

72. 78918

101.50

DECLARATION OF HORIZONTAL

PROPERTY OWNERSHIP

CASA DE PRADO  
Horizontal Property Regime

RECEIVED FOR RECORD  
Dec 29 1 00 PM '72  
FAYE I. HOWERY  
RECORDER  
OF MARICOPA CO.

72. 78918



**DECLARATION OF HORIZONTAL  
PROPERTY OWNERSHIP**

**CASA DE PRADO  
Horizontal Property Regime**

**TABLE OF CONTENTS**

	<u>Page</u>
1. Definitions	1
2. Development Plan	3
3. Description of Buildings	3
4. Description of Apartment	4
5. Common Areas and Facilities	5
6. Limited Common Area and Facilities	5
7. Membership in Association	5
8. Voting Rights in Association	6
9. Rights and Shares in Common Areas and Expenses	6
10. Owner's Obligation to Repair	8
11. Prohibition Against Structural Changes by Owner	8
12. Covenant for Maintenance Assessments	9
13. Default in Payment of Assessments	10
14. Mortgage Protection	11
15. Entry for Repairs	11
16. Failure of Association to Insist on Strict Performance No Waiver	11
17. Limitation of Association's Liability	12
18. Indemnification of Officers and/or Directors of Association	12
19. Sale or Lease Right of First Refusal	12
20. Mortgages Not Affected by Right of First Refusal	13
21. Certificate of Satisfaction of Right of First Refusal	13
22. Insurance	13
23. No Partition	14
24. Damage and Destruction	14



DECLARATION OF HORIZONTAL  
PROPERTY OWNERSHIP

CASA DE PRADO  
Horizontal Property Regime

TABLE OF CONTENTS (continued)

	<u>Page</u>
25. Real Estate Taxes	15
26. Authority of the Association	15
27. Enforcement	17
28. Personal Property	17
29. Audit	17
30. Interpretation	17
31. Amendment of Declaration	17
32. General Provisions	18
Consent of Mortgagee	20



EXHIBIT "A"

Part of Section 20, Township 14 North, Range 4 East, Marion County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Section 20; running thence North 90 degrees West and along the North line of Section 19 of said Township and Range, a distance of 440.45 feet to a point on the original center line of Madison Avenue (Said original center line is 10 feet by parallel lines West of the existing construction center line); Thence South 14 degrees 35 minutes 10 seconds East and along said original center line 1786.99 feet to a point on the West line of said Section 20; Thence South 14 degrees 37 minutes 10 seconds East and along said center line a distance of 236.92 feet; Thence North 75 degrees 22 minutes 50 seconds East 960 feet to a point in the center line of a concrete road, said point being the beginning point of this description; running thence North 75 degrees 22 minutes 50 seconds East 486.26 feet to a point on the Westerly right of way line of the Pennsylvania R.R.; Thence South 16 degrees 49 minutes 15 seconds East and along said right of way line 1185.98 feet to the Southerly line of an Indianapolis Power and Light Co. Easement; Thence South 62 degrees 45 minutes 10 seconds West and along said easement line 801.20 feet; Thence North 14 degrees 37 minutes 10 seconds West 960.97 feet to a point in the center line of said concrete road said point being the beginning point of a curve in a Northeasterly direction, said curve having a Delta of 90 degrees and a Radius of 250 feet, the Radius point of which lies North 14 degrees 37 minutes 10 seconds West from said point; Thence in a Northeasterly direction along said curve and along the center line of said concrete road 392.70 feet to the end of said curve; Thence North 14 degrees 37 minutes 10 seconds West and along the center line of said concrete road 149.29 feet to the point of beginning.

EXHIBIT "A"



DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP

CASA DE PRADO HORIZONTAL PROPERTY REGIME

This Declaration, made this 1<sup>st</sup> day of DECEMBER, 1972, by YEAGER CONTRACTING CO., INC., a corporation organized and existing under the laws of the State of Indiana, hereinafter referred to as "Declarant",

W I T N E S S E T H:

WHEREAS, Declarant is the sole owner of the fee simple title to real estate located in Marion County, Indiana, more particularly described in the Exhibit "A" attached hereto and made a part hereof and hereafter referred to as "Property".

WHEREAS, said Declarant intends by this Declaration to establish a plan for the individual ownership of the living units of the property consisting of the area or space contained in each of the living units and the co-ownership by the individual and separate owners thereof, as tenants in common, of areas and facilities appurtenant to the Property which is hereinafter defined and referred to herein as the "common areas": and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Property to create an agency to which should be delegated and assigned the powers of maintaining and administering the common area and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant will or has caused an Association, the members of which shall be the respective owners of Apartments in the Property, to be incorporated under the laws of the State of Indiana, as a non-profit corporation, for the purpose of exercising the functions aforesaid; and

NOW, THEREFORE, Declarant, by execution of this Declaration, hereby submits the Property to the Horizontal Property Act of the State of Indiana and creates a Horizontal Property Regime, and declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the property. These easements, covenants, restrictions and conditions shall run with the property and shall be binding on all parties having or acquiring any right, title or interest in the described properties, or any part thereof, and shall inure to the benefit of each owner thereof.

1. Definitions. The following terms, as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

- a. "Acts" means the Horizontal Property Act of the State of Indiana, Acts 1963, Chapter 349, Sections 1 through 31, as amended. The Act is incorporated herein by reference.



- b. "Project" means the property and appurtenant easements, of the apartments, the buildings, improvements, and property of every kind and nature whatsoever, real, personal or mixed, located upon the Property and used in connection with the operation, use and enjoyment of the Casa De Prado Horizontal Property Regime hereinafter called "Casa De Prado".
- c. "Building" means one of the 59 buildings on the Property in which apartments are located.
- d. "Apartments" means one of the 236 living units of Casa De Prado.
- e. "Association" means and refers to Casa De Prado, Inc., an Indiana Not-For-Profit Corporation, an Association of the apartment owners of Casa De Prado.
- f. "Common Area" means the common areas and facilities appurtenant within the Property as defined in paragraph 5 of this Declaration.
- g. "Limited Common Areas" means the common areas and facilities as defined in paragraph 6 of this Declaration.
- h. "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity or any combination thereof who owns the fee simple title to an Apartment and who thus hold membership in the Association.
- i. "Mortgage" shall mean the conveyance of any Apartment or other portion of the properties to secure the performance of an obligation, which conveyance shall be void upon the due performance of said obligation.
- j. "Mortgagee" shall mean a person or entity to whom a mortgage is made; "Mortgagor" shall mean a person or entity who mortgages his or its property to another, i.e., the maker of a mortgage.
- k. "Common Expenses" means expenses of administration of the Association and expenses for the upkeep, maintenance, repair and replacement of the Common Areas and all sums lawfully assessed against the Owners by the Association or as declared by the Act, this Declaration or the By-Laws.
- l. "Percentage Interest" means the percentage of undivided interest in the fee simple title to the Common Areas appertaining to each Apartment, as specifically expressed in paragraph 9a of this Declaration.



- m. "Board of Directors" means the governing body of the Association elected by the owners in accordance with the By-Laws.
- n. "By-Laws" means the By-Laws of the Association providing for the administration and management of the Project as required by and in conformity with the provisions of the Act. A true copy of the By-Laws is attached to this Declaration and incorporated herein by reference.
- o. "Utility Services" shall include, but not be limited to, electric power, gas, hot and cold water, heating, refrigeration, air-conditioning and garbage and sewage disposal.

2. Development Plan. The project is being developed according to the following plans:

- a. A site plan and elevation survey, (hereinafter called "Survey") of the Property prepared by Paul I. Cripe, Inc., certified by James E. Dankert, a registered land surveyor, under date of JULY 5, 1972, all of which is incorporated herein by reference.
- b. Floor and building plans, (hereinafter referred to as "Plan") of the Buildings and Apartments prepared by Paul I. Cripe, Inc., certified by James E. Dankert, a licensed professional Engineer, under date of JULY 5, 1972, and incorporated herein by reference. The project will consist of 59 buildings, for a total of 236 owners' Apartments. The project will also include one automobile garage space, a storage space and a patio for each Apartment; a swimming pool and recreational facility and other facilities, located substantially as shown in the Plan.
- c. This Declaration may be amended by filing such additional Survey and/or Plan as may be required to describe adequately the completion of improvements. Such completion shall be shown by a certificate of an architect, engineer or surveyor certifying that the improvements have been constructed substantially as herein represented, or designating any changes made. Such Survey and/or Plan or certificate, when signed and acknowledged by the Declarant, shall, in themselves, constitute an amendment of this Declaration, notwithstanding the procedures for amendment described elsewhere in this Declaration.
- d. Easements are reserved through the Project as may be required for utility services.

3. Description of Buildings. The Apartments of the Project are more particularly described as follows:

- a. There are 59 Buildings, each being two (2) stories in height, without basements, each containing four (4) Apartments, for a total of 236 Apartments on the Property, as shown on the Survey and Plan. The Buildings are identified and referred to in the Survey and/or Plan and in this Declaration as Building #1 through and including Building #59 inclusive. There are four (4) typical Apartment floor plans



which are known by Apartment Model's references herein listed. These Apartments are generally described below, and further details may be illustrated in the Survey and/or Plans.

<u>Model #</u>	<u>Containing</u>
Acapulco	One Floor Plan entirely located over garage; two bedroom.
Seville	Townhouse; 2 Bedroom.
Villas	One Floor Plan; ground level; 2 Bedroom.
Madrid	One Floor Plan; ground level; 3 Bedroom.

- b. Each apartment is identified on the Survey and/or Plan by the use of the Building Number, followed by the letter A, B, C or D to locate a given apartment in a given building. The garage, storage space and patio for each apartment shall also be designated by the same identification.
- c. The Declarant reserves the right to change the interior design and arrangements of all apartments and to alter the boundaries between apartments so long as the Declarant owns the apartments so altered. Any such change shall be reflected by an amendment of this Declaration which may be executed by the Declarant alone, notwithstanding the procedures for amendment described in paragraph 31 of this Declaration. However, no such change shall increase the number of apartments nor alter the boundaries of the common elements without amendment of this Declaration in the manner described in paragraph 31 of this Declaration.

4. Description of Apartments.

- a. Appurtenances. Each Apartment shall consist of all space within the boundaries thereof, as hereinafter defined, and all portions of the Building situated within such boundaries, including but not limited to, all fixtures, facilities, utilities, equipment, appliances and structural components designed and intended solely and exclusively for the enjoyment, use and benefit of the Apartment wherein the same are located, or to which they are attached, but excluding therefrom that designed or intended for the use, benefit, support, safety or enjoyment of any other Apartment or which may be necessary for the safety, support, maintenance, use and operation of any of the Buildings or which are normally designed for common use; provided, however, that all fixtures, equipment and appliances designed or intended for the exclusive enjoyment, use and benefit of an Apartment shall constitute a part of such Apartment, whether or not the same are located within or partly within the boundaries of such Apartment. Also, the interior surface of all doors and windows (excluding frames) in the perimeter walls of an Apartment, whether or not located within or partly within the boundaries of an Apartment, and all interior walls within the boundaries of an Apartment, are considered part of the Apartment.
- b. Boundaries. The boundaries of each Apartment shall be as shown on the Survey and/or Plan without regard to the



existing construction measured between the interior unfinished surface of the floors, ceilings and perimeter walls of each Apartment. In the event any horizontal or vertical boundary line, as shown on the Survey and/or Plan, does not coincide with the actual location of the respective wall, floor or ceiling surface of the Apartment because of inexactness of construction, settling after construction, or for any other reasons, the boundary lines of each Apartment shall be deemed to be and treated for purposes of occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Apartment in and to such space lying outside of the actual boundary line of the Apartment, but within the appropriate wall, floor or ceiling surfaces of the Apartment.

5. Common Areas and Facilities. Common Areas means and includes (1) the Property, (2) the foundations, columns, girders, beams, supports and roofs of the Buildings, (3) the yards, gardens, driveways, sidewalks, parking areas and recreational areas, (4) central electricity, gas, water, air-conditioning and sanitary sewer mains serving the Buildings, (5) exterior lighting fixtures and electrical service lighting the exterior of the Buildings, (6) Master television antenna system with connecting outlets to each Apartment, (7) pipes, ducts, electrical wiring and conduits and public utilities lines, (8) floors, ceilings and perimeter walls, except the interior surface thereof, (except interior walls of all Apartments), and (9) all facilities and appurtenances located outside of the boundary lines of the Apartments, including those areas and facilities expressly defined as Limited Common Areas.

6. Limited Common Areas and Facilities. Limited Common Areas and those Apartments to which use thereof is limited are as follows:

- a. The halls, corridors, lobbies, stairs, stairways, entrances, and exits of each Building shall be limited to the use of the Apartments of such Building.
- b. There are 236 garage units under roof. Each garage unit shall be limited for the exclusive use of a particular Apartment, as designated on the Survey and/or Plan.
- c. A storage bin in each garage building is limited to the use of each Apartment, as designated on the Survey and/or Plan.
- d. Patios, together with an area around such patio, specifically shown and designated on the Survey and/or Plan, shall be limited to the exclusive use of the Apartment to which they are attached.
- e. The exterior surface of doors and windows in the perimeter walls in each Apartment shall be limited to the exclusive use of the Apartment to which they appertain.

7. Membership in Association.

- a. Membership. Every person or entity who is a record owner of an Apartment which is subject, by covenants of record, to assessment by the Association, shall be a member of the Association. The foregoing is not intended to include



persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from the ownership of the Apartment which is subject to assessment by the Association. Ownership of such Apartment shall be the sole qualification for membership.

- b. Transfer. The membership held by any owner of an Apartment shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Apartment, and then only to the purchaser or mortgagee of such Apartment. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. In the event the owner of any Apartment should fail or refuse to transfer the membership registered in his name to the purchaser of such Apartment, the Association shall have the right to record the transfer upon the books of the Association and shall issue a new certificate to the purchaser, and thereupon, the old certificate outstanding in the name of the seller shall be null and void as though the same had been surrendered.

8. Voting Rights in Association. The Association shall have two classes of voting membership:

- a. Class A. Class A members shall be all those Owners as defined in Item 1(h) with the exception of the Declarant. Class A members shall be entitled to one vote for each Apartment in which they hold the interest required for membership by Item 7(a). When more than one person holds such interest in any Apartment, all such persons shall be members. The vote for such Apartment shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to an Apartment.
- b. Class B. The Class B member(s) shall be the Declarant. The Class B member(s) shall be entitled to three (3) votes for each Apartment in which it holds the interest required for membership by Item 7(a), provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
- (i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
  - (ii) on January 1, 1977.

9. Rights and Shares in Common Areas and Expenses. Each Apartment owner shall own a share in the common areas and be liable for Common Expenses in a percentage interest for each Apartment of 1/236 of a share, or 100/236 percent, thus giving each owner an equal share irrespective of Apartment Model owned.

