

Recorded October 26, 1967 at 1:40 P. M. in Liber 3679 at folio 320 among the Land Records for Montgomery County, Maryland.

THIS DECLARATION, made this 15th day of September, A. D., 1967, by EDMUND J. BENNETT ASSOCIATES, INC., hereinafter sometimes called "the Declarant."

WITNESSETH

WHEREAS, the Declarant is the owner of the real property described in Article II hereof and desires to create thereon a residential community with permanent recreational areas, open spaces and other community facilities for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said recreational areas, open spaces and other community facilities; and to this end, desires to subject the real property described in Article II hereof to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and the subsequent owners thereof; and

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

WHEREAS, the Declarant has formed (or intends to form) The New Mark Commons Homes Association, Inc., as a non-profit corporation without capital stock under the General Laws of the State of Maryland for the purposes of carrying out the powers and duties aforesaid.

NOW, THEREFORE, the Declarant hereby declares that the real property described in Article II hereof is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, restrictions, easements, charges and liens (hereinafter sometimes referred to as "covenants and restrictions") hereinafter set forth:

The undersigned, a member in good standing of the Bar of the Court of Appeals of Maryland, hereby certifies that the within Declaration was prepared by him or under his immediate supervision.

/s/ Barry M. Fitzpatrick
Barry M. Fitzpatrick

ARTICLE I

Section 1. Definitions. The following words when used in this Declaration shall have the following meanings:

(a) "Association" shall mean and refer to The New Mark Commons Homes Association, Inc., and its successors or assigns.

(b) "The Property" shall mean and refer to all real property described in Article II hereof and such additions thereto as may hereafter be made pursuant to the provisions of said Article II.

(c) "Common Areas" or "Community Facilities" shall mean and refer to all real property owned by the Association for the benefit, use and enjoyment of its members.

(d) "Living Unit" shall mean and refer to any building or portion of a building situated upon The Property and designed and intended for use and occupancy as a residence by a single family.

(e) "Town House" shall mean and refer to any Living Unit which is jointed by at least one party wall with any other Living Unit, whether or not either of such units is situated upon an individual lot shown on any recorded subdivision plat of The Property.

(f) "Town House Block" shall mean and refer to any attached block or group of Town Houses situate upon The Property.

(g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Living Units situated on The Property, including contract sellers, but excluding those having such interest solely as security for the performance of an obligation.

(h) "Member" shall mean and refer to every person, group of persons or entity who holds membership in the Association.

(i) "Developer" shall mean and refer to the Declarant, Edmund J. Bennett Associates, Inc., and its successors.

(j) "Total Assessment" shall mean and refer to the total assessment for land and improvements for any Living Unit (pro rata by the amount of monthly rental in the case of Town House units within a Town House Block held by the Developer for rental purposes) as the same is shown on the assessment dockets maintained by the Division of Assessments of Montgomery County, Maryland.

ARTICLE II

Section 1. Property Subject to Declaration. The real property, which is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied, and improved subject to this Declaration, is located in the City of Rockville, County of Montgomery, State of Maryland, and is more particularly described on "Exhibit A" attached hereto and by this reference made a part hereof.

Section 2. Additions. So long as there are Class B members of the Association, additional property may be annexed to the above-described property without the assent of the Class A members of the Association, if any. Any additional property so annexed, however, must be adjacent to or in the immediate vicinity of the above-described property. Any annexations made pursuant to this Article shall be made by recording a Supplementary Declaration of Covenants and Restrictions among the Land Records for Montgomery County, Maryland, which Supplementary Declaration shall extend the scheme of the within Covenants and Restrictions to such annexed property.

ARTICLE III

Section 1. Membership. The Association shall have two classes of voting membership:

(a) Every person, group of persons or entity who is a record owner of a fee interest in any Living Unit which is or becomes subject by covenants of record to assessment by the Association shall be a Class A member of the Association, provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a member. Class A members shall be entitled to one vote for each Living Unit in which they hold the interest required for membership.

(b) There shall be 540 Class B memberships, all of which shall be issued to Edmund J. Bennett Associates, Inc. The Class B members shall be entitled to one vote for each membership so held, provided, however, that each Class B membership shall lapse and become a nullity on the first to happen of the following events:

- (i) when the total authorized, issued and outstanding Class A memberships equal 384; or
- (ii) on January 1, 1977; or
- (iii) upon surrender of said Class B memberships, by the then holders thereof for cancellation on the books of the Corporation.

