

IN THE CIRCUIT COURT OF THE 11TH
JUDICIAL CIRCUIT IN AND FOR
MIAMI-DADE COUNTY, FL

CIRCUIT CIVIL DIVISION

CASE NO.:
Division

DANIEL MARINBERG,
Individually and as Unit Owners' Representative,
and DMCC 800 West, LLC,

Plaintiffs,

vs.

AILEEN UPSHON,
LOUIS PETROLE,
PABLO LAFFORGUE,
TODD EDWARDS,
PATRICK KEDZIORA,
GUSTAVO PRADILLA,
and MICHAEL FOURNIER,

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Daniel Marinberg, individually and as Unit Owners' Representative, and DMCC 800 West, LLC, bring this action pursuant to Fla. Stat. § 86.011, to declare the rights, status, and other equitable or legal relations specifically with regard to whether the Defendants have been properly and effectively recalled as Directors of the South Bay Club Condominium Association, Inc. (the "Association"), and replaced by a slate of new Directors. Plaintiff also seeks an injunction to preserve the status quo while these questions regarding the membership of the Board of Directors of the Association are resolved by this Court, pursuant to Fla. Stat. § 718.303 and Florida Rules of Civil Procedure 1.610.

PARTIES

1. Plaintiff Daniel Marinberg is a citizen and resident of Miami-Dade County, Florida, and owns unit 303 at the South Bay Club Condominium through his single member limited liability company Plaintiff DMCC 800 West, LLC, located in Miami Beach, Florida. As alleged herein, he was appointed Unit Owners' Representative by those unit owners seeking to recall the members of the Board of Directors of the Association.

2. Defendant Aileen Upshon is a citizen and resident of Miami-Dade County, Florida, owns unit 725 at the South Bay Club Condominium, and during all relevant times was a member of the Board of Directors of the Association.

3. Defendant Louis Petrole is a citizen and resident of Miami-Dade County, Florida, owns unit 729 at the South Bay Club Condominium, and during all relevant times was a member of the Board of Directors of the Association.

4. Defendant Pablo Lafforgue is a citizen and resident of Miami-Dade County, Florida, owns unit 516 at the South Bay Club Condominium, and during all relevant times was a member of the Board of Directors of the Association.

5. Defendant Todd Edwards is a citizen and resident of Miami-Dade County, Florida, owns unit 445 at the South Bay Club Condominium, and during all relevant times was a member of the Board of Directors of the Association.

6. Defendant Patrick Kedziora, through GMBS Holdings, LLC, owns unit 806 at the South Bay Club Condominium, and during all relevant times was a member of the Board of Directors of the Association.

7. Defendant Gustavo Pradilla is a citizen and resident of Miami-Dade County, Florida, owns unit 932 at the South Bay Club Condominium, and during all relevant times was a member of the Board of Directors of the Association.

8. Defendant Michael Fournier owns unit 911 at the South Bay Club Condominium, and during all relevant times was a member of the Board of Directors of the Association.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction pursuant to Fla. Stat. § 26.012 because the amount in controversy exceeds \$50,000. The Court also has subject-matter jurisdiction over this action pursuant to section 86.011, Florida Statutes.

10. This Court has subject matter jurisdiction pursuant to Fla. Stat. § 718.303 because this action seeks injunctive relief for failure to comply with the provisions of that chapter brought by a unit owner against directors who willfully and knowingly failed to comply with the provisions of that chapter.

11. This Court has personal jurisdiction over Defendants because they are residents of Florida. This Court also possesses personal jurisdiction over Defendants under Fla. Stat. § 48.193 because each of them individually owns, uses, and possesses real property within Florida, specifically their units at the South Bay Club Condominium in Miami Beach, Florida.

12. Venue is proper in this county because the cause of action accrued here, all parties to this action are residents of this county and own property here, and the South Bay Club Condominium is located in this county.

RELEVANT FACTS

13. At all relevant times, the Board had seven (7) members, made up of the Defendants listed above.

14. On June 16, 2026, the Unit Owners' Representative served the Defendants with a written agreement recalling all of them and replacing them with a slate of new Directors including Kevin Saeed, David Campbell, Alexander Wendell, Shaun Jordan, Thomas Inman, Brendan Fleming, and Sven Schulz (the "New Directors").

15. Attached to that written agreement were ballots signed by more than two-thirds ($\frac{2}{3}$) of one-third ($\frac{1}{3}$) of all units in the condominium, nearly all of which voted to recall the Defendants and replace them with the New Directors.

16. On July 14, 2026, Plaintiff, as the Unit Owners' Representative, served a second recall in the form of a written consent on the Defendants, recalling all of them and replacing them with the New Directors. *See* Ex. 1. Attached to the consent were the signatures of more than two-thirds ($\frac{2}{3}$) of one-third ($\frac{1}{3}$) of all of the owners or authorized representatives of units in the condominium.

17. Section 3.11 of the Bylaws of the South Bay Club Condominium (the "Bylaws") provides that:

any action that may be taken at an annual or special meeting of unit owners . . . may be taken without a meeting, without prior notice, and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the members (or persons authorized to cast the vote of any such member . . .) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of such members at which a quorum of such members (or authorized persons) entitled to vote thereon were present and voted.

Ex. 2 at 5.

18. Section 4.3(b) of the Bylaws provides:

Any Director may be removed by concurrence of two-thirds ($\frac{2}{3}$) of the votes of the constituency at a special meeting called for that purpose.

Ex. 2 at 6.

19. Pursuant to an amendment to the Bylaws approved by the Board in the Fall of 1991, a quorum, pursuant to the Bylaws, is achieved when one-third ($\frac{1}{3}$) of the units in the condominium participate. *See* Ex. 3 at 2 (the "1991 Amendment").

20. Accordingly, because section 4.3(b) of the Bylaws provides that directors can be removed by a two-thirds ($\frac{2}{3}$) vote, the 1991 Amendment sets a quorum at one-third ($\frac{1}{3}$) of the units, and section 3.11 of the Bylaws provides that such action may be taken by written consent, the written consent of two-thirds ($\frac{2}{3}$) of one-third ($\frac{1}{3}$) of the units (*e.g.*, at least 78 units) is sufficient to recall Directors.

21. Fla. Stat. § 718.112(2)(l) states “any member of the board of administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all the voting interests.”

22. Fla. Stat. § 718.112(3) provides:

The bylaws as originally recorded or as amended under the procedures provided therein may provide for the following:

...

(d) Other provisions which are not inconsistent with this chapter or with the declaration, as may be desired.

23. Further, Fla. Stat. § 718.112(2)(b)(1) sets forth the following:

Unless a lower number is provided in the bylaws, the percentage of voting interests required to constitute a quorum at a meeting of the members is a majority of the voting interests.

(emphasis added).

