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**DECLARATION OF HORIZONTAL
PROPERTY OWNERSHIP
FOR
WESTBOURNE
HORIZONTAL PROPERTY REGIME**

CROSS REFERENCE

The Plans have simultaneously been filed with the Recorder of Marion County, Indiana as Instrument No./Book Page. 2007-0072890, on May 16 2007.

Inst # 2007-0072891
05/16/07 04:12PM JULIE L VOORHIES MARION CTY RECORDER JMV 129.00 PAGES: 59



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**DECLARATION OF HORIZONTAL
PROPERTY OWNERSHIP FOR
WESTBOURNE
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This Declaration is made this 30th day of April, 2007, by Beazer Homes Indiana LLP, an Indiana limited liability partnership (the "**Declarant**").

R E C I T A L S

WHEREAS, the following facts are true:

A. Declarant is the sole owner of the fee simple title to the real estate located in Marion County, Indiana, described in **Exhibit A** attached hereto and incorporated herein (the "**Real Estate**").

B. Declarant is the sole owner of the fee simple title to that portion of the Real Estate more particularly described in **Exhibit B**, attached hereto and incorporated herein (the "**Tract**"), which shall be the first phase of development of the expandable condominium project described herein.

C. Declarant, by execution of this Declaration, desires to create a Horizontal Property Regime upon the Tract, subject to the provisions of the Horizontal Property Law of the State of Indiana and the terms and conditions of this Declaration.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

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

(a) "**Act**" means the Horizontal Property Law of the State of Indiana, IND. CODE §§ 32-25-4-1 *et seq.* through IND. CODE §§ 32-25-8-1 *et seq.*, as amended. The Act is incorporated herein by reference.

(b) "**Applicable Date**" means the earliest of (i) twenty-five (25) years from the date of recording hereof, or (ii) the first day of the first month following the date that the last of the Condominium Units that may be developed on the Real Estate has been conveyed by Declarant to an unrelated third party purchaser.

(c) "**Assessment**" shall have the meaning given such term in the By-Laws.

(d) "**Association**" means Westbourne Association, Inc., an Indiana nonprofit corporation, being the association of Co-Owners of Westbourne more particularly described in **Section 12** hereof.

(e) "**Board of Directors**" or "**Board**" means the governing body of the Association, being the initial Board of Directors referred to in the By-Laws or subsequent Board of Directors elected by the Co-Owners in accordance with the By-Laws.

(f) "**Buildings**" means the three (3) story structures on the Tract in which one or more Condominium Units are located, including any additional structure containing one or more Condominium Units which may be submitted and subjected to the Act and this Declaration by Supplemental Declaration as herein provided. The Buildings are more particularly described and

identified on the Plans and in **Section 3** of this Declaration and any additional Buildings will be identified in Supplemental Declarations and on Plans that will be filed therewith.

(g) **"By-Laws"** means the By-Laws of the Association providing for the administration and management of the Property, a true copy of which is attached to this Declaration as **Exhibit C** and incorporated herein by reference.

(h) **"Common Areas"** means the common areas and facilities defined in **Section 6** of this Declaration.

(i) **"Common Expenses"** means expenses of administration of the Association and expenses for the upkeep, maintenance, repair and replacement of the Common Areas and Limited Areas (to the extent provided herein) and all sums lawfully assessed against the Owners by the Association or as declared by the Act, this Declaration or the By-Laws.

(j) **"Condemnation Award"** has the meaning ascribed in **Section 11(b)** hereof.

(k) **"Condominium Unit"** means each one of the living units constituting Westbourne, each individual living unit being more particularly described and identified on the Plans and in **Sections 4** and **5** of this Declaration and each additional living unit that may be submitted and subjected to the Act and this Declaration by Supplemental Declarations as herein provided, together with the undivided interest in the Common Areas and Limited Areas appertaining to each such unit.

(l) **"Constitutional Majority"** means those Owners eligible to cast not less than sixty-seven percent (67%) in the aggregate of the Percentage Vote eligible to be cast by the Co-Owners.

(m) **"Co-Owners"** means the Owners of all the Condominium Units.

(n) **"Declarant"** means Beazer Homes Indiana LLP, an Indiana limited liability partnership, and any successors and assigns which it designates in one or more written recorded instruments to have the rights of Declarant hereunder.

(o) **"Expansion Parcel"** shall have the meaning ascribed thereto in **Section 16(g)** hereof.

(p) **"Insurance Trustee"** means such bank with trust powers authorized to do business in Marion County, Indiana, as the Board of Directors may designate for the custody and disposition, as herein or in the By-Laws provided, of insurance proceeds and condemnation awards.

(q) **"Limited Areas"** means the limited common areas and facilities defined in **Section 7** of this Declaration or depicted on the Plans as "Limited Areas" or "Limited Common Areas" or by the acronym "LC" followed by the four digit Condominium Unit number to which the limited common area appertains.

(r) **"Majority of Mortgagees"** means those Mortgagees who hold first mortgages on Condominium Units to which are allocated at least fifty-one percent (51%) of the Percentage Vote allocated to Mortgaged Units.

- (s) **"Majority of Owners"** and **"Majority of the Percentage Vote"** means the Owners entitled to cast more than fifty percent (50%) of the Percentage Votes in accordance with the applicable percentages set forth in this Declaration.
- (t) **"Mortgaged Unit"** means a Condominium Unit that is subject to the lien of a mortgage held, insured or guaranteed by a Mortgagee.
- (u) **"Mortgagee"** means the holder of a first mortgage lien on a Condominium Unit who has requested notice in accordance with the provisions of **Section 12.01** of the By-Laws.
- (v) **"Owner"** means a Person who or which owns the fee simple title to a Condominium Unit.
- (w) **"Percentage Interest"** means the percentage of undivided interest in the fee simple title to the Common Areas and Limited Areas appertaining to each Condominium Unit as specifically expressed in **Section 8** of this Declaration.
- (x) **"Percentage Vote"** means that percentage of the total vote accruing to all of the Condominium Units which is appurtenant to each particular Condominium Unit and accrues to the Owner thereof.
- (y) **"Person"** means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.
- (z) **"Plans"** means (1) the floor and building plans and elevations of the initial Building and Condominium Units located on the Tract, and (2) a site plan of the Tract and the initial Building; all prepared and certified by Roger C. Ward, Jr., P.E., a licensed professional engineer, which have been recorded simultaneously herewith and all of which are incorporated herein by reference; and as the same may be amended and supplemented to reflect the addition of Buildings and Condominium Units as contemplated in **Section 16**.
- (aa) **"Property"** means the Tract and appurtenant easements, the Condominium Units, the Buildings and all other improvements, and property of every kind and nature whatsoever, real, personal or mixed, located upon the Tract and used in connection with the operation, use and enjoyment of Westbourne, excluding the personal property of Owners.
- (bb) **"Regime"** means Westbourne Horizontal Property Regime created by this Declaration pursuant to the Act.
- (cc) **"Restoration"** means construction, reconstruction, building or rebuilding of the Buildings, the Condominium Units, the Common Areas and the Limited Areas to not less than the same condition as they existed immediately prior to any loss, damage or destruction with the same type of architecture and using, where appropriate, new materials of like kind and quality.
- (dd) **"Supplemental Declaration"** means any supplement or amendment to this Declaration that may be recorded by Declarant and that extends the provisions of this Declaration to any part of the Real Estate and contains such complementary or supplementary provisions for such part of the Real Estate as are required or permitted by the Act or this Declaration.

(ee) "Special Flood Hazard Area" means any part of the Property designated as A, AE, AH, AO, AR, A1-30, A-99, V, VE, VI-30, or VO on a Flood Insurance Rate Map.

(ff) "Tract" means the real estate described in Exhibit B and such other portions of the Real Estate as have, as of any give time, been subjected to the Act and this Declaration either by this Declaration or by a Supplemental Declaration as herein provided.

(gg) "Transfer Date" means the date the Declarant shall transfer control of the Association to the Condominium Unit Owners. The Transfer Date shall be the earlier of (i) four (4) months after seventy-five percent (75%) of the total number of Condominium Units in Westbourne which may be developed on the Real Estate pursuant to **Section 16** have been conveyed by Declarant to third-party purchasers, or (ii) five (5) years after the first Condominium Unit is conveyed by Declarant to a third-party purchaser.

(hh) "Westbourne" means the name by which the Property and Regime shall be known.

2. Declaration. Declarant hereby expressly declares that the Property shall be a Horizontal Property Regime in accordance with the provisions of the Act.

3. Description of Buildings. Initially there is one (1) Building containing five (5) Condominium Units as shown on the Plans. A description of the Buildings and the Condominium Units contained therein is set forth in Exhibit D, attached hereto and incorporated herein.

4. Legal Description. Each Condominium Unit is identified on the Plans by "Unit [followed by a distinct four digit number which identifies the Condominium Unit]." The legal description for each Condominium Unit shall consist of the number for such Condominium Unit as shown on the Plans, and shall be stated as "Condominium Unit (followed by a number) in Westbourne Horizontal Property Regime as recorded in Book _____, pg. _____, under the date of _____, 2017 of the records of Marion County, Indiana."

5. Description of Condominium Units.

(a) Boundaries. The boundaries of each Condominium Unit shall be as shown on the Plans without regard to the existing construction. The vertical boundaries of each Condominium Unit shall run from the upper surfaces of the interior, unfinished surfaces of the lowest floors or subfloors to the interior unfinished surfaces of the ceilings of the highest floors; and the horizontal boundaries shall be the interior, unfinished surfaces of the exterior perimeter walls and the interior walls between attached Condominium Units. In the event any horizontal, vertical or other boundary line as shown on the Plans does not coincide with the actual location of the respective wall, floor or ceiling surface of the Condominium Unit because of inexactness of construction, settling after construction, Restoration, or for any other reason, the boundary lines of each Condominium Unit shall be deemed to be and treated for purposes of ownership, occupancy, possession, maintenance, decoration, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent appurtenant easements for exclusive use shall exist in favor of the Owner of each Condominium Unit in and to such space lying outside of the actual boundary lines of the Condominium Unit, but within the appropriate wall, floor or ceiling surfaces of the Condominium Unit.

(b) Appurtenances. Each Condominium Unit shall consist of all space within the boundaries thereof, as set forth above, 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 Condominium Unit 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 Condominium Unit 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 a Condominium Unit shall constitute a part of such Condominium Unit, whether or not the same are located within or partly within the boundaries of such Condominium Unit (e.g. air conditioning compressor units). The interior sides and surfaces of all doors and windows in the perimeter walls of a Condominium Unit, whether or not located within or partly within the boundaries of a Condominium Unit, and all interior walls (except load-bearing walls) and all of the floors and ceilings within the boundaries of a Condominium Unit, are considered part of the Condominium Unit.

6. Common Area and Facilities. "Common Areas" means (a) the land portion of the Tract except as otherwise provided herein, including guest parking areas designated on the Plans, (b) the foundations, columns, girders, beams, supports, roofs, and exterior wall surfaces of the Buildings, except to the extent the same are otherwise classified and defined herein as part of the Condominium Unit or Limited Areas, (c) the yards, gardens, open spaces, landscaping, sidewalks, driveways, and parking areas, except to the extent the same are otherwise classified and defined herein as Limited Areas, (d) central electricity, telephone, gas, water, and sanitary sewer lines or mains serving the Condominium Units, (e) exterior lighting fixtures and electrical service lighting the exterior of the Buildings and certain of the other Common Areas unless separately metered to a particular Condominium Unit, (f) pipes, ducts, insulation, electrical wiring and conduits and public utilities lines that serve more than one Condominium Unit, (g) the recreational facilities, if any, located on the Tract, (h) subfloors, ceilings and interiors of all structural walls, including all exterior perimeter and walls, interior load-bearing walls, and interior walls between attached Condominium Units, except to the extent the same are otherwise classified and defined herein as part of the Condominium Unit or Limited Areas, and (i) all structures, structural components, facilities and appurtenances located outside of the boundary lines of the Condominium Units, except those areas and facilities expressly classified and defined herein as Limited Areas or as part of the Condominium Unit.

7. Limited Areas and Facilities. Limited Areas and those Condominium Units to which use thereof is limited are as follows:

(a) The entranceways through which access to a Condominium Unit is obtained shall be limited to the use of the Condominium Unit served by such entranceway.

(b) The sidewalk connecting any driveway to a specific Condominium Unit and exclusively serving a particular Condominium Unit, if any, shall be limited to the exclusive use of the Condominium Unit to which it provides direct access.

(c) The land underlying any exterior air conditioning compressors, if any, attached to, or adjacent to, the Buildings are limited to the use of the Condominium Units to which they are connected.

(d) The exterior sides and surfaces of doors, windows and frames surrounding the same in the perimeter walls in each Condominium Unit shall be limited to the exclusive use of the Condominium Unit to which they appertain.

(e) That portion of any driveway serving a specific Condominium Unit designated as Limited Area on the Plans.

(f) Structural separations between Condominium Units or the space that would be occupied by such structural separations may become Limited Areas for the exclusive use of the Owner or Owners of the Condominium Units on either side thereof as provided in **Section 22**.

(g) Any patios, porches and balconies designated and shown on the Plans as Limited Areas shall be limited to the Condominium Unit or Condominium Units to which they appertain as shown on the Plans.

8. Ownership of Common Areas and Percentage Interest. Each Owner shall have an undivided interest in the Common Areas and Limited Areas equal to his Condominium Unit's Percentage Interest. The initial Percentage Interest in the Common Areas and Limited Areas appertaining to each Condominium Unit is set forth on **Exhibit D**. Upon the addition of new Condominium Units as provided in **Section 16**, the Percentage Interest of each Condominium Unit shall continue to be equal for all purposes and shall be a percentage equal to the number one (1) divided by the total number of Condominium Units that, from time to time, have been submitted and subjected to the Act and this Declaration as provided in **Section 16**. Except as otherwise provided or permitted herein, the Percentage Interest appertaining to each separate Condominium Unit in the Common Areas and Limited Areas shall be of a permanent nature and shall not be altered except in compliance with all requirements of the Act. The Percentage Interest appertaining to each Condominium Unit shall also be the Percentage Vote allocable to the Owner thereof in all matters with respect to Westbourne and the Condominium Association upon which the Co-Owners are entitled to vote.

9. Encroachments and Easements for Common Areas. If, by reason of the location, construction, Restoration, settling or shifting of the Buildings, any Common Area or Limited Area now encroaches or shall hereafter encroach upon any Condominium Unit, then in such event, an easement shall be deemed to exist and run to the Co-Owners and the Association for the maintenance, use and enjoyment of such Common Area or Limited Area.

Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in any of the other Condominium Units and serving his/her Condominium Unit.

Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Condominium Unit and any Limited Area designated for use in connection therewith, and shall have the right to the horizontal and lateral support of his Condominium Unit. Such rights shall be appurtenant to and pass with the title to each Condominium Unit.

10. Casualty and Restoration. In the event of damage or destruction at the Property by fire or other cause, the following provisions shall be applicable:

(a) Except as hereinafter provided, damage to or destruction of any Buildings due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose; provided, however, that repair and reconstruction shall not be compulsory in the event of "complete

destruction of all of the Buildings" (hereinafter defined) and shall only be done in accordance with the provisions hereinafter set forth. As used herein, the term "complete destruction of all of the Buildings" means a determination made by a vote of a Constitutional Majority of all Owners at a special meeting of the Association called for the purpose of making such determination, that total destruction of all of the Buildings has occurred. A special meeting of the Association shall be called and held within ninety (90) days after any fire or any other casualty or disaster damaging or destroying any of the Buildings for the purpose of making the determination of whether or not there has been a complete destruction of all of the Buildings. If such a special meeting is not called and held within such ninety (90) day period, or if the determination of whether or not there has been a complete destruction of all of the Buildings has not been made within such ninety (90) day period, then it shall be conclusively presumed that the Owners determined that there was not a complete destruction of all of the Buildings, and the Association shall proceed with repair and reconstruction as herein provided.

