

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

James C. Williams, Circuit Court Judge sitting as Special Referee

Trial Case No. 2011-CP-10-2232

Appellate Case No. 2014-001915

The Bristol Condominium
Property Owners Association.....Respondent,
v.

John T. Lucas St. as Trustee of the John T. Lucas Revocable
Trust Dated November 10, 2004, and Carolyn C. Lucas as Trustee of the Carolyn C. Lucas
Revocable Trust Dated November 10, 2004.....Defendants/Counterclaim Plaintiffs,

Of Whom John T. Lucas, Sr. is the Appellant,
v.

The Bristol Condominium
Property Owners Association.....Counterclaim Defendant.

RECORD ON APPEAL
Volume Two

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1 STATE OF SOUTH CAROLINA)
 2) IN THE COURT OF COMMON PLEAS
 2 COUNTY OF CHARLESTON)

3

4

CASE NO. 2010-CF-10-3240

5

COPY

6 JOHN T. LUCAS, SR., et al.)

7 Plaintiffs,)

8 -vs-)

BEFORE THE HONORABLE:
JAMES WILLIAMS, JR.9 BRISTOL CONDOMINIUM PROPERTY)
10 OWNER'S ASSOCIATION,)

11 Defendants.)

12

13

14 Given before Trisha G. Rarick, Court Reporter and Notary
 15 Public, at BARNWELL, WHALEY, PATTERSON & HELMS, LLC, 288
 16 Meeting Street, Suite 200, Charleston, South Carolina, on
 17 Wednesday, May 23, 2013, at 9:28 a.m.

18

19

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ALSO PRESENT:

LONA VEST

JOHN T. LUCAS, SR.

CAROLYN LUCAS

I N D E X

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1 (Plaintiffs' Deposition Exhibit No. 3

2 was marked for identification.)

3 THE COURT: All right. You may proceed.

4 MR. MOONEYHAM: Thank you, Your Honor, if
5 you please, we call Ms. Vest.

6 LONA VEST,
7 having been first duly sworn, was examined and testified as
8 follows:

9 THE WITNESS: Yes. I do.

10 THE COURT: State your full name, please.

11 THE WITNESS: My name is Lona Redman Vest,
12 L-O-N-A, R-E-D-M-A-N, V-E-S-T.

13 THE COURT: Thank you, ma'am. All right.

14 MR. MOONEYHAM: Thank you, Your Honor.

15 EXAMINATION

16 BY MR. MOONEYHAM:

17 Q Ms. Vest, it is my intention to jump
18 around a little bit today to I hope short circuit or
19 speed up your testimony. But what I'd like to do is
20 start with very basic information. Where are you
21 employed currently?

22 A I own Property Management Services, which
23 is a regime association management company in Mount
24 Pleasant, South Carolina, and I manage property in
25 the Charleston area, Isle of Palms and Mount

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1 Pleasant.

2 Q And one of the properties that you manage
3 would be the Bristol?

4 A Yes, sir.

5 MR. MOONEYHAM: Your Honor, for purposes
6 of this examination, I believe this witness
7 would be identified as a party, and, therefore,
8 would be subject to cross-examination under --

9 THE COURT: Sure.

10 BY MR. MOONEYHAM:

11 Q Ms. Vest, you understand what that means?
12 I get to ask you leading questions, if that would be
13 necessary. Before we called you this morning, we
14 had a meeting with counsel, and we reviewed a
15 spreadsheet that you have provided and compared it
16 to a document that we had, in fact, called
17 construction litigation expenses.

18 A Yes, sir.

19 Q I'm going to hand you both your
20 spreadsheet and the annotated document. Are those
21 the documents that we reviewed this morning?

22 A Yes. They are.

23 Q All right. The document that you prepared
24 is the document to your right?

25 A Right.

1 Q Correct?

2 A Yes. It is.

3 Q And what does that document purport to
4 explain?

5 A It's entitled the Bristol construction
6 defect litigation cost projections. It would have
7 been a tool that I used with the board members
8 throughout the process of litigation and early
9 mitigation. I would have updated this report as
10 time went on. So you'll note that it basically
11 lists the venders and the bills, and depending on
12 the timing, whether or not the bill had already been
13 paid or was pending payment.

14 There are notations out to the side
15 as to basically what that work was for, unless it
16 was fairly obvious, such as Suttan-Kennerly &
17 Associates, which was the engineering group, Moore &
18 VanAllen, which was our general counsel, or Rosen,
19 Rosen & Hagood, which was our litigation attorney.
20 But for the most part, there are some annotations as
21 to who these people are, what service they provided.

22 MR. MOONEYHAM: Your Honor, we offer that
23 as Plaintiffs' Exhibit Number 4.

24 MR. BARFIELD: No objection.

25 (Plaintiffs' Deposition Exhibit No. 4

(1 and 5 were marked for identification.)

2 THE COURT: You need to see it back?

3 MR. MOONEYHAM: We'll just put it right
4 here.

5 (Off-the-record discussion.)

6 BY MR. MOONEYHAM:

7 Q Ms. Vest, while I was collecting the
8 stapler, the court reporter marked Plaintiffs'
9 Exhibit Number 5; is that correct?

10 A Yes, sir.

11 Q And what is that document?

(12 A This is entitled construction litigation
13 expenses.

14 Q This morning, did you --

15 THE COURT: Without objection on 5 also?

16 MR. BARFIELD: Yes, sir. Subject to any
17 relevance objections on the line of questioning
18 from these documents.

19 THE COURT: All right.

20 BY MR. MOONEYHAM:

21 Q This morning, before we began, did you
22 participate in the annotation of this document?

23 A Yes, sir. I did.

(24 Q Okay. And does the data that appears on
25 Plaintiffs' Exhibit Number 5 reflect changes in the

(1 computation based on the information that you

2 provided on Exhibit 4?

3 A Yes, sir. And I believe it's
4 representative to the best of my knowledge.

5 Q Very good. And Plaintiffs' Exhibit 5 is
6 what?

7 A It was a document your -- you prepared
8 listing litigation-related expenses, if I'm not
9 mistaken, and there were some holes in it based on
10 information that I had on my form, as well as
11 settlement information. So it was -- we've now
12 updated it to be a more complete representation of
13 the costs.

14 Q Okay. And so Plaintiffs' Exhibit Number 3
15 then would be a total compilation of the money that
16 Bristol spent involved in its litigation of the
17 construction issues in the three lawsuits we talked
18 about yesterday?

19 A Yes, sir. I believe it is.

20 Q And just for the record, the total cost is
21 \$1,380,962.80?

22 A Yes, sir. It is.

23 Q Is there any practical way to divide those
24 costs amongst the three lawsuits?

25 A In the three lawsuits being the regime

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1 suit, the Landry suit and the Hanger suit as we've
2 dubbed them?

3 Q Yes, ma'am.

4 A No, sir. It would be very difficult to do
5 that. I don't -- we might be able to make a stab at
6 it. When the judge enjoined the suits for the
7 purpose of discovery, all of the information became
8 available to not only the Landry suit but the Hanger
9 suit, and it would be difficult in some respects to
10 understand the way each played and how much they
11 were used.

12 But basically, these costs were all
13 incurred by the Bristol regime, and there were no
14 expenses translated to the Landry suit or to the
15 Hanger suit.

16 Q That was -- you anticipated my next
17 question. The lawyers who represented the
18 plaintiffs in the Landry suit and in the Hanger suit
19 had the data developed by the Bristol lawsuit
20 available to them, correct?

21 A Yes.

22 Q And the Bristol, as a regime, paid for
23 expert testimony, destructive testing, all the items
24 listed on Plaintiffs' Exhibit Number 4, correct?

25 A Correct.

1 Q And when the litigation ended, the Bristol
2 elected not to seek reimbursement of the costs that
3 the Bristol had incurred from the Hanger lawsuit
4 proceeds or from the Landry lawsuit proceeds; is
5 that correct?

6 A That's correct.

7 Q Okay.

8 A But two points to that. One was that the
9 attorneys viewed the Landry suit as a helpful hand
10 in the regime suit. In other words, they could
11 offer a more full release to the defendants in the
12 fact that they represented 40 out of 54 of the
13 homeowners.

14 Their original intent was hopefully
15 to represent all of the homeowners. The six that
16 had already brought a suit with -- Hanger, obviously
17 didn't join, but all of the homeowners were invited
18 to join the Landry suit. We had the six in the
19 Hanger suit who did not join, and then we had eight
20 who elected not to join at all.

21 Two of the eight were actually
22 developer related. One was the beach company,
23 because they still retained a unit, and one was Dr.
24 Darby, who also owned a unit but is related to the
25 beach company. So that's one provision of the

1 Landry suit.

2 The second issue was that when we
3 settled the suit, there were funds allocated for
4 expenses that were sued for in the Landry suit, and
5 all of the money rolled into our repairs. The
6 regime did the interior repair work that we received
7 funds for in the suit. So basically, the Landry
8 people didn't get any money back.

9 The only money they had subsequently
10 received is \$2,000. If they make their bathroom
11 repair, they are eligible to receive \$2,000. But
12 other than that, they received no money.

13 Q So, for example, in the Landry lawsuit
14 then, the homeowners as a group are treated
15 differently, depending on their election of
16 participating in the lawsuit, right? Homeowners who
17 did not participate don't get the benefit of \$2,000?

18 A That's correct, in that issue. However --

19 Q Let me -- I realize you've got -- there's
20 an explanation, but I want to make sure we clarify
21 the point. The people who did not participate in
22 the Landry lawsuit contributed to the expense of the
23 Landry lawsuit by paying reserve fund payments and
24 special assessments and all that sort of thing, but
25 they did not and do not benefit from the Landry

(1 lawsuit by getting the \$2,000 you just described,
2 unless they elected to participate?

3 A That's correct. The A people are out in
4 the cold.

5 Q Right.

6 A As it relates to the bathrooms.

7 Q Yes, ma'am. And likewise, as it relates
8 to the Hanger lawsuit, when the Hanger lawsuit
9 settled, the Bristol homeowners association elected
10 not to attempt to recover costs from the Hangers,
11 that group of plaintiffs, correct?

(12 A That's correct.

13 Q And the plaintiffs in the Hanger lawsuit
14 actually received the cash at the time that that
15 settlement was disbursed, didn't they?

16 A Yes.

17 Q And so the homeowners who were not parties
18 to that lawsuit contributed money to the litigation
19 of that case -- there were how many plaintiffs in
20 the Hanger lawsuit?

21 A Six.

(22 Q So that those six homeowners benefited
23 from money paid by everyone, the whole 54 member
24 group, and none of that money was recovered,
25 correct?

(1 A Correct.

2 Q Okay. And in fact, when the special
3 assessments for windows and doors were ordered or
4 arrived at, the plaintiffs in the Hanger lawsuit
5 actually had funds, because they recovered in that
6 lawsuit, with which to pay the special assessments?

7 A Correct.

8 Q And unlike everybody else who didn't have
9 any funds, didn't receive the check, and, instead,
10 received a special assessment, correct?

11 A Correct.

(12 Q Okay. So in the resolution of the Hanger
13 lawsuit, then the individual plaintiffs were treated
14 differently in the Hanger case than plaintiffs who
15 were just members of the association?

16 A Correct.

17 Q Okay.

(18 A But let me add this much. The Hanger
19 plaintiffs, the six of them, were responsible for
20 their own bathroom repairs. They also are not
21 eligible for the \$2,000 contribution, if you made
22 your bathroom repairs. And -- but they did -- and
23 they were not made whole. Their settlement was not
24 such that they walked away with enough money to pay
25 for all of their bathrooms as well as their window

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(1 and door assessments. From the best of my

2 knowledge, I don't think they were made whole. So

3 I'm just going to add that.

4 Q But -- I may be wrong about this, but my
5 recollection was that, at least at the time of your
6 deposition, you testified that with the exception of
7 Mr. and Mrs. -- or Dr. and Ms. Hanger, because they
8 had two units, everybody else in the Hanger lawsuit
9 was able to pay the special assessment with the
10 proceeds of the settlement?

11 A Yes. That's true.

(12 Q So if they were made whole, they were made
13 a lot more whole than everybody else, people who got
14 20 and 30 and \$40,000 assessments, correct?

15 A That's correct. They made out better than
16 the Landry group did.

17 Q Right.

18 A Or the eight that didn't participate.

19 Q And the litigation number that we're
20 talking about in this case, the contribution made by
21 Bristol Homeowners Association as a group, was a
22 fairly substantial number, wasn't it?

23 A Yes, sir. The 1.3?

(24 Q Yeah. And the actual cost --
25 out-of-pocket cost to the association was fairly

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20 talking about in this case, the contribution made by
21 Bristol Homeowners Association as a group, was a
22 fairly substantial number, wasn't it?

23 A Yes, sir. The 1.3?

(24 Q Yeah. And the actual cost --
25 out-of-pocket cost to the association was fairly

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1 A Correct.

2 Q And at the time the three lawsuits
3 settled, no funds were allocated from -- some were
4 recovered to pay these loans back, correct?

5 A We did pay the bank back. We did First
6 Federal, but we did not repay the interfund loans,
7 the interfund transfers from the Bristol's funds.

8 Q Right.

9 A But we did -- we did pay off the loan.

10 Q So \$295,000 was paid out of the settlement
11 proceeds, but the 325 and 55 interfund loans, as you
12 called them, were not paid back?

13 A That's correct.

14 Q Okay. All right. So what I was saying
15 was, and I remember that \$300,000, the money paid
16 out of the Bristol's funds available was not a
17 substantial number. It was 325, plus 55 would be
18 \$385,000, right?

19 A Correct.

20 Q And that money was spent in ways that
21 assisted homeowners in a disparate way, not equally,
22 correct? Because some people got a benefit that
23 others didn't get, right?

24 A We could debate that issue, but it went to
25 pay for -- eventually, the monies from the lawsuit

(1 went to pay for the stucco replacement,
2 waterproofing on all the decks, flashing at all of
3 the interfaces.

4 So we can get into a debate as to how
5 much went to each thing and whether or not there was
6 a benefit at the end of the day. You know, I'll
7 agree with you that they never paid back the loans
8 that they made, but part of the reason that they
9 didn't pay it back was the thought process was that
10 once the building was completely repaired, you were
11 dealing with a whole new building.

(12 So it changed the looks of the
13 capital reserve fund. The agreement was that we
14 were going to completely repair the building, have a
15 new reserve fund study done, and revisit the way
16 that we were funding the capital fund, which is
17 exactly what we did.

18 So the thought process was that once
19 we repaired the building, we would have accomplished
20 most of the things that you would normally set funds
21 aside for. So we'd be going back to basically
22 ground zero, and we would then take a look at the
23 reserve again.

(24 I think that that's what lent to part
25 of their decision-making not to refund those monies

(1 to the fund, and, again, the only source of cash
2 would be to go back to the homeowners.

3 Q Right. And I understand that, and I
4 understand that that was -- you used the term
5 agreement. I'm not sure who agreed to do all that,
6 but the point is, that decision was made only after
7 some homeowners had benefited unequally from the
8 resolution of the lawsuits?

9 A Correct.

10 Q Okay. All right. Now, to fund, getting
11 back to zero, as you talked about a minute ago, the
12 board elected to require special assessments from
13 the members of the association, correct?

14 A Yes.

15 Q And I told you before we went on the
16 record that I was going to ask you about that
17 specifically, and you suggested that we could look
18 at what's been marked as Defendants' 1, Your Honor,
19 which is the submission yesterday regarding the
20 foreclosure against Dr. and Ms. Lucas, and we're
21 going to look -- I think you said that you could
22 tell if we we looked --

23 Ms. Vest, you told me if we looked at
24 the customer transaction detail report, which is
25 kind of at the back of the document, you could

|

1 identify the special assessments for me; is that
2 correct?

3 A Yes, sir.

4 Q Okay. Let's run through that very quick
5 just -- again, so the record is clear, tell me what
6 the special assessments were when they were assessed
7 based on the transcript in front of you.

8 A Okay. Let me clarify one point. I --
9 there was a range of special assessments as it
10 related to the window and doors. I can tell you off
11 of this document what Dr. Lucas' was.

12 Q Sure.

13 A It is not indicative of all of the unit
14 types. There should be another document that
15 actually spells out what each person paid. So I
16 can't tell you that off the top of my head. I'm
17 going to glean through this pretty quickly, in that
18 there are regular assessments, but the -- you have
19 the monthly regime fee being assessed.

20 Every March, you have an insurance
21 assessment. The regime basically gets the insurance
22 bill in, divides it by 55, assesses the homeowners,
23 asks them to pay within 30 days, and then we pay the
24 premium to the insurance company.

25 THE COURT: Why 55?

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1 THE WITNESS: I'm sorry?

2 THE COURT: Why do you divide --

3 THE WITNESS: 54. There are 54 units in
4 the building.

5 THE COURT: I thought you said 55. I
6 didn't --

7 MR. MOONEYHAM: You did. I wrote it down.
8 I was going to ask her the same question.

9 THE WITNESS: Oh, did I say 55?

10 MR. MOONEYHAM: You said 55.

11 BY MR. MOONEYHAM:

12 Q Okay. That's all right.

13 A The first special assessment, which I
14 would class as the A special assessment, was in
15 August. I believed it was assessed at around August
16 2007, and it was for \$1,896. And that was to
17 generate money to be able to pay legal fees, and the
18 genesis of that assessment was that there is a
19 provision in the master deed that the board can
20 charge 20 percent of the annual budget to the
21 homeowners without a special assessment -- or a
22 special vote of the owners approving that
23 assessment.

24 So they elect -- and you can do that
25 one time each fiscal year, and they elected to enact

1 that section of the master deed.

2 THE COURT: So that was the first special
3 assessment ever done?

4 A That was the first special assessment in
5 my tenure. I came to work for the property in early
6 2007. I don't know if there were special
7 assessments prior to that, but it's my understanding
8 that that was really the first one after the board
9 took over.

10 Q And as I look at this document, I'm about
11 a third of the way down, first page, I see the
12 assessment of \$1,896. It's actually dated July the
13 1st, 2007. Do you see that?

14 A Okay. That's the one.

15 Q All right. And I see the negative number
16 means that's -- that the homeowner owes the money,
17 right?

18 A No. The negative number means that
19 Dr. Lucas prepaid. You'll see at the top that Dr.
20 Lucas sent us a large check that prepaid his monthly
21 assessments. So for about the first year I was
22 there, Dr. Lucas was paid in advance.

23 Q Okay. All right. So the negative number
24 then at 7-1-2007 for 1,896 reflects a withdraw from
25 his capital account or escrow account with you to

1 make that payment, correct?

2 A Correct. And then you can see he actually
3 sent me a check for the 1,896.

4 Q That was my next question. So not only
5 did he pay that assessment once, he paid it twice?

6 A Well, he continued to maintain his credit.

7 Q Right.

8 A So he received credit for his prepayment.

9 Q All right. In any event, he certainly
10 paid it at least once, if not twice?

11 A He paid it.

12 Q Got you. All right. When is the next
13 assessment, special assessment?

14 A You don't see another special assessment.
15 The assessments, you see the larger numbers are
16 insurance assessments?

17 Q Right.

18 A The next special assessment that you see
19 is the beginning of the window special assessment.
20 The window special assessment, if I'm not mistaken,
21 Dr. Lucas' share of the window special assessment
22 was in the \$21,000 range, but we assessed it on a
23 monthly basis, basically to generate cash flow to
24 pay for the windows.

25 And that's the \$2,011.66 that you see

1 repeatedly applied to Dr. Lucas' account.

2 Q And that's the last -- the first time that
3 appears is the last number on the first page?

4 A Correct.

5 Q In December of 2009?

6 A Yes, sir. And then you see it appearing
7 again January 1st, February 1st. You see it
8 repeatedly, and you will note that Dr. Lucas
9 actually paid some of that. You'll see that in
10 March, I received a large check from Dr. Lucas. And
11 then again, in April, I received a large check from
12 Dr. Lucas.

13 Q If we count those payments, I see one -- I
14 mean not the payments, but the assessments, two,
15 three --

16 A The 2,631.50 that you see assessed in
17 March, March 1st, that's the insurance assessment.

18 Q Right.

19 A We did not assess the special assessment
20 that month. We only assessed the insurance
21 assessment to give the owners a break.

22 Q I see 15 --

23 A I believe that's correct.

24 Q -- \$2,011.66 assessments, with the last
25 one being February of 2011; is that right?

1 A Yes.

2 Q Okay. You told me that you thought his
3 total window assessment was in the neighborhood of
4 \$21,000.

5 A I believe so.

6 Q 15 times 2,000 would be \$30,000. How is
7 that?

8 A I have -- as I said, I'd have to look at
9 that original spreadsheet that gave each individual
10 unit owners. You're relying on my memory, and -- I
11 believe this is it, it's plaintiffs' -- I don't know
12 if that's 81 or 87.

13 THE COURT: Look at the tab.

14 MR. BARFIELD: Yeah. Tab 11.

15 BY MR. MOONEYHAM:

16 Q Okay.

17 A Would you like this?

18 Q If you don't mind.

19 A Sure.

20 Q This reflects that the initial assessment
21 was \$23,256.21?

22 A Yes.

23 Q Is that the right number?

24 A Yes, sir. I believe that's the
25 representative breakdown.

(1 Q Okay. All right. Then explain to us how

2 Dr. Lucas owed 15 payments of \$2,000, which would be
3 in excess of 30,000.

4 A I don't know. Let me count them myself
5 first, and then I'll argue with you. I do not know.

6 THE COURT: The one thing, you have got
7 2,400 here.

8 A It would have been the last -- I believe
9 it's the last column would be the total assessment.

10 THE COURT: 31,674?

11 BY MR. MOONEYHAM:

(12 Q If the cost of windows was 23,256.21 --

13 A You have to look at Dr. Lucas' unit
14 number. Look at -- go to 3013. Then --

15 Q I'm sorry, 28.

16 A But keep going.

17 Q Right. 31,674.

18 A Okay. That's why it's 15 payments of
19 that. I'm sorry. Thank you.

20 Q So that's why it's 15 payments of 21- --

21 A Yeah. I thought I was going to have to
22 give Dr. Lucas money back. You had me all scared.

(23 Q Somehow, Ms. Vest, I don't think you're
24 scared about anything. All right. So we talked
25 about the assessments for the windows. Are there

1 any additional special assessments reflected in

2 Exhibit Number --

3 A Yes, sir.

4 Q Tell me about that.

5 A We weren't done assessing.

6 Q Right.

7 A We assessed a short-fall assessment that
8 basically was generated for two reasons. One was
9 that we had changed orders to the construction
10 contract, and I believe those totaled around
11 250,000. Again, we're dealing with my memory.

12 Then, we also had owners who didn't
13 pay, and so, therefore, we didn't have enough money
14 to pay out the contract. So we had an assessment to
15 all of the owners, and I believe it was around
16 \$9,000. And it came almost immediately on the heels
17 of the window assessment.

18 And I believe, if you look at April
19 of 2011 -- no. Excuse me. That's on insurance
20 assessment. There's another insurance assessment in
21 April, but you'll start to see a special assessment
22 for -- of \$750 a month, which is the short-fall
23 assessment. And you will see that begin again, as I
24 said, in April of 2011 or May 2011.

25 THE COURT: And you call that what now?

1 THE WITNESS: That was a short-fall

2 assessment.

3 THE COURT: Short fall. Okay.

4 A It basically was used to make up the
5 difference from the change orders and the monies
6 that we couldn't collect from the owners.

7 BY MR. MOONEYHAM:

8 Q And the first time I see that is --

9 A May I believe.

10 Q -- May 1st of 2011, which is almost at the
11 bottom of page 2?

12 A Yes, sir.

13 Q Okay.

14 A And I see one, two, three, four, five,
15 six, seven, eight, nine, ten, eleven. Eleven
16 installments of that, I believe.

17 Q So --

18 A 11 times 750.

19 Q So 7,500, plus 1,500 would be 9,000.

20 That's right.

21 A Do you see 12?

22 Q Is there 12?

23 A All right. Let me go back and look at it
24 again. You may be right. It might have been in
25 here.

1 Q So that would be \$9,750?

2 A Okay.

3 Q How was the short-fall assessment
4 calculated?

5 A It was split evenly over the 55 -- 54
6 homeowners.

7 Q So the short fall would have been 54 times
8 \$9,750?

9 A Yes, sir.

10 Q Okay. So \$526,500?

11 A I believe that's about right. I'm sure
12 there's probably documentation on the special
13 assessment. We had to have the homeowners vote on
14 that. So I'm sure there's documentation on the
15 vote.

16 Q So a minute ago, you said you thought it
17 was about \$250,000, that was just --

18 A No, sir. What I said was there was about
19 a \$250,000 change order that we didn't have monies
20 to pay, and then we had money that we couldn't
21 collect from the homeowners. And those two combined
22 created that short fall.

23 Q Okay. Right. So we've got the regime
24 fees. We've got the insurance assessment
25 periodically. We have got the 1,896 one-time

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(1 assessment. We've got the windows assessment.

2 We've got a short-fall assessment. What other
3 assessments -- special assessments were --

4 A That --

5 Q -- ordered or asked for from the
6 homeowners?

7 A That's it.

8 Q That's it? All right. Okay. The --

9 A Wait. I'm lying to you, and I don't mean
10 to be lying to you. There is another assessment.

11 Q What is that?

(12 A That is very recent. We had a sewer
13 problem.

14 Q Sewage problem?

15 A Correct. And we had a special assessment
16 last year, and, again, the board invoked the 20
17 percent rule. And they assessed 20 percent last
18 fiscal year for contributions toward -- we had a
19 \$300,000 sewer problem that we had to repair. And
20 they are also invoking the 20 percent rule for 2013.

21 So there is one assessment on his
22 history, and then there will be an upcoming
23 assessment in September. And the amount of that is
(24 1,680, and Dr. Lucas paid that.

25 Q 1,680 on September 1st, 2012, 1,680, that

1 was paid?

2 A Yes, sir. And it will be 1,680 again in
3 September 2013.

4 Q Right. Okay. And how was the 1,680
5 assessment calculated? You said 20 percent of the
6 annual budget.

7 A 20 percent of the annual budget divided by
8 54 owners. So it was split equally.

9 Q All right. Okay. So generally speaking,
10 setting aside the window assessment, which we'll
11 talk about in a minute, when the homeowners are
12 assessed whatever money is owed is divided by 54?

13 A That's correct.

14 Q When the window assessment was calculated,
15 the number of windows was used as a factor in
16 calculating the assessment?

17 A That's correct.

18 Q That's why at tab 11 in defense proposed
19 exhibits, the numbers are different?

20 A That's correct.

21 Q Correct? The homeowners -- the values of
22 the condos, certainly they were different, are they
23 not?

24 A Yes.

25 Q The market values are different. And you

(1 would agree with me that the statute that addresses
2 the calculation of assessments requires a
3 consideration of the value of the property and the
4 value of the condos, correct?

5 A You wouldn't take that up with me. You
6 would have to take it up with the developer. I
7 worked for the beach company on a consulting basis
8 when they created the Bristol documents. I worked
9 for them off the drawing board, and they felt -- the
10 beach company felt very strongly that they just
11 wanted an equal -- everyone to have an equal share.
12 That's the way they wrote it.

13 I made certain suggestions that they
14 did not take into consideration early on, and
15 another very strong point for them is they wanted
16 the unit owners to own the windows and the doors,
17 which isn't always normal in a condominium,
18 particularly a high-rise setting.

19 Q But the answer to my question though is
20 that the statute requires that the total value of
21 the development be considered and that each condo
22 receive a relative percentage value of the total
23 development, and in this case, 154th of total value
24 of the development does not equal the value of each
25 condo?

1 A That's correct.

2 Q Okay.

3 A But I could also add to that that there
4 are lots of regimes out there that split the fees
5 equally and do not weight or create percentage
6 classes, it exists. There are those that are
7 properly weighted and those that are even splits.

8 Q I was going to ask you that. The flip
9 side of the coin is that there are also regimes that
10 do an accurate calculation of the market value of
11 the development and create a ratio with that value
12 and the value of each condo?

13 A Correct.

14 Q And that's what the statute requires,
15 isn't it?

16 A Yes.

17 Q Okay. And so all these 54th assessments
18 would be inconsistent with the statute, correct?

19 A Correct. They're not -- to be honest, I
20 don't know the date of the statute. A lot of the
21 properties we manage were developed in the '80s.

22 Q But this property certainly wasn't
23 developed in the '80s?

24 A No. If I'm not mistaken, I started
25 working on this property in the late 1990s, and it

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1 actually came to fruition, so to speak, in about
2 2002.

3 Q All right. Now, that's all we need to
4 talk about the assessments, correct?

5 A That's all of the assessments.

6 Q Okay. All right. We've talked about the
7 assessments and where they're calculating?

8 A Yes, sir.

9 Q Okay. Let's talk about -- since we've got
10 this foreclosure document in front of us, let's talk
11 about the foreclosure a little bit.

12 A Okay. I'm going to take it back then.

13 Q Sure. It appeared when I reviewed this
14 yesterday afternoon that you are the witness who
15 would have been called had counsel for Moore &
16 VanAllen hung around to call witnesses to testify
17 about foreclosure; is that correct?

18 A I am the witness.

19 Q All right. And, essentially, on page 3 of
20 this document, your anticipated testimony is
21 reflected. Did you participate in the preparation
22 of this anticipated testimony?

23 A No. I mean I briefly reviewed it, but it
24 was prepared for me to be honest.

25 Q All right. Let's talk specifically about

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1 the information that appears on page 4, which is the
2 calculation of the numbers for foreclosure.

3 A I did participate in that.

4 Q Okay. So you provided these numbers?

5 A Yes, sir.

6 Q Is that correct? Now, I want to focus
7 your attention specifically on C, insurance
8 assessments. Is it your testimony today that Dr.
9 Lucas has refused to pay insurance assessments?

10 A No. He's paid insurance assessments.

11 (Off-the-record discussion.)

12 BY MR. MOONEYHAM:

13 Q Okay. We were talking about page 4 of
14 Defendants' Exhibit 1, which specifically seems to
15 indicate to me that Dr. Lucas has now paid all of
16 his insurance assessments; is that correct?

17 A I don't think that that represents that.
18 Basically, what I did was I broke out what type of
19 monies were owed. I gave him credit for all the
20 payments received, but I don't specify what the
21 payments were. So he's giving me -- we billed them
22 \$97,000. He has sent in checks worth \$49,000.

23 So basically, that -- that's all that
24 states. We'd have to look at his actual history to
25 then discuss -- as I said to you in the early days

1 when I managed property, he prepared. So basically,
2 what I did to create these totals is I went back to
3 the last time he had a zero balance, and I just
4 literally made a column of what was a regime fee,
5 what was a capital reserve.

6 That every month, he's billed for the
7 regime fee, which would be the operating expenses,
8 and he's billed for a contribution for the capital
9 reserve. Then he's billed annually for the
10 insurance, and then he's had special assessments.

11 Q Sure.

12 A And basically what I did was I lumped in
13 all of his payments and give him credit in one lump
14 sum of what monies he'd given me. I did not specify
15 what they -- what he paid me for. As a general
16 rule, Dr. Lucas pays me every month for the
17 operating portion of the regime fee.

18 He typically does not pay me for the
19 capital reserve contribution, and that -- I don't
20 remember exactly when that genesis began, but at
21 some point, Dr. Lucas voiced an objection to the
22 capital reserve portion. So he's discontinued
23 paying that.

24 To the best of my knowledge, he's
25 paid the insurance fee every year, but -- and at

1 some point, he made part of the special assessment
2 for the windows, but then he discontinued paying for
3 the windows.

4 And then I don't believe he paid any
5 of the special assessments that relate to the short
6 fall, but he may have. I'd have to specifically
7 look at his history to tell you what that \$49,000
8 meant.

9 Q I got you, and that's what I wanted to
10 clarify. And we don't -- numbers are not as
11 concerning to me as the concepts are. This exhibit
12 appears to suggest that it's possible Dr. Lucas did
13 not pay insurance assessments, did not pay regular
14 regime fees, because these are listed as payables.
15 And your testimony today is he did, in fact, pay his
16 regime fees, generally timely, right?

17 A Correct.

18 Q He did not, because he opposes the failure
19 to pay back the loan to the capital reserve fund,
20 and he's told you that, he's not made capital
21 reserve fund contributions, because he thought that
22 money ought to have come back from the litigation,
23 right?

24 A Yes.

25 Q He has paid his insurance assessments, as

4 A Correct.

9 A But he's made some of them. He didn't
10 completely not pay them. He paid some of it.

12 A And as I said earlier, he did pay the
13 sewer special assessment.

16 A Correct.

 $(- \dots)$

25 Q Conceptually.

1 A Conceptually. I have my own -- I created
2 my own spreadsheet, which then the attorneys used to
3 create this document.

4 Q Right.

5 A And in my particular spreadsheet, I did
6 give him credit by the month for what he did or
7 didn't give me, and I realize that this -- this
8 isn't part of the production, but I do -- you know,
9 basically, what Joseph's done is he's lumped it.

10 Q I got you.

11 A Just to give you an idea.

12 Q Again, the numbers are less concerning to
13 me as the concepts are more concerning. Dr. Lucas
14 has said repeatedly, I think this was handled wrong.
15 I don't think I ought to pay these assessments, but
16 I will pay the things I think I owe, and he's paid
17 the things he thinks he owes, correct?

18 A As far as I can see in my own cheat-sheet
19 notes, he has always paid the insurance, he's paid
20 the operating side of the regime fee, and as I said,
21 he's given me -- he paid some money toward the
22 special assessment, and so, yes. That's an accurate
23 characterization of the payments he's made.

24 Q Thank you. There's also a \$15,990 interim
25 collection cost line item on this document. Did you

1 participate in the creation of that line item?

2 A No.

3 Q Do you have any idea what that is?

4 A I'm assuming those are the legal fees
5 related to Dr. Lucas' collections.

6 Q Okay. Have you any idea what would
7 justify a \$15,000 legal fee in this case?

8 A I'm not a lawyer. I don't know.

9 Q But you pay lawyers?

10 A I do pay lawyers. Sometimes way too much.

11 Q And this would be one of those cases,
12 right, where you'd be paying a lawyer way too much,
13 in my opinion.

14 A You think?

15 Q But the point is, do you have an invoice
16 or any documentation that would support a \$15,000
17 payment to the lawyers in this situation?

18 A No. Not with me. No, sir. You know, I'm
19 assuming I could go back and pull all the Moore &
20 VanAllen bills that have been paid since the
21 beginning of time.

22 Q You have been to most of the depositions
23 in this case?

24 A No, sir. I went to Dr. Lucas' deposition.

25 Q That's the only one you went to?

1 A That's the only one I have been to.

2 Q Do you know of your own knowledge whether
3 anyone at Moore & VanAllen appeared at giving any
4 deposition in this case?

5 A I don't believe so.

6 Q You certainly -- have you looked at
7 transcripts and that sort of thing?

8 A No, sir.

9 Q The depositions? So you just don't know
10 if they'd come to any depositions?

11 A No. Joseph Belton was at Dr. Lucas'
12 deposition with me.

13 Q Other than --

14 A Other than that, I'm not -- no. I don't
15 believe they have been to any.

16 Q All right. And, of course, the
17 transcripts, at the beginning of the transcripts,
18 the lawyers' appearances are reflected, right? Or
19 do you know?

20 A I don't know.

21 Q I think all the lawyers would take
22 judicial notice that people who come to depositions
23 are identified as being in the deposition. The
24 point is, are you aware of any work other than the
25 drafting of the complaint and this submission that

1 Moore & VanAllen did in this case that was worth the
2 \$15,000 fee?

3 A I can't speak to the Moore & VanAllen
4 bills. Honestly, I don't know. I can't answer
5 where that 15,000 came from.

6 Q And that was my question. As you sit here
7 today, you can't say here's support for this bill?

8 A Correct.

9 Q Okay. All right.

10 THE COURT: Can I ask her --

11 MR. MOONEYHAM: Sure.

12 THE COURT: Have they billed you-all for
13 those 15,000, or they just added that to the
14 tab?

15 A Your Honor, I really don't know. They
16 bill us every month.

17 THE COURT: But you don't know whether
18 they included the charges for Dr. Lucas'
19 foreclosure every month or not?

20 A I have never sat down and tallied exactly
21 how much I paid for Dr. Lucas' related legal fees.
22 So I can't honestly tell you what that number is,
23 because this has gone on for years.

24 THE COURT: I know, but I wasn't concerned
25 about what the number was. Usually, when

1 lawyers do a foreclosure fee, I don't know
2 about usually, but many times, they don't get
3 any money at all until it's over. So my
4 question really is is Moore & VanAllen waiting
5 until the end of it, or have you been paying
6 them along and along?

7 A We have been paying them along the way.

8 THE COURT: Okay. That's what I wanted to
9 know. Okay. I got you.

10 MR. MOONEYHAM: Thank you, Your Honor, for
11 that clarification.

12 BY MR. MOONEYHAM:

13 Q Is your testimony that you have been
14 paying them to handle this foreclosure action, or
15 have you been paying them as your general counsel
16 for the Bristol?

17 A Paying them for all of the above. They're
18 the general counsel for the regime. They bill
19 specifically per action item, and so I would receive
20 bills every month that would have Dr. Lucas' name at
21 the top of them. And that would be all of the time
22 related to anything to do with the Lucas action, and
23 there have been other issues that they've worked on
24 for the regime.

25 So each month I get multi pages of

1 bills, and each bill is specific to whatever
2 activity they worked on.

3 Q Okay. If you look at the affidavit of
4 counsel that's attached, there's a reflection of the
5 accumulative amount of coverage, \$64,000. This is
6 page 6 of the exhibit, and counsel asked for 10
7 percent, 15 percent of the amount covered. You see
8 that?

9 A Yes, sir.

10 Q Do you have a contract with Moore &
11 VanAllen that would support that contingency fee?

12 A No, sir.

13 Q Are you aware --

14 A But let me stipulate, I was not present
15 when the board originally hired Moore & VanAllen.
16 So I don't know whether or not when the board
17 originally hired them, that was part of that
18 agreement.

19 Q Okay. And you are aware that contingency
20 contracts are required by rule to be in writing?

21 A I don't know that I'm aware of that. I
22 would expect so, but I learned something.

23 Q All right. In addition to that, it says
24 an additional fee of \$3,500 would be reasonable and
25 appropriate. Is this foreclosure any different than

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1 any other foreclosure in terms of the complexity or
2 difficulty of handling it?

3 A Well, yes. It's different in that,
4 generally, if we're dealing with a straight
5 foreclosure, we're just dealing with the
6 foreclosure. The fact that we have this other
7 action going at the same time I'm sure probably
8 contributed to some of the complexity of this.

9 Q Don't you think it made it easier to have
10 the other lawsuit going on because of these very,
11 very good lawyers sitting at the table with us have
12 done all of this work?

13 A No. I would have thought it would have
14 extended the foreclosure, not that these lawyers are
15 not fabulous. But I would have assumed that it
16 would have added time to this process, and,
17 therefore, it may have added money to it.

18 Q And you just testified a minute ago that
19 you believe that Bristol had paid these interim
20 collection costs along and along?

21 A Yes, sir.

22 Q So that the total debt is not \$64,000,
23 because those costs have been paid along and along,
24 and if you're calculating attorneys' fee, the
25 attorney's not going to collect -- he's not going to

1 get a percentage of what he's already been paid, is
2 he?

3 A No, sir. I wouldn't believe so, no. I
4 would assume that money would come back to the
5 regime.

6 Q So that is an inaccurate calculation, if
7 he's asking for a third or 10 percent or 15 of this
8 \$15,000 if that's what you paid, correct?

9 A I would assume so, yes.

10 Q All right. Okay.

11 A But again, I'm not a lawyer.

12 Q I understand. Let's talk about
13 foreclosure as a concept for a moment. When I
14 reviewed your deposition, you and Ms. Pope had a
15 long discussion about foreclosures with Bristol.
16 And if you need the deposition to refresh your
17 recollection, I'll be happy to get you a copy of it.
18 I've got one somewhere. In fact, it's right there.

19 This would be in -- if you need to
20 look at it, in the second portion of the deposition
21 toward the end. I don't remember the page number.
22 You-all talked about Jay Harmon (phonetic)?

23 A Yes.

24 Q Who, according to you, at the time you
25 were deposed, had never made a payment at all after

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1 some certain period in time, and upon him, SunTrust
2 foreclosed to collect mortgage?

3 A Correct.

4 Q All right. Okay. But she had never --
5 she wasn't paying regime fees and assessments and
6 all that stuff, right?

7 A Her husband had been on the board. He had
8 a falling out. He refused to pay any more money,
9 and from that point forward, he did not pay any more
10 money. I don't remember the exact timing, and they
11 accumulated a very sizeable balance, correct.

12 Q And SunTrust foreclosed?

13 A That's correct.

14 Q The Bristol did not?

15 A The Bristol did not. The Bristol would
16 have, but SunTrust already filed the foreclosure,
17 and the thought process is that if the bank is
18 foreclosing the unit, we're in a secondary position.
19 So if we spent money on a foreclosure, we -- that
20 would just be throwing good money after bad money.
21 The thought -- generally, what we've experienced is
22 that Judge Scarborough will wipe out any subsequent
23 liens and wipe out our position anyway.

24 Q But my point is, even though there was a
25 falling out, even though no payments were being

1 made, the Bristol did not foreclose?

2 A That's correct. We did not on that unit.

3 Q Right. And you-all talked about Ken Nix,
4 Unit 5016. He apparently owed substantial money,
5 agreed to a payment plan. So he was making partial
6 payments, very much like Dr. Lucas was making
7 partial payments, and there was no foreclosure in
8 his case either generally?

9 A I don't remember it being substantial, but
10 yes. They own the unit. They're still in the unit,
11 and he's currently in good standing. So I remember
12 at one point, they did owe us some money. I don't
13 remember it being substantial, but they did end up
14 paying, and we worked it out.

15 Q And there was no foreclosure?

16 A There was not foreclosure of any type.

17 Q I think you talked about a lady named Olga
18 something. I'm not even going to guess at her last
19 name?

20 A Olga Valledeljulia,
21 V-A-L-L-E-D-E-J-U-L-I-A, and Olga is O-L-G-A.

22 Q Unit 3002?

23 A Yes, sir.

24 Q According to your testimony, she owed
25 about \$60,000?

(1 A Correct.

2 Q The bank foreclosed, but the Bristol did
3 not?

4 A The bank did not -- the bank either
5 foreclosed, or she did a deed in lieu. Olga was
6 elderly. We did an asset check on Olga. Olga had
7 no assets at all. She had the unit here. Her son
8 had gone off with all of her money. She had a
9 daughter in Virginia Beach. The daughter moved her
10 up to an assisted living, but a subsidized assistive
11 living, and basically, Olga was on Medicaid and had
12 nothing.

(13 And so I worked with the daughter to
14 assist in getting the unit back to the bank, and so
15 we realized that there would be no recovering on
16 Olga.

17 Q Bottom line is that --

18 A We did not file a foreclosure.

19 Q -- she owed \$60,000, and no foreclosure
20 was filed?

21 A That's correct. We -- and the regime did
22 not file a foreclosure.

(23 Q That's what I meant. The regime did not
24 file foreclosure. Bishop Rembert owed about
25 \$90,000.

1 A And we filed a foreclosure.

2 Q Not according to your testimony.

3 A Well, we may not -- we suspended his
4 foreclosure. So I'd have to look at the testimony,
5 but we brought a foreclosure action against Bishop
6 Rembert.

7 Q And when he made payments, it's your
8 testimony that you suspended foreclosure?

9 A He paid a \$20,000 payment, and then he
10 began giving us his rent each month.

11 Q Okay.

12 A And, basically, we got Bishop Rembert to
13 sign an agreement, and I don't know the legal
14 terminology, but, basically, what the agreement was
15 that we didn't lose our standing. That if Bishop
16 Rembert discontinued his good-faith efforts to pay
17 us, with the agreement he eventually would sell his
18 unit, then we could pick up where we left off and
19 continue with the foreclosure.

20 Q But the point is, he owed \$90,000. He
21 made a payment leaving a \$70,000 balance, and you
22 suspended the foreclosure?

23 A But he had a payment plan, yes. That's
24 correct.

25 Q And his payment plan is \$150 a month

1 toward the \$75,000 balance?

2 A That's correct. But then he sold the
3 unit.

4 Q But you suspended the foreclosure?

5 A That's correct.

6 Q When Mr. Zinkowski -- did he pass away?

7 A Dr. Zinkowski, yes. And he passed away.

8 Q All right. There was an outstanding
9 balance then as well, and no foreclosure was filed
10 by the Bristol either, was there?

11 A Dr. Zinkowski was I think -- I think he
12 owed -- he didn't owe a huge sum, but he did owe
13 money when he passed away. A lot of that balance
14 accumulated from the time that he died until his
15 unit was eventually in a short sale.

16 Q But there was no foreclosure by the
17 Bristol?

18 A No. But there -- no. There was no
19 foreclosure by the Bristol.

20 Q Bill Smith owed more than \$50,000?

21 A That's correct.

22 Q Unit 5005, which included regime fees and
23 construction assessment. The Bristol did not
24 foreclose on Mr. Smith either, did it?

25 A The bank did.

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1 Q But the Bristol did not?

2 A No. The Bristol did not.

3 Q Ashley Middleton was also behind on her
4 payments?

5 A Short sale.

6 Q But the Bristol did not foreclose?

7 A No.

8 Q So of the one, two, three, four, five,
9 six, seven, eight, of the nine people, including Dr.
10 Lucas, who had outstanding balances and difficulties
11 in terms of their agreements to make payments and
12 payments and that sort of thing, the only
13 foreclosure that was followed through was Dr. Lucas'
14 foreclosure?

15 A No. Rembert, Bishop Rembert. There were
16 two foreclosures filed.

17 Q But as soon as he made a payment, you
18 suspended his foreclosure?

19 A We negotiated. It wasn't quite as simple
20 as that. We negotiated a plan with Bishop Rembert.
21 Let's go back and discuss why this is this way.

22 Q Well, you've answered it. I'm sure your
23 lawyer's going to ask you a lot of questions.

24 A Okay. Well, they can ask me why.

25 Q They'll ask those questions. I'm sure

1 they will. Bottom line is, out of the people you
2 were able to remember at the time of your
3 deposition, the only foreclosure that's still
4 ongoing is Dr. Lucas', and only two of the nine
5 people even had a foreclosure to deal with?

6 A That's correct.

7 Q Okay. And that's despite the fact that
8 Dr. Lucas was making payments and despite the fact
9 that he had had us write you a letter in March of
10 2010, which is tab 23, that says that we dispute --
11 he disputes the nature of the assessments and the
12 regime fee assessments?

13 A That's correct.

14 Q You would agree with me that one of Dr.
15 Lucas' big issues in his dealings with the Bristol
16 has been a lack of communication. Whether you agree
17 or not, that's one of his issues, correct?

18 A Yes. He has expressed concerns about the
19 level of communication, and he feels that he has not
20 received adequate communication.

21 Q The lack of communication was particularly
22 an issue at about the time that the construction
23 lawsuits were being filed, according to the e-mail
24 that you and Ms. Landry exchanged that was made an
25 exhibit yesterday, right?

1 A Well, let me say this. I came on board
2 just after the lawsuit was filed. So I can't speak
3 to what communication occurred prior to my arrival.
4 At the time I arrived, Ms. Jan Landry and I did have
5 several discussions about how to create
6 communication.

7 Q Okay. That would have been about the time
8 the lawsuits were being filed?

9 A The lawsuit was filed just prior to that.
10 I officially --

11 Q To your coming on board?

12 A Yeah. I came on board March 1st, 2007,
13 although they had invited me to a couple of meetings
14 to talk. Like, I helped participate in the
15 insurance that year. I worked with the insurance
16 committee. So I came and did some consulting work
17 for them prior to coming on board, but I believe the
18 lawsuit was filed in very early February.

19 Q All right. The next critical time from a
20 communication standpoint, in my view as a lawyer,
21 would have been when decisions were being made about
22 whether to try the case or settle it, if we're
23 talking about litigation. You would agree that that
24 was a very critical time, wasn't it?

25 A Yes.

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1 Q The lawsuit got settled essentially in a
2 courthouse, the POA lawsuit.

3 A The jury was seated and --

4 Q A jury lawsuit.

5 A Yeah. The jury was seated, and we came to
6 a settlement that night.

7 Q And the homeowners were not given the
8 opportunity to evaluate the settlement terms before
9 the settlement was agreed to, correct?

10 A I take issue with that to some extent.
11 The attorneys came and talked to homeowners at
12 various times as we came close to going to court.
13 When we went to court, the board ultimately made the
14 decision to accept the settlement.

15 Q The board did, but the individual
16 homeowners didn't have any input into the terms of
17 the settlement?

18 A That's correct. That night, the board
19 reviewed the settlement offer and accepted it.

20 Q And as we heard yesterday, about 40
21 percent of the outside of that building out there is
22 glass. So the next critical issue would have been
23 evaluating what to do with the window remediation.
24 Would you agree with that?

25 A I don't think she said 40 percent was

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1 glass. I think she said the majority of the
2 building was glass.

3 Q I think she -- she testified 40 percent.
4 Now, that may not be right, but you just said the
5 majority of the outside of the building is glass?

6 A That would be my personal impression.

7 Q Sure.

8 A I think there's an awful lot of windows
9 and doors.

10 Q And the point there is the lawsuit was
11 actually filed to a large degree to address leaking
12 windows and doors. So the focus of the lawsuit
13 remediation efforts would have been to repair the
14 windows and doors, right?

15 A That's correct.

16 Q And, in fact, the board considered three
17 alternatives for that remediation, correct?

18 A I know we strongly considered two.

19 Q Okay. Well --

20 A If you could characterize what you believe
21 the three are, I might be able to speak to that
22 more.

23 Q I'm drawing that from the testimony of the
24 witness who we were going to call today who's been
25 evading us. He was the chairman of the construction

1 committee, right?

2 A Yes. He was.

3 Q And he testified in his deposition I
4 believe that there were -- there was a kit fix,
5 there was a fix when some windows and doors would
6 have been replaced and others would have been kitted
7 and there was a replacement situation where all the
8 windows and doors would have been replaced. I would
9 consider those to be three potential remediation
10 efforts.

11 A There was an offer from Anderson to do
12 what you're terming the kit fix, which would be to
13 replace certain windows. We found that some of the
14 windows -- the windows were all supposed to have a
15 DP rating of 40. When we went in and actually did
16 all of the discovery work, we found that there were
17 windows that had a DP rating of 0. There were some
18 that had a DP rating of 40, and there were some that
19 had some DP rating, but it was less than 40.

20 And Anderson had made us an offer.
21 So yes. That retrofit, as I would call it, was one
22 option. Another one was complete replacement of all
23 of the windows and doors. I wouldn't necessarily --
24 you know, there might have been -- a third option
25 would be to just go and only deal with the windows

1 that were problematic. I don't know if that would
2 be what you'd consider option 3.

3 But in my mind, the two that received
4 the greatest consideration were the retrofit versus
5 for total replacement.

6 Q The homeowners were not made aware of the
7 potential for the retrofit or for the intermediate
8 fix, which would have been to retrofit some and
9 replace others. The only option that was presented
10 to homeowners as a group was replacement of all the
11 windows and doors. Isn't that true?

12 A No. That is not true. We went out to the
13 homeowners with a recommendation, and basically what
14 we did was we presented what the recommended
15 approach was, and that was what was voted on. But
16 we held meetings, you know, informational meetings
17 where we discussed these other issues, but the
18 Anderson retrofit option really never fleshed out.

19 So there are a lot of reasons that
20 that was not the preferred approach anyway had it
21 fleshed out, but we had a lot of issues with
22 Anderson. And they weren't as forthcoming, and they
23 were very difficult to work with, which then just
24 contributed to that being an even less desirable
25 approach.

1 Q When it came time to the vote, the only
2 option that was recommended was the option of
3 replacing all the windows and doors?

4 A That's correct. The homeowners did not
5 vote on two options. They got the opportunity to
6 vote yes or no on the preferred option.

7 Q Up or down?

8 A Yes.

9 Q As opposed to --

10 A Either or.

11 Q -- either or. All right. So there was --
12 you would agree with me that there was a lack of
13 communication at least at the time of the vote
14 regarding multiple options that were considered by
15 the board and not voted on by the homeowners?

16 A No. I wouldn't agree with you at all.

17 Q Okay.

18 A I would also add one other caveat.
19 Generally, with regimes, it's standard operating
20 procedure for the board to put forth one option and
21 vote it up or down. It is not typical to give
22 homeowners a vote on either or, because, typically,
23 you don't get a resounding response.

24 Typically, what my regimes will do,
25 which I'll recommend that they do, is go out with

1 one option, vote it up or down. If the homeowners
2 vote it down, you then go back with your backup
3 plan. But generally, the board has plan A and plan
4 B, and they generally want plan A approved. And in
5 most cases, homeowners approve what the board's
6 investigated and looked into on their behalf, and
7 they generally accept the recommendation, which is
8 what happened in this case. We only had eight
9 dissenting votes.

10 Q Right. Because it was up or down, you
11 only had eight dissenting. Had you presented
12 multiple options, then the vote would have been more
13 difficult to control by the board, right?

14 A Well, that and also we had a high level
15 of -- a high threshold. We were looking for a super
16 majority to pass it, which would have been a
17 two-thirds vote. So if we had offered multiple
18 options, it would have been difficult to achieve a
19 super majority.

20 Q I understand. Dr. Lucas' next concern was
21 what he perceives as misleading or deceptive
22 information that was provided. He focused on the
23 whole insurability of the windows, and I want to
24 talk to you about that in just a little bit. Harold
25 Campbell is or was a resident at Bristol?

1 A He wasn't a resident. He was an owner.

2 Q Owner?

3 A Harold owned unit 5013. He just sold it
4 in 2013.

5 Q He was a State Farm agent?

6 A He is a State Farm agent.

7 Q He is a State Farm agent. He, in his role
8 as a State Farm agent, provided or wrote coverage
9 for a number of the condos at Bristol?

10 A Prior to my involvement, Harold had or --
11 had relationships with owners selling them HO-6
12 policies. When I came to be involved with the
13 Bristol, Harold was on the insurance committee. Jan
14 mentioned yesterday that Brad Sherlock was on the
15 insurance committee, Charles Deroose was on the
16 insurance committee. Johnny Jordan was on the
17 insurance committee, and if I'm not mistaken, I
18 think that was it. There might have been a fifth
19 member.

20 But Harold was sort of a pivotal
21 go-to person for us on the insurance committee when
22 it came time for us to work on that renewal for
23 2007.

24 Q At some point, at least, he wrote policies
25 that insured windows and doors for four or five

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1 residents at the Bristol, true?

2 A I don't know that. That would have been
3 his relationship with the individual owners.

4 Q But there's no question that coverage for
5 the windows and doors was available to residents at
6 the Bristol prior to the change of the master deed,
7 fourth amendment, right?

8 A I'm assuming that's true, because Dr.
9 Lucas has said that he had coverage. So I would
10 assume if he was afforded coverage, others could get
11 it.

12 Q Sure. At the time that the lawyers wished
13 to amend the master deed, no one polled the owners
14 to see if any of them had the coverage we're talking
15 about, did they?

16 A The lawyers didn't wish to change the
17 master deed. The board wished to change the master
18 deed, and no, the board did not poll the owners.

19 Q The board didn't poll the owners?

20 A No.

21 Q No one sought quotes for coverage for the
22 people who might not have had insurance on their
23 windows and doors?

24 A No, sir.

25 Q So despite what the letter from what Ms.

1 Mulcare says about insurability, insurability really
2 wasn't the issue, was it? The windows and doors
3 were certainly insurable, weren't they?

4 A Yes. I believe they were insurable, and
5 no. I would not say the insurability of them was
6 the major overriding issue.

7 Q The real issue was getting windows and the
8 doors in the lawsuit?

9 A No. It was not. There real issue was
10 that when we were insuring the building, if we did
11 not insure the entire building envelope, we felt
12 that it was going to be a huge problem in getting
13 claims settled. We'd have issues about whether or
14 not homeowners had adequate coverage.

15 Homeowners buy their own HO-6
16 policies. It's not my job to make sure those
17 homeowners are properly, individually insured. So
18 we had no idea whether or not everybody was properly
19 insured.

20 Q Well, and that's exactly right. It's the
21 homeowners' individual responsibility to purchase
22 the coverage?

23 A Right.

24 Q But --

25 A Let me finish my point.

1 Q Well, I think you're not answering my
2 question. You're --

3 A I'm getting ready to answer your question
4 though. You stated that the -- you stated that the
5 main purpose of that amendment was to satisfy needs
6 of the lawsuit. That's not true. The owners owning
7 the windows and doors in a five-story highrise makes
8 no sense. The owners, if they had a problem with
9 their individual window and door would incur massive
10 costs to get up there to fix it. Also, on top of
11 it, there would be ARB or architectural review
12 issues in the event of a large loss because --

13 Q Let me -- just right there, you just
14 brought up something I wanted to talk to you about.
15 You said ARB. I think I've seen it as BAR, but the
16 board of architectural review controls the ability
17 of homeowners to replace -- or approves the
18 replacement of windows?

19 A Correct. But we're not discussing the
20 same thing. When I say the ARB or the architectural
21 function, review function, I'm talking about the
22 regime's architectural review function. The regime
23 insists that there is like product in appearance
24 throughout the entire building, and one of the
25 conversations that we were having on that insurance

1 committee level was the fact that if there was a
2 huge loss, it would be almost impossible to
3 coordinate getting 54 unit owners to install their
4 own windows and doors, me making sure that they all
5 met the same codes, they all looked exactly the same
6 way.

7 It just was going to be a nightmare,
8 and keep in mind, I have been doing this 30 years.
9 I went through all the Hurricane Hugo repairs. And
10 so I've lived it, and one of my -- some of what I
11 conveyed to the board is that I thought that it was
12 going to be a huge nightmare if the owners
13 individually owned these windows and doors. And we
14 had to coordinate making sure all these owners got
15 their windows and doors in specific time so we could
16 make stucco repairs and waterproofing repairs. It
17 would have been a disaster.

And I'm not the one who originally raised the issue. The issue was originally raised by Harold and Cindy, Harold and Cindy Mulcare, and it was then expounded upon, and everybody agreed it was in the owners' best interest for the regime to take ownership of the windows and doors.

24 Q And your testimony today is that that was
25 just coincidental to the fact that Judge Newman had

1 just granted the motion for summary judgment on the
2 issue of the ownership of the windows and doors.

3 A Just Newman didn't grant that -- he did
4 not make that judgment until almost a good year
5 later. If you look at the dates of this, we went
6 out for the window assignment. We sent a letter to
7 all the homeowners when Judge Newman made his
8 ruling, and we went out to all the owners and said
9 to them, Judge Newman has just now ruled that we
10 don't own these windows and doors for the purpose of
11 this lawsuit. We need your assignment of your
12 window and doors.

13 And we went out to the owners. We
14 disclosed that we didn't own them as it related to
15 the lawsuit, and couldn't sue for them. And we went
16 out and got assignments from everyone. You're
17 talking two different periods of time.

18 Q Okay. Maybe I misspoke. But the point is
19 that you were in litigation, you -- the homeowners
20 association was in litigation. There was a concern
21 about the ownership of the windows and doors. There
22 was a concern about standing to make those claims,
23 and the assignment was prepared in an effort to
24 retroactively change the ownership of windows and
25 doors to make claims made in the lawsuit valid

1 claims.

2 Judge Newman, in fact, in his order,
3 I believe, said that that retroactive effort was in
4 effect; isn't that true?

5 A We're going backwards on that huge long
6 statement. I disagree with you --

7 Q Well --

8 A Let me clarify some of what you've stated,
9 because I don't believe it's correct.

10 Q Okay. If I'm incorrect, then the record
11 will reflect it, and you and I will be here all day
12 talking about it. So let's just let your lawyers
13 ask you questions to make -- to correct what I
14 have --

15 A Well, my response is some of what you said
16 is true, and some of what you said is incorrect.

17 Q All right. Thank you. What warranty, if
18 any, accompanied the installation of the Anderson
19 windows initially?

20 A I don't know. The property built was in
21 2002, and I came in in 2007, and I don't know what
22 the initial warranty was.

23 (Off-the-record discussion.)

24 BY MR. MOONEYHAM:

25 Q I think we were talking about the warranty

1 on the Anderson windows.

2 A Right. And I said I didn't know what it
3 was.

4 Q Did you make an effort to find out what it
5 was? You said you engaged in negotiation --

6 A Me, personally, no. But I'm sure
7 somebody -- one of the experts, I'm sure. I'm sure
8 Suttan-Kennerly probably looked into it, but me,
9 personally, no. I think I assumed there probably
10 wasn't much more warranty to them. I had some
11 previous experience suing Anderson. So I probably
12 knew enough to be dangerous in the fact that it
13 doesn't necessarily go so well to try and work --
14 you know, Anderson can be very unresponsive if they
15 want to. They can be responsive, or they can be
16 unresponsive.

17 Q Were you the person who was responsible,
18 speaking of responsive, who was responsible for
19 determining whether there was any warranty left on
20 the windows?

21 A No.

22 Q Who would have been responsible?

23 A I would assume that either the attorneys
24 were or Suttan-Kennerly. I know we had lots of
25 discussion about these Anderson windows. There were

1 no as-builts. We couldn't find any as-builts for
2 them. Suttan-Kennerly and Brew Hagood's office
3 spend an awful lot of time trying to find out
4 exactly what series windows were in the Bristol,
5 exactly what the DP ratings were supposed to be.

6 As I said, Anderson was not -- not
7 particularly forthcoming, and I don't even know that
8 Anderson had all of the records related to what was
9 sold to the beach company. So it was quite a
10 process.

11 Q Do you know whether pressure washing
12 windows voided the warranties?

13 A No. But --

14 Q Still no, because you don't know what the
15 warranties were?

16 A No. But --

17 Q The property was pressure washed, though,
18 wasn't it?

19 A It was not pressure washed. I washed the
20 property once during my tenure, and I used
21 low-pressure hoses. I hired a man that just
22 basically used the same pressure that you would use
23 on a garden hose. And we use a lift to get him up
24 and around the building, because I knew I had leaks
25 in the building. And I needed to wash the mold off

1 of the stucco, because, basically, the property
2 looked like a Chia Pet.

3 So I washed the building, but I knew
4 good and well I had water intrusion issues. So no,
5 I did not turn a big fat pressure washer at 40 or
6 greater PSI on the building.

7 Q At tab 17 in our submissions, there's an
8 invoice for washing the exterior of the Bristol.
9 I'll show you, cost is \$9,150?

10 A Yes, sir.

11 Q And the name of the company that did the
12 pressure washing is American Pressure Washing?

13 A Correct, LLC.

14 Q LLC.

15 A American Pressure Washing, LLC.

16 Q Okay. So it's related to the pressure
17 washing company?

18 A Correct.

19 Q And at some point after the building was
20 pressure washed in or about March of 2007, a second
21 washing was scheduled, and you advised not to engage
22 in that washing, correct?

23 A I don't remember specifically being
24 advised not to do it because they thought it was a
25 poor concept. I think we were out of money.

1 Q But you advised not to do it?

2 A Correct. But the --

3 MR. MOONEYHAM: Thank you. That's okay.

4 Your Honor, if I might have one second. I may
5 be about finished.

6 (Off-the-record discussion.)

7 MR. MOONEYHAM: Thank you, Ms. Vest.

8 That's all the questions I have.

9 MR. BARFIELD: Your Honor, if I may offer
10 a scheduling suggestion?

11 THE COURT: Sure.

12 MR. BARFIELD: If we could take five, use
13 the restroom, order lunch similar to what we
14 did yesterday, that way we can put the lunch
15 order in, and then I can begin my cross.

16 THE COURT: All right. Well, let's put
17 the order in.

18 (There was a pause in the
19 proceedings.)

20 THE COURT: Thank you, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. BARFIELD:

23 Q Ms. Vest, I have got some questions for
24 you, and they will be -- we're going to revisit some
25 topics that you covered with Mr. Mooneyham and --

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1 but I don't think we'll be too terribly long.

2 First off, let's talk for a minute
3 about the assessments at the Bristol. Mr. Mooneyham
4 asked you a fair number of questions about how the
5 assessments were calculated. Do you remember that
6 line of questioning?

7 A Yes. I do.

8 Q Okay. Are you familiar with the term
9 statutory value?

10 A Vaguely, but not --

11 Q From the Horizontal Property Act.

12 A Yes. Vaguely but --

13 Q All right.

14 A -- don't ask me for a legal definition.

15 MR. BARFIELD: All right. Well, I'm going
16 to ask the Court to take judicial notice of a
17 subsection of the Horizontal Property Act, and
18 if there's no objection to it, I'm simply going
19 to read a short paragraph of it into the
20 record.

21 THE COURT: Any objection?

22 MR. MOONEYHAM: Until I know what section
23 you're talking about, I don't know if I'll
24 object or not.

25 MR. BARFIELD: This is section 27-31-60,

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1 property rights of apartment owner.

2 MR. MOONEYHAM: No objection.

3 THE COURT: All right.

4 BY MR. BARFIELD:

5 Q All right. And this section reads, an
6 apartment owner shall have the exclusive ownership
7 of his apartment and shall have a common right to a
8 share with the other co-owners in the common
9 elements of the property equivalent to the
10 percentage representing the value of the individual
11 apartment with relationship -- relation to the value
12 of the whole property.

13 This percentage shall be computed by
14 taking as a basis the value of the individual
15 apartment in relation to the value of the property
16 as a whole. The percentage shall be expressed at
17 the time the horizontal property regime is
18 constituted, shall have a permanent character and
19 shall not be altered without the acquiescence of the
20 co-owners representing all the apartments of the
21 property.

22 The basic value, which shall be fixed
23 for the sole purpose of this chapter, and
24 irrespectively of the actual value, shall not
25 prevent each co-owner from fixing a different

1 circumstantial value to his apartment in all types
2 of acts and contracts.

3 Now, that's -- and there's a
4 subsection B that talks about something entirely
5 different. But are you somewhat familiar with the
6 concept outlined in that portion of the statute?

7 A Yes. From an end-user.

8 Q Right. And in your experience, do master
9 deeds for horizontal regimes have usually as an
10 exhibit a calculation of the values that are
11 described in that provision?

12 A Yes.

13 Q All right. I'm going to show you the
14 master deed for the Bristol, which is actually in an
15 exhibit to the Moore & Van Allen foreclosure
16 materials that were submitted yesterday. And I have
17 got it opened up to Exhibit C.

18 A Does it have a page number?

19 Q Well, it's --

20 MR. MOONEYHAM: Page I.

21 BY MR. BARFIELD:

22 Q Yeah. Page I. Roman numeral -- small
23 Roman numeral I on the --

24 A Okay.

25 Q And this bears a heading, schedule of

1 assigned values, percentage interest, storage space
2 and parking spaces for each unit.

3 A Correct.

4 Q You see that exhibit?

5 A Yes.

6 Q All right. And then it has a table that
7 lists the units at the Bristol, and then the third
8 column over has -- bears the heading statutory
9 value. Do you see what I'm talking about there?

10 A Yes.

11 Q All right. Do you believe that that
12 statutory value listed there is the Bristol's way of
13 doing what it described in that statute?

14 MR. MOONEYHAM: Objection. Leading, Your
15 Honor, I'm going to ask for a ruling on this
16 issue. I realize this is cross-examination,
17 but this witness certainly is not hostile, nor
18 should they be allowed to examine under leading
19 questions under 611 -- my interpretation of
20 rule 611.

21 THE COURT: You say she's not --

22 MR. MOONEYHAM: Because she's not hostile
23 to them. She's aligned with them. I object to
24 their being allowed to examine with leading
25 questions pursuant to rule 611.

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1 THE COURT: If they're allowed, what
2 difference does it make really? Technically,
3 my -- and I understand your point. My position
4 has always been if you called her as a hostile
5 witness, he can still cross-examine her. So I
6 overrule your objection. I mean I've been
7 consistent through that throughout my career.
8 I can hear the argument either way, but that's
9 always the way I felt about it.

10 MR. BARFIELD: Thank you, Your Honor.

11 THE COURT: And especially dealing -- when
12 we're dealing with a more or less professional
13 witness. I don't think -- I don't think she's
14 going to be effecting in a lot of her answers
15 by whether he asks a leading question or not.
16 I mean I think she showed that to you. She
17 doesn't mind disagreeing with a lawyer, which
18 is great.

19 All right. Go ahead.

20 BY MR. BARFIELD:

21 Q Anyway, the statutory values in Exhibit C
22 to the Bristol's master deed.

23 A Yeah. I believe that this is the
24 developer's way of addressing -- establishing that
25 value and, therefore, establishing their percentage

1 of ownership. And in this case, it's equal to every
2 unit regardless of size or location of the building.

3 Q All right. And what is the statutory
4 value assigned to each unit at the Bristol in this
5 exhibit?

6 A A big \$2,000.

7 Q All right. I understand you're not an
8 appraiser, but I imagine as a property manager, you
9 have seen units bought and sold at the Bristol, have
10 you not?

11 A I have.

12 Q Okay. And is \$2,000 a reflection of the
13 market value at any point in time of the condos at
14 the Bristol?

15 A No.

16 Q All right. I believe you testified in
17 response to Mr. Mooneyham's questions about the way
18 assessments other than the special assessment for
19 the windows have always been levied at the Bristol.
20 Do you recall that testimony?

21 A Yes.

22 Q And I believe you said they were done
23 equally?

24 A Correct.

25 Q All right. Having seen this exhibit to

1 the master deed, do you believe that charging those
2 assessments equally was consistent or inconsistent
3 with what is prescribed herein?

4 A Consistent.

5 Q Okay. Thank you. Now, let me ask you
6 this. With regard to the special assessment for the
7 doors and windows, can you -- just for
8 everybody's -- to refresh everyone's recollection,
9 how was that calculated?

10 A That was calculated inconsistently with
11 the master deed, but we got legal opinions from our
12 general counsel as well as our litigation counsel.
13 We -- the building committee and the board had a
14 long conversation about how to go about assessing
15 for the doors and the windows.

16 They felt it was most palatable to
17 assess based on the number of windows and doors,
18 because the three bedroom units have a tremendous
19 numbers of windows and doors and would be very --
20 they add considerably to the cost to the windows and
21 doors.

22 So they basically discussed doing a
23 weighted special assessment. Both attorneys
24 reviewed it and blessed it, and then we went to the
25 homeowners, and we presented those assessments and

1 voted on it.

2 Q Okay.

3 A And the homeowners passed it.

4 Q All right. So that was put to a vote of
5 the homeowners and it passed?

6 A Correct. We had eight that dissented.

7 Q And I know there was some discussion,
8 perhaps a bit of confusion, but what was the
9 assessment -- was Dr. Lucas' assessment for?

10 A Roughly \$31,000.

11 Q Okay. That's what was actually assessed,
12 roughly 31,000?

13 A Yes, sir. I believe that's right. Here,
14 I'll tell you. Thank you. \$31,674.90.

15 Q Okay. Do you know what his assessment
16 would have been had it been assessed with him --

17 A I believe it would have been just about
18 that.

19 Q Okay. For the record, let me finish my
20 question. Had it been assessed in accordance with
21 the statutory values from the master deed?

22 A I believe it would have been commensurate
23 to that.

24 Q All right. Let's leave that issue for the
25 time being. I want to ask you a little bit about

1 the topic of dissemination of information --
2 pertinent information to the members of the Bristol
3 Association.

4 Mr. Mooneyham asked you -- well, he
5 got you to confirm that that is one of Dr. Lucas'
6 issues in this case, lack of information. Do you
7 recall that --

8 A Yes.

9 Q -- line of questioning? All right. Can
10 you tell me what methods have been employed to
11 disseminate pertinent information to the members of
12 the association in general? And then I would like
13 you to tell us what methods, if any, have been
14 employed to insure that Dr. Lucas specifically has
15 received pertinent information.

16 A Generally, we communicate by mail, mailing
17 to owners. We created a website early on. We
18 posted all of the meeting minutes, all of the
19 documents. We would send out e-mail blasts as well.
20 We would put notices under the doors. Typically,
21 the notices that went under the doors were pursuant
22 to activities going on in the immediate future in
23 the building.

24 So they would go under all of the
25 doors, basically, you know, that we would be

(1 cleaning the trash chutes or having elevator
2 inspections or a fire alarm inspection. We would
3 also, as I said earlier, mail to all of the
4 homeowners. We would -- anything related to the
5 lawsuit, if I was instructed to do so, would go
6 certified. Now, I believe that there were a certain
7 number of certified mailings that went, and a couple
8 of those were not retrieved by the Lucases. So they
9 were not picked up at the post office.

10 So there would have been a variety.
11 General information would have been sent by mail,
12 but if it was litigation sensitive, time sensitive,
13 it would have been sent certified.

(14 Q Okay. Now, have you had -- as a property
15 manager, have you had direct communications with the
16 Lucases over the years that you have been doing that
17 job?

18 A I've had some. I would not characterize
19 it as a lot of communications, but yes. I've had
20 some communications. The first time I believe I met
21 Ms. Lucas, she attended a meeting of all of the
22 homeowners. I met Dr. Lucas I believe at a meeting.
23 I spoke to Dr. Lucas -- he phoned me twice at home,
24 and I spoke to him twice at home.

(25 He called me once to tell me that his

1 cable was out and asked for my help, then he left me
2 a phone message at home. We had sent a letter out
3 to all of the homeowners advising them that we
4 needed to test the fire system, and he left me a
5 voice mail at home refusing permission for me to
6 enter his unit.

7 Q Okay. If Dr. Lucas were concerned that he
8 was not receiving important communications from the
9 board or from committees of the board, could he have
10 called you or e-mailed you or written you to address
11 that situation?

12 A Yes. I was on site two days a week. So I
13 was available to the homeowners, physically there on
14 Tuesdays and Thursdays. I would have been available
15 at my Mount Pleasant office the rest of the week,
16 and, obviously, Dr. Lucas looked me up in the phone
17 book and called me at home. So I felt that if he
18 really wanted to reach out to me, he could do so.

19 Q Did he ever call you and say, Lona, or
20 Ms. Vest, I'm not getting information in a timely
21 fashion?

22 A He did -- he did reach out to me at one
23 point, and he mentioned this in his testimony. He
24 did reach out to me about the same time that he was
25 trying to reach out to David Warner, and David

1 Warner was living at that particular point at his
2 summer home in Maine.

3 And he did want to talk to David
4 Warner, and I believe I gave Dr. Lucas David
5 Warner's number in Maine, and they connected. And
6 then I received a call from David Warner giving me
7 instructions as to send additional information out
8 to Dr. Lucas.

9 Q Okay. What kind of additional
10 information? Do you remember what issue that dealt
11 with?

12 A I think I specifically remember sending
13 some of the information related to the
14 Suttan-Kennerly findings and related to the lawsuit.
15 I don't remember specifically how much information I
16 sent. I did send some.

17 Q Okay. Were you aware that the Lucases did
18 not live permanently at the Bristol?

19 A Yes. When I first came to manage the
20 property, their son lived in their unit. And so
21 basically, I communicated with the son. And early
22 on, I remember when we'd send a proxy out for an
23 annual meeting notice, Dr. Lucas would designate his
24 son as proxy. I think at a later meeting of all the
25 owners, he subsequently gave his proxy to Johan

1 Princ I believe once.

2 He -- I had some conversations with
3 Kristin and John. I wouldn't characterize as a lot
4 of interface with them, but I did have some. And I
5 received a phone call once from Ms. Lucas about the
6 water bill. I believe that came up yesterday in
7 testimony, that the water bill had not been paid,
8 because it had been mailed to the building. And she
9 and I did have a conversation at that point.

10 We had a couple of conversations at
11 meetings privately about the website and talking
12 about how they could get up to be able to access the
13 website. And then I had -- I had an e-mail I
14 believe from Dr. Lucas at one point. I was trying
15 to get access to all of the units, shortly before
16 the lawsuit came to fruition, to get a good look at
17 all of the windows and doors to get an idea of any
18 that might be leaking that I didn't have on my list.
19 And he did e-mail me and give me permission to
20 access his unit at that point.

21 And Sutton-Kennerly then created a
22 spreadsheet where they noted conditions of all the
23 windows and doors. And then we had an exchange at
24 an annual meeting, when Dr. Lucas expressed I think
25 great concern prior to hiring an attorney or it

1 might have been around that same time frame when he
2 asked me specifically whether or not the board had
3 insurance. And he expressed that he felt that he
4 had been mistreated as it related to the lawsuit.

5 Q Okay. Did Dr. Lucas -- was Dr. Lucas ever
6 excluded from receiving information that was sent to
7 other members of the association?

8 A The only exclusion might have occurred as
9 it related to the Landry suit. There might have
10 been information that would have been sent out
11 specifically to those plaintiffs that would not have
12 been sent to Dr. Lucas, because Dr. Lucas chose not
13 to join that suit. Everyone was invited to join
14 that suit, and then there came a time when dealing
15 with that suit I would only deal with the 40 that
16 were parties in that suit related to specific
17 issues. But I don't remember it being a lot of
18 information.

