

BYLAWS
OF
WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5

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BYLAWS
OF
WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5

ARTICLE I

NAME AND LOCATION

The name of the corporation is WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5, hereinafter referred to as the "Association". The principal office of the Association shall be located in the County of San Diego, California.

ARTICLE II

DEFINITIONS

Section 2.1. "Articles" - The Articles of Incorporation of the Association.

Section 2.2. "Association" - WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5, a California Nonprofit Mutual Benefit Corporation.

Section 2.3. "Board" - The Board of Directors of the Association.

Section 2.4. "Bylaws" - The Bylaws of the Association.

Section 2.5. "Common Area" - All real property owned by the Association.

Section 2.6. "Common Maintenance Area" - Those portions of Lots and adjacent public rights of way, the maintenance for which the Association is responsible.

Section 2.7. "Declarant" - KAUFMAN AND BROAD OF SAN DIEGO, INC., a California corporation, its successors and assigns, if such successors or assigns should acquire more than five (5) Lots for the purpose of development, and the rights of "Declarant" are assigned to them.

Section 2.8. "Declaration" - The Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the County Recorder of San Diego County, California.

Section 2.9. "FHA" - The Federal Housing Administration.

Section 2.10. "Lot" - Any plot of land shown as a separate parcel upon any recorded Final Map or Parcel Map of any portion of the Properties with the exception of the Common Area.

Section 2.11. "Member" - Those persons entitled to membership in the Association as provided in the Declaration.

Section 2.12. "Mortgage" - A deed of trust as well as a mortgage encumbering a Lot.

Section 2.13. "Mortgagee" - The beneficiary of a deed of trust as well as the mortgagee of a Mortgage.

Section 2.14. "Owner" - The record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2.15. "Properties" - The real property described as such in the Declaration, Owners of which are required to be Members of the Association, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 2.16. "VA" - The Veterans Administration.

ARTICLE III

VOTING RIGHTS IN ASSOCIATION

The Association shall have two (2) classes of voting membership as set forth in the Articles and the Declaration.

ARTICLE IV

MEMBERSHIP ASSESSMENTS AND LIENS

Section 4.1. **Annual Assessments.** The Board shall fix and determine from time to time annual assessments to be paid by each Owner as set forth in the Declaration.

Section 4.2. **Special Assessments.** In addition to annual assessments, the Board may levy special assessments to be paid by each Owner as set forth in the Declaration.

Section 4.3. **Lien Rights.** The Association shall have a lien against the interest of an Owner in the Owner's Lot to secure the full and prompt payment of all assessments levied by the Association as set forth in the Declaration.

Section 4.4. Payment of Assessments by Declarant. Declarant shall pay all assessments levied by the Association against any Lot owned by it as set forth in the Declaration.

Section 4.5. Commencement of Annual Assessments. The annual assessments shall commence and be payable as set forth in the Declaration.

ARTICLE V

MEMBERSHIP RIGHTS, PRIVILEGES AND PENALTIES

Section 5.1. Rights and Privileges. No Member shall have the right without the prior approval of the Board to exercise any of the powers or to perform any of the acts delegated to the Board in Article X of the Bylaws. Unless otherwise provided in the Declaration and subject to the rules and regulations adopted by the Board, each Member, his immediate family, guests and tenants shall have the right to use and enjoy the Common Area. If a Lot has been leased, the tenant and not the Member shall have the rights to use and enjoy the Common Area.

Section 5.2. Suspensions and Penalties. The membership rights and privileges, together with the voting rights of any Member, may be suspended by the Board for any period of time during which the assessment on his Lot remains unpaid, and for a period not to exceed thirty (30) days for any infraction of the Association's published rules and regulations, after reasonable written notice and an opportunity for a hearing before the Board. The Board may adopt rules and regulations imposing reasonable monetary penalties for breach or non-compliance. Should the Board believe grounds may exist for any suspension or imposition of monetary penalties, the Board shall give to the Member believed to be in violation at least fifteen (15) days' prior written notice of the intended suspension or proposed monetary penalty and the reasons therefor. The Member shall be given an opportunity to be heard before the Board either orally or in writing not less than five (5) days before the effective date of suspension or penalty. The notice required hereby may be given by any method reasonably calculated to provide actual notice. Any notice given by mail must be given by first class or registered mail sent to the last address of the Member shown on the Association's records. No suspension shall affect the rights of the Member to access to his Lot. A monetary penalty, other than a penalty for non-payment of assessments, shall not be a lien against the Member's Lot.