(b) If the insurance proceeds, if any, received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, and if the Property is not to be removed from the Regime, the cost of restoring the damage and repairing and reconstructing the Buildings so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by all of the Co-Owners in proportion to the ratio that the Percentage Interest of such Condominium Unit bears to the total Percentage Interest of all Condominium Units. Any such amounts payable by the Co-Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein and in the Act.

(c) For purposes of subparagraphs (a) and (b) above, repair, reconstruction and restoration shall mean construction or rebuilding of the Condominium Units to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same type of architecture.

(d) If, under subparagraph (a) above, it is determined by the Owners at the special meeting of the Association referred to therein that there has been a complete destruction of all of the Buildings, the Owners shall, at the same special meeting, vote to determine whether or not such complete destruction of the Buildings shall be repaired and reconstructed. The Buildings shall not be reconstructed or repaired if it is the determination of the Owners at such special meeting that there has been a complete destruction of all of the Buildings unless by a vote of a Constitutional Majority of the Owners a decision is made to rebuild, reconstruct and repair the Buildings. If a Constitutional Majority of the Owners vote and decide that the Buildings are to be rebuilt, reconstructed and repaired, the insurance proceeds, if any, received by the Association shall be applied and any excess of construction costs over insurance proceeds, if any, received by the Association shall be contributed and paid as hereinabove provided in subparagraphs (a) and (b).

(e) If, in any case of the complete destruction of all of the Buildings, less than a Constitutional Majority of the Owners vote in favor of the rebuilding, reconstruction and repair of the Buildings, the Buildings shall not be rebuilt, reconstructed or repaired and, in such event, the Property shall be deemed and considered as to be removed from the provisions of the Act under Ind. Code § 32-25-8-16 and in accordance with Ind. Code § 32-25-8-12:

(i) the Property shall be deemed to be owned in common by the Co-Owners;

(ii) 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 Areas;

(iii) any liens affecting any of the Condominium Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Owner in the Property; and

(iv) 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 (1) 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 Property, provided that any Owner whose interest was mortgaged shall be reduced by first paying out of the respective share of such Owner, the amount of any liens on the undivided interest in the Property owned by such Owner.

(f) Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors has the responsibility of maintenance and repair, the Board of Directors shall obtain reliable and detailed estimates of the cost to replace the damaged property in condition as good as that before the casualty. Such costs may include professional fees.

(g) The proceeds of insurance collected on account of any such casualty, and the sums received by the Board of Directors from collections of assessments against Owners on account of such casualty, shall constitute a construction fund which shall be disbursed, if the Buildings are to be reconstructed and repaired, in payment of the costs of reconstruction and repair in the following manner:

(i) If the amount of the estimated cost of reconstruction and repair is less than Twenty-Five Thousand Dollars (\$25,000.00), then the construction fund shall be disbursed in payment of such costs upon order of the Board of Directors; provided, however, that upon request of a Mortgagee which is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereinafter provided in the following subparagraph (ii).

(ii) If the estimated cost of reconstruction and repair of the Buildings or other improvement is more than Twenty-Five Thousand Dollars (\$25,000.00), then the construction fund shall be disbursed in payment of such costs upon approval of an architect qualified to practice in Indiana and employed by the Board of Directors to supervise such work, payment to be made from time to time as the work progresses. The architect shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, (1) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (2) that there is not other outstanding indebtedness known to the said architect for the services and materials described; and (3) that the costs as estimated by said architect for the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(h) Encroachments upon or in favor of Condominium Units which may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceedings or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Buildings were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Buildings stand.

(i) In the event that there is any surplus of monies in the construction fund after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Board of Directors as a reserve or distributed jointly to the Owners of the Condominium Units affected (and to their respective Mortgagees, if any) in accordance with Section 8.05(b) of the By-Laws. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver or any rights against another Owner for committing willful or malicious damage.

11. Condemnation. If at any time or times during the continuance of this Regime, all or a part of the Property shall be taken or condemned by any Person with the power of eminent domain or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions shall be applicable:

(a) Representation. The Association, or the Insurance Trustee if so appointed by the Association, shall represent the Co-Owners in the condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for acquisition of the Common Areas, or part thereof, by the condemning authority. Each Owner hereby appoints the Association or its designee as attorney-in-fact for the purposes described in this subparagraph.

(b) Proceeds. All compensation, damages, or other proceeds therefrom, the sum of which is hereinafter called the "Condemnation Award", shall be payable to the Insurance Trustee as trustee for all Owners according to their respective interests therein.

(c) Total Taking. In the event that the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, this Horizontal Property Regime shall terminate. The Condemnation Award shall be apportioned among the Co-Owners in accordance with their respective Percentage Interests and paid into separate accounts, each such account representing one Condominium Unit. Each such account shall remain in the name of the Insurance Trustee and shall be further identified by the legal description of the Condominium Unit and the name of the Owner. From each separate account the Insurance Trustee shall use and disburse the total amount of such accounts, without contribution from one account to the other, first to the payment of valid tax and special assessment liens on the Condominium Unit in favor of any governmental taxing or assessing authority, next to payment of any Assessments made pursuant to this Declaration or the By-Laws, next to other holders of liens or encumbrances on the Condominium Unit in the order of priority of their liens, and the balance remaining, if any, to each respective Owner.

(d) Partial Taking. In the event that less than the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, this Horizontal Property Regime shall not terminate. Each Owner shall be entitled to a share of the Condemnation Award to be determined in the following manner. As soon as practicable the Insurance Trustee shall, reasonably and in good faith, allocate the Condemnation Award among compensation, damages, or other proceeds, and shall apportion the amounts so allocated among the Owners as follows:

(i) the total amount allocated to the taking of or injury to the Common Areas and Limited Areas shall be apportioned among the Owners in proportion to their respective Percentage Interests;

(ii) the total amount allocated to the taking of or injury to Limited Areas shall be equally apportioned among all Owners entitled to use of the Limited Areas.

(iii) the total amount allocated to the severance damages shall be apportioned to the Owners of those Condominium Units that were not taken or condemned;

(iv) the respective amounts allocated to the taking of or injury to a particular Condominium Unit and/or improvements an Owner has made within his own Condominium Unit shall be apportioned to the Owner of the particular Condominium Unit involved; and

(v) the total amount allocated to consequential damages and any other takings or injuries shall be apportioned as the Insurance Trustee determines to be equitable in the circumstances.

If an allocation of the Condemnation Award is already established in negotiation, judicial decree, or otherwise, then in allocating the Condemnation Award the Insurance Trustee shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be made by the Insurance Trustee by checks payable jointly to the respective Owners and their respective Mortgagees, provided that, with respect to an Owner whose Condominium Unit was taken or condemned, there shall first be deducted therefrom and paid or applied by the Insurance Trustee as appropriate such Owner's pro-rata share of the expenses of the Insurance Trustee, the amounts of any valid tax or special assessment lien in favor of any governmental taxing or assessing authority and any Assessments made pursuant to this Declaration or the By-Laws.

(e) Reorganization. In the event a partial taking results in the taking of a complete Condominium Unit, the Owner thereof shall automatically cease to be an Owner and a member of the Association. Thereafter, the Board of Directors shall reallocate to the remaining Owners, pro-rata, the Percentage Interest and Percentage Vote of such Owner. Such reallocation shall be submitted by the Board of Directors to the Owners of the remaining Condominium Units for approval by a Constitutional Majority thereof and appropriate amendment of this Declaration but any such amendment, to be effective, must be approved by a Majority of Mortgagees.

(f) Restoration and Repair. Notwithstanding anything to the contrary in this Section 11, in the event that less than the entire Property is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof and any Condominium Unit, Common Area or Limited Area may reasonably be restored or repaired, as determined by an independent licensed architect or engineer employed by the Board of Directors for making such determination, the amount, if any, of the Condemnation Award allocable to the taking of or injury to the Common Areas and Limited Areas and to severance damages shall be applied to the cost of Restoration or repair of such Common Area and/or Limited Area, and the amount, if any, allocable to the taking of or injury to a particular Condominium Unit that may be restored or repaired shall be applied to the cost of such Restoration or repair. If any amount of the Condemnation Award then remains, such amount shall be allocated and disbursed in accordance with the provisions of subparagraph (d) above. If the amount of the Condemnation Award is insufficient to cover the cost of any such

Restoration or repair, the additional costs shall be payable in the same manner as set forth in **Section 10(b)**.

(g) Alternative Valuation in Event of Total Taking. Notwithstanding anything to the contrary in this **Section 11**, in the event the amount of the Condemnation Award is determined in negotiation, judicial decree or otherwise according to the value of individual Condominium Units as separately determined, the Condemnation Award shall be apportioned, with respect to such Condominium Units, according to the values so determined and not in accordance with the respective Percentage Interests of the Owners; but if the value of the Common Areas and/or Limited Areas is determined separately, the amount of the Condemnation Award attributable thereto shall be allocated among the Owners in accordance with their respective Percentage Interests.

12. Association of Owners. Subject to the rights of Declarant reserved in **Section 19** hereof, the maintenance, repair, upkeep, replacement, administration, management and operation of the Property (exclusive of the Condominium Units except to the extent any provision herein or in the By-Laws otherwise provides) shall be the responsibility of the Association. Each Owner shall, automatically upon becoming an Owner of a Condominium Unit, be and become a member of the Association. Membership shall terminate when a Person ceases to be an Owner, and in the event of a sale, devise, transfer or conveyance to a new Owner, membership will be transferred to such new Owner.

The Association shall elect a Board of Directors annually (except for the Initial Board as defined in the By-Laws) in accordance with and as prescribed by the By-Laws. Each Owner shall be entitled to cast his/her Percentage Vote for the election of the Board of Directors, except for the Initial Board who shall serve for the period provided in the By-Laws. Each Person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a member of the Association and an Owner solely for the purposes of the Statute (as defined in the By-Laws) and of qualifying to act as a member of the Board of Directors and for no other purpose. No such Person serving on the Initial Board shall be deemed or considered a member of the Association or an Owner for any other purpose (unless he/she is actually an Owner and thereby a member of the Association).

In the event an Owner that is not a natural Person, an individual designated by such Owner shall be deemed a member of the Association for the purpose of qualifying for membership on the Board of Directors.

The Board of Directors shall be the governing body of the Association, representing all of the Owners in providing for the management, administration, operation, maintenance, repair, replacement and upkeep of the Property (exclusive of the Condominium Units except to the extent any provision herein or in the By-Laws otherwise provides).

13. Covenants and Restrictions. The following restrictions on the use and enjoyment of the Condominium Units, Common Areas, Limited Areas and the Property shall be applicable to Westbourne:

(a) No buildings shall be erected or located on the Real Estate other than the Buildings designated in the Declaration, a Supplemental Declaration, or any other amendments to the Declaration, and shown on the Plans or plans filed with any Supplemental Declaration, or any other amendment to the Declaration, without the consent of the Board of Directors, excepting Declarant reserves the right to maintain mobile offices related construction, marketing, sales and/or management.

(b) Nothing shall be done or kept in any Condominium Unit or in the Common Areas or Limited Areas that will cause an increase in the rate of insurance on any Building or the contents thereof. No Owner shall permit anything to be done or kept in his Condominium Unit or in the Common Areas or Limited Areas that will result in a cancellation of insurance on any Buildings or any part of the Common Areas or contents thereof, or that would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

(c) No nuisance shall be permitted and no waste shall be committed in any Condominium Unit, Common Areas or Limited Areas.

(d) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows or placed on the outside walls or balcony of a Building (other than planters, furniture, and such other customary items as may be approved from time to time by the Association), and no sign, awning, canopy, shutter, satellite dish or radio or television antenna or other attachment or thing shall be affixed to or be placed upon the exterior wall or roofs or any other parts of the Building without the prior consent of the Board. No Owner shall paint or decorate the exterior of any Condominium Unit, or any portion thereof, in any color not previously approved in writing by the Board of Directors.

(e) Nothing shall be done or permitted in any Condominium Unit that will impair the structural integrity of the Building or that would structurally change any Building or that would affect the exterior appearance of any Condominium Unit, except as otherwise provided in the Declaration or By-Laws. No Condominium Unit shall be used in any unlawful manner or in any manner that might cause injury to the reputation of Westbourne or that might be a nuisance, annoyance, inconvenience or damage to other Owners and occupants of Condominium Units or neighboring property, including without limiting the generality of the foregoing, noise by the use of any loud speakers, electrical equipment, amplifiers or other equipment or machines or loud person.

(f) The Common Areas and Limited Areas shall be kept free and clear of rubbish, debris and other unsightly materials. No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on any part of the Common Area or Limited Areas. No basketball goals are permitted without the consent of the Board of Directors.

(g) All Owners, guests, tenants or invitees, and all occupants of any Condominium Unit or other Persons entitled to use the same and to use and enjoy the Common Areas and Limited Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Condominium Units, the Common Areas and Limited Areas; including but not limited to rules relating to the keeping of animals, the parking or storage of vehicles or trailers and other matters incidental to the use of the Common Areas and Limited Areas.

(h) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas or Limited Areas, except with express permission from the Board.

(i) All garbage, trash and refuse shall be stored in appropriate containers inside the Condominium Unit or in an inconspicuous place within the Limited Area appurtenant thereto and shall be kept therein until not earlier than sundown of the evening before scheduled trash collection unless deposited in a trash dumpster maintained by the Association. Garbage, trash and refuse shall be placed in sealed disposable plastic bags or other containers approved by the

Board for scheduled trash collection and shall be placed at such locations for trash collection as are designated by the Board.

(j) No "for sale," "for rent" or "for lease" signs or other advertising display shall be maintained or permitted in any Common Areas or Limited Common Areas without the prior consent of the Board except that the right to place or display such signs is reserved to Declarant and the Association with respect to unsold or unoccupied Condominium Units.

(k) Common Areas and Limited Areas shall be used only for the purposes for which they are designed and intended, and shall be used subject to the provisions of the Declaration, these By-Laws and the rules and regulations from time to time adopted by the Board.

(l) No Owner (other than Declarant) shall have the right to make any alteration to a Condominium Unit that in any way affects the exterior appearance of the Building; or make any structural change to a Condominium Unit; or make other changes to a Condominium Unit that would jeopardize the soundness or safety of the Property; reduce the value of the Property or impair any easement or hereditament without the unanimous written consent of all other Co-Owners.

(m) All Condominium Units shall be used exclusively for residential purposes and for occupancy by a single family, and no Condominium Unit may be partitioned or subdivided. Further no more than six (6) occupants may occupy a Condominium Unit at any time.

(n) Any guest parking areas designated on the Plans shall be for the exclusive use of guests and invitees of Owners. Owners shall not be permitted to park recreational vehicles, boats or any other vehicles in such areas at any time. Only short-term parking shall be allowed in common parking areas, and no vehicles shall be advertised or offered for sale in such areas.

(o) It shall be the individual responsibility of each Owner to procure and maintain extended coverage on the contents of their Unit, any and all other personal property located within their Unit or within their Limited Common Area.

(p) No swing sets, forts or other similar playground equipment, apparatus or structures shall be erected in any Common Area or Limited Common Area.

(q) Each Owner shall be responsible for upkeep, maintenance, replacement and repair of all windows and window screens of their Unit.

(r) All patio and deck areas of each Unit shall be the responsibility of the Owner for upkeep.

(s) No fences shall be permitted without approval of the Board of Directors.

(t) No yard ornaments shall be permitted without approval of the Board of Directors.

(u) All mailboxes shall be provided by and maintained by the Association. No private mailboxes shall be permitted.

(v) No garages, trailers, shacks, mini-barns, play houses, forts, storage sheds, tool sheds or outbuildings of any nature, whether permanent or temporary, shall be erected.

(w) No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred, unreasonable disturbance, or danger to persons or property may be permanently removed from the Property by the Association. Further, the Board of Directors shall have the authority to, and shall order the removal of, any pet that is potentially dangerous or creates a nuisance.

(x) Outside storage of any items, including without limitation, the generality of the foregoing, sporting equipment, toys, outdoor cooking equipment, yard and garden tools and equipment, trash and garbage containers, shall not be allowed or permitted without approval of a majority of the Board of Directors.

(y) There shall be no obstruction of the Common Area, nor shall anything be kept or stored on any part of the Common Area without the prior written consent of Board of Directors.

