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LAND TITLE AMERICA

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UNIT										

PROPERTY INDEX NUMBERS

SLR:kc 4/22/88 2:30 p.m.

After Recordation return to:

LAND TITLE COMPANY
OF AMERICA, INC.
15 Spinning Wheel Rd., Ste. 211
HINSDALE, ILLINOIS 60521
ATTN: Rickey C. Campbell

Prepared by S. Louis Rathje, RATHJE, WOODWARD, DYER & BURT, 203 East Liberty Drive, P.O. Box 786, Wheaton, Illinois, 60189.

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR CINNABAR POINTE TOWNHOMES

THIS DECLARATION made this 27th day of April, 1988 by FERRARI BUILDERS, INC., an Illinois corporation (hereinafter referred to as "DECLARANT");

W I T N E S S E T H:

WHEREAS, DECLARANT holds legal title to certain real property in the Village of Bartlett, County of DuPage, State of Illinois, which is more fully described as follows:

Lots 1 through 19 inclusive and Lots 21 and 22 inclusive in Bartlett Manor Homes, being a Subdivision of part of the Northwest Quarter of Section 12, Township 40 North, Range 9, East of the Third Principal Meridian, according to the Plat thereof recorded in the office of the Recorder of Deeds of DuPage County, Illinois on August 28, 1987 as Document R87-129118, and as amended by Affidavit of Correction recorded 4/28/88 as Document R88-041813.

(sometimes hereinafter referred to as the "Property"); and

WHEREAS, DECLARANT is the developer of the Property and intends to subdivide the Property to provide for a planned unit development consisting of lots for townhouse homes and a Common Area; and

WHEREAS, DECLARANT intends to make partial conveyances of the Common Area to the Cinnabar Pointe Townhomes Owners' Association; and

WHEREAS, the DECLARANT desires to create on the Property a community consisting of townhouse homes together with easements, rights to the Common Area, including therein roads, driveways, walks, paths, open spaces and other Common Facilities; and

WHEREAS, DECLARANT intends to create the Cinnabar Pointe Townhomes Owners' Association under the laws of the State of Illinois as a not-for-

RECORDED
DU PAGE COUNTY

[Handwritten signature]

profit corporation to promote and enhance the value and amenities in said community, maintain the exteriors of the townhouses located thereon; maintain and administer all Common Area, enforce the covenants, conditions and restrictions and reservations and collect and disburse the assessments and charges herein created;

NOW, THEREFORE, DECLARANT hereby declares that the real Property hereinabove set forth shall be held, occupied, sold and conveyed subject to the covenants, conditions, restrictions, reservations, easements, charges and liens created herein, which are for the purpose of promoting and enhancing the value, desirability and attractiveness of the Property. These easements, restrictions, covenants and conditions shall be considered as covenants running with the Property and shall be binding on all parties acquiring any interest in and to the aforesaid Property or any part thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE I DEFINITIONS

The following words and terms, when used in this Declaration, will be defined as follows:

Section 1. "Association" shall mean and refer to the CINNABAR POINTE TOWNHOMES OWNERS' ASSOCIATION, an Illinois Not-for-Profit Corporation, its successors and assigns.

Section 2. "Property" shall mean and refer to the real property described on page one, which is subject to the provisions of this Declaration and such additions thereto as may hereafter be brought within the jurisdiction of the Association as provided herein.

Section 3. "Common Area" shall mean and refer to real property owned by the Association and referred to on the plat of subdivision as Lots 21 and 22 and easements excepting therefrom any buildings on the plat thereon drawn created for the common use and enjoyment of the Members of the Association, but shall not include Lots or any part of the Property conveyed or dedicated to a public municipality or municipalities.

Section 4. "Lot" shall mean and refer to that portion of the Property shown upon recorded subdivision plat or plats of the Property improved or intended to be improved with one Living Unit as hereafter defined.

Section 5. "Assessable Lot" shall mean a Lot located on the Property improved with a townhouse which has been conveyed, transferred or leased by DECLARANT.

Section 6. "Living Unit" shall mean and refer to any townhouse or other building or a portion thereof situated on a Lot on the Property and

intended for use and occupancy as a single family dwelling for which an occupancy permit has been issued.

Section 7. "Owner" or "Ownership" shall mean and refer to the record holder of fee simple title to any Lot on the Property, whether such Owner shall be one or more persons or entities, the beneficiary or beneficiaries of a trust, shareholder of a corporation or partner of a partnership, but excluding those persons or entities having any interest merely as security for the performance of an obligation.

Section 8. "Member" shall mean and refer to every person or entity holding membership in the Association as provided in Article III hereof.

Section 9. "Common Facilities" shall mean the walks, driveways, landscaping, parking areas and such other improvements or structures from time to time located or constructed on the Common Area.

Section 10. "Declarant" shall mean and refer to FERRARI BUILDERS, INC., an Illinois corporation.

Unless the provisions of this Declaration otherwise require, words imparting the masculine gender shall include the feminine; words imparting the singular number shall include the plural, and words imparting the plural shall include the singular.

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Existing Property. The Property which is and shall be held, occupied, sold and conveyed subject to this Declaration is located in the Village of Bartlett, DuPage and Cook Counties, Illinois, and is more particularly described as follows:

Lot 1 through 19 inclusive and Lots 21 and 22 inclusive in Bartlett Manor Homes, being a Subdivision of part of the Northwest Quarter of Section 12, Township 40 North, Range 9, East of the Third Principal Meridian, according to the Plat thereof recorded in the office of the Recorder of Deeds of DuPage County, Illinois on August 28, 1987 as Document R87-129118, and as amended by Affidavit of Correction recorded 4/28/88 as Document R88-041813.

(sometimes hereinafter referred to as the "Property") and any resubdivision of the Property..

Section 2. Additional Property Annexed by Declarant. The Declarant reserves the right from time to time, within seven (7) years of the date of the recording of this Declaration, to construct additional buildings and attendant surface and underground utilities to serve the same, on all or any

portion of the premises described in Exhibit A attached hereto and made a part hereof and incorporate same as additional townhome property pursuant to this said Declaration. Said additional buildings shall contain a total of not more than three hundred twelve (312) additional units.

In furtherance of the foregoing, a power coupled with an interest is hereby granted to the Declarant as attorney-in-fact, to shift the percentages of ownership in the Common Area appurtenant to each Living Unit to the percentages set forth in each such Amended Declaration recorded pursuant to this Article II. Each deed, mortgage or other instrument with respect to a Unit and the acceptance thereof shall be deemed a grant and acknowledgment of and consent to such power to said attorney-in-fact and shall be deemed to reserve to it the power to shift and reallocate from time to time the percentages of ownership in the Common Area appurtenant to each Living Unit to the percentages set forth in each such recorded Amended Declaration.

Each Owner of a Living Unit by acceptance of a deed thereto, further acknowledges, consents and agrees, as to each such Amended Declaration that is recorded as follows:

(a) The percentage of ownership in the Common Area appurtenant to each Living Unit shall automatically be shifted and reallocated to the extent set forth in each such recorded Amended Declaration and upon the recording of each such Amended Declaration, the amount by which such percentage appurtenant to a Living Unit is reduced, as set forth in each such recorded Amended Declaration, shall thereby be and be deemed to be released and divested from such Owner and reconveyed and reallocated among the other Owners as set forth in each such recorded Amended Declaration.

(b) Each deed, mortgage or other instrument affecting a Unit shall be deemed given subject to the conditional limitation that the percentage of ownership in the Common Area appurtenant to each Living Unit shall, upon the recording of each Amended Declaration, be divested pro tanto to the reduced percentage set forth in such Amended Declaration and vested among the other owners, mortgagees and others owning an interest in the other Living Units in accordance with the terms and percentages of each such recorded Amended Declaration.

(c) A right of revocation is hereby reserved by the grantor in each such deed, mortgage or other instrument affecting a Living Unit to so amend and reallocate the percentages of ownership in the Common Elements appurtenant to each Living Unit.

(d) The percentage of ownership in the Common Area appurtenant to each Living Unit shall include and be deemed to include any additional Common Area annexed hereto by a recorded Amended Declaration and each deed, mortgage or other instrument affecting a Living Unit shall be deemed to include such additional Common Area and the ownership of any such Living Unit and lien of any such mortgage shall automatically include and attach to such additional Common Area as such Amended Declarations are recorded.

