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Staten Island, NY 10301

Hon. Stephen J. Fiala, County Clerk

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PRESENTER:

EXPRESS ABSTRACT SERVICES, INC.- CTSY-540
2040 VICTORY BOULEVARD

STATEN ISLAND, NY 10314

RETURN TO:

MENICUCCI VILLA CILMI PLLC
MICHAEL AMTZIS, ESQ.
2040 VICTORY BOULEVARD
STATEN ISLAND, NY 10314

Block	Lot	PROPERTY DATA	# OF BLOCKS	Unit	# OF LOTS
7577	39	Entire Lot	1		35

"And Addl Blocks and/or Lots"

PARTIES

GRANTOR

GATEWAY ESTATES LLC

GRANTEE

GATEWAY ESTATES LLC

SUPPORTING DOCUMENTS

RPT

TP-584

PAYMENT DETAIL

Make Checks Payable to:

Richmond County Clerk:

217.00 Recording Fees

Total Payments For This Document:

217.00

FEES PAID

EXAM

AR

DATE

JUL 31 2018

LAND DOC# 708174

23Z-EASEMENT

RETT: 9771 \$.00

RPT: 9771 \$.00

07/31/2018 03:22:12 P.M.

RECEIPT: 30873 FEE: \$217.00

RICHMOND COUNTY CLERK

RECORDED IN RICHMOND COUNTY

JUL 31 2018

Steph
COUNTY CLERK

**DECLARATION OF COVENANTS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS**

DECLARANT: GATEWAY ESTATES LLC

DATE OF DECLARATION - As of July 30, 2018

BLOCK: 7577

LOT(S): ~~200~~

NEW/TENT. LOTS: 39-44,⁴6-74

ADDRESSES: 5-11, 15-51 Torrice Loop & 7, 11, 15, 8, 12, 16 Frosinone Lane
Staten Island, NY 10307

COUNTY: Richmond

RECORD AND RETURN TO:

Michael M. Amtzis, Esq.
MENICUCCI VILLA CILMI PLLC
2040 Victory Boulevard
Staten Island, NY 10314

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**DECLARATION OF COVENANTS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS**

Declaration made as of this 30th day of July, 2018, by Gateway Estates LLC, with an address at 5655 Amboy Road, Staten Island, NY 10309 (hereinafter referred to as "Developer").

WITNESSETH:

WHEREAS, Developer is the fee owner of the real property described in Article II of this Declaration which Developer, its successor and assigns, desires to develop as a residential community common facilities for the benefit of said community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of the common facilities, and, to this end, desires to subject the real property described in Article II to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the powers of maintaining and administering the common facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated the **Torrice Loop Homeowners Association, Inc.**, under the Not-for-Profit Corporation Law of the State of New York for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, the Developer, declares that the real property described in Article II is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth, and same shall be binding on all parties having any right title or interest in the described properties or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE I. DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration shall, unless the context otherwise prohibits, have the meanings set forth below:

- (a) "The Properties" shall mean and refer to the real property subject to this Declaration.
- (b) "Association" shall mean and refer to the **Torrice Loop Homeowners Association, Inc.**, a New York Not-for-Profit corporation.
- (c) "Home" shall mean and refer to a unit of residential housing situated upon a Lot located on The Properties.
- (d) "Owner" shall mean and refer to the record owner of fee simple to any Home, including the

Developer with respect to any unsold Home. Every Owner of a Home shall be treated for all purposes as a single owner for each Home held, irrespective of whether such ownership is joint, in common, or tenancy by the entirety. Where such membership is joint, in common, or tenancy by entirety, a majority vote of such owners shall be necessary to cast any vote to which such owners are entitled.

- (e) "Member" shall mean and refer to each holder of a membership interest in the Association, as such interest is set forth in Article III.
- (f) "Development" shall mean **Torrice Loop Homes**, an thirty-five (35) home development planned for the Properties.
- (g) "Developer" shall mean and refer to, **Gateway Estates LLC**, its successors and assigns, if such successors and assigns should contract to develop any undeveloped or a developed but unsold portion of the Properties for the purpose of development or sale.
- (h) "Drainage System" shall mean and refer to the private internal common sanitary sewer, storm sewer, pipes, connections, detention tanks and drywells, if any, located on The Properties to be maintained by the Association, and intended to be devoted to the common use of the owners of each Home and Lot on The Properties.
- (i) "Roadways" shall mean and refer to the internal roadways located within the Development and the be known as Torrice Loop and Frosinone Lane and intended to be used in common by the Home Owners, as well as their guests and invitees.
- (j) "Retaining Wall" shall mean and refer to the retaining wall intended to be built by Developer and situate along the northern boundary of The Properties pursuant to that certain Easement Agreement dated January 13, 2015 and recorded in the office of the Richmond County Clerk and incorporated herein by this reference.
- (i) "Common Facilities", "Common Properties" or "Common Areas" shall mean and refer to the **Drainage System, common sewers and/or storm sewer pipes, drywells or detention tanks**, the Roadways, and the Retaining Wall, and all other common areas and common facilities owned and/or maintained by the Association and intended to be devoted to the common use and enjoyment of the owners of the Homes or Lots on The Properties.
- (j) "Lot" shall mean and refer to any plot of land intended and subdivided for residential uses on The Properties.

ARTICLE II. PROPERTY SUBJECT TO THIS DECLARATION

Section 1. The Properties. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is all that certain plot, piece or parcel of land situate, lying and being in the Borough of **Staten Island** and County of **Richmond** and State of New York, being more particularly bounded and described in Exhibit "A" annexed hereto.

Section 2. Additions To The Properties By The Developer. The Developer, its successors and/or assigns, shall have the right to bring within the scheme of this Declaration additional properties or Homes

in a future stage of development.

The Developer, its successors and/or assigns, shall not be obligated to bring all or part of the proposed additional property or Homes within the scheme of this Declaration unless such additional property will use and/or connect with the Drainage System and /or Roadway serving the Homes.

The addition of property or Homes authorized under this subsection shall be made by the Developer, without the consent of the Association or its members, by the recording in the Office of the **County Clerk** of the **County of Richmond** of a supplementary Declaration of Covenants, Restrictions, Easements, Charges and Liens with respect to such other additional property which shall extend the scheme of the covenants, restrictions, easements, charges and liens of this Declaration to such property or Homes. Such supplementary Declaration may contain such additions and modifications of the Declaration as may be necessary to reflect the different characteristics, if any, of the added property as are not inconsistent with the scheme of this Declaration. In no event, however, shall such supplementary Declaration revoke, modify or add to the covenants, restrictions, easements, charges and liens establishing this Declaration.

The provision of this Article II, Section 2 may not be amended without the written consent of Developer or its successors and assigns, as long as Developer owns any Homes in the Development.

Section 3. Additions To The Properties By The Association. Annexation and additional property shall require the assent of at least two-thirds of the Members other than Sponsor, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty days nor more than sixty days in advance of the meeting setting forth the purpose of the meeting. The presence of Members or of proxies entitled to cast at least 51% percent of the votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. Such subsequent meeting shall be held not more than sixty days following the preceding meeting. In the event that two-thirds of the Members are not present in person or by proxy, Members not present may give their written assent to the action taken thereof.

Section 4. Mergers. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or, alternatively, The Properties, rights and obligations of another association may, by operation of law, be added to The Properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated Association may administer the covenants and restrictions established by this Declaration within The Properties, together with covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration with The Properties, except as hereinafter provided.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

The Association shall have one class of membership interests. **Every owner of a Home or Lot on the Properties subject to this Declaration shall automatically be a Member of the Association.**

Each Member is entitled to one vote. When more than one person or entity holds a member's interest in any Home, the one vote attributable to such Home shall be exercised as such persons mutually determine but with the exception of cumulative voting employed in the election of Directors, not more than one vote may be cast with respect to any such Home. For purposes of this section, the word "Home" shall have the same meaning as "Lot" and therefore if there is no Home constructed on a particular Lot in the Development,

the owner of such Lot will still be considered a Member entitled to cast the vote as set forth above. No Member shall split or divide its votes on any motion, resolution or ballot other than in the cumulative voting procedure employed in the election of Directors. Notwithstanding anything to the contrary, no Member may cast more than one vote in an election irrespective of the fact that such Member owns more than one Home.

, transfer, purpose or condition and unless written notice of the action is sent to every Member at least ninety (90) days in advance of any action taken.

- (b) A right-of-way and easement to the Association in, through, under, over and across The Properties for purposes of operating, installing, repairing and maintaining the Drainage System and any related common facilities.
- (c) The right of the Developer and the Association to grant and reserve easements and right-of-way, in through, under, over and across The Properties, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, electric, gas, drainage, cable television, and other utilities, and the right of the Developer to grant and reserve easements and rights-of-way, in, through, under, over, upon and across The Properties for the completion of the Developer's work under Section 1 of Article V.

ARTICLE IV. PROPERTY RIGHTS IN THE PROPERTIES

Section 1. Members' Easement of Enjoyment. Subject to the provisions of Section 3, every Member and its permitted occupants of Homes, and their respective family members and guests, shall have a right and easement in and to the Common Areas including ingress and egress over the Roadways and a right and easement of use in and to the Drainage System including sewers and/or storm sewer pipes, drywells, or detention tanks and such easement shall be appurtenant to and shall pass with the title to every Home or Lot. The location of the Roadways is shown on the site plan for the subdivision annexed hereto as Exhibit "B" and described in the legal description annexed hereto as Exhibit "C". The location of the Drainage System is shown on the diagram annexed hereto as Exhibit "D".