19 Q Okay. And I guess really what I was
20 asking, was Dr. Lucas ever singled out to be kept in
21 the dark?

22 A No.

23 Q Let's talk for a moment about the Hanger
24 lawsuit. Okay? Do you remember Mr. Mooneyham
25 asking you some questions about that?

1 A Yes.

2 Q All right. Did the Hangers have separate
3 counsel? And when I say the Hangers, I mean the
4 Hanger group. Did they have separate counsel from
5 the lawyers who were representing the association
6 and the Landry group?

7 A Yes. They had retained Michael Seekings
8 and Jeff Leath, L-E-A-T-H.

9 Q And do you know what kind of fee
10 arrangements the Hanger group had with Mr. Seekings
11 and Mr. Leath?

12 A It's my understanding it was contingency.

13 Q All right. And so is it also your
14 understanding that when the Hanger suit was settled,
15 that Mr. Leath and Mr. Seekings were paid a
16 percentage of the settlement funds per that
17 contingency agreement?

18 A Yes.

19 Q All right. And the testimony I believe
20 has been that the board action and the Landry action
21 were pursued by Rosen, Rosen & Hagood on an hourly
22 basis?

23 A Correct. By Brew Hagood, B-R-E-W, Hagood,
24 and Britt Kelly, B-R-I-T-T.

25 Q When the Hanger suit was settled and those

(1 plaintiffs received funds from that settlement, I
2 believe you already testified that they did have to
3 pay the special assessment --

4 A Yes.

5 Q -- for the doors and windows?

6 A Yes.

7 Q What about repairs to the interior of
8 their units? How was that handled?

9 A That was a subject of tremendous debate
10 between the board and the building committee. There
11 was a concern -- there was going to be a certain
12 amount of interior repair needed to all of the units
13 as it related to the new windows and doors. We
14 actually had to build a -- what I would characterize
15 as a knee wall to incorporate the new windows into
16 the living rooms.

17 So there was actual sheetrock
18 construction. There would be sheetrock and trim
19 damage. And there was a great debate about whether
20 or not the six in the Hanger suit and the eight that
21 were not in any suit should be charged for their
22 interior repairs related to the trim and the
23 sheetrock.

(24 The board eventually decided that
25 they would charge no one for the interior repairs,

1 that all 54 units would receive interior repair work
2 along with the windows and doors. And so they
3 received the trim, the sheetrock repairs and
4 painting at no additional cost.

5 Q Okay. Was it complicated trying to
6 reconcile who paid what after these lawsuits got
7 settled?

8 A It was hugely debated. It became less
9 complicated when the board finally arrived at their
10 final approach, which was that we were -- instead of
11 me trying to keep a sub-tally of everyone's interior
12 repairs and painting and trim work, that that would
13 be incorporated into the contract.

14 The bathrooms are owned by the
15 individual unit owners. They weren't part of the
16 suit. So what ended up happening in the bathrooms
17 were debated for a very long time. The board did
18 not reach their final decision on how to deal with
19 the bathrooms until probably within the last year
20 and a half.

21 Prior to that, Craig Tallberg and I
22 actually approached some of the original 40 in the
23 Landry suit to get them to agreed to sign a release
24 of all the monies that would have been due to them
25 for the bathrooms. And basically, a lot of

1 homeowners agree to it, but several did not.

2 So the board then developed this plan
3 that they would pay \$2,000 to people who had already
4 made bathroom repairs. So it became less
5 complicated with some of the decisions. Right
6 immediately following the settlement, it was very
7 complicated, because we had so many different
8 parties with varying interests.

9 You know, the Landry people received
10 money from the suit that they did not get. The
11 money went into the pot to fix the building. The
12 eight were disenfranchised to some extent, because
13 they didn't participate in an additional interior
14 individual suit, and then six received money.

15 So basically, the board and building
16 committee spent a great of time trying to find the
17 most fair approach, as well as workable approach to
18 resolve it.

19 Q Okay. And I'm going to show you a
20 document that's at tab 45 of plaintiffs' exhibits.
21 Do you recognize this document?

22 A I create so many documents that it doesn't
23 ring an immediate bell, but yeah. Okay. Yes.

24 Q All right. This is a letter dated October
25 27th, 2009?

1 A Yes.

2 Q All right. And on the back page, who is
3 it -- who is this letter from?

4 A It is from Dave Landry and David Warner.

5 Q All right. And just take a moment. I
6 don't need you to read it in detail. Just take a
7 moment, and I'm going to ask you to characterize it
8 and describe approximately what it is and what it
9 was for if you can.

10 A From what I can remember of this document,
11 it gives you the background of these different
12 suits. It basically provides an explanation of what
13 transpired leading up to the settlement, and then it
14 discusses the board's recommendations on how to
15 proceed. And at the very end of the letter, it
16 states that the BRC, which would be the Bristol
17 Repair Committee, has recommended all of these --
18 previously, what I just described to you, the
19 assessment of the windows, the regime paying for
20 interior repair. And basically, it acts -- it
21 states that the board fully endorses this approach,
22 and then it says that we'll be voting on it.

23 Q Okay. Can I get you look at page 3 of
24 that document?

25 A Yes.

1 Q And I'm looking about three-quarters of
2 the way down, and there is a paragraph that starts
3 with several owners.

4 A Yes.

5 Q Do you see that? Could you read that,
6 please?

7 A Several owners have asked that the Hanger
8 participants surrender their net proceeds, which are
9 estimated at \$240,000 to the POA. This would mean,
10 however, that POA would incur a minimum of \$300,000
11 to cover their windows, doors, showers and interior
12 damages. Clearly, this is not a, quote/unquote,
13 good deal.

14 Q And read the two lines in bold beneath
15 that.

16 A It is not in the POA's financial interest
17 to co-mingle the Hanger funds, because it simply
18 will cost us more to take on the additional
19 obligations that they prefer to repair themselves.

20 Q All right. So that reflects the -- does
21 that reflect the decision or recommendation of the
22 board with regard to how to handle the Hanger funds
23 after everything came in?

24 A Yes.

25 Q All right. And is that how it was done,

1 that the Hanger funds were kept separate?

2 A Correct. The Hanger participants kept
3 their own money.

4 Q All right.

5 A Except what they paid for the windows and
6 doors.

7 Q Right. And they paid their own attorneys?

8 A Correct.

9 Q Were the Hanger participants -- did they
10 have to pay the special assessments to cover -- or
11 any assessments to cover the attorneys' fees for the
12 association's attorneys?

13 A Yes.

14 Q All right. So the Hanger participants
15 actually paid for two sets of attorneys?

16 A That's correct.

17 Q All right. And that was their choice?

18 A Yes.

19 Q Okay. All right. Did the Hanger
20 plaintiffs have the option of opting out of
21 replacing their exterior doors and windows because
22 they had filed suits on their own behalf?

23 A No.

24 Q All right. And why not?

25 A Because, as I said earlier, we -- the

1 building had to remain whole, and all of the windows
2 and doors had to match. And the board at this point
3 owned the windows and doors, the regime did. So
4 they would have been forced -- had they purchased
5 their own windows and doors, they would have been
6 made to comply with purchasing what we purchased and
7 installing it. They would have been required to
8 match us.

9 Q All right. Let's -- and this is jumping
10 around, but let's talk briefly about Moore &
11 VanAllen fees for prosecuting the foreclosure, and
12 we'll also then segue kind of talking about the
13 reasons for the foreclosure, if we can.

14 I believe you testified that Joseph
15 Belton, one of Moore & VanAllen's attorneys, did
16 attend Dr. Lucas' deposition?

17 A That's correct.

18 Q Okay. Do you recall that we had a
19 mediation in this case at their offices?

20 A Yes.

21 Q All right. Did Moore & VanAllen's
22 attorneys participate to one degree or another in
23 that mediation?

24 A Yes.

25 Q All right. Did they -- without revealing

1 attorney-client privilege, did they consult with you
2 or members of the Bristol board leading up to that
3 mediation?

4 A Yes.

5 Q All right. Would you be surprised if I
6 told you that I had had communications as co-counsel
7 with them throughout this lawsuit regarding the
8 status of the lawsuit?

9 A No. I'm aware you did.

10 Q Okay. I believe it's already been
11 discussed that the foreclosure action was
12 consolidated with the action first brought by the
13 Lucases. Do you recall that?

14 A Yes.

15 Q All right. And did the Moore & VanAllen's
16 participate in the efforts necessary to achieve that
17 consolidation?

18 A Yes.

19 Q And to the extent that there may have been
20 informal settlement discussions in this case, do you
21 believe that the Moore & VanAllen attorneys have
22 participated in those as well?

23 A Yes.

24 Q Now, let's talk about the foreclosure
25 action filed against the Lucases. Mr. Mooneyham

1 walked you through a number of examples of other
2 units -- unit owners who have been delinquent at
3 various times on monies owed to the association. Do
4 you recall that?

5 A Yes.

6 Q All right. And I think his overarching
7 point was there were I think he said nine examples
8 that he pointed to, and of all of those, the Lucases
9 were the only ones that the association chose to go
10 the distance on the foreclosure?

11 A That's not true. We would have gone the
12 distance on Bishop Rembert except --

13 Q Well, I'm going to ask you about that.

14 A Okay.

15 Q I'm setting it up. Do you recall that
16 question?

17 A Let me rephrase the statement. In my --
18 the foreclosure has gone on with Lucas longer than
19 any other action, but I think -- as I said earlier,
20 I think that has some bearing on the fact that
21 there's another action pursuant to this. So yes.
22 This is the furthest we have gone in an act of
23 foreclosure for the Bristol.

24 Q Okay. In those foreclosures, there were
25 was at least one, there may have been another, in

1 which an outside creditor such as a mortgage holder
2 foreclosed on a unit owner at the Bristol. Do you
3 remember those examples?

4 A Yes.

5 Q All right. And you testified about that a
6 little while ago. Was the Bristol party to those
7 foreclosure actions as what I would call a
8 ride-along defendant, a co-creditor?

9 A Yes. Just a little bit on the subject of
10 this and why, in my personal opinion, we did not
11 target Dr. Lucas. When we had -- we had a standard
12 operating procedure as it related to collections.
13 We would file a lien against the property first, and
14 the lien would ride. You know, the hopes would be
15 that the homeowner would pay us with the threat of
16 the lien. If the homeowner didn't pay us, the lien
17 would go on the unit.

18 If then the board every time they
19 meet, they review an active receivables list, and
20 they go through and discuss a course of action as it
21 relates to each of these delinquent homeowners.
22 Part of that process was they would ask that Moore &
23 VanAllen do an asset check on the individual
24 homeowners to get an idea of whether or not there
25 were assets beyond the unit.

1 Because at this particular time, most
2 of the units were well below the value of their
3 original mortgages. I would go back to the closing
4 statements, because I had all of those files at the
5 Bristol. And I would look at what the original
6 sales price was, what the original mortgage value
7 was, and then we would pull the mortgage off the RMC
8 website and try and get an idea of how much the unit
9 owner owed on the unit.

10 In a lot of cases, or in several
11 cases, the mortgage holder was also trying to
12 collect as in the case of Harmon, as an example, and
13 they filed an action against Harmon.

14 When I did the background check on
15 Bill Smith, as an example, Bill Smith owned that
16 particular unit in an LLC. He owed it as Access
17 Medical Charleston, LLC. When you ran an asset
18 check on Access Medical Charleston, you find that
19 the only asset they had was the unit.

20 When I went further and did the
21 mortgage check on Bill Smith's unit, as an example,
22 I found there were three mortgages on the unit.
23 There was a primary and two subsequent mortgages,
24 and Bill Smith owed over 800 and some odd thousand
25 dollars on a unit that was worth possibly \$500,000.

(1 So I would go back and report to the
2 board what I found out on each one of these
3 individual delinquent unit owners. If I was served
4 with a foreclosure action, the board would then not
5 turn around and file foreclosure also, because that
6 would be additional legal fees, and that would be,
7 as I said earlier, good money after bad.

8 We would just follow the foreclosure
9 action, hoping that the bank would take the unit
10 back and become a paying customer. We would then go
11 back and try and collect monies from the owner once
12 they moved on and left. Once the unit was seized in
13 foreclosure, we hired a collection agency. And on
14 those unit owners that it was feasible, we turned
15 them over to the collection agency.

16 Harmon, in the case -- I can go over
17 each individual case, but each one of them has
18 different conditions. Harmon, they signed an
19 agreement to get -- to expedite the foreclosure.
20 The board signed an agreement to not pursue the
21 Harmons individually.

(22 Bill Smith, I have a collection
23 agency trying to collect on Bill Smith. You know,
24 we're trying to pierce the LLC. We're trying to go
25 after Bill Smith, and he has a custom collection of

1 cars. So we are actively trying to pursue Bill
2 Smith.

3 In Dr. Zinkowski's case, he's dead.
4 You know, God rest your soul, Ernie. But there is
5 no ability to collect from Ernie. So those monies
6 completely got written off, and there's no
7 additional action there.

8 But in each one of these situations,
9 the board tried to exhaust all of the available
10 avenues to get the money back, and in some cases, we
11 are still working to get the money back.

12 Q Okay. You already touched on this, but I
13 wanted -- it bears repeating. Is Dr. Lucas being
14 targeted for foreclosure for punitive reasons?

15 A No.

16 Q All right. Do you believe it's
17 appropriate or necessary to forego filing a
18 foreclosure action just because a unit owner has
19 preemptively filed a lawsuit against the board for
20 dealing with fees it owed?

21 A No.

22 Q And procedurally speaking, the association
23 consented to consolidating the foreclosure action
24 with the Lucas action?

25 A Yes.

1 Q All right. Let's jump topics again if we
2 may. You were asked about the -- about the
3 selection of the windows that were used during --
4 that were purchased for to replace the original
5 windows at the Bristol?

6 A Yes.

7 Q All right. And you made reference to BRC?

8 A What I made reference to was the
9 architectural review responsibilities of the regime
10 as dictated by the master deed, but the BAR came up,
11 which is the board of architectural review that the
12 City has.

13 Q Right. But there's something else called
14 the BRC, isn't there, or was?

15 A The BRC was the Bristol Repair Committee,
16 correct.

17 Q Okay. Now, what was the function of the
18 Bristol Repair Committee in this process?

19 A The Bristol Repair Committee was created
20 after we settled the lawsuit to look at how we
21 defined the scope of repairs to be made to the
22 building, get competitive pricing for that work,
23 examine all alternatives and basically recommend to
24 the board the best repair scope, as well as the most
25 cost-effective repair scope.

1 The board would then review all of
2 this information and go back to the owners, and the
3 BRC was actually comprised of a diverse group of
4 people. The board specifically asked people that
5 had been at odds in the past, specifically Ken
6 Hanger, as an example, to sit on the BRC so that
7 there would be a broader representation of the
8 owners. And maybe some that would come with a
9 differing opinion.

10 Q All right. And did the BRC weigh
11 competing considerations, the options that you were
12 asked to talk about a little while ago, with regard
13 to the windows? And specifically, I'm talking about
14 the retrofit option versus the full replacement
15 option.

16 A Yes.

17 Q Okay. And did the BRC work with anybody
18 from the outside, any professionals, to inform them
19 in making a recommendation on that issue?

20 A They did. Sutton-Kennerly was still
21 involved at this point in making suggestions. They
22 also -- Craig Tallberg attempted to deal with
23 Anderson -- or insisted that we funnel all
24 communications through their attorney. So either
25 Craig or myself was continuously trying to

1 communicate effectively with the attorney to come up
2 with that retrofit program.

3 And we also interviewed various
4 window manufactures. We examined various
5 alternatives for windows. We looked at different
6 pricing, and we also interviewed several different
7 contractors and got them to provide pricing.

8 Q Okay. And I believe you already testified
9 that, ultimately, the recommendation was to go with
10 the full replacement of the windows rather than the
11 retrofit option?

12 A They decided to go with full replacement
13 of the windows and doors. They were purchasing
14 impact resistant glass with a door and window
15 product that had a DP rating of 80, which was well
16 above what the original DP ratings were. And as I
17 stated earlier, the DP ratings on all of the
18 Anderson windows should have been a DP 40. In some
19 cases, it was a DP 0.

20 So it was -- it was viewed as a
21 tremendous improvement. We also had a huge debate
22 as to whether or not to leave the stucco in place
23 and only cut the stucco away from the windows and
24 replace only that stucco that was impacted by the
25 window and door replacement.

1 We priced that -- we priced different
2 alternatives to do a modified removal of the stucco
3 and found that it was really almost the exact same
4 amount of money, and we could get an extended
5 warranty on new stucco and waterproofing. So the
6 decision was made to spend incrementally more to
7 replace all of the stucco.

8 So that's when we increased that
9 scope to included full stucco replacement. And as I
10 stated earlier, there had been some conversation
11 about the condition of the fasteners inside the
12 wall. We had removed the stucco from the 14 stack,
13 from the third floor to the fifth floor, to look at
14 the inside of the cavity to see the conditions in
15 the cavity. And there was some discussion about
16 whether or not those fasteners were impacted.

17 So there was a remedial plan that was
18 developed to address fasteners. So all of these
19 things morphed out of this building committee. They
20 reviewed all of these different options. They met
21 consistently. They went through and interviewed.
22 At some point, they also made a decision to leave
23 Suttan-Kennerly.

24 Suttan-Kennerly gave a cost estimate
25 to see us through the reconstruction process, and

1 they also felt that that was a large amount of
2 money. And they began a search to look for somebody
3 that was, A, local, because Suttan-Kennerly was
4 coming in from North Carolina. And, B, would
5 provide the same services but for less money.

6 Q Okay. With all of that in mind, did the
7 BRC, the Bristol Repair Committee, do a thorough job
8 in your -- to your observation in discharging their
9 duties?

10 A In my experience, yes. And I have a fair
11 amount of experience. I have done a lot of
12 reconstruction work. I worked with Oceanfront
13 Villas, Seascape Villas, Summer House Villas,
14 Charleston Oceanfront Villas, and I have worked with
15 a lot of different building repair committees at
16 these different places, and I thought the building
17 committee that was formed with the Bristol did a
18 good job.

19 Q Did they -- before making recommendations,
20 did they weigh competing considerations or competing
21 bids from outside contractors?

22 A Yes. I think we interviewed at least
23 three contractors.

24 Q Okay. In your experience as a property
25 manager, and specifically, your experience with the

1 Bristol, is the cheapest way of doing something
2 always the most prudent option?

3 A No.

4 Q All right. I have got one more topic I
5 want to cover with you, and I think you were kind of
6 itching to expound on this. And Mr. Mooneyham did a
7 good job of keeping you --

8 A Shutting me down?

9 Q Well, not shutting you -- keeping you
10 tight on answering his questions, and he predicted
11 that I would ask you about this. And so I'm going
12 to prove him to be a sage. With regard to the
13 fourth amendment to the master deed, okay, the
14 change, the status of the doors and windows, there
15 has been some testimony that Dr. Lucas believes that
16 that was done primarily to serve the litigation.
17 You have been here through all of the testimony in
18 this case. Do you recall that?

19 A Yes.

20 Q All right. You testified a little while
21 ago that you do not believe that to be the case. I
22 want to ask you to walk us through the time line of
23 events related to communications with the insurance
24 professionals, we have talked about Cindy Mulcare,
25 the amendment of the deed, and I want to throw Judge

1 Newman's order into the mix, because we heard about
2 that on your direct examination. So are you
3 comfortable describing that chronology?

4 A Not a problem.

5 Q Okay.

6 THE COURT: Could I intersect something?

7 MR. BARFIELD: Certainly.

8 THE COURT: We've got lunch, which is the
9 most important thing we have to do today, and
10 then we have a witness coming at 1:00.

11 MR. BARFIELD: Yes, sir.

12 THE COURT: Would it be any problem with
13 recessing her testimony and taking it up after
14 your 1:00 witness?

15 MR. BARFIELD: Well, I don't have a
16 problem with that.

17 MR. MOONEYHAM: I don't have a problem
18 with it.

19 THE COURT: I think me and the doctor
20 are ready to eat.

21 (Off-the-record discussion.)

22 JOHN CHARLES DEWITTE,
23 having been first duly sworn, was examined and testified as
24 follows:

25 THE WITNESS: I do.

1 THE COURT: State your full name, please.

2 THE WITNESS: John Charles DeWitte.

3 DIRECT-EXAMINATION

4 BY MR. BARFIELD:

5 Q Good afternoon, Mr. DeWitte. We've met
6 previously. I'm Michael Barfield, and I'm counsel
7 for the Bristol in this litigation. Can you give us
8 a little bit of a benefit of your professional
9 background, and then I might ask you about your
10 involvement with the Bristol.

11 A All right. For 20 years, I worked for a
12 large commercial general contractor, moved into the
13 area in 200- -- I guess moved in 2007, started
14 working in 2004. Worked for that general contractor
15 on the Law Barracks project at The Citadel, and The
16 Citadel football stadium project.

17 During that time, I started at Cooper
18 River Contracting in early 2007, and since 2007,
19 have done a number of condo restorations in town,
20 along with doing turnkey concrete work on large
21 commercial projects.

22 Q Okay. And tell us about how you came to
23 be involved with the Bristol.

24 A Originally, I was contacted by Lona Vest,
25 who asked whether I'd be interested in providing a

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1 proposal to the Bristol for the rework or
2 recladding -- restucco, I guess, of the building.

3 Q Okay. And had you dealt with Lona Vest
4 before?

5 A I had.

6 Q All right. And how?

7 A Charleston Oceanfront Villas. We had done
8 the sea wall stabilization there first, and then
9 they asked whether we would stay on board or were
10 interested in staying on board to do their
11 reskinning of the ocean side, along with other
12 repairs to the building.

13 Q All right. And after you spoke with
14 Ms. Vest about the Bristol, did Cooper River
15 Contracting, your company, in fact, submit a bid for
16 the repair work to be done on the Bristol?

17 A Yes.

18 Q All right. And did you have -- was a
19 scope of work or set of plans or anything like that
20 provided to you for purposes of putting that bid
21 together?

22 A There were a set of plans that were
23 provided to us on the project.

24 Q All right. Do you recall who had prepared
25 those plans?

1 A I believe it was Suttan-Kennerly.

2 Q All right. Before you submitted your bid,
3 were you at all familiar with the history of the
4 litigation that had preceded the request for bids at
5 the Bristol?

6 A I was not.

7 Q All right. So after you submitted your
8 bid, was Cooper River Contracting ultimately awarded
9 the contract to perform the repair work?

10 A Yes.

11 Q Okay. Do you off the top of your head
12 remember approximately what that repair contract
13 amount was?

14 A It was roughly five million dollars.

15 Q And without pulling out Suttan-Kennerly
16 documents, can you tell us sort of in general terms
17 what the scope of work was that you were bidding on
18 and contracting to perform?

19 A It was removing and replacing the stucco
20 on the building, removing and replacing all the
21 windows, bringing those up to current code
22 requirements, replacing the parapet cap. We did --
23 we also refurbished the pool there as an add on, and
24 top-coated the balconies again with the sonic garden
25 deck coating material.

1 Q Okay.

2 THE COURT: Top-coated what?

3 A The balconies, decks.

4 THE COURT: Balcony.

5 BY MR. BARFIELD:

6 Q Now, when you say the pool was an add on,
7 does that -- was that a change order or --

8 A That was a change order.

9 Q All right. Let's take those items in turn
10 then. What was the reason, to your understanding,
11 that the stucco needed to be removed and replaced?

12 A They had leaks in the building.

13 Q All right. And so why would that require
14 the exterior cladding to be replaced?

15 A They -- the original stucco system was put
16 on without a water management system on the
17 building. So there was nowhere -- any moisture that
18 got in behind the stucco was unable to weep back out
19 on the exterior, and in a lot of cases, came in the
20 interior windows and doors.

21 Q All right. Was the -- so I assume you
22 performed that work, the removal and replacement of
23 the stucco?

24 A Correct.

25 Q When you removed the original stucco from

(1 the building, did you see problems with the way it
2 had been installed originally?

3 A There was signs of a water infiltration,
4 definitely.

5 Q All right. Let's talk about -- well,
6 before we leave the stucco, do you remember
7 approximately what the stucco removal and
8 replacement cost as a line item?

9 A About two million dollars.

10 Q All right. Let's talk about the exterior
11 doors and windows. Your company removed and
12 replaced the original windows?

(13 A Correct.

14 Q All right. Did you participate in
15 conjunction with the Bristol board or subcommittee
16 of that board in the selection of the new windows?

17 A I was responsible for putting together the
18 information, the pricing for the windows, the
19 different window suppliers and providing that
20 information to the Bristol, and I believe they had a
21 construction committee at that time who made the
22 decision on what window to use.

(23 Q All right. We've heard testimony today
24 about there being a couple of different options
25 and -- with regard to windows, one being

1 retrofitting the original windows with kits, and the
2 other being full replacement of the windows. Did
3 you participate at all in the analysis and
4 decision-making on that issue?

5 A No.

6 Q All right. So when you became involved,
7 had the decision to replace the windows already been
8 made?

9 A Yes.

10 Q All right. There's been some discussion
11 of DP rating -- the term DP rating has been used
12 today, and I don't know how familiar His Honor is
13 with that term. It's a relatively new term, at
14 least to me. What is DP rating?

15 A Design pressure.

16 Q All right. And what is that a measure of?

17 A It's a -- all windows are generally -- or
18 most of the windows in high wind areas are tested
19 for wind loading requirements. And depending on the
20 construction of the window, it will take different
21 DP ratings or different loads on the window.

22 Q Okay. And what does the code require
23 presently with regard to DP rating on windows where
24 the Bristol is located?

25 A There was an analysis done by a local

1 engineer, but I think it's DP 50 or 60. Again, I
2 don't recall exactly what it was, but the windows
3 that were installed met the requirement.

4 Q All right. And what brand of windows were
5 installed out there?

6 A Kolbe -- I forget the actual model, but it
7 was a Kolbe window.

8 Q That's fine. And those were DP rated to
9 be compliant with the code --

10 A Correct.

11 Q -- as of the repair job?

12 A Correct.

13 Q All right. What about the windows that
14 were removed? Were those DP rated such that they
15 were code compliant at that time?

16 A To my knowledge, they were not.

17 Q All right. What is your understanding of
18 the reason why the windows had to be removed as part
19 of the repair process?

20 A In order to flash the windows properly,
21 you had to remove them.

22 Q So was it the original installation of the
23 windows that was the issue as opposed to the windows
24 themselves with the water intrusion?

25 A Well, you had various issues with the

1 water infiltration. There was windows that actually
2 leaked, and there was openings that allowed the
3 water to come in.

4 Q Okay. And when you say openings, are you
5 referring to the installation of the windows?

6 A It would be the installation of the
7 windows.

8 Q All right. What we all have heard,
9 flashing, house wrap, those types of things involved
10 in window installation?

11 A Whether it be poorly flashed or, you know,
12 improperly installed.

13 Q All right. So what does the code say --
14 let me ask it this way, why couldn't the windows
15 that were removed out of the Bristol, those that did
16 not leak themselves, why couldn't they simply be put
17 back in the walls as is without either being
18 retrofitted with kits or being replaced?

19 A Well, there is a couple of issues with
20 that. One is, that if you remove something and put
21 it back, you have got to bring it up to the current
22 bidding code requirements. You couldn't simply put
23 a lot of those windows back, because they didn't
24 meet the current building requirements for the wind
25 load.

1 The retrofitting, again, I wasn't
2 involved with the retrofitting analysis. And so,
3 you know, I know a lot of the -- some of the framing
4 had to be redone around the windows to increase the
5 framing in order to take the new loads. So that
6 would entail pulling out a window.

7 And the windows leaked. I mean they
8 were -- they -- there was a number of units that --
9 based on the report -- I don't have any first-hand
10 knowledge, but based on the reports that I read,
11 they leaked.

12 Q Okay. Were there examples of windows that
13 leaked either themselves or because of installation
14 deficiencies that where the leaking was not apparent
15 for either the -- from the inside of the units that
16 they have been -- they were part of?

17 A You didn't always -- just because a window
18 leaked, you didn't necessarily see the signs of it
19 inside the building. It could have traveled inside
20 the drywall and down a track and come out somewhere
21 else. So it's -- a water infiltration is always a
22 tricky thing to try to determine exactly where it's
23 coming in, but the openings are generally where it's
24 coming in.

25 Q Right. So if you have a condition where a

1 window is leaking into a wall combined with the
2 stucco condition -- the stucco installation
3 condition that you described earlier, how does that
4 manifest?

5 A Well, the windows that were installed
6 there did not have any pans in them. So the water,
7 if it got -- whether through the window or through
8 the opening itself, there was no way of having it
9 weep back to the exterior of the building. So with
10 the method in which they installed the stucco, with
11 them caulking everything solid, it took the path of
12 least resistance, which was inside, because it
13 couldn't come out outside.

14 Q Okay. And what can that do to a building,
15 in your experience?

16 A Well, it'll obviously cause -- in the case
17 of the Bristol, you have got a concrete slab, which
18 is going to make it wet. It's not really going to
19 deteriorate the slab. Metal studs, it's going to
20 start rusting metal studs.

21 Q Okay. And are those conditions that you
22 observed when you removed the exterior stucco from
23 the Bristol?

24 A We replaced a number of studs that had
25 been heavily corroded due to moisture.

1 Q And when you say studs, is the Bristol a
2 metal-framed building or wood-framed building?

3 A Metal frame.

4 Q All right. So when you say deterioration
5 or corrosion to the studs, we're not talking about
6 wood rot?

7 A No.

8 Q All right. So how -- we're talking about
9 rust?

10 A Rust on the studs, yes.

11 Q All right. What was the issue with the
12 parapet cap? What did you do?

13 A Just in order to complete the building
14 envelope, we had to take it up over and tie it into
15 the roofing system. So you had a continuous
16 membrane both from the inside of the parapet up over
17 top of the new vapor barrier that was on the
18 exterior of the building.

19 Q All right. So that is -- is it safe to
20 say that's part and parcel of the exterior reclad?

21 A Yeah.

22 Q All right. Now, the pool was an add on
23 you said. Tell me how that came about.

24 A Just during the demolition and the
25 reconstruction, you know, they had to drain the

1 pool, and they took the opportunity while the pool
2 was basically out of commission for one summer to
3 refurbish it.

4 Q Okay. Was that -- were you repairing
5 deficiencies with the way the pool was built, or
6 were you -- what necessitated that work to the pool,
7 if anything?

8 A They -- we put a waterproofing membrane on
9 the whole deck, because they had a few water
10 infiltrations problems with the deck of the pool.
11 And, you know, during that process, took the
12 opportunity to put in stone -- Travertine pavers
13 down and recoat the pool.

14 Q All right. All right. The final thing
15 you mentioned was that you top-coated balconies.
16 What did that process entail?

17 A Pretty much exactly as I stated. We
18 didn't do any -- our contract -- we did not have a
19 contract to correct any of the sloping issues that
20 they had with balconies. It was bird baths and some
21 back slopings and things like that. Just do the
22 nature of the demolition. It got pretty dirty, and,
23 you know, we went in there. And once we were done
24 the -- our work and pretty much coming off the unit,
25 we would recoat the balcony with the sonic guard

1 waterproofing membrane.

2 Q Okay. Now, the Bristol is a building that
3 consists of 54 individual condos. How did your
4 company approach the work you did with regard to
5 managing the logistics of that condition? In other
6 words, you got 54 owners out there who some of them
7 live there full time, some don't. How do you attack
8 that problem?

9 A Well, obviously, you've got to start
10 somewhere and finish somewhere. So we picked a
11 starting point and went around the building I
12 believe it was clockwise. And with -- you know,
13 through coordination meetings with the board and the
14 HOA, we just kind of give them an updated scheduling
15 telling them where we'll be around the building at
16 any given time.

17 Q Okay. What was done with the -- generally
18 speaking, what was done with the windows that you
19 removed?

20 A If they were damaged, they were scrapped.
21 If they were salvageable, we gave a lot of them to
22 Habitat. They would come and pick them up.

23 Q Can you tell me, if you can recall, about
24 the warranties that accompanied the new Kolbe
25 windows that were put into the Bristol?

1 A I want to -- and I'd be guessing.

2 Q Okay. Let me ask you more generally then.

3 Did those windows come with warranties?

4 A Yes.

5 Q All right. What about the stucco?

6 A Yes.

7 Q If you had done -- performed a piecemeal
8 stucco repair, would that have affected the
9 warranty?

10 A You wouldn't get a warranty.

11 Q Okay. What about -- scrap that.

12 Did you work at all with the City
13 Board of Architectural Review with regard to the
14 selection of the windows?

15 A I presented the new windows and the new
16 stucco system designed to the BAR.

17 Q Okay. And did the BAR have to approve
18 what was being done on this job before you put
19 anything there on the building?

20 A Yes.

21 Q And was there a -- did they rubber stamp
22 what you submitted the first time, or was there any
23 back and forth?

24 A No. They commented on the doors and
25 windows.

1 Q All right.

2 A And made suggestions, actually, on what
3 they would like to see.

4 Q Okay. Bear with me one second. Did you
5 have any knowledge or opinions with regard to the
6 decision to replace the windows as opposed to
7 retrofitting them with higher DP rated kits?

8 A No.

9 Q Okay. You weren't a part of that --

10 A No.

11 Q -- decision-making? Do you know how, if
12 at all, retrofitting the existing window may have
13 impacted the warranty on those windows?

14 A No. I mean I have no knowledge of what
15 was discussed during I guess the litigation process,
16 on the repair or retrofitting of existing windows.

17 MR. BARFIELD: That's all I have for you.

18 Answer any questions that Plaintiffs' counsel
19 might have.

20 CROSS-EXAMINATION

21 BY MS. POPE:

22 Q Mr. DeWitte, I'm Kelly Pope. I represent
23 the Lucases, and we have met a while back when I
24 took your deposition. I just have a few questions
25 for you, and you may have touched on this just a

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1 moment ago, but I wanted to clarify. You don't know
2 whether the retrofitting to the windows that were
3 existing prior to your doing the reconstruction, you
4 don't know if the retrofitting to those windows
5 would have brought the bad windows up to code or
6 not?

7 A I do not.

8 Q Okay. Do you have any knowledge as to
9 what the warranty was on the Anderson windows and
10 doors that were in place prior to you doing
11 reconstruction?

12 A I do not.

13 Q Okay. And my final question deals with
14 pressure washing. In your opinion, and given your
15 experience, do you think it's a good idea to
16 pressure wash windows?

17 A The person doing the pressure washing
18 needs to know what they're doing.

19 Q Okay. So let me expound on that just a
20 little bit. You said they need to know what they're
21 doing. What do you mean by they need to know what
22 they're doing?

23 A Well, a door --

24 Q Why is that so important?

25 A Well, a door, for example, you -- I mean

1 it's common sense, you can't put a high pressure
2 power washer at the base of a door and not expect
3 water coming in.

4 Q Okay.

5 A I mean it's going to find a way.

6 Q Okay.

7 A I mean a door is an opening. It just
8 happens to have seals around it. If you put enough
9 pressure, water will come in.

10 MS. POPE: Okay. Thank you. I have no
11 further questions, Your Honor.

12 RE-DIRECT-EXAMINATION

13 BY MR. BARFIELD:

14 Q How do you determine conclusively that a
15 window leaks? And when I say the window, I'm not
16 talking the window as it's installed in a wall. I'm
17 talking about the window itself.

18 A You would have to have the window tested.
19 You want to isolate the window from the opening.

20 Q Okay. And how -- are you familiar with
21 that testing process? How does that work?

22 A I have seen a number of windows tested,
23 and usually, there's a chamber built or there's some
24 way -- you isolate the window and put -- well,
25 whether it's out of the opening or inside the

1 opening is, obviously, two different test
2 procedures.

3 Q Okay. So if I hear you correctly, what
4 you're saying is if you were going to conclusively
5 determine whether the original windows at the
6 Bristol were -- let's put code aside.

7 A Uh-huh.

8 Q Were acceptable to be put back in the
9 wall, you'd have to perform testing on individual
10 windows?

11 A Well, you never -- yeah. I mean if you
12 wanted to be -- know conclusively that a window
13 didn't leak, you'd have to test each individual
14 window.

15 MR. BARFIELD: Okay. That's all I have.

16 THE COURT: Ms. Pope?

17 RE-CROSS-EXAMINATION

18 BY MS. POPE:

19 Q When you remove a window, can you look at
20 the space where the window was and determine whether
21 it was the window that was leaking or whether the
22 space around the window was leaking?

23 A After the window's been taken out?

24 Q Yes.

25 A You can't. You don't know. You -- you

1 would have to have -- you would have to see physical
2 signs of moisture. If you saw the physical signs of
3 moisture, whether it be on the window or the
4 opening, then you could be -- it would be -- you
5 could determine whether the water -- you could have
6 a better understanding where the water's coming
7 from, but that's not to say that the window doesn't
8 leak onto the opening.

9 Q Okay.

10 A It's -- moisture and water infiltration is
11 a tricky thing.

12 MS. POPE: All right.

13 EXAMINATION

14 BY THE COURT:

15 Q In relation to the numbers that you're
16 using to describe DP, are they just relative
17 numbers, or do they mean something?

18 A They mean something. There's actually --
19 it depends on the location of the building, the
20 height of the building, location of the window on
21 the building. So there's a number of factors that
22 --

23 Q In other words, 40, you can go somewhere
24 and read what 40 means, different specs for that
25 window?

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1 A Well, that's a pressure rating, but I'm
2 saying the building itself -- like the Bristol, for
3 example, there's always hot spots on a building.
4 Building corners are usually hot spots. So they'll
5 have a higher DP rating than, let's say, a flat
6 wall, flat area, due to different pressures around
7 the building due to the winds or the wind loads
8 imposed on the building.

9 So the DP 40 -- the DP 40 is a
10 pressure rating that's assigned to the window when
11 it's tested, and then you can get -- there's a
12 calculation you can do on the whole building to see
13 what the minimum requirement --

14 Q Yeah. Does 40 mean something like 40
15 pounds per square inch, or is that a relative number
16 that you --

17 A No. It's 40 pounds per square inch.

18 Q Okay. All right.

19 A 40 pounds per square foot.

20 Q Okay. It's a definite meeting?

21 A Yeah.

22 Q When the original stucco was put on that
23 building, describe to me how it would look. You got
24 a metal stud, and then what?

25 A The original system?

1 Q Yeah.

2 A You'd have a metal stud. You'd have a
3 drainage matter -- sorry. Let me back up. You have
4 a metal stud. You have a DensGlass, which is a
5 yellow board, an exterior-grade drywall.

6 Q Okay.

7 A It's fiberglass impregnated. And then on
8 top of that, you'd have the -- I believe on the
9 Bristol was building paper.

10 Q Like tar paper?

11 A Like tar paper, yeah. Like a building
12 felt.

13 Q Yeah.

14 A And then you'd have a -- again, I'm trying
15 to think. They -- I believe they had a drainage
16 mat. Then you have the wire mesh or the mesh that's
17 attached to the DensGlass or to the paper, which is,
18 obviously, attached to the DensGlass. And then you
19 have a three-coat stucco system, cementitious stucco
20 system that's applied to that lathe that's applied
21 to the wall.

22 Q And so to remove the stucco, what portion
23 of that do you have to remove?

24 A As an absolute minimum, you'd have to get
25 down to the DensGlass, and in a lot of cases, the --

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1 when you go back with a new system, the manufacturer
2 who -- of the stucco system that is providing the
3 warranty on the stucco -- wants you to go right back
4 and put a new substraight, meaning a new piece of
5 DensGlass on as well. So we had to take it right
6 back to the metal frame, and then build it back
7 again in order to get the warranty on the stucco
8 system.

9 Q The DensGlass would what? Would take the
10 place of plywood?

11 A Yeah. Yes.

12 Q Okay. So in this case, when you went
13 back, did you take that off to the metal stud?

14 A We did, yes.

15 THE COURT: Okay. All right. Any follow
16 up?

17 MS. POPE: Your Honor, if I might just
18 have a moment, if you don't mind, before we
19 dismiss this witness?

20 THE COURT: Sure.

21 (Off-the-record discussion.)

22 RE-CROSS-EXAMINATION

23 BY MS. POPE:

24 Q Mr. DeWitte, weren't there issues with
25 owners' closets on the balconies having water

1 intrusion issues as well?

2 A There are closets that have water in them.
3 Our contract was not to make them water tight.

4 Q I understand. I understand. And right
5 now, I just want to clarify. I'm not asking about,
6 technically the scope of work you were asked to do
7 and repair. While you were there, to your
8 knowledge, did you discover that were issues with
9 water intrusion on the owners closets?

10 A There were, and it was mainly due to the
11 type of door it was and the weather stripping on the
12 door.

13 Q Right. And do you -- the fifth floor
14 condos, those owner closets, those do not have the
15 roofs that came out and over the owners' closets,
16 did they?

17 A I don't believe they did.

18 Q Okay. I believe you said that there was
19 water that would get into the closets, stand in the
20 closets that wasn't draining properly?

21 A Well, I mean the -- again, the closets
22 were never designed to be water tight or waterproof.

23 Q Right.

24 A So if moisture got in there, it had no way
25 of getting out.

1 Q Okay. Was it -- strike that.

2 The water issues from the owners'
3 closets, wouldn't some of that water also drain down
4 the stucco walls?

5 A Prior to the renovation there's some --
6 it's possible. It's possible that if water got in
7 there, it could have found its way down inside the
8 building.

9 Q Okay. Besides -- and this is going to be
10 laymen's terms. Besides the water traveling from
11 the fifth floor to the first floor or to the bottom
12 of the Bristol, is there another way for that water
13 to travel besides going down the stucco walls?

14 A You're saying on the exterior or interior?

15 Q Interior.

16 A Gravity is going to take its course. I
17 mean water is going to go --

18 Q But were there other piping -- was it just
19 the stucco just coming down to the stucco walls, or
20 was there piping in the other places where it could
21 have also traveled?

22 A I don't believe there was any other piping
23 on the exterior wall. Again, I'd have to go back
24 and look, but, generally, you don't put piping on
25 exterior walls because of the -- you know, the --

1 you keep it away from the elements, keep it away
2 from potential problems with freezing or other
3 problems that could be created.

4 Q And there were none within the stucco
5 walls?

6 A Again, I don't recall seeing any on the
7 exterior. Again, it's just not -- there may have
8 been some near the exterior but maybe not right at
9 the exterior. That's not to say there wasn't some
10 there. I just don't remember any, or if there were,
11 they were very few.

12 MS. POPE: Okay. Just one moment. That's
13 all I have. Thank you.

14 RE-EXAMINATION

15 BY THE COURT:

16 Q You say that two million out of the five
17 million was for stucco?

18 A Correct.

19 Q How much was for the windows and doors?

20 A Well, I recall the window supply was like
21 1.5 million. So that was just a supply, and then we
22 had, obviously, the --

23 Q That was just the cost of the unit for the
24 windows and doors themselves, the 1.5?

25 A Yeah.

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1 Mulcare's letter.

2 A Well, how about let's start with me. I
3 became involved -- I was being interviewed in the
4 January, February time frame. I was formally hired
5 to start March 1st. I was asked to come early to
6 attend the February board meeting, and I was also
7 asked to begin working with the insurance committee.

8 At that point, the lawsuit had
9 already been filed. I started working with the
10 insurance committee, and that's when I first met
11 Cindy Mulcare. She was brought to the table by
12 Charles Derosé, who knew her from Wells Fargo and
13 had held her up as a great insurance agent for us to
14 talk to.

15 At that particular time, we were
16 being insured by All State, Tim Scott's office, and
17 Tim Scott had come to the board to announce that he
18 could no longer write the Bristol, because the
19 Bristol was outside of an area that All State was
20 willing to continue writing.

21 So they were in kind of a panic mode
22 because all of a sudden, this great deal that we
23 were getting from All State evaporated, and they
24 felt that they were just going to renew with All
25 State. They had a great deal going, and All State

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1 was now off the table.

2 So we then started interviewing
3 insurance agents. I think at that particular time,
4 we got a couple of quotes, but Cindy Mulcare
5 provided a quote. It was incredibly thorough. At
6 the exact same time, Harold Campbell raised the
7 issue about the insurance -- the flood insurance and
8 the location of the building and the rating of the
9 flood insurance.

10 He and Johnny Jordan went down to the
11 building inspector's office and found out the
12 building footprint is actually in an A zone, and
13 that we were being improperly billed for the flood
14 insurance. So we began a process in this short
15 period of time of trying to amend our flood
16 certificates, getting refunds for the two years
17 worth of flood insurance that we were then eligible
18 for. And then we also began negotiating with Cindy
19 Mulcare for the coverage of the building.

20 At that particular time, Harold
21 Campbell asked the regime board if they would be
22 willing to allow him to write the flood insurance.
23 He was a State Farm agent, and he didn't have the
24 ability to write the building, because they wouldn't
25 allow that. But he could write a federal flood

DAY, CHAPTER 5, 1980-1981, 1982-1983, 1984-1985

1 policy for the building.

2 The board agreed. Given the fact
3 that he had been so helpful in pointing out this
4 problem, they agreed that he could write the flood
5 insurance, because it would have been the same price
6 whoever we wrote it with.

7 Q Right.

8 A So Harold becomes the flood insurance
9 agent. Cindy becomes the building agent. At that
10 particular time, in these insurance committee
11 discussions, we started discussing the impact of the
12 master deed. And I think Johnny Jordan at that
13 point suggested that they both read through the
14 master deed and just make sure that we had a
15 complete program, and that, also, there weren't
16 going to be any issues related to the master deed.

17 We were purchasing what's considered
18 an all-in policy, which would mean that it would
19 cover the entire building. And typically, when you
20 purchase an all-in policy, you insure the building
21 as it was originally built. So if you bought a
22 unit, you would have the expectation that we would
23 pay to put the unit back into the condition it was
24 when you originally purchased it from the developer,
25 and you would be responsible for any upgrades and

(: 1 improvements.

2 So we were concerned about
3 understanding exactly how this all-in policy was
4 going to work. And keep in mind too that this was
5 the first purchase of this insurance committee as a
6 homeowner controlled board.

7 The insurance had been purchased all
8 along and negotiated by the beach company. So this
9 group was very concerned about doing a thorough and
10 good job with it. At some point, Cindy Mulcare
11 comes back to us, and I don't know if Cindy came to
12 us first or Harold came to us first, but they raised
13 the issue of the windows.

(14 And the issue became all of the
15 things I've described earlier, the impact in the
16 event of a catastrophic loss, in terms of whether or
17 not all the homeowners had the proper insurance, how
18 would we manage that information? How would we
19 manage physically changing out of all these windows
20 if I had to coordinate 54 different people buying
21 all of these windows. All of these issues came into
22 play.

(23 And typically, when you purchase an
24 insurance policy, the very first thing that an
25 adjuster does is looks at the master deed to

1 understand clearly what the regime is responsible to
2 pay for it. The fact that the owners owned the
3 windows and doors was a concern, because they felt
4 that if we had a catastrophic loss, the adjustor
5 would look at the master deed. They would omit
6 coverage for the window and doors, and there would
7 also be a big problem in adjusting the loss.

8 And so these things came into play.
9 So the board members -- or the committee largely. I
10 believe it was Johnny Jordan, who not only sat on
11 this committee, but sat on the board, asked these
12 two people to write a letter explaining what they
13 had found. They then took those letters to David
14 Wheeler.

15 Q David being --

16 A Who was the regime counsel.

17 Q Okay.

18 A They asked David Wheeler advice. David
19 Wheeler came up with the suggestion that we invoke
20 this particular section of the master deed on an
21 emergency basis that would allow the board to change
22 the master deed after providing notice to the
23 homeowners and not receiving any objections.

24 We followed David's advice --
25 Wheeler's advice. We sent out the letters to the

1 homeowners, and we received no objections, and we
2 followed it to the letter of the master deed. Then
3 we recorded the amendment once we received no
4 objections, and, quite frankly, we had expected to
5 receive objections. We thought that the Hanger
6 group would be objecting, and so the board was very
7 concerned because they thought for sure that the
8 group of plaintiffs in the Hanger group would
9 object, and they never did.

10 So we received no objections. We
11 recorded the amendment. We took over the ownership
12 of the windows and doors. At some juncture, there
13 was a certain amount of discussion, but not a lot of
14 discussion, about whether or not that would have an
15 impact on the case. But if I remember -- the way I
16 remember it is that I don't really remember that
17 being a big crushing issue to Brew Hagood and Britt
18 Kelly.

19 The next thing that happened was
20 there was an order from a judge to enjoin the
21 discovery, and that was the first piece of action
22 that we received word of on this particular lawsuit.
23 And we sent that out to all the homeowners to advise
24 them of that. There were a lot of questions. The
25 owners didn't really understand it. We mailed it

1 out. We posted it on the bulletin board.

2 Q Now, let me stop you there. When you say
3 enjoin, are you referring to consolidation?

4 A Yes. I'm sorry.

5 Q Okay.

6 A I'm using an incorrect --

7 Q I just wanted to make sure we're correct.

8 A The consolidation of the case as it
9 related to discovery.

10 Q Okay.

11 A We notified all the homeowners that this
12 occurred. We posted it on the website. We posted
13 it on the bulletin board. Then at some juncture
14 later down the road, and I want to say -- when I say
15 later down the road, I'm talking 2008, it might have
16 even been closer to 2009, the issue of the ownership
17 of the windows and doors as it related to the
18 lawsuit became a burning issue.

19 There was a -- Brew and Britt
20 appeared in front of Judge Newman. I did not
21 attend. I believe Johnny Jordan went on behalf of
22 the board, and at that point, it became an issue.
23 And it was my understanding that Michael Seekings
24 and Jeff Leath were fighting in favor of their
25 owners being able to sue for the windows and doors,

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1 which would be the Hanger lawsuit.

2 And they prevailed, which then took
3 the windows and doors out of the regime suit and
4 posted an issue to Britt and Brew. At that point,
5 they came to the board and also explained to me that
6 they needed to get assignments from the owners for
7 their windows and doors.

8 So they came to me and gave me a
9 letter and an assignment agreement and asked me to
10 please send it out to all of the homeowners. I did
11 that. And then it was my job to try and collect as
12 many of these assignments as possible. And I don't
13 really remember how many assignments I received, but
14 it was my job to go out and chase these assignments.

15 After that, one of other issues that
16 then later came up is more window testing. Brew and
17 Britt came to us shortly before the issue was going
18 to court, and they suggested that we really needed
19 to do more in depth window testing. And Harold
20 Campbell had a vacant unit in the building, and he
21 agreed to allow us to do some more extensive water
22 testing.

23 So that became the next thing that we
24 did, and we did that in a fairly short time period,
25 and I believe it was in 2009, shortly before we

(1 actually went to court. Then we went to court, and
2 as I said, we went all the way through the process
3 of seating the jury. And right after the jury was
4 seated was when we settled our lawsuit.

5 And then the Hanger group actually
6 went to court the next day, and they settled very
7 quickly. I think they took test testimony of maybe
8 two witnesses, and then they settled.

9 Q Okay. Thank you. Was Judge Newman's
10 ruling on the windows and doors, was that a -- were
11 Britt and Brew doing anything about that? In other
12 words, did they -- were they going to pursue that
13 issue further, or did they just let Judge Newman's
14 order stand?

15 A No. Their response was to ask me to get
16 the window assignments from the individual unit
17 owners.

18 Q What about, do you know anything that they
19 may have done procedurally within the lawsuit about
20 that? Did they file a motion or --

21 A I couldn't speak to that.

22 Q Okay.

23 A I just know the end result as it impacted
(24 me.

25 Q All right. And in terms of assignments,

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1 do you remember how many owners gave over
2 assignments?

3 A I don't remember.

4 Q All right. What was the --

5 A I know that the Hanger group, obviously,
6 did not give me their assignments.

7 Q Right. But they wouldn't have to because
8 they were --

9 A Correct.

10 Q -- suing in their individual capacities?

11 A Correct. So I did not receive assignments
12 from the six plaintiffs in the Hanger suit, but
13 after that, I don't know how many other assignments
14 I got.

15 Q All right. So just to kind of shed light
16 on a very complicated issue, is it accurate that
17 Judge Newman basically said, I'm not taking into
18 consideration that the board has -- or that the
19 association has now taken ownership of the windows
20 and doors. For purposes of this lawsuit, I, Judge
21 Newman, am looking to who owned the windows and
22 doors when the lawsuit was filed?

23 MR. MOONEYHAM: Objection.

24 A That's my understanding.

25 Q Okay.

1 A It was really date related. It was the
2 fact that the suit had been filed at a time when the
3 owner -- when the windows and doors were owned by
4 the owners.

5 MS. POPE: I just wanted to make sure that
6 your objection got on the record.

7 MR. MOONEYHAM: I'm sorry. I objected
8 to -- probably too quietly, but I objected to
9 this witness's characterization of the order.

10 THE COURT: Of the judge's order?

11 MR. MOONEYHAM: Judge's order, yes, sir.
12 The order is part of the record, but it would
13 be my objection that she's interpreting the
14 Court's order.

15 THE COURT: Well, I think the order speaks
16 for itself. So to the extent she was trying to
17 interpret the order, I would sustain the
18 objection.

19 BY MR. BARFIELD:

20 Q So what was -- to your understanding, what
21 was the importance of getting the assignments after
22 Judge Newman's ruling?

23 A That was to be able to add those -- the
24 costs of the windows into the regime suit so that we
25 could maximize the amount of money that the regime

1 would be able to settle the lawsuit for to make
2 repairs.

3 Q Okay. Why would you want to -- stupid
4 question, but why would you want to maximize the
5 amount of the amount you could recover in a lawsuit?

6 A So we could make repairs with less money
7 out of homeowners' pockets.

8 Q Okay. Did Dr. Lucas ever sign an
9 assignment?

10 A I honestly don't remember.

11 MR. BARFIELD: I think that's all I have.

12 Thank you. Answer any questions that Mr.

13 Mooneyham has on redirect.

14 THE COURT: All right, sir.

15 MR. MOONEYHAM: Thank you, Your Honor.

16 RE-DIRECT EXAMINATION

17 BY MR. MOONEYHAM:

18 Q In responses to some questions about the
19 way in which foreclosures were handled, earlier you
20 testified that when a bank forecloses, that
21 Bristol's process is to simply follow that
22 foreclosure and see what happens, correct?

23 A Generally, yes.

24 Q Okay. Would it have been just as
25 appropriate in this case to follow the litigation

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1 that was going on, which you knew about, and Dr.
2 Lucas has advised you of, to see what happened in
3 this litigation before you foreclosed? Wouldn't
4 that be just as appropriate?

5 A I don't think that the board felt that
6 there was enough emphasis on the collection piece of
7 the puzzle, and I don't think -- I think that they
8 wanted to insure that they were going to collect the
9 funds from Dr. Lucas. We would have gone all the
10 way through this litigation, and at the end of it,
11 he still could have decided not to pay us.

12 Q And you mentioned the collection process.
13 This is certainly something that you could have
14 turned over to a collection agency, right?

15 A It depends. The collect --

16 Q But it could have been turned over to a
17 collection agency?

18 A Yes. It could have, but that's our usual
19 last resort.

20 Q But in point of fact, you do turn matters
21 over to collection agencies all the time for
22 collection?

23 A No. That characterization is not correct.
24 We do not do it all the time. In all my years I've
25 been in this business, I just started working with a

1 collection agency in the last year and a half. They
2 charge a percentage of what they collect, and
3 they're sort the last course of action, not the
4 first.

5 Q I think they charge a percentage of the
6 collection, just like the law firm charges a
7 percentage of what they collect in foreclosure,
8 right?

9 A Well, I wouldn't have necessarily said
10 that a law firm charges a percentage to get a
11 collection. But yes, there are fees related to a
12 collection through a law firm, yes.

13 Q And doesn't the affidavit that's part of
14 Defendants' Exhibit Number 1 specify 10, 15 percent
15 share of the recovery as attorneys' fees?

16 A Yes.

17 Q So that's like a collection agency?

18 A Cheaper.

19 Q Depends on which collection agency you
20 hire, doesn't it?

21 A That's true.

22 Q All right. We can talk about Judge
23 Newman's order. I had a particular question about
24 that, and that is tab number 34 -- or 33. Let me
25 look one second.

1 MR. MOONEYHAM: Your Honor, this is this
2 tab number 33.

3 BY MR. MOONEYHAM:

4 Q I noted that one of the grounds for
5 summary judgment that Judge Newman ruled on was
6 specific to --

7 MR. MOONEYHAM: 34, Your Honor.

8 BY MR. MOONEYHAM:

9 Q One of the things that Judge Newman ruled
10 on related to summary judgment -- well, maybe I'm
11 wrong. One of the things -- third time I said one
12 of the things, that Judge Newman ruled on in summary
13 judgment was that the Walter defendants were
14 entitled to summary judgment as to all claims
15 brought by defendants Tallberg and Peterson, unit
16 4005, and Zinkowski, unit 4012, because the statute
17 of limitations had run, correct?

18 A Correct.

19 Q Did the board elect to pay Mr. Tallberg or
20 Mr. Zinkowski for damage or -- Dr. Zinkowski for
21 damage to the bathrooms?

22 A No.

23 Q They were not paid?

24 A No.

25 Q They did not -- you say they did not

1 receive any settlement money?

2 A They did not receive any settlement money
3 for bathrooms, no. Craig Tallberg had some interior
4 damages to his unit, which we repaired, but no.

5 Q Okay. So the board didn't pay for
6 interior damage to Mr. Tallberg's unit?

7 A No. They didn't pay for the bathroom.
8 The bathroom --

9 Q They paid for interior damage though?

10 A Correct.

11 Q Even though the statute of limitations had
12 run?

13 A They paid for damage to his carpet from
14 water intrusion from the windows. They never paid
15 for his bathroom, which is what Judge Newman had
16 ruled. Craig got no money for his bathroom.

17 Q Okay. You mentioned in your chronology of
18 the events that occurred a few moments ago that you
19 were able to obtain \$171,000 refund because of the
20 mischaracterization of the footprint of the
21 building. It was in the A zone as opposed to some
22 other zone, right?

23 A That's correct.

24 Q All right. You recovered \$171,000?

25 A Yes.

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1 Q How much of that was disbursed to
2 homeowners to refund the payments they paid?

3 A None.

4 MR. MOONEYHAM: Thank you. That's all.

5 RE-CROSS-EXAMINATION

6 BY MR. BARFIELD:

7 Q What was done with that \$171,000?

8 A It was put into the capital reserve, and
9 let me say why it wasn't given back to the
10 homeowners. We were advised by counsel that whoever
11 paid the money would be entitled to the money, and
12 at that particular time, when you calculated who
13 paid those premiums, it was the beach company had
14 paid a fair share of those premiums.

15 And the board was told if they gave
16 the money back to the homeowners, that we would have
17 to pay that money back to the beach company. And
18 given the fact that we had just entered the
19 litigation with the beach company, the board felt it
20 prudent to put the money in the capital reserve fund
21 instead of paying money back, because they would be
22 then giving more money back to the beach company.

23 Q The beach company being the same people
24 that left you-all in the lurch by underfunding the
25 capital fund in the first place?

1 A Correct.

2 MR. BARFIELD: Okay. That's all I have.

3 MR. MOONEYHAM: One further point, Your
4 Honor, unless you had a question, Your Honor.

5 THE COURT: Go ahead.

6 RE-DIRECT EXAMINATION

7 BY MR. MOONEYHAM:

8 Q I was going to ask you, when did that
9 refund come back?

10 A It was sometime probably mid 2007. We had
11 a little trouble getting it.

12 MR. MOONEYHAM: That's all I've got.

13 Thank you.

14 THE WITNESS: I want to say like June
15 maybe.

16 EXAMINATION

17 BY THE COURT:

18 Q I've got a couple. Categories of damages
19 that the board was intending to collect for, and I
20 got three. But I want you to add to it if you can.
21 Stucco, that was a category of damages kind of to
22 itself, right?

23 A Yes, sir.

24 Q Windows and doors?

25 A Yes, sir.

1 Q Showers?

2 A That was under the Landry suit. Yes, sir.

3 Q Everything. Everything the board was
4 trying to collect for. So we have got three
5 categories now?

6 A No. We have more than that.

7 Q Well, that's what I'm asking. I want you
8 to give me the rest of them.

9 A Okay. Could we start with the outside of
10 the building and work in? Because that will make
11 more sense.

12 Q Any way you want to.

13 A Stucco on the exterior of the building,
14 the windows and doors. We had flashing issues at
15 everywhere there was a transition. So we have
16 stucco, the transitions to brick. We had issues
17 that the roof line or the flat roof transitioned
18 where John talked about the parapet. We had --

19 Q That would have been under the homeowners'
20 suit?

21 A Correct.

22 Q All right. Flashing.

23 A We have waterproofing issues, that the
24 decks were not properly waterproofed where you wrap
25 the waterproofing up the wall, and you waterproof

1 the deck so that you don't have water intrusion at
2 the wall -- at the balcony to wall interface. And
3 you also don't have issues with water rolling in and
4 into the downstairs main ceiling.

5 Q That would be on the homeowners' suit?

6 A Yes, sir.

7 Q Okay.

8 A We had issues with the closets that Kelly
9 mentioned. We had issues where water would run back
10 into the closets, because the closets were not
11 waterproofed. They had an interior grade door on
12 the closet on the outside of the building, and they
13 weren't properly waterproofed so that water could
14 get around the door. And then inside the door on
15 the floor, there was no waterproofing at all either.

16 And in a couple of cases, we had
17 water roll all the way back and into the building
18 and into somebody's apartment. So the closets.

19 Q All right. Would that be part of the
20 common property, the homeowners?

21 A Yes, sir.

22 Q Okay.

23 A Then we had issues with the trellis. When
24 you go to the building, you will see that the fifth
25 floor units on their upstairs balcony have a



(1 decorative trellis that is then tied back into the
2 building. Up above the doors on the balconies,
3 there is this trellis. And the trellises weren't
4 property primed and painted, and they also were not
5 properly waterproofed as they were tied back into
6 the metal stud system.

7 So we had to reflash and rebuild that
8 whole trellis system, because we had a lot of
9 water -- if you look at all the water intrusion
10 complaints of the building, you'll see a lot of them
11 are on the fifth floor. So again, that also was
12 included in the common areas suit.

(13 And then -- what else am I thinking
14 of? I think that largely characterizes the outside
15 of the building. Then on the inside of the
16 building, you -- there were issues related to the
17 trim and the paint and the sheetrock inside, around
18 all the windows and doors.

19 We had ten units out of the 54 that
20 had damage from ongoing leaks, because keep in mind,
21 while this suit was going on, every time it rained,
22 I had units that were leaking. And I was doing my
23 best to mitigate that water intrusion, but we had
(24 interior damages. And there were ten that either
25 had hardwood floors that were severely damaged,

1 carpet that was severely damaged, wallpaper,
2 sheetrock. And that was all included in the Landry
3 suit, but it eventually became something that I
4 coordinated the repairs of when we did the big
5 project.

6 So you had all of those interior
7 repairs. You had the interior repairs to every unit
8 that we worked on, which would be all 54, and then
9 you had ten that had extensive damage that we took
10 care of.

11 Then you have the bathroom issue.
12 The bathroom issue is that the bath -- the showers
13 were not properly waterproofed, and the -- you had
14 the floor of the shower, and then the showers have a
15 seat that the homeowner can then sit on while
16 they're in the shower. And the seats were not
17 waterproofed at all. They literally glued tile to
18 plywood, and so you have a shower surround with this
19 little seat in it with just a plywood and tile
20 construction.

21 And so all that water was seeping in
22 there, and it was -- it was rusting out the metal
23 framework of the shower seat, and then in some
24 cases, tiles would pop off. And in worse case
25 scenarios, the guy downstairs would get water

1 through your shower.

2 So that then began the shower issue,
3 and we didn't find that out until we were already
4 into the construction. Craig Tallberg wanted to
5 remodel his bathroom, and when he went into tearing
6 out the old one, he found out of this rust. And he
7 called me and asked me to come and look at it. And
8 that point, it then became an issue that we
9 expounded on.

10 We tore out tile and examined eight
11 different showers in the building to see if it was a
12 common issue or one just limited to Craig, and we
13 found it in every one -- every one of the eight
14 units we investigated. The reason that Ernie got
15 excluded was because he found out he had a problem
16 when he moved in immediately, and the beach company
17 came in and redid his shower at no cost to him. So
18 the judge took Ernie out of the mix.

19 Then when they brought the Landry
20 suit, you know, there were claims exten- -- you
21 know, there were extenuating claims related to, you
22 know, loss of use, moving, electricity use, those
23 all more or less boiled out and got thrown out when
24 we came to this settlement and mediation. But those
25 homeowners did allege some of those losses in that

1 suit, and I believe the Hangers did as well. But
2 they didn't get any compensation for that.

3 Q And when the suit was settled, and this is
4 behind tab 45, which is your letter that we went
5 into extensively a little while ago. On top of page
6 3 -- well, bottom of page 2, after I've sent
7 invoices to the lawyers, the engineering firm and
8 expert witnesses were paid, the total amount we're
9 paying for repairs is 3.5 million, represents a net
10 recovery of 53 percent of the total repair costs
11 after expenses. Didn't we just hear the total
12 repair costs were 5 million?

13 A Yes.

14 Q Well, 3.5 million is more than 53 percent
15 of five million.

16 A I honestly don't remember where we came up
17 with that 53 percent.

18 Q Okay. All right.

19 A I'd like to explain it to you, but I don't
20 know.

21 Q That's fine. The next paragraph says, the
22 cost for the interior repairs in showers recovered
23 for the Landry lawsuit owners is 350,000. So there
24 was an allocation of that total 3. -- would have
25 been 3.6 million or something like that. There was

1 an allocation of 350,000 to the Landry lawsuit?

2 A Yes, sir. We kept that.

3 Q Pardon?

4 A We kept it. The regime kept it. They
5 didn't give it to the Landry plaintiffs. They kept
6 it, and they added that money into the pot that was
7 then used to fix the whole building, with the
8 exception of the \$2,000 that is offered to
9 homeowners if they make their bathroom repairs.

10 Q So we just heard testimony that the cost
11 of the windows themselves was a million and a half.
12 Apparently, that's what the contractor had to write
13 a check to Kolbe for the windows is a million and a
14 half dollars?

15 A Yes, sir.

16 Q And it cost a half million to put them in?

17 A I assume so. In somewhere in this mix of
18 paper is his actual estimate that gives you an
19 itemized --

20 Q Well, I'm just using the figures that he
21 gave us --

22 A But yes.

23 Q -- and I'm sure they are rough. So I
24 think on the basis of that testimony, it was 2
25 million dollars cost to replace the doors and

1 windows in the 54 units?

2 A Yes, sir.

3 Q And total recovery to do that was 350,000?

4 A No, sir. The 350,000 was the recovery for
5 the personal damages to the interior of units --

6 Q That included windows and doors?

7 A No, sir. It did not include the windows
8 and doors. That is the pot of money that the Landry
9 group got. Because, remember, we got window
10 assignments. So the window money, the allocation
11 out of the settlement that would have gone to you
12 personally if you owned the window and door, we got
13 your assignment that then put that money back in the
14 regime's pot.

15 Q Okay. Well, I guess with the balance
16 3,319,000 allocated to stucco, windows, doors,
17 waterproofing, repairs handrail -- so the 350 was
18 actually for interior damage to individual
19 apartments?

20 A Yes, sir.

21 Q And that was determined by Mr. Z had this
22 damage, Mr. F had this damage, Mr. B had that
23 damage?

24 A Correct.

25 Q And that was damage unrelated to stucco,

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1 windows, doors, waterproofing repair, hand rails,
2 trellis and all that other stuff?

3 A That's correct.

4 Q And they got nothing?

5 A Correct. Except --

6 Q 2,000?

7 A Right.

8 Q Okay.

9 A Which it cost you more than \$2,000 to fix
10 your bathroom. So they're not getting the big
11 bargain by getting 2,000 to fix the bathroom.

12 Q All right. And 40 people participated in
13 the Landry lawsuit?

14 A Yes, sir.

15 Q But not all 40 of those are assigned their
16 interest in the windows and doors?

17 A I don't remember how many assignments I
18 got. So I'm pretty sure I got the 40, but I don't
19 know how many of the eight disenfranchised people I
20 got. And I know I did not get any of the six.

21 Q Okay. And of the eight, you said
22 Mr. Darby didn't participate, because he would have
23 been suing himself basically?

24 A Yes.

25 Q The beach company didn't participate.

1 That was two condos?

2 A That's right.

3 Q Mr. Lucas -- Dr. Lucas didn't participate,
4 as we well know?

5 A That's correct.

6 Q And was there another one that you
7 mentioned specifically, or the other five just in
8 the same category?

9 A They mentioned Mr. Nix earlier. He didn't
10 participate. Mr. -- I could tell you quickly --

11 Q No. That was not my point.

12 A There were some -- I had a developer in
13 the building who had been in a bunch of lawsuits,
14 and he doesn't like lawsuits. So he wouldn't
15 participate. Bishop Rembert, that owed the regime
16 all that money, he didn't participate. So there was
17 a random mix, but they were all asked to
18 participate.

19 THE COURT: Okay. I think that's all I
20 have got. Any follow up?

21 RE-CROSS-EXAMINATION

22 BY MR. BARFIELD:

23 Q I'd just like to maybe underscore
24 something that the judge brought out, which is part
25 of Dr. Lucas' claim here is that the Landry --

1 individuals that are part of the Landry action in
2 part got a free ride because of the efforts of the
3 shared attorneys and experts that the association
4 was paying for. You've heard that testimony?

5 A Yes.

6 Q Okay. But you just clarified for the
7 judge that when the settlement came in, with the
8 exception of those \$2,000 checks to a few
9 individuals from the Landry suit, the recovery that
10 was allocated in the settlement for those
11 individuals went into the community pot?

12 A Yes.

13 MR. BARFIELD: Okay. That's all I have.

14 RE-DIRECT-EXAMINATION

15 BY MR. MOONEYHAM:

16 Q But the Hanger lawsuit was handled
17 differently? Their settlement proceeds did not go
18 into the community?

19 A That's correct.

20 MR. MOONEYHAM: Okay.

21 RE-EXAMINATION

22 BY THE COURT:

23 Q All right. In this paragraph, the balance
24 3,300,000 allocated to stucco, et cetera, who
25 allocated that? Was allocated -- when they were

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1 collected a dime for damage to their windows and
2 doors, the homeowners that let -- the homeowners
3 association?

4 A After Judge Newman's order, the regime
5 could not collect any money for the windows and
6 doors had they not gotten the assignments from those
7 owners.

8 Q Okay.

9 A As I said earlier, the original intent of
10 the Landry suit was to be able to provide a more --
11 a fuller or more comprehensive release to the
12 developer. It was really never to line anybody's
13 pocket. It was really to provide a more significant
14 release and expedite settling this case.

15 THE COURT: Anything?

16 MR. MOONEYHAM: Yes, Your Honor.

17 RE-DIRECT-EXAMINATION

18 BY MR. MOONEYHAM:

19 Q I found a document -- actually, I didn't.
20 Ms. Pope did.

21 MR. MOONEYHAM: I'd like to have this
22 marked as Plaintiffs' Exhibit Number 6.

23 (Plaintiffs' Deposition Exhibit No. 6
24 was marked for identification.)

25

BY COURT - RECORDED - 10/10/01 - 0755

1 A Pursuant to fee agreement signed by the
2 owners of 41, which that is not correct. It really
3 is 40. The Bristol POA is to determine the
4 equitable allocation of the funds between the POA
5 and the unit owner plaintiffs.

6 MR. MOONEYHAM: So, Your Honor, this
7 document would seem contrary to the testimony
8 Ms. Vest just offered that the division of
9 money occurred in the courthouse. In fact,
10 that language says that the POA gets to divide
11 the money.

12 THE COURT: All right. Let me look at it.
13 Are you familiar with it?

14 MR. BARFIELD: Yes, sir.

15 THE COURT: I'm not sure it says what you
16 said it says, but --

17 A I think it says, please don't sue us
18 because you didn't get what you thought.

19 MR. MOONEYHAM: Your Honor, I do --

20 THE COURT: I don't know that it's
21 significant, but the Court wasn't allocating
22 any money.

23 MR. MOONEYHAM: Right. That was the point
24 I was trying to make.

25 THE COURT: It was basically the

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1 plaintiffs' lawyers, because I'm sure no
2 defense lawyer cares who got his money. He
3 just wanted a release. And without getting a
4 release for the windows and doors, there's no
5 settlement. I mean I think we can all agree to
6 that. That was the elephant in the room with
7 the windows and doors, even more so than the
8 stucco. Because if you don't replace all the
9 windows and doors, you don't replace all the
10 stucco.

11 So if they're not going to get a release
12 for the windows and doors, there's not going to
13 be a settlement, period, of any kind. The
14 homeowners couldn't bring that suit. That had
15 to be brought by Landry. So --

16 MR. MOONEYHAM: But, no. The Landry
17 suit -- I beg your pardon, Your Honor. I don't
18 think the Landry suit had anything to do with
19 the --

20 BY MR. MOONEYHAM:

21 Q The Landry suit was for the interior
22 damage, right?

23 A That was the original intent of the Landry
24 suit.

25 Q And then once the association's lawyers

1 realized that they need to get this assignment
2 signed, the individual homeowners assigned their
3 rights to litigate the windows and doors issues to
4 the homeowners association, not the Landrys, right?
5 When you went scrambling around to get the
6 assignments.

7 A Those individual homeowners gave an
8 assignment to give their windows and door rights to
9 the regime.

10 Q To the regime?

11 THE COURT: To the homeowners?

12 A To the regime..

13 BY MR. MOONEYHAM:

14 Q Not to the Landrys?

15 THE COURT: Okay. That might be what she
16 said then. I'm not giving up yet. Okay. I
17 understand. All right. Anything else for this
18 lady?

19 MR. BARFIELD: No, Your Honor.

20 THE COURT: Thank you, ma'am. You can
21 step down.

22 (Off-the-record discussion.)

23 THE COURT: Let's put on the record the
24 motions -- any motions. First one, plaintiff.
25 Any motion from the plaintiff?

1 MS. POPE: No, sir.

2 THE COURT: From the defendant?

3 MR. BARFIELD: Well, if you'd like to --

4 THE COURT: I want you to give me the name
5 of your motion, and then if it suits you-all,
6 we'll combine your arguments on the motion and
7 arguments opposing the motion in the closing
8 arguments. And I'll let you go, you know,
9 whatever you want to cover in that if that's
10 okay.

11 MR. BARFIELD: Yes, sir.

12 THE COURT: But let's get the name of your
13 motion that you want to make. That will
14 protect the record.

15 MR. BARFIELD: Okay. Well, the defendants
16 would present a motion for directed verdict,
17 Your Honor, based largely in the same arguments
18 that we raised in our summary judgment motion.
19 First, that the derivative action argument.

20 Secondly, we make -- we base the motion on
21 the business judgment rule.

22 Thirdly, specifically with regard to the
23 claim for attorneys' fee, and that may be
24 subsumed within the summary judgment motion we
25 made, but we don't believe that there is any

1 cause of action raised that would permit the
2 recovery of attorneys' fees.

3 I guess next with regard to the damages
4 claim specifically related to the -- him
5 seeking recovery of the amount of the special
6 assessment, we would say he's not entitled to
7 that because he hadn't paid it yet.

8 With regard to breach of fiduciary duty,
9 we'd argue as a matter of law that they have
10 not proven that cause of action by clear and
11 convincing evidence, which is the legal
12 standard. And then generally speaking, no
13 proof of damage on any -- of the cause of
14 action and no evidence of -- there's been no
15 evidence of negligence.

16 THE COURT: Okay. First should be -- go
17 ahead.

18 MR. BARFIELD: And I just say, finally, we
19 still -- to the extent that we are still
20 dealing with the pleadings that are before the
21 Court, I don't think that they've proven the
22 surviving cause of action set forth in those
23 pleadings based on the facts set forth in those
24 pleadings.

25 THE COURT: And I believe Judge Nicholson

1 did away with the conversion, the trespass and
2 the detainer?

3 MR. BARFIELD: Yes, sir.

4 THE COURT: Okay. Any questions about the
5 motions, Ms. Pope -- I mean, and you agree,
6 we're just going to incorporate all your
7 arguments on your behalf and opposing to the
8 motions and closing argument all into one?

9 MS. POPE: Yes. That's fine.

10 THE COURT: And we've got both parties
11 here. We've got plaintiff and defendant, and
12 we've got plaintiff as a suit. So I'll -- I
13 mean I'll let you argue basically as long as
14 you want to go back and forth. I don't care
15 who goes first.

16 MS. POPE: That covers --

17 THE COURT: But I mean I want you to be
18 heard. This is your day in court. Okay?

19 MS. POPE: Thank you.

20 THE COURT: And so I want you to have that
21 opportunity to be heard on any issue that you
22 want heard, however we do it.

23 MS. POPE: Thank you.

24 THE COURT: So I guess we'll go with
25 the -- you want to go with the plaintiff first,

1 then the defendant, then the plaintiff?

2 MS. POPE: That's fine with me.

3 THE COURT: Then if the defendant wants to
4 reply, fine. That's -- I won't have a problem
5 with that. All right.

6 MS. POPE: Okay. Thank you, Your Honor.
7 I'm going to basically really just jump into
8 the heart of the matter. Our trial brief that
9 we submitted, and I think the defendants would
10 agree, that laid out the procedural history and
11 a good bit of the facts that were agreed upon
12 by both parties. And we spent substantial time
13 talking about those, and you received lots of
14 information prior to today that briefed you on
15 a lot of that as well.