(e) Each Owner shall have a perpetual easement, appurtenant to his Living Unit, for the use of any additional Common Area annexed thereto by and described in any recorded Amended Declaration, for the purposes therein set forth, except as to any portion the use of which is limited by exclusive easements granted to the Owners of specific Living Units as may be provided in any such Amended Declaration.

(f) The recording of each such Amended Declaration shall not alter the amount of the lien for expenses assessed to a Living Unit prior to such recording.

(g) Each Owner, by acceptance of the deed conveying his Living Unit, agrees for himself and all those claiming under him, including mortgagees, that this Declaration and each Amended Declaration is and shall be deemed to be in accordance with the Act and for purposes of this Declaration and the Act, any changes in the respective percentages of ownership in the Common Area as set forth in each such Amended Declaration shall be deemed to be made by agreement of all Living Unit Owners.

(h) The Declarant reserves the right to amend this Declaration in such manner, and each Owner agrees to execute and deliver such document necessary or desirable to cause the provisions of this Article II to comply with the Act as it may be amended from time to time.

(i) Anything herein to the contrary notwithstanding the rights of the Declarant to include additional units and to shift the interests in the Common Area shall be only exercised in such manner as to cause the ownership interest in the Common Area to be allocated to the Living Units on the basis of the value of each Living Unit in relation to the value of all the Living Units then subject to this Declaration. Such values shall be determined by the Declarant at the time of each Amendment to the Declaration:

1. with respect to those units which are being added, on the basis of the selling prices at which such units are first offered for sale to the general public; and
2. with respect to units which had previously been made the subject of this Declaration or any amendment hereto, on the basis of the selling prices at which such units were first offered for sale to the general public increased or decreased by such amount as in the Declarant's judgment will reflect adjustments in value attributable to increases or decreases in sales prices of comparable units so as to achieve equivalent allocations for equivalent unit types. Declarant shall be the sole judge of such increase or decrease in value, if any, and its determination thereof in good faith shall be binding upon all Living Unit Owners.

(j) The foregoing provisions of this Declaration and in deeds and mortgages of the Living Units and Common Area contain and will contain clauses designed to accomplish a shifting of the Common Area. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Area can be accomplished.

(k) Nothing in the within Article or elsewhere in the within Declaration shall bind the Declarant to annex any additional property and the provisions of the within Declaration shall have no force or effect with respect to those premises described in Exhibit A or to any portions thereof unless and until an Amended Declaration shall be filed for record in accordance with the provisions of this Article, by the terms of which the said premises shall enjoin and restrain the said defaulting Owner from re-acquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees and all other expenses of the proceeding and sale, and all such items shall be taxes against said defaulting Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens, shall be paid to said defaulting Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Living Unit and the Living Unit Owner's corresponding percentage of ownership in the Common Area, and to immediate possession of the Living Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide that the purchaser shall take the interest in the Living Unit Ownership sold subject to this Declaration.

Any Property so annexed must be subject to a "Declaration of Covenants, Conditions and Restrictions", compatible with those established for the Property as determined by DECLARANT. Notwithstanding the foregoing, any such Declaration need not conform exactly to the terms of this Declaration, but may contain such additions, deletions or modifications as are compatible with the terms of this Declaration.

ARTICLE III MEMBERSHIP

Every person or entity who is the record owner of a fee or an undivided fee interest in any Lot, upon the vesting of such interest and without any further act, shall be a Member of the Association subject to the rights and obligations provided herein, in the Articles of Incorporation and the duly enacted By-Laws of the Association. The presence at any Membership meeting of any one of several Members whose Membership results from the ownership of a Lot shall be sufficient for the purposes of determining the presence of a quorum and the voting on any matter properly before the meeting, except as otherwise provided for herein. The foregoing is not intended to include persons or entities who hold an interest merely for the performance of

an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification for Membership, and Membership shall cease upon termination of such ownership.

ARTICLE IV VOTING RIGHTS

The Association shall have two classes of voting Membership.

Class A. Class A Members shall be those Owners as defined in Article III, other than the DECLARANT, except as DECLARANT may qualify for Class A Membership as provided herein. Class A. Members shall be entitled to one vote for each Lot in which they hold the interest required for Membership under Article III. When the Ownership of any one Lot is held by more than one person or entity, all such persons or entities shall be Members and the vote for such Lot shall be exercised among them, but in no case shall there be allowed more than one vote for any one Lot.

Class B. Class B Membership shall be held by the DECLARANT. The Class B Member or Members shall be entitled to four votes for each Lot in which it holds the interest required for Membership under Article III, provided that Class B Membership shall cease and be converted to Class A Membership upon the happening of the first of the following events:

1. When the total votes outstanding in Class A Memberships equal the total number of votes outstanding in the Class B Membership; or
2. Five years from the date hereof.

ARTICLE V PROPERTY RIGHTS

Section 1. Title to Common Area and Common Facilities. The DECLARANT may retain the legal title to the Common Area and Common Facilities until such time as DECLARANT has completed improvements thereon and until such time as, in the reasonable opinion of DECLARANT, the Association is able to maintain the same. Notwithstanding the foregoing, DECLARANT covenants on behalf of itself and its successors and assigns that it shall convey its interest in the Common Area and Common Facilities free and clear of mortgages, mechanic's liens and other encumbrances to the Association not later than five years from the date hereof.

Section 2. Members' Easements of Enjoyment. Subject to the provisions of Section 3, every Member shall have a right and easement of enjoyment in and to the Common Area and such easements shall be appurtenant to and shall pass with title of every Lot.

Section 3. Limitations on Members' Easements. The rights and easements of enjoyment created hereby are expressly subject to the following provisions:

- a. The right of the Association to limit the number of guests of Members.
- b. The right of DECLARANT and the Association, pursuant to the Articles of Incorporation and By-laws thereof, to borrow money for the purpose of improving the Common Area and Common Facilities and in aid thereof to mortgage said Common Area and Common Facilities. In the event of a default upon any such mortgage, the lender's rights hereunder shall be limited to a right after taking possession of such Common Area and Common Facilities to charge admission and other fees as a condition to continued enjoyment by the Members and, if necessary, to open the enjoyment of such Common Area and Common Facilities to a wider public use until the mortgage is satisfied, whereupon the possession of such Common Area and Common Facilities shall be returned to the Association and all rights of the Members hereunder shall be fully restored.
- c. The right of the Association, pursuant to its Articles and By-Laws, to suspend the voting and enjoyment rights to the Common Area and Common Facilities of any Member for any period during which any assessment remains unpaid and for any period not to exceed sixty (60) days for any violation or infraction of said Association's By-Laws and published rules and regulations adopted pursuant thereto, after ten (10) days' prior written notice.
- d. The right of said Association to charge a reasonable fee for the use of said Common Area and Common Facilities.
- e. The right of the Association to dedicate or transfer all or any part of the Common Area and Common Facilities to any municipality, 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 entitled to cast two-thirds (2/3) of the vote of each class of Membership has been recorded, agreeing to such dedication, transfer, purpose or condition.
- f. DECLARANT has or shall construct driveways from public right-of-ways to each Lot, which driveways are intended for the personal use of the Owners of the respective Living Units located thereon. Each such Owner shall have the exclusive use for driveway purpose of such portion of the Common Area improved with a driveway, subject only to the easement, if any, for sidewalks

constructed for pedestrian traffic; public utility easements, if any; and maintenance by the Association. The use of such driveway by any other person may be enjoined by the Association or the Owner entitled to said exclusive use. The right to the exclusive use of such driveway shall pass with the title to each Living Unit.

