in a Quit Claim Deed from Declarant to Association, deeded April 18, 1994; or other property hereafter owned by the Association for the common use and enjoyment of the Owner's.
- (e) "Community" shall mean and refer to that certain real property and interests therein described in Exhibit "A" attached hereto.
- (f) "Community-wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association. Such determination, however, must be consistent with the Community Wide Standard originally established by the Declarant.

BCGW 18189PG292

(g) "Declarant" shall mean and refer to Beazer Homes Georgia, Inc., a Georgia Corporation and its successors-in-title and assigns, provided any such successor-in-title or assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the real property described in Exhibit "A" or Exhibit "C", attached hereto, and provided further, in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign is designated as the "Declarant" hereunder at the time of such conveyance; provided, further, upon such designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the property described in Exhibit "A" or Exhibit "C", attached hereto, which is now or hereafter subjected to this Declaration, there shall be only one Person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any one point in time.

(h) "Lot" shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single dwelling site as shown on the plat for the Community, or amendments thereto, recorded in the land records of Fulton County, Georgia. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described all of the right, title, and interest of an owner in the Common Property, which shall include, without limitation, membership in the Association.

(i) "Majority" means those eligible votes, Owners, or other groups as the context may indicate totalling more than fifty percent (50%) of the total eligible number.

(j) "Mortgage" means any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

(k) "Mortgages" shall mean the holder of a Mortgage.

(l) "Occupant" shall mean any Person occupying all or any portion of a Lot or other property located within the Community for any period of time.

(m) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

(n) "Person" means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.

Article II Property Subject to This Declaration

Section 1. Property Hereby Subjected To This Declaration. The real property which is, by the recording of this Declaration, subject to the covenants and restrictions hereafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration is the real property described in Exhibit "A" attached hereto and by reference made a part hereof.

Section 2. Other Property. Only the real property described in Section 1 of this Article II is made subject to this

Declaration. However, by one or more supplementary Declarations, Declarant shall to subject other real property to this Declaration, as provided in Article XI.

Article III
Association Membership and Voting Rights

Section 1. **Membership.** Every person who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall be deemed to have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.

Section 2. **Voting.** Members shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one Person seeks to exercise it.

Article IV
Assessments

Section 1. **Purpose of Assessment.** The assessments provided for hereof shall be used to maintain the Retention Pond and Entranceway (the "Common Property"); and for the general purpose of promoting the health, welfare, and common benefit of the owners and occupants of Lots as authorized from time to time by the Board of Directors.

Section 2. **Creation of the Lien and Personal Obligation for Assessment.** Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association (a) if purchasing from Declarant, a one time assessment in the amount of \$100.00; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) special assessments against any particular Lot which are established pursuant to terms of this Declaration, including but not limited to, reasonable fines as to be imposed in accordance with the terms of this Declaration. All such assessments, together with late charges, interest in an amount not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum, costs, and reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment fell due. Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Lot, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for unpaid assessments of its grantor shall not apply to any first Mortgage taking title through foreclosure proceedings or deed in lieu of foreclosure.

The Association shall, within ten (10) days after receiving a written request therefor and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of date of issuance.

Section 3. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments any year. So long as the total amount of special assessments allocable to each Lot does not exceed Three Hundred Dollars (\$300.00) in any one fiscal year, the Board may impose the special assessment. Except as provided in Article VII, Section 2, hereof, any special assessment which would cause the amount of special assessments allocable to any Lot to exceed this limitation shall be effective only if approved by a Majority of the Total Association Vote. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 4. Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens of ad valorem taxes, or (b) liens for all sums unpaid on a first Mortgage, or (c) liens for all sums on any Mortgage to Declarant duly recorded in the land records of the county where the Community is located and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument.

All other Persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 5. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. Any assessment or installments thereof delinquent for a period of more than ten (10) days shall incur a late charge in such amount as the Board may from time to time determine. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the late charge, interest in an amount not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum, on the principal amount due, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

All payments shall be applied first to costs and attorney's fees, then to late charges, then interest and then to delinquent assessments.

Section 6. Date of Commencement of Assessments/Assessment Obligation of Declarant:

(a) The assessments provided for herein shall commence as to each Lot on the date of its convey by the Declarant to a Person other than the Declarant. Lots which have not been conveyed as provided above shall not be subject to assessment.

(b) Any Lot which has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Declaration whether owned by Declarant or any other Person, so long as such Lot is approved for use as a model home and is not occupied for residential purposes.

Section 7. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to Article XII, Section 1, of this Declaration and the costs of maintenance performed by the Association which the Owner is responsible for under Article V, Section 2, of this Declaration shall be specific assessments.