(z) Any activity occurring on a part of the Common Area or Limited Common Area causing or creating a nuisance or unreasonable disturbance shall be immediately and permanently stopped upon notice by Board of Directors.

(aa) Window coverings are required on all windows and such coverings shall be white or neutral colored.

(bb) The following restrictions on the use and enjoyment of the parking areas on the Property shall be applicable:

(i) Each Condominium Unit will have four (4) assigned parking spaces (2 garage spaces and 2 in the driveway). Each Owner shall park only in the parking spaces assigned to their Condominium Unit and no Owner shall park in the parking areas located in the Common Areas designated for guest parking such areas being reserved for the exclusive use of guests and invitees of Owners.

(ii) No parking shall be permitted in the streets or in the Common Area driveways.

(iii) Overnight parking in the Common Area parking spaces shall be limited for guest use only and shall be further limited to no more than thirty (30) days in any calendar year for any particular vehicle.

(iv) All vehicles parked in the parking areas must be operational. There shall be no storage of boats, trailers, recreational vehicles, or in-operable vehicles in the Common Areas. Any of the foregoing items must be stored within an Owner's garage.

(cc) Those certain commitments governing the Real Estate entered into in connection with the development of Westbourne Horizontal Property Regime recorded April 12, 2005, as Instrument No. 2005-0055642, in the Office of the Recorder of Marion County, Indiana, are incorporated herein as if set forth herein in their entirety.

These covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Association. Present or future Owners and the Association shall be entitled to injunctive relief against any violation or attempted violation of these provisions and shall be entitled to damages for any injuries resulting from any violations thereof, but there shall be no right of reversion or forfeiture of title resulting from such violation.

Notwithstanding anything to the contrary contained herein or in the By-Laws, including but not limited to any covenants and restrictions set forth in the By-Laws, Declarant shall have, until the Applicable Date, the right to use and maintain any Condominium Units owned or leased by Declarant, such other portions of the Property (other than individual Condominium Units owned by persons other than Declarant), and any portions of the Real Estate not then part of the Tract, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction, renovation and sale of Condominium Units, or to promote or effect sales of Condominium Units or for the, conduct of any business or activity attendant thereto, including, but not limited to, model Condominium Units, storage areas, construction offices, construction yards, signs, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Common Areas, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Property at any time. Further, and notwithstanding anything to the contrary contained herein or in the By-Laws, including but not limited to any covenants and restrictions set forth in the By-Laws, Declarant shall have the right to lease any Condominium Units it owns or otherwise allow occupants to occupy any such Condominium Unit under the terms and conditions of any occupancy agreement therefore.

14. Amendment of Declaration. Except as otherwise provided in this Declaration, 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 Owners having in the aggregate at least a majority of the Percentage Vote.

(c) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws.

(d) Adoption. Except as otherwise provided herein, any proposed amendment to this Declaration must be approved by a Majority of Owners (subject, however, to Declarant's powers under Section 3.02 of the By-Laws).

(e) Restrictions on Amendments. The consent of (i) all of the Owners (notwithstanding Section 3.02 of the By-Laws) and the approval of all Mortgagees shall be required to terminate the Regime unless expressly provided otherwise herein; and (ii) unless required to conform to the Act, the consent of a Constitutional Majority of the Owners (notwithstanding Section 3.02 of the By-Laws) and the approval of a Majority of Mortgagees shall be required to materially amend any provisions of the Declaration, By-Laws or equivalent organizational documents of the Regime which:

(A) except as provided in **Section 16**, materially changes the voting rights of any Owner or its Percentage Interest;

(B) except as provided in **Section 16**, materially changes (or increases by more than twenty-five percent (25%)) Assessments or modifies the provisions included in the Declaration or By-Laws with respect to the subordination of liens for delinquent Assessments to first mortgage liens;

- (C) except as provided in **Section 16**, causes the expansion or contraction of the Regime or the addition, annexation or withdrawal of property to or from the Regime;
- (D) materially changes the boundaries of any Condominium Unit;
- (E) imposes any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his or her Condominium Unit;
- (F) reduces reserves for maintenance, repair, and replacement of Common Areas below those expressly required herein;
- (G) changes responsibility for maintenance and repairs of the Condominium Units, Common Areas or Limited Common Areas to the Owners;
- (H) except as provided in **Section 16**, reallocates interests in the Limited or Common Areas, or rights to their use;
- (I) changes the requirements for hazard or fidelity insurance;
- (J) imposes any restriction on the leasing of Condominium Units;
- (K) converts any Condominium Unit into a Common Area or vice versa;
- (L) materially changes any provision of the Declaration or By-Laws that are expressly stated to be for the benefit of Mortgagees.

(f) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Association provided that any amendment requiring the consent of Declarant shall contain Declarant's signed consent. All amendments shall be recorded in the office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

(g) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein, the Declarant shall have the right acting alone and without the consent or approval of the Co-Owners, the Association, the Board of Directors, any Mortgagees or any other Person to amend or supplement this Declaration from time to time (i) if such amendment or supplement is necessary to conform this Declaration to the Act, as amended from time to time, (ii) if such amendment or supplement is made to implement expansion of the Property pursuant to Declarant's reserved rights in **Section 16**; (iii) if such amendment or supplement is made to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration or any other governmental agency or any other public, quasi public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (iv) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages, or (v) if such amendment or supplement is made to correct clerical or typographical errors. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this **Section 14(g)** on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage or other instrument affecting a Condominium Unit and the acceptance thereof

shall be deemed to be a grant and acknowledgement of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendment, but the right of the Declarant to act pursuant to rights reserved or granted under this **Section 14(g)** shall terminate after the Applicable Date. After the Applicable Date, the Association shall have the right to exercise the same powers to amend or supplement the Declaration on the same terms as Declarant in this **Section 14(g)**.

15. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Condominium Units shall be subject to and shall comply with the provisions of this Declaration, the Act, the By-Laws appended hereto, and the rules and regulations as adopted by the Board of Directors as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Condominium Unit shall constitute an agreement that the provisions of this Declaration, the Act, the By-Laws and rules and regulations as each may be amended or supplemented from time to time are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Condominium Unit or the Property as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All Persons who may occupy, use, enjoy or control a Condominium Unit or Condominium Units or any part of the Property in any manner shall be subject to the Declaration, the Act, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

16. Expandable Condominium and Declarant's Reserved Rights. Westbourne is and shall be an "expandable condominium", as defined in the Act, and Declarant expressly reserves the right and option to expand the Property and Westbourne in accordance with the provisions of the Act and the following provisions:

(a) The real estate described and defined herein as the Tract and described in **Exhibit B** is the real estate being subjected to the Act by this Declaration and constitutes the first phase of the general plan of development of the Real Estate as depicted on **Exhibit E**. The balance of the Real Estate described in **Exhibit A** is the area into which expansion of Westbourne may be made by Declarant. The maximum number of Condominium Units that may be developed on the Real Estate, including Condominium Units on the Tract as defined in this original Declaration, shall be eighty (80). Subject to said limit as to the maximum number of Condominium Units to be developed on the Real Estate, Westbourne may be expanded by Declarant to include additional portions of the Real Estate described in **Exhibit A** in one (1) or more additional phases by the execution and recording of one (1) or more Supplemental Declarations; but no single exercise of such right and option of expansion as to any part or parts of the Real Estate shall preclude Declarant from thereafter from time to time further expanding Westbourne to include other portions of the Real Estate, and such right and option of expansion may be exercised by Declarant from time to time as to all or any portions of the Real Estate so long as such first expansion is done on or before five (5) years from date of recording hereof, and a time limit of not exceeding ten (10) years in which all phases may be added to the Regime from date of recording hereof. Such expansion is entirely at the discretion of Declarant and nothing contained in this original Declaration or otherwise shall require Declarant to expand Westbourne beyond the Tract (as described in **Exhibit B** to this Declaration) or any other portions of the Real Estate that Declarant may voluntarily and in its sole discretion from time to time subject to this Declaration by Supplemental Declarations as provided above.

(b) The Percentage Interest that will appertain to each Condominium Unit in Westbourne as Westbourne may be expanded from time to time by Declarant in accordance with the terms hereof (including the Percentage Interest that appertains to each of the Condominium

Units included in this original Declaration) shall be equal and shall be a percentage equal to the number one (1) divided by the total number of Condominium Units that, from time to time, have been subjected and submitted to this Declaration and then constitute a part of Westbourne.

(c) Simultaneously with the recording of Supplemental Declarations expanding Westbourne, Declarant shall record new Plans as required by the Act. Such Supplemental Declarations shall also include provisions reallocating Percentage Interests so that the Condominium Units depicted on such new Plans shall be allocated Percentage Interests in the Common Areas and Limited Areas on the same basis as the Condominium Units depicted in the prior Plans. Such reallocation of Percentage Interests shall vest when the Supplemental Declarations incorporating those changes has been recorded.

(d) When the Supplemental Declaration incorporating the addition of Condominium Units or expansion of Common Areas and Limited Areas, or both, is recorded, all liens including, but not limited to, mortgage liens shall be released as to the Percentage Interests in the Common Areas and Limited Areas described in this Declaration and shall attach to the reallocated Percentage Interests in the Common Areas and Limited Areas as though the liens had attached to those Percentage Interests on the date of the recordation of the mortgage or other lien. The Percentage Interests appertaining to additional Condominium Units being added by the Supplemental Declaration are subject to mortgage and liens upon the recordation of the Supplemental Declaration.

(e) In furtherance of the foregoing, a power coupled with an interest is hereby granted to the Declarant, as attorney-in-fact, to shift the Percentage Interest in the Common Areas and Limited Areas appurtenant to each Condominium Unit to the percentages set forth in each Supplemental Declaration recorded pursuant to this Section 16. Each deed, mortgage or other instrument with respect to a Condominium Unit and the acceptance thereof shall be deemed a consent to, and acknowledgment of, and grant of, (i) such power to said attorney-in-fact and (ii) the right pursuant to such power to shift and reallocate from time to time the percentages of ownership in the Common Areas and Limited Areas appurtenant to each Condominium Unit to the percentages set forth in each such recorded Supplemental Declaration.

(f) Each Owner of a Condominium Unit by acceptance of a deed thereto, further acknowledges, consents and agrees, as to each recorded Supplemental Declaration, as follows:

(i) The portion of the Real Estate described in each such Supplemental Declaration shall be governed in all respects by the provisions of this Declaration.

(ii) The Percentage Interest in the Common Areas and Limited Areas appurtenant to each Condominium Unit shall automatically be shifted and reallocated to the extent set forth in each Supplemental Declaration and upon the recording thereof such Percentage Interests shall thereby be and be deemed to be released and divested from such Owner and reconveyed and reallocated among the other Owners as set forth in each recorded Supplemental Declaration.

(iii) Each deed, mortgage or other instrument affecting a Condominium Unit shall be deemed given subject to the conditional limitation that the Percentage Interest in the Common Areas and Limited Areas appurtenant to each Condominium Unit shall, upon the recording of each Supplemental Declaration, be divested pro tanto to the reduced percentage set forth in such Supplemental Declaration and vested among the other Owners, mortgagees and others owning an interest in the other Condominium Units

in accordance with the terms and percentages of each such recorded Supplemental Declaration.

(iv) A right of revocation is hereby reserved by the grantor in each deed, mortgage or other instrument affecting a Condominium Unit to so amend and reallocate the Percentage Interest in the Common Areas and Limited Areas appurtenant to each Condominium Unit.

(v) The Percentage Interest in the Common Areas and Limited Areas appurtenant to each Condominium Unit shall include and be deemed to include any additional Common Areas and Limited Areas included in land to which Westbourne is expanded by a recorded Supplemental Declaration and each deed, mortgage or other instrument affecting a Condominium Unit shall be deemed to include such additional Common Areas and Limited Areas and the ownership of any such Condominium Unit and lien of and such mortgage shall automatically include and attach to such additional Common Areas and Limited Areas as such Supplemental Declarations are recorded.

(vi) Each Owner shall have a perpetual easement appurtenant to his Condominium Unit or Units for the use of any additional Common Areas described in any recorded Supplemental Declaration, for the purposes therein set forth, except as to any portion the use of which is limited by exclusive easements granted to the Owners (Limited Areas) of specific Condominium Units as may be provided in such Supplemental Declaration, and each Owner of a Condominium Unit described in any recorded Supplemental Declaration shall have a perpetual easement appurtenant to his Condominium Unit for the use of all Common Areas (except Limited Areas) described in this Declaration as supplemented or amended prior to the date of such recorded Supplemental Declaration.

(vii) The recording of any Supplemental Declaration shall not alter the amount of the lien for expenses assessed to or against a Condominium Unit prior to such recording.

(viii) Each Owner, by acceptance of the deed conveying his Condominium Unit or Units, agrees for himself and all those claiming under him, including mortgagees, that this Declaration and each Supplemental Declaration are and shall be deemed to be in accordance with the Act and, for the purposes of this Declaration and the Act, any change in the respective Percentage Interests in the Common Areas and Limited Areas as set forth in each Supplemental Declaration shall be deemed to be made by agreement of all Owners.

(ix) Each Owner agrees to execute and deliver such documents necessary or desirable to cause the provisions of this Section 16 to comply with the Act as it may be amended from time to time.

(x) Assessments, method of payment and enforcement thereof on Condominium Units built as an expandable Condominium Unit pursuant to any Supplemental Declaration shall be governed by the same provisions pertaining to Assessments as set forth in the By-Laws.

(xi) Voting rights of an Owner in an expandable Condominium Unit created by Supplemental Declaration shall vest upon becoming a Member of the Association as prescribed by the By-Laws.

(g) In the event Declarant elects to expand the Property and Westbourne, all improvements constructed on that portion of the Real Estate added to the Tract (the "Expansion Parcel") shall be consistent with the improvements then located on the Tract in terms of the quality of construction and all such improvements shall be substantially completed before the Expansion Parcel is added to the Tract. No lien arising in connection with Declarant's ownership of, and construction of improvements on, the Expansion Parcel shall adversely affect the rights of existing Owners or the priority of first mortgages on Condominium Units in the existing Property. All taxes and other assessments relating to the Expansion Parcel covering any period prior to the additions of the Expansion Parcel shall be paid by or otherwise satisfactorily provided for by Declarant.

17. Granting of Easements Prior to the Applicable Date, the Declarant, and after the Applicable Date, the Board of Directors on behalf of the Association, are granted the authority to grant such easements and to release, modify and amend easements encumbering the Common Areas and Limited Areas upon such terms and conditions and for such consideration as they deem appropriate.

18. Reservation of Rights to the Use of the Common Areas.

(a) If, at any time, and from time to time, any portion of the Real Estate has not been subjected and submitted to this Declaration or to the Act by a Supplemental Declaration and such portion or portions of the Real Estate not so subjected to this Declaration or to the Act is/are developed with single or multi-family dwelling units (whether for rent or otherwise) ("Dwelling Units"), then the owner or owners of such portions of the Real Estate shall have the benefit of the Common Areas or portions thereof but only if connected to and developed with the Tract as a coordinated development, to include the use of all utilities, driveways and other roads, for the use of the Persons occupying such Dwelling Units upon the same terms and conditions as the use of such Common Areas by the owners of the Condominium Units, their families, tenants and guests. The owner or owners of such portions of the Real Estate shall then pay for the use of such facilities based on the cost of operation and maintenance of such facilities for the year of such usage and based on the proportion that the number of Dwelling Units on the Real Estate so entitled to use the facilities bears to the sum of (i) such number of Dwelling Units; and (ii) the number of Condominium Units. The owner or owners of such Dwelling Units shall make payments for the usage provided herein to the Association at the same time as the Owners of Condominium Units pay their Assessments to the Association.