Section 4. Utility and Access Easements. Each Owner of a Lot and the DECLARANT shall have a nonexclusive easement for vehicular and pedestrian access over and across roadways and walkways from time to time located on the Common Area, including without limitation, those roadways and walkways which provide access to public ways. The Illinois Bell Telephone Company, Commonwealth Edison Company, Northern Illinois Gas Company and all other public and private utilities serving the Property are hereby granted the right to lay, construct, renew, operate, and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through the Common Area for the purpose of providing utility services to the Property. The Village of Bartlett and any municipality or other governmental authority which has jurisdiction over the Property, or which undertakes to provide services to the Property, are hereby granted access easements for ingress and egress to, over and across the Common Area for the purpose of providing any such services. A two-thirds (2/3) majority of the Owners, at a meeting of Owners duly called for such purpose, may elect to dedicate a portion of the Common Area to a public body for use as, or in connection with, a street or a utility. Prior to conveyance of the Common Area to the Association, the DECLARANT shall have the right to grant easements for laying of television cable, according to the terms and conditions of the local ordinance providing for cable television in the municipality. After conveyance of the Common Area to the Association, a majority of the Owners, at a meeting of Owners duly called for such purpose, may authorize the granting of an easement for the laying of television cable, according to the terms and conditions of the local ordinance providing for cable television in the municipality.

Section 5. Delegation of Use. Any Member may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and Common Facilities, to the members of his family, his tenants or contract purchasers or other occupants residing in the Living Unit.

Section 6. DECLARANT'S Rights. DECLARANT'S agents, members, guests and invitees shall have the easements of enjoyment described in Section 2 of this Article V until the DECLARANT'S rights under Article IV are fully terminated, at which point DECLARANT'S rights, if it is still an Owner, shall be the same as any other Owner.

ARTICLE VI
MAINTENANCE ASSESSMENTS

Section 1. Covenant for Maintenance Assessments. The DECLARANT, with respect to each Assessable Lot owned within the Property, and each Owner of an Assessable Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or conveyance, is deemed to covenant and agree to pay to the Association, (a) regular assessments or charges, and (b) special assessments for capital improvements and unforeseen expenses. All such assessments are to be established and collected as hereinafter provided by this Declaration, together with the Articles of Incorporation and By-Laws of the Association.

Section 2. Purpose and Use of Assessments. All assessments levied by the Association shall be for the purpose of insuring the high standards of maintenance and operation of the Property reserved or conveyed by the DECLARANT for the common use of all residents and Owners, the exterior of the respective Living Units, as well as other Common Facilities which now exist or may be constructed, and in general to promote the desired character of the Property. Such purposes and uses of assessments shall include, but are not limited to, the cost to the Association of all taxes, insurance, repair, replacement and maintenance of the Common Area, any storm sewer facilities originating on the Property, Common Facilities and the exterior of the Living Units as well as the mowing of grass, caring of grounds, landscaping and purchase of equipment and other charges required by this Declaration of Covenants, Conditions and Restrictions or that the Board of Directors of the Association shall determine to be necessary or desirable to meet the primary purpose of the Association.

Section 3. Assessment Procedure--Regular Assessments. Until January 1, 1988, the regular assessments shall not exceed \$50.00 per month per Assessable Lot. From and after January 1, 1988 the regular assessments shall be determined by the affirmative vote of two-thirds (2/3) of the Board of Directors of the Association, as provided in this Declaration and the By-Laws of the Association.

On or before December 1 of each year, commencing December 1, 1987 and pursuant to the By-Laws of the Association, the Board of Directors shall hold a meeting or meetings (a) to estimate all expenses provided for in Section 2 of this Article VI; (b) to fix the amount assessed against the individual Assessable Lots for the forthcoming year; and (c) to establish the date or dates on which such assessments or installments thereof shall be due the Association and in lieu thereof, the amount of the prior year's annual assessment shall be the fixed amount. Should the Board of Directors fail to establish payment dates, all regular assessments shall be due in twelve (12) equal installments on the first day of each month of the year for which they are assessed. The annual assessment on Assessable Lots added through annexation shall commence on the first day of the month following annexation of such property.

Any regular assessments may include a reasonable reserve fund which may be allocated to the costs of maintaining and improving the Common Area, Common Facilities, exteriors of Living Units and other purposes contemplated in Section 2 of this Article VI, and to capital improvements. Any allocation of reserve funds shall be made upon the affirmative vote of two-thirds (2/3) of the Board of Directors of the Association, which vote shall be taken at a meeting called for that purpose as provided in the By-Laws of the Association. At the closing of each Unit, an amount will be allocated to the reserve fund not to exceed three times the monthly maintenance assessment.

The Board of Directors shall prepare an itemized list of all estimated expenditures, and give written notice of the assessment to every Owner subject thereto.

Section 4. Assessment Procedure--Special Assessments. Special assessments may be levied by the Association to defray the expense, in whole or in part, of any capital improvement or unforeseen expenses. Such capital improvements shall include the construction or reconstruction, or unexpected repair or replacement of any capital improvements upon the Common Area, Common Facilities, or the exterior of any Living Unit or Units. Unforeseen expenses shall be deemed to be those expenses not provided for in the itemized list of estimated expenditures provided for in Section 3 of this Article VI.

Whenever the Board of Directors shall determine that there exists a need for levying a special assessment as herein provided, the Board of Directors shall adopt a resolution setting forth the need, amount, period of payment and due date or dates for the proposed special assessment. All special assessments must be approved by a two-thirds (2/3) vote of the entire Membership of each class. Said vote shall be taken at a meeting called by the Board for that purpose.

Section 5. Allocation of Assessments. Both annual and special assessments must be fixed at a uniform rate for all Assessable Lots, except as may be otherwise provided for in this Declaration. Any assessment and any installment thereof provided for herein shall commence on the Assessable Lot on the due date for such assessment in the month following the conveyance, transfer or lease of such Lot by the DECLARANT and prorated for the month in which the conveyance is made. The initial assessment shall be adjusted according to the number of months remaining in any calendar year. All assessments, both regular and special, shall be due on January 1st of the following year payable in twelve monthly installments commencing on the first day of January of that year and on the first day of every month thereafter.

Section 6. Non-Payment of Assessments. Any assessments, regular or special, which are not paid on the due date shall be delinquent. Such delinquency shall be a continuing lien and an equitable charge running with the land touching and concerning said Lot so assessed, held by the then Owner or Owners, his heirs, devisees, personal representatives, assigns, successors and grantees.

Should title to any Assessable Lot be held by more than one Owner, all Owners shall be jointly and severally liable. The lien shall attach to all rents due from parties in possession on any Lot on which a delinquent assessment exists, provided that it shall be subordinate to an assignment of rents held by a mortgagee when delivered in connection with a first mortgage loan to purchase the Property.

If any payment on any regular or special assessment shall not be made when due as called for herein, a late charge of the lesser of \$5.00 per day or 4% of the amount due and owing shall be charged from the due date to the date of payment. If said payment shall not be made for thirty (30) days after the same becomes due and payable, the entire amount of said annual assessment for that year shall become due and owing with interest thereon from the due date to the date of payment at the rate of 18% per annum.

The Association may recover any delinquent assessments by bringing an action at law or in equity against the then Owner personally obligated to pay the same or foreclose the lien against the Assessable Lot and Living Unit. Such recovery shall include interest, costs and reasonable attorney's fees incurred in connection with any such action.

The enforcement of liens or charges shall be limited to a period of five (5) years.

The venue for all actions at law provided for in this Article VI shall be in DuPage County, Illinois. The persons in possession of any Living Unit shall be authorized to accept summons on behalf of the Owner or Owners of such Living Unit.

No Owner may waive or otherwise escape liability for the assessments provided for herein by the non-use of the Common Area or abandonment of his Living Unit and Assessable Lot.

Section 7. Subordination of Lien. The lien of the assessments provided for herein shall be subordinate to the lien of the first mortgage or first trust deed placed upon the Lot and Living Unit for the purpose of purchasing same. Such automatic subordination shall apply only to the assessments which arise subsequent to the lien of the first mortgage or first trust deed. The sale or transfer of any Lot or Living Unit pursuant to a decree of foreclosure under such first mortgage or first trust deed, or any proceeding or conveyance in lieu thereof, shall extinguish the lien of such assessments which have become due and payable prior to such sale or transfer. Such sale or transfer shall not relieve the Lot or Living Unit from liability for any assessments or installments thereafter becoming due.

Section 8. Exempt Property. The following properties subject to this Declaration shall be exempt from the assessments created herein:

- a. All properties dedicated to any unit of government, local public authority and granted to or used by a utility company, regardless of the property so dedicated.
- b. All Living units owned by the DECLARANT which are used at any time by DECLARANT as a model home or office.
- c. All Lots, regardless of whether such Lots are improved with Living Units, which have not been conveyed, transferred or leased by the DECLARANT.
- d. Common Area as defined in the plat of record as Lots 21 and 22 excepting therefrom any buildings on the plat thereon drawn.
- e. Any Living Unit in the process of construction, title to which is retained by the DECLARANT.

The DECLARANT shall be responsible for the maintenance of all Lots and Living Units constructed on the Property for which certificates of occupancy have been issued but which have not been sold, conveyed, or leased.

ARTICLE VII PARTY WALLS

Each Lot Owner shall be subject to the following limitations and restrictions with respect to party walls constructed within the subdivision, as follows:

Section 1. General Rules of Law to Apply. Every wall which is built as a part of the original construction of the townhouses and placed on the dividing line between separate Lots therein shall constitute a party wall, and to the extent not inconsistent with this Article VII, the general rules of law regarding party walls shall apply thereto.

Section 2. Willful, Negligent or Accidental Damage. Should any party wall be damaged or destroyed through the act or acts of any owner of a Living Unit contiguous thereto, his tenants, agents, servants, guests or members of his family, irrespective of whether such act is willful, negligent or accidental, such Owner shall forthwith proceed to rebuild or repair said party wall to as good a condition as formerly existed without cost to the other adjoining Owner.

Section 3. Repair, Maintenance and Damage by Fire or Other Casualty. Should any party wall be destroyed or damaged by fire or other casualty or be in need of reasonable repair or maintenance, such wall shall be rebuilt, repaired or maintained by the Owners of both Living Units contiguous thereto to the end that such wall shall be restored to as good a condition as existed prior to such fire, casualty or need for repair or maintenance. It is expressly provided that the costs of any such repair or maintenance to a party

wall shall be borne by the Owners of the Living Units contiguous thereto in proportion to the use made of such party wall and as promptly as is reasonably possible.

Section 4. Alteration. Any Owner of a Lot who proposes to modify, rebuild, repair or make additions to his own Living Unit or any structure upon his Lot in any manner which requires the extensive alteration or modification of any party wall shall first obtain the written consent of the adjacent Owner in addition to meeting the other requirements of these covenants.

Section 5. Contribution. Should any Owner incur expenses in connection with the reconstruction, repair or maintenance provided for in this Article VII, which expenses should, by the terms of this Article or any general rule of law pertaining to party walls, be borne by the Owner of the other Living Unit contiguous to such wall, in whole or in part, the owner incurring such expenses shall have a right of contribution from such other Owner, which right shall be appurtenant to the land and passed to such Owner's successor in title.

Section 6. Arbitration. In the event a disagreement should arise with respect to the repair, reconstruction or maintenance of a party wall, the adjoining Owners shall select an arbitrator, whose decision shall be binding on the Owners. In the event they are unable to agree on an arbitrator, each such Owner shall select an arbitrator and the two arbitrators so selected shall select a third arbitrator. A determination of the matter by any two of the three arbitrators so selected shall be binding upon all owners and parties in possession.

Section 7. Unenforceability of Private Agreements. No private agreement of any adjoining property Owners shall modify or abrogate any of the provisions contained in this Article VII, which shall be binding upon the heirs, administrators, successors and assigns of the Owners; but no person shall be liable for any act or omission respecting such provisions, except as took place while such person was an Owner.

ARTICLE VIII ARCHITECTURAL CONTROLS

The purpose of the architectural controls provided for herein is to secure an attractive, harmonious residential development having continuing appeal. No building, fence, wall or other structure or landscaping shall be commenced, erected or maintained, nor shall any additions or alterations therein be made except interior alterations, nor shall any exterior color changes be made, until the construction plan and specifications showing the nature, kind, shape, heights, materials, color scheme, location on Lot and approximate cost of such building or other structure and the grading plan and landscaping plan of the Lot shall have been submitted to and approved in writing by the Board of Directors or by an architectural committee composed of three (3) or more Members appointed by the Board. In the event that said

Board or its delegated committee fails to approve or disapprove of such design, colors, location or landscaping plan within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article VIII will be deemed to have been fully complied with.

ARTICLE IX EXTERIOR MAINTENANCE

*Skylight -
Exclusive Limited
Common Area -*

Section 1. Exterior Maintenance. In addition to maintenance of the Common Area and Common Facilities, the Association shall provide exterior maintenance upon each Lot and Living Unit which is subject to assessment hereunder as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces, patio areas, outside decks and fenced-in yards. The Association shall not be responsible for the exterior maintenance of Lots and Living Units exempt under Section 8, Article VI, during their period of exemption.

incl. pool damage

Section 2. Easement for Maintenance. The Association, its successors, assigns, agents and employees, is hereby granted the right and easement to enter in and upon any Lot and the exterior of the Living Unit thereon at any reasonable time to perform the maintenance contemplated in Section 1 of this Article IX.

Section 3. Willful and Negligent Damage. To the extent that any maintenance or repairs are required by the willful or negligent conduct of the Owner, his family, tenants, servants, guests or invitees, the cost of such maintenance and repair shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE X USE RESTRICTIONS

Section 1. All Lots and Living Units on the Property shall be used for single family residential purposes only; except that DECLARANT reserves the right to use Lots and Living Units for sale or display purposes.

All structures erected on the Property shall be of new construction and no subsequent construction, other than for single family attached or detached housing shall be built on any Lot previously developed with a Living Unit. No vehicle, outbuilding or other structure other than a Living Unit, as defined herein, shall be used as a residence, either temporarily or permanently, on any part of the Property.

Section 2. No boat, airplane, trailer, house trailer or motorized recreational vehicle shall be stored permanently or temporarily in the open on any of the Property, except that the operable conventional passenger vehicles

of the Owners, their tenants and guests shall be permitted to be parked on the Owners' respective driveway easements.

Section 3. The Common Area and all Common Facilities shall be kept free and clear of all rubbish, debris and all other unsightly materials, and no waste shall be committed thereon. All rubbish, trash or garbage shall be kept indoors so as not to be seen from neighboring Living Units or streets and shall be regularly removed from the Property and shall not be allowed to accumulate thereon.

Section 4. No advertising signs, billboard, objects of unsightly appearance or nuisances shall be erected, placed or permitted to remain on the Property except:

- a. Signs and billboards used by DECLARANT during the construction and sale of Living Units; and
- b. Not more than one "For Sale" or "For Rent" sign of not more than three (3) square feet displayed by an Owner on his Lot shall be subject to Board approval.

Section 5. No noxious or offensive activity shall be conducted upon any of the Property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Without in any way limiting the effect of the foregoing, the following activities are specifically prohibited:

- a. The maintenance of unsightly plants or underbrush or plants breeding infectious plant diseases or noxious insects.
- b. The burning of refuse outside a Living Unit (except as the burning of leaves may be permitted by ordinance of the appropriate municipal authority).
- c. The maintenance of exterior television or radio antennas, poles, wires, rods or other devices in connection with the reception or transmission of any television, radio or other electrical signal.
- d. No swimming pool of any type or size, whether permanent or temporary, shall be permitted on any of the Lots except with the written consent of the Board of Directors of the Association. A portable child's swimming pool not greater than six (6) feet in diameter may be maintained and situated on a patio or other enclosed area of each Living Unit.
- e. The hanging of laundry or other articles which in any manner makes them visible from any other part of the Property.
- ✓ f. The raising, breeding or maintaining of any livestock, poultry or animals, excepting therefrom, dogs, cats and other common

household pets, but in each case not exceeding two (2) such household pets per Living Unit.

Section 6. No lines or wires for communication or transmission of electric current or power shall be constructed, placed or permitted to be maintained anywhere on the Property, other than within buildings or structures or attached to their walls unless the same shall be contained in conduits or approved cables constructed, placed and maintained underground.

Section 7. No development, construction or removal of any improvement located on the Common Area shall be performed except upon the written consent of the Board of Directors of the Association. Notwithstanding the foregoing, no activity shall be undertaken on the Common Area and Common Facilities which would impair the structural integrity of any other building or structure located on the Property.

Section 8. No recreational vehicles, trucks, commercial vehicles except for personal automobiles shall be permitted to be parked or stored on the Common Area.

Section 9. The Board shall adopt such other rules and regulations from time to time governing the use and enjoyment of the Common Area and Common Facilities as the Board of Directors of the Association in its sole discretion deems appropriate or necessary.

ARTICLE XI EASEMENTS

The Common Area will be subject to utility easements for sanitary sewer, water, storm sewers, gas, cable television, electricity, telephone and any other necessary utilities. If such utilities are not installed or easements not described for same prior to conveyance of the Common Area and Common Facilities, the DECLARANT reserves the right to grant same at a later time.

If any portion of the Common Facilities shall encroach upon any Lot or if any Living Unit shall encroach upon any portions of the Common Area or any other Lot or Lots, as the Common Area and Lots are shown on the plat of subdivision known as CINNABAR POINTE TOWNHOMES recorded as Document R87-129118 and as amended by Affidavit of Correction recorded as Document R88-041813 there shall be deemed to be reciprocal easements in favor of the Owners of the Common Area and the respective Owners of the Lot or Lots involved to the extent of such encroachment, so long as the same shall exist.

ARTICLE XII
VILLAGE OF BARTLETT

The following covenants and provisions are intended to inure to the benefit of the Village of Bartlett and the Bartlett and Countryside Fire Protection District, and it is specified and provided as follows:

The Village of Bartlett and the Bartlett Countryside Fire Protection District are hereby granted a perpetual easement right and privilege to enter upon the Property and the Common Area for the purposes of providing fire and police protection and for the enforcement of all Village ordinances, state statutes and other laws. The Association shall, at the request of the Village of Bartlett and the Bartlett and Countryside Fire Protection District enter into an agreement with the Village of Bartlett and the Bartlett and Countryside Fire Protection District to provide for specified parking and fire protection lanes over, across, and through the Common Area if such Village or District deems it necessary. The Association shall maintain any private sanitary or storm sewer lines and water mains located on the Common Area.

Upon the failure of the Association to perform any of its maintenance duties or other obligations relating to the Common Area resulting in either the continuation or creation of a nuisance, or in the event of any violation of any ordinance, statute or law, upon written notice to the duly authorized agent of the Association or to any officer or director thereof, and the continued failure of the Association to perform such duties or obligations, or to comply with such ordinance, statute or law, within ten (10) days after the mailing of such notice, the Village of Bartlett shall have the right, but not the obligation, to enter upon the Common Area to correct or eliminate such nuisance or nuisances or the violation of such ordinance, statute or other law, provided, however, that no notice shall be required in case of the existence of an emergency determined in good faith by any Village official. The cost of such work, and all expenses incurred by the Village in connection with any proceedings to enforce its rights hereunder, including court costs and attorney's fees, together with interest thereon at 18% per annum, shall be a lien upon the Common Area as well as a lien against the Living Unit of each Owner upon perfection of such lien by recording with the Recorder of Deeds for DuPage County, and shall be assessed against each Owner and each member of the Association, and the Village of Bartlett shall also have the right to file suit against such owners and members, or any of them, in any court of competent jurisdiction to enforce its rights hereunder. Any such lien shall be subordinate to the lien of any first mortgage on any Living Unit, but the enforcement of such lien shall not be cause for acceleration of the debt secured by, or foreclosure of, any such first mortgage.

ARTICLE XIII
MISCELLANEOUS PROVISIONS

Section 1. DECLARANT's Reserved Rights. Notwithstanding any provision herein to the contrary, the easements under Article V, Section 2, shall be subject to:

- a. The right of the DECLARANT to execute all documents and do all other acts and things affecting the Property which, in the DECLARANT's reasonable opinion, are desirable in connection with DECLARANT's rights hereunder, provided any such document or act or thing is not inconsistent with the property rights of any Owner or of the Association.
- b. Easements of record on the date hereof and any easements which may hereafter be granted by DECLARANT to any public utility or governmental bodies for the installation and maintenance of electrical and telephone conduit and lines, gas pipes, sewer and water pipes or any other utility services serving any Living Units or any of the Common Facilities.

Section 2. Mortgagees' Rights. The following provisions are intended for the benefit of each holder of a first mortgage upon a Living Unit, and to the extent if at all, that any other provisions of the within Declaration or the By-Laws conflict with the following provisions, the following provisions shall control:

(a) The Association shall furnish to each first mortgagee of a Living Unit a written notice of any default by the Owner of such Living Unit in the performance of such Owner's obligations under the within Declaration or the By-Laws which is not cured within thirty (30) days. Any first mortgagee of a Living Unit who comes into possession of the said Living Unit pursuant to the remedies provided in the mortgage, foreclosure of the mortgage or deed (or assignment) in lieu of foreclosure shall take such property free of any claims for unpaid assessments or charges in favor of the Association against the mortgaged Living Unit which accrue prior to the time such holder comes into possession of the Living Unit (except for claims for a pro-rata share of such assessments or charges resulting from a pro-rata reallocation of such assessments or charges to all Living Units, including the mortgaged Living Unit).

(b) Upon request in writing, each first mortgagee of a Living Unit shall have the right:

1. to examine the books and records of the Association during normal business hours;
2. to receive an annual audited financial statement from the Association within ninety (90) days following the end of each of its respective fiscal years; and

3. to receive notices of all meetings of the Association and to designate a representative to attend all such meetings.

(c) No provision of the within Declaration or of the By-Laws or Articles of Incorporation of the Association or any similar instrument pertaining to the Property or the Living Units therein shall be deemed to give an Owner or any other party priority over any rights of the first mortgagees of Living Units pursuant to their mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of the Living Units, and/or the Common Area, or any portion thereof or interest therein.

(d) There shall be included in each annual assessment levied by the Association (but not as a special assessment) an amount sufficient to establish an adequate reserve fund for the replacement of the Common Area.

(e) Unless the first mortgagees of all of the individual Living Units which have become a part of the Property have given their prior written approval, neither the Association nor the Owners shall be entitled to:

1. by act or omission seek to abandon or terminate the Townhome Association;
2. except as otherwise specifically provided in Article II hereof, change the pro-rata interest or obligations of any Owner for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (ii) determining the pro-rata share of ownership of each Owner in the Common Area;
3. partition or subdivide any Living Unit;
4. by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by this Declaration shall not be deemed a transfer within the meaning of this clause.
5. use hazard insurance proceeds for losses to any property (whether to Living Units or to Common Area) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in case of substantial loss to the Living Units and/or the Common Area;
6. terminate professional management of the Property and assume self-management of the same;
7. materially amend the Declaration or the Association By-Laws.

(f) Each first mortgagee of a Living Unit shall be furnished notice in writing by the Association of any damage to or destruction of the Common Area if such damage or destruction exceeds Ten Thousand (\$10,000.00) Dollars.

(g) If any Living Unit or portion thereof or the Common Area or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the institutional holder of any first mortgage on a Living Unit will be entitled to timely written notice of any such proceeding or proposed acquisition and no provision of any document will entitle the Owner of a Living Unit or other party to priority over such institutional holder with respect to the distribution to such Living Unit of the proceeds of any award or settlement.

Section 3. Covenant to Rebuild. In the event that it is necessary to rebuild any one or more Living Units, whether by reason of fire, casualty or other occurrence, all owners covenant that any such reconstruction shall be in accordance with the original plan of development in harmony as practically as possible with all other existing Living Units.

Section 4. Covenant to Maintain Sewer and Water Lines. The Owners covenant, to the extent that any utility company, municipality or other governmental body shall not be liable, to maintain all sewer and water lines on their respective Lots that are used by other Owners and to allow such utility companies, municipality or other governmental bodies access to their Lots and Living Units for the purpose of maintaining such lines.

Section 5. Binding Effect of Declaration. Each Owner covenants to abide by each and every covenant and restriction set forth herein and agrees that all conveyances shall be subject to this Declaration as though each and every provision herein was set forth in each and every document affecting title to any Lot or Living Unit.

Section 6. Covenant in Event of Dissolution of Association. All Owners hereby covenant and agree that in the event the Association herein provided for shall be dissolved, all restrictions created herein affecting the Common Area, Common Facilities, Lots and Living Units shall remain in force and that this document shall be in full force and effect regardless of the devolution of title to such Common Area upon the Owners of the Lots.

Section 7. Severability. If by legislation, judgment or court order, any portion of the covenants, restrictions, easements, conditions, reservations, liens and charges imposed by this Declaration shall be found to be unconstitutional, invalid, or unenforceable, such determination shall in no way affect any other provisions of this Declaration and all provisions of this Declaration not so affected shall remain in full force and effect.

Section 8.1 Amendments. With the exception of the provisions in Article IV, Article V--Sections 3 and 5--Article XII and those other

provisions relating to the rights of DECLARANT, this Declaration may be changed, modified or rescinded by an instrument in writing setting forth such change, modification or rescision, signed by Owners having at least two-thirds (2/3rds) of the total vote, and certified by the Secretary of the Board; provided, however, that all lienholders of record have been notified by Certified Mail of such change, modification or rescision, and an affidavit by said Secretary certifying to such mailing is a part of such instrument.

Section 8.2 Any change, modification or rescision shall not be effective until such instrument is duly recorded in the Office of the Recorder of Deeds for DuPage County, Illinois; provided, however, that no provision in this Declaration may be changed, modified or rescinded in such manner or so as to conflict with the provisions of the Act.

Section 8.3 Prior to the sale of the last Living Unit of the Property no change, modification or amendment to this Declaration or the Bylaws shall be made by the Board or the Owners which affect the rights, privileges or obligations of the DECLARANT without its prior written consent.

Section 9. Enforcement. Enforcement of the covenants and restrictions contained in this Declaration shall be had by any proceeding at law or in equity against any person or persons violating or attempting to violate any such covenant or restrictions or to restrain violation or recover damages and against the land to enforce any lien created by these covenants. The failure of the Association, any mortgagee or any Owner to enforce any covenant or restriction created herein shall in no event be deemed a waiver of the right to do so thereafter.

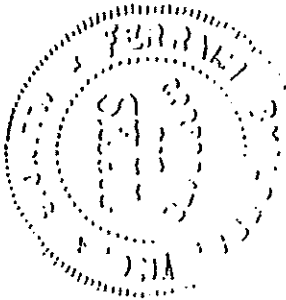
Section 10. Directors and Membership Meetings and Notices. All meetings of the Board of Directors or Membership of the Association shall be called and conducted pursuant to the Articles of Incorporation and By-Laws of said Association, except as such By-Laws are expressly modified by the terms hereof.

Section 11. Captions. All articles and section headings set forth herein are intended for convenience only and shall not be given or construed to have any substantive effect on the provisions of this Declaration.

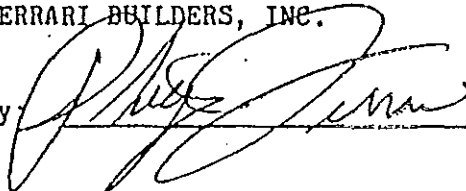
Section 12. Easements Run With the Land. All the easements, rights, covenants, agreements, reservations, restrictions and conditions herein contained shall run with the land and shall inure to the benefit of and be binding upon DECLARANT and each subsequent holder of any interest in any portion of the Property and their grantees, heirs, successors, personal representatives and assigns with the same full force and effect for all purposes as though set forth at length in each and every conveyance of the Property or any part thereof. Reference in the respective deeds of conveyance, or in mortgage or trust deed or other evidence of obligation, to the easement and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of such parcels as fully and completely as though said easements and

88-041814

covenants were fully recited and set forth in their entirety in such documents.



FERRARI BUILDERS, INC.

By: 

ATTEST:

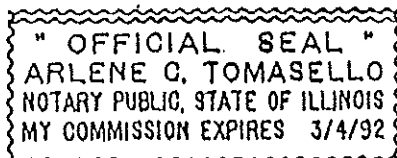


88-041814

STATE OF ILLINOIS)
) SS
COUNTY OF DU PAGE)

I, the undersigned, a Notary Public, in and for the State of Illinois, DO HEREBY CERTIFY, that Philip [Signature] personally known to me to be the President of FERRARI BUILDERS, INC., and Robert [Signature] personally known to me to be the Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Secretary, they signed and delivered the said instrument as President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 27th day of April, 1988.



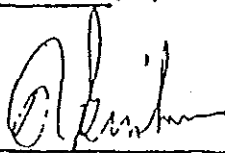
Arlene C. Tomasello
Notary Public

883-541814

CONSENT OF MORTGAGEE

Illinois Regional Bank, holder of a mortgage on the Property, dated June, 1st, 19 87 and recorded August 24th, 19 87, as Document No. R87-126259, hereby consents to the execution and recording of the within Declarations of Covenants, Conditions and Restrictions for Cinnabar Pointe Townhomes and agrees that said mortgage is subject to the provisions of said Declaration.

IN WITNESS WHEREOF, the said Illinois Regional Bank has caused this instrument to be signed by its duly authorized officers on its behalf, all done at Elmhurst Illinois on this 8th day of January, 1988.

By 
Robert G. Girolamo, Vice President

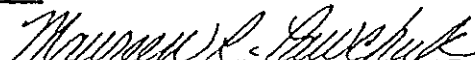
ATTEST:


Patrick M. Alberico, Assistant Vice President

STATE OF ILLINOIS)
) SS.
COUNTY OF DU PAGE)

I Maureen R. Pawchuk a Notary Public in and for said County and State, do hereby certify that Robert G. Girolamo and Patrick M. Alberico, Vice President and Assistant Vice President, respectively, of Illinois Regional Bank N.A., Elmhurst personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8th day of January, 1988.


Notary Public

My Commission Expires:

"OFFICIAL SEAL"
Maureen R. Pawchuk
Notary Public, State of Illinois
My Commission Expires 11/16/91

88-041814

CONSENT OF MORTGAGEE

Austin Bank of Chicago holder of a mortgage on
the Property, dated November 30, 19 87 and recorded December
29, 19 87, as Document No. R87-181661,
hereby consents to the execution and recording of the within Declarations of
Covenants, Conditions and Restrictions for Cinnabar Pointe Townhomes and agrees
that said mortgage is subject to the provisions of said Declaration.

IN WITNESS WHEREOF, the said Austin Bank of Chicago
has caused this instrument to be signed by its duly authorized officers
on its behalf, all done at Chicago Illinois on this 8th
day of January, 1988.

By [Signature]

ATTEST:

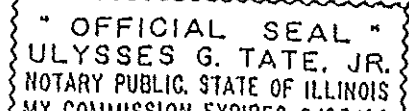
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I Ulysses G. Tate, Jr. a Notary Public in and for said County
and State, do hereby certify that Sam Scott and
[Signature], respectively, of Austin Bank of Chicago
[Signature] personally known to me to be the same persons wh
names are subscribed to the foregoing instrument, appeared before me this
day in person and acknowledged that they signed, sealed and delivered
said instrument as their free and voluntary act, and as the free and
voluntary act of said corporation, for the uses and purposes therein set
forth.

GIVEN under my hand and notarial seal this 2nd day of
February, 1988

[Signature]
Notary Public

My Commission Expires:



BY-LAWS OF THE
CINNABAR POINTE TOWNHOMES
OWNERS' ASSOCIATION

ARTICLE I
NAME OF CORPORATION

The name of this corporation is the CINNABAR POINTE TOWNHOMES OWNERS' ASSOCIATION.

ARTICLE II
PURPOSE AND POWERS

Section 1. Purposes. The Association will act on behalf of the Membership collectively as their governing body for civic functions with respect to the care, maintenance, enhancement, preservation and operation of both real and personal property held by the Association for the common use and enjoyment of the Members; and the maintenance of such other property, the exclusive use of which is retained by the various individual Members.

Section 2. Powers. The Association shall have and exercise all powers now or hereafter conferred under the terms of the General Not-For-Profit Corporation Act of the State of Illinois or conferred by the Declaration of Covenants, Conditions and Restrictions for Cinnabar Pointe Townhomes.

ARTICLE III
DEFINITIONS

The following terms, when used in these By-Laws, shall have the meanings set forth herein:

Section 1. "ASSESSABLE LOT". A Lot located on the Property improved with a Living Unit which has been conveyed, transferred or leased by DECLARANT.

Section 2. "ASSOCIATION". Cinnabar Pointe Townhomes Owners' Association, an Illinois Not-for-Profit Corporation, its successors and assigns.

Section 3. "BOARD OF DIRECTORS", "BOARD" or "DIRECTORS". The Board of Directors, or any individual member of said Board, of the Cinnabar Pointe Townhomes Owners' Association.

Section 4. "COMMON AREA". Real property owned by the Association and referred to on the plat of subdivision as Lots 21 and 22 and easements excepting therefrom any buildings on the plat thereon drawn created for the common use and enjoyment of the Members of the Association, but shall

not include Lots or any part of the Property conveyed or dedicated to a public municipality or municipalities.

Section 5. "COMMON FACILITIES". The walks, roads, streets, paths, playgrounds, landscaping, recreational facilities, parking areas and such other improvements or structures from time to time located or constructed on the Common Area.

Section 6. "DECLARANT" FERRARI BUILDERS, INC., an Illinois corporation.

Section 7. "DECLARATION". That Declaration of Covenants, Conditions and Restrictions for Cinnabar Pointe Townhomes Owners' Association and all other supplementary declarations properly executed and recorded in such Office pursuant to the terms of the aforesaid Declaration.

Section 8. "LIVING UNIT". Any townhouse or other building or a portion thereof situated on a Lot on the Property and intended for use and occupancy as a single family dwelling for which an occupancy permit has been issued.

Section 9. "LOT". That portion of the Property shown upon recorded resubdivision plat or plats of the Property improved or intended to be improved with one Living Unit as hereafter defined.

Section 10. "MEMBER". Every person or entity holding membership in the Association as provided in ARTICLE V hereof.

Section 11. "OWNER or OWNERSHIP". The record holder of fee simple title to any Lot on the Property, whether such Owner shall be one or more persons or entities, the beneficiary or beneficiaries of a trust, shareholder of a corporation or partner of a partnership, but excluding those persons or entities having any interest merely as security for the performance of an obligation.

Section 12. "PROPERTY". The Property described in the Declaration of Covenants, Conditions and Restrictions for Cinnabar Pointe Townhomes Owners' Association, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Unless the provisions of these By-Laws otherwise require, words imparting the masculine gender shall include the feminine; words imparting the singular number shall include the plural, and words imparting the plural shall include the singular.

ARTICLE IV
OFFICES AND AGENTS

The Association shall have and continuously maintain within the State of Illinois a registered office and a registered agent whose office shall be identical with such registered office. In addition, the Association may have such other offices, either within or without the State of Illinois, as the Board of Directors may from time to time determine.

ARTICLE V
MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Membership in the Association shall be determined pursuant to the provisions of ARTICLE III of the Declaration.

Section 2. Voting Rights. The Association shall have two classes of voting Membership.

Class A. Class A Members shall be those Owners as defined in ARTICLE III of the Declaration, other than the DECLARANT, except as the DECLARANT may qualify for Class A Membership as provided herein. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for Membership under ARTICLE III of the Declaration. When the Ownership of any one Lot is held by more than one person or entity, all such persons or entities shall be Members and the vote for such Lot shall be exercised among them, but in no case shall there be allowed more than one vote for any one Lot.

Class B. Class B Membership shall be held by the DECLARANT. The Class B Member or Members shall be entitled to four votes for each Lot in which it holds the interest required for Membership under ARTICLE III of the Declaration, provided that Class B Membership shall cease and be converted to Class A Membership upon the happening of the first of the following events:

1. When the total votes outstanding in Class A Membership equals the total number of votes outstanding in the Class B Membership; or
2. Five years from the date hereof.

ARTICLE VI
MEETINGS OF MEMBERS

Section 1. Annual Meeting. The annual meeting of the Membership of the Association shall be held on the first Tuesday in June in each year, beginning with the year 1987 at the hour of 8:00 o'clock P.M. for the purpose of electing Directors and for the transaction of such other business as may come before the meeting. If any such day shall be a legal holiday, the meeting shall be held at the same time on the next succeeding business day.

If the election of Directors shall not be held on the day designated herein for any annual meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Members called as soon thereafter as conveniently may be.

Section 2. Special Meetings. Special meetings of the Membership may be called at any time by the President or by the Board of Directors, or upon the written request of not less than one-fourth (1/4) of all votes entitled to be cast at any Membership meeting.

Section 3. Notice. Written or printed notice stating the place, day and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called; shall be delivered either personally or by mail not less than five (5) nor more than forty (40) days before the date of such meeting. Such notice shall be given by, or at the direction of, the President or the Secretary or the Officers or Members calling the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail, addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 4. Place. The Board of Directors of the Association may designate any place within Bartlett, Illinois for any annual Membership meeting or for any special meeting called by the Board. If no designation is made, or in the case of special meetings otherwise called, meetings shall be held at the registered office of the Association. Notwithstanding the foregoing, should all of the Members meet at any time and place, either within or without the State of Illinois, and consent to the holding of a meeting, such meeting shall be valid without call or notice and at any such meeting any corporate action may be taken.

Section 5. Quorum. Except as provided in the Articles of Incorporation, these By-Laws or the Declaration, the presence at any meeting in person or by proxy of Members holding one-tenth (1/10th) of the votes entitled to be cast shall constitute a quorum. If a quorum is not present at any meeting of Members, a majority of the votes represented thereat may adjourn the meeting from time to time without further notice.

Unless a greater proportion is required by the Illinois General Not-for-Profit Act, the Articles of Incorporation or these By-Laws, the vote at any Membership meeting, at which a quorum is present, of the majority of the votes present in person or by proxy shall be necessary for the adoption of any matter voted upon by the Members.

In the event the Membership shall consider the designation or transfer of any part of the Common Area to any municipality, public agency, authority or utility, or the levying of a special assessment (all as provided for in the Declaration), or the amending of said Declaration, such matter or matters shall be adopted at a Membership meeting at which a quorum is present, upon the affirmative vote of two-thirds (2/3) of the entire Membership of each class.

Section 6. Proxies. At all Membership meetings, each Member may vote in person or by proxy executed in writing by the Member or his duly authorized attorney-in-fact and filed with the Secretary of the Association. Each proxy shall be revocable and shall automatically cease eleven (11) months from the date of execution, unless otherwise provided therein. Notwithstanding the foregoing, any proxy given by a Member who sells, transfers or assigns the interest required for Membership in the Association under the terms of ARTICLE III of the Declaration shall automatically terminate upon such transfer.

ARTICLE VII
BOARD OF DIRECTORS

Section 1. Number. The affairs of the Association shall be managed by a Board of five (5) Directors, each of whom need not be a resident of Illinois but must be a Member of the Association.

Section 2. Term of Office. At their first annual meeting, the Members shall elect three (3) Directors for a term of two (2) years, and two (2) Directors for a term of one (1) year. Upon the expiration of the terms of office of the Board Members so elected at the first annual meeting and thereafter, successors shall be elected for a term of two (2) years each.

Section 3. Vacancies. Should the death, resignation or removal of a Director create a vacancy on the Board, the unexpired term of such Director shall be served by a successor selected by a majority of the remaining members of the Board. Any Director may be removed from the Board, with or without cause, by the majority vote of the Membership.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of his duties as a Director.

Section 5. Regular Meetings. An annual meeting of the Board of Directors shall be held without other notice than this By-Law, immediately after and at the same place as the annual meeting of the Members. The Board of Directors may provide by resolution the time and place, either within or without the State of Illinois, for holding of additional regular meetings of the Board without other notice than such resolution.

Section 6. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors. The person or persons authorized to call such special meetings of the Board may fix the time and place, either within or without the State of Illinois, as the place for the holding of any such special meeting.

Section 7. Notice. Notice of any special meeting of the Board of Directors shall be given at least two (2) days previously thereto by written notice delivered personally or sent by mail or telegram to each Director at his address as shown by the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any Director may waive notice of any meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or by these By-Laws.

Section 8. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board, provided that if less than a majority of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

Section 9. Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except when the Board shall consider the following matters set forth at length in the Declaration:

- (a) The fixing of the amount of all regular assessments.
- (b) The allocation of any reserve funds.

In these cases, the affirmative vote of two-thirds (2/3) of the Board of Directors present at a meeting at which a quorum is present shall be necessary to adopt any measure with respect thereto.