Section 8. Budget Deficits During Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves) and the sum of the annual, special and specific assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of the Declarant, or (b) cause the Association to borrow such amount from a commercial lending institution at the then-prevailing rates for such a loan in the local area of the Community. The Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan.

**Article V
Maintenance**

Section 1. Association's Responsibility. The Association

shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, replacement, subject to any insurance then in effect, of all landscaping and improvements, if any, situated on the Common Property. There is hereby reserved to the Association a blanket easement upon, across, over, and under all property within the Community for access, ingress, and egress as necessary to permit the Association to perform such maintenance.

Section 2. Owner's Responsibility. All maintenance of the Lot and all structures, parking areas, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard

and this Declaration. If the Board of Directors of the Association determines that (a) any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible hereunder; or (b) that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered or paid for by insurance, in whole or in part, then the Association may perform the repair, replacement or maintenance and shall, except in the event of an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement, at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs, and replacement deemed necessary. The Owner shall have ten (10) days within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, and replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement, at such Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot.

Article VI
Use Restrictions and Rules

Section 1. General. This Article, beginning at Section 2, sets out certain use restrictions which must be complied with by all Owners and Occupants. These use restrictions may be amended only in the manner provided in Article XI, Section 4, hereof regarding amendment of this Declaration. The Board of Directors may, from time to time, without consent of the members, promulgate, modify, or delete use restrictions and rules and regulations applicable to the Lots and the Common Property. Such regulations and use restrictions shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting by a Majority of the Total Association Vote.

Section 2. Use of Lots. All lots shall be used for single-family residential purposes exclusively. No business or business activity shall be carried on or upon any Lot at any time except with the prior written approval of the Board.

Section 3. Signs. No sign of any kind shall be erected by an Owner or Occupant within the Community without the written consent of the Board except: (a) such signs as may be required by legal proceedings; and (b) not more than one (1) "For Sale" sign consistent with the Community-Wide Standard. The Board shall have

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the right to erect any reasonable and appropriate signs.

Section 4. Recreational Vehicles and Trailers. The Architectural Control Committee, in reviewing the plans and specifications for any proposed structure, may require that special parking areas be made available for recreational vehicles. No trailer, trailer house, boat, or recreational vehicle shall be parked on any Lot, except on such parking areas as specified by the Architectural Control Committee pursuant to this Section or within enclosures or behind screening erected in accordance with plans and specifications submitted to and approved by the Architectural Control Committee.

Section 5. Occupants Bound. All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide sanctions against Owners shall also apply to all Occupants of any Lot even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

Section 6. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board; provided, however, those pets which are permitted to roam free, or, in the sole discretion of the Board, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to the Community may be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Lot be confined on a leash. Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community.

Section 7. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is obnoxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

Section 8. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community.

Section 9. Architectural Standards and Architectural Control Committee. No exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon

any part of the Community, except such as is installed by the Declarant, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. No exterior construction, addition, erection, or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by an Architectural Control Committee consisting of three (3) members elected by the Board as provided for in the Bylaws. The Board may divide the Architectural Control Committee into two (2) subcommittees, with one (1) subcommittee having jurisdiction over modifications and the other having jurisdiction over new construction. The Board may employ for the Architectural Control Committee architects, engineers, or other Persons necessary to enable the Committee to perform its review. The Architectural Control Committee may, from time to time, delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified Persons, which shall have full authority to act on behalf of the committee for all matters delegated. Written design guidelines and procedures shall be promulgated for the exercise of this review, which guidelines may provide for a review fee in an amount not less than Twenty-Five (\$25.00) Dollars.

The Architectural Committee shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its designee or the representatives thereof shall have the right, during reasonable hours, to enter upon any Lot to inspect any Lot and any improvements thereon for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In the event the Architectural Committee fails to approve or to disapprove such design and location within thirty (30) days after the plans and specifications have been submitted to it, approval will not be required, and this Section will be deemed to have been fully complied with.

Section 10. Lighting. Notwithstanding Article VI, Section 10 above, the following exterior lighting may be installed without the necessity of obtaining the prior approval of the Architectural Committee: (a) seasonal decorative lights during the Christmas season; (b) illumination of other than the front or side yards of a Lot; (c) illumination of model homes and entrance features constructed by the Declarant; and (d) other lighting originally installed by the Declarant. Plans for all other exterior lighting must be submitted and approved in accordance with Article VI, Section 10 hereof.

Section 11. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant of any Lot may obstruct or rechannel the drainage flows after the location and installation of drainage swales, storm sewers, or storm drains. Declarant reserves the right to prepare sloping banks, cut or fill, on a three (3) to one (1) slope on all streets and roads. Declarant hereby reserves a perpetual easement across all Community property for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 12. Sight Distance at Intersections. All property located at street intersections shall be so landscaped as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain at any corner where this would create a traffic or sight problem.