(b) Declarant shall have, and hereby reserves, an easement over, across, upon, along, in, through and under the Common Areas, including, to the extent necessary, the Limited Areas, for the benefit of itself, and its mortgagee, employees, contractors and assigns for the purposes of installing, maintaining, repairing, replacing, relocating and otherwise servicing utility and telecommunication equipment, facilities and installations to serve the Property and any portions of the Real Estate that are not a part of the Property or for any other contiguous real estate now or hereafter owned by Declarant or its affiliates; to provide access to and ingress and egress to and from the Property and to any such portions of the Real Estate that are not part of the Property; to make improvements to and within the Property and any such portions of the Real Estate that are not part of the Property; and to provide for the rendering of public and quasi-public services to the Property and any such portions of the Real Estate that are not part of the Property. The foregoing easement shall be a transferable easement and Declarant may at any time and from time

to time grant similar easements, rights or privileges to other Persons for the same purposes. By way of example, but not in limitation of the generality of the foregoing, Declarant, and others to whom Declarant may grant such similar easements, rights or privileges, may so use the Common Areas and, to the extent necessary, the Limited Areas, to supply utility and telecommunication services to the Property and any such portions of the Real Estate that are not part of the Property and to permit public and quasi-public vehicles, including but not limited to police, fire and other emergency vehicles, trash and garbage collection, post office vehicles and privately owned delivery vehicles, and their personnel to enter upon and use the drives and streets, the Common Areas and, to the extent necessary, the Limited Areas of Westbourne in the performance of their duties.

19. Initial Management. As set forth in the By-Laws, until the Transfer Date, the Board of Directors consists and will consist of Persons selected by Declarant. The Board of Directors has entered, or may hereafter enter, into a management agreement either with Declarant (or a corporation or other entity affiliated with Declarant) or an independent management company for a term which will expire not later than the Transfer Date, under which Declarant (or such affiliate of Declarant, as appropriate) or such third party management company will provide supervision, fiscal and general management and maintenance of the Common Areas and, to the extent the same is not otherwise the responsibility of Owners of individual Condominium Units, the Limited Areas, and, in general, perform all of the duties and obligations of the Association. Upon termination thereof, the Association shall thereupon and thereafter assume or resume performance of all of its duties and obligations and functions or contract for such services with an independent third-party. Notwithstanding anything to the contrary, in the event that prior to the Transfer Date the Board of Directors has entered into a contract for professional management still effective as of the Transfer Date, the Association shall have the right to terminate any such contract without cause at any time after the Transfer Date.

20. Right of Access. Declarant (prior to the Applicable Date) and the Association shall have the irrevocable right of access to the Condominium Units as is necessary for (a) the maintenance, repair, or replacement of any Limited Areas, Common Areas and facilities (i) in the Condominium Unit; or (ii) accessible from the Condominium Unit; or (b) making emergency repairs in the Condominium Unit necessary to prevent damage to (i) the Limited Areas and Common Areas and facilities; or (ii) another Condominium Unit as provided in the Act.

21. Sale, Lease or Other Transfer of Condominium Unit by Owners.

(a) Lease. It is in the best interests of all the Owners that those persons residing in Westbourne have similar proprietary interests in their Condominium Units and be Owners. For the purpose of maintaining the congenial and residential character of Westbourne, no Owner shall lease his Condominium Unit or enter into any other rental or letting arrangement for his Condominium Unit.

(b) Sale. The Association shall have no right of first refusal to purchase any Condominium Unit which an Owner wishes to sell and an Owner may sell his Condominium Unit free of any such restriction.

22. Right to Combine Units. Two or more adjoining Condominium Units may be utilized by the Owner or Owners thereof as if they were one Condominium Unit and any walls, floors or other structural separations between any two such Condominium Units, or any space that would be occupied by such structural separations but for the utilization of the two Condominium Units as one Condominium Unit, may, for as long as the two Condominium Units are utilized as one, be utilized by the Owner or Owners of the adjoining Condominium Units as Limited Areas except to the extent that any such

structural separations are necessary or contain facilities necessary for the support, use or enjoyment of other parts of the Buildings of which they are a part, and provided that the Percentage Interest appertaining to each Condominium Unit shall continue in effect as if such Condominium Units were not combined. At any time, upon request of the Owner of one of such adjoining Condominium Units, any opening between the two Condominium Units that, but for joint utilization of the two Condominium Units, would have been occupied by a structural separation, shall be closed, at the equal expense of the Owners of each of the two Condominium Units, and the structural separations between the two Condominium Units shall thereupon become Common Areas.

23. Right of Action. Subject to the provisions of Section 29, the Association and any aggrieved Owner shall have a right of action against any Owner or Owners for failure to comply with the provisions of the Declaration, By-Laws or any decision of the Association or its Board of Directors which are made pursuant to authority granted to the Association or its Board of Directors in such documents. Owners shall have a similar right against the Association.

24. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the By-Laws or the Act, or to comply with any provision of the Declaration, the Act, the By-Laws, or the rules and regulations adopted pursuant thereto as each may be amended from time to time, the Declarant or the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

25. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or Limited Areas or by abandonment of his Condominium Unit.

26. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provisions of this Declaration or the By-Laws filed herewith shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration or the attached By-Laws.

27. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include the masculine, feminine and neuter genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

28. Floor Plans. The Plans setting forth the layout, location, identification numbers, and dimensions of the Condominium Units and the Property are incorporated into this Declaration by reference.

29. Exculpation. This instrument is executed and delivered on the express condition that anything herein to the contrary notwithstanding, each and all of the representations, covenants, undertakings and agreements herein made on the part of Declarant ("**Representations**"), while in form purporting to be the Representations of Declarant, are nevertheless each and every one of them, made and intended not as personal Representations by Declarant or for the purpose or with the intention of binding Declarant personally, but are made and intended for the purpose of binding only the Tract; and no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against Declarant personally or any of its officers, directors, members or shareholders, on account of this instrument or on account of, in connection with or arising out of any Representations of Declarant in this instrument contained, either express or implied, all such personal liability, if any, being expressly waived and released by each Person who acquires any interest in a Condominium Unit (including mortgagees) as a condition to the acquisition thereof.

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

BEAZER HOMES INDIANA LLP

By: Beazer Homes Corp., its Managing Partner

By: *[Signature]*
Mike Mansfield, Division President

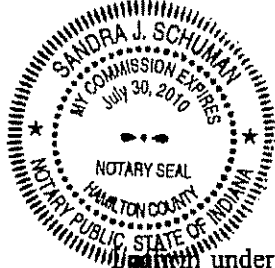
STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Mike Mansfield, known to me and known by me to be the Division President of Beazer Homes Corp., the Managing Partner of Beazer Homes Indiana LLP, an Indiana limited liability partnership, who acknowledged the execution of the foregoing Declaration of Horizontal Property Ownership for and on behalf of said entity.

Witness my hand and Notarial Seal this 30 day of April, 2007.

My Commission Expires:
7-30-2010

Sandra J. Schuman
Notary Public Residing in Hamilton County, Indiana
Sandra J. Schuman
(Printed Signature)



I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Donald E. Williams COPY
Donald E. Williams

This instrument prepared by Donald E. Williams, Attorney-at-law
Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204.

EXHIBIT A
LEGAL DESCRIPTION OF THE REAL ESTATE

Parcel 1

A part of the West Half of the Southwest Quarter of Section 26, Township 17 North, Range 2 East, Marion Country, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of said Half Quarter Section: Thence South 88 degrees 50 minutes 15 seconds West (assumed bearing) along the South line of said Quarter Section a distance of 810.00 feet; thence North 00 degrees 00 minutes 11 seconds West 215.29 feet to the POINT OF BEGINNING of this description; thence continuing North on said line North 00 degrees 00 minutes 11 seconds West 444.71 feet; thence North 88 degrees 50 minutes 15 seconds East 775.00 feet; thence South 00 degrees 00 minutes 11 seconds East 554.65 feet; thence South 51 degrees 03 minutes 59 seconds East 57.65 feet; thence South 88 degrees 50 minutes 15 seconds West 507.94 feet; thence North 00 degrees 00 minutes 00 seconds West 161.26 feet; thence South 89 degrees 58 minutes 31 seconds West 45.87 feet; thence South 00 degrees 00 minutes 00 seconds West 20.45 feet; thence South 89 degrees 59 minutes 43 seconds West 176.29 feet to the POINT OF BEGINNING of this description containing in all 9.7 acres, more or less.

TOGETHER WITH THE FOLLOWING ADDITIONAL PARCEL:

Parcel 2

Part of the West Half of the Southwest Quarter of Section 26, Township 17 North, Range 2 East, Marion Country, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of said Half Quarter Section: Thence South 88 degrees 50 minutes 15 seconds West (assumed bearing) along the South line of said Quarter Section a distance of 810.00 feet; thence North 00 degrees 00 minutes 11 seconds West 70.00 feet to the POINT OF BEGINNING of this description; thence continuing North on said line North 00 degrees 00 minutes 11 seconds West 145.29 feet; thence South 89 degrees 59 minutes 43 seconds East 176.29 feet; thence North 00 degrees 00 minutes 00 seconds West 20.45 feet; thence North 89 degrees 58 minutes 31 seconds East 45.87 feet; thence South 00 degrees 00 minutes 00 seconds West 161.26 feet; thence South 88 degrees 50 minutes 15 seconds West 222.19 feet to the POINT OF BEGINNING of this description containing in all 0.74 acres, more or less.

EXHIBIT B
LEGAL DESCRIPTION OF THE TRACT

Tract A

For Westbourne

(Building One)

Part of the West Half of the Southwest Quarter of Section 26, Township 17 North, Range 2 East, Marion Country, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of said Half Quarter Section: Thence South 88 degrees 50 minutes 15 seconds West (assumed bearing) along the South line of said Quarter Section a distance of 810.00 feet; thence North 00 degrees 00 minutes 11 seconds West 70.00 feet to the POINT OF BEGINNING of this description; thence continuing North on said line North 00 degrees 00 minutes 11 seconds West 145.29 feet; thence South 89 degrees 59 minutes 43 seconds East 176.29 feet; thence North 00 degrees 00 minutes 00 seconds West 20.45 feet; thence North 89 degrees 58 minutes 31 seconds East 45.87 feet; thence South 00 degrees 00 minutes 00 seconds West 161.26 feet; thence South 88 degrees 50 minutes 15 seconds West 222.19 feet to the POINT OF BEGINNING of this description containing in all 0.74 acres, more or less.

**EXHIBIT C
WESTBOURNE
BY-LAWS
CODE OF BY-LAWS
OF
WESTBOURNE
HORIZONTAL PROPERTY REGIME
AND OF
WESTBOURNE OWNERS ASSOCIATION, INC.**

**CODE OF BY-LAWS OF
WESTBOURNE HORIZONTAL PROPERTY REGIME
AND OF
WESTBOURNE OWNERS ASSOCIATION, INC.**

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**CODE OF BY-LAWS OF
WESTBOURNE HORIZONTAL PROPERTY REGIME
AND OF
WESTBOURNE OWNERS ASSOCIATION, INC.**

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 Westbourne Horizontal Property Regime to which these By-Laws are attached and made a part. 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. Except as otherwise provided in Section 1.02 hereof, 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. These By-Laws shall also constitute the By-Laws of the Association.

Section 1.02 Additional Definitions. Notwithstanding any other definition in the Declaration, the following terms as used in these By-Laws shall have the following meanings:

- (a) **"Articles"** means the Articles of Incorporation of the Association.
- (b) **"Assessment"** means all sums lawfully assessed against the Owners or as declared or authorized by the Act, the Declaration, any Supplementary Declaration, the Articles, or these By-Laws.
- (c) **"Declaration"** means that certain Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime, as amended.
- (d) **"Directors"** means all the members of the Board of Directors and **"Director"** means any individual member thereof.
- (e) **"Initial Board"** means those individuals appointed by Declarant as Directors pursuant to the power reserved to Declarant by Section 3.02 in their capacity as the Board of Directors.
- (f) **"Managing Agent"** means a reputable and recognized professional property management agent employed by the Board pursuant to Section 3.06.
- (g) **"Majority Vote"** means a majority of the Percentage Vote present and voting at any duly constituted meeting of the Members.
- (h) **"Member"** means a member of the Association and **"Members"** means more than one member of the Association.
- (i) **"Organizational Documents"** means the Declaration, the Articles, the By-Laws and the rules and regulations adopted by the Board governing Westbourne as may be amended or supplemented.

- (j) **"Regular Assessment"** means the Assessment levied pursuant to **Section 6.02**.
- (k) **"Special Assessment"** means the Assessment levied pursuant to **Section 6.03**.
- (l) **"Statute"** means the Indiana Nonprofit Corporation Act of 1991, as the same may be amended from time to time.

Section 1.03 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 a Condominium Unit or any part of the Property, shall be subject to the restrictions, terms and conditions set forth in the Declaration, the Articles, these By-Laws and the Act, and to any rules and regulations adopted by the Board as herein provided.

ARTICLE II. Meetings of Association

Section 2.01 Purpose of Meetings. At least annually, and at such other times as may be necessary, the meetings of the Co-Owners shall be held for the purpose of electing the Board (subject to the provisions of **Section 3.02** hereof), approving the annual budget, providing for the collection of Common Expenses and for such other purposes as may be required by the Declaration, the Articles, these By-Laws, the Act or the Statute.

Section 2.02 Annual Meetings. The annual meeting of the Members shall be held on the first Tuesday of April in each calendar year. At the annual meeting, the Owners shall (subject to the provisions of **Section 3.02** hereof) elect the Board of Directors 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 may be called by resolution of the Board or upon a written petition of Owners who have not less than ten percent (10%) of the Percentage Vote. The resolution or petition shall be presented to the President or Secretary of the Association (references herein to an officer shall be to that officer 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 or resolution.

Section 2.04 Notice and Place of Meetings. All meetings of the Members shall be held at any suitable place in Marion County, Indiana, as may be designated by the Board. 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 to each Member entitled to vote thereat not less than ten (10) days prior to the date of such meeting. The notice shall be mailed or delivered to the Owners at the addresses of their respective Condominium Units and not otherwise. A copy of each such written notice shall also be delivered or mailed simultaneously by the Secretary to each Mortgagee (a) who requests in writing that such notices be delivered to it, and (b) who has furnished the Association with its name and address in accordance with **Section 12.01** of these By-Laws. Attendance at any meeting in person by agent or by proxy shall constitute a waiver of notice of such meeting.

Section 2.05 Voting.

(a) Number of Votes. Each Owner shall be entitled to cast one vote for each Condominium Unit it owns on each matter coming before the meeting as to which it is entitled to vote.

(b) Multiple Owner. Where the Owner of a Condominium Unit constitutes or consists of more than one Person, or is a partnership, there shall be only one voting representative entitled to all of the Percentage Vote allocable to that Condominium Unit. At the time of acquisition of title to a Condominium Unit by a multiple Owner or a partnership, those Persons constituting such Owner or the partners shall file with the Secretary an irrevocable proxy appointing one of such Persons or partners as the voting representative for such Condominium Unit, which shall remain in effect until all of those Persons constituting such multiple Owner or a majority of the partners in such partnership designate another voting representative in writing, or 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 or the Owner no longer owns such Condominium Unit. 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 Condominium Unit.

(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 may cast the vote to which the corporation is entitled. The secretary of the corporation or a trustee of the trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary stating who is authorized to vote on behalf of said corporation or trust.

(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 Secretary prior to the commencement of the meeting.

(e) Pledges. If the vote of an Owner or Owners has been pledged by mortgage, security agreement, conditional assignment, or other instrument, an executed copy of which has been filed with the Secretary, only the pledgee shall be entitled to cast the vote of such Owner or Owners upon those matters upon which the Owner's or Owners' vote is so pledged.

(f) Quorum. Except where otherwise expressly provided in the Declaration, these By-Laws, the Act or the Statute, a Majority of Owners shall constitute a quorum at all meetings of the Members.

Section 2.06 Conduct of Meetings.

(a) Annual Meeting. The President shall act as the chairman of all annual meetings of the Association if he is present. At all annual meetings, the chairman 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, unless such reading is waived by a Majority Vote.

(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 fiscal year shall be presented to the Owners for approval or amendment.

(4) Election of Board of Directors. After the Applicable Date, nominations for the Board may be made by any Owner from those Persons eligible to serve. Such nominations must be in writing and presented to the Secretary at least seven (7) days prior to the date of the annual meeting. Voting for the Board will be by paper ballot. The ballot shall contain the name of each Person nominated to serve as a member of the Board. 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. Prior to the Applicable Date, the nomination and election of the Board shall be governed by the provisions of **Section 3.02** hereof.