24. The written consent and removal provisions of the Bylaws are not inconsistent with Florida Statutes. Fla. Stat. § 718.112(2)(l) does not state that a recall may “only” be achieved with a vote or agreement in writing by a majority of all voting interests. It says it “may” be achieved by this means. *See* A. Scalia and B. Garner, *Reading Law: The Interpretation of Legal Texts*, at 103 (“The traditional, commonly repeated rule is that shall is mandatory and may is permissive”). That provision simply means that a simple majority is **sufficient** for removal of the members of a board,

but not *necessary*. That is, the Bylaws may not require a supermajority of voting interests (because a simple majority is sufficient), but they can specify a lesser number (because a simple majority is not necessary). And here, pursuant to § 718.112(2)(b)(1), the Bylaws provide for a lower number of voting interests to establish a quorum, that is, $\frac{1}{3}$ of the voting interests, the number that participated in the consent. Accordingly, the recall procedures contained within the Bylaws must be followed and enforced.

COUNT I

Declaratory Relief

Fla. Stat. § 86.011 *et seq.*

25. Paragraphs 1 through 24 are restated and incorporated as if fully set forth herein.

26. Fla. Stat. § 86.011 states that the courts of this state “have jurisdiction within their respective jurisdictional amounts to declare rights, status, and other equitable or legal relations whether or not further relief is or could be claimed.”

27. “The court’s declaration may be either affirmative or negative in form and effect and such declaration has the force and effect of a final judgment. The court may render declaratory judgments on the existence, or nonexistence:

- (1) Of any immunity, power, privilege, or right; or
- (2) Of any fact upon which the existence or nonexistence of such immunity, power, privilege, or right does or may depend, whether such immunity, power, privilege, or right now exists or will arise in the future. Any person seeking a declaratory judgment may also demand additional, alternative, coercive, subsequent, or supplemental relief in the same action.

28. The Defendants take the position that their recall under the July 14 consent is ineffective. There is therefore an active controversy between Plaintiff and Defendants.

29. There is a bona fide, actual, present practical need for a declaration based on the present, ascertainable facts. Plaintiff and Defendants have an actual, present, adverse, and antagonistic interest in the subject matter, either in fact or law.

30. Plaintiff respectfully requests that this Court declare that Defendants were effectively recalled as of July 14, 2026, and were replaced by the New Directors.

COUNT II

Injunctive Relief

Fla. Stat. § 718.303

Florida Rules of Civil Procedure 1.610

31. Paragraphs 1 through 30 are restated and incorporated as if fully set forth herein.

32. As set forth above, Plaintiff contends that the Defendants have, based on the July 14 consent, been effectively recalled and replaced by the New Directors.

33. Defendants take the position that they have not been recalled. Moreover, Defendants, upon information and belief, intend to continue to conduct the business of the Association, including but not limited to taking out new indebtedness on its behalf.

34. If Plaintiff is correct, Defendants have no authority to commit the Association to anything, including but not limited to undertaking new indebtedness. Any such act would therefore be ultra vires and unenforceable against the Association.

35. While the declaratory relief sought above is litigated by the parties and resolved by this Court, the status quo should be maintained to insure both that the Association acts with lawful effect and so that the New Directors are not bound by actions to which they, on behalf of the Association did not agree.

36. Accordingly, Plaintiff respectfully requests that this Court enter an injunction barring Defendants from taking any action through on or behalf of the Association other than routine management and maintenance of the South Bay Club Condominium until Plaintiff's requests for injunctive relief are fully and finally adjudicated.

PRAYER FOR RELIEF

37. WHEREFORE, the Plaintiff respectfully requests the following relief:

- a. A declaratory judgment in the Plaintiff's favor and against all Defendants that Defendants were effectively recalled as of July 14, 2026, and were replaced by the New Directors.
- b. An injunction barring Defendants from taking any action through or on behalf of the Association other than routine management and maintenance of the South Bay Club Condominium until Plaintiff's request for declaratory relief set forth above is fully and finally adjudicated.
- c. Attorneys' fees and costs.
- d. Any other and further relief that the Court deems just and proper.

DATED this 24th day of July, 2026.

Respectfully submitted,

s/David Buckner

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Attorney for Plaintiffs

EXHIBIT 1

WRITTEN CONSENT OF THE MEMBERS OF
SOUTH BAY CLUB CONDO ASSOCIATION, INC.
IN LIEU OF MEETING

The undersigned members, pursuant to Section 3.11 of the Bylaws of the South Bay Condominium Association, Inc., as amended, do hereby consent to the taking of the following actions and resolutions without a meeting:

WHEREAS, a quorum for purposes of meetings of the members of the Association is one-third (1/3) of the total number of members in the Association;

WHEREAS, pursuant to Section 4.3(b) of the Bylaws members constituting at least two-thirds (2/3) of the number of members that would constitute a quorum may remove directors from the Board of Directors and fill such vacancies;

WHEREAS, Section 3.11 of the Bylaws permits members to take action by written consent in lieu of a meeting, without notice, without a meeting, and without a vote to the extent the requisite number of members sign a consent representing at least the minimum number of votes necessary to take a particular action;

WHEREAS, the members desire to remove the board members identified below and to replace them with replacement board members identified below; and

WHEREAS, the undersigned signatories represent and constitute units equal in number to at least two-thirds (2/3) of one-third (1/3) of the units in the Association.

NOW, THEREFORE, BE IT RESOLVED that the following actions are hereby taken immediately by the members of the Association and the manager shall provide notice of such actions to all members in accordance with the Bylaws:

- 1) Pablo Lafforgue, Aileen Upshon, Louis Petrole, Todd Edwards, Michael Fournier, Gustavo Pradilla, and Patrick Kedziora are hereby removed as directors and officers of the Association with immediate effect; and
- 2) Kevin Saeed, David Campbell, Alexander Wendell, Shaun Jordan, Thomas Inman, Brendan Fleming, and Sven Schulz are hereby appointed as directors to the Board of Directors of the Association with immediate effect.

[SIGNATURES OF UNITS REPRESENTING 2/3 OF 1/3 OF THE TOTAL UNITS FOLLOW]

IN WITNESS WHEREOF, the undersigned members or parties authorized to vote for their units whether titled in the name of an entity or multiple parties, have executed this Written Consent.

MEMBERS:

Unit Number: 201

Unit Owned In the Name Of: Brandon Peaney and Arturo Alfaro
(put your entity name or the names of all parties owning the unit)

Signature: [Signature]

Print Name: Brandon S. Peaney.

2nd Owner signature if applicable

Signature: _____

Print Name: _____

EXHIBIT 2

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EXHIBIT 4

~~PROPOSED~~

BY-LAWS OF

PLAZA WEST
CONDOMINIUM ASSOCIATION, INC.