16 THE COURT: That reminds me. We need to
17 introduce them into the record, if we hadn't
18 already done so by deposition.

19 MR. BARFIELD: Yes, sir. And our
20 exhibits, which I have in the same format as
21 the plaintiffs' exhibits.

22 THE COURT: It won't take but a second.
23 Let's do that now. So that's your defense
24 exhibits.

25 MR. BARFIELD: Yes, sir.

1 THE COURT: Give them to her and let her
2 mark them. That will be Defendants' 2.

3 (Defendants' Deposition Exhibit No. 2
4 was marked for identification.)

5 THE COURT: And the deposition of --

6 MS. POPE: Craig Tallberg, T-O-L-B-E-R-G.

7 MS. VEST: T-A-L-L-B-E-R-G.

8 THE COURT: Start with a T?

9 MS. POPE: It does start with a T, and the
10 first name is Craig.

11 THE COURT: All right. And there's no
12 objection receiving that as testimony into the
13 trial?

14 MR. BARFIELD: None at all, Your Honor.

15 THE COURT: All right. Go ahead.

16 MS. POPE: Thank you. Thank you, Your
17 Honor. What I'll do is we're just going to get
18 right to the heart of the matter and not go --
19 as I said before, not go through all the
20 procedural history and some facts that we all
21 have stipulated to and agreed to.

22 One of the issues that -- and has been
23 discussed in great detail through testimony,
24 through testimony that's been presented by way
25 of deposition prior to and through Dr. Lucas'

1 deposition, one of the issues deals with the
2 breach of fiduciary duty that we believe was
3 owed to Dr. Lucas and that we believe was not
4 fulfilled by the board members.

5 One aspect of that that's been discussed
6 in great detail is unfair assessments, and as
7 we have stated through our trial brief, but has
8 also been discussed through testimony, is the
9 South Carolina Horizontal Property Act,
10 specifically sections 27-31-60 and 27-31-190.

11 Specifically 27-31-60 states, in part,
12 equivalent to the percentage representing the
13 value of the individual apartment is dealing
14 with coming up with values to property. And it
15 says that the percentage shall be computed by
16 taking as a basis the value of the individual
17 apartment in relation to the value of the
18 property as a whole.

19 Now, of course, both sides don't agree on
20 how the value of that condo at the Bristol has
21 been determined. There have been comments made
22 and references made back to the value that
23 stated within the horizontal -- within the
24 master deed.

25 What we argue is that it is -- the way

1 that the assessments are done and presented on
2 the homeowners is unfair, and it is
3 fundamentally unfair in the fact that you have
4 homeowners who have condos that are more
5 expensive, and they get treated the same as
6 condos that are less expensive.

7 So instead of the value of the condos
8 being the true market value, tax value of the
9 condos being taken into consideration when
10 they're doing these assessments, it is an
11 assessment that is across the board, which
12 creates an unfair assessment. Because, like I
13 said just a moment ago, you have more expensive
14 condos getting a benefit of being treated the
15 same as condos that are not as expensive.

16 So we would make that argument that the
17 assessments that are made on the homeowners
18 have been unfair. The only assessment that has
19 taken into account even partially what the size
20 of a condo may be is the window and doors
21 assessment when they took in the number of
22 windows and doors that the condos had.

23 That's the only evidence that we have seen
24 that the board has actually taken into
25 consideration the difference and the difference

1 in the value of the condos. Now, that doesn't
2 mean that there have not been homeowners
3 besides Dr. Lucas that has complained about
4 that issue.

5 Through testimony that you have received
6 prior to the trial beginning, the depositions
7 that were submitted as trial testimony that you
8 have been able to review, there are numerous
9 homeowners that have complained.

10 You have Ken Hanger stated that he had
11 made a suggestion that the assessments be done
12 a different way. Craig Tallberg has made that
13 suggestion. I believe Johan Princ was one that
14 had made that suggestion. So there's multi
15 homeowners who have complained about the way
16 the assessments are being done besides Dr.
17 Lucas, but those complaints, concerns,
18 inquiries have basically been shut down,
19 ignored. And they want to keep the thing the
20 way it's always been done, do the same way they
21 have been doing it.

22 The homeowners took over responsibility
23 for the management of the Bristol in August of
24 2006. Jan Landry yesterday testified for quite
25 some time. She was initially on that board.

1 She was the vice president, and then she became
2 the president. You heard testimony about her
3 extensive experience in dealing with property
4 associations, finances and her belief on how
5 boards should run homeowners associations.

6 Her belief in how it should be run is very
7 different from how it is run today in the
8 belief of the new board that's on board. The
9 new board believes in transparency. The new
10 board believes in having open board meetings.
11 The new board believes in trying to communicate
12 better with the homeowners.

13 Prior to this new board that's been
14 elected and has been running Bristol, the
15 original board, and you heard Ms. Landry
16 testify, that she believed that transparency
17 is -- I'm trying to think of the exact word, is
18 foolish. And that there should be executive
19 sessions. There should be things that the
20 board should meet on and be privy and that
21 homeowners should not basically is the attitude
22 that she had.

23 And that's the attitude that the original
24 board took when dealing with homeowners. The
25 communication has not only been a complaint of

1 Dr. Lucas, but communication with the
2 homeowners have been the complaint of numerous
3 homeowners.

4 There's testimony that shows that Ken
5 Hanger testified that he didn't attend some of
6 the board meetings initially because they were
7 off campus. They didn't have them at the
8 Bristol.

9 Johan Princ was another one that stated he
10 didn't understand why they weren't having them
11 at the Bristol, wanted them to have them at the
12 Bristol. He also testified that it was a
13 disadvantage to the homeowners because they
14 weren't given the agenda of the meeting until
15 they showed up. And that if they wanted to
16 attend the meetings, that they had to provide
17 in writing to the board that they planned to
18 attend prior to attending the meeting.

19 If that's not making it difficult for
20 homeowners to be involved with the board and
21 being involved in decisions going on, I don't
22 know what is. And then in addition to that,
23 there were times when they didn't even know
24 that the board was going to meet. They didn't
25 get the communications or they got them too

1 late. They weren't timely.

2 In fact, there was an exhibit presented
3 during the testimony that stated that there was
4 going to be a meeting about the construction
5 litigation issues, and at point blank says on
6 it, sorry about the late notice.

7 And it was a notice that was slid under
8 doors and put on the bulletin board. And
9 testimony from Ms. Landry and others
10 recognizes -- the board recognized that many of
11 the homeowners used those condos as second
12 homes. They weren't there all time.

13 So if you're sliding it under the door,
14 you're putting it on the bulletin board,
15 they're not going to see it. So
16 communication's been a problem throughout, and
17 it's -- the board owes a duty to the homeowners
18 to communicate with them so that they can make
19 informed decisions about votes, if they're even
20 going to be able to get a vote.

21 One of the other issues in dealing with
22 communication, and not only communication to
23 the homeowners, but also not complete truth and
24 not complete communication deals with the
25 master deed, changes to the master deed. And

1 that has been a big issue, obviously, for Dr.
2 Lucas, but it was an issue for others too.

3 Cindy Mulcare's testimony -- she is the
4 agent -- insurance agent that we kept referring
5 to her letter over and over again, the letter
6 which stated that she didn't state that the
7 Bristol was uninsurable. She just stated that
8 there might be issues with claims.

9 Cindy Mulcare testified that she is the
10 one that was approached by members of the board
11 of the Bristol to look at the master deed,
12 because there were concerns about issues with
13 the windows and doors in the litigation. That
14 was her testimony.

15 The board presented to the homeowners and
16 gave the impression that the insurance agent
17 looked at the master deed, oh, my gosh, there's
18 this problem. She approached us with this had
19 to be fixed, homeowners. We had to take
20 emergency action all because there were going
21 to be insurability issues.

22 And Cindy Mulcare's testimony is the total
23 opposite of that. She testified, as I just
24 said, that she was approached to look at the
25 master deed because there were concerns and

1 issues dealing with the litigation and the
2 windows and doors.

3 In fact, she says, Cindy Mulcare was told
4 by the board that they needed a letter about
5 the master deed and was informed it was related
6 to the lawsuit over the windows and doors.
7 That is specifically what she states in her
8 deposition.

9 In addition to that, there's been
10 testimony that there was no effort done by the
11 board to find out which homeowners had
12 insurance to cover their windows and doors.
13 Dr. Lucas testified that he understood
14 completely that he owned his windows and doors,
15 and, therefore, he became the responsible
16 homeowner.

17 As testimony was given today, that it was
18 the homeowner's responsibility to make sure
19 they were properly insured. Well, he did that.
20 He made sure that he was properly insured. Jan
21 Landry testified that she assured that her
22 husband made sure that they had the proper
23 insurance, and she understood that they owned
24 their windows and doors.

25 Harold Campbell, who is -- was a homeowner

1 at the Bristol and is a State Farm Insurance
2 agent, testified that not only did he, of
3 course, cover -- provide a policy for himself,
4 but he also provided policies for five to six
5 other homeowners at the Bristol and provided
6 them with insurance. And he testified that he
7 made sure that his policy covered any damage
8 that happened to his windows and doors. And he
9 further testified that the five to six people
10 that he covered at the Bristol also had
11 insurance for their windows and doors, because
12 the master deed gave them ownership, and they
13 were responsible for them.

14 But the board never took on the
15 responsibility of going out, finding out who
16 was insured, who wasn't, before they just made
17 the unilateral decision, hey, we're changing it
18 because we need to for the master deed, for
19 being able to get insurance coverage.

20 As you know, we've made the argument that
21 they did that because they wanted to do it from
22 a litigation standpoint. True. The summary
23 judgment motion was not filed until a later
24 date to have the windows and doors excluded
25 from the homeowners association lawsuit.

1 However, Jan Landry, who was heavily
2 involved in the process to investigate whether
3 to file suit and was involved heavily in the
4 initial filing of the lawsuit in the initial
5 process of the lawsuit up until 2008, she
6 testified yesterday that prior to filing the
7 lawsuit and after the filing of the lawsuit,
8 there were discussions and concerns about how
9 the master deed and the windows and doors
10 section of that was going to affect the
11 litigation.

12 It had been a concern from the beginning,
13 and it was concern after the lawsuit was filed
14 as to how they were going to handle that
15 situation. So it is our argument that the
16 homeowners association, the board, was trying
17 to head off that problem that was going to come
18 up later on down the road and try to make that
19 change to the master deed and did so without
20 being totally honest with the homeowners.

21 Craig Tallberg, who is now sitting on the
22 board, he's been on the board for the past
23 couple of years I do believe, his testimony --
24 you will see from his testimony, he's one of
25 the really big ones pushing for transparency.

1 The reason why he is doing that and pushing
2 that, according to him, is that you really
3 didn't know what was going on with the board.
4 You really didn't know what was going on with
5 the lawsuit. You didn't know what was going on
6 with finances if you were not in the inner
7 circle, and that's what he called it, the inner
8 circle.

9 He testified that he didn't know that the
10 judge had ruled that the homeowners association
11 couldn't sue for the windows and doors until
12 after that was done. He didn't understand
13 fully what the issue was with the windows and
14 doors and the homeowners association, didn't
15 understand fully how that affected -- the
16 litigation issue affected the master deed. He
17 just said the homeowners didn't know what was
18 going on.

19 In addition to all of that, as far as the
20 communications go, Johan Princ also complained
21 that the homeowners were not being made aware
22 of the financial situation at the Bristol in
23 general. Inquiries were made. They were not
24 provided information. He would -- he said that
25 he thought that that was a big concern, that

1 the homeowners didn't know what was going on
2 with the money.

3 Johan Princ actually I think later became
4 a board member, but at the time initially in
5 the beginning, when he was not a board member,
6 had complaints about the finances and the lack
7 of communication.

8 And there was also an exhibit that was,
9 discussed yesterday during Ms. Landry's
10 testimony, which was an e-mail from her to Lona
11 Vest in regards to a communication going out to
12 the homeowners, is it going to e-mail. Is it
13 going by mail. And even made the comment, I'm
14 sure our homeowners have hundreds of pieces of
15 mail under their door by now.

16 That's just a constant theme throughout
17 that the initial board's control of the
18 homeowners association in that there was no
19 communication, and if it was, it was a partial
20 communication. And not only Dr. Lucas, but
21 many homeowners complained about that issue and
22 the off-campus meetings.

23 During the construction litigation, I
24 think this is interesting, lots of the
25 homeowners wanted to know what was going on.

1 Not only at the litigation part of it, but when
2 the settlement was going on, mediation was
3 going on. Craig Tallberg testified, and I'm
4 not sure if I'm saying that right still or not,
5 testified that he attended the mediation,
6 wanted to attend, he and two other homeowners.
7 They actually attended the first day of
8 mediation. The second day of mediation, they
9 were escorted out and told that they could not
10 be there because they were not part of the
11 board mediation team. And he and two other
12 homeowners were escorted out and not allowed to
13 stay for the mediation. And that was an issue
14 that he brought up and that he complained
15 about.

16 Dr. Lucas testified that once there was a
17 settlement, there was going to be
18 reconstruction started, that he had requested
19 information so that he could make an informed
20 decisions about votes. He didn't get any
21 information. That he had his attorney write to
22 get information and didn't receive information.

23 That he stood up and he read the letter at
24 the meeting about requesting information and
25 still didn't receive information. He wanted it

1 so that he could make an informed vote. He
2 thought that he deserved that information and
3 didn't get it.

4 It was at that point later and following
5 the threat of the foreclosure that he decided
6 to file suit, other examples of failure to
7 communicate properly with homeowners so that
8 they can be fully aware and make informed
9 decision about what to do.

10 In addition to the communication, there's
11 been other issues with mismanagement of funds,
12 just not managing the Bristol properly period.
13 One of those issues dealt with the insurance
14 refund that we've discussed that has been
15 testified to. There was a flood premium
16 insurance refund that was given back to the
17 Bristol. It was in the amount of \$171,000.

18 And instead of giving that back to
19 homeowners, or even letting the homeowners vote
20 to decide what to do about it, the homeowners
21 were just told that this money was going into
22 the reserve fund. And testimony shows that
23 that money was actually then taken and used for
24 construction litigation and expenses related to
25 that, the ongoing lawsuits, all of them.

1 So the homeowners were never given an
2 opportunity about that. And some homeowners
3 actually through testimony you'll see weren't
4 even aware of what the amount of the refund was
5 until this litigation took place.

6 Another --

7 THE COURT: How was Dr. Lucas damaged by
8 the way that refund was applied?

9 MS. POPE: Well, our argument would be
10 that he was damaged because he was entitled to
11 that, because he had paid into that premium.
12 And he was entitled to a portion of that,
13 refunded back to him, instead of going into the
14 litigation cost to fund the three lawsuits. So
15 a portion of money belonged to him. It should
16 have been refunded to him.

17 THE COURT: Well --

18 MS. POPE: As the others as well.

19 THE COURT: -- would you not have to
20 consider the fact that had it not gone into
21 paying the litigation, there would have had to
22 been an assessment to pay that same amount of
23 money to the -- support the litigation? I'm
24 trying to get a measure of damages.

25 Now, suppose he was due \$500 back or

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1 \$1,000 back. That's \$1,000 less available to
2 support the litigation, which has got to be
3 made up somewhere. That's not going to change
4 the amount it costs to litigate. Plus, the
5 testimony was that part of that money was going
6 to have to go back to the beach company, which
7 would have further depleted the reserve, which
8 would have raised his assessment even more than
9 the amount of his refund.

10 So that's my question is just strictly to
11 damages, if they were wrong in not doing that,
12 what are his damages?

13 MS. POPE: Theoretically, the argument was
14 made that the reason why they kept that was
15 because part of the money would have to go back
16 to the beach company, but there's been
17 testimony that the beach company underfunded
18 the reserve in excess of \$300,000.

19 So I believe, and that the board had a
20 very strong argument to state to the beach
21 company, we got this refund and if you're
22 entitled to \$100,000 of this refund, we are
23 keeping that because you underfunded the
24 reserve. And we are entitled to that money.
25 That money can go to the reserve fund, and then

1 basically divide among the individual
2 homeowners, which Dr. Lucas would have been
3 entitled to some of that money.

4 THE COURT: Okay. All right. Thank you.

5 MS. POPE: You're welcome. The issue
6 of -- there's been a lot of talk about the
7 replacing of windows. Could you have done a
8 treatment or do they all need to be replaced,
9 and we've heard a lot of that back and forth.
10 The testimony and information that's been
11 provided is that the difference between the
12 cost for the windows that they purchased and
13 replaced and the cost of doing a treatment to
14 the windows, the difference between doing those
15 two processes was approximately \$400,000.

16 Craig Tallberg testified that he thought
17 that the homeowners should have been able to
18 have that opportunity to vote whether to do the
19 treatment or do the replacement, and that the
20 board didn't agree.

21 So an opportunity to save the homeowners
22 \$400,000 was not even made -- that information
23 wasn't even made available to the homeowners.
24 That was found out by the homeowners much
25 later. Some of them through this litigation

1 found out that option.

2 In addition to that information, David
3 Warner will -- he testified that there were --
4 make sure I get this right. He stated that
5 there was about 80 out of the 400 windows at
6 the Bristol that had problems. And you'll
7 remember he was board president during the time
8 of lot of this was going on. So you have
9 approximately 400 windows at the Bristol, and
10 he said that there were only about 80 that had
11 problems.

12 And that he also went on to say that the
13 board members who voted for the full
14 replacement, rather than the treatment repair,
15 had construction issues in their condos.

16 Dave Landry, Jan Landry's husband, she
17 testified yesterday that he came on and took
18 her place on the board when she resigned in
19 2008. He actually came on and then later --
20 shortly after that, became president. He
21 testified that there was information not given
22 to the board. Specifically, there was a
23 form -- a Bristol construction defect
24 litigation cost projection that laid out the
25 benefits, pros and cons of contingency versus

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1 hourly, what they project -- the board
2 projected what the litigation may cost. And
3 this was a worksheet that the board was using.

4 And he stated that that was never
5 presented to the homeowners, and he, I quote, I
6 will anticipate this is early on, and the board
7 probably did keep it to themselves.

8 In addition, he testified that during the
9 litigation that there was money being moved
10 around everywhere. Craig Tallberg testified
11 that during the litigation process, there was
12 money being taken from operating reserve, here,
13 there, everywhere, to pay attorneys' fees and
14 costs of the litigation.

15 Johan Princ raised concerns about how the
16 litigation fund was being handled, how the
17 reserve fund was being pulled from, drained to
18 fund the litigation. He raised that at a board
19 meeting, and he said that the board's response
20 was that the lawsuit will be over in six months
21 or so, and then we have the money. And then we
22 can take a look at the picture again.

23 Well, we all know that the reserve fund
24 gave money to the construction litigation fund
25 in the amount \$325,000, and it's never been

1 paid back. We know that the operating fund is
2 still owed \$55,000 from money that was used for
3 the construction litigation that's never been
4 paid back.

5 So not only did Dr. Lucas have concerns
6 about the money, but other homeowners did as
7 well. And Dave Landry testified that -- he was
8 the treasurer in 2009, and he testified that
9 they were spending money, and I quote, we were
10 spending money on things we shouldn't have been
11 spending it on.

12 There was also -- during the time of the
13 litigation beginning, there was a \$300,000 line

~~14 of credit that was taken out to help fund the~~
15 litigation process, and the evidence shows, and
16 the testimony shows, that that \$300,000 line of
17 credit was paid back. Some of it out of the
18 settlement proceeds, and then some of it I
19 believe over a time later on. But it was a
20 loan that was paid back, where as the reserve
21 fund and the operating account funds were not.

22 There is also the issue that's been
23 discussed a lot about the Hanger lawsuit and
24 piggy backing on the homeowners association
25 lawsuit and the Landry lawsuit. The board is

1 the one that -- when it came time for
2 settlement, the board is the one that allocated
3 the settlement funds. They allocated a portion
4 towards the Landry lawsuit. They allocated a
5 portion towards the Bristol property owners
6 association lawsuit. The board is also the one
7 that made the decision not to pursue any money
8 from the Hanger participants to repay the
9 homeowners association for costs and expenses
10 that the association incurred as far as
11 pursuing the lawsuits.

12 So instead of -- I think the figure was
13 close to 300,000, I believe that the -- may
14 have been a little more than that, that the
15 Hangers -- that was their net amount for the
16 Hanger lawsuit, and the board chose not to have
17 that money put into the fund to help with the
18 construction litigation.

19 So that's another decision that they made
20 that as far as allocating funds as to how to
21 spend money was not one that we believe was
22 appropriate and fair.

23 I touched on the amendment to the master
24 deed, fourth amendment. Bear with me please.

25 THE COURT: Sure take your time.

(1 MS. POPE: And I'll touch on that -- I
2 want to point out something that Ms. Mulcare
3 also stated in her deposition testimony. That
4 in dealing with the master deed issue and the
5 fourth amendment and her looking at it and the
6 windows and doors, she stated that in her
7 testimony that someone on the board of
8 directors had a problem with the owners owning
9 their window and doors. And that that was
10 going to be presented to the board, and that
11 was going to be a change.

(12 So clearly Ms. Mulcare's recollection of
13 why she was approached and a lot of what had to
14 do with her looking at the master deed and the
15 change was because of the litigation and the
16 windows and doors, not because of the insurance
17 issue, as the board would like for everyone to
18 believe -- or wanted everyone to believe.

(19 The foreclosure issue. Dr. Lucas filed
20 his lawsuit in 2010. He contested, as we know,
21 special assessments. He contested the reserve
22 fund assessments. He made allegations against
23 the board as to how they were handling issues,
24 not handling issues.

(25 And then a year later, that board makes

1 the decision to foreclose on his property, and
2 they foreclose on his property for the same
3 reason why he filed his lawsuit a year before.
4 He's contesting a debt that they say he owed,
5 and instead of waiting to see the outcome of
6 his lawsuit as to whether he should have to pay
7 those assessments or not, they go ahead and
8 foreclose on his property.

9 He files his lawsuit. He's not backing
10 down. He's going to move forward with it, and
11 we take the position that the board wanted to
12 basically bully him and threaten and scare him.
13 And they knew what they were doing. They
14 intentionally chose to harass this man, because
15 he was standing up to them. He already filed
16 his action. He's contesting those debts, and
17 they still foreclosed on his property for those
18 same debts.

19 He filed an answer and a counterclaim to
20 that foreclosure action, and those have been
21 made exhibits to our trial brief, and you can
22 see his counterclaim is basically the same
23 claims and actions that he filed a year before,
24 because it's -- it was all related.

25 Following the filing of that foreclosure

(1 action was when he started having to vigorously
2 defend himself against that foreclosure action.
3 He incurred, he testified, approximately
4 \$100,000 in fees and costs following the filing
5 of that foreclosure action. He had title to
6 his property. He couldn't do anything with it.
7 He was a prime target, one, because he wasn't
8 backing down to them, but because he had free
9 and clear ownership of his condo.

10 There was no mortgage to stand behind. He
11 was standing up to them, he wasn't backing
12 down, and they wanted to make an example of him
(13 and prove a point. There was testimony today
14 that there have been nine foreclosure actions
15 at the Bristol. Only two of those foreclosure
16 actions -- let me back up. I'm sorry.

17 There were nine individuals who owed money
18 and owed fees and not paying regime or special
19 assessment, and some of those I believe was in
20 excess of \$90,000, most of them in excess of
21 what Dr. Lucas was claimed to have owed at the
22 time his foreclosure action was filed.

(23 Only one other foreclosure was filed by
24 the board. A deal was worked out. Payments
25 were made, and they released that foreclosure.

1 Dr. Lucas was paying his regime fees. The only
2 thing he was not paying were the fees that he
3 was contesting, and he is the one that was
4 singled out and had a foreclosure filed against
5 him. And we believe the evidence shows and the
6 testimony shows that it's because he was
7 standing up to them and contesting them,
8 actually fighting them and wasn't backing down.

9 The testimony that's been provided through
10 the trial and through exhibits and deposition
11 testimony, there was special assessments in the
12 amount of \$11,646. Now, one of those being an
13 assessment for \$1,896 that Dr. Lucas did pay.
14 Those are assessments that are related to the
15 litigation, the construction litigation.

16 We've already hit on the fact that there's
17 the outstanding loan reserve and operating
18 accounts in the amount of \$380,000. They have
19 never been repaid. The litigation expenses
20 associated with the construction lawsuit are
21 \$1,380 -- no. \$1,380,962.80. Did I get that
22 right? Yes. Okay.

23 The cost incurred by Dr. Lucas in
24 defending the foreclosure action has been
25 approximately \$100,000 that he's incurred in

1 having to defend that, and we believe that -- I
2 know there's an argument being made that he's
3 not entitled to attorneys' fee and costs. But
4 one, we believe that that was a frivolous
5 action, that it never should have been filed in
6 the first place. And that he had to incur
7 those costs in order to defend against the
8 foreclosure action, to keep it from going
9 forward, and also to pursue the counterclaims
10 that he had against that foreclosure action.
11 So those are expenses that he has incurred in
12 doing that.

13 The difference between the cost between
14 buying the -- replacing with new windows and
15 doors and doing the other alternative, which
16 would have been to do the kit, the
17 retrofitting, that was about \$400,000, the
18 difference between those two amounts.

19 There's the insurance premium refund of
20 \$171,000. I believe that covers everything. I
21 probably went a lot longer than I had intended.

22 THE COURT: No. You go right ahead.

23 MR. MOONEYHAM: If I could have a moment
24 to -- and I will speak to the argument of a
25 derivative action, derivative claim, in that

1 the damages and claims that Dr. Lucas is making
2 are not individual to him. We made argument
3 that they are. It's not a derivative action
4 because you have -- you have a group of people
5 within that group. Some have been treated
6 better than others.

7 And so Dr. Lucas being one of the ones
8 that has not been treated fairly and not
9 treated as well as others within the group. So
10 his claims are derivative. They're individual
11 to him, and we feel that he has sustained
12 individual damages that have been testified to
13 and presented here.

14 And my co-counsel says I got everything.
15 So I conclude at this time, and I'm sure I will
16 have some remarks in response to defense
17 counsel.

18 THE COURT: Sure. I was just looking at
19 my notes here.

20 MS. POPE: Oh, and the assessment for the
21 windows and doors, I'm sorry, to Dr. Lucas was
22 approximately \$31,000. I think I failed to
23 mention that one.

24 THE COURT: All right, Mr. Barfield.

25 MR. BARFIELD: May it please the Court?

1 THE COURT: Yes, sir.

2 MR. BARFIELD: Your Honor, let's see where
3 to start. I think probably the best place to
4 start is where we started at the beginning of
5 this, and I'd be remiss if I didn't -- harken
6 back to the theme of the case that Dawes
7 articulated yesterday morning, which is there
8 are people that are comfortable living in a
9 horizontal property regime, and there are
10 people that will never be comfortable living in
11 a horizontal property regime.

12 And there's no right or wrong to that.
13 It's just the way people are put together, and
14 the way they can live with one another. And
15 I'll submit to you, and I think probably Dr.
16 Lucas wouldn't disagree that at the end of this
17 whole rigmarole, he's probably not a person who
18 is happy living within a horizontal property
19 regime.

20 I know I'm not. That's why I don't.
21 Horizontal property regimes are set up to be a
22 representative form of government, just like
23 most democracies. There's only so much that
24 you can put to a referendum before it gets too
25 unwieldy. And so that's why in government and

1 in horizontal property regimes and in
2 corporations, we elect representatives to
3 perform due diligence and make the tough
4 decisions on our behalf. And that's exactly
5 what the evidence in this case has shown was
6 done by the various boards of directors at the
7 Bristol.

8 You know, I own stock in -- I don't know
9 what corporations I own stock in. You've got
10 mutual funds at -- who knows how many
11 corporations I own stock in, but if I found
12 out, I could go to a shareholder's meeting all
13 day long. And I can get information from those
14 corporations all day long, everything that's
15 subject to disclosure. But they sure wouldn't
16 let me go to a board of directors meetings of,
17 say, Bank of America and vote on everything.
18 I'm not a director of that corporation.

19 And there were boards of directors at the
20 Bristol, and there are members at large who
21 were, in essence, corporate shareholders, and
22 certain things were put to the vote of the
23 associations, and certain things had to be done
24 by the directors.

25 And so the law sets forth a frame work for

1 how we measure the actions of corporate boards,
2 and that measure is called the business
3 judgment rule. And we have outlined a lot of
4 case law in our pretrial brief, but --
5 regarding the business judgment rule, but I
6 think it probably bears highlighting here just
7 briefly.

8 In essence, the business judgment rule
9 immunizes management from liability and
10 corporate transactions undertaken by management
11 where there is a reasonable basis to indicate
12 the transaction was made in good faith.

13 In the dispute between the directors of a
14 homeowners association and aggrieved
15 homeowners, the conduct of the directors should
16 be judged by the business judgment rule, and
17 absent a showing of bad faith, dishonesty or
18 incompetence, the judgment of the directors
19 will not be set aside by judicial action.

20 And then one other point I will add is
21 that the business judgment rule creates a
22 higher standard of proof in these kinds of
23 cases. You have to show that the business
24 judgment rule was violated by clear and
25 convincing evidence, and we would submit to the

1 Court that the record in this case shows
2 that -- shows no evidence of bad faith on the
3 part of any board of directors at the Bristol.

4 We understand and we sympathize that Dr.
5 Lucas, and at varying times, others as quoted
6 by the plaintiffs a moment ago, have disagreed
7 with certain actions taken by the board of the
8 Bristol. I would counter that by saying that
9 serving on a homeowners association board is a
10 thankless job, and I never want to do it. And
11 so I applaud those that are willing to do that,
12 and I think the record in this case has shown
13 that those who have served on the Bristol board
14 through what was a very difficult and
15 tumultuous time did so to the best they could
16 and did so in good faith, and acted in what
17 they believed to be best interest of the
18 association.

19 And that's what the law requires of them.
20 It does not require perfection. People are
21 always going to disagree. There were will
22 always be dissenters, but that's just the way
23 this kind of thing works.

24 So again, we have to look at everything in
25 this case under the umbrella of the business

1 judgment rule.

2 The second point I want to bring out is to
3 simply reraise our argument with regard to this
4 being more appropriately a derivative action.

5 I respectfully disagree with what Kelly has
6 said about there being individual damages. I'm
7 at a loss to figure out what -- I'm at a loss
8 figuring out if there are any damages in this
9 case, but if there are any, what damages are
10 unique to Dr. Lucas.

11 And as I read the case law that applies to
12 derivative actions and trying to parse out what
13 is derivative and what is individual, if --
14 even if there is a minority of shareholders who
15 collectively have incurred the same kind of
16 damages because of corporate action, then that
17 must be brought as a derivative action.

18 An individual may only bring action
19 against a corporate board of directors in his
20 own name if he has been singularly aggrieved.
21 And really, as I read the case law, they have
22 to be targeted. It almost has to be an ultra
23 vires kind of targeting of an individual for --
24 with -- you know, there's no requirement of
25 intent, but in trying to conceive of how an

1 individual may incur those kinds of damages, I
2 can only think of intentional harm as something
3 that will qualify.

4 So again, I don't believe they have proven
5 that he has any individual damages that are
6 unique to him. I hate to argue elements of
7 causes of action, but since we're sort of
8 wrapping closings up with a directed verdict, I
9 feel I at least need to touch on that.

10 You know, we're bound by the pleadings in
11 the case, and so one of the causes of action
12 that Your Honor must apply to facts as
13 presented to, the first one is breach of
14 fiduciary duty. I don't think there's been any
15 evidence at all to suggest that the boards at
16 the Bristol breached a fiduciary duty here, and
17 I'm not entirely sure what it is -- what
18 conduct that they contend qualifies as breach
19 of fiduciary duty. But again, that must be
20 judged under the business judgment rule, and
21 I've covered that.

22 Second is negligence. Well, again, I'm
23 not sure what evidence has been presented in
24 this trial to show that anyone acted
25 negligently. What we have heard at length is

(1 testimony that the board was charged with
2 weighing competing considerations, and they had
3 to make some tough decisions. Sometimes those
4 decisions were unpopular with some, but that
5 doesn't rise to the level of a negligent breach
6 of duty. And, once again, in order to recover
7 from negligence, you have to prove damages.
8 And I have not seen any evidence that Dr. Lucas
9 has incurred damages.

(10 They have also alleged fraud, and I think
11 that that absolutely fails. Proving fraud is
12 tough, and there are specific elements that you
13 must prove. And our law is very particular
14 about those elements. I think they fail on the
15 very first one, which is showing that there was
16 a misrepresentation. I don't think there's
17 been any evidence whatsoever presented in the
18 record of this case to show that
19 misrepresentations were made directly to Dr.
20 Lucas.

(21 Now, they say that there was some
22 obfuscation on the part of the board as to
23 certain facts, and we can argue whether or not
24 that actually occurred. But in order for Dr.
25 Lucas to occur -- to recover from fraud, he has

1 to show that a misrepresentation was made
2 directly to him, and there's been no evidence
3 of that.

4 But in addition to that, he has to show
5 that he relied on it, that he had a right to
6 rely on it, and that he was damaged as a
7 result. I'm sure I'm missing a couple of -- I
8 think there are nine elements, but those are
9 the high points here. Because I don't think
10 he's shown any of -- evidence of any of those.

11 And as with the business judgment rule, in
12 order to recover for fraud, you have to prove
13 the elements by clear and convincing evidence.
14 We certainly don't have that.

15 There's a cause of action for abuse of
16 process, and I think they tried to kind of roll
17 that up into this concept of it being a
18 wrongful -- well, wrongful foreclosure is not a
19 recognized cause of action in South Carolina.
20 Abuse of process is.

21 However, to the extent the law is very
22 clear on this, and Dawes and I were stung by
23 this not so long ago, at the hand of a very
24 wise judge, that in order to recover for abuse
25 of process, you have -- you can't recover for

1 abuse of process if the process was followed
2 through to its logical conclusion.

3 And so in the instance of a foreclosure,
4 had a foreclosure been filed for an improper
5 purpose and abandoned or aborted in its nascent
6 stages, then maybe they'd be on to something if
7 they could show damages as a result. But the
8 fact of the matter is the foreclosure action
9 was filed and yet here we are as part of this
10 trial.

11 And so they cannot recover for abuse of
12 process if that is what they base it upon. So
13 the notion that that's the vehicle through
14 which they might recover attorneys' fees is
15 wrong on a couple of levels. They can't -- I
16 don't believe attorneys' fees are recoverable
17 under abuse of process. They're certainly not
18 recoverable simply for successfully defending
19 against the foreclosure action. The reward for
20 defending a foreclosure action is you get to
21 keep your property.

22 And in addition to that, I would take
23 issue with the assertion that \$100,000 in
24 attorneys' fees were incurred, quote/unquote,
25 defending against the foreclosure. Those

1 attorneys' fees were incurred prosecuting Dr.
2 Lucas' claims against the Bristol. And, you
3 know, right or wrong, he kind of started the
4 fight.

5 I think I put in the pretrial brief that
6 every deposition in this case, except for Dr.
7 Lucas' deposition, which we noticed, was
8 noticed by Dr. Lucas. And you're probably
9 painfully aware at this point of how many
10 depositions were taken in this case, because
11 you've had to read most of them.

12 So their attorneys' fees claims are non
13 start. You know, I think you paid close
14 attention to the facts in this case, and so I
15 don't want to rehash all of the testimony.

16 THE COURT: Thank you.

17 MR. BARFIELD: I thought you would like
18 that. Well, but I would merely say that
19 everything that Your Honor has heard over the
20 last two days and read leading up to this trial
21 must be filtered through the business judgment
22 rule, and I simply ask you to be aware, you
23 know, our position that these are lay people
24 that have done the best they could. And I
25 understand and appreciate that Dr. Lucas has

1 not been happy with what they have done, but
2 everything they have done has been legitimate.

3 There's been no evidence presented that
4 anything they did was a deviation from their
5 governing documents, which I think is a crucial
6 point, and, you know, these boards shepherded
7 the Bristol through a very difficult time. And
8 at the end of that process, they were able to
9 fix their building, which was a disaster from a
10 water intrusion standpoint.

11 And while there was somewhat of a
12 shortfall, it's much more palpable, I believe,
13 to the owners out there to have to pay a few
14 thousand dollars to make up that shortfall then
15 to have to come completely out of pocket
16 millions of dollars, which was the only
17 alternative, had they not pursued that
18 litigation to the degree in which they did.

19 Dawes -- don't shoot the messenger. Dawes
20 says you should watch the DVD, which is in
21 evidence now. He said if you do, that you will
22 see that they took a very methodical approach
23 to try and solve the problem, that they all
24 unwittingly inherited, because they all,
25 unfortunately, bought a bad building, and the

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1 developer didn't do right by them.

2 So they did what they could do, and
3 apparently the DVD is good evidence of that.
4 That's all I have. Thank you, Your Honor.

5 THE COURT: Yes, ma'am?

6 MS. POPE: Very briefly, Your Honor. In
7 response to some of the arguments made and some
8 of the comments made by, so eloquently, by Mr.
9 Barfield, in regards to the business judgment
10 rule, it does say that they're supposed to act
11 reasonably, in good faith and honestly and
12 competently. And I believe I laid out
13 extensively in my closing arguments, presenting
14 evidence and testimony, rehashing some of that
15 shows that that just wasn't the case in this
16 particular instance.

17 In addition to that, I will point out that
18 the South Carolina law states that parties in a
19 fiduciary relationship must fully disclose to
20 each other all known information that is
21 significant and material. And as the evidence
22 and testimony has shown, that, again, has not
23 been the case in this particular instance.

24 And one of the -- the attorneys' fees was
25 hit on in regards to the foreclosure action. A

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1 lot of those depositions were taken because Dr.
2 Lucas had to vigorously defend himself against
3 the foreclosure action, and there were lots of
4 claims that he made in the counterclaim and his
5 answer in regards to the foreclosure action
6 that had to be established and had to be
7 determined.

8 I mean one of those was slander of title.
9 A lot of those dealt with the fraud. There was
10 a breach of fiduciary duty in there as well.
11 So a lot of work that was done prior -- I mean
12 after the foreclosure was filed was because he
13 had to defend against it, and that is a damage
14 that he has incurred.

15 And I'll end with a comment that Mr.
16 Barfield used, which was targeting an
17 individual. I think the evidence clearly shows
18 that the homeowners association targeted Dr.
19 Lucas. He was someone who, yes, was a
20 dissenter, but he was a dissenter that wasn't
21 going to go quietly. He was a dissenter that
22 was going to fight, and he was one that was not
23 going to back down and not going to give up,
24 because he believes it is the right thing to
25 do.

1 And because he didn't do that, they've
2 harassed him and bullied him and backed him
3 into a situation where he has had to spend a
4 lot of money defending him, and someone who has
5 had perfect credit, wonderful portfolio, has
6 now had the foreclosure action filed against
7 him.

8 So he was someone that we believe was
9 targeted by the homeowners association, and we
10 believe that the homeowners association should
11 be punished. Thank you.

12 THE COURT: All right. Thank you, ma'am.
13 I don't believe we formally introduced all
14 these other depositions that you want to make
15 part of the record. In fact, we've only got
16 one deposition introduced.

17 MS. POPE: I believe we -- did we make
18 those exhibits? I was under the impression --
19 I'm sorry. That's my fault. That they were
20 listed as tabs in exhibit to our trial brief,
21 and they were not, I don't think. They're
22 listed in our trial brief. Then I stand
23 corrected.

24 THE COURT: Well, I just think -- I mean I
25 don't think they're going to object to --

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1 MR. BARFIELD: No, sir.

2 THE COURT: -- you introducing, but I
3 think you need to move to introduce.

4 MS. POPE: Yes.

5 MR. BARFIELD: And I need to do the same
6 with Dr. Lucas' deposition too.

7 THE COURT: All right. Any objection to
8 accepting Dr. Lucas' deposition as evidence in
9 this case?

10 MS. POPE: No, your Honor.

11 THE COURT: All right. You need to give
12 her one to mark.

13 (Defendants' Deposition Exhibit No. 3
14 was marked for identification.)

15 MS. POPE: Your Honor, I'd make a motion
16 to enter the following depositions as evidence
17 in this case, Bradford Sherlock, Dr. Kenneth
18 Hanger, Johan Princ, Harold Campbell, Troy
19 Herndon, Cindy Mulcare, David Landry, and David
20 Warner.

21 THE COURT: Any objection?

22 MR. BARFIELD: No, sir.

23 THE COURT: All right. They're admitted.
24 And there again, you probably have all the
25 originals, and that's -- I leave that up to

1 you, but that's the way to do it, just to give
2 her the originals.

3 MR. BARFIELD: Defendant would move to --
4 and I think may have already done it -- would
5 move to enter the deposition of Dr. John Lucas
6 into evidence in this case.

7 THE COURT: You just did it, and I grant
8 it.

9 (Plaintiffs' Deposition Exhibit No. 7
10 was marked for identification.)

11 THE COURT: There's one other thing, and
12 that's this duty to communicate. What is the
13 extent of that duty? What is that duty?
14 You-all want to address that very briefly in a
15 letter or something to me? I mean does that go
16 beyond the duty of good faith, and what you
17 read didn't seem -- what you read about
18 disclosure, I'm not sure that applies as a duty
19 to communicate from the board to a stockholder.

20 And there may be some special duty of a
21 homeowners association board as opposed to a
22 Bank of America he was talking about. I don't
23 know that. I don't know the answer. I'm
24 asking that question, if there's some special
25 duty to communicate and what the extent of it

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1 is. Because I don't think that duty to
2 disclose that you read is applicable to this
3 situation. I mean, certainly, if you -- if a
4 bank has acted as trustee, they have to
5 disclose to the beneficiary of the trust or the
6 trustor, whoever, any conflicts it might have,
7 any interest they might have, but that's not
8 what we're talking about here.

9 We're talking about the duty to
10 communicate the business of the corporation to
11 individual shareholders. And I'm not sure what
12 kind of duty exists there. So would you--all
13 just address that if you could? I'm not trying
14 to add work to you. You can do it in a letter
15 or -- put it in writing. Don't send me an
16 e-mail. You can send me an e-mail too, but
17 follow it up with something in writing, just
18 very briefly on that issue.

19 MR. MOONEYHAM: Yes, sir.

20 MR. BARFIELD: Okay.

21 THE COURT: And now, somebody is going to
22 give me a DVD. That's all. I believe that's
23 it as far as I'm concerned. I do need you to
24 get me a few copies of a few of these exhibits
25 that have been marked, because I don't want to

(1 take the original. It's very short, just a few
2 pages, but everything else, I got. I just hate
3 to carry something I got to be responsible for
4 and having the exhibits in my possession.

5 (Trial was concluded at 5:57 p.m.)

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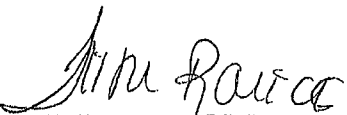
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1 REPORTER'S CERTIFICATE

2
3 I, TRISHA G. RARICK, Court Reporter and Notary
4 Public in and for the State of South Carolina at large, do
5 hereby certify that I correctly reported the within-entitled
6 matter and that the foregoing is a full, true and correct
7 transcription of my shorthand notes of the testimony and/or
8 other oral proceedings had in the said matter.

9 I further certify that I am neither related to nor
10 counsel for any party to the cause pending or interested in
11 the events thereof.

12 Witness my hand, I have hereunto affixed my seal
13 this 14th day of June, 2013, at Charleston,
14 Charleston County, South Carolina.

15
16 
17 TRISHA G. RARICK
18 Court Reporter
19 My Commission Expires
20 APRIL 19, 2019
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22
23
24
25

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

IN COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

JOHN T. LUCAS, SR., AS TRUSTEE OF
THE JOHN T. LUCAS REVOCABLE
TRUST AND CAROLYN C. LUCAS AS
TRUSTEE OF THE CAROLYN C.
LUCAS REVOCABLE TRUST,

Plaintiff,

v.

THE BRISTOL CONDOMINIUM
PROPERTY OWNERS' ASSOCIATION,

Defendant.

CASE NO. 2010-CP-10-3240

AND

THE BRISTOL CONDOMINIUM
PROPERTY OWNERS' ASSOCIATION,

Plaintiff,

v.

JOHN T. LUCAS, SR., AS TRUSTEE OF
THE JOHN T. LUCAS REVOCABLE
TRUST DATED NOVEMBER 10, 2004,
AND CAROLYN C. LUCAS AS
TRUSTEE OF THE CAROLYN C.
LUCAS REVOCABLE TRUST DATED
NOVEMBER 10, 2004,

Defendants/Counterclaim Plaintiffs

v.

THE BRISTOL CONDOMINIUM
PROPERTY OWNERS' ASSOCIATION,

Counterclaim Defendant.

CASE NO. 2011-CP-10-2232

REFERENCE TESTIMONY OF
THE BRISTOL CONDOMINIUM
PROPERTY OWNERS' ASSOCIATION



REFERENCE held this 22nd day of May, 2013, at _____ in Courtroom _____
of the Charleston County Judicial Center, before The Hon. _____, Special Referee, Ninth
Judicial Circuit.

PRESENT: Lona Vest, Management Agent, of The Bristol
Condominium Property Owners' Association;
Joseph Belton, Esquire, of the firm
of Moore & Van Allen PLLC, Attorneys for
The Bristol Condominium Property Owners' Association;
Joe Mooneyham, Esquire, of the firm of
Mooneyham, Berry & Karow, Attorneys for
Defendants/Counterclaim Plaintiffs

PLEADINGS READ:

MR. BELTON:

Your Honor, John T. Lucas, Sr., as Trustee of the John T. Lucas Revocable Trust, and
Carolyn C. Lucas, as Trustee of the Carolyn C. Lucas Revocable Trust (the "Unit Owners") have
been properly served with process by The Bristol Condominium Property Owners' Association
(the "POA") in their foreclosure action against the Unit Owners which was initially designated as
Charleston County Case No.: 2011-CP-10-2232. The Unit Owners subsequently filed an Answer
and Counterclaim to the POA's Foreclosure Complaint on May 9, 2011. The POA then filed a
Reply to the Counterclaim of the Unit Owners on May 26, 2011.

By Order of the Hon. Kristi Lea Harrington, Judge, Ninth Judicial Circuit, the foreclosure
action Charleston County Case No.: 2011-CP-10-2232 was consolidated with Charleston County
Case No.: 2010-CP-10-3240.

The Unit Owners were notified of the time, date and place of the Hearing and are present.

LONA VEST SWORN, WITH CONCURRENCE OF UNIT OWNERS' COUNSEL:

BY MR. BELTON:

Q. What is your official position with the POA?

A. I am the Management Agent.

Q. Are you also one of the persons charged with the responsibility of keeping the records of the POA?

A. Yes, particularly the delinquent property owners' accounts.

Q. Upon what basis does the POA impose and collect these assessments?

A. Pursuant to the Master Deed of the Bristol Horizontal Regime ("Master Deed"), recorded in the Office of the R.M.C. for Charleston County in Deed Book D-417, Page 001, as amended. The Unit Owners took title to their Unit subject to the terms and conditions of the Master Deed.

Q. Please identify the unit(s) owned by the Unit Owners.

A. The Unit Owners own Unit Number 313, also referred to as 3013, defined as the "Property" in the Complaint.

Q. Did the POA file a notice of lien against the subject Property?

A. Yes, the notice of lien for unpaid assessments in the sum of \$23,229.16, plus interest and costs and any other assessments accruing after February 8, 2011, was filed with the R.M.C Office for Charleston County on February 24, 2011, in Book 0173, page 669.

Q. Does the Master Deed contain a provision authorizing the recovery of late charges, interest, costs and attorneys' fees?

A. Yes, the Master Deed provides that all property owners, as members of the POA are obligated to pay assessments levied by the POA as well as pay late charges and interest at the rate established by the Board of Directors of the POA for assessments that are not paid by the due date. Also, the Master Deed provides that the members are obligated to pay reasonable attorneys' fee incurred in the collection of the past due assessments.

Q. I am showing you copies of the following exhibits:

Exhibit "A" Master Deed

Exhibit "B" Notice of Lien

MR. BELTON:

Your Honor, at this time I should like to introduce into evidence the exhibits, marked the POA's Exhibits "A" and "B".

BY MR. BELTON:

Q. What is the actual amount of regime fees/assessments due for the Property, including late fees, interest and lien filing fees as of May 13, 2013?

A.	a.	<u>Regular Regime Fees:</u>	\$28,093.75
	b.	<u>Capital Reserve Contributions:</u>	\$ 4,496.25
	c.	<u>Insurance Assessments:</u>	\$ 8,726.98
	d.	<u>Special Assessments:</u>	\$42,354.90
	e.	<u>Late Fees:</u>	<u>\$14,104.08</u>

SUB-TOTAL:	\$97,775.96

LESS: Payments Received:	<u>\$(49,184.92)</u>

SUB-TOTAL	\$48,591.04

Interim Collection Costs:	\$15,990.78

TOTAL DEBT:	<u>\$64,581.82</u>

Q. Do you have a ledger sheet or account summary?

A. I have a copy of the Account Summary.

Q. That is a photostatic copy?

A. Yes, it is.

Q. How is the Account Summary prepared?

A. Upon the receipt of payments, the disbursement of advances, the imposition of late charges, if applicable, as well as the debiting or crediting of any item for the account, entries reflecting such transactions are contemporaneously entered into the computer system maintained by the POA for this purpose. The status of an account is periodically reviewed in the event of delinquency.

Q. Are these records maintained in the regular course of business?

A. Yes, they are.

Q. Would you please summarize the total due the POA from the Unit Owners?

A. Yes, our records reflect that the total due for the Property is the sum of \$48,591.04, plus late charges, along with subsequently accruing interest at the rate of 18% per annum, until paid, plus reasonable attorneys' fees and costs.

BY MR. BELTON:

Your Honor, I would like at this time to introduce into evidence the Account Summary, marked the POA's Exhibit "1".

Our Firm is counsel for POA and has responsibility for this foreclosure action. When this matter was referred to us, we attempted to negotiate with the Unit Owners regarding this debt. As noted above, the Unit Owners dispute the amount due and have filed counterclaims against the POA. To that end, the parties have stipulated that the submission of this prepared testimony, while sufficiently establishing the indebtedness claimed by the POA, does not constitute a waiver by the Unit Owners of their counterclaims.

In connection with the commencement of foreclosure, we examined title covering the period since POA's Lien and prepared the Civil Cover Sheet, Certificate of Exemption from ADR, Lis Pendens, Summons and Complaint, and filed them in the Clerk of Court's office. We obtained service on the Unit Owners. We prepared the Testimony for this Hearing.

In addition, we have the responsibility of attending the sale, assisting the POA in making a proper bid, recording the deed, reexamining the title to the date of recording the deed and submitting a detailed final report on title. The better part of my practice, as well as the affiant under the Affidavit of Counsel, David B. Wheeler, revolves around the areas of foreclosure and collection. Numerous hours have been utilized in the pursuit of this action thus far, and we

estimate another 5-10 hours will be necessary to bring it to a conclusion.

The cumulative amount of recovery is \$64,581.82, in addition to accruing interest, and late charges, which is the amount which should be considered in determining attorneys' fees. Upon information and belief, the customary award for such services in this community is 10%-15% of the amount recovered. On the basis of the foregoing, I respectfully submit that a fee of \$3,500.00, in addition the attorney fees and costs incurred by the POA, is both reasonable and appropriate. In support of such, I should like to introduce into evidence the Affidavit of Counsel of David B. Wheeler, who is primarily responsible for this action, marked the POA's Exhibit "2".

There are additionally due any and all Court and sale costs, as incurred.

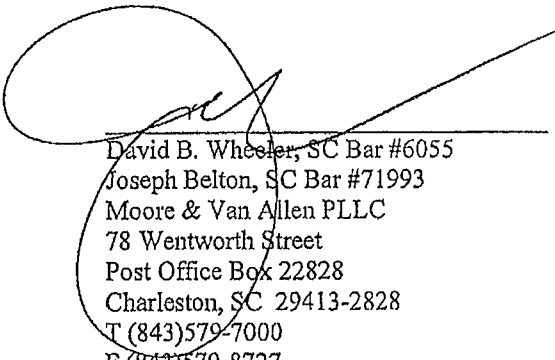
I should like to introduce by reference the record the liens to which this foreclosure is subject, viz:

-Any Charleston County real property delinquent tax liens that may be outstanding.

The POA wishes to reserve the right to waive a deficiency judgment at the scheduled Master's Sale.

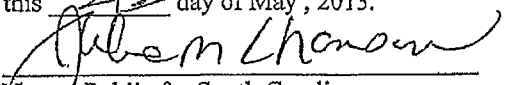
[Remainder of page left blank intentionally]

The issue of the Unit Owners' Counterclaims and the POA's defense thereto shall be presented to the Court separately.



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Joseph Belton, SC Bar #71993
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josephbelton@mvalaw.com
ATTORNEYS FOR THE BRISTOL
CONDOMINIUM PROPERTY OWNERS'
ASSOCIATION

SWORN TO before me
this 21st day of May, 2013.


Notary Public for South Carolina
My Commission Expires: 5-24-18

BKD 417PG001

PORTIONS OF THIS AGREEMENT ARE SUBJECT TO ARBITRATION
PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, § 15-
48-10, S.C. CODE OF LAWS OF 1976, AS AMENDED

The
Bristol

MASTER DEED OF
THE BRISTOL HORIZONTAL PROPERTY REGIME

HPMB1:765.15-RD-(DPK) 010019-00093



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DXD 417PG005

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) MASTER DEED
) OF THE BRISTOL
) HORIZONTAL PROPERTY REGIME

TO ALL WHOM THESE PRESENT MAY COME:

WHEREAS, Brittlebank Condominiums, LLC (the "Developer") is a South Carolina limited liability company, whose business address is PO Box 242, Charleston, South Carolina 29402; and

WHEREAS, the Developer is the owner of that certain real property more fully described in Exhibit "A" attached hereto located within the City of Charleston, Charleston County, South Carolina (the "Land"); and

WHEREAS, the Developer, through its development manager, The Beach Company, intends to construct certain improvements on the Land; and

WHEREAS, the Developer now deems it appropriate to organize a horizontal property regime by duly executing and recording this Master Deed in the Office of the Register of Mesne Conveyances for Charleston County, South Carolina ("RMC").

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the Developer hereby submits the Land more fully described in Exhibit "A" attached hereto and all improvements located thereon, together with all easements, rights and appurtenances thereunto belonging, to the provisions of Sections 27-31-10 et seq. of the South Carolina Code of Laws (1976) and hereby creates thereon a horizontal property regime (sometimes termed "condominium ownership") to be known as THE BRISTOL HORIZONTAL PROPERTY REGIME, subject to the following, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO WITHDRAW UNIMPROVED PORTIONS OF THE LAND PURSUANT TO SECTION 14.2(b):

1. Definitions.

Unless defined herein or unless the context requires otherwise, the words defined in Section 27-31-20, South Carolina Code of Laws (1976), when used in this Master Deed or any amendment hereto, will have the meaning therein provided. The following words, as well as other defined terms set forth herein, when used in this Master Deed or any amendment or supplement hereto, unless the context requires otherwise, will be deemed to include the singular and plural forms as the context requires and have the following meanings:

"Assessment" means the amount assessed against an Owner and his Unit from time to time by the Association in the manner provided herein.

"Assigned Value" means the value assigned to each Unit in accordance with Exhibit "C" attached hereto and utilized for purposes of computing the Percentage Interest appurtenant to such Unit, which Assigned Value will not constitute the sales price of the Unit or be relied upon as a representation of the actual value of the Unit.

"Annual Assessment Period" means the fiscal year of the Association established by the Association's Board of Directors.

"Association" means Bristol Condominium Property Owners' Association, being an association of Owners of Units located in the Regime, in the form of a nonprofit, non-stock membership association, which will be incorporated in accordance with the Article of Incorporation, attached hereto as Exhibit "D" and the Nonprofit Corporation Act.

"Board of Directors" or "Board" means the Board of Directors of the Association, and "director" or "directors" means a member or members of the Board.

"Building," means the structure containing in the aggregate 54 Units comprising the Regime.

"Bylaws" means the Bylaws of the Association attached hereto as Exhibit "B," as amended from time to time in accordance with the terms of the Bylaws and this Master Deed.

"Common Area" means all of the Regime property after excluding the Units, including the following:

1. Easements through Units for conduits, ducts, plumbing, chimneys, wiring, and other facilities for the furnishing of utility services to Units and the Common Areas; provided, however, such easements through a Unit will be only according to the Plans for the Building, or as the Building is constructed unless otherwise approved by the Unit Owner.
2. An easement of support in every portion of a Unit that contributes to the support of a Building.
3. Easements through the Units and Common Areas for maintenance, repair and replacement of the Units and Common Areas.
4. Installation for the furnishing of utility services to more than one Unit or to the Common Areas or to a Unit other than the one containing the installation, which installation will include ducts, plumbing, wiring, and other facilities for the rendering of such services.
5. The tangible personal property required for the maintenance and operation of the Unit, even though owned by the Association.
6. Lounge, fitness room, locker rooms, pool and associated offices.
7. Gatehouse or other controlled entry facilities, elevators, walkways, ponds, waterfalls and fountains and the Owners' room known as, "The Bristol Room," and exercise room, and pool facility.

When used herein, "Common Area" will be deemed to include any service provided by the Association in furtherance of the uses and purposes to which any of the aforesaid facilities are put.

"Common Expense(s)" means (a) all expenses incident to the administration of the Association and maintenance, repair and replacement of the Common Areas and the Limited Common Areas, after excluding therefrom such expenses which are the responsibility of an Owner; (b) expenses determined by the Association to be Common Expenses and which are lawfully assessed against Owners; (c) expenses declared to be Common Expenses by the Condominium Act or the Regime Documents; and (d) reasonable reserves established for the payment of any of the foregoing.

"Condominium Act" means the Horizontal Property Act of South Carolina, South Carolina Code of Laws (1976), Section 27-31-10 to Section 27-31-300, as may be amended from time to time.

"Developer" means Brittlebank Condominiums, LLC, a South Carolina limited liability company, its successors and assigns.

"Institutional Mortgage" will mean and refer to a first lien Mortgage (prior to all other Mortgage liens) held by a bank, trust company, insurance company, or other recognized lending institution, or by an institutional or governmental insurer or purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation. Such term will also mean and refer to the holder of any Mortgage securing a loan made by the Developer, its affiliates, successors, or assigns.

"Land" means the Land which is described in Exhibit "A" attached hereto, as said exhibit may be amended from time to time in accordance with the provisions of this Master Deed to withdraw unimproved portions thereof from the Regime.

"Limited Common Area" means that portion of the Common Area set aside and allocated for the exclusive use of the Owner of the Unit to which attached or assigned, and will include that portion of any Common Area that is pierced by the Unit's interior stairs, if any; a Unit's chimney structure and flue, if any; air conditioner units and condensers and hot water heaters located outside of the Unit, and the spaces occupied by same; assigned storage lockers or spaces in the first and second floors of the Building; assigned parking in the first and second floors of the Building; and the balcony adjacent to the Unit. Exhibit "C" hereto incorporates a schedule of the storage space and the two parking spaces appurtenant to each Unit as Limited Common Areas thereof.

"Master Deed" means this document, as amended from time to time.

"Member" means each Owner who is a member of the Association.

"Mortgage" will mean and refer to a mortgage, security deed, deed of trust, installment land sales contract, or other similar security instrument granting, creating, or conveying a lien upon, a security interest in, or a security title to a Unit.

"Mortgagee" will mean and refer to the holder of a Mortgage.

"Nonprofit Corporation Act" means and refers to the South Carolina Nonprofit Corporation Act of 1994, South Carolina Code of laws (1976), Sections 33-31-101, et. seq., as amended from time to time.

"OCRM" means the Office of Ocean and Coastal Resource Management of the South Carolina Department of Health and Environmental Control.

"Owner" means the record owner, whether one or more persons, of fee simple title in and to any Unit; excluding, however, those persons having such interest merely as security for the performance of an obligation.

"Percentage Interest" means the undivided percentage interest owned by each Owner as a tenant-in-common in the Common Areas. "Total Percentage Interest" means the aggregate of all the Percentage Interests.

"Plans" mean and include the site plan and the floor plans of the Project which are filed as an attachment to this Master Deed showing the boundaries of the Land, the horizontal and vertical location of the improvements and Common Areas of the Project thereon and certified by a licensed engineer or architect in accordance with the provisions of the Condominium Act.

"Project" means, collectively, the Land, the Building and all other improvements and structures located thereon, and all easements, rights and appurtenances belonging thereto, submitted to the Condominium Act by this Master Deed, as amended from time to time in accordance with the provisions hereof.

"Regime" means the horizontal property regime established by this Master Deed, including all appurtenances and incidents of ownership attendant therewith.

"Regime Documents" means and includes this Master Deed, all Exhibits hereto, the Articles of Incorporation of the Association, the Bylaws and the Rules and Regulations, all as amended from time to time in accordance with the provisions thereof or in accordance with the laws of the State of South Carolina.

"Rules and Regulations" means the rules and regulations from time to time promulgated by the Board of Directors governing the use of the Common Areas and Units.

"Transition Period" means the time period commencing on the date of recording of this Master Deed and ending on the earlier of:

1. December 31, 2008; or
2. Three (3) months after the conveyance of forty-nine (49) Units in the ordinary course of Developer's business; or
3. Three (3) months following the date the Developer surrenders its authority as a Class "B" Member of the Association to appoint and remove directors and officers of the Association by an express amendment to this Master Deed executed and filed of record by Developer.

"Trustee" means the Board of Directors acting as a fiduciary for the benefit of the Association and the Owners in holding certain funds and providing services as provided herein, or such bank or trust company authorized to do trust business in the State of South Carolina and appointed therefor by the Board of Directors.

"Unit" means that part of the Regime intended principally for residential use by an Owner, situate within the Unit boundaries described in this Master Deed, including Exhibit "B" attached hereto, as amended from time to time in accordance with the provisions of this Master Deed and constituting an "apartment" as defined in the Condominium Act. Each Unit will be identified in the architect's floor plans incorporated in and made a part of Exhibit "B" attached hereto by a specific letter, number or combination thereof, which identification will be sufficient to identify the Unit for all purposes. "Unit" will also mean all the components of ownership held by an Owner, including not only the rights and interests of the Owner in and to the Unit, but also the rights of use of and the undivided interest in the Common Area.

2. Administration

2.1 The Association.

The administration of the Regime will be the responsibility of the Association, which will be made up of all the Owners of Units in the Regime. The Regime Documents, as the same may be amended from time to time, will govern the Association and the Owners.

2.2 Membership.

Each Owner of a Unit, including the Developer, will be a Member of the Association. Membership will be appurtenant to and may not be separated from ownership of a Unit and ownership of a Unit will be the sole qualification for such membership. In the event that fee title to a Unit is transferred or otherwise conveyed, the membership in the Association that is appurtenant thereto will automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. The foregoing is not intended to include any Mortgagee or any other person who holds an interest merely as security for the performance of an obligation, and the giving of a security interest will not terminate or otherwise affect an Owner's membership in the Association.

2.3 Agreements.

The Association will be and hereby is authorized to enter into such contractual arrangements, including without limitation, management contracts, as it may deem necessary or desirable for the administration and operation of the Regime; provided, however, from and after the Transition Period, the Association will not enter into any contractual arrangement with a term of longer than two (2) years without Member approval therefor by a majority of the votes cast by written ballot or in person or by proxy at a meeting at which a quorum is present. Anything contained herein to the contrary notwithstanding, the following contracts will be exceptions to this provision:

(i) Any contract with a utility company if the rates charged for the materials or services are subject to regulation by the South Carolina Public Service Commission; provided, however, that the term of the contract will not exceed the shortest term for which the utility will contract at the regulated rate in effect at the contract date;

(ii) The Bulk Installation and Service Agreement by and between Comcast Cablevision of Carolina, Inc. and Brittlebank Condominiums, LLC dated September 10, 2001 for the installation and provision of CATV service to the Regime

(iii) Any prepaid casualty and/or liability insurance policy with a term not to exceed three (3) years, provided that the policy permits short rate cancellation by the insured;

(iv) Any future contract for cable television services and equipment or satellite dish television services and equipment; and

(v) Any contract for the sale or lease of burglar and/or fire alarm equipment, installation and/or services.

Each Owner by acquiring or holding an interest in a Unit thereby ratifies and agrees to be bound by the terms and conditions of all such contractual arrangements entered into by the Board of Directors on behalf of the Association prior to the conveyance of the Unit to the Owner.

2.4 Books and Records.

The Association will keep full and accurate books of account and financial records showing all receipts and disbursements. In particular, the books will be maintained with a detailed account, in chronological order, of the receipts and expenditures affecting the Regime and its administration, and specifying the maintenance and repair expenses of the Common Area as well as other expenditures incurred. Vouchers accrediting the entries made thereupon will also be maintained in chronological order.

2.5 Financial Statements.

No later than 120 days after the close of any fiscal year of the Association, the Association will cause financial statements for such fiscal year to be prepared (but not necessarily certified) by a public accountant licensed in the State of South Carolina. Copies of the financial statements will be available to any Owner or Mortgagee upon written request to the Association. The Association may charge a reasonable fee for copying such statements.

2.6 Access to Information.

The Association will make available to Owners of any Unit and to any Mortgagee current copies of the Regime Documents and the books, records, vouchers, contractual arrangements and financial statements of the Association. "Available" means available for reasonable inspection upon request during normal business hours or under other reasonable circumstances. The Association may charge reasonable copying costs for any requested copies or extracts. Any party entitled to the benefits of this Section 2.6 will be permitted to designate one or more agents who will be permitted to represent said party in connection with any and all reviews of the Regime Documents and books, records, contractual arrangements and financial statements of the Association.

2.7 Rules and Regulations.

The Board of Directors will be entitled to promulgate reasonable Rules and Regulations from time to time, which will be binding on the Association and all Owners and lessees of Owners, their families, invitees and guests, regarding the use and enjoyment of Units and Common Areas. Any fine which may be imposed

against the Association by OCRM or by any other governmental agency for any violation of law or as a result of damage to marsh or any other protected property of the Regime by an Owner or by his renter, lessee or invitee shall be added to such Owner's Assessments and shall become a lien upon his Unit. Copies of the current Rules and Regulations will be furnished to Owners and lessees of Owners upon request.

2.8 Professional Property Manager.

The Beach Company is engaged to manage the day-to-day affairs for the Developer, as well as the Association.

2.9 Collections and Remission of Optional Cable Television, Telephone and Other Charges; Master Utility Charges.

In the event the Association at any time secures any optional cable, telephone or other service, including broadband communications access, the Association will be entitled to collect fees charged to those Unit Owners who elect to receive such optional service made available to the Unit Owners through the Regime and remit the same to the provider thereof on behalf of such Unit Owners. Such elective costs and expenses will not be deemed a Common Expense hereunder, but will be charged to the Units Owners separately from their Assessment. Furthermore, the Board of Directors will pay any master utility meter charge, base cable to all Units, or other blanket utility fee for services to all Units not otherwise separately metered or charged to individual Units. Such master cost and expense will be a Common Expense hereunder; provided, however, in the event actual costs exceed the budgeted costs therefor, such unbudgeted excess may be prorated and charged to the Units Owners separately from their Assessment, and will not require payment thereof from any other budget line item surplus or a Special Assessment or other extraordinary measure of collection.

3. Property Rights

3.1 Units.

Each Unit will for all purposes constitute a separate parcel of real property which, subject to the provisions of this Master Deed, may be owned in fee simple and which may be conveyed, transferred, leased and encumbered in the same manner as any other real property. Each Owner, subject to the provisions of the Condominium Act and this Master Deed, will be entitled to the exclusive ownership and possession of his Unit.

3.2 Description of Units.

The dimensions, area and location of the Units are as set forth on Exhibit "B" attached hereto and are generally intended to include the following:

(a) Horizontal (Upper and Lower).

(i) The upper horizontal boundary of each Unit is the plane formed by the uppermost, unexposed surface of the wallboard or other material comprising a part of the ceiling in the uppermost story of the Unit.

(ii) The lower horizontal boundary of each Unit is the plane formed by the finished surface of the concrete slab or uppermost surface of the subflooring on which the lowermost story of the Unit is constructed.

(b) Vertical (Perimetric or Lateral). The vertical boundaries of each Unit are the planes formed by the outermost, unexposed surface of the wallboard or other surface comprising the perimeter walls enclosing the Unit.

(c) Units Deemed to Include. Notwithstanding the description of the boundaries set forth above, the Units shall be deemed to include the following: all portions of the plumbing, heating, electrical, and air conditioning systems (including furnaces, compressors, components, pipes, wires, conduits, ducts, and the like) serving only that Unit even if partially outside the boundaries of the Unit; all windows, glass surfaces, and doors (including window and door frames and the hardware thereof) serving the Unit; all window screens and screens on any screened balcony; and any fireplace or stove hearth, facing brick, tile or firebox; provided, however, that a Unit shall not include any of the structural components of the Building or utility or service lines within the Unit but serving more than one Unit. In interpreting deeds and plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or plan, regardless of settling or lateral movement of the Building, and regardless of minor variance between the boundaries shown on the plans or in a deed and those of the Unit.

The ownership of each Unit shall include, and there shall pass with each Unit as an appurtenance thereto whether or not separately described in the conveyance thereof, that percentage of the right, title and interest in the Common Areas attributable to such Unit, together with membership in the Association and an undivided interest in the funds and assets held by the Association. Every portion of a Unit and all Limited Common Area contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit.

3.3 Modification of Units.

The Developer, on behalf of itself, its successors and assigns, hereby reserves the right to modify or reconstitute, at any time and from time to time, one or more Units owned by Developer or its affiliates without the consent of the Association or any Owner other than those who may be directly affected; provided, however, that the aggregate Percentage Interest assigned to the Units so affected will not change even though the same may be reallocated among such changed Units. If Developer makes any changes in Units pursuant to this Section 3.3, such changes will be reflected by an amendment of this Master Deed which will be duly recorded in the RMC. Such amendment will not require the consent of Owners other than the Developer.

3.4 Common Area and Limited Common Area.

(a) Percentage Interest. The Owners will own the Common Area as tenants-in-common, with each Unit having, appurtenant thereto, the Percentage Interest in the Common Areas set forth in Exhibit "C" attached hereto; provided, however, that the use of the Limited Common Area will be restricted as set forth in Section 3.4(e). The Percentage Interest appurtenant to each Unit has been determined by dividing the Assigned Value of the respective Unit as shown on Exhibit "C" by the aggregate Assigned Value of all Units as shown on Exhibit "C." The value assigned to any Unit in Exhibit "C" does not represent the sales price or market value of the Unit and will only be utilized for purposes of computing the Percentage Interest appurtenant to the respective Unit.

(b) Inseparability of Percentage Interests. The Percentage Interest in the Common Area cannot be separated from the Unit to which it appertains and will be automatically conveyed or encumbered with the Unit even though such Percentage Interest is not expressly mentioned or described in the deed or other instruments.

(c) No Partition. The Common Area will remain undivided and no right to partition the same or any part thereof will exist except as provided in the Condominium Act, the Bylaws and this Master Deed.

(d) Use of Common Area. The Common Area will be used in accordance with the intended purposes without hindering the exercise of or encroaching upon the rights of other Owners. The Board of Directors will, if any question arises, determine the purpose for which a part of the Common Area is intended to

be used. All Owners and lessees of Owners, their families, invitees and guests will abide by all Rules and Regulations from time to time in effect governing the use of the Common Area.

(c) Use of Limited Common Area. Anything to the contrary contained herein notwithstanding, ownership of each Unit will entitle the Owner or Owners thereof to the exclusive use of the Limited Common Area adjacent and appurtenant to such Unit, which exclusive use may be delegated by such Owner to persons who reside in his Unit. All Owners and lessees of Owners, their families, invitees and guests will abide by all Rules and Regulations from time to time in effect governing the use of the Limited Common Area. An Owner will be responsible for maintenance and repair of the Limited Common Area appurtenant to his Unit as set forth in Section 8.3 below.

(f) Reservation of Easements and Use, Expansion and Contraction Rights. The Common Areas will be subject to all easements and use, expansion and contraction rights, if any, reserved by the Developer hereunder.

3.5 Status of Title of Project

The Developer represents to the Association and all the Owners that, as of the effective date hereof, the Developer has marketable, fee simple title to the Project. The rights and interests of all Owners in and to the Regime will be subject only to (a) liens for real estate taxes for the current year and subsequent years; (b) existing and/or recorded easements, conditions, covenants, declarations, reservations and restrictions including, without limitation, those set forth in this Master Deed; (c) easements and use rights, if any, reserved by the Developer hereunder; and (d) applicable governmental regulations, including zoning laws, which may be imposed upon the Regime from time to time.

3.6 Limited Warranty From Developer.

FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF COMPLETION OF CONSTRUCTION (BEING THE LATER OF SUBSTANTIAL COMPLETION UNDER THE CONSTRUCTION CONTRACT, OR THE DATE A CERTIFICATE OF OCCUPANCY IS ISSUED THEREFOR), THE DEVELOPER SHALL AT NO COST TO THE ASSOCIATION REPAIR OR REPLACE (IN THE DEVELOPER'S DISCRETION) ANY PORTIONS OF THE COMMON AREA (EXCEPT FIXTURES, ACCESSORIES AND APPLIANCES COVERED BY SEPARATE WARRANTIES OF THEIR RESPECTIVE MANUFACTURERS) WHICH ARE DEFECTIVE AS TO MATERIALS OR WORKMANSHIP. THIS LIMITED WARRANTY IS IN PLACE OF ALL OTHER CONTRACTUAL OBLIGATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AND THE DEVELOPER DISCLAIMS ALL OTHER CONTRACTUAL OBLIGATIONS OR WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TO THE FULLEST EXTENT PERMITTED BY LAW, THE LIABILITY OF THE DEVELOPER SHALL BE LIMITED TO SUCH REPAIR OR REPLACEMENT AND THE DEVELOPER SHALL NOT BE LIABLE FOR DAMAGES OF ANY NATURE, WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, REGARDLESS OF WHETHER SUCH DAMAGES ARE CLAIMED TO ARISE OUT OF THE LAW OF CONTRACT, TORT OR OTHERWISE, OR PURSUANT TO STATUTE OR ADMINISTRATIVE REGULATION. Each Owner, in accepting a deed from the Developer or any other party to a Unit, expressly acknowledges and agrees that this Section 3.6 establishes the sole liability of the Developer to the Association and the Owners related to defects in the Common Area and the remedies available with regard thereto. At the end of the one (1) year warranty period referred to hereinabove in this Section 3.6, the Developer will assign to the Association in writing all of its rights, claims, causes of action and demands which it has or which may thereafter accrue against all other people who may be responsible for the design and/or construction of the Common Area.

4. Assessments

4.1 Creation of Lien and Personal Obligation for Assessments.

Each Unit is and will be subject to a lien and permanent charge in favor of the Association for the Assessments set forth herein. Each Assessment, together with interest thereon and cost of collection thereof as hereinafter provided, will be a permanent charge and continuing lien upon the Unit against which it relates, and will also be the joint and several personal obligation of each Owner of such Unit at the time the Assessment comes due and upon such Owner's successor in title if unpaid on the date of the conveyance of such Unit, and each and every Owner by acquiring or holding an interest in any Unit thereby covenants to pay such amounts to the Association when the same will become due; provided, however, that no Owner acquiring title to any Unit at a foreclosure sale of any Institutional Mortgage, his successors and assigns, will have any personal obligation with respect to the portion of any Assessments (together with late charges, interest, fees and costs of collection) related to such Unit, the lien for which is subordinate to the lien of the Institutional Mortgage being foreclosed as provided in Section 4.8.

4.2 Annual Assessments.

At least thirty (30) days prior to the Association's next succeeding Annual Assessment Period the Board will adopt a budget for the next succeeding Annual Assessment Period by estimating the Common Expenses to be incurred during such Annual Assessment Period, including a reasonable allowance for contingencies and operating and replacement reserves, such budget to take into account the projected anticipated income which is to be applied in reduction of the amount to be collected as an assessment. Upon adoption of the budget, a copy thereof will be delivered to each Owner. The Annual Assessment fixed against each Unit will be based upon said budget and in proportion to the respective Percentage Interests of each Unit subject to assessment, and the Board will give written notice to each Owner of the Annual Assessment fixed against his Unit for such next succeeding Annual Assessment Period; provided, however, the delivery of a copy of said budget will not be a condition precedent to an Owner's liability for payment of such Annual Assessment. In fixing the annual budget, the Board of Directors shall reflect in the budget the recommendations of a maintenance audit conducted by a professional inspector at such frequency as the Board shall determine, but not less frequently than every three (3) years. The Board shall provide the Developer with a copy of each such inspection report or maintenance audit findings. The Board shall not be relieved of its duty to contract for a maintenance audit by virtue of the Developer's inspections pursuant to Section 11.5 below.