ARTICLE VIII NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominations Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominations Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee 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. Such nominations must be made from among the Members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE IX POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) Adopt and publish rules and regulations governing the use of the Common Area and Common Facilities and the personal conduct of the Members as well as the number and personal conduct of their guests thereon, and to establish penalties for the infraction thereof;

(b) Suspend the voting rights and the rights to use the Common Area and the Common Facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing for a period not to exceed sixty (60) days for infraction of published rules and regulations;

(c) Borrow money for the purpose of improving or developing the Common Area and any Common Facilities and in aid thereof to mortgage said Common Area and Common Facilities, as well as the power to set admissions and duties for the use of the Common Area and Common Facilities;

(d) Establish procedures regulating the delegation of a Member's rights of enjoyment to the Common Area and Common Facilities;

(e) Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of these By-Laws, the Articles of Incorporation or the Declaration;

(f) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Statutory Powers. The Association shall have all the powers, obligations and responsibilities as set forth in Section 318.5(c) through (e) of Chapter 30 of the Illinois Revised Statutes as the same may be amended.

Section 3. Duties. It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;

(b) Supervise all officers, agents and employees of the Association and to see that their duties are properly performed;

(c) As more fully provided in the Declaration, to:

(i) Conduct a regular meeting of the Board of Directors on or before December 1st of each year for the purpose of determining the regular assessment against each lot prior to such regular assessment period;

(ii) Prepare an itemized list of all estimated expenditures and give written notice of each assessment to every Owner; and

(iii) Foreclose the lien against any Property for which assessments are not paid within thirty (30) days after the due date thereof or to bring an action at law against the Owner personally obligated to pay the same.

(d) To cause an appropriate officer of the Association to issue, upon demand by any Owner, a certificate setting forth whether or not the assessments on such Owner's lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(e) Procure and maintain adequate liability and hazard insurance on all Property owned by the Association.

(f) Cause all officers and employees having a fiscal responsibility to be bonded as the Board may deem appropriate.

(g) Cause the Common Area, Common Facilities and the exterior of the Living Units to be maintained in accordance with the provisions set forth in the Declaration.

ARTICLE X OFFICERS

Section 1. Officers. The officers of the Association shall be a President, Vice President, Treasurer, Secretary and such other officers as may be elected in accordance with the provisions of this Article. The President

shall be a member of the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 2. Election and Term of Office. The officers of the Association shall be elected annually by the Board of Directors at the annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors. Each officer shall hold office until his successor shall have been duly elected and shall have qualified.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the Association would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 5. President. The President shall be the principal executive officer of the Association and shall, in general, supervise and control all of the business and affairs of the Association. He shall preside at all meetings of the Members and of the Board of Directors and shall see that the orders and resolutions of the Board of Directors are carried out. He may sign, with the Secretary or any other proper officer of the Association authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors have authorized to be executed, and, in general, shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. Vice President. In the absence of the President or in the event of his inability or refusal to act, the Vice President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 7. 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; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board. The Treasurer shall sign all checks and notes of the Association, provided that such checks and notes shall also be signed by the President or the Vice President. The Treasurer shall keep proper books of account and cause an annual report of the Association books to

be made by a certified public accountant at the completion of each fiscal year. He shall prepare an annual budget and an annual balance sheet statement and the budget and balance sheet statement shall be presented to the Membership at its annual meeting.

Section 8. Secretary. The Secretary shall be ex-officio the Secretary of the Board of Directors, shall record the votes and keep the minutes of all proceedings in a book to be kept for that purpose. He shall keep the records of the Association. He shall record in a book kept for that purpose the names of all Members of the Association together with their addresses as Members.

ARTICLE XI COMMITTEES

Section 1. Committees. The Board of Directors, by resolution adopted by a majority of the Directors in office, may delegate one or more committees, each of which shall consist of one Director and two or more Members of the Association, which committees, to the extent provided in said resolution, shall have and exercise the authority vested herein by said Board of Directors.

The standing committees of the Association shall be:

- (a) Nominations Committee;
- (b) Architectural Control Committee

Standing committees shall be appointed by the Board of Directors at each annual Directors' meeting, to serve from the close of such meeting until the close of the next annual meeting, and such appointment shall be announced at each such annual Directors' meeting. The Board of Directors may establish by resolution such other committees as it may deem desirable.

Section 2. Nominations Committee. The Nominations Committee shall have the duties and functions described in ARTICLE VIII of these By-Laws.

Section 3. Architectural Control Committee. The Architectural Control Committee shall have the duties and functions described in ARTICLE VIII of the Declaration. It shall be the purpose of said committee to review all proposals coming before it to determine their effect upon the residential value of the Property and to advise the Board of Directors regarding Association action on each such proposal.

Section 4. Chairman. One member of each committee shall be appointed Chairman.

Section 5. Vacancies. Vacancies in the membership of any committee will be filled by appointments made in the same manner as provided in the case of original appointments.

Section 6. Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

Section 7. Rules. Each committee may adopt rules for its own government not inconsistent with these By-Laws or with rules adopted by the Board of Directors.

ARTICLE XII BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to the inspection of any Members.

ARTICLE XIII FISCAL YEAR

The fiscal year of the Association shall begin on the first day of January and end on the last day of December in each year.

ARTICLE XIV CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: CINNABAR POINTE TOWNHOMES OWNERS' ASSOCIATION.

ARTICLE XV WAIVER OF NOTICE

Whenever any notice whatever is required to be given under the provisions of the General Not-for-Profit Corporation Act of Illinois or under the provisions of the Articles of Incorporation or the By-Laws of the Association, 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 equivalent to the giving of such notice.

ARTICLE XVI
AMENDMENTS

Section 1. These Bylaws may be amended or modified at any time, or from time to time, in the same manner as provided in Article XIII of the Declaration; provided that (i) Section 8.1 or any other provisions relating to the rights of the DECLARANT shall not be amended without the written consent of the DECLARANT; and (ii) no provision which specifically grants rights to First Mortgagees shall be amended without the written consent of sixty percent (60%) of the First Mortgagees. These Bylaws may also be amended by the DECLARANT for the purposes and by the procedure set forth in the Declaration. No amendment to these Bylaws shall become effective until recorded.

Section 2. In case of any conflict between the Declaration applicable to the Property and these By-Laws, the Declaration shall control.

IN WITNESS WHEREOF, we, being all of the Directors of the CINNABAR POINTE TOWNHOMES OWNERS' ASSOCIATION, have hereunto set our hands this day of April 27th, 1988.

Philip J. Ferrari

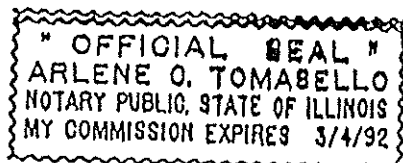
Robert J. Ferrari

STATE OF ILLINOIS)
) SS
COUNTY OF DU PAGE)

I, the undersigned, a Notary Public, in and for the State of Illinois, DO HEREBY CERTIFY, that Philip J. Ferrari, personally known to me to be the President of CINNABAR POINTE TOWNHOMES OWNERS' ASSOCIATION, and Robert J. Ferrari, personally known to me to be the Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Secretary, they signed and delivered the said instrument as President and Secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act,

and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this 27th day of April, 1988.



Arlene O. Tomabello
Notary Public

EXHIBIT A

THAT PART OF THE EAST 1/2 OF THE NORTHWEST 1/4 AND THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 12, TOWNSHIP 40 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF THE CENTERLINE OF STEARNS ROAD, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 12; THENCE NORTH 89°30'11" EAST ALONG THE NORTH LINE OF SAID NORTHEAST 1/4, 876.62 FEET, MORE OR LESS, TO THE CENTERLINE OF JEFFERSON STREET; THENCE SOUTH 00°06'21" EAST ALONG SAID CENTERLINE, 109.36 FEET, MORE OR LESS, TO THE CENTERLINE OF STEARNS ROAD; THENCE NORTH 87°18'16" WEST, 1742.07 FEET, MORE OR LESS, TO A LINE THAT IS 15.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE BAKER FARM; THENCE NORTH 00°00'00" EAST ALONG SAID PARALLEL LINE 611.18 FEET, MORE OR LESS, TO THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 12; THENCE NORTH 89°24'17" EAST ALONG SAID NORTH LINE, 862.38 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.