(5) Other Business. Other business may be brought before the meeting only by decision of the Board of Directors or upon a written request of an Owner submitted to the Secretary of the Association at least seven (7) days prior to the date of the meeting, except that such written request may be waived at the meeting if agreed by a Majority of Owners.

(6) Adjournment.

Section 2.07 Special Meeting. The President shall act as chairman of any special meetings of the Association if he is present. The chairman shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be the matters for which such meeting was called, as set forth in the notice of such special meeting.

ARTICLE III. Board of Directors

Section 3.01 Management. The affairs of the Association and Westbourne shall be governed and managed by the Board of Directors. Prior to the Applicable Date, the Board shall be composed of three (3) individuals. Subsequent to the Applicable Date, the number of Directors comprising the Board shall be five (5), which number may from time to time be increased or decreased by resolution adopted by not less than a majority of the Board of Directors, provided that in no event shall the number of Directors subsequent to the Applicable Date be less than three (3) nor more than five (5) and no reduction in the number of Directors shall have the effect of removing a Director from office prior to the expiration of his term. In the event the number of Directors is increased subsequent to the Applicable Date as provided herein, the election of the additional Director or Directors shall be by a vote of the Members entitled to elect such additional Director or Directors according to a procedure established by the Board by resolution. No individual shall be eligible to serve as a Director unless he is, or is deemed in accordance with the Declaration to be, an Owner, excluding an individual appointed by Declarant as provided in **Section 3.02** hereof.

Section 3.02 Initial Board of Directors. The initial Board of Directors shall be Steve Cook, Lisa D. Hupfer, and John B. Deszcz, each of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, these By-Laws, the Declaration, the Act or the Statute (a) the Initial Board shall hold office until the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever, prior to the Applicable Date, every such vacancy shall be filled by an individual appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Person serving on the

Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a member of the Association and an Owner solely for the purposes of the Statute (as defined in the By-Laws) and of qualifying to act as a member of the Board of Directors and for no other purpose. No such Person serving on the Initial Board shall be deemed or considered a member of the Association or an Owner for any other purpose (unless he is actually an Owner and thereby a member of the Association). Each Owner, by acceptance of a deed to a Condominium Unit, or by acquisition of any interest in a Condominium Unit by any type of juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which appointment shall be deemed coupled with an interest and irrevocable until the Applicable Date, to exercise all of said Owner's right to vote and to vote as Declarant determines on all matters as to which Members are entitled to vote under the Declaration, these By-Laws, the Act, the Statute or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same.

Section 3.03 Additional Qualifications. Where an Owner consists of more than one individual or is not a natural Person, then one of the individuals constituting the multiple Owner, or a partner, an officer or the trustee of an Owner shall be eligible to serve on the Board, except that no single Condominium Unit may be represented on the Board by more than one individual at a time.

Section 3.04 Term of Office and Vacancy. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date. After the Applicable Date, each member of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date one (1) Directors shall be elected for a three (3) year term, two (2) for a two (2) year term, and two (2) for a one (1) year term so that the terms of at least one-third (1/3) of the Directors shall expire annually. There shall be separate nominations for the office of each Director to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 3.02 hereof as to the Initial Board, 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. The Director so filling a vacancy shall serve until the next annual meeting of the Members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 3.05 Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a Majority of Owners at a special meeting of the Members duly called and constituted for that purpose. 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 Members or until his successor is duly elected and qualified.

Section 3.06 Duties of the Board of Directors. The Board shall provide for the administration of Westbourne, the maintenance, upkeep and replacement of the Common Areas and Limited Areas (unless the same are otherwise the responsibility or duty of Owners of Condominium Units), and the collection and disbursement of the Common Expenses, and may hire a Managing Agent to do so. The initial Managing Agent may be Declarant (or a corporation or other entity affiliated with Declarant) in accordance with the terms of Section 19 of the Declaration. The Managing Agent shall assist the Board in carrying out its duties, which include, but are not limited to:

- (a) protection, surveillance and replacement of the Common Areas and Limited Areas, unless the same are otherwise the responsibility or duty of Owners of Condominium Units; provided, however, that this duty shall not include or be deemed or interpreted as a requirement

that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

(b) procuring of utilities used in connection with Westbourne, removal of garbage and waste, and snow removal from the Common Areas;

(c) landscaping, maintaining and repairing the Common Areas and, where applicable, the Limited Areas;

(d) surfacing, paving and maintaining drives, parking areas and sidewalks;

(e) assessment and collection from the Owners of the Owners' pro rata shares of the Common Expenses; determination of whether improvements are to Common or Limited Areas; pursuant to the terms and conditions of the Declaration; determination of whether expenses incurred with respect to the same are allocable to all or fewer than all the Owners; and the allocation of all expenses among the respective Condominium Units;

(f) preparation of the proposed annual budget;

(g) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year;

(h) keeping a current, accurate and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses; payment vouchers for all expenditures shall, prior to payment, be approved by a member of the Board or such other person (which may include the Managing Agent) to whom the Board may delegate such authority;

(i) procuring and maintaining for the benefit of the Owners, the Association and the Board the insurance coverages required by Section 8.01 and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;

(j) making available to Owners and Mortgagees current copies of the Organizational Documents and any other books, records and financial statements of the Association; and

(k) interpreting, applying and enforcing all restrictive covenants, rules and regulations established by the Declaration, these By-Laws or the Board with respect to the Owners or uses of Condominium Units within or relating to the use, maintenance or repair of any property within the boundaries of the horizontal property regime.

The Board shall also make available to prospective purchasers of Condominium Units current copies of the Organizational Documents and the most recent annual audited financial statement, if such statement has been prepared. "Available" means available for inspection upon request during normal business hours or under other reasonable circumstances. Upon written request by the United States Department of Housing and Urban Development or the Veterans Administration, the Board shall also prepare and furnish within a reasonable time an audited financial statement for the Association for the immediately preceding fiscal year.

Section 3.07 Powers of the Board of Directors. The Board 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 to assist the Board in performing its duties subject to the provisions of Section 3.06;

(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;

(c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board may be necessary or desirable in connection with the business and affairs of Westbourne;

(d) to employ, designate, discharge and remove such personnel as in the judgment of the Board may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas and, where applicable, the Limited Areas;

(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; and

(g) to adopt, revise, amend and alter from time to time rules and regulations with respect to use, occupancy, operation and enjoyment of the Property.

Section 3.08 Limitation on Board Action. After the Applicable Date, the authority of the Board to enter into contracts shall be limited to contracts involving a total expenditure of less than \$5,000.00 and for a duration shorter than one (1) year without obtaining the prior approval of a Majority of Owners, except that in the following cases such approval shall not be necessary:

(a) contracts for replacing or restoring portions of the Common Areas or Limited Areas damaged or destroyed by fire or other cause 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; and

(c) expenditures necessary to deal with emergency conditions in which the Board reasonably believes there is insufficient time to call a meeting of the Owners.

Section 3.09 Compensation. No Director shall receive any compensation for his services as a Director except to such extent as may be expressly authorized by a Majority of Owners. The Managing Agent shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 3.10 Meetings.

(a) Organization Meeting. The Board shall meet each year within ten (10) days following the date of the annual meeting of the Members, at such time and place as shall be fixed at the annual meeting, for the purpose of organization, election of officers and consideration of any other business that may properly be brought before the meeting, and no notice shall be necessary to any newly elected Directors in order legally to constitute such meeting if a quorum is present.

(b) Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the 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.

(c) Special Meetings. Special meetings of the Board may be called by the President or any two (2) members of the Board. The Director or Directors 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 members of the Board. 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 or his subsequent consent to the actions taken thereat, 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 Action Without a Meeting. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if a consent in writing setting forth such actions so taken is signed by all Directors and such written consent is filed with the minutes of the proceedings of the Board.

Section 3.13 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 3.14 Non-Liability of Directors. The Directors shall not be liable to the Owners or any other Persons 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 Association shall indemnify and hold harmless and defend each of the Directors against any and all liability to any Person arising out of contracts made by the Board on behalf of Westbourne or the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of Westbourne or the Association and that in all matters the Board is acting for and on behalf of the Owners 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 Westbourne shall provide that the Board and the Managing Agent, as the case may be, are acting as agent for the Owners and shall have no personal liability thereunder, except in their capacity as Owners (if applicable) and then only to the extent of their Percentage Interests.

Section 3.15 Additional Indemnity of Directors. The Association shall indemnify, hold harmless and defend any individual, 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, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or

proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Association shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a Majority of Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent or any officer or employee thereof, or any accountant, attorney or other Person employed by the Association to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board.

Section 3.16 Transactions Involving Affiliates. No contract or other transaction between the Association and one or more of its Directors, or between the Association and any Person (including Declarant or any officer, director or shareholder of Declarant) in which one or more of the Directors are directors, officers, partners, or employees or are pecuniarily or otherwise interested shall be void or voidable because such Director or Directors are present at the meeting of the Board that authorizes or approves the contract or transaction, or because his or their votes are counted for such purpose if:

- (a) the contract or transaction is between the Association and Declarant or any affiliate of Declarant entered into prior to the Applicable Date; or
- (b) the fact of the affiliation or interest is disclosed or known to the Board or a majority thereof or noted in the minutes, and the Board authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for the purpose without counting the vote of such interested Director; or
- (c) the fact of the affiliation or interest is disclosed or known to the Co-Owners, or a majority thereof, and they approve or ratify the contract or transaction in good faith by a vote sufficient for the purpose; or
- (d) the contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved or executed.

Affiliated or interested Directors may be counted in determining the presence of a quorum of any meeting of the Board thereof that authorizes, approves or ratifies any contract or transaction.

Section 3.17 Bonds. Blanket fidelity bonds shall be maintained by the Association for all officers, directors and employees of the Association and all other persons handling, or responsible for, funds of or administered by the Association. Where the Managing Agent has the responsibility for handling or administering funds of the Association, the Managing Agent shall be required to maintain fidelity bond coverage for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. Such fidelity bond shall name the Association as an obligee and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or Managing Agent, as the case may be, at any given time during the term of each bond. In no event, however, may the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Condominium Units plus reserve funds. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms of expressions. The expense of all such bonds shall be a Common Expense.

ARTICLE IV.

Officers

Section 4.01 Officers of the Association. The principal officers of the Association shall be the President, Vice President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two (2) or more offices may be held by the same person, except that the duties of the President and Secretary shall not be performed by the same person.

Section 4.02 Election of Officers. The officers of the Association shall be elected annually by the Board at the initial meeting of the Board. Upon an affirmative vote of a majority of all members of the Board, any officer may be removed either with or without cause and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose.

Section 4.03 The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of president or chief executive officer of an association or a stock corporation organized under the laws of Indiana, including but not limited to the power to appoint committees from among the Owners as he may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 4.04 The Vice President. The Vice President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him by the Board or by the President.

Section 4.05 The Secretary. The Secretary shall be elected from among the Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to be kept a true and complete record of the proceedings of such meetings, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 4.06 The Treasurer. The Board shall elect a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and who shall perform such other duties incident to the office of Treasurer. He shall be the legal custodian of all monies, notes, securities and other valuables which may from time to time come into possession of the Association. He shall immediately deposit all funds of the Association coming into his hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account or accounts in the name of the Association. The Treasurer may permit the Managing Agent to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

Section 4.07 Assistant Officers. The Board may, from time to time, designate and elect from among the Members an Assistant Secretary and an Assistant Treasurer who shall have such powers and duties as the officers whom they are elected to assist shall delegate to them and such other powers and duties as these By-Laws or the Board may prescribe.

ARTICLE V.
Management

Section 5.01 Maintenance, Repairs and Replacements.

(a) Condominium Units. Each Owner shall, at his expense, be responsible for the maintenance, repairs, decoration and replacement within his own Condominium Unit, except as may otherwise be provided herein. Each Owner shall promptly perform all maintenance and repair within his Condominium Unit which, if neglected, might adversely affect the Property. In addition, each Owner shall furnish, and shall be responsible at his own expense for the maintenance, repairs and replacements of, his Condominium Unit and appurtenant Limited Areas, and all equipment serving the same except to the extent otherwise provided herein. Such maintenance, repairs and replacements for which each Owner is individually responsible at his own expense include, but are not necessarily limited to, all partitions and interior walls, ceilings and floors; doors and the interior of screens and windows; appliances, including garbage disposals, dishwashers, stoves, ranges and refrigerators; telephones; air conditioning and heating equipment that serve only such Owner's Condominium Unit (whether located wholly or partially inside or outside the Condominium Unit); lavatories, toilets and baths or showers; interior grouting and/or caulking; and all other accessories appurtenant to the Condominium Unit or belonging to the Owner thereof.

(b) Owner Maintenance Exceptions. Notwithstanding anything herein to the contrary, the Association shall maintain water, gas, telephone, cable television, plumbing and electric lines and facilities to their connection point to individual Condominium Units; paint, caulk or tuckpoint the exterior of Building; seal, paint, repair and replace windows (including frames) in the exterior perimeter walls of the Building; and resurface, repair or replace parking areas, sidewalks, roofs and other facilities and appurtenances. The foregoing is applicable to usual and ordinary maintenance, repair and replacement and, notwithstanding anything to the contrary, the cost of any maintenance, repair or replacement necessitated by the willful or negligent misuse by an Owner shall be assessed against the Condominium Unit with respect to which such maintenance or repair is performed and, when so assessed, a statement for the amount thereof shall be rendered promptly to the then Owner of the Condominium Unit at which time the Assessment shall become due and payable and a continuing lien and obligation of said Owner in all respects as provided in Section 6.07 hereof.

(c) Maintenance Performed by Association. In the event that the maintenance or repair of any Condominium Unit is reasonably necessary in the discretion of the Board to protect the Common Areas or Limited Areas, or to preserve the appearance or value of the Property, or is otherwise in the interest of the general welfare of the Co-Owners, the Board shall have the power to undertake such maintenance or repair; but no such maintenance or repair shall be undertaken without a resolution by the Board and reasonable written notice to the Owner of the Condominium Unit proposed to be maintained. The cost of any such maintenance or repair shall be assessed against the Condominium Unit on which such maintenance or repair is performed and, when so assessed, a statement for the amount thereof shall be rendered promptly to the then Owner of the Condominium Unit at which time the Assessment shall become due and payable and a continuing lien and obligation of said Owner in all respects as provided in Section 6.06 hereof.

(d) Certain Limited Areas. Each Owner shall, at his expense, be responsible for the maintenance, repair and replacement of the air conditioning compressor, if any, installed to service his Condominium Unit and for the decoration and general maintenance of any balcony,

patio, deck, or porch to which there is direct access from the interior of his Condominium Unit and any driveways for the sole and exclusive use of such Condominium Unit. Any such balcony, patio, deck, or porch shall be kept free and clean of snow, ice and any other accumulation by the Owner of such Condominium Unit who shall also make all repairs thereto caused or permitted by his negligence, misuse or neglect. All other repairs or replacements in, to or with respect to such balcony, patio, deck, or porch shall be made by the Association, and the cost thereof shall be a Common Expense.

(e) Common Areas and Limited Areas. All maintenance, repairs and replacements to the Common Areas and Limited Areas (except as otherwise provided in the Declaration, Section 5.01(d) above, or otherwise by these By-Laws) shall be furnished by the Association as part of the Common Expenses. The cost to maintain, repair and replace any appurtenant easements shall be included in the Common Expenses. The Board of Directors may adopt rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Areas and Limited Areas which are not inconsistent with the terms and provisions of the Declaration.

(f) Certain Maintenance Obligations of the Association. The Association shall be responsible for and shall perform the following items:

- (1) Stain and/or paint all fences and exterior structure trim;
- (2) Mulching and pruning all planting beds;
- (3) The maintenance, replacement and pruning of all trees in the Common Areas;
- (4) Paint the outside of all garage doors as needed;
- (5) Paint the outside of all front doors as needed;
- (6) Exterior siding and brick replacement as needed;
- (7) Maintain shrubs and other planting in all planting beds and replace as needed not later than the next growing season;
- (8) Mow, fertilize and provide weed control as needed for all lawns and Common Areas; and
- (9) Snow removal from all sidewalks, driveways and streets..