- a. Percentage Interest. The above respective undivided interests are hereby established and are to be conveyed with the respective Apartments as indicated above, and said Declarant, its successors and assigns, and grantees, covenant and agree that the undivided interests in the common areas and the fee titles to the respective Apartments conveyed therewith, shall not be separated or separately conveyed, and each said undivided interest shall be deemed to be conveyed or encumbered with its respective Apartment event though the description in



the instrument of conveyance or encumbrance may refer only to the fee title to the Apartment.

b. Limitation on Use of Apartments and Common Area. The Apartments and Common Area shall be occupied and used as follows:

- (1) No Owner shall occupy or use his Apartment, or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the Owner and the Owner's family or the Owner's Lessees or guests;
- (2) There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without the prior consent of the Association;
- (3) Nothing shall be done or kept in any Apartment or in the Common Area which will increase the rate of insurance on the Common Area, without the prior written consent of the Association. No Owner shall permit anything to be done or kept in his Apartment or in the Common Area which will result in the cancellation of insurance on any Apartment or any part of the Common Area, or which would be in violation of any law. No waste will be committed in the Common Area;
- (4) No sign of any kind shall be displayed to the public view on or from any Apartment or the Common Area, without the prior consent of the Association, except under section (9) hereunder; and except further that any holder of a mortgage who comes into possession of an Apartment pursuant to remedies in a Mortgage, or foreclosure of a Mortgage, or deed in lieu of foreclosure shall be permitted to display a reasonable type sign as pertains to the sale or rental of the Apartment;
- (5) No animals, livestock or poultry of any kind shall be raised, bred, or kept in any Apartment or in the Common Area, except that dogs, cats or other household pets may be kept in Apartments, subject to rules and regulations adopted by the Association;
- (6) No noxious or offensive activity shall be carried on in any Apartment or in the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners;
- (7) Nothing shall be altered or constructed in or removed from the Common Area, except upon the written consent of the Association;
- (8) There shall be no violation of rules for the use of the Common Area adopted by the Association and furnished in writing to the Owners, and the Association is authorized to adopt such rules.
- (9) The right of Declarant (and its sales agents and representatives) to the non-exclusive use of the Common Area and the facilities thereof, for display and exhibit purposes in connection with the sale of Apartments within the Property, which right Declarant hereby reserves; provided, however, that such use shall not be for a period of more than five (5) years after the conveyance of the first Apartment; provided further, that no such use by Declarant or its sales agents or representatives shall otherwise restrict the Owners in their use and enjoyment of the Common Area or facilities thereon.



c. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

d. Waiver of Use. No Owner may exempt himself from personal liability for assessments duly levied by the Association, nor release the Apartment owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of his Apartment.

e. Additional Provisions Relating to Common Areas. The Declarant, its successors, and assigns, all future owners of the Apartments, by their acceptance of their respective deeds, covenant and agree as follows:

- (1) That if any portion of the Common Area encroaches upon the Apartment, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. In the event a multifamily structure is partially or totally destroyed, and then rebuilt, the owners of Apartments agree that minor encroachments of parts of the Common Area due to construction shall be permitted and that valid easements for said encroachment and the maintenance thereof shall exist.
- (2) That the Common Area is and shall always be subject to easements for minor encroachments thereon of the Apartment and that a non-exclusive easement for ingress, egress and support through the unrestricted Common Area is appurtenant to each Apartment and the Common Area and is subject to such easements.

10. Owner's Obligation to Repair. Except for those portions which the Association is required to maintain and repair hereunder (if any), each Owner shall at the Owner's expense keep the interior of his Apartment and its equipment and appurtenances in good order, condition and repair in a clean and sanitary condition, and shall do all redecorating, painting and varnishing which may be at any time be necessary to maintain the good appearance and condition of his Apartment. In addition to decorating and keeping the interior of the Apartment in good repair, the Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, furnaces, lighting fixtures, refrigerators, air conditioning equipment, dishwashers, disposals or ranges that may be in, or connect with the Apartment.

The Owner shall also, at the Owner's own expense, keep the interior of the patio, storage shed and garage which have been assigned to his Apartment in a clean and sanitary condition. The Association shall not be responsible to the Owner for loss or damage by theft or otherwise of articles which may be stored by the Owner in the patio, storage area, garage or Apartment.

11. Prohibition Against Structural Changes by Owner. The Owner shall not, without first obtaining written consent of the Association make or permit to be made any structural alteration, improvement or addition in or to his Apartment or in or to the exterior of the buildings or other Common Area. The Owner shall do no act nor any work that will impair the structural soundness or integrity of the buildings or safety of the property or impair any easement or hereditament without the written consent of all Owners. The Owner shall not paint or decorate any portion of the exterior of the buildings or other Common Area or any portion of the patio fences, storage area or garage, without first obtaining written consent of the Association.



12. Covenant for Maintenance Assessments.

- a. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Apartment owned by it hereby covenants, and each Owner of any Apartment which become subject to the jurisdiction of the Association, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association:
- (1) Regular assessments or charges and (2) assessments for capital improvements; such assessments to be fixed, established, and collected from time to time as hereinafter provided. The regular and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the real property and shall be a continuing lien upon the Apartment against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Apartment at the time when the assessment became due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.
- b. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare to the residents in the Property and for the improvement and maintenance of the Common Area.
- c. Maximum Regular Assessment. Until January 1 of the year immediately following the conveyance of the first Apartment to the Owner, the maximum regular assessment shall be \$21.50 per month, per Apartment, excluding the Declarant until such time as Declarant no longer has a Class B Membership as described in paragraph 8(b).
- (1) From and after January 1 of the year immediately following the conveyance of the first Apartment to an Owner, the maximum regular assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.
- (2) From and after January 1 of the year immediately following the conveyance of the first Apartment to an Owner, the maximum regular assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- d. Assessments Less Than Maximum. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.
- e. Special Assessments for Capital Improvements. In addition to the regular 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, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.



f. Notice and Quorum For Any Action Authorized Under Sections (c) Through (e). Written notice of any meeting called for the purpose of taking any action authorized under Item 12 (c) through (e) shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

g. Rate of Assessment. Both regular and special assessments must be fixed at a uniform rate for all Apartments since each Owner has an equal share in the Common Area.

h. Date of Commencement of Regular Assessments;

Due Dates. The regular assessments provided for herein shall commence as to all Apartments on the first day of the month following the conveyance of the first Apartment to an individual Owner. Subject to the provisions of section (c) hereof the Board of Directors shall fix the amount of the regular assessment against each Apartment at least thirty (30) days in advance of each regular assessment period. Written notice of the regular assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, and, unless otherwise provided, the Association shall collect each month from the Owner the regular assessment for each month for such Apartment. The Association, shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Apartment have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

13. Default in Payment of Assessments. Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the Owner against whom the same are assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the Owner of any Apartment plus interest at seven per cent (7%), and costs, including reasonable attorneys' fees, shall become a lien upon such Apartment as provided in Section 12. The said lien for nonpayment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only

(1) Tax and special assessment liens on the Apartment in favor of any assessment unit, and special district, and

(2) Encumbrances on the Owner's Apartment recorded prior to the due date of regular and/or special assessments.

A certificate executed and acknowledged by a majority of the Board of Directors stating the indebtedness secured by the lien upon any Apartment created hereunder, shall be conclusive upon the Association and the Owners as to the amount of such indebtedness on the date of the



certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner or any encumbrancer or prospective encumbrancer of an Apartment upon request at a reasonable fee, not to exceed Ten Dollars (\$10.00). Unless the request for a certificate of indebtedness shall be complied with within ten (10) days, all unpaid common expenses which become due prior to the date of the making of such request shall be subordinate to the lien held by the person making the request. Any encumbrancer holding a lien on an Apartment may pay any unpaid common expenses payable with respect to such Apartment and upon such payment such encumbrancer shall have a lien on such Apartment for the amounts paid of the same rank as the lien of his encumbrance.

Such lien for nonpayment of assessment may be enforced by sale by the Association, such sale to be conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in deeds or mortgages or in any manner permitted by law. In any foreclosure or sale, the Owner shall be required to pay the costs and expenses of such proceedings and reasonable attorney's fees.

14. Mortgage Protection. Notwithstanding all other provisions hereof:

- a. The liens created hereunder upon any Apartment shall be subject and subordinate to, and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage with first priority over other mortgages) upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to Paragraph 13 hereof on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an Owner after the date of such foreclosure sale, which said lien, if any claimed, shall have the same effect and be enforced in the same manner as provided herein;
- b. No amendment of this paragraph shall affect the rights of the holder of any such mortgage recorded prior to recordation of such amendment who does not join in the execution thereof;
- c. By subordination agreement executed by a majority of the Board of Directors, the benefits of (a) and (b) above may be extended to mortgages not otherwise entitled thereto.

15. Entry For Repairs. The Association or its agents may enter any Apartment when necessary in connection with any maintenance, landscaping or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Association out of the common expense fund.

16. Failure of Association to Insist on Strict Performance No Waiver. The failure of the Association to insist in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future, or such



term, covenant, condition or restriction but such term, covenant, condition or restrictions shall remain in full force and effect. The receipt by the Association of any assessment from an Owner, with knowledge of the breach of any covenant hereof shall not be deemed as a waiver of such breach, and no waiver by the Association of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board of Directors of the Association.

17. Limitation of Association's Liability. The Officers and/or Directors of the Association shall not be liable for any failure of water supply or other service to be obtained and paid for by the Association hereunder, or for injury or damage to person or property caused by the elements or by another Owner or person in the project, or resulting from electricity, water, rain, dust or sand which may leak or flow from outside or from any parts of the buildings, or from any of its pipes, drains, conduits, appliances, or equipment, or from any other place unless caused by gross negligence of the Officers and/or Directors of the Association. No diminution or abatement of common expense assessments shall be claimed or allowed for inconveniences or discomfort arising from the making of repairs or improvements to the Common Area or from any action taken to comply with any law, ordinance or orders of a governmental authority.

18. Indemnification of Officers and/or Directors of Association. Each Officer and/or Director of the Association shall be indemnified by the Owners against all expenses and liabilities including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been an Officer and/or Director of the Association, or any settlement thereof, whether or not he is an officer and/or Director of the Association at the time such expenses are incurred, except in such cases wherein the Officer and/or Director of the Association is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Association approves such settlement and reimbursement as being for the best interests of the Association.

19. Sale or Lease Right of First Refusal. In the event any Owner of an Apartment shall wish to resell or lease the same, and shall have received a bona fide offer therefor from a prospective purchaser or tenant, the remaining Owners shall be given written notice thereof together with an executed copy of such offer and the terms thereof. Such notice and copy shall be given to the Association for all of the Owners. The remaining Owners through the Association or a person named by the Association, shall have the right to purchase or lease the subject Apartment upon the same terms and conditions as set forth in the offer therefor, provided written notice of such election to purchase or lease is given to the selling or leasing Owner, and a matching down payment or deposit is provided to the selling or leasing Owner during the twenty-one-day period immediately following the delivery of the notice of the bona fide offer and copy thereof to purchase or lease.

In the event any Owner shall attempt to sell or lease his Apartment without affording to the other Owners the right of first refusal herein provided, such sale or lease shall be wholly null and void and shall confer no title or interest whatsoever upon the intended purchaser or lessee.

The subleasing or subrenting of such interest shall be subject to the same limitations as are applicable to the leasing or renting thereof. The liability of the Owner under these covenants shall continue, notwithstanding the fact that he may have leased or rented said interest as provided herein.

In no case shall the right of first refusal reserved herein affect the right of an Owner to subject his Apartment to a mortgage or other security instrument.



The failure of or refusal by the Association to exercise the right to so purchase or lease shall not constitute or be deemed to be a waiver of such right to purchase or lease when an Owner receives any subsequent bona fide offer from a prospective purchaser or tenant.

20. Mortgages Not Affected by Right of First Refusal. In the event of any default on the part of any Owner under any first mortgage made in good faith and for value, which entitled the holder thereof to foreclose same, any sale under such foreclosure, including delivery of a deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of Paragraph 19, and the purchaser (or grantee under such deed in lieu of foreclosure) of such Apartment shall be thereupon and thereafter subject to the provisions of this Declaration. If the purchaser following such foreclosure sale (or grantee under deed given in lieu of such foreclosure) shall be the then holder of the first mortgage, or its nominee, the said holder or nominee may thereafter sell and convey the Apartment free and clear of the provisions of Paragraph 19 but its grantee shall thereupon and thereafter be subject to all of the provisions thereof.

The transfer of a deceased joint tenant's interest to the surviving joint tenant or the transfer of a deceased's interest to a devisee by will or his heirs at law under intestacy laws shall not be subject to the provisions of Paragraph 19.

If an Owner of an Apartment can establish to the satisfaction of the Association that a proposed transfer is not a sale or lease, then such transfer shall not be subject to the provisions of Paragraph 19.

21. Certificate of Satisfaction of Right of First Refusal. Upon written request of any prospective transferor, purchaser, tenant or an existing or prospective mortgagee of any Apartment, the Association shall forthwith, or where time is specified, at the end of the time, issue a written and acknowledged certificate in recordable form, evidencing that:

- a. With respect to a proposed lease or sale under Paragraph 19 that proper notice was given by the selling or leasing owner and that the remaining Owners did not elect to exercise their option to purchase or lease;
- b. With respect to a deed to a first mortgagee or its nominee in lieu of foreclosure, and a deed from such first mortgagee or its nominee, pursuant to Paragraph 19, that the deeds were in fact given in lieu of foreclosure and were not subject to the provisions of Paragraph
- c. With respect to any contemplated transfer which is not in fact a sale or lease, that the transfer is not or will not be subject to the provisions of Paragraph 19, such a certificate shall be conclusive evidence of the facts contained therein.

22. Insurance. The Association shall obtain and maintain at all times insurance of the type and kind and in at least the amounts provided hereafter, and including insurance for such other risks, of a similar or dissimilar nature, as are or shall hereafter customarily be covered with respect to other Apartment projects similar in construction, design and use which insurance shall be governed by the following provisions:

- a. All policies shall be written with a company licensed to do business in the State of Indiana and holding a rating of "AAA" or better by Best's Insurance Reports;
- b. Exclusive authority to adjust losses under policies hereafter in force in the project shall be vested in the Association or its authorized representative.



- c. In no event shall the insurance coverage obtained and maintained by the Association hereunder, be brought into contribution with insurance purchased by individual Owners or their mortgagees;
- d. Each Owner may obtain additional insurance at his own expense; provided, however, that no Owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Association, in behalf of all of the Owners, may realize under any insurance policy which the Association may have in force on the project at any particular time;
- e. Each Owner shall be required to notify the Association of all improvements made by the Owner to his Apartment, the value of which is in excess of One Thousand Dollars (\$1,000.00);
- f. Any Owner who obtains individual insurance policies covering any portion of the project other than personal property belonging to such Owner, shall be required to file a copy of such individual policy or policies with the Association within thirty (30) days after purchase of such insurance;
- g. The Association shall be required to make every effort to secure insurance policies that will provide for the following:
  - (1) A waiver of subrogation by the insurer as to any claims against the Association, the Owners and their respective servants, agents, and guests;
  - (2) That the master policy on the project cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Owners;
  - (3) That the master policy on the project cannot be cancelled, invalidated or suspended on account of the conduct of any officer, director or employee of the Association without a prior demand in writing that the Association cure the defect;
  - (4) That any "no other insurance" clause in the master policy exclude individual owners' policies from consideration;
- h. The annual insurance review by the Association as required shall include an appraisal of the improvements in the project by a representative of the insurance carrier writing the master policy.

23. No Partition. There shall be no judicial partition of the project or any part thereof, nor shall Declarant or any person acquiring any interest in the project or any part thereof seek any such judicial partitions except in the case of damage or destruction or unless the property has been removed from the provisions of the Act, provided, however, that if any Apartment shall be owned by two or more co-tenants as tenants-in-common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants, but such partition shall not affect any other Apartment.

24. Damage and Destruction. In case of fire, casualty or any other disaster of less than two-thirds (2/3) of all Apartments, the insurance proceeds, if sufficient to reconstruct the buildings, shall be applied to such reconstruction. Reconstruction of the buildings, as used in this paragraph means restoring the buildings to substantially the same condition in which they existed prior to the fire, casualty or other disaster, with each Apartment and the Common Area having the same vertical and horizontal boundaries as before to the extent possible. Such reconstruction shall be accomplished by the Association.



If the insurance proceeds are insufficient to reconstruct the building, damage to or destruction of the building shall be promptly repaired and restored by the Association, using proceeds of insurance, if any, on the buildings for that purpose, and the Apartment owners shall be liable for any assessment for any deficiency. However, if two-thirds (2/3) or more of the buildings are destroyed or substantially damaged and if the Owners, by a unanimous vote, do not voluntarily, within one hundred twenty days after such destruction or damage, make provision for reconstruction, the Association shall record, with the county recorder, a notice setting forth such facts, and upon the recording of such notice:

- (1) the property shall be deemed to be owned in common by the Owners;
- (2) the undivided interest in the property owned in common which shall appertain to each Owner shall be the percentage of undivided interest previously owned by such Owner in the Common Area;
- (3) any liens affecting any of the Apartments shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Owner in the property; and
- (4) the property shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the Owners in a percentage equal to the percentage of undivided interest owned by each Owner in the Common Area, after first paying out of the respective shares of the Owners, to the extent sufficient for the purposes, all liens on the undivided interest in the property owned by each Owner.