ARTICLE VI

MEETINGS OF MEMBERS

Section 6.1. Place of Meeting. Meetings of Members shall be held within the Properties or at such other location in San Diego County, California, in reasonable proximity to the Properties, as may be designated in the notice of the meeting.

Section 6.2. Annual Meetings. The first annual meeting of Members shall be held within forty-five (45) days after close of escrow for the sale by Declarant of fifty-one percent (51%) of the Lots in the first phase of development of the Properties, but not later than six (6) months after the first close of escrow for the sale of a Lot by Declarant. Subsequent annual meetings of the Members shall be held each year thereafter within fifteen (15) days before or after the anniversary date of the first annual meeting of Members. If the day for any annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 6.3. Special Meetings. Special meetings of Members, for any purpose, may be called at any time by the president or by a majority of a quorum of the Board, and shall be called by the Board upon receipt of a written request for a special meeting of five percent (5%) or more of the voting power of the Members.

Section 6.4. Notice of Meetings. Written notice of a meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting by mailing a copy of the notice by first class mail, postage prepaid, at least ten (10) but not more than ninety (90) days before the meeting to each Member entitled to vote, addressed to the Member's address last appearing on the books of the Association or supplied by the Member to the Association for the purpose of notice, and to the holder of a first Mortgage encumbering any Lot who has requested in writing such notice. The notice shall specify the place, day and hour of the meeting and those matters which the Board at the time of the mailing of the notice intends to present for action by the Members. The holder of a first Mortgage encumbering any Lot shall be entitled to designate a representative who shall have the right to attend all meetings of Members.

Section 6.5. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, a majority of the total voting power of Members shall constitute a quorum for any action except as otherwise provided in the Articles, the Declaration or the Bylaws. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment notwithstanding the withdrawal of enough voting power to leave less than a quorum. If, however, a quorum

shall not be present or represented at any meeting, the Members present in person or by proxy may not transact business but shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented or, unless otherwise provided by law, may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days following the time the original meeting was called, at which meeting the quorum requirement shall be twenty-five percent (25%) of the total voting power of Members. If a time and place for the adjourned meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for regular meetings.

Section 6.6. Proxies. Every person entitled to vote or execute consents shall have the right to do so either in person or by a written proxy executed by the person and filed with the secretary of the Association. Any form of proxy or written ballot distributed by any person to the membership of the Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon, except it shall not be mandatory that a candidate for election to the governing body be named in the proxy or written ballot. The proxy or written ballot shall provide that, where the Member specifies a choice, the vote shall be cast in accordance with that choice. The proxy shall also identify the person or persons authorized to exercise the proxy and the length of time it will be valid. The transfer of title to any Lot shall void any outstanding proxy pertaining to the voting rights of the membership appurtenant to that Lot.

Section 6.7. Presumption of Notice. A recitation in the minutes of a membership meeting that notice of the meeting had been properly given shall be prima facie evidence that notice was so given.

Section 6.8. Consent of Absentees. The transactions of any meeting of Members, however called and noticed, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy and if, either before or after the meeting, each of the Members entitled to vote, not present in person or by proxy, signs a written waiver of notice, or a consent to the holding of the meeting or an approval of the minutes of the meeting. All waivers, consents or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 6.9. Action Without Meeting. Any action, which under the provisions of the California Corporations Code may be taken at a meeting of the Members, except the election of directors

where cumulative voting is a requirement, may be taken without a meeting if done in compliance with the provisions of §7513 of the California Corporations Code.

Section 6.10. Voting. Voting of the Members at a meeting may be by voice or by ballot, except that the election of directors shall be by secret written ballot.

ARTICLE VII

TERM OF OFFICE OF DIRECTORS

Section 7.1. Number. The affairs of the Association shall be managed by a Board of five (5) directors, who need not be Members of the Association.

Section 7.2. Term of Office. At the first annual meeting of Members, the Members shall elect three (3) directors for a term of one (1) year and two (2) directors for a term of two (2) years. Thereafter, directors shall be elected at each annual meeting of Members to fill the vacancies of those directors whose term then expires for a term of two (2) years. If any annual meeting is not held or the directors are not elected at the meeting, the directors may be elected at any special meeting of Members held for that purpose. All directors shall hold office until their successors are elected.

Section 7.3. Removal. The entire Board may be removed from the Board, with or without cause, by a majority vote of the Members. Unless the entire Board is removed, an individual director shall not be removed if the number of votes against the resolution for his removal or not consenting in writing to his removal would be sufficient to elect the director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of directors authorized at the time of the most recent election of directors were then being elected. However, any director elected to office solely by the votes of Members other than Declarant may be removed from office prior to the expiration of his term only upon the vote of a simple majority of the voting power of Members other than Declarant.

