

Unofficial Document

SECURITY TITLE: AGENCY

DKT 1596

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DECLARATION OF HORIZONTAL PROPERTY REGIME TOGETHER WITH COVENANTS, CONDITIONS AND RESTRICTIONS, AND GRANT AND RESERVATIONS OF EASEMENTS FOR VILLA OAK

PROP RSTR (PR)

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THIS DECLARATION is made on the 14th day of April 1982, by VENTURE CAPITAL/CORPORATION, an Arizona corporation, hereinafter referred to as "Declarant".

ARTICLE I

DECLARATION OF HORIZONTAL PROPERTY REGIME

SECTION 1. DESCRIPTION. Declarant is the Owner of all of the real property in Maricopa County, Arizona, described as follows:

A Horizontal Regime known as VILLA OAK consisting of Units 1 through 28, inclusive.

SECTION 2. PROJECT. On the real property referred to above in Section 1, a condominium project known as "VILLA OAK" shall be developed in accordance with the plat of the condominium development of VILLA OAK, of record in the Office of the County Recorder of Maricopa County, Arizona, in Book 241 at Page 26 thereof, recorded on _____, 1982.

SECTION 3. DECLARATION. Pursuant to Chapter 4.1, Article 2, Sections 33-551 to 33-561, inclusive, Arizona Revised Statutes, 1956, Declarant does hereby submit said property described above to the Horizontal Property Regime in order to establish the nature of the use and enjoyment of the aforescribed property.

SECTION 4. DESCRIPTION OF PROJECT. The project shall contain 28 individual Apartments, townhouse style. An Apartment shall have, as appurtenant to its ownership, such other rights and rights of use as may be shown on the recorded plat referred to in Section 2 above.

(a) DESCRIPTION OF THE LAND. The land is as described

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1 in Section 1 above.

2 (b) DESCRIPTION OF SPACE OF BUILDING. There are seven
3 (7) multi-unit buildings in the Horizontal Property Regime. The
4 cubic content space of each building with reference to its loca-
5 tion on the land is as more fully set forth and described in the
6 recorded plat referred to in Section 2 above, and the same is
7 incorporated herein for such purpose.

8 (c) DESCRIPTION OF SPACE OF APARTMENT. The Horizontal
9 Property Regime shall be composed of 28 individual Apartments.
10 Each Apartment shall be separately identified numerically as 1
11 through 28, as shown on the plat referred to in Section 2 above.
12 Each Apartment in the Horizontal Property Regime shall include a
13 one-twenty eighth (1/28) interest in the general common elements.

14 (d) DESCRIPTION OF GENERAL COMMON ELEMENTS. The gen-
15 eral common elements shall include all of said Property referred
16 to in Sections 1 and 2 above, including the land upon which the
17 Apartments are located, the buildings, all bearing walls, col-
18 umns, floors, roofs, slabs, all in-common recreational facili-
19 ties, if any, landscaping, except landscaping placed in private
20 courts, if any, private drives, all waste, water and gas pipes,
21 ducts, chutes, conduits, wires, drainage lines, other utility and
22 installation lines, the foundations of the Apartments, the foun-
23 dations of the buildings, and all other devices and premises
24 designed for common use or enjoyment by more than the owner or
25 owners of a single Apartment, all as is more fully set forth and
26 described herein and in the recorded plat referred to in Section
27 2 above, except for an Apartment as described in Article I,
28 Section 4 above, and except for the outlets of utilities when
29 located within an Apartment. The common elements shall remain
30 undivided; and no owner shall bring any action for partition, it
31 being agreed that this restriction is necessary in order to pre-
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1 serve the rights of the Owners with respect to the operation and
2 management of the common elements.

3 (e) PERCENTAGE INTEREST. Each Apartment shall bear a
4 3.57142% interest in the entire Horizontal Property Regime.

5 SECTION 5. VERTICAL DIMENSION. All reference to Vertical
6 Dimension made in this document or on the recorded plat referred
7 to above in Section 2 shall be based upon the elevations describ-
8 ed in the recorded plat referred to in Section 2 above and the
9 same is incorporated herein for such purpose.
10

11 ARTICLE II

12 COVENANTS, CONDITIONS AND RESTRICTIONS

13 DEFINITIONS

14 SECTION 1. "Apartment" shall mean a separate freehold
15 estate consisting of an ^{Official Document} ~~air space~~ or air spaces defined as
16 follows: The boundaries of each such Apartment are as follows:

17 (a) The lower vertical boundary is the surface of the
18 finished floor thereof.

19 (b) The upper vertical boundary is a horizontal plane,
20 the elevation of which coincides with the elevation of the
21 surface of the highest finished ceiling thereof.

22 (c) The lateral boundaries are the interior surfaces
23 of the perimeter walls, windows and doors thereof and vertical
24 planes coincidental with the interior surfaces of the perimeter
25 walls thereof, extended upwards from the finished floor to
26 intersect the upper vertical boundary.

27 (d) Each such Apartment includes the surfaces so
28 described, and the portions of the building and improvements
29 lying within said boundaries. Each such Apartment shall also
30 include the ranges, dishwashers, garbage disposal units, air
31 conditioning units, water heaters, garage door openers, and other
32 household appliances or devices which serve the Apartment whether

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1 lying within said boundaries and/or appurtenant areas or not.

2 (e) The air spaces and the ground surface for the
3 private court, if any, are designated for the exclusive use of
4 the apartment.

5 (f) Unless otherwise indicated, all air space boundary
6 lines intersect at right angles.

7 The following are not part of an Apartment: Bearing walls,
8 columns, vertical supports, floors, roofs, foundations, patio
9 walls and fences, pipes, ducts, flues, conduits, wires and other
10 utility installations, wherever located, except the outlets
11 thereof when located within the Apartment. In interpreting
12 deeds, plats, declarations, and plans, the existing physical
13 boundaries of an Apartment or an Apartment reconstructed in
14 substantial accordance with the original plans thereof shall be
15 conclusively presumed to be its boundaries rather than the
16 description expressed in the deed, plat, plan or declaration,
17 regardless of settling or lateral movement of the building, and
18 regardless of minor variances between the boundaries as shown on
19 the plan or in the deed and declaration and those of the build-
20 ing. Each of the Apartments in each building shall be deemed to
21 be a separate and distinct Apartment.

22 SECTION 2. "Articles" shall mean the Articles of Incorpora-
23 tion of the Association which are, or shall be, filed in the
24 office of the Corporation Commission of the State of Arizona, as
25 said Articles may be amended from time to time.

26 SECTION 3. "Association" shall mean and refer to VILLA OAK
27 Homeowner's Association, an Arizona non-profit corporation, its
28 successors and assigns, formed as an entity through which the
29 Owners may act, in accordance with A.R.S. §33-551.5 and §33-561.

30 SECTION 4. "Board" shall mean the Board of Directors of the
31 Association.
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1 SECTION 5. "Building" shall mean and refer to the struc-
2 tures designated as buildings on the recorded plat referred to in
3 Section 2 of Article I above, in accordance with A.R.S. §33-
4 551.2, et seq.

5 SECTION 6. "Bylaws" shall mean the Bylaws of the Associa-
6 tion, as such Bylaws may be amended from time to time.

7 SECTION 7. "General Common Elements" shall mean all the
8 general common elements for the common use or enjoyment by more
9 than the Owner or Owners of a single Apartment, as described in
10 Article I, Section 4 (d) above, and in A.R.S. §33-551.6. The
11 General Common Elements may sometimes hereinafter be referred to
12 as "Common Elements". There shall be no "Limited Common
13 Elements".

14 SECTION 8. "Declarant" shall mean VENTURE CAPITAL CORPORA-
15 TION, an Arizona corporation, as Owner, and its successors and
16 assigns.

17 SECTION 9. "Declaration" shall mean this entire document,
18 as the same may from time to time be amended, relating to all or
19 part of VILLA OAK.

20 SECTION 10. "Improvement" shall mean all physical struc-
21 tures, including, but not limited to, the buildings, drives,
22 parking areas, fences and walls, and all landscaping, including
23 but not limited to, hedges, plantings, trees and shrubs of every
24 type and kind.

25 SECTION 11. "Member" shall mean any person, corporation,
26 partnership, joint venture or other legal entity who is a member
27 of the Association.

28 SECTION 12. "Owner(s)" shall mean and refer to the record
29 owner, whether one or more persons or entities, of equitable or
30 beneficial title (or legal title if same has merged) of any
31 Apartment. "Owner" shall include the purchaser of an Apartment
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1 under an executory contract for the sale of real property. The
 2 foregoing does not include persons or entities who hold an inter-
 3 est in any Apartment merely as security for the performance of an
 4 obligation. Except as stated otherwise herein, "Owner" shall not
 5 include a lessee or tenant of an Apartment. For the purposes of
 6 Article V only, unless the context otherwise requires, "Owner"
 7 shall also include the family, invitees, licensees, and lessees
 8 of any Owner, together with any other person or parties holding
 9 any possessory interest granted by such Owner in any Apartment.