The Annual Assessment will not be used to pay for the following:

- (a) Casualty insurance of individual Owners on their possessions within the Units and liability insurance of such Owners insuring themselves and their families individually, which will be the sole responsibility of such Owners;
- (b) Ad valorem taxes assessed against Units;
- (c) Other charges or expenses related solely to individual use or occupancy of any Unit; or
- (d) Amounts charged directly to Owners pursuant to any amendment to this Master Deed providing for the collection of assessments or use fees for any docks or boat slips constructed within or adjacent to the Project.

It is anticipated that ad valorem taxes and other governmental assessments, if any, upon the Project will be assessed by the taxing authority upon the Unit, and that each assessment will include the assessed value of the Unit and of the undivided interest of the Owner in the Common Area; provided, however, that for the current calendar year, the ad valorem taxes will be based upon the condition of the Land as of January 1, and the

Developer will be liable for that portion of the taxes applicable to the period prior to the recordation of this Master Deed. When current ad valorem taxes are due and payable, the remainder of the ad valorem taxes for the current calendar year will be prorated between the Developer and each Owner based upon the Owner's Percentage Interest and based upon the number of days each owned the Unit as evidenced by the date of the Unit Deed. Any such taxes and governmental assessments upon the Project, which are not so assessed, will be included in the Association's budget as a recurring expense and will be paid by the Association as a Common Expense. Except as otherwise provided herein, each Owner is responsible for making his own return of taxes and such return will include such Owner's undivided interest in the Common Area as such undivided interest is determined by law for purposes of returning taxes.

4.3 Rounding.

Annual Assessments charged by the Association will be rounded off to the nearest dollar.

4.4 Special Assessments.

In addition to the Annual Assessments, the Board of Directors may levy in any calendar year "Special Assessments" for the purpose (i) of supplementing the Annual Assessments if the same are inadequate to pay the Common Expenses and (ii) of defraying, in whole or in part, the cost of any reconstruction, repair, or replacement of the Common Area; provided, however, that any such Special Assessment which in the aggregate exceeds twenty percent (20%) of the total Annual Assessments for such year will have the approval of Members therefor by a majority of the votes cast by written ballot or in person or by proxy at a meeting at which a quorum is present, duly called for the express purpose of approving such Special Assessment.

4.5 Date of Commencement of Annual Assessments; Due Dates.

Although the Annual Assessment is calculated on a yearly basis for the Annual Assessment Period, each Owner of a Unit will be obligated to pay to the Association or its designated agent such Assessment in advance in monthly, quarterly, semi-annual or annual installments as established by the Board. An installment shall be due and payable on the due date established by the Board, but in the absence of any such specific due date, the installment shall be due and payable in full on or before the last day of the month in which the Assessment is billed.

The obligations of Owners regarding the payment of monthly portions of the Annual Assessment provided for in this Section 4.5 will, as to each Unit, commence upon the recording of this Master Deed. The first monthly payment of the Annual Assessment for each such Unit will be an amount equal to the monthly payment for the Annual Assessment Period in progress on such commencement date, divided by the number of days in the month of conveyance, and multiplied by the number of days then remaining in such month.

The Association will, upon demand at any time, furnish any Owner liable for any such Assessment a certificate in writing signed by an Officer of the Association or the property manager of the Association, setting forth whether the same has been paid. A reasonable charge, as determined by the Board, may be made for the issuance of such certificate. Such certificate will be conclusive evidence of payment of any Assessment stated to have been paid as to any person or entity that has relied on the certificate to his or its detriment.

4.6 Effect of Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien; Remedies of Association.

(a) If an Assessment is not paid on the date when due, as hereinabove provided in Section 4.5, then such Assessment together with such late charges and interest thereon and any costs of collection thereof as hereafter provided, will be a charge and continuing lien on the Unit to which it relates, and will bind such

property in the hands of the Owner, his heirs, legal representatives, successors, and assigns. The personal obligation of the then Owner to pay such Assessment, however, will remain his personal obligation, and if his successors in title assume his personal obligation, such prior Owner will nevertheless remain as fully obligated as before to pay to the Association any and all amounts which he was obligated to pay immediately preceding the transfer. Furthermore, such prior Owner and his successor in title who assumes such liabilities will be jointly and severally liable with respect thereto, notwithstanding any agreement between such prior Owner and his successor in title creating the relationship of principal and surety as between themselves, other than one by virtue of which such prior Owner and his successor in title would be jointly and severally liable to pay such amounts.

(b) Any Assessment shall be due in full not later than the date hereinabove provided in Section 4.5, and any Assessment or portions thereof which is not paid when so due will be delinquent. Any delinquent Assessment will incur a late charge in an amount as may be determined by the Board from time to time and, upon adoption of a policy therefor by the Board of Directors, will also commence to accrue simple interest at the rate set by the Board of Directors from time to time. A lien and equitable charge as herein provided for each Assessment installment shall attach simultaneously as the same will become due and payable, and if an Assessment installment has not been paid as aforesaid, the entire unpaid balance of the Assessment installments for the Annual Assessment Period then in effect remaining to be paid during the fiscal year may be accelerated by the option of the Board and be declared due and payable in full.

(c) The Association may bring legal action against the Owner personally obligated to pay the same or foreclose its lien against the Unit to which it relates or pursue both such courses at the same time or successively. In any event, the Association will be entitled also to recover reasonable attorney's fees actually incurred and all other costs of collection. Each Owner, by his acceptance of a deed or other transfer of a Unit, vests in the Association or its agent the right and power to bring all actions against him personally for the collection of such charges as a debt and to foreclose the aforesaid lien in any appropriate proceeding at law or in equity. All Owners, to the fullest extent permitted by law, waive the right to assert any statute providing appraisal rights which may reduce any deficiency judgment obtained by the Association against any Owner in the event of such foreclosure and further, waive all benefits that might accrue to any Owner by virtue of any present or future homestead exemption or law exempting any Unit or portion thereof from sale. If the Association commences to foreclose its lien, the Owner may be required to pay a reasonable rental for the Unit after the commencement of the action and at its option the Association will be entitled to the appointment of a receiver to collect such rents. The Association will have the power to bid on the Unit at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No Owner may be relieved from liability from the Assessment provided for herein by abandonment of his Unit or otherwise.

(d) During any period in which an Owner will be in default in the payment of any Annual or Special Assessment levied by the Association, the voting rights of the Owner and the rights of the Owner and lessees of the Owner, their families, invitees and guests, to use and enjoy the recreational areas of the Common Area may be suspended by the Board of Directors until such time as the Assessment has been paid.

4.7 Developer's Unsold Units.

So long as the Developer owns any Unit for sale, the Developer shall pay its prorata Assessment for each such Unit.

4.8 Subordination of the Charges and Liens to Institutional Mortgages.

(a) The lien and permanent charge for the Assessments (together with late charges, interest, fees and cost of collection) authorized herein with respect to any Unit is hereby made subordinate to the lien of any holder of an Institutional Mortgage or his assigns placed on such Unit, and all Assessments with respect to such Unit having a due date on or prior to the date such Institutional Mortgage is filed for record have been paid. The lien and permanent charge hereby subordinated is only such lien and charge as relates to Assessments

authorized hereunder having a due date subsequent to the date such Institutional Mortgage is filed for record and prior to the satisfaction, cancellation or foreclosure of such Institutional Mortgage.

(b) Such subordination is merely a subordination and will not relieve the Owner of the mortgaged Unit of his personal obligation to pay all Assessments coming due at a time when he is the Owner; will not relieve such Unit from the lien and permanent charge provided for herein (except as to the extent the subordinated lien and permanent charge is extinguished against a Mortgagee or such Mortgagee's assignee or transferee by foreclosure); and no sale or transfer of such Unit to the Mortgagee or to any other person pursuant to a foreclosure sale will relieve any previous Owner from liability for any Assessment coming due before such sale or transfer.

(c) To the extent any subordinated lien and permanent charge for any Assessment is extinguished by foreclosure of any Institutional Mortgage, then the amount or amounts otherwise secured thereby which cannot otherwise be collected will be deemed a Common Expense collectible from all Owners, including the person who acquires title through the foreclosure sale.

4.9 Reserves.

The Board of Directors will establish and maintain an adequate reserve fund for the periodic repair and replacement of the Common Area. The Board of Directors will include amounts needed to maintain an adequate reserve fund in its estimation of the Common Expenses for each fiscal year and will cause deposits to the reserve fund to be made in connection with the collection of the Annual Assessment.

4.10 Working Capital Collected at Initial Closing.

Notwithstanding anything to the contrary in this Master Deed, a working capital fund will be established for the Association by collecting from each Owner who acquires title to his Unit from the Developer a working capital amount equal to 2/12ths of the Annual Assessment then in effect, which Assessment will be due and payable at the time of transfer of each Unit by the Developer to any other Owner. Each such Owner's share of working capital, as aforesaid, will be transferred to the Association at the time of closing the conveyance from the Developer to the Owner. Such sum is and will remain separate and distinct from the Annual Assessment and will not be considered advance payment of the Annual Assessment. The working capital receipts may be used by the Association in covering operating expenses as well as any other expense incurred by the Association pursuant to this Master Deed and the Bylaws.

5. Insurance and Casualty Losses

5.1 Hazard Insurance.

(a) The Association will obtain, maintain and pay the premiums, as a Common Expense, upon a "master" or "blanket" type policy or policies of property insurance covering the entire Project, except (i) land, foundation, excavation, or other items normally excluded from coverage; (ii) all improvements and betterment made to Units by Owners at their expense; and (iii) personal property of Owners and lessees of Owners, their families, invitees and guests. Such coverage will also insure supplies, equipment and other personal property of the Association. All policies of property insurance will be single entity condominium insurance coverage. The master insurance policy will afford, at a minimum, protection against loss or damage by fire and other perils normally covered by standard extended coverage endorsements; and all other perils which are customarily covered with respect to condominium projects similar in construction, location and use, including all perils normally covered by a standard "special coverage" endorsement, where such is available. The policy will be in an amount equal to one hundred (100%) percent of the current replacement cost of the Project, exclusive of land, foundations, excavation, and other items normally excluded from coverage. Policies shall be subject to such "deductible amounts" as the Board of Directors shall determine to be reasonable in the exercise of its business.

judgment, any such deductible amount will be considered a Common Expense and borne by the Association regardless of the number of Owners directly affected by the loss and reserves will be established therefor.

(b) The name of the insured under the master policy will be substantially as follows: "Bristol Condominium Property Owners' Association for the use and benefit of the Individual Owners of Units in Bristol Horizontal Property Regime." Loss payable provisions will be in favor of the Association and the Trustee, as a trustee for each Owner, and each such Owner's Mortgagee as the interests of such parties may appear. Each Owner and his respective Mortgagee, if any, will be beneficiaries of the policy in a percentage equal to the Percentage Interest attributable to the Unit owned by such Owner. All policies will contain a standard mortgage clause, or equivalent endorsement (without contribution), which is commonly accepted by Institutional Mortgage investors in the area in which the Project is located, and which appropriately names all Mortgagees or their servicer in such form as requested by such Mortgagees or their servicer.

(c) All policies will be written with a company holding a general policyholder rating of "A" or better by Best's Insurance Reports and in a financial category of Class VI or better in Best's Key Rating Guide. Policies are unacceptable where (i) under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against the Association, Owners, Mortgagees or the designees of Mortgagees; (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members; or (iii) the policy includes any limiting clause (other than insurance provisions) which could prevent Mortgagees or Owners from collecting insurance proceeds. Policies may not be cancelable or substantially modified by any party without at least ten (10) days prior written notice to the Association and each Mortgagee, which is listed as a scheduled holder of a first Mortgage in the insurance policy. Policies should also contain a "special condominium endorsement" or its equivalent which provides for the following: recognition of any insurance trust agreement; a waiver of the rights of subrogation against Owners individually; the insurance is not prejudiced by any act or negligence of individual Owners which is not under the control of the Association or such Owners collectively; and the policy is primary in the event the Owner has other insurance covering the same loss.

(d) The Association will provide to Owners and/or Mortgagees requesting the same in writing a certificate of insurance, or a copy of the certificate of insurance, for the Regime, for which the Association may charge reasonable copying costs.

(e) Each Owner may obtain additional insurance at his own expense; provided, however, that no Owner will be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all of the Owners and their Mortgagees, may realize under any insurance policy which the Association may have in force on the Project at any particular time. Any diminution in insurance proceeds otherwise payable under the Association's policies that results from the existence of any Owner's policy will be chargeable to the Owner who acquired such other insurance. Any Owner who obtains an individual insurance policy covering any portion of the Project, other than the personal property belonging to such Owner, will file a copy of such policy with the Association within thirty (30) days after purchasing such insurance. Each Owner, at his own expense, may obtain on his Unit or the contents thereof, title insurance, homeowner's liability insurance, theft and other insurance covering improvements, betterment and personal property damaged and lost. In addition, risk of loss with respect to any improvements made by an Owner within his Unit shall be that of the Owner. Betterments coverage or "improvements insurance" shall be secured solely by an Owner wishing such coverage of his risk of loss, and the Association shall have no liability therefor.

5.2 Liability Insurance

The Association will obtain, maintain and pay the premiums, as a Common Expense, upon a policy of comprehensive general liability insurance coverage covering at a minimum all of the Common Area. Coverage limits will be in amounts generally required by private Institutional Mortgage holders for projects similar

in construction, location and use to the Project; provided, however, that such coverage will be for at least \$1,000,000 for bodily injury, including death of persons, and property damage arising out of a single occurrence. Coverage under this policy will include, without limitation, legal liability to the insured for property damage, bodily injury and death of persons in connection with the operation, maintenance and use of the Common Area and legal liability arising out of law suits related to employment contracts in which the Association is a party. If the policy does not include "severability of interest" in its terms, an endorsement will be included which precludes the insurer's denial of the claims of an Owner because of the negligent acts of the Association or another Owner. Such policy must provide that it cannot be canceled or substantially modified, by any party, without at least thirty (30) days prior written notice to the Association and each Mortgagee listed as a scheduled holder of a first Mortgage in the insurance policy.

5.3 Fidelity Bonds and Other Insurance.

The Association will obtain, maintain and pay the premiums, as a Common Expense, upon a blanket fidelity bond for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds belonging to or administered by the Association, including any professional management company assisting with the administration of the Regime. The total amount of the fidelity bond coverage required will be based upon the best business judgment of the Board of Directors and will not be less than the estimated maximum funds, including reserve funds, in the custody of the Association or a professional management company, as the case may be, at any given time during the term of each bond; provided, however, that in no event will the aggregate amount of such bonds be less than a sum equal to 2/12ths of the total Annual Assessments plus reserve funds. Fidelity bonds will meet the following requirements: the Association will be named as an obligee; the bonds will contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions; and the bond will provide that it may not be canceled or substantially modified (including cancellation for nonpayment of a premium) without at least ten (10) days prior written notice to the Association and each Mortgagee listed as a scheduled holder of a first Mortgage in the fidelity bond.

The Association will obtain, maintain and pay the premiums, as a Common Expense, on a policy of directors and officers liability insurance in such amounts as determined by the Board of Directors.

The Board of Directors will be authorized on behalf of the Association to obtain and maintain such other and further insurance as the Board of Directors may determine from time to time.

5.4 Authority to Adjust Loss.

The exclusive authority to negotiate, settle and otherwise deal in all respects with insurers and adjust all losses under policies provided for herein will be vested in the Board of Directors or its duly authorized agent for the benefit of all Owners and Mortgagees; provided, however, that all Owners and Mortgagees having an interest in such loss will be advised in advance of all actions anticipated to be taken of a material nature related to the adjustment of the loss. Each Owner, in accepting a deed to a Unit, expressly appoints the directors, and each of them, his due and lawful attorneys-in-fact, with full power of substitution, to act on behalf of the Owner as fully as the Owner could act in person on all matters related to the authority granted in this Section 5.4, including executing all documents required in connection therewith on behalf of the Owner.

5.5 Trustee.

(a) The Board of Directors may, from time to time, designate a third party Trustee hereunder. The Trustee, whether the Board of Directors acting in said capacity, or a third-party designated by the Board, will serve the Association and the Owners and their Mortgagees (as their interests may appear) as provided herein. Any third-party Trustee, but not the Board of Directors acting in such capacity, will be entitled to receive reasonable compensation for services rendered which will be a Common Expense of the Association.

(b) All insurance policies obtained by the Association will name the Association and the Trustee as loss payees. Immediately upon the receipt by the Association of any insurance proceeds, the Association will endorse the instrument by means of which such proceeds are paid and deliver the instrument to the Trustee. The Trustee will not be liable for payment of premiums, for the renewal or the sufficiency of the policies or for the failure to collect any insurance proceeds. Nor will the Trustee have any obligation to inspect the Project to determine whether a loss has been sustained or to file any claim or claims against any insurer or any other person.

(c) Among other things, the duties of the Trustee will be to receive proceeds delivered to it, hold such proceeds in trust for the benefit of the Owners and their Mortgagees, and disburse the proceeds as hereinafter provided.

(d) Proceeds of insurance policies received by the Trustee will be disbursed as follows:

(i) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purposes, will be disbursed in payment for such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs will be paid to the Association for the benefit of all Owners and their Mortgagees, if any;

(ii) If it is determined, as provided in Section 5.6, that the damage or destruction for which the proceeds are paid will not be repaired or reconstructed, such proceeds will be disbursed to such persons as therein provided;

(iii) Any and all disbursements of funds by the Trustee for any purpose whatsoever will be made pursuant to and in accordance with a certificate of the Association signed by the President and attested by the Secretary directing the Trustee to make the disbursements;

(iv) If the damage or destruction is to the Common Area and is to be repaired or reconstructed, two days prior written notice of each disbursement will be given to the Mortgagee known by the Trustee from the records of the Association to have the largest interest in or lien upon such Common Area; and if the damage or destruction is to one or more Units and is to be repaired or reconstructed, said notice will also be given to the Mortgagee or Mortgagees known to the Trustee from the records of the Association to have an interest in or lien upon such Unit or Units.

(e) The Trustee will not incur liability to any Owner, Mortgagee or other person for any disbursements made by it in good faith pursuant to and in accordance with the foregoing requirements.

5.6 Damage and Destruction.

(a) Immediately after all or any part of the Project covered by insurance is damaged or destroyed by fire or other casualty, the Board of Directors or its duly authorized agent will proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section 5.6(a), means repairing or restoring the damaged property to substantially the same conditions in which it existed prior to the fire or other casualty, with each Unit and the Common Area having the same vertical and horizontal boundaries as before.

(b) Any such damage or destruction to the Project will be repaired; provided, however, that any such damage which requires the reconstruction of the whole or more than two-thirds (b) of the Project will not be undertaken unless sixty-seven percent (67%) of the Members agree, voting in person or by proxy at a meeting at which a quorum is present, duly called, in whole or in part, for the purpose of disapproving such repair or reconstruction. If the Project is not reconstructed, all insurance proceeds will be delivered in accordance with

the provisions of Section 5.6(c) below. Except as otherwise provided, any such damage or destruction which renders any Unit untenantable or uninhabitable, or any such damage or destruction to the Common Area, will be repaired and reconstructed as promptly as practicable. No Mortgagee will have any right to restrict the use of insurance proceeds otherwise available for repair, reconstruction or rebuilding.

(c) In the event that it is determined by the Association in the manner prescribed above that the damage or destruction will not be repaired, reconstructed or rebuilt, then and in that event:

- (i) The Project will be owned by the Owners as tenants-in-common;
- (ii) The undivided interest in the Project of each Owner will be a percentage equal to the Percentage Interest appurtenant to the Unit theretofore owned by the Owner;
- (iii) All liens affecting any of the Units will be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Owners of the respective Units;
- (iv) The Project will be subject to an action for partition at the instance of any Owner, in which event the net proceeds of the sale will be deposited with the Trustee;
- (v) The Association will proceed to satisfy all of its liabilities and convert all of its assets to cash, which will be deposited with the Trustee;
- (vi) The proceeds from the sale of the Project, the liquidation of the assets of the Association and the insurance proceeds related to the damage or destruction to the Project will be considered one fund which, after paying the reasonable expenses of the Trustee, will be distributed to all the Owners and their respective Mortgagees as their interests may appear in percentages equal to the Percentage Interests of said Owners. Distributions to such Owners and their Mortgagees will be made pursuant to certificates provided for in Section 5.5.

5.7 Insufficient Proceeds to Repair.

(a) If the damage or destruction for which the insurance proceeds are paid to the Trustee is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, or if no insurance proceeds exist with respect to such damage or destruction, the Board of Directors will levy an Assessment against the Owners of damaged or affected Units in sufficient amounts to provide funds to pay costs in excess of insurance proceeds for repair or reconstruction. Additional Assessments may be made at any time during or following the completion of any repair or reconstruction. That portion of such Assessments levied against each Owner will be equal to that percentage computed by dividing the Percentage Interest appurtenant to such Owner's Unit by the aggregate Percentage Interests appurtenant to all Units damaged or affected.

(b) Any and all sums paid to the Association under and by virtue of those Assessments provided for in subsection (a) of this Section 5.7 will be deposited by the Association with the Trustee. Such proceeds from insurance and Assessments, if any, received by the Trustee will be disbursed as provided in Section 5.5.

6. Condemnation

6.1 General

Whenever all or any part of the Project will be taken by any authority having the power of condemnation or eminent domain, each Owner will be entitled to notice thereof; provided, however, that the exclusive right to negotiate, settle and otherwise deal in all respects with the condemning authority as to the taking

of the Common Area will be vested in the Board of Directors or its duly authorized agent on behalf of the Association. Each Owner, in accepting a deed to a Unit, expressly appoints the directors, and each of them, his due and lawful attorneys-in-fact, with full power of substitution, to act on behalf of the Owner as fully as the Owner could act in person in all matters related to the authority granted in this Section 6.1, including executing all documents required in connection therewith on behalf of the Owner. The award made for such taking will be payable to the Trustee. Unless otherwise required by law at the time of such taking, any award made therefor will be disbursed by the Trustee, as hereinafter provided in this Section 6.

6.2 Non-Essential Areas.

If the taking does not include any portion of any Unit or any portion of the Common Area essential to the continued occupancy of any Unit, then the Board of Directors will be permitted to replace any nonessential improvements to the extent deemed appropriate and the Trustee will disburse the proceeds of such awards in the same manner as hereinabove provided for and in connection with the repair, reconstruction or rebuilding of improvements after damage or destruction, with all excess proceeds to be distributed to the Association.

6.3 Essential Areas.

If the taking includes any portion of a Unit or the Common Area essential to the use of any Unit, then the award will be disbursed, and all related matters, including, without limitation, alteration of the Percentage Interests appurtenant to each Unit, will be handled, by (a) the Developer during the Transition Period, and (b) thereafter, the Board of Directors in a just and equitable manner to all Owners; provided, however, that all action of the Board of Directors will be pursuant to and in accordance with a plan approved by Members representing at least sixty-seven (67%) percent of the total votes of the Association voting in person or by proxy, at a meeting at which a quorum is present, duly called, in whole or in part, for the purpose of approving such in a duly recorded amendment to this Master Deed. In the event that such an amendment will not be recorded within ninety (90) days after the taking, then such taking will be deemed to be and will be treated as damage or destruction which will not be repaired or reconstructed as provided for in Section 5.6, whereupon the Regime will be terminated in the manner therein prescribed.

7. Architectural Control

7.1 Approval Required for Unit Changes and Viewable Interior Features.

To preserve the original architectural appearance of the Project, the structural integrity thereof and the Unit designs, including architectural and engineering aspects therein, no construction, reconstruction or Unit modification of any nature whatsoever, except as specified in the Regime Documents, will be commenced or maintained upon or within, the Building, including without limitation within a Unit and a Limited Common Area, nor will there be any change, modification or alteration of any nature whatsoever of the design and appearance of any surfaces or facades, nor will any Owner paint any gate, fence or roof, nor will any Owner change the design or color of the exterior lights, nor will any Owner install, erect or attach to any part of the exterior any addition or change until after the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same will have been submitted to and approved in writing as to harmony of design, color and location in relation to the surrounding features by the Board of Directors and pursuant to original plans and specifications or Design Guidelines adopted therefor. Furthermore, such required approval by the Board of Directors shall extend to any interior features or aesthetic elements that are proposed to be changed. The failure of an Owner to secure the required approval of the Board of Directors as aforesaid, or to take such action, remedial or otherwise, as the Board of Directors shall at any time determine to be required hereunder shall be subject to the authority and enforcement powers of the Board of Directors as set forth Section 17.5 below.

8. Maintenance

8.1 Responsibility of Association.

Except as specifically provided to the contrary herein, the Association will maintain the Common Area in first class condition in accordance with proper maintenance procedures applicable thereto and will enforce all warranties with respect to the Common Area. In addition, the Association will repair or replace all parts of the Common Area as necessary. Except as otherwise provided herein, the cost of such will be charged to the Owners as a Common Expense.

8.2 Access to Units.

The Association will have the irrevocable right, to be exercised by the Board of Directors or its agent, which term includes the Association manager, to have reasonable access to each Unit from time to time as may be necessary for the periodic inspection and application of termite and other bug control treatment for which the Association may contract, from time to time; to undertake such action as it may determine to prepare and secure the Building and the Unit in anticipation of storm or hurricane, provided the Association shall be under no obligation to an Owner to do so; and for the inspection, maintenance, repair or replacement of any of the Common Area accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Area or to other Units.

8.3 Responsibility of Owner.

In the event that the Board of Directors should determine that the need for maintenance or repairs by the Association as provided for in this Section 8.3 is caused through the willful or negligent act of an Owner or the lessee of an Owner, their families, invitees or guests, or the Owner's pets, the cost of which is not covered or paid for by insurance, then the cost, both direct and indirect, of such maintenance or repairs will be added to and become a part of the Assessment to which such Owner and his Unit are subject. Each Owner will maintain, repair or replace at his own expense all portions of his Unit which may become in need thereof, including the heating and air-conditioning system for such Unit, all bathroom and kitchen fixtures and appliances, light fixtures, interior non-load-bearing walls, carpeting, drapes, doors, windows, screens window and door hardware, and other items within the Unit. Further, each Owner will, at his own expense, maintain, repair and replace, when necessary, that portion of the heating and air-conditioning system exclusively servicing his Unit, which is located outside his Unit. Each Owner will, at his own expense, keep the Limited Common Area to which his Unit has exclusive access and to which he has exclusive use clean and neat, and will conduct maintenance and repair thereto as necessary. If the Owner does not make those repairs required to be made by him within thirty (30) days from the date of receipt of written demand from the Association, the same may be repaired by the Association and the cost thereof will be assessed against the Owner and Unit owned by such Owner.

9. Access, Ingress and Egress.

All Owners, by accepting title to a Unit, waive all rights of uncontrolled and unlimited access, ingress, and egress to and from such property and acknowledge and agree that such access, ingress, and egress will be limited to roadways, sidewalks and walkways located within the Project from time to time, provided that pedestrian and vehicular access to and from all such property will be provided at all times. There is reserved unto Developer, the Association, and their respective successors and assigns the right and privilege, but not the obligation, to maintain guarded or electronically-monitored gates controlling vehicular access to and from the Project, provided that access may be granted to any person who gives reasonable evidence satisfactory to entry guards, if there are any, that entry is with the specific permission of the Owner, or his duly authorized agent. Neither the Developer nor the Association will be responsible, in the exercise of its reasonable judgment, for the granting or denial of access to the Project in accordance with the foregoing.

NEITHER THE DEVELOPER NOR THE ASSOCIATION SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF ANY GATE OR CONTROLLED ACCESS TO THE PROJECT OR SAFETY MEASURES UNDERTAKEN WITH RESPECT THERETO BY EITHER OR BOTH OF THEM AND WHETHER OR NOT SUCH ACTIVITIES OR UNDERTAKINGS ARE REFERRED TO AS "SECURITY" MEASURES, NOR SHALL EITHER OR BOTH BE LIABLE FOR ANY LOSS OR DAMAGE RESULTING FROM ANY FAILURE TO PROVIDE CONTROLLED ACCESS OR SAFETY MEASURES, OR FROM LEAVING ANY GATE OPEN, AS PERMITTED UNDER SECTION 9.1 BELOW, OR FROM A FAILURE OR INEFFECTIVENESS OF ANY SUCH CONTROLLED ACCESS OR SAFETY MEASURES UNDERTAKEN BY EITHER OR BOTH OF THEM. NO REPRESENTATION, WARRANTY OR COVENANT IS GIVEN TO ANY OWNER OR OCCUPANT BY EITHER OR BOTH OF THE DEVELOPER AND THE ASSOCIATION THAT ANY CONTROLLED ACCESS OR SAFETY MEASURES INSTALLED OR UNDERTAKEN CANNOT BE BYPASSED OR COMPROMISED, OR THAT THEY WOULD, IN FACT, AVERT DAMAGE OR LOSS RESULTING FROM THAT WHICH THEY ARE DESIGNED TO PREVENT, AND EACH OWNER BY ACCEPTANCE OF A DEED TO A UNIT AND EACH OCCUPANT THEREOF SHALL INDEMNIFY AND HOLD THE DEVELOPER AND ASSOCIATION HARMLESS FROM ANY DAMAGE AND COSTS AND EXPENSES, INCLUDING ATTORNEY FEES, INCURRED BY EITHER OR BOTH OF THEM AS A RESULT OF ANY SUCH ASSERTION OR DETERMINATION.

9.1 Developer's Right to Maintain Open Gate.

Notwithstanding anything herein contained to the contrary, the Developer hereby reserves unto itself, its successors and assigns, the right and option to control any gate to the Project and to leave the gate in an open position for the unobstructed and uncontrolled passage of construction vehicles for persons engaged in both infrastructure and building construction activities. The within right, if exercised, will be limited to the hours of 6 a.m. to 6 p.m. and will terminate upon expiration of the Transition Period.

9.2 Public Roadways Within The Regime.

During the Transition Period, the Developer, and thereafter the Association, shall have the right to dedicate any portion of the roadways and/or entryways within the Regime to the State of South Carolina or any political subdivision thereof for the purpose of granting public access thereto and over said roadway and/or entryway and for the purpose of having said political subdivision assume responsibility for maintenance of such roadways and/or entryways. The Developer further reserves the right to impose upon the Association the requirement of maintaining any such dedicated roadway and/or entryway until such time as it is brought up to

standards acceptable to such public body and maintenance thereof is assumed by such public body; provided, however, the Developer may, in its sole discretion, reserve an easement over any such public roadway and/or entryway to be primarily maintained by such public body for the purpose of doing additional maintenance to said public areas and to maintain landscaping along the unpaved portions thereof, and thereafter denominate in a Site Plan or Amendment to this Master Deed that said easement will constitute a Common Area of the Regime to be maintained by the Association. The Board of Directors may levy a Special Assessment against all Owners, without the necessity of a vote pursuant to Section 4.4 hereof, in an amount sufficient to provide funds required to bring any roadway and/or entryway up to standards acceptable to any public body for the assumption by it of maintenance of a said roadway.

10. Unit Restrictions

10.1 Units

All Units will be, and the same are hereby restricted exclusively, for residential use, provided, however, a Unit may be used as a combined residence and executive or professional office by the Owner thereof so long as such use does not interfere with the quiet enjoyment by other Owners and does not include visitation by clients, or unreasonable levels of mail, shipping, storage or trash requirements. No immoral, improper, offensive or unlawful use will be made of any Unit and no use or condition will be permitted which is a source of unreasonable noise or interference with the peaceful possession and quiet enjoyment of any other portion of the Project by other Owners or lessees of Owners, their families, invitees and guests. All Units will be kept in a clean and sanitary condition and no rubbish, refuse or garbage will be allowed to accumulate. No fire hazard will be allowed to exist and no use or condition will be permitted which will increase any rate of insurance related to the Project. In addition, all Owners and lessees of Owners, their families, invitees and guests will abide by all Rules and Regulations in effect from time to time governing the use of Units.

10.2 Animals and Pets

No animals, livestock or poultry of any kind will be raised, bred or kept on any part of the Project, except that dogs, cats or other normal household pets may be kept by the respective Owners inside their respective Units provided that (i) the Board of Directors may, in its sole discretion, establish by rule that dogs of a certain breed are potential hazards to the Regime and its occupants, such as those known as Pit Bulls, Rotweillers, Doberman, Chows and German Shepards, and are deemed not to be normal household pets; (ii) the Board of Directors may establish reasonable rules and regulations to insure that all permitted pets are properly licensed and inoculated for rabies and such other disease for which inoculation is customary for that breed of pet; (iii) an Owner execute a written indemnification and hold harmless agreement in favor of the Regime and the Regime's management company, in form and content satisfactory to counsel for the Board, prior to bringing the Owner's pet upon the Property; and (iv) permitted pets are not kept, bred or maintained for any commercial purpose and do not create any health hazard or, in the sole discretion of the Board of Directors, unreasonably disturb the peaceful possession and quiet enjoyment of any other portion of the Project by other Owners and lessees of Owners, their families, invitees and guests. Pets shall be kept on a leash at all times when outside of a Unit, and the Owner shall clean up after his or her pet.

10.3 Antennas

No television antenna, radio receiver, or other similar device will be attached to or installed on any portion of the Regime by an Owner, except as required by the Telecommunications Act of 1996 and implementing rules therefor issued by the Federal Communications Commission and by the Association in conformity with rules or guidelines of the Federal Communications Commission; provided, however, the Developer and the Association, and their successors and assigns, will not be prohibited from installing equipment necessary for master antenna, security, cable television, mobile radio, or other similar systems within the Regime.

10.4 Leasing of Units.

Any Owner will have the right to lease or rent his Unit; provided, however, that all leases and rental contracts will be for a duration of one (1) year or more and will be in writing and will require the lessee to abide by all conditions and restrictions placed on the use and occupancy of the Unit and the Common Area by the Regime Documents. The Board of Directors will have the right to approve the form of all such leases and rental contracts at any time if it elects to do so. Occupancy by a tenant or renter under any such approved form of lease or rental contract is subject to continuing approval of the Board thereunder, which may be removed at any time by the Board for any violation by any such tenant or renter of the Rules and Regulations of the Association.

10.5 Motor Homes, Trailers, Boats, Etc.

All vehicles will be parked in spaces within the Common Area designated therefor. There will be no storage or parking upon any portion of the Project of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pick-up trucks), commercial vehicles of any type, camper, motorized camper or trailer, boat or other watercraft, boat trailer, motorized go-cart, or any other related forms of transportation devices.

10.6 Signs.

Except as may be required by law or by legal proceedings, no signs or advertising posters of any kind, including, but not limited to, "For Rent," "For Sale," and other similar signs, shall be erected by an Owner, the Association, or any agent, broker, contractor or subcontractor thereof, nor shall any sign or poster be maintained or permitted on any window, or within a Unit and viewable through any window, or on the exterior of any improvements or on any unimproved portion of property located within the Project, without the express written permission of the Developer during the Transition Period, and thereafter without the written permission of the Board of Directors. The approval of any signs and posters, including, without limitation, name and address signs, shall be upon such conditions as may be from time to time determined by party entitled to approve the same and may be arbitrarily withheld. Notwithstanding the foregoing, the restrictions of this Section 10.6 shall not apply to the Developer or to any person having the prior written approval of the Developer. In addition, the Association shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas in accordance with architectural design standards adopted therefor and approved by governmental authority with jurisdiction thereof.

10.7 Grills.

The Board of Directors shall specifically have the authority to prohibit the use of individual grills (charcoal, gas or electric) as a fire hazard if the Board determines that such prohibition is required or recommended by the City of Charleston Fire Department or the Regime property insurance carrier or agent.

11. Easements

11.1 Encroachments.

If any portion of the Common Area encroaches upon any Unit or any Unit encroaches upon any other Unit or upon any portion of the Common Area as a result of settling or shifting of the Building or variances from the Plans, an easement will exist for the encroachment and for the maintenance of the same so long as the Building stands. If the Building, any Unit, and/or any adjoining part of the Common Area will be partially or totally destroyed as a result of fire or other casualty or a result of eminent domain proceedings, and then rebuilt, encroachments of parts of the Common Area upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Area due to such rebuilding, will be permitted, and valid easements for such encroachments and the maintenance thereof will exist so long as the Building will stand.

11.2 Easement for Air Space.

The Owner of each Unit will have an exclusive easement for the use of the air space occupied by said Unit as it exists at any particular time and as said Unit may be altered or reconstructed from time to time pursuant to this Master Deed.

11.3 Utilities, etc.

There is hereby granted a blanket easement upon, across, over and under all the Project for ingress, egress, installation, replacing, repairing and maintaining a master television antenna or CATV system and all utilities, including, but not limited to water, gas, sewers, telephones and electricity, and other forms of telecommunication and technology cabling, now existing or developed in the future. Such easements grant to appropriate utility companies the right to erect and maintain the necessary poles and other necessary equipment on the Project and to affix and maintain utility wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Units. In addition, the Board of Directors will be entitled to grant additional permits, licenses and easements over the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Project.

11.4 Easement for Construction.

Notwithstanding anything herein to the contrary, Developer and persons designated by the Developer will have an easement to enter upon and cross over the Common Areas for purposes of ingress and egress to all portions of the Project; to use portions of the Common Areas and any Units owned by the Developer for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project; and to maintain and correct drainage of surface, roof or storm water.

11.5 Easement for Inspection by Developer.

Notwithstanding anything herein to the contrary, Developer and persons designated by the Developer will have an easement to enter upon and cross over the Common Areas for purposes of ingress and egress to all portions of the Project; as well as an easement for reasonable access to each Unit as the Developer may find desirable, for the inspection of the whole or any portion of the Project, its Units and Common Areas, the components and structural parts thereof, as well as the their maintenance requirements and the maintenance performed thereon to the date of any such inspection. Nothing herein shall require the Developer to perform any such inspection, but if the Developer does undertake any such inspection, Developer shall provide to the Board of Directors a copy of its findings or the inspection report produced therefrom. Nothing herein shall relieve the Board from engaging a professional inspector to perform an annual maintenance audit as part of the Board's annual budgeting process under Section 4.2 above.

11.6 Easement for Sales Purposes.

Developer and persons designated by the Developer will have an easement to maintain one or more sales offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Areas while the Developer is selling Units in the Project or any contemplated expansion thereof. Developer reserves the right to place models, management offices and sales offices in any Units owned by Developer and on any portion of the Common Area in such number, of such size and in such locations as Developer deems appropriate. So long as Developer will be selling Units in the Project or any contemplated expansion thereof, Developer will have the right to restrict the use of a reasonable number of parking spaces, for purposes including, but not limited to, the providing of spaces for use by prospective Unit purchasers, Developer's employees and others engaged in sales, maintenance, construction or management activities.

11.7 Easements to Serve Adjacent Marina Development.

The Company hereby reserves for itself and its duly authorized agents, representatives, successors, successors-in-title, assigns, licensees, and mortgagees, a perpetual nonexclusive easement over the Common Areas for the purposes of enjoyment, use, access, and development of any adjacent property developed, or which may be developed, as a marina or for related recreational purposes, whether public or private, and whether or not any such property is made subject to this Master Deed. This easement includes, but is not limited to, a right of ingress and egress over the Common Areas for construction of roads and for connecting and installing utilities and services on such property. The Company agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Areas as a result of vehicular traffic connected with development of such property. The Company further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Master Deed, the Company, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any private roadway, boardwalk, sidewalk or other such facility serving such property.

11.8 No View Easements.

No view easements, express or implied, will be granted to any Owner in connection with the conveyance of a Unit to such Owner.

11.9 Other.

There is hereby granted to the Association, its directors, officers, agents and employees and to any manager employed by the Association and to all policemen, firemen, ambulance personnel, and all similar emergency personnel, an easement to enter upon the Project or any part thereof in the proper performance of their respective duties. Except in the event of emergencies, the rights under this Section 11.9 will be exercised only during reasonable daylight hours, and then, whenever practicable, only after advance notice to the Owner or Owners affected thereby.

12. Owner's Acknowledgment of Ashley River Bridge and River Noises and Nuisances.

Every Owner by acceptance of a deed to a Unit hereby acknowledges that the Project's proximity to the Ashley River Bridge and the vehicular traffic thereon, and the Ashley River and the boating traffic thereon, will result in noise emanating therefrom and the same may be a nuisance. Neither the Developer nor the Association, nor any of their respective directors, officers, employees, contractors, consultants, shareholders, affiliates, assignees, successors, nominees or agents, be liable to any Owner for any inconvenience or damage sustained by such Owner as a result of any such noise emanating from or in proximity to such river, including, but not limited to such noise as may emanate from persons using any roadways, bridges, docks, walkways, bulkheads, or piers adjacent thereto.

13. Assigned Value and Voting Rights

13.1 Units, Assigned Values, and Percentage Interests.

The Schedule of Percentage Interests contained in Exhibit "C" attached hereto shows the Assigned Value of each Unit in the Building and the Percentage Interest appurtenant to such Unit for all purposes.

13.2 Voting Rights.

Members and the Developer will be entitled to a vote in the Association and for all other purposes herein in accordance with the provisions of the Association's Articles of Incorporation attached hereto as Exhibit "D" and the By-Laws of the Association attached as Exhibit "E," and as the same may be hereafter amended.

(a) Voting by Multiple Owners. When any Unit is owned in the name of two or more persons, other than husband and wife, or entities, whether fiduciaries, or in any manner of joint or common ownership, the vote for such Unit will be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting; or the vote will be exercised by such co-Owner, or his duly appointed proxy, as will be designated in a writing by all co-Owners recorded in the RMC, a copy of which will be delivered to the Secretary of the Association and will remain effective for all meeting until revoked by the co-Owners in a similar writing or until such designation terminates pursuant to the terms of such writing.

14. The Development Plan For The Project

14.1 Single Phase Development.

The Regime constitutes a single Building with 54 Units, and the Common Area (including the parking and storage Limited Common Areas), as more fully described on Exhibit "B" attached hereto. The Regime may not be expanded and no right to do so is reserved.

14.2 Reservation of Right to Expand and Contract

Anything to the contrary contained in this Master Deed notwithstanding, at any time during the Transition Period, the Developer will be entitled to expand the Regime by constructing upon any unimproved portion of the Common Areas such amenities, including, but not limited to, bulkheads, piers, docks, and similar facilities, as the Developer, in its sole discretion shall determine. Nothing herein shall require the Developer to construct any such amenities to be part of the Regime, and no Owner will have the right to require such construction be a part of the Regime. In lieu of constructing such amenities upon Common Areas, the Developer may construct such amenities upon any adjacent land (including any land withdrawn pursuant to Section 14.2(b) below) and operate the same on a fee basis and not as part of the Regime and subject to Assessments.

(a) Expansion; Conversion of Common Area.

The Developer's right, but not its obligation, to expand the Regime during the Transition Period by constructing amenities on the Common Area and to submit said real property (or any portion thereof) and all improvements constructed thereon to the Regime shall be undertaken by filing one or more Amendments to this Master Deed (including amendments to the Exhibits). An Amendment will be executed solely by the Developer for itself and as attorney in-fact for all Owners. An Amendment will be effective upon recording such Amendment in the RMC.

(b) Contraction; Withdraw of Unimproved Common Area.

During the Transition Period, the Developer is entitled to subdivide portions of the Common Area from the Project that are unimproved with structures and to remove the subdivided portion from the application of this Master Deed by filing one or more Amendments to this Master Deed (including amendments to the Exhibits). An Amendment will be executed solely by the Developer for itself and as attorney in-fact for all Owners. An Amendment will be effective upon recording such Amendment in the RMC.

14.3 Amenities; Required Expansion.

Amenities may be, but will not be required to be, constructed as part of the expansion of the Regime pursuant to this Section 14.3, all such amenities being optional with the Developer. No Owner will have the right to require construction or addition to the Regime under any circumstances.

14.4 Assignability of Rights.

The Developer will be entitled to assign the rights reserved in this Master Deed to any person or entity by an instrument recorded in the RMC.

14.5 Application of Master Deed.

Upon the filing of the Amendment prescribed by Section 14.2 hereof, all definitions contained in this Master Deed will be deemed amended to the extent necessary to cause the additional real property and the improvements described in such Amendment to be treated as fully an integral part of the Regime as if said real property and improvements constituted a portion of the Project as of the effective date hereof.

14.6 No Consent Required.

Subject to the time limit set forth in Section 14.2 hereinabove, the Developer, its successors and assigns, will have the absolute right to effect an expansion or contraction of the Regime in accordance with Section 14.2 and to file Amendments to this Master Deed without any action or consent on the part of any Owner or Mortgage holder; provided, however, that to the extent any action on the part of any Owner is required by any third party to assure the expansion of the Regime as provided in Section 14.2, each Owner, in accepting a deed to a Unit, agrees to undertake such actions and/or provide such consents as are reasonably requested, and expressly appoints the Developer his duly and lawful attorney-in-fact, with full power of substitution, to execute all documents reasonably required to evidence the requisite action or consent.

14.7 Multiple Ownership.

No Unit in the Regime will be used for or subject to any type of Vacation Time Sharing Plan or Vacation Multiple Ownership Plan as defined by the 1976 Code of Laws for the State of South Carolina, as amended, Section 27-32-10, et. seq., or any subsequent laws of this State dealing with that or similar type of ownership by a Unit Owner, or which is used for, in conjunction with and/or as an advertised part of any time share exchange program which makes available as accommodations the Unit and which is not otherwise registered as a Vacation Time Sharing Plan or Vacation Multiple Ownership Plan or which utilizes the Unit as accommodations for time share sale prospects of any Person, without the prior written consent of the Developer during the Developer's Transition period and thereafter by the Board of Directors of the Association.

15. Transition Provisions

15.1 Appointment of Directors and Officers.

At all times during the Transition Period, the Developer will have the sole and exclusive right to appoint the Board of Directors and officers of the Association, fill any vacancy of the Board or officers caused by the withdrawal of any director or officer appointed by the Developer and veto the removal of any director or officer appointed by the Developer. Upon the expiration of the Transition Period, the Developer will retain the right to elect at least one (1) director. This right will continue for as long as the Developer holds for sale in the ordinary course of business one or more of Units included in the Regime.

15.2 Special Meeting to Elect Board.

Within sixty (60) days after the date on which Owners other than the Developer become entitled pursuant to Section 15.1 above to elect members of the Board of Directors of the Association, the Association will call, and give not less than thirty (30) days' and not more than sixty (60) days' notice of, a special meeting of the Members to elect the Board of Directors.

15.3 Cooperation.

The Association will cooperate with the Developer to the extent reasonably requested by the Developer during and after the Transition Period to promote the orderly development and marketing of the additional Units planned for the Regime, and it is acknowledged by the Association that it is in the best interest of all Owners to expand the Regime to include all Units authorized by Section 14 hereof.

15.4 Controlling Provisions.

In the event of any inconsistency between this Section 15 and the other provisions of the Regime Documents, this Section 15 will be controlling and binding on all parties having an interest in the Regime.

16. Alternative Dispute Resolution16.1 Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes.

The Developer, Association, Owners, and any Persons not otherwise subject to the Regime who agrees to submit to this Section 16 (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes between and among themselves involving the Regime or the Project, and to avoid the emotional and financial costs of litigation. For purposes hereof, the architect and contractor for a Building and the Units constructed therein shall constitute Bound Parties hereunder. Accordingly, each Bound Party covenants and agrees that all claims, grievances and disputes (including those in the nature of counterclaims or cross-claims) between Bound Parties involving the Regime or the Project, including without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement thereof (collectively "Claims"), except for "Exempt Claims" under Section 16.2, are subject to the procedures set forth in Section 16.3.

16.2 Exempt Claims.

The following Claims ("Exempt Claims") are exempt from the provisions of Section 16.3:

- (a) any suit by the Association against a Bound Party to enforce any Assessments or other charges hereunder; and
- (b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and other relief the court may deem necessary in order to maintain the status quo and preserve any enforcement power of the Association hereunder until the matter may be resolved on the merits pursuant to Section 16.3 below; or
- (c) any suit between Owners which does not include the Developer or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Regime and the Project; or
- (d) any suit in which an indispensable party is not a Bound Party; or
- (e) any suit which otherwise would be barred by any applicable statute of limitation; or
- (f) any suit involving a matter which is not an Exempt Claim under (a) through (e) above, but as to which matter the Bound Party against whom the Claim is made waives the mandatory provisions of Section 16.3 below.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 16.3, but there is no obligation to do so.

16.3 Mandatory Procedures for Non-Exempt Claims.

Any Bound Party having a Claim ("Claimant") against a Bound Party involving the Regime Documents or the Regime, or all or any combination of them ("Respondent"), other than an Exempt Claim under Section 16.2, will not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of the Claim until it has complied with the procedures set forth in Exhibit F, and then only to enforce the results hereof.

(a) Litigation.

No judicial or administrative proceeding with an amount in controversy exceeding \$25,000.00, will be commenced or prosecuted by the Association unless approved by 75% or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members called for the purpose of approving the proceeding, which percentage will also constitute the quorum required for any such meeting. This Section will not apply, however, to actions brought by the Association to enforce the provisions of this Master Deed (including, without limitations, the foreclosure of liens); the imposition and collection of Assessments; proceedings involving challenges to ad valorem taxation; counterclaims brought by the Association in proceedings instituted against it; or actions brought by the Association to enforce written contracts with its suppliers and service providers. This Section will not be amended unless the amendment is approved by the requisite percentage of votes of Members, and pursuant to the same procedures, necessary to institute proceedings as provided above. This provision will apply in addition to the negotiation and arbitration provisions of this Section 16 and the procedures therefor set forth in Exhibit F, if applicable.

16.4 Miscellaneous Alternative Dispute Resolution Provisions.(a) Conflicting Provisions.

Any conflict or discrepancy between the terms and conditions set forth in this Section 16 and the procedures set forth in Exhibit F and any term, condition or procedure of the American Arbitration Association, or any remedy allowed at law or in equity, the terms, conditions, procedures and remedies set forth herein and in Exhibit F will control.

(b) TIME IS OF ESSENCE.

All periods of time set forth herein or calculated pursuant to provisions of this Section 16 will be strictly adhered to, TIME BEING OF THE ESSENCE hereof.

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17. General Provisions

17.1 Adherence to Provisions of Master Deed, Bylaws and Rules and Regulations.

Every Owner who rents his Unit must post inside his Unit a list of the Rules and Regulations of the Association. Any rental agency handling an Owner's rental must further agree to abide by the Rules and Regulations and will be responsible for informing persons renting through its agency of any breaches of the Rules and Regulations by said persons and for taking any and all necessary corrective action. Should a particular agency or person continue not to take corrective action against the renters it has contracted with, or refuse to cooperate with the Association in the enforcement of its Rules and Regulations or other provisions of the Regime Documents, the Association may require the Owner to cease using the services of that particular rental agency. Refusal to do so may result in fines against the Owner in an amount to be determined by the Board of Directors. Any fines will be added to and become a part of the Assessment against the Unit and Owner.

17.2 Amendment.

Amendments to this Master Deed, except as herein expressly provided to the contrary, including, but not limited to amendments pursuant to Section 14 which may be made without the consent or approval of either the Board or the Members, will be proposed by the Board of Directors in accordance with the following procedure:

(a) Notice.

Notice of the subject matter of the proposed amendment or amendments will be included in the notice of the meeting of the Association at which such proposed amendment or amendments are to be considered.

(b) Amendment.

The Master Deed may be amended at any time and from time to time at a meeting of the Association called in accordance with the Bylaws and this Master Deed upon the vote of Members holding sixty-seven (67%) or more of the total vote in the Association; provided, however, that if the Association will vote to amend the Bylaws in any respect, such amendment will be set forth in an amendment to this Master Deed and will be valid only when approved by Members holding more than fifty percent (50%) of the total vote in the Association.

(c) Nondiscrimination.

Irrespective of the foregoing, no amendment will (i) alter the Percentage Interest applicable to each Unit (except as permitted in accordance with Sections 6, 3.3 and 13.1 hereof); or (ii) discriminate against any Owner or against any Unit or class or group of Units, unless in each instance all Owners adversely affected thereby expressly consent thereto in writing. Notwithstanding any Rule or Regulation or other restriction, the Board of Directors of the Association will make reasonable accommodations in its Rules and Regulations or other restrictions as may be necessary to afford a handicapped person equal opportunity to use and enjoy his Unit and the Common Area, and in furtherance thereof is authorized and empowered to assign Common Area parking spaces for handicap parking generally or to assign same for exclusive use of a Person as handicap parking.

(d) Necessary Amendments.

Notwithstanding any other provisions of this Master Deed to the contrary, if any amendment is necessary in the judgment of the Board to cure any ambiguity or to correct or supplement any provisions of the Regime Documents that are defective, missing or inconsistent with any other provisions thereof,

or if such amendment is necessary to conform to the requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or other secondary Mortgage market lenders, guarantors or insurers with respect to condominium projects, then at any time and from time to time the Board may effect an appropriate corrective amendment so long as written objection to such amendment is not received from Members representing at least fifty-one percent (51%) of the total votes of the Association within twenty (20) days after written notice of the proposed amendment is given to all Members.

(c) Recording.

A copy of each amendment provided for in this Section 17.2 will be certified by the Association as having been duly adopted and will be effective when recorded.

In recognition of the fact that certain provisions of this Master Deed are for the benefit of the Developer, no amendment in derogation of any right reserved or granted to the Developer by provisions of this Master deed may be made without the written approval of the Developer.

17.3 Termination.

The Regime may be terminated and the Project removed from the provisions of the Act in the following manner:

(a) Agreement.

All of the Owners may remove the Project from the provisions of the Act by an instrument to that effect, duly recorded, subject to Sections 13.1 and 13.2 of this Master Deed.

(b) Destruction.

In the event it is determined in the manner provided in Section 5.6 that the Project will not be repaired or reconstructed after casualty, the Regime will be terminated and the Regime Documents revoked. The determination not to repair or reconstruct after casualty will be evidenced by a certificate of the Association certifying as to the facts effecting the termination.

(c) Condemnation.

In the event that any part of a Unit, or the Common Area essential to the use of any Unit will be taken by an authority having the power of eminent domain and the consent of Members representing at least sixty-seven (67%) percent of the total votes of the Association as provided in Section 6.3 to a plan for continuation of the Regime will not be expressed in an amendment to this Master Deed duly recorded within ninety (90) days after such taking, the Regime will be terminated and the Regime Documents revoked. A certificate of the Association certifying as to the facts effecting the termination will evidence such taking.

17.4 Covenants Running With the Land.

All provisions of this Master Deed will be construed to be covenants running with the land, and with every part thereof and interest therein, including, but not limited to, every Unit and the appurtenances thereto; and each and every provision of this Master Deed will bind and inure to the benefit of the Developer and all Owners and claimants of the Regime or any part thereof or interest therein, and their heirs, executors, administrators, successors and assigns.

17.5 Enforcement.

Each Owner will comply strictly with the Bylaws and with the Rules and Regulations of the Association, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Master Deed and in the deed to his Unit. Failure to comply with any of the same will be grounds for an action to recover sums due, for damages or injunctive relief, or for all three, maintainable by the Board of Directors on behalf of the Association or by any aggrieved Owner. In addition, the rights of any Owner or lessee of an Owner, their families, invitees or guests to use and to enjoy the Common Area may be suspended by the Board of Directors for continued violation of the Rules and Regulations. Failure by the Association or any Owner to enforce any of the foregoing will in no event be deemed a waiver of the right to do so thereafter.

(a) Authority and Enforcement.

Subject to the provisions of Section 17.5(b) hereof, upon the violation of this Master Deed, the Bylaws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any Assessments, the Board will have the power (i) to impose reasonable monetary fines which will constitute an equitable charge and a continuing lien as a specific Assessment, (ii) to suspend an Owner-Member's right to vote in the Association, or (iii) to suspend an Owner's or Occupant's right to use any of the Common Areas. The Board will have the power to impose all or any combination of these sanctions, and may establish each day a violation remains uncured as a separate violation for which a fine is due; provided, however, an Owner's access to its property over the private roads and streets constituting Common Areas will not be terminated hereunder. An Owner or Occupant will be subject to the foregoing sanctions in the event of such a violation by such Owner or Occupant. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

(b) Procedure.

Except with respect to the failure to pay Assessments, the Board will not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner or other Occupant of the Project for violations of the Master Deed, By-Laws, or any rules and regulations of the Association, unless and until the following procedure is followed:

(i) Demand to Cease and Desist. Written demand to cease and desist from an alleged violation will be served upon the Owner responsible for such violation specifying:

(A) The alleged violation;

(B) The action required to abate the violation; and

(C) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Master Deed, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

(ii) Notice of Hearing. Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board may serve such Owner with written notice of a hearing to be held by the Board in executive session. The notice will contain:

(A) The nature of the alleged violation;

(B) The time and place of the hearing, which time will be not less than ten (10) days from the giving of the notice;

(C) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his behalf; and

(D) The proposed sanction to be imposed.

(iii) Hearing. The hearing will be held in executive session of the Board of Directors pursuant to the notice and will afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard will be placed in the minutes of the meeting. Such proof will be deemed adequate if a copy of the notice together with a statement of the date and matter of delivery is entered by the officer, director, or other individual who delivered such notice. The notice requirement will be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction imposed, if any.

17.6 Severability.

All provisions of this Master Deed and all of the Regime Documents will be construed in a manner that complies with the Aot and South Carolina law to the fullest extent possible. If all or any portion of any provision of this Master Deed or any other Regime Documents will be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability will not affect any other provision hereof or thereof, and such provision will be limited and construed as if such invalid, illegal or unenforceable provision or portion thereof were not contained herein or therein.

17.7 Gender or Grammar.

The singular whenever used herein will be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, will in all cases be assumed as though in each case fully expressed. In addition, the use of the terms "herein" or "hereof" will mean this Master Deed and not merely the Section or paragraph in which such term is utilized.

17.8 Headings.

All Section headings are utilized merely for convenience and will not restrict or limit the application of the respective Sections.

17.9 Powers of Attorney.

By acceptance of a deed or other conveyance of an interest in a Unit, all Members do hereby grant, and if further required, do agree to vote in a manner to provide to, and to ratify and confirm retention by, Developer of Developer's rights under this Master Deed, including, without limitation, the right to amend this Master Deed in accordance with the provisions hereof. In connection with this voting agreement, each member appoints Developer as proxy for such member with full power of substitution to vote for the member on all such matters on which the member may be entitled to vote, and with respect to which there is a reservation or designation of voting rights in Developer under this Master Deed; and with all powers which the member would possess if personally present at any meeting of members. Such appointment will be, upon acceptance of a deed or other conveyance by the member and without the necessity of further action by the Developer or the member, a power coupled with an interest and will be irrevocable. Such appointment will be effective as of the date on which a deed or other conveyance of an interest to the Member is recorded in the RMC. This irrevocable proxy will automatically terminate thirty (30) days after the conveyance of forty-nine (49) Units in the ordinary course

of Developer's business. The within voting agreement and proxy are in addition to, and not in substitution of, all rights of Developer herein provided, which will run with the land.

17.10 Unit Deeds.

In accepting a deed to any Unit, the grantee will be deemed to have accepted and agreed to all terms and conditions contained in this Master Deed and the Exhibits, as amended, and further agrees to execute any and all documents reasonably requested by the Developer or the Association from time to time to expressly evidence the foregoing.

17.11 Counterpart Execution.

This Master Deed may be executed in any number of counterparts, each of which shall be an original, and all of which taken together shall constitute a single agreement, with the same effect as if the signatures thereto and hereto were upon the same instrument.

18. Exhibits Attached

The following Exhibits are attached hereto and incorporated verbatim in this Master Deed by reference as fully as if set forth herein.

Description	Identification
Legal Description of the Land	A
Site Plan and Floor Plans	B
Schedule of Assigned Values and Percentage Interests	C
Articles of Incorporation of Association	D
Bylaws of the Association	E
Alternative Dispute Resolution Procedures	F

19. Joinder of Wachovia Bank, National Association.

Wachovia Bank, National Association, Successor by Merger to First Union National Bank, lender to the Developer, executes this Master Deed to signify its consent and agreement that its mortgage dated November 9, 2000, and recorded of even date therewith in the RMC in Book H-358, Page 368 is and shall remain subordinate to this Master Deed and the other Regime Documents incorporated herein by reference.

[Remainder of Page Purposely Left Blank]

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IN WITNESS WHEREOF, Developer has caused this Master Deed to be executed to be effective as of this 30th day of August, 2002.

In the Presence Of:

Kristi S. Harris
William D. Jordan

BRITTLEBANK CONDOMINIUMS, LLC
a South Carolina limited liability company,

BY: BEACH BRITTLEBANK, LLC, a
Member of Brittlebank Condominiums, LLC,

BY: THE BEACH CO., as Manager of
Beach Brittlebank, LLC:

By: [Signature]
Name: Richard Darty
Its: President

By: Dana R. Mager
Name: Dana R. Mager
Its: Corporate Secretary

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 30th day of August, 2002, by Brittlebank Condominiums, LLC, by Beach Brittlebank, LLC, its Member, by The Beach Co., its Manager, By: Jim A. Dady, its President, and Dana R. Mager, its Corporate Secretary.

SWORN to before me this 30th
day of August, 2002.

William D. Jordan (L.S.)
Notary Public for South Carolina
My Commission Expires: 2.25.2003

-33-

NPMB1:765.15-RD-(BFC) 016019-00093

BKD 417PG037

JOINDER OF MORTGAGEE

The undersigned, Wachovia Bank, National Association, Successor by Merger to First Union National Bank, has hereby caused this instrument to be executed this 30th day of AUGUST, 2002 to signify its consent, joinder and subordination pursuant to Section 19 of this Master Deed.

Wachovia Bank, National Association,
Successor by Merger to First Union National Bank

Donna M. Bucci
Witness #1

By: [Signature]
Its: SENIOR VICE PRESIDENT

Elisabeth Rooney
Witness/Notary

STATE OF SOUTH CAROLINA)

COUNTY OF Charleston)

Personally appeared before me undersigned witness and made an oath that (s)he saw Wachovia Bank, National Association, Successor by Merger to First Union National Bank, by its duly authorized officer(s), sign, seal, and as its act and deed deliver the within written Master Deed of The Bristol Horizontal Property Regime, and that (s)he, with the other subscribing witness, witnessed the execution thereof.

Donna M. Bucci (SEAL)
Witness #1

Sworn to before me this

30th day of August, 2002.

Elisabeth Rooney

Notary Public for South Carolina

My Commission expires: June 24 2006

Exhibit "A"

Legal Description of The Land

All that certain piece, parcel or lot of land, situate, lying and being on Lockwood Boulevard in the City of Charleston, County of Charleston, State of South Carolina, containing 4.28 acres, more or less, shown and designated as "Tract 1" on a plat entitled "Plat of Tract 1 Prepared for the Beach Company, City of Charleston, Charleston County, South Carolina", prepared by F. Elliott Quinn, Registered Land Surveyor No. 10292, dated April 6, 1999, and recorded at the Charleston County R.M.C. Office on August 4, 2000, in Plat Book EE, at Page 212.

SAVING AND EXCEPTING therefrom the following, according to said plat: Beginning at an iron pin on the southeastern right-of-way line of Lockwood Boulevard (120' right-of-way), at a point 78 feet, more or less, from the intersection of U.S. Highway 17 and Lockwood Boulevard, said iron pin being the POINT OF BEGINNING; thence leaving the POINT OF BEGINNING, turning and running South 62°25'00"W for a distance of 373.04' to a point; thence turning and running N29°44'46"E for a distance of 6.20' to a point; thence turning and running N42°44'12"E for a distance of 9.28' to a point; thence turning and running N33°05'08"E for a distance of 10.70' to a point; thence turning and running S66°53'46"E for a distance of 7.46' to a point; thence turning and running N57°28'27"E for a distance of 7.28' to a point; thence turning and running N38°50'05"W for a distance of 9.55' to a point; thence turning and running N47°56'07"E for a distance of 18.47' to a point; thence turning and running N55°29'36"E for a distance of 19.11' to a point; thence turning and running N32°15'42"E for a distance of 20.72' to a point; thence turning and running N46°42'35"E for a distance of 9.33' to a point; thence turning and running N58°12'33"E for a distance of 16.70' to a point; thence turning and running N59°24'06"E for a distance of 20.22' to a point; thence turning and running N69°00'19"E for a distance of 20.78' to a point; thence turning and running N68°46'38"E for a distance of 16.13' to a point; thence turning and running N68°37'52"E for a distance of 14.35' to a point; thence turning and running N37°59'06"E for a distance of 12.80' to a point; thence turning and running N60°55'32"E for a distance of 20.66' to a point; thence turning and running N49°33'30"E for a distance of 17.96' to a point; thence turning and running N49°02'41"E for a distance of 19.49' to a point; thence turning and running N47°05'17"E for a distance of 16.35' to a point; thence turning and running N51°32'52"E for a distance of 20.22' to a point; thence turning and running S58°55'13"E for a distance of 9.55' to a point; thence turning and running N89°34'54"E for a distance of 10.35' to a point; thence turning and running N53°09'20"E for a distance of 18.81' to a point; thence turning and running N42°54'51"E for a distance of 20.42' to a point; thence turning and running N00°09'13"E for a distance of 12.60' to a point; thence turning and running N27°28'03"W for a distance of 15.80' to a point; thence turning and running S45°31'40"E for a distance of 82.80' to a point, being the SAID POINT OF BEGINNING. Said parcel containing 0.30 acres, more or less, according to said plat.

ALSO, SAVING AND EXCEPTING therefrom, the following, according to said plat: Beginning at an iron pin on the southeastern right-of-way line of Lockwood Boulevard (120' right-of-way), at a point 522.08 feet, more or less, from the intersection of U.S. Highway 17 and Lockwood Boulevard, said iron pin being the POINT OF BEGINNING; thence leaving the POINT OF BEGINNING, turning and running S45°31'40"E for a distance of 37.21' to a point; thence turning and running S44°28'20"E for a distance of 16.07' to a point; thence turning and running S75°33'00"W for a distance of 10.64' to a point; thence

turning and running S65/29'27"W for a distance of 15.42' to a point; thence turning and running N21/53'53"W for a distance of 17.55' to a point; thence turning and running S52/20'54"W for a distance of 12.87' to a point; thence turning and running S21/58'08"E for a distance of 19.26' to a point; thence turning and running S37/06'08"E for a distance of 14.68' to a point; thence turning and running S34/25'13"W for a distance of 26.84' to a point; thence turning and running S42/36'14"E for a distance of 12.50' to a point; thence turning and running S57/10'37"W for a distance of 14.00' to a point; thence turning and running N81/20'50"W for a distance of 25.01' to a point; thence turning and running S66/02'57"W for a distance of 20.83' to a point; thence turning and running S57/50'59"W for a distance of 20.20' to a point; thence turning and running S65/25'51"W for a distance of 23.08' to a point; thence turning and running S62/05'24"W for a distance of 25.98' to a point; thence turning and running S75/31'28"W for a distance of 16.50' to a point; thence turning and running S62/55'52"W for a distance of 20.24' to a point; thence turning and running N54/42'28"W for a distance of 14.94' to a point; thence turning and running S70/29'24"W for a distance of 19.88' to a point; thence turning and running N41/53'40"W for a distance of 12.36' to a point; thence turning and running N55/41'12"W for a distance of 15.98' to a point; thence turning and running N84/11'46"W for a distance of 6.50' to a point; thence turning and running N61/59'25"E for a distance of 295.05' to a point, being the POINT OF BEGINNING. Said parcel containing 0.30 acres, more or less, according to said plat.

Being a portion of the property conveyed to Brittlebank Condominium, LLC by deed of G.F. Development, LLC, dated November 9, 2000 and recorded in the RMC November 15, 2000 in Book H-358, Page 166.

The within conveyance is subject to all easements of record and/or upon the ground.

Pursuant to South Carolina Code Ann. Section 48-39-330 (1995 supp.), grantor hereby discloses that the subject premises or a portion thereof may be subject to statutory regulations imposed by the South Carolina Coastal Zone Act of 1997, South Carolina Code Ann. Section 48-39-10, ET. Seq. (1995 Supp.) as amended by the South Carolina Beach Management Act, South Carolina Code Ann. 48-39-270, ET. Seq. (1995 Supp.) (Hereinafter collectively referred to as the "Coastal Zone and Beach Management Acts"). Pursuant to the Coastal Zone and Beach Management Acts, the subject premises or a portion thereof is or may be affected by the baseline and setback line, the location of which lines are available from the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management. The grantor makes no representation to grantee concerning the location of such base line, setback lines and the erosion rate, the effect of such regulations on the subject premises, or the accuracy of the foregoing disclosures.

Pursuant to Section 27-31-100 of The South Carolina Code (1976), as amended, notice is given that all activities on or over and all uses of any submerged land and other critical areas are subject to the jurisdiction of the Office of Ocean and Coastal Resource Management ("OCRM") of the South Carolina Department of Health and Environmental Control (formerly known as, "The South Carolina Coastal Council"), including, but not limited to, the requirements that any activity or use must be authorized by OCRM. Any owner to the extent of his ownership is liable for any

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damages to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning, any submerged land, coastal waters, or any other critical area.

Exhibit "A" - Page 3

NPM01:765.16-RD-(BPK) 016019-00023

Exhibit "B"

Site Plan and Floor Plans

BRISTOL HORIZONTAL PROPERTY REGIME

NOTE

Exhibit "B" is a survey showing the location of the Building and other improvements, a set of floor plans of the Building which shows graphically the dimensions, area and location of each Unit therein, and the dimensions, area and location affording access to each Unit. Both plat and plans are attached. Said Exhibit further includes the matters set forth below.

The Building consists of fifty-four (54) Units located in one (1), five-story Building. Each Unit in the Building is individually numbered and described on the floor plans as Units 301 through, and including, 318; 401 through, and including, 418; and 501 through, and including, 518. Each of the Units is also known by its mailing address on Old Bridgeview Lane, those being 3001 through, and including, 3018; 4001 through, and including, 4018; and 5001 through, and including, 5018, respectively.

Each of the Units in the Building has a separate entrance door off of an interior corridor, and is a one-story flat of one (1) of nine (9) floor plans shown and designated as Type A, Type B, Type C, Type D, Type E, Type F, Type G, Type H-1, Type H-2 and Type I, and each such Type is called by a distinct name.

The name by which each Unit type is known, the number of bedrooms and baths each of the Unit types has, and the approximate square footage calculations¹ of each of them is as follows:

Unit Type	Bedrooms and Baths	Heated Sq. Ft.	Balcony Sq. Ft.	Gross Sq. Ft.
A - The Aberdeen	2 bedrooms, 2 baths	1,376	126	1,502
B - The Buckingham	2 bedrooms, 2 baths	1,398	126	1,524
C - The Canterbury	2 bedrooms, 2½ baths	1,605	195	1,800
D - The Devonshire	2 bedrooms, 2½ baths	1,626	195	1,821
E - The Essex	2 bedrooms, 2½ baths	1,675	258	1,933
F - The Faversham	2 bedrooms, 2½ baths	1,861	195	2,056
G - The Greenwich	2 bedrooms, 2½ baths	1,937	358	2,295
H - The Hampton	3 bedrooms, 2½ baths	2,213	300	2,513
I - The Inverness	3 bedrooms, 2½ baths	2,125	303	2,428

¹ Square footage calculations are an approximation. The actual square footages calculation for heated area, balconies and gross area for each Unit is controlled by actual, on-site dimensions.

The Units are located on the third, fourth and fifth floors of the Building. There are two assigned parking spaces and one assigned storage space for each Unit (constituting Limited Common Areas of the Unit to which assigned) on the first and second floors; and there are other general Common Areas located on the first and second floors. Exhibit "C" to this Master Deed sets forth by number the parking spaces and storage space assigned to each Unit.

The floor plans for the Building by Niles Bolton Associates, dated May 24, 2000 shows the locations of each of the Units and the general Common Areas and the Limited Common Areas identified on said plans, including the location of each numbered parking space and storage space; and the as-built survey by Absolute Surveying, Inc. dated August 22, 2002 will control over the said floor plans as to actual ground location and floor elevation of the items shown upon said plot plan.

As to each Unit: All built-in kitchen appliances, the refrigerator, air conditioner units and condensers and hot water heater located in each Unit are part of the Unit in which they are located and are not Common Areas. Each balcony adjacent to and accessible solely through a Unit, including the railing thereof, is a Limited Common Area of that Unit and is subject to restrictions as set forth elsewhere in this Master Deed.

Reference to areas as Common Areas and Limited Common Areas in this Exhibit "B" will be in addition to and read in conjunction with the further designations to Common Areas and Limited Common Areas set out in other portions of this Master Deed and the survey and floor plans making up the balance of this Exhibit "B". The parking area designated on the as-built survey is a Common Area.

Exhibit "B" is deemed to include the attached certification letter dated Aug 27, 2002 from Niles Bolton Associates, architects of the above referenced floor plans recorded simultaneously herewith.

August 27, 2002

3369 Peachtree Road, N.W.
Suite 600
Atlanta, Georgia 30305
404.365.7600
Fax 404.365.7610
Email: nba@nilesbolton.com

Brian F. Kernaghan, Esquire
Nexsen Pruet Jacobs Pollard & Robinson, LLP
2411 North Oak Street, Suite 105
Myrtle Beach, SC 29577

Re: The Bristol Condominiums, Charleston, SC
NBA #99030.10



Dear Mr. Kernaghan:

This letter is to serve as the Architect's Certification for the above referenced project as requested by you for attachment to the Master Deed.

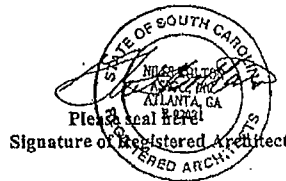
The under signed Architect, registered to practice architecture in the State of South Carolina, certifies that these documents reflect, to the best of the Architect's knowledge, information and belief, the observable and accessible configuration of the structures as designed by the Architect. They show floor plans and elevations of the building, and graphically show the dimensions, area and locations of each condominium therein, with the dimensions, areas and location of the common elements affording access to each condominium.

Please do not hesitate to call with any questions and/or comments.

Sincerely,

NILES BOLTON ASSOCIATES

G. Niles Bolton, AIA



ZAADMINSTUDIO\Bristol Condominium\Kernaghan-01_jlr.wpd

Alexandria,
Virginia
703.836.0915
Fax 703.681.3653

Sun Jose,
California
408.279.6476
Fax 408.297.2995

EXHIBIT B ~ Page iii

www.nilesbolton.com

Architecture ■ Urban Design ■ Interiors ■ Landscape Architecture

RD 41798044

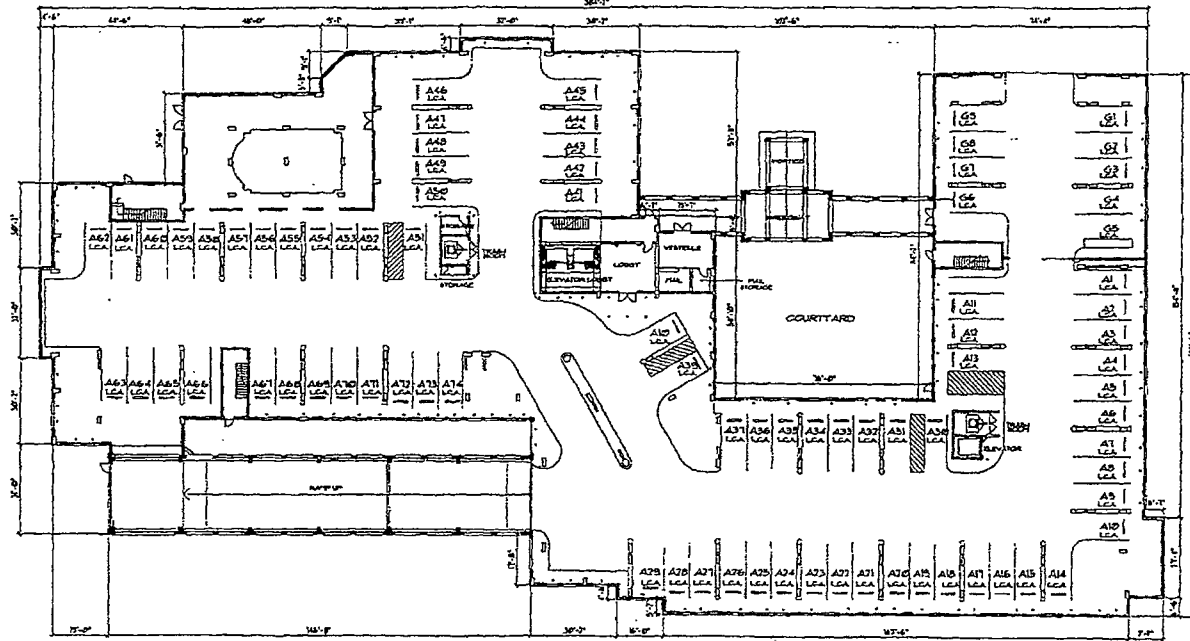


Exhibit B - Page iv

THIS FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE CALCULATIONS SHOWN HEREON ARE ONLY APPROXIMATIONS. ANY UNIT OWNER WHO IS CONCERNED ABOUT ANY REPRESENTATIONS HEREON THIS FLOOR PLAN SHOULD CONSULT AN APPROPRIATE PROFESSIONAL SURVEYOR, MEASUREMENT, AND SQUARE FOOTAGE OF THE UNIT. INTERPRETATION AND REVISIONS OF THIS PLAN MAY VARY BASED ON UNIT LOCATION.

