

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

SOMERSET PATIO HOMES SUBDIVISION

JEFFERSON COUNTY, KENTUCKY

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR SOMERSET PATIO HOMES SUBDIVISION is made on June 22, 1994, by DAVID M. CARNEY, an individual, 400 Mallard Creek Road, Louisville, Kentucky 40207 ("Developer").

WHEREAS, Developer is the owner of certain real property in Jefferson County, Kentucky, a portion of which is to be developed as a residential subdivision;

NOW, THEREFORE, Developer hereby declares that all of the property described in this instrument, and such additions as may be made pursuant to Article I, shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of the real property. The easements, restrictions, covenants and conditions shall run with the real property and be binding on all parties having any right, title or interest in it, their heirs, successors and assigns, and shall inure to the benefit of each owner.

**ARTICLE I -- PROPERTY SUBJECT TO
THIS DECLARATION; ADDITIONS**

Section 1. Existing Property. The real property which is subject to this Declaration is located in Jefferson County, Kentucky and is more particularly described as follows:

BEING Lots 1 through 24 inclusive as shown on the plat of Somerset Patio Homes Subdivision of record in Plat and Subdivision Book 40, Page 85, in the Office of the Clerk of Jefferson County, Kentucky.

BEING the property acquired by Developer by Deed dated October 12, 1993, as recorded in Deed Book 6370, Page 897, in the Office of the Clerk of Jefferson County, Kentucky.

Section 2. Additions to Existing Property. Additional residential property and common areas which are not presently part of the general plan of development may become subject to this Declaration through annexation to Somerset Patio Homes Subdivision by Developer.

ARTICLE II -- USE RESTRICTIONS

Section 1. Primary Use Restrictions. No lot shall be used except for private single-family residential purposes. No structure shall be erected, placed or altered or permitted to remain on any lot except one single-family dwelling designed for the occupancy of one family. Said single-family dwellings shall be attached to and separated from adjoining residences by party walls on two sides of the structure. The structures are designed for the occupancy of one family (including a domestic servant living on the premises), not to exceed two stories in height

and having a single kitchen. All residents of the dwelling, except one resident, must be related by blood, marriage, or adoption; it being provided however, that nothing herein contained shall prevent two or three persons from joining together to purchase and share a dwelling unit.

For purposes of this Declaration, there shall be specifically excluded from the meaning of the phrase "private single-family residential purposes", and shall not be permitted on any lot within Somerset Patio Homes Subdivision, regardless of whether any of the same would otherwise be permitted by any applicable zoning regulations or other governmental laws, rules or regulations, any uses which constitute or relate to (a) boarding houses, (b) lodging houses (c) fraternities or sororities, (d) clubs, (e) hotels, (f) residences or homes for social rehabilitation, (g) nursing homes, (h) residences or homes for the aged or infirm, (i) programs with respect to which admission to residency in or occupancy of the premises is limited to or intended in whole or in part for persons in the custody of the criminal justice system or the juvenile justice system and/or persons engaged in the care, custody, nurturance or supervision of such persons, (j) any Exceptional Residential Use (as presently defined in Article 2 of the Regulations of the Louisville and Jefferson County Planning Commission), and (k) any "group home" or other similar use as determined by Developer and/or the Board of Directors.

Section 2. Nuisances. No noxious or offensive trade or activity shall be conducted on any lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

Section 3. Use of Other Structures and Vehicles.

(a) No structure of a temporary character shall be permitted on any lot except temporary tool sheds or field offices used by a builder or Developer, which shall be removed when construction or development is completed.

(b) No outbuilding, trailer, basement, tent, shack, garage, barn or structure other than the main residence erected on a lot shall at any time be used as a residence, temporarily or permanently.

(c) No trailer, truck, motorcycle, commercial vehicle, camper trailer, camping vehicle or boat shall be parked or kept on any lot at any time unless housed in a garage. No automobile which is inoperable shall be habitually or repeatedly parked or kept on any lot (except in the garage) or on any street in the subdivision. No trailer, boat, truck, or other vehicle, except an automobile, shall be parked on any street in the subdivision for a period in excess of twenty-four hours in any one, calendar year.

(d) No automobile shall be continuously or habitually parked on any street or public right-of-way in the subdivision.

(e) All garage doors shall remain closed at all times except when required to be open for the entrance or exit of a vehicle housed therein.