Notwithstanding all other provisions hereof, the Owners may, by an affirmative vote of at least three fourths of the voting power, at a meeting of Apartment Owners duly called for such purpose, elect to sell or otherwise dispose of the property. Such action shall be binding upon all Apartment Owners and it shall thereupon become the duty of every Apartment Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect the sale.

25. Real Estate Taxes. Real estate taxes are to be separately taxed to each Apartment as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Apartment, but are assessed and taxed on the Property as a whole, then each Owner shall pay a proportionate share thereof in accordance with his respective Percentage Interest.

26. Authority of the Association. The Association, for the benefit of the Owners, shall enforce the provisions hereof and shall acquire and shall pay for out of the common expense fund hereinafter provided for, the following:

- a. Water, sewer, garbage collection, electrical, telephone and gas and other necessary utility service for the Common Area (and to the extent not separately metered or charged, for the Apartments);
- b. A policy or policies of fire insurance as the same are more fully set forth in Paragraph 22 of this Declaration, with extended coverage endorsement, for the full insurable replacement value of the Apartments and Common Area, payable as provided in Paragraph 24, or such other fire and casualty insurance as the Association shall determine insurance as the Association shall determine gives substantially equal or greater protection to the Owners, and their mortgagees, as their respective interests may appear,



which said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees of each Apartment if any;

- c. A policy or policies as the same are more fully set forth in Paragraph 22 of this Declaration insuring the Association and the Owners against any liability to the public or to the Owners (of Apartments and of the Common Area, and their invitees, or tenants), incident to the ownership and/or use of the project, and including the personal liability exposure of the Owners Limits of liability under such insurance shall not be less than One Hundred Thousand Dollars (\$100,000.00) for any one person injured, and Three Hundred Thousand Dollars (\$300,000.00) for any one accident, and shall not be less than One Hundred Thousand Dollars (\$100,000.00) for property damage each occurrence (such limits and coverage to be reviewed at least annually by the Association and increased in its discretion). Said policy or policies shall be issued on a comprehensive liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudice as respects his, her or their action against another named insured.
- d. Workmen's Compensation insurance to the extent necessary to comply with any applicable laws;
- e. The services of a person or firm to manage the project (herein called "the Manager"), as well as such other personnel as the Association shall determine shall be necessary or proper for the operation of the Common Area, whether such personnel are employed directly by the Association or are furnished by the Manager. Any change in Manager after the date of the consent of Mortgagee attached hereto shall not be effective unless thirty (30) days written notice of such change is given to Mortgagees who have given prior notice of its Mortgage interest to the Board of Directors in accordance with the provisions of the By-Laws.
- f. Legal and accounting services necessary or proper in the operation of the Common Area or the enforcement of this Declaration;
- g. Painting, maintenance, repair and all landscaping of the Common Area, and such furnishings and equipment for the Common Area as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Common Area; provided, however, that the interior surfaces of each Apartment shall be painted, maintained and repaired by the Owners thereof, all such maintenance to be at the sole cost and expense of the particular Owner;
- h. Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Association is required to secure or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation of the Common Area or for the enforcement of this Declaration, provided that if any such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular Apartments, the cost thereof shall be specially assessed to the Owners of such Apartments.
- i. Maintenance and repair of any Apartment, if such maintenance or repair is reasonably necessary in the discretion of the Association to protect the Common Area or preserve the appearance and value of the project, and the Owner or Owners of said Apartment have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Owner or Owners, provided that the Association shall levy a special assess-



which said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees of each Apartment if any;

- c. A policy or policies as the same are more fully set forth in Paragraph 22 of this Declaration insuring the Association and the Owners against any liability to the public or to the Owners (of Apartments and of the Common Area, and their invitees, or tenants), incident to the ownership and/or use of the project, and including the personal liability exposure of the Owners Limits of liability under such insurance shall not be less than One Hundred Thousand Dollars (\$100,000.00) for any one person injured, and Three Hundred Thousand Dollars (\$300,000.00) for any one accident, and shall not be less than One Hundred Thousand Dollars (\$100,000.00) for property damage each occurrence (such limits and coverage to be reviewed at least annually by the Association and increased in its discretion). Said policy or policies shall be issued on a comprehensive liability endorsement wherein the rights of named insured under the policy or policies shall not be prejudice as respects his, her or their action against another named insured.
- d. Workmen's Compensation insurance to the extent necessary to comply with any applicable laws;
- e. The services of a person or firm to manage the project (herein called "the Manager"), as well as such other personnel as the Association shall determine shall be necessary or proper for the operation of the Common Area, whether such personnel are employed directly by the Association or are furnished by the Manager. Any change in Manager after the date of the consent of Mortgagee attached hereto shall not be effective unless thirty (30) days written notice of such change is given to Mortgagees who have given prior notice of its Mortgage interest to the Board of Directors in accordance with the provisions of the By-Laws.
- f. Legal and accounting services necessary or proper in the operation of the Common Area or the enforcement of this Declaration;
- g. Painting, maintenance, repair and all landscaping of the Common Area, and such furnishings and equipment for the Common Area as the Association shall determine are necessary and proper, and the Association shall have the exclusive right and duty to acquire the same for the Common Area; provided, however, that the interior surfaces of each Apartment shall be painted, maintained and repaired by the Owners thereof, all such maintenance to be at the sole cost and expense of the particular Owner;
- h. Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Association is required to secure or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation of the Common Area or for the enforcement of this Declaration, provided that if any such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular Apartments, the cost thereof shall be specially assessed to the Owners of such Apartments.
- i. Maintenance and repair of any Apartment, if such maintenance or repair is reasonably necessary in the discretion of the Association to protect the Common Area or preserve the appearance and value of the project, and the Owner or Owners of said Apartment have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Owner or Owners, provided that the Association shall levy a special assess-



ment against the Apartment of such Owner or Owners for the cost of said maintenance or repair.

The Association's power hereinabove enumerated shall be limited in that the Association shall have no authority to acquire and pay for out of the common expense fund capital additions and improvements (other than for purposes of replacing portions of the Common Area, subject to all the provisions of this Declaration) having a cost in excess of Five Thousand Dollars (\$5,000.00). There shall be no structural alterations, capital additions to, or capital improvements of the Common Area requiring an expenditure in excess of Five Thousand Dollars (\$5,000.00) without the prior approval of Owners holding a majority of votes of each class entitled to vote.

27. Enforcement. Each Owner shall comply strictly with the provisions of this Declaration and with the administrative rules and regulations drafted pursuant thereto as the same may be lawfully amended from time to time and with decisions adopted pursuant to said Declaration and administrative rules and regulations, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Association on behalf of the Owners, or in a proper case, by an aggrieved Owner.

28. Personal Property. The Association may acquire and hold, for the benefit of the Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise; and the beneficial interest in such personal property shall be owned by the Owners in the same proportion as their respective interests in the Common Area, and shall not be transferable except with a transfer to an Apartment. A transfer of an Apartment shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property.

29. Audit. Any Owner may at any time at his own expense cause an audit or inspection to be made of the books and records of the Association. The Association, at the expense of the common expenses, shall obtain an audit of all books and records pertaining to the project at no greater than annual intervals and furnish copies thereof to the Owners.

30. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a Horizontal Property Regime. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provisions or any other provision hereof.

31. Amendment of Declaration.

1. Amendments to this Declaration shall be proposed and adopted in the following manner:

- a. Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.
- b. Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or the Owners of at least a majority of the Vote of each class of the Association.
- c. Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.
- d. Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) of the vote of each class of the Association. In the event any Apartment is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed Amendment in the same manner as an Owner if the Mortgagee has given prior



ment against the Apartment of such Owner or Owners for the cost of said maintenance or repair.

The Association's power hereinabove enumerated shall be limited in that the Association shall have no authority to acquire and pay for out of the common expense fund capital additions and improvements (other than for purposes of replacing portions of the Common Area, subject to all the provisions of this Declaration) having a cost in excess of Five Thousand Dollars (\$5,000.00). There shall be no structural alterations, capital additions to, or capital improvements of the Common Area requiring an expenditure in excess of Five Thousand Dollars (\$5,000.00) without the prior approval of Owners holding a majority of votes of each class entitled to vote.

27. Enforcement. Each Owner shall comply strictly with the provisions of this Declaration and with the administrative rules and regulations drafted pursuant thereto as the same may be lawfully amended from time to time and with decisions adopted pursuant to said Declaration and administrative rules and regulations, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Association on behalf of the Owners, or in a proper case, by an aggrieved Owner.

28. Personal Property. The Association may acquire and hold, for the benefit of the Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise; and the beneficial interest in such personal property shall be owned by the Owners in the same proportion as their respective interests in the Common Area, and shall not be transferable except with a transfer to an Apartment. A transfer of an Apartment shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property.

29. Audit. Any Owner may at any time at his own expense cause an audit or inspection to be made of the books and records of the Association. The Association, at the expense of the common expenses, shall obtain an audit of all books and records pertaining to the project at no greater than annual intervals and furnish copies thereof to the Owners.

30. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a Horizontal Property Regime. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provisions or any other provision hereof.

31. Amendment of Declaration.

1. Amendments to this Declaration shall be proposed and adopted in the following manner:
  - a. Notice. Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting at which the proposed amendment is considered.
  - b. Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or the Owners of at least a majority of the Vote of each class of the Association.
  - c. Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly held in accordance with the provisions of the By-Laws.
  - d. Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) of the vote of each class of the Association. In the event any Apartment is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed Amendment in the same manner as an Owner if the Mortgagee has given prior



notice of its mortgage interest to the Board of Directors in accordance with the provisions of the By-Laws, but in no event shall such notice to mortgagees be less than thirty (30) days prior to the scheduled meeting.

e. Special Amendments. No amendment to this Declaration shall be adopted which changes:

- (1) The Percentage Interest with respect to any Apartment or the applicable shares of an Owners liability for the Common Expenses; or
- (2) The provisions of Paragraph 24 of this Declaration with respect to reconstruction or repair in the event of fire or casualty;

without the approval of One Hundred Percent (100%) of the owners and also the unanimous approval of all Mortgagees whose mortgage interest have been made known to the Board of Directors in accordance with the provisions of the By-Laws nor shall any amendment to this Declaration be adopted without the unanimous approval of the Mortgagees herein mentioned which:

- (1) Fails to employ a Professional Manager for the Project.
- (2) Removes the Project for the Indiana Horizontal Property Act excluding however, such removal as provided under Paragraph 24 hereof.

f. Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

32. General Provisions.

- a. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.
- b. Encroachment Easement. Each Apartment within the properties is hereby declared to have an easement over all adjoining Apartments for the purpose of accommodating all encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment occur due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the owners of each Apartment agree that minor encroachments over adjoining Apartment shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.



- c. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporation or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.
- d. Floor Plans. The Plans setting forth the layout, location, identification numbers, and dimensions of all of the Apartments and the Property are incorporated into this Declaration by reference, and have been filed in the office of the Recorder of Marion County, Indiana, in Casa De Prado, Inc., File No. \_\_\_\_\_, as of \_\_\_\_\_, 1972.
- e. Effective Date. This Declaration shall take effect upon recording.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

YEAGER CONTRACTING CO., INC.,

By: Robert K. Yeager, President  
Raymond Good, Secretary

STATE OF INDIANA )  
 ) SS:  
 COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared YEAGER CONTRACTING CO., INC./ Indiana by Robert K. Yeager, its President and Raymond Good, its Secretary who acknowledged the execution of the foregoing instrument as the free and voluntary act of the Corporation.

Witness my hand and Notarial Seal this 19<sup>th</sup> day of December, 1972.

My Commission Expires:  
12/18/1974

William F. O'Brien  
 Notary Public



This Instrument was prepared by:  
 Raymond Good  
 GOOD & BERTRAM  
 Attorneys at Law  
 5972 Madison Avenue  
 Indianapolis, Indiana 46227  
 783-1321



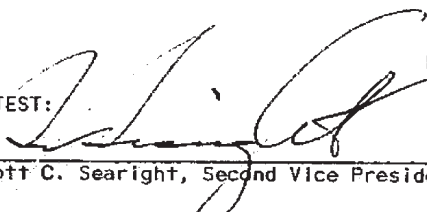
CONSENT OF MORTGAGEE

The undersigned, COLONIAL MORTGAGE COMPANY OF INDIANA, INC. being the holder of existing mortgages on the Property, as defined in the above and foregoing Declaration, which mortgages were dated September 15, 1972, and November 22, 1972, respectively, and recorded in the office of the Recorder of Marion County, Indiana, on October 13, 1972 and December 19, 1972, respectively, as Instrument Nos. 72-62143 and 72-77028 respectively, hereby consents to the recording of the above and foregoing Declaration and the submission of the Property to the provisions of the Horizontal Property Act of the State of Indiana, and further agrees that its mortgages shall be subject to the provisions of the Act and the above and foregoing Declaration and exhibits attached thereto and the documents incorporated therein.

EXECUTED this 19th day of December, 1972.

COLONIAL MORTGAGE COMPANY OF  
INDIANA, INC.

ATTEST:

  
\_\_\_\_\_  
Scott C. Searight, Second Vice President

By:

  
\_\_\_\_\_  
Edward L. Neuffer, Senior Vice President

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

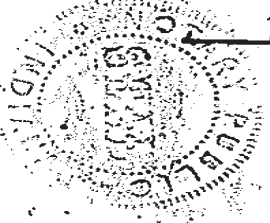
Before me, a Notary Public in and for said County and State, personally appeared Edward L. Neuffer and Scott C. Searight, the Senior Vice President and Second Vice President, respectively, of Colonial Mortgage Company of Indiana, Inc., who acknowledged the execution of the above and foregoing Consent for and on behalf of said corporation.



WITNESS my hand and Notarial Seal this 14th day of December, 1972.

[Signature]  
Notary Public

My Commission Expires:  
7-11-73



This instrument prepared by Raymond Good, Attorney at Law.





**BUILDING LEGEND**

BLDGs. No. 4,6,9,17,22,24,26,30,38,46,47,52  
 SEE TYPICAL BLDG. FLOOR PLAN WITH  
 MODEL No. "VILLAS" (SHEET 3 of 4)

BLDGs. No. 1,2,3,5,7,8,10,11,12,13,14,15,16,18,19,20,21,23,25,27,28,29  
 31,32,33,34,35,36,37,39,40,41,42,43,44,45,48,49,50,51,53,54,55,56,57,58,59  
 SEE TYPICAL BUILDING FLOOR PLAN WITH  
 MODEL No. "MADRID" (SHEET 4 of 4)

**CERTIFICATION**

I, the undersigned, certify that the building plans depicted herein including those on sheets 1 and 4 are an accurate copy of the portion of the plans of the buildings as filed with and approved by the "Commissioner of Buildings", Marion County, Indiana.