Section 7.4. Vacancies.

(a) Vacancies on the Board created by death or resignation may be filled by a majority of the remaining directors, though less than a quorum, and each director so elected shall hold office until his successor is elected by the Members.

(b) Vacancies on the Board created by the removal of any director may be filled only by the vote of the Members.

(c) The Members may at any time elect directors to fill any vacancy not filled by the directors, and may elect the additional directors at the meeting at which an amendment of the Bylaws is voted, authorizing an increase in the number of directors. No reduction of the number of directors shall have the effect of removing any director prior to the expiration of his term of office.

Section 7.5. Compensation. No director shall receive compensation for any services he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE VIII

NOMINATION AND ELECTION OF DIRECTORS

Section 8.1. Nomination. Nomination for election to the Board shall be made by a Nominating Committee. Nominations may also be made from the floor at a meeting of Members. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board, and two (2) or more Members. The Nominating Committee shall be appointed by the Board prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not fewer than the number of vacancies that are to be filled. Nominations may be made from among the Members or non-members. ~~Anything herein to the contrary notwithstanding, at the first annual meeting nominations for election of the Board shall be made only from the floor.~~ Each nominee shall be given a reasonable opportunity to communicate to the Members the nominee's qualifications and the reasons for the nominee's candidacy. Each nominee shall be given a reasonable opportunity to solicit votes and the Members shall be given a reasonable opportunity to choose among the nominees.

Section 8.2. Election. Election to the Board shall be by secret written ballot. No Member shall have the right to cumulate his votes unless the candidates' names have been placed in nomination prior to the voting and the Member has given notice to the meeting prior to the voting of the Member's intention to cumulate votes. If one Member is entitled to cumulate votes, all Members shall have the right to cumulate votes and give one candidate a number of votes equal to the number of directors to be elected

multiplied by the number of votes to which he is entitled, or to distribute his votes on the same principle among as many candidates as he shall think fit. The candidates receiving the highest number of votes up to the number of directors to be elected shall be elected. Anything contained herein to the contrary notwithstanding, at the first election of directors by Members and thereafter for so long as a majority of the voting power of Members is held by Declarant, or so long as there are two (2) outstanding classes of membership, not fewer than twenty percent (20%) of the directors shall be elected solely by the votes of Members other than Declarant.

ARTICLE IX

MEETINGS OF DIRECTORS

Section 9.1 Place of Meetings. Meetings of the Board shall be held within the Properties unless adequate space for the meeting is not available, in which event, the meeting shall be held at the nearest reasonable location which has adequate space.

Section 9.2. Regular Meetings. Regular meetings of the Board shall be held bi-monthly, at such place and hour as may be fixed from time to time by resolution of the Board. Should the meeting day fall upon a legal holiday, then the meeting shall be held at the same time on the next day which is not a legal holiday.

Section 9.3. Special Meetings. Special meetings of the Board shall be held when called by the president of the Association, or by any two (2) directors other than the president.

Section 9.4. Notice of Meetings.

(a) Notice of regular meetings of the Board shall be posted in a prominent place within the Properties and communicated to the directors not fewer than four (4) days before the meeting; provided, however, notice of a regular meeting of the Board need not be given to a director who has signed a waiver of notice or a written consent of the holding of the meeting.

(b) Notice of special meetings of the Board shall be posted in a prominent place within the Properties and sent to the directors not fewer than seventy-two (72) hours before the meeting; provided, however, notice of a special meeting of the Board need not be given to a director who has signed a waiver of notice or a written consent to the holding of the meeting. Notice of a special meeting of the Board shall specify the time

and place of the meeting and the nature of any business to be conducted.

Section 9.5. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 9.6. Attendance. Regular and special meetings of the Board shall be open to all Members; provided, however, that Members who are not on the Board may not participate in any deliberation or discussion unless expressly authorized by the vote of a majority of a quorum of the Board. The Board may, upon the vote of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved and other matters of business of a similar nature. Only members of the Board shall be entitled to attend executive sessions. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 9.7. Action Without Meeting. Any action required or permitted to be taken by the Board may be taken without a meeting, if all members of the Board consent in writing to the action. Action by written consent shall have the same force and effect as a unanimous vote of the Board. Written consent or consents shall be filed with the minutes of the proceedings of the Board. An explanation of the action to be taken or actually taken by the Board shall be given to the Members of the Association within three (3) days after all written consents have been obtained. The explanation shall be given in the same manner as provided in the Bylaws for the giving of notice of regular meetings of the Board. Failure to give notice shall not render the action to be taken or actually taken invalid.

ARTICLE X

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Subject to the provisions of the Declaration, the Articles and the California Nonprofit Mutual Benefit Corporation Law, the Board shall have the following powers and duties:

Section 10.1. Right to Enforce. To enforce the provisions of the Declaration, Articles, Bylaws, rules and regulations adopted by the Board, any agreement to which the Association is a party and other instruments for the ownership, management and control of the Properties.

Section 10.2 Payment of Taxes. To pay taxes and assessments which are, or could become, a lien on the Common Area or any portion of the Common Area.

Section 10.3. Insurance. To procure and maintain fire, casualty, liability, fidelity and other insurance adequately insuring the Common Area, the Association and property owned or maintained by the Association as required by the Declaration.

Section 10.4 Goods and Services. To contract and pay for goods and services relating to the Common Area and Common Maintenance Area, and to employ personnel necessary for the operation and maintenance of the same, including legal and accounting services. Anything herein to the contrary notwithstanding:

(a) The term of any contract with a third person for supplying goods or services to the Common Area, Common Maintenance Area or for the Association shall not exceed a term of one year unless a longer term is approved by a majority of the voting power of each class of Members of the Association, with the following exceptions:

(1) A contract with the public utility company for materials or services the rates for which are regulated by the Public Utilities Commission may exceed a term of one year so long as it does not exceed the shortest term for which the public utility will contract at the regulated rate;

(2) A contract for prepaid casualty and/or liability insurance policies may be for a term of not to exceed three (3) years, provided that the policy permits short rate cancellation by the Association;

(3) A management contract the terms of which have been approved by the VA and FHA, may exceed a term of one year;

(4) Lease agreements for laundry room fixtures and equipment of not to exceed five (5) years' duration, provided that the lessor under the agreement is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more;

(5) Agreements for cable television services and equipment or satellite dish television services and equipment of not to exceed five (5) years' duration, provided that the supplier is not an entity in which

Declarant has a direct or indirect ownership interest of ten percent (10%) or more;

(6) Agreements for the sale or lease of burglar alarm and fire alarm equipment, installation and services not to exceed five (5) years' duration, provided that the supplier or suppliers are not entities in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more.

(b) Any agreement for management or other services by Declarant shall be terminable for cause upon thirty (30) days' written notice, and without cause or payment of a termination fee upon not more than ninety (90) days' written notice. Agreements shall be renewable with the consent of the Board and the management agent.

(c) The Board shall not terminate professional management and assume self-management without the prior written approval of Mortgagees holding the first Mortgages encumbering seventy-five percent (75%) or more of the Lots which are encumbered by a Mortgage.

(d) No contract with the Association negotiated by Declarant shall exceed a term of one year except as may otherwise be provided in this Section 10.4.

Section 10.5. Delegation. To delegate any of its rights and duties to others, including committees, officers or employees.

Section 10.6. Budgets and Financial Statements. To prepare budgets and financial statements as provided in the Bylaws.

Section 10.7. Rules. To adopt rules and regulations governing the use of the Common Area and Common Maintenance Area and facilities owned or controlled by the Association.

Section 10.8. Disciplinary Proceedings. To initiate and execute disciplinary proceedings against Members for violations of the provisions of the Articles, Bylaws, Declaration, and rules and regulations adopted by the Board.

Section 10.9. Right to Enter. To enter onto any Lot as necessary in connection with construction, maintenance or repair of the Common Area or Common Maintenance Area or for the benefit of the Owners in common.

Section 10.10. Select Officers. To select, remove and supervise officers, agents and employees of the Association and prescribe their powers and duties.

Section 10.11. Fill Vacancies on Board. To fill vacancies on the Board, except for a vacancy created by the removal of a member of the Board by vote of the Members.

Section 10.12. Capital Expenditures. To make capital expenditures for and on behalf of the Association; provided, however, expenditures during any fiscal year for capital improvements to the Common Area and Common Maintenance Area shall not exceed five percent (5%) of the budgeted gross expenses of the Association for the fiscal year without the vote or written consent of a majority of the voting power of each class of members.

Section 10.13. Sale of Association Property. To sell property of the Association; provided, however, sales of property of the association during a fiscal year having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for a fiscal year shall not be made without the vote or written consent of a majority of the voting power of each class of members.

Section 10.14. Management of Business. To conduct, manage and control the affairs and business of the Association.

Section 10.15. Management of Property. To manage, operate, maintain and repair the Common Area and Common Maintenance Area and all improvements located on the Common Area and Common Maintenance Area.

Section 10.16. Notification to Mortgagees. To give, upon written request to the Association identifying the name and address of the holder, insurer or guarantor and the Lot number or address, any first Mortgage holder or insurer or guarantor of a Mortgage encumbering the Lot timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or any Lot on which there is a first Mortgage held, insured or guaranteed by the Mortgage holder or insurer or guarantor, as applicable.

(b) Any delinquency in the payment of assessments or charges owed by an Owner of a Lot encumbered by a first Mortgage held, insured or guaranteed by the Mortgage holder or insurer or guarantor, which remains uncured for a period of sixty (60) days.

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action which would require the consent of a specified percentage of first Mortgage holders as required in the Bylaws or the Declaration.

Section 10.17. Notice to Federal Home Loan Mortgage Corporation. To give notice in writing to the Federal Home Loan Mortgage Corporation ("FHLMC"), in care of the servicers of FHLMC loans on Lots, provided the servicers have informed the Association in writing of their addresses, of any loss to or taking of the Common Area if the loss or taking exceeds \$10,000.00, and of any damage to a Lot if the damage exceeds \$1,000.00.

Section 10.18. General Rights and Powers. To exercise for the Association all powers and duties vested in or delegated to the Association and not reserved to the Members by the Articles, Bylaws or Declaration.

ARTICLE XI

OFFICERS AND THEIR DUTIES

Section 11.1. Enumeration of Officers. The officers of the Association shall be a president and vice president, who shall at all times be members of the Board, a secretary and a chief financial officer, and such other officers as the Board may from time to time by resolution create.

Section 11.2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

Section 11.3. Term. The officers of the Association shall be elected annually by the Board, and each shall hold office until he shall resign, or be removed, or is otherwise disqualified to serve.

Section 11.4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 11.5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. A resignation shall take effect on the date of receipt of the resignation or at any later

time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 11.6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to fill a vacancy shall serve for the remainder of the term of the officer he replaces.

Section 11.7. Multiple Offices. One (1) person may hold two (2) or more offices.

Section 11.8. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board, shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes unless others are so authorized by resolution of the Board.

Vice President

(b) The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring the seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members together with their addresses; and shall perform such other duties as required by the Board.

Chief Financial Officer

(d) The chief financial officer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board unless others are so authorized by resolution of the Board; shall sign all checks and promissory notes of the Association; keep proper

books of account; cause an annual audit of the Association's books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy to each of the Members.

Section 11.9. Compensation. No officer of the Association shall receive compensation for his services performed in the conduct of the business of the Association; provided, however, any officer may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE XII

COMMITTEES

The Board shall appoint a Nominating Committee, as provided in the Bylaws. In addition, the Board shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE XIII

BOOKS AND RECORDS

The membership register, including mailing addresses and telephone numbers, books of account and minutes of meetings of the Members, the Board and Committees of the Board, shall, during reasonable business hours, be subject to inspection and copying by any Member or by his duly appointed representative, and by the holder of any first Mortgage encumbering a Lot, at the principal office of the Association or at another location within the Properties as the Board may prescribe. The Board shall establish reasonable rules with respect to:

(a) Notice to be given to the custodian of the records by the Member wishing to make the inspection;

(b) Hours and days of the week when such an inspection may be made; and

(c) Payment of the costs of reproducing copies of documents requested by a Member.

Every director of the Association shall have the absolute right at any reasonable time to inspect the Common Area and Common Maintenance Area and all books, records and documents of the Association. The right of inspection by a director shall include the right at his expense to make extracts and copies of documents.

ARTICLE XIV

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5, a California corporation.

ARTICLE XV

AMENDMENTS

Section 15.1. Amendments. Except as may otherwise be stated in the Bylaws, new Bylaws may be adopted or these Bylaws may be amended or repealed by the vote or written consent of the Members entitled to exercise a majority or more of the voting power of each class of Members of the Association. Anything herein stated to the contrary notwithstanding, no material amendment to the Bylaws shall be made without the prior written approval of Mortgagees holding first Mortgages encumbering seventy-five percent (75%) of the Lots which are subject to Mortgages. "Material amendment" shall mean, for purposes of this Article XV, any amendments to provisions of the Bylaws governing any of the following subjects:

(a) The fundamental purpose for which the project was created (such as a change from residential use to a different use).

(b) Assessments, assessment liens and subordination thereof.

(c) The reserve for repair and replacement of the Common Area and Common Maintenance Area.

(d) Property maintenance obligations.

(e) Insurance and fidelity bonds.

(f) Reconstruction in the event of damage or destruction.

(g) Rights to use the Common Area and Common Maintenance Area.

(h) Expansion or contraction of the Properties or the addition, annexation or withdrawal of property to or from the Properties.

(i) Boundaries of any Lot or Common Area.

(j) The interests in the Common Area or Common Maintenance Area.

(k) Convertibility of Lots into Common Area or of Common Area into Lots.

(l) Leasing of Lots.

(m) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his Lot.

(n) Voting.

(o) Any provision which, by its terms, is specifically for the benefit of first Mortgagees, or specifically confers rights on first Mortgagees.

Notwithstanding the above provisions, the percentage of the voting power necessary to amend a specific clause or provision in the Bylaws shall not be less than the percentage of affirmative votes necessary for action to be taken under that clause or provision.

Section 15.2. Conflict Between Documents. In the case of any conflict between the Articles and the Bylaws, the Articles shall control; in the case of any conflict between the Declaration and the Bylaws, the Declaration shall control.

ARTICLE XVI

MISCELLANEOUS

Section 16.1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation of the Association. The fiscal year of the Association may be changed by the Board.

Section 16.2. Financial Statements. The Board shall cause:

(a) a financial statement (including a balance sheet and income and expense statement) of the affairs of the Association to be made as of the last day of the month closest in time to the date six (6) months following close of escrow for the sale of the first Lot by Declarant to an Owner. The financial statement shall reflect the financial condition of the Association as of that date and shall summarize the financial transactions in which the Association was involved during the period between the first close of a sale and the date

of the financial statement. The financial statement shall include a schedule of assessments received or receivable itemized by Lot and shall include the name of the person or entity assessed. A copy of the financial statement shall be distributed personally or by mail to each of the Members and, upon written request, to all first Mortgagees, within sixty (60) days after the date of the financial statement.

(b) an annual report consisting of the following to be distributed to the Members within one hundred twenty (120) days after close of the Association's fiscal year:

(1) a balance sheet as of the end of the fiscal year;

(2) an income and expense statement for the fiscal year;

(3) a statement of changes in financial position for the fiscal year;

(4) any information required to be reported under §8322 of the California Corporations Code;

(5) for any fiscal year in which the gross income to the Association exceeds \$75,000, a copy of a review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy.

If the annual report referred to above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association stating that the report was prepared from the books and records of the Association without independent audit or review.

(c) a statement of the Association's policies and practices in enforcing its remedies against Members for default in the payment of annual and special assessments, including the recording and foreclosing of liens against the Member's Lot, to be distributed to Members within sixty (60) days prior to the beginning of each fiscal year.

Section 16.3. Budget. The Board shall cause a pro forma operating statement (budget) for the Association to be prepared for the second and each succeeding fiscal year of the Association, a copy of which shall be distributed personally or by mail to the

Members not fewer than forty-five (45) days nor more than sixty (60) days prior to the beginning of the fiscal year to which the budget relates. The budget shall include the following information:

(a) The estimated revenue and expenses of the Association on an accrual basis for the next fiscal year.

(b) The amount of the total cash reserves of the Association currently available for the replacement or major repair of the Common Area and for contingencies.

(c) An itemized estimate of the remaining life of, and the methods of funding to defray repair, replacement or additions to, major components of the Common Area for which the Association is responsible.

(d) A general statement setting forth the procedures used by the Board in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Area and Common Maintenance Area for which the Association is responsible.

Section 16.4. Operating and Reserve Accounts. The Board shall review, at least quarterly:

(a) a current reconciliation of the Association's operating accounts.

(b) a current reconciliation of the Association's reserve accounts.

(c) the current year's actual reserve revenues and expenses compared to the current year's budget.

(d) the latest account statements prepared by the financial institutions where the Association has its operating and reserve accounts.

(e) an income and expense statement for the Association's operating and reserve accounts.

Section 16.5. Withdrawal From Reserve Accounts. The signatures of at least two persons, either two members of the Board or one member of the Board and an officer who is not a member of the Board, shall be required for the withdrawal of monies from the Association's reserve accounts. As used in this Section 16.5, "reserve accounts" means monies the Board has identified from the annual budget for use to defray the future repair or replacement

of, or additions to, those major components which the Association is obligated to maintain.

Section 16.6. Voting After Conversion of Membership. Any procedure, action or matter for which the Bylaws require the vote or written assent of a percentage of the voting power of each class of Members, shall, after conversion of the Class B membership in the Association to Class A membership, require the vote or written assent of (i) that percentage of the voting power of Members of the Association, and (ii) at least that percentage of the voting power of Members of the Association other than Declarant.

ARTICLE XVII

NOTICE TO LENDERS

Upon the written request of the holder of a first Mortgage encumbering any Lot, the Association shall give to the holder (i) prior written notice of any action of the Association taken in connection with any material amendment to the Declaration, the Bylaws or the Articles, the effectuation of a decision to terminate professional management of the Common Area and the abandonment or termination of the project composed of the Lots and Common Area; (ii) written notice of any substantial damage to or destruction of any improvement located on a Lot or any part of the Common Area promptly upon such damage or destruction; (iii) written notice of any condemnation or eminent domain proceeding or proposed acquisition in lieu thereof of any Lot or the Common Area or any part thereof, promptly upon the commencement thereof; and (iv) written notification of any default by the Owner of a Lot encumbered by a first Mortgage, the holder of which requests such notice, in the performance of such Owner's obligations under the Declaration or these Bylaws which is not cured within sixty (60) days.

IN WITNESS WHEREOF, the undersigned, being the Incorporator of the Association, hereby adopts these Bylaws as the Bylaws of the Association.



ALEX C. McDONALD

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary of WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5, a California nonprofit mutual benefit corporation; and,

2. That the foregoing Bylaws, comprising twenty-one (21) pages, constitute the Bylaws of said corporation duly adopted by Written Consent of the Incorporator dated April 4, 1989.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said corporation this 5th day of April, 1989.



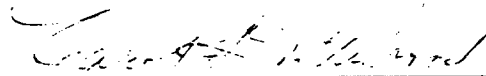
CAROL BUTTERWOOD

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary of WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5, a California nonprofit mutual benefit corporation; and,

2. That the following is a true and correct imprint of the corporate seal of said corporation as duly adopted at the first meeting of the Board of Directors thereof, duly held on April 5, 1989:



CAROL BUTTERWOOD

**RESOLUTION ADOPTED BY
WRITTEN CONSENT OF INCORPORATOR
OF
WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5,
a California nonprofit mutual benefit corporation**

April 4, 1989

The undersigned, as the incorporator of WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5, a corporation organized under the Nonprofit Mutual Benefit Corporation Law of the State of California, being the sole incorporator of said corporation, does by this writing consent to take the following actions and adopt the following resolutions:

WHEREAS, the original Articles of Incorporation of this corporation were filed in the Office of the California Secretary of State on March 1, 1989; and,

WHEREAS, a certified copy of said Articles of Incorporation showing the filing as stated has been inserted in the minute book of this corporation; and,

WHEREAS, neither the members nor the directors of this corporation have adopted Bylaws for the regulation of its affairs; and,

WHEREAS, there have been considered by the incorporator Bylaws for the regulation of the affairs of this corporation; and,

WHEREAS, it is deemed to be in the best interests of this corporation and its members that said Bylaws be adopted by the incorporator as and for the Bylaws of this corporation; and,

WHEREAS, a Board of Directors should be appointed by the incorporator to take over the management of this corporation;

NOW, THEREFORE, BE IT RESOLVED, that the Bylaws considered by the incorporator be and the same hereby are adopted as and for the Bylaws of this corporation;

RESOLVED, FURTHER, that the Secretary of this corporation be and is hereby authorized and directed to execute a certificate of the adoption of said Bylaws and to insert said

Bylaws as so certified in the minute book of this corporation and to see that a copy of said Bylaws, similarly certified is kept at the principal office for the transaction of business of this corporation in accordance with Section 7160 of the California Corporations Code.

RESOLVED, FURTHER, that the incorporator hereby resigns effective immediately and the following persons are duly appointed and elected the first directors of the corporation, said election to be effective immediately for the term prescribed by the Bylaws of the corporation:

William Cardon
Dean Meyer
Martin Lighterink
Carol Butterwood
Melissa Mohr

I direct this consent be filed with the minutes of the proceedings of the Board of Directors of this corporation.

This consent is executed pursuant to Section 7134 of the Corporations Code of the State of California which authorizes the incorporator to take any action necessary or proper to perfect the organization of the corporation.

Dated: April 4, 1989.