Section 4. Animals. No animals, including reptiles, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets (meaning

the domestic pets traditionally recognized as household pets in this geographic area) may be kept, provided they are not kept, bred or maintained for any commercial or breeding purposes. All household pets, including dogs and cats, shall at all times be confined to the lot occupied by the owner of such pet or shall be restrained by a leash.

Section 5. Clothes Lines; Fences and Walls; Antennae and Receivers/Transmitters; Yard Ornaments.

(a) No outside clothes lines shall be erected or placed on any lot.

(b) No hedge or fence shall be placed or planted on any lot unless its design and placement of planting are approved in writing by Developer or by any person or association to whom he may assign the right. In only remote circumstances, will fencing be considered. Fence height, if approved, may only be 72" maximum. Fence material to be of wood, brick, or wrought iron, and landscaped. Only a portion of the side yard shall be fenced. Chain link fences will not be approved. Privacy screens for patios shall not be considered fences, as defined in this paragraph; however, no patio privacy screen; shall be placed or erected on any lot unless its design and placement are approved in writing by Developer or by any person or association to whom he may assign the right.

(c) No antennae (except for standard small television antennae) or microwave and other receivers and transmitters (including those currently called "satellite dishes") shall be erected or placed on any lot unless (i) the Lot owner can show special circumstances requiring the use of extraordinary receivers or transmitters; (ii) the device is adequately screened or buffered by mature shrubbery or trees, by terrain or by fences or other structures; and (iii) its design and placement are approved by Developer or by any person or association to whom he may assign the right. By granting permission to a Lot owner to erect receivers or transmitters, Developer shall not be deemed to have waived this restriction as it may apply to other lots in Somerset Patio Homes Subdivision.

(d) No garden of any nature shall be planted, grown, maintained, placed or allowed to remain on any lot except that small flower gardens may be permitted provided the size, placement and design are approved in writing by Developer or by any person or association to whom he may assign the right.

(e) No ornamental garden material or decoration of a non-growing variety shall be permitted unless its design and placement are approved in writing by the Developer or by any person or association to whom he may assign the right.

(f) No ornamental yard objects, statuary or sculpture, etc. shall be placed on any lot unless its design and placement are approved in writing by Developer or by any person or association to whom he may assign the right.

Section 6. Business; Home Occupations. No trade or business of any kind (and no practice of medicine, dentistry, chiropody, osteopathy and other like endeavors) shall be conducted on any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof or of Section 1, a new

house may be used by a builder thereof or Developer as a model home for display or for the builder's own office provided said use terminates within eighteen (18) months from completion of the house or upon such additional period of time as may be expressly agreed to in writing by Developer.

Section 7. Signs. No sign for advertising or for any other purpose shall be displayed on any lot or on a building or a structure on any lot, except one sign by the builder and one sign by a real estate agent or Lot owner advertising the sale or rent thereof, which shall not be greater in area than nine square feet each; provided, however, Developer shall have the right to (i) erect larger signs when advertising the subdivision, (ii) place signs on lots designating the lot numbers, and (iii) following the sale of a lot, place signs on such lot indicating the name of the purchaser. This restriction shall not prohibit placement of occupant name signs and lot numbers as allowed by applicable zoning regulations.

Section 8. Drainage. Drainage of each lot shall conform to the general drainage plans of Developer for the subdivision. No storm water drains, roof downspouts or ground water shall be introduced into the sanitary sewage system. Connections on each lot shall be made with watertight joints in accordance with all applicable plumbing code requirements.

Section 9. Disposal of Trash. No lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers.

Section 10. Underground Utility Services.

(a) Each Lot owner's electric and telephone utility service lines shall be underground throughout the length of service line from Louisville Gas & Electric's ("LG&E") and South Central Bell Telephone Company's ("SC Bell"), respective points of delivery to the customers's building. Title to the service lines shall remain in, and the cost of installation and maintenance thereof shall be borne by, the Lot owner upon whose lot the service line is located.

Appropriate easements as shall be acceptable to Developer, are hereby dedicated and reserved to LG&E and SC Bell, together with the right of ingress and egress over abutting lots or properties to install, operate and maintain electric and telephone service lines from each lot to LG&E's and SC Bell's respective termination points. Electric and telephone service lines, as installed, shall determine the exact location of said easements.

The electric and telephone easements shown on the plat shall be maintained and preserved in their present condition and no encroachment thereon and no change in the grade or elevation thereof shall be made by any person or Lot owner without the express written consent of LG&E and SC Bell.

(b) Aboveground electric transformers and pedestals may be installed at appropriate points in any electric or other easement.