James E. Gaskett, Professional Engineer #8701



**CASA DE PRADO**

"HORIZONTAL PROPERTY REGIME"

72 78918

EXHIBIT AS REFERED TO IN "DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP"  
 "SITE PLAN & ELEVATION SURVEY" (SURVEY)

50 BUILDINGS  
 236 UNITS  
 236 GAR  
 178 PARKING

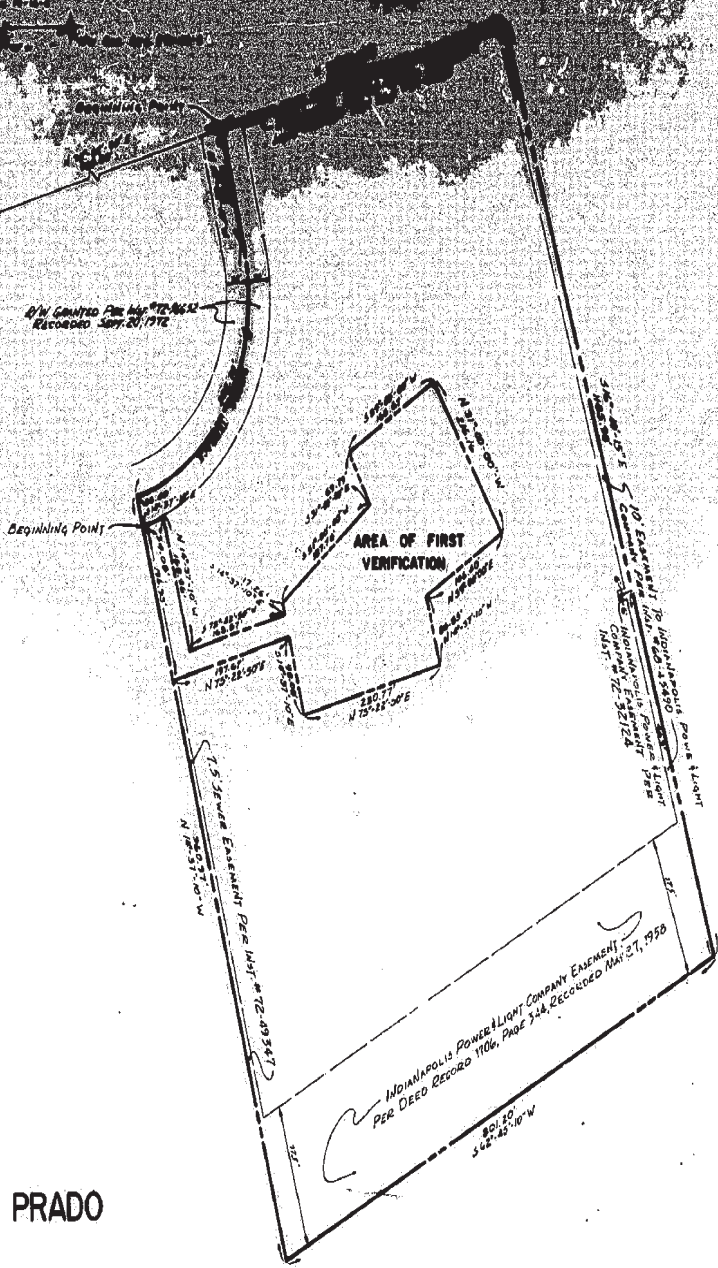
72 78918

ELEVATIONS 'ELATE TO U.S.G.S. DATUM

DESIGNED BY		SITE PLAN & ELEVATION SURVEY	
DATE	NOV 1972	SCALE	1"=40'
DRAWN BY	SM	DESIGNED BY	PAUL I. CRIFE, Inc
TRACED BY		DATE	7-5-72
CHECKED BY		NO. AND DATE	22 59
DESIGNED FOR		DESIGNED FOR	INDIANAPOLIS INDIANA
		DESIGNED FOR	YEAGER CONTR.

72/78918





**CASA DE PRADO**

... certify that the above plat is true and correct and represents a survey of a part of Section 20, Township 11 North, Range 4 East, Marion County, Indiana, more particularly, the Northwest corner of said section 20, containing 3.97 acres, more or less, the North line of said section 19 of said Township and Range, a distance of 110.45 feet to a point on the original center line of Madison Avenue (said original center line is 10 feet by parallel lines West of the existing construction center line); thence South 11 degrees 15 minutes 10 seconds East along said original center line 1786.99 feet to a point on the West line of said Section 20; thence South 11 degrees 37 minutes 10 seconds East and along said center line a distance of 736.99 feet; thence North 75 degrees 22 minutes 50 seconds East 960 feet to a point in the center line of a concrete road, said point being the beginning point of this description; running thence North 75 degrees 22 minutes 50 seconds East 186.26 feet to a point on the westerly right of way line of the Pennsylvania Railroad; thence South 16 degrees 15 minutes 15 seconds East and along said right of way line 1125.98 feet to the Southerly line of an Indianapolis Power and Light Company easement; thence South 62 degrees 45 minutes 10 seconds West and along said easement line 601.20 feet; thence North 11 degrees 37 minutes 10 seconds West 960.97 feet to a point in the center line of said concrete road, said point being the beginning point of a curve in a Northeasterly direction, said curve having a chitta of 90 degrees and a radius of 350 feet, the radius point of which lies North 11 degrees 37 minutes 10 seconds West from said point; thence in a Northeasterly direction along said curve and along the center line of said concrete road 392.70 feet to the end of said curve; thence North 11 degrees 37 minutes 10 seconds West and along the center line of said concrete road 110.24 feet to the point of beginning, containing 30.239 acres more or less.

A part of the above project is to be known as the area of first verification, is more particularly described as follows:

Part of section 20, Township 11 North, Range 4 East in Marion County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of the said Section; thence North 50 degrees West along the North line of Section 19 of said Township and Range 110.45 feet to a point on the original center line of Madison Avenue (said original center line is located 10 feet by parallel lines West of the existing construction center line); thence South 11 degrees 15 minutes 10 seconds East along the said original center line 1786.99 feet to the West line of the said Section 20; thence South 11 degrees 37 minutes 10 seconds East along the said original center line 236.02 feet; thence North 75 degrees 22 minutes 50 seconds East 960.00 feet to a point in the center line of a concrete road; thence South 11 degrees 37 minutes 10 seconds East 110.20 feet to a curve having a radius of 250.00 feet, the radius point of which bears South 75 degrees 22 minutes 50 seconds West; thence Southerly along the said curve 392.70 feet to a point which bears South 11 degrees 37 minutes 10 seconds East from the said radius point; thence South 11 degrees 37 minutes 10 seconds East 35.00 feet to the Place of Beginning; thence South 11 degrees 37 minutes 10 seconds East 196.03 feet; thence North 75 degrees 22 minutes 50 seconds East 177.67 feet; thence South 11 degrees 37 minutes 10 seconds East 98.00 feet; thence North 75 degrees 22 minutes 50 seconds East 230.77 feet; thence North 11 degrees 37 minutes 10 seconds West 216.16 feet; thence South 50 degrees 00 minutes 00 seconds West 165.67 feet; thence South 11 degrees 37 minutes 10 seconds East 17.26 feet; thence South 75 degrees 22 minutes 50 seconds West 110.24 feet to the end of said curve; thence North 11 degrees 37 minutes 10 seconds West and along the center line of said concrete road 110.24 feet to the point of beginning, containing 30.239 acres, more or less.

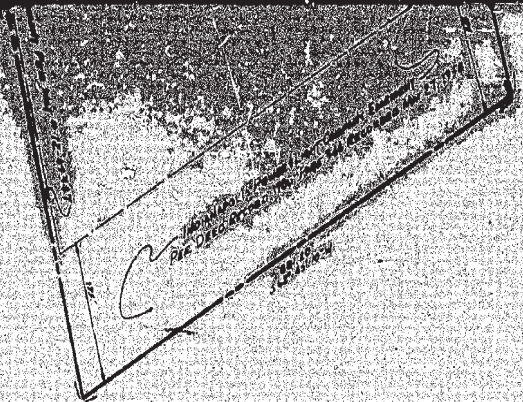
The above plat within "Case One" is in accordance with the original survey and contains no errors and is true and correct in all its parts and details thereof.

Witness my signature, this 7th day of May 1950

72/7818

Sheet One. All dimensions shown denote feet and decimal parts thereof.

# CASA DE PRADO



I, hereby certify that the above plat is true and correct and represents a survey of a part of section 20, Township 14 North, Range 4 East, Marion County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Section 20; thence North 90 degrees East and along the North line of Section 19 of said Township and Range, a distance of 446.45 feet to a point on the original center line of Madison Avenue (said original center line is 10 feet by parallel lines West of the existing construction center line); thence South 14 degrees 35 minutes 10 seconds East and along said original center line 1746.49 feet to a point on the West line of said Section 20; thence South 10 degrees 37 minutes 10 seconds East and along said center line a distance of 236.92 feet; thence North 75 degrees 22 minutes 50 seconds East 960.00 feet to a point in the center line of a concrete road; said point being the beginning point of this description running thence North 75 degrees 22 minutes 50 seconds East 466.26 feet to a point on the westerly right-of-way line of the Pennsylvania Railroad; thence South 16 degrees 14 minutes 15 seconds East and along said right-of-way line 1185.68 feet to the southerly line of an Indianapolis Power and Light Company easement; thence South 62 degrees 14 minutes 10 seconds East and along said easement line 831.20 feet; thence North 14 degrees 37 minutes 10 seconds West 560.97 feet to a point in the center line of said concrete road; said point being the beginning point of a curve in a northeasterly direction, said curve having a delta of 90 degrees and a radius of 256 feet, the radius point of which lies North 14 degrees 37 minutes 10 seconds West from said point; thence in a northeasterly direction along said curve and along the center line of said concrete road 392.70 feet to the end of said curve; thence North 14 degrees 37 minutes 10 seconds West and along the center line of said concrete road 184.28 feet to the point of beginning, containing 20.239 acres more or less.

A part of the above parcel is to be known as the area of first verification, is more particularly described as follows:

Part of Section 20, Township 14 North, Range 4 East in Marion County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of the said Section; thence North 90 degrees West along the North line of Section 19 of said Township and Range 446.45 feet to a point on the original center line of Madison Avenue (said original center line is located 10 feet by parallel lines West of the existing construction center line); thence South 14 degrees 35 minutes 10 seconds East along the said original center line 1746.49 feet to the West line of the said Section 20; thence South 10 degrees 37 minutes 10 seconds East along the said original center line 236.92 feet; thence North 75 degrees 22 minutes 50 seconds East 960.00 feet to a point in the center line of a concrete road; thence South 16 degrees 14 minutes 15 seconds East and along said right-of-way line 1185.68 feet to the southerly line of the said curve; thence South 16 degrees 14 minutes 15 seconds East 466.26 feet to a point which bears South 14 degrees 37 minutes 10 seconds West 560.97 feet from the said radius point; thence South 14 degrees 37 minutes 10 seconds East 35.00 feet to the place of beginning; thence North 75 degrees 22 minutes 50 seconds East 161.03 feet; thence North 75 degrees 22 minutes 50 seconds West 197.67 feet; thence South 14 degrees 37 minutes 10 seconds East 36.48 feet; thence North 75 degrees 22 minutes 50 seconds East 210.77 feet; thence North 14 degrees 37 minutes 10 seconds West 85.45 feet; thence North 19 degrees 00 minutes 00 seconds East 115.10 feet; thence North 31 degrees 00 minutes 00 seconds West 216.16 feet; thence South 00 degrees 00 minutes 00 seconds West 165.37 feet; thence South 31 degrees 00 minutes 00 seconds East 65.79 feet; thence South 03 degrees 00 minutes 00 seconds East 187.70 feet; thence South 14 degrees 37 minutes 10 seconds East 174.26 feet; thence South 75 degrees 22 minutes 50 seconds West 153.57 feet; thence North 14 degrees 37 minutes 10 seconds East 168.56 feet to a curve having a radius of 256 feet, the delta point of which bears North 21 degrees 22 minutes 16 seconds West; thence westerly along the said curve, 44.08 feet to the place of beginning, containing 1.973 acres, more or less.

The above plat within "Phase One" is improved with five two-story four unit apartment buildings and a one-story "Community Building" as shown on Sheet One. All dimensions shown herein are feet and decimal parts thereof.

Witness my signature, this 7th day of December, 1972.

*James E. Barker*  
 James E. Barker  
 Registered Land Surveyor No. 1178

This instrument prepared by Paul I. Cripe, Inc., Surveyors, is correct this 5th day of July, 1972.

APPROVED THIS 14th DAY OF January 1973  
 AUDITOR OF MARION COUNTY  
 Rex G. Galloway

72 78918

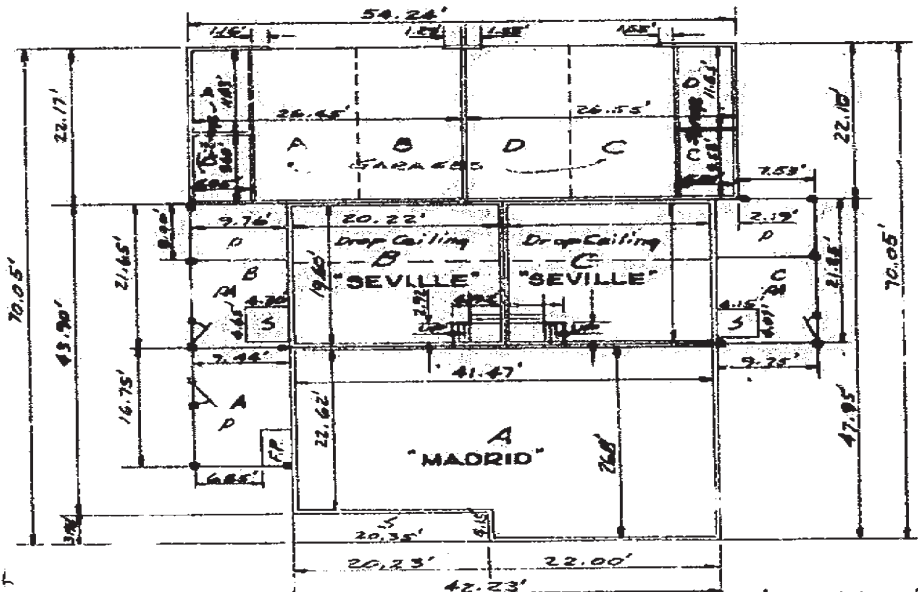
BOUNDARY SURVEY			
DATE	SCALE	BY	NO.
7-5-72	1"=100'	PAUL I. CRIPPE, INC.	7231
DATE	SCALE	BY	NO.
7-2-73	1"=100'	YEAGER CONTR.	2





# Bad Original

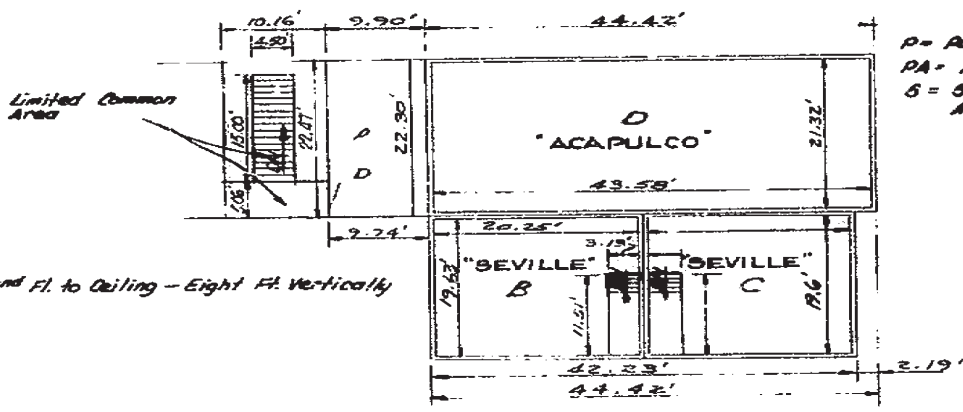
CASA de PRADO      72-78918      66-7231  
 Horizontal Property Regime  
 TYPICAL BUILDING FLOOR PLAN WITH MODEL NO. "MADRID"  
 SHOWING BUILDING AND LIMITED COMMON AREA



First Fl. Elev. - See Sheet One  
 Normal Ceiling Hgt. - Eight Ft. Vertically  
 Drop Ceiling Hgt. - Seven Ft. Vertically

**FIRST FLOOR PLAN**

NOTE: All interior dimensions are measured to face of drywall



2nd Fl. to Ceiling - Eight Ft. Vertically

P = Patio  
 PA = Area Around Patio  
 S = Stoop (Location Within Area Around Patio)

**SECOND FLOOR PLAN**

This instrument prepared by Paul I. Tripe, Inc., by James E. Dankert  
 this 5th day of July, 1972