Section 5.02 Right of Entry. The Board of Directors, the Managing Agent, or any other Person authorized by the Board or the Managing Agent shall have the right, at reasonable times and upon reasonable prior notice (except in cases of emergency in which event no notice shall be required), to enter into each individual Condominium Unit for the purposes of inspection of the Common Areas and Limited Areas appurtenant thereto and replacement, repair and maintenance of the same.

Section 5.03 Alterations and Additions. No Person shall make any alterations or additions to the Common or Limited Areas without the prior written approval of the Board of Directors, nor shall any Owner make any alteration or addition within the boundaries of his Condominium Unit that would affect the safety or structural integrity of the Building.

Section 5.04 Real Estate Taxes. Real estate taxes are to be separately taxed to each Condominium Unit as provided in the Act. In the event that for any year real estate taxes are not separately assessed and taxed to each Condominium Unit, but are assessed and taxed on the Property as a whole, then each Owner shall pay his proportionate share thereof in accordance with his respective Percentage Interest. If real estate taxes are assessed on the Tract and other portions of the Real Estate, then the tax for the Tract shall be allocated on a proportionate square footage basis and the tax for the improvements on the Tract shall be allocated on a proportionate value basis as shall be determined by the Board of Directors.

Section 5.05 Utilities. Each Owner shall pay for his own utilities that are separately metered. Utilities that are not separately metered shall be treated as and paid as part of the Common Expenses, unless, after the Applicable Date, alternative payment arrangements are authorized by a Majority of Owners.

Section 5.06 Limitation of Liability. The Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for out of the Common Expenses, or for injury or damage to person or property caused by the elements or by the Owner of any Condominium Unit, or any other Person, or resulting from electricity, water, snow or ice that may leak or flow from any portion of the Common Areas or Limited Areas or from any pipe, drain, conduit, appliance or equipment. The Association shall not be liable to any Owner for loss or damage, by theft or otherwise, of articles that may be stored upon any of the Common Areas or Limited Areas. No diminution or abatement of Assessments for Common Expenses shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas or Limited Areas or from any action taken by the Association to comply with any law, ordinance, order or directive of any municipal or other governmental authority.

Section 5.07 Negligence. Each Owner shall be liable for the expenses of any maintenance, repair or replacement rendered necessary by his negligence or by that of his guests, employees, agents or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his use, misuse, occupancy or abandonment of his Condominium Unit or its appurtenances or of the Common Areas or Limited Areas.

Section 5.08 Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by, or to comply with any provision of, the Declaration, the Act, these By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, the Association shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.

ARTICLE VI Assessments

Section 6.01 Proposed Annual Budget. Annually, on or before the date of the annual meeting of the Association, the Board shall cause to be prepared a proposed annual budget for the current fiscal year estimating the total amount of the Common Expenses for the current fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments for the current fiscal year. At the annual meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a Majority Vote; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at

such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall include the amounts required for funding the reserve accounts required by Sections 6.04 and 6.05. The failure or delay of the Board to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Association, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

Section 6.02 Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash required for the Common Expenses in the current fiscal year and required reserve amounts as set forth in said budget, contain a proposed assessment against each Condominium Unit based on the Percentage Interest of each Condominium Unit. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Condominium Unit. In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the Assessment against each Condominium Unit based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Condominium Unit shall be paid in advance in equal monthly installments, commencing on the first day of the first month of each fiscal year and monthly thereafter through and including the first day of the last month of such fiscal year. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay monthly assessments quarterly, semi-annually or annually, in advance. At the election and option of the Board, the Regular Assessment may be required to be paid by the Owners in advance in equal quarterly installments rather than monthly installments. In the event the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget:

(a) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment that is due shall be paid with such next payment and such next payment, and all payments thereafter during such fiscal year, whether quarterly or monthly, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

(b) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, whether quarterly or monthly, until the entire amount of such excess has been so credited; provided, however, that if an Owner had paid his Regular Assessment either semi-annually or annually in advance, then the foregoing adjustments shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

The Regular Assessment for the current fiscal year of the Association shall become a lien on each separate Condominium Unit as of the first day of each fiscal year of the Association, even though the

final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, and sells, conveys or transfers his Condominium Unit or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Condominium Unit from payment of the Regular Assessment for such Condominium Unit as finally determined, and such Owner and his successor as Owner of such Condominium Unit shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Association pursuant to **Section 12.03** hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Monthly or quarterly (if so determined by the Board) installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statements to Owners for the same.

Notwithstanding anything herein to the contrary, each Owner shall pay a pro rata portion his first Regular Assessment upon closing and delivery of the deed to the Condominium Unit. Such pro rata assessment shall be calculated on the number of days from and including the date of closing through the last day of the quarter (or month if the Board has so determined) to which such Regular Assessment pertains. If the Board has determined that Regular Assessments are to be paid monthly, the assessment for the month subsequent to closing shall also be due at closing.

Section 6.03 Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in these By-Laws, the Declaration or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Condominium Unit, prorated in accordance with the Percentage Interest of each Condominium Unit. Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures or to pay for the cost of any repair or reconstruction of damage caused by fire or other cause or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described herein or in the Declaration.

Section 6.04 Reserve for Replacements. The Board of Directors shall cause to be established and maintained a reserve fund for replacements by the allocation and payment to such reserve fund not less often than annually of an amount determined by the Board to be sufficient to meet the costs of periodic maintenance, repair, renewal and replacement of the Common Areas and Limited Areas, including, but not limited to, painting, caulking or tuckpointing the exterior of Buildings; sealing, painting, repairing and replacing windows (including frames) in the perimeter walls of the Buildings; and resurfacing, repairing or replacing parking areas, sidewalks, roofs and other facilities and appurtenances. In determining the amount, the Board shall take into consideration the expected useful life of such Common Areas, Limited Areas and other properties, projected increases in the cost of materials and labor, interest to be earned by such funds, and the advice of Declarant, the Managing Agent and any consultants the Board may employ. Such fund shall be conclusively deemed to be a Common Expense and funded pursuant to Regular Assessments. Such fund shall be deposited in a separate interest bearing account with a lending institution the accounts of which are insured by an agency of the United States of America. The reserve for replacements may be expended only for the purpose of effecting the periodic maintenance, repair, renewal or replacement of the Common Areas and Limited Areas and equipment of the Property. The Board shall annually review the adequacy of the reserve fund. The proportionate

interest of any Owner in any reserve for replacements shall be considered an appurtenance of his Condominium Unit and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Condominium Unit to which it appertains and shall be deemed to be transferred with such Condominium Unit.

Section 6.05 Initial Assessment for Reserve. On the date a Condominium Unit is conveyed by Declarant to an Owner, there shall be due and payable to the Association by the new Owner of such Condominium Unit the sum of two hundred fifty and No/100 Dollars (\$250.00) which shall be deposited in the reserve for replacements maintained by the Association pursuant to **Section 6.04** hereof.

Section 6.06 Working Capital Fund. Within thirty (30) days following subjecting a Condominium Unit to the Declaration, Declarant shall deposit with the Association for each such unit a working capital assessment equal to two (2) months estimated Regular Assessments which sum shall be deposited in a working capital fund ("Working Capital Fund") maintained by the Association. On the date a Condominium Unit is conveyed by Declarant to a third-party Owner, there shall be due and payable to the Association by the new Owner of such Condominium Unit a working capital assessment equal to two (2) months estimated Regular Assessments which shall be deposited in the Working Capital Fund. At such time, Association shall reimburse Declarant for its original contribution to the Working Capital Fund for such Condominium Unit. The Working Capital Fund shall be used by the Association to meet unforeseen expenditures or to purchase additional equipment and/or services. The Association shall be prohibited from reimbursing Declarant out of the Working Capital Fund for Declarant's expenses, reserve contributions, or construction costs or to make up any budget deficits.

Section 6.07 General Operating Reserve. The Board of Directors may establish and maintain a reserve fund for general operating expenses of a non-recurring nature by the allocation and payment to such reserve fund not less frequently than annually of such amount as the Board in its discretion determines to be reasonable under the circumstances. Such fund shall be conclusively deemed to be a Common Expense. Such fund shall be deposited in a special account with a lending institution the accounts of which are insured by an agency of the United States of America or may, in the discretion of the Board, be invested in obligations of or fully guaranteed as to principal by the United States of America. The general operating reserve may be expended only for operating contingencies of a non-recurring nature. The proportionate interest of any Owner in any reserve fund for general operating expenses shall be considered an appurtenance of his Condominium Unit and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Condominium Unit to which it appertains and shall be deemed to be transferred with such Condominium Unit.

Section 6.08 Failure of Owner to Pay Assessments. No Owner may exempt himself from paying Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and, in the proper case, of the Limited Areas, of the Buildings, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Condominium Unit belonging to him. Each Owner shall be personally liable for the payment of all Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Assessment when due, a lien for such Assessment on the Owner's Condominium Unit may be filed and foreclosed by the Board for and on behalf of the Association as provided by law; provided, however, any lien for delinquent Assessments or other charges that the Association has on a Condominium Unit will be subordinate to a first mortgage on the Condominium Unit if the mortgage was recorded before the delinquent Assessment was due. Upon the failure of an Owner to make timely payments of any Assessment when due, the Board may in its discretion accelerate the entire balance of the unpaid Assessments for the remainder of the current fiscal year and declare the same, and interest thereon as hereafter provided, immediately due and payable, notwithstanding any other provisions hereof to the

contrary. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Condominium Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Condominium Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Condominium Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Assessment, and interest thereon as hereafter provided, without foreclosing or waiving the lien securing the same. Any payment for Assessments not made when due shall bear interest at the rate of eighteen percent (18%) per annum from the date the same shall be due until the date the Assessment is paid. In any action to recover an Assessment, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover costs and expenses of such action incurred, including but not limited to reasonable attorneys' fees, from the Owner of the respective Condominium Unit. The Board shall further have the power to suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any Assessment levied by the Association.

Section 6.09 Waiver of Lien Upon Foreclosure. Notwithstanding anything to the contrary contained in the Declaration and these By-Laws, any sale or transfer of a Condominium Unit to a Mortgagee pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or a conveyance to any Person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Assessment as to such installments that became due more than six (6) months prior to such sale, transfer or conveyance, but extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Condominium Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the Condominium Unit from which it arose), as provided in the Act.

Section 6.10 Initial Budgets and Assessments. Notwithstanding anything to the contrary contained in the Organizational Documents, in the Act, in the Statute or otherwise, until the Applicable Date the annual budget and all Assessments shall be established by the Initial Board without meetings of or concurrence of the Co-Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 3.02 hereof shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Assessments until the Applicable Date.

ARTICLE VII.

Restriction, Entry and Rules and Regulations

Section 7.01 Restrictions on Use. Section 13 of the Declaration sets forth the restrictions on the use and enjoyment of the Condominium Units, Common Areas, Limited Areas and the Property as shall be applicable to Westbourne which restrictions are incorporated herein by reference:

Section 7.02 Right of Board to Adopt Rules and Regulations. To the extent not inconsistent with the provisions of the Declaration, or these By-Laws, the Board may promulgate such rules and regulations regarding the operation of the Property, including but not limited to the use of the Common Areas and Limited Areas, as it may deem necessary from time to time, and such rules as are adopted may be amended by a vote of a majority of the Board. The Board shall cause copies of such rules and regulations and all amendments thereto to be delivered or mailed promptly to all Owners.

Section 7.03 Enforcement. The Declarant, until the Applicable Date, and the Association shall have the right to enforce the restrictions and regulations adopted pursuant to this Article VII, and reasonable costs, including attorneys' fees may be recorded from an Owner for violation thereof.

ARTICLE VIII.

Insurance

Section 8.01 Coverage. The Board of Directors on behalf of the Co-Owners shall obtain, maintain and pay the premiums upon, as a Common Expense, and keep in full force and effect at all times the following insurance coverage underwritten by companies duly authorized to do business in Indiana:

(a) Casualty or physical damage insurance in an amount equal to the full replacement cost of all buildings and improvements (as hereinafter defined) and all personal property owned by the Association without deduction or allowance for depreciation (as determined annually by the Board with the assistance of the insurance company affording such coverage) including the following:

(i) "agreed amount" and "inflation guard" endorsements;

(ii) "all risk" endorsement or "broad form" covered causes of loss;

(iii) "guaranteed replacement cost" endorsement (with an "agreed amount" endorsement if the policy includes a co-insurance clause) or a "replacement cost" endorsement (with an "agreed amount" endorsement if the policy includes a co-insurance clause);

(iv) maximum deductible for any policy covering Common Areas shall be the lesser of Ten Thousand Dollars (\$10,000) or one percent (1%) of the face value of the policy;

(v) Coverage to afford protection against at least the following:

(A) loss or damage by fire or other hazards covered by the standard extended coverage endorsement together with coverage for Common Expenses with respect to Condominium Units during any period of repair or construction;

(B) such other risks as are customarily covered with respect to projects similar in construction, location and use, including, but not limited to, vandalism, malicious mischief, windstorm, water damage, machinery, explosion or damage, and such other insurance as the Board may from time to time determine.

Comprehensive public liability insurance in such amounts as may be considered appropriate by the Board including, but not limited to, water damage, legal liability, hired automobile, non-owned automobile, and any and all other liability incident to the ownership and/or use of the Property or any portion thereof. Such coverage shall be for at least One Million Dollars (\$1,000,000) for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under the insurance policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in

connection with the operation, maintenance or use of the Common Areas and Limited Areas, and legal liability arising out of lawsuits related to employment contracts of the Association.

(1) Such liability insurance shall contain no provisions relieving the insurer from liability for loss occurring while the hazard is increased, whether or not within the knowledge or control of the Board, or because of any breach of any warranty or condition or any other act or neglect by the Board or any Owner or any other Person under either of them.

(2) Such liability insurance shall provide that such policy may not be cancelled or substantially modified (whether or not requested by the Board) except by the insurer giving at least thirty (30) days prior written notice thereof to the Board, the Insurance Trustee, all Owners, all Mortgagees and every other Person in interest who shall have requested such notice of the insurer.

(b) Workmen's compensation and employer's liability insurance in respect to employees of the Association, if any, in the amounts and in the form necessary to comply with any applicable law.

(c) In the event Westbourne is located in a Special Flood Hazard Area, a Residential Condominium Building Association Policy for each Building located in a Special Flood Hazard Area in accordance with Article XII, Section 702.01 of the Fannie Mae Seller Guidelines.

(d) Blanket fidelity insurance for anyone who either handles (or is responsible for) funds held or administered by the Association.

(e) Such other policies of insurance, including insurance for other risks of a similar or dissimilar nature, as are or shall hereafter be considered appropriate by the Board of Directors or required by the Act.

The provisions of this **Section 8.01** shall not be construed to limit the power or authority of the Board to obtain and maintain insurance coverage, in addition to any insurance coverage required hereunder, in such amounts and in such forms as the Association or the Board may deem appropriate from time to time.

Section 8.02 Definition. As used in **Section 8.01**, the term "all buildings and improvements" means, without limitation, the Common Areas, Limited Areas, and the standard partition walls, fixtures, pipes, wires, conduits and installations installed in Condominium Units as of the date of initial sale by Declarant, as shown on the Plans as amended from time to time, and replacements thereof, but does not mean any fixtures, alterations, installations or additions in or to a Condominium Unit made by an individual Owner of that Condominium Unit and not shown on the Plans.

Section 8.03 Rating. Casualty insurance shall have a "B" or better general policyholder's rating or a "6" or better financial performance index rating in Best's *Insurance Report's*, an "A" or better general policyholder's rating and a financial size category of "VII" or better in Best's *Insurance Report's - International Edition*, an "A" or better rating in Demotech's *Hazard Insurance Financial Stability Ratings*, a "BBBq" qualified solvency ratio or a "BBB" or better claims-paying ability rating in Standard and Poor's *Insurer Solvency Review*, or a "GGG" or better claims-paying ability in Standard and Poor's *International Confidential Rating Service*.