The easement over the Roadways is hereby established as a permanent or perpetual easement to provide a principal means of approach to the Homes or Lots that abut and use the Roadways for vehicles and pedestrians from any public street or highway adjacent to The Properties. The Roadways shall be maintained by the Association including being kept open, unobstructed and free of snow, ice and debris so as to provide reasonable access to the Homes for the mutual benefit of the owners of the Homes, their guest and invitees, and such other parties who may be entitled to access by law or otherwise.

Except as otherwise specifically provided in this Declaration, the By-Laws or the rules and regulations promulgated by the Board, the Board may not impose any limitations upon the use and enjoyment of the Common Areas by Members and the permitted occupants of Homes, and their respective family members. The Board may establish a limitation on guest privileges by guests of Members or permitted occupants of Homes and the Board may establish a limitation on the use of the Common Areas for a party, meeting or other similar event. Except as otherwise specifically provided in this Declaration or in the By-Laws, the Board may not impose any fee for the use and enjoyment of the Common Areas by Members or permitted occupants of Homes and their respective family members, other than assessments against a Member's Home unless the Common Areas are used for a party, meeting or other similar event.

Section 2. Common Properties. The Common Properties shall be subject to the following covenant which shall be deemed to run with the land and shall be binding upon The Properties and the Association, its

successors and assigns:

*In order to preserve and enhance the property values and amenities of the Development, the Common Areas and all facilities now or hereafter built or installed thereon, shall at all times be maintained in good repair and condition and shall be operated in accordance with high standards. The maintenance and repair of the Common Areas shall include, but not be limited to, maintenance, repair of damage and replacement to the **Drainage System, Roadways and Retaining Wall**; any common fencing, landscaping and/or shrubs situated along the buffer/perimeter of the Association property; snow removal of the Roadways; maintenance, repair and replacement of the **Drainage System, sewers and/or storm sewer pipes, drywells or detention tanks** and any water mains; maintenance, repair of damage and replacement of any common area lighting; and maintenance of catch basins, drain lines and cleanouts located on or in the Common Properties which are not maintained by the respective utility company.*

This Section shall not be amended, as provided for in Article X, Section 2, to reduce or eliminate the obligation for maintenance and repair of the Common Areas.

Section 3. Extent of Members' Easements. The rights and easements of use created hereby shall be subject to the following:

(a) The right of the Association to promulgate rules and regulations for the use and enjoyment of the Common Areas; and

(b) The right of the Association, as provided in its By-Laws to suspend the enjoyment rights of any Member for a period during which any assessment remains unpaid and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(c) The right of the Association to dedicate or transfer all of any part of the Roadways and/or Drainage System to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members and their mortgagees entitled to cast sixty-six and two-thirds (66 2/3%) percent of the eligible votes has been recorded agreed to such dedication, transfer, purpose or condition and unless written notice of the action is sent to every Member at least ninety (90) days in advance of any action taken. **Notwithstanding the above, this right to dedicate or transfer may not be exercised or effective as long as the common Drainage System is in use.**

(d) A right-of-way and easement to the Association in, through, under, over and across The Properties for purposes of operating, installing, repairing and maintaining the Roadways and Drainage System and any related common facilities.

(e) The right of the Developer and the Association to grant and reserve easements and right-of-way, in through, under, over and across The Properties, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, electric, gas, drainage, cable television, and other utilities, and the right of the Developer to grant and reserve easements and rights-of-way, in, through, under, over, upon and across The Properties for the completion of the Developer's work under Section 1 of Article V.

(f) The terms of the By-Laws and any rules and regulations promulgated by the Board of Directors regarding

The Properties and Common Areas: and

(g) The right of the Developer to use the Common Areas or to permit the Common Areas to be used by Developer's designee or any prospective purchaser of a Home or any tenants of Unsold Homes, without charge, in accordance with and subject to this Declaration, the By-Laws and any rules and regulations promulgated by the Board. In addition, Developer shall have the right, at any time when there shall be any Unsold Homes, to use the Common Areas, without charge, for exhibitions or other promotional functions with respect to Developer's sales programs, in accordance with and subject to this Declaration, the By-Laws, and the rules and regulations.

The provisions of Article IV, Section 3 may not be amended without the written consent of the Developer or its successors and assigns.

ARTICLE V. DEVELOPMENT OF THE HOMES

Section 1. Homes. The Developer intends to construct up to thirty-five (35) Homes on The Properties. The Developer has the right to add one or more additional Homes to The Properties subject to this Declaration by the recording of a Supplemental Declaration pursuant to Article II, Section 3 above. The Driveway if passing through certain Lots shall be deemed Common Property.

Section 2. Easements. Developer does hereby establish and create for the benefit of the Association and all for all Home Owners from time to time of Homes subject to this Declaration and its permitted occupants of Homes and their respective family members and guests and does hereby give, grant and convey to each of the aforementioned the following easements, license, rights and privileges:

1. Right-of-Way of ingress and egress by vehicles or foot, in, through, over, under and across the streets, roads and all walks on The Properties (as they may be built or relocated in the future) for all purposes;
2. Right to connect with, maintain and make use of utility lines, wires, pipes, conduits, cable television lines, sewers, and drainage lines which may from time to time be in or along the streets, roads and other areas of The Properties;
3. The following additional easements, licenses, rights and privileges:

Easement for Emergency Access. Developer does hereby establish an easement of ingress and egress over the roadways, walkways, driveways, parking areas and all other Common Areas in the Development for the benefit of all emergency vehicles and personnel including but not limited to police, fire, and medical purposes.

Easement for Repair. The Board, Managing Agent, if any, manager or employee of the Association and any other person authorized by any of the foregoing, shall have, and the Common Areas shall be subject to, an easement in, to and through the Common Areas or any portion thereof in favor of the foregoing persons, (a) to operate, maintain, repair, alter, rebuild, restore and replace any of the Common Areas, including, without limitation, the maintenance of any sign identifying the Association located at the entrance thereto and any advertising and/or directional signs and (b) to perform any of their respective duties in accordance with the By-Laws.

Easement for Completion. Each Member hereby grants a right of access to his Lot to Developer

or its designee, and any contractors, subcontractors, agents, and employees of the foregoing for the purposes of the repair and completion of any installation, construction, modification, alteration, renovation, maintenance, repair, restoration, replacement, or change including, without limitation, the correction of any construction defects being performed or to be performed by or on behalf of Developer with respect to the Common Areas.

Rights of Access in Favor of the Association. Each Member shall afford to the Association, any Managing Agent and/or any other person authorized by any of the foregoing a right of access to his or her Lot on reasonable notice at reasonable hours, on any day except Sundays and holidays (except that in an emergency situation such notice need not be given) for the purposes of: (a) making inspections of, or removing violations noted or issued by any governmental authority against any other Lot; (b) curing defaults hereunder, or violations of any rules and regulations promulgated by the Board of Directors and committed by such Member; (c) correcting any conditions originating in or on his or her Lot and threatening another Lot or all or any portion of the Property; (d) installing, operating, maintaining, repairing, altering, rebuilding, restoring and/or replacing any personal property and fixtures located in, over, under, through adjacent to, or upon his or her Lot or elsewhere on The Properties and existing for the common use of two or more Lots, of one or more Lots and the Common Area, of two or more Members and/or of one or more Members and the Association including without limitation all systems, apparatus, mechanisms, devices, machinery, motors, pumps, controls, tanks, tank assemblies, installations, shut-off valves, other valves, panels, relays, electric distribution facilities, wiring, wireways, switches, circuit breakers, transformers, fittings, lighting fixtures, other fixtures, bulbs, signs, meters, meter assemblies, pipelines, conduits, cables, shafts, pits, traps, fences, storm drains, drains, catch basins and fitters; (e) correcting any condition that violates the provisions of any Permitted Mortgage encumbering another Lot and (f) for the purposes of performing any work required by this Declaration. The Association and all members, guests and invitees, shall at all times have access over the internal Driveway which runs through certain Lots and constitutes Common Property.

Future Easements. Developer shall retain the right, so long as there are any unsold Lots on The Properties, to place any easements in, to or under The Properties which Developer shall deem necessary for the benefit of the Association and its Members. Such easements may not interfere with the use and enjoyment of the Lots and Homes. In the event Developer intends to place an easement on the property, it will notify the Board of Directors by certified mail or other means evidencing receipt describing the easement to be placed on The Properties. The Board shall have ten (10) days from the receipt of said notification to advise Developer of any objections to the placing of the easement on The Properties. In the event the Board objects, said matter shall be decided by arbitration or other similar dispute procedures with the losing side responsible for all costs attributable to the resolution of the dispute.

Section 3. Reservation of Easements. The Developer reserves the easements, licenses, rights and privileges of a right-of-way in, through, over, under and across The Properties, for the purpose of completing its work under Section 1 above and towards this end, reserves the right to grant and reserve easements and rights-of-way in, through, under, over and across the Properties, for the installation, maintenance and inspection of lines and appurtenances for public and private water, sewer, drainage, cable television, electric, gas and other utilities and for any other materials or services necessary for the completion of the work. The Developer also reserves the right to connect with and make use of the utility lines, wires, pipes, conduits, cable television, sewers and drainage lines which may from time to time be in or along the streets and roads of other areas of The Properties and the exclusive right to grant others any such connection. Finally, the Developer reserves the right to continue to use The Properties and any sales offices, model homes, gate house, signs, recreation facilities, and parking constructed on The Properties in its efforts to market homes or lots. In addition, Developer reserves the right to install one or more cluster mail boxes on any Lot to the extent required by the post office in order to provide mail service for the Homes in the Development. This paragraph

may not be amended without the consent of Developer.