72-78918

Sheet 4 of 4

72 / 78918



16

1202

CODE OF BY-LAWS  
OF  
CASA DE PRADO  
HORIZONTAL PROPERTY REGIME

72 78918

8168727

CODE OF BY-LAWS

OF

CASA DE PRADO

HORIZONTAL PROPERTY REGIME

TABLE OF CONTENTS

	<u>Page</u>	
ARTICLE I	Identification and Applicability	1
	Section 1.01. Identification and Adoption	1
	Section 1.02. Individual Application	1
ARTICLE II	Meetings of Association	2
	Section 2.01. Purpose of Meetings	2
	Section 2.02. Annual Meetings	2
	Section 2.03. Special Meetings	2
	Section 2.04. Notice and Place of Meetings	2
	Section 2.05. Voting	3
ARTICLE III	Board of Directors	5
	Section 3.01.	5
	Section 3.02. Initial Board of Directors and Term of Office	5
	Section 3.03. Additional Qualifications	6
	Section 3.04. Vacancy	6
	Section 3.05. Removal of Directors	6
	Section 3.06. Duties of the Board of Directors	6
	Section 3.07. Powers of the Board of Directors	7

0 1 6 8 / 7 /



CODE OF BY-LAWS

OF

CASA DE PRADO

HORIZONTAL PROPERTY REGIME

TABLE OF CONTENTS (continued)

	<u>Page</u>
Section 3.08. Limitation on Board Action	8
Section 3.09. Compensation	8
Section 3.10. Meetings	8
Section 3.11. Waiver of Notice	9
Section 3.12. Quorum	9
Section 3.13. Non-Liability of Directors	9
Section 3.14. Additional Indemnity of Directors	10
ARTICLE IV                      Officers	11
Section 4.01. Officers of the Association	11
Section 4.02. Election of Officers	12
Section 4.03. The President	12
Section 4.04. The Vice President	12
Section 4.05. The Secretary	13
Section 4.06. The Treasurer	13
Section 4.07. Assistant Officers	13
ARTICLE V                      Assessments	14
Section 5.01. Annual Accounting	14
Section 5.02. Proposed Annual Budget	14

CODE OF BY-LAWS  
OF  
CASA DE PRADO  
HORIZONTAL PROPERTY REGIME

TABLE OF CONTENTS (continued)

	<u>Page</u>
Section 5.03. Regular Assessments	14
Section 5.04. Special Assessments	15
Section 5.05. Failure of Owner to Pay Assessments	15
Section 5.06. Maintenance and Repairs	16
ARTICLE VI                   Restrictions on Use	17
Section 6.01.	17
Section 6.02. Right of Board to Adopt Rules and Regulations	17
ARTICLE VII                Amendment to By-Laws	
Section 7.01.	17
ARTICLE VIII              Mortgages	17
Section 8.01. Notice to Association	17
Section 8.02. Notice of Default	18
Section 8.03 Notice of Unpaid Assessments	18



CODE OF BY-LAWS

OF

CASA DE PRADO

HORIZONTAL PROPERTY REGIME

ARTICLE I

Identification and Applicability

Section 1.01. Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration creating Casa De Prado Horizontal Property Regime to which these By-Laws are attached and made a part thereof. The Declaration is incorporated herein by reference, and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these By-Laws and reference is specifically made to paragraph 1 of the Declaration containing definitions of terms. The provisions of these By-Laws shall apply to the Property and the administration and conduct of the affairs of the Association.

Section 1.02. Individual Application. All of the Owners, future Owners, tenants, future tenants, or their guests and invitees, or any other person that might use or occupy an Apartment or any part of the Property, shall be subject to the rules, restrictions, terms and conditions set forth in the Declaration, these By-Laws and the Act.



ARTICLE II

Meetings of Association

Section 2.01. Purpose of Meetings. At least annually within six (6) months after the close of the fiscal year of the Association, and at such other times as may be necessary, the meetings of the Owners shall be held for the purpose of electing the Board of Directors, approving the annual budget, providing for the collection of Common Expenses, and for such other purposes as may be required by the Declaration, these By-Laws or the Act.

Section 2.02. Annual Meetings. The annual meeting of the members of the Association shall be held on the 1<sup>st</sup> day of DECEMBER in each calendar year. At the annual meeting the Owners shall elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 2.03. Special Meetings. A special meeting of the members of the Association may be called by the President by a majority of the Board of Directors or upon a written petition of a one-tenth (1/10th) of either the Class A or Class B members of the Association. The petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition.

Section 2.04. Notice and Place of Meetings. All meetings of the members of the Association shall be held at any suitable place in Marion County, Indiana, as may be designated by the



Board of Directors. Written notice stating the date, time and place of any meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Owner and, if applicable, to any Mortgagee not less than ten (10) days prior to the date of such meeting. The notice shall be mailed or delivered to the Owners at their address as it appears upon the records of the Association and to the Mortgagee at the address as it appears on the records of the Association. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05. Voting.

(a) Number of Votes. Each Class A Owner shall be entitled to cast one vote per apartment owned and each Class B Owner shall be entitled to cast three votes per apartment owned on each matter coming before the meeting.

(b) Multiple Owner. Where the Owner of an Apartment constitutes more than one person, or is a partnership, there shall be only one voting representative entitled to all the Vote allocable to that Apartment. At the time of acquisition of title to an Apartment by a multiple Owner or a partnership, those persons constituting such Owner or the partners shall file with the Secretary of the Association a written declaration designating one of such persons or partners as the voting representative for such Apartment, which shall remain in effect until such appointed representative relinquishes such appointment in writing, becomes incompetent, dies or such appointment is otherwise rescinded by order of a court of competent jurisdiction. If no written declaration is filed the

vote shall be held in common by the multiple Owners. Such appointed voting representative may grant a proxy to another to vote in his place at a particular meeting or meetings pursuant to paragraph (d) of this Section 2.05, which shall not constitute a permanent relinquishment of his right to act as voting representative for the Apartment.

(c) Voting by Corporation or Trust. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustee may cast the Vote on behalf of the trust and the agent or other representative of the corporation duly empowered by the Board of Directors of such corporation shall cast the Vote to which the corporation is entitled.

(d) Proxy. An Owner may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his attorney-in-fact in writing, delivered to the Association prior to the commencement of the meeting, but said proxy shall not be valid eleven (11) months after execution unless a longer time is expressly provided on the face thereof.

(e) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws or the Act, those representing a majority of each class eligible to vote shall constitute a quorum at all meetings.

(f) Conduct of Meeting. The Chairman of the meeting shall be the President of the Association. He shall call the meeting to order at the duly designated time and business will be conducted in the following order:

(1) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any special meeting held subsequent thereto.

(2) Treasurer's Report. The Treasurer shall report to the Owners concerning the financial condition



of the Association and answer relevant questions of the Owners concerning the Common Expenses and financial report for the prior year and the proposed budget for the current year.

(3) Budget. The proposed budget for the current calendar year shall be presented to the Owners for approval or amendment.

(4) Election of Board of Directors. Nominations for the Board of Directors may be made by any Owner from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the date of the annual meeting. Voting for Board of Directors will be by paper ballot. The ballot shall contain the name of each person nominated to serve as a Board member. Each Owner may cast the total number of votes to which he is entitled for as many nominees as are to be elected; however, he shall not be entitled to cumulate his votes. Those persons receiving the highest number of votes shall be elected. Each voting Owner shall sign his ballot.

(5) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10) days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a majority of each class of Owners entitled to vote.

(6) Adjournment.

### ARTICLE III

#### Board of Directors

Section 3.01. The affairs of the Association shall be governed and managed by the Board of Directors (herein collectively called "Board" or "Directors" and individually called "Director"). The Board of Directors shall be composed of three persons. No person shall be eligible to serve as a Director unless he is an Owner or is an officer or director of Declarant.

Section 3.02. Initial Board of Directors and Term of Office. The initial Board of Directors shall be Robert K. Yeager, Virginia Yeager and John Michael Yeager, all of whom are officers or directors of Declarant. Robert K. Yeager shall serve a term of

81687/2

three (3) years, John Michael Yeager shall serve a term of two (2) years and Virginia Yeager shall serve a term of one (1) year; and at each annual meeting thereafter the members shall elect a director for a term of three (3) years to replace the outgoing director.

Section 3.03. Additional Qualifications. Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trust shall be eligible to serve on the Board of Directors, except that no single Apartment owned by individual or a partnership may be represented on the Board of Directors by more than one person at a time.

Section 3.04. Vacancy. Any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining Directors or by vote of the Owners if a Director is removed in accordance with Section 3.05 of this Article III.

Section 3.05. Removal of Directors. A Director or Directors may be removed with or without cause by vote of a majority of each class eligible to vote at a special meeting of the Owners duly called and constituted. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners or until his successor is duly elected and qualified.

Section 3.06. Duties of the Board of Directors. The Board of Directors shall provide for the administration of the Casa De Prado Horizontal Property Regime, the maintenance, upkeep and replacement of the Common Areas and Limited Areas,



and the collection and disbursement of the Common Expenses.

These duties include, but are not limited to:

- (a) protection, surveillance and replacement of the Common Areas and Limited Areas;
- (b) procuring of utilities used in connection with Casa De Prado, removal of garbage and waste, and snow removal from the Common Areas;
- (c) landscaping, painting, decorating and furnishing of the Common Areas and Limited Areas, the exterior of the Buildings, garages, storage areas and walls;
- (d) surfacing, paving and maintaining streets, parking areas, garages and sidewalks;
- (e) assessment and collection from the Owners of the Owner's pro rata share of the Common Expenses;
- (f) preparation of an annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
- (g) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the annual budget;
- (h) keeping a current, accurate and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at anytime during normal business hours.

Section 3.07. Powers of the Board of Directors. The

Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties.

These powers include, but are not limited to, the power:

- (a) to employ a managing agent or a real estate management pany (either being hereinafter referred to as "Managing Agent" or "Manger") to assist the Board in performing its duties;
- (b) to purchase for the benefit of the Owners such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;

- (c) to procure for the benefit of the Owners fire and extended coverage insurance covering the Buildings and the Property to the full insurable value thereof and to procure public liability and property damage insurance and Workmen's Compensation insurance, if necessary, for the benefit of the Owners and the Association;
- (d) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of Casa De Prado;
- (e) to include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;
- (f) to open and maintain a bank account or accounts in the name of the Association;
- (g) to adopt, revise, amend and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation and enjoyment of the Property.

Section 3.08. Limitation on Board Action. The authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$5,000.00 without obtaining the prior approval of a majority of each class eligible to vote, except in the following cases:

- (a) contracts for replacing or restoring portions of the Common Areas or Limited Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;
- (b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting.

Section 3.09. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority of each class of Owners eligible to vote.

Section 3.10. Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be



determined from time to time by a majority of Directors. The Secretary shall give notice of regular meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meeting.

Special meetings of the Board may be called by the President or any two members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place and at such time within Marion County, Indiana, as shall be designated in the notice.

Section 3.11. Waiver of Notice. Before any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 3.12. Quorum. At all meetings of the Board a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 3.13. Non-Liability of Directors. The Directors shall not be liable to the Owners for any error or mistake of

judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Owners shall indemnify and hold harmless each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of Casa De Prado, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of Casa De Prado or the Association and that in all matters the Board is acting for and on behalf of the Owners and as their agent. The liability of any Owner arising out of any contract made by the Board or out of the aforesaid indemnity in favor of the Directors shall be limited to such percentage of the total liability or obligation thereunder as is equal to his Percentage Interest. Every contract made by the Board or the Managing Agent on behalf of Casa De Prado shall provide that the Board of Directors and the Managing Agent, as the case may be, is acting as agent for the Owners and shall have no personal liability thereunder, except in their capacity as Owners and then only to the extent of their Percentage Interest.

Section 3.14. Additional Indemnity of Directors. The Owners shall indemnify any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding,



NOTED FOR RECORD  
 FAYE I. HOWERY  
 RECORDER  
 OF MARION CO.

25198

FILED

NOV 29 1972

RECORDED

BOOK 12-29347

PAGE 1

73

2968

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

11-29-72

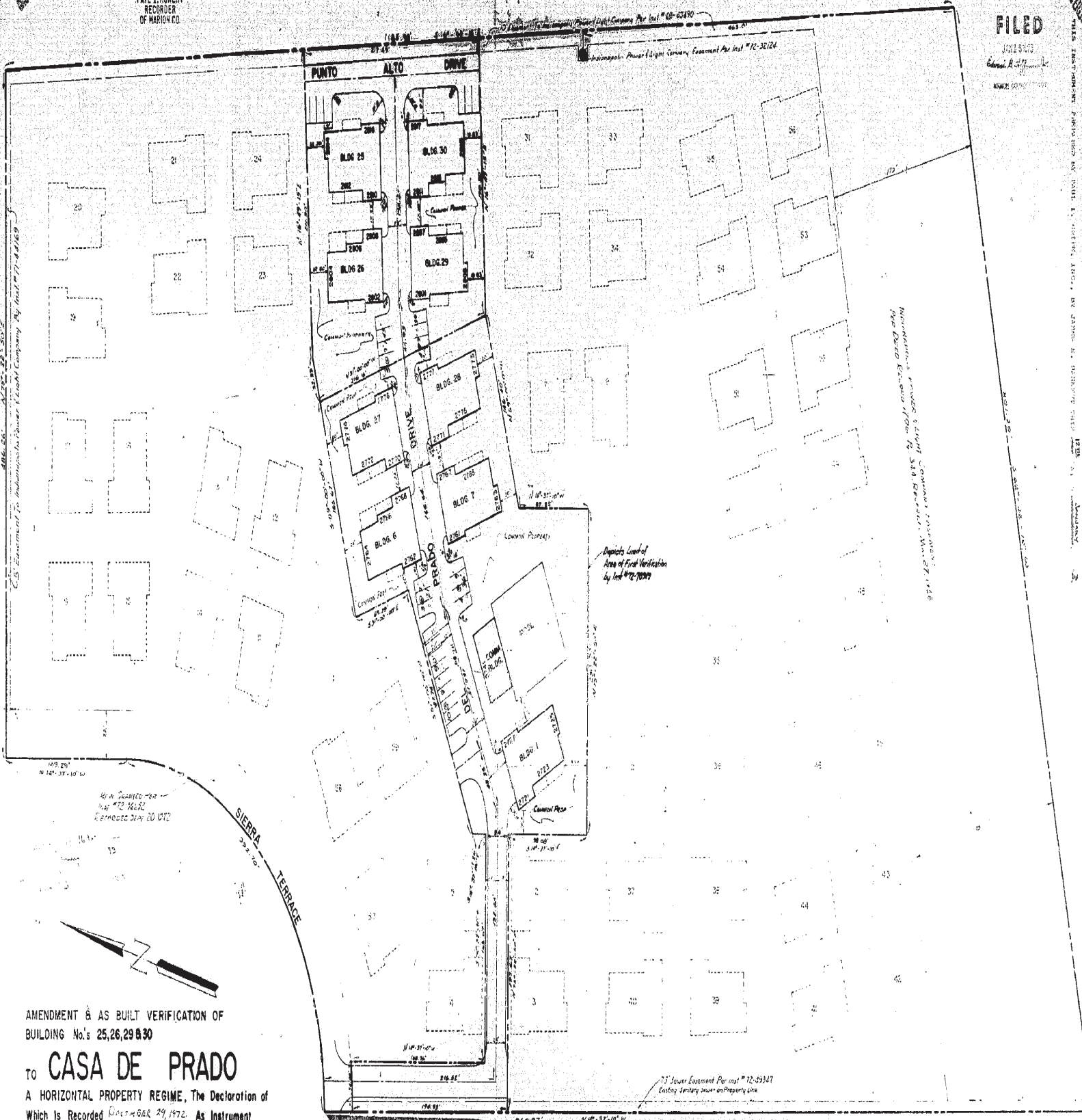
11-29-72

11-29-72

11-29-72

11-29-72

11-29-72



AMENDMENT & AS BUILT VERIFICATION OF  
 BUILDING No's 25,26,29 & 30  
 TO **CASA DE PRADO**  
 A HORIZONTAL PROPERTY REGIME, The Declaration of  
 Which Is Recorded **DECEMBER 29, 1972** As Instrument  
 No. 72-7092 In The Office Of The Recorder Of Marion  
 County, Indiana

See Supplement Exhibits Corresponding with  
 Building Numbers for Floor Plans of Each Building