FIRST LEVEL PLAN

Scale: 1" = 40'-0"

BRISTOL HORIZONTAL PROPERTY REGIME

BRD 4178045

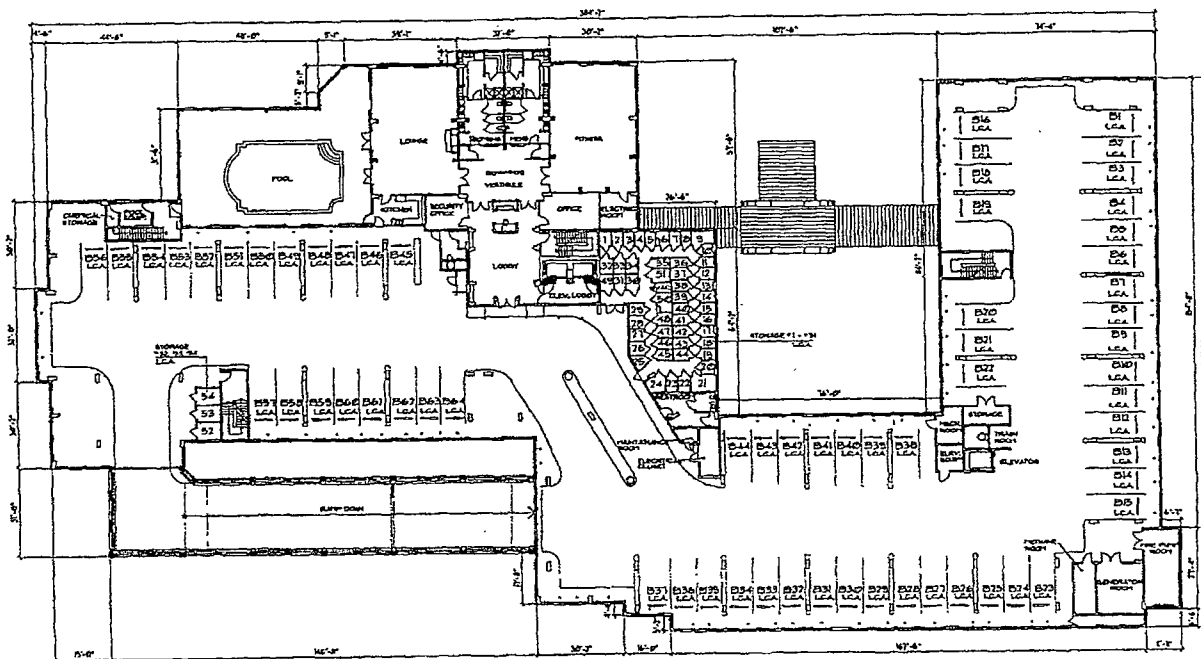


Exhibit B - Page V

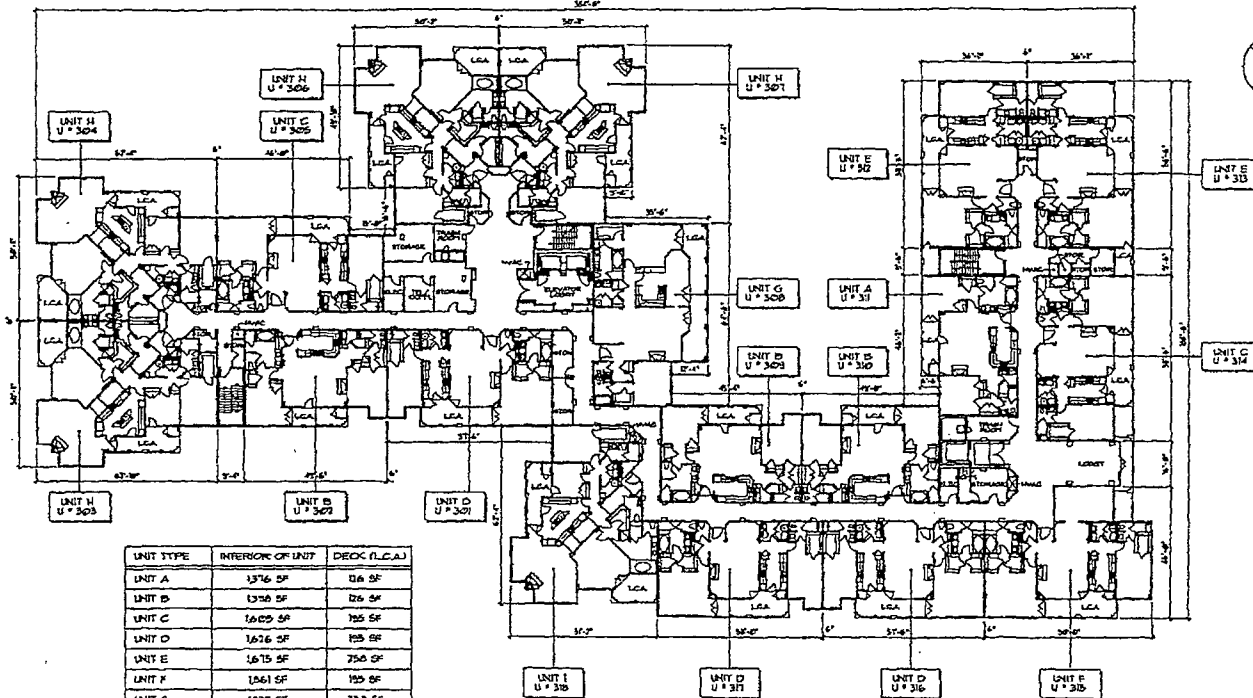
THIS FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE
 CALCULATIONS SHOWN HEREON ARE ONLY APPROXIMATIONS. ANY UNIT
 OWNER WHO IS CONCERNED ABOUT ANY REPRESENTATIONS HEREON
 THIS FLOOR PLAN SHOULD DO HIS OWN INVESTIGATION AS TO THE
 DIMENSIONS, SQUARE FOOTAGE, AND SQUARE FOOTAGE OF THE UNIT.
 INTERIOR LAYOUT AND WINDOW CONFIGURATION MAY VARY BASED ON
 UNIT LOCATION.

BRISTOL HORIZONTAL PROPERTY REGIME

SECOND LEVEL PLAN

Scale: 1" = 40'-0"

IND 4176046



UNIT TYPE	INTERIOR OF UNIT	DECK (L.C.A.)
UNIT A	1376 SF	116 SF
UNIT B	1350 SF	126 SF
UNIT C	1609 SF	155 SF
UNIT D	1676 SF	155 SF
UNIT E	1675 SF	250 SF
UNIT F	1561 SF	155 SF
UNIT G	1537 SF	350 SF
UNIT H	2270 SF	300 SF
UNIT I	2,075 SF	303 SF

THIS FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE CALCULATIONS THEREON ARE ONLY APPROXIMATIONS. ANY UNIT OWNER WHO IS CONCERNED ABOUT ANY OF THE DIMENSIONS OR SQUARE FOOTAGE SHOWN ON THIS FLOOR PLAN SHOULD DO HIS OWN INVESTIGATION AS TO THE DIMENSIONS, VARIATIONS, AND SQUARE FOOTAGE OF THE UNIT. INTERIOR LAYOUT AND ROOM COMPARTMENTATION MAY VARY BASED ON UNIT LOCATION.

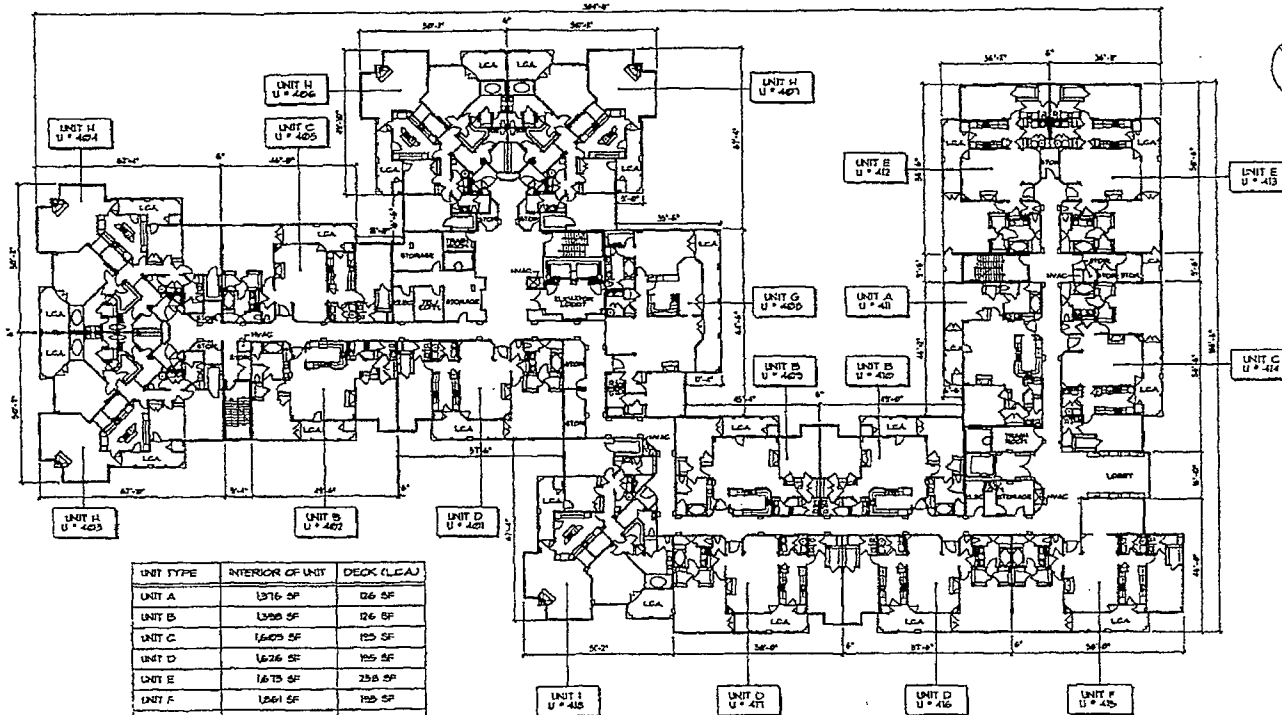
THIRD LEVEL PLAN

Scale: 1" = 40'-0"

BRISTOL HORIZONTAL PROPERTY REGIME

Exhibit B - Page vi

AND 417PG047



UNIT TYPE	INTERIOR OF UNIT	DECK (LCA)
UNIT A	1376 SF	126 SF
UNIT B	1358 SF	126 SF
UNIT C	1603 SF	123 SF
UNIT D	1626 SF	125 SF
UNIT E	1675 SF	238 SF
UNIT F	1661 SF	125 SF
UNIT G	1537 SF	358 SF
UNIT H	2213 SF	300 SF
UNIT I	2025 SF	303 SF

THIS FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE CALCULATIONS THEREON ARE ONLY APPROXIMATIONS AND NOT A GUARANTEE OF ACCURACY. ANY REPRESENTATIONS REGARDING THIS FLOOR PLAN SHOULD BE BASED ON AN INVESTIGATION AS TO THE DIMENSIONS, MEASUREMENTS, AND SQUARE FOOTAGE OF THE FACT. INTERIOR LAYOUT AND WINDOW CONFIGURATION MAY VARY BASED ON UNIT LOCATION.

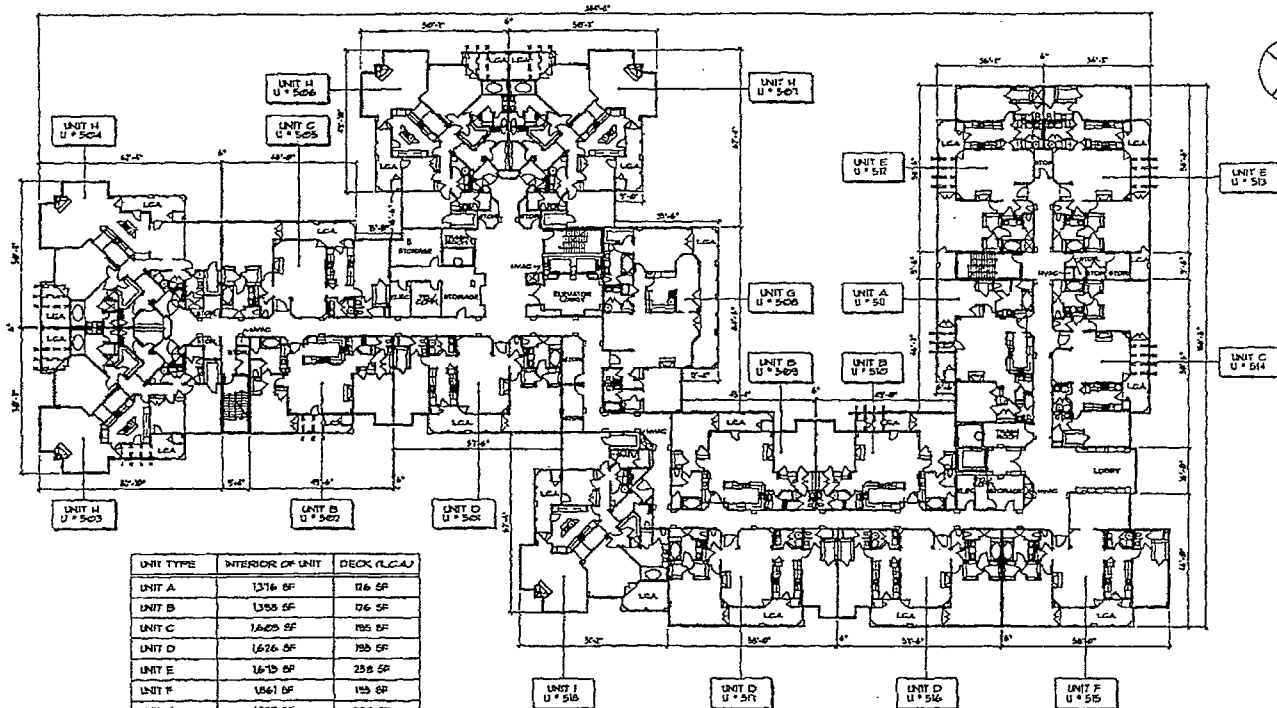
BRISTOL HORIZONTAL PROPERTY REGIME

FOURTH LEVEL PLAN

Scale: 1" = 40'-0"

Exhibit B - Page vii

BD 417PG04-8



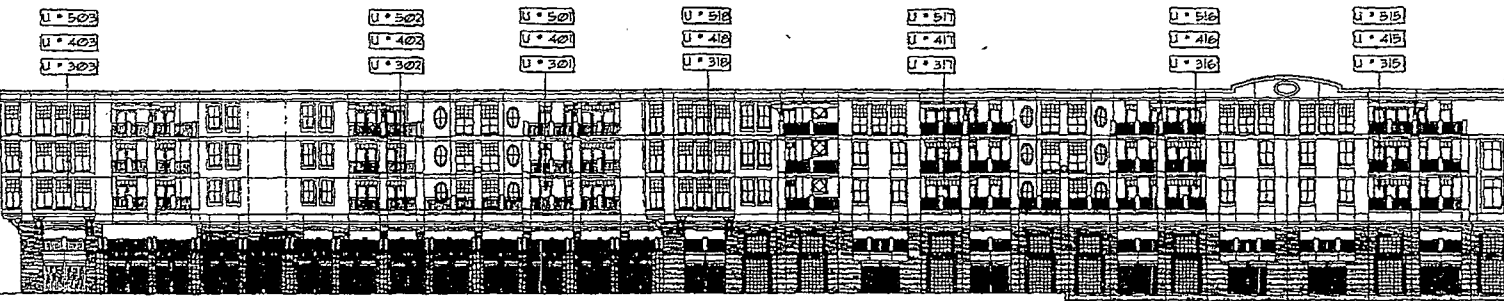
THIS FLOOR PLAN AND THE DIMENSIONS AND RESUME FOOTAGE CALCULATIONS SHOWN HEREON ARE ONLY APPROXIMATIONS. ANY UNIT OWNER WHOSE CONCERNED ABOUT ANY DIFFERENCES BETWEEN THE FLOOR PLAN AND THE RESUME FOOTAGE SHOULD CONSULT WITH THE BUILDING DEPARTMENT, AND SQUARE FOOTAGE OF THE UNIT, INTERIOR LAYOUT AND WINDOW CONFIGURATION MAY VARY BASED ON UNIT LOCATION.

BRISTOL HORIZONTAL PROPERTY REGIME

FIFTH LEVEL PLAN

Scale: 1" = 40'-0"

Exhibit B - Page viii



SOUTH EAST ELEVATION

Scale: 1" = 40'-0"



NORTH EAST ELEVATION

Scale: 1" = 40'-0"

THIS FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE CALCULATIONS THEREON ARE ONLY APPROXIMATIONS. ANY UNIT OWNERS WHOSE INTERESTS ARE AFFECTED BY THIS FLOOR PLAN SHOULD DO THEIR OWN INVESTIGATION AS TO THE ACCURACY, COMPLETENESS, AND SQUARE FOOTAGE OF THE PLAN. INTERIOR LAYOUT AND WINDOW CONFIGURATION MAY VARY BASED ON UNIT LOCATIONS.

BRISTOL HORIZONTAL PROPERTY REGIME

BRD: 417PG049

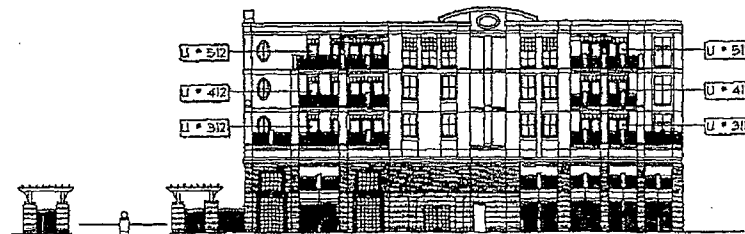
Exhibit page 1x

80 417P6050



NORTH WEST ELEVATION

Scale: 1" = 40'-0"



SOUTH WEST COURTYARD ELEVATION

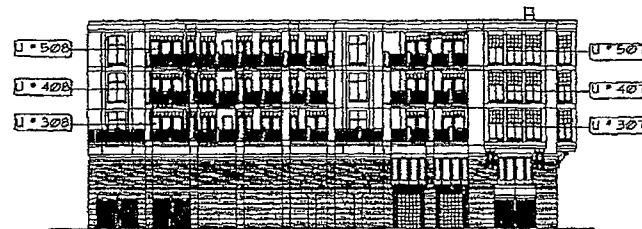
Scale: 1" = 40'-0"

THIS FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE CALCULATIONS THEREON ARE ONLY APPROXIMATIONS. ANY UNIT OWNER WHO IS CONCERNED ABOUT ANY DISCREPANCIES REGARDING THE FLOOR PLAN SHOULD CONSULT AN INVESTIGATOR AS TO THE DIMENSIONS, MEASUREMENTS, AND SQUARE FOOTAGE OF THE UNIT. INTERIOR LAYOUT AND WINDOW CONFIGURATION MAY VARY BASED ON UNIT LOCATION.

BRISTOL HORIZONTAL PROPERTY REGIME

Exhibit B-
Page X

BK D 417P051



NORTH EAST COURTYARD ELEVATION

Scale: 1" = 40'-0"



SOUTH WEST ELEVATION

Scale: 1" = 40'-0"

THIS FLOOR PLAN AND THE DIMENSIONS AND ROOM FOOTAGE CALCULATIONS SHOWN HEREIN ARE ONLY APPROXIMATIONS. ANY UNIT CONSTRUCTION IS CONSIDERED AS NOT BEING GUARANTEED. THIS FLOOR PLAN SHOULD BE USED ONLY FOR INVESTIGATION AS TO THE DIMENSIONS, MEASUREMENTS AND ROOM FOOTAGE OF THE UNIT. INTERIOR LAYOUT AND WINDOW CONFIGURATION MAY VARY BASED ON UNIT LOCATIONS.

BRISTOL HORIZONTAL PROPERTY REGIME

Exhibit B - Page xi

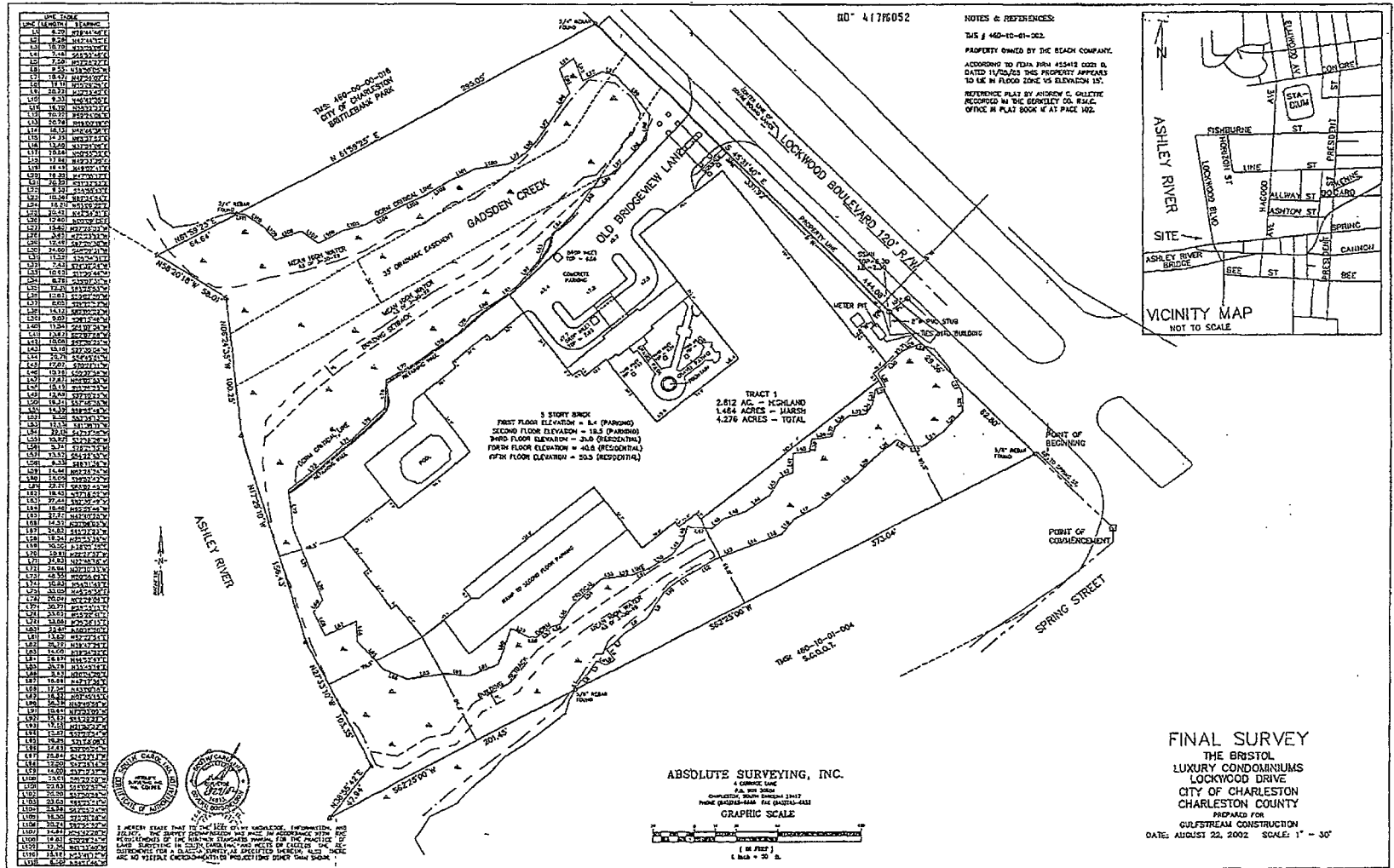


Exhibit "C"

Schedule of Assigned Values, Percentage Interests,
Storage Space and Parking Spaces for Each Unit

This is a schedule of Assigned Values and Percentage Interests in the Common Areas appurtenant to Units in the Bristol Horizontal Property Regime. This Schedule also set forth the assigned storage and parking spaces' Limited Common Areas appurtenant to each Unit. The Assigned Value is for statutory purposes only and has no relationship to the actual value of each Unit.

The Bristol						
Unit Number by Architect's Floor Plan	Unit Number by Resale Address	Statutory Value	Statutory Percentage	Assigned Storage Space LCA	Assigned Parking Spaces LCA	Architectural Type
301	3001	\$2,000	1.85185%	38	A36 A35	D - The Devonshire
302	3002	\$2,000	1.85185%	39	A24 A25	B - The Buckingham
303	3003	\$2,000	1.85185%	40	A67 A68	H - The Hampton
304	3004	\$2,000	1.85185%	43	A69 A70	H - The Hampton
305	3005	\$2,000	1.85185%	42	A71 A72	C - The Canterbury
306	3006	\$2,000	1.85185%	41	A73 A74	H - The Hampton
307	3007	\$2,000	1.85185%	46	A43 A44	H - The Hampton
308	3008	\$2,000	1.85185%	45	A41 A42	G - The Greenwich
309	3009	\$2,000	1.85185%	44	A32 A33	B - The Buckingham
310	3010	\$2,000	1.85185%	1	A30 A31	B - The Buckingham
311	3011	\$2,000	1.85185%	2	A12 A13	A - The Aberdeen
312	3012	\$2,000	1.85185%	3	A3 A4	B - The Essex
313	3013	\$2,000	1.85185%	4	A5 A6	B - The Essex
314	3014	\$2,000	1.85185%	5	A7 A8	C - The Canterbury
315	3015	\$2,000	1.85185%	6	A9 A10	F - The Faversham
316	3016	\$2,000	1.85185%	7	A14 A15	D - The Devonshire
317	3017	\$2,000	1.85185%	9	A16 A17	D - The Devonshire
318	3018	\$2,000	1.85185%	10	A47 A48	I - The Inverness
401	4001	\$2,000	1.85185%	47	B55 B54	D - The Devonshire
402	4002	\$2,000	1.85185%	48	B53 B52	B - The Buckingham
403	4003	\$2,000	1.85185%	49	B51 B50	H - The Hampton
404	4004	\$2,000	1.85185%	4	B49 B48	H - The Hampton
405	4005	\$2,000	1.85185%	27	A58 A57	C - The Canterbury
406	4006	\$2,000	1.85185%	28	A56 A55	H - The Hampton
407	4007	\$2,000	1.85185%	29	A54 A53	H - The Hampton
408	4008	\$2,000	1.85185%	30	A52 A51	G - The Greenwich

BKD 417PG054

The Bristol						
Unit Number by Architect's Floor Plan	Unit Number by Reserve Address	Statutory Value	Statutory Percentage	Assigned Storage Space LCA	Assigned Parking Spaces LCA	Architectural Type
409	4009	\$2,000	1.85185%	31	B23 B24	B - The Buckingham
410	4010	\$2,000	1.85185%	32	B15 B23	B - The Buckingham
411	4011	\$2,000	1.85185%	33	B24 B25	A - The Aberdeen
412	4012	\$2,000	1.85185%	19	B26 B29	E - The Essex
413	4013	\$2,000	1.85185%	20	B30 B31	E - The Essex
414	4014	\$2,000	1.85185%	21	B32 B33	C - The Canterbury
415	4015	\$2,000	1.85185%	22	A18 A19	F - The Faversham
416	4016	\$2,000	1.85185%	23	A20 A21	D - The Devonshire
417	4017	\$2,000	1.85185%	24	A22 A23	D - The Devonshire
418	4018	\$2,000	1.85185%	25	A49 A50	I - The Inverness
501	5001	\$2,000	1.85185%	51	B58 B59	D - The Devonshire
502	5002	\$2,000	1.85185%	52	B60 B61	B - The Buckingham
503	5003	\$2,000	1.85185%	53	B62 B63	H - The Hampton
504	5004	\$2,000	1.85185%	54	B64 B65	H - The Hampton
505	5005	\$2,000	1.85185%	18	B46 B47	C - The Canterbury
506	5006	\$2,000	1.85185%	12	B45 B44	H - The Hampton
507	5007	\$2,000	1.85185%	16	B43 B42	H - The Hampton
508	5008	\$2,000	1.85185%	15	B36 B37	Q - The Greenwich
509	5009	\$2,000	1.85185%	14	B14 B13	B - The Buckingham
510	5010	\$2,000	1.85185%	34	B40 B39	B - The Buckingham
511	5011	\$2,000	1.85185%	26	B11 B12	A - The Aberdeen
512	5012	\$2,000	1.85185%	8	B21 B20	E - The Essex
513	5013	\$2,000	1.85185%	13	B19 B18	E - The Essex
514	5014	\$2,000	1.85185%	12	B3 B4	C - The Canterbury
515	5015	\$2,000	1.85185%	11	B5 B6	F - The Faversham
516	5016	\$2,000	1.85185%	35	B7 B8	D - The Devonshire
517	5017	\$2,000	1.85185%	36	B9 B10	D - The Devonshire
518	5018	\$2,000	1.85185%	37	B35 B34	I - The Inverness
		\$108,000	99.99990%			

1 Old Bridgeview Lane, Charleston, South Carolina 29403

Exhibit "C" - Page ii

NPM01765.15-RC-(BPK) 010010-00063

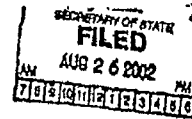
BK0 417PG055

Exhibit "D"
Articles of Incorporation
Attached Hereto

Exhibit "D"

NPMB1:765,15-RO-(BPK) 018019-00093

BKD 417PG056



STATE OF SOUTH CAROLINA
SECRETARY OF STATE
JIM MILES
NONPROFIT CORPORATION
ARTICLES OF INCORPORATION

1. The name of the nonprofit corporation is Bristol Condominium Property Owners' Association
2. The initial registered office of the nonprofit corporation is 211 King Street, Suite 200
Street & Number,

Charleston Charleston S.C. 29401
City, County, State, Zip Code

The name of the registered agent of the nonprofit corporation at that office is:

John Darby

3. Check (a), (b), or (c) whichever is applicable. Check only one box.
 - a. ☐ The nonprofit corporation is a public benefit corporation. CERTIFIED TO BE A TRUE AND CORRECT COPY AS TAKEN FROM AND COMPARED WITH THE ORIGINAL ON FILE IN THIS OFFICE
 - b. ☐ The nonprofit corporation is a religious corporation.
 - c. ☒ The nonprofit corporation is a mutual benefit corporation. **AUG 26 2002**
4. Check (a) or (b), whichever is applicable:
 - a. ☒ This corporation will have members. **SECRETARY OF STATE OF SOUTH CAROLINA**
 - b. ☐ This corporation will not have members.

5. The address of the principal office of the nonprofit corporation is 211 King St., Suite 200
Street & Address,

Charleston Charleston S.C. 29401
City, County, State, Zip Code

6. If this nonprofit corporation is either a public benefit or religious corporation (box a. or b. of 3. is checked), complete either (a) or (b), whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation.

a. ☐ Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of by the court of common pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

BKD 417PG057

b. ☐ Upon dissolution of the corporation, consistent with law, the remaining assets of the corporation shall be distributed to: _____

7. If the corporation is a mutual benefit corporation (box "e" of 3, is checked), complete either (a) or (b), whichever is applicable, to describe how the [remaining] assets of the corporation will be distributed upon dissolution of the corporation.

a. ☒ Upon dissolution of the mutual benefit corporation the remaining assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefitting or serving.

b. ☐ Upon dissolution of the mutual benefit corporation the [remaining] assets, consistent with law, shall be distributed to _____

8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follows (See § 33-31-202(c) of the 1976 South Carolina Code, the applicable comments thereto, and the instructions to this form):

2. Capitalized Words. The use of capitalized words herein shall have the meanings attributed to them in the Master Deed of The Bristol Horizontal Property Regime, hereinafter the "Master Deed," recorded or to be recorded in the Office of Register of Means Conveyances for Charleston County, South Carolina.

b. **Purpose.** This Association does not contemplate pecuniary gain or profit, and the specific, primary purposes for which it is formed are to provide for management, administration, maintenance and preservation of The Bristol Horizontal Property regime and the Common Areas thereof, all according to the Master Deed. No part of the net earnings of the Association shall inure to the benefit of any person, other than for acquiring, constructing, or providing management, maintenance, and care of Association property, and other than by a rebate of excess Association fees and assessments, if any.

C. Right to Appoint Directors and Officers. The Developer under the Master Deed shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following dates: (i) December 31, 2008; (ii) three (3) months after the conveyance by the Developer, in the ordinary course of business to persons other than a successor Developer, of forty-nine (49) Units; (iii) or three (3) months following the date the Developer surrenders its authority to appoint directors of the Association by an express amendment to the Master Deed executed and filed in the Office of Register of Meigs Conveyances for Charleston County, South Carolina by the Developer.

d. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in a Unit which is subject to the Master Deed (including the Developer) shall be a member of the Association. Until the expiration of the Developer's right to appoint directors and officers of the Association pursuant to subparagraph c of this 8, the Developer, and its

successors and assigns, other than as an owner of a Unit, shall be a member of the Association. The membership of each owner of a Unit shall be appurtenant to and may not be separated from ownership of the Unit and ownership of a Unit shall be the sole qualification for such membership. In the event that fee title to a Unit is transferred or otherwise conveyed, the membership in the Association that is appurtenant thereto shall automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. Any person or entity who holds an interest in a Unit merely as security for the performance of an obligation shall not be a member of this Association.

c. **Voting Rights.** The Association shall have two (2) classes of voting membership. Members are divided into classes for the sole purpose of computing voting rights and shall not vote as a class.

Class A. Class A members of the Association shall be all owners of Units (including the Developer). A Type A Member shall be entitled to one (1) vote for each Unit owned. When more than one (1) person holds an interest in any Unit, all such persons shall be Members. The vote for such Unit shall be exercised as they among themselves determine as provided in the Master Deed, but in no event shall more than one (1) vote be cast with respect to any Unit.

Class B. The Type B member shall be the Developer or its designated assign, in its capacity other than as an Owner of a Unit. The Type B member shall be entitled to three (3) votes for each vote held by Type A members, plus one (1) vote, until the expiration of the Developer's right to appoint directors and officers of the Association pursuant to subparagraph c of this B. Thereafter, the Type B member shall exercise votes only as to its Type A memberships.

9. The name and address (with zip code) of each incorporator is as follows (only one is required):

Name	Address (with zip code)
<u>Brian F. Kernaghan</u>	<u>2411 N. Oak Street, Suite 103, Myrtle Beach, SC 29577</u>

10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles:

Signature of director _____
(only if named in articles)

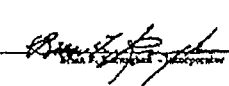
Signature of director _____
(only if named in articles)

Signature of director _____
(only if named in articles)

11. Each incorporator must sign the articles.

Brian F. Kernaghan
Signature of incorporator: Brian F. Kernaghan

OKD 417PG059

STATE OF SOUTH CAROLINA SOUTH CAROLINA TAX COMMISSION INITIAL ANNUAL REPORT OF CORPORATIONS		CL-1 (Rev. 7/91) 3194
* File Number _____ * ENDING PERIOD _____		
FILE THIS RETURN WITH ARTICLES OF INCORPORATION OR APPLICATION FOR AUTHORITY TO DO BUSINESS.		
NAME OF CORPORATION BRISTOL CONDOMINIUM PROPERTY OWNERS' ASSOCIATION		
ADDRESS OF CORPORATION (NUMBER AND STREET) 211 KING STREET, SUITE 300		
CITY AND STATE CHARLESTON, SOUTH CAROLINA	ZIP 29401	COUNTY CHARLESTON
Date "Application for Charter" filed with Secretary of State AUG 26 2002		
Date of "Request for authority to do business in this state" (Foreign Corp.) N/A		
IRS Employer Identification Number Applied For Business Code _____		
1. State of Incorporation: South Carolina		
2. Nature of principal business in South Carolina: Property Owners' Association		
3. Location of registered office of the corporation in the state of South Carolina is 211 King Street, Suite 300 , the city of Charleston . Registered agent at such address is John Darby		
4. Location of principal office in South Carolina (street, city and county): above address		
5. Date business commenced in South Carolina: Date of Incorporation _____ Telephone: 843-723-2615		
6. The corporation's books are in care of John Darby located at 211 King Street, Suite 300, Charleston, SC 29401		
7. Indicate date corporation closes its books: To Be Determined		
8. If a professional corporation are all shareholders, one-half of the directors (or individuals functioning as directors) and all officers (other than the secretary and treasurer) qualified to practice the professional services engaged in by the corporation?		
9. The names and business addresses of the directors (or individuals functioning as directors) and principal officers in the corporation are:		
Name	Business Address and Office	Title
Timothy Walter	211 King Street, Suite 300, Charleston, SC 29401	Director, President
J. Glenn Hollis	"	Director, Vice President
J. Patrick McDermott	"	Director, Secretary/Treasurer
10. The total number of authorized shares of capital stock limited by class and series, if any, within each class is as follows:		
Number of Shares	Class	Series
0	N/A	
11. The total number of issued and outstanding shares of capital stock limited by class and series, if any, within each class is as follows:		
Number of Shares	Class	Series
0	N/A	
1. Fee due with this report		+ 1. 25.00
2. Interest due		+ 2. _____
3. Penalty due		+ 3. _____
4. Total - Fee, Interest and Penalty (make remittance payable to SC Tax Commission)		+ 4. 25.00
AFFIDAVIT		
I, the undersigned, principal of the corporation for which this return is made, declare that this return including accompanying statements and schedules, has been examined by me and it is to the best of my knowledge and belief a true and complete return made in good faith.		
THIS RETURN PREPARED BY: Brian T. Karaghan DATE: August 23, 2002		
 Brian T. Karaghan, Principal		

BKD 417PG060

Exhibit "E"

By-Laws of the Association

Attached Hereto

Exhibit "E"

NPMD1205.15-RD-(DPK) 010010-00093

BYLAWS OF
BRISTOL CONDOMINIUM PROPERTY OWNERS' ASSOCIATION

ARTICLE I

NAME AND LOCATION

1.1 Name and Location. The name of the corporation is BRISTOL CONDOMINIUM PROPERTY OWNERS' ASSOCIATION, hereinafter referred to as the "Association." The principal office of the Association shall be located at the Project, or at such other place as may be designated by the Board.

ARTICLE II

DEFINITIONS

2.1 Incorporation. The definitions contained in the Master Deed are incorporated by reference herein.

(a) The Master Deed. "Master Deed" shall mean and refer to the Master Deed Of Bristol Horizontal Property Regime recorded in the Office of Register of Mesne Conveyances for Charleston County, South Carolina, and subsequent amendments thereto.

ARTICLE III

MEETING OF MEMBERS AND VOTING

3.1 Annual Meeting. The first meeting of the Members, whether an annual or a special meeting, shall be held on such day and at such time as the Board, upon majority vote, shall determine and which shall occur not more than twelve (12) months following the date of the close of the sale of the first Unit in the Regime. Subsequent annual meetings of the Members shall be held thereafter at an hour and place within thirty (30) days of the same month and day of such first meeting, as set by the Board.

3.2 Special Meetings. Special meetings of the Members shall be promptly scheduled at any time by the Board upon vote of a majority of the Board of Directors or upon written request of the President. A special meeting of the Members shall be called upon written demand delivered to the Secretary by the Members representing five percent (5%) of the total voting power of the Association, notice of which shall be by written notice to all Members within thirty (30) days of the Secretary's receipt of the demand. For purposes of determining the five percent (5%), the record date shall be thirty (30) days before delivery of the written demand. Upon the failure of the Association to send notice of a special meeting within thirty (30) days following delivery of written demand as aforesaid, any Member signing the demand may set the time and place of the special meeting and give notice thereof to all Members in accordance with the Nonprofit Corporation Act.

3.3 Notice and Place of Meetings. Unless otherwise provided in the Master Deed, the Articles of Incorporation, in these By-Laws, or in the Nonprofit Corporation Act, written notice of each meeting of the Members, annual or special, shall be given by, or at the direction of, the Secretary, by mailing a copy of such notice, first class mail, postage prepaid, at least thirty (30) but not more than sixty (60) days before such meeting to each Member, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. In the case of written demand of Members representing five percent of the total voting power of the (5%) Association, written notice of such meeting shall be given not more than thirty (30) days after written demand is delivered to the Association. Such notice shall

specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting, and shall provide for voting by proxy. If action is proposed to be taken at any meeting for approval for any of the following proposals, the notice shall also state the general nature of the proposal: (a) removing a Director without cause; (b) filling vacancies in the Board of Directors by the Members; or (c) amending the Articles of Incorporation. Meetings shall be held within the Project or at a meeting place within the same county, as close to the Project as possible.

Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, either before or after the meeting. The waiver must be delivered to the Association for inclusion in the minutes or filing with the corporate records. Attendance of a Member at a meeting, in person or by proxy, shall of itself constitute waiver of notice, except when the Member attends a meeting solely for the purpose of stating his objection, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is not lawfully called or convened. Objection by a Member shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

3.4 Quorum. Unless otherwise provided herein, in the Master Deed, the Articles of Incorporation, or the Nonprofit Corporation Act, the presence of Members representing one-third (a) of the votes of all Members, in person or by proxy, shall constitute a quorum for the transaction of business. The Members present at a duly called or held meeting at which a quorum of one-third (a) of the votes of all Members is present may continue to do business until adjournment, notwithstanding the withdrawal from the meeting of enough Members to leave less than such required quorum, provided that Members representing twenty percent (20%) of the total votes of the Association remain present in person and/or by proxy, and provided further that any action taken shall be approved by a majority of the Members required to constitute such quorum. If the required quorum is not present, another meeting may be called, not less than ten (10) nor more than sixty (60) days following the first meeting, and the required quorum at the subsequent meeting shall be the Members present, in person or by proxy, and entitled to vote. Unless otherwise provided, any reference hereafter to "votes cast" at a duly called meeting shall be construed to be subject to the quorum requirements established by this Section 3.4. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed in Section 3.3.

3.5 Ballots and Representative Voting.

(a) Written Ballots. Any vote of Members on a matter that would be cast at an annual, regular or special meeting may be taken, without a meeting, by written ballot delivered to every Member by the Association. The ballot shall set forth the matter to be voted upon and provide thereon a place to vote for or against such matter. Approval by written ballot without a meeting shall be effective only when the number of votes cast by ballot equals or exceeds the quorum required to be present had the matter been considered at a meeting, and the number voting for the matter equals or exceeds the number of votes required to approve it had the matter been considered at a meeting at which the requisite quorum is present. A solicitation of votes by ballot shall (1) indicate the record date for Members eligible to vote; (2) indicate the number of returned ballots voting for or against the matter that is required to satisfy the quorum requirement; (3) state the required number of votes or percentage voting in favor of the matter required to approve it (except in the case of election of directors, which shall be by plurality); and (4) state the date and time by which a Member's completed ballot must be received by the Secretary in order to be counted in the vote to be taken. A ballot, once delivered to the Secretary, may not be revoked. A Member's signed ballot shall be delivered to the Secretary by hand delivery, by U.S. mail, or by such other means as shall be permitted under South Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

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(b) Proxies. All of the provisions of this Section 3.5(b) are subject to the Master Deed. To the extent that a provision set forth in this Section is inconsistent with the Master Deed, the provisions of the Master Deed shall control. At all meetings of Members, each Member may vote in person or by proxy. The appointment form of proxy shall be in writing and received by the Secretary before the appointed time of the meeting. Every proxy appointment shall automatically cease upon conveyance by the Member of his Unit, or upon receipt of written notice by the Secretary of the death or judicially declared incompetence of a Member prior to the counting of the vote, upon revocation of the appointment of the proxy in accordance with the Nonprofit Corporation Act, or upon the expiration of eleven (11) months from the date of the proxy. Unless the proxy appointment form otherwise states, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. Any proxy appointment form distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon set forth in the notice of the meeting. The appointment shall provide that, where the Member specifies a choice, the vote shall be cast by the proxy in accordance with that choice. The form shall also identify the person or persons acting as the proxy and the length of time it will be valid. In addition, voting by a proxy shall comply with any other applicable requirements of the Nonprofit Corporation Act. The Member's signed proxy appointment form shall be delivered to the Secretary by hand delivery, by U.S. mail, and by such other means as shall be permitted under South Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

3.6 Membership and Voting. The Association shall have two (2) classes of voting membership:

Type A: The Type A Members shall be all Owners, including the Developer (as defined in the Master Deed) and shall be entitled to one (1) vote for each Unit owned. When more than one (1) person holds an interest in any Unit, all such persons shall be Members. The vote for such Unit shall be exercised as they among themselves determine as provided in the Master Deed, but in no event shall more than one (1) vote be cast with respect to any Unit.

Type B: The Type B Member shall be the Developer whose voting rights shall be three (3) votes for each vote held by Type A Members, plus one (1) vote. The Type B membership shall cease upon the first of the following dates:

- (a) December 31, 2008;
- (b) three (3) months following the date on which the Developer has conveyed forty-nine (49) Units to Owners in the ordinary course of its business; or
- (c) three (3) months following the date the Developer surrenders the authority to appoint and remove Directors and officers of the Association by an express amendment to the Master Deed executed and filed in the Office of Register of Mesne Conveyances for Charleston County, South Carolina by the Developer.

Except as otherwise provided in the Master Deed, the Articles of Incorporation, these By-Laws, or the Nonprofit Corporation Act, any action by the Association which must have the approval of the Members before being undertaken shall require voting approval by a majority of the votes cast by Members at which the required quorum is present. An abstention shall be counted as a negative vote in calculating the majority. Members are divided into Type A and Type B Members for the sole purpose of computing voting rights and shall not vote as a class. Owners of Units in all phases shall have the same voting rights.

specify those matters the Board intends to present for action by the Members, but, except as otherwise provided by law, any proper matter may be presented at the meeting for action. Members of the Association shall have access to Association records in accordance with the Nonprofit Corporation Act. Any Member of the Association may attend meetings of the Board, except when the Board adjourns to executive session to consider litigation, matters that relate to the formulation of contracts with third parties, or personnel matters. Any matter discussed in executive session shall be generally noted in the minutes of the Board. In any matter relating to the discipline of an Association Member, the Board shall meet in executive session if requested by that Member, and the Member shall be entitled to attend the executive session.

ARTICLE IV

BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

4.1 Number. A Board of Directors, all directors of which must be Members of the Association, or an officer, director, employee or agent of a Member, including Developer, shall manage the affairs of the Association. The initial Board of Directors shall consist of three (3) Directors who shall be appointed by the Developer. The Developer shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association pursuant to the Master Deed until the expiration of the Transition Period. Within sixty (60) days after the expiration of the Transition Period, the Members shall elect five (5) Directors. The Association shall either call, and give not less than thirty (30) days' and not more than sixty (60) days' notice of, such special meeting of the Members to elect the Board of Directors, or the date on which the Association shall count the written ballots distributed to the Members with such notice or the election of the Board of Directors. Each year thereafter, the Members shall elect such number of Directors as shall exist whose terms are expiring.

4.2 Term of Office. The election of Directors shall be by plurality, the number of nominees equal to the number of vacancies to be filled receiving the greatest number of votes being elected. However, at the meeting of the Association following expiration of the Transition Period held to elect five (5) Directors or the date following expiration of the Transition Period when written ballots are to be counted for the election of such Directors pursuant to Section 4.1, the two (2) nominees receiving the highest number of votes will each be elected for a term of two (2) years, and the next three (3) nominees receiving the highest number of votes will each be elected for a term of one (1) year. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve for a term of two (2) years. Unless vacated sooner, each Director shall hold office until the Director's term expires and a successor is elected.

4.3 Removal; Vacancies. A Director appointed by the Developer may only be removed by the Developer, otherwise, a Director may be removed from office, with or without cause, at any regular or special meeting of the Members by sixty-seven percent (67%) of the votes of the Members voting in person or by proxy at a meeting at which a quorum is present. A successor to any removed Director may be elected at the same meeting at which the vacancy is created by the removal of the Director. A Director whose removal is proposed to be voted upon at any meeting shall be given notice of the proposed removal not less than 10 days prior to the date of the meeting and shall be given an opportunity to be heard at the meeting. In the event of death or resignation of a Director, the vacancy shall be filled by majority vote of the Board at a duly held meeting, or by the sole remaining Director. A successor Director shall serve for the unexpired term of his or her predecessor. The Members may elect a Director at any time to fill any vacancy not filled by the Directors.

4.4 Compensation. No Director shall receive compensation for any service rendered to the Association. However, any Director may be reimbursed for his actual expenses, if reasonable, that are incurred in the performance of his or her duties, including, but not limited to, travel expenses.

4.5 Indemnification of Corporate Agents. The Association shall indemnify any present or former Director, officer, employee or other agent of the Association to the fullest extent authorized under the Nonprofit

Corporation Act, or any successor statute, and may advance to any such person funds to pay expenses that may be incurred in defending any action or proceeding on receipt of an undertaking by or on behalf of such person to repay such amount unless it is ultimately determined that such person was not entitled to indemnification under this provision.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

5.1 Nomination. The Board shall make nomination for election to the Board of Directors from the membership, and if the election is to take place at a meeting and not solely by written ballot, nominations may also be made from the floor at the meeting. The Board shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. All candidates shall have reasonable opportunity to communicate their qualifications to Members and to solicit votes.

5.2 Election. The first election of the Board shall be conducted as set forth in Section 4.1. At such election the Members or their proxies may cast as many votes as they are entitled to exercise under the provisions of the Master Deed. The persons receiving the largest number of votes shall be elected. No cumulative voting shall be permitted. Voting for Directors at a meeting shall be by secret written ballot. Voting for Directors may also be conducted by written ballot pursuant to Section 3.5(a).

ARTICLE VI

MEETINGS OF DIRECTORS

6.1 Regular Meetings. Regular meetings of the Board of Directors shall be held at least annually at such place within the Project, and at such hour as may be fixed from time to time by resolution of the Board. If a larger meeting room is required than exists with the Project, the Board shall select a room as close as possible to the Project. Should a regularly scheduled meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday, excluding Saturday and Sunday.

6.2 Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President or Secretary of the Association, or by any two (2) Directors. Notice of the special meeting shall specify the time and place of the meeting and the nature of the special business to be considered.

6.3 Quorum. A majority of the Directors then in office (but not less than two (2)) shall constitute a quorum for the transaction of business. Every act performed or decisions made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by a majority of the required quorum for that meeting.

6.4 Executive Session. The Board may, with approval of a majority of the Directors present at a meeting in which a quorum for the transaction of business has been established, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel and matters involving contracts of which the Association is a party, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

6.5 Telephone Meetings. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, so long as all Directors participating in the meeting can hear one another, and

all such Directors shall be deemed to be present in person at such meeting. An explanation of the action shall be filed with the minutes of the proceedings of the Board.

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

6.7 Notice of Adjourned Meeting. Notice of the time and place of holding an adjourned meeting need not be given, unless the meeting is adjourned for more than twenty-four (24) hours, in which case personal notice of the time and place shall be given before the time of the adjourned meeting to the Directors who were not present at the time of the adjournment.

6.8 Action Without Meeting. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

6.9 Notices Generally. Notice of any meeting of the Board of Directors, whether regular or special, shall be given to each Director by one (1) of the following methods; (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the Director or to a person at the Director's office who would reasonably be expected to communicate such notice promptly to the Director; (d) by telegram, charges prepaid; or (e) by facsimile transmission to the fax number of the Directors or to e-mail address of the Directors, with proof of transmission and receipt thereof being retained in the minutes of the meeting. All such notices shall be given or sent to the Director's address, telephone number, fax number or e-mail address as shown on the records of the Association. Such notice shall be sent to all Directors not less than seventy-two (72) hours prior to the scheduled time of the meeting, provided, however, notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, telegraph, facsimile transmission or e-mail shall be delivered, telephoned, given to the telegraph company, faxed or e-mailed, as the case may be, at least seventy-two (72) hours before the time set for the meeting. Notice of any meeting need not be given to any Director who has signed a waiver of notice or written consent to holding of the meeting.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

7.1 Duties. It shall be the duty of the Board of Directors to:

- A. Maintenance: Perform the maintenance described in the Master Deed;
- B. Insurance: Maintain insurance as required by the Master Deed;
- C. Discharge of Liens: Discharge by payment, if necessary, any lien against the Common Area and assess the cost thereof to the Member or Members responsible for the existence of the lien (after notice and hearing as required by these Bylaws);
- D. Assessments: Fix, levy, collect and enforce Assessments as set forth in the Master Deed;

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E. Expenses and Obligations: Pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

F. Records: Cause to be kept a complete record of all its acts and affairs and to present a statement thereof to the Members at the annual meeting of the Members, at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class "A" Members; keep adequate and correct books and records of account, minutes of proceedings of its Members, Board and committees, and a record of its Members giving their names and addresses and classes of membership;

G. Supervision: Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

H. Enforcement: Enforce these Bylaws and the Master Deed;

I. Review of Financial Records: Review on at least a quarterly basis a current reconciliation of the Association's operating and reserve accounts, the current year's actual reserve revenues and expenses compared to the current year's budget, and an income and expense statement for the Association's operating and reserve accounts. In addition, the Board shall review the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts. For purposes herein, "reserve accounts" shall mean monies that the Association's Board has identified for use to defray the future repair or replacement of, or additions to, these major components that the Association is obligated to maintain.

J. Reserve Account Withdrawal Restrictions: Require that at least two (2) signature is needed for the withdrawal of monies for the Association's reserve accounts, at least one (1) of whom shall be a member of the Board. One (1) signature may be that of the Association's manager or such manager's designee.

K. Reserve Account Fund Management: The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established.

L. Reserve Studies: At least every five (5) years the Board shall cause an independent analysis of the reserve component of the operating budget to be conducted to confirm that component replacement costs and useful lives are accurately reflected in the reserve allocation.

7.2 Powers. The Board of Directors shall have power to:

A. Manager: Employ a manager as provided in the Master Deed;

B. Adoption of Rules; Set Aside Common Area Parking for Handicap: Adopt rules in accordance with the Master Deed, including rules setting aside Common Area parking spaces as handicap parking only, and adopt rules limiting the number of cars which will be permitted to be parked in the Common Area parking spaces;

C. Assessments, Liens and Fines: Levy and collect Assessments and impose fines as provided in the Master Deed.

D. Enforcement (Notice and Hearing): Enforce these Bylaws and/or the Master Deed, provided that at least fifteen (15) days' prior notice of any charges (other than Assessment) or potential discipline or fine and the reasons therefor are given to the Member affected, and that an opportunity is provided for the Member to be heard, orally or in writing not less than five (5) days before the effective date of the discipline or

fine, said hearing to be before the Board. Any notice required herein shall be given by any method reasonably calculated to provide actual notice. Any notice given by mail shall be given by first class or registered mail sent to the last address of the Member as shown on the Association's records.

E. Contracts: Contract for goods and/or services in accordance with the Master Deed.

F. Delegation: Delegate its authority and powers to committees, officers or employees of the Association or to a manager employed by the Association. The Board may not delegate the authority to procure insurance, make capital expenditures for additions or improvements chargeable against the reserve funds; to conduct hearings concerning compliance by an Owner or his tenant, lessee, guest or invitee with the Master Deed or rules and regulation promulgated by the Board, or to make a decision to levy monetary fines, impose special Assessments against individual Units, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline following any such hearing; to make a decision to levy Annual or Special Assessments; or to make a decision to bring suit, record a claim of lien, or institute foreclosure proceedings for default in payment of Assessments. Any such delegation shall be revocable by the Board at any time. The members of the Board, individually or collectively, shall not be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated by written instrument executed by a majority of the Board.

G. Appointment of Trustee: Appoint a trustee as provided in the Master Deed.

H. Borrowings: Borrow money (i) for the purpose of improving the Regime, or any portion thereof, (ii) for constructing, repairing, maintaining or improving any facilities located or to be located within the Regime, (iii) for providing services authorized herein, and, (iv) to give as security for the payment of any such loan a mortgage or other security instrument conveying all or any portion of the Common Areas; provided, however, that the lien and encumbrance of any such security instrument given by the Association will be subject and subordinate to any and all rights, interest, options, licenses, easements, and privileges herein reserved or established for the benefit of Developer, any Owner, or the holder of any Mortgage, irrespective of when such Mortgage is executed or given.

I. Other Powers: In addition to any other power contained herein or in the Master Deed, the Association may exercise the powers granted to a nonprofit mutual benefit corporation as enumerated in the Nonprofit Corporation Act.

7.3 Prohibited Acts. The Board shall not take any of actions prohibited of it under the Master Deed except with the vote or written consent of a majority of the Members other than Developer.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

8.1 Enumeration of Officers. The officers of this Association shall be a President and Secretary, who shall at all times be members of the Board of Directors, a Vice President, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

8.2 Election of Officers. The Developer shall have the sole right to appoint and remove officers during the Transition Period. Thereafter, all officers shall hold office at the pleasure of the Board.

8.3 Term. The Board shall elect the officers of this Association annually and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

8.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

8.5 Resignation and Removal. Any officer may be removed from office (but not from the Board, if the officer is also a Board member) by the Board with or without cause. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

8.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

8.7 Duties. The duties of the officers are as follows:

A. President. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall sign all promissory notes. The President shall have the general powers and duties of management usually vested in the office of the President of a South Carolina nonprofit mutual benefit corporation, and shall have such powers and duties as may be prescribed by the Board or by these Bylaws.

B. Vice President. The Vice President shall act in the place of the President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

C. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with the addresses, and shall perform such other duties as required by the Board. The ministerial functions of the Secretary in recording votes, keeping minutes, sending notices, and keeping the records of names and addresses of Members may be delegated to an Association manager.

D. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all promissory notes of the Association; shall keep proper books of account; and shall prepare and shall distribute budgets and statements. The ministerial functions of the Treasurer in sending Assessment notices, receiving and depositing Assessments, keeping books and ledgers of account, and preparing and distributing budgets and statements may be delegated to an Association manager.

ARTICLE IX

COMMITTEES

9.1 Appointment. An Architectural Review Committee may be appointed as provided in the Master Deed. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purpose. No committee, regardless of Board resolution, may: (a) take any final action on matters which, under the Nonprofit Corporation Act also requires Members' approval; (b) fill vacancies on the Board of Directors or in any committee; (c) amend or repeal Bylaws or adopt new Bylaws; (d) amend or repeal any resolution of the Board of Directors; (e) appoint any other committees of the Board of Directors or the members of those committees; (f) approve any transaction to which the Association is a party and in which one (1) or more Directors have a material financial interest.

ARTICLE X

BOOKS AND RECORDS

10.1 Inspection by Members. The membership register (including names, mailing addresses, telephone numbers and voting rights), books of account and minutes of meetings of the Members, of the Board (including drafts and summaries), and of committees shall be made available for inspection and copying by any Member of the Association, or by his duly appointed representative, at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association or at such other place within the Project as the Board shall prescribe. Board minutes shall be available to Members within thirty (30) days of the meeting, and shall be distributed to any Member upon request and upon reimbursement of the costs in making that distribution.

10.2 Rules for Inspection. The Board shall establish reasonable rules with respect to:

- A. Notice to be given to the custodian of the records by the Member desiring to make the inspection;
- B. Hours and days of the week when such an inspection may be made;
- C. Payment of the cost of reproducing copies of documents requested by a Member.

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

10.4 Documents Provided by Board. Upon written request, the Board shall, within ten (10) days of the mailing or delivery of such request, provide an Owner with a copy of the governing documents of the Regime, a copy of the most recent budget and statements of the Association, and a true statement in writing from an authorized representative of the Association as to the amount of the Association's current Annual and Special Assessments and fees, as well as any Assessments levied upon the Owner's interest which, as of the date of the statement, are or may be made a lien upon the Owner's Unit. The Board may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

ARTICLE XI

MISCELLANEOUS

11.1 Amendments. Prior to close of the sale of the first Unit, Developer may amend these Bylaws. After sale of the first Unit these Bylaws may be amended, only as provided in the Master Deed or in the Nonprofit Corporation Act.

11.2 Conflicts. In the case of any conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Master Deed and these Bylaws, the Master Deed shall control.

11.3 Fiscal Year. Unless directed otherwise by the Board, the fiscal year of the Association shall begin on the first day of January and end on the thirty-first (31st) day of December of every year, except that the first fiscal year shall begin on the date of Incorporation.

Exhibit "F"
Alternative Dispute Resolution Procedures

1. Mandatory Procedures for Non-Exempt Claims. Any Claimant with a Claim against a Respondent shall comply with the following procedures.

1.1 Notice. Within a reasonable time after the Claim in question has arisen, and in each event prior to the date when institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitation, Claimant will notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely:

(a) the nature of the Claim, including applicable date, time, location, Persons involved, Respondent's role in the Claim and the provisions of the Regime Documents or other authority out of which the Claim arises;

(b) what Claimant wants Respondent to do or not do to resolve the Claim; and

(c) that Claimant wishes to resolve the Claim by mutual agreement with Respondent and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss, in good faith, ways to resolve the Claim.

1.2 Negotiation.

(a) Each Claimant and Respondent (the "Parties") will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation, not later than 30 days following the Notice, unless otherwise agreed by the Parties.

(b) Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint an attorney licensed to practice law in the State of South Carolina to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes his or her efforts will be beneficial to the Parties. Such an attorney will have been actively engaged in the practice of law for at least fifteen (15) years, specializing in commercial transactions with substantial experience in planned real estate developments and will not have a conflict of interest with any of the Parties.

1.3 Final and Binding Arbitration.

(a) If the Parties do not resolve the Claim through negotiation within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiation"), a Claimant will have 30 days within which to submit the Claim to binding arbitration under the auspices and the Commercial Arbitration Rules of the American Arbitration Association; and in accordance with the substantive and procedural laws of the state of South Carolina, except as said rules, procedures and substantive laws are applied otherwise as follows:

(i) Unless the parties mutually set another date, within ten (10) days following Termination of Negotiation, Claimant and Respondent will jointly select one arbitrator, whose decision will be absolutely binding on all Parties; provided, however, if Claimant and Respondent are unable to jointly select one arbitrator within said ten (10) -day period, or on or before any later day set by them by which to select an arbitrator, the arbitrator will be selected in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration will be conducted in Charleston, South Carolina before a neutral person who is a member of the Bar of the State of South Carolina, who has been actively engaged in the practice of law for at least fifteen (15) years, specializing in commercial transactions with substantial experience in planned real estate developments, and who has no conflict of interest with any Party. The arbitrator may award any remedy or

(d) If the Claimant makes no written offer of settlement, the amount of the Claim made or asserted by the Claimant during the action is deemed to be such Claimant's final offer of settlement hereunder.

(e) If the Respondent makes no written offer of settlement, the final offer of settlement by the Respondent will be the amount asserted during the action to be due in satisfaction of the Claimant's claims, otherwise the Respondent's offer of settlement hereunder is deemed to be zero.

(f) If the respondent asserts a counterclaim, then offers of settlement shall take into consideration such counterclaim in the manner above provided. Furthermore, any Award shall also take into account such counterclaim.

(g) The Party(ies) whose offer, made or deemed made, is closer to the Award granted in the proceeding is considered the "Prevailing Party" hereunder. If the difference between Claimant's and Respondent's offers and the Award is equal, neither Claimant nor Respondent is considered to be the Prevailing Party for purposes of determining the award of fees, costs and expenses of arbitration.

3. Enforcement of Resolution. If the Parties agree to resolve any Claim through negotiation in accordance with Paragraph 1.2 and any Party thereafter fails to abide by the terms of the agreement reached through negotiation, or if, following arbitration, any Party thereafter fails to comply with the Award, then any other Party may file suit or initiate administrative proceedings to enforce the agreement or Award without the need to again comply with the procedures set forth in Section 16.3 of the Master Deed. In such event, the Party taking action to enforce the agreement or Award is entitled to recover from the noncomplying Party (or if more than one noncomplying Party, from all the Parties jointly and severally) all costs incurred in enforcing the agreement or Award, including, without limitation, attorney's fees and court costs.

relief that a court of the State of South Carolina could order or grant, including, without limitation, specific performance of any obligation created under the Regime Documents, or the issuance of an injunction, as well as the imposition of sanctions for abuse or frustration of the arbitration process; provided, however, the arbitrator will have no authority to award punitive damages or any other damages not measured by the actual damages of the "Prevailing Party," as said term is hereinafter defined, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the Regime Documents.

(b) In the event Claimant does not submit the Claim to binding arbitration as aforesaid, the Claim is deemed abandoned, and Respondent is released and discharged from any and all liability to Claimant arising out of the Claim; provided, nothing herein will release or discharge Respondent from any liability to a Person not a Party to the foregoing proceedings, or the mandatory requirements of this Paragraph 1.3 with respect to any subsequently arising new dispute or claim by the Claimant which is identical or similar to the Claim previously deemed abandoned under this Paragraph 1.3(b).

This Paragraph 1 is an agreement of the Bound Parties to arbitrate all Claims against Respondent, except Exempt Claims, and is specifically enforceable under South Carolina law. The arbitration award (the "Award") is final and binding on the Parties, and judgment upon the Award rendered by the arbitrator may be entered upon it in any court of competent jurisdiction.

2. Allocation of Costs of Resolving Claims.

2.1 Costs of Notice and Negotiation. Each Party will bear all of its own costs incurred prior to and during the proceedings described in Paragraphs 1.1 and 1.2, including the fees of its attorney or other representative. Claimant and Respondent will share equally the costs and expenses of any attorney appointed by the Board pursuant to Paragraph 1.2, whose compensation will be at a rate equal to his or her then current regular hourly billing rate, unless the Board is able to arrange with the Parties and the arbitrator to agree otherwise, and who will be entitled to receive his or her then customary costs and expenses.

2.2 Arbitration Costs. In the event the Claim proceeds to arbitration pursuant to Paragraph 1.3, the "Prevailing Party," as hereinafter defined, will receive from the non-Prevailing Party, all of its costs and expenses, including reasonable expert and attorney's fees, incurred from commencement of selection of the arbitrator under Paragraph 1.3 to the issuance of the Award. Furthermore, the non-Prevailing Party will pay all costs and expenses of the arbitration, including the costs and expenses of any attorney appointed by American Arbitration Association pursuant to Paragraph 1.3, whose compensation will be at a rate equal to his or her then current regular hourly billing rate, unless the American Arbitration Association is able to arrange with the Parties and the arbitrator to agree otherwise, and who will be entitled to receive his or her then customary costs and expenses. The "Prevailing Party" will be determined as follows:

(a) Not less than ten (10) days prior to the first day of the proceeding, a Party or Parties may file and serve on the other Party(ies) an offer of settlement, and within five (5) days thereafter the Party(ies) served may respond by filing and serving such Party(ies) its own offer of settlement. An offer of settlement will state that it is made under this paragraph and will specify the amount which the Party(ies) serving the settlement offer is/are willing to agree constitutes a settlement of all claims in dispute, including the Claim and all counterclaims.

(b) An offer of settlement is considered rejected by the recipient unless an acceptance, in writing, is served on the Party(ies) making the offer prior to the first day of the proceeding.

(c) If an offer of settlement is rejected, it may not be referred to for any purpose in the proceeding, but may be considered solely for the purpose of awarding fees, costs and expenses of the proceeding under Paragraph 1.3 and as provided in this paragraph.

BKD 417PG075

RECORDER'S PAGE

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the original document.



Recording

Fee 81.00

State —

Fee —

County —

Fee —

Postage —

TOTAL 81.00

A

William Jordan

C. J. J.

6/19

FILED

D417-001

2002 SEP -3 PM 4:37

CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

**PID VERIFIED
BY ASSESSOR**

REP JRR

DATE 9/12/02

RECEIVED FROM RMC

SEP 12 2002

PEGGY A. MOSELEY
CHARLESTON COUNTY AUDITOR

(843) 958-4800 2 Courthouse Square Charleston, SC 29401



BP0173669

RMC Bk 0173 Pg 669 : pg 1 *

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)

NOTICE OF LIEN

YOU WILL PLEASE TAKE NOTICE that Bristol Condominium Property Owners Association does hereby file the within Notice of Lien in connection with the unpaid assessments in the sum of \$ 23,229.16 (including \$10.00 in filing fees), plus interest and costs, plus any other assessments accruing after February 8, 2011, which amount is justly due and owed Bristol Condominium Property Owners Association and has not been paid, upon the premises described hereinbelow and carried on the records of the undersigned in the name of John T. Lucas, Sr., as Trustee of the John T. Lucas Revocable Trust dated November 10, 2004, and Carolyn C. Lucas as Trustee of the Carolyn C. Lucas Revocable Trust dated November 10, 2004.

The premises affected by the lien are described as follows:

Unit Number 313 also referred to as 3013 Old Bridgeview Lane, Charleston, SC 29403
~~The Bristol HPR~~

T.M.S. # 460-10-01-021

IN WITNESS WHEREOF, Bristol Condominium Property Owners Association has hereunto set its hand and seal this 10th day of February, 2011.

x *Harris Harris*
 Witness

Bristol Condominium Property Owners Association

By: *[Signature]*
 Its: Management Agent

[Signature]
 Witness

CHARLESTON\438603v1



STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PERSONALLY appeared before me the undersigned, who states that s/he saw the within
Bristol Condominium Property Owners Association, by its Management Agent,
LONA VEST, sign, seal and deliver the within Notice of Lien and that s/he with
the other witness witnessed the execution thereof.

Haven Harris

SWORN to before me this
16 day of February, 2011.