Section 4. Encroachments on Lots. In the event that any portion of any roadway, walkway, parking area, driveway, water lines, sewer lines, utility lines, building or any other structure which may have been originally constructed by Developer encroaches on any Lot, it shall be deemed that the owner of such Lot or the Association has granted a perpetual easement to the owner of the adjoining Lot or the Association as the case may be for continuing maintenance and use of such encroaching roadway, walkway, driveway, parking area, water lines, sewer lines, utility lines, building or structure if same are constructed in substantial conformance to the original. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of these covenants and restrictions.

Section 5. Drainage System. The Developer and/or the Association and each Member thereof shall keep the "internal drains", manholes, yard drains, trench drains and appurtenances wholly within the boundary limits of the Development and said sewer line or drains point of exit from the Development shall not be altered. The Developer and/or the Association and each and every Member thereof shall maintain the "internal drains", manholes, yard drains, trench drains and appurtenances at all times throughout the life of the Development. They shall be responsible for the abatement of any nuisance due to the use of "internal drains", manholes, yard drains, trench drains and appurtenances that would have an adverse effect on the health, safety and welfare of the City and State of New York. The Developer insures that the utilization of "internal drains", manholes, yard drains, trench drains and appurtenances for the conveyance of sanitary flow is so designed as to size, shape, slope and velocity to have sufficient capacity to take the estimated peak sanitary flow from the Development. Finally, the Developer and/or the Association and each and every member thereof, shall utilize the "internal drains", manholes, yard drains, trench drains and appurtenances in such a manner, that it will not in any way have an adverse effect on the City of New York's completed or pending sanitary and storm water drainage plans for the tributary drainage area of the separate sewer outlets.

ARTICLE VI. COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation. The Developer, for each Home developed by it within The Properties, hereby covenants and each Owner of any Home or Lot by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, shall become a part of the Association and shall be deemed to covenant and agree, to pay to the Association such assessments or common charges as are fixed by the Association's Board of Directors and assessed to the Members as hereinafter provided. All sums assessed by the Association but unpaid, together with such interest thereon as is hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property owned by such delinquent Member against which each such unpaid assessment or common charge is made. Each such assessment or common charge, together with interest thereon and cost of collection thereof, as hereinafter provided shall be a personal obligation of the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of the Assessment. The assessments levied by the Association shall be used exclusively for the purpose of maintenance of the Common Properties including the Drainage System and Roadway, and includes, without limiting the foregoing, the payment of any taxes, insurance, maintenance, replacement and additions thereto, and the cost of labor, equipment, materials, services, management and supervision thereof.

Section 3. Assessments. The Association's Board of Directors shall, from time to time, but at least annually,

fix and determine the budget representing the sum or sums necessary and adequate for the continued operation of the Association and shall send a copy of the budget and any supplement to the budget to each Member prior to assessing the Members thereon. The Board shall determine the total amount required, including the operational items such as insurance, repairs, reserves, maintenance and other operating expenses, as well as charges to cover any deficits from prior years and capital improvements approved by the Board. The total annual requirements and any supplemental requirements shall be allocated among, assessed to and paid by the Members as follows:

Each Member owning a Home or Lot shall pay a portion of said requirements the numerator of which shall be one (1) and the denominator of which shall be equal to the sum of the number of Homes on The Properties subject to this Declaration. The Developer's obligation for such assessments on unsold Homes or Lots (whether built or unbuilt) subject to this Declaration will be limited to the difference between the actual operating costs of the Association, including any reserves on the Common Properties and the assessments levied on owners who have closed title on their homes. In no event, however, will the Developer be required to make a deficiency contribution in an amount greater than it would otherwise be liable for if it were paying assessments on unsold Homes or Lots. The sum due the Association from each individual Home or Lot Owner shall constitute an assessment of the Board of Directors and unpaid assessment shall constitute liens on the individual Homes or Lots, subject to foreclosure as hereinafter provided.

Section 4. Due Dates; Duties of the Board of Directors. All assessments shall be payable either annually, semi-annually or monthly in advance as ordered by the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Home or Lot and shall prepare a roster of the Homes or Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member. Upon the written request of a Member or his mortgagee, the Board shall promptly furnish such Member or his mortgagee with a written statement of the unpaid charges due from such Member.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section 3 of this Article VI, the Association may levy, in any assessment year, a special assessment (which must be fixed at a uniform rate for all Homes or Lots) applicable to that year only, in an amount no higher than the maximum annual assessment then permitted to be levied hereunder for the purpose of defraying, in whole or in part, the cost of any construction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of sixty-six and two-thirds ($66 \frac{2}{3}\%$) percent of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting. The due date of any specified assessment shall be fixed in the Resolution authorizing such assessment.

Section 6. Effect of Non-Payment of Assessment, The Personal Obligation of the Member; The Lien, Remedies of the Association. If an assessment is not paid on the date when due, as fixed by the Board of Directors, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Member's Home or Lot which shall bind such property in the hands of the Member, his heirs, devisees, personal representatives and assigns. Such lien shall be prior to all other liens except: (a) tax or assessment liens on the Home or Lot by the taxing subdivision of any governmental authority, including but not limited to State, County and School District taxing agencies; and (b) all sums unpaid on any mortgage of record encumbering the Home or Lot

at the time when such assessment becomes due. The personal obligation of the Member who was the Owner of the Home or Lot when the assessment fell due to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment or common charge is not paid within thirty (30) days after the delinquency date, the assessment or common charge shall bear interest from the date of delinquency at the maximum permissible rate in the State of New York and the Association may bring a collection action at law against the Member or former Member personally obligated to pay the same and may foreclose the lien against the property. There shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorney's fees to be fixed by the court together with the cost of the action.

Section 7. Quorum for Any Action Authorized Under Section 5. The quorum required for any action of the Members of the Association authorized by Section 5 of this Article VI shall be as follows:

At the first meeting called, as provided in Section 5 of this Article VI, the presence at the meeting of Members in person or by proxy entitled to fifty-one (51%) of all the votes of the Association shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 5 and the required quorum at each subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting, provided that such subsequent meeting shall not be held more than sixty (60) days following the preceding meeting.

ARTICLE VII. INSURANCE

The Board of Directors may maintain public liability insurance, to the extent obtainable, covering the Association and each Association Member, lessee and occupant and the managing agent, if any, against liability for any negligent act of commission or omission attributable to them which occurs on or in the Common Properties. All insurance premiums for such coverage shall be paid for by the Association.

ARTICLE VIII. USE OF PROPERTY

The use of a Home by a Member, lessee or other occupant shall be subject to the rules, regulations and provisions of this Declaration, the By-Laws and Rules and Regulations of the Board of Directors and the following covenants and restrictions:

- (a) Any Member who mortgages or sells his Home or Lot shall notify the Board of Directors providing the name and address of his mortgagee or new owner.
- (b) The Board of Directors shall, at the request of the mortgagee of the Home or Lot, report any delinquent assessments due from the Owner of such Home or Lot.
- (c) The maintenance assessments shall be paid when due. Upon the written request of a Member or his mortgagee, the Board of Directors or its designee shall furnish a written statement of the unpaid charges due from such member which shall be conclusive evidence of the payment of amounts assessed prior to the date of the statement.
- (d) The Common Properties shall not be obstructed, littered, defaced or misused in any manner.

- (e) Every Member shall be liable for any and all damage to the Common Properties which shall be caused by said Member or such other person for whose conduct he is legally responsible.

ARTICLE IX. GENERAL PROVISIONS

Section 1. Beneficiaries of Easements, Rights and Privileges. The easements, licenses, rights and privileges established, created and granted by this Declaration shall be for the benefit of and restricted solely to, the Association and the Owners of Homes constructed on The Properties; and any Owner may also grant the benefit of such easement, license, right or privilege to his tenants and guests and their immediate families for the duration of their tenancies or visits, subject in the case of the Common Properties to the Rules and Regulations of the Board of Directors, but the same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public.

Section 2. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable to the Association, any Member, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, until thirty (30) years from the date of recording of this Declaration, unless otherwise expressly limited herein, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by at least sixty-six and two-thirds (66 2/3%) percent of the all the votes of the Association has been recorded, agreeing to change said covenants and restrictions in whole or in part. **Notwithstanding the foregoing, the covenants and restrictions of this Declaration shall run with the land and bind the land for as long as the common Drainage System is in use.** Furthermore, the easements, licenses, rights, and privileges established and created with respect to The Properties by Section 2 of Article V shall be perpetual, run with the land and shall survive any destruction, reconstruction and relocation of the physical structures and **may not be abrogated even by the unanimous written consent of all Home Owners while the common Drainage system is in use.** Unless specifically prohibited herein, this Declaration may be amended by an instrument signed by at least sixty-six and two-thirds (66 2/3%) percent of all the votes of the Association. Any amendment must be properly recorded to be effective.

Section 3. Disposition of Assets Upon Dissolution of Association. Upon dissolution of the Association, its real and personal assets, including the Common Properties, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the event such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. No such disposition of the Association properties shall be effective to divest or diminish any right or title to any member vested in him under the licenses, covenants and easements of this Declaration, or under any subsequently recorded covenants, deeds or other documents applicable to The Properties, except as may be otherwise provided in this Declaration or said covenants, deeds or other documents, as the case may be, nor shall any other party under any such deeds, covenants or other documents be deprived of any rights thereunder on account of such disposition.

Section 4. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 5. Administration. The administration of the Association shall be in accordance with the provisions of the Association By-Laws which are made a part of this Declaration and attached hereto as Exhibit "E".