73 2968

AS BUILT SITE PLAN	
DATE	NOV 29 1972
DESIGNED BY	PAUL I. CRIFE, INC.
DESIGNED FOR	YEAGER CONTR.
SCALE	1/4" = 1'-0"
PROJECT NO.	1250
DATE	11-29-72
BY	[Signature]
CHECKED BY	[Signature]
APPROVED BY	[Signature]

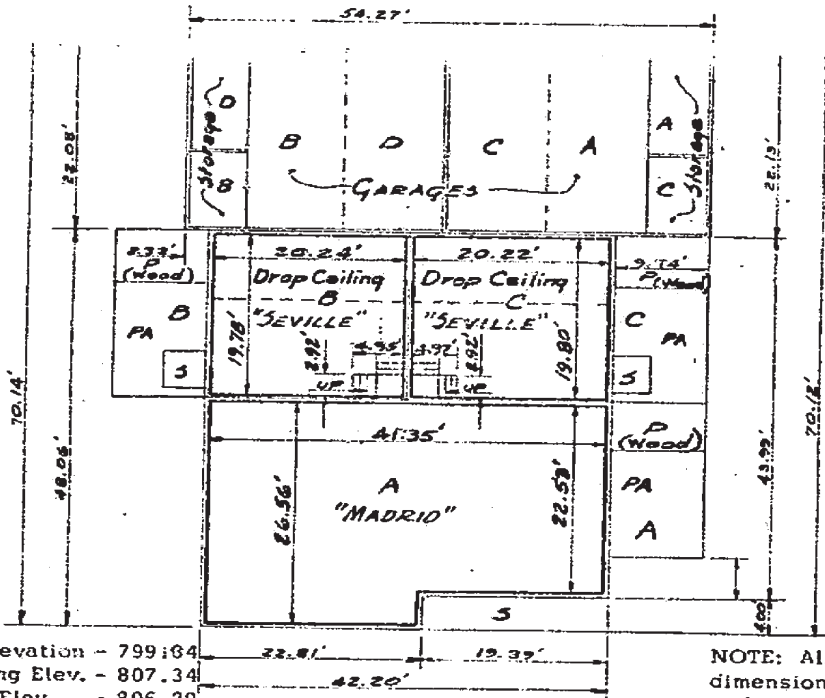
73 / 2968

73 2968

CASA de PRADO  
Horizontal Property Regime  
Supplement Exhibit 2<sup>o</sup>  
BUILDING 25 - FLOOR PLAN

Sheet 7 of 5

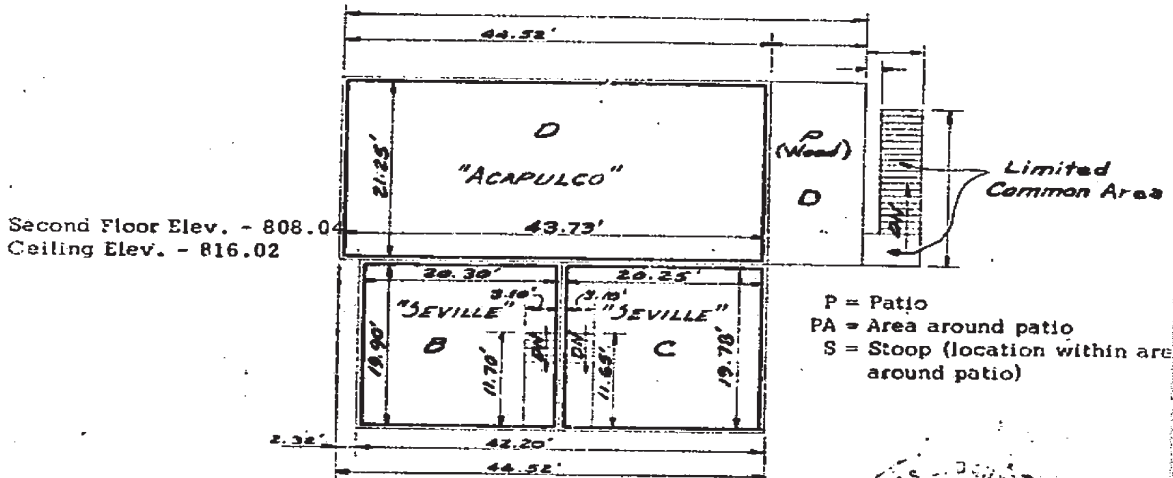
42



First Floor Elevation - 799.64  
Normal Ceiling Elev. - 807.34  
Drop Ceiling Elev. - 806.29

NOTE: All interior dimensions are measured to face of drywall.

FIRST FLOOR PLAN



Second Floor Elev. - 808.04  
Ceiling Elev. - 816.02

P = Patio  
PA = Area around patio  
S = Stoop (location within area around patio)

SECOND FLOOR PLAN

I hereby certify that the above plan, accurately depicts the layout, location, apartment designation, and dimensions of the apartments, as built.

This instrument prepared by Paul I. Cripe, Inc., by James E. Dankert, this ... day of January, 1973

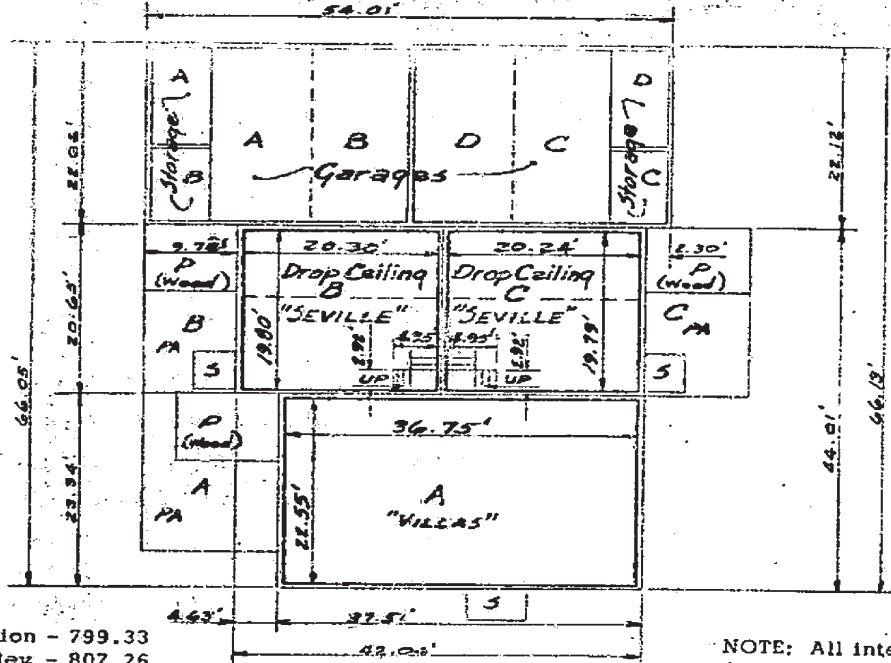
73 2968



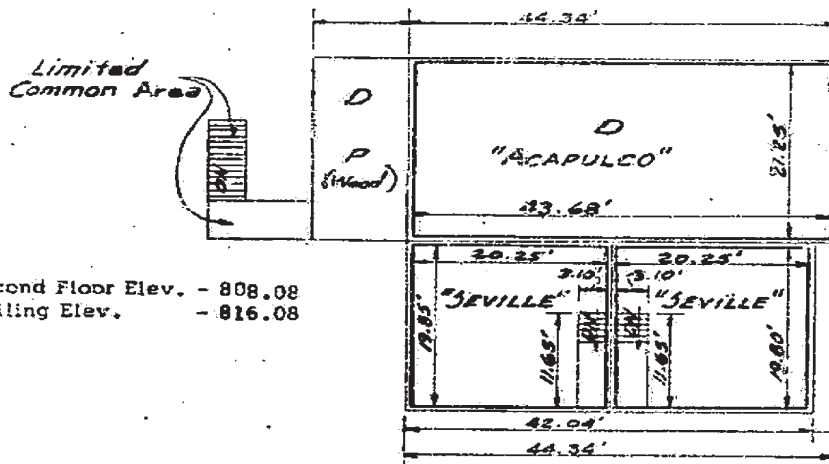
73 2968  
**CASA de PRADO**  
 Horizontal Property Regime  
 Supplement Exhibit 26  
**BUILDING 26 - FLOOR PLAN**

Sheet 3 of 5

3



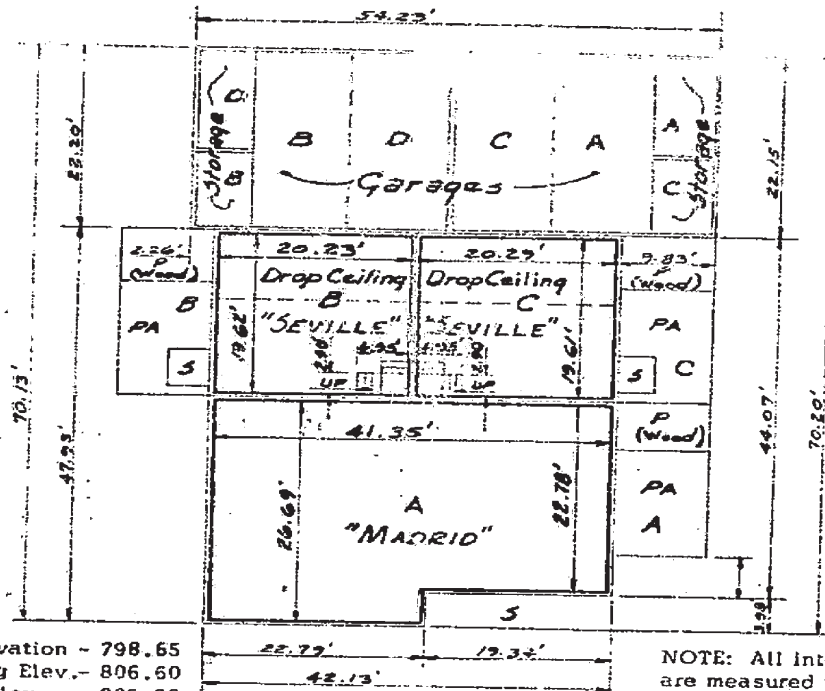
FIRST FLOOR PLAN



SECOND FLOOR PLAN

I hereby certify that the above plan, accurately depicts the layout, location, apartment designation, and dimensions of the apartments, as built.

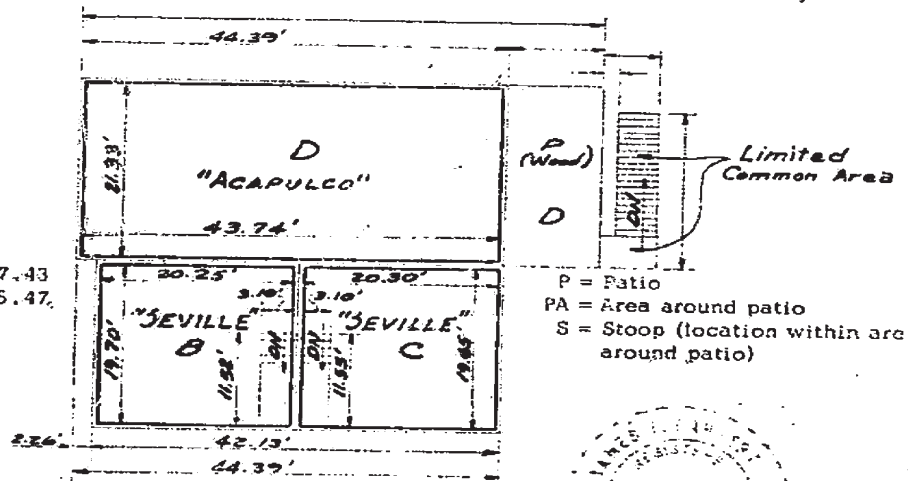
This instrument prepared by Paul I. Cripe, Inc., by James E. Dankert, this day of January, 1973.



First Floor Elevation - 798.65  
 Normal Ceiling Elev. - 806.60  
 Drop Ceiling Elev. - 805.58

NOTE: All interior dimension are measured to face of dryw...

FIRST FLOOR PLAN



Second Floor Elev. - 807.43  
 Ceiling Elev. - 815.47

SECOND FLOOR PLAN

Notary Seal: No. 4022, State of California, James Dankert

I hereby certify that the above plan, accurately depicts the layout, location apartment designation, and dimensions of the apartments, as built.

This instrument prepared by Paul I. Crips, Inc., by James E. Dankert, this day of January, 1977.

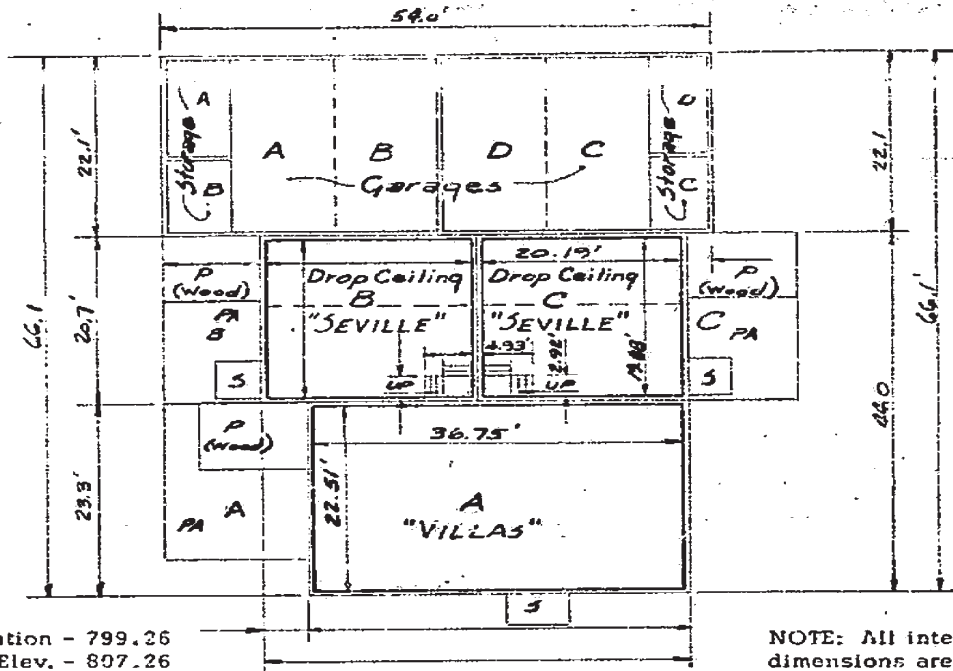


73 2868

CASA de PRADO  
Horizontal Property Regime  
Supplement Exhibit 30  
BUILDING 30 - FLOOR PLAN

Sheet 5 of 5

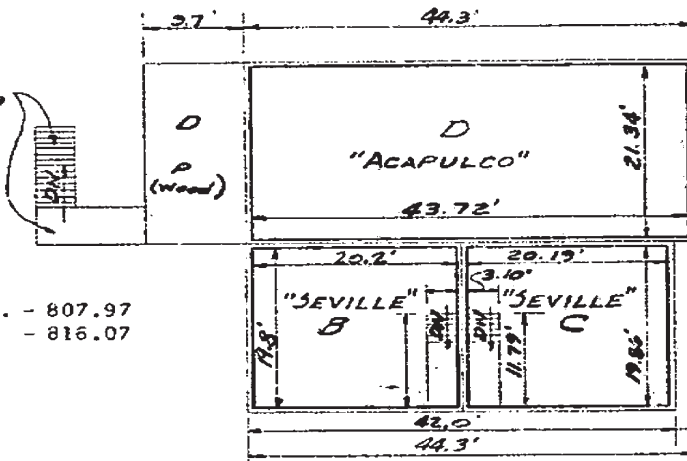
45



First Floor Elevation - 799.26  
Normal Ceiling Elev. - 807.26  
Drop Ceiling Elev. - 806.26

FIRST FLOOR PLAN

Limited Common Area



Second Floor Elev. - 807.97  
Ceiling Elevation - 816.07

SECOND FLOOR PLAN

I hereby certify that the above plan, accurately depicts the ~~known~~ location, apartment designation, and dimensions of the apartments as built.