Charles
Notary Public for South Carolina
My Commission Expires: 12/09/13

RECORDER'S PAGE

SM

NOTE: This page MUST remain
with the original document



Filed By:

MOORE & VAN ALLEN

P.O. BOX 22828

CHARLESTON SC 29413

RECORDED		
Date:	February 24, 2011	
Time:	11:49:33 AM	
Book	Page	DocType
0173	669	Notice/Ln
Charlie Lybrand, Register Charleston County, SC		

MAKER:

LUCAS JOHN T SR TR AL

RECIPIENT:

BRISTOL CONDO POA

Original Book:

Original Page:

of Sats: # of Pages: 3
of References:

Note:

Recording Fee	\$ 10.00
Extra Reference Cost	\$ -
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 10.00

DRAWER Drawer 1
CLERK KLH



0173
Book



669
Page



02/24/2011
Recorded Date



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Pgs



Original Book



Original Page



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Lucas Account Summary
Prepared May 13, 2013

Last zero balance on the account was as of November 30, 2009

Date Billed	Regime Fee Billed	Capital Reserve Billed	Late Fees	Insurance Assmt Billed	Special Assessment Billed	Payment Received
Dec-09	\$778.15	\$111.85	\$44.41		\$2,111.66	
Jan-10	\$713.15	\$111.85	\$77.44		\$2,111.66	\$778.15
Feb-10	\$713.15	\$111.85	\$100.51		\$2,111.66	\$713.15
1-Mar	\$713.15	\$111.85	\$113.56	\$2,631.50		\$3,344.65
Apr-10	\$713.15	\$111.85	\$42.64		\$2,111.66	\$6,854.82
						\$713.15
May-10	\$713.15	\$111.85	\$78.19		\$2,111.66	\$713.15
Jun-10	\$713.15	\$111.85	\$109.87		\$2,111.66	\$713.15
Jul-10	\$713.15	\$111.85	\$145.84		\$2,111.66	\$825.00
Aug-10	\$713.15	\$111.85	\$181.72		\$2,111.66	\$713.15
Sep-10	\$713.15	\$111.85	\$209.36		\$2,111.66	\$713.15
Oct-10	\$713.15	\$111.85	\$235.25		\$2,111.66	\$713.15
Nov-10	\$713.15	\$111.85			\$2,111.66	\$713.15
Dec-10	\$713.15	\$111.85	\$219.84		\$2,111.66	\$5,000.00
						\$713.50
Jan-11	\$713.15	\$111.85	\$970.61		\$2,111.66	\$713.50
Feb-11	\$713.15	\$111.85	\$311.65		\$2,111.66	\$713.00
Mar-11	\$713.15	\$111.85	\$352.32		\$2,111.66	\$713.00
Apr-11	\$713.15	\$111.85	\$345.38	\$1,959.00		\$2,672.15
May-11	\$713.15	\$111.85	\$359.54		\$750.00	\$715.15
Jun-11	\$713.15	\$111.85	\$371.40		\$750.00	\$717.30
Jul-11	\$713.15	\$111.85	\$396.86		\$750.00	\$717.30
Aug-11	\$713.15	\$111.85	\$410.81		\$750.00	\$717.30
Sep-11	\$713.15	\$111.85	\$412.59		\$750.00	\$717.30
Oct-11	\$713.15	\$111.85	\$439.41		\$750.00	\$717.30
Nov-11	\$713.15	\$111.85	\$437.98		\$750.00	\$717.30
Dec-11	\$713.15	\$111.85	\$465.64		\$750.00	\$717.00
Jan-12	\$600.00	\$100.00	\$482.30		\$750.00	\$600.00

Feb-12	\$600.00	\$100.00	\$463.36		\$750.00	\$600.00
Mar-12	\$600.00	\$100.00	\$508.30		\$750.00	\$600.00
						\$2,095.00
Apr-12	\$600.00	\$100.00	\$504.57	\$2,095.48	\$750.00	\$600.00
May-12	\$600.00	\$100.00	\$523.20			\$600.00
Jun-12	\$600.00	\$100.00	\$507.90			\$600.00
Jul-12	\$600.00	\$100.00	\$526.26			\$600.00
Aug-12	\$600.00	\$100.00	\$527.79			\$600.00
Sep-12	\$600.00	\$100.00	\$536.38		\$1,680.00	\$600.00
Oct-12	\$600.00	\$100.00	\$530.84			\$1,680.00
						\$600.00
Nov-12	\$600.00	\$100.00				\$600.00
Dec-12	\$600.00	\$100.00	\$520.74			\$600.00
Jan-13	\$600.00	\$100.00	\$55.52			\$600.00
Feb-13	\$600.00	\$100.00	\$542.49			\$600.00
Mar-13	\$600.00	\$100.00	\$527.44	\$2,041.00		\$600.00
						\$2,041.00
Apr-13	\$600.00	\$100.00	\$514.17			\$600.00
May-13	\$600.00	\$100.00				
TOTAL	\$28,093.75	\$4,496.25	\$14,104.08	\$8,726.98	\$42,354.90	\$49,184.92

97 775.96

= 48,391.01

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05/13/13

Accrual Basis

Bristol Condominium Property Owners Association
Custom Transaction Detail Report
 All Transactions

Type	Date	Num	Name	Memo	Split	Amount	Balance
Invoice	1/31/2007	31	3013-John & Carolyn Lucas		3000 - Oponin...	50.00	50.00
Invoice	2/1/2007	61	3013-John & Carolyn Lucas		41100 - Regl...	790.00	840.00
Invoice	3/1/2007	115	3013-John & Carolyn Lucas		41100 - Regl...	790.00	1,630.00
Invoice	3/1/2007	223	3013-John & Carolyn Lucas		41160 - Insura...	3,365.58	5,015.58
Payment	3/12/2007	1295	3013-John & Carolyn Lucas		12000 - Unde...	-12,865.58	-7,850.00
General Journal	3/31/2007	8-JA	3013-John & Carolyn Lucas	To reclass prepal...	2205 - Prepal...	7,850.00	0.00
Invoice	4/1/2007	277	3013-John & Carolyn Lucas		41100 - Regl...	790.00	790.00
General Journal	4/1/2007	8-JAR	3013-John & Carolyn Lucas	Reverse of GJE ...	2205 - Prepal...	-7,850.00	-7,060.00
General Journal	4/30/2007	29-JA	3013-John & Carolyn Lucas	Prepaid fees	2205 - Prepal...	7,060.00	0.00
Invoice	5/1/2007	382	3013-John & Carolyn Lucas		41100 - Regl...	790.00	790.00
General Journal	5/1/2007	29-JAR	3013-John & Carolyn Lucas	Reverse of GJE ...	2205 - Prepal...	-7,060.00	-6,270.00
General Journal	5/31/2007	47-JA	3013-John & Carolyn Lucas	Prepaid fees	2205 - Prepal...	6,270.00	0.00
Invoice	6/1/2007	440	3013-John & Carolyn Lucas		-SPLIT-	790.00	790.00
General Journal	6/1/2007	47-JAR	3013-John & Carolyn Lucas	Reverse of GJE ...	2205 - Prepal...	-6,270.00	-5,480.00
Payment	6/29/2007	1426	3013-John & Carolyn Lucas		12000 - Unde...	-1,896.00	-7,376.00
General Journal	6/30/2007	61-JA	3013-John & Carolyn Lucas	To reclass prepal...	2205 - Prepal...	5,480.00	-1,896.00
General Journal	6/30/2007	60-JA	3013-John & Carolyn Lucas	To reclass prepal...	2205 - Prepal...	1,896.00	0.00
Invoice	7/1/2007	518	3013-John & Carolyn Lucas		-SPLIT-	790.00	790.00
General Journal	7/1/2007	61-JAR	3013-John & Carolyn Lucas	Reverse of GJE ...	2205 - Prepal...	-5,480.00	-4,690.00
General Journal	7/1/2007	60-JAR	3013-John & Carolyn Lucas	Reverse of GJE ...	2205 - Prepal...	-1,896.00	-6,586.00
Invoice	7/1/2007	698	3013-John & Carolyn Lucas		41103 - Specd...	1,896.00	-4,690.00
Invoice	8/1/2007	829	3013-John & Carolyn Lucas		-SPLIT-	790.00	-3,900.00
Invoice	9/1/2007	708	3013-John & Carolyn Lucas		-SPLIT-	790.00	-3,110.00
Invoice	10/1/2007	785	3013-John & Carolyn Lucas		-SPLIT-	790.00	-2,320.00
Invoice	11/1/2007	861	3013-John & Carolyn Lucas		-SPLIT-	790.00	-1,530.00
Invoice	12/1/2007	937	3013-John & Carolyn Lucas		-SPLIT-	790.00	-740.00
Invoice	1/1/2008	1067	3013-John & Carolyn Lucas		-SPLIT-	890.00	150.00
Payment	1/11/2008	1646	3013-John & Carolyn Lucas		12000 - Unde...	-150.00	0.00
Invoice	2/1/2008	1143	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	2/11/2008	1670	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	3/1/2008	1219	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	3/12/2008	1296	3013-John & Carolyn Lucas		41160 - Insura...	3,169.58	4,059.58
Payment	3/17/2008	1714	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	3,169.58
Payment	4/1/2008	1724	3013-John & Carolyn Lucas		-SPLIT-	-3,169.58	0.00
Invoice	4/10/2008	1350	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	4/10/2008	1761	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	5/1/2008	1428	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	5/9/2008	1779	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	6/1/2008	1602	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	6/9/2008	1820	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	7/1/2008	1678	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	7/9/2008	1802	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	8/1/2008	1854	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	8/11/2008	1905	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	9/1/2008	1731	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	9/16/2008	1949	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	10/1/2008	1807	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	10/8/2008	1971	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	11/1/2008	1884	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	11/12/2008	2015	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	12/1/2008	1969	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	12/8/2008	2058	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	1/1/2009	2035	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	1/12/2009	2108	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	2/1/2009	2111	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	2/11/2009	2151	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	3/1/2009	2186	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	3/1/2009	2261	3013-John & Carolyn Lucas		41160 - Insura...	2,631.58	3,721.58
Payment	3/9/2009	2182	3013-John & Carolyn Lucas		12000 - Unde...	-3,721.58	0.00
Invoice	4/1/2009	2310	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	4/9/2009	2219	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	5/1/2009	2395	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
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Invoice	6/1/2009	47	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	6/8/2009	2293	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	7/1/2009	121	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	7/10/2009	2329	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	8/1/2009	195	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	8/10/2009	2369	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	9/1/2009	269	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	9/8/2009	2407	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	10/1/2009	343	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	10/8/2009	2448	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	11/1/2009	419	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Payment	11/11/2009	2489	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Invoice	12/1/2009	491	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	12/1/2009	563	3013-John & Carolyn Lucas		41103 - Specd...	2,111.58	3,001.58

Page 1

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05/13/13

Accrual Basis

Bristol Condominium Property Owners Association
Custom Transaction Detail Report
 All Transactions

Type	Date	Num	Name	Memo	Split	Amount	Balance
Invoice	12/31/2009	FC 287	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	44.41	3,046.07
Invoice	1/1/2010	620	3013-John & Carolyn Lucas		-SPLIT-	825.00	3,871.07
Invoice	1/1/2010	670	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	5,982.73
Payment	1/12/2010	2563	3013-John & Carolyn Lucas		12000 - Unde...	-778.15	5,204.58
Invoice	1/31/2010	FC 342	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	77.44	5,282.02
Invoice	2/1/2010	737	3013-John & Carolyn Lucas		-SPLIT-	825.00	6,107.02
Invoice	2/1/2010	787	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	8,218.68
Payment	2/8/2010	2594	3013-John & Carolyn Lucas		12000 - Unde...	-713.15	7,505.53
Invoice	2/28/2010	FC 379	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	100.61	7,606.04
Invoice	3/1/2010	854	3013-John & Carolyn Lucas		-SPLIT-	825.00	8,431.04
Invoice	3/1/2010	971	3013-John & Carolyn Lucas		41100 - Insura...	2,831.50	11,062.54
Payment	3/11/2010	2832	3013-John & Carolyn Lucas		12000 - Unde...	-3,344.85	7,717.69
Invoice	3/31/2010	FC 418	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	113.55	7,831.45
Invoice	4/1/2010	1030	3013-John & Carolyn Lucas		-SPLIT-	825.00	8,656.45
Invoice	4/1/2010	1079	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	10,768.11
Payment	4/7/2010		3013-John & Carolyn Lucas		12000 - Unde...	-6,864.82	3,913.29
Payment	4/12/2010	2887	3013-John & Carolyn Lucas		12000 - Unde...	-713.15	3,200.14
Invoice	4/30/2010	FC 438	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	42.64	3,242.78
Invoice	5/1/2010	1143	3013-John & Carolyn Lucas		-SPLIT-	825.00	4,067.78
Invoice	5/1/2010	1191	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	6,179.44
Payment	5/10/2010	2698	3013-John & Carolyn Lucas		12000 - Unde...	-713.15	6,466.29
Invoice	5/31/2010	FC 467	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	78.19	5,544.48
Invoice	6/1/2010	1256	3013-John & Carolyn Lucas		-SPLIT-	825.00	6,369.48
Invoice	6/1/2010	1304	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	8,481.14
Payment	6/10/2010	2726	3013-John & Carolyn Lucas		12000 - Unde...	-713.15	7,767.99
Invoice	6/30/2010	FC 480	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	108.87	7,677.88
Invoice	7/1/2010	1368	3013-John & Carolyn Lucas		-SPLIT-	825.00	8,702.88
Invoice	7/1/2010	1416	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	10,814.62
Payment	7/12/2010	2769	3013-John & Carolyn Lucas		12000 - Unde...	-825.00	9,989.62
Invoice	7/31/2010	FC 533	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	145.84	10,135.36
Invoice	8/1/2010	1481	3013-John & Carolyn Lucas		-SPLIT-	825.00	10,960.36
Invoice	8/1/2010	1529	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	13,072.02
Payment	8/8/2010	2798	3013-John & Carolyn Lucas		12000 - Unde...	-713.15	12,358.87
Invoice	8/31/2010	FC 559	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	181.72	12,540.69
Invoice	9/1/2010	1582	3013-John & Carolyn Lucas		-SPLIT-	825.00	13,365.69
Invoice	9/1/2010	1640	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	15,477.25
Payment	9/13/2010	2833	3013-John & Carolyn Lucas		12000 - Unde...	-713.15	14,764.10
Invoice	9/30/2010	FC 577	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	209.39	14,973.48
Invoice	10/1/2010	1703	3013-John & Carolyn Lucas		-SPLIT-	825.00	15,798.48
Invoice	10/1/2010	1750	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	17,910.12
Payment	10/11/2010	2863	3013-John & Carolyn Lucas		12000 - Unde...	-713.15	17,196.97
Invoice	10/29/2010	FC 640	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	236.25	17,432.22
Invoice	11/1/2010	1810	3013-John & Carolyn Lucas		-SPLIT-	825.00	18,257.22
Invoice	11/1/2010	1839	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	20,368.88
Payment	11/15/2010	2811	3013-John & Carolyn Lucas		12000 - Unde...	-713.15	19,655.73
Invoice	12/1/2010	1884	3013-John & Carolyn Lucas		-SPLIT-	825.00	20,480.73
Invoice	12/1/2010	1976	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	22,592.39
Invoice	12/1/2010	FC	3013-John & Carolyn Lucas		41170 - Late ...	219.84	22,812.23
Payment	12/2/2010	1887	3013-John & Carolyn Lucas		12000 - Unde...	-5,000.00	17,812.23
Payment	12/17/2010	2952	3013-John & Carolyn Lucas		12000 - Unde...	-713.60	17,098.73
Invoice	1/1/2011	2024	3013-John & Carolyn Lucas		-SPLIT-	825.00	17,923.73
Invoice	1/1/2011	2071	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	20,035.39
Payment	1/14/2011	2882	3013-John & Carolyn Lucas		12000 - Unde...	-713.60	19,321.69
Invoice	1/31/2011	FC 680	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	970.01	20,292.50
Invoice	2/1/2011	2130	3013-John & Carolyn Lucas		-SPLIT-	825.00	21,117.50
Invoice	2/1/2011	2177	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	23,229.16
Payment	2/9/2011	3006	3013-John & Carolyn Lucas		12000 - Unde...	-713.00	22,516.16
Invoice	2/28/2011	FC 702	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	311.65	22,827.81
Invoice	3/1/2011	2236	3013-John & Carolyn Lucas		-SPLIT-	825.00	23,652.01
Invoice	3/1/2011	2283	3013-John & Carolyn Lucas		41103 - Spec...	2,111.66	25,764.47
Payment	3/11/2011	3034	3013-John & Carolyn Lucas		12000 - Unde...	-713.00	25,051.47
Invoice	3/31/2011	FC 765	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	352.32	25,403.79
Invoice	4/1/2011	2342	3013-John & Carolyn Lucas		-SPLIT-	825.00	26,228.79
Invoice	4/1/2011	2447	3013-John & Carolyn Lucas		41160 - Insura...	1,959.00	28,187.79
Payment	4/11/2011	3089	3013-John & Carolyn Lucas		12000 - Unde...	-2,672.15	25,515.64
Invoice	4/30/2011	FC 810	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	345.38	25,861.02
Invoice	5/1/2011	2502	3013-John & Carolyn Lucas		-SPLIT-	825.00	26,686.02
Invoice	5/1/2011	29	3013-John & Carolyn Lucas		41103 - Spec...	750.00	27,436.02
Payment	5/13/2011	3111	3013-John & Carolyn Lucas		12000 - Unde...	-715.15	26,720.87
Invoice	5/31/2011	FC 861	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	359.64	27,080.41
Invoice	6/1/2011	2574	3013-John & Carolyn Lucas		-SPLIT-	825.00	27,905.41
Invoice	6/1/2011	88	3013-John & Carolyn Lucas		41103 - Spec...	750.00	28,655.41
Payment	6/8/2011	3140	3013-John & Carolyn Lucas		12000 - Unde...	-717.30	27,938.11
Invoice	6/30/2011	FC 900	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	371.40	28,309.61
Invoice	7/1/2011	2645	3013-John & Carolyn Lucas		-SPLIT-	825.00	29,134.61
Invoice	7/1/2011	118	3013-John & Carolyn Lucas		41103 - Spec...	750.00	29,884.61
Payment	7/11/2011		3013-John & Carolyn Lucas		12000 - Unde...	-717.30	29,167.21
Invoice	7/31/2011	FC 934	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	396.86	29,564.07

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06/13/13

Accrual Basis

Bristol Condominium Property Owners Association Custom Transaction Detail Report

All Transactions

Type	Date	Num	Name	Memo	Split	Amount	Balance
Invoice	8/1/2011	2714	3013-John & Carolyn Lucas		-SPLIT-	825.00	30,389.07
Invoice	8/1/2011	146	3013-John & Carolyn Lucas		41103 - Spec...	760.00	31,139.07
Payment	8/8/2011	3206	3013-John & Carolyn Lucas		12000 - Unde...	-717.30	30,421.77
Invoice	8/31/2011	FC 984	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	410.81	30,832.58
Invoice	9/1/2011	2783	3013-John & Carolyn Lucas		-SPLIT-	825.00	31,657.58
Invoice	9/1/2011	175	3013-John & Carolyn Lucas		41103 - Spec...	760.00	32,407.58
Payment	9/12/2011	3236	3013-John & Carolyn Lucas		12000 - Unde...	-717.30	31,890.28
Invoice	9/30/2011	FC 992	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	412.69	32,102.87
Invoice	10/1/2011	2854	3013-John & Carolyn Lucas		-SPLIT-	825.00	32,927.87
Invoice	10/1/2011	203	3013-John & Carolyn Lucas		41103 - Spec...	760.00	33,677.87
Payment	10/1/2011	3267	3013-John & Carolyn Lucas		12000 - Unde...	-717.30	32,960.57
Invoice	10/31/2011	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	439.41	33,399.98
Invoice	11/1/2011	2925	3013-John & Carolyn Lucas		-SPLIT-	825.00	34,224.98
Invoice	11/1/2011	231	3013-John & Carolyn Lucas		41103 - Spec...	760.00	34,974.98
Payment	11/9/2011	3304	3013-John & Carolyn Lucas		12000 - Unde...	-717.30	34,257.68
Invoice	12/31/2011	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	437.98	34,695.66
Invoice	12/1/2011	3001	3013-John & Carolyn Lucas		-SPLIT-	825.00	35,520.66
Invoice	12/1/2011	259	3013-John & Carolyn Lucas		41103 - Spec...	760.00	35,270.66
Payment	12/8/2011	3329	3013-John & Carolyn Lucas		12000 - Unde...	-717.00	35,553.66
Invoice	12/31/2011	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	485.84	36,019.30
Invoice	1/1/2012	3077	3013-John & Carolyn Lucas		-SPLIT-	700.00	36,719.30
Invoice	1/1/2012	287	3013-John & Carolyn Lucas		41103 - Spec...	750.00	37,469.30
Payment	1/8/2012	3369	3013-John & Carolyn Lucas		12000 - Unde...	-800.00	36,669.30
Invoice	1/31/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	482.30	37,351.60
Invoice	2/1/2012	3153	3013-John & Carolyn Lucas		-SPLIT-	700.00	38,051.60
Invoice	2/1/2012	315	3013-John & Carolyn Lucas		41103 - Spec...	750.00	38,801.60
Payment	2/13/2012	3412	3013-John & Carolyn Lucas		12000 - Unde...	-800.00	38,001.60
Invoice	2/29/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	483.38	38,884.98
Invoice	3/1/2012	3227	3013-John & Carolyn Lucas		-SPLIT-	700.00	39,384.98
Invoice	3/1/2012	344	3013-John & Carolyn Lucas		41103 - Spec...	750.00	40,114.98
Payment	3/13/2012	3442	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	39,514.98
Payment	3/28/2012	3480	3013-John & Carolyn Lucas		12000 - Unde...	-2,095.00	37,419.98
Invoice	3/31/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	608.30	37,928.28
Invoice	4/1/2012	3357	3013-John & Carolyn Lucas		-SPLIT-	700.00	38,828.28
Invoice	4/1/2012	372	3013-John & Carolyn Lucas		41103 - Spec...	750.00	39,378.28
Invoice	4/1/2012	3303	3013-John & Carolyn Lucas		41180 - Insura...	2,085.48	41,473.74
Payment	4/1/2012	3477	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	40,873.74
Invoice	4/30/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	504.87	41,378.61
Invoice	5/1/2012	3433	3013-John & Carolyn Lucas		-SPLIT-	700.00	42,078.61
Payment	5/10/2012	3511	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	41,478.61
Invoice	5/31/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	523.20	42,001.81
Invoice	6/1/2012	3508	3013-John & Carolyn Lucas		-SPLIT-	700.00	42,701.81
Payment	6/13/2012	3543	3013-John & Carolyn Lucas		12000 - Unde...	-800.00	42,101.81
Invoice	6/30/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	507.90	42,609.41
Invoice	7/1/2012	3585	3013-John & Carolyn Lucas		-SPLIT-	700.00	43,308.41
Payment	7/12/2012	3581	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	42,708.41
Invoice	7/31/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	528.28	43,235.67
Invoice	8/1/2012	3683	3013-John & Carolyn Lucas		-SPLIT-	700.00	43,935.67
Payment	8/13/2012	3609	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	43,335.67
Invoice	8/31/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	527.79	43,863.46
Invoice	9/1/2012	3737	3013-John & Carolyn Lucas		-SPLIT-	700.00	44,563.46
Invoice	9/1/2012	407	3013-John & Carolyn Lucas		41103 - Spec...	1,880.00	46,243.46
Payment	9/17/2012	3642	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	45,643.46
Invoice	9/30/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	538.38	46,179.84
Invoice	10/1/2012	3814	3013-John & Carolyn Lucas		-SPLIT-	700.00	46,879.84
Payment	10/9/2012	2900	3013-John & Carolyn Lucas		12000 - Unde...	-1,680.00	45,199.84
Payment	10/15/2012	3668	3013-John & Carolyn Lucas		12000 - Unde...	-800.00	44,399.84
Invoice	10/31/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	530.84	44,930.68
Invoice	11/1/2012	3891	3013-John & Carolyn Lucas		-SPLIT-	700.00	45,630.68
Payment	11/18/2012	3717	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	45,030.68
Invoice	12/1/2012	3668	3013-John & Carolyn Lucas		-SPLIT-	700.00	45,730.68
Payment	12/13/2012	3737	3013-John & Carolyn Lucas		12000 - Unde...	-800.00	44,930.68
Invoice	12/31/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	520.74	45,451.42
Invoice	1/8/2013	4045	3013-John & Carolyn Lucas		-SPLIT-	700.00	46,151.42
Invoice	1/8/2013	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	65.52	46,806.94
Payment	1/17/2013	3778	3013-John & Carolyn Lucas		12000 - Unde...	-800.00	46,006.94
Invoice	2/1/2013	4125	3013-John & Carolyn Lucas		-SPLIT-	700.00	46,706.94
Payment	2/1/2013	3759	3013-John & Carolyn Lucas		12000 - Unde...	-800.00	45,906.94
Invoice	2/28/2013	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	542.49	46,449.43
Invoice	3/1/2013	4228	3013-John & Carolyn Lucas		-SPLIT-	700.00	47,149.43
Invoice	3/1/2013	15	3013-John & Carolyn Lucas		41180 - Insura...	2,041.00	49,190.43
Payment	3/13/2013		3013-John & Carolyn Lucas		12000 - Unde...	-800.00	48,390.43
Payment	3/13/2013		3013-John & Carolyn Lucas		12000 - Unde...	-2,041.00	46,349.43
Invoice	3/31/2013	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	527.44	47,276.87
Invoice	4/1/2013	4283	3013-John & Carolyn Lucas		-SPLIT-	700.00	47,976.87
Payment	4/22/2013	3654	3013-John & Carolyn Lucas		12000 - Unde...	-800.00	47,176.87
Invoice	4/30/2013	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	514.17	47,691.04
Invoice	5/1/2013	4387	3013-John & Carolyn Lucas		-SPLIT-	700.00	48,391.04

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

JOHN T. LUCAS, SR., AS TRUSTEE OF
THE JOHN T. LUCAS REVOCABLE
TRUST AND CAROLYN C. LUCAS AS
TRUSTEE OF THE CAROLYN C.
LUCAS REVOCABLE TRUST,

Plaintiff,

v.

THE BRISTOL CONDOMINIUM
PROPERTY OWNERS' ASSOCIATION,

Defendant.

CASE NO. 2010-CP-10-3240

AND

THE BRISTOL CONDOMINIUM
PROPERTY OWNERS' ASSOCIATION,

Plaintiff,

v.

JOHN T. LUCAS, SR., AS TRUSTEE OF
THE JOHN T. LUCAS REVOCABLE
TRUST DATED NOVEMBER 10, 2004,
AND CAROLYN C. LUCAS AS
TRUSTEE OF THE CAROLYN C.
LUCAS REVOCABLE TRUST DATED
NOVEMBER 10, 2004,

Defendants/Counterclaim Plaintiffs

v.

THE BRISTOL CONDOMINIUM
PROPERTY OWNERS' ASSOCIATION,

Counterclaim Defendant.

CASE NO. 2011-CP-10-2232

AFFIDAVIT OF COUNSEL
DAVID B. WHEELER

CHARLESTON535837v1



STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PERSONALLY appeared before me, David B. Wheeler, who, being duly sworn, on oath, deposes and says that:

1. He is one of the attorneys for The Bristol Condominium Property Owners' Association (the "POA") in the above-referenced action.

2. The POA's attorneys' fees in this action are recoverable by the POA from John T. Lucas, Sr., as Trustee of the John T. Lucas Revocable Trust, and Carolyn C. Lucas, as Trustee of the Carolyn C. Lucas Revocable Trust (the "Unit Owners") by virtue of the provisions of the Master Deed and the Notice of Lien being foreclosed in this action.

3. He was admitted to the Bar of the Supreme Court of South Carolina in November, 1983, and has been actively engaged in the practice of law since that time. A substantial portion of his practice relates to collection matters, including particularly foreclosure actions similar to the instant one and bankruptcy. He is certified by the South Carolina Supreme Court as a specialist in the area of Bankruptcy and Debtor-Creditor Law.

4. He is also a member of the Bar of the United States Court of Appeals for the Fourth Circuit and of the United States District Court for the District of South Carolina.

5. He is informed and believes that, under Baron Data Systems, Inc. v. Loter, 297 SC 382, 377 S.E.2d 296 (1989) and Blumberg v. Nealco, 310 SC 482, 427 S.E.2d 659 (Ct App 1993), there are six factors which should be considered in determining the reasonableness of a fee including: (1) the nature, extent and difficulty of the legal services rendered; (2) the time and labor devoted to the case; (3) the professional standing of counsel; (4) contingency of compensation; (5) the fee customarily charged in the location for similar services; and (6) the

beneficial results obtained.

6. Prior to the Hearing, 82.60 hours were expended on behalf of the POA by Affiant in litigation and settlement negotiations, which is attributable to the foreclosure action filed by the POA and the POA's defense of the Unit Owners' action, and it is anticipated that at least 5-10 additional hours will be required through the conclusion of this matter.

7. This matter was referred to Affiant for collection and its action has been pending before this Court since March 25, 2011.

8. He is informed and believes that a reasonable attorneys' fee for foreclosure matters in Charleston County, South Carolina, is generally 10%-15% of the entire amount due, including principal and interest, less the total of advancements for the payment of interim collection costs, which, in this instance, would be \$48,591.04.

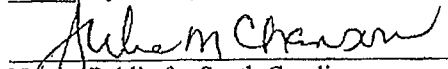
9. He is further informed and believes that the complexity of the instant action, coupled with the sum at issue, the provisions of the Master Deed and POA Bylaws, the effort expended by this firm, the responsibility of ensuring good title, and the favorable outcome obtained by this firm on behalf of the Plaintiff, justifies a reasonable fee of \$3,500.00, over and above what has previously been paid as interim costs of collection.

10. He is further informed and believes that in the absence of any presentation of evidence to the contrary by any party in interest in action, it is appropriate to award the relief requested, including attorneys' fees in the amount requested.

FURTHER AFFIANT SAYETH NAUGHT.


David B. Wheeler

SWORN to before me this
21 day of May, 2013.


Notary Public for South Carolina
My Commission Expires: 1-24-18

**MOONEYHAM
BERRY & KAROW, L.L.C.**

Trial Lawyers

Joe Mooneyham
E. Kimberly Berry
Kelly Pope Karow
John M. Mussetto*
*also licensed in Washington DC

October 7, 2009

David Warner, President
The Bristol Property Owners' Association
c/o Lana Vestal
3000 Old Bridgeview Lane
Charleston, South Carolina 29403

RE: *Janice L. Landry, et al., vs. Brittlebank Condominiums, LLC, et al.*
Civil Action No.: 2007-CP-10-607; and,
*The Bristol Condominiums Property Owners Association v. Brittlebank
Condominiums LLC, et al.*
Civil Action No.: 2007-CP-10-612

Dear Mr. Warner:

I have met this afternoon with John and Carolyn Lucas, who own Condominium No. 3013 in The Bristol. Dr. and Mrs. Lucas have recently been advised that litigation arising from various alleged construction defects in the windows and sheathing of the condominium complex, which litigation is referenced above, has been settled. Further, they have been advised that despite that settlement, they will be assessed a substantial amount to remediate problems caused by the alleged defects.

Dr. and Mrs. Lucas are concerned by the lack of information that has been made available to them during the pendency of this litigation. Further, they have grave concerns regarding the management of the litigation, including but not limited to its resolution, as it appears that quite significant decisions have been made without their informed consent.

They have therefore retained me to assist them in obtaining sufficient information to allow them to respond to the notice of assessment that they received. I am therefore hereby requesting the following documentation on their behalf:

1. Retainer agreement with counsel for this litigation
2. Hourly billing records if counsel was paid by the hour
3. Costs records if counsel billed for costs separately
4. Minutes of any board meetings from the date of initiation of the lawsuit through the present
5. Minutes of any committee or subcommittee meetings from the date of the initiation of the lawsuit to the present
6. Engineering reports supporting or refuting damages claims, whether prepared for and obtained by the Board or by the defendant in this action
7. Repair/remediation estimates, whether prepared for and obtained by the Board or by the defendant in this action
8. Correspondence from counsel to the Board regarding the litigation

Post Office Box 8359 • Greenville, South Carolina 29604
Telephone 864.421.0036 • Facsimile 864.421.9060 • Toll Free 1.866.284.9210
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David Warner, President
October 7, 2009
Page 2

9. Correspondence from the Board to counsel regarding the litigation
10. The Summons and Complaints filed on behalf of the Association
11. The Answers filed on behalf of the defendants
12. Any motions filed by either party, along with responses, in either action, including petitions for class certification, if any
13. Any orders, including dispositive orders, entered by the Court in either action
14. Discovery propounded by either party, as well as responses, in either action
15. Invoices for payment to expert witnesses or others who would have provided testimony in either action
16. Any other documentation that was considered by your Board in the evaluation of any settlement proposal
17. Any information that was provided to residents of the Bristol, if that information pertains to this litigation or its resolution and was reduced to writing
18. Copies of any notices to residents of meetings regarding any issue relating to this litigation

Further, the Lucases would like to understand the methodology by which any decisions in these cases were reached. Please outline for me that methodology.

As you know, the Lucases spend most of their time here in Greenville, and have an understandable desire to make informed decisions regarding the appropriateness of the settlement, the basis for the repair/remediation costs, and the like. The documentation that I have requested will begin to provide them with the information necessary to make informed decisions.

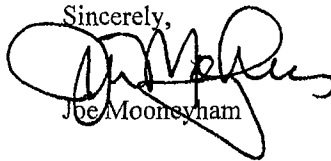
Finally, the Lucases want to be certain that their neighbors have likewise availed themselves of the information necessary to make informed decisions. They would therefore like to prepare a synopsis of events, to be created and disseminated at their expense. To facilitate dissemination, please provide me with the names and contact information for the owners of each of the condominiums in the complex.

I anticipate that Dr. and/or Mrs. Lucas may seek election to the Board. Please provide me with the by-laws which govern participation as Board members. Further, they may wish to contact previous members. Please provide me with a list of those person's names and contact information.

I realize that this request is extensive. The Lucases have no objection to a postponement of the upcoming informational meeting to enable you to respond effectively. If you are unwilling to postpone the meeting, please provide me with the information that I have requested for them at your earliest convenience so that they can participate effectively at the appropriate time.

David Warner, President
October 7, 2009
Page 3

I thank you in advance for your cooperation, and look forward to hearing from you. I am certain that the Lucases join me in expressing their appreciation for your prompt response to their requests for information.

Sincerely,

Joe Mooneyham

cc: Dr. and Mrs. John Lucas

to Dave

COPY

January 5, 2010

Joe Mooneyham, Esquire
Mooneyham, Berry, & Karow, L.L.C.
P.O. Box 8359
Greenville, SC 29604

Re: Special Assessment by the Bristol Condominium Property Owners Association (the "BPOA")
MVA File No. 024726-01

Dear Joe:

Please be advised that Moore & Van Allen represents the BPOA. I received a copy of your letter dated December 11, 2009 regarding Dr. John Lucas' refusal to pay the special assessment (the "Special Assessment") which was recently approved by the members of the BPOA (collectively, the "Members" and singularly, the "Member") for the funds required in excess of those recovered in the recent legal action to replace the windows at the Bristol Horizontal Property Regime (the "Bristol").

Although I am sure that Dr. Lucas, like any other Member, would prefer to forego payment of the Special Assessment attributable to his unit at the Bristol (the "Unit"), you cite no legal authority which would excuse him from such obligation. Similarly, I am aware of no legal basis that would authorize Dr. Lucas to "rescind" his prior vote concerning attorney fees related to the construction defect litigation or, for that matter, restricting the use to which all or a portion of his assessment payment is applied by the BPOA or his disclaimer of, "any indebtedness incurred by the Bristol home owners association without his individual, express written approval after notice to him of the intent of the association to incur indebtedness". I would ask that you please provide the authority upon which these positions are based.

The basis for Dr. Lucas' liability for the Special Assessment follows.

All Members are subject to the Bristol Master Deed dated August 30, 2002 and recorded on September 12, 2002 in the RMC Office for Charleston County in Book D-417 at Page 1 (the "Master Deed") pursuant to Section 2.2 of the Master Deed. Dr. Lucas purchased his unit on January 24, 2005 and is clearly subject to the Master Deed which is of public record.

Section 4.4 of the Master Deed provides that "[i]n addition to the Annual Assessments, the Board of Directors may levy in any calendar year 'Special Assessments' for the purpose (i) of supplementing the Annual Assessments if the same are inadequate to pay the Common Expenses and (ii) of defraying, in whole or in part, the cost of any reconstruction, repair, or replacement of the Common Area." Pursuant to Section 4.4(ii) of the Master Deed, the Members must approve a special assessment exceeding twenty percent (20%) of the annual assessment amount at a duly called meeting called for the express purpose of approving the special

Moore & Van Allen

David B. Wheeler
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Suite 300
40 Calhoun Street
Charleston, SC 29401-3535

Mailing Address:
Post Office Box 22828
Charleston, SC 29413-2828

CHARLESTON395558v3

Charlotte, NC
Research Triangle, NC

Joe Mooneyham, Esquire

January 5, 2010

Page 2

assessment with a quorum present in person or by proxy. A quorum is one-third (1/3) of the Members pursuant to Section 3.4 of the BPOA bylaws (the "Bylaws"), and once the Board establishes that there is a quorum, a majority of those Members present in person or by proxy at the meeting have the power to approve the Special Assessment under the Master Deed and Bylaws.

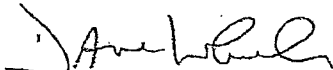
Notice of the meeting to vote on the Special Assessment was sent to all the Members on October 1, 2009. The meeting was held on November 1, 2009 with a quorum present. The special assessment was approved at a duly called and held meeting by 77% of the eligible Members, including Dr. Lucas. Therefore, the Special Assessment was properly approved by the Members.

Section 4.1 of the Master Deed provides that every unit "will be subject to a lien and permanent charge in favor of the Association for the Assessments", and the assessments "together with interest thereon and cost of collection thereof as hereinafter provided, will be a permanent charge and continuing lien upon the Unit against which it relates." The BPOA is entitled to take the following actions where a Member fails to pay the Special Assessment: (i) suspend his access to the recreational areas of the Common Area (as defined in the Master Deed) of the Bristol; (ii) suspend his voting rights; (iii) file a lien against the Unit, which lien will be subject to foreclosure under the terms of the Master Deed and South Carolina law; (iv) file suit in the Charleston County Court of Common Pleas; and (v) recover reasonable attorneys' fees and costs of collection.

I have enclosed Dr. Lucas's check dated December 5, 2009 in that it has not been fully completed and the \$778.15 referenced on the check does not represent the amount for which Dr. Lucas is responsible as the owner of Unit 3013. Please have Dr. Lucas remit a completed check in the requisite amount. If payment is not received by January 15, 2009, we will assume Dr. Lucas refuses to pay and will take any and all legal action available to collect any and all outstanding balances due the BPOA.

Sincerely,

MOORE & VAN ALLEN, PLLC



David B. Wheeler

DBW/ecp

Enclosure -- as stated

cc: Bristol Condominium Property Owners Association, Inc.

**MOONEYHAM
BERRY & KAROW, L.L.C.**

Trial Lawyers

Joe Mooneyham
E. Kimberly Berry
Kelly Pope Karow
John M. Mussetto*
*also licensed in Washington DC

Post Office Box 8359
Greenville, South Carolina 29604
Telephone 864.421.0036
Facsimile 864.421.9060

www.upstatetrialattorneys.com

EIN: 26-3238092

March 11, 2010

Lona Vest
3000 Old Bridgeview Lane
Charleston, South Carolina 29403

RE: *Janice L. Landry, et al., vs. Brittlebank Condominiums, LLC., et al.*
Civil Action No.: 2007-CP-10-607; and,
*The Bristol Condominiums Property Owners Association v. Brittlebank
Condominiums LLC, et al.*
Civil Action No.: 2007-CP-10-612

Dear Ms. Vest:

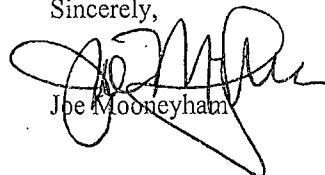
Thank you for your recent emails regarding John and Carolyn Lucas's accounts with The Bristol, and regarding the assessment for the refurbishing of the property. Dr. and Mrs. Lucas have, after some reflection, elected to begin to bring the assessment current. I therefore enclose our escrow account check in the amount of \$6,854.82. This payment represents two "special assessment" payments and payment of the insurance assessment.

Please understand that we continue to investigate this matter, and that this payment should not be construed in any way to indicate that the Lucases are acquiescing to the validity of the special assessment.

They specifically reserve the right to dispute the assessment in every possible context, including but not limited to the method by which the assessment calculated, the appropriateness of the underlying settlement or negotiation of that settlement, and any and all other issues arising from the defective stucco and windows. Further, they have specific concerns regarding the validity of the Bristol's Board's attempt to divest them of their ownership of any portion of their condominium, including but not limited to their windows.

Please provide me with documentation that you have received and applied this payment.

Sincerely,



Joe Mooneyham

cc: John and Carolyn Lucas

We strive to provide exceptional personal and professional legal services by partnering with our clients to identify and respond to their needs comprehensively, ethically and compassionately.

Lucas Account Summary
Prepared May 13, 2013

Last zero balance on the account was as of November 30, 2009

Date Billed	Regime Fee Billed	Capital Reserve Billed	Late Fees	Insurance Assmt Billed	Special Assessment Billed	Payment Received
Dec-09	\$778.15	\$111.85	\$44.41		\$2,111.66	
Jan-10	\$713.15	\$111.85	\$77.44		\$2,111.66	\$778.15
Feb-10	\$713.15	\$111.85	\$100.51		\$2,111.66	\$713.15
1-Mar	\$713.15	\$111.85	\$113.56	\$2,631.50	\$2,111.66	\$3,344.65
Apr-10	\$713.15	\$111.85	\$42.64		\$2,111.66	\$6,854.82
May-10	\$713.15	\$111.85	\$78.19		\$2,111.66	\$713.15
Jun-10	\$713.15	\$111.85	\$109.87		\$2,111.66	\$713.15
Jul-10	\$713.15	\$111.85	\$145.84		\$2,111.66	\$713.15
Aug-10	\$713.15	\$111.85	\$181.72		\$2,111.66	\$825.00
Sep-10	\$713.15	\$111.85	\$209.36		\$2,111.66	\$713.15
Oct-10	\$713.15	\$111.85	\$235.25		\$2,111.66	\$713.15
Nov-10	\$713.15	\$111.85			\$2,111.66	\$713.15
Dec-10	\$713.15	\$111.85	\$219.84		\$2,111.66	\$713.15
						\$5,000.00
Jan-11	\$713.15	\$111.85	\$970.61		\$2,111.66	\$713.50
Feb-11	\$713.15	\$111.85	\$311.65		\$2,111.66	\$713.50
Mar-11	\$713.15	\$111.85	\$352.32		\$2,111.66	\$713.00
Apr-11	\$713.15	\$111.85	\$345.38	\$1,959.00	\$2,111.66	\$713.00
May-11	\$713.15	\$111.85	\$359.54			\$2,672.15
Jun-11	\$713.15	\$111.85	\$371.40		\$750.00	\$715.15
Jul-11	\$713.15	\$111.85	\$396.86		\$750.00	\$717.30
Aug-11	\$713.15	\$111.85	\$410.81		\$750.00	\$717.30
Sep-11	\$713.15	\$111.85	\$412.59		\$750.00	\$717.30
Oct-11	\$713.15	\$111.85	\$439.41		\$750.00	\$717.30
Nov-11	\$713.15	\$111.85	\$437.98		\$750.00	\$717.30
Dec-11	\$713.15	\$111.85	\$465.64		\$750.00	\$717.30
Jan-12	\$600.00	\$100.00	\$482.30		\$750.00	\$717.00
						\$600.00

Feb-12	\$600.00	\$100.00	\$463.36			
Mar-12	\$600.00	\$100.00	\$508.30		\$750.00	\$600.00
					\$750.00	\$600.00
Apr-12	\$600.00	\$100.00	\$504.57	\$2,095.48		\$2,095.00
May-12	\$600.00	\$100.00	\$523.20		\$750.00	\$600.00
Jun-12	\$600.00	\$100.00	\$507.90			\$600.00
Jul-12	\$600.00	\$100.00	\$526.26			\$600.00
Aug-12	\$600.00	\$100.00	\$527.79			\$600.00
Sep-12	\$600.00	\$100.00	\$536.38			\$600.00
Oct-12	\$600.00	\$100.00	\$530.84		\$1,680.00	\$600.00
						\$1,680.00
Nov-12	\$600.00	\$100.00				\$600.00
Dec-12	\$600.00	\$100.00	\$520.74			\$600.00
Jan-13	\$600.00	\$100.00	\$55.52			\$600.00
Feb-13	\$600.00	\$100.00	\$542.49			\$600.00
Mar-13	\$600.00	\$100.00	\$527.44	\$2,041.00		\$600.00
						\$600.00
Apr-13	\$600.00	\$100.00	\$514.17			\$2,041.00
May-13	\$600.00	\$100.00				\$600.00
TOTAL	\$28,093.75	\$4,496.25	\$14,104.08	\$8,726.98	\$42,354.90	\$49,184.92

97,775.96

= 48,391.01

1:22 PM
05/13/13
Accrual Basis

Bristol Condominium Property Owners Association
Custom Transaction Detail Report
All Transactions

Type	Date	Num	Name	Memo	Split	Amount	Balance
					3000 - Openln...	50.00	50.00
Invoice	1/31/2007	31	3013-John & Carolyn Lucas		41100 - Regl...	790.00	840.00
Invoice	2/1/2007	61	3013-John & Carolyn Lucas		41100 - Regl...	790.00	1,630.00
Invoice	3/1/2007	115	3013-John & Carolyn Lucas		41180 - Insura...	3,385.58	5,015.58
Invoice	3/1/2007	223	3013-John & Carolyn Lucas		12000 - Unde...	-12,855.53	-7,850.00
Payment	3/12/2007	1295	3013-John & Carolyn Lucas	To reclass prepal...	2205 - Prepal...	7,850.00	0.00
General Journal	3/31/2007	8-JA	3013-John & Carolyn Lucas		41100 - Regl...	790.00	790.00
Invoice	4/1/2007	277	3013-John & Carolyn Lucas	Reverse of GJE ...	2205 - Prepal...	-7,850.00	-7,060.00
General Journal	4/1/2007	8-JAR	3013-John & Carolyn Lucas	Prepaid fees	2205 - Prepal...	7,060.00	0.00
General Journal	4/30/2007	29-JA	3013-John & Carolyn Lucas		41100 - Regl...	790.00	790.00
Invoice	5/1/2007	382	3013-John & Carolyn Lucas	Reverse of GJE ...	2205 - Prepal...	-7,060.00	-6,270.00
General Journal	5/1/2007	29-JAR	3013-John & Carolyn Lucas	Prepaid fees	2205 - Prepal...	6,270.00	0.00
General Journal	5/31/2007	47-JA	3013-John & Carolyn Lucas		-SPLIT-	790.00	790.00
Invoice	6/1/2007	440	3013-John & Carolyn Lucas	Reverse of GJE ...	2205 - Prepal...	-8,270.00	-5,480.00
General Journal	6/1/2007	47-JAR	3013-John & Carolyn Lucas		12000 - Unde...	-1,895.00	-7,375.00
Payment	6/29/2007	1428	3013-John & Carolyn Lucas	To reclass prepal...	2205 - Prepal...	5,480.00	-1,895.00
General Journal	6/30/2007	61-JA	3013-John & Carolyn Lucas	To reclass prepal...	2205 - Prepal...	1,895.00	0.00
General Journal	6/30/2007	60-JA	3013-John & Carolyn Lucas		-SPLIT-	790.00	790.00
Invoice	7/1/2007	518	3013-John & Carolyn Lucas	Reverse of GJE ...	2205 - Prepal...	-5,480.00	-4,690.00
General Journal	7/1/2007	61-JAR	3013-John & Carolyn Lucas	Reverse of GJE ...	2205 - Prepal...	-1,895.00	-6,585.00
General Journal	7/1/2007	60-JAR	3013-John & Carolyn Lucas		41103 - Spect...	1,895.00	-4,690.00
Invoice	7/1/2007	596	3013-John & Carolyn Lucas		-SPLIT-	790.00	-3,900.00
Invoice	8/1/2007	829	3013-John & Carolyn Lucas		-SPLIT-	790.00	-3,110.00
Invoice	8/1/2007	709	3013-John & Carolyn Lucas		-SPLIT-	790.00	-2,320.00
Invoice	10/1/2007	785	3013-John & Carolyn Lucas		-SPLIT-	790.00	-1,530.00
Invoice	11/1/2007	851	3013-John & Carolyn Lucas		-SPLIT-	790.00	-740.00
Invoice	12/1/2007	937	3013-John & Carolyn Lucas		-SPLIT-	890.00	150.00
Invoice	1/1/2008	1067	3013-John & Carolyn Lucas		12000 - Unde...	-160.00	0.00
Payment	1/1/2008	1046	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	2/1/2008	1143	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	2/1/2008	1679	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	3/1/2008	1219	3013-John & Carolyn Lucas		41180 - Insura...	3,169.58	4,059.58
Invoice	3/12/2008	1296	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	3,169.58
Payment	3/12/2008	1714	3013-John & Carolyn Lucas		12000 - Unde...	-3,169.58	0.00
Payment	3/17/2008	1724	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	4/1/2008	1350	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	4/10/2008	1751	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	5/1/2008	1428	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	5/9/2008	1779	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	6/1/2008	1502	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	6/8/2008	1820	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	7/1/2008	1578	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	7/8/2008	1882	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	8/1/2008	1854	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	8/1/2008	1905	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	9/1/2008	1731	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	9/16/2008	1849	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	10/1/2008	1807	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	10/8/2008	1971	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	11/1/2008	1884	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	11/12/2008	2015	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	12/1/2008	1959	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	12/8/2008	2058	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	1/1/2009	2035	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	1/12/2009	2109	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	2/1/2009	2111	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	2/1/2009	2151	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	3/1/2009	2180	3013-John & Carolyn Lucas		41180 - Insura...	2,831.58	3,721.58
Invoice	3/1/2009	2261	3013-John & Carolyn Lucas		12000 - Unde...	-3,721.58	0.00
Payment	3/9/2009	2182	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	4/1/2009	2318	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	4/8/2009	2219	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	5/1/2009	2395	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	5/11/2009	2258	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	6/1/2009	47	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	6/8/2009	2283	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	7/1/2009	121	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	7/10/2009	2320	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	8/1/2009	195	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	8/10/2009	2369	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	9/1/2009	289	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	9/8/2009	2407	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	10/1/2009	343	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	10/8/2009	2446	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	11/1/2009	419	3013-John & Carolyn Lucas		12000 - Unde...	-890.00	0.00
Payment	11/11/2009	2489	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	12/1/2009	491	3013-John & Carolyn Lucas		-SPLIT-	890.00	890.00
Invoice	12/1/2009	563	3013-John & Carolyn Lucas		41103 - Spect...	2,111.68	3,001.68

1:22 PM
05/13/13
Accrual Basis

Bristol Condominium Property Owners Association
Custom Transaction Detail Report
All Transactions

Type	Date	Num	Name	Memo	Split	Amount	Balance
Invoice	12/31/2009	FC 287	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	44.41	3,048.07
Invoice	1/1/2010	620	3013-John & Carolyn Lucas		-SPLIT-	825.00	3,871.07
Invoice	1/1/2010	670	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	5,982.73
Payment	1/12/2010	2563	3013-John & Carolyn Lucas		12000 · Unde...	-778.15	5,204.58
Invoice	1/31/2010	FC 342	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	77.44	5,282.02
Invoice	2/1/2010	737	3013-John & Carolyn Lucas		-SPLIT-	825.00	6,107.02
Invoice	2/1/2010	787	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	8,218.68
Payment	2/8/2010	2594	3013-John & Carolyn Lucas		12000 · Unde...	-713.15	7,505.53
Invoice	2/28/2010	FC 379	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	100.51	7,606.04
Invoice	3/1/2010	854	3013-John & Carolyn Lucas		-SPLIT-	825.00	8,431.04
Invoice	3/1/2010	971	3013-John & Carolyn Lucas		41180 · Insura...	2,631.50	11,062.54
Payment	3/11/2010	2632	3013-John & Carolyn Lucas		12000 · Unde...	-3,344.85	7,717.69
Invoice	3/31/2010	FC 418	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	113.58	7,831.45
Invoice	4/1/2010	1030	3013-John & Carolyn Lucas		-SPLIT-	825.00	8,656.45
Invoice	4/1/2010	1078	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	10,768.11
Payment	4/7/2010		3013-John & Carolyn Lucas		12000 · Unde...	-8,854.82	3,913.29
Payment	4/12/2010	2667	3013-John & Carolyn Lucas		12000 · Unde...	-713.15	3,200.14
Invoice	4/30/2010	FC 438	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	42.84	3,242.78
Invoice	5/1/2010	1143	3013-John & Carolyn Lucas		-SPLIT-	825.00	4,067.78
Invoice	5/1/2010	1191	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	6,179.44
Payment	5/19/2010	2668	3013-John & Carolyn Lucas		12000 · Unde...	-713.15	5,466.29
Invoice	5/31/2010	FC 487	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	78.19	5,544.48
Invoice	6/1/2010	1256	3013-John & Carolyn Lucas		-SPLIT-	825.00	6,369.48
Invoice	6/1/2010	1304	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	8,481.14
Payment	6/10/2010	2728	3013-John & Carolyn Lucas		12000 · Unde...	-713.15	7,767.99
Invoice	6/30/2010	FC 480	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	108.87	7,876.86
Invoice	7/1/2010	1368	3013-John & Carolyn Lucas		-SPLIT-	825.00	8,702.86
Invoice	7/1/2010	1416	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	10,814.52
Payment	7/12/2010	2769	3013-John & Carolyn Lucas		12000 · Unde...	-825.00	9,989.52
Invoice	7/31/2010	FC 533	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	145.84	10,135.36
Invoice	8/1/2010	1481	3013-John & Carolyn Lucas		-SPLIT-	825.00	10,960.36
Invoice	8/1/2010	1629	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	13,072.02
Payment	8/9/2010	2798	3013-John & Carolyn Lucas		12000 · Unde...	-713.15	12,358.87
Invoice	8/31/2010	FC 559	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	181.72	12,540.69
Invoice	9/1/2010	1692	3013-John & Carolyn Lucas		-SPLIT-	825.00	13,365.69
Invoice	9/1/2010	1640	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	15,477.25
Payment	9/13/2010	2833	3013-John & Carolyn Lucas		12000 · Unde...	-713.15	14,764.10
Invoice	9/30/2010	FC 577	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	209.36	14,973.46
Invoice	10/1/2010	1703	3013-John & Carolyn Lucas		-SPLIT-	825.00	15,798.46
Invoice	10/1/2010	1750	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	17,910.12
Payment	10/11/2010	2863	3013-John & Carolyn Lucas		12000 · Unde...	-713.15	17,196.97
Invoice	10/29/2010	FC 640	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	235.25	17,432.22
Invoice	11/1/2010	1810	3013-John & Carolyn Lucas		-SPLIT-	825.00	18,257.22
Invoice	11/1/2010	1939	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	20,368.88
Payment	11/15/2010	2911	3013-John & Carolyn Lucas		12000 · Unde...	-713.15	19,655.73
Invoice	12/1/2010	1864	3013-John & Carolyn Lucas		-SPLIT-	825.00	20,480.73
Invoice	12/1/2010	1876	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	22,592.39
Payment	12/1/2010	FC	3013-John & Carolyn Lucas		41170 · Late ...	219.84	22,812.23
Invoice	12/2/2010	1867	3013-John & Carolyn Lucas		12000 · Unde...	-5,000.00	17,812.23
Payment	12/2/2010	2952	3013-John & Carolyn Lucas		12000 · Unde...	-713.50	17,098.73
Payment	12/17/2010		3013-John & Carolyn Lucas		-SPLIT-	825.00	17,923.73
Invoice	1/1/2011	2024	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	20,035.39
Invoice	1/1/2011	2071	3013-John & Carolyn Lucas		12000 · Unde...	-713.60	19,321.79
Payment	1/14/2011	2982	3013-John & Carolyn Lucas		-SPLIT-	970.61	20,292.60
Invoice	1/31/2011	FC 680	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	825.00	21,117.60
Invoice	2/1/2011	2130	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	23,229.16
Invoice	2/1/2011	2177	3013-John & Carolyn Lucas		12000 · Unde...	-713.00	22,516.16
Payment	2/9/2011	3008	3013-John & Carolyn Lucas		-SPLIT-	311.65	22,827.81
Invoice	2/28/2011	FC 702	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	825.00	23,652.81
Invoice	3/1/2011	2236	3013-John & Carolyn Lucas		41103 · Spec...	2,111.66	25,764.47
Invoice	3/1/2011	2283	3013-John & Carolyn Lucas		12000 · Unde...	-713.00	25,051.47
Payment	3/1/2011	3034	3013-John & Carolyn Lucas		-SPLIT-	352.32	25,403.79
Invoice	3/31/2011	FC 765	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	825.00	26,228.79
Invoice	4/1/2011	2342	3013-John & Carolyn Lucas		41180 · Insura...	1,959.00	28,187.79
Invoice	4/1/2011	2447	3013-John & Carolyn Lucas		12000 · Unde...	-2,672.15	25,515.64
Payment	4/11/2011	3069	3013-John & Carolyn Lucas		-SPLIT-	345.38	25,861.02
Invoice	4/30/2011	FC 810	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	825.00	26,686.02
Invoice	5/1/2011	2502	3013-John & Carolyn Lucas		-SPLIT-	750.00	27,436.02
Invoice	5/1/2011	29	3013-John & Carolyn Lucas		41103 · Spec...	-715.15	26,720.87
Payment	5/13/2011	3111	3013-John & Carolyn Lucas		12000 · Unde...	-359.54	27,080.41
Invoice	5/31/2011	FC 861	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	825.00	27,905.41
Invoice	6/1/2011	2574	3013-John & Carolyn Lucas		41103 · Spec...	750.00	28,655.41
Invoice	6/1/2011	88	3013-John & Carolyn Lucas		12000 · Unde...	-717.30	27,938.11
Payment	6/8/2011	3140	3013-John & Carolyn Lucas		-SPLIT-	371.40	28,309.51
Invoice	6/30/2011	FC 900	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	825.00	29,134.51
Invoice	7/1/2011	2845	3013-John & Carolyn Lucas		41103 · Spec...	750.00	29,884.51
Invoice	7/1/2011	118	3013-John & Carolyn Lucas		12000 · Unde...	-717.30	29,167.21
Payment	7/11/2011		3013-John & Carolyn Lucas		-SPLIT-	398.66	28,768.55
Invoice	7/31/2011	FC 934	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-		

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05/13/13

Accrual Basis

Bristol Condominium Property Owners Association Custom Transaction Detail Report

All Transactions

Type	Date	Num	Name	Memo	Split	Amount	Balance
Invoice	8/1/2011	2714	3013-John & Carolyn Lucas		-SPLIT-	825.00	30,389.07
Invoice	8/1/2011	146	3013-John & Carolyn Lucas		41103 - Specd...	750.00	31,139.07
Payment	8/8/2011	3208	3013-John & Carolyn Lucas		12000 - Unde...	-717.30	30,421.77
Invoice	8/31/2011	FC 964	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	410.81	30,832.56
Invoice	9/1/2011	2783	3013-John & Carolyn Lucas		-SPLIT-	825.00	31,657.68
Invoice	9/1/2011	175	3013-John & Carolyn Lucas		41103 - Specd...	750.00	32,407.68
Payment	9/12/2011	3236	3013-John & Carolyn Lucas		12000 - Unde...	-717.30	31,690.28
Invoice	9/30/2011	FC 992	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	412.69	32,102.87
Invoice	10/1/2011	2854	3013-John & Carolyn Lucas		-SPLIT-	825.00	32,927.87
Invoice	10/1/2011	203	3013-John & Carolyn Lucas		41103 - Specd...	750.00	33,677.87
Payment	10/1/2011	3287	3013-John & Carolyn Lucas		12000 - Unde...	-717.30	32,960.67
Invoice	10/31/2011	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	439.41	33,399.98
Invoice	11/1/2011	2825	3013-John & Carolyn Lucas		-SPLIT-	825.00	34,224.98
Invoice	11/1/2011	231	3013-John & Carolyn Lucas		41103 - Specd...	750.00	34,974.98
Payment	11/9/2011	3304	3013-John & Carolyn Lucas		12000 - Unde...	-717.30	34,257.68
Invoice	11/30/2011	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	437.88	34,695.66
Invoice	12/1/2011	3001	3013-John & Carolyn Lucas		-SPLIT-	825.00	35,522.66
Invoice	12/1/2011	259	3013-John & Carolyn Lucas		41103 - Specd...	750.00	36,272.66
Payment	12/8/2011	3329	3013-John & Carolyn Lucas		12000 - Unde...	-717.00	35,555.66
Invoice	12/31/2011	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	485.84	36,041.30
Invoice	1/1/2012	3077	3013-John & Carolyn Lucas		-SPLIT-	700.00	36,741.30
Invoice	1/1/2012	287	3013-John & Carolyn Lucas		41103 - Specd...	750.00	37,491.30
Payment	1/8/2012	3369	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	36,891.30
Invoice	1/31/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	482.30	37,373.60
Invoice	2/1/2012	3153	3013-John & Carolyn Lucas		-SPLIT-	700.00	38,073.60
Invoice	2/1/2012	315	3013-John & Carolyn Lucas		41103 - Specd...	750.00	38,823.60
Payment	2/1/2012	3412	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	38,223.60
Invoice	2/29/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	483.38	38,706.98
Invoice	3/1/2012	3227	3013-John & Carolyn Lucas		-SPLIT-	700.00	39,406.98
Invoice	3/1/2012	344	3013-John & Carolyn Lucas		41103 - Specd...	750.00	40,156.98
Payment	3/1/2012	3442	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	39,556.98
Payment	3/23/2012	3460	3013-John & Carolyn Lucas		12000 - Unde...	-2,095.00	37,461.98
Invoice	3/31/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	508.30	37,970.28
Invoice	4/1/2012	3357	3013-John & Carolyn Lucas		-SPLIT-	700.00	38,678.58
Invoice	4/1/2012	372	3013-John & Carolyn Lucas		41103 - Specd...	750.00	39,428.58
Invoice	4/1/2012	3303	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	38,828.58
Payment	4/2/2012	3477	3013-John & Carolyn Lucas		41180 - Insura...	2,095.48	41,473.74
Invoice	4/30/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	504.57	42,078.31
Invoice	6/1/2012	3433	3013-John & Carolyn Lucas		-SPLIT-	700.00	42,778.31
Invoice	6/1/2012	3511	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	42,178.31
Payment	6/1/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	523.20	42,701.51
Invoice	6/1/2012	3509	3013-John & Carolyn Lucas		-SPLIT-	700.00	43,401.51
Payment	6/1/2012	3543	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	42,801.51
Invoice	6/30/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	607.90	43,409.41
Invoice	7/1/2012	3585	3013-John & Carolyn Lucas		-SPLIT-	700.00	44,117.31
Payment	7/1/2012	3581	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	43,517.31
Invoice	7/1/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	628.26	44,145.57
Invoice	8/1/2012	3683	3013-John & Carolyn Lucas		-SPLIT-	700.00	44,845.57
Payment	8/1/2012	3609	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	44,245.57
Invoice	8/31/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	527.79	44,773.36
Invoice	9/1/2012	3737	3013-John & Carolyn Lucas		-SPLIT-	700.00	45,473.36
Invoice	9/1/2012	407	3013-John & Carolyn Lucas		41103 - Specd...	1,680.00	47,153.36
Payment	9/17/2012	3642	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	46,553.36
Invoice	9/30/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	638.38	47,191.74
Invoice	10/1/2012	3814	3013-John & Carolyn Lucas		-SPLIT-	700.00	47,891.74
Payment	10/9/2012	2900	3013-John & Carolyn Lucas		12000 - Unde...	-1,680.00	46,211.74
Payment	10/16/2012	3658	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	45,611.74
Payment	10/31/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	530.84	46,142.58
Invoice	11/1/2012	3891	3013-John & Carolyn Lucas		-SPLIT-	700.00	46,842.58
Invoice	11/1/2012	3717	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	46,242.58
Payment	11/18/2012	3668	3013-John & Carolyn Lucas		-SPLIT-	700.00	46,942.58
Invoice	12/1/2012	3737	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	46,342.58
Payment	12/13/2012	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	520.74	46,863.32
Invoice	12/31/2012	4045	3013-John & Carolyn Lucas		-SPLIT-	700.00	47,563.32
Invoice	1/9/2013	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	55.52	47,618.84
Payment	1/17/2013	3778	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	47,018.84
Invoice	2/1/2013	4126	3013-John & Carolyn Lucas		-SPLIT-	700.00	47,718.84
Payment	2/11/2013	3799	3013-John & Carolyn Lucas		12000 - Unde...	-600.00	47,118.84
Invoice	2/26/2013	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	542.49	47,661.33
Invoice	3/1/2013	4228	3013-John & Carolyn Lucas		-SPLIT-	700.00	48,361.33
Invoice	3/1/2013	15	3013-John & Carolyn Lucas		41180 - Insura...	2,041.00	50,402.33
Payment	3/13/2013	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	-600.00	49,802.33
Payment	3/13/2013	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	-2,041.00	47,761.33
Invoice	3/31/2013	4283	3013-John & Carolyn Lucas		-SPLIT-	527.44	48,288.77
Invoice	4/1/2013	3664	3013-John & Carolyn Lucas		-SPLIT-	700.00	48,988.77
Payment	4/22/2013	FC 1...	3013-John & Carolyn Lucas	Finance Charge	-SPLIT-	-600.00	48,388.77
Invoice	4/30/2013	4387	3013-John & Carolyn Lucas		-SPLIT-	514.17	47,874.60
Invoice	5/1/2013				-SPLIT-	700.00	48,574.60

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PORTIONS OF THIS AGREEMENT ARE SUBJECT TO ARBITRATION
PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, § 15-
48-10, S.C. CODE OF LAWS OF 1976, AS AMENDED

The
Bristol

MASTER DEED OF
THE BRISTOL HORIZONTAL PROPERTY REGIME

NPM01763.15-RD-(BFR) 010018-00093



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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) MASTER DEED
) OF THE BRISTOL
) HORIZONTAL PROPERTY REGIME

TO ALL WHOM THESE PRESENT MAY COME:

WHEREAS, Brittlebank Condominiums, LLC (the "Developer") is a South Carolina limited liability company, whose business address is PO Box 242, Charleston, South Carolina 29402; and

WHEREAS, the Developer is the owner of that certain real property more fully described in Exhibit "A" attached hereto located within the City of Charleston, Charleston County, South Carolina (the "Land"); and

WHEREAS, the Developer, through its development manager, The Beach Company, intends to construct certain improvements on the Land; and

WHEREAS, the Developer now deems it appropriate to organize a horizontal property regime by duly executing and recording this Master Deed in the Office of the Register of Mesne Conveyances for Charleston County, South Carolina ("RMC").

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the Developer hereby submits the Land more fully described in Exhibit "A" attached hereto and all improvements located thereon, together with all easements, rights and appurtenances thereunto belonging, to the provisions of Sections 27-31-10 et seq. of the South Carolina Code of Laws (1976) and hereby creates thereon a horizontal property regime (sometimes termed "condominium ownership") to be known as THE BRISTOL HORIZONTAL PROPERTY REGIME, subject to the following, INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO WITHDRAW UNIMPROVED PORTIONS OF THE LAND PURSUANT TO SECTION 14.2(b):

1. Definitions.

Unless defined herein or unless the context requires otherwise, the words defined in Section 27-31-20, South Carolina Code of Laws (1976), when used in this Master Deed or any amendment hereto, will have the meaning therein provided. The following words, as well as other defined terms set forth herein, when used in this Master Deed or any amendment or supplement hereto, unless the context requires otherwise, will be deemed to include the singular and plural forms as the context requires and have the following meanings:

"Assessment" means the amount assessed against an Owner and his Unit from time to time by the Association in the manner provided herein.

"Assigned Value" means the value assigned to each Unit in accordance with Exhibit "C" attached hereto and utilized for purposes of computing the Percentage Interest appurtenant to such Unit, which Assigned Value will not constitute the sales price of the Unit or be relied upon as a representation of the actual value of the Unit.

"Annual Assessment Period" means the fiscal year of the Association established by the Association's Board of Directors.

"Association" means Bristol Condominium Property Owners' Association, being an association of Owners of Units located in the Regime, in the form of a nonprofit, non-stock membership association, which will be incorporated in accordance with the Article of Incorporation, attached hereto as Exhibit "D" and the Nonprofit Corporation Act.

"Board of Directors" or "Board" means the Board of Directors of the Association, and "director" or "directors" means a member or members of the Board.

"Building," means the structure containing in the aggregate 54 Units comprising the Regime.

"Bylaws" means the Bylaws of the Association attached hereto as Exhibit "B," as amended from time to time in accordance with the terms of the Bylaws and this Master Deed.

"Common Area" means all of the Regime property after excluding the Units, including the following:

1. Easements through Units for conduits, ducts, plumbing, chimneys, wiring, and other facilities for the furnishing of utility services to Units and the Common Areas; provided, however, such easements through a Unit will be only according to the Plans for the Building, or as the Building is constructed unless otherwise approved by the Unit Owner.
2. An easement of support in every portion of a Unit that contributes to the support of a Building.
3. Easements through the Units and Common Areas for maintenance, repair and replacement of the Units and Common Areas.
4. Installation for the furnishing of utility services to more than one Unit or to the Common Areas or to a Unit other than the one containing the installation, which installation will include ducts, plumbing, wiring, and other facilities for the rendering of such services.
5. The tangible personal property required for the maintenance and operation of the Unit, even though owned by the Association.
6. Lounge, fitness room, locker rooms, pool and associated offices.
7. Gatehouse or other controlled entry facilities, elevators, walkways, ponds, waterfalls and fountains and the Owners' room known as, "The Bristol Room," and exercise room, and pool facility.

When used herein, "Common Area" will be deemed to include any service provided by the Association in furtherance of the uses and purposes to which any of the aforesaid facilities are put.

"Common Expense(s)" means (a) all expenses incident to the administration of the Association and maintenance, repair and replacement of the Common Areas and the Limited Common Areas, after excluding there from such expenses which are the responsibility of an Owner; (b) expenses determined by the Association to be Common Expenses and which are lawfully assessed against Owners; (c) expenses declared to be Common Expenses by the Condominium Act or the Regime Documents; and (d) reasonable reserves established for the payment of any of the foregoing.

"Condominium Act" means the Horizontal Property Act of South Carolina, South Carolina Code of Laws (1976), Section 27-31-10 to Section 27-31-300, as may be amended from time to time.

"Developer" means Brittlebank Condominiums, LLC, a South Carolina limited liability company, its successors and assigns.

"Institutional Mortgage" will mean and refer to a first lien Mortgage (prior to all other Mortgage liens) held by a bank, trust company, insurance company, or other recognized lending institution, or by an institutional or governmental insurer or purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation. Such term will also mean and refer to the holder of any Mortgage securing a loan made by the Developer, its affiliates, successors, or assigns.

"Land" means the Land which is described in Exhibit "A" attached hereto, as said exhibit may be amended from time to time in accordance with the provisions of this Master Deed to withdraw unimproved portions thereof from the Regime.

"Limited Common Area" means that portion of the Common Area set aside and allocated for the exclusive use of the Owner of the Unit to which attached or assigned, and will include that portion of any Common Area that is pierced by the Unit's interior stairs, if any; a Unit's chimney structure and flue, if any; air conditioner units and condensers and hot water heaters located outside of the Unit, and the spaces occupied by same; assigned storage lockers or spaces in the first and second floors of the Building; assigned parking in the first and second floors of the Building; and the balcony adjacent to the Unit. Exhibit "C" hereto incorporates a schedule of the storage space and the two parking spaces appurtenant to each Unit as Limited Common Areas thereof.

"Master Deed" means this document, as amended from time to time.

"Member" means each Owner who is a member of the Association.

"Mortgage" will mean and refer to a mortgage, security deed, deed of trust, installment land sales contract, or other similar security instrument granting, creating, or conveying a lien upon, a security interest in, or a security title to a Unit.

"Mortgagee" will mean and refer to the holder of a Mortgage.

"Nonprofit Corporation Act" means and refers to the South Carolina Nonprofit Corporation Act of 1994, South Carolina Code of laws (1976), Sections 33-31-101, et. seq., as amended from time to time.

"OCRM" means the Office of Ocean and Coastal Resource Management of the South Carolina Department of Health and Environmental Control.

"Owner" means the record owner, whether one or more persons, of fee simple title in and to any Unit; excluding, however, those persons having such interest merely as security for the performance of an obligation.

"Percentage Interest" means the undivided percentage interest owned by each Owner as a tenant-in-common in the Common Areas. "Total Percentage Interest" means the aggregate of all the Percentage Interests.

"Plans" mean and include the site plan and the floor plans of the Project which are filed as an attachment to this Master Deed showing the boundaries of the Land, the horizontal and vertical location of the improvements and Common Areas of the Project thereon and certified by a licensed engineer or architect in accordance with the provisions of the Condominium Act.

"Project" means, collectively, the Land, the Building and all other improvements and structures located thereon, and all easements, rights and appurtenances belonging thereto, submitted to the Condominium Act by this Master Deed, as amended from time to time in accordance with the provisions hereof.

"Regime" means the horizontal property regime established by this Master Deed, including all appurtenances and incidents of ownership attendant therewith.

"Regime Documents" means and includes this Master Deed, all Exhibits hereto, the Articles of Incorporation of the Association, the Bylaws and the Rules and Regulations, all as amended from time to time in accordance with the provisions thereof or in accordance with the laws of the State of South Carolina.

"Rules and Regulations" means the rules and regulations from time to time promulgated by the Board of Directors governing the use of the Common Areas and Units.

"Transition Period" means the time period commencing on the date of recording of this Master Deed and ending on the earlier of:

1. December 31, 2008; or
2. Three (3) months after the conveyance of forty-nine (49) Units in the ordinary course of Developer's business; or
3. Three (3) months following the date the Developer surrenders its authority as a Class "B" Member of the Association to appoint and remove directors and officers of the Association by an express amendment to this Master Deed executed and filed of record by Developer.

"Trustee" means the Board of Directors acting as a fiduciary for the benefit of the Association and the Owners in holding certain funds and providing services as provided herein, or such bank or trust company authorized to do trust business in the State of South Carolina and appointed therefor by the Board of Directors.

"Unit" means that part of the Regime intended principally for residential use by an Owner, situate within the Unit boundaries described in this Master Deed, including Exhibit "B" attached hereto, as amended from time to time in accordance with the provisions of this Master Deed and constituting an "apartment" as defined in the Condominium Act. Each Unit will be identified in the architect's floor plans incorporated in and made a part of Exhibit "B" attached hereto by a specific letter, number or combination thereof, which identification will be sufficient to identify the Unit for all purposes. "Unit" will also mean all the components of ownership held by an Owner, including not only the rights and interests of the Owner in and to the Unit, but also the rights of use of and the undivided interest in the Common Area.

2. Administration

2.1 The Association.

The administration of the Regime will be the responsibility of the Association, which will be made up of all the Owners of Units in the Regime. The Regime Documents, as the same may be amended from time to time, will govern the Association and the Owners.

2.2 Membership.

Each Owner of a Unit, including the Developer, will be a Member of the Association. Membership will be appurtenant to and may not be separated from ownership of a Unit and ownership of a Unit will be the sole qualification for such membership. In the event that fee title to a Unit is transferred or otherwise conveyed, the membership in the Association that is appurtenant thereto will automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. The foregoing is not intended to include any Mortgagee or any other person who holds an interest merely as security for the performance of an obligation, and the giving of a security interest will not terminate or otherwise affect an Owner's membership in the Association.

2.3 Agreements.

The Association will be and hereby is authorized to enter into such contractual arrangements, including without limitation, management contracts, as it may deem necessary or desirable for the administration and operation of the Regime; provided, however, from and after the Transition Period, the Association will not enter into any contractual arrangement with a term of longer than two (2) years without Member approval therefor by a majority of the votes cast by written ballot or in person or by proxy at a meeting at which a quorum is present. Anything contained herein to the contrary notwithstanding, the following contracts will be exceptions to this provision:

(i) Any contract with a utility company if the rates charged for the materials or services are subject to regulation by the South Carolina Public Service Commission; provided, however, that the term of the contract will not exceed the shortest term for which the utility will contract at the regulated rate in effect at the contract date;

(ii) The Bulk Installation and Service Agreement by and between Comcast Cablevision of Carolina, Inc. and Brittlebank Condominiums, LLC dated September 10, 2001 for the installation and provision of CATV service to the Regime

(iii) Any prepaid casualty and/or liability insurance policy with a term not to exceed three (3) years, provided that the policy permits short rate cancellation by the insured;

(iv) Any future contract for cable television services and equipment or satellite dish television services and equipment; and

(v) Any contract for the sale or lease of burglar and/or fire alarm equipment, installation and/or services.

Each Owner by acquiring or holding an interest in a Unit thereby ratifies and agrees to be bound by the terms and conditions of all such contractual arrangements entered into by the Board of Directors on behalf of the Association prior to the conveyance of the Unit to the Owner.

2.4 Books and Records.

The Association will keep full and accurate books of account and financial records showing all receipts and disbursements. In particular, the books will be maintained with a detailed account, in chronological order, of the receipts and expenditures affecting the Regime and its administration, and specifying the maintenance and repair expenses of the Common Area as well as other expenditures incurred. Vouchers accrediting the entries made thereupon will also be maintained in chronological order.

2.5 Financial Statements.

No later than 120 days after the close of any fiscal year of the Association, the Association will cause financial statements for such fiscal year to be prepared (but not necessarily certified) by a public accountant licensed in the State of South Carolina. Copies of the financial statements will be available to any Owner or Mortgagee upon written request to the Association. The Association may charge a reasonable fee for copying such statements.

2.6 Access to Information.

The Association will make available to Owners of any Unit and to any Mortgagee current copies of the Regime Documents and the books, records, vouchers, contractual arrangements and financial statements of the Association. "Available" means available for reasonable inspection upon request during normal business hours or under other reasonable circumstances. The Association may charge reasonable copying costs for any requested copies or extracts. Any party entitled to the benefits of this Section 2.6 will be permitted to designate one or more agents who will be permitted to represent said party in connection with any and all reviews of the Regime Documents and books, records, contractual arrangements and financial statements of the Association.

2.7 Rules and Regulations.

The Board of Directors will be entitled to promulgate reasonable Rules and Regulations from time to time, which will be binding on the Association and all Owners and lessees of Owners, their families, invitees and guests, regarding the use and enjoyment of Units and Common Areas. Any fine which may be imposed

against the Association by OCRM or by any other governmental agency for any violation of law or as a result of damage to marsh or any other protected property of the Regime by an Owner or by his renter, lessee or invitee shall be added to such Owner's Assessments and shall become a lien upon his Unit. Copies of the current Rules and Regulations will be furnished to Owners and lessees of Owners upon request.

2.8 Professional Property Manager.

The Beach Company is engaged to manage the day-to-day affairs for the Developer, as well as the Association.

2.9 Collections and Remission of Optional Cable Television, Telephone and Other Charges; Master Utility Charges.

In the event the Association at any time secures any optional cable, telephone or other service, including broadband communications access, the Association will be entitled to collect fees charged to those Unit Owners who elect to receive such optional service made available to the Unit Owners through the Regime and remit the same to the provider thereof on behalf of such Unit Owners. Such elective costs and expenses will not be deemed a Common Expense hereunder, but will be charged to the Units Owners separately from their Assessment. Furthermore, the Board of Directors will pay any master utility meter charge, base cable to all Units, or other blanket utility fee for services to all Units not otherwise separately metered or charged to individual Units. Such master cost and expense will be a Common Expense hereunder; provided, however, in the event actual costs exceed the budgeted costs therefor, such unbudgeted excess may be prorated and charged to the Units Owners separately from their Assessment, and will not require payment thereof from any other budget line item surplus or a Special Assessment or other extraordinary measure of collection.

3. Property Rights

3.1 Units.

Each Unit will for all purposes constitute a separate parcel of real property which, subject to the provisions of this Master Deed, may be owned in fee simple and which may be conveyed, transferred, leased and encumbered in the same manner as any other real property. Each Owner, subject to the provisions of the Condominium Act and this Master Deed, will be entitled to the exclusive ownership and possession of his Unit.

3.2 Description of Units.

The dimensions, area and location of the Units are as set forth on Exhibit "B" attached hereto and are generally intended to include the following:

(a) Horizontal (Upper and Lower).

(i) The upper horizontal boundary of each Unit is the plane formed by the uppermost, unexposed surface of the wallboard or other material comprising a part of the ceiling in the uppermost story of the Unit.

(ii) The lower horizontal boundary of each Unit is the plane formed by the finished surface of the concrete slab or uppermost surface of the subflooring on which the lowermost story of the Unit is constructed.

(b) Vertical (Perimetric or Lateral). The vertical boundaries of each Unit are the planes formed by the outermost, unexposed surface of the wallboard or other surface comprising the perimeter walls enclosing the Unit.

(c) Units Deemed to Include. Notwithstanding the description of the boundaries set forth above, the Units shall be deemed to include the following: all portions of the plumbing, heating, electrical, and air conditioning systems (including furnaces, compressors, components, pipes, wires, conduits, ducts, and the like) serving only that Unit even if partially outside the boundaries of the Unit; all windows, glass surfaces, and doors (including window and door frames and the hardware thereof) serving the Unit; all window screens and screens on any screened balcony; and any fireplace or stove hearth, facing brick, tile or firebox; provided, however, that a Unit shall not include any of the structural components of the Building or utility or service lines within the Unit but serving more than one Unit. In interpreting deeds and plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or plan, regardless of settling or lateral movement of the Building, and regardless of minor variance between the boundaries shown on the plans or in a deed and those of the Unit.

The ownership of each Unit shall include, and there shall pass with each Unit as an appurtenance thereto whether or not separately described in the conveyance thereof, that percentage of the right, title and interest in the Common Areas attributable to such Unit, together with membership in the Association and an undivided interest in the funds and assets held by the Association. Every portion of a Unit and all Limited Common Area contributing to the support of an abutting Unit shall be burdened with an easement of support for the benefit of such abutting Unit.

3.3 Modification of Units.

The Developer, on behalf of itself, its successors and assigns, hereby reserves the right to modify or reconstitute, at any time and from time to time, one or more Units owned by Developer or its affiliates without the consent of the Association or any Owner other than those who may be directly affected; provided, however, that the aggregate Percentage Interest assigned to the Units so affected will not change even though the same may be reallocated among such changed Units. If Developer makes any changes in Units pursuant to this Section 3.3, such changes will be reflected by an amendment of this Master Deed which will be duly recorded in the RMC. Such amendment will not require the consent of Owners other than the Developer.

3.4 Common Area and Limited Common Area.

(a) Percentage Interest. The Owners will own the Common Area as tenants-in-common, with each Unit having, appurtenant thereto, the Percentage Interest in the Common Areas set forth in Exhibit "C" attached hereto; provided, however, that the use of the Limited Common Area will be restricted as set forth in Section 3.4(c). The Percentage Interest appurtenant to each Unit has been determined by dividing the Assigned Value of the respective Unit as shown on Exhibit "C" by the aggregate Assigned Value of all Units as shown on Exhibit "C." The value assigned to any Unit in Exhibit "C" does not represent the sales price or market value of the Unit and will only be utilized for purposes of computing the Percentage Interest appurtenant to the respective Unit.

(b) Inseparability of Percentage Interests. The Percentage Interest in the Common Area cannot be separated from the Unit to which it appertains and will be automatically conveyed or encumbered with the Unit even though such Percentage Interest is not expressly mentioned or described in the deed or other instruments.

(c) No Partition. The Common Area will remain undivided and no right to partition the same or any part thereof will exist except as provided in the Condominium Act, the Bylaws and this Master Deed.

(d) Use of Common Area. The Common Area will be used in accordance with the intended purposes without hindering the exercise of or encroaching upon the rights of other Owners. The Board of Directors will, if any question arises, determine the purpose for which a part of the Common Area is intended to

be used. All Owners and lessees of Owners, their families, invitees and guests will abide by all Rules and Regulations from time to time in effect governing the use of the Common Area.

(e) Use of Limited Common Area. Anything to the contrary contained herein notwithstanding, ownership of each Unit will entitle the Owner or Owners thereof to the exclusive use of the Limited Common Area adjacent and appurtenant to such Unit, which exclusive use may be delegated by such Owner to persons who reside in his Unit. All Owners and lessees of Owners, their families, invitees and guests will abide by all Rules and Regulations from time to time in effect governing the use of the Limited Common Area. An Owner will be responsible for maintenance and repair of the Limited Common Area appurtenant to his Unit as set forth in Section 8.3 below.