In consideration of bringing service to the property shown on this plat, LG&E and SC Bell are granted the right to make further extensions of their lines from all overhead and

underground distribution lines.

Section 11. Rules for Common Areas. Somerset Patio Homes Residents Association, Inc. (hereinafter sometimes referred to as the "Residents Association") is authorized to adopt rules for the use of common areas and such rules shall be furnished in writing to the Lot owners.

Section 12. Insurance Required. The owner of each lot shall insure all improvements, existing or hereafter placed upon his lot against loss by fire, tornado, and such other hazards, casualties, and contingencies, and at a minimum in such amounts, as Developer or any person or association to whom he may assign the right, shall from time to time require. Such insurance shall be made payable to the owner, or his nominee (which may be any mortgage holder) and to the Residents Association, jointly and copies of such policies issued pursuant to this provision shall be delivered by the Lot owner to the Residents Association at the time of the closing of the sale of any lot. The Lot owner shall, at least fifteen days before the expiration of any policy for any insurance hereinabove required, deliver to the Residents Association evidence of a proper renewal policy.

Section 13. Obligation to Reconstruct or Repair. If all or any portion of a residence is damaged or destroyed by fire, or other casualty, then Lot owner shall, with all due diligence, promptly rebuild, repair, or reconstruct such residence in a manner which shall substantially restore it to its apparent condition immediately prior to the casualty. Such repair or replacement shall conform to this Declaration of Covenants, Conditions and Restrictions and shall be treated as an addition, alteration, or improvement under paragraph 14 below. Any proceeds from insurance received in payment for the damage or destruction of the improvements on any lot shall be disbursed only to cover the expense of repair or replacement until such time as the repair or replacement is completed and paid for, at which time any balance remaining shall be paid to the Lot owner or his nominee.

Section 14. Approval of Construction Plans. No building, fence, wall, structure, addition, alteration or other improvement shall be erected, placed or altered on any lot nor shall the original exterior architecture, design or color of the structure on any lot, be altered, modified or changed in any manner until the construction plans, specifications and a plan showing the grade elevation (including front, rear and side elevation) and location of the structure, fence, wall, addition, alteration or improvement and the type and color of exterior material shall have been approved in writing by Developer or by any person or association to whom he may assign the right. All additions, alterations or improvements approved by Developer or its assignee shall be completed as promptly as circumstances will permit and a required completion date may be made as a condition of approval. Developer may vary the established building lines, in his sole discretion, where not in conflict with applicable zoning regulations.

Section 15. Window Treatments. No drapes, blinds or window treatments of any kind shall be placed on or at any window unless such drapes, blinds or window treatments are white or lined in such a manner so that the window treatments appear to be white from the exterior of the dwelling.

ARTICLE III -- RESIDENTS ASSOCIATION

Section 1. Residents Association.

(a) Somerset Patio Homes Residents Association, Inc. ("Residents Association"), a nonprofit Kentucky corporation, has been created to maintain common areas (see Section 3 of this Article for definition) and to promote the social welfare and serve the common good and general welfare of its members including, but not limited to, maintenance, painting and repair of the building exteriors, roofs, streets and walkways of the property, and the Residents Association shall also be responsible for all lawn and grass mowing *Chemical service*

(b) The Residents Association shall be responsible for maintenance of all sanitary sewers from the Lot line of any Lot to the Louisville and Jefferson County Metropolitan Sewer District's Sanitary Sewer and Drainage Easement line. It shall be the responsibility and right of the Residents Association to maintain the building exteriors, roofs, private streets, walkways, and lawns of the property located in Somerset Patio Homes Subdivision, and no Lot owner shall paint, repair, or replace any of the property for which the Residents Association is responsible nor shall any Lot owner mow or cut any grass on the property at any time - this being a function of the Residents Association to maintain the uniform appearance of Somerset Patio Homes Subdivision.

(c) Every Lot owner, by acceptance of a deed for any Lot, acknowledges the need and purpose for the common maintenance of Somerset Patio Homes Subdivision, grants the Residents Association an easement for ingress, egress and access for the purposes set out herein, in the Articles of Incorporation and the Bylaws of the Residents Association, and covenants and agrees to accept and abide by the terms, conditions and provisions of this Article and all decisions of the Residents Association's Board of Directors.

(d) Every Lot owner in Somerset Patio Homes Subdivision shall be a member of the Residents Association and subject to the membership obligations established in this instrument, including association rules adopted under Article II, Section 11.

Section 2. Assessments.