ALEX C. McDONALD, Incorporator

**WAIVER OF NOTICE AND CONSENT TO
HOLDING OF FIRST MEETING OF
BOARD OF DIRECTORS OF
WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5,
a California nonprofit mutual benefit corporation**

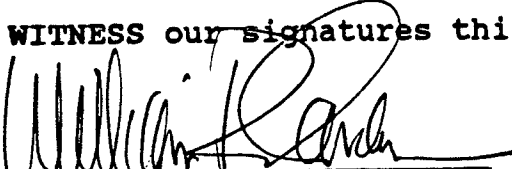
April 5, 1989

We, the undersigned, being all of the directors elected by Written Consent of Incorporator of WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5, dated April 4, 1989, and desiring to hold the first meeting of the Board of Directors of said corporation for the purpose of completing the organization of its affairs, do hereby waive notice of said meeting and consent to the holding thereof at 12520 High Bluff Drive, Suite 120, San Diego, California, on the 5th day of April, 1989, at 10:00 a.m., for the purpose of:

1. Electing officers;
2. Adopting a form of corporate seal; and,
3. Transacting such other business as may be brought before said meeting.

We further agree that any business transacted at said meeting shall be as valid and legal and of the same force and effect as though said meeting were held after notice duly given.

WITNESS our signatures this 5th day of April, 1989.



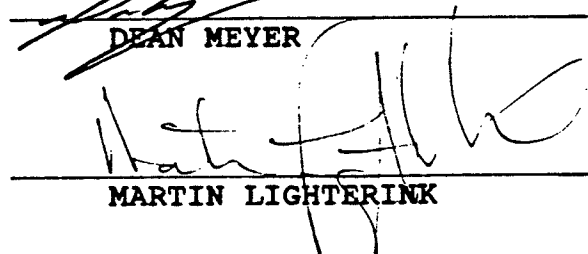
WILLIAM CARDON



DEAN MEYER



CAROL BUTTERWOOD



MARTIN LIGHTERINK



MELISSA MOHR

**MINUTES OF FIRST MEETING OF BOARD OF DIRECTORS
OF
WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5,
a California nonprofit mutual benefit corporation**

April 5, 1989

The directors of WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5, a California nonprofit mutual benefit corporation, being all of the members of the Board of Directors as presently constituted, held their first meeting at 12520 High Bluff Drive, Suite 120, San Diego, California, on April 5, 1989, at 10:00 a.m.

There were present at said meeting William Cardon, Dean Meyer, Martin Lighterink, Carol Butterwood and Melissa Mohr, being all of the directors and constituting a quorum.

On motion and by unanimous vote, William Cardon was elected Temporary Chairman of the meeting and Carol Butterwood was elected Temporary Secretary thereof.

The Chairman announced that the meeting was held pursuant to written waiver of notice thereof and consent thereto, signed by all of the directors of the corporation elected as such by Written Consent of Incorporator of WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5 dated April 4, 1989. Such waiver and consent was presented at the meeting, and upon motion duly made, seconded and unanimously carried, it was made a part of the records of the meeting, and the Secretary was instructed to place it preceding the minutes of this meeting in the minute book of the corporation.

The Chairman stated that the original Articles of Incorporation of the corporation had been filed in the Office of the California Secretary of State on March 1, 1989, and that a copy thereof, certified by said Secretary of State, had been placed in the minute book of the corporation, and directed the Secretary to see that a copy thereof, similarly certified, be kept at the principal office for the transaction of business of the corporation in accordance with Section 7160 of the California Corporations Code.

The Chairman further stated that the Bylaws for the regulation of the corporation had been adopted by Written Consent of the Incorporator of the corporation dated April 4, 1989, and that

the Secretary of the corporation was instructed to certify as to the adoption of said Bylaws and to insert said Bylaws as so certified in the minute book of the corporation and to see that a copy thereof, similarly certified, be kept at the principal office for the transaction of business of the corporation.

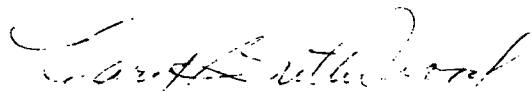
The meeting then proceeded to the election of officers. The following persons were duly elected to the offices indicated after the names of each:

William Cardon	President
Dean Meyer	Vice President
Carol Butterwood	Secretary
Martin Lighterink	Chief Financial Officer

A proposed seal of the corporation consisting of two concentric circles with the words "WESTWOOD VALLEY HOMEOWNERS ASSOCIATION 5, Incorporated California, March 1, 1989," was presented for the approval of the directors. On motion duly made, seconded and unanimously carried, the following resolution was adopted:

RESOLVED, that the corporate seal in the form, words and figures presented at this meeting be and the same hereby is adopted as the seal of this corporation, and the Secretary of this corporation be and hereby is authorized and directed to certify to an imprint of said seal and to place said certification in the minute book of the corporation.

There being no further business to come before the meeting, the meeting adjourned.



CAROL BUTTERWOOD,
Secretary of the Meeting