Section 8.04 Form. Any insurance carried by the Association shall be carried in a form or forms naming as the insured the Association for the use and benefit of the Owners according to the loss or damage to their respective Condominium Units and Percentage Interests and payable in case of loss to the Insurance Trustee as trustee for each Owner and Mortgagee. Every such policy of insurance shall:

(a) provide that the liability of the insurer thereunder shall not be affected by, and that the insurer shall not claim any right of set-off, counterclaim, apportionment, proration, or contribution by reason of any other insurance obtained by or for any Owner;

(b) contain no provisions relieving the insurer from liability for loss occurring while the hazard to such building is increased, whether or not within the knowledge or control of the Board, or because of any breach of warranty or condition or any other act or neglect by the Board or any Owner or any other Person under either of them;

(c) provide that such policy may not be cancelled or substantially modified (whether or not requested by the Board) except by the insurer giving at least thirty (30) days' prior written notice thereof to the Board, the Insurance Trustee, all Owners, all Mortgagees and every other Person in interest who shall have requested such notice of the insurer;

(d) contain a waiver by the insurer of any right of subrogation to any right of the Board or Owners against any of them or any other Person under them;

(e) provide that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to Section 10 of the Declaration;

(f) contain a standard mortgagee clause which shall

(1) provide that any reference to a mortgagee in such policy shall mean and include any Mortgagee, whether or not named therein and, where applicable, name as mortgagee Federal National Mortgage Association or Federal Home Loan Mortgage Corporation or their respective servicers, successors and assigns;

(2) provide that such insurance as to the interest of any Mortgagee shall not be invalidated by any act or neglect of the Board or any Owner, or any Persons under any of them;

(3) waive any provision invalidating such mortgagee clauses by reason of the failure of any Mortgagee to notify the insurer of any hazardous use or vacancy, and requirement that the Mortgagee pay any premium thereon, and any contribution clause;

(4) provide that without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to the Insurance Trustee; and

(5) provide that the policy is primary in the event an Owner has other insurance covering the same loss.

Public liability and property damage insurance shall be carried in a form or forms naming as the insured the Board of Directors as trustee for each individual Owner, the Association, the Board of Directors, the Managing Agent, the Co-Owners, all other persons entitled to occupy any Condominium

Unit and any Person acting on behalf of the Association, and providing for payment of any proceeds therefrom to the Insurance Trustee. The Board shall promptly upon effecting such insurance deposit with each Owner a current certificate of such insurance, without prejudice to the right of any Owner to maintain additional public liability insurance for his Condominium Unit or the contents thereof.

Section 8.05 Allocation of Insurance Proceeds. In the event of damage or destruction by fire or other cause to any part of the Property covered by insurance written in the name of the Board as trustee for Co-Owners and their Mortgagees, the following provisions shall apply:

(a) Common Areas and Limited Areas. Proceeds on account of damage to Common Areas and Limited Areas shall be allocated among the Co-Owners in accordance with their respective Percentage Interests.

(b) Condominium Units. Proceeds on account of damage to Condominium Units shall be allocated as follows:

(1) If the Building in which the damaged Condominium Unit is located is to be restored, insurance proceeds shall be allocated to such Condominium Unit in the proportion that the cost of Restoration of such Condominium Unit bears to the cost of Restoration of all damaged Condominium Units, such cost to be determined by the Board. In determining such cost, the Board shall not take into consideration the cost of repairing any items specifically excluded from insurance coverage pursuant to the provisions of Section 8.02.

(2) If the Building in which the damaged Condominium Unit is located is not to be restored, insurance proceeds shall be allocated to such Condominium Unit in accordance with the agreed amount of the replacement cost of such Condominium Unit.

(3) In the event a mortgage endorsement has been issued with respect to a particular Condominium Unit, the amount of the insurance proceeds allocated to the Owner of such Condominium Unit shall be held in trust for the Mortgagee and the Owner as their interests may appear, but no Mortgagee shall have the right to determine or participate in the determination as to whether or not any damaged property shall be restored or repaired, and no Mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to the Owner and Mortgagee pursuant to the provisions of these By-Laws.

Section 8.06 Distribution of Insurance Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the Owners and their Mortgagees as their respective interests appear, in the following manner:

(a) Expense of Trust. All expenses of the Insurance Trustee shall be first paid or provision made therefor.

(b) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof pursuant to the provisions of Article IX. Any proceeds remaining after defraying such costs shall, at the Association's option, be retained by the Association and added to the reserve for replacements established pursuant to Section 6.04 or disbursed to the Owner(s) of such damaged Condominium Unit (and its respective Mortgagee, if any) in accordance with each damaged Condominium Unit Owner's share thereof based on the number of Condominium Units damaged (i.e., if six

Condominium Units are damaged, each damaged Condominium Unit Owner would be entitled, at the Association's option, to 1/6 of the excess proceeds).

(c) Failure to Reconstruct or Repair. If it is determined that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed in accordance with Section 21 of the Act.

(d) Certificate. In making distributions to Owners and their mortgagees, the Insurance Trustee may rely upon a certificate issued by the Board as to the names of the Owners and their respective shares of the distribution, and, with respect to the names of mortgagees, may rely upon a certificate from an attorney-at-law who, or a title insurance company which, has examined the Mortgage Records in the office of the Recorder of Marion County, Indiana, as to the names of the holders of mortgages of record.

Section 8.07 Association as Owner's Agent. The Association, acting by its Board of Directors, is hereby irrevocably appointed agent for each Owner and for each owner of a mortgage or other lien upon a Condominium Unit and for each owner of any other interest in the Property to negotiate all claims arising under insurance policies purchased by the Board, and to execute and deliver releases upon the payment of claims.

Section 8.08 Individual Policies - Recommendation of Declarant. Any Owner or Mortgagee may obtain additional insurance (including a "condominium unit-owner's endorsement" for improvements and betterments to a Condominium Unit made or acquired at the expense of the Owner) at his own expense. Such insurance shall provide that it shall be without contribution as against the insurance maintained by the Board. Such insurance shall contain the same waiver of subrogation provision as that set forth in Section 8.04(d). If an insured loss is sustained on the Property and the amount of insurance proceeds that would otherwise be payable to the Insurance Trustee is reduced due to proration of insurance purchased pursuant to this Section, the Owner shall assign the proceeds of the personally purchased insurance, to the extent of the amount of the reduction, to the Insurance Trustee to be distributed as provided in Section 8.05. The Declarant recommends that each Owner obtain, in addition to the insurance hereinabove provided to be obtained by the Board of Directors, a policy insuring against loss or damage to personal property used or incidental to the occupancy of the Condominium Unit, vandalism or malicious mischief, theft, personal liability and the like. Such policy should include a "condominium unit-owner's endorsement" covering losses to improvements and betterments to the Condominium Unit made or acquired at the expense of the Owner.

Section 8.09 Certificates. Upon request, the Association shall cause to be issued to each Owner and each Mortgagee a certificate of insurance evidencing the insurance carried by the Association.

ARTICLE IX. Damage or Destruction

Section 9.01 Procedure for Restoration or Repair. In the event of damage or destruction to the Property by fire, other cause, or as a result of condemnation, and Restoration or repair of the Property is required or authorized pursuant to Section 10 or Section 11 of the Declaration, such Restoration or repair shall be undertaken in accordance with the provisions of this Article.

Section 9.02 Estimate of Cost. Promptly after the occurrence of the damage or destruction to the Property that the Association has the responsibility to restore or repair, the Board shall obtain reliable and detailed estimates of the cost to restore or repair. In the event of damage after the Applicable Date to

any structure exceeding \$25,000.00, the Board shall retain the services of an architect to supervise the Restoration or repair and the disbursement of the construction funds.

Section 9.03 Plans and Specifications. Any Restoration or repair must be either substantially in accordance with the Plans or according to plans and specifications approved by a Majority of Owners, and if the damaged Property contains any Condominium Units, by all of the Owners of the damaged Condominium Units, which approval shall not be unreasonably withheld.

Section 9.04 Sealed Bids. After the Applicable Date, the Board shall advertise for sealed bids with any licensed contractors, and then may negotiate with any contractor, who may be required to provide a full performance and payment bond for the Restoration or repair of the damaged Property.

Section 9.05 Responsibility. If the damage is only to those parts of a Condominium Unit for which the responsibility of maintenance and repair is that of an Owner, then the Condominium Unit Owner shall be responsible for the cost of Restoration and repair unless such damage is specifically covered by the insurance purchased by the Board, in which event the Association shall be responsible for said costs.

Section 9.06 Construction Funds. The funds for payment of the costs of Restoration or repair, which shall consist of the proceeds of insurance held by or payable to the Insurance Trustee, such amounts from the reserve for replacements as are authorized by the Board for the purpose of Restoration or repair, and the funds collected by the Board from Special Assessments against Owners, shall be deposited with the Insurance Trustee who shall apply or disburse the same in payment of the costs of Restoration or repair as provided in this Article.

Section 9.07 Certificates. The Insurance Trustee may rely upon a certificate from the Board to determine whether or not the damaged Property is to be restored or repaired and upon a certificate from the architect employed by the Board to supervise the Restoration or repair, or, if such Restoration or repair is undertaken prior to the Applicable Date, from Declarant or the Board, with respect to the payments to be made to contractors undertaking the Restoration and/or repair.

Section 9.08 Insurance Trustee. The Insurance Trustee shall not be liable for payment of insurance premiums, the renewal or the sufficiency of insurance policies, nor for the failure to collect any insurance proceeds or condemnation awards. The duty of the Insurance Trustee shall be to receive such proceeds or awards as are paid and to hold the same in trust for the purposes herein and in the Declaration stated, and for the benefit of the Co-Owners and their Mortgagees as herein and in the Declaration provided.

ARTICLE X. Fiscal Management

Section 10.01 Fiscal Year. The fiscal year of the Association shall be fixed by resolution of the Board of Directors.

Section 10.02 Books of Account. Books of account of the Association shall be kept under the direction of the Treasurer in accordance with good accounting practices, and shall include a current, accurate and detailed record of receipts and expenditures affecting the Property, specifying and itemizing the Common Expenses.

Section 10.03 Inspection. All books, records and accounts, and all vouchers accrediting the entries made thereupon, shall be available for examination by an Owner or any duly authorized agent or

attorney of an Owner at any time during normal business hours for purposes reasonably related to his interest as an Owner.

Section 10.04 Auditing. Unless otherwise agreed by a Majority of Owners, at the close of each fiscal year, the books and accounts of the Association shall be audited by an independent Certified Public Accountant whose report shall be prepared and certified in accordance with generally accepted auditing standards.

Section 10.05 Annual Financial Statement. Prior to the annual meeting of the Association, the Board of Directors shall cause to be prepared and delivered to the Co-Owners an annual financial statement, certified to by the Treasurer, showing all income and all disbursements of the Association during the previous fiscal year. To the extent possible, such financial statement shall be based upon the report prepared pursuant to Section 10.04. The requirements of this Section 10.05 shall be satisfied if the Board causes to be delivered to each Owner prior to the annual meeting of the Association a copy of the report prepared pursuant to Section 10.04.

Section 10.06 Execution of Association Documents. With the prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Association by either the President or Vice President, and all checks shall be executed on behalf of the Association by such officers, agents, or other individuals as are from time to time so authorized by the Board.

ARTICLE XI. Amendment to By-Laws

Section 11.01 Procedure. Subject to any contrary, overriding or superseding provisions set forth herein or in the Declaration, these By-Laws may be amended in the same manner, and subject to the same limitations and requirements as amendments to the Declaration, as set forth in Section 14 of the Declaration. Amendments to these By-Laws shall be considered as amendments of the Declaration and shall be recorded in the office of the Recorder of Marion County, Indiana, as required by the Declaration and the Act. Notwithstanding anything to the contrary contained herein or in the Declaration, there shall be no amendment of the Declaration or these By-Laws prior to the Applicable Date without the consent and approval of Declarant.

Section 11.02 Amended and Restated By-Laws. An amended and restated By-Laws, containing the original By-Laws and all amendments theretofore made, may be executed any time or from time to time by a majority of the then Board of Directors and shall, upon recording in the office of the Recorder of Marion County, Indiana, be conclusive evidence of all amendments contained therein and may thereafter be referred to in lieu of the original By-Laws and the various amendments thereto.

ARTICLE XII. Mortgages

Section 12.01 Notice to Association. Any Owner who places a first mortgage lien upon his Condominium Unit or the Mortgagee shall notify the Secretary thereof and provide the name and address of the Mortgagee. A record of such Mortgagee's name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of the Declaration, these By-Laws or the Act shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by the Declaration, these By-Laws or the Act shall be required and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled to vote by

virtue of the Declaration, these By-Laws, the Act, or proxy granted to such Mortgagee in connection with the mortgage.

Section 12.02 Notices To Mortgagees. The Association shall promptly provide to any Mortgagee of whom the Association has been provided notice under Section 12.01 of these By-Laws notice of any of the following:

- (a) Any proposed termination of the Regime or any condemnation or casualty loss that affects either a material portion of Westbourne or the Condominium Unit securing its mortgage;
- (b) Any delinquency in the payment of Regular or Special Assessments owed by the Owner of any Condominium Unit on which said Mortgagee holds a mortgage, if said delinquency continues for more than sixty (60) days;
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (d) Any proposed action that requires the consent of a specified percentage of Mortgagees; and
- (e) Any proposed amendment of the Organizational Documents effecting a material change in (i) the boundaries of any Condominium Unit or the exclusive easement rights appertaining thereto, (ii) the interests in the Common Areas or Limited Areas appertaining to any Condominium Unit or the liability for Common Expenses appertaining thereto (except as provided in Section 16 of the Declaration), (iii) the Percentage Vote appertaining to a Condominium Unit (except as provided in Section 16 of the Declaration) or (iv) the purposes for which any Condominium Unit or the Common Areas are restricted.

Section 12.03 Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Condominium Unit, furnish to such mortgagee or purchaser a statement setting forth the amount of the unpaid Assessments against the Condominium Unit, which statement shall be binding upon the Association and the Co-Owners, and any Mortgagee or grantee of the Condominium Unit shall not be liable for, nor shall the Condominium Unit conveyed be subject to a lien for, any unpaid Assessments in excess of the amount set forth in such statement or as such Assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 6.02 hereof.

Section 12.04 Financial Statements. Upon the request of any Mortgagee, the Association shall provide to said Mortgagee the most recent financial statement prepared on behalf of the Association pursuant to Section 10.05 of these By-Laws.

ARTICLE XIII. Miscellaneous

Section 13.01 Membership Certificates. Each Member may receive a certificate from the Association, signed by the President or Vice President, and Secretary or Assistant Secretary, stating that he is a member of the Association. Such certificates shall be non-transferable and a Member's certificate shall become void and of no force and effect upon sale by a Member of his Condominium Unit. Such membership certificates shall be in a form and style determined by the Board.

Section 13.02 Personal Interests. No Member shall have or receive any earnings from the Association, except a Member who is an officer, director or employee of the Association may receive fair and reasonable compensation for his services as officer, director or employee or be reimbursed for actual expenses incurred in the performance of his duties, all as determined by the Board, and a Member may also receive principal and interest on monies loaned or advanced to the Association as provided in the Statute.