(a) Each Lot owner, except Developer, by acceptance of a deed for a lot, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Residents Association (i) monthly maintenance assessments or charges, and (ii) special assessments for capital improvements, such assessments to be established and collected as provided in this Article III. Developer shall be responsible for the maintenance costs of the Residents Association incurred over and above assessed amounts payable to the Residents Association by the Lot owners until Developer transfers control of the Residents Association. Maintenance cost overruns funded by Developer are an obligation of the Residents Association, which shall be repaid to Developer from future surpluses. The monthly maintenance and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment

fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

(b) The assessments levied by the Residents Association shall be made and used for the purpose of promoting the health, safety and welfare of the residents of Somerset Patio Homes Subdivision and in particular for the improvement and maintenance of the property, for services and facilities for the property and for the persons residing therein; improving and maintaining the property including, but not limited to, repair, replacement painting and making additions to the property and the maintenance of utility services, and other comparable services and benefits; and satisfying the cost of labor, equipment, materials, management and supervision thereof. The Residents Association shall maintain, operate and repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the common areas, open spaces, entranceways, streets, cross-walks, medians, berms, storm drains and other improvements.

(c) Until Class B membership ceases and is converted to Class A membership pursuant to Article III, Section 2(n), Developer or his nominee shall administer the assessments and receipts therefrom, which may only be used for purposes generally benefiting Somerset Patio Homes Subdivision as permitted in this Declaration.

(d) Every Lot owner, except Developer, shall pay a monthly maintenance fee on the first day of each month, which fee shall be \$40.00 per lot for 1994. This same amount shall automatically be charged monthly until the Residents Association gives notice of an increase or decrease.

(e) In addition to the monthly assessments authorized above, the Association may levy in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement, provided that any such assessment shall have the assent of two-thirds of the votes of the Residents Association's voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall set forth the purpose of the meeting.

(f) Except as otherwise provided herein, both annual and special assessments shall be fixed at a uniform rate for all lots except those unimproved and unoccupied lots owned by Developer or a builder. The Board of Directors may at its discretion waive the assessment for any year or part of a year for any lot not occupied as a residence.

(g) The Resident Association's Board of Directors shall fix the due date and the amount of each assessment against each lot, which assessment period shall be at least 30 days in advance of such due date. At that time the Board of Directors shall prepare a roster of the Lot owners and assessments applicable thereto and which it, upon demand, shall furnish to any Owner a certificate in writing signed by an officer of the Residents Association setting forth whether his particular assessment has been paid. Each certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(h) If the assessments are not paid on the date when due, then such assessment

shall become delinquent and shall, together with interest thereon, become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. An Officer of the Residents Association shall have the power to file or record a notice of lien, or lis pendens, in the Office of the County Clerk of Jefferson County, Kentucky. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation and shall be enforceable against him.

(j) If an assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of the delinquency at the statutory rate of interest applicable to judgments, and the association may bring legal action against the Owner personally obligated to pay the same, or foreclose the lien against the property in the manner provided by law, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided to be fixed by the Court, together with the cost of the action.

(k) The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon any lot subject to assessment; provided, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a judicial enforcement of the mortgage, or any proceeding in lieu of foreclosure and not to any assessments which became due thereafter, and provided further that a purchaser for value without notice shall not be bound by delinquent assessments unless due notice is filed as provided hereinabove.

(l) The common areas shall be exempt from the assessments and the charge and lien created hereby.

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(m) Developer and every owner of a lot which is subject to an assessment shall be a member of the Residents Association. Such owner and member shall abide by the Residents Association's Bylaws, rules and regulations, and Articles of Incorporation recorded in the Corporation Book 466, Page 288 in the Office of the County Clerk of Jefferson County, Kentucky, and shall pay the assessments provided for in this Declaration, when due, and shall comply with decisions of the Residents Association's Board of Directors. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

(n) The Residents Association shall have two classes of voting membership:

(i) Class A. The Class A members shall be all Lot owners with the exception of Developer.

(ii) Class B. The Class B member shall be Developer. The Class B membership shall cease and be converted to Class A membership on the happening of any of the events specified in subparagraph (iii) below whichever occurs earlier.

(iii) Each member shall have one vote with respect to each lot owned by such member, but Class A members shall not be entitled to exercise any vote until the earlier of:

- (1) When, in his discretion, Developer so determines;
- (2) When 100% of the lots which may be developed as described in Article I, Sections 1 and 2 have been sold by Developer and improvements have been constructed thereon; or
- (3) January 1, 2010.