(f) Reservation of Easements and Use, Expansion and Contraction Rights. The Common Areas will be subject to all easements and use, expansion and contraction rights, if any, reserved by the Developer hereunder.

3.5 Status of Title of Project

The Developer represents to the Association and all the Owners that, as of the effective date hereof, the Developer has marketable, fee simple title to the Project. The rights and interests of all Owners in and to the Regime will be subject only to (a) liens for real estate taxes for the current year and subsequent years; (b) existing and/or recorded easements, conditions, covenants, declarations, reservations and restrictions including, without limitation, those set forth in this Master Deed; (c) easements and use rights, if any, reserved by the Developer hereunder; and (d) applicable governmental regulations, including zoning laws, which may be imposed upon the Regime from time to time.

3.6 Limited Warranty From Developer.

FOR A PERIOD OF ONE (1) YEAR FROM THE DATE OF COMPLETION OF CONSTRUCTION (BEING THE LATER OF SUBSTANTIAL COMPLETION UNDER THE CONSTRUCTION CONTRACT, OR THE DATE A CERTIFICATE OF OCCUPANCY IS ISSUED THEREFOR), THE DEVELOPER SHALL AT NO COST TO THE ASSOCIATION REPAIR OR REPLACE (IN THE DEVELOPER'S DISCRETION) ANY PORTIONS OF THE COMMON AREA (EXCEPT FIXTURES, ACCESSORIES AND APPLIANCES COVERED BY SEPARATE WARRANTIES OF THEIR RESPECTIVE MANUFACTURERS) WHICH ARE DEFECTIVE AS TO MATERIALS OR WORKMANSHIP. THIS LIMITED WARRANTY IS IN PLACE OF ALL OTHER CONTRACTUAL OBLIGATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AND THE DEVELOPER DISCLAIMS ALL OTHER CONTRACTUAL OBLIGATIONS OR WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TO THE FULLEST EXTENT PERMITTED BY LAW, THE LIABILITY OF THE DEVELOPER SHALL BE LIMITED TO SUCH REPAIR OR REPLACEMENT AND THE DEVELOPER SHALL NOT BE LIABLE FOR DAMAGES OF ANY NATURE, WHETHER DIRECT, INDIRECT, SPECIAL OR CONSEQUENTIAL, REGARDLESS OF WHETHER SUCH DAMAGES ARE CLAIMED TO ARISE OUT OF THE LAW OF CONTRACT, TORT OR OTHERWISE, OR PURSUANT TO STATUTE OR ADMINISTRATIVE REGULATION. Each Owner, in accepting a deed from the Developer or any other party to a Unit, expressly acknowledges and agrees that this Section 3.6 establishes the sole liability of the Developer to the Association and the Owners related to defects in the Common Area and the remedies available with regard thereto. At the end of the one (1) year warranty period referred to hereinabove in this Section 3.6, the Developer will assign to the Association in writing all of its rights, claims, causes of action and demands which it has or which may thereafter accrue against all other people who may be responsible for the design and/or construction of the Common Area.

4. Assessments

4.1 Creation of Lien and Personal Obligation for Assessments.

Each Unit is and will be subject to a lien and permanent charge in favor of the Association for the Assessments set forth herein. Each Assessment, together with interest thereon and cost of collection thereof as hereinafter provided, will be a permanent charge and continuing lien upon the Unit against which it relates, and will also be the joint and several personal obligation of each Owner of such Unit at the time the Assessment comes due and upon such Owner's successor in title if unpaid on the date of the conveyance of such Unit, and each and every Owner by acquiring or holding an interest in any Unit thereby covenants to pay such amounts to the Association when the same will become due; provided, however, that no Owner acquiring title to any Unit at a foreclosure sale of any Institutional Mortgage, his successors and assigns, will have any personal obligation with respect to the portion of any Assessments (together with late charges, interest, fees and costs of collection) related to such Unit, the lien for which is subordinate to the lien of the Institutional Mortgage being foreclosed as provided in Section 4.8.

4.2 Annual Assessments.

At least thirty (30) days prior to the Association's next succeeding Annual Assessment Period the Board will adopt a budget for the next succeeding Annual Assessment Period by estimating the Common Expenses to be incurred during such Annual Assessment Period, including a reasonable allowance for contingencies and operating and replacement reserves, such budget to take into account the projected anticipated income which is to be applied in reduction of the amount to be collected as an assessment. Upon adoption of the budget, a copy thereof will be delivered to each Owner. The Annual Assessment fixed against each Unit will be based upon said budget and in proportion to the respective Percentage Interests of each Unit subject to assessment, and the Board will give written notice to each Owner of the Annual Assessment fixed against his Unit for such next succeeding Annual Assessment Period; provided, however, the delivery of a copy of said budget will not be a condition precedent to an Owner's liability for payment of such Annual Assessment. In fixing the annual budget, the Board of Directors shall reflect in the budget the recommendations of a maintenance audit conducted by a professional inspector at such frequency as the Board shall determine, but not less frequently than every three (3) years. The Board shall provide the Developer with a copy of each such inspection report or maintenance audit findings. The Board shall not be relieved of its duty to contract for a maintenance audit by virtue of the Developer's inspections pursuant to Section 11.5 below.

The Annual Assessment will not be used to pay for the following:

- (a) Casualty insurance of individual Owners on their possessions within the Units and liability insurance of such Owners insuring themselves and their families individually, which will be the sole responsibility of such Owners;
- (b) Ad valorem taxes assessed against Units;
- (c) Other charges or expenses related solely to individual use or occupancy of any Unit; or
- (d) Amounts charged directly to Owners pursuant to any amendment to this Master Deed providing for the collection of assessments or use fees for any docks or boat slips constructed within or adjacent to the Project.

It is anticipated that ad valorem taxes and other governmental assessments, if any, upon the Project will be assessed by the taxing authority upon the Unit, and that each assessment will include the assessed value of the Unit and of the undivided interest of the Owner in the Common Area; provided, however, that for the current calendar year, the ad valorem taxes will be based upon the condition of the Land as of January 1, and the

Developer will be liable for that portion of the taxes applicable to the period prior to the recordation of this Master Deed. When current ad valorem taxes are due and payable, the remainder of the ad valorem taxes for the current calendar year will be prorated between the Developer and each Owner based upon the Owner's Percentage Interest and based upon the number of days each owned the Unit as evidenced by the date of the Unit Deed. Any such taxes and governmental assessments upon the Project, which are not so assessed, will be included in the Association's budget as a recurring expense and will be paid by the Association as a Common Expense. Except as otherwise provided herein, each Owner is responsible for making his own return of taxes and such return will include such Owner's undivided interest in the Common Area as such undivided interest is determined by law for purposes of returning taxes.

4.3 Rounding.

Annual Assessments charged by the Association will be rounded off to the nearest dollar.

4.4 Special Assessments.

In addition to the Annual Assessments, the Board of Directors may levy in any calendar year "Special Assessments" for the purpose (i) of supplementing the Annual Assessments if the same are inadequate to pay the Common Expenses and (ii) of defraying, in whole or in part, the cost of any reconstruction, repair, or replacement of the Common Area; provided, however, that any such Special Assessment which in the aggregate exceeds twenty percent (20%) of the total Annual Assessments for such year will have the approval of Members therefor by a majority of the votes cast by written ballot or in person or by proxy at a meeting at which a quorum is present, duly called for the express purpose of approving such Special Assessment.

4.5 Date of Commencement of Annual Assessments; Due Dates.

Although the Annual Assessment is calculated on a yearly basis for the Annual Assessment Period, each Owner of a Unit will be obligated to pay to the Association or its designated agent such Assessment in advance in monthly, quarterly, semi-annual or annual installments as established by the Board. An installment shall be due and payable on the due date established by the Board, but in the absence of any such specific due date, the installment shall be due and payable in full on or before the last day of the month in which the Assessment is billed.

The obligations of Owners regarding the payment of monthly portions of the Annual Assessment provided for in this Section 4.5 will, as to each Unit, commence upon the recording of this Master Deed. The first monthly payment of the Annual Assessment for each such Unit will be an amount equal to the monthly payment for the Annual Assessment Period in progress on such commencement date, divided by the number of days in the month of conveyance, and multiplied by the number of days then remaining in such month.

The Association will, upon demand at any time, furnish any Owner liable for any such Assessment a certificate in writing signed by an Officer of the Association or the property manager of the Association, setting forth whether the same has been paid. A reasonable charge, as determined by the Board, may be made for the issuance of such certificate. Such certificate will be conclusive evidence of payment of any Assessment stated to have been paid as to any person or entity that has relied on the certificate to his or its detriment.

4.6 Effect of Non-Payment of Assessment; the Personal Obligation of the Owner; the Lien; Remedies of Association.

(a) If an Assessment is not paid on the date when due, as heretofore provided in Section 4.5, then such Assessment together with such late charges and interest thereon and any costs of collection thereof as hereafter provided, will be a charge and continuing lien on the Unit to which it relates, and will bind such

property in the hands of the Owner, his heirs, legal representatives, successors, and assigns. The personal obligation of the then Owner to pay such Assessment, however, will remain his personal obligation, and if his successors in title assume his personal obligation, such prior Owner will nevertheless remain as fully obligated as before to pay to the Association any and all amounts which he was obligated to pay immediately preceding the transfer. Furthermore, such prior Owner and his successor in title who assumes such liabilities will be jointly and severally liable with respect thereto, notwithstanding any agreement between such prior Owner and his successor in title creating the relationship of principal and surety as between themselves, other than one by virtue of which such prior Owner and his successor in title would be jointly and severally liable to pay such amounts.

(b) Any Assessment shall be due in full not later than the date hereinabove provided in Section 4.5, and any Assessment or portions thereof which is not paid when so due will be delinquent. Any delinquent Assessment will incur a late charge in an amount as may be determined by the Board from time to time and, upon adoption of a policy therefor by the Board of Directors, will also commence to accrue simple interest at the rate set by the Board of Directors from time to time. A lien and equitable charge as herein provided for each Assessment installment shall attach simultaneously as the same will become due and payable, and if an Assessment installment has not been paid as aforesaid, the entire unpaid balance of the Assessment installments for the Annual Assessment Period then in effect remaining to be paid during the fiscal year may be accelerated by the option of the Board and be declared due and payable in full.

(c) The Association may bring legal action against the Owner personally obligated to pay the same or foreclose its lien against the Unit to which it relates or pursue both such courses at the same time or successively. In any event, the Association will be entitled also to recover reasonable attorney's fees actually incurred and all other costs of collection. Each Owner, by his acceptance of a deed or other transfer of a Unit, vests in the Association or its agent the right and power to bring all actions against him personally for the collection of such charges as a debt and to foreclose the aforesaid lien in any appropriate proceeding at law or in equity. All Owners, to the fullest extent permitted by law, waive the right to assert any statute providing appraisal rights which may reduce any deficiency judgment obtained by the Association against any Owner in the event of such foreclosure and further, waive all benefits that might accrue to any Owner by virtue of any present or future homestead exemption or law exempting any Unit or portion thereof from sale. If the Association commences to foreclose its lien, the Owner may be required to pay a reasonable rental for the Unit after the commencement of the action and at its option the Association will be entitled to the appointment of a receiver to collect such rents. The Association will have the power to bid on the Unit at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No Owner may be relieved from liability from the Assessment provided for herein by abandonment of his Unit or otherwise.

(d) During any period in which an Owner will be in default in the payment of any Annual or Special Assessment levied by the Association, the voting rights of the Owner and the rights of the Owner and lessees of the Owner, their families, invitees and guests, to use and enjoy the recreational areas of the Common Area may be suspended by the Board of Directors until such time as the Assessment has been paid.

4.7 Developer's Unsold Units.

So long as the Developer owns any Unit for sale, the Developer shall pay its prorata Assessment for each such Unit.

4.8 Subordination of the Charges and Liens to Institutional Mortgages.

(a) The lien and permanent charge for the Assessments (together with late charges, interest, fees and cost of collection) authorized herein with respect to any Unit is hereby made subordinate to the lien of any holder of an Institutional Mortgage or his assigns placed on such Unit, and all Assessments with respect to such Unit having a due date on or prior to the date such Institutional Mortgage is filed for record have been paid. The lien and permanent charge hereby subordinated is only such lien and charge as relates to Assessments

authorized hereunder having a due date subsequent to the date such Institutional Mortgage is filed for record and prior to the satisfaction, cancellation or foreclosure of such Institutional Mortgage.

(b) Such subordination is merely a subordination and will not relieve the Owner of the mortgaged Unit of his personal obligation to pay all Assessments coming due at a time when he is the Owner; will not relieve such Unit from the lien and permanent charge provided for herein (except as to the extent the subordinated lien and permanent charge is extinguished against a Mortgagee or such Mortgagee's assignee or transferee by foreclosure); and no sale or transfer of such Unit to the Mortgagee or to any other person pursuant to a foreclosure sale will relieve any previous Owner from liability for any Assessment coming due before such sale or transfer.

(c) To the extent any subordinated lien and permanent charge for any Assessment is extinguished by foreclosure of any Institutional Mortgage, then the amount or amounts otherwise secured thereby which cannot otherwise be collected will be deemed a Common Expense collectible from all Owners, including the person who acquires title through the foreclosure sale.

4.9 Reserves.

The Board of Directors will establish and maintain an adequate reserve fund for the periodic repair and replacement of the Common Area. The Board of Directors will include amounts needed to maintain an adequate reserve fund in its estimation of the Common Expenses for each fiscal year and will cause deposits to the reserve fund to be made in connection with the collection of the Annual Assessment.

4.10 Working Capital Collected at Initial Closing.

Notwithstanding anything to the contrary in this Master Deed, a working capital fund will be established for the Association by collecting from each Owner who acquires title to his Unit from the Developer a working capital amount equal to 2/12ths of the Annual Assessment then in effect, which Assessment will be due and payable at the time of transfer of each Unit by the Developer to any other Owner. Each such Owner's share of working capital, as aforesaid, will be transferred to the Association at the time of closing the conveyance from the Developer to the Owner. Such sum is and will remain separate and distinct from the Annual Assessment and will not be considered advance payment of the Annual Assessment. The working capital receipts may be used by the Association in covering operating expenses as well as any other expense incurred by the Association pursuant to this Master Deed and the Bylaws.

5. Insurance and Casualty Losses

5.1 Hazard Insurance.

(a) The Association will obtain, maintain and pay the premiums, as a Common Expense, upon a "master" or "blanket" type policy or policies of property insurance covering the entire Project, except (i) land, foundation, excavation, or other items normally excluded from coverage; (ii) all improvements and betterment made to Units by Owners at their expense; and (iii) personal property of Owners and lessees of Owners, their families, invitees and guests. Such coverage will also insure supplies, equipment and other personal property of the Association. All policies of property insurance will be single entity condominium insurance coverage. The master insurance policy will afford, at a minimum, protection against loss or damage by fire and other perils normally covered by standard extended coverage endorsements; and all other perils which are customarily covered with respect to condominium projects similar in construction, location and use, including all perils normally covered by a standard "special coverage" endorsement, where such is available. The policy will be in an amount equal to one hundred (100%) percent of the current replacement cost of the Project, exclusive of land, foundations, excavation, and other items normally excluded from coverage. Policies shall be subject to such "deductible amounts" as the Board of Directors shall determine to be reasonable in the exercise of its business.

judgment, any such deductible amount will be considered a Common Expense and borne by the Association regardless of the number of Owners directly affected by the loss and reserves will be established therefor.

(b) The name of the insured under the master policy will be substantially as follows: "Bristol Condominium Property Owners' Association for the use and benefit of the Individual Owners of Units in Bristol Horizontal Property Regime." Loss payable provisions will be in favor of the Association and the Trustee, as a trustee for each Owner, and each such Owner's Mortgagee as the interests of such parties may appear. Each Owner and his respective Mortgagee, if any, will be beneficiaries of the policy in a percentage equal to the Percentage Interest attributable to the Unit owned by such Owner. All policies will contain a standard mortgagee clause, or equivalent endorsement (without contribution), which is commonly accepted by Institutional Mortgage Investors in the area in which the Project is located, and which appropriately names all Mortgagees or their servicer in such form as requested by such Mortgagees or their servicer.

(c) All policies will be written with a company holding a general policyholder rating of "A" or better by Best's Insurance Reports and in a financial category of Class VI or better in Best's Key Rating Guide. Policies are unacceptable where (i) under the terms of the insurance carrier's charter, bylaws or policy, contributions or assessments may be made against the Association, Owners, Mortgagees or the designees of Mortgagees; (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policy holders or members; or (iii) the policy includes any limiting clause (other than insurance provisions) which could prevent Mortgagees or Owners from collecting insurance proceeds. Policies may not be cancelable or substantially modified by any party without at least ten (10) days prior written notice to the Association and each Mortgagee, which is listed as a scheduled holder of a first Mortgage in the Insurance policy. Policies should also contain a "special condominium endorsement" or its equivalent which provides for the following: recognition of any insurance trust agreement; a waiver of the rights of subrogation against Owners individually; the insurance is not prejudiced by any act or negligence of individual Owners which is not under the control of the Association or such Owners collectively; and the policy is primary in the event the Owner has other insurance covering the same loss.

(d) The Association will provide to Owners and/or Mortgagees requesting the same in writing a certificate of insurance, or a copy of the certificate of insurance, for the Regime, for which the Association may charge reasonable copying costs.

(e) Each Owner may obtain additional insurance at his own expense; provided, however, that no Owner will be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, on behalf of all of the Owners and their Mortgagees, may realize under any insurance policy which the Association may have in force on the Project at any particular time. Any diminution in insurance proceeds otherwise payable under the Association's policies that results from the existence of any Owner's policy will be chargeable to the Owner who acquired such other insurance. Any Owner who obtains an individual insurance policy covering any portion of the Project, other than the personal property belonging to such Owner, will file a copy of such policy with the Association within thirty (30) days after purchasing such insurance. Each Owner, at his own expense, may obtain on his Unit or the contents thereof, title insurance, homeowner's liability insurance, theft and other insurance covering improvements, betterment and personal property damaged and lost. In addition, risk of loss with respect to any improvements made by an Owner within his Unit shall be that of the Owner. Betterments coverage or "improvements insurance" shall be secured solely by an Owner wishing such coverage of his risk of loss, and the Association shall have no liability therefor.

5.2 Liability Insurance

The Association will obtain, maintain and pay the premiums, as a Common Expense, upon a policy of comprehensive general liability insurance coverage covering at a minimum all of the Common Area. Coverage limits will be in amounts generally required by private Institutional Mortgage holders for projects similar

In construction, location and use to the Project; provided, however, that such coverage will be for at least \$1,000,000 for bodily injury, including death of persons, and property damage arising out of a single occurrence. Coverage under this policy will include, without limitation, legal liability to the insured for property damage, bodily injury and death of persons in connection with the operation, maintenance and use of the Common Area and legal liability arising out of law suits related to employment contracts in which the Association is a party. If the policy does not include "severability of interest" in its terms, an endorsement will be included which precludes the insurer's denial of the claims of an Owner because of the negligent acts of the Association or another Owner. Such policy must provide that it cannot be canceled or substantially modified, by any party, without at least thirty (30) days prior written notice to the Association and each Mortgagee listed as a scheduled holder of a first Mortgage in the insurance policy.

5.3 Fidelity Bonds and Other Insurance.

The Association will obtain, maintain and pay the premiums, as a Common Expense, upon a blanket fidelity bond for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds belonging to or administered by the Association, including any professional management company assisting with the administration of the Regime. The total amount of the fidelity bond coverage required will be based upon the best business judgment of the Board of Directors and will not be less than the estimated maximum funds, including reserve funds, in the custody of the Association or a professional management company, as the case may be, at any given time during the term of each bond; provided, however, that in no event will the aggregate amount of such bonds be less than a sum equal to 2/12ths of the total Annual Assessments plus reserve funds. Fidelity bonds will meet the following requirements: the Association will be named as an obligee; the bonds will contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions; and the bond will provide that it may not be canceled or substantially modified (including cancellation for nonpayment of a premium) without at least ten (10) days prior written notice to the Association and each Mortgagee listed as a scheduled holder of a first Mortgage in the fidelity bond.

The Association will obtain, maintain and pay the premiums, as a Common Expense, on a policy of directors and officers liability insurance in such amounts as determined by the Board of Directors.

The Board of Directors will be authorized on behalf of the Association to obtain and maintain such other and further insurance as the Board of Directors may determine from time to time.

5.4 Authority to Adjust Loss.

The exclusive authority to negotiate, settle and otherwise deal in all respects with insurers and adjust all losses under policies provided for herein will be vested in the Board of Directors or its duly authorized agent for the benefit of all Owners and Mortgagees; provided, however, that all Owners and Mortgagees having an interest in such loss will be advised in advance of all actions anticipated to be taken of a material nature related to the adjustment of the loss. Each Owner, in accepting a deed to a Unit, expressly appoints the directors, and each of them, his due and lawful attorneys-in-fact, with full power of substitution, to act on behalf of the Owner as fully as the Owner could act in person on all matters related to the authority granted in this Section 5.4, including executing all documents required in connection therewith on behalf of the Owner.

5.5 Trustee.

(a) The Board of Directors may, from time to time, designate a third party Trustee hereunder. The Trustee, whether the Board of Directors acting in said capacity, or a third-party designated by the Board, will serve the Association and the Owners and their Mortgagees (as their interests may appear) as provided herein. Any third-party Trustee, but not the Board of Directors acting in such capacity, will be entitled to receive reasonable compensation for services rendered which will be a Common Expense of the Association.

(b) All insurance policies obtained by the Association will name the Association and the Trustee as loss payees. Immediately upon the receipt by the Association of any insurance proceeds, the Association will endorse the instrument by means of which such proceeds are paid and deliver the instrument to the Trustee. The Trustee will not be liable for payment of premiums, for the renewal or the sufficiency of the policies or for the failure to collect any insurance proceeds. Nor will the Trustee have any obligation to inspect the Project to determine whether a loss has been sustained or to file any claim or claims against any insurer or any other person.

(c) Among other things, the duties of the Trustee will be to receive proceeds delivered to it, hold such proceeds in trust for the benefit of the Owners and their Mortgagees, and disburse the proceeds as hereinafter provided.

(d) Proceeds of insurance policies received by the Trustee will be disbursed as follows:

(i) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purposes, will be disbursed in payment for such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs will be paid to the Association for the benefit of all Owners and their Mortgagees, if any;

(ii) If it is determined, as provided in Section 5.6, that the damage or destruction for which the proceeds are paid will not be repaired or reconstructed, such proceeds will be disbursed to such persons as therein provided;

(iii) Any and all disbursements of funds by the Trustee for any purpose whatsoever will be made pursuant to and in accordance with a certificate of the Association signed by the President and attested by the Secretary directing the Trustee to make the disbursements;

(iv) If the damage or destruction is to the Common Area and is to be repaired or reconstructed, two days prior written notice of each disbursement will be given to the Mortgagee known by the Trustee from the records of the Association to have the largest interest in or lien upon such Common Area; and if the damage or destruction is to one or more Units and is to be repaired or reconstructed, said notice will also be given to the Mortgagee or Mortgagees known to the Trustee from the records of the Association to have an interest in or lien upon such Unit or Units.

(e) The Trustee will not incur liability to any Owner, Mortgagee or other person for any disbursements made by it in good faith pursuant to and in accordance with the foregoing requirements.

5.6 Damage and Destruction.

(a) Immediately after all or any part of the Project covered by insurance is damaged or destroyed by fire or other casualty, the Board of Directors or its duly authorized agent will proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section 5.6(a), means repairing or restoring the damaged property to substantially the same conditions in which it existed prior to the fire or other casualty, with each Unit and the Common Area having the same vertical and horizontal boundaries as before.

(b) Any such damage or destruction to the Project will be repaired; provided, however, that any such damage which requires the reconstruction of the whole or more than two-thirds (2/3) of the Project will not be undertaken unless sixty-seven percent (67%) of the Members agree, voting in person or by proxy at a meeting at which a quorum is present, duly called, in whole or in part, for the purpose of disapproving such repair or reconstruction. If the Project is not reconstructed, all insurance proceeds will be delivered in accordance with

the provisions of Section 5.6(c) below. Except as otherwise provided, any such damage or destruction which renders any Unit untenantable or uninhabitable, or any such damage or destruction to the Common Area, will be repaired and reconstructed as promptly as practicable. No Mortgagee will have any right to restrict the use of insurance proceeds otherwise available for repair, reconstruction or rebuilding.

(c) In the event that it is determined by the Association in the manner prescribed above that the damage or destruction will not be repaired, reconstructed or rebuilt, then and in that event:

- (i) The Project will be owned by the Owners as tenants-in-common;
- (ii) The undivided interest in the Project of each Owner will be a percentage equal to the Percentage Interest appurtenant to the Unit theretofore owned by the Owner;
- (iii) All liens affecting any of the Units will be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Owners of the respective Units;
- (iv) The Project will be subject to an action for partition at the instance of any Owner, in which event the net proceeds of the sale will be deposited with the Trustee;
- (v) The Association will proceed to satisfy all of its liabilities and convert all of its assets to cash, which will be deposited with the Trustee;
- (vi) The proceeds from the sale of the Project, the liquidation of the assets of the Association and the insurance proceeds related to the damage or destruction to the Project will be considered one fund which, after paying the reasonable expenses of the Trustee, will be distributed to all the Owners and their respective Mortgagees as their interests may appear in percentages equal to the Percentage Interests of said Owners. Distributions to such Owners and their Mortgagees will be made pursuant to certificates provided for in Section 5.5.

5.7 Insufficient Proceeds to Repair.

(a) If the damage or destruction for which the insurance proceeds are paid to the Trustee is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, or if no insurance proceeds exist with respect to such damage or destruction, the Board of Directors will levy an Assessment against the Owners of damaged or affected Units in sufficient amounts to provide funds to pay costs in excess of insurance proceeds for repair or reconstruction. Additional Assessments may be made at any time during or following the completion of any repair or reconstruction. That portion of such Assessments levied against each Owner will be equal to that percentage computed by dividing the Percentage Interest appurtenant to such Owner's Unit by the aggregate Percentage Interests appurtenant to all Units damaged or affected.

(b) Any and all sums paid to the Association under and by virtue of those Assessments provided for in subsection (a) of this Section 5.7 will be deposited by the Association with the Trustee. Such proceeds from insurance and Assessments, if any, received by the Trustee will be disbursed as provided in Section 5.5.

6. Condemnation

6.1 General

Whenever all or any part of the Project will be taken by any authority having the power of condemnation or eminent domain, each Owner will be entitled to notice thereof; provided, however, that the exclusive right to negotiate, settle and otherwise deal in all respects with the condemning authority as to the taking

of the Common Area will be vested in the Board of Directors or its duly authorized agent on behalf of the Association. Each Owner, in accepting a deed to a Unit, expressly appoints the directors, and each of them, his due and lawful attorneys-in-fact, with full power of substitution, to act on behalf of the Owner as fully as the Owner could act in person in all matters related to the authority granted in this Section 6.1, including executing all documents required in connection therewith on behalf of the Owner. The award made for such taking will be payable to the Trustee. Unless otherwise required by law at the time of such taking, any award made therefor will be disbursed by the Trustee, as hereinafter provided in this Section 6.

6.2 Non-Essential Areas.

If the taking does not include any portion of any Unit or any portion of the Common Area essential to the continued occupancy of any Unit, then the Board of Directors will be permitted to replace any nonessential improvements to the extent deemed appropriate and the Trustee will disburse the proceeds of such awards in the same manner as hereinabove provided for and in connection with the repair, reconstruction or rebuilding of improvements after damage or destruction, with all excess proceeds to be distributed to the Association.

6.3 Essential Areas.

If the taking includes any portion of a Unit or the Common Area essential to the use of any Unit, then the award will be disbursed, and all related matters, including, without limitation, alteration of the Percentage Interests appurtenant to each Unit, will be handled, by (a) the Developer during the Transition Period, and (b) thereafter, the Board of Directors in a just and equitable manner to all Owners; provided, however, that all action of the Board of Directors will be pursuant to and in accordance with a plan approved by Members representing at least sixty-seven (67%) percent of the total votes of the Association voting in person or by proxy, at a meeting at which a quorum is present, duly called, in whole or in part, for the purpose of approving such in a duly recorded amendment to this Master Deed. In the event that such an amendment will not be recorded within ninety (90) days after the taking, then such taking will be deemed to be and will be treated as damage or destruction which will not be repaired or reconstructed as provided for in Section 5.6, whereupon the Regime will be terminated in the manner therein prescribed.

7. Architectural Control

7.1 Approval Required for Unit Changes and Viewable Interior Features.

To preserve the original architectural appearance of the Project, the structural integrity thereof and the Unit designs, including architectural and engineering aspects therein, no construction, reconstruction or Unit modification of any nature whatsoever, except as specified in the Regime Documents, will be commenced or maintained upon or within, the Building, including without limitation within a Unit and a Limited Common Area, nor will there be any change, modification or alteration of any nature whatsoever of the design and appearance of any surfaces or facades, nor will any Owner paint any gate, fence or roof, nor will any Owner change the design or color of the exterior lights, nor will any Owner install, erect or attach to any part of the exterior any addition or change until after the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same will have been submitted to and approved in writing as to harmony of design, color and location in relation to the surrounding features by the Board of Directors and pursuant to original plans and specifications or Design Guidelines adopted therefor. Furthermore, such required approval by the Board of Directors shall extend to any interior features or aesthetic elements that are proposed to be changed. The failure of an Owner to secure the required approval of the Board of Directors as aforesaid, or to take such action, remedial or otherwise, as the Board of Directors shall at any time determine to be required hereunder shall be subject to the authority and enforcement powers of the Board of Directors as set forth Section 17.5 below.

8. Maintenance

8.1 Responsibility of Association.

Except as specifically provided to the contrary herein, the Association will maintain the Common Area in first class condition in accordance with proper maintenance procedures applicable thereto and will enforce all warranties with respect to the Common Area. In addition, the Association will repair or replace all parts of the Common Area as necessary. Except as otherwise provided herein, the cost of such will be charged to the Owners as a Common Expense.

8.2 Access to Units.

The Association will have the irrevocable right, to be exercised by the Board of Directors or its agent, which term includes the Association manager, to have reasonable access to each Unit from time to time as may be necessary for the periodic inspection and application of termite and other bug control treatment for which the Association may contract, from time to time; to undertake such action as it may determine to prepare and secure the Building and the Unit in anticipation of storm or hurricane, provided the Association shall be under no obligation to an Owner to do so; and for the inspection, maintenance, repair or replacement of any of the Common Area accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Area or to other Units.

8.3 Responsibility of Owner.

In the event that the Board of Directors should determine that the need for maintenance or repairs by the Association as provided for in this Section 8.3 is caused through the willful or negligent act of an Owner or the lessee of an Owner, their families, invitees or guests, or the Owner's pets, the cost of which is not covered or paid for by insurance, then the cost, both direct and indirect, of such maintenance or repairs will be added to and become a part of the Assessment to which such Owner and his Unit are subject. Each Owner will maintain, repair or replace at his own expense all portions of his Unit which may become in need thereof, including the heating and air-conditioning system for such Unit, all bathroom and kitchen fixtures and appliances, light fixtures, interior non-load-bearing walls, carpeting, drapes, doors, windows, screens window and door hardware, and other items within the Unit. Further, each Owner will, at his own expense, maintain, repair and replace, when necessary, that portion of the heating and air-conditioning system exclusively servicing his Unit, which is located outside his Unit. Each Owner will, at his own expense, keep the Limited Common Area to which his Unit has exclusive access and to which he has exclusive use clean and neat, and will conduct maintenance and repair thereto as necessary. If the Owner does not make those repairs required to be made by him within thirty (30) days from the date of receipt of written demand from the Association, the same may be repaired by the Association and the cost thereof will be assessed against the Owner and Unit owned by such Owner.

9. Access, Ingress and Egress.

All Owners, by accepting title to a Unit, waive all rights of uncontrolled and unlimited access, ingress, and egress to and from such property and acknowledge and agree that such access, ingress, and egress will be limited to roadways, sidewalks and walkways located within the Project from time to time, provided that pedestrian and vehicular access to and from all such property will be provided at all times. There is reserved unto Developer, the Association, and their respective successors and assigns the right and privilege, but not the obligation, to maintain guarded or electronically-monitored gates controlling vehicular access to and from the Project, provided that access may be granted to any person who gives reasonable evidence satisfactory to entry guards, if there are any, that entry is with the specific permission of the Owner, or his duly authorized agent. Neither the Developer nor the Association will be responsible, in the exercise of its reasonable judgment, for the granting or denial of access to the Project in accordance with the foregoing.

NEITHER THE DEVELOPER NOR THE ASSOCIATION SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF ANY GATE OR CONTROLLED ACCESS TO THE PROJECT OR SAFETY MEASURES UNDERTAKEN WITH RESPECT THERETO BY EITHER OR BOTH OF THEM AND WHETHER OR NOT SUCH ACTIVITIES OR UNDERTAKINGS ARE REFERRED TO AS "SECURITY" MEASURES, NOR SHALL EITHER OR BOTH BE LIABLE FOR ANY LOSS OR DAMAGE RESULTING FROM ANY FAILURE TO PROVIDE CONTROLLED ACCESS OR SAFETY MEASURES, OR FROM LEAVING ANY GATE OPEN, AS PERMITTED UNDER SECTION 9.1 BELOW, OR FROM A FAILURE OR INEFFECTIVENESS OF ANY SUCH CONTROLLED ACCESS OR SAFETY MEASURES UNDERTAKEN BY EITHER OR BOTH OF THEM. NO REPRESENTATION, WARRANTY OR COVENANT IS GIVEN TO ANY OWNER OR OCCUPANT BY EITHER OR BOTH OF THE DEVELOPER AND THE ASSOCIATION THAT ANY CONTROLLED ACCESS OR SAFETY MEASURES INSTALLED OR UNDERTAKEN CANNOT BE BYPASSED OR COMPROMISED, OR THAT THEY WOULD, IN FACT, AVERT DAMAGE OR LOSS RESULTING FROM THAT WHICH THEY ARE DESIGNED TO PREVENT, AND EACH OWNER BY ACCEPTANCE OF A DEED TO A UNIT AND EACH OCCUPANT THEREOF SHALL INDEMNIFY AND HOLD THE DEVELOPER AND ASSOCIATION HARMLESS FROM ANY DAMAGE AND COSTS AND EXPENSES, INCLUDING ATTORNEY FEES, INCURRED BY EITHER OR BOTH OF THEM AS A RESULT OF ANY SUCH ASSERTION OR DETERMINATION.

9.1 Developer's Right to Maintain Open Gate.

Notwithstanding anything herein contained to the contrary, the Developer hereby reserves unto itself, its successors and assigns, the right and option to control any gate to the Project and to leave the gate in an open position for the unobstructed and uncontrolled passage of construction vehicles for persons engaged in both infrastructure and building construction activities. The within right, if exercised, will be limited to the hours of 6 a.m. to 6 p.m. and will terminate upon expiration of the Transition Period.

9.2 Public Roadways Within The Regime.

During the Transition Period, the Developer, and thereafter the Association, shall have the right to dedicate any portion of the roadways and/or entryways within the Regime to the State of South Carolina or any political subdivision thereof for the purpose of granting public access thereto and over said roadway and/or entryway and for the purpose of having said political subdivision assume responsibility for maintenance of such roadways and/or entryways. The Developer further reserves the right to impose upon the Association the requirement of maintaining any such dedicated roadway and/or entryway until such time as it is brought up to

standards acceptable to such public body and maintenance thereof is assumed by such public body; provided, however, the Developer may, in its sole discretion, reserve an easement over any such public roadway and/or entryway to be primarily maintained by such public body for the purpose of doing additional maintenance to said public areas and to maintain landscaping along the unpaved portions thereof, and thereafter denominate in a Site Plan or Amendment to this Master Deed that said easement will constitute a Common Area of the Regime to be maintained by the Association. The Board of Directors may levy a Special Assessment against all Owners, without the necessity of a vote pursuant to Section 4.4 hereof, in an amount sufficient to provide funds required to bring any roadway and/or entryway up to standards acceptable to any public body for the assumption by it of maintenance of a said roadway.

10. Unit Restrictions

10.1 Units.

All Units will be, and the same are hereby restricted exclusively, for residential use, provided, however, a Unit may be used as a combined residence and executive or professional office by the Owner thereof so long as such use does not interfere with the quiet enjoyment by other Owners and does not include visitation by clients, or unreasonable levels of mail, shipping, storage or trash requirements. No immoral, improper, offensive or unlawful use will be made of any Unit and no use or condition will be permitted which is a source of unreasonable noise or interference with the peaceful possession and quiet enjoyment of any other portion of the Project by other Owners or lessees of Owners, their families, invitees and guests. All Units will be kept in a clean and sanitary condition and no rubbish, refuse or garbage will be allowed to accumulate. No fire hazard will be allowed to exist and no use or condition will be permitted which will increase any rate of insurance related to the Project. In addition, all Owners and lessees of Owners, their families, invitees and guests will abide by all Rules and Regulations in effect from time to time governing the use of Units.

10.2 Animals and Pets.

No animals, livestock or poultry of any kind will be raised, bred or kept on any part of the Project, except that dogs, cats or other normal household pets may be kept by the respective Owners inside their respective Units provided that (i) the Board of Directors may, in its sole discretion, establish by rule that dogs of a certain breed are potential hazards to the Regime and its occupants, such as those known as Pit Bulls, Rotweillers, Dobermans, Chows and German Shepards, and are deemed not to be normal household pets; (ii) the Board of Directors may establish reasonable rules and regulations to insure that all permitted pets are properly licensed and inoculated for rabies and such other disease for which inoculation is customary for that breed of pet; (iii) an Owner execute a written indemnification and hold harmless agreement in favor of the Regime and the Regime's management company, in form and content satisfactory to counsel for the Board, prior to bringing the Owner's pet upon the Property; and (iv) permitted pets are not kept, bred or maintained for any commercial purpose and do not create any health hazard or, in the sole discretion of the Board of Directors, unreasonably disturb the peaceful possession and quiet enjoyment of any other portion of the Project by other Owners and lessees of Owners, their families, invitees and guests. Pets shall be kept on a leash at all times when outside of a Unit, and the Owner shall clean up after his or her pet.

10.3 Antennas.

No television antenna, radio receiver, or other similar device will be attached to or installed on any portion of the Regime by an Owner, except as required by the Telecommunications Act of 1996 and Implementing rules therefor issued by the Federal Communications Commission and by the Association in conformity with rules or guidelines of the Federal Communications Commission; provided, however, the Developer and the Association, and their successors and assigns, will not be prohibited from installing equipment necessary for master antenna, security, cable television, mobile radio, or other similar systems within the Regime.

10.4 Leasing of Units.

Any Owner will have the right to lease or rent his Unit; provided, however, that all leases and rental contracts will be for a duration of one (1) year or more and will be in writing and will require the lessee to abide by all conditions and restrictions placed on the use and occupancy of the Unit and the Common Area by the Regime Documents. The Board of Directors will have the right to approve the form of all such leases and rental contracts at any time if it elects to do so. Occupancy by a tenant or renter under any such approved form of lease or rental contract is subject to continuing approval of the Board thereunder, which may be removed at any time by the Board for any violation by any such tenant or renter of the Rules and Regulations of the Association.

10.5 Motor Homes, Trailers, Boats, Etc.

All vehicles will be parked in spaces within the Common Area designated therefor. There will be no storage or parking upon any portion of the Project of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pick-up trucks), commercial vehicles of any type, camper, motorized camper or trailer, boat or other watercraft, boat trailer, motorized go-cart, or any other related forms of transportation devices.

10.6 Signs.

Except as may be required by law or by legal proceedings, no signs or advertising posters of any kind, including, but not limited to, "For Rent," "For Sale," and other similar signs, shall be erected by an Owner, the Association, or any agent, broker, contractor or subcontractor thereof, nor shall any sign or poster be maintained or permitted on any window, or within a Unit and viewable through any window, or on the exterior of any improvements or on any unimproved portion of property located within the Project, without the express written permission of the Developer during the Transition Period, and thereafter without the written permission of the Board of Directors. The approval of any signs and posters, including, without limitation, name and address signs, shall be upon such conditions as may be from time to time determined by party entitled to approve the same and may be arbitrarily withheld. Notwithstanding the foregoing, the restrictions of this Section 10.6 shall not apply to the Developer or to any person having the prior written approval of the Developer. In addition, the Association shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas in accordance with architectural design standards adopted therefor and approved by governmental authority with jurisdiction thereof.

10.7 Grills.

The Board of Directors shall specifically have the authority to prohibit the use of individual grills (charcoal, gas or electric) as a fire hazard if the Board determines that such prohibition is required or recommended by the City of Charleston Fire Department or the Regime property insurance carrier or agent.

11. Easements

11.1 Encroachments.

If any portion of the Common Area encroaches upon any Unit or any Unit encroaches upon any other Unit or upon any portion of the Common Area as a result of settling or shifting of the Building or variances from the Plans, an easement will exist for the encroachment and for the maintenance of the same so long as the Building stands. If the Building, any Unit, and/or any adjoining part of the Common Area will be partially or totally destroyed as a result of fire or other casualty or a result of eminent domain proceedings, and then rebuilt, encroachments of parts of the Common Area upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Area due to such rebuilding, will be permitted, and valid easements for such encroachments and the maintenance thereof will exist so long as the Building will stand.

11.2 Easement for Air Space

The Owner of each Unit will have an exclusive easement for the use of the air space occupied by said Unit as it exists at any particular time and as said Unit may be altered or reconstructed from time to time pursuant to this Master Deed.

11.3 Utilities, etc.

There is hereby granted a blanket easement upon, across, over and under all the Project for ingress, egress, installation, replacing, repairing and maintaining a master television antenna or CATV system and all utilities, including, but not limited to water, gas, sewers, telephones and electricity, and other forms of telecommunication and technology cabling, now existing or developed in the future. Such easements grant to appropriate utility companies the right to erect and maintain the necessary poles and other necessary equipment on the Project and to affix and maintain utility wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Units. In addition, the Board of Directors will be entitled to grant additional permits, licenses and easements over the Common Area for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Project.

11.4 Easement for Construction

Notwithstanding anything herein to the contrary, Developer and persons designated by the Developer will have an easement to enter upon and cross over the Common Areas for purposes of ingress and egress to all portions of the Project; to use portions of the Common Areas and any Units owned by the Developer for construction or renovation related purposes including the storage of tools, machinery, equipment, building materials, appliances, supplies and fixtures, and the performance of work respecting the Project; and to maintain and correct drainage of surface, roof or storm water.

11.5 Easement for Inspection by Developer

Notwithstanding anything herein to the contrary, Developer and persons designated by the Developer will have an easement to enter upon and cross over the Common Areas for purposes of ingress and egress to all portions of the Project; as well as an easement for reasonable access to each Unit as the Developer may find desirable, for the inspection of the whole or any portion of the Project, its Units and Common Areas, the components and structural parts thereof, as well as the their maintenance requirements and the maintenance performed thereon to the date of any such inspection. Nothing herein shall require the Developer to perform any such inspection, but if the Developer does undertake any such inspection, Developer shall provide to the Board of Directors a copy of its findings or the inspection report produced therefrom. Nothing herein shall relieve the Board from engaging a professional inspector to perform an annual maintenance audit as part of the Board's annual budgeting process under Section 4.2 above.

11.6 Easement for Sales Purposes

Developer and persons designated by the Developer will have an easement to maintain one or more sales offices, management offices and models throughout the Project and to maintain one or more advertising signs on the Common Areas while the Developer is selling Units in the Project or any contemplated expansion thereof. Developer reserves the right to place models, management offices and sales offices in any Units owned by Developer and on any portion of the Common Areas in such number, of such size and in such locations as Developer deems appropriate. So long as Developer will be selling Units in the Project or any contemplated expansion thereof, Developer will have the right to restrict the use of a reasonable number of parking spaces, for purposes including, but not limited to, the providing of spaces for use by prospective Unit purchasers, Developer's employees and others engaged in sales, maintenance, construction or management activities.

11.7 Easements to Serve Adjacent Marina Development.

The Company hereby reserves for itself and its duly authorized agents, representatives, successors, successors-in-title, assigns, licensees, and mortgagees, a perpetual nonexclusive easement over the Common Areas for the purposes of enjoyment, use, access, and development of any adjacent property developed, or which may be developed, as a marina or for related recreational purposes, whether public or private, and whether or not any such property is made subject to this Master Deed. This easement includes, but is not limited to, a right of ingress and egress over the Common Areas for construction of roads and for connecting and installing utilities and services on such property. The Company agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Areas as a result of vehicular traffic connected with development of such property. The Company further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Master Deed, the Company, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any private roadway, boardwalk, sidewalk or other such facility serving such property.

11.8 No View Easements.

No view easements, express or implied, will be granted to any Owner in connection with the conveyance of a Unit to such Owner.

11.9 Other.

There is hereby granted to the Association, its directors, officers, agents and employees and to any manager employed by the Association and to all policemen, firemen, ambulance personnel, and all similar emergency personnel, an easement to enter upon the Project or any part thereof in the proper performance of their respective duties. Except in the event of emergencies, the rights under this Section 11.9 will be exercised only during reasonable daylight hours, and then, whenever practicable, only after advance notice to the Owner or Owners affected thereby.

12. Owner's Acknowledgment of Ashley River Bridge and River Noises and Nuisances.

Every Owner by acceptance of a deed to a Unit hereby acknowledges that the Project's proximity to the Ashley River Bridge and the vehicular traffic thereon, and the Ashley River and the boating traffic thereon, will result in noise emanating therefrom and the same may be a nuisance. Neither the Developer nor the Association, nor any of their respective directors, officers, employees, contractors, consultants, shareholders, affiliates, assignees, successors, nominees or agents, be liable to any Owner for any inconvenience or damage sustained by such Owner as a result of any such noise emanating from or in proximity to such river, including, but not limited to such noise as may emanate from persons using any roadways, bridges, docks, walkways, bulkheads, or piers adjacent thereto.

13. Assigned Value and Voting Rights

13.1 Units, Assigned Values, and Percentage Interests.

The Schedule of Percentage Interests contained in Exhibit "C" attached hereto shows the Assigned Value of each Unit in the Building and the Percentage Interest appurtenant to such Unit for all purposes.

13.2 Voting Rights.

Members and the Developer will be entitled to a vote in the Association and for all other purposes herein in accordance with the provisions of the Association's Articles of Incorporation attached hereto as Exhibit "D" and the By-Laws of the Association attached as Exhibit "E," and as the same may be hereafter amended.

(a) Voting by Multiple Owners. When any Unit is owned in the name of two or more persons, other than husband and wife, or entities, whether fiduciaries, or in any manner of joint or common ownership, the vote for such Unit will be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting; or the vote will be exercised by such co-Owner, or his duly appointed proxy, as will be designated in a writing by all co-Owners recorded in the RMC, a copy of which will be delivered to the Secretary of the Association and will remain effective for all meeting until revoked by the co-Owners in a similar writing or until such designation terminates pursuant to the terms of such writing.

14. The Development Plan For The Project

14.1 Single Phase Development.

The Regime constitutes a single Building with 54 Units, and the Common Area (including the parking and storage Limited Common Areas), as more fully described on Exhibit "B" attached hereto. The Regime may not be expanded and no right to do so is reserved.

14.2 Reservation of Right to Expand and Contract.

Anything to the contrary contained in this Master Deed notwithstanding, at any time during the Transition Period, the Developer will be entitled to expand the Regime by constructing upon any unimproved portion of the Common Areas such amenities, including, but not limited to, bulkheads, piers, docks, and similar facilities, as the Developer, in its sole discretion shall determine. Nothing herein shall require the Developer to construct any such amenities to be part of the Regime, and no Owner will have the right to require such construction be a part of the Regime. In lieu of constructing such amenities upon Common Areas, the Developer may construct such amenities upon any adjacent land (including any land withdrawn pursuant to Section 14.2(b) below) and operate the same on a fee basis and not as part of the Regime and subject to Assessments.

(a) Expansion; Conversion of Common Area.

The Developer's right, but not its obligation, to expand the Regime during the Transition Period by constructing amenities on the Common Area and to submit said real property (or any portion thereof) and all improvements constructed thereon to the Regime shall be undertaken by filing one or more Amendments to this Master Deed (including amendments to the Exhibits). An Amendment will be executed solely by the Developer for itself and as attorney in-fact for all Owners. An Amendment will be effective upon recording such Amendment in the RMC.

(b) Contraction; Withdraw of Unimproved Common Area.

During the Transition Period, the Developer is entitled to subdivide portions of the Common Area from the Project that are unimproved with structures and to remove the subdivided portion from the application of this Master Deed by filing one or more Amendments to this Master Deed (including amendments to the Exhibits). An Amendment will be executed solely by the Developer for itself and as attorney in-fact for all Owners. An Amendment will be effective upon recording such Amendment in the RMC.

14.3 Amenities; Required Expansion.

Amenities may be, but will not be required to be, constructed as part of the expansion of the Regime pursuant to this Section 14.3, all such amenities being optional with the Developer. No Owner will have the right to require construction or addition to the Regime under any circumstances.

14.4 Assignability of Rights.

The Developer will be entitled to assign the rights reserved in this Master Deed to any person or entity by an instrument recorded in the RMC.

14.5 Application of Master Deed.

Upon the filing of the Amendment prescribed by Section 14.2 hereof, all definitions contained in this Master Deed will be deemed amended to the extent necessary to cause the additional real property and the improvements described in such Amendment to be treated as fully an integral part of the Regime as if said real property and improvements constituted a portion of the Project as of the effective date hereof.

14.6 No Consent Required.

Subject to the time limit set forth in Section 14.2 hereinabove, the Developer, its successors and assigns, will have the absolute right to effect an expansion or contraction of the Regime in accordance with Section 14.2 and to file Amendments to this Master Deed without any action or consent on the part of any Owner or Mortgage holder; provided, however, that to the extent any action on the part of any Owner is required by any third party to assure the expansion of the Regime as provided in Section 14.2, each Owner, in accepting a deed to a Unit, agrees to undertake such actions and/or provide such consents as are reasonably requested, and expressly appoints the Developer his due and lawful attorney-in-fact, with full power of substitution, to execute all documents reasonably required to evidence the requisite action or consent.

14.7 Multiple Ownership.

No Unit in the Regime will be used for or subject to any type of Vacation Time Sharing Plan or Vacation Multiple Ownership Plan as defined by the 1976 Code of Laws for the State of South Carolina, as amended, Section 27-32-10, et. seq., or any subsequent laws of this State dealing with that or similar type of ownership by a Unit Owner, or which is used for, in conjunction with and/or as an advertised part of any time share exchange program which makes available as accommodations the Unit and which is not otherwise registered as a Vacation Time Sharing Plan or Vacation Multiple Ownership Plan or which utilizes the Unit as accommodations for time share sale prospects of any Person, without the prior written consent of the Developer during the Developer's Transition period and thereafter by the Board of Directors of the Association.

15. Transition Provisions

15.1 Appointment of Directors and Officers.

At all times during the Transition Period, the Developer will have the sole and exclusive right to appoint the Board of Directors and officers of the Association, fill any vacancy of the Board or officers caused by the withdrawal of any director or officer appointed by the Developer and veto the removal of any director or officer appointed by the Developer. Upon the expiration of the Transition Period, the Developer will retain the right to elect at least one (1) director. This right will continue for as long as the Developer holds for sale in the ordinary course of business one or more of Units included in the Regime.

15.2 Special Meeting to Elect Board.

Within sixty (60) days after the date on which Owners other than the Developer become entitled pursuant to Section 15.1 above to elect members of the Board of Directors of the Association, the Association will call, and give not less than thirty (30) days' and not more than sixty (60) days' notice of, a special meeting of the Members to elect the Board of Directors.

15.3 Cooperation.

The Association will cooperate with the Developer to the extent reasonably requested by the Developer during and after the Transition Period to promote the orderly development and marketing of the additional Units planned for the Regime, and it is acknowledged by the Association that it is in the best interest of all Owners to expand the Regime to include all Units authorized by Section 14 hereof.

15.4 Controlling Provisions.

In the event of any inconsistency between this Section 15 and the other provisions of the Regime Documents, this Section 15 will be controlling and binding on all parties having an interest in the Regime.

16. Alternative Dispute Resolution

16.1 Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes.

The Developer, Association, Owners, and any Persons not otherwise subject to the Regime who agrees to submit to this Section 16 (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes between and among themselves involving the Regime or the Project, and to avoid the emotional and financial costs of litigation. For purposes hereof, the architect and contractor for a Building and the Units constructed therein shall constitute Bound Parties hereunder. Accordingly, each Bound Party covenants and agrees that all claims, grievances and disputes (including those in the nature of counterclaims or cross-claims) between Bound Parties involving the Regime or the Project, including without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement thereof (collectively "Claims"), except for "Exempt Claims" under Section 16.2, are subject to the procedures set forth in Section 16.3.

16.2 Exempt Claims.

The following Claims ("Exempt Claims") are exempt from the provisions of Section 16.3:

- (a) any suit by the Association against a Bound Party to enforce any Assessments or other charges hereunder; and
- (b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and other relief the court may deem necessary in order to maintain the status quo and preserve any enforcement power of the Association hereunder until the matter may be resolved on the merits pursuant to Section 16.3 below; or
- (c) any suit between Owners which does not include the Developer or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Regime and the Project; or
- (d) any suit in which an indispensable party is not a Bound Party; or
- (e) any suit which otherwise would be barred by any applicable statute of limitation; or
- (f) any suit involving a matter which is not an Exempt Claim under (a) through (e) above, but as to which matter the Bound Party against whom the Claim is made waives the mandatory provisions of Section 16.3 below.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 16.3, but there is no obligation to do so.

16.3 Mandatory Procedures for Non-Exempt Claims.

Any Bound Party having a Claim ("Claimant") against a Bound Party involving the Regime Documents or the Regime, or all or any combination of them ("Respondent"), other than an Exempt Claim under Section 16.2, will not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of the Claim until it has complied with the procedures set forth in Exhibit F, and then only to enforce the results hereof:

(a) Litigation.

No judicial or administrative proceeding with an amount in controversy exceeding \$25,000.00, will be commenced or prosecuted by the Association unless approved by 75% or more of the votes of the entire Association, by Referendum or at a duly held meeting of Members called for the purpose of approving the proceeding, which percentage will also constitute the quorum required for any such meeting. This Section will not apply, however, to actions brought by the Association to enforce the provisions of this Master Deed (including, without limitations, the foreclosure of liens); the imposition and collection of Assessments; proceedings involving challenges to ad valorem taxation; counterclaims brought by the Association in proceedings instituted against it; or actions brought by the Association to enforce written contracts with its suppliers and service providers. This Section will not be amended unless the amendment is approved by the requisite percentage of votes of Members, and pursuant to the same procedures, necessary to institute proceedings as provided above. This provision will apply in addition to the negotiation and arbitration provisions of this Section 16 and the procedures therefor set forth in Exhibit F, if applicable.

16.4 Miscellaneous Alternative Dispute Resolution Provisions.(a) Conflicting Provisions.

Any conflict or discrepancy between the terms and conditions set forth in this Section 16 and the procedures set forth in Exhibit F and any term, condition or procedure of the American Arbitration Association, or any remedy allowed at law or in equity, the terms, conditions, procedures and remedies set forth herein and in Exhibit F will control.

(b) TIME IS OF ESSENCE.

All periods of time set forth herein or calculated pursuant to provisions of this Section 16 will be strictly adhered to, TIME BEING OF THE ESSENCE hereof.

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17. General Provisions

17.1 Adherence to Provisions of Master Deed, Bylaws and Rules and Regulations.

Every Owner who rents his Unit must post inside his Unit a list of the Rules and Regulations of the Association. Any rental agency handling an Owner's rental must further agree to abide by the Rules and Regulations and will be responsible for informing persons renting through its agency of any breaches of the Rules and Regulations by said persons and for taking any and all necessary corrective action. Should a particular agency or person continue not to take corrective action against the renters it has contracted with, or refuse to cooperate with the Association in the enforcement of its Rules and Regulations or other provisions of the Regime Documents, the Association may require the Owner to cease using the services of that particular rental agency. Refusal to do so may result in fines against the Owner in an amount to be determined by the Board of Directors. Any fines will be added to and become a part of the Assessment against the Unit and Owner.

17.2 Amendment.

Amendments to this Master Deed, except as herein expressly provided to the contrary, including, but not limited to amendments pursuant to Section 14 which may be made without the consent or approval of either the Board or the Members, will be proposed by the Board of Directors in accordance with the following procedure:

(a) Notice.

Notice of the subject matter of the proposed amendment or amendments will be included in the notice of the meeting of the Association at which such proposed amendment or amendments are to be considered.

(b) Amendment.

The Master Deed may be amended at any time and from time to time at a meeting of the Association called in accordance with the Bylaws and this Master Deed upon the vote of Members holding sixty-seven (67%) or more of the total vote in the Association; provided, however, that if the Association will vote to amend the Bylaws in any respect, such amendment will be set forth in an amendment to this Master Deed and will be valid only when approved by Members holding more than fifty percent (50%) of the total vote in the Association.

(c) Nondiscrimination.

Irrespective of the foregoing, no amendment will (i) alter the Percentage Interest applicable to each Unit (except as permitted in accordance with Sections 6, 3.3 and 13.1 hereof); or (ii) discriminate against any Owner or against any Unit or class or group of Units, unless in each instance all Owners adversely affected thereby expressly consent thereto in writing. Notwithstanding any Rule or Regulation of other restriction, the Board of Directors of the Association will make reasonable accommodations in its Rules and Regulations or other restrictions as may be necessary to afford a handicapped person equal opportunity to use and enjoy his Unit and the Common Area, and in furtherance thereof is authorized and empowered to assign Common Area parking spaces for handicap parking generally or to assign same for exclusive use of a Person as handicap parking.

(d) Necessary Amendments.

Notwithstanding any other provisions of this Master Deed to the contrary, if any amendment is necessary in the judgment of the Board to cure any ambiguity or to correct or supplement any provisions of the Regime Documents that are defective, missing or inconsistent with any other provisions thereof,

or if such amendment is necessary to conform to the requirements of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or other secondary Mortgage market lenders, guarantors or insurers with respect to condominium projects, then at any time and from time to time the Board may effect an appropriate corrective amendment so long as written objection to such amendment is not received from Members representing at least fifty-one percent (51%) of the total votes of the Association within twenty (20) days after written notice of the proposed amendment is given to all Members.

(e) Recording.

A copy of each amendment provided for in this Section 17.2 will be certified by the Association as having been duly adopted and will be effective when recorded.

In recognition of the fact that certain provisions of this Master Deed are for the benefit of the Developer, no amendment in derogation of any right reserved or granted to the Developer by provisions of this Master deed may be made without the written approval of the Developer.

17.3 Termination.

The Regime may be terminated and the Project removed from the provisions of the Act in the following manner:

(a) Agreement.

All of the Owners may remove the Project from the provisions of the Act by an instrument to that effect, duly recorded, subject to Sections 13.1 and 13.2 of this Master Deed.

(b) Destruction.

In the event it is determined in the manner provided in Section 5.6 that the Project will not be repaired or reconstructed after casualty, the Regime will be terminated and the Regime Documents revoked. The determination not to repair or reconstruct after casualty will be evidenced by a certificate of the Association certifying as to the facts effecting the termination.

(c) Condemnation.

In the event that any part of a Unit, or the Common Area essential to the use of any Unit will be taken by an authority having the power of eminent domain and the consent of Members representing at least sixty-seven (67%) percent of the total votes of the Association as provided in Section 6.3 to a plan for continuation of the Regime will not be expressed in an amendment to this Master Deed duly recorded within ninety (90) days after such taking, the Regime will be terminated and the Regime Documents revoked. A certificate of the Association certifying as to the facts effecting the termination will evidence such taking.

17.4 Covenants Running With the Land.

All provisions of this Master Deed will be construed to be covenants running with the land, and with every part thereof and interest therein, including, but not limited to, every Unit and the appurtenances thereto; and each and every provision of this Master Deed will bind and inure to the benefit of the Developer and all Owners and claimants of the Regime or any part thereof or interest therein, and their heirs, executors, administrators, successors and assigns.

17.5 Enforcement.

Each Owner will comply strictly with the Bylaws and with the Rules and Regulations of the Association, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Master Deed and in the deed to his Unit. Failure to comply with any of the same will be grounds for an action to recover sums due, for damages or injunctive relief, or for all three, maintainable by the Board of Directors on behalf of the Association or by any aggrieved Owner. In addition, the rights of any Owner or lessee of an Owner, their families, invitees or guests to use and to enjoy the Common Area may be suspended by the Board of Directors for continued violation of the Rules and Regulations. Failure by the Association or any Owner to enforce any of the foregoing will in no event be deemed a waiver of the right to do so thereafter.

(a) Authority and Enforcement.

Subject to the provisions of Section 17.5(b) hereof, upon the violation of this Master Deed, the Bylaws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any Assessments, the Board will have the power (i) to impose reasonable monetary fines which will constitute an equitable charge and a continuing lien as a specific Assessment, (ii) to suspend an Owner-Member's right to vote in the Association, or (iii) to suspend an Owner's or Occupant's right to use any of the Common Areas. The Board will have the power to impose all or any combination of these sanctions, and may establish each day a violation remains uncured as a separate violation for which a fine is due; provided, however, an Owner's access to its property over the private roads and streets constituting Common Areas will not be terminated hereunder. An Owner or Occupant will be subject to the foregoing sanctions in the event of such a violation by such Owner or Occupant. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

(b) Procedure.

Except with respect to the failure to pay Assessments, the Board will not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner or other Occupant of the Project for violations of the Master Deed, By-Laws, or any rules and regulations of the Association, unless and until the following procedure is followed:

(i) Demand to Cease and Desist. Written demand to cease and desist from an alleged violation will be served upon the Owner responsible for such violation specifying:

(A) The alleged violation;

(B) The action required to abate the violation; and

(C) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Master Deed, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

(ii) Notice of Hearing. Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board may serve such Owner with written notice of a hearing to be held by the Board in executive session. The notice will contain:

(A) The nature of the alleged violation;

- (B) The time and place of the hearing, which time will be not less than ten (10) days from the giving of the notice;
- (C) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his behalf; and
- (D) The proposed sanction to be imposed.

(iii) Hearing. The hearing will be held in executive session of the Board of Directors pursuant to the notice and will afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard will be placed in the minutes of the meeting. Such proof will be deemed adequate if a copy of the notice together with a statement of the date and matter of delivery is entered by the officer, director, or other individual who delivered such notice. The notice requirement will be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction imposed, if any.

17.6 Severability.

All provisions of this Master Deed and all of the Regime Documents will be construed in a manner that complies with the Act and South Carolina law to the fullest extent possible. If all or any portion of any provision of this Master Deed or any other Regime Documents will be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability will not affect any other provision hereof or thereof, and such provision will be limited and construed as if such invalid, illegal or unenforceable provision or portion thereof were not contained herein or therein.

17.7 Gender or Grammar.

The singular whenever used herein will be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, will in all cases be assumed as though in each case fully expressed. In addition, the use of the terms "herein" or "hereof" will mean this Master Deed and not merely the Section or paragraph in which such term is utilized.

17.8 Headings.

All Section headings are utilized merely for convenience and will not restrict or limit the application of the respective Sections.

17.9 Powers of Attorney.

By acceptance of a deed or other conveyance of an interest in a Unit, all Members do hereby grant, and if further required, do agree to vote in a manner to provide to, and to ratify and confirm retention by, Developer of Developer's rights under this Master Deed, including, without limitation, the right to amend this Master Deed in accordance with the provisions hereof. In connection with this voting agreement, each member appoints Developer as proxy for such member with full power of substitution to vote for the member on all such matters on which the member may be entitled to vote, and with respect to which there is a reservation or designation of voting rights in Developer under this Master Deed, and with all powers which the member would possess if personally present at any meeting of members. Such appointment will be, upon acceptance of a deed or other conveyance by the member and without the necessity of further action by the Developer or the member, a power coupled with an interest and will be irrevocable. Such appointment will be effective as of the date on which a deed or other conveyance of an interest to the Member is recorded in the RMC. This irrevocable proxy will automatically terminate thirty (30) days after the conveyance of forty-nine (49) Units in the ordinary course

of Developer's business. The within voting agreement and proxy are in addition to, and not in substitution of, all rights of Developer herein provided, which will run with the land.

17.10 Unit Deeds.

In accepting a deed to any Unit, the grantee will be deemed to have accepted and agreed to all terms and conditions contained in this Master Deed and the Exhibits, as amended, and further agrees to execute any and all documents reasonably requested by the Developer or the Association from time to time to expressly evidence the foregoing.

17.11 Counterpart Execution.

This Master Deed may be executed in any number of counterparts, each of which shall be an original, and all of which taken together shall constitute a single agreement, with the same effect as if the signatures thereto and hereto were upon the same instrument.

18. Exhibits Attached

The following Exhibits are attached hereto and incorporated verbatim in this Master Deed by reference as fully as if set forth herein.

Description	Identification
Legal Description of the Land	A
Site Plan and Floor Plans	B
Schedule of Assigned Values and Percentage Interests	C
Articles of Incorporation of Association	D
Bylaws of the Association	E
Alternative Dispute Resolution Procedures	F

19. Joinder of Wachovia Bank, National Association.

Wachovia Bank, National Association, Successor by Merger to First Union National Bank, lender to the Developer, executes this Master Deed to signify its consent and agreement that its mortgage dated November 9, 2000, and recorded of even date therewith in the RMC in Book H-358, Page 368 is and shall remain subordinate to this Master Deed and the other Regime Documents incorporated herein by reference.

[Remainder of Page Purposely Left Blank]

BKD 417PG036

IN WITNESS WHEREOF, Developer has caused this Master Deed to be executed to be effective as of this 30th day of August, 2002.

In the Presence Of:

Kristi S. Harris
William D. Jordan

BRITTLEBANK CONDOMINIUMS, LLC
a South Carolina limited liability company,

BY: BEACH BRITTLEBANK, LLC, a
Member of Brittlebank Condominiums, LLC,

BY: THE BEACH CO., as Manager of
Beach Brittlebank, LLC:

By: [Signature]
Name: Richard D. Dyer
Its: President

By: Dana R. Mager
Name: Dana R. Mager
Its: Corporate Secretary

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 30th day of August, 2002, by Brittlebank Condominiums, LLC, by Beach Brittlebank, LLC, its Member, by The Beach Co., its Manager, By: Jim A. Dyer, its President, and Dana R. Mager, its Corporate Secretary.

SWORN to before me this 30th
day of August, 2002.

William D. Jordan (L.S.)
Notary Public for South Carolina
My Commission Expires: 2.25.2003

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NPMB1:765.15-RD-(BFX) 016019-00093

BKD 417PG037

JOINDER OF MORTGAGEE

The undersigned, Wachovia Bank, National Association, Successor by Merger to First Union National Bank, has hereby caused this instrument to be executed this 30th day of AUGUST, 2002 to signify its consent, joinder and subordination pursuant to Section 19 of this Master Deed.

Wachovia Bank, National Association,
Successor by Merger to First Union National Bank

Donna M. Buccia
Witness #1

By: August J. Campen III
Its: SENIOR VICE PRESIDENT

Elisabeth Rooney
Witness / Notary

STATE OF SOUTH CAROLINA)

COUNTY OF Charleston)

Personally appeared before me undesignated witness and made an oath that (s)he saw Wachovia Bank, National Association, Successor by Merger to First Union National Bank, by its duly authorized officer(s), sign, seal, and as its act and deed deliver the within written Master Deed of The Bristol Horizontal Property Regime, and that (s)he, with the other subscribing witness, witnessed the execution thereof.

Donna M. Buccia (SEAL)
Witness #1

Sworn to before me this

30th day of August, 2002.

Elisabeth Rooney

Notary Public for South Carolina

My Commission expires: June 24 2006

Exhibit "A"

Legal Description of The Land

All that certain piece, parcel or lot of land, situate, lying and being on Lockwood Boulevard in the City of Charleston, County of Charleston, State of South Carolina, containing 4.28 acres, more or less, shown and designated as "Tract 1" on a plat entitled "Plat of Tract 1 Prepared for the Beach Company, City of Charleston, Charleston County, South Carolina", prepared by F. Elliott Quinn, Registered Land Surveyor No. 10292, dated April 6, 1999, and recorded at the Charleston County R.M.C. Office on August 4, 2000, in Plat Book EE, at Page 212.

SAVING AND EXCEPTING therefrom the following, according to said plat: Beginning at an iron pin on the southeastern right-of-way line of Lockwood Boulevard (120' right-of-way), at a point 78 feet, more or less, from the intersection of U.S. Highway 17 and Lockwood Boulevard, said iron pin being the POINT OF BEGINNING; thence leaving the POINT OF BEGINNING, turning and running South 62°25'00"W for a distance of 373.04' to a point; thence turning and running N29°44'46"E for a distance of 6.20' to a point; thence turning and running N42°44'12"E for a distance of 9.28' to a point; thence turning and running N33°05'08"E for a distance of 10.70' to a point; thence turning and running S66°53'46"E for a distance of 7.46' to a point; thence turning and running N57°28'27"E for a distance of 7.28' to a point; thence turning and running N38°50'05"W for a distance of 9.55' to a point; thence turning and running N47°56'07"E for a distance of 18.47' to a point; thence turning and running N55°29'36"E for a distance of 19.11' to a point; thence turning and running N32°15'42"E for a distance of 20.72' to a point; thence turning and running N46°42'35"E for a distance of 9.33' to a point; thence turning and running N58°12'33"E for a distance of 16.70' to a point; thence turning and running N59°24'06"E for a distance of 20.22' to a point; thence turning and running N69°00'19"E for a distance of 20.78' to a point; thence turning and running N68°46'38"E for a distance of 16.13' to a point; thence turning and running N68°37'52"E for a distance of 14.35' to a point; thence turning and running N37°59'06"E for a distance of 12.80' to a point; thence turning and running N60°55'32"E for a distance of 20.66' to a point; thence turning and running N49°33'30"E for a distance of 17.96' to a point; thence turning and running N49°02'41"E for a distance of 19.49' to a point; thence turning and running N47°05'17"E for a distance of 16.35' to a point; thence turning and running N51°32'52"E for a distance of 20.22' to a point; thence turning and running S58°55'13"E for a distance of 9.55' to a point; thence turning and running N89°34'54"E for a distance of 10.35' to a point; thence turning and running N53°09'20"E for a distance of 18.81' to a point; thence turning and running N42°54'51"E for a distance of 20.42' to a point; thence turning and running N00°09'13"E for a distance of 12.60' to a point; thence turning and running N27°28'03"W for a distance of 15.80' to a point; thence turning and running S45°31'40"E for a distance of 82.80' to a point, being the SAID POINT OF BEGINNING. Said parcel containing 0.30 acres, more or less, according to said plat.

ALSO, SAVING AND EXCEPTING therefrom, the following, according to said plat: Beginning at an iron pin on the southeastern right-of-way line of Lockwood Boulevard (120' right-of-way), at a point 522.08 feet, more or less, from the intersection of U.S. Highway 17 and Lockwood Boulevard, said iron pin being the POINT OF BEGINNING; thence leaving the POINT OF BEGINNING, turning and running S45°31'40"E for a distance of 37.21' to a point; thence turning and running S44°28'20"E for a distance of 16.07' to a point; thence turning and running S75°33'00"W for a distance of 10.64' to a point; thence

turning and running S65/29°27'W for a distance of 15.42' to a point; thence turning and running N21/53°53'W for a distance of 17.55' to a point; thence turning and running S52/20°54'W for a distance of 12.87' to a point; thence turning and running S21/58°08'E for a distance of 19.26' to a point; thence turning and running S37/06°08'E for a distance of 14.68' to a point; thence turning and running S34/25°13'W for a distance of 26.84' to a point; thence turning and running S42/36°14'E for a distance of 12.50' to a point; thence turning and running S57/10°37'W for a distance of 14.00' to a point; thence turning and running N81/20°50'W for a distance of 25.01' to a point; thence turning and running S66/02°57'W for a distance of 20.83' to a point; thence turning and running S57/50°59'W for a distance of 20.20' to a point; thence turning and running S65/25°51'W for a distance of 23.08' to a point; thence turning and running S62/05°24'W for a distance of 25.98' to a point; thence turning and running S75/31°28'W for a distance of 16.50' to a point; thence turning and running S62/55°52'W for a distance of 20.24' to a point; thence turning and running N54/42°28'W for a distance of 14.94' to a point; thence turning and running S70/29°24'W for a distance of 19.88' to a point; thence turning and running N41/53°40'W for a distance of 12.36' to a point; thence turning and running N55/41°12'W for a distance of 15.98' to a point; thence turning and running N84/11°46'W for a distance of 6.50' to a point; thence turning and running N61/59°25'E for a distance of 295.05' to a point, being the POINT OF BEGINNING. Said parcel containing 0.30 acres, more or less, according to said plat.

Being a portion of the property conveyed to Brittlebank Condominium, LLC by deed of G.F. Development, LLC, dated November 9, 2000 and recorded in the RMC November 15, 2000 in Book H-358, Page 166.

The within conveyance is subject to all easements of record and/or upon the ground.

Pursuant to South Carolina Code Ann. Section 48-39-330 (1995 supp.), grantor hereby discloses that the subject premises or a portion thereof may be subject to statutory regulations imposed by the South Carolina Coastal Zone Act of 1997, South Carolina Code Ann. Section 48-39-10, ET. Seq. (1995 Supp.) as amended by the South Carolina Beach Management Act, South Carolina Code Ann. 48-39-270, ET. Seq. (1995 Supp.) (Hereinafter collectively referred to as the "Coastal Zone and Beach Management Acts"). Pursuant to the Coastal Zone and Beach Management Acts, the subject premises or a portion thereof is or may be affected by the baseline and setback line, the location of which lines are available from the South Carolina Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management. The grantor makes no representation to grantee concerning the location of such base line, setback lines and the erosion rate, the effect of such regulations on the subject premises, or the accuracy of the foregoing disclosures.

Pursuant to Section 27-31-100 of The South Carolina Code (1976), as amended, notice is given that all activities on or over and all uses of any submerged land and other critical areas are subject to the jurisdiction of the Office of Ocean and Coastal Resource Management ("OCRM") of the South Carolina Department of Health and Environmental Control (formerly known as, "The South Carolina Coastal Council"), including, but not limited to, the requirements that any activity or use must be authorized by OCRM. Any owner to the extent of his ownership is liable for any

BKD 417PG040

damages to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning, any submerged land, coastal waters, or any other critical area.

Exhibit "A" - Page 3

NPM01:785.15-RD-(BPK) 010019-00023

Exhibit "B"

Site Plan and Floor Plans

BRISTOL HORIZONTAL PROPERTY REGIME

NOTE

Exhibit "B" is a survey showing the location of the Building and other improvements, a set of floor plans of the Building which shows graphically the dimensions, area and location of each Unit therein, and the dimensions, area and location affording access to each Unit. Both plat and plans are attached. Said Exhibit further includes the matters set forth below.

The Building consists of fifty-four (54) Units located in one (1), five-story Building. Each Unit in the Building is individually numbered and described on the floor plans as Units 301 through, and including, 318; 401 through, and including, 418; and 501 through, and including, 518. Each of the Units is also known by its mailing address on Old Bridgeview Lane, those being 3001 through, and including, 3018; 4001 through, and including, 4018; and 5001 through, and including, 5018, respectively.

Each of the Units in the Building has a separate entrance door off of an interior corridor, and is a one-story flat of one (1) of nine (9) floor plans shown and designated as Type A, Type B, Type C, Type D, Type E, Type F, Type G, Type H-1, Type H-2 and Type I, and each such Type is called by a distinct name.

The name by which each Unit type is known, the number of bedrooms and baths each of the Unit types has, and the approximate square footage calculations¹ of each of them is as follows:

Unit Type	Bedrooms and Baths	Heated Sq. Ft.	Balcony Sq. Ft.	Gross Sq. Ft.
A - The Aberdeen	2 bedrooms, 2 baths	1,376	126	1,502
B - The Buckingham	2 bedrooms, 2 baths	1,398	126	1,524
C - The Canterbury	2 bedrooms, 2½ baths	1,605	195	1,800
D - The Devonshire	2 bedrooms, 2½ baths	1,626	195	1,821
E - The Essex	2 bedrooms, 2½ baths	1,675	258	1,933
F - The Faversham	2 bedrooms, 2½ baths	1,861	195	2,056
G - The Greenwich	2 bedrooms, 2½ baths	1,937	358	2,295
H - The Hampton	3 bedrooms, 2½ baths	2,213	300	2,513
I - The Inverness	3 bedrooms, 2½ baths	2,125	303	2,428

¹ Square footage calculations are an approximation. The actual square footages calculation for heated area, balconies and gross area for each Unit is controlled by actual, on-site dimensions.

The Units are located on the third, fourth and fifth floors of the Building. There are two assigned parking spaces and one assigned storage space for each Unit (constituting Limited Common Areas of the Unit to which assigned) on the first and second floors; and there are other general Common Areas located on the first and second floors. Exhibit "C" to this Master Deed sets forth by number the parking spaces and storage space assigned to each Unit.