Section 6. Severability. Invalidation of any of the covenants, limitations or provisions of this Declaration by judgment or court order shall in no way affect any of the remaining provisions hereof and the same shall continue in full force and effect.

Section 7. Enforcement. The Association or any Owner shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violation, to require specific performance and/or to recover damages; and against the land to enforce any lien created by these covenants; and failure by the Association, or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The expense of enforcement by the Association shall be chargeable to the Owner of the Lot violating these covenants and restrictions, and shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder.

Section 8. Trial By Jury. Trial by jury in any action, proceeding or counterclaim against Sponsor seeking a remedy at law or in equity arising out of or from the Declaration, By-Laws, Offering Plan or any other instrument or agreement with respect to the property and improvements thereto to which Sponsor is a party thereto, or arising out of or from any warranty or guaranty, express or implied, from Sponsor, are hereby irrevocably waived by both the Board and by the members of the Association.

[NO FURTHER TEXT ON THIS PAGE]

DEVELOPER:

GATEWAY ESTATES LLC

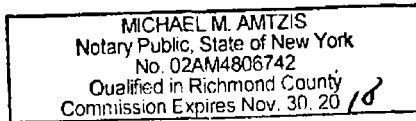
By: Bruno Savo

Bruno Savo, Member

State of New York, County of Richmond ss:

On the 24 day of July, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Bruno Savo personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

[Signature]



DESCRIPTION
RICHMOND VALLEY ROAD
TAX LOTS 39,40,41,42,43,44,46,47,48,49,50,51,52,53,54,55,56,57,
58,59,60,61,62,63,64,65,66,67,68,69,70,71,72,73,74
BLOCK No. 7577
BOROUGH OF STATEN ISLAND, CITY OF NEW YORK

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Staten Island, County of Richmond, City and State of New York, and bounded and described by the following;

BEGINNING at a point on the northerly record line of Richmond Valley Road (Irregular Width), distance 292.12 feet westerly from the point formed by the intersection of the westerly line of Weiner Avenue and the said northerly record line of Richmond Valley Road and running thence from said point of BEGINNING the following several courses;

1. North $13^{\circ} 05' 10''$ East a distance of 80.34 feet to a point;
2. THENCE North $7^{\circ} 32' 05''$ West a distance of 278.89 feet to a point;
3. THENCE North $7^{\circ} 26' 10''$ East a distance of 49.10 feet to a point;
4. THENCE North $61^{\circ} 34' 17''$ West a distance of 132.52 feet to a point;
5. THENCE North $74^{\circ} 50' 06''$ West a distance of 157.05 feet to a point;
6. THENCE South $89^{\circ} 29' 19''$ West a distance of 439.05 feet to a point;
7. THENCE South $3^{\circ} 11' 44''$ West a distance of 276.47 feet to a point;
8. THENCE South $15^{\circ} 12' 11''$ West a distance of 165.90 feet to a point on the said northerly record line of Richmond Valley Road;

THENCE along the said northerly record line of Richmond Valley Road the following nine (9) courses:

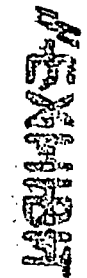
9. THENCE South $84^{\circ} 39' 36''$ East a distance of 70.93 feet to a point;
10. THENCE North $70^{\circ} 52' 40''$ East a distance of 108.76 feet to a point;
11. THENCE North $3^{\circ} 39' 00''$ West a distance of 28.49 feet to a point;
12. THENCE North $58^{\circ} 36' 54''$ East a distance of 42.36 feet to a point;
13. THENCE North $77^{\circ} 36' 00''$ East a distance of 115.88 feet to a point;
14. THENCE North $89^{\circ} 29' 29''$ East a distance of 190.62 feet to a point of curvature;
15. THENCE along a curve bearing to the right having a radius of 150.00', a central angle of $51^{\circ} 04' 11''$ for an arc length of 133.70 to a point of tangency;
16. THENCE South $39^{\circ} 26' 38''$ East a distance of 88.73 feet to a point;
17. THENCE South $61^{\circ} 32' 01''$ East a distance of 105.91 feet to the point or place of BEGINNING.

The above described parcel contains an area of 269,483 square feet or 6.19 acres.

"EXHIBIT A "

BLOCK 7577

SITE PLAN



RICHMOND

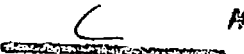


DESCRIPTION
INTERNAL ROADWAY
"TORRICE LOOP & FROSINONE LANE"
RICHMOND VALLEY ROAD
PART OF TAX LOT 200 BLOCK No. 7577
BOROUGH OF STATEN ISLAND, CITY OF NEW YORK

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Staten Island, County of Richmond, City and State of New York, and bounded and described by the following;

BEGINNING at a point on the northerly record line of Richmond Valley Road (Irregular Width), said point being located 298.87 feet easterly from the point which is formed by the intersection of the said northerly record line of Richmond Valley Road and the easterly record line of Madsen Avenue (60' Wide) and running the following several courses;

1. Along the westerly side of Torrice Loop a proposed 34.00 feet wide internal roadway North $3^{\circ} 11' 45''$ East a distance of 230.95 feet to a point of curvature;
2. THENCE along a curve to the left having a Radius of 20.00 feet, a central angle of $51^{\circ} 11' 11''$ and a length of 17.87 feet to a point of compound curvature;
3. THENCE along a curve to the right having a Radius of 35.00 feet, a central angle of $162^{\circ} 52' 17''$ and a length of 99.49 feet to a point of compound curvature;
4. THENCE along a curve to the left having a Radius of 20.00 feet, a central angle of $25^{\circ} 23' 32''$ and a length of 8.86 feet to a point of tangency;
5. THENCE North $89^{\circ} 29' 19''$ East a distance of 232.78 feet to a point of curvature;
6. THENCE along a curve to the right having a Radius of 554.96 feet, a central angle of $18^{\circ} 09' 43''$ and a length of 175.92 feet to a point of tangency;
7. THENCE South $68^{\circ} 44' 26''$ East a distance of 37.20 feet to a point of tangency;
8. THENCE along a curve to the right having a Radius of 35.00 feet, a central angle of $106^{\circ} 08' 30''$ and a length of 64.84 feet to a point of compound curvature;
9. THENCE along a curve to the left having a Radius of 20.00 feet, a central angle of $43^{\circ} 27' 33''$ and a length of 15.17 feet to a point of tangency;
10. THENCE South $07^{\circ} 31' 44''$ East a distance of 149.35 feet to an angle point;
11. THENCE South $07^{\circ} 32' 05''$ East a distance of 75.12 feet to a point of tangency;

"EXHIBIT 

12. THENCE along a curve to the left having a Radius of 10.00 feet, a central angle of $32^{\circ} 36' 14''$ and a length of 5.69 feet to a point on the said northerly record line of Richmond Valley Road;
13. THENCE along said northerly record line of Richmond Valley Road North $61^{\circ} 32' 01''$ West a distance of 1.83 feet to an angle point;
14. THENCE still along said northerly record line of Richmond Valley Road North $39^{\circ} 26' 38''$ West a distance of 64.50 feet to a point;
15. THENCE along the said westerly side of Torrice Loop North $07^{\circ} 32' 05''$ West a distance of 24.68 feet to an angle point;
16. THENCE North $07^{\circ} 31' 44''$ West a distance of 183.40 feet to a point of curvature;
17. THENCE along a curve to the left having a Radius of 20.00 feet, a central angle of $50^{\circ} 16' 23''$ and a length of 17.55 feet to a point of compound curvature;
18. THENCE along a curve to the left having a Radius of 122.33 feet, a central angle of $06^{\circ} 37' 53''$ and a length of 13.41 feet to a point of compound curvature;
19. THENCE along a curve to the left having a Radius of 520.99 feet, a central angle of $18^{\circ} 09' 43''$ and a length of 165.14 feet to a point of compound curvature;
20. THENCE along a curve to the left having a Radius of 10.07 feet, a central angle of $18^{\circ} 09' 43''$ and a length of 165.14 feet to a point of compound curvature;
21. THENCE along a curve to the left having a Radius of 10.07 feet, a central angle of $84^{\circ} 31' 13''$ and a length of 14.85 feet to a point of tangency and the commencement of Frosinone Lane, a proposed 34 foot wide internal roadway;
22. THENCE along the easterly side of the said Frosinone Lane South $00^{\circ} 00' 00''$ West a distance of 176.15 feet to a point on the said northerly record line of Richmond Valley Road;
23. THENCE along said northerly record line of Richmond Valley Road South $89^{\circ} 29' 19''$ West a distance of 34.00 feet to a point;
24. THENCE along the westerly side of the said Frosinone Lane North $00^{\circ} 00' 00''$ East a distance of 175.97 feet to a point of curvature and the terminus of the said Frosinone Lane;
25. THENCE along a curve to the left having a Radius of 10.00 feet, a central angle of $90^{\circ} 30' 41''$ and a length of 15.80 feet to a point of tangency and along the southerly side of the said Torrice Loop;
26. THENCE South $89^{\circ} 29' 19''$ West a distance of 172.86 feet to a point of curvature;
27. THENCE along a curve to the left having a Radius of 10.00 feet, a central angle of $86^{\circ} 17' 34''$ and a length of 15.06 feet to a point of tangency;

28. THENCE South $03^{\circ} 11' 45''$ West a distance of 213.77 feet to a point on the said northerly record line of Richmond Valley Road;
29. THENCE along the said northerly record line of Richmond Valley Road South $58^{\circ} 36' 54''$ West a distance of 17.51 feet to a point;
30. THENCE still along the said northerly record line of Richmond Valley Road South $03^{\circ} 39' 00''$ East a distance of 28.49 feet to a point;
31. THENCE still along the said northerly record line of Richmond Valley Road South $70^{\circ} 59' 23''$ West a distance of 24.82 feet to the point or place of BEGINNING.