Section 3. Common Areas.

(a) Every Lot owner shall have a right and easement of enjoyment in and to the common areas which shall be appurtenant to and shall pass with the title to every lot. "Common area(s)" means and refers to all non-residential lots and areas, which are shown on any recorded final subdivision plat within any portion of Somerset Patio Homes Subdivision made subject to the Residents Association, together with all other improvements owned or to be owned by the Residents Association. Developer releases and quitclaims to the Residents Association his right and title to the common areas. The right of enjoyment is subject to the following provisions:

(i) The right of the Residents Association to borrow money for the purpose of improving the common areas or for constructing, repairing or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or a part of the common areas;

(ii) The right of the Residents Association to suspend the voting rights and the right to use common areas for any period during which any assessment against a lot remains unpaid, and for a period of time for any infraction of its published rules and regulations;

(iii) The right of the Residents Association to dedicate or transfer all or any part of the common areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Residents Association and such agency, authority or utility. Developer may dedicate utility or service easements at his sole discretion so long as there is in existence the Class B membership in accordance with Article III, Section 2(n), and so long as additions are permitted under Article I, Section 2.

(iv) Notwithstanding any provision herein contained, no common areas shall be dedicated to a unit of local government without the acceptance of the unit of local government involved and the approval of the Louisville and Jefferson County Planning Commission. The provisions contained in this Section 3(a)(iv), shall not be amended by the Residents Association, as hereinafter established, without approval from the Louisville and Jefferson County Planning Commission.

(b) Lot owners may delegate, in accordance with the Bylaws, their right of enjoyment to the common areas to the members of their families or to their tenants or contract purchasers who reside on the property. Membership in the Residents Association may not be conveyed separately from ownership in the Lot.

(c) The authorized representative of the Residents Association or the Board of Directors shall be entitled to reasonable access to the individual lots as may be required in connection with the preservation of property on an individual lot or in the event of an emergency or in connection with the maintenance of, repairs or replacements within the common areas, or any equipment, facilities or fixtures affecting or serving other lots or the common areas or to make any alteration required by any governmental authority.

ARTICLE IV -- DEDICATION OF ROADS

No road shall be dedicated to a unit of local government without the consent of the owners of all lots abutting said road and without the acceptance by the unit of local government involved and the approval of the Louisville and Jefferson County Planning Commission. The provisions contained in this Article IV shall not be amended by the Residents Association without approval from the Louisville and Jefferson County Planning Commission.

ARTICLE V -- PARTY WALLS

Walls between adjoining residential structures shall be party walls. With respect to a party wall adjoining a residence, the owner of the residence shall have the following rights against the other owner adjoining the party wall and shall be subject to the corresponding duties to the other owner adjoining the party wall.

(a) The right to have the other owner adjoining the party wall bear half of the expenses of maintaining the party wall.

(b) The right to have the other owner adjoining a party wall bear one-half the expense of repairing or rebuilding a party wall damaged or destroyed by any cause whatsoever, except that when such damage or destruction results from the negligence of either owner adjoining the party wall, the entire expense of repair or replacement shall be borne by the negligent party.

(c) The right at reasonable times to enter upon the premises of the other owner adjoining a party wall or to break through the party wall, or both, for the purpose of repairing or restoring sewer, water, or other utilities, subject to the obligations to restore the wall to its previous structural condition, to pay for such restoration, and to pay the other owner the amount of any damages negligently caused by such repairing or restoring.

(d) The right to have the other owner adjoining the party wall refrain from altering or changing the party wall in any manner, interior decorations excepted.

(e) The right to an easement for party wall purposes in that part of the premises of the other owner on which the party wall is located.

ARTICLE VI -- GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these restrictions shall be by proceedings at law or in equity, brought by any Lot owner or by Developer against any party violating or

attempting to violate any covenant or restriction, either to restrain violation, to direct restoration and/or to recover damages. If any Lot owner, the Residents Association, or Developer is required to employ legal counsel to enforce any of the provisions or restrictions of this Declaration or exercise any of the remedies provided for herein, the party violating a provision or restriction of this Declaration shall pay all legal expenses, including court costs and attorney fees, incurred by the party enforcing these restrictions. The party enforcing these restrictions shall have a lien on the lot of the party violating these restrictions to secure payment of all such legal expenses, which lien may be enforced in the same manner as the liens provided in Article III, Section 2 of this Declaration. Failure of any Lot owner or Developer to demand or insist upon observance of any of these restrictions, or to proceed for restraint of violations, shall not be deemed a waiver of the violation or the right to seek enforcement of these restrictions and the exercise of any remedy provided for herein or, at law or in equity shall not preclude the exercise of any other remedy available at law or in equity.