A corporation not for profit organized
under the laws of the State of Florida

1. Identity. These are the By-Laws of PLAZA WEST CONDOMINIUM ASSOCIATION, INC. (the "Association"), a corporation not for profit incorporated under the laws of the State of Florida, and organized for the purpose of administering that certain condominium located in Dade County, Florida, and known as PLAZA WEST, A CONDOMINIUM (the "Condominium").

1.1 Principal Office. The principal office of the Association shall be 800 West Avenue, Miami Beach, Florida 33139, or at such other place as may be subsequently designated by the Board of Directors. All books and records of the Association shall be kept at its principal office.

1.2 Fiscal Year. The fiscal year of the Association shall be the calendar year.

1.3 Seal. The seal of the Association shall bear the name of the corporation, the word "Florida", the words "Corporation Not for Profit", and the year of incorporation.

2. Definitions. For convenience, these By-Laws shall be referred to as the "By-Laws" and the Articles of Incorporation of the Association as the "Articles". The other terms used in these By-Laws shall have the same definition and meaning as those set forth in the Declaration for the Condominium, unless herein provided to the contrary, or unless the context otherwise requires.

3. Members.

3.1 Annual Meeting. The annual members' meeting of all the Unit Owners of the Condominium shall be held on the date, at the place and at the time determined by the Board of Directors from time to time, provided that there shall be an annual meeting every calendar year and, to the extent possible, no later than thirteen (13) months after the last preceding annual meeting. The purpose of the meeting shall be, except as provided herein to the contrary, to elect Directors and to transact any other business affecting the Condominium authorized to be transacted by the members, or as stated in the notice of the meeting sent to Unit Owners in advance thereof.

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3.2 Special Meetings. Special members' meetings may be called for the entire membership, for those matters affecting the Condominium, and shall be held at such places as provided herein for annual meetings, and may be called by the President or by a majority of the Board of Directors of the Association, and must be called by the President or Secretary upon receipt of a written request from a majority of the members of the Association. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting.

3.3 Notice of Meeting; Waiver of Notice. Notice of a meeting of members stating the time and place and the purpose(s) for which the meeting is called shall be given by the President or Secretary. A copy of the notice shall be posted at a conspicuous place on the Condominium Property. The notice of the annual meeting shall be sent by mail to each Unit Owner, unless the Unit Owner waives in writing the right to receive notice of the annual meeting by mail. The delivery or mailing shall be to the address of the member as it appears on the roster of members. The posting and mailing of the notice shall be effected not less than fourteen (14) days, nor more than sixty (60) days, prior to the date of the meeting. Proof of posting shall be given by Affidavit, and proof of mailing of the notice shall be given by retention of post office receipts.

Notice of specific meetings may be waived before or after the meeting and the attendance of any member (or person authorized to vote for such member) shall constitute such member's waiver of notice of such meeting, except when his (or his authorized representative's) attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

3.4 Quorum. A quorum at members' meetings shall be attained by the presence, either in person or by proxy, of persons entitled to cast a majority of the votes of the entire membership. If voting rights of any member are suspended pursuant to the provisions of the Declaration, these By-Laws or applicable rules and regulations, the votes of such member so suspended shall not be counted for the purpose of determining the presence of a quorum and the total number of authorized votes shall be reduced accordingly during the period of such suspension.

3.5 Voting.

(a) Number of Votes. Except as provided in paragraph 3.10 hereof, and except when the vote is to be determined by a percentage of shares of ownership in the Condominium (as contemplated in specific portions of the Declaration), in any meeting of members, the Owners of Units shall be entitled to cast one vote for each Unit owned. The vote of a Unit shall not be divisible.

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- (b) Majority Vote. The acts approved by a majority of the votes present in person or by proxy at a meeting at which a quorum shall have been attained shall be binding upon all Unit Owners for all purposes except where otherwise provided by law, the Declaration, the Articles or these By-Laws; specifically recognizing the special rights of the Commercial Unit Owner. As used in these By-Laws, the Articles or the Declaration, the terms "majority of the Unit Owners" and "majority of the members" shall mean those Unit Owners having more than 50% of the then total authorized votes present in person or by proxy and voting at any meeting of the Unit Owners at which a quorum shall have been attained.
- (c) Voting Member. If a Unit is owned by one person, his right to vote shall be established by the roster of members. If a Unit is owned by more than one person, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by all of the record owners of the Unit according to the roster of Unit Owners and filed with the Secretary of the Association. Such person need not be a Unit Owner, nor one of the joint owners. If a Unit is owned by a corporation, the person entitled to cast the vote for the Unit shall be designated by a certificate signed by an appropriate officer of the corporation and filed with the Secretary of the Association. Such person need not be a Unit Owner. Those certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the Unit concerned. A certificate designating the person entitled to cast the vote for a Unit may be revoked by any record owner of an undivided interest in the Unit. If a certificate designating the person entitled to cast the vote for a Unit for which such certificate is required is not on file or has been revoked, the vote of the Owner(s) of such Unit shall not be considered in determining whether a quorum is present, nor for any other purpose, and the total number of authorized votes in the Association shall be reduced accordingly until such certificate is filed, except if the Unit is owned jointly by a husband and wife. If a Unit is owned jointly by a husband and wife, they may, without being required to do so, designate a voting member in the manner provided above. Such designee need not be a Unit Owner. In the event a husband and wife do not designate a voting member, the following provisions shall apply:
- (i) If both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting, and their vote shall not be considered in determining whether

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a quorum is present on that subject at the meeting (and the total number of authorized votes in the Association shall be reduced accordingly for such subject only).

(ii) If only one is present at a meeting, the person present shall be counted for purposes of a quorum and may cast the Unit vote just as though he or she owned the Unit individually, and without establishing the concurrence of the absent person.

(iii) If both are present at a meeting and concur, either one may cast the Unit vote.

3.6 Proxies. Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote, but shall only be valid for the specific meeting for which originally given and any lawful adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the person executing it. A proxy must be filed in writing, signed by the person authorized to cast the vote for the Unit (as above described) and filed with the Secretary before the appointed time of the meeting, or before the time to which the meeting is adjourned. Holders of proxies need not be Unit Owners, but no person other than a designee of the Developer may hold more than 3 proxies.

3.7 Adjourned Meetings. If any proposed meeting cannot be organized because a quorum has not been attained, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, provided notice of the newly scheduled meeting is given in the manner required for the giving of notice of a meeting. Proxies given for the adjourned meeting shall be valid for the newly scheduled meeting unless revoked for reasons other than the new date of the meeting.

3.8 Order of Business. If a quorum has been attained, the order of business at annual members' meetings, and, if applicable, at other members' meetings, shall be:

- (a) Call to order by President;
- (b) Appointment by the President of a chairman of the meeting (who need not be a member or a director);
- (c) Proof of notice of the meeting or waiver of notice;

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- (d) Reading of minutes;
- (e) Reports of officers;
- (f) Reports of committees;
- (g) Appointment of inspectors of election;
- (h) Determination of number of Directors;
- (i) Election of Directors;
- (j) Unfinished business;
- (k) New business;

ent.

Such order may be waived in whole or in part by direction of the chairman.

3.9 Minutes of Meeting. The minutes of all meetings of Unit Owners shall be kept in a book available for inspection by Unit Owners or their authorized representatives and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.

3.10 Delinquent Owners. If any Assessment or portion thereof imposed against a Unit Owner remains unpaid for thirty (30) days after the date due and payable, such Unit Owner's voting rights in the Association shall be automatically suspended until all such past due Assessments and all other sums then due are paid, whereupon the voting rights shall be automatically reinstated.

3.11 Action Without A Meeting. Anything to the contrary herein notwithstanding, to the extent lawful, any action required to be taken at any annual or special meeting of members, or any action which may be taken at any annual or special meeting of such members, subject to the rights of the Commercial Unit Owner, may be taken without a meeting, without prior notice and without a vote if a consent in writing, setting forth the action so taken, shall be signed by the members (or persons authorized to cast the vote of any such member as elsewhere herein set forth) having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting of such members at which a quorum of such members (or authorized persons) entitled to vote thereon were present and voted. Within 10 days after obtaining such authorization by written consent, notice must be given to the members who have not consented in writing. The notice shall fairly summarize the material features of the authorized action.

4. Directors.

4.1 Membership. The affairs of the Association shall be governed by a Board of not less than three (3).

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nor more than nine (9), directors, the exact number to be determined in the first instance in the Articles, and thereafter, except as provided herein, from time to time upon majority vote of the membership. Directors need not be Unit Owners.

4.2 Election of Directors. Election of Directors shall be conducted in the following manner:

- (a) Election of Directors shall be held at the annual members' meeting, except as provided herein to the contrary.
- (b) Nominations for Directors and additional directorships created at the meeting shall be made from the floor.
- (c) The election shall be by written ballot (unless dispensed with by majority consent of the Units represented at the meeting) and by a plurality of the votes cast, each person voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

4.3 Vacancies and Removal.

- (a) Except as to vacancies resulting from removal of Directors by the members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors, and provided that all vacancies in directorships to which Directors were appointed by the Developer pursuant to the provisions of paragraph 4.16 hereof shall be filled by the Developer without the necessity of any meeting.
- (b) Any Director may be removed by concurrence of two-thirds (2/3) of the votes of the constituency at a special meeting called for that purpose. The vacancy in the Board of Directors so created shall be filled by the members at the same meeting, unless such Director was appointed by the Developer, in which case the Developer shall appoint another Director without the necessity of any meeting.
- (c) Provided, however, that until a majority of the Directors are elected by the members other than the Developer of the Condominium, neither the first Directors of the Association, nor any Directors replacing them, nor any Directors named by the Developer, shall be subject to removal by members other than the Developer. The first Directors and Directors replacing them may be removed and replaced by the Developer without the necessity of any meeting.

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- 4.4 Term. Except as provided herein to the contrary, the term of each Director's service shall extend until the next annual meeting of the members and subsequently until his successor is duly elected and qualified, or until he is removed in the manner elsewhere provided.
- 4.5 Organizational Meeting. The organizational meeting of newly-elected or appointed members of the Board of Directors shall be held within ten (10) days of their election or appointment at such place and time as shall be fixed by the Directors at the meeting at which they were elected or appointed, and no further notice to the Board of the organizational meeting shall be necessary.
- 4.6 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, and shall be transmitted at least three (3) days prior to the meeting. Regular meetings of the Board of Directors shall be open to all Unit Owners and notice of such meetings shall be posted conspicuously on the Condominium Property at least forty-eight (48) hours in advance for the attention of the members of the Association, except in the event of an emergency, provided that Unit Owners shall not be permitted to participate, and need not be recognized, at any such meeting.
- 4.7 Special Meetings. Special meetings of the Directors may be called by the President, and must be called by the President or Secretary at the written request of one-third (1/3) of the Directors. Notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting, and shall be transmitted not less than three (3) days prior to the meeting. Special meetings of the Board of Directors shall be open to all Unit Owners and notice of a special meeting shall be posted conspicuously on the Condominium Property at least forty-eight (48) hours in advance for the attention of the members of the Association, except in the event of an emergency, provided that Unit Owners shall not be permitted to participate, and need not be recognized, at any such meeting.
- 4.8 Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and that waiver shall be deemed equivalent to the due receipt by said Director of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of such meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

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4.9 Quorum. A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is specifically required by the Declaration, the Articles or these By-Laws. The acts of the Directors, as provided herein, shall be subject to the special rights of the Commercial Unit Owner as provided in the Declaration.

4.10 Adjourned Meetings. If, at any proposed meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting from time to time until a quorum is present, provided notice of such newly scheduled meeting is given as required hereunder. At any newly scheduled meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

4.11 Joinder in Meeting by Approval of Minutes. The joinder of a Director in the action of a meeting by signing and concurring in the minutes of that meeting shall constitute the presence of that Director for the purpose of determining a quorum.

4.12 Presiding Officer. The presiding officer at the Directors' meetings shall be the President (who may, however, designate any other person to preside). In the absence of the presiding officer, the Directors present may designate any person to preside.

4.13 Order of Business. If a quorum has been attained, the order of business at Directors' meetings shall be:

- (a) Proof of due notice of meeting;
- (b) Reading and disposal of any unapproved minutes;
- (c) Reports of officers and committees;
- (d) Election of officers;
- (e) Unfinished business;
- (f) New business;
- (g) Adjournment.

Such order may be waived in whole or in part by direction of the presiding officer.

4.14 Minutes of Meetings. The minutes of all meetings of the Board of Directors shall be kept in a book available for inspection by Unit Owners, or their authorized representatives, and Board members at any reasonable time. The Association shall retain these minutes for a period of not less than seven years.

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- 4.15 Executive Committee; Other Committees. The Board of Directors may, by resolution duly adopted, appoint an Executive Committee to consist of three (3) or more members of the Board of Directors. Such Executive Committee shall have and may exercise all of the powers of the Board of Directors in management of the business and affairs of the Condominium, subject to the rights of the Commercial Unit Owner, during the period between the meetings of the Board of Directors insofar as may be permitted by law, except that the Executive Committee shall not have power (a) to determine the Common Expenses required for the affairs of the Condominium, (b) to determine the Assessments payable by the Unit Owners to meet the Common Expenses of the Condominium, (c) to adopt or amend any rules and regulations covering the details of the operation and use of the Condominium Property, or (d) to exercise any of the powers set forth in paragraph (g) and (p) of Section 5 below.

The Board may by resolution also create other committees and appoint persons to such committees and invest in such committees such powers and responsibilities as the Board shall deem advisable.

- 4.16 Proviso. Notwithstanding anything to the contrary contained in this Section 4 or otherwise, the Board shall consist of three directors during the period that the Developer is entitled to appoint a majority of the Directors, as hereinafter provided. The Developer shall have the right to appoint all of the members of the Board of Directors until Unit Owners other than the Developer own fifteen (15%) percent or more of the Units that will be operated ultimately by the Association. When Unit Owners other than the Developer own 15% or more of the Units that will be operated ultimately by the Association, the Unit Owners other than the Developer shall be entitled to elect not less than one-third (1/3) of the members of the Board of Directors. Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board of Directors (a) three years after fifty (50%) percent of the Units that will be operated ultimately by the Association have been conveyed to Purchasers; (b) three months after ninety (90%) percent of the Units that will be operated ultimately by the Association have been conveyed to Purchasers; (c) when all of the Units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business; or (d) when some of the Units have been conveyed to purchasers, and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business, whichever occurs first. The Developer is entitled (but not obligated) to elect at least one (1) member of the Board of

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Directors as long as the Developer holds for sale in the ordinary course of business any Units that will be operated ultimately by the Association.

The Developer can turn over control of the Association to Unit Owners other than the Developer prior to such dates in its sole discretion by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Unit Owners other than the Developer to elect Directors and assume control of the Association. Provided at least thirty (30) days' notice of Developer's decision to cause its appointees to resign is given to Unit Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations even if the Unit Owners other than the Developer refuse or fail to assume control.

Within sixty (60) days after the Unit Owners other than the Developer are entitled to elect a member or members of the Board of Directors, or if the Developer has elected to accelerate such event as aforesaid, the Association shall call, and give not less than thirty (30) days' nor more than forty (40) days' notice of a meeting of the Unit Owners to elect such member or members of the Board of Directors. The meeting may be called and the notice given by any Unit Owner if the Association fails to do so.

Within a reasonable time after Unit Owners other than the Developer elect a majority of the members of the Board of Directors of the Association (but not more than sixty (60) days after such event), the Developer shall relinquish control of the Association and shall deliver to the Association all property of the Unit Owners and of the Association held by or controlled by the Developer, including, but not limited to, the following items, if applicable:

- (a) The original or a photocopy of the recorded Declaration of Condominium for the Condominium and all amendments thereto. If a photocopy is provided, the Developer must certify by affidavit that it is a complete copy of the actual recorded Declaration;
- (b) A certified copy of the Articles of Incorporation for the Association;
- (c) A copy of the By-Laws of the Association;
- (d) The Minute Book, including all minutes, and other books and records of the Association;
- (e) Any Rules and Regulations which have been adopted;
- (f) Resignations of resigning officers and Board members who were appointed by the Developer;

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- (g) An audit and accounting, which need not be certified, for all Association funds performed by an auditor independent of the Developer, including capital accounts, reserve accumulations in accordance with Section 718.504(20)(c)j & k., Florida Statutes, and contributions to the extent required by law, the Developer is required to bear all expenses of the Association and of the operation of the Condominium in excess of Assessments or payments collected or due from Unit Owners prior to the time the Developer relinquishes control;
- (h) Association Funds or the control thereof;
- (i) All tangible personal property that is the property of the Association or is or was represented by the Developer to be part of the Common Elements or is ostensibly part of the Common Elements, and an inventory of such property;
- (j) A copy of the plans and specifications utilized in the construction or remodeling of Improvements and the supplying of equipment, and for the construction and installation of all mechanical components servicing the Improvements and the Condominium Property, with a Certificate, in affidavit form, of an officer of the Developer or an architect or engineer authorized to practice in Florida, that such plans and specifications represent, to the best of their knowledge and belief, the actual plans and specifications utilized in the construction and improvement of the Condominium Property and the construction and installation of the mechanical components servicing the Improvements and the Condominium Property;
- (k) Insurance policies;
- (l) Copies of any Certificates of Occupancy which may have been issued for the Condominium Property;
- (m) Any other permits issued by governmental bodies applicable to the Condominium Property in force or issued within one (1) year prior to the date the Unit Owners take control of the Association;
- (n) All written warranties of contractors, subcontractors, suppliers and manufacturers, if any, that are still effective;
- (o) A roster of Unit Owners and their addresses and telephone numbers, if known, as shown on the Developer's records;
- (p) Leases of the Common Elements and other Leases to which the Association is a party, if applicable;

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(q) Employment contracts or service contracts in which the Association is one of the contracting parties, or service contracts in which the Association or Unit Owners have an obligation or responsibility, directly or indirectly, to pay some or all of the fee or charge of the person or persons performing the service; and

(r) All other contracts to which the Association is a party.

4.17 Action Without a Meeting. Anything to the contrary herein notwithstanding, and to the extent lawful, any action required to be taken at a meeting of the Directors, or any action which may be taken at a meeting of Directors or a committee thereof, may be taken without a meeting if a consent in writing setting forth the action so to be taken signed by all of the Directors or all the members of the committee, as the case may be, is filed in the minutes of the proceedings of the Board or of the committee. Such consent shall have the same effect as a unanimous vote and shall be subject to the provisions of the Declaration regarding the Commercial Unit. No prior notice of such intended action shall be required to be given to the Directors or to the Unit Owners. Notice of the taking of such action pursuant hereto shall, however, be posted conspicuously on the Condominium Property for the attention of Owners after such action shall have been effected. Such notice shall fairly summarize the material features of the action so taken.

5. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Condominium and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these By-Laws may not be delegated to the Board of Directors by the Unit Owners. Such powers and duties of the Board of Directors shall include, without limitation (except as limited elsewhere herein) the following:

- (a) Operating and maintaining the Common Elements.
- (b) Determining the expenses required for the operation of the Condominium and the Association.
- (c) Collecting the Assessments for Common Expenses from Unit Owners.
- (d) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Elements.
- (e) Adopting and amending rules and regulations concerning the details of the operation and use of the Condominium Property, subject to a right of the Unit Owners to overrule the Board as provided in Section 13 hereof.

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- (f) Maintaining bank accounts on behalf of the Association and designating the signatories required therefor.
- (g) Purchasing, leasing or otherwise acquiring Units or other property in the name of the Association, or its designee.
- (h) Purchasing Units at foreclosure or other judicial sales, in the name of the Association, or its designee.
- (i) Selling, leasing, mortgaging or otherwise dealing with Units acquired by, and subleasing Units leased by, the Association, or its designee.
- (j) Organizing corporations and appointing persons to act as designees of the Association in acquiring title to or leasing Units or other property.
- (k) Obtaining and reviewing insurance for the Condominium Property.
- (l) Making repairs, additions and improvements to, or alterations of, the Condominium Property, and repairs to and restoration of the Condominium Property, in accordance with the provisions of the Declaration after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise.
- (m) Enforcing obligations of the Unit Owners, allocating profits and expenses and taking such other actions as shall be deemed necessary and proper for the sound management of the Condominium.
- (n) Levying fines against appropriate Unit Owners for violations of the rules and regulations established by the Association to govern the conduct of such Unit Owners.
- (o) Purchasing or leasing Units for use by a resident superintendent.
- (p) Borrowing money on behalf of the Condominium when required in connection with the operation, care, upkeep and maintenance of the Common Elements or the acquisition of property, and granting mortgages on and/or security interests in Association property; provided, however, that the consent of the Owners of at least two-thirds (2/3rds) of the Units represented at a meeting at which a quorum has been attained in accordance with the provisions of these By-Laws shall be required for the borrowing of any sum in excess of \$20,000.00. If any sum borrowed by the Board of Directors on behalf of the Condominium pursuant to the authority contained in this subparagraph (p) is not repaid by the Association, a Unit Owner who pays to the creditor such portion thereof as his interest in his Common Elements bears to the

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interest of all the Unit Owners in the Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor shall have filed or shall have the right to file against, or which will affect, such Unit Owner's Unit.

- (g) Contracting for the management of the Condominium and delegating to such contractor such powers and duties of the Board of Directors as the Board may deem appropriate under the circumstances, except those which may be required by the Declaration, the Articles or these By-Laws to be approved by the Board of Directors or by the Unit Owners; contracting for the management or operation of portions of the Condominium Property susceptible to separate management or operation; and granting concessions for the purpose of providing services to the Unit Owners. In exercising this power, the Association may contract with affiliates of itself and of the Developer.
- (r) At its discretion, authorizing Unit Owners or other persons to use portions of the Common Elements for private parties and gatherings and imposing reasonable charges for such private use.
- (s) Exercising (i) all powers specifically set forth in the Declaration, the Articles, these By-Laws, and in the Florida Condominium Act, and (ii) all powers incidental thereto, and all other powers of a Florida corporation not for profit.
- (t) Suspending the right of any Unit Owner to vote or use the recreation facilities of the Condominium so long as said Unit Owner is delinquent in the payment of Common Expenses or otherwise in violation of the Declaration or any exhibits thereto or applicable rules and regulation.
- (u) Imposing a lawful fee in connection with the approval of the transfer, lease, sale or sublease of Units, not to exceed \$50 in any one case.

6. Officers.

- 6.1 Executive Officers. The executive officers of the Association shall be a President, who shall be a Director, a Vice-President, who shall be a Director, a Treasurer, a Secretary and an Assistant Secretary (none of whom need be Directors), all of whom shall be elected by the Board of Directors and who may be peremptorily removed at any meeting by concurrence of a majority of all of the Directors. A person may hold more than one office, except that the President may not also be the Secretary or Assistant Secretary. No person shall sign an instrument or perform an act in the capacity of more than one office. The Board of Directors from time to time shall elect such other officers and designate their powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association. Officers need not be Unit Owners.

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- 6.2 President. The President shall be the chief executive officer of the Association. He shall have all of the powers and duties that are usually vested in the office of president of an association.
- 6.3 Vice-President. The Vice-President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise such other powers and perform such other duties as are incident to the office of the vice president of an association and as shall otherwise be prescribed by the Directors.
- 6.4 Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.
- 6.5 Assistant Secretary. The Assistant Secretary shall exercise the powers and perform the duties of the Secretary in the absence or disability of the Secretary.
- 6.6 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices on an aggregate basis and on an individual Condominium basis, which, together with substantiating papers, shall be made available to the Board of Directors for examination at reasonable times. He shall submit a treasurer's report to the Board of Directors at reasonable intervals and shall perform all other duties incident to the office of treasurer. All monies and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board of Directors.
7. Compensation. Neither Directors nor officers shall receive compensation for their services as such, but this provision shall not preclude the Board of Directors from employing a Director or officer as an employee of the Association, nor preclude contracting with a Director or officer for the management of the Condominium or for any other service to be supplied by such Director or officer. Directors and officers shall be compensated for all actual and proper out of pocket expenses relating to the proper discharge of their respective duties.
8. Resignations. Any Director or officer may resign his post at any time by written resignation, delivered to the President or Secretary, which shall take effect upon its

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receipt unless a later date is specified in the resignation, in which event the resignation shall be effective from such date unless withdrawn. The acceptance of a resignation shall not be required to make it effective.

9. Fiscal Management. The provisions for fiscal management of the Association set forth in the Declaration and Articles shall be supplemented by the following provisions:

9.1 Budget.

- (a) Adoption by Board; Items. The Board of Directors shall from time to time, and at least annually, prepare a budget for the Condominium (which shall detail all accounts and items of expenses and contain at least all items set forth in Section 718.504(20) of the Act, if applicable), determine the amount of Assessments payable by the Unit Owners to meet the expenses of the Condominium and allocate and assess such expenses among the Unit Owners in accordance with the provisions of the Declaration. In addition to annual operating expenses, the budget shall include reserve accounts for capital expenditures and deferred maintenance as established by the Act. These accounts shall include, but may not be limited to, roof replacement, building painting and pavement resurfacing. The amount of reserves shall be computed by means of a formula which is based upon estimated life and estimated replacement cost of each reserve item. Reserves shall not be required if the members of the Association have, by a two-thirds vote at a duly called meeting of members, determined for a specific fiscal year to provide no reserves or reserves less adequate than required hereby.

The adoption of a budget for the Condominium shall comply with the requirements hereinafter set forth:

- (i) Notice of Meeting. A copy of the proposed budget of Common Expenses shall be mailed to each Unit Owner not less than thirty (30) days prior to the meeting of the Board of Directors at which the budget will be considered, together with a notice of that meeting indicating the time and place of such meetings. The meeting shall be open to such Unit Owners, provided that such Unit Owners shall not have the right to participate, and need not be recognized, at such meeting.
- (ii) Special Membership Meeting. If a budget is adopted by the Board of Directors which requires Assessments against such Unit Owners in any year exceeding one hundred fifteen percent (115%) of such Assessments for the preceding year, as hereinafter defined, upon written appli-

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cation of ten percent (10%) of such Unit Owners, a special meeting of such Unit Owners shall be held within thirty (30) days of delivery of such application to the Board of Directors. Each such Unit Owner shall be given at least ten (10) days' notice of said meeting. At the special meeting, such Unit owners shall consider and adopt a budget. The adoption of said budget shall require a vote of Owners of not less than 50% of all the Units (including Units owned by the Developer).

- (iii) Determination of Budget Amount. In determining whether a budget requires Assessments against Unit Owners in any year exceeding one hundred fifteen percent (115%) of Assessments for the preceding year, there shall be excluded in the computations any authorized provisions for reasonable reserves made by the Board of Directors in respect of repair or replacement of the Condominium Property or in respect of anticipated expenses of the Association which are not anticipated to be incurred on a regular or annual basis, and there shall be excluded from such computation Assessments for improvements to the Condominium Property.
- (iv) Proviso. As long as the Developer is in control of the Board of Directors of the Association, such Board shall not impose an Assessment for a year greater than one hundred fifteen percent (115%) of the prior year's Assessment, as herein defined, without the approval of Unit Owners owning a majority of the Units (including Units owned by the Developer).
- (b) Adoption by Membership. In the event that the Board of Directors shall not be able to adopt a budget in accordance with the requirements of Subsection 9.1(a) above, the Board of Directors may call a special meeting of Unit Owners for the purpose of considering and adopting such budget, which meeting shall be called and held in the manner provided for such special meetings in said subsection, or propose a budget in writing to the members, and if such budget is adopted by such members, upon ratification by a majority of the Board of Directors, it shall become the budget for such year.

9.2 Assessments. Assessments against the Unit Owners for their share of the items of the budget shall be made for the applicable calendar year annually in advance on or before December 20th preceding the year for which the Assessments are made. Such Assessments shall be due in equal installments, payable in advance on the first day of each month

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(or each quarter at the election of the Board) of the year for which the Assessments are made. If an annual Assessment is not made as required, an Assessment shall be presumed to have been made in the amount of the last prior Assessment, and monthly (or quarterly) installments on such Assessment shall be due upon each installment payment date until changed by an amended Assessment. In the event the annual Assessment proves to be insufficient, the budget and Assessments may be amended at any time by the Board of Directors. Unpaid Assessments for the remaining portion of the calendar year for which an amended Assessment is made shall be payable in as many equal installments as there are full months (or quarters) of the calendar year left as of the date of such amended Assessment, each such monthly (or quarterly) installment to be paid on the first day of the month (or quarter), commencing the first day of the next ensuing month (or quarter). If only a partial month (or quarter) remains, the amended Assessment shall be paid with the next regular installment in the following year, unless otherwise directed by the Board in its resolution.

- 9.3 Assessments for Charges. Charges by the Association against members for other than Common Expenses shall be payable in advance. These charges may be collected by Assessment in the same manner as Common Expenses, and when circumstances permit, those charges shall be added to the Assessments for Common Expenses. Charges for other than Common Expenses may be made only after approval of a member or when expressly provided for in the Declaration or the exhibits annexed thereto, as the same may be amended from time to time, which charges may include, without limitation, charges for the use of the Condominium Property or recreation areas, maintenance services furnished at the expense of an Owner, other services furnished for the benefit of an Owner and fines and damages and other sums due from such Owner.
- 9.4 Assessments for Emergencies. Assessments for Common Expenses for emergencies that cannot be paid from the annual Assessments for Common Expenses shall be due only after thirty (30) days' notice is given to the Unit Owners concerned, and shall be paid in such manner as the Board of Directors of the Association may require in the notice of Assessment.
- 9.5 Depository. The depository of the Association shall be such bank or banks in the County as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from those accounts shall be made only by checks signed by such person or persons as are authorized by the Directors. All sums collected by the Association from Assessments or contributions to working capital or otherwise may be commingled in a single fund or divided into more than one fund, as determined by a majority of the Board of Directors.

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9.6 Acceleration of Assessment Installments Upon Default. If a Unit Owner shall be in default in the payment of an installment upon an Assessment, the Board of Directors may accelerate the remaining installments of the Assessment upon notice to the Unit Owner, and the then unpaid balance of the Assessment shall be due upon the date stated in the notice, but not less than five (5) days after delivery of the notice to the Unit Owner, or not less than ten (10) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

9.7 Fidelity Bonds. Fidelity bonds shall be required by the Board of Directors for all persons handling or responsible for Association funds in such amount as shall be determined by a majority of the Board. The premiums on such bonds shall be paid by the Association as a Common Expense.

9.8 Accounting Records and Reports. The Association shall maintain accounting records in the County, according to good accounting practices. The records shall be open to inspection by Unit Owners or their authorized representatives at reasonable times and written summaries of them shall be supplied at least annually. The records shall include, but not be limited to, (a) a record of all receipts and expenditures, and (b) an account for each Unit designating the name and current mailing address of the Unit Owner, the amount of each Assessment, the dates and amounts in which the Assessments come due, the amount paid upon the account and the dates so paid, and the balance due. Written summaries of the records described in clause (a) above, in the form and manner specified below, shall be supplied to each Unit Owner annually.

Within sixty (60) days following the end of the fiscal year, the Board shall mail, or furnish by personal delivery, to each Unit Owner a complete financial report of actual receipts and expenditures for the previous twelve (12) months. The report shall show the amounts of receipts by accounts and receipt classifications and shall show the amounts of expenses by accounts and expense classifications, including, if applicable, but not limited to, the following:

- a. Cost for security;
- b. Professional and management fees and expenses;
- c. Taxes;
- d. Cost for recreation facilities;
- e. Expenses for refuse collection and utility services;
- f. Expenses for lawn care;
- g. Cost for building maintenance and repair;

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- h. Insurance costs;
 - i. Administrative and salary expenses; and
 - j. General reserves, maintenance reserves and depreciation reserves.
- 9.9 Application of Payment. All Assessment payments made by a Unit Owner shall be applied as provided herein and in the Declaration or as determined by the Board.
- 9.10 Notice of Meetings. Notice of any meeting where Assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that Assessments will be considered and the nature of any such Assessments.
10. Roster of Unit Owners. Each Unit Owner shall file with the Association a copy of the deed or other document showing his ownership. The Association shall maintain such information. The Association may rely upon the accuracy of such information for all purposes until notified in writing of changes therein as provided above. Only Unit Owners of record on the date notice of any meeting requiring their vote is given shall be entitled to notice of and to vote at such meeting, unless prior to such meeting other Owners shall produce adequate evidence, as provided above, of their interest and shall waive in writing notice of such meeting.
11. Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration, the Articles or these By-Laws.
12. Amendments. Except as in the Declaration provided otherwise, these By-Laws may be amended in the following manner:
- 12.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.
 - 12.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board of Directors or by not less than one-third (1/3) of the members of the Association. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, provided that such approval is delivered to the Secretary at or prior to the meeting. The approval must be:
 - (a) by not less than a majority of the votes of all members of the Association represented at a meeting at which a quorum has been attained and by not less than 66-2/3% of the entire Board of Directors; or
 - (b) by not less than 80% of the votes of the members of the Association represented at a meeting at which a quorum has been attained; or

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(c) by not less than 100% of the entire Board of Directors.

(d) If the amendment would materially adversely affect the Commercial Unit it may only be adopted with the consent of the Commercial Unit Owner.

12.3 Proviso. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Developer or mortgagees of Units without the consent of said Developer and mortgagees in each instance. No amendment shall be made that is in conflict with the Articles or Declaration.

12.4 Execution and Recording. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an amendment of the Declaration and By-Laws, which certificate shall be executed by the President or Vice-President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed, or by the Developer alone if the amendment has been adopted consistent with the provisions of the Declaration allowing such action by the Developer. The amendment shall be effective when the certificate and a copy of the amendment is recorded in the Public Records of the County.

13. Rules and Regulations. Annexed hereto as Schedule A and made a part hereof are rules and regulations concerning the use of portions of the Condominium. The Board of Directors may, from time to time, modify, amend or add to such rules and regulations, except that subsequent to the date control of the Board is turned over by the Developer to Unit Owners other than the Developer, Owners of a majority of the Units represented at a meeting at which a quorum is present may overrule the Board with respect to any such modifications, amendments or additions. Copies of such modified, amended or additional rules and regulations shall be furnished by the Board of Directors to each affected Unit Owner not less than thirty (30) days prior to the effective date thereof. At no time may any rule or regulation be adopted which would prejudice the rights reserved to the Developer or the Primary Institutional First Mortgagee.

14. Construction. Wherever the context so permits, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

15. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define or limit the scope of these By-Laws or the intent of any provision hereof.

The foregoing was adopted as the By-Laws of PLAZA WEST CONDOMINIUM ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida, on the 19 day of February, 1980.

Approved:

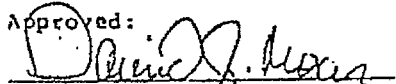

President

EXHIBIT 3

I HEREBY CERTIFY THAT THIS MICROFICHE COPY IS A TRUE COPY OF THE ORIGINAL DOCUMENT AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS, AND THAT THE PHOTOGRAPHIC PROCESSES USED FOR MICROFILMING WERE ACCOMPLISHED IN A MANNER AND ON MICROFILM WHICH MEETS THE RECOMMENDED REQUIREMENT OF THE AMERICAN NATIONAL STANDARDS INSTITUTE FOR PERMANENT MICROFILMOGRAPHIC REPRODUCTIONS.

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CERTIFICATE OF AMENDMENT
TO
THE DECLARATION OF CONDOMINIUM
AND
BY-LAWS
OF
SOUTH BAY CLUB CONDOMINIUM, INC.

WHEREAS, the Declaration of Condominium of South Bay Club Condominium was duly recorded in Official Records Book 10662 at Page 657 of the Public Records of Dade County, Florida; and

WHEREAS, South Bay Club Condominium, Inc. (hereinafter the "Association") is the entity responsible for the operation of the aforementioned condominium; and

WHEREAS, at a duly called and convened meeting of the membership of the Association held on October 29, 1991, the Board by unanimous vote of all directors approved the amendments as set forth in Exhibit "A" attached hereto and incorporated herein. The amendments have been adopted in accordance with the requirements of the pertinent provisions set out in the Declaration of Condominium and By-Laws.

NOW, THEREFORE, the undersigned hereby certifies that the amendments to the Declaration of Condominium and By-Laws as set out in Exhibit "A" attached hereto and incorporated herein are a true copy of the amendments as approved by the requisite percentage of the membership of the Association.

WITNESS my signature hereto this 6 day of November, 1991 at Miami, Florida.

[Signature]
Witness

SOUTH BAY CLUB CONDOMINIUM, INC.

BY: Neil C. Martin
President
(Seal)

[Signature]
Witness

ATTEST: Christine R. ...
Secretary

STATE OF FLORIDA :
COUNTY OF DADE : SS

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgements, personally appeared Neil C. Martin and Christine R. ... well known to me to be the President and Secretary of South Bay Club Condominium, Inc., a Florida Corporation, on behalf of the Corporation and that they acknowledged executing the same voluntarily under the authority duly vested in them as said Corporation.

Dated at Dade County, Florida, this 6 day of November, 1991.

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA
(Seal)

My Commission Expires: NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES OCT. 21, 1993
SIGNED THRU GENERAL INS. UND.

I HEREBY CERTIFY THAT THIS MICROPHOTOGRAPH IS A TRUE COPY OF THE ORIGINAL DOCUMENT AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS, AND THAT THE PHOTOGRAPHIC PROCESSES USED FOR MICROFILMING WERE ACCOMPLISHED IN A MANNER AND ON MICROFILM WHICH MEETS THE RECOMMENDED REQUIREMENT OF THE AMERICAN NATIONAL STANDARDS INSTITUTE FOR PERMANENT MICROPHOTOGRAPHIC REPRODUCTIONS.

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AMENDMENT
TO
DECLARATION OF CONDOMINIUM
OF
SOUTH BAY CLUB CONDOMINIUM
AND
BY-LAWS
OF
SOUTH BAY CLUB CONDOMINIUM ASSOCIATION, INC.

(Additions shown by underlining; deletions by "----")

1. Amendment to Article 11(f) of the Declaration as follows:

11. "Operation of the Condominium by the Association: Powers and Duties. The Association shall be the entity responsible for the operation of the Condominium. The powers and duties of the Association shall include those set forth in the By-Laws and Articles of Incorporation of the Association (respectively, Exhibits 4 and 5 annexed hereto), as amended from time to time. In addition, the Association shall have all the powers and duties set forth in the Act, as well as all powers and duties granted to or imposed upon it by this Declaration, including, with limitation:

... (f) Subsequent to the recording of this Declaration, the Association, when authorized by a majority of the Units represented at a meeting at which a quorum has been attained, shall have the power to acquire and enter into agreements for the acquisition of fee interests, leaseholds, memberships, and other possessory or use interests in lands or facilities, including, but not limited to, country clubs, golf courses, marinas and other recreational facilities, whether or not contiguous to the lands of the Condominium, intended to provide for the use or benefit of the Unit Owners. Notwithstanding the foregoing, the Board of Directors shall have the power to acquire and enter into agreements for the acquisition of fee interest, leaseholds, membership and other possessory or use interests in lands or facilities for the purpose of providing additional parking without the need for a vote of the membership of the Association if the Board, in the exercise of its business judgement, deems that such additional parking is necessary or desirable in connection with the operation of the condominium. The expenses of ownership (including the expense of making and carrying any mortgage related to such ownership), rental, membership fees, operation, replacements and other expenses and undertakings in connection therewith shall be Common Expenses."

2. Amendment to Article 3.4 of the By-Laws as follows:

"Quorum. A quorum at members' meetings shall be attained by the presence, either in person or by proxy, of persons entitled to cast a majority one-third (1/3) of the votes of the entire membership. ~~Pr-voting-righes of any member are suspended pursuant to the provisions of the Declaration, these By-Laws or applicable rules and regulations; the votes of such member so suspended shall not be counted for the purpose of determining the presence of a quorum and the total number of authorized votes shall be reduced accordingly during the period of such suspension.~~