Section 13. Clotheslines, Garbage Cans, Woodpiles, Etc. All clotheslines, garbage cans, woodpiles, and other similar items shall be located or screened so as to be concealed from view of neighboring Lots, streets, and property located adjacent to the Lot. All rubbish, trash, and garbage shall regularly be removed from the Lot and shall not be allowed to accumulate thereon. Declarant, however, hereby expressly reserves the right to dump and bury rocks and trees on property within the Community as needed for efficient construction and to allow developers and builders within the Community to do so.

Section 14. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Association. Declarant, however, hereby expressly reserves the right to replat any Lot(s) or other property in the Community. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 15. Guns. The use of firearms in the Community is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and firearms of all types.

Section 16. Solar Devices. No artificial or man-made device which is designed or used for collection of or heating by solar energy or other similar purposes shall be placed, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Architectural Committee.

Section 17. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Architectural Committee. No chain link fences will be permitted. Under no circumstances shall any fence be placed, erected, allowed or maintained closer to any street than the front corners of the residence constructed on such Lot. The Architectural Committee may issue guidelines detailing acceptable fence styles or specifications.

Section 18. Detached Structures. No detached structures shall be placed, erected, allowed, or maintained upon any Lot without the prior written consent of the Architectural Committee.

Section 19. Entry features and Street Signs. Owners shall not alter, remove or add improvements to any entry features or street signs constructed by the Declarant on any Lot, or any part of any easement area associated therewith without the prior written consent of the Architectural Committee.

Section 20. Above Ground Pools. Above ground pools, other than children's pools not exceeding sixty-four (64) square feet, shall not be permitted in the Community.

Section 21. Basketball Hoops and Goals. Basketball hoops and goals shall not be attached to the exterior portion of any house, garage or other building structure constructed on a lot or place on any other portion of the lot except as provided below. Notwithstanding the above, free standing basketball poles, goals and backboards may be erected immediately adjacent to the driveway on a lot provided that they are set back at least twenty (20) feet from the front of the lot, the poles are metal and painted black and the goal and backboard are manufactured and not home made.

Article VII Insurance and Casualty Losses

Section 1. Insurance. The Association's Board of Directors or its duly authorized agent shall have the authority but not the obligation to obtain insurance for all insurable improvements located on the Common Property or required to be maintained by the

Association under Article V, Section 1 hereof. This insurance shall cover loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

If available at reasonable cost, as determined in the sole discretion of the Board, the Board is authorized, but not obligated, to obtain a public liability policy applicable to the Common Property insuring the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents. The public liability policy shall have a combined single limit of at least One Million Dollars (\$1,000,000.00). If available at reasonable cost, as determined in the sole discretion of the Board, the Board shall also obtain director's and officer's liability insurance, said insurance to cover the members and officers of the Board of Directors; and the members of the Architectural Committee as duly appointed under the provisions of Article VI, Section 10, insuring the same against any and all actions and/or claims arising from mistakes in judgement, negligence or nonfeasance. The Board is hereby authorized to contract with or otherwise arrange to obtain the insurance coverage required hereunder through the Declarant and to reimburse Declarant for the cost thereof, and Declarant shall be authorized, but not obligated, to purchase such insurance coverage for the benefit of the Association and the Owners upon Declarant and Association agreeing upon the terms and conditions applicable to reimbursement by the Association for costs incurred by Declarant in obtaining such coverage. Notwithstanding anything contained in this Declaration to the contrary, the Board shall not be required to comply with the provisions of this Article if the Board has contracted for or otherwise arranged to obtain the required insurance coverage through the Declarant.

Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee, for the respective benefitted parties. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company authorized to do business in Georgia.

(b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagees having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

(d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually by one or more qualified Persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Community is located.

(e) The Association's Board of Directors shall be required to

make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, Architectural Committee, the Owners and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) that no policy may be canceled, subjected to nonrenewal, invalidated, or suspended on account of any one or more individual Owners;

(iv) that no policy may be canceled, subjected to renewal, invalidated, or suspended on account of any defect or to conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owner's policies from consideration; and

(vi) that no policy may be canceled, subject to nonrenewal, or substantially modified without at least ten (10) days' prior written notice to the Association.

Section 2. Damage and Destruction -- Common Property.

(a) In General. Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty. The Board of Directors shall have all enforcement powers specified in Article XI, Section 1, of this Declaration necessary to enforce this provision.