The above described 34' Wide Internal Roadway contains an area of 41,439 square feet.

ATTACHMENT 'F-1'

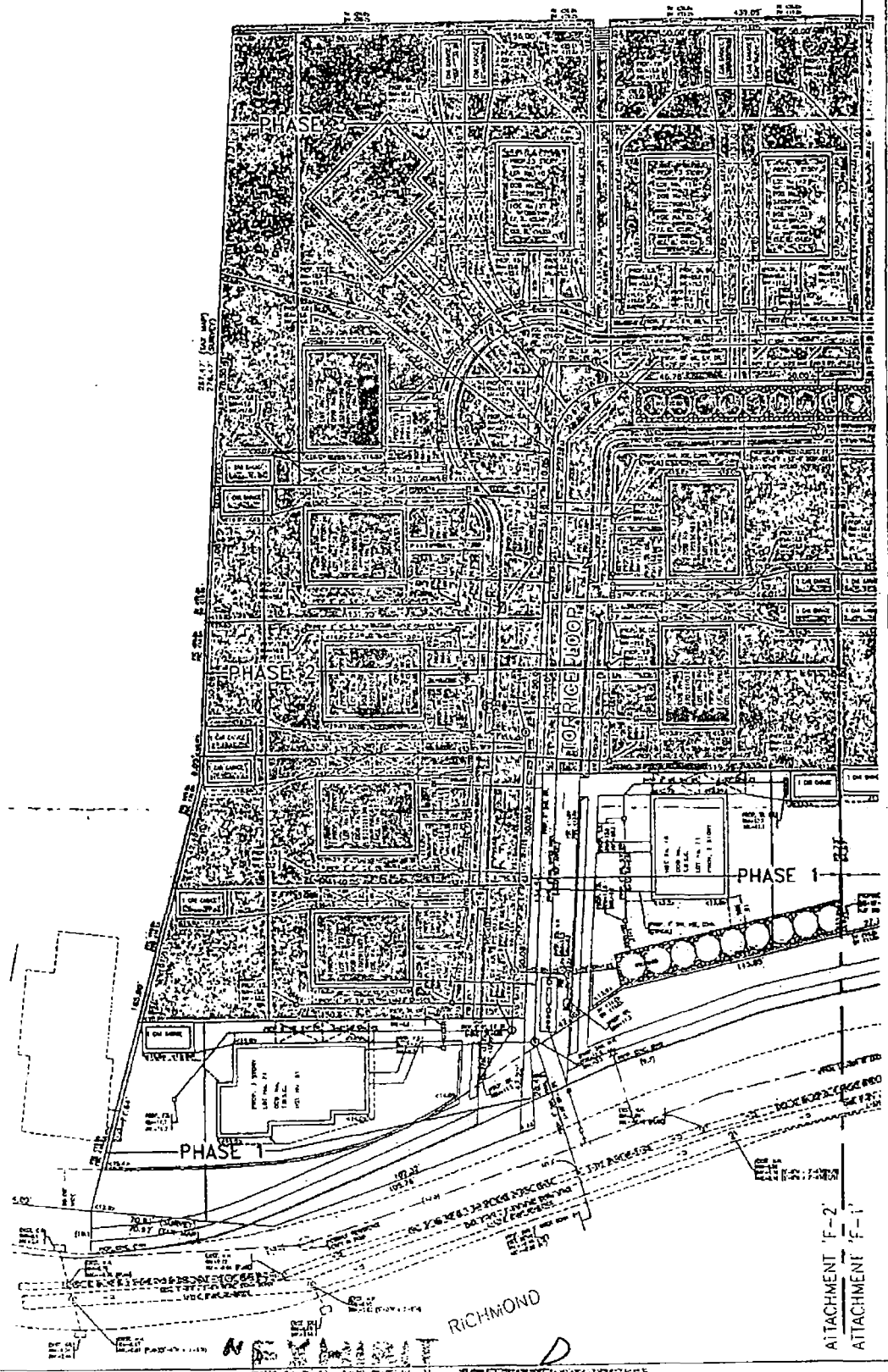
MATERIAL NOTE: APPLICATION No. 5436 - PHASE-1
N.T.S.

THE PIPE AND BEDDING MATERIAL FOR THE
PROPOSED CONNECTIONS SHALL CONFORM TO
STANDARD N.Y.C.D.E.P. SPECIFICATIONS.

BLOCK 7577

NOTE:

THE FLOW RATE TO THE DRYWELLS IS PER DEP REQUIREMENTS AND
THAT THE DRYWELLS ARE IN COMPLIANCE WITH DOB RULES.



ATTACHMENT 'F-2'

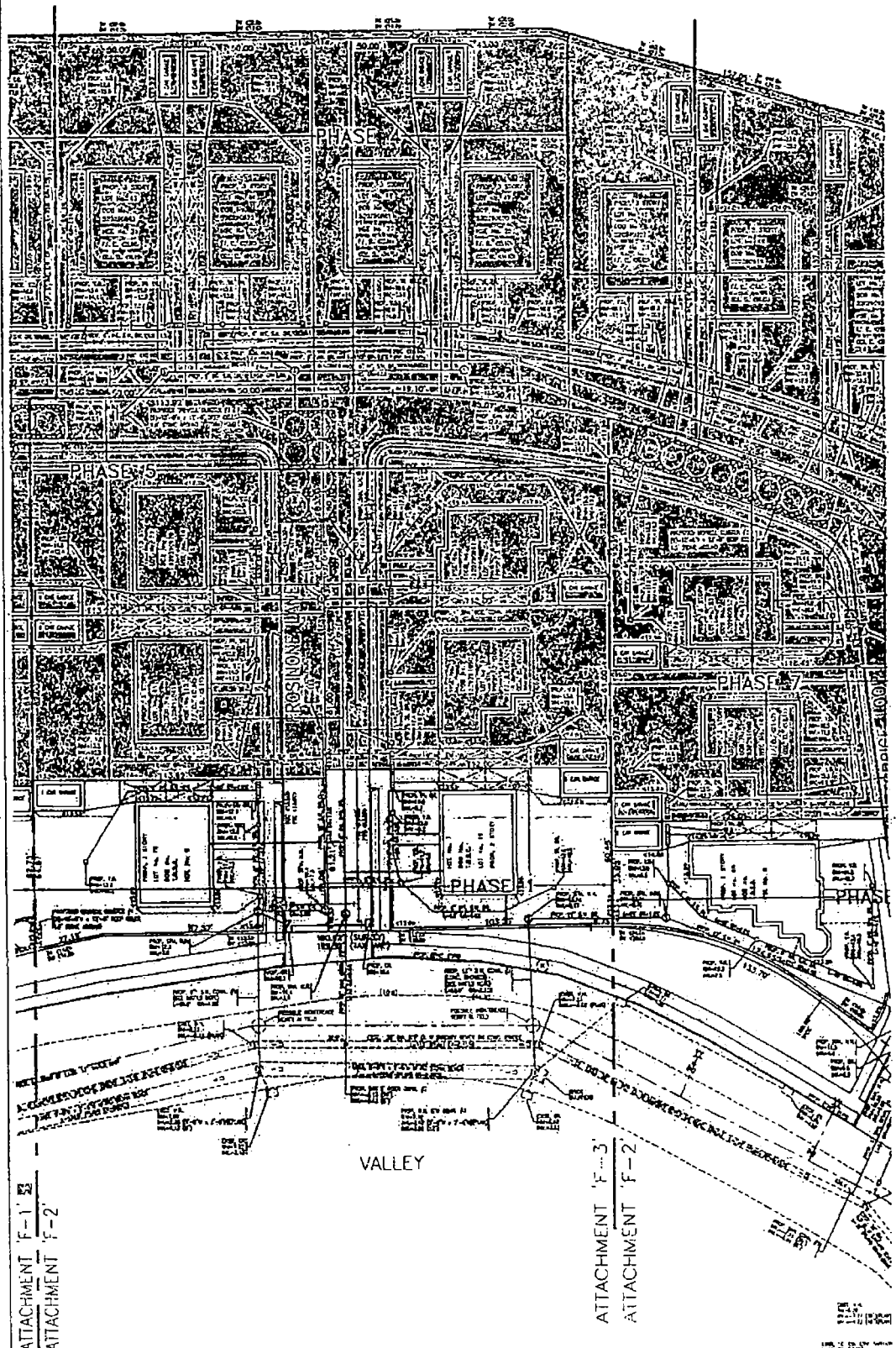
MATERIAL NOTE: APPLICATION No. 5436 - PHASE-1

THE PIPE AND BEDDING MATERIAL FOR THE PROPOSED CONNECTIONS SHALL CONFORM TO STANDARD N.Y.C.D.E.P. SPECIFICATIONS.

BLOCK 7577

NOTE:

THE FLOW RATE TO THE DRYWELLS IS PER DEP REQUIREMENTS AND THAT THE DRWELLS ARE IN COMPLIANCE WITH DOB RULES.



ATTACHMENT 'F-3'
APPLICATION No. 5436 - PHASE-1

MATERIAL NOTE:

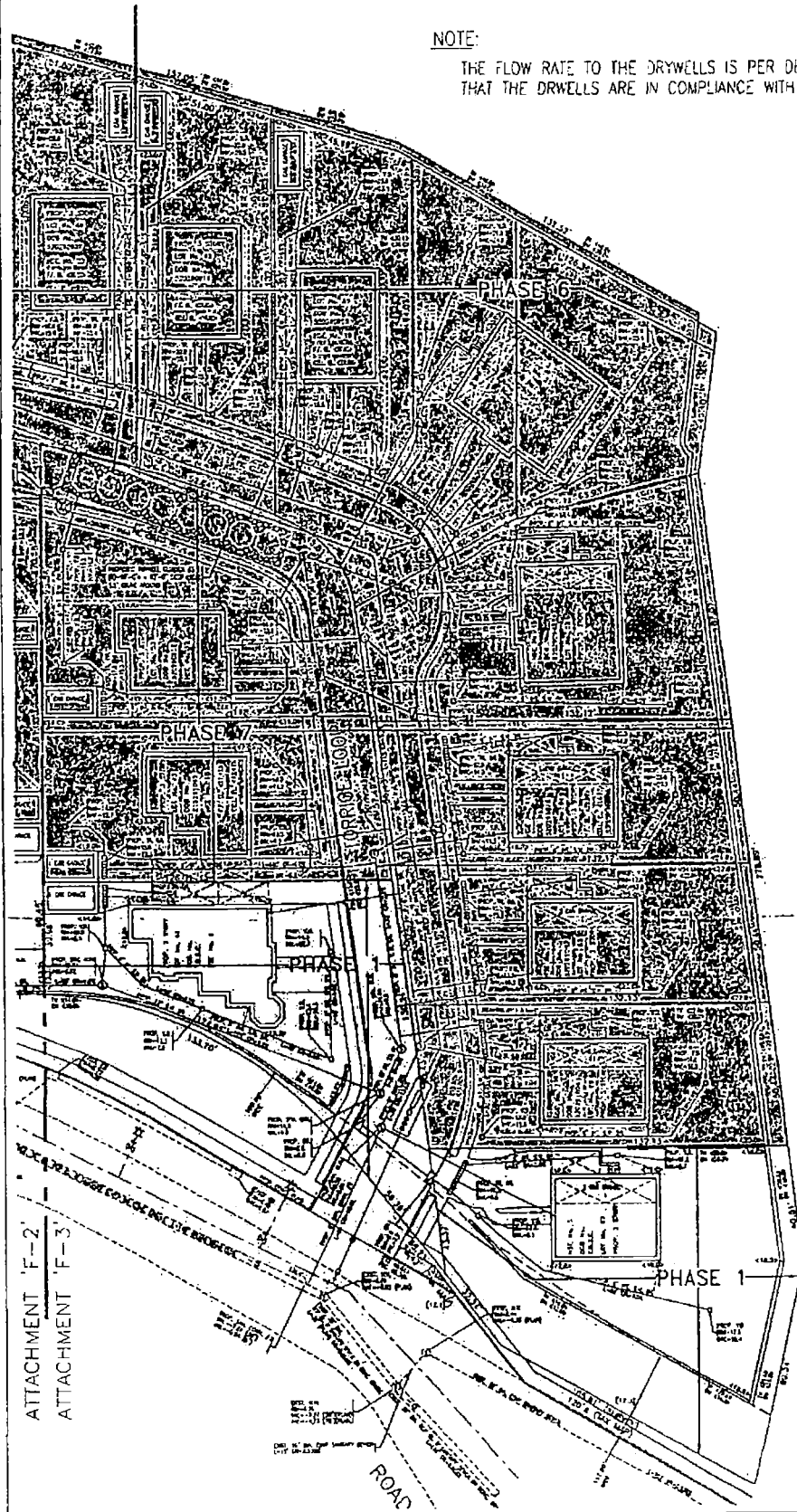
N.T.S.

THE PIPE AND BEDDING MATERIAL FOR THE
PROPOSED CONNECTIONS SHALL CONFORM TO
STANDARD N.Y.C.D.E.P. SPECIFICATIONS.

BLOCK 7577

NOTE:

THE FLOW RATE TO THE DRYWELLS IS PER DEP REQUIREMENTS AND
THAT THE DRYWELLS ARE IN COMPLIANCE WITH DOB RULES.



ATTACHMENT 'F-2'
ATTACHMENT 'F-3'

BY-LAWS
OF
TORRICE LOOP HOMEOWNERS ASSOCIATION, INC.

Michael M. Amtzis, Esq.
MENICUCCI VILLA CILMI PLLC
2040 Victory Boulevard
Staten Island, NY 10314

EXHIBIT E

**BY-LAWS
OF
TORRICE LOOP HOMEOWNERS ASSOCIATION, INC.**

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**BY-LAWS
OF
TORRICE LOOP HOMEOWNERS ASSOCIATION, INC.**

A New York Not-for-Profit Corporation

ARTICLE I. NAME, LOCATION AND PRINCIPAL OFFICE

These are the By-Laws of Torrice Loop Homeowners Association, Inc. hereinafter referred to as the "Association". The principal office of the Association shall be initially located at **5 Torrice Loop, Staten Island, NY 10307.**

ARTICLE II. DEFINITIONS

The following words when used in these By-Laws shall, unless the context otherwise prohibits, have the meanings set forth below:

- (a) "Association" shall mean and refer to Torrice Loop Homeowners Association, Inc., a New York Not-for-Profit Corporation.
- (b) "Developer" shall mean and refer to Gateway Estates LLC, her successors and assigns if such successors and assigns should acquire an undeveloped or developed but unsold portion of The Properties from the Developer for the purpose of development.
- (c) "Declaration" shall mean and refer to the Declaration of Covenants, Restrictions, Easements, Charges and Liens applicable to The Properties recorded among the land records with the **County Clerk of the County of Richmond, New York.**
- (d) "The Properties" shall mean and refer to all those areas of land described in and subject to the Declaration.
- (e) "Lot" shall mean and refer to any plot of land intended and subdivided for residential uses on The Properties.
- (f) "Member" shall mean and refer to each holder of a membership interest in the Association, as such interest is set forth in Article VI.
- (g) "Home" shall mean and refer to all units of residential housing situated upon the Lots located on The Properties.
- (h) "Owner" shall mean and refer to the record owner of fee simple title to any Home, including the Developer with respect to any unsold Home. Every Owner of a Home shall be treated for all purposes as a single owner for each Home held, irrespective of whether such ownership is joint, in common, or tenancy by the entirety. Where such ownership is joint, in common, or tenancy by the entirety, a majority vote of such owners shall be necessary to cast any vote to which such owners are entitled.

- (i) "Common Properties" or "Common Areas" shall mean and refer to the private internal common sanitary sewage and/or storm water Drainage System and private Roadway to be known as Torrice Loop now or hereafter located in the Properties to be maintained by the Association and intended to be devoted to the common use of the Owners of the Homes or Lots on The Properties.
- (j) "Development" shall mean Torrice Loop Homes, an thirty-five (35) Home development on The Properties subject to Article V of the Declaration.

ARTICLE III. PURPOSE

This Association is formed to own, operate and/or maintain the Common Properties for the benefit of the members of the Association.

ARTICLE IV. APPLICABILITY

All present and future Members shall be subject to these By-Laws and to the rules and regulations issued by the Association to govern the conduct of its Members.

ARTICLE V. USE OF FACILITIES

The Common Properties shall be limited to the use of the Members and their guests, lessees or occupants thereof.

ARTICLE VI. MEMBERSHIP AND VOTING RIGHTS

The Association shall have one class of membership interest and the owner of each Home or Lot on The Properties subject to this Declaration shall be entitled to one vote irrespective of whether any such owner owns more than one Home or Lot.

When more than one person or entity holds a member's interest in any Home or Lot, the vote attributable to the Home or Lot shall be exercised as such persons mutually determine but with the exception of cumulative voting employed in the election of Directors, not more than one (1) vote may be cast with respect to any such Home. For purposes of this section, the word "Home" shall have the same meaning as "Lot" and therefore, if there is no Home constructed on a particular Lot in the Development, the Owner of such lot will still be considered a Member entitled to cast the one (1) vote as set forth above. No Member shall split or divide votes on any motion, resolution or ballot other than in the cumulative voting procedure employed in the election of Directors.

ARTICLE VII. QUORUM, PROXIES AND WAIVERS

Section 1. Quorum. So many Members as shall represent at least fifty-one (51%) percent of all members whose Homes are subject to the Declaration present in person or represented by written proxy shall be requisite to and shall constitute a quorum at all meetings of the Association for the transaction of business, except as otherwise provided by Statute, by the Declaration, the Certificate of Incorporation of the Association or by these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the

Association, the Members entitled to vote thereat, present in person or represented by written proxy, shall have the power to adjourn the meeting. At least five (5) days written notice of such adjourned meeting shall be given to all Members. At such adjourned meeting, any business may be transacted which might have been transacted at the meeting originally called. At such adjourned meeting, so many Members as shall represent at least thirty-three and one-third (33 1/3%) of all members whose Homes are then subject to the Declaration. If, however, such reduced quorum shall not be present or represented at such adjourned meeting of the Association, the Members entitled to vote thereat, present in person or represented by written proxy, shall have the power to adjourn the meeting and such adjourned meeting shall require at least twenty-five (25%) percent of all Members whose Homes are then subject to the Declaration. At least 5 days written notice of such adjourned meeting shall be given to all Members.

Section 2. Vote Required to Transact Business. When a quorum is present at any meeting, the vote of a majority of the Members present in person or represented by written proxy shall decide any question brought before such meeting and such vote shall be binding upon all Members, unless the question is one upon which by express provision of the Statute, Declaration, Certificate of Incorporation or of these By-Laws, a different vote is required, in which case such express provisions shall govern and control the decision of such question.

Section 3. Right to Vote. Members shall be entitled to vote either in person or by proxy at any meeting of the Association. Any such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof.