10 SECTION 13. "Property" shall mean and refer to the land as
 11 committed to the Horizontal Property Regime in fee, the build-
 12 ings, all other Improvements located thereon, and all easements,
 13 rights and appurtenances belonging thereto.

14 SECTION 14. "Single Family" shall mean a group of one or
 15 more persons each related ^{Unofficial Document} to the other by blood, marriage or legal
 16 adoption, or a group of not more than three persons not all so
 17 related, together with their domestic servants, who maintain a
 18 common household in a dwelling.

19 SECTION 15. "VILLA OAK" shall mean all property located in
 20 the County of Maricopa, State of Arizona, which becomes subject
 21 to this Declaration, together with such other real property as
 22 may from time to time be annexed thereto.

23 SECTION 16. "Visible from Neighboring Property" shall mean
 24 with respect to any given object, that such object is or would be
 25 visible to a person six feet tall, standing on any part of such
 26 neighboring property at an elevation no greater than the eleva-
 27 tion of the base of the object being viewed.

28 ARTICLE III

29 PROPERTY RIGHTS

30 SECTION 1. OWNERS' EASEMENTS OF ENJOYMENT. Every Owner
 31 shall have a right and easement of enjoyment in and to the Common
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1 Elements which shall be appurtenant to and shall pass with the
2 title to every Apartment, subject to the following provisions:

3 (a) The right of the Association to charge reasonable
4 admission and other fees for the use of any recreational facility
5 situated upon the Common Elements;

6 (b) The right of the Association to suspend the voting
7 rights and right to use of the recreational facilities by an
8 Owner for any period during which any assessment against his
9 Apartment remains unpaid; and for a period not to exceed 60 days
10 for any infraction of this Declaration;

11 (c) The right of the Association to dedicate or trans-
12 fer all or any part of the Common Elements to any public agency,
13 authority, or utility for such purposes and subject to such con-
14 ditions as may be agreed to by the Members. No such dedication
15 or transfer shall be effective Unofficial Document unless an instrument signed by
16 two-thirds (2/3) of the Members agreeing to such dedication or
17 transfer has been recorded.

18 SECTION 2. DELEGATION OF USE. Any Owner may delegate, in
19 accordance with this Declaration, his right of enjoyment to the
20 Common Elements and facilities to the members of his family, his
21 tenants, his guests or invitees.
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23 ARTICLE IV

24 GENERAL DECLARATION

25 SECTION 1. GENERAL DECLARATION. Declarant hereby declares
26 that all of the real property within VILLA OAK is and shall be
27 held, conveyed, hypothecated, encumbered, leased, occupied, built
28 upon or otherwise used, improved or transferred in whole or in
29 part, subject to this Declaration as amended or modified from
30 time to time. This Declaration is declared and agreed to be in
31 furtherance of a general plan for the subdivision, improvement
32 and sale of said real property and is established for the purpose

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1 of enhancing and perfecting the value, desirability and attrac-
 2 tiveness of said real property and every part thereof. All of
 3 this Declaration shall run with all of said real property for all
 4 purposes and shall be binding upon and inure to the benefit of
 5 Declarant, the Association, all Owners, and their successors in
 6 interest.

ARTICLE V

8 LAND USE CLASSIFICATIONS,
 9 PERMITTED USES AND RESTRICTIONS

10 SECTION 1. PERMITTED USES AND RESTRICTIONS. The permitted
 11 uses, easements, and restrictions for all property within VILLA
 12 OAK covered by this Declaration, except for Common Elements,
 13 shall be as follows:

14 (a) SINGLE FAMILY RESIDENTIAL USE. Useful Document An Apartment shall
 15 be used, improved and devoted exclusively to Single Family Resi-
 16 dential Use. No gainful occupation, profession, trade or other
 17 nonresidential use shall be conducted on any such property.
 18 Nothing herein shall be deemed to prevent the lease of an Apart-
 19 ment to a single family from time to time by the Owner thereof,
 20 subject to all of the provisions of this Declaration.

21 (b) ANIMALS. No animals, birds, fowl, poultry, or
 22 livestock, other than a reasonable number of domestic dogs, cats,
 23 fish, and birds in inside bird cages shall be maintained on any
 24 Property within VILLA OAK and then only if they are kept thereon
 25 solely as domestic pets and not for commercial purposes. No
 26 animal or bird shall be allowed to make an unreasonable amount of
 27 noise, or to become a nuisance. No structure for the care,
 28 housing or confinement of any animal or bird shall be maintained
 29 so as to be Visible from Neighboring Property. Upon the written
 30 request of any Owner, the Board shall conclusively determine, in
 31 its sole and absolute discretion, whether, for the purposes of
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1 this paragraph, a particular animal or bird is a generally
2 recognized household pet, or a nuisance, or whether the number of
3 animals or birds on any such property is reasonable. Any
4 decision rendered by the Board shall be enforceable as other
5 restrictions contained herein. The Board shall have the right to
6 prohibit maintenance of any animal or bird which constitutes, in
7 the opinion of the Board, a nuisance to any other Owner. As used
8 in this Declaration, the term "reasonable" shall be deemed to
9 limit the number of dogs, cats, and birds, to two (2) each.

10 (c) ANTENNAS. No antenna or other device for the
11 transmission or reception of television or radio signals or any
12 other form of electromagnetic radiation shall be erected, used or
13 maintained outdoors on any property within VILLA OAK whether
14 attached to a building or structure or otherwise. At the option
15 of the Apartment Owner, antennae may be installed in the attic
16 space of the Apartment.

17 (d) UTILITY SERVICE. No lines, wires, or other
18 devices for the communication or transmission of electric current
19 or power, including telephone, television, and radio signals,
20 shall be erected, placed or maintained anywhere in or upon any
21 property with VILLA OAK unless the same shall be contained in
22 conduits or cables installed and maintained underground or
23 concealed in, under or on buildings or other structures approved
24 by the Board. No provision hereof shall be deemed to forbid the
25 erection of temporary power or telephone structures incident to
26 the construction of buildings or structures approved by the
27 Board.

28 (e) IMPROVEMENTS AND ALTERATIONS. No improvements,
29 exterior painting, landscaping or decorative alterations,
30 repairs, excavation or other work which in any way alters the
31 exterior appearance of any Property within VILLA OAK, or the
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1 improvements located thereon shall be commenced, erected, main-
2 tained, made or done without the prior written approval of the
3 Board or any committee established by the Board for the purpose.
4 Pursuant to its rule-making power, the Board shall establish a
5 procedure for the preparation, submission and determination of
6 applications for any such Alteration or Improvement. The Board
7 shall have the right to refuse to approve any plans or specifi-
8 cations, which are not suitable or desirable, in its opinion, for
9 aesthetic or other reasons, and in so passing upon such plans,
10 specifications and grading plans, and without any limitation of
11 the foregoing, it shall have the right to take into consideration
12 the suitability of the proposed Improvement, and of the materials
13 of which it is to be built, the site upon which it is to be
14 located, the harmony thereof with the surroundings, and the
15 effect thereof on the outlook from the adjacent or neighboring
16 Property. All subsequent additions to or changes or alterations
17 in any buildings, fence, wall, or other structure, including
18 exterior color scheme, shall be subject to the prior approval of
19 the Board. No changes or deviations in or from such plans and
20 specifications once approved shall be made without the prior
21 written approval of the Board. All decisions of the Board shall
22 be final and no Owner or other party shall have recourse against
23 the Board for its refusal to approve any such plans and specifi-
24 cations. Nothing in this section shall prohibit the installation
25 in his private court, if any, by any Apartment Owner of plants,
26 paving, other surface improvements, or any other additions or
27 alterations normally associated with private yards; provided
28 that such improvements, additions or alterations are not Visible
29 from Neighboring Property.
30

31 (f) TEMPORARY OCCUPANCY. No temporary buildings or
32 structure of any kind shall be used at any time for a residence

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1 on any Property within VILLA OAK.

2 (g) TRAILERS AND MOTOR VEHICLES. Except with the
3 approval of the Board, no trailer of any kind, or permanent tent
4 or similar structure shall be kept, placed, maintained, con-
5 structed, reconstructed or repaired, nor shall any motor vehicle
6 be constructed, reconstructed or repaired upon any Property or
7 street (public or private) within VILLA OAK in such a manner as
8 will be Visible from Neighboring Property. No automobile, boat,
9 trailer, recreational vehicle, camper, truck, motorcycle,
10 motorbike, scooter or other similar motor vehicle belonging to
11 any Owner shall be parked or stored on any private drive or in
12 any part of the Property other than in the parking spaces that
13 will be designated by the developer as belonging to that particu-
14 lar Owner other than the parking spaces which shall be designated
15 as reserved for each Apartment unit, all other nondesignated
16 parking shall be considered open parking for temporary guests
17 only. Only automobiles in operating condition shall be parked in
18 any of the designated or guest parking ares. Provided, however,
19 that the provisions of this paragraph shall not apply to
20 emergency vehicle repairs or temporary construction shelters or
21 facilities maintained during, and used exclusively in connection
22 with the construction of any improvement approved by the Board.