(b) Repair and Reconstruction. Any damage or destruction to property required to be covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the Total Association Vote otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed (60) days. No mortgagee shall have the right to participate in the determination of whether damage shall be required or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available

from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

Section 3. Damage and Destruction -- Lots. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article XI, Section 1 of this Declaration.

Section 4. Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the Persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance, for maintenance of the damaged or destroyed property.

Article VIII Condemnation

Whenever all or any part of the Common Property shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, acting on its behalf or on the written direction of all Owners of Lots subject to the taking, if any) by any authority having the power of condemnation or eminent domain, the Association shall represent the Owners. The award made for such taking shall be payable to the Association as trustee for all Owners. The provisions of Article VII, Section 2, above, applicable to Common Property improvements damage or destruction, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

Article IX Mortgage Provisions

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides written request to the Association, such request to state the name and address of such holder, insurer, or guarantor and the Lot number (therefore becoming an "eligible holder"), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of Mortgage holders.

Section 2. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Section 3. Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 4. Amendments by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD or VA subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 5. VA/HUD Approval. As long as the Declarant has the right to appoint and remove the directors and officers of the Association and so long as the project is approved by HUD for insuring any Mortgage in the Community (as determined by consulting the current list of approved subdivisions regularly published by HUD and furnished to Mortgage companies) or the VA for guaranteeing any Mortgage in the Community (as determined by telephone inquiry to VA), the following actions shall require the prior approval of the VA and/or HUD, as applicable: annexation of additional property to the Community; dedication of Common Property to any public entity; mergers and consolidations; dissolution of the Association; mortgaging of Common Property; and material amendment of the Declarant, Bylaws, or Articles of Incorporation.

Section 6. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation (The Mortgage Corporation), the following provisions apply in addition to and not in lieu of the foregoing. Unless two-thirds (2/3) of the first Mortgagees or Owners other than the Declarant, give their consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection) other than personal property of the Association;

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner;

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Property (The issuance and amendment of architectural standards, procedures, rules, and regulations or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this subsection.);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Property losses for other than the repair, replacement, or reconstruction of such property.

Nothing contained in this Section 6 shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration for any of the acts set out in this Section 6.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 7. Applicability of Article IX. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article.

Section 8. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

Article X Easements

Section 1. Easements for Utilities. There is hereby reserved to the Association blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Declarant or Association might decide to have installed to serve the Community. It shall be expressly permissible for the Declarant, the Association or the designee of either, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

Section 2. Easement for Association Maintenance. Declarant hereby expressly reserves a perpetual easement for the benefit of the Association across such portions of the Community, determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article V. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of Owner's property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 3. Easement for Entry. In addition to the right of the Board to exercise self-help as provided in Article XI, Section 2 hereof, the Board shall have the right, but shall not be obligated, to enter upon any property within the Community for emergency, security, and safety reasons, which right may be exercised by the manager, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

Section 4. Easements for Entry Features and Street Signs. There is hereby reserved to the Declarant and the Association an easement over and upon each Lot for ingress, egress, installation, construction, landscaping and maintenance of entry features and street signs for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all entry features and the right to upgrade the land under and around the entry features.

Article XI
Annexation of Additional Property

Section 1. Unilateral Annexation By Declarant.

(a) Declarant shall subject all of the real property described in Exhibit "C", attached and made a part of this Declaration, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Fulton County, Georgia, records a Supplementary Declaration describing the property being annexed. Any annexation shall be effective upon the filing for record of a supplementary Declaration unless a different effective date is provided in the Supplementary Declaration.

Article XII
General Provisions

Section 1. Enforcement. Each owner and every Occupant of a Lot shall comply strictly with the Bylaws, the rules and regulations, the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and in the deed to his or her Lot, if any. The Board of Directors may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association or, in a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of violation of the Declaration, Bylaws, rules and regulations, or use restrictions and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

Section 2. Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

Section 3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent permitted by law; provided, however, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which

time any such provisions shall be automatically extended for successive periods of twenty (20) years, unless such extension is disapproved by at least two-thirds (2/3) of the Total Association Vote. A written instrument reflecting disapproval must be recorded within the year immediately preceding the beginning of a twenty (20) year renewal period. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Section 4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage Loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to guarantee or insure Mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of Owners of at least two-thirds (2/3) of the Lots (other than Lots of Declarant so long as the consent of Declarant is required) and the consent of Declarant (so long as the Declarant owns any property for development and/or sale in the Community). Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein. No provision of this Declaration which reserves or grants special rights to the Declarant shall be amended without the prior written consent of the Declarant so long as the Declarant owns any property primarily for development and/or sale in the Community.

Section 5. Partition. The Common Property shall remain undivided, and no Lot Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not necessarily limited to, the Lots located within the Community.

Section 6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 7. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end, the provisions of this Declaration are declared to be severable.

Section 8. Captions. The captions of each Article and

Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article to which they refer.

Section 9. Preparer. This Declaration was prepared by Richard B. Dobkin and Gale G. Evans, 100 Ashford Center North, Suite 130, Atlanta, Georgia 30338.

Section 10. Conveyance of Common Property by Declarant to Association: Assignment of Contracts. The Declarant may transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement, or other property interest. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section. The Association shall also accept assignment of any contracts entered into by the Declarant for the benefit of the Association or the Owners.

Section 11. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 12. Indemnification. In accordance with the Georgia Nonprofit Corporation Code and to the full extent allowed, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association), by reason of the fact that such Person is or was serving as a member or officer of the Board of Directors or Architectural Committee of the Association against any and all expenses, including attorney's fees, imposed upon or reasonably incurred in connection with any action, suit or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the Person is proper under the circumstances.

Section 13. Construction and Sale Period. Notwithstanding any provisions contained in this Declaration, the Bylaws, Articles of Incorporation, rules and regulations, use restrictions, and any amendments to any of the foregoing, the Declarant hereby expressly reserves unto itself and its successors and assigns a non-exclusive, perpetual right, privilege, and easement with respect to the Community for the benefit of the Declarant, its successors, and assigns over, under, in, and/or on the Community, without obligations and without charge to the Declarant, for the purposes of taking all actions related to or connected with construction, installation, relocation, development, sale, maintenance, repair, or replacement in the Community and any other property now owned as described in Exhibit "A" and Exhibit "C" and attached hereto and made a part by reference herein. The reserved easement shall constitute a burden on the title to the Community and specifically includes, but is not limited to:

(a) the right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, or in the Community; and the right to tie into any portion of the Community with streets, driveways, parking areas, and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee

payable to the Association or any Owner for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under, and/or over the Community;

(b) the right to construct, install, replace, relocate, maintain, repair, use, and enjoy signs, model residences, and sales offices in the Community.

No rights, privileges, and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, the Community, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quitclaim deed from the Declarant releasing such right, privilege, or easement by express reference thereto.

This section shall not be amended without the prior written consent of the Declarant so long as the Declarant owns any property primarily for development and/or sale in the Community.

Section 14. Books and Records.

(a) Inspection by Members and Mortgagees. This Declaration, the Bylaws, copies of rules and use restrictions, membership register, books of account, and minutes of meetings of the members of the Board and of committees shall be made available for inspection and copying by any member of the Association or by his duly appointed representative and by holders, insurers, or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to his or her interest as a member or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made;
- (iii) payment of the cost of reproducing copies of documents.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extra copies of documents at the reasonable expense of the Association.

Section 15. Financial Statements. Financial statements for the Association shall be compiled annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's financial statements at the annual meeting, the Owners, by a Majority vote, may require that the financial statements of the Association be audited as a common expense by a certified public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all costs associated therewith, such holder shall be entitled to receive a copy of the audited financial statements of the Association within ninety (90) days of the date of the request.

Section 16. Notice of Sale or Lease. In the event an Owner sells or leases his or her Lot, the Owner shall give to the Association, in writing, the name of the purchaser or lessee of the

Lot and such other information as the Board may reasonably require.

Section 17. Agreements. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community. All such agreements and determinations shall be subject to the prior approval of Declarant, so long as the Declarant owns any property primarily for development and/or sale in the Community.

Section 18. Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

Section 19. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote. This section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article IV hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 20. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

IN WITNESS WHEREOF, the undersigned has executed this instrument and affixed his seal this 26th day of April, 1994.

Signed, sealed and delivered this 26th day of April, 1994, in the presence of:

Shea Brown
WITNESS

Lawrence H. Tucker
NOTARY PUBLIC Notary Public, DeKalb County, Georgia
My Commission Expires Feb. 7, 1997

My Commission Expires: _____
(NOTARY SEAL)

BEAZER HOMES GEORGIA INC.,
a Georgia corporation

By: [Signature]
Title: President

Attest: [Signature]
Title: VP Finance

(Corporate Seal)



W. Dingling Co. Inc.

EXHIBIT "A"
PROPERTY SUBMITTED

All that tract or parcel of land lying and being in Land Lots 164 and 192, 1st District, 1st Section, Fulton County, Georgia, and being more particularly shown as Lots 1 through 6 of Block "A" and Lots 44 through 52 of Block "A" on a plat of Churchill Downs Phase I, dated _____, and recorded in the records of Fulton County, Georgia, in Plat Book _____, page _____.

603 18189 311

EXHIBIT "B"

**BYLAWS
OF
CHURCHILL DOWNS HOMEOWNERS ASSOCIATION, INC.**

**RICHARD B. DORRIN
GAIL G. EVANS
1979 LAKESIDE PARKWAY
SUITE 750
TUCKER, GEORGIA 30084
(404) 938-7200**

NOV 18 1997 312

INDEX TO BYLAWS OF CHURCHILL DOWNS HOMEOWNERS ASSOCIATION, INC.

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BOOK 181SSPC313

BYLAWS
OF
CHURCHILL DOWNS HOMEOWNERS ASSOCIATION, INC.

Article I
Name, Membership, and Definition

Section 1. Name. The name of the Association shall be Churchill Downs Homeowners Association, Inc. (the "Association").

Section 2. Membership. The Association shall have one (1) class of membership, as is more fully set forth in that Declaration of Protective Covenants for Churchill Downs (this Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

Section 3. Definition. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit.

Article II
Association: Meetings, Quorum, Voting, Proxies

Section 1. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Board of Directors, either in the Community or as convenient thereto as possible and practical.

Section 2. First Meeting and Annual Meetings. An annual or special meeting shall be held within one (1) year from the date the Declaration is recorded. Annual meetings shall be set by the Board so as to occur no later than sixty (60) days after the close of the Association's fiscal year. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday (excluding Saturday and Sunday).

Section 3. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a Majority of the Board of Directors or upon a petition signed by at least twenty-five percent (25%) of the Total Association Vote (the consent of the Declarant shall not be required). The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

Section 4. Notice of Meetings. It shall be the duty of the Secretary to mail or to cause to be delivered to the Owner of record of each Lot a notice of each annual or special meeting of the Association stating the purpose of the special meeting, as well as the time and place where it is to be held. If an Owner wishes notice to be given at an address other than his or her Lot, he or she shall have designated by notice in writing to the Secretary such other address. The mailing or delivery of a notice of meeting in the manner provided in this Section shall be considered service of notice. Notices shall be served not less than ten (10), nor more than thirty (30) days before a meeting.

Section 5. Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the

members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed a waiver by such member of notice of the time, date, and place thereof, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

Section 6. Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a Majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 7. Voting. The voting rights of the members shall be as set forth in the Declaration, and such voting rights are specifically incorporated herein.

Section 8. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing, dated, and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his or her lot, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy.

Section 9. Quorum. The presence, in person or by proxy, of twenty-five percent (25%) of the total eligible Association vote shall constitute a quorum at all meetings of the Association. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Section 10. Action Without A Formal Meeting. Any action to be taken at a meeting of the members or any action that may be taken at a meeting of the members may be taken without a meeting if one or more consents, in writing, setting forth the action so taken, shall be signed by members holding the voting power required to pass such action at a meeting held on the date that the last consent is executed and such action is consented to by the Declarant if required. Such action shall be effective upon receipt by the Association of a sufficient number of such consents executed by current members unless a later effective date is specified therein. Each signed consent shall be delivered to the Association and shall be included in the minutes of meetings of members filed in the permanent records of the Association.

Section 11. Action By Written Ballot. Any action to be taken at any annual, regular or special meeting of members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot of an action shall only be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter (other than election of directors); and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by the Association may not be revoked without the consent

of the Board of Directors. The results of each action by written ballot shall be certified by the Secretary and shall be included in the minutes of meetings of members filed in the permanent records of the Association.

Article III
Board of Directors; Number, Powers, Meetings

A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the directors must reside in the Community and shall be members or spouses of such members; provided, however, no Person and his or her spouse may serve on the Board at the same time.

Section 2. Directors Appointed by Declarant. Declarant shall have the right to appoint or remove any members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events shall occur: (a) the expiration of ten (10) years after the date of the recording of the Declaration; (b) the date on which seventy-five percent (75%) of the Lots shall have been conveyed by Declarant to Owners other than a Person or Persons constituting Declarant; or (c) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. Each Owner, by acceptance of a deed to or other conveyance of a Lot, vests in Declarant such authority to appoint and remove directors and officers of the Association. The directors selected by the Declarant need not be Owners or residents in the Community.

Section 3. Number of Directors. The Board shall consist of three (3) members during the period in which the Declarant has the right to appoint directors and officers as described in Section 2 of this Article and five (5) members after the expiration of this right.

Section 4. Nomination of Directors. Elected directors shall be nominated from the floor and may also be nominated by a nominating committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the members and to solicit votes.

Section 5. Election and Term of Office. Owner-elected directors shall be elected and hold office as follows:

(a) After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting to be held at which Owners shall elect five (5) directors.

(b) At annual meetings of the membership thereafter, directors shall be elected. All eligible members of the Association shall vote on all directors to be elected, and the candidate(s) receiving the most votes shall be elected; provided, however, the initially elected directors shall serve the remainder of their terms.

The term of three (3) directors shall be fixed at one (1) year, the term of two (2) directors shall be fixed at two (2) years. At the expiration of the initial term of office of each respective member of the Board of Directors, a successor shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

Section 6. Removal of Directors. At any regular or special meeting of the Association duly called, any one (1) or more of the

members of the Board of Directors may be removed, with or without cause, by a Majority of the total Association Vote and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed by the Owners shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Board meetings, or who is delinquent in the payment of assessment for more than twenty (20) days may be removed by a Majority vote of the Directors at a meeting, a quorum being present. This Section shall not apply to directors appointed by Declarant.

Section 7. Vacancies. Vacancies in the Board of Directors caused by any reason, excluding the removal of a director by vote of the Association, shall be filled by a vote of the Majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. Each Person so selected shall serve the unexpired portion of the term. This Section shall not apply to Directors appointed by Declarant.

B. Meetings.

Section 8. Organizational Meetings. The first meeting of the members of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a Majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

Section 10. Special Meetings. Special meetings of the Board of Directors shall be held when requested by the President, Vice President or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. This notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; or (c) by telephone communication, either directly to the director or to a Person at the director's home or office who would reasonably be expected to communicate such notice promptly to the director; (d) by telegram, charges prepaid; or (e) by commercial delivery service to such director's home or office. All such notices shall be given or sent to the director's home or office. All such notices shall be sent to the director's address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph company shall be given at least forty-eight (48) hours before the time set for the meeting.

Section 11. Waiver of Notice. The transaction of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid though taken at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 12. Quorum of Board of Directors. At all meetings of the Board of Directors, a Majority of the directors shall

constitute a quorum for the transaction of business, and the votes of a Majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting cannot be held because a quorum is not present, a Majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time that the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 13. COMPENSATION. No director shall receive any compensation from the Association for acting as such unless approved by a Majority of the Total Association Vote.

Section 14. Open Meetings. All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board.

Section 15. Executive Session. The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall be first announced in open session.

Section 16. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all of directors.

Section 17. Telephonic Participation. One (1) or more directors may participate in and vote during any regular or special meeting of the Board by telephone conference call or similar communication equipment by means of which all directors participating in the meeting can hear each other at the same time, and those directors so participating shall be present at such meeting. Any such meeting at which a quorum participates shall constitute a regular meeting of the Board.

C. Powers and Duties.

Section 18. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for all the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these Bylaws directed to be done and exercised exclusively by the members. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the common expenses;

(b) making assessments to defray the common expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessments;

(c) providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility

of the Association;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(f) making and amending use restrictions and rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bring any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(j) paying the cost of all services rendered to the Association or its members which are not directly chargeable to Owners;

(k) keeping books with detailed accounts for receipts and expenditures affecting the Association and its administration, and specifying the maintenance and repair expenses and any other expenses incurred; and

(l) contracting with any Person for the performance of various duties and functions. The Board shall have the power to enter into common management agreements with trusts, condominiums, or other associations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity.

Section 19. Management Agent. The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Declarant or an affiliate of the Declarant may be employed as managing agent or Manager. The term of any management agreement shall not exceed one (1) year and shall be subject to termination by either party, without cause and without penalty, upon ninety (90) days written notice.

Section 20. Fining Procedure. The Board shall not impose a fine (a late charge shall not constitute a fine) unless and until the following procedure is followed:

(a) Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying:

(i) the alleged violation;

(ii) the action required to abate the violation;

and

(iii) a time period, not less than ten (10) days,

during which the violation may be abated without further sanction,

if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a fine, if the violation is not continuing. The Board or its designee may demand immediate abatement in such circumstances which, in the Board's determination, pose a danger to safety or property.

(b) **Notice.** Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Board may, upon notice, impose a fine. The notice shall state:

(i) the nature of the alleged violation;

(ii) that the alleged violator may, within ten (10) days from the date of notice, request a hearing regarding the fine;

(iii) that any statements, evidence, and witnesses may be produced by the alleged violator at the hearing; and

(iv) that all rights to have the fine reconsidered are waived if a hearing is not requested within ten (10) days of the date of notice.

(c) **Hearing.** If a hearing is requested, it shall be held before the Board in executive session, and the alleged violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing.

Article IV Officers

Section 1. **Officers.** The offices of the Association shall be a President, Vice President, Secretary, and Treasurer. Any two (2) or more offices may be held by the same Person, excepting the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board of Directors.

Section 2. **Election, Term of Office, and Vacancies.** Except during the period in which the Declarant has the right to appoint the officers of the Association under Article III, Section 2, of these Bylaws, the officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the members. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. **Removal.** Any officer may be removed by the Board of Directors whenever, in its judgment, the best interests of the Association will be served thereby. This Section shall not apply to officers appointed by Declarant.

Section 4. **President.** The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code.

Section 5. **Vice President.** The Vice President shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

Section 6. **Secretary.** The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors and shall have charge of such books and papers as the Board of

Directors may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with Georgia law.

Section 7. Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board of Directors.

Section 8. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Article V Committees

Committees to perform such tasks and to serve for such periods as may be designated by the Board are hereby authorized. Each committee shall be composed and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Article VI Architectural Control Committee

Section 1. Election and Term of Office. The Board shall establish an Architectural Control Committee consisting of three (3) members elected annually by the Board at the first meeting of the Board, following each annual meeting of the members. Each member of the Committee shall serve a three (3) year term.

Section 2. Removal. Any member of the Committee may be removed by the Board whenever, in its judgment, the best interests of the Association will be served thereby.

Section 3. Vacancies. A vacancy in the Committee may be filled by the Board for the unexpired portion of the term.

Article VII Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Association shall be determined by the resolution of the Board. In the absence of such resolution, the fiscal year shall be the calendar year.

Section 2. Parliamentary Rules. Roberts Rules of Order (current edition) shall govern the conduct of all Association proceedings, when not in conflict with Georgia law, the Articles of Incorporation, the Declaration, these Bylaws, or a ruling made by the Person presiding over the proceeding.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these Bylaws, then the provisions of Georgia law, the Declaration, the articles of Incorporation, and the Bylaws (in that order) shall prevail.

Section 4. Amendment. The provisions of the Declaration applicable to amendment of the instrument shall apply to any amendment of these Bylaws; provided, however, that the U.S. Department of Veteran Affairs ("VA") (if it is then guaranteeing any Mortgage in the Community as determined by telephone inquiry to VA) and/or the U.S. Department of Housing and Urban Development

("HUD") (if it is then insuring any Mortgage in the Community (as determined by consulting the current list of approved subdivisions regularly published by HUD and furnished to Mortgage companies) shall have the right to veto material amendments to these Bylaws for as long as the Declarant has the right to appoint and remove the directors and officers of the Association.

EXHIBIT "C"
ADDITIONAL PROPERTY TO BE
UNILATERALLY SUBMITTED BY
DECLARANT

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS
164 AND 192, 1ST DISTRICT, 1ST SECTION, FULTON COUNTY,
GEORGIA, BEING MORE PARTICULARLY SHOWN AS LOTS 7 THROUGH
43, BLOCK "A" AND LOTS 1 THROUGH 23, BLOCK "B" ON A FLAT OF
CHURCHILL DOWNS PHASE II.

WCM 18183M323

STATE OF GEORGIA)	ARTICLES OF INCORPORATION
COUNTY OF DEKALB)	CHURCHILL DOWNS HOMEOWNERS
)	ASSOCIATION, INC.

I.

The name of the Corporation is "Churchill Downs Homeowners Association, Inc."

II.

The Corporation is organized pursuant to the Georgia Non-Profit Corporation Code.

III.

The initial registered agent of the Corporation and the address of the registered office is:

Richard B. Dobkin
 1979 Lakeside Parkway
 Suite 750
 Tucker, Georgia 30084

IV.

The name and address of the Incorporator is:

Richard B. Dobkin
 1979 Lakeside Parkway
 Suite 750
 Tucker, Georgia 30084

V.

The mailing address of the initial principal office of the Corporation is:

1927 Lakeside Parkway
 Suite 602
 Tucker, Georgia 30084

VI.

A director of the Corporation shall have no personal liability to the corporation or its members for monetary damages for breach of duty of care or other duty as a director, except as provided in O.C.G.A. 14-3-202(b)(4).

VII.

The initial Directors of the Corporation are James Jones, Valerie Gutzman, and Nancy Niemyer.

IN WITNESS WHEREOF, the undersigned executes these Articles of Incorporation.

This 18th day of April, 1994.


RICHARD B. DOBKIN

WITNESSES:

CONSENT TO SERVE AS REGISTERED AGENT

I, RICHARD B. DOBKIN, do hereby consent to serve as the registered agent of Churchill Downs Homeowners Association, Inc. I shall serve until I either inform the Secretary of State of my resignation or the Corporation appoints a successor registered agent.

This 18 day of April, 1994


RICHARD B. DOBKIN

WHM020M02CONSENT.BSA

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