Section 2. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 3. Restrictions Run with Land. Unless cancelled, altered or amended under the provisions of this paragraph, the provisions of this Declaration shall run with the land and shall be binding on the lots, the owners of each lot and all parties claiming under them, for a period of thirty (30) years from the date this Declaration is recorded. After such thirty (30) years, this Declaration shall be deemed extended automatically for successive periods of ten (10) years, unless and until an instrument signed by at least seventy-five percent (75%) of the Lot owners of the lots subject to this Declaration has been recorded in the aforesaid Clerk's office, agreeing to change this Declaration in whole or in part and the term hereof; provided, however, that if Developer, his designated successors or assigns, as applicable, then owns any lot, or any portion of Somerset Patio Homes Subdivision, or if any portion of Somerset Patio Homes Subdivision remains unplatted as a phase, this Declaration may not be so changed in whole or in part without the prior written consent of Developer in his sole discretion. From the date of this Declaration and for so long hereafter as Developer, his designated successors or assigns, as applicable, owns any lot or any portion of Somerset Patio Homes Subdivision (i) this Declaration may hereafter be unilaterally amended by Developer to bring the terms and provisions hereof in compliance with any applicable governmental law, rule, regulation, order, decree, judgment or ordinance, and (ii) Developer may otherwise unilaterally amend this Declaration as Developer may elect in his sole discretion, provided, that any such amendment under this subpart (ii) shall not materially adversely affect the then existing private single-family residential nature of the developed residential sections of Somerset Patio Homes Subdivision. At such time as neither Developer, his designated successors or assigns, as applicable, owns any lot or any portion of Somerset Patio Homes Subdivision, or upon such earlier date as Developer may elect in his sole discretion by written notice given to the Board of Directors of the Residents Association, this Declaration may thereafter be cancelled, altered or amended by the recordation of a document in the aforesaid Clerk's office in which the Board of Directors of the Residents Association certifies that such cancellation, alteration or amendment was executed by the owners of seventy-five percent (75%) of the lots subject to this Declaration. Anything to the contrary herein notwithstanding, the Residents Association shall be obligated to maintain the common areas, unless delegated pursuant to Article IV and Article III, Section 3(a)(iv), so long as the

property subject to this Declaration is used as a residential subdivision.

Section 4. Amendments to Articles and Bylaws. Nothing in this Declaration shall limit the right of the Residents Association to amend, from time to time, its Articles of Incorporation and Bylaws.

Section 5. Non-Liability of the Directors and Officers. Neither Developer nor the directors or officers of the Residents Association shall be personally liable to the Lot owners for any mistake or judgment or for any other acts or omissions of any nature whatsoever while acting in their official capacity, except for any acts or omissions found by a court to constitute gross negligence or actual fraud. The Lot owners shall indemnify and hold harmless each of the directors and officers and their respective heirs, executors, administrators, successors and assigns in accordance with the Bylaws.

Section 6. Board's Determination Binding. In the event of any dispute or disagreement between any Lot owners relating to the property, or any questions of interpretation or application of the provisions of this Declaration of the Bylaws, the determination thereof by the Board shall be final and binding on each and all such Lot owners.

WITNESS the signature of Developer on this 22nd day of June, 1994.

David M. Carney
DAVID M. CARNEY

State of: Kentucky, County of: Jefferson

Subscribed and sworn to before me this 22 day of June, 1994. by DAVID M. CARNEY

Notary Public: Tammy L. [Signature]

My Commission expires: October 6, 1997

Recorded in Plat Book
No. 40 Page 85
Part No. _____

The foregoing instrument was prepared by:

81839

Martin S. Carney
Martin S. Carney
30 Mallard Creek Rd.
Louisville, KY 40207

Document No: 1994081839
Lodged By: CARNEY
Recorded On: Jun 22, 1994 11:11:00 A.M.
Total Fees: \$24.00
Transfer Tax: \$5.00
County Clerk: Rebecca Jackson
Deputy Clerk: TERI



OF DOCUMENT



**BYLAWS
OF
SOMERSET PATIO HOMES RESIDENTS ASSOCIATION, INC.**

Section 1. Membership

The membership of the Corporation shall consist of the members with the voting rights, including powers of attorney vested in the Declarant, designated from time to time in the Declaration of Covenants, Conditions and Restrictions ("Declaration") of the Development known as Somerset Patio Homes as described in the Articles of Incorporation.