23 (h) REPAIR AND MAINTENANCE.

24 (1) BY OWNER. Each Owner of an Apartment shall
25 maintain, repair, replace, and restore, at his own expense, all
26 portions of the Apartment, including the private court, if any,
27 as hereinabove defined, subject to control and approval of the
28 Association as provided herein. No Owner shall remove, alter,
29 injure or interfere in any way with any shrubs, trees, grass or
30 plantings placed upon any Property by Declarant or the Associa-
31 tion without the written consent of the Association having first
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1 been obtained.

2 (2) BY THE ASSOCIATION. The Association shall
3 have full power to control, and it shall be its duty to maintain,
4 repair and make necessary improvements to and pay for out of the
5 maintenance fund to be provided, all Common Elements, and the
6 improvements thereon, including, but not limited to, common
7 facilities and improvements, all common landscaping and drainage
8 facilities; all corrective architectural, landscaping and repair
9 work within residences; all metered utilities for Common Ele-
10 ments; and all private roadways, streets, parking areas, walks,
11 and other means of ingress and egress within the project. This
12 shall include the exterior portions of the Apartment, all roofs
13 and all fascias, and the buildings (except for the Apartments and
14 except for exterior wall surfaces directly abutting private
15 courtyards, if any); the land upon which the buildings are
16 located; the air space above the buildings, all bearing walls,
17 columns, floors, roofs, slabs, foundations, balconies, lobbies;
18 all waste, water, sewer, and gas pipes, ducts, chutes, conduits,
19 wires and all other utility installations of the buildings,
20 wherever located, except the outlets thereof when located within
21 the Apartments. The Association shall further be empowered with
22 the right and duty to periodically inspect all Common Elements in
23 order that minimum standards of repair, design, color and land-
24 scaping shall be maintained for beauty, harmony and conservation
25 within the entire project. Water is provided to the Apartments
26 and to the entire project in and by a central maintenance
27 facility. The Association shall cause all of such equipment to
28 be properly maintained and operated.

29 (3) GENERAL MAINTENANCE. In the event that the
30 Association determines that an Improvement or the Common Elements
31 are in need of repair, restoration or painting, or that the
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1 landscaping is in need of installation, repair, or restoration,
2 the Association shall undertake to remedy such condition and the
3 cost thereof shall be charged to the Owners and shall be subject
4 to levy, enforcement and collection by the Association in
5 accordance with the assessment lien procedure provided for in
6 this Declaration. The Association shall have a limited right of
7 entry in and upon all Common Elements as defined above and the
8 exterior of all Apartments for the purpose of taking whatever
9 corrective action may be deemed necessary or proper by the
10 Association. Nothing in this Article shall in any manner limit
11 the right of the Owner to exclusive control over the interior of
12 his Apartment. Provided, however, that an Owner shall grant the
13 right of entry therein to the Association or any other person or
14 other Owner or Owners, or their authorized representatives, in
15 case of any emergency originating in or threatening his Apart-
16 ment, whether the Owner is present or not, when so required to
17 enter his Apartment for the purpose of performing installation,
18 alterations, or repair to the mechanical, electrical or gas
19 services (if any), including water, sewer, and other utility
20 services and installation and maintenance of common television
21 antennae (if any), provided that reasonable requests for entry
22 are made and that such entry is at a time reasonably convenient
23 to the Owner whose Apartment is to be entered. In case of an
24 emergency, such right of entry shall be immediate without the
25 necessity for a request having to be made.

26 (4) REPAIR NECESSITATED BY OWNER. In the event
27 that the Association determines that an Improvement or the Common
28 Elements are in need of repair, restoration or painting, or that
29 the landscaping is in need of installation, repair or restoration
30 which has been caused by an Owner, or that there is a violation
31 of any provisions of this Declaration by an Owner, then the
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1 Association shall give written notice to the Owner of the
2 condition or violation complained of, and unless the Board has
3 approved in writing corrective plans proposed by the Owner to
4 remedy the condition complained of within such reasonable period
5 of time as may be determined by the Board after said written
6 notice is first given, and such corrective work so approved is
7 completed thereafter within the time allotted by the Board, the
8 Association shall undertake to remedy such condition or violation
9 complained of and the cost thereof shall be charged to the Owner
10 and his Apartment whose residence is the subject matter of the
11 corrective work, and such cost shall be deemed to be an Assess-
12 ment to such Owner, and his Apartment, and subject to levy,
13 enforcement and collection by the Association in accordance with
14 the assessment lien procedure provided for in this Declaration.
15 The Association shall have the same right of entry in and upon
16 all Common Elements and an Apartment as defined above. The Board
17 shall have the sole right to determine whether any such costs
18 expended by the Association related to General Maintenance or was
19 Repair Necessitated by an Owner, and the determination of same
20 shall be binding and final as to an Owner.

21 (i) NUISANCE. No rubbish or debris of any kind shall
22 be placed or permitted to accumulate upon or adjacent to any
23 Property within VILLA OAK and no odors shall be permitted to
24 arise therefrom, so as to render any such Property or any portion
25 thereof unsanitary, unsightly, offensive or detrimental to any
26 other property in the vicinity thereof or to its occupants. No
27 nuisance shall be permitted to exist or operate upon any such
28 Property so as to be offensive or detrimental to any other
29 Property in the vicinity thereof or to its occupants. Without
30 limiting the generality of any of the foregoing provisions, no
31 exterior speakers, horns, whistles, bells or other sound devices,
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1 except security devices used exclusively for security purposes,
2 shall be located, used or placed on any such Property. The Board
3 in its sole discretion shall have the right to determine the
4 existence of any such nuisance and the right to remove same at
5 the expense of the Apartment Owner who created it.

6 (j) TRASH CONTAINERS AND COLLECTION. No garbage or
7 trash shall be placed or kept on any Property within VILLA OAK
8 except in covered containers of a type, size and style which are
9 approved by the Board. In no event shall such containers be
10 maintained so as to be Visible, except to make the same available
11 for collection and then, only the shortest time reasonably
12 necessary to effect such collection. The Board shall have the
13 right, in its sole discretion, to require all Owners to subscribe
14 to a garbage trash service.

15 (k) CLOTHES DRYING FACILITIES. Unofficial Document Outside clothes lines
16 or other outside facilities for drying or airing clothes shall
17 not be erected, placed or maintained on any property within VILLA
18 OAK unless they are erected, placed and maintained exclusively
19 within a fenced service yard or otherwise concealed and shall not
20 be Visible from Neighboring Property.

21 (l) DISEASES AND INSECTS. No Owner shall permit any
22 thing or condition to exist upon any Property within VILLA OAK
23 which shall induce, breed or harbor infectious plant diseases or
24 noxious insects.

25 (m) RESTRICTION ON FURTHER SUBDIVISION. No Apartment
26 within VILLA OAK shall be further subdivided or separated into
27 smaller Apartments by an Owner, and no portion less than all of
28 any such Apartment nor any easement or other interest therein,
29 shall be conveyed or transferred by any Owner without the prior
30 written approval of the Board. This provision shall not, in any
31 way, limit Declarant from subdividing or separating into smaller
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1 lots or parcels any Property owned by Declarant. No portion of
 2 an Apartment but for the entire Apartment, together with the
 3 improvements thereon, may be rented, and then only to a single
 4 family. This restriction shall not prevent the conveyance or
 5 encumbrances of adjoining or contiguous Apartments or parts of
 6 Apartments in such a manner as to create an Apartment in a common
 7 ownership. Thereafter such part or parts of adjoining or
 8 contiguous Apartments in such common ownership shall, for the
 9 purposes of these restrictions, be considered as one Apartment.
 10 This restriction shall not prevent the granting by an Owner
 11 thereof of an easement over part or parts of an Apartment for use
 12 by another Owner provided that such an easement must be first
 13 approved by the Board.
 14

15 (n) SIGNS. ~~No signs~~ Unofficial Document whatsoever (including, but not
 16 limited to, commercial, political and similar signs) which are
 17 visible from Neighboring Property shall be erected or maintained
 18 on any Property within VILLA OAK except:

19 (1) Such signs as may be required by legal
 20 proceedings;

21 (2) Not more than one (1) Owner residential
 22 identification sign of a total face area of seventy-two (72)
 23 square inches or less;

24 (3) During the time of construction of any
 25 building or other improvement, one job identification sign not
 26 larger than eighteen by twenty-four (18 x 24) inches in height
 27 and width and having a face area not larger than three (3) square
 28 feet;

29 (4) Such signs, the nature, number and location
 30 of which have been approved in advance by the Board; and

31 (5) Such signs, the number, type and size of
 32 which as may be approved from time to time by Declarant for

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1 Developers.