The floor plans for the Building by Niles Bolton Associates, dated May 24, 2000 shows the locations of each of the Units and the general Common Areas and the Limited Common Areas identified on said plans, including the location of each numbered parking space and storage space; and the as-built survey by Absolute Surveying, Inc. dated August 22, 2002 will control over the said floor plans as to actual ground location and floor elevation of the items shown upon said plot plan.

As to each Unit: All built-in kitchen appliances, the refrigerator, air conditioner units and condensers and hot water heater located in each Unit are part of the Unit in which they are located and are not Common Areas. Each balcony adjacent to and accessible solely through a Unit, including the railing thereof, is a Limited Common Area of that Unit and is subject to restrictions as set forth elsewhere in this Master Deed.

Reference to areas as Common Areas and Limited Common Areas in this Exhibit "B" will be in addition to and read in conjunction with the further designations to Common Areas and Limited Common Areas set out in other portions of this Master Deed and the survey and floor plans making up the balance of this Exhibit "B". The parking area designated on the as-built survey is a Common Area.

Exhibit "B" is deemed to include the attached certification letter dated Aug 27, 2002 from Niles Bolton Associates, architects of the above referenced floor plans recorded simultaneously herewith.

3060 Peachtree Road, N.W.
Suite 600
Atlanta, Georgia 30305
404.365.7600
Fax 404.365.7610
Email: nba@nilesbolton.com

August 27, 2002

Brian F. Kernaghan, Esquire
Nexsen Pruet Jacobs Pollard & Robinson, LLP
2411 North Oak Street, Suite 105
Myrtle Beach, SC 29577

Re: The Bristol Condominiums, Charleston, SC
NBA #99030.10



Dear Mr. Kernaghan:

This letter is to serve as the Architect's Certification for the above referenced project as requested by you for attachment to the Master Deed.

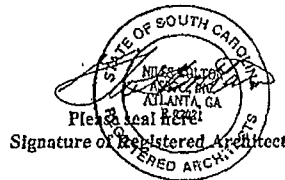
The under signed Architect, registered to practice architecture in the State of South Carolina, certifies that these documents reflect, to the best of the Architect's knowledge, information and belief, the observable and accessible configuration of the structures as designed by the Architect. They show floor plans and elevations of the building, and graphically show the dimensions, area and locations of each condominium therein, with the dimensions, areas and location of the common elements affording access to each condominium.

Please do not hesitate to call with any questions and/or comments.

Sincerely,

NILES BOLTON ASSOCIATES

G. Niles Bolton, AIA



Z:\ADMIN\STUDIO\Bristol Condominium\Kernaghan-01_inr.wpd

Alexandria,
Virginia
703.636.0915
Fax 703.684.3653

San Jose,
California
408.279.6476
Fax 408.297.2995

EXHIBIT B - Page iii

www.nilesbolton.com

Architecture ■ Urban Design ■ Interiors ■ Landscape Architecture

RD 417PG044

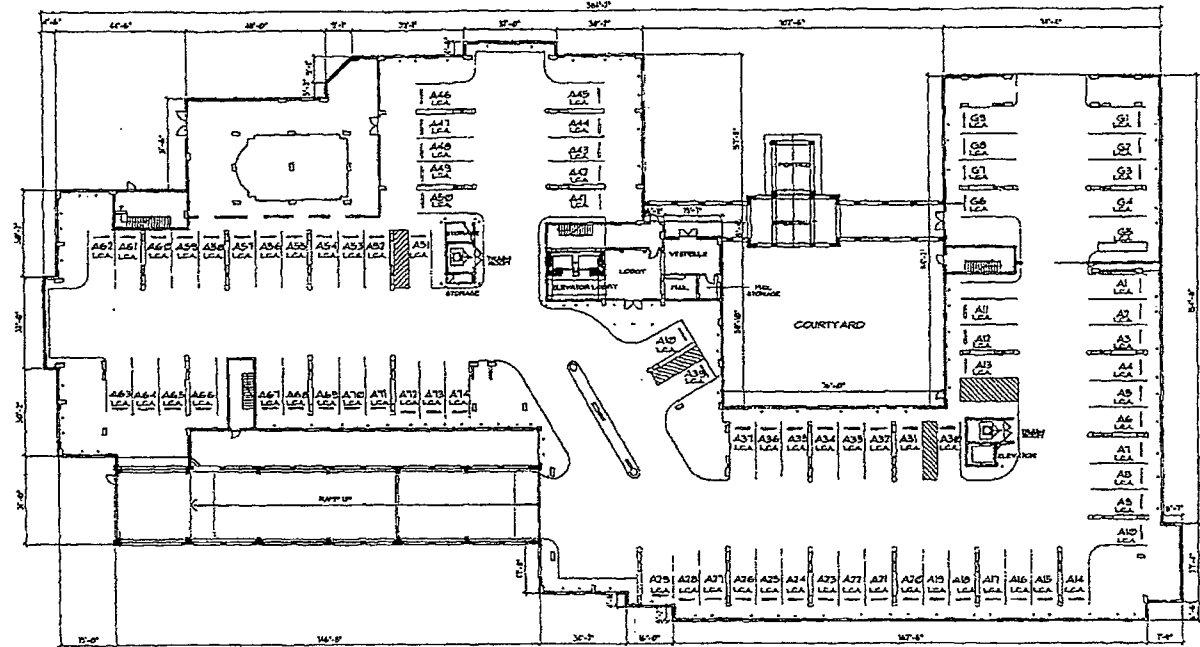


Exhibit B - Page iv

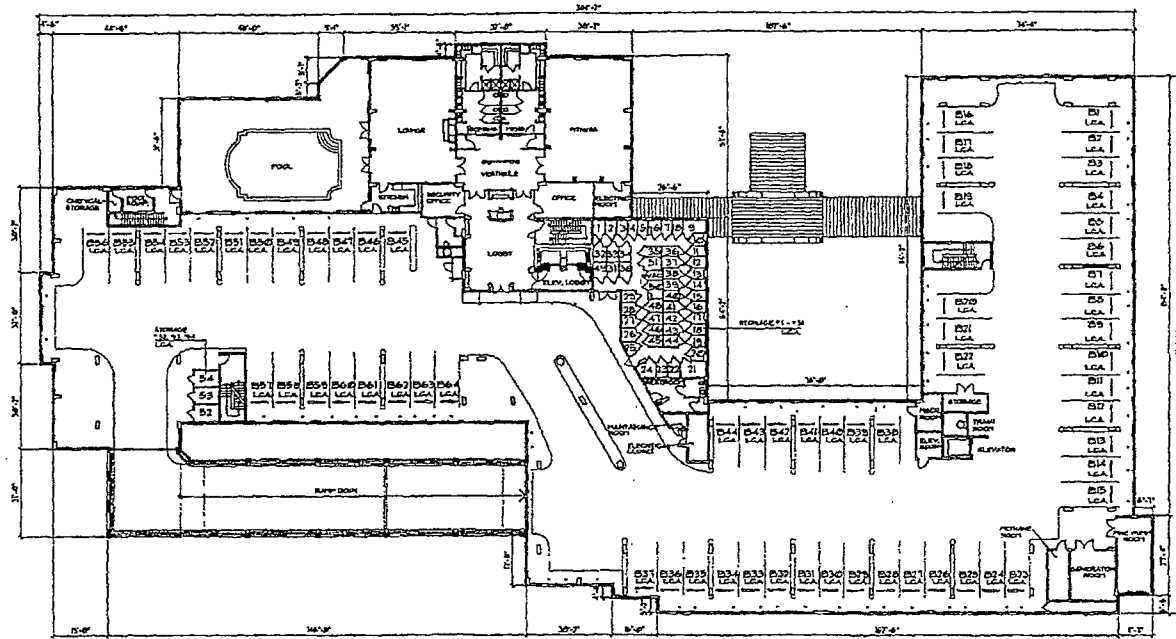
THE FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE CALCULATIONS WERE PREPARED BY THE ARCHITECT, AND THE ARCHITECT HAS NO RESPONSIBILITY FOR THE ACCURACY OF THE DIMENSIONS, SQUARE FOOTAGE, OR ANY OTHER INFORMATION CONTAINED HEREIN. THE FLOOR PLAN SHOULD BE USED AS A GENERAL GUIDE ONLY. THE DIMENSIONS, SQUARE FOOTAGE, AND ANY OTHER INFORMATION CONTAINED HEREIN MAY VARY BASED ON THE ACTUAL CONSTRUCTION.

FIRST LEVEL PLAN

Scale: 1" = 40'-0"

BRISTOL HORIZONTAL PROPERTY REGIME

BND 41796045



THIS FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE CALCULATIONS THEREON ARE ONLY APPROXIMATE. ANY UNIT OWNER WHO IS CONCERNED ABOUT ANY REPRESENTATIONS REGARDING THIS FLOOR PLAN SHOULD DO THEIR OWN INVESTIGATION AS TO THE DIMENSIONS, MEASUREMENTS, AND SQUARE FOOTAGE OF THE UNIT. INTERIOR LAYOUT AND WINDOW COMPOSITION MAY VARY BASED ON UNIT LOCATIONS.

SECOND LEVEL PLAN

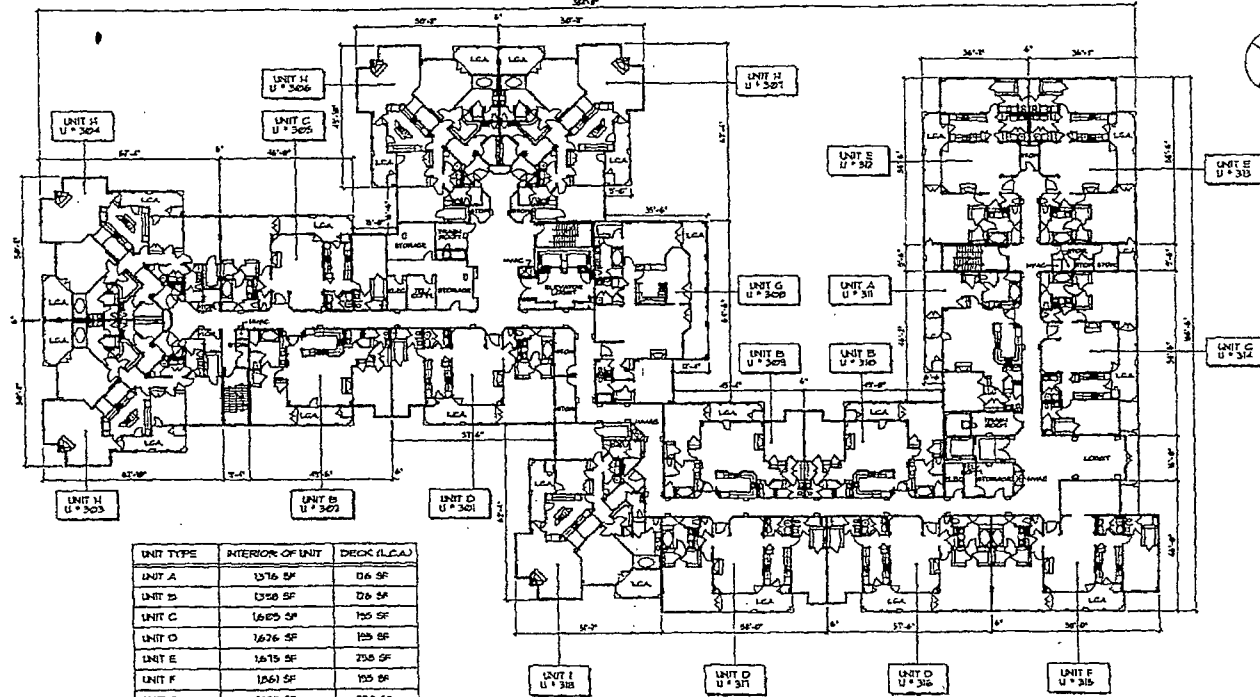
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BRISTOL HORIZONTAL PROPERTY REGIME



Exhibit B - Page V

BRD 417PG046



THIS FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE CALCULATIONS SHOWN HEREON ARE ONLY REPRESENTATIONS OF THE UNIT OWNERS WHO IS SOLELY RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION. THIS FLOOR PLAN SHOULD BE CONSIDERED AS A GENERAL GUIDE TO THE DIMENSIONS, MATERIALS AND FINISHES OF THE UNIT.

INTERIOR LAYOUT AND WINDOW CONFIGURATION MAY VARY BASED ON UNIT LOCATION.

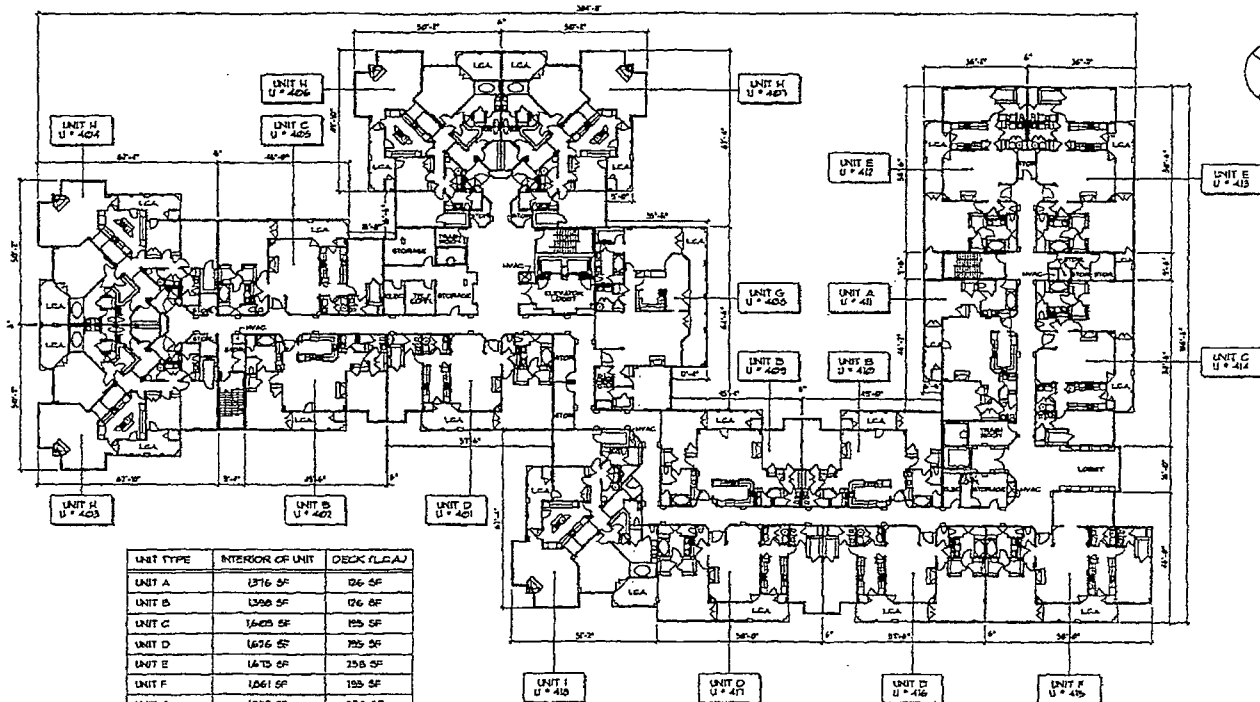
THIRD LEVEL PLAN

Scale: 1" = 40'-0"

BRISTOL HORIZONTAL PROPERTY REGIME

Exhibit B - Page vi

88D 417PS047



UNIT TYPE	INTERIOR OF UNIT	DECK (LCA)
UNIT A	1316 SF	126 SF
UNIT B	1308 SF	126 SF
UNIT C	1405 SF	125 SF
UNIT D	1676 SF	125 SF
UNIT E	1675 SF	125 SF
UNIT F	1061 SF	125 SF
UNIT G	1331 SF	358 SF
UNIT H	2213 SF	360 SF
UNIT I	2125 SF	303 SF

THIS FLOOR PLAN AND THE BASEMENT AND ROOF FOOTAGE
 CALCULATIONS THEREON ARE FOR INFORMATION ONLY. THE UNIT
 OWNER WHO IS CONSIDERED AS THE UNIT OWNER OF THE UNIT
 THIS FLOOR PLAN SHOULD CONSIDER OWN INVESTIGATION AS TO THE
 BASEMENTS, HEADERS, AND ROOF FOOTAGE OF THE UNIT.
 INTERIOR LAYOUT AND WINDOW CONFIGURATION MAY VARY BASED ON
 UNIT LOCATIONS.

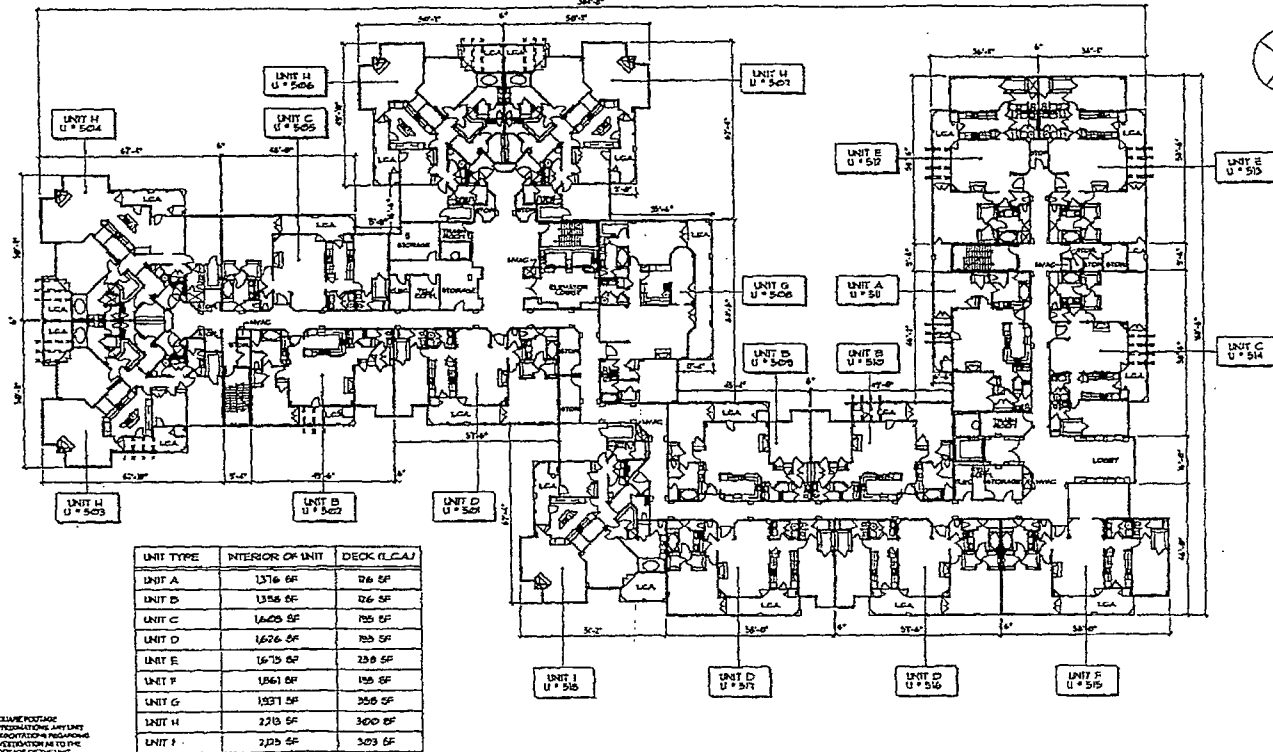
FOURTH LEVEL PLAN

Scale: 1" = 40'-0"

BRISTOL HORIZONTAL PROPERTY REGIME

Exhibit B - Page vii

END 417PG048



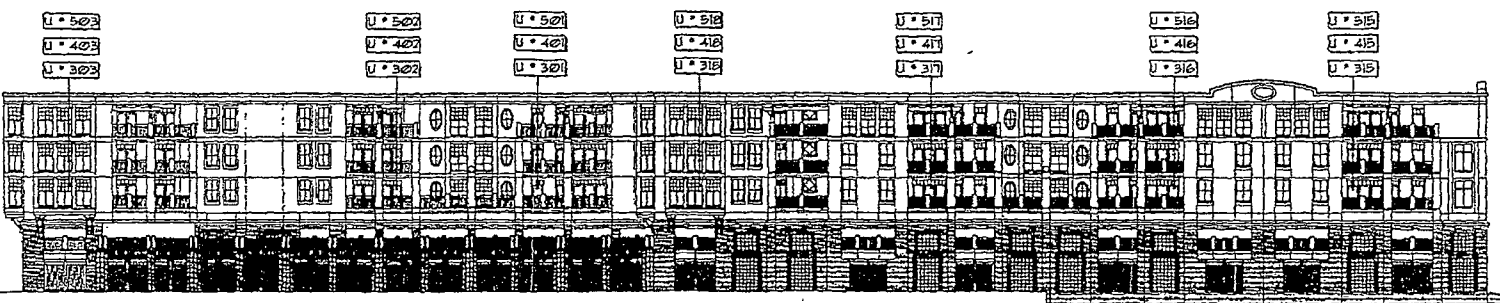
THE FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE
CALCULATIONS THEREON ARE ONLY APPROXIMATIONS. ANY UNIT
OWNER WHOSE CONCERNED ABOUT ANY DISCREPANCIES REGARDING
THE FLOOR PLAN SHOULD CONSULT WITH AN INDEPENDENT REAL ESTATE
APPRAISER, MEASUREMENTS, AND SQUARE FOOTAGE OF THE UNIT.
INTERIOR LAYOUT AND WINDOW COMPOSITION MAY VARY BASED ON
UNIT LOCATIONS.

BRISTOL HORIZONTAL PROPERTY REGIME

FIFTH LEVEL PLAN

Scale: 1" = 40'-0"

Exhibit B - Page viii



SOUTH EAST ELEVATION

Scale: 1" = 40'-0"



NORTH EAST ELEVATION

Scale: 1" = 40'-0"

THE FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE CALCULATIONS SHOWN HEREON ARE ONLY APPROXIMATIONS AND UNIT OWNERS MUST BE CONSIDERED ASULT ANY PRESENT OR FUTURE DISCREPANCY. THIS FLOOR PLAN SHOULD BE USED FOR INVESTIGATION AS TO THE MATERIAL, WALL, FLOOR, CEILING AND SQUARE FOOTAGE OF THE UNIT. INTERIOR LAYOUT AND WINDOW DIMENSIONS MAY VARY BASED ON UNIT LOCATION.

BRISTOL HORIZONTAL PROPERTY REGIME

BRD: 4176049

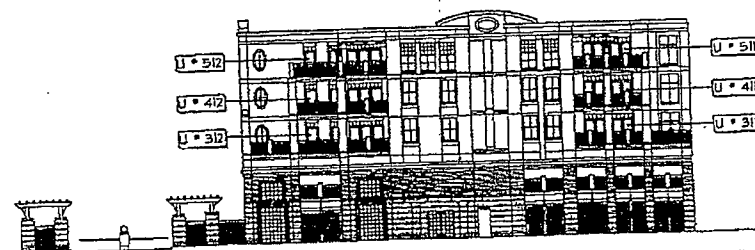
Exhibit Page 11

BD 417P6050



NORTH WEST ELEVATION

Scale: 1" = 40'-0"



SOUTH WEST COURTYARD ELEVATION

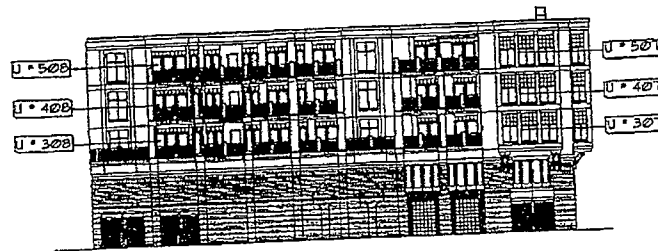
Scale: 1" = 40'-0"

THIS FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE CALCULATIONS THEREON ARE ONLY APPROXIMATIONS. ANY UNIT OWNER WHO IS CONSIDERING ACQUIRING ANY INTEREST IN THIS PROPERTY SHOULD OBTAIN A LAND INVESTIGATION AS TO THE DIMENSIONS, MEASUREMENTS, AND SQUARE FOOTAGE OF THE UNIT. INTERIOR LAYOUT AND FINISHES COMPARISON MAY VARY BASED ON UNIT LOCATION.

BRISTOL HORIZONTAL PROPERTY REGIME

Exhibit B-
Page X

BD 41766051



NORTH EAST COURTYARD ELEVATION

Scale: 1" = 40'-0"



SOUTH WEST ELEVATION

Scale: 1" = 40'-0"

THIS FLOOR PLAN AND THE DIMENSIONS AND SQUARE FOOTAGE CALCULATIONS SHOWN HEREIN ARE ONLY APPROXIMATIONS AND UNIT OWNERS WHO ARE CONCERNED ABOUT ANY REPRESENTATIONS RESERVING DIMENSIONS SHOULD DO THEIR OWN INVESTIGATION AS TO THE DIMENSIONS AND SQUARE FOOTAGE AND RELATIVE FOOTAGE OF THE UNIT. INTERIOR LAYOUT AND WINDOW CONFIGURATION MAY VARY BASED ON UNIT LOCATIONS.

BRISTOL HORIZONTAL PROPERTY REGIME

Exhibit B - Page xi

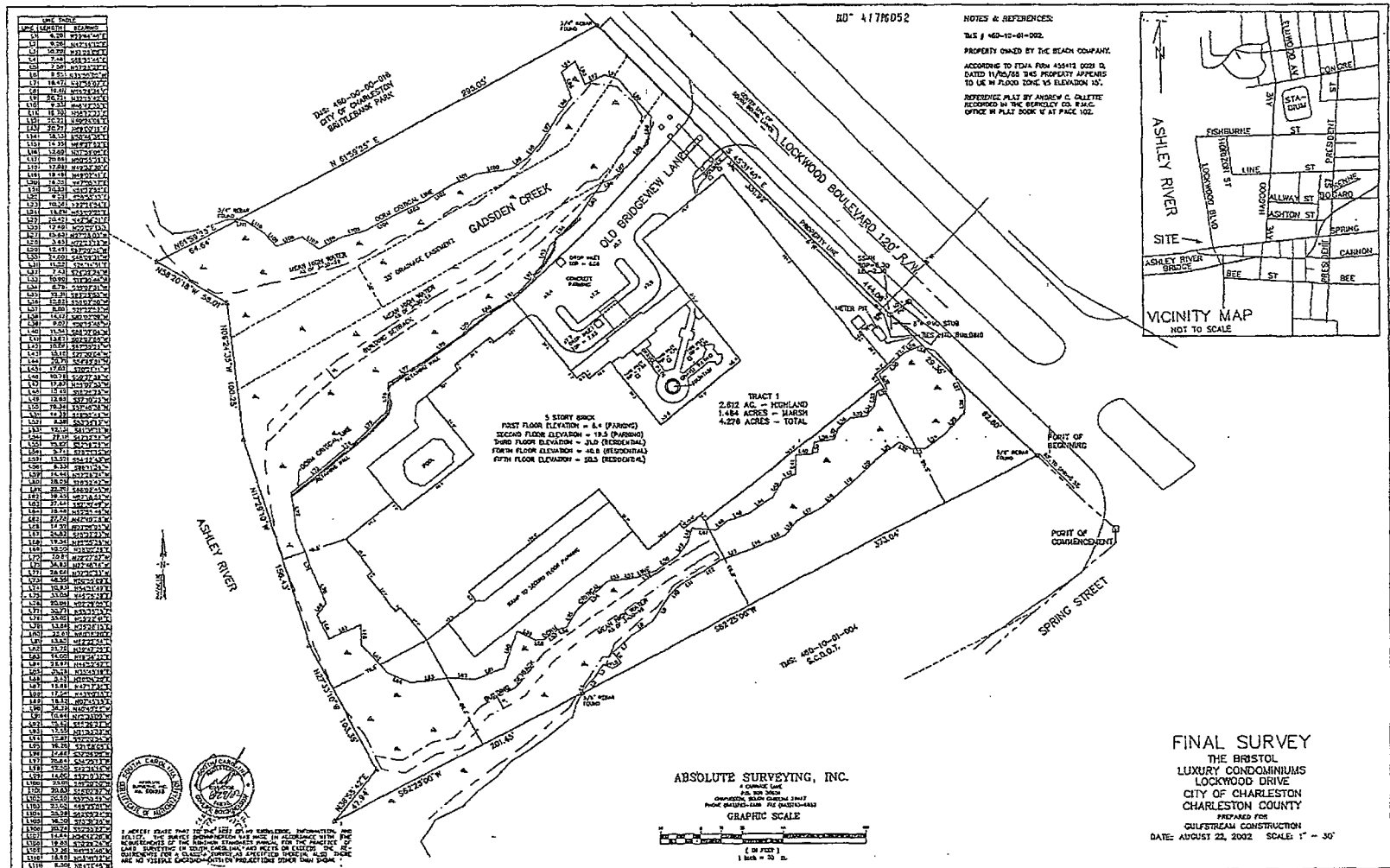


Exhibit D

Exhibit "C"

Schedule of Assigned Values, Percentage Interests,
Storage Space and Parking Spaces for Each Unit

This is a schedule of Assigned Values and Percentage Interests in the Common Areas appurtenant to Units in the Bristol Horizontal Property Regime. This Schedule also set forth the assigned storage and parking spaces' Limited Common Areas appurtenant to each Unit. The Assigned Value is for statutory purposes only and has no relationship to the actual value of each Unit.

The Bristol							
Unit Number by Architect's Floor Plan	Unit Number by Resale Address	Statutory Value	Statutory Percentage	Assigned Storage Space LCA	Assigned Parking Spaces LCA		Architectural Type
301	3001	\$2,000	1.85185%	38	A36	A35	D - The Devonshire
302	3002	\$2,000	1.85185%	39	A24	A25	B - The Buckingham
303	3003	\$2,000	1.85185%	40	A67	A68	H - The Hampton
304	3004	\$2,000	1.85185%	43	A69	A70	H - The Hampton
305	3005	\$2,000	1.85185%	42	A71	A72	C - The Canterbury
306	3006	\$2,000	1.85185%	41	A73	A74	H - The Hampton
307	3007	\$2,000	1.85185%	46	A43	A44	H - The Hampton
308	3008	\$2,000	1.85185%	45	A41	A42	G - The Greenwich
309	3009	\$2,000	1.85185%	44	A32	A33	B - The Buckingham
310	3010	\$2,000	1.85185%	1	A30	A31	B - The Buckingham
311	3011	\$2,000	1.85185%	2	A12	A13	A - The Aberdeen
312	3012	\$2,000	1.85185%	3	A3	A4	B - The Essex
313	3013	\$2,000	1.85185%	4	A5	A6	B - The Essex
314	3014	\$2,000	1.85185%	5	A7	A8	C - The Canterbury
315	3015	\$2,000	1.85185%	6	A9	A10	F - The Faversham
316	3016	\$2,000	1.85185%	7	A14	A15	D - The Devonshire
317	3017	\$2,000	1.85185%	9	A16	A17	D - The Devonshire
318	3018	\$2,000	1.85185%	10	A47	A48	I - The Inverness
401	4001	\$2,000	1.85185%	47	B55	B54	D - The Devonshire
402	4002	\$2,000	1.85185%	48	B53	B52	B - The Buckingham
403	4003	\$2,000	1.85185%	49	B51	B50	H - The Hampton
404	4004	\$2,000	1.85185%	4	B49	B48	H - The Hampton
405	4005	\$2,000	1.85185%	27	A58	A57	C - The Canterbury
406	4006	\$2,000	1.85185%	28	A56	A55	H - The Hampton
407	4007	\$2,000	1.85185%	29	A54	A53	H - The Hampton
408	4008	\$2,000	1.85185%	30	A52	A51	G - The Greenwich

1 Old Bridgeview Lane, Charleston, South Carolina 29403

Exhibit "C" - Page i

NPMAD1788,15-RD-(BPK) 018019-00003

BKD 417PG054

The Bristol						
Unit Number by Architect's Floor Plan	Unit Number by Regime Address	Statutory Value	Statutory Percentage	Assigned Storage Space LCA	Assigned Parking Spaces LCA	Architectural Type
409	4009	\$2,000	1.85185%	31	B23 B24	B - The Buckingham
410	4010	\$2,000	1.85185%	32	B15 B23	B - The Buckingham
411	4011	\$2,000	1.85185%	33	B24 B25	A - The Aberdeen
412	4012	\$2,000	1.85185%	19	B26 B29	E - The Essex
413	4013	\$2,000	1.85185%	20	B30 B31	E - The Essex
414	4014	\$2,000	1.85185%	21	B32 B33	C - The Canterbury
415	4015	\$2,000	1.85185%	22	A18 A19	F - The Faversham
416	4016	\$2,000	1.85185%	23	A20 A21	D - The Devonshire
417	4017	\$2,000	1.85185%	24	A22 A23	D - The Devonshire
418	4018	\$2,000	1.85185%	25	A49 A50	I - The Inverness
501	5001	\$2,000	1.85185%	51	B58 B59	D - The Devonshire
502	5002	\$2,000	1.85185%	52	B60 B61	B - The Buckingham
503	5003	\$2,000	1.85185%	53	B62 B63	H - The Hampton
504	5004	\$2,000	1.85185%	54	B64 B65	H - The Hampton
505	5005	\$2,000	1.85185%	18	B46 B47	C - The Canterbury
506	5006	\$2,000	1.85185%	12	B45 B44	H - The Hampton
507	5007	\$2,000	1.85185%	16	B43 B42	H - The Hampton
508	5008	\$2,000	1.85185%	15	B36 B37	G - The Greenwich
509	5009	\$2,000	1.85185%	14	B14 B13	B - The Buckingham
510	5010	\$2,000	1.85185%	34	B40 B39	B - The Buckingham
511	5011	\$2,000	1.85185%	26	B11 B12	A - The Aberdeen
512	5012	\$2,000	1.85185%	8	B21 B20	E - The Essex
513	5013	\$2,000	1.85185%	13	B19 B18	E - The Essex
514	5014	\$2,000	1.85185%	12	B3 B4	C - The Canterbury
515	5015	\$2,000	1.85185%	11	B5 B6	F - The Faversham
516	5016	\$2,000	1.85185%	35	B7 B8	D - The Devonshire
517	5017	\$2,000	1.85185%	36	B9 B10	D - The Devonshire
518	5018	\$2,000	1.85185%	37	B35 B34	I - The Inverness
		\$108,000	99.99990%			

1 Old Bridgeview Lane, Charleston, South Carolina 29403

Exhibit "C" - Page ii

NPM01:765.15-PCD-(BPK) 010010-00093

BKD 417PG055

Exhibit "D"
Articles of Incorporation
Attached Hereto

Exhibit "D"

HPM81765.15-RD-(BFX) 018019-00093

BKD 417PG056



STATE OF SOUTH CAROLINA
SECRETARY OF STATE
JIM MILES
NONPROFIT CORPORATION
ARTICLES OF INCORPORATION

1. The name of the nonprofit corporation is Bristol Condominium Property Owners' Association
2. The initial registered office of the nonprofit corporation is 211 King Street, Suite 200
Street & Number,

Charleston Charleston S.C. 29401
City, County, State, Zip Code

The name of the registered agent of the nonprofit corporation at that office is:

John Darby

3. Check (a), (b), or (c) whichever is applicable. Check only one box.
a. ☐ The nonprofit corporation is a public benefit corporation. REQUIRED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THE OFFICE
b. ☐ The nonprofit corporation is a religious corporation.
c. ☒ The nonprofit corporation is a mutual benefit corporation. **AUG 26 2002**
4. Check (a) or (b), whichever is applicable:
a. ☒ This corporation will have members. **AUG 26 2002**
b. ☐ This corporation will not have members. SECRETARY OF STATE OF SOUTH CAROLINA
5. The address of the principal office of the nonprofit corporation is 211 King St., Suite 200
Street & Address,

Charleston Charleston S.C. 29401
City, County, State, Zip Code

6. If this nonprofit corporation is either a public benefit or religious corporation (box a. or b. of 3. is checked), complete either (a) or (b), whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation.
a. ☐ Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of by the court of common pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

b. ☐ Upon dissolution of the corporation, consistent with law, the remaining assets of the corporation shall be distributed to: _____

7. If the corporation is a mutual benefit corporation (box "c" of 3, is checked), complete either (a) or (b), whichever is applicable, to describe how the [remaining] assets of the corporation will be distributed upon dissolution of the corporation.

a. ☒ Upon dissolution of the mutual benefit corporation the remaining assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefitting or serving.

b. ☐ Upon dissolution of the mutual benefit corporation the [remaining] assets, consistent with law, shall be distributed to _____

8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follows (See § 33-31-202(c) of the 1976 South Carolina Code, the applicable comments thereto, and the instructions to this form):

a. **Capitalized Words.** The use of capitalized words herein shall have the meanings attributed to them in the Master Deed of The Bristol Horizontal Property Regime, hereinafter the "Master Deed," recorded or to be recorded in the Office of Register of Mesne Conveyances for Charleston County, South Carolina.

b. **Purpose.** This Association does not contemplate pecuniary gain or profit, and the specific, primary purposes for which it is formed are to provide for management, administration, maintenance and preservation of The Bristol Horizontal Property Regime and the Common Areas thereof, all according to the Master Deed. No part of the net earnings of the Association shall inure to the benefit of any person, other than for acquiring, constructing, or providing management, maintenance, and care of Association property, and other than by a rebate of excess Association fees and assessments, if any.

c. **Right to Appoint Directors and Officers.** The Developer under the Master Deed shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following dates: (i) December 31, 2008; (ii) three (3) months after the conveyance by the Developer, in the ordinary course of business to persons other than a successor Developer, of forty-nine (49) Units; (iii) or three (3) months following the date the Developer surrenders its authority to appoint directors of the Association by an express amendment to the Master Deed executed and filed in the Office of Register of Mesne Conveyances for Charleston County, South Carolina by the Developer.

d. **Membership.** Every person or entity who is a record owner of a fee or undivided fee interest in a Unit which is subject to the Master Deed (including the Developer) shall be a member of the Association. Until the expiration of the Developer's right to appoint directors and officers of the Association pursuant to subparagraph c of this 8, the Developer, and its

successors and assigns, other than as an owner of a Unit, shall be a member of the Association. The membership of each owner of a Unit shall be appurtenant to and may not be separated from ownership of the Unit and ownership of a Unit shall be the sole qualification for such membership. In the event that fee title to a Unit is transferred or otherwise conveyed, the membership in the Association that is appurtenant thereto shall automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. Any person or entity who holds an interest in a Unit merely as security for the performance of an obligation shall not be a member of this Association.

e. Voting Rights. The Association shall have two (2) classes of voting membership. Members are divided into classes for the sole purpose of computing voting rights and shall not vote as a class.

Class A. Class A members of the Association shall be all owners of Units (including the Developer). A Type A Member shall be entitled to one (1) vote for each Unit owned. When more than one (1) person holds an interest in any Unit, all such persons shall be Members. The vote for such Unit shall be exercised as they among themselves determine as provided in the Master Deed, but in no event shall more than one (1) vote be cast with respect to any Unit.

Class B. The Type B member shall be the Developer or its designated assign, in its capacity other than as an Owner of a Unit. The Type B member shall be entitled to three (3) votes for each vote held by Type A members, plus one (1) vote, until the expiration of the Developer's right to appoint directors and officers of the Association pursuant to subparagraph c of this 8. Thereafter, the Type B member shall exercise votes only as to its Type A memberships.

9. The name and address (with zip code) of each incorporator is as follows (only one is required):

Name	Address (with zip code)
Brian F. Kornaghan	2411 N. Oak Street, Suite 103, Myrtle Beach, SC 29577

10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles:

Signature of director _____	(only if named in articles)
Signature of director _____	(only if named in articles)
Signature of director _____	(only if named in articles)

11. Each Incorporator must sign the articles.

Brian F. Kornaghan
Signature of Incorporator - Brian F. Kornaghan

BXD 417PG059

STATE OF SOUTH CAROLINA SOUTH CAROLINA TAX COMMISSION INITIAL ANNUAL REPORT OF CORPORATIONS		CL-1 (Rev. 7/91) 3134
* File Number _____ * EXPIRATION PERIOD _____ Month _____ Year _____ FILE THIS RETURN WITH ARTICLES OF INCORPORATION OR APPLICATION FOR AUTHORITY TO DO BUSINESS.		
NAME OF CORPORATION BRISTOL CONDOMINIUM PROPERTY OWNERS' ASSOCIATION		
ADDRESS OF CORPORATION (NUMBER AND STREET) 211 KING STREET, SUITE 300		
CITY AND STATE CHARLESTON, SOUTH CAROLINA	ZIP 29401	COUNTY CHARLESTON
Date "Application for Charter" filed with Secretary of State AUG 8 6 2002		
Date of "Request for authority to do business in this state" (Foreign Corp.) N/A		
IRS Employer Identification Number Applied For Business Code _____		
1. State of Incorporation: South Carolina		
2. Nature of principal business in South Carolina: Property Owners' Association		
3. Location of registered office of the corporation in the state of South Carolina is 211 King Street, Suite 300 the city of Charleston Registered agent at such address is John Darby		
4. Location of principal office in South Carolina (street, city and county): above address		
5. Date business commenced in South Carolina: Date of Incorporation Telephone: 843-711-2615		
6. The corporation's books are in care of John Darby located at 211 King Street, Suite 300, Charleston, SC 29401		
7. Indicate date corporation closes its books: To Be Determined		
8. If a professional corporation are all shareholders, one-half of the directors (or individuals functioning as directors) and all officers (other than the secretary and treasurer) qualified to practice the professional services engaged in by the corporation?		
9. The names and business addresses of the directors (or individuals functioning as directors) and principal officers in the corporation are:		
Name	Business Address and Office	Title
Timothy Walter	211 King Street, Suite 300, Charleston, SC 29401	Director, President
J. Glenn Spills	"	Director, Vice President
J. Patrick McDermott	"	Director, Secretary/Treasurer
10. The total number of authorized shares of capital stock limited by class and series, if any, within each class is as follows:		
Number of Shares	Class	Series
0	N/A	
11. The total number of issued and outstanding shares of capital stock limited by class and series, if any, within each class is as follows:		
Number of Shares	Class	Series
0	N/A	
1. Fee due with this report		= 1. <u>25.00</u>
2. Interest due		= 2. <u> </u>
3. Penalty due		= 3. <u> </u>
4. Total - Fee, Interest and Penalty (make remittance payable to SC Tax Commission)		= 4. <u>25.00</u>
I, the undersigned, principal of the corporation for which this return is made, declare that this return including accompanying statements and schedules, has been examined by me and is to the best of my knowledge and belief a true and complete return made in good faith.		
THIS RETURN PREPARED BY: John F. Kieringhaus August 23, 2002 DATE		
John F. Kieringhaus Signature		

BKD 417PG060

Exhibit "E"
By-Laws of the Association
Attached Hereto

Exhibit "E"

NPMD1205.15-RD-10FK 010018-00093

BYLAWS OF
BRISTOL CONDOMINIUM PROPERTY OWNERS' ASSOCIATION

ARTICLE I

NAME AND LOCATION

1.1 Name and Location. The name of the corporation is BRISTOL CONDOMINIUM PROPERTY OWNERS' ASSOCIATION, hereinafter referred to as the "Association." The principal office of the Association shall be located at the Project, or at such other place as may be designated by the Board.

ARTICLE II

DEFINITIONS

2.1 Incorporation. The definitions contained in the Master Deed are incorporated by reference herein.

(a) The Master Deed. "Master Deed" shall mean and refer to the Master Deed Of Bristol Horizontal Property Regime recorded in the Office of Register of Mesne Conveyances for Charleston County, South Carolina, and subsequent amendments thereto.

ARTICLE III

MEETING OF MEMBERS AND VOTING

3.1 Annual Meeting. The first meeting of the Members, whether an annual or a special meeting, shall be held on such day and at such time as the Board, upon majority vote, shall determine and which shall occur not more than twelve (12) months following the date of the close of the sale of the first Unit in the Regime. Subsequent annual meetings of the Members shall be held thereafter at an hour and place within thirty (30) days of the same month and day of such first meeting, as set by the Board.

3.2 Special Meetings. Special meetings of the Members shall be promptly scheduled at any time by the Board upon vote of a majority of the Board of Directors or upon written request of the President. A special meeting of the Members shall be called upon written demand delivered to the Secretary by the Members representing five percent (5%) of the total voting power of the Association, notice of which shall be by written notice to all Members within thirty (30) days of the Secretary's receipt of the demand. For purposes of determining the five percent (5%), the record date shall be thirty (30) days before delivery of the written demand. Upon the failure of the Association to send notice of a special meeting within thirty (30) days following delivery of written demand as aforesaid, any Member signing the demand may set the time and place of the special meeting and give notice thereof to all Members in accordance with the Nonprofit Corporation Act.

3.3 Notice and Place of Meetings. Unless otherwise provided in the Master Deed, the Articles of Incorporation, in these By-Laws, or in the Nonprofit Corporation Act, written notice of each meeting of the Members, annual or special, shall be given by, or at the direction of, the Secretary, by mailing a copy of such notice, first class mail, postage prepaid, at least thirty (30) but not more than sixty (60) days before such meeting to each Member, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. In the case of written demand of Members representing five percent of the total voting power of the (5%) Association, written notice of such meeting shall be given not more than thirty (30) days after written demand is delivered to the Association. Such notice shall

specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting, and shall provide for voting by proxy. If action is proposed to be taken at any meeting for approval for any of the following proposals, the notice shall also state the general nature of the proposal: (a) removing a Director without cause; (b) filling vacancies in the Board of Directors by the Members; or (c) amending the Articles of Incorporation. Meetings shall be held within the Project or at a meeting place within the same county, as close to the Project as possible.

Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, either before or after the meeting. The waiver must be delivered to the Association for inclusion in the minutes or filing with the corporate records. Attendance of a Member at a meeting, in person or by proxy, shall of itself constitute waiver of notice, except when the Member attends a meeting solely for the purpose of stating his objection, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is not lawfully called or convened. Objection by a Member shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

3.4 Quorum. Unless otherwise provided herein, in the Master Deed, the Articles of Incorporation, or the Nonprofit Corporation Act, the presence of Members representing one-third (a) of the votes of all Members, in person or by proxy, shall constitute a quorum for the transaction of business. The Members present at a duly called or held meeting at which a quorum of one-third (a) of the votes of all Members is present may continue to do business until adjournment, notwithstanding the withdrawal from the meeting of enough Members to leave less than such required quorum, provided that Members representing twenty percent (20%) of the total votes of the Association remain present in person and/or by proxy, and provided further that any action taken shall be approved by a majority of the Members required to constitute such quorum. If the required quorum is not present, another meeting may be called, not less than ten (10) nor more than sixty (60) days following the first meeting, and the required quorum at the subsequent meeting shall be the Members present, in person or by proxy, and entitled to vote. Unless otherwise provided, any reference hereafter to "votes cast" at a duly called meeting shall be construed to be subject to the quorum requirements established by this Section 3.4. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed in Section 3.3.

3.5 Ballots and Representative Voting.

(a) Written Ballots. Any vote of Members on a matter that would be cast at an annual, regular or special meeting may be taken, without a meeting, by written ballot delivered to every Member by the Association. The ballot shall set forth the matter to be voted upon and provide thereon a place to vote for or against such matter. Approval by written ballot without a meeting shall be effective only when the number of votes cast by ballot equals or exceeds the quorum required to be present had the matter been considered at a meeting, and the number voting for the matter equals or exceeds the number of votes required to approve it had the matter been considered at a meeting at which the requisite quorum is present. A solicitation of votes by ballot shall (1) indicate the record date for Members eligible to vote; (2) indicate the number of returned ballots voting for or against the matter that is required to satisfy the quorum requirement; (3) state the required number of votes or percentage voting in favor of the matter required to approve it (except in the case of election of directors, which shall be by plurality); and (4) state the date and time by which a Member's completed ballot must be received by the Secretary in order to be counted in the vote to be taken. A ballot, once delivered to the Secretary, may not be revoked. A Member's signed ballot shall be delivered to the Secretary by hand delivery, by U.S. mail, or by such other means as shall be permitted under South Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, Internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting, and shall provide for voting by proxy. If action is proposed to be taken at any meeting for approval for any of the following proposals, the notice shall also state the general nature of the proposal: (a) removing a Director without cause; (b) filling vacancies in the Board of Directors by the Members; or (c) amending the Articles of Incorporation. Meetings shall be held within the Project or at a meeting place within the same county, as close to the Project as possible.

Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, either before or after the meeting. The waiver must be delivered to the Association for inclusion in the minutes or filing with the corporate records. Attendance of a Member at a meeting, in person or by proxy, shall of itself constitute waiver of notice, except when the Member attends a meeting solely for the purpose of stating his objection, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is not lawfully called or convened. Objection by a Member shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

3.4 Quorum. Unless otherwise provided herein, in the Master Deed, the Articles of Incorporation, or the Nonprofit Corporation Act, the presence of Members representing one-third (a) of the votes of all Members, in person or by proxy, shall constitute a quorum for the transaction of business. The Members present at a duly called or held meeting at which a quorum of one-third (a) of the votes of all Members is present may continue to do business until adjournment, notwithstanding the withdrawal from the meeting of enough Members to leave less than such required quorum, provided that Members representing twenty percent (20%) of the total votes of the Association remain present in person and/or by proxy, and provided further that any action taken shall be approved by a majority of the Members required to constitute such quorum. If the required quorum is not present, another meeting may be called, not less than ten (10) nor more than sixty (60) days following the first meeting, and the required quorum at the subsequent meeting shall be the Members present, in person or by proxy, and entitled to vote. Unless otherwise provided, any reference hereafter to "votes cast" at a duly called meeting shall be construed to be subject to the quorum requirements established by this Section 3.4. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed in Section 3.3.

3.5 Ballots and Representative Voting.

(a) Written Ballots. Any vote of Members on a matter that would be cast at an annual, regular or special meeting may be taken, without a meeting, by written ballot delivered to every Member by the Association. The ballot shall set forth the matter to be voted upon and provide thereon a place to vote for or against such matter. Approval by written ballot without a meeting shall be effective only when the number of votes cast by ballot equals or exceeds the quorum required to be present had the matter been considered at a meeting, and the number voting for the matter equals or exceeds the number of votes required to approve it had the matter been considered at a meeting at which the requisite quorum is present. A solicitation of votes by ballot shall (1) indicate the record date for Members eligible to vote; (2) indicate the number of returned ballots voting for or against the matter that is required to satisfy the quorum requirement; (3) state the required number of votes or percentage voting in favor of the matter required to approve it (except in the case of election of directors, which shall be by plurality); and (4) state the date and time by which a Member's completed ballot must be received by the Secretary in order to be counted in the vote to be taken. A ballot, once delivered to the Secretary, may not be revoked. A Member's signed ballot shall be delivered to the Secretary by hand delivery, by U.S. mail, or by such other means as shall be permitted under South Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, Internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

(b) Proxies. All of the provisions of this Section 3.5(b) are subject to the Master Deed. To the extent that a provision set forth in this Section is inconsistent with the Master Deed, the provisions of the Master Deed shall control. At all meetings of Members, each Member may vote in person or by proxy. The appointment form of proxy shall be in writing and received by the Secretary before the appointed time of the meeting. Every proxy appointment shall automatically cease upon conveyance by the Member of his Unit, or upon receipt of written notice by the Secretary of the death or judicially declared incompetence of a Member prior to the counting of the vote, upon revocation of the appointment of the proxy in accordance with the Nonprofit Corporation Act, or upon the expiration of eleven (11) months from the date of the proxy. Unless the proxy appointment form otherwise states, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. Any proxy appointment form distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon set forth in the notice of the meeting. The appointment shall provide that, where the Member specifies a choice, the vote shall be cast by the proxy in accordance with that choice. The form shall also identify the person or persons acting as the proxy and the length of time it will be valid. In addition, voting by a proxy shall comply with any other applicable requirements of the Nonprofit Corporation Act. The Member's signed proxy appointment form shall be delivered to the Secretary by hand delivery, by U.S. mail, and by such other means as shall be permitted under South Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

3.6 Membership and Voting. The Association shall have two (2) classes of voting membership:

Type A: The Type A Members shall be all Owners, including the Developer (as defined in the Master Deed) and shall be entitled to one (1) vote for each Unit owned. When more than one (1) person holds an interest in any Unit, all such persons shall be Members. The vote for such Unit shall be exercised as they among themselves determine as provided in the Master Deed, but in no event shall more than one (1) vote be cast with respect to any Unit.

Type B: The Type B Member shall be the Developer whose voting rights shall be three (3) votes for each vote held by Type A Members, plus one (1) vote. The Type B membership shall cease upon the first of the following dates:

- (a) December 31, 2008;
- (b) three (3) months following the date on which the Developer has conveyed forty-nine (49) Units to Owners in the ordinary course of its business; or
- (c) three (3) months following the date the Developer surrenders the authority to appoint and remove Directors and officers of the Association by an express amendment to the Master Deed executed and filed in the Office of Register of Mesne Conveyances for Charleston County, South Carolina by the Developer.

Except as otherwise provided in the Master Deed, the Articles of Incorporation, these By-Laws, or the Nonprofit Corporation Act, any action by the Association which must have the approval of the Members before being undertaken shall require voting approval by a majority of the votes cast by Members at which the required quorum is present. An abstention shall be counted as a negative vote in calculating the majority. Members are divided into Type A and Type B Members for the sole purpose of computing voting rights and shall not vote as a class. Owners of Units in all phases shall have the same voting rights.

specify those matters the Board intends to present for action by the Members, but, except as otherwise provided by law, any proper matter may be presented at the meeting for action. Members of the Association shall have access to Association records in accordance with the Nonprofit Corporation Act. Any Member of the Association may attend meetings of the Board, except when the Board adjourns to executive session to consider litigation, matters that relate to the formulation of contracts with third parties, or personnel matters. Any matter discussed in executive session shall be generally noted in the minutes of the Board. In any matter relating to the discipline of an Association Member, the Board shall meet in executive session if requested by that Member, and the Member shall be entitled to attend the executive session.

ARTICLE IV

BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

4.1 Number. A Board of Directors, all directors of which must be Members of the Association, or an officer, director, employee or agent of a Member, including Developer, shall manage the affairs of the Association. The initial Board of Directors shall consist of three (3) Directors who shall be appointed by the Developer. The Developer shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association pursuant to the Master Deed until the expiration of the Transition Period. Within sixty (60) days after the expiration of the Transition Period, the Members shall elect five (5) Directors. The Association shall either call, and give not less than thirty (30) days' and not more than sixty (60) days' notice of, such special meeting of the Members to elect the Board of Directors, or the date on which the Association shall count the written ballots distributed to the Members with such notice or the election of the Board of Directors. Each year thereafter, the Members shall elect such number of Directors as shall exist whose terms are expiring.

4.2 Term of Office. The election of Directors shall be by plurality, the number of nominees equal to the number of vacancies to be filled receiving the greatest number of votes being elected. However, at the meeting of the Association following expiration of the Transition Period held to elect five (5) Directors or the date following expiration of the Transition Period when written ballots are to be counted for the election of such Directors pursuant to Section 4.1, the two (2) nominees receiving the highest number of votes will each be elected for a term of two (2) years, and the next three (3) nominees receiving the highest number of votes will each be elected for a term of one (1) year. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve for a term of two (2) years. Unless vacated sooner, each Director shall hold office until the Director's term expires and a successor is elected.

4.3 Removal; Vacancies. A Director appointed by the Developer may only be removed by the Developer, otherwise, a Director may be removed from office, with or without cause, at any regular or special meeting of the Members by sixty-seven percent (67%) of the votes of the Members voting in person or by proxy at a meeting at which a quorum is present. A successor to any removed Director may be elected at the same meeting at which the vacancy is created by the removal of the Director. A Director whose removal is proposed to be voted upon at any meeting shall be given notice of the proposed removal not less than 10 days prior to the date of the meeting and shall be given an opportunity to be heard at the meeting. In the event of death or resignation of a Director, the vacancy shall be filled by majority vote of the Board at a duly held meeting, or by the sole remaining Director. A successor Director shall serve for the unexpired term of his or her predecessor. The Members may elect a Director at any time to fill any vacancy not filled by the Directors.

4.4 Compensation. No Director shall receive compensation for any service rendered to the Association. However, any Director may be reimbursed for his actual expenses, if reasonable, that are incurred in the performance of his or her duties, including, but not limited to, travel expenses.

4.5 Indemnification of Corporate Agents. The Association shall indemnify any present or former Director, officer, employee or other agent of the Association to the fullest extent authorized under the Nonprofit

Corporation Act, or any successor statute, and may advance to any such person funds to pay expenses that may be incurred in defending any action or proceeding on receipt of an undertaking by or on behalf of such person to repay such amount unless it is ultimately determined that such person was not entitled to indemnification under this provision.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

5.1 Nomination. The Board shall make nomination for election to the Board of Directors from the membership, and if the election is to take place at a meeting and not solely by written ballot, nominations may also be made from the floor at the meeting. The Board shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. All candidates shall have reasonable opportunity to communicate their qualifications to Members and to solicit votes.

5.2 Election. The first election of the Board shall be conducted as set forth in Section 4.1. At such election the Members or their proxies may cast as many votes as they are entitled to exercise under the provisions of the Master Deed. The persons receiving the largest number of votes shall be elected. No cumulative voting shall be permitted. Voting for Directors at a meeting shall be by secret written ballot. Voting for Directors may also be conducted by written ballot pursuant to Section 3.5(a).

ARTICLE VI

MEETINGS OF DIRECTORS

6.1 Regular Meetings. Regular meetings of the Board of Directors shall be held at least annually at such place within the Project, and at such hour as may be fixed from time to time by resolution of the Board. If a larger meeting room is required than exists with the Project, the Board shall select a room as close as possible to the Project. Should a regularly scheduled meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday, excluding Saturday and Sunday.

6.2 Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President, Vice President or Secretary of the Association, or by any two (2) Directors. Notice of the special meeting shall specify the time and place of the meeting and the nature of the special business to be considered.

6.3 Quorum. A majority of the Directors then in office (but not less than two (2)) shall constitute a quorum for the transaction of business. Every act performed or decisions made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors, if any action taken is approved by a majority of the required quorum for that meeting.

6.4 Executive Session. The Board may, with approval of a majority of the Directors present at a meeting in which a quorum for the transaction of business has been established, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel and matters involving contracts of which the Association is a party, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

6.5 Telephone Meetings. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, so long as all Directors participating in the meeting can hear one another, and

all such Directors shall be deemed to be present in person at such meeting. An explanation of the action shall be filed with the minutes of the proceedings of the Board.

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

6.7 Notice of Adjourned Meeting. Notice of the time and place of holding an adjourned meeting need not be given, unless the meeting is adjourned for more than twenty-four (24) hours, in which case personal notice of the time and place shall be given before the time of the adjourned meeting to the Directors who were not present at the time of the adjournment.

6.8 Action Without Meeting. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

6.9 Notices Generally. Notice of any meeting of the Board of Directors, whether regular or special, shall be given to each Director by one (1) of the following methods; (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the Director or to a person at the Director's office who would reasonably be expected to communicate such notice promptly to the Director; (d) by telegram, charges prepaid; or (e) by facsimile transmission to the fax number of the Directors or to e-mail address of the Directors, with proof of transmission and receipt thereof being retained in the minutes of the meeting. All such notices shall be given or sent to the Director's address, telephone number, fax number or e-mail address as shown on the records of the Association. Such notice shall be sent to all Directors not less than seventy-two (72) hours prior to the scheduled time of the meeting, provided, however, notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, telegraph, facsimile transmission or e-mail shall be delivered, telephoned, given to the telegraph company, faxed or e-mailed, as the case may be, at least seventy-two (72) hours before the time set for the meeting. Notice of any meeting need not be given to any Director who has signed a waiver of notice or written consent to holding of the meeting.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

7.1 Duties. It shall be the duty of the Board of Directors to:

- A. Maintenance: Perform the maintenance described in the Master Deed;
- B. Insurance: Maintain insurance as required by the Master Deed;
- C. Discharge of Liens: Discharge by payment, if necessary, any lien against the Common Area and assess the cost thereof to the Member or Members responsible for the existence of the lien (after notice and hearing as required by these Bylaws);
- D. Assessments: Fix, levy, collect and enforce Assessments as set forth in the Master Deed;

Exhibit "E" - Page vii

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E. Expenses and Obligations: Pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

F. Records: Cause to be kept a complete record of all its acts and affairs and to present a statement thereof to the Members at the annual meeting of the Members, at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class "A" Members; keep adequate and correct books and records of account, minutes of proceedings of its Members, Board and committees, and a record of its Members giving their names and addresses and classes of membership;

G. Supervision: Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

H. Enforcement: Enforce these Bylaws and the Master Deed;

I. Review of Financial Records: Review on at least a quarterly basis a current reconciliation of the Association's operating and reserve accounts, the current year's actual reserve revenues and expenses compared to the current year's budget, and an income and expense statement for the Association's operating and reserve accounts. In addition, the Board shall review the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts. For purposes herein, "reserve accounts" shall mean monies that the Association's Board has identified for use to defray the future repair or replacement of, or additions to, these major components that the Association is obligated to maintain.

J. Reserve Account Withdrawal Restrictions: Require that at least two (2) signature is needed for the withdrawal of monies for the Association's reserve accounts, at least one (1) of whom shall be a member of the Board. One (1) signature may be that of the Association's manager or such manager's designee.

K. Reserve Account Fund Management: The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established.

L. Reserve Studies. At least every five (5) years the Board shall cause an independent analysis of the reserve component of the operating budget to be conducted to confirm that component replacement costs and useful lives are accurately reflected in the reserve allocation.

7.2 Powers. The Board of Directors shall have power to:

A. Manager: Employ a manager as provided in the Master Deed;

B. Adoption of Rules; Set Aside Common Area Parking for Handicap: Adopt rules in accordance with the Master Deed, including rules setting aside Common Area parking spaces as handicap parking only, and adopt rules limiting the number of cars which will be permitted to be parked in the Common Area parking spaces;

C. Assessments, Liens and Fines: Levy and collect Assessments and impose fines as provided in the Master Deed.

D. Enforcement (Notice and Hearing): Enforce these Bylaws and/or the Master Deed, provided that at least fifteen (15) days' prior notice of any charges (other than Assessment) or potential discipline or fine and the reasons therefor are given to the Member affected, and that an opportunity is provided for the Member to be heard, orally or in writing not less than five (5) days before the effective date of the discipline or

fine, said hearing to be before the Board. Any notice required hereina shall be given by any method reasonably calculated to provide actual notice. Any notice given by mail shall be given by first class or registered mail sent to the last address of the Member as shown on the Association's records.

E. Contracts: Contract for goods and/or services in accordance with the Master Deed.

F. Delegation: Delegate its authority and powers to committees, officers or employees of the Association or to a manager employed by the Association. The Board may not delegate the authority to procure insurance, make capital expenditures for additions or improvements chargeable against the reserve funds; to conduct hearings concerning compliance by an Owner or his tenant, lessee, guest or invitee with the Master Deed or rules and regulation promulgated by the Board, or to make a decision to levy monetary fines, impose special Assessments against individual Units, temporarily suspend an Owner's rights as a Member of the Association or otherwise impose discipline following any such hearing; to make a decision to levy Annual or Special Assessments; or to make a decision to bring suit, record a claim of lien, or institute foreclosure proceedings for default in payment of Assessments. Any such delegation shall be revocable by the Board at any time. The members of the Board, individually or collectively, shall not be liable for any omission or improper exercise by the manager of any such duty, power or function so delegated by written instrument executed by a majority of the Board.

G. Appointment of Trustee: Appoint a trustee as provided in the Master Deed.

H. Borrowings: Borrow money (i) for the purpose of improving the Regime, or any portion thereof, (ii) for constructing, repairing, maintaining or improving any facilities located or to be located within the Regime, (iii) for providing services authorized herein, and, (iv) to give as security for the payment of any such loan a mortgage or other security instrument conveying all or any portion of the Common Areas; provided, however, that the lien and encumbrance of any such security instrument given by the Association will be subject and subordinate to any and all rights, interest, options, licenses, easements, and privileges herein reserved or established for the benefit of Developer, any Owner, or the holder of any Mortgage, irrespective of when such Mortgage is executed or given.

I. Other Powers: In addition to any other power contained herein or in the Master Deed, the Association may exercise the powers granted to a nonprofit mutual benefit corporation as enumerated in the Nonprofit Corporation Act.

7.3 Prohibited Acts. The Board shall not take any of actions prohibited of it under the Master Deed except with the vote or written consent of a majority of the Members other than Developer.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

8.1 Enumeration of Officers. The officers of this Association shall be a President and Secretary, who shall at all times be members of the Board of Directors, a Vice President, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

8.2 Election of Officers. The Developer shall have the sole right to appoint and remove officers during the Transition Period. Thereafter, all officers shall hold office at the pleasure of the Board.

8.3 Term. The Board shall elect the officers of this Association annually and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

8.4 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

8.5 Resignation and Removal. Any officer may be removed from office (but not from the Board, if the officer is also a Board member) by the Board with or without cause. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

8.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

8.7 Duties. The duties of the officers are as follows:

A. President. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall sign all promissory notes. The President shall have the general powers and duties of management usually vested in the office of the President of a South Carolina nonprofit mutual benefit corporation, and shall have such powers and duties as may be prescribed by the Board or by these Bylaws.

B. Vice President. The Vice President shall act in the place of the President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

C. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with the addresses, and shall perform such other duties as required by the Board. The ministerial functions of the Secretary in recording votes, keeping minutes, sending notices, and keeping the records of names and addresses of Members may be delegated to an Association manager.

D. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all promissory notes of the Association; shall keep proper books of account; and shall prepare and shall distribute budgets and statements. The ministerial functions of the Treasurer in sending Assessment notices, receiving and depositing Assessments, keeping books and ledgers of account, and preparing and distributing budgets and statements may be delegated to an Association manager.

ARTICLE IX

COMMITTEES

9.1 Appointment. An Architectural Review Committee may be appointed as provided in the Master Deed. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purpose. No committee, regardless of Board resolution, may: (a) take any final action on matters which, under the Nonprofit Corporation Act also requires Members' approval; (b) fill vacancies on the Board of Directors or in any committee; (c) amend or repeal Bylaws or adopt new Bylaws; (d) amend or repeal any resolution of the Board of Directors; (e) appoint any other committees of the Board of Directors or the members of those committees; (f) approve any transaction to which the Association is a party and in which one (1) or more Directors have a material financial interest.

ARTICLE X

BOOKS AND RECORDS

10.1 Inspection by Members. The membership register (including names, mailing addresses, telephone numbers and voting rights), books of account and minutes of meetings of the Members, of the Board (including drafts and summaries), and of committees shall be made available for inspection and copying by any Member of the Association, or by his duly appointed representative, at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association or at such other place within the Project as the Board shall prescribe. Board minutes shall be available to Members within thirty (30) days of the meeting, and shall be distributed to any Member upon request and upon reimbursement of the costs in making that distribution.

10.2 Rules for Inspection. The Board shall establish reasonable rules with respect to:

- A. Notice to be given to the custodian of the records by the Member desiring to make the inspection;
- B. Hours and days of the week when such an inspection may be made;
- C. Payment of the cost of reproducing copies of documents requested by a Member.

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

10.4 Documents Provided by Board. Upon written request, the Board shall, within ten (10) days of the mailing or delivery of such request, provide an Owner with a copy of the governing documents of the Regime, a copy of the most recent budget and statements of the Association, and a true statement in writing from an authorized representative of the Association as to the amount of the Association's current Annual and Special Assessments and fees, as well as any Assessments levied upon the Owner's interest which, as of the date of the statement, are or may be made a lien upon the Owner's Unit. The Board may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

ARTICLE XI

MISCELLANEOUS

11.1 Amendments. Prior to close of the sale of the first Unit, Developer may amend these Bylaws. After sale of the first Unit these Bylaws may be amended, only as provided in the Master Deed or in the Nonprofit Corporation Act.

11.2 Conflicts. In the case of any conflict between the Articles of Incorporation and the Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Master Deed and these Bylaws, the Master Deed shall control.

11.3 Fiscal Year. Unless directed otherwise by the Board, the fiscal year of the Association shall begin on the first day of January and end on the thirty-first (31st) day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Exhibit "F"
Alternative Dispute Resolution Procedures

1. Mandatory Procedures for Non-Exempt Claims. Any Claimant with a Claim against a Respondent shall comply with the following procedures.

1.1 Notice. Within a reasonable time after the Claim in question has arisen, and in each event prior to the date when institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitation, Claimant will notify Respondent in writing of the Claim (the "Notice"), stating plainly and concisely:

(a) the nature of the Claim, including applicable date, time, location, Persons involved, Respondent's role in the Claim and the provisions of the Regime Documents or other authority out of which the Claim arises;

(b) what Claimant wants Respondent to do or not do to resolve the Claim; and

(c) that Claimant wishes to resolve the Claim by mutual agreement with Respondent and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss, in good faith, ways to resolve the Claim.

1.2 Negotiation.

(a) Each Claimant and Respondent (the "Parties") will make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation, not later than 30 days following the Notice, unless otherwise agreed by the Parties.

(b) Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint an attorney licensed to practice law in the State of South Carolina to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes his or her efforts will be beneficial to the Parties. Such an attorney will have been actively engaged in the practice of law for at least fifteen (15) years, specializing in commercial transactions with substantial experience in planned real estate developments and will not have a conflict of interest with any of the Parties.

1.3 Final and Binding Arbitration.

(a) If the Parties do not resolve the Claim through negotiation within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiation"), a Claimant will have 30 days within which to submit the Claim to binding arbitration under the auspices and the Commercial Arbitration Rules of the American Arbitration Association; and in accordance with the substantive and procedural laws of the state of South Carolina, except as said rules, procedures and substantive laws are applied otherwise as follows:

(i) Unless the parties mutually set another date, within ten (10) days following Termination of Negotiation, Claimant and Respondent will jointly select one arbitrator, whose decision will be absolutely binding on all Parties; provided, however, if Claimant and Respondent are unable to jointly select one arbitrator within said ten (10) -day period, or on or before any later day set by them by which to select an arbitrator, the arbitrator will be selected in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitration will be conducted in Charleston, South Carolina before a neutral person who is a member of the Bar of the State of South Carolina, who has been actively engaged in the practice of law for at least fifteen (15) years, specializing in commercial transactions with substantial experience in planned real estate developments, and who has no conflict of interest with any Party. The arbitrator may award any remedy or

(d) If the Claimant makes no written offer of settlement, the amount of the Claim made or asserted by the Claimant during the action is deemed to be such Claimant's final offer of settlement hereunder.

(e) If the Respondent makes no written offer of settlement, the final offer of settlement by the Respondent will be the amount asserted during the action to be due in satisfaction of the Claimant's claims, otherwise the Respondent's offer of settlement hereunder is deemed to be zero.

(f) If the respondent asserts a counterclaim, then offers of settlement shall take into consideration such counterclaim in the manner above provided. Furthermore, any Award shall also take into account such counterclaim.

(g) The Party(ies) whose offer, made or deemed made, is closer to the Award granted in the proceeding is considered the "Prevailing Party" hereunder. If the difference between Claimant's and Respondent's offers and the Award is equal, neither Claimant nor Respondent is considered to be the Prevailing Party for purposes of determining the award of fees, costs and expenses of arbitration.

3. Enforcement of Resolution. If the Parties agree to resolve any Claim through negotiation in accordance with Paragraph 1.2 and any Party thereafter fails to abide by the terms of the agreement reached through negotiation, or if, following arbitration, any Party thereafter fails to comply with the Award, then any other Party may file suit or initiate administrative proceedings to enforce the agreement or Award without the need to again comply with the procedures set forth in Section 16.3 of the Master Deed. In such event, the Party taking action to enforce the agreement or Award is entitled to recover from the noncomplying Party (or if more than one noncomplying Party, from all the Parties jointly and severally) all costs incurred in enforcing the agreement or Award, including, without limitation, attorney's fees and court costs.

relief that a court of the State of South Carolina could order or grant, including, without limitation, specific performance of any obligation created under the Regime Documents, or the issuance of an injunction, as well as the imposition of sanctions for abuse or frustration of the arbitration process; provided, however, the arbitrator will have no authority to award punitive damages or any other damages not measured by the actual damages of the "Prevailing Party," as said term is hereinafter defined, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of the Regime Documents.

(b) In the event Claimant does not submit the Claim to binding arbitration as aforesaid, the Claim is deemed abandoned, and Respondent is released and discharged from any and all liability to Claimant arising out of the Claim; provided, nothing herein will release or discharge Respondent from any liability to a Person not a Party to the foregoing proceedings, or the mandatory requirements of this Paragraph 1.3 with respect to any subsequently arising new dispute or claim by the Claimant which is identical or similar to the Claim previously deemed abandoned under this Paragraph 1.3(b).

This Paragraph 1 is an agreement of the Bound Parties to arbitrate all Claims against Respondent, except Exempt Claims, and is specifically enforceable under South Carolina law. The arbitration award (the "Award") is final and binding on the Parties, and judgment upon the Award rendered by the arbitrator may be entered upon it in any court of competent jurisdiction.

2. Allocation of Costs of Resolving Claims.

2.1 Costs of Notice and Negotiation. Each Party will bear all of its own costs incurred prior to and during the proceedings described in Paragraphs 1.1 and 1.2, including the fees of its attorney or other representative. Claimant and Respondent will share equally the costs and expenses of any attorney appointed by the Board pursuant to Paragraph 1.2, whose compensation will be at a rate equal to his or her then current regular hourly billing rate, unless the Board is able to arrange with the Parties and the arbitrator to agree otherwise, and who will be entitled to receive his or her then customary costs and expenses.

2.2 Arbitration Costs. In the event the Claim proceeds to arbitration pursuant to Paragraph 1.3, the "Prevailing Party," as hereinafter defined, will receive from the non-Prevailing Party, all of its costs and expenses, including reasonable expert and attorney's fees, incurred from commencement of selection of the arbitrator under Paragraph 1.3 to the issuance of the Award. Furthermore, the non-Prevailing Party will pay all costs and expenses of the arbitration, including the costs and expenses of any attorney appointed by American Arbitration Association pursuant to Paragraph 1.3, whose compensation will be at a rate equal to his or her then current regular hourly billing rate, unless the American Arbitration Association is able to arrange with the Parties and the arbitrator to agree otherwise, and who will be entitled to receive his or her then customary costs and expenses. The "Prevailing Party" will be determined as follows:

(a) Not less than ten (10) days prior to the first day of the proceeding, a Party or Parties may file and serve on the other Party(ies) an offer of settlement, and within five (5) days thereafter the Party(ies) served may respond by filing and serving such Party(ies) its own offer of settlement. An offer of settlement will state that it is made under this paragraph and will specify the amount which the Party(ies) serving the settlement offer is/are willing to agree constitutes a settlement of all claims in dispute, including the Claim and all counterclaims.

(b) An offer of settlement is considered rejected by the recipient unless an acceptance, in writing, is served on the Party(ies) making the offer prior to the first day of the proceeding.

(c) If an offer of settlement is rejected, it may not be referred to for any purpose in the proceeding, but may be considered solely for the purpose of awarding fees, costs and expenses of the proceeding under Paragraph 1.3 and as provided in this paragraph.

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REGISTER
CHARLESTON COUNTY SC

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BY ASSESSOR**
REP. JRR
DATE 9/12/02

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PEGGY A. MOSELEY
CHARLESTON COUNTY AUDITOR

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JAN 26 2015

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

James C. Williams, Circuit Court Judge sitting as Special Referee

Trial Case No. 2011-CP-10-2232

Appellate Case No. 2014-001915

The Bristol Condominium

Association.....Property Owners
Respondent,

v.

John T. Lucas St. as Trustee of the John T. Lucas Revocable
Trust Dated November 10, 2004, and Carolyn C. Lucas

Revocable Trust Dated November 10, 2004.....Defendants/Counterclaim
Plaintiffs,

Of Whom John T. Lucas, Sr. is the Appellant,

v.

The Bristol Condominium

Property Owners Association.....Counterclaim
Defendant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material
proposed to be included by any of the parties and not any other material.



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

James C. Williams, Circuit Court Judge sitting as Special Referee

Trial Case No. 2011-CP-10-2232

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The Bristol Condominium
Property Owners Association.....Respondent,
v.

John T. Lucas St. as Trustee of the John T. Lucas Revocable
Trust Dated November 10, 2004, and Carolyn C. Lucas
Revocable Trust Dated November 10, 2004.....Defendants/Counterclaim Plaintiffs,
Of Whom John T. Lucas, Sr. is the Appellant,
v.

The Bristol Condominium
Property Owners Association.....Counterclaim Defendant.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on The Bristol Condominium Property Owners Association by United States Postal Service, postage prepaid, on January __, 2015, addressed to its attorneys of record, David B. Wheeler and Joseph T. Belton, Post Office Box 22828, Charleston, South Carolina 29413 and K. Michael Barfield and M. Dawes Cook, Post Office Drawer H, Charleston, South Carolina 29402.

(Signature on separate page)

RECEIVED
JAN 26 2015
SC Court of Appeals



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January 23, 2015