Section 4. Proxies. All proxies shall be in writing and shall be filed with the Secretary prior to the meeting at which the same are to be used. A notation of such proxies shall be made in the minutes of the meeting.

Section 5. Waiver and Consent. Wherever the vote of the Membership at a meeting is required or permitted by Statute or by any provision of the Declaration, Certificate of Incorporation or of these By-Laws to be taken in connection with any action of the Association, the meeting and vote of the membership may be dispensed with if all Members who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken.

Section 6. Place of Meeting. Meetings shall be held at any suitable place convenient to the Members as may be designated by the Board of Directors and designated in the notices of such meetings.

Section 7. Annual Meetings: The annual meeting of the membership of the Association shall be held on such date as is fixed by the Board of Directors. At such meetings, there shall be elected by ballot of the membership of the Board of Directors in accordance with the requirements of Article VIII of these By-Laws. The Members may also transact such other business as may properly come before the meeting.

Section 8. Special Meetings. It shall be the duty of the Secretary to call a special meeting of the Association, if so directed by the Board of Directors, or upon the presentation to the Secretary of a petition signed by a majority of the Members.

Section 9. Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member at least ten (10) but not more than thirty (30) days prior to such meeting. The mailing of a notice in the manner provided in these By-Laws shall be considered notice served.

Section 10. Order of Business. The order of business at all meetings shall be as follows:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Report of officers
- (e) Report of committees
- (f) Appointment of inspectors of election (in the event there is an election)
- (g) Election of Directors (in the event there is an election)
- (h) Unfinished business
- (i) New business

ARTICLE VIII. BOARD OF DIRECTORS

Section 1. Number and Term. The number of Directors which shall constitute the whole Board shall not be less than three (3). An initial Board consisting of three (3) Directors shall be designated by the Developer to serve until the first annual meeting of the Association. At the first annual meeting and at all subsequent annual meetings the Members shall vote for and elect three (3) Directors to serve for one (1) year terms and until their successors have been duly elected and qualified. All directors, other than those the Developer shall have the right to designate, must be either Members of the Association or immediate family members residing in the Member's home. As required by law, each Director shall be at least nineteen (19) years of age.

Section 2. Cumulative Voting and Right of Developer to Designate Certain Board Members. In an election of Directors, each Member shall be entitled to as many votes as shall equal the number of Directors to be elected and a Member may cast all of such votes for a single Director or may distribute them among two or more Directors as he sees fit.

Notwithstanding the foregoing, the Developer shall have the right to designate three (3) Directors until the third anniversary date of the first Home or Lot closing or until one-hundred (100%) percent of the Homes or Lots in the Development are closed, whichever is sooner. Thereafter, the Developer shall have the right to designate one (1) Director for so long as it holds at least one (1) membership. When the Developer no longer holds any membership interests, it may not designate any Directors. Developer may not cast its votes to elect any Directors in addition to the designated Directors set forth above. This paragraph may not be amended without the consent of the Developer.

Section 3. Vacancy and Replacement. If the office of any Director becomes vacant by reasons of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining Directors though less than a quorum, at a special meeting of Directors duly called for this purpose, shall choose a successor, who shall hold office for the unexpired term in respect of which such vacancy occurred and until his successor is duly elected and qualified. In the event a Director appointed by the Developer resigns, the Developer shall have the right to appoint another Director in his place.

Section 4. Removal. Directors may be removed for cause by an affirmative vote of a majority of the Members. No Director, other than a designee of the Sponsor, shall continue to serve on the Board if, during his term of office, he shall cease to be a Member.

Section 5. Powers.

- (a) The property and business of the Association shall be managed by its Board of Directors, which may exercise all such powers of the Association and do all such lawful acts and things as are not by Statute, Declaration, Certificate of Incorporation or by these By-Laws, directed or required to be exercised or done by the Members or Owners personally. These powers shall specifically include, but not be limited to the following items:
1. To determine and levy monthly assessments ("Association assessments") to cover the cost of operating and maintaining the Common Properties payable in advance. The Board of Directors may increase the monthly assessments or vote a special assessment in excess of that amount, if required, to meet any additional necessary expenses;
 2. To collect, use and expend the assessments collected to maintain, care for and preserve the Common Properties and other common facilities and appurtenances;
 3. To make repairs, restore or alter the Common Properties after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings;
 4. To open bank accounts and borrow money on behalf of the Association, and to designate the signatories to such bank accounts;
 5. To collect delinquent assessments by suit or otherwise, to abate nuisances and to enjoin or seek damages from Members for violations of the house rules or rules and regulations herein referred to;
 6. To make reasonable rules and regulations and to amend the same from time to time. Such rules and regulations and amendments thereto shall be binding upon the Members when the Board has approved them in writing and delivered a copy of such rules and all amendments to each Member. Such rules and regulations may without limiting the foregoing, include reasonable limitations on the use of the Common Properties by guests of the Members as well as reasonable admission and other fees for such use;
 7. To employ workmen, contractors and supervisory personnel, and to purchase supplies and equipment, to enter into contracts to provide maintenance and other services and generally to have the power of Directors in connection with the matters herein above set forth;
 8. To bring and defend actions by or against one or more Members and pertinent to the operation of the Association and to assess special assessments to pay the cost of such litigation;
 9. To hire a Managing Agent to perform and exercise the powers of the Board of Directors in the management of the Development.

- (b) The Board of Directors may, by resolution or resolutions, passed by a majority of the whole Board, designate one or more committees, each of such committees to consist of at least three (3) Members, Lessors of Members, or immediate family member residing in a Home of a Member, one of whom shall be a Director, which, to the extent provided in said resolution of resolutions, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Association and may have power to sign all papers which may be required, provided the said resolution or resolutions shall specifically so provide. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. Committees established by resolution of the Board of Directors shall keep regular minutes of their proceedings and shall report the same to the Board as required.
- (c) Notwithstanding anything to the contrary contained in these By-Laws, so long as the Developer or its designee shall continue to own membership interests representing at least one of the Homes, but in no event later than five (5) years from the recording of the Declaration, the Board of Directors may not, without the Developer's prior written consent, (i) make any addition, alteration or improvement to the Common Properties, or (ii) assess any Association charges for the creation of, addition to or replacement of all or part of a reserve, contingency or surplus fund, or (iii) enter into any service or maintenance contract for work not covered by contracts in existence on the date of the first closing of a Home or Lot or, (iv) borrow money on behalf of the Association or, (v) increase or decrease the services of maintenance set forth in the prospectus for the Association, or (vi) purchase any materials, equipment or other goods costing in excess of \$1,000.00. Developer shall not use its veto power or control of the Board of Directors to reduce the level of services described in the Offering Plan or prevent the capital repairs or prevent expenditures required to comply with applicable laws or regulations. While Developer is in control of the Board of Directors, no mortgage liens will be placed on the Common Properties without the consent of at least 51% of the home owners other than Directors or Developers nominee. This paragraph may not be amended except with the consent of the Developer.

Section 6. Compensation. Directors and officers, as such, shall receive no compensation for their services.

Section 7. Meetings.

- (a) The first meeting of each Board newly elected by the Members shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board of Directors shall be held at the same place as the annual meeting of Association Members and immediately after the adjournment of same, at which time the dates, places and times of regularly scheduled meetings of the Board shall be set.
- (b) Regularly scheduled meetings of the Board may be held without special notice.
- (c) Special meetings of the Board may be called by the President on two (2) days notice to each Director either personally or by mail or telegram. Special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of at least two (2) Directors.

- (d) At all meetings of the Board, a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and an act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by Statute or by the Declaration or by these By-Laws. If a quorum shall not be present at any meeting of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting until a quorum shall be present.
- (e) Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 8. Annual Statement. The Board of Directors shall furnish to all Members and shall present annually (at the annual meetings) and when called for by a vote of the Members at any special meeting of the Members, a full and clear statement of the business conditions and affairs of the Association, including a balance sheet and profit and loss statement verified by an independent public accountant and a statement regarding any taxable income attributable to the Members and a notice of the holding of the annual meeting of Association Members.

Section 9. Fidelity Bonds. The Board of Directors may require that all officers and employees of the Association handling or responsible for the Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be an expense of the Association.

ARTICLE IX. OFFICERS

Section 1. Elective Officers. The officers of the Association shall be chosen by the Board of Directors and shall be a President, a Vice President, a Secretary and a Treasurer. The Board of Directors may also choose one or more Assistant Secretaries and Assistant Treasurers and such other officers as in their judgment may be necessary. All officers must be either members of the Board of Directors, Members of the Association, or lessees or occupants entitled to the use of The Properties in lieu of the Member renting or permitting them to occupy the Home in which they reside. Two (2) or more offices may not be held by the same person.

Section 2. Election. The Board of Directors, at its first meeting after each annual meeting of Association Members, shall elect a President, a Vice President, a Secretary and a Treasurer. Only the President must be a Member of the Board.

Section 3. Appointive Officers. The Board may appoint such other officers and agents as it shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

Section 4. Term. The officers shall hold office for a period of one (1) year or until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed with or without cause, at any time, by the affirmative vote of a majority of the Board of Directors present at such meeting, provided prior notice was given to all Board members that this item was on the agenda for such

meeting. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors.

Section 5. The President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the Association Members and the Board of Directors, shall be an ex-officio member of all standing committees, shall have general and active management of the business of the Association, shall see that all orders and resolutions of the Board are carried into effect and shall have such other powers and duties as are usually vested into the office of President of a corporation organized under the Not-for-Profit corporation law of the State of New York.

Section 6. The Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act and shall have such other powers and duties as are usually vested in the office the Vice President of a corporation organized under the Not-for-Profit corporation law of the State of New York.