2 (o) DECLARANT'S EXEMPTION. Nothing contained in this
3 Declaration shall be construed to prevent the erection or mainte-
4 nance by Declarant or its duly authorized agents, of structures,
5 Improvements or signs necessary or convenient to the development,
6 sale, operation or other disposition of Property within VILLA
7 OAK.

8 (p) EASEMENTS. There is hereby created a blanket
9 easement upon, across, over and under the above described Prop-
10 erty for ingress, egress, installation, replacing, repairing and
11 maintaining all utility and service lines and systems, including,
12 but not limited to, water, sewers, gas, telephones, electricity,
13 television cable or communication lines and systems, etc. By
14 virtue of this easement, ^{Official Document} all be expressly permissible for
15 the providing utility or service company or the Association or
16 their agent to install and maintain facilities and equipment on
17 said Property and to affix and maintain wires, circuits and
18 conduits on, in and under roofs and exterior walls of any Build-
19 ing. Notwithstanding anything to the contrary contained in this
20 paragraph, no sewers, electrical lines, water lines, or other
21 utilities or service lines may be installed or relocated on said
22 Property except as initially designed and installed or thereafter
23 approved by the Board. This easement shall in no way affect any
24 other recorded easements on said Property. This easement shall
25 be limited to Improvements as originally constructed. There
26 shall be an access easement over all exterior Common Areas for
27 the declivery and collection of the U.S. Mail.

28 (q) ENCROACHMENT. Each Apartment shall be subject to
29 an easement for encroachments created by construction, settling
30 and overhangs, as designed or constructed. A valid easement for
31 said encroachments and for the maintenance of same, so long as it
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1 stands, shall and does exist. In the event a building is par-
2 tially or totally destroyed, and then rebuilt, the Owners agree
3 that minor encroachments of parts of the adjacent residence due
4 to construction shall be permitted and that a valid easement for
5 said encroachment and the maintenance thereof shall exist.

6 (r) COMMON WALLS. The rights and duties of Owners
7 with respect to Common Walls shall be as follows:

8 (1) The Owners of contiguous Apartments who have
9 a Common Wall shall both equally have the right to use such wall
10 provided that such use by one Owner does not interfere with the
11 use and enjoyment of same by the other Owner.

12 (2) In the event that any Common Wall is damaged
13 or destroyed through the act of an Owner or any of his agents or
14 guests or members of his family (whether or not such act is
15 negligent or otherwise culpable), it shall be the obligation of
16 such Owner to rebuild and repair the Common Wall without cost to
17 the other adjoining Owner or Owners.

18 (3) In the event any such Common Wall is
19 destroyed or damaged other than by the act of any Owner, his
20 agents, guests or family, it shall be the obligation of the
21 Association to rebuild and repair said Common Wall using the
22 proceeds of any insurance. However, if said insurance proceeds
23 are insufficient to repay the cost of repairing and rebuilding,
24 the Association may assess the Owner(s) for any unpaid cost
25 pursuant to the section of this Declaration entitled "Mandatory
26 Assessments".

27 (4) Notwithstanding anything to the contrary
28 herein contained, there shall be no impairment of the structural
29 integrity of any Common Wa'l without the prior consent of the
30 Board.

31 (5) In the event of a dispute between Owners with
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1 respect to the construction, repair or rebuilding of a Common
2 Wall, or with respect to the bearing of the cost thereof, the
3 Owners shall submit the dispute to the Board, the decision of
4 which shall be final and binding on all Owners.

5 (s) INSURANCE. The Board, or its duly authorized
6 agent, shall have the authority to and shall obtain insurance for
7 all the Property, except individual Apartments, against loss or
8 damage by fire or other hazards in an amount sufficient to cover
9 the full replacement cost of any repair or reconstruction work in
10 the event of damage or destruction from all reasonable hazards,
11 and shall also obtain a broad form public liability policy
12 covering all Common Elements, and all damage or injury caused by
13 the negligence of the Association or any of its agents. Said
14 insurance may include coverage against vandalism. Premiums for
15 all such insurance, except on the individual Apartments, shall be
16 common expenses of the Association. All such insurance coverage
17 obtained by the Board shall be written in the name of the Asso-
18 ciation as trustee for each of the Owners. Insurance on indi-
19 vidual Apartments obtained by Owners may be written in the name of
20 the individual Owners. In addition to the aforesaid insurance
21 required to be carried by the Association, any Owner may, if he
22 wishes, at his own expense, carry any and all other insurance he
23 deems advisable. It shall be the individual responsibility of
24 each Owner at his own expense to provide, as he sees fit, Owner's
25 liability insurance, theft and other insurance covering personal
26 property damage and loss. In the event of damage or destruction
27 by fire or other casualty to any Property covered by insurance
28 written in the name of the Association, the Board shall, upon
29 receipt of the insurance proceeds, contract to rebuild or repair
30 such damaged or destroyed portions of the Property to as good
31 condition as formerly. All such insurance proceeds shall be
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1 deposited in a bank or other financial institution, the accounts
 2 of which bank or institution are insured by a federal govern-
 3 mental agency, with the provision agreed to by said bank or
 4 institution that such funds may be withdrawn only by two signa-
 5 tures of members of the Board, or by an agent duly authorized by
 6 the Board. The Board shall contract with any licensed con-
 7 tractor, who shall be required to provide a full performance and
 8 payment bond for the repair, reconstruction or rebuilding, of
 9 such destroyed building or buildings. In the event the insurance
 10 proceeds are insufficient to pay all the costs of repairing
 11 and/or rebuilding to the same condition as formerly, the Board
 12 shall levy a special assessment against all Owners to make up any
 13 deficiency for repair or rebuilding of the Common Elements not a
 14 part of an Apartment. In the event such insurance proceeds
 15 exceed the cost of repair and reconstruction, such excess shall
 16 be paid over to the Association.

17 **SECTION 2. PERMITTED USES AND RESTRICTIONS - COMMON ELE-**
 18 **MENTS.** The permitted uses and restrictions for Common Elements
 19 shall be as follows:

20 **A. MAINTENANCE BY VILLA OAK HOMEOWNERS' ASSOCIATION.** The
 21 Association may, at any time, as to any Common Elements, con-
 22 veyed, leased, or transferred to it, or otherwise placed under
 23 its jurisdiction, in the discretion of the Board, without any
 24 approval of the Owners being required:

25 (1) Reconstruct, repair, replace or refinish any
 26 improvement or portion thereof upon any such area (to the extent
 27 that such work is not done by a governmental entity, if any,
 28 responsible for the maintenance and upkeep of such area) in
 29 accordance with (a) the last plans thereof approved by the Board,
 30 (b) the original plans for the improvement, or (c) if neither of
 31 the foregoing is applicable and if such improvement was previ-
 32

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1 ously in existence, then in accordance with the original design,
2 finish or standard of construction of such improvement as same
3 existed;

4 (2) Construct, reconstruct, repair, replace or
5 refinish any road improvement or surface upon any portion of such
6 area used as a road, street, walk, driveway and parking area.

7 (3) Replace injured and diseased trees, shrubs and
8 ground vegetation in any such area, and plant trees, shrubs and
9 ground cover to the extent that the Board deems necessary for the
10 conservation of water and soil and for aesthetic purposes; and

11 (4) Place and maintain upon any such area such signs
12 as the Board may deem appropriate for the proper identification,
13 use and regulation thereof.

14 (5) Do all such other and further acts which the Board
15 deems necessary to preserve and protect the property and the
16 beauty thereof, in accordance with the general purposes specified
17 in this Declaration.

18 (6) The Board shall be the sole judges as to the ap-
19 propriate maintenance of all grounds within the Common Elements.

20 B. DAMAGE OR DESTRUCTION OF COMMON ELEMENTS BY OWNERS. No
21 Owner shall in any way damage or destroy any Common Elements, or
22 interfere with the activities of the Association in connection
23 therewith. Any amount incurred by the Association by reason of
24 any such act of an Owner shall be paid by said Owner, upon
25 demand, to the Association and the Association may enforce col-
26 lection of same in the same manner as provided elsewhere in this
27 Declaration for collection and enforcement of assessments.

28
29 ARTICLE VI

30 THE ASSOCIATION

31 SECTION 1. ORGANIZATION.

32 A. THE ASSOCIATION. The Association is a non-profit

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1 Arizona Corporation charged with the duties and invested with the
2 powers prescribed by law and set forth in the Articles, Bylaws,
3 and this Declaration. Neither the Articles nor Bylaws shall, for
4 any reason, be amended or otherwise changed or interpreted so as
5 to be inconsistent with this Declaration.

6 B. SUBSIDIARY ASSOCIATIONS. The Association shall have the
7 right to form one or more Subsidiary Associations, for any pur-
8 pose or purposes deemed appropriate by the unanimous vote of the
9 Board. However, any such Subsidiary Association shall be subject
10 to this Declaration and may not take any action to lessen or
11 abate the rights of the Owners herein.

12 C. BOARD OF DIRECTORS AND OFFICERS. The affairs of the
13 Association shall be conducted by a Board of Directors and such
14 Officers and Committees as the Directors may elect or appoint, in
15 accordance with the Articles ^{Unofficial Document} and Bylaws, as same may be amended
16 from time to time.

17 SECTION 2. POWERS AND DUTIES OF THE ASSOCIATION. The
18 Association shall have such rights, duties and powers as set
19 forth in the Articles and Bylaws, as same may be amended from
20 time to time. The Association may contract with a management
21 company as agent for the performance of maintenance and repair
22 and for conducting other activities on behalf of the Association.

23 SECTION 3. ASSOCIATION RULES. By a majority vote of the
24 Board, the Association may, from time to time and subject to the
25 provision of this Declaration, adopt, amend, and repeal rules and
26 regulations to be known as the "Association Rules". The Associa-
27 tion Rules may restrict and govern the use of any common area by
28 an Owner, by the family of such Owner, or by any invitee,
29 licensee or lessee of such Owner; provided, however, that the
30 Association Rules shall not discriminate among Owners and shall
31 not be inconsistent with this Declaration, the Articles or the
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1 Bylaws. A copy of the Association Rules as they may from time to
 2 time be adopted, amended or repealed, shall be mailed or other-
 3 wise delivered to each Owner and may be recorded. Upon such
 4 adoption, said Rules shall have the same force and effect as if
 5 they were set forth in and were a part of the Declaration.

6 SECTION 4. PERSONAL LIABILITY. No member of the Board of
 7 any Committee of the Association, or any officer or employee of
 8 the Association, or the Manager, shall be personally liable to
 9 any Owner, or to any other party, including the Association, for
 10 any damage, loss or prejudice suffered or claimed on account of
 11 any act, omission, error, or negligence of the Association, the
 12 Board, the Manager, or any other representative or employees of
 13 the Association, or any Architectural Committee, or any other
 14 Committee, or any officer of the Association, provided that such
 15 person has, upon the basis of such information as may be posses-
 16 sed by him, acted in good faith, without wilful or intentional
 17 misconduct. Furthermore, the Association shall indemnify, pro-
 18 tect and hold harmless all members of the Board and all officers,
 19 employees and agents of the Association from and against any and
 20 all claims, demands, suits or actions for damage, injury, loss or
 21 prejudice suffered or alleged from any act, omission, error or
 22 negligence of any person provided said members of the Board, and
 23 said officers, employees and agents have acted in good faith,
 24 without wilful or intentional misconduct. The Association shall
 25 obtain any moneys for said indemnification pursuant to the
 26 Mandatory Assessment rights of the Association as identified in
 27 the section entitled "Mandatory Assessments".
 28

29 ARTICLE VII

30 MEMBERSHIP AND VOTING RIGHTS

31 SECTION 1. Every Owner of an Apartment which is subject to
 32 assessment shall be a Member of the Association. Membership

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1 shall be appurtenant to and may not be separated from ownership
2 of any Apartment which is subject to assessment.

3 SECTION 2. The Association shall have two classes of voting
4 membership.

5 CLASS A. Class A members shall be all Owners with the
6 exception of the Declarant and shall be entitled to one (1) vote
7 for each Apartment owned. When more than one person holds an
8 interest in any Apartment, all such persons shall be Members.
9 The vote for such Apartment shall be exercised as they among
10 themselves determine, but in no event shall more than one vote be
11 cast with respect to any Apartment.

12 CLASS B. The Class B member(s) shall be the Declarant
13 and shall be entitled to three (3) votes for each Apartment
14 owned. The Class B membership shall cease and be converted to
15 Class A membership on the ^{Unifical Document}ing of either of the following
16 events, whichever occurs earlier:

17 (a) When the total votes outstanding in the Class A
18 membership equal or exceed the total votes outstanding in the
19 Class B membership of

20 (b) on January 1, 1987.

21 SECTION 3. The vote for each such Apartment must be cast as
22 a unit, the splitting of a vote shall not be allowed. In the
23 event that joint Owners are unable to agree among themselves as
24 to how their vote or votes shall be cast, they shall lose their
25 right to vote on the matter in question. If any Owner or Owners
26 casts a vote representing a certain Apartment, it will thereafter
27 be conclusively presumed for all purposes that he or they were
28 acting with the authority and consent of all other Owners of the
29 same Apartment. In the event more than one vote is cast for a
30 particular Apartment, none of said votes shall be counted as said
31 votes shall be deemed void.
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1 SECTION 4. In any election of the members of the Board,
 2 every Owner entitled to vote at such an election shall have the
 3 right to cumulate his votes and give one candidate, or divide
 4 among any number of the candidates, a number of votes equal to
 5 the number of votes the Owner is entitled to under Section 2
 6 hereof multiplied by the number of directors to be elected. The
 7 candidates receiving the highest number of votes, up to the
 8 number of the Board members to be elected shall be deemed
 9 elected.

10 SECTION 5. Each member shall have such other rights, duties
 11 and obligations as set forth in the Articles and Bylaws, as same
 12 may be amended from time to time.

13 SECTION 6. The Association membership of each Owner of an
 14 Apartment within VILLA ONE shall be appurtenant to said Apart-
 15 ment. The rights and obligations of an Owner and membership in
 16 the Association shall not be assigned, transferred, pledged,
 17 conveyed, or alienated in any way except upon transfer of owner-
 18 ship to such Apartment, or by intestate succession, testamentary
 19 disposition, foreclosure of a mortgage of record, or such other
 20 legal process as now in effect or as may hereafter be established
 21 under or pursuant to the laws of the State of Arizona. Any
 22 attempt to make a prohibited transfer shall be void. Any trans-
 23 fer of ownership to said Apartment shall operate to transfer said
 24 membership to the new Owner thereof.

26 ARTICLE VIII

27 COVENANT FOR MAINTENANCE AND ASSESSMENTS

28 SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF
 29 ASSESSMENTS. Each Owner of any Apartment, by acceptance of a
 30 deed therefor, whether or not it shall be so expressed in such
 31 deed, is deemed to covenant and agree to pay to the Association:
 32 (1) annual assessments or charges, and (2) special assessments

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1 for capital improvements, such assessments to be established and
 2 collected as hereinafter provided. The annual and special
 3 assessments, together with interest, costs, and reasonable attor-
 4 ney's fees, shall also be the personal obligation of the person
 5 who was the Owner of such Apartment at the time when the assess-
 6 ment was levied. The personal obligation for delinquent assess-
 7 ments shall not pass to his successors in title unless expressly
 8 assumed by them.

9 SECTION 2. PURPOSE OF ASSESSMENTS. The assessments levied
 10 by the Association shall be used exclusively to promote the
 11 recreation, health, safety, and welfare of the residents in VILLA
 12 OAK for the improvement and maintenance of the Common Elements,
 13 and for all purposes set forth in the Articles, including but not
 14 limited to, insurance premiums, expenses for maintenance repairs
 15 and replacements of Common ^{Useful Document} Elements, reserves for contingencies,
 16 and charges for water, gas and electric and other utilities for
 17 the apartments and for the Common Elements.

18 SECTION 3. MANDATORY ASSESSMENTS. The Association may
 19 assess each of its Members pursuant to Article V, Section 1 (r)
 20 (3) for the cost of repairing and rebuilding common walls
 21 destroyed or damaged other than by the acts of an Owner, or his
 22 agents, guests, or family, if said costs are not completely
 23 covered and reimbursed by insurance. Furthermore, the Associa-
 24 tion may assess each of its Members pursuant to Article VI (4)
 25 entitled "Personal Liability" to provide moneys for the Associa-
 26 tion to indemnify any Member of its Board, and any officer,
 27 employee or agent of the Association, provided all acts have been
 28 done on behalf of the Association in good faith, without wilful
 29 or intentional misconduct.

30 SECTION 4. MAXIMUM ANNUAL ASSESSMENT.

31 (a) Other than for Mandatory Assessments pursuant to
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1 Section 3 above, prior to January of the year immediately follow-
 2 ing the conveyance by Declarant of the first Apartment to the
 3 Owner, the Maximum Additional Annual Assessment shall be
 4 \$900.00.

5 (b) Other than for Mandatory Assessments pursuant to
 6 Section 3 above, from and after January 1 of the year immediately
 7 following the conveyance by the Declarant of the first Apartment
 8 to the Owner, the Additional Annual Assessment may be increased
 9 above the Maximum Additional Annual Assessment by a vote of two-
 10 thirds (2/3) of each Class of Members who are voting in person or
 11 by proxy, at a meeting duly called for this purpose;

12 (c) In addition to the Mandatory Assessments pursuant
 13 to Section 3 above, the Board may fix the Annual Additional
 14 Assessment at an amount not in excess of the Maximum Assessment.

15 SECTION 5. ^{Unofficial Document} SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.
 16 In addition to the Mandatory Assessments pursuant to Section 3
 17 above, and Annual Assessments authorized in Section 4 above, the
 18 Association may levy, in any assessment year, a special assess-
 19 ment applicable to that year for the limited purpose of defray-
 20 ing, in whole or in part, the cost of any construction, recon-
 21 struction, repair or replacement of a capital Improvement of the
 22 Common Elements, including fixtures and personal property related
 23 thereto, provided that any such assessment shall have the assent
 24 of two-thirds (2/3) of the votes of each class of Members who are
 25 voting in person or by proxy at a meeting duly called for this
 26 purpose.

27 SECTION 6. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED
 28 UNDER SECTIONS 3, 4 AND 5. Written notice of any meeting called
 29 for the purpose of taking any action authorized under Section 3,
 30 4 or 5 shall be sent to all Members not less than Ten (10) days
 31 nor more than Sixty (60) days in advance of the meeting. At the
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1 first such meeting called, the presence of Members or of proxies
 2 entitled to cast Sixty (60%) percent of all othe votse of each
 3 class of membership shall constitute a quorum. If the required
 4 quorum is not present, another meeting may be called subject to
 5 the same notice requirement, and the required quorum at the
 6 subsequent meeting shall be one-half (1/2) of the required quorum
 7 at the preceding meeting. No such subsequent meeting shall be
 8 held more than sixty (60) days following the preceding meeting.

9 SECTION 7. UNIFORM RATE OF ASSESSMENT. Both annual and
 10 special assessments must be fixed at a uniform rate for all
 11 Apartments, and may be collected on a monthly, quarterly, or
 12 annual basis.

13 SECTION 8. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE
 14 DATES. The annual assessments provided for herein shall commence
 15 as to all Apartments on the first day of the month following the
 16 conveyance of an Apartment ^{Unofficial Document} to an Owner. The first annual assess-
 17 ment shall be adjusted according to the number of months remain-
 18 ing in the calendar year. The Board shall fix the amount of the
 19 annual assessment against each Apartment at least thirty (30)
 20 days in advance of each annual assessment period. Written notice
 21 of the annual assessment shall be sent to ever Owner subject
 22 thereto. The due dates shall be established by the Board of
 23 Directors. The Association shall, upon demand, and for a reason-
 24 able charge, furnish a certificate signed by an officer of the
 25 Association setting forth whether the assessments on a specified
 26 Apartment have been paid.

27 SECTION 9. EFFECT OF NONPAYMENT OF ASSRSMENTS; REMEDIES OF
 28 THE ASSOCIATION. Each Owner of any Apartment shall be deemed to
 29 covenant and agree to pay to the Association the assessments
 30 provided for herein, and agrees to the enforcement of the assess-
 31 ments in the manner herein specified. In the event the Associa-
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1 tion employs an attorney for collection of any assessment,
 2 whether by suit or otherwise, or to enforce compliance with or
 3 specific performance of the terms and conditions of this Declara-
 4 tion, or for any other purpose in connection with the breach of
 5 this Declaration, each Owner and Member agrees to pay reasonable
 6 attorney's fees and costs thereby incurred in addition to any
 7 other amounts due or any other relief or remedy obtained against
 8 said Owner or Member. In the event of a default in payment of
 9 any such assessment when due, in which case the assessment shall
 10 be deemed delinquent, and in addition to any other remedies
 11 herein or by law provided, the Association may enforce each such
 12 obligation in any manner provided by law or in equity, or without
 13 any limitation of the foregoing, by either or both of the follow-
 14 ing procedures:

15 (a) ENFORCEMENT BY SUIT. The Board may cause a suit at
 16 law to be commenced and maintained in the name of the Association
 17 against an Owner or Member to enforce each such assessment obli-
 18 gation. Any judgment rendered in any such action shall include
 19 the amount of the delinquency, together with interest thereon at
 20 the maximum rate permitted by law from the date of delinquency
 21 until paid, court costs, and reasonable attorney's fees in such
 22 amount as the Court may adjudge against the delinquent Owner or
 23 Member.

24 (b) ENFORCEMENT BY LIEN. There is hereby created a
 25 right of claim of lien, with power of sale, on each and every
 26 Apartment within VILLA OAK to secure payment to the Association
 27 of any and all assessments levied against any and all Owners of
 28 such Apartments under this Declaration, together with interest
 29 thereon at the maximum rate permitted by law per annum from the
 30 date of delinquency until paid, and all costs of collection which
 31 may be paid or incurred by the Association in connection there-
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1 with, including reasonable attorney's fees. At any time within
2 ninety (90) days after the occurrence of any default in the
3 payment of any such assessment, the Association, or any autho-
4 rized representative may, but shall not be required to, make a
5 written demand for payment to the defaulting Owner, on behalf of
6 the Association. Said demand shall state the date and amount of
7 the delinquency. Each default shall constitute a separate basis
8 for a demand or claim of lien or a lien, but any number of
9 defaults may be included within a single demand or claim of lien.
10 If such delinquency is not paid within ten (10) days after
11 delivery of such demand, or, even without such a written demand
12 being made, the Association may elect to file such a claim of
13 lien on behalf of the Association against the Apartment of the
14 defaulting Owner. Such a claim of lien shall be executed and
15 acknowledged by any officer of the Association, and shall contain
16 substantially the following information:

- 17 1. The name of the delinquent Owner;
- 18 2. The legal description and street address of the
19 Apartment against which the claim of lien is made;
- 20 3. The total amount claimed to be due and owing for
21 the amount of delinquency, interest thereon, collection costs, and
22 reasonable attorney's fees (with any proper offset allowed);
- 23 4. That the claim of lien is made by the Association
24 pursuant to this Declaration; and
- 25 5. That a lien is claimed against said Apartment in an
26 amount equal to the amount stated.

27 Upon recordation of a duly executed original or copy of such
28 claim of lien, and mailing a copy thereof to said Owner, the lien
29 claimed therein shall immediately attach and become effective in
30 favor of the Association as a lien upon the Apartment and the
31 Common Elements and rights appurtenant to the Apartment, against
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1 which such Assessment was levied, as created by this Declaration.
2 Such a lien shall have priority over all liens or claims created
3 subsequent to the recordation of the claim of lien thereof,
4 except only tax liens for real property taxes on any Apartment,
5 assessments on any Apartment in favor of any municipal or other
6 governmental assessing unit, and the liens which are specifically
7 described in Section 10 hereinafter. Any such lien may be fore-
8 closed by appropriate action in Court or in the manner provided
9 by law for the foreclosure of a realty mortgage or trust deed as
10 set forth by the laws of the State of Arizona, as the same may be
11 changed or amended. The lien provided for herein shall be in
12 favor of the Association and shall be for the benefit of all
13 other Apartment Owners. The Association shall have the power to
14 bid in at any foreclosure sale and to purchase, acquire, hold,
15 lease, mortgage, and convey any Apartment. In the event such
16 foreclosure is by action in Court, reasonable attorney's fees,
17 court costs, title search fees, interest and all other costs and
18 expenses shall be allowed to the extent permitted by law. Each
19 Owner, by becoming an Owner of an Apartment in VILLA OAK hereby
20 expressly waives any objection to the enforcement and foreclosure
21 of this lien in this manner.

22 SECTION 10. SUBORDINATION OF THE LIEN TO MORTGAGES AND
23 DEEDS OF TRUST. The lien of the assessments provided for herein
24 shall be subordinate to the lien of any first mortgage or first
25 deed of trust. Sale or transfer of any Apartment shall not
26 affect the assessment lien. However, the sale or transfer of
27 any Apartment pursuant to mortgage foreclosure, any proceeding in
28 lieu thereof, or any trustee's sale pursuant to the power of sale
29 under a deed of trust, shall extinguish the lien of such assess-
30 ments as to payments which become due prior to the completion of
31 such sale or transfer. No sale or transfer shall relieve such
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1 Apartment from liability for any assessments thereafter becoming
2 due or from the lien thereof.

4 ARTICLE IX

5 ARCHITECTURAL CONTROL

6 SECTION 1. DUTIES. It shall be the duty of the Board to
7 consider and act upon any and all proposals or plans submitted to
8 it pursuant to the terms hereof, to adopt rules, and to carry out
9 all other duties imposed upon it by this Declaration or the
10 Association with respect to architectural control.

11 SECTION 2. MEETINGS AND COMPENSATION. The Board shall meet
12 from time to time as necessary to perform its duties hereunder.
13 Subject to the provisions of Article III, Section 1 (b), the vote
14 or written consent of a majority in attendance, at a meeting or
15 otherwise, shall constitute the act of the Board. The Board
16 shall keep and maintain a written record of all actions taken by
17 it at such meetings or otherwise. Members of the Board shall not
18 be entitled to compensation for their services.

19 SECTION 3. RULES. The Board may, from time to time and in
20 its sole and absolute discretion, adopt, amend and repeal, by
21 unanimous vote or written consent, rules and regulations to be
22 known as "Architectural Rules". The Rules shall interpret and
23 implement this Declaration by setting forth the standards and
24 procedures for review and the guidelines for architectural
25 design, placement of buildings, landscaping, color schemes,
26 exterior finishes, and materials and similar features which are
27 recommended for use.

28 SECTION 4. WAIVER. The approval or disapproval by the
29 Board of any plans, drawings or specifications for any work done
30 or proposed, or for any other matter requiring the approval of
31 the Board shall not be deemed to constitute a waiver of any right
32 to approve or withhold approval of any similar plan, drawing

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1 specification or matter subsequently submitted for approval.

2 SECTION 5. LIABILITY. Neither the Board nor any member
3 thereof shall be liable to the Association, any owner, or to any
4 other party, for any damage, loss or prejudice suffered or
5 claimed on account of the approval or disapproval of any plans,
6 drawings, or specifications, whether or not defective; the con-
7 struction or performance of any work, whether or not defective;
8 the construction or performance of any work, whether or not
9 pursuant to approved plans, drawings and specifications; the
10 development of any property; or the execution and filing of any
11 estoppel certificate, whether or not the facts therein are
12 correct; provided, however, that with respect to the liability of
13 a member of the Committee, such member has acted in good faith on
14 the basis of such information as may be possessed by him. With-
15 out in any way limiting the generality of any of the foregoing
16 provisions, the Board, or any member thereof, may, but is not
17 required to, consult with or hear the views of the Association or
18 any Owner with respect to any plans, drawings, specifications, or
19 any other proposal submitted to the Board in connection there-
20 with.

21 SECTION 6. TIME FOR APPROVAL. In the event the Board fails
22 to approve or disapprove within thirty (30) days after complete
23 plans and specifications have been submitted to it, approval will
24 not be required and this Article will be deemed to have been
25 waived.

26 ARTICLE X

27 GENERAL PROVISIONS

28 SECTION 1. ENFORCEMENT. The Association, or any Owner,
29 shall have the right too enforce, by any proceeding at law or in
30 equity, all restrictions, conditions, covenants, reservations,
31 liens and charges now or hereafter imposed by the provisions of
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1 this Declaration. Failure by the Association or by any Owner to
2 enforce any covenant or restriction herein contained shall in no
3 event be deemed a waiver of the right to do so thereafter.

4 SECTION 2. SEVERABILITY. Invalidation of any one of these
5 covenants or restrictions by judgment or court order shall in no
6 way affect any other provisions which shall remain in full force
7 and effect.

8 SECTION 3. AMENDMENT. The covenants and restrictions of
9 this Declaration shall run with and bind the Apartment, and
10 Common Elements, for a term of twenty (20) years from the date of
11 this Declaration is recorded, after which time they shall be
12 automatically extended for successive periods of ten (10) years.
13 This Declaration may be amended before conveyance of any Apart-
14 ment by the Developer. After any sale of an Apartment, this
15 Declaration may be amended during the first twenty (20) year
16 period by an instrument signed by not less than seventy (70%)
17 percent of the Apartment Owners, and thereafter by an instrument
18 signed by not less than two-thirds (2/3) of the Apartment Owners.
19 Any amendment must be recorded.

20 SECTION 4. EASEMENTS. Declarant expressly reserves for the
21 benefit of all Property which may from time to time be covered by
22 this Declaration, reciprocal easements of access, ingress and
23 egress. Such easements may be used by Declarant, its successors,
24 purchasers and Owners, their guests, tenants, and invitees for
25 pedestrian walkways, vehicular access and such other purposes
26 reasonably necessary to use and enjoyment of an Apartment in the
27 project.

28 SECTION 5. VIOLATIONS AND NUISANCE. Every act or omission
29 whereby any provision of this Declaration is violated in whole or
30 in part is hereby declared to be a nuisance and may be enjoined
31 or abated, whether or not the relief sought is for negative or
32

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1 affirmative action, by Declarant, the Association or any Owner or
 2 Owners of Apartments within VILLA OAK. However, any other provi-
 3 sion to the contrary notwithstanding, only Declarant, the Associ-
 4 ation, the Board, or the duly authorized agents of any of them,
 5 may enforce by self-help any of the provisions of this Declara-
 6 tion.

7 SECTION 6. VIOLATION OF LAW. Any violation of any state,
 8 municipal, or local law, ordinance or regulation, pertaining to
 9 the ownership, occupation or use of any Property within VILLA OAK
 10 is hereby declared to be a violation of this Declaration and
 11 subject to any or all of the enforcement procedures set forth
 12 herein.

13 SECTION 7. REMEDIES CUMULATIVE. Each remedy provided
 14 herein is cumulative and not exclusive.

15 SECTION 8. Unofficial Document DELIVERY OF NOTICES AND DOCUMENTS. Any written
 16 notice or other documents relating to or required by this Declara-
 17 tion may be delivered either personally or by mail. If by mail,
 18 it shall be deemed to have been delivered twenty-four (20) hours
 19 after a copy of same has been deposited in the United States
 20 mail, postage prepaid, addressed as follows:

21 If to the Association, at:

22 4410 North Saddlebag
 23 Scottsdale, Arizona 85251

24 If to an Owner, to the address of his Apartment within VILLA
 25 OAK owned, in whole or in part, by him or to any other address
 26 last furnished by an Owner to the Association; and

27 If to Declarant, at:

28 4410 North Saddlebag
 29 Scottsdale, Arizona 85251

30 provided, however, that any such address may be changed at any
 31 time by the party concerned by recording a written notice of
 32 change of address and delivering a copy thereof to the Associa-

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1 tion. Each Owner of an Apartment shall file the correct mailing
2 address of such Owner with the Association, and shall promptly
3 notify the Association in writing of any subsequent change of
4 address.

5 SECTION 9. BINDING EFFECT. By acceptance of a deed or by
6 acquiring any ownership interest in any of the Property included
7 within this Declaration, each person or entity, for himself or
8 itself, his heirs, personal representatives, successors,
9 transferees, and assigns, binds himself, his heirs, personal
10 representatives, successors, transferees and assigns, to all of
11 the provisions, restrictions, covenants, conditions, rules and
12 regulations now or hereafter imposed by this Declaration and any
13 amendments thereof. In addition each such person by so doing
14 thereby acknowledged that this Declaration sets forth a general
15 scheme for the improvement Official Document development of the real property
16 covered thereby and hereby evidences his interest that all the
17 restrictions, conditions, covenants, rules and regulations con-
18 tained herein shall run with the land and be binding on all sub-
19 sequent and future Owners, grantees, purchasers, assignees, and
20 transferees thereof. Furthermore, each such person fully under-
21 stands and acknowledges that this Declaration shall be mutually
22 beneficial, prohibitive and enforceable by the various subsequent
23 and future Owners. Declarant, its successors, assigns and
24 grantees, covenant and agree that the Apartments and the member-
25 ship in the Association and the other rights created by this
26 Declaration shall not be separated or separately conveyed, and
27 each shall be deemed to be conveyed or encumbered with its re-
28 spective Apartment even though the description in the instrument
29 of conveyance or encumbrance may refer only to the Apartment.

30 SECTION 10. OFFER OF SALE. Any Owner who desires to sell,
31 lease or rent his Apartment shall, prior to accepting any offer
32

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1 to purchase, lease or rent, give to the Board written notice of
2 the terms and amount of such offer, including the name and
3 address of the offeror. If, within fifteen (15) days after
4 service of such notice by Owner, any member or group of members
5 of the Association submits to the Board an identical firm and
6 binding offer to purchase, lease or rent, the Owner shall accept
7 the offer of said member or group of members of the Association
8 in preference to the original offer described in the notice to
9 the Board, and in the event more than one (1) member or group of
10 members of the Association submits an identical firm and binding
11 offer to the Board within said fifteen (15) day period, the Owner
12 may, at his discretion, accept any one of said offers. If no
13 identical offer from a member or group of members of the Associa-
14 tion is submitted within said fifteen (15) day period, the Board
15 shall, upon request of the ^{Unofficial Document} Owner, execute an affidavit stating
16 that the Owner has complied with the provisions hereof. Such
17 affidavit shall contain the information that the Board has been
18 duly elected, that a particular Apartment has been offered for
19 sale or lease, identifying the same, and that the proper notice
20 to sell or lease has been served by the Owner and that the
21 fifteen (15) day period has passed and that no member or group of
22 members of the Association submitted an identical firm and
23 binding offer within the time allowed herein. Such affidavit
24 shall be deemed conclusive evidence of the truth of the facts
25 therein recited.

26 If no member or group of members of the Association submits
27 an identical firm and binding offer within said fifteen (15) day
28 period, the selling Owner, may, at the expiration of said fifteen
29 (15) day period and at any time within sixty (60) days after the
30 expiration of said period, accept the offer described in said
31 notice.
32

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1 The provisions of this paragraph shall not be applicable or
2 be enforceable by the Board or by any person with respect to:

3 (a) A sale, transfer or conveyance of any Apartment to
4 any person or entity, pursuant to a judgment of foreclosure of a
5 mortgage of record or power of sale under a deed of trust, or
6 deed in lieu thereof, and the subsequent sale, transfer or
7 conveyance by such person or entity;

8 (b) An original sale of any unit by Declarant, or its
9 assignees or successors in interest;

10 (c) Any rental, with or without a written lease, for a
11 term of one (1) year or less; provided that any subsequent lease
12 to the same person or persons, organization, entity, association
13 or corporation, directly or indirectly, shall not be exempt from
14 the provisions of this Article.

15 (d) A transfer of title by testamentary disposition or
16 intestate succession.

17 SECTION 11. RESPONSIBILITY FOR COMPLIANCE. Each Owner
18 shall be responsible for compliance by said Owner's agent,
19 tenant, guest, invitee, lessee, licensee, their respective
20 servants and employees to the provisions of this Declaration,
21 Articles, Bylaws, and Association Rules as they may be amended
22 from time to time. The Owner's failure to so insure compliance
23 by such persons shall be grounds for the same action available to
24 the Board by reason of said Owner's non-compliance.

25 SECTION 12. EXEMPTION OF OWNER. No Owner of an Apartment
26 may exempt himself from liability for his fair and equitable
27 contribution towards the common expenses by waiver and non-use of
28 any of the Common Elements and facilities or by the abandonment
29 of his Apartment.

30 IN WITNESS WHEREOF, the undersigned, being the Declarant
31 herein, has hereunto set their hands and seals this 14th day of
32

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1 April, 1982.

CONSTRUCTION AND DEVELOPMENT
VENTURE CAPITAL CORPORATION

By Sam Nocifera, President
Sam Nocifera, President

By Joyce E. Pullen, Sec
Joyce Pullen, Secretary

8 STATE OF ARIZONA)
9 County of Maricopa) ss.
10)

11 On this 14th day of April, 1982, before me, the
12 undersigned notary public, personally appeared SAM NOCIFERA, the
13 President of VENTURE CAPITAL CORPORATION, an Arizona corporation,
14 and JOYCE PULLEN, the Secretary of of VENTURE CAPITAL CORPORATION,
15 an Arizona corporation, known to me, or satisfactorily
16 proven, to be the persons whose names are subscribed to the
17 within instrument and acknowledged that they executed the fore-
18 going instrument, being duly authorized by the corporation so to
19 do, for the purposes therein expressed.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

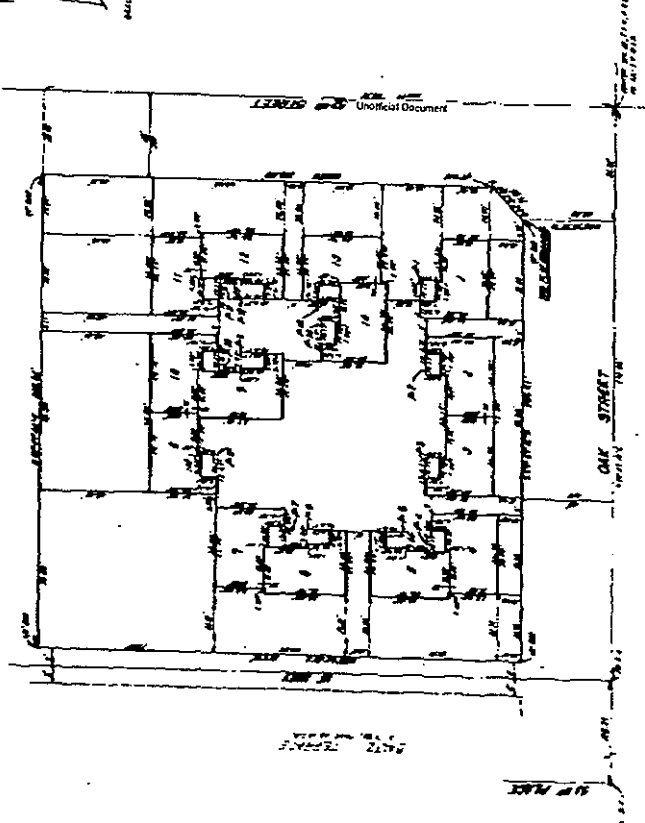
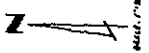
Janis L. Argent
Notary Public

18 My Commission Expires:
19 Feb. 7, 1983

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THIS PAGE WILL NOT REPRODUCE SATISFACTORY.

- WALLS
- DOOR
- WINDOW
- STAIR
- TRAP
- PIPE
-



FIRST FLOOR

	ARCHITECT PROJECT NO. 15961	SHEET NO. 1 OF 2 DATE: 1982
	ARCHITECTURAL FIRM 1000 15TH STREET, SUITE 1000, OAKLAND, CALIF. 94612	

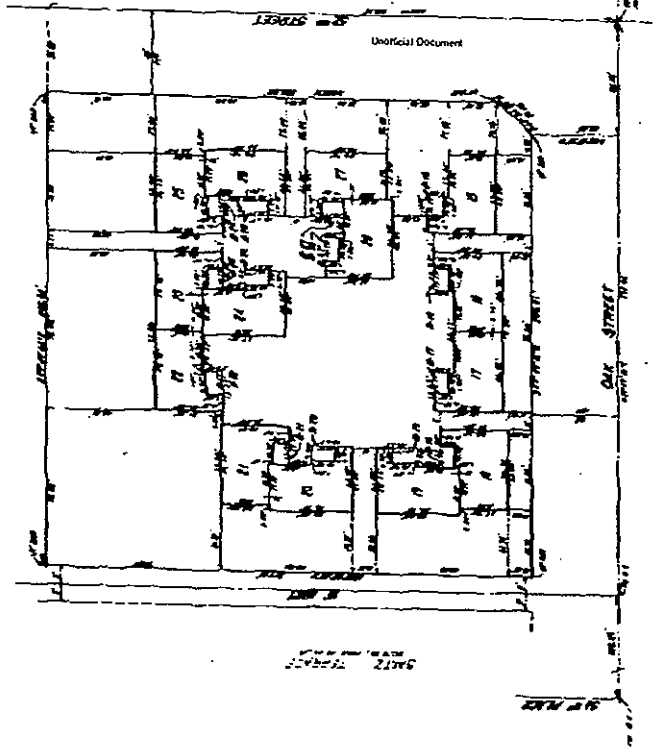
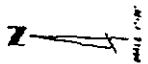
SCALE
 1/8" = 1'-0"
 (SEE NOTE ON DRAWING)

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SECOND FLOOR

NO.	DESCRIPTION	DATE
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2	REVISION	10/21/81
3	REVISION	10/21/81
4	REVISION	10/21/81
5	REVISION	10/21/81
6	REVISION	10/21/81
7	REVISION	10/21/81
8	REVISION	10/21/81
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49	REVISION	10/21/81
50	REVISION	10/21/81



STATE OF CALIFORNIA
 COUNTY OF ...
 CITY OF ...
 ARCHITECT'S SEAL AND SIGNATURE
 ARCHITECT'S NAME
 ARCHITECT'S ADDRESS
 ARCHITECT'S PHONE NUMBER
 ARCHITECT'S LICENSE NUMBER
 ARCHITECT'S EXPIRATION DATE

LEGOLIS
 OAK STREET
 SANTO

200 10 10000 1

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APR 15 1982 -4 15

STATE OF ARIZONA }
County of Maricopa } ss

I hereby certify that the within
instrument was filed and re-
corded at request of

SECURITY TITLE AGENCY

in Docket 15961
on page 626-669
Witness my hand and official
seal this day and year a. record.

Bill Henry

County Recorder

By *[Signature]*
Deputy Recorder

Unofficial Document

2350