Section 2. Meetings

2.1 Annual Meeting. The annual meeting of the members for the election of Directors shall be held at such time and place as shall be designated by the Board of Directors.

2.2 Special Meetings. Special meetings of the members may be called at any time by the Board of Directors or by members holding in the aggregate 20 percent of the voting power of all members. The Secretary shall call a special meeting to be held at a time fixed by the Secretary, pursuant to notice set forth below, after the Secretary shall have received a written request from the Board of Directors or a petition signed by members holding in the aggregate 20 percent of the voting power of all members. If the Secretary neglects or refuses to issue such call, then the call may be issued by any Director or any member who signed the petition.

2.3 Place of Meetings. Meetings of the members shall be held at the Patio Homes community unless the Board of Directors, by resolution, designates a different place for the meeting, in which case the meeting shall be held at the place thus designated.

2.4 Notice of Meetings. The Secretary shall cause written notice of the time, date and place and purpose of each meeting of the members to be delivered, either personally or by mail, to the members entitled to vote not less than 10 nor more than 35 days before the date of the meeting.

2.5 Waiver of Notice. The attendance of any member at any meeting of members without protesting the lack of proper notice shall constitute a waiver of such notice.

2.6 Quorum, Vote Required. Members holding 20 percent of the votes entitled to be cast on the matter to be voted upon represented in person or by proxy shall constitute a quorum at a meeting of members. In all matters requiring a vote, both as to members and as to the Board of Directors, a simple majority of a quorum of members/directors assembled shall constitute the passage or defeat of all issues.

2.7 Action Without Meeting. Any action required or permitted to be taken at any meeting of the members entitled to vote may be taken without a meeting if a consent thereto in writing, setting forth the action so taken, is signed by all members entitled to vote and such written consent is filed with the minutes of proceedings of the members entitled to vote.

2.8 Proxy Voting. At all meetings of members or of the Board of Directors, proxy votes may be cast and shall be counted if, in writing, signed by the person entitled to cast such vote, and submitted to the Secretary a minimum of 48 hours prior to said meeting. Proxy votes shall be valid only during the particular vote and/or meeting which is spelled out in the written proxy to the Secretary.

2.9 Rules of Order. All meetings of members or the Board of Directors shall be governed by Robert's Rules of Order.

Section 3. Board of Directors

3.1 Number and Term of Office. The affairs of the Corporation shall be managed by a Board of not less than three Directors. The Board of Directors shall be elected at the annual meeting by the members entitled to vote called for that purpose. A Director shall hold office until the next annual meeting of members and until his successor is elected and has accepted the election by either an acceptance in writing or being present and acting as a Director at either a regular or special meeting of the Board of Directors.

3.2 Vacancies. The office of a Director shall become vacant if he dies or resigns by writing signed by him and delivered to the Corporation. Any vacancy in the Board of Directors may be filled

for the unexpired term by a vote of the majority of the remaining Directors though less than a majority of the whole Board.

3.3 Meetings; Notice. A regular meeting of the Board of Directors shall be held immediately after the annual meeting of the members or any special meeting of members at which a Board of Directors is elected. The Board of Directors may decide to meet on the basis of a regular schedule of meetings, in which event said schedule of meetings shall be announced in advance at a Board meeting, published in the minutes of that Board meeting, and made available to any member upon request of same. Special meetings of the Board of Directors may be called by the President or by any two Directors, pursuant to notice set forth below.

3.4 Additional Notice Provisions; Waiver. Notice of the time and place of any special meeting of Directors shall be served upon each director by direct telephone communication at least 24 hours prior to such meeting or by mail to the address as shown by the books of the Corporation at least 7 business days prior to the time of such special meeting. Notice of any regular or special meeting of Directors may be waived either before or after the meeting by any Director. The attendance of any Director at any regular or special meeting of Directors without protesting the lack of proper notice shall be deemed to be a waiver of notice of that meeting. Any Director may participate in such meeting by telephone communication, which may be in lieu of such Director's actual, physical presence.

3.5 Quorum. A majority of the Directors present in person or by proxy shall constitute a quorum.

3.6 Action Without Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if a consent thereto in writing, setting forth the action so taken, is signed by all members of the Board of Directors and such written consent is filed with the minutes of proceedings of the Board of Directors.