Section 7. The Secretary. The Secretary and/or Assistant Secretary shall attend all sessions of the Board and all meetings of Association Members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of Association Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or by the President, under whose supervision he shall be.

Section 8. The Treasurer. The Treasurer shall have the custody of the Association funds and securities and shall keep full and accurate chronological accounts of receipts and disbursements in books belonging to the Association including the vouchers for such disbursements, and shall deposit all monies, and other valuable effects in the name and to the credit of the Association in such depositories as may also be exercised by the Managing Agent, if any. However, such Managing Agent shall not replace the Treasurer.

He shall disburse the funds of the Association as he may be ordered by the Board, making proper vouchers for such disbursements and shall render to the President and Directors, at the regular meeting of the Board or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Association.

He shall keep detailed financial records and books of account of the Association, including a separate account for each Member, which among other things, shall contain the amount of each assessment, the date when due, the amount paid thereon and the balance remaining unpaid.

Section 9. Agreements, etc. All agreements and other instruments shall be executed by the President or such other person as may be designated by the Board of Directors.

ARTICLE X. NOTICES

Section 1. Definitions. Whenever under the provisions of the Declaration or of these By-Laws, notice is required to be given to the Board of Directors or to any Director or Association Member, it shall not be construed to mean personal notice; but such notice may be given in writing, by mail, by depositing the same in a post office or letter box in a postpaid sealed wrapper, addressed to the Board of Directors, such Director, or Member, at such address as appears on the books of the Association.

Section 2. Service of Notice - Waiver. Whenever any notice is required to be given under the provisions of the Declaration, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE XI. ASSESSMENTS AND FINANCES

Section 1. Creation of the Lien and Personal Obligation of Assessments. The creation of the lien and personal obligation of assessments is governed by Section I of Article VI of the Declaration.

Section 2. Purpose of Assessments. The purpose of assessments is as specified in Section 2 of Article VI of the Declaration.

Section 3. Basis of Assessments. The basis of the assessments is as specified in Section 3 of Article VI of the Declaration.

Section 4. Date of Commencement of Assessments: Due Dates. The date of commencement and the due dates of assessments are as specified in Section 4 of Article VI of the Declaration.

Section 5. Effect of Non-Payment of Assessment: Remedies of the Association. The effect of non-payment of assessments and the remedies of the Association shall be as specified in Section 5 of Article VI of the Declaration.

Section 6. Subordination of Lien to Mortgages. The lien of the assessments provided for herein shall be subordinated pursuant to the provisions of Section 5 of Article VI of the Declaration.

Section 7. Checks. All checks or demands for money and notes of the Association shall be signed by the President and Treasurer, or by such other officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 8. Operating Account. There shall be established and maintained a cash deposit account to be known as the "Operating Account" into which shall be deposited the operating portion of all monthly and special assessments as fixed and determined for all members. Disbursements from said account shall be for the general needs of the operation including, but not limited to wages, repairs, betterments, maintenance and other operating expenses of the community.

Section 9. Other Accounts. The Board shall maintain any other accounts it shall deem necessary to carry out its purposes.

ARTICLE XII. AMENDMENTS

These By-Laws may be altered, amended or added to at any duly called meeting of Association Members provided: (1) that the notice of the meeting shall contain a full statement of the proposed amendment and (2) that the amendment shall be approved by vote of at least sixty six and two thirds percent (66-2/3%) of the Members. No amendment, however, shall affect or impair the validity or priority of the Members' interests and the interests of holders of a mortgage encumbering a Member's Home. Nor shall any amendment have the effect of infringing upon the Developer's right to build and make membership in or use of the

Association available to purchasers or lessees of no more than the total number of Homes planned by the Developer for The Properties.

ARTICLE XIII. SELLING, LEASING AND GIFTS OF HOMES.

Section 1. Selling and Leasing Homes. Any Home may be conveyed or leased by a Member free of any restrictions except that no Member shall convey, mortgage, pledge, sell or lease his Home unless and until all unpaid Association expenses assessed against the Home shall have been paid as directed by the Board of Directors. Such unpaid Association expenses, however, may be paid out of the proceeds from the sale of a Home, or by the Grantee. Any sale or lease of a Home or Unit in violation of this section shall be voidable at the election of the Board of Directors. Upon the written request of a Member or his mortgagee, the Board or its designee shall furnish a written statement of the unpaid charges due from such Member which shall be conclusive evidence of the payment of amounts assessed prior to the date of the statement. A reasonable charge may be made by the Board for the issuance of such statements.

The provisions of this section shall not apply to the acquisition of a Home by a mortgagee who shall acquire title to such Home by foreclosure or by deed in lieu of foreclosure. In such event, the unpaid assessments against the Home which were assessed and became due prior to the acquisition of title to such Home by such mortgagee shall be deemed waived by the Association and shall be charged to all other Members of the Association as a common expense. Such provisions shall, however, apply to any assessments which are assessed and become due after the acquisition of title to such Home by the mortgagee and to any purchaser from such mortgagee.

Whenever the term "Home" is referred to in this Section, it shall include the Home, the Member's interest in the Association and the Member's interest in any homes acquired by the Association.

Section 2. Gifts, etc. Any member may convey or transfer his Home by gift during his lifetime or devise his Home by will or pass the same by intestacy without restriction.

ARTICLE XIV. GENERAL PROVISIONS

Section 1. Fiscal Year. The fiscal year of the Association shall be fixed by resolution of the Board of Directors.

Section 2. Seal. The Association seal shall have inscribed thereon the name of the Association and the year of its incorporation under the laws of the State of New York. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any manner reproduced.

Section 3. Examination of Books and Records. Each Member, or their respective representatives and first mortgagees, shall be entitled to a reasonable examination of the books and records of the Association at any time upon reasonable notice to its Board of Directors. The Declaration, Certificate of Incorporation and the By-Laws of the Association shall be available for inspection by any Member or first mortgagee at the principal office of the Association.

Section 4. Construction. Whenever the masculine singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter, singular or plural, whenever the context so required.

In the case of any conflict between the Certificate of Incorporation and these By-Laws, the Certificate shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

Section 5. Severability. Should any of the covenants, terms or provisions herein imposed be or become unenforceable at law or in equity, the remaining provisions of these By-Laws shall, nevertheless, be and remain in full force and effect.

ARTICLE XV. INDEMNIFICATION

Section 1. In Actions by or in the Right of Association. To the extent allowed by law, the Association shall indemnify any person made, or threatened to be made, a party to an action by or in the right of the Association to procure a judgment in its favor by reason of the fact that he, his testator or intestate, is or was a director or officer of the Association, against amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein, if such director or officer acted, in good faith, for a purpose which he reasonably believed to be in the best interests of the Association, except that no indemnification under this paragraph shall be made in respect of (a) a threatened action, or a pending action which is settled or otherwise disposed of, or (b) any claim, issue or matter as to which such person shall have been adjudged to be liable to the Association, unless and only to the extent that the court in which the action was brought, or, if no action was brought, any court of competent jurisdiction, determines upon application that, in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such portion of the settlement amount and expenses as the court deems proper.

Section 2. In Other Actions or Proceedings: To the extent allowed by law, the Association shall indemnify any person made, or threatened to be made, a party to an action or proceeding (other than one by or in the right of the Association to procure a judgment in its favor), whether civil or criminal, by reason of the fact that he, his testator or intestate, was a director or officer of the Association, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, if such director or officer acted, in good faith, for a purpose which he reasonably believed to be in the best interests of the Association and, in criminal actions or proceedings, in addition, had no reasonable cause to believe that his conduct was unlawful.

The termination of any such civil or criminal action or proceeding by judgment, settlement, conviction or upon a plea of nolo contendere, or its equivalent, shall not in itself create a presumption that any such director or officer did not act in good faith, for a purpose which he reasonably believed to be in the best interests of the Association or that he had reasonable cause to believe that his conduct was unlawful.

Section 3. Payment: A person who has been successful, on the merits or otherwise, in the defense of a civil or criminal action or proceeding of the character described in Section 722 of the Not-For-Profit Corporation Law shall be entitled to indemnification as authorized in said Section.

Except as provided in Paragraph (a) of Section 723 of the Not-For-Profit Corporation Law, any indemnification under Section 722 or otherwise permitted by Section 721 of the Not-For-Profit Corporation Law, unless ordered by a court under Section 724 thereof, shall similarly be permitted to be made by the Association only if authorized for a corporation in the specific case in accordance with the provisions of Paragraph (b) of said Section 723.

Expenses incurred in defending a civil or criminal action or proceeding may be paid by the Association in advance of the final disposition of such action or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount as, and to the extent, required by Paragraph (a) of Section 725 of the Not-For-Profit Corporation Law.

Section 4. Other Provisions: Indemnification of directors or officers shall be subject to the other provisions affecting the same as set forth in Section 725 of the Not-For-Profit Law, including, but not limited to, the provision that requires that if any expenses or other amounts are paid by way of indemnification, otherwise than by court order or action by the shareholders, the Association shall, not later than the next annual meeting of Members unless such meeting is held within three months from the date of such payment, and, in any event, within fifteen months from the date of such payment, mail to its Members of record at the time entitled to vote for the election of directors a statement specifying the persons paid, the amounts paid, and the nature and status at the time of such payment of the litigation or threatened litigation.

Section 5. No Limitation: Nothing contained in this article shall limit any right to indemnification to which any director or any officer may be entitled by contract or under any law now or hereafter enacted. However, notwithstanding anything to the contrary contained in this article, directors designated for election by the Developer shall be liable as fiduciaries to the Members for their acts or omissions.

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