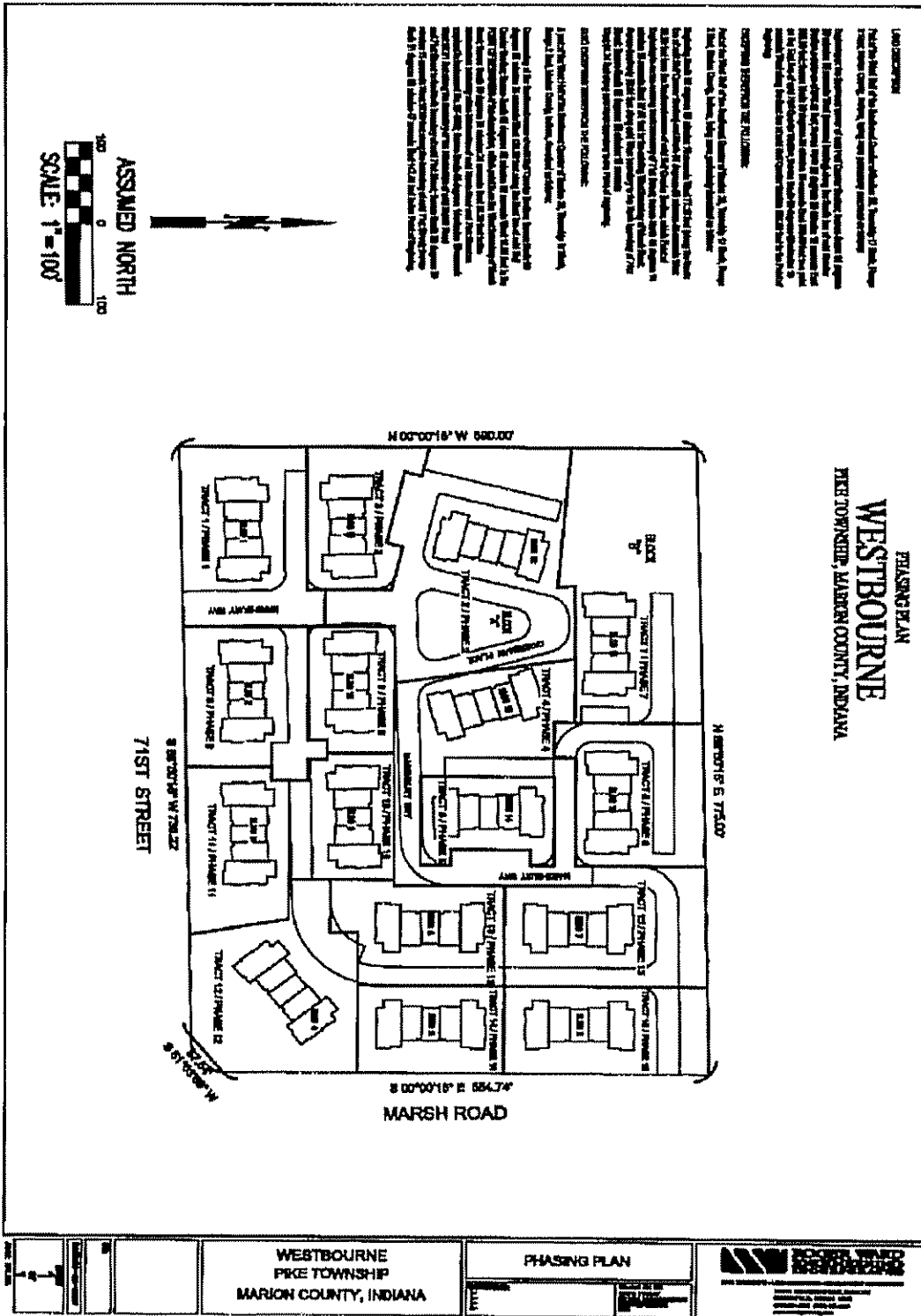
EXHIBIT D
DESCRIPTION OF BUILDINGS AND CONDOMINIUM UNITS

The initial Building shall consist of one (1) 3-story wood frame structure without basements.

The Building contains a total of five (5) separate Condominium Units.

<u>Address</u>	<u>Unit Number</u>	<u>Gross Square Footage</u>	<u>Percentage Interest</u>
6540 West 71 st Street	0105	2,116	20%
6542 West 71 st Street	0104	2,387	20%
6544 West 71 st Street	0103	1,884	20%
6546 West 71 st Street	0102	2,387	20%
6548 West 71 st Street	0101	2,116	20%

EXHIBIT E GENERAL PLAN OF DEVELOPMENT



BSC

**AMENDMENT NO. 1 TO DECLARATION
OF HORIZONTAL PROPERTY OWNERSHIP**

THIS AMENDMENT NO. 1 TO DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP (this "Amendment"), made as of September 14, 2007, amends that certain Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime, dated April 30, 2007, recorded May 16, 2007 in the Office of the Recorder of Marion County, Indiana, as Instrument No. 2007-0072891 (the "Declaration"), and is made by Beazer Homes Indiana LLP, an Indiana limited liability partnership (the "Declarant").

RECITALS:

A. Declarant prepared and recorded the Declaration in conjunction with the development of a horizontal property regime located in Indianapolis, Marion County, Indiana, known as Westbourne (the "**Project**").

B. Declarant seeks approval of the Project from the Federal National Mortgage Association ("**Fannie Mae**").

C. Pursuant to correspondence dated September 13, 2007, Fannie Mae has requested amendment to the Declaration as a condition of its grant of approval.

D. Section 14(g) of the Declaration grants the Declarant the unilateral right to amend the Declaration to comply with requirements of the Federal National Mortgage Association or any other governmental agency or any other public, quasi public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities.

E. Declarant now desires to amend the Declaration to conform to Fannie Mae's request.

THEREFORE, Declarant hereby amends the Declaration and declares as follows:

1. **Incorporation by Reference**. The foregoing recitals are hereby incorporated by reference and made a part hereof.

2. **Definitions.** All capitalized terms used herein shall have the same meaning ascribed thereto in the Declaration unless otherwise defined herein.

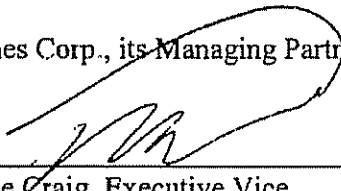
3. **No Combined Units.** Section 22 of the Declaration is hereby deleted in its entirety.

4. **Effective Date.** The foregoing amendments shall be effective as of the date this Amendment is recorded in the Office of the Recorder of Marion County, Indiana.

IN WITNESS WHEREOF, this Amendment has been executed as of the date first written above.

BEAZER HOMES INDIANA LLP

By: Beazer Homes Corp., its Managing Partner

By: 

Bruce Craig, Executive Vice
President and General Manager

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

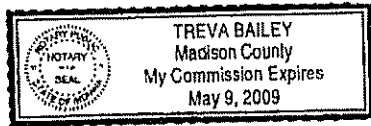
Before me, a Notary Public in and for said County and State, personally appeared Bruce Craig, known to me and known by me to be the Executive Vice President and General Manager of Beazer Homes Corp., the Managing Partner of Beazer Homes Indiana LLP, an Indiana limited liability partnership, who acknowledged the execution of the foregoing Amendment no 1 to Declaration of Horizontal Property Ownership for and on behalf of said entity.

Witness my hand and Notarial Seal this 14 day of September, 2007.

My Commission Expires:
3/9/09

Treva Bailey
Notary Public Residing in Madison County, Indiana

(Printed Signature)



I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

Donald E. Williams

A

This instrument prepared by Donald E. Williams, Attorney-at-law
Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204.

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KB

CROSS REFERENCE: Instrument No. 2007-0072891; Instrument No. 2007-135603.

**SUPPLEMENTAL DECLARATION NO. 1 TO DECLARATION OF
HORIZONTAL PROPERTY OWNERSHIP FOR WESTBOURNE
HORIZONTAL PROPERTY REGIME**

This Supplemental Declaration No. 1 to Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime ("Supplemental No. 1") is made this 25th day of October, 2007, by **BEAZER HOMES INDIANA LLP**, an Indiana limited liability partnership ("**Declarant**").

RECITALS:

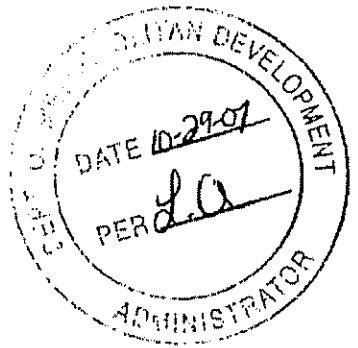
A. Declarant executed that certain Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime dated April 30, 2007 and recorded May 16, 2007, as Instrument No. 2007-0072891 in the Office of the Recorder of Marion County, Indiana, as amended by that certain Amendment No. 1 to Declaration of Horizontal Property Ownership dated September 14, 2007, and recorded September 17, 2007, as Instrument No. 2007-135603 (as amended and supplemented, the "**Declaration**"), which Declaration burdens certain real estate, more particularly described in the Declaration to be developed and known as "Westbourne."

B. Section 16 of the Declaration provides that Declarant may add additional phases to Westbourne by subjecting additional tracts of the real estate described on Exhibit B to the Declaration (the "**Future Expansion Area**").

C. Declarant now desires to add an additional phase to Westbourne and in connection therewith to subject that portion of the Future Expansion Area more particularly described on Exhibit A attached hereto (the "**Expansion Parcel No. 1**") to the covenants, restrictions and standards contained in the Declaration and to the Act.

D. Simultaneously with the recording of this Supplemental No. 1, Declarant has recorded new floor and building plans, elevations and site plan (the "**Plans**") as required by Indiana Horizontal Property Law, IND. CODE § 32-25 (the "**Act**"). The Plans have been filed with the Recorder of Marion County, Indiana as Instrument No. 07-154453, on October 29, 2007.

Inst # 2007-0154454
10/29/2007 16:06 Julie L. Voorhies MARION COUNTY RECORDER KOB 02:00 PAGES: 5



DECLARATION:

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant provides as follows:

1. Declarant does hereby include Expansion Parcel No. 1, more particularly described on Exhibit A attached hereto, as part of Westbourne and subjects it to the covenants, restrictions and standards contained in the Declaration and to the Act. From and after the date hereof, the Expansion Parcel No. 1 shall be part of the "Tract" and "Property" as defined in the Declaration.

2. Exhibit D to the Declaration is hereby replaced and substituted by Exhibit D attached hereto.

3. The grants and obligations, and benefits and burdens created herein shall run with the property burdened and/or benefited hereby, as the case may be, and shall apply to, be binding upon the parties' successors and assigns.

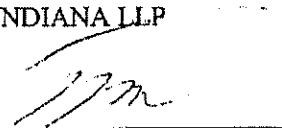
4. All capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Declaration.

IN WITNESS WHEREOF, Declarant has executed this Supplemental No. 1 as of the day and year first above written.

"DECLARANT"

BEAZER HOMES INDIANA LLP

By:


Beazer Homes Corp., its Managing Partner

By:


(Signature)

Dr. Lee Craig
(Printed Name)

EVP + General Manager
(Title)

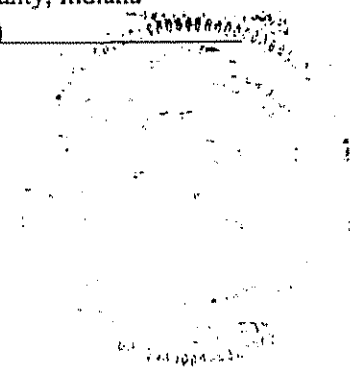
STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Bruce Craig, the Division President of Beazer Homes Corp., the Managing Partner of Beazer Homes Indiana LLP, an Indiana limited liability partnership, who acknowledged the execution of the foregoing Supplemental Declaration No. 1 to Declaration of Horizontal Ownership for Westbourne Horizontal Property Regime, in his capacity as such officer acting for and on behalf of said corporation, in its capacity as managing general partner of said limited liability partnership.

Witness my hand and Notarial Seal this 25th day of October, 2007.

My Commission Expires:
December 28, 2013

Jenica S. Bawlin
Notary Public Residing in Hendricks County, Indiana
Jenica S. Bawlin
(Printed Signature)



I affirm, under penalties and perjury, that I have taken reasonable care to redact each Social Security number from this document, unless required by law.

Donald E. Williams

This instrument prepared by (and return to): Donald E. Williams,
* Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204

EXHIBIT A

LEGAL DESCRIPTION OF EXPANSION PARCEL NO.1

Part of the West Half of the Southwest Quarter of Section 26, Township 17 North, Range 2 East, Marion County, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of said Half Quarter Section: Thence South 88 degrees 50 minutes 15 seconds West (assumed bearing) along the South line of said Quarter Section a distance of 810.00 feet; thence North 00 degrees 00 minutes 16 seconds East 355.75 feet to the POINT OF BEGINNING of this description; thence continuing North on said line North 00 degrees 00 minutes 16 seconds East 160.83 feet; thence South 84 degrees 51 minutes 30 seconds East 172.98 feet; thence North 03 degrees 59 minutes 35 seconds West 19.65 feet; thence North 90 degrees 00 minutes 00 seconds East 90.46 feet; thence South 08 degrees 32 minutes 22 seconds East 207.75 feet; thence South 89 degrees 59 minutes 48 seconds West 70.12 feet; thence South 00 degrees 00 minutes 00 seconds East 79.46 feet; thence South 89 degrees 58 minutes 31 seconds West 45.87 feet; thence North 00 degrees 00 minutes 00 seconds West 75.86 feet; thence North 75 degrees 56 minutes 25 seconds West 54.46 feet; thence South 13 degrees 50 minutes 00 seconds West 19.63 feet; thence North 76 degrees 10 minutes 00 seconds West 90.00 feet; thence North 13 degrees 50 minutes 14 seconds East 19.98 feet; thence North 75 degrees 55 minutes 41 seconds West 37.23 feet to the POINT OF BEGINNING of this description containing in all 1.3 acres, more or less.

EXHIBIT D

DESCRIPTION OF BUILDINGS AND CONDOMINIUM UNITS

Each Building shall consist of one (1) 3-story wood frame structure without basements.

Each Building contains a total of five (5) separate Condominium Units.

<u>Address</u>	<u>Unit Number</u>	<u>Gross Square Footage</u>	<u>Percentage Interest</u>
Building One			
6540 West 71 st Street	0105	2,116	10%
6542 West 71 st Street	0104	2,387	10%
6544 West 71 st Street	0103	1,884	10%
6546 West 71 st Street	0102	2,387	10%
6548 West 71 st Street	0101	2,116	10%
Building Twelve			
7152 Caversham Place	1205	2,130	10%
7150 Caversham Place	1204	2,406	10%
7148 Caversham Place	1203	1,882	10%
7146 Caversham Place	1202	2,406	10%
7144 Caversham Place	1201	2,130	10%

BILLIE J. BREAUX
MARION COUNTY AUDITOR

960929 APR 28 08

ALL INFORMATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

(6)

**CROSS REFERENCE: Instrument No. 2007-0072891; Instrument No. 2007-135603;
Instrument No. 2007-0154454.**

**SUPPLEMENTAL DECLARATION NO. 2 TO DECLARATION OF
HORIZONTAL PROPERTY OWNERSHIP FOR WESTBOURNE
HORIZONTAL PROPERTY REGIME**

This Supplemental Declaration No. 2 to Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime ("Supplemental No. 2") is made this 18th day of April, 2008, by **BEAZER HOMES INDIANA LLP**, an Indiana limited liability partnership ("Declarant").

RECITALS:

A. Declarant executed that certain Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime dated April 30, 2007 and recorded May 16, 2007, as Instrument No. 2007-0072891 in the Office of the Recorder of Marion County, Indiana, as amended by that certain Amendment No. 1 to Declaration of Horizontal Property Ownership dated September 14, 2007, and recorded September 17, 2007, as Instrument No. 2007-135603 in the Office of the Recorder of Marion County, Indiana, and as further amended by that certain Supplemental Declaration No. 1 to Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime dated October 25, 2007, and recorded October 29, 2007, as Instrument No. 2007-0154454 in the Office of the Recorder of Marion County, Indiana (as amended and supplemented, the "Declaration"), which Declaration burdens certain real estate, more particularly described in the Declaration to be developed and known as "Westbourne."

B. Section 16 of the Declaration provides that Declarant may add additional phases to Westbourne by subjecting additional tracts of the real estate described on Exhibit B to the Declaration (the "Future Expansion Area").

C. Declarant now desires to add an additional phase to Westbourne and in connection therewith to subject that portion of the Future Expansion Area more particularly described on Exhibit A attached hereto (the "Expansion Parcel No. 2") to the covenants, restrictions and standards contained in the Declaration and to the Act.

D. Simultaneously with the recording of this Supplemental No. 2, Declarant has recorded new floor and building plans, elevations and site plan (the "Plans") as required by Indiana Horizontal Property Law, