

FILM 103



CONDOMINIUM DECLARATIONS
FOR
CEDAR TWO CONDOMINIUMS

Becky Hest
CLERK AND RECORDER

MAY 26 1 09 PM '80

STATE OF COLORADO
COUNTY OF BOULDER
FIELD FOR RECORD
IN MY OFFICE ON

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INTRODUCTION

RANDALL HARTMANN, Doing Business As PHASE I HOMES, referred to as "Declarant" is the owner of the following-described property located in the County of Boulder, State of Colorado, and referred to hereinafter as the "Property".

See attached Exhibit "A"
for legal description.

The Declarant is establishing a condominium project on the property containing 1 building and 7 condominium units.

The Declarant desires to define the character, duration rights, obligations and limitations of condominium ownership by this Declaration instrument pursuant to the Condominium Ownership Act of the State of Colorado Revised Statutes, 1973 as amended.

This plan is for the benefit of the Property and for the benefit and the enjoyment of the Owners thereof, their successors, administrators, transferees, assigns and heirs, and this Declaration shall be considered as covenants running with the land.

1.

DEFINITIONS

A. The definitions contained in the Condominium Ownership Act, Article 33, Chapter 39, Colorado Revised Statutes, 1972, as amended, are hereby incorporated by reference and shall apply to this Declaration, the Owners and the Property except as otherwise modified herein.

B. 1. "Unit" means an individual air space which is contained within the windows, doors and unfinished perimeter walls, floors (or lower most floors, if it is an individual air space unit containing more than one level) and ceilings (or the upper most ceilings, if it is an individual air space unit containing more than one level) of each Unit as shown on the Condominium Map to be filed for record, together with all fixtures and improvements therein contained but not including any of the general common elements, if any, located within a Unit.

2. "Condominium Unit" means the fee simple interest and title in and to a Unit, together with the undivided interest in the general common elements appurtenant to such Unit, and all other rights and burdens created by the Declaration.

C. "Building" means a building containing individual condominium units.

D. "Owner" means a person, natural or corporate, firm, corporation, partnership, association, venture or other legal entity or combination thereof which or who owns the fee simple interest and title in and to a Unit together with an undivided interest in the general common elements and the rights to the limited elements appurtenant to such Unit.

E. "General common elements" or "common elements" means the "Property", exterior walls of the units, foundations, columns, girders, and other such major structural components of the buildings containing the condominium unit, all apparatus and installations existing for common use, and all

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professional engineer certifying that the Map substantially depicts the items set forth therein and that the Map was prepared after substantial completion of the improvements. Each supplement Map shall contain a like certificate. The Map may be amended from time to time to conform to the actual location of any constructed improvements and to establish, relocate and vacate easements, rights-of-way and parking areas. Every deed, lease, mortgage or other instrument may legally describe a unit by its identifying number or symbol as shown on the Map and every such description shall be deemed good and sufficient for all purposes. After the Condominium Map and this Declaration have been recorded in the Boulder County Clerk and Recorder's Office of Boulder County, Colorado every contract, deed, lease, mortgage, trust deed or other instrument shall legally describe a Condominium Unit as follows:

Condominium Unit No. _____, of Building No. _____
of CEDAR TWO CONDOMINIUMS, according to the
Declaration recorded on _____ 1980,
On Film No. _____ at Reception No. _____
and the Condominium Map recorded on _____
1980 on Film No. _____, at Reception No. _____
of the Records of the Boulder County Clerk and Recorder.

III.
UNITS

A. The real property described on Exhibit A, including the improvements thereon, are hereby divided into 7 fee simple estates (condominium units). Each such estate shall consist of a separately designated unit and the undivided interest in and to the general common elements appurtenant to such unit as set forth on Exhibit B attached hereto and incorporated herein by reference.

B. The separate estate of the Owner of any Condominium Unit and the ownership of the limited common elements and general common elements appurtenant thereto are inseparable and no owner shall execute any deed, mortgage, lease or other instrument affecting title to the Unit ownership without including therein both the interest in the Unit and the corresponding percentage of ownership in the common elements, it being the intention herein to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including the other shall be deemed to include the interest so omitted even though the latter is not expressly mentioned or described therein.

IV.

LIMITED COMMON ELEMENTS

Subject to this definition, the Map shall identify the limited common elements. Any balcony, porch or patio which is accessible from, associated with and which adjoins a Unit shall without further reference hereto be used in connection with such Unit to the exclusion of the use thereof by the other owners of the common elements, except by express invitation.

V.

GENERAL COMMON ELEMENTS

1. Encroachments: In the event that any portion of the general common elements encroaches upon any Unit or Units or in the event that any portion of a Unit encroaches upon any other Unit or Units or upon any portion of the general common elements or in the event any encroachment shall occur in the future as a result of: (i) settling of a building; or (ii) alteration or repair to the general common elements; or (iii) repair or restoration of a building(s) or a Unit(s) after damage by fire or other casualty, or condemnation or eminent domain proceedings; a valid easement shall exist for the encroachment and for the maintenance of the same so long as the building(s) stands. In the event that any one or more of the Units or building or other improvements comprising part of the general common elements are partially or totally destroyed and are then rebuilt or reconstructed in substantially the same location and as a result of such rebuilding any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the general common elements or on the Units for purposes of marketability of title or other purposes. In interpreting any and all provisions of the Declaration, subsequent Unit deeds to and mortgages of Units, the actual location of the Unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally, vertically or laterally from the locations as indicated in the Condominium Map.