ARTICLE IV

Section 1. Members' Right of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Areas and Community Facilities and such

easement shall be appurtenant to and shall pass with the title to every Living Unit, subject to the following:

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas and Community Facilities and in aid thereof to mortgage said property. In the event of a default and foreclosure upon any such mortgage, the lender shall have the right, after taking possession of such property, to charge admission and other fees as a condition to continued enjoyment by the members, and, if necessary, for the protection of its security or the payment of the Association's obligations, to open the enjoyment of such property to a wider public until such times as the mortgage debt is satisfied, whereupon the possession of such property shall be returned to the Association and all rights of its members hereunder shall be fully restored; and

(b) The right of the Association to levy reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas; and

(c) The right of the Association to take such steps as are reasonably necessary to protect the above-described property against mortgage default and/ or foreclosures; and

(d) The right of the Association to limit the number of guests of members; and

(e) The right of the Association to suspend the voting rights and the rights to use of the Common Area and Community Facilities for any period during which any assessment remains unpaid and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

(f) The right of the Association to dedicate or transfer all or any part of the Common Areas or Community Facilities to any public or municipal agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members, provided, however, that no such dedication or transfer or determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by two-thirds (2/3) of the then members of the Association has been recorded, agreeing to such dedication, transfer, purpose or conditions, and unless written notice of the proposed agreement and action thereunder is sent to each member at least ninety (90) days prior to the taking of any action; and

(g) The rights of the fee owners of Living Units to a perpetual easement over any Common Area or Community Facility for such portions of their Living Units that may overhang said Common Areas or Community Facilities, and for pedestrian and vehicular ingress and egress to and from any Living Unit over said Common Areas and Community Facilities.

(h) The right of the fee owners of the Town Houses, their successors, tenants and assigns, to the use of parking spaces as provided in Section 3 of this Article.

(i) The rights of employees of tenants in any commercial area maintained adjacent to the Property to the use of designated parking spaces in parking areas maintained by the Association.

Section 2. Rights Not Subject to Suspension. Notwithstanding anything herein contained to the contrary, no admission or other fee shall be charged for the use of such parking areas as may be maintained upon the Common Areas or Community Facilities, nor shall the rights and easements created in paragraphs (g) and (h) of Section I of this Article IV be suspended by the Association for any reason.

Section 3. Parking Rights. The Association shall maintain upon the Common Areas at least one parking space for each Town House located upon the Property.

ARTICLE V

Section 1. Easement for Installation of Post Lamps. There shall be and is hereby reserved to the Developer a perpetual and nonexclusive easement to install a post lamp on any lot at any time, such easement to include, but not be limited to, the right to install, relocate and maintain all necessary underground wire and/or leads into any Living Unit situate upon The Property.

Section 2. Easement for Landscaping and Related Purposes. There shall be and is hereby reserved to the Developer a perpetual and nonexclusive easement over all lots, or any Common Area or Community Facility, for a distance of ten (10) feet behind a lot line which parallels a street (whether public or private) for the purpose of erecting and maintaining street intersection signs, directional signs, temporary promotional signs, entrance features and/or, "theme areas," lights, stone, wood or masonry wall features and/or related landscaping.

Section 3. Context. As used in this Article, the term "lot" shall be deemed to include all parcels or property which are part of The Property.

ARTICLE VI

Section 1. Covenant for Maintenance Assessments. Each person, group of persons or entity who becomes an Owner of a living Unit by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association:

(1.) initial membership assessments; (2.) annual assessments or charges;
(3.) special assessments for capital improvements or maintenance provided by the Association, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property and Living Unit against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal Obligation of the person, group of persons or entity who was the Owner of such property and Living Unit at the time when the assessment fell due.

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents on the Property and in particular for the improvement and maintenance of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and Community Facilities and of the

Living Units situated upon the Property, including, but not limited to, the payment of taxes and insurance thereof and, repair, replacement, and additions thereto, and for the cost of labor, equipment, and materials, management and supervision thereof.

Section 3. Initial Membership Assessments. The initial assessment for the various series of Class A Memberships shall not exceed the amounts set out on the following schedule:

<u>Membership Series</u>	<u>Maximum Initial Assessment</u>
A-1	\$170.00
A-2	\$180.00
A-3	\$190.00
A-4	\$200.00
A-5	\$210.00

The initial assessment for each membership shall be paid on the date a deed for a Living Unit is delivered by the Developer to the member. No Living Unit held by the Developer for rental purposes shall be subject to the initial assessment provided for in this Section.

Section 4. Annual Assessments. From and after January 1, 1967, the maximum annual assessment for any Class A Membership (including, as hereinafter provided, those held by the Developer for rental purposes, if any) shall be the same as the maximum initial membership assessment for such membership as provided in Section 3 of this Article.

Section 5. Increase in Maximum Assessment.

(a) From and after January 1, 1968, the maximum annual assessment for any Class A Membership may be increased by the Board of Directors of the Association, without a vote of the membership, by the percentage of increase, if any, of the Total Assessment for land and improvements for any Living Unit to which such membership is appurtenant.

(b) From and after January 1, 1968, in any event, the maximum annual assessment and the maximum initial assessment for all Class A Memberships shall be increased by the Board of Directors of the Association, without a vote of the membership by the percentage of increase, if any, of the United States Department of Labor Cost of Living Index for the Washington, D. C., Metropolitan Area during the preceding year, provided, however, that the maximum assessments shall not be decreased by any decrease in the aforementioned Index. The increases provided for in sub-paragraphs (a) and (b) of this Article are intended to be cumulative.

(c) From and after January 1, 1968, the maximum annual assessment and the maximum initial assessment for all Class A Memberships may be increased above that established by the two preceding paragraphs by a vote of members, as hereinafter provided, for the next succeeding year and at the end of such year for each succeeding year. Any change made pursuant to this paragraph shall have the assent of two-thirds (2/3) of the then members of the Association. A meeting of the members shall be duly

called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance of such meeting, which notice shall set forth the purpose of such meeting.

Section 6. Special Assessments. In addition to the annual assessments authorized by this Article, 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 located upon the Common Areas, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the then members of the Association. A meeting of the members shall be duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance of such meeting, which notice shall set forth the purpose of the meeting.

Section 7. Proportion of Increase. Except as provided in paragraph (a) of Section 5 of this Article, any increase in the maximum annual assessment and/or any special assessment must be fixed in accordance with the proportion established for initial assessments in Section 3 of this Article and, in the event the Board of Directors of the Association shall fix the actual amount of the assessment at a figure less than the maximum provided for in this Article, the actual assessments shall also be fixed in accordance with the proportion established for initial assessments in Section 3 of this Article.

Section 8. Commencement of Annual Assessments. The annual assessment for each Class A Membership shall commence on the date a Deed for the Living Unit to which such membership is appurtenant is delivered by the Developer to the Member. The first annual assessment for any such membership shall be made for the balance of the calendar year and shall become due and payable and a lien on the date a deed for the Living Unit is delivered to the Member. Except as hereinafter provided, the assessment for any Living Unit for any year, after the first year, shall become due and payable and a lien on the first day of said year.

Notwithstanding anything herein contained to the contrary, the annual assessment for any Living Unit held by the Developer for rental purposes shall be payable quarterly in arrears on or before the last day of each quarter in any calendar year and shall be equal to the number of months of that quarter during which the Living Unit has been rented multiplied by one-twelfth (1/12) of the annual assessment for that Living Unit.

The Board of Directors of the Association shall make reasonable efforts to fix the amount of the assessment against each Living Unit for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Living Units and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any owner upon reasonable notice to the Board. Written notice of the assessment shall thereupon be sent to the Owner of any Living Unit subject thereto.

Section 9. Assessment Certificates. The Association shall upon demand at any time furnish to any Owner liable for such assessment a certificate in writing signed by an officer of the Association, setting forth the status of said assessment, i.e. , whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of

any assessment therein stated to have been paid. A charge not to exceed One Dollar (\$1.00) may be levied in advance by the Association for each certificate so delivered.

ARTICLE VII

Section 1. Non-Payment of Assessment. Any assessment levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the property which shall bind such Living Unit in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest at the rate of six percentum (6%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, in either of which events interest, costs and reasonable attorney's fees shall be added to the amount of each assessment. No Owner may waive or otherwise escape liability for the assessments herein provided for by nonuse of the Common Areas or Community Facilities or abandonment of his Living Unit.

Section 2. Subordination Provision. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Living Units subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Living Unit pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

ARTICLE VIII

Section 1. Party Walls. Each wall which is built as part of the original construction of the Living Units upon The Property and placed on the dividing line between lots or Living Units shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

Section 2. Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or

damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Easement for Utilities and Sidewalks. There shall be and is hereby reserved to the Developer a perpetual and nonexclusive easement over any lot upon which a Town House or Town House Block is situate for the purpose of installing, repairing and/or maintaining sidewalks and utility lines of any sort including, but not limited to, storm drains, sanitary sewers, freon gas lines, condensate lines, electric lines and/or cables, water lines, natural gas lines, telephone lines and the like.

ARTICLE IX

Section 1. Exterior Maintenance. In addition to maintenance upon the Common Areas and Community Facilities, the Association may provide exterior maintenance for each Town House located upon The Property (including those held by the Developer for rental purposes) which is subject to annual assessment as provided herein, as follows: periodic painting of exterior building surfaces and trim, and reasonable and ordinary maintenance and repair of gutters, downspouts and roofs.

Section 2. Exterior Maintenance of Other Living Units. In addition to maintenance upon the Common Areas and Community Facilities and upon the Town Houses, as aforesaid, the Association may, in the interest of the general welfare of all the Owners of The Property, provide periodic exterior maintenance upon other lots or Living Units subject to annual assessment as provided herein, as follows (but in no way limited to the following): periodic painting of exterior building surfaces and trim, repair and maintenance of gutters, downspouts, roofs, shrubs, lawns, walks, driveways and other exterior improvements, all as and when it deems necessary for the purposes aforesaid but not without resolution by the Board of Directors of the Association or by an architectural control committee composed of three (3) or more members appointed by the Board, and not without reasonable notice to the Owner of any Living Unit proposed to be so maintained. The failure of any Owner to repaint the exterior building surface and trim of his Living Unit within four (4) years of its original painting or most recent repainting shall create the conclusive and irrefutable presumption that such repainting is in the interest of the general welfare of all the Owners of The Property.

Section 3. Assessment of Cost. The cost of any exterior maintenance performed pursuant to Section 1, and/or Section 2, of this Article shall be assessed against the Living Unit upon which such maintenance is done and, when so assessed, a statement for the amount thereof shall be rendered to the Owner of said Living Unit at which time

the assessment shall become due and payable and a continuing lien and obligation of the Owner in all respects as provided in Article VI of this Declaration.

Section 4. Access at Reasonable Times. For the purpose solely of performing the exterior maintenance required or authorized by this Article, the Association, through its duly authorized agents or employees shall have the right, after reasonable notice to the Owner, to enter upon any lot or the exterior of any Living Unit at reasonable hours on any day except Sunday.

ARTICLE X

Section 1. Architectural Control Committee. Except for original construction or as otherwise in these covenants provided, no building, fence, wall or other structure shall be commenced, erected, or maintained upon The Property, nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural control committee composed of three (3) members appointed by the Board of Directors. In the event the Board of Directors, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. Fences. Except for original construction, any fence constructed upon The Property shall be either horizontal rustic, unfinished split rail or vertical split sapling and shall not extend beyond the front of any Living Unit or within thirty (30) feet of any street, whether public or private. The erection of such fences shall not be subject to the provisions of Section 1 of this Article. The erection of any other fences shall be subject to the provisions of Section 1 of this Article.

Section 3. Prohibited Uses and Nuisances. Except for the activities of the Developer during original construction:

(a) No noxious or offensive trade or activity shall be carried on upon any lot or within any Living Unit situate upon The Property, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or the other Owners of The Property.

(b) The maintenance, keeping, boarding and/or raising of animals, livestock or poultry of any kind, regardless of number shall be and is hereby prohibited on any lot or within any Living Unit situate upon The Property, except that this shall not prohibit the keeping of dogs, cats and/or caged birds as domestic pets provided they are not kept, bred or maintained for commercial purposes.

(c) No burning of any trash and no accumulation or storage of litter, new or used building materials, or trash or any other kind shall be permitted on any lot.

(d) Except as herein elsewhere provided, no junk vehicle or other vehicle on which current registration plates are not displayed, trailer, truck, camper, camp truck, house trailer, boat or the like (other than boats less than fourteen feet in length), shall be kept upon The Property nor shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. The Association may, in the discretion of its Board of Directors, provide and maintain a suitable area designated for the parking of such vehicles or the like.

(e) Trash and garbage containers shall not be permitted to remain in public view except on days of trash collection.

(f) Outdoor clothes dryers or clothes lines shall be placed within a screened enclosure of any approved design of attractive rustic wood not over eight (8) feet square and not over six (6) feet in height.

(g) In order to facilitate the free movement of passing vehicles, no automobiles belonging to residents shall be parked on the paved portion of any joint driveway or streets, except during temporary emergencies.

(h) No outside television aerial or radio antenna for reception or transmission shall be visible from the street or adjoining Living Units.

(i) No sound hardwood trees shall be removed from any lot without written approval of the Association acting through its Board of Directors or duly appointed committee.

(j) No structure of a temporary character, trailer, tent, shack, barn or other outbuilding shall be used on any lot at any time. Temporary playhouses or the like may be so maintained provided that their primary purpose is the promotion of juvenile recreation.

(k) No signs of any character shall be erected, posted or displayed upon, in or about any lot or Living Unit situate upon the Property, provided, however, that one sign not exceeding two (2) square feet in area and not illuminated may be attached to a Living Unit where a professional office (as herein defined) is maintained, and provided further that one temporary real estate sign not exceeding six (6) square feet in area may be erected upon any lot or attached to any Living Unit placed upon the market for sale or rent.

(l) No structure, planting or other material other than driveways or sidewalks shall be placed or permitted to remain upon any lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels.

Section 4. Post Lamps. In the event a post lamp or the like is installed on any lot or attached to any Living Unit, the Owner of such lot or Living Unit shall maintain it and light it from dusk to dawn and bear all costs incident thereto.

Section 5. Right of Association to Remove or Correct Violations of this Article. The Association may, in the interest of the general welfare of all the Owners of the Property and after reasonable notice to the Owner, enter upon any lot or the exterior of any Living Unit at reasonable hours on any day, except Sunday for the purpose of removing or correcting any violation or breach or any attempted violation of any of the covenants and restrictions contained in this Article, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided, however, that no such action shall be taken without a resolution of the Board of Directors of the Association or by an architectural control committee composed of three (3) or more members appointed by the Board.

Section 6. Context. As used herein, the term "lot" shall be deemed to include all parcels or property which are part of The Property.

ARTICLE XI

Section 1. Residential Use. All Living Units shall be used for private residential purposes exclusively, except that a professional office may be maintained in a Living Unit, provided that such maintenance and use is limited to the person actually residing in the dwelling and one other professional associate, and, provided further, that such maintenance and use is in strict conformity with the provisions of any relevant zoning law or ordinance.

Section 2. Context. As used herein, the term "professional office" shall mean rooms used for office purposes but not by more than two members of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, architects, but not including medical or dental clinics.

ARTICLE XII

Section 1. Resale. In the event any Owner proposes to sell any portion of the real property referred to in Article II hereof, he shall first give the exclusive right to sell said property, for a period of sixty (60) days, to Edmund J. Bennett Associates, Inc., or assigns thereof, as agents: provided, however, that this provision shall not apply to a mortgagee acquiring ownership of any Living Unit at foreclosure.

Section 2. Alcoholic Beverage License. In the event the Developer, its successors, tenants or assigns, shall make application to the Board of License Commissioners for Montgomery County, Maryland, or its successor, for an Alcoholic Beverage License, or the periodic renewal of same, no owner or group of Owners shall in any way oppose the granting of same for any reason whatsoever or in any way otherwise interfere with such application.

Section 3. Incorporation by Reference on Resale. In the event any Owner sells or otherwise transfers his Living Unit, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, restrictions, easements, charges and liens set forth in this Declaration.

ARTICLE XIII

Section 1. Duration. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land or Living Unit subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date of recordation of this Declaration, after which the said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the then Owners of two-thirds of the Living Units has been recorded, agreeing to change said covenants and restrictions in whole or in part. No such agreement to change shall be effective unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. Notices. Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain or enjoin violation or to recover damages, and against the land to enforce any lien created by these covenants; and the failure or forbearance by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or by recovery of damages. If the Association or any Owner successfully brings an action to correct a violation or otherwise enforce the provisions of these covenants, the ByLaws or any other rules or regulation lawfully approved by the Association, the cost of such action, including legal fees, shall become a binding, personal obligation of the Owner of the Lot committing or responsible for such violations, and such cost shall also be a lien upon the Lot of such Owner, as provided by the Maryland Contract Lien Act.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

IN WITNESS WHEREOF, the said Edmund J. Bennett Associates, Inc., has on the 15th day of September, 1967, caused these presents to be signed by Edmund J. Bennett, its President, attested by Katharina Stephan, its Assistant Secretary, and its corporate seal to be hereunto affixed; and does hereby appoint Edmund J. Bennett as its true and lawful attorney in fact to acknowledge and deliver these presents as its act and deed.

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EDMUND J. BENNETT ASSOCIATES, INC.

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By: /s/ Edmund J. Bennett
Edmund J. Bennett, President

ATTEST:

/s/ Katharina Stephan
Katharina Stephan, Assistant Secretary

STATE OF MARYLAND

COUNTY OF MONTGOMERY

I HEREBY CERTIFY, That on the 15th day of September, 1967, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Edmund J. Bennett., who is personally well known to me as the person named as attorney in fact on the foregoing Declaration, and by virtue of the authority vested in him by said instrument, acknowledged the same to be the act and deed of Edmund J. Bennett Associates, Inc.

WITNESS my hand and notarial seal the year and day first above written.

/s/ Barry M. Fitzpatrick
Barry M. Fitzpatrick, Notary Public

My Commission expires: July 1, 1969.