3.7 Powers and Duties. The Board of Directors shall have all powers authorized by statute, including the power to:

(a) Adopt and publish rules and regulations enforcing and/or maintaining the deed restrictions contained within the Declaration described in the Articles of Incorporation and to maintain the common areas as described in the said Declaration;

(b) Levy and collect the annual dues as set forth in the Declaration;

(c) Accept bids and authorize the performance of services as needed to maintain the common areas of the Development;

(d) Pay for said expenditures from the Corporation funds;

(e) Levy surcharges, if necessary, to effect emergency repairs costing in excess of the budgeted funds;

(f) Call regular, special and/or emergency meetings of the Board of Directors without notification of the members; and

(g) Engage professional, clerical and service personnel, as necessary, to perform necessary duties within the Corporation and/or at its meetings and/or to maintain the common areas and the legal and financial needs of the Corporation.

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 of said corporate affairs to each member on an annual basis or at any time within 30 days of receipt of a written request for said records from any member;

(b) Procure and maintain adequate liability and hazard insurance on the property owned or maintained by the Corporation and the personnel the Corporation engages to perform work thereupon (to the extent coverage is available, said insurance shall also cover liability of each Director and Officer for liability incurred during and in conjunction with their performance of Corporation duties); and

(c) Cause the common areas as described in the Declaration to be maintained.

3.8 Compensation; Conflicts. No Director shall receive any compensation for any service such Director may render the Corporation in such Director's position as Director. However, all Directors shall be entitled to reimbursement to actual expenses incurred in the performance of such Director duties. While Directors may also serve as officers, no Director shall either, directly or indirectly, vote upon, influence, bid or accept any labor or service contract let by the Corporation that involves monetary or personal gain to that Director or his family. This conflict provision shall not apply to any developer of any portion of the Development during such time as such developer is actively engaged in the development of or building of homes in the Development.

3.9 Nominations. Nominations for any position on the Board of Directors shall be made by the following methods:

(a) Any member interested in serving on the Board of Directors shall submit his or her name in writing to any Director, and said Director shall turn such name over to a 3-person Nominating Committee appointed by the President at least 30 days in advance of the Annual Meeting of the membership.

(b) Nominations for Board positions shall be made by such Nominating Committee to the Board of Directors which shall, in turn, present a list of nominees to the membership at the Annual Meeting. Nominations, with a second, shall also be taken from the floor of the membership at the Annual Meeting.

Section 4. Officers

4.1 Officers. The Corporation may have one or more Vice Presidents and shall have a President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. The Corporation may also have such assistant officers as the Board of Directors may deem necessary, all of whom shall be elected by the Board of Directors. Any two or more offices may be held by the same person except the office of President and Secretary.

4.2 President. The President shall

(a) Have general charge and authority over the business and affairs of the Corporation subject to the direction of the Board of Directors,

(b) Have authority to preside at all meetings of the members and of the Board of Directors,

(c) Have authority acting alone, except as otherwise directed by the Board of Directors, to sign and deliver any document on behalf of the Corporation, and

(d) Have such other powers and duties as the Board of Directors may assign to him.

4.3 Vice President. The Vice President, or if there is more than one Vice President, the Vice Presidents in the order of their seniority by designation (or if not designated, in the order of their seniority of election), shall perform the duties of the President in his absence. The Vice President shall have such other powers and duties as the Board of Directors or the President may assign to him.

4.4 Secretary. The Secretary shall

(a) Issue notices of all meetings for which notice is required to be given,

(b) Keep the minutes of all meetings and have charge of the corporate record books, and

(c) Have such other duties and powers as the Board of Directors or the president may assign to him.

4.5 Treasurer. The Treasurer shall

(a) Have the custody of all funds and securities of the Corporation,

(b) Keep adequate and current accounts of the Corporation's affairs and transactions, and

(c) Have such other duties and powers as the Board of Directors or the President may assign to him.

4.6 Other Officers. Other officers and agents of the Corporation shall have such authority and perform such duties in the management of the Corporation as the Board of Directors of the President may assign to them.

Section 5. Dues and Assessments

Except as otherwise set forth in the Declaration described in the Articles of Incorporation, the Board of Directors shall assess each owner of a lot in accordance with the Declaration described in the Articles of Incorporation.

Section 6. Amendments

6.1 Amendments. The bylaws of the Corporation may be amended from time to time by a majority of the Board of Directors.

APPROVED by the Board of Directors this 22nd day of June, 1994.


Secretary