2. Utility Easements: The Association through its Board of Directors as provided herein may grant easements for utility purposes for the benefit of the Property including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment and the like under, along and on any portion of the common elements. Each owner grants the Board an irrevocable power of attorney to execute, acknowledge and record for and in the name of such Owner such instruments as may be necessary to effectuate this Article.

3. The Easements Through Walls Within Units: Easements are hereby declared and granted to install, lay, maintain, repair and replace any pipes, wires, ducts, conduits, public utility lines or structural components running through the walls of the Units whether or not such wall lie in whole or in part within the Unit boundaries.

4. Easements To Run With the Land: All easements and rights described herein are appurtenant easements running with the land.

A. Use of Common Elements: No person shall use the common elements or any part thereof in any manner contrary to the rules and regulations which may be adopted by the Board of Directors as provided in these Declarations. Such use may be conditioned upon, amongst other things, the payment by the Unit owner of the assessments established by the Board regarding the common elements.

Subject to those rules and regulations, all Owners may use the common elements in such manner as will not restrict, interfere or impede with the use thereof by the other Owners. Each Owner agrees to maintain, repair, and replace at said Owner's expense, all portions of the common elements which may be damaged or destroyed by reason of his own or any occupants act or neglect, or by the act or neglect of any invitee or licensee.

VI.

INSURANCE

A. The Board of Managers of the Associations shall obtain and maintain at all times, to the extent obtainable, the Colorado Insurance Commissioner, and written with companies licensed to do business in Colorado and having a Best's Insurance report rating of Class VI or better, covering the risks set forth below. The Board of Managers of the Association shall not obtain any policy where: (i) under the terms of the insurance company's charter, bylaws or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee; or (ii) by the terms of carrier's charter, bylaws or policy, loss payments are contingent upon action by the company's Board of Directors, policyholders or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or the mortgagor from collecting insurance proceeds. The types of coverage to be obtained and risks to be covered are as follows, to-wit:

1. A multi-peril type insurance policy covering the entire condominium project including fire insurance with extended coverage and all risk endorsements, including endorsements for vandalism, malicious mischief, boiler explosion and machinery (with a minimum endorsed amount of \$50,000.00 per accident per location). Said multi-peril insurance shall insure the entire condominium project and any property, the nature of which is a common element (including all of the units, fixtures therein initially installed by the Declarant but not including furniture, furnishings or other personal property supplied by or installed by the Unit Owner) together with all service equipment contained therein in an amount equal to the full replacement value, without deductions for depreciation. All policies shall contain a standard non-contributory mortgage clause in favor of each mortgagee of a Condominium unit which shall provide that the loss, if any, thereunder, shall be payable to the Cedar Two Condominium Management Association, Inc. for the use and benefit of the mortgagees as their interest may appear.

2. If the condominium project is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and the sale of Flood Insurance has been made available under the National Flood Insurance Act of 1968, a "blanket" policy of flood insurance on the condominium project in an amount which is the lesser of the maximum amount of insurance available under the Act or the aggregate of the unpaid principal balances of the mortgages on the Condominium Units comprising the condominium project. The names of the insured under this policy shall be stated in the following form and substance: CEDAR TWO CONDOMINIUM MANAGEMENT ASSOCIATION, INC. for the use and benefit of the individual owners.

3. Public liability and property damage insurance in such limits as the Board of Managers of the Association may from time to time determine, but not in an amount less than \$500,000.00 per injury, per person, per occurrence, and umbrella liability limits of \$1,000,000.00 per occurrence, covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the project. Said policy shall also contain a "severability of interest endorsement".

4. Workmen's Compensation and employer's liability insurance and all other similar insurance with respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

5. The Association shall purchase, in an amount not less than one hundred and fifty percent (150%) of the Association's estimated annual operating expenses and reserves, fidelity coverage against dishonesty of employees, directors, trustees, or managers, destruction or disappearance of money or securities and forgery. Said policy shall also contain endorsements thereto covering any persons who serve the Association with compensation.

6. The Association may obtain insurance against such other risks, of similar or dissimilar nature, as it shall deem appropriate with respect to the project, including plate or other glass insurance and personal property of the Association located thereon.

8. All policies of insurance to the extent obtainable shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of a Condominium Unit owner and shall provide that such policies may not be cancelled or modified without at least ten (10) days prior written notice to all of the insureds, including mortgagees. Duplicate originals of all policies and renewal thereof, together with proof of payments of premiums, shall be delivered to all mortgagees at least ten (10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the CEDAR TWO CONDOMINIUM MANAGEMENT ASSOCIATION, INC. as the insurance, as attorney-in-fact for all of the Condominium Unit owners, which policy or policies shall identify the interest of each Condominium Unit Owner (Owner's name and Unit number designation) and first mortgagee.

C. Prior to obtaining any policy of fire insurance or renewal thereof, the Board of Managers of the Association shall obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraiser shall reasonably estimate the full replacement value of the entire Condominium project, without deduction for depreciation for the purpose of determining the amount of the insurance to be effected pursuant to the provisions of this insurance paragraph. In no event shall the insurance policy contain a co-insurance clause for less than ninety percent (90%) of the full replacement cost. Determination of maximum replacement value shall be made annually by one or more written appraisals to be furnished by a person knowledgeable of replacement cost, and each mortgagee shall be furnished with a copy thereof, within thirty (30) days after receipt of such written appraisals. Such amounts of insurance shall be contemporized annually in accordance with their currently determined maximum replacement value.

D. Unit Owners may carry other insurance for their benefit and at their own expense, provided that all such policies shall contain waivers of subrogation, and provided further that the liability of the carrier issuing insurance obtained by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

E. Insurance coverage on furnishings, including carpet, draperies, oven range, refrigerator, wallpaper, disposal and other items of personal or other personal property belonging to an owner and public liability coverage within each Unit shall be the sole and direct responsibility of the Unit owner thereof, and the Board of Managers, the Association and/or the Managing Agent shall have no responsibility therefore.

F. In the event that there shall be any damage or destruction to, or loss to a Unit which exceeds \$1,000.00 or any damage or destruction to, or loss to the common elements which exceeds \$10,000.00 then notice of such damage or loss shall be given by the Association to each first Mortgagee of said Condominium Unit within ten (10) days after the occurrence of such event.

VII.

MAINTENANCE AND SERVICE RESPONSIBILITY

A. Owner (1) For maintenance purposes, an owner shall be deemed to own the interior non-supporting walls; floors and ceilings of his Unit; the materials such as, but not limited to, plaster, gypsum drywall, paneling, wallpaper, paint, wall and floor tile and flooring, and other materials which make up the finished surfaces of the perimeter walls, ceiling and floors within the Unit; but not including the pipes, wire, conduits or systems (which are general common elements and for brevity are herein and hereafter referred to as "utilities") running through his Unit which serve one or more other Units except as a tenant in common with the other owners. Such utilities shall not be disturbed or relocated by an owner without the written prior consent and approval of the Board of Managers, and

any such alteration, relocation, enlargement, addition or modification shall be at the owner's expense which expense shall include all expenses incurred by the Association in reference thereto.

(2) An owner shall maintain and keep in repair the interior of his own Unit, including fixtures and utilities located therein to the extent current repair shall be necessary in order to avoid damaging other Condominium Units. All fixtures and equipment and utilities installed within the unit commencing at a point where the fixtures, equipment and utilities enter the Unit shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness of the improvements or impair the proper functioning of the utilities, heating, air conditioning or plumbing systems or integrity of the buildings or impair any easement or hereditament. An owner shall always keep the balcony, porch or patio area adjoining and appurtenant to his Unit and any other limited common elements appurtenant thereto in a clean, orderly and sanitary condition.

B. Association: (1) The Association shall have the duty of maintaining and repairing all of the common elements within the project and the cost of said maintenance and repair shall be a common expense of all of the owners. The Association shall not need the prior approval of its members to cause such maintenance or repairs to be accomplished, notwithstanding the cost thereof. The Association shall be bound by the provisions of Article XXII of these Declarations.

(2) The Association shall provide to the owners the following services which shall be paid for out of the common expense assessment, to-wit:

- (a) Maintenance of the common elements;
- (b) administration and management of the project;
- (c) providing common heating and lighting;
- (d) obtaining the insurance required in Article VI hereof;
- (e) enforcement of the covenants, conditions and restrictions set forth in the Declaration, enforcement of the Association rules and regulations, and collection of all obligations owed to the Association by the owners;
- (f) acting as attorney-in-fact in the event of damage or destruction as provided for in Article X hereof; and,
- (g) Performing all other acts required by this Declaration, or the Articles of Incorporation and Bylaws of the Association.

Notwithstanding the above, the Association reserves the right to hire one or more persons or entities including a Managing Agent, contractors, and employees to perform such services, for a period not to exceed three years. Any agreement shall provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

VIII

DETERMINATION AND PAYMENT OF ASSESSMENTS

1. Obligation of Owners to Pay Assessments: It shall be the duty of every Unit owner to pay his proportionate share of the expenses of administration, maintenance and repair of the common elements, taxes and insurance, and of the other expenses provided for herein. Such proportionate share will be, except as otherwise provided for herein in this Declaration, in the same ratio as his percentage of ownership in the common elements as set forth in this Declaration. Payment thereof shall be in such amounts and at such times as may be determined by the Board, as hereinafter provided.

2. Preparation of Estimated Budget: Each year on or before December first the Board shall estimate the total amount necessary to pay the cost of wages, materials, insurance, services, and supplies which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, and shall on or before December 15, notify each owner in writing as to the amount of such estimate, with reasonable itemization thereof. Said "estimated cash requirement" shall be assessed to the owners according to each owner's percentage of ownership in the common elements as set forth in this Declaration. On or before January first of the ensuing year, and the first of each and every month of said year, each owner shall be obligated to pay to the Board, or as it may direct, on-twelfth of the assessment made pursuant to this paragraph. On or before the date of the annual meeting of each calendar year, the Board shall supply to all owners an itemize accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according to each owner's percentage of ownership in the common elements to the next monthly installments due from the owners under the current year's estimate, until exhausted, and any net shortage shall be added according to each owner's percentage of ownership in the common elements to the installments due in the succeeding six months after rendering of the accounting.

3. Reserve for Contingencies and Replacement: The Association shall be obligated to establish a reserve fund for the maintenance, repair, and replacement of those general common elements that must be replaced periodically and such reserve fund shall be funded through the monthly payment of the common expenses and not by an extraordinary special assessment. Extraordinary expenditures not originally included in the annual estimate which may become necessary during the year, shall be charge first against such reserve. If said "estimated cash requirement" proves inadequate for any reason, including non-payment of any owner's assessment, the Board may at any time levy a further assessment which shall be assessed to the owners according to each owner's percentage of ownership in the common elements. The Board shall serve notice of such further assessment on all owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the monthly maintenance payment which is due no more than ten (10) days after delivery or mailing of such notice of further assessment. All owners shall be obligated to pay the adjusted monthly account.

4. Budget For First Year: When the first Board elected hereunder takes office, it shall determine the "estimated cash requirement," as hereinabove defined, for the period commencing thirty (30) days after said election occurs. Assessments shall be levied against Owners during said period as provided in Paragraph 2 of this Article.

5. Failure to Prepare Annual Budget: The failure or delay the the Board to prepare or serve the annual or adjusted estimate on the owner shall not constitute a waiver or release in any manner of such owner's obligation to pay the maintenance cost and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the owner shall continue to pay the monthly maintenance charge at the then existing monthly maintenance payment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

6. Books and Records of Association: The Board shall keep full and correct books of account and the same shall be open for inspection by any owner or any representative of an owner at such reasonable time or times during the normal business hours as may be requested by the owner. Any mortgagee of a Condominium Unit shall have the right to examine said books and records of the Association during reasonable business hours. Upon ten (10) day notice to the Board and payment of a reasonable fee, any Unit owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such owner.

7. Status of Funds Collected by Board: All funds collected hereunder shall be held and expended solely for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all of the owners, and for such adjustment as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the use, benefit, and account of all of the owners in the proportions set forth in the Declarations.

8. Amendments: Except for such amendments as may be required to conform any provision of this Declaration to the requirement of law, all amendments to this Article shall only be effective upon unanimous written consent of the owners and their mortgagees.

IX.

ASSESSMENT LIEN

A. All sums assessed but unpaid for the share of common expenses chargeable to any Condominium Unit shall constitute a lien on such Condominium Unit superior to all other liens, encumbrances and homestead exemptions, except only for:

1. Real estate taxes and special assessment liens on the Condominium Unit in favor of any public or quasi-public assessing entity; and
2. All sums unpaid on a first mortgage or first deed of trust of record, including advances and all unpaid obligatory sums as may be provided by such encumbrance.

To evidence such lien, the Board of Managers shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of the accrued interest and late charge thereon, the name of the owner of the Condominium Unit and a description of the Condominium Unit. Such a notice shall be signed by one of the Board Managers or by one of the officers of the Association and shall be recorded in the office of the Clerk and Recorder of the County of Boulder, Colorado. Such lien shall attach on the date of Notice of Assessment is recorded. Such lien may be enforced by the foreclosure of the defaulting owner's Condominium Unit by the Association in like manner as a mortgage on real property.

B. An owner shall be required to pay the costs, expenses and attorney's fees incurred by the Association in regard to any such default including the cost of preparation and filing the lien, and, in the event of foreclosure proceedings, all additional costs, expenses and attorney's fees incurred. An owner of the Condominium Unit being foreclosed shall be required to pay to the Association the monthly common expense assessment for the Condominium Unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power and authority to bid for the Condominium Unit at a foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote and votes appurtenant to, convey or otherwise deal with the same during such proceeding and its ownership thereof.

C. Any encumbrancer holding a lien on a Condominium Unit may pay, but shall not be required to pay, any unpaid common expenses payable with respect to such Condominium Unit, and upon such payment, such encumbrancer shall have a lien on such Condominium Unit for the amounts paid of the same rank as the lien of his encumbrance without the necessity of having to record a notice or claim of such lien. The Association shall report to the mortgagee of a Condominium Unit any unpaid assessment remaining unpaid for longer than sixty (60) days after the same is due, or other default of any covenant, condition, obligation or term of this Declaration not cured within sixty (60) days; provided, however, that a mortgagee shall have furnished to the Association, notice of such encumbrance.

D. Any recorded lien for non-payment of the common expenses may be released by recording a Release of Lien executed by an officer or Manager of the Association.

E. The aforesaid assessments shall be the personal and individual debt of the owner of the Condominium Unit at the time the assessment is made. Suit to recover a money judgement for unpaid common expenses shall also be maintainable without foreclosing or waiving the lien securing the same. No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his Unit.

F. Joint Liability of Transferor and Transferee: The grantee of Condominium Unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the proportionate share of the common expenses up to the time of the grant or conveyance without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee. Grantee as used herein shall not include a party acquiring title through a foreclosure of a first mortgage or deed of trust or through a deed in lieu of such foreclosure.

X

DAMAGE OR DESTRUCTION AND
RESTORATION OF BUILDINGS

This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the project in the event of its destruction, damage, obsolescence or condemnation, including the repair, replacement and improvement of any Condominium Units, buildings, common elements or other portion of the project which has been so destroyed, damaged, condemned, or becomes obsolete. Title to any Condominium Unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint the CEDAR TWO CONDOMINIUM MANAGEMENT ASSOCIATION, INC. as their true and lawful attorney in their name, place and stead, for the purpose of dealing with the project upon its damage, destruction, obsolescence or condemnation as is hereinafter provided. As attorney-in-fact, the Association, by its President and Secretary or Assistant Secretary or its other duly authorized officers and agents, shall have full and complete authorization, right and power herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Condominium Unit owners shall be held within thirty (30) days of either such event. At such meeting a new attorney-in-fact, to deal with the property upon its destruction, damage, or obsolescence, or condemnation shall be appointed. Said appointment must be approved by the owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the common elements and at least seventy five percent (75%) of the first mortgagees of the Condominium Units. Repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring the improvement(s) to substantially the same condition in which they existed prior to the damage, with each Unit and the general and limited common elements having substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, reconstruction, or replacement unless all of the owners and all first mortgagees agree not to rebuild in accordance with the provisions hereinafter set forth.

(a) Sufficient Insurance. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s) shall be applied by the Association, as attorney-in-fact, to such such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power as attorney-in-fact to cause the repair and restoration of the improvement(s). Assessments for common expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

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(b) Insufficient Insurance. If the insurance proceeds are insufficient to repair and reconstruct the improvement(s) and if such damage is not more than seventy percent (70%) of the total replacement cost of all of the Condominium Units in this project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the owners and their Condominium Units. Such special assessment shall be a common expense and made pro rata according to each Owner's interest in the common elements and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right and power as attorney-in-fact, to cause the repair, replacement or restoration of the improvement(s) using all of the insurance proceeds for such purpose, notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his Condominium Unit and may be enforced and collected as is provided in Article IX. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any owners refusing or failing to pay such deficiency assessments with the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent owner shall be sold by the Association, as attorney-in-fact, pursuant to the provisions of the paragraph. Assessments for common expenses shall not be abated during the periods of insurance adjustment and repair and reconstruction. The delinquent owner shall be required to pay the Association the costs and expenses for filing the notice, interest at a rate of 10% per annum, on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

- (1) for payment of the balance of the lien of any first mortgage.
- (2) for payment of taxes and special assessments liens in favor of any assessing entity and the customary expenses of sale;
- (3) for payment of unpaid common expenses and all costs, expenses and fees incurred by the Association;
- (4) for payment of junior liens, and encumbrances in order of and to the extent of their priority; and
- (5) The balance remaining, if any, shall be paid to the Condominium Unit owner.

(c) If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is more than seventy percent (70%) of the total replacement cost of all of the Condominium Units in this project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the owners and their Condominium Units, provided, however, that owners representing an aggregate ownership interest of seventy-five percent (75%) or more of the common elements and at least seventy-five percent (75%) of the first mortgagees of record may agree not to repair or reconstruct the improvements; and in such event, the Association shall forthwith record a notice setting forth such fact or facts and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire project shall be sold by the Association pursuant to the provisions of this paragraph, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, The Map, Articles of Incorporation and Bylaws. Assessments for common expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each owner's interest in the common elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the Condominium Units. Each such account shall be in the name of the Association, and shall be further identified by the Condominium Unit designation and the name of the owner. From each separate account the Association, as attorney-in-fact shall forthwith use and disburse the total amount of each of such accounts without contribution from one account to another, toward the partial or full payment of the lien of any first mortgagee encumbering the Condominium Unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be based upon each Condominium

Unit owner's interest in common elements. The total funds of each account shall be used and disbursed, without contribution, from one account to another by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this paragraph.

(d) The owners representing an aggregate ownership interest of eighty percent (80%) or more, of the common elements in this project may agree that the common elements are obsolete and adopt a plan for the renewal and reconstruction which plan must have the approval of at least seventy-five percent (75%) of the first mortgagees record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plans shall be recorded and the expense of renewal and reconstruction shall be payable by all of the owners as a common expense, whether or not they have previously consented to the plan of renewal and reconstruction. The Association as attorney-in-fact, shall have the absolute right and power to sell the Condominium Unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the Condominium Unit of the delinquent owner shall be sold by the Association. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notices, interest at the rate of ten percent (10%) per annum, and all reasonable attorney's fees. The proceeds derived from the sale of such Condominium Unit shall be used and disbursed by the Association, as attorney-in-fact, for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this paragraph.

(e) The owners representing an aggregate ownership interest of eighty percent (80%) or more, of the common elements may agree that the Condominium Units are obsolete and that the same should be sold. Such plan or agreement must have the approval of all the first mortgagees of the Condominium Units. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire project shall be sold by the Association, as attorney-in-fact, for all of the owners, free and clear of the provisions contained in this Declaration, The Map, The Articles of Incorporation and the Bylaws. The sale proceeds shall be apportioned among the owners on the basis of each owner's interest in the common elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one Condominium Unit. Each such account shall be in the name of the Association and shall be further identified by the Condominium Unit designation and the name of the owners. From each separate account, the Association, as attorney-in-fact, shall use and disburse the total amount (of each) of such accounts, without contribution from one account to another, for the same purposes and in the same order as is provided in subparagraph (b) (1) through (5) of this paragraph.

XI

CONDEMNATION

If at any time or times during the continuance of the Condominium ownership pursuant to this Declaration, all or any part of the Condominium project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Article shall apply:

(a) Proceeds. All compensation, damages or other proceeds therefrom the sum of which is hereafter called the "Condemnation Award" shall be payable to the Association.

(b) Complete Taking

(1) In the event that the entire project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the Condominium ownership shall be apportioned among the owners on the same basis of each Condominium Unit owner's interest in the common elements, provided

however, that if a standard different from the value of the property as a whole is employed as the measure of the Condemnation Award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

(2) On the basis of the principle set forth in the last preceding paragraph, the Association shall as soon as practicable determine the share of the condemnation award to which each owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Section 27 (b) (1) through (5).

(c) Partial Taking. In the event that less than the entire condominium project is taken or condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder shall not terminate. Each owner shall be entitled to a share of the Condemnation Award to be determined in the following manner: As soon as practicable the Association shall reasonably and in good faith, allocate the Condemnation Award between compensations, damages or other proceeds and shall apportion the amounts so allocated among the owners as follows: (a) the total amount allocated to taking of or injury to the common elements shall be apportioned among the owners on the basis of each owner's interest respectively in the common elements; (b) the total amount allocated to severance damages shall be apportioned to those Condominium Units which were not taken or condemned; (c) the respective amounts allocated to the taking of or injury to a particular Unit and to the improvements an owner has made within his own Unit shall be apportioned to the particular Unit involved and (d) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Association determines to be equitable in the circumstances. If the allocation of the Condemnation Award is already established in negotiations, judicial decree or otherwise, then in allocating the Condemnation Award the Associations shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be disbursed as soon as practicable in the same manner provided in Section 27 (b) (1) through (5).

(d) The Association shall notify each first mortgagee of any Condominium Unit of the commencement of the condemnation proceedings and shall notify said mortgagees in the event of the taking of all or any part of the common elements, if the value of the common elements taken exceeds \$10,000.00.

(e) In the event a partial taking results in the taking of a complete unit, the owner thereof automatically shall cease to be a member of the Association, shall cease to hold any right, title or interest in the remaining common elements and shall execute any and all documents necessary to accomplish the same. Thereafter, the Association shall reallocate the ownership, voting rights and assessment ratio in accordance with this Declaration according to the same principles employed in this Declaration at its inception (square footage ratio) and shall submit such reallocation to the owners and of first mortgagees of remaining units for amendment of this Declaration as provided in Section.

(f) Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Section 10.

XII.

REMEDIES FOR BREACH OF COVENANTS, RESTRICTIONS AND REGULATIONS

1. Abatement and Enjoinment. The violation of any restriction or condition or regulation adopted by the Board, or the breach of any covenant or provision herein contained, shall give the Board the right, in addition to the rights set forth in the next succeeding section:

(a) to enter upon the Property in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing, or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and Phase One Homes or its successors or assigns, or the Board, or its agents, shall not thereby be deemed guilty in any manner of trespass; or

(b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

XIII.

GENERAL PROVISIONS

1. Declarant's Rights Pending Sale of Fifty-One Percent (51%) of Ownership Units: Until such time as Declarant shall have consummated the sale of Unit ownership totaling fifty-one percent (51%) of all Unit ownerships, the Declarant shall exercise the powers, rights, duties and functions of the Board Managers.

2. Registration of Mailing Address: Each Owner shall register his mailing address and the name and address of his first mortgagee, if any, with the Association and notices or demands intended to be served upon an Owner shall be sent by mail, postage prepaid, addressed in the name of the Owner and first mortgagee at such registered address. Copies of such notices shall be sent to first mortgagees in a like manner except when such notices pertain to matters specifically relating to mortgagees in which case such notice shall be sent certified, return receipt request or registered.

3. Inspection of Records: Unit owners and their mortgagees may inspect the records of receipts and expenditures of the Board of Managers at convenient weekday business hours and upon ten (10) days notice to the Manager or Board of Managers and payment of a reasonable fee, any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such owner.

4. Revocation or Amendment to Declaration

(a) Except as is otherwise provided, this Declaration shall not be revoked unless the owners representing an aggregate ownership interest of ninety percent (90%) or more of the common elements and at least seventy-five percent (75%) of the holders or recorded first mortgagees or deeds of trust consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless the owners representing an aggregate ownership of at least seventy-five percent (75%) of the common elements and at least seventy-five percent (75%) of the holders of recorded first mortgages or deeds of trust consent and agree to such amendment by instrument(s) duly recorded; provided, however, that the undivided interest in the common elements appurtenant to each unit, as expressed in the Declaration shall have a permanent character and shall not be altered without the consent of all the Unit owners and all of the first mortgagees as expressed in an amended Declaration duly recorded. The consent(s) of any junior mortgagee shall not be required under the provisions of this Paragraph. In determining whether the appropriate percentage of mortgagee approval is obtained when so required by the terms of this Declaration, each first mortgage shall have one (1) vote for each first mortgage owned.

(b) The Association shall have at least thirty (30) days prior to the effective date of any amendment to this Declaration notify the holders of all recorded first mortgages or deeds of trust encumbering a Condominium Unit(s) of such amendment.

5. Severability: The invalidity of any covenant, restriction, condition, limitation, or any other provision of this Declaration or of any part of the same, shall not impair or affect in any manner the validity, enforceability, or effect of the rest of this Declaration.

6. Interpretation of the Declaration: The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the

development and operation of a first class condominium development.

7. Governing Law: This Declaration shall be governed according to the laws of the State of Colorado.

XIV

COVENANTS AND RESTRICTIONS AS TO
USE AND OCCUPANCY

The units and Common Elements shall be occupied and used as follows:

1. Purpose of Property: No part of the Property shall be used for other than residential dwelling for residential use and the related common purposes for which the Property was designed. Each Unit or any two or more adjoining Units used together shall be used as a residence for a single family or such other uses permitted by the Declaration and for no other purpose. That part of the Common Elements separating any two or more adjoining Units used together as aforesaid may be altered to afford ingress and egress to and from such adjoining Units in such manner and upon such conditions as shall be determined by the Board in writing.

2. Obstructions of Common Elements: There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements without the prior consent of the Board except as herein expressly provided. Each Owner shall be obligated to maintain and keep in good order and repair his own Unit.

3. Hazardous Use and Waste: Nothing shall be done or kept in any Unit or in the common elements which will increase the rate of insurance, electricity, or any other utility charges of the building, or contents thereof, applicable for residential use, without the prior written consent of the Board. No owners shall permit anything to be done or kept in his Unit or in the Common Elements which will result in the cancellation of insurance on the building, or contents thereof, or which would be in violation of any law. No waste will be committed in the Common Elements.

4. Exterior Exposure of Building: Owners shall not cause or permit anything to be hung or displayed on the outside of doors or placed on the outside walls of a building and no sign shall be affixed to or placed upon the exterior wall or roof or any part thereof, without the prior consent of the Board.

5. Pets: No animals, dogs, cats, rabbits, livestock, fowl or poultry of any kind shall be raised or bred, in any Unit or in the Common Elements, but this shall not prevent Unit Owners from keeping pets for personal use.

6. Nuisances: No noxious or offensive activity shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become any annoyance or nuisance to the other Owners or Occupants.

7. Impairment of Structural Integrity of Building: Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the building or which would structurally change the buildings except as is otherwise provided herein.

8. Prohibited Activities and Signs: No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designed for profit, altruism, exploration or otherwise, shall be conducted maintained or permitted on any part of the Property, nor shall any "For Sale" or "For Rent" signs or other window displays or advertising be maintained or permitted by Owner on any part of the Property or in any Unit therein. The right is reserved by Declarant or its agent to place a "For Sale" or "For Rent" signs on any unsold or unoccupied Units, and to place such other signs on the Property as may be required to facilitate the business of unsold Units. The right is hereby given to any mortgagee, who may become the Owner of any Unit, to place "For Sale" signs on any Unit owned by such mortgagee. The right is hereby given the Board or its such representatives to place "For Sale" or "For Rent" signs on any unit or on the Property for the purpose of facilitating the disposal of Units by any Owner, mortgagee or the Board.

9. Laundry and Rubbish in Common Elements: No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris, and other unsightly materials.

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10. Lounging or storage in Common Elements: Except in areas specifically designed and intended for such purpose said lounging or storage is prohibited.

11. Alterations of Common Elements: Nothing shall be altered or constructed in or removed from the Common Elements, except upon the written consent of the Board.

12. Display of model Units by Declarant. During the period in which sales of Units by Declarant are in process, Declarant may occupy or grant permission to any person or entity to occupy, with or without rental, as determined by Declarant, one or more Units for business or promotional purposes including clerical activities, sales office Model Units for display and the like; provided that the activities in the Units so occupied do not interfere with the quiet enjoyment of any other Owner or Occupant.

XV.

RESPONSIBILITY OF TRANSFEREES FOR UNPAID ASSESSMENTS

In a voluntary transfer of a Unit the transferee of a Unit shall be jointly and severally liable with the transferor for all unpaid assessments against the latter up to the time of transfer, without prejudice to the transferee's right to recover for the transferor the amounts paid by the transferee therefor. However, any such transferee shall be entitled to a statement from the Board or President, or managing agent of the Board, as the case may be, setting forth the amount of the unpaid assessments against the transferor due the Owners and such transferee shall not be liable, nor shall the Unit conveyed by subject to a lien for any unpaid assessments made by the Board against the transferor in excess of the amount therein set forth. Any mortgagee who acquires a Unit either through foreclosure or by taking of a deed in lieu thereof shall be exempted from the provisions of this sections, and will not be liable for such Units; unpaid dues or charges which accrued prior to the acquisition of title to such Unit by the mortgagee.

XVI.

ASSESSMENT OF CONDOMINIUM UNITS FOR REAL PROPERTY TAXES ET AL.

Declarant desire to create separate assessment of the Condominium Units for the purpose of taxes, assessments and all other charges of the State of Colorado or of any political subdivision, special improvement district or of any other taxing or assessing authority. Therefore, the Association shall the duty to deliver written notice pursuant to the Condominium Ownership of the State of Colorado to the Assessor of Boulder County which notice shall describe the Condominium Units. The intent of this section is to have the valuation of the general and limited common elements be assessed proportionately upon the individual Condominium Units, and not upon the condominium project as a whole.

XVII.

MECHANIC'S LIENS

Termination of Mechanic's Lien Rights and Indemnification. Subsequent to the completion of any alterations, modifications or additions to the improvements described on the Map, no labor performed or materials furnished and incorporated in a Unit with the consent or at the request of the Unit Owner, his agent, his contractor or subcontractor, shall be the basis for filing a lien against the Condominium Units of any other owner not expressly consenting to or requesting the same, or against the common elements. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the Condominium Unit of any other owner or against the common elements for construction performed or for labor, materials, services or other products incorporated in the owner's Condominium Unit at such owner's request. The provisions herein contained are subject to the rights of the Managing Agent or Board of Managers of the Association as set forth herein. Notwithstanding the foregoing, any mortgagee of a Condominium Unit who shall become the owner of

Such Condominium Unit pursuant to a lawful foreclosure sale or the taking of a deed in lieu of foreclosure shall not be under any obligation to indemnify and hold harmless any other owner against liability for claims arising prior to the date such mortgagee becomes an owner.

XVIII.

ENCUMBRANCES - PRIORITY

The Owner of a Condominium Unit may create a junior mortgage (junior to the lien, deed of trust or other encumbrance of the first mortgagee), liens or encumbrances on his Condominium Unit; provided, however, that it is always be subordinate to the prior and paramount lien of the Association for common expenses and all to the terms, conditions, covenants, restrictions, uses, limitations and obligations under this Declaration, the Association's Articles of Incorporation and By-Laws, and provided further that such junior encumbrance(s) shall release, for purposes of restoration of any improvements within the project, all of his right, title, and interest in and to the proceeds under all insurance policies purchased by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association, and if such request is not granted, such release may be executed by the Association as attorney-in-fact for such junior mortgagee.

XIX.

ACCEPTANCE OF PROVISIONS OF ALL DOCUMENTS

The conveyance or encumbrance of a Condominium Unit shall be deemed to include the acceptance of all of the provisions of the Declaration, the Articles of Incorporation and Association By-Laws and Rules and Regulations and Management Agreement and shall be binding upon each grantee without the necessity of inclusion of such an express provision in the instrument of conveyance or encumbrance.

XX.

NON-PARTITIONABILITY AND TRANSFER OF THE COMMON ELEMENTS

The common elements shall be owned in common by all of the Owners of the Units and shall remain undivided. By the acceptance of his deed or other instrument of conveyance or assignment, each Owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the common elements, and each Owner specifically agrees not to institute an action therefor. Further, each Owner agrees that this Paragraph XX may be pled as a bar to the maintenance of such an action. A violation of this provision shall entitle the Association to personally collect, jointly and severally, from the party violating the same, the actual attorney's fees, costs, and other damages the Association incurs in connection therewith.

XXI.

DEFAULT

Any first mortgagee holding a first mortgage on a Condominium Unit, upon request, shall be entitled to written notification from the Association of any default in the performance by the individual Unit Owner/Borrower of any obligation under and condominium documents which is not cured within sixty (60) days.

XXII.

ASSOCIATION ADDITIONAL PROVISIONS

Unless at least two-thirds (2/3rds) of the first mortgagees (based upon one vote for each first mortgage owned), or owners (other than the sponsor, developer, or builder) of the individual condominium units have given their prior written approval, the Association shall not be entitled to:

- (a) by act or omission, seek to abandon or terminate the condominium project;
- (b) change the pro rate interest or obligations of any individual condominium unit for the purpose of: (i) levying assessment or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each condominium unit in common elements;
- (c) partition or subdivide any condominium unit;
- (d) by act or omission, seek to abandon, partition subdivide, encumber, sell or transfer the common elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the condominium project shall not be deemed a transfer with the meaning of this clause);
- (e) use hazard insurance proceeds for losses to any condominium property (whether to units or to common elements) for other than repair, replacement or reconstruction of such condominium property, except as provided by statute in case of substantial loss to the units and/or common elements of the condominium project.

XXIII.

AMENITIES

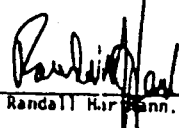
All amenities (such as parking, recreation and service areas) are part of the condominium project and are covered by the first mortgages on individual units, at least to the same extent as are the common elements.

XXIV.

Any professional management agreement for the condominium project, or any contract providing for services of the developer, sponsor or builder of the project may not exceed a three (3) year term. Any such agreement must provide for termination by either party without cause and without payment of termination fees on ninety (90) days or less written notice.

RANDALL HARTMANN Doing Business As
PHASE ONE HOMES.

BY:


Randall Hartmann.

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STATE OF COLORADO)
COUNTY OF BOULDER) SS

The above and foregoing Declaration was subscribed and sworn to before me this 14th day of November 1980, By Randall Hartmann.

Witness my hand and official seal.

My commission expires: July 19, 1981

Carol J. Lawrence
Notary Public



FILM 1143

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EXHIBIT "A"
TO
CONDOMINIUM DECLARATION
FOR
CEDAR TWO CONDOMINIUMS

Lots 21 and 24,
Block D,
EAST BOULDER ADDITION,
City of Boulder,
County of Boulder,
State of Colorado, according to the plat recorded in
Plat book 2, Page 46, filed January 21, 1974.

FILM 1143

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EXHIBIT "B"

TC CONDOMINIUM DECLARATION

FOR CEDAR TWO CONDMINIUMS

The real property described in Exhibit "A" is hereby divided into the following fee simple estate:

(a) Seven (7) fee simple estates consisting of seven (7) separately designated units, each such unit being identified by a number on the Map.

(b) The remaining portion of the entire premises referred to as common elements or general common elements which shall be held in fee simple in common by the owners, each such divided interest in the common elements pertinent to each of the units to be in the ratio as each unit bears to the total number of units. That is, each unit shall have one/seventh (1/7th) undivided interest in and to the general common elements.