This instrument prepared by Paul I. Cripe, Inc., by James E. Dankert, this day of January, 1973.

73 2868

8967/8





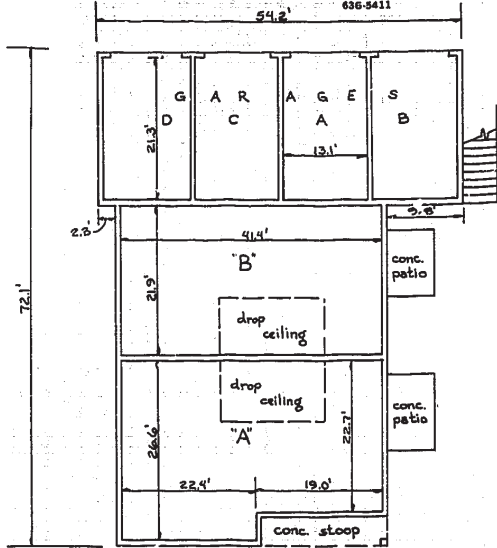
78010813

72039-00011 2 of 5

CIVIL ENGINEERING  
LAND SURVEYING

PAUL I. CRIPE, INC.  
150 E. MARKET STREET  
INDIANAPOLIS, IND. 46204  
636-5411

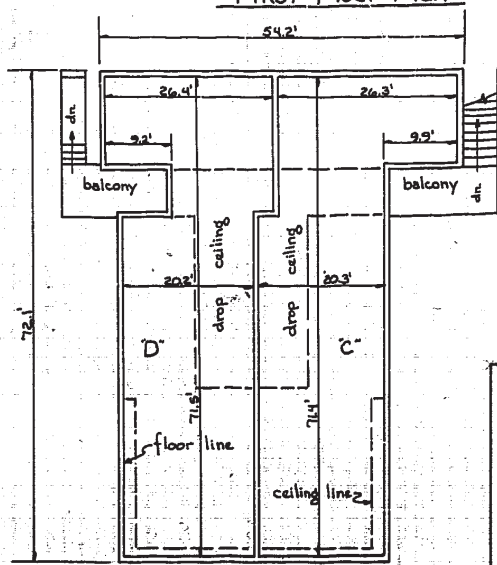
SUBDIVISION DESIGN  
BUILDING DESIGN



First Floor Elev. 793.40  
Normal Ceiling Elev. 801.40  
Drop Ceiling Elev. 800.40

All interior dimensions  
are measured face to face  
of wall board.

FIRST FLOOR PLAN



Second Floor Elev. 802.1  
Normal Ceiling Elev. 810.1  
Drop Ceiling Elev. 809.1

I hereby certify that  
the above plan accurately  
depicts the layout, location,  
apartment designation and  
dimensions of the apartments  
as built.



James E. Dankert  
R.L.S. # 4028

SECOND FLOOR PLAN

BUILDING 36 FLOOR PLAN  
CASA de PRADO  
HORIZONTAL PROPERTY REGIME  
SUPPLEMENT EXHIBIT # 36

This Instrument prepared by Paul I. Cripe, Inc. by James E. Dankert, this 22<sup>nd</sup> day of Feb. 02

78010813

72039-00011 3 of 5

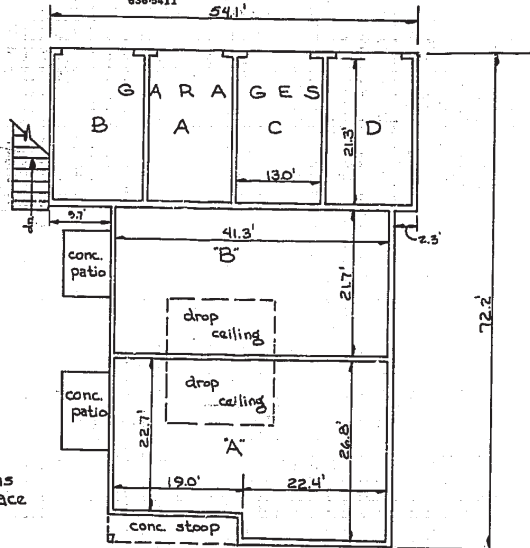
CIVIL ENGINEERING  
LAND SURVEYING

PAUL I. CRIPE, INC.  
150 E. MARKET STREET  
INDIANAPOLIS, IND. 46204  
636-9411

SUBDIVISION DESIGN  
BUILDING DESIGN

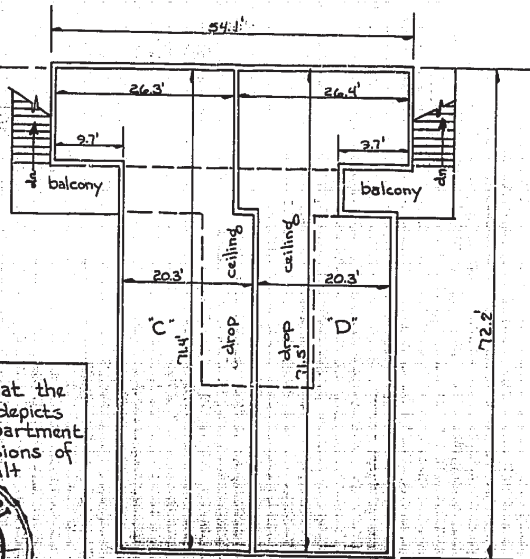
first floor elev. 791.2  
normal ceiling elev. 799.2  
drop ceiling elev. 798.2

All interior dimensions  
are measured face to face  
of wall board.



FIRST FLOOR PLAN

second floor elev. 799.9  
normal ceiling elev. 807.9  
drop ceiling elev. 806.9



SECOND FLOOR PLAN

I hereby certify that the  
above plan accurately depicts  
the layout, location, apartment  
designation and dimensions of  
the apartments as built



James E. Dankert, No. 4028

BUILDING # 41 FLOOR PLAN  
CASA DE PRADO  
HORIZONTAL PROPERTY REGIME  
SUPPLEMENT EXHIBIT # 41

This instrument prepared by Paul I. Cripe, Inc. by James E. Dankert, this 22<sup>nd</sup> day of Feb. 19 78



7910813

7920-2-2011 C.

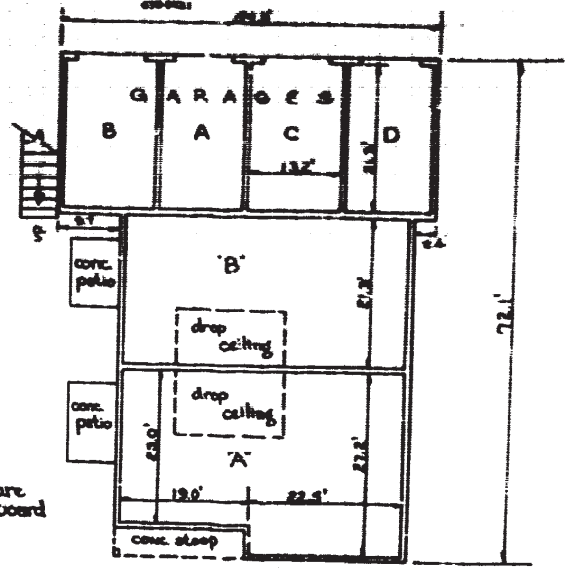
CIVIL ARCHITECT  
LAW OFFICES

**PAUL I. CRIFE, INC.**  
301 E. MARKET STREET  
BIRMINGHAM, AL. 35203

ARCHITECTURAL DESIGN  
BUILDING DESIGN

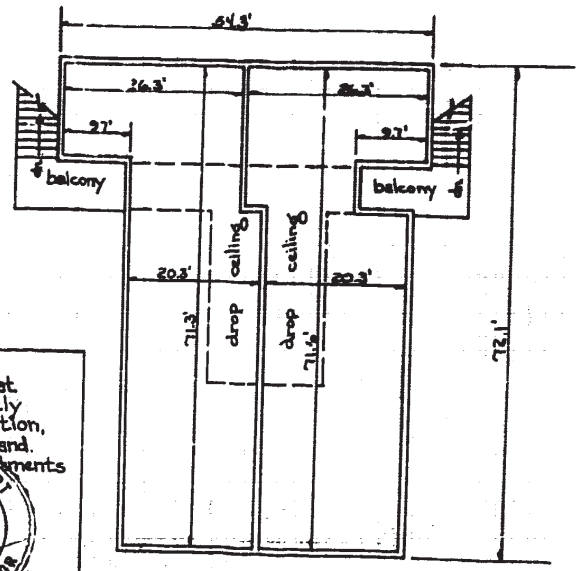
first floor elev. 7912  
normal ceiling elev. 7992  
drop ceiling elev. 7982

All interior dimensions are measured to face of wall board



FIRST FLOOR PLAN

second floor elev. 7999  
normal ceiling elev. 8079  
drop ceiling elev. 8069



SECOND FLOOR PLAN

I hereby certify that the above plan accurately depicts the layout, location, apartment designation and dimensions of the apartments as built.



James E. Dankert, P.E. #4028

BUILDING # 43 FLOOR PLAN  
CASA de PRADO  
HORIZONTAL PROPERTY REGIME  
SUPPLEMENT EXHIBIT # 43

This instrument prepared by Paul I. Crife, Inc., by James E. Dankert this 22<sup>nd</sup> day of Feb 19 2011

THIRD VERIFICATION  
INSTRUMENT No 73-17894

FOURTH  
VERIFICATION  
INSTRUMENT No  
73-21924

5' Easement for utility lines  
and light poles  
By instrument No 73-17894

AMENDMENT A TO  
DECLARATION OF HORIZONTAL PROPERTY REGIME

AS BUILT CENTER  
INSTRUMENT No 72-56852  
RECORDED SEPTEMBER 10, 1972

SILVERA TERRACE

AMENDMENT A AS BUILT VERIFICATION OF  
BUILDING No 36, 41, 42, 43 and 44

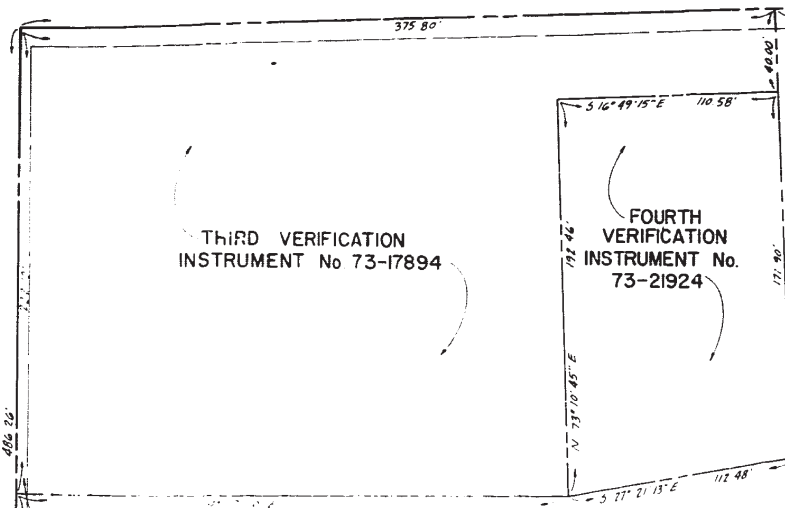
TO CASA DE PRADO

A HORIZONTAL PROPERTY REGIME, The Declaration of  
Which Is Recorded December 29, 1972 As Instrument

No 72-78918 in The Office Of The Recorder Of Marion  
County, Indiana

See Supplement Exhibits Corresponding With  
Building Numbers For Floor Plan of Each Building





THIRD VERIFICATION  
INSTRUMENT No 73-17894

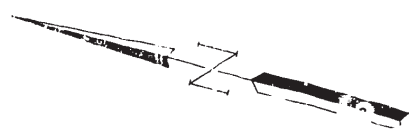
FOURTH  
VERIFICATION  
INSTRUMENT No.  
73-21924

5' Easement To Indianapolis Power  
and Light Company  
By Instrument No 71-44169

FIFTH VERIFICATION  
INSTRUMENT No 73-30186

R/W GRANTED PER  
INSTRUMENT No. 72-56652  
RECORDED SEPTEMBER 20, 1972

SIERRA  
TERRACE



AMENDMENT & AS BUILT VERIFICATION OF  
BUILDING No's 36, 41, 42, 43 and 44

TO **CASA DE PRADO**

A HORIZONTAL PROPERTY REGIME, The Declaration of  
Which Is Recorded December 29, 1972 As Instrument  
No. 72-78918 In The Office Of The Recorder Of Marion  
County, Indiana.

See Supplement Exhibits Corresponding With  
Building Numbers For Floor Plan of Each Building.

THIRD VERIFICATION  
INSTRUMENT No. 73-17894

FOURTH  
VERIFICATION  
INSTRUMENT No.  
73-21924

5' Easement To Indianapolis Power  
and Light Company  
By Instrument No. 71-44169

FIFTH VERIFICATION  
INSTRUMENT No. 73-30186

R/W GRANTED PER  
INSTRUMENT No. 72-56652  
RECORDED SEPTEMBER 20, 1972

SIERRA  
TERRACE

AMENDMENT & AS BUILT VERIFICATION OF  
BUILDING No.'s 36, 41, 42, 43 and 44

TO **CASA DE PRADO**

A HORIZONTAL PROPERTY REGIME, The Declaration of  
Which Is Recorded December 29, 1972 As Instrument

No. 72-78918 In The Office Of The Recorder Of Marion  
County, Indiana.

See Supplement Exhibits Corresponding With  
Building Numbers For Floor Plan of Each Building.

STATE

COUNTY

Before

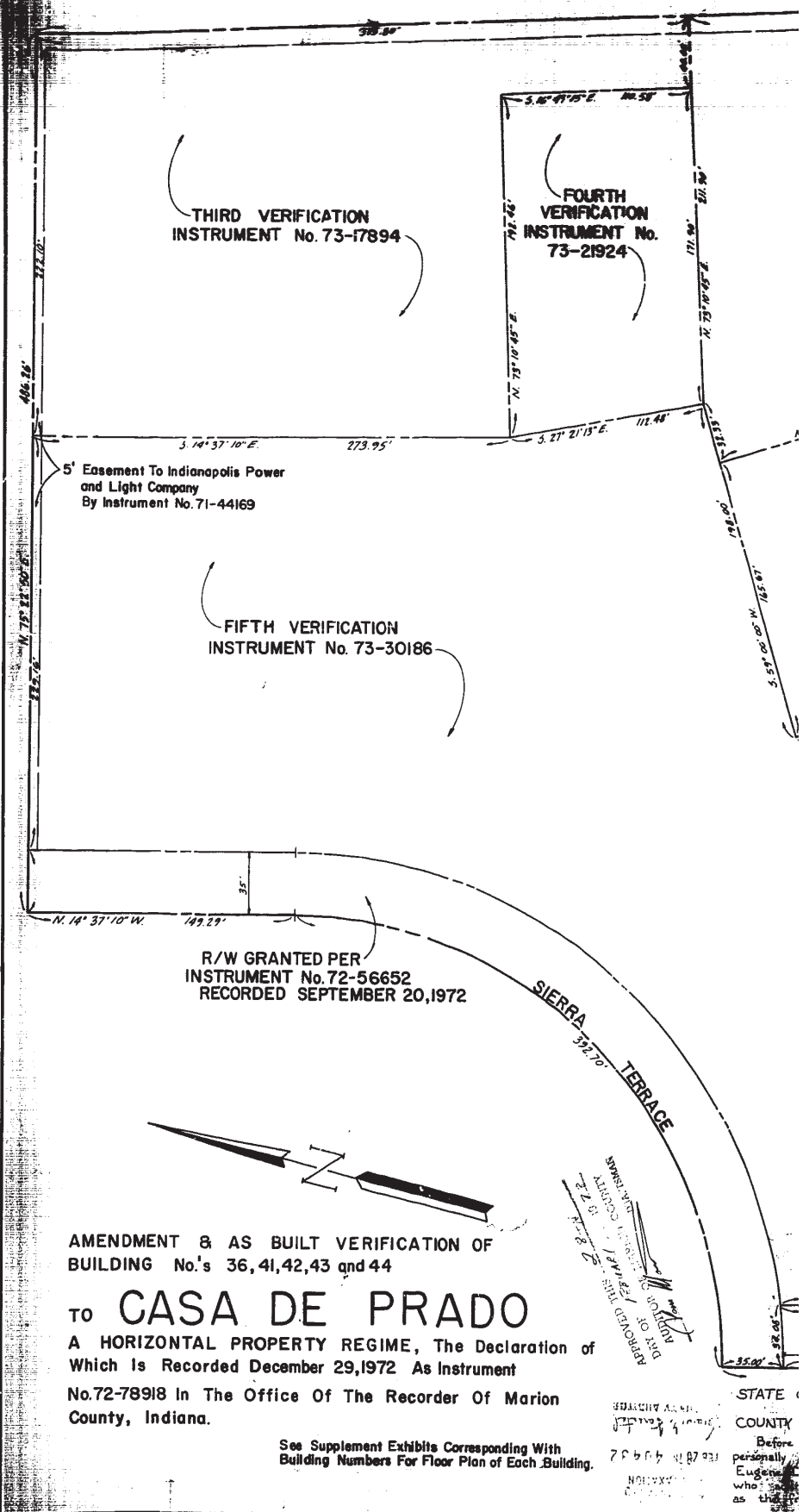
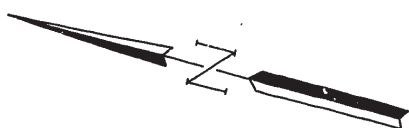
personally

Eugene

who

as the

APPROVED THIS 5th DAY OF SEPTEMBER 1972  
BY THE RECORDER OF MARION COUNTY, INDIANA  
EUGENE J. [Signature]

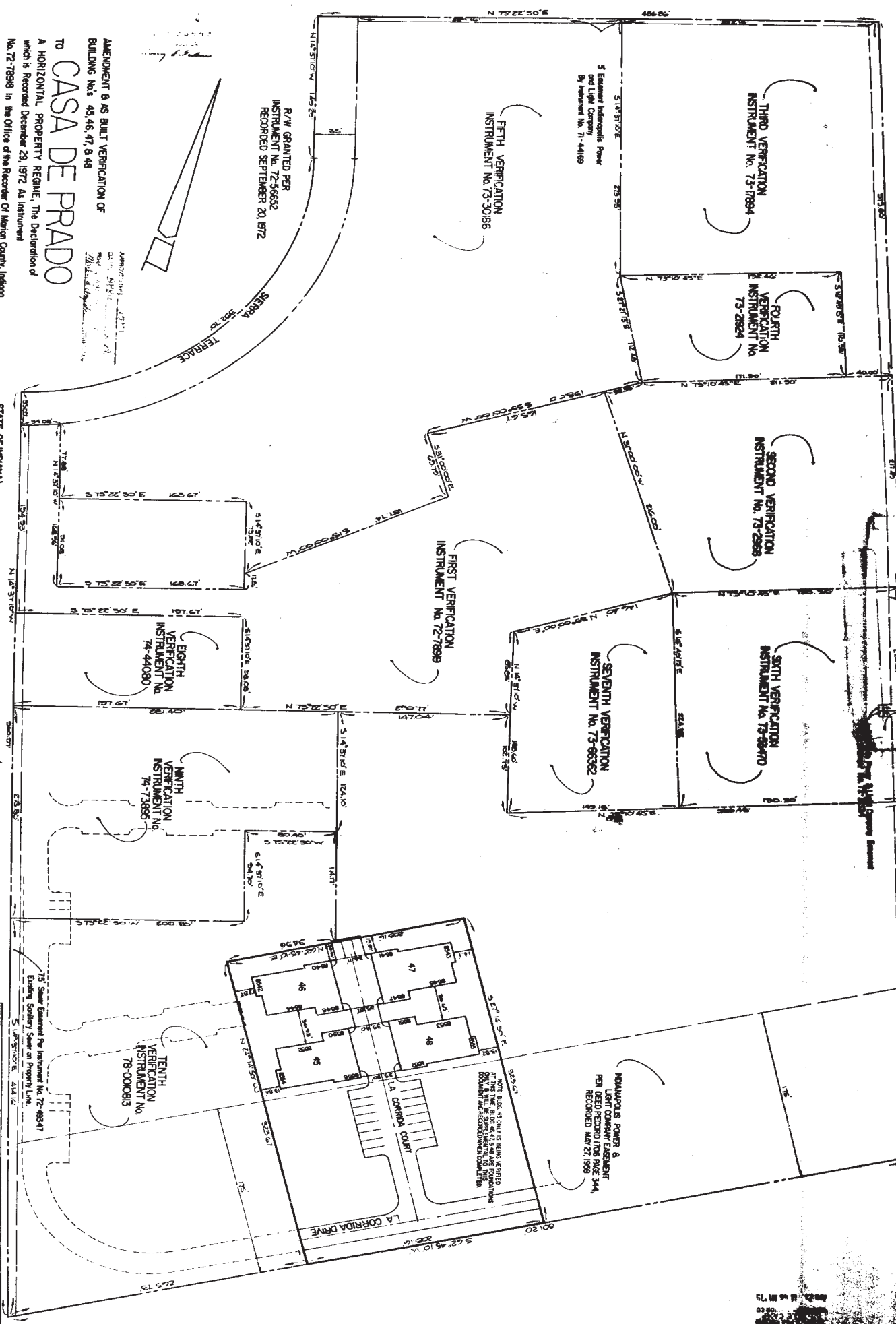




BAD MICROFILM

790026235

5 Eastwood Industrial Power and Light Company per Instrument No. 69-42480



See adjacent sheets corresponding with building numbers for floor plan of each building.

STATE OF INDIANA  
COUNTY OF MARION

Whereas my hand and Notarial Seal this 12th day of August, 1972

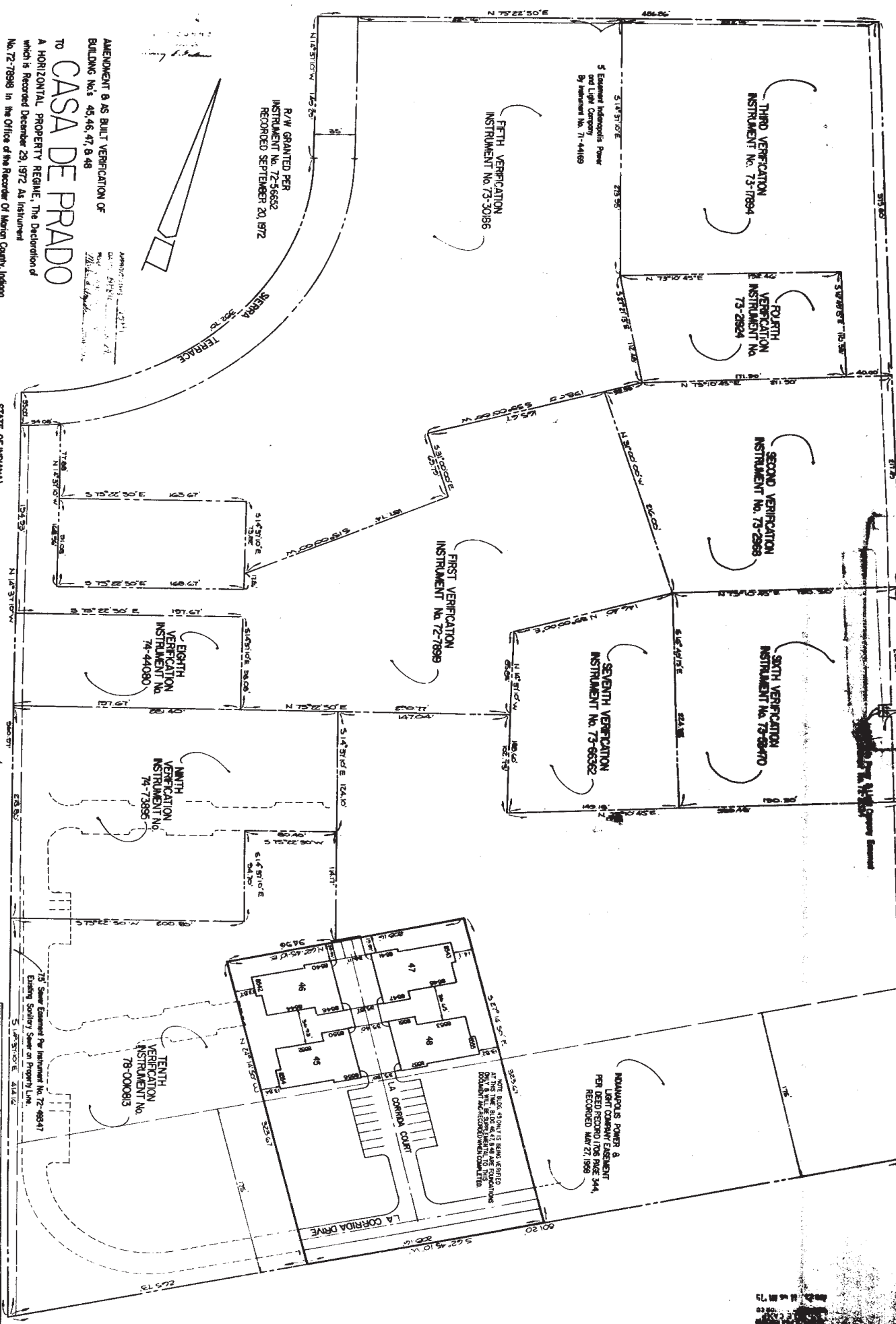
Plaintiff II Development Corp  
By: *[Signature]*

As Built Site Plan  
PAUL I. CRIFE, Inc.  
DESIGNING ENGINEERS  
10000 W. 100th Street  
Indianapolis, Indiana 46250

BAD MICROFILM

790026235

5 Eastmont Industrial Power and Light Company per Instrument No. 69-4240



See adjacent sheets corresponding with building numbers for floor plan of each building.

STATE OF INDIANA  
COUNTY OF MARION

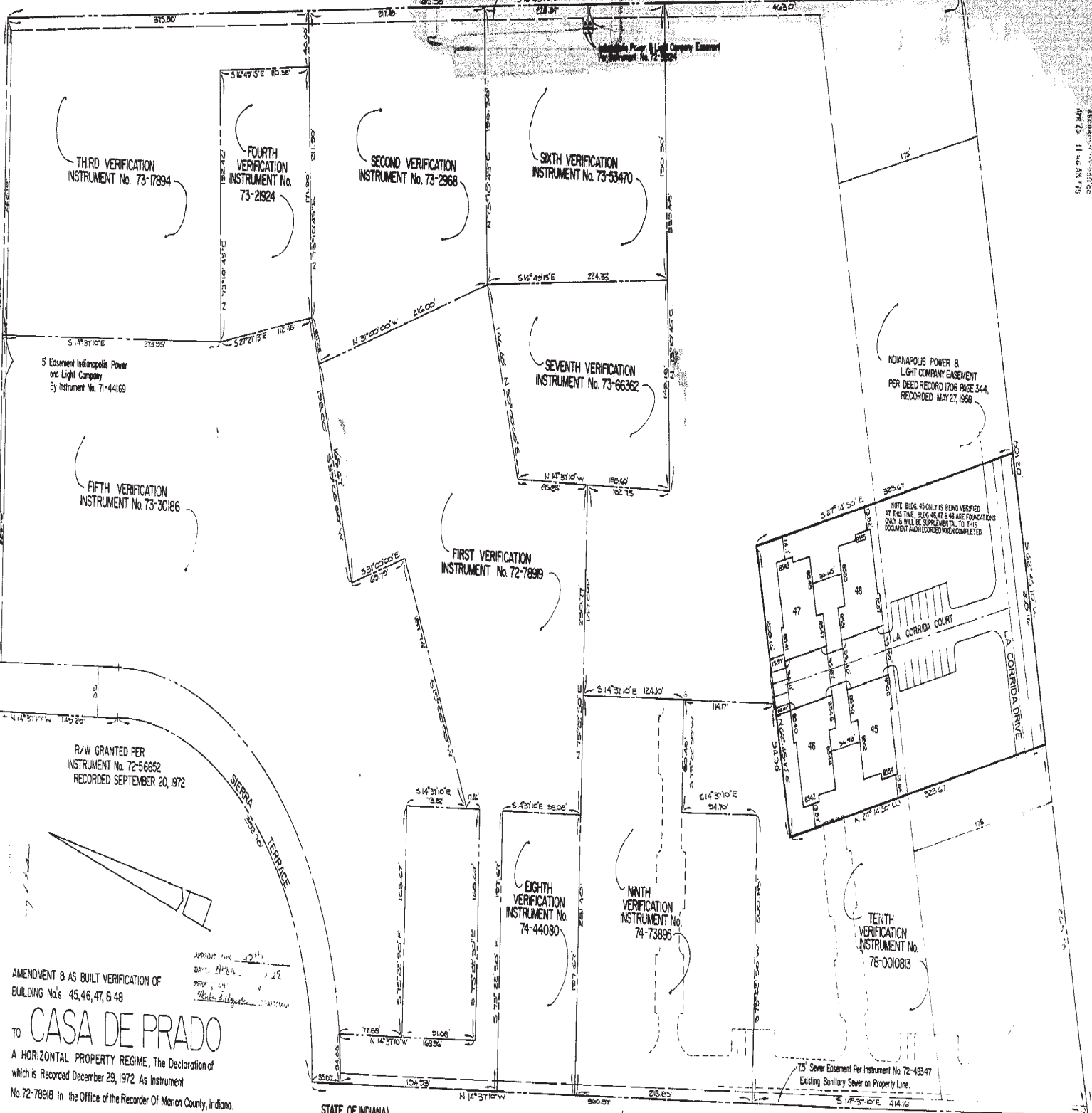
Whereas my hand and Notarial Seal this 12th day of August, 1972

Notary Public  
By: *[Signature]*

As Built Site Plan  
PAUL I. CRIFE, Inc.  
DESIGNING ENGINEERS  
1000 WEST STREET  
INDIANAPOLIS, IN 46202



10 Easement to Indianapolis Power & Light Company per Instrument No. 68-45490



THIRD VERIFICATION INSTRUMENT No. 73-17894

FOURTH VERIFICATION INSTRUMENT No. 73-21924

SECOND VERIFICATION INSTRUMENT No. 73-2968

SIXTH VERIFICATION INSTRUMENT No. 73-53470

SEVENTH VERIFICATION INSTRUMENT No. 73-66362

FIFTH VERIFICATION INSTRUMENT No. 73-30186

FIRST VERIFICATION INSTRUMENT No. 72-78919

R/W GRANTED PER INSTRUMENT No. 72-56652 RECORDED SEPTEMBER 20, 1972

EIGHTH VERIFICATION INSTRUMENT No. 74-44080

NINTH VERIFICATION INSTRUMENT No. 74-73895

TENTH VERIFICATION INSTRUMENT No. 78-001813

AMENDMENT B AS BUILT VERIFICATION OF BUILDING No's 45, 46, 47, & 48 TO **CASA DE PRADO** A HORIZONTAL PROPERTY REGIME, The Declaration of which is Recorded December 29, 1972 As Instrument No. 72-78918 in the Office of the Recorder of Marion County, Indiana.

See supplement exhibits corresponding with building numbers for floor plan of each building.

STATE OF INDIANA )  
COUNTY OF MARION )

Witness my hand and Notarial Seal this 13<sup>th</sup> day of April, 1972

Phoenix II Development Corp.  
By *William J. Laffan*

*Donald L. Dand*  
Notary Public  
My commission expires 11-5-1981

Before me, a Notary Public in and for said County and State, personally appeared Phoenix II Development Corp., Indiana who acknowledged the execution of the foregoing instrument as the free and voluntary act of the Corporation.

As Built Site Plan	
SCALE 1"=40'	DATE 12-27-76
DRAWN BY DKS	CHECKED BY
DESIGNED FOR Yaeger Construction	
PAUL I. CRIFE, INC. DESIGNING ENGINEERS 150 EAST MARKET STREET INDIANAPOLIS, INDIANA	

79 / 26236

APR 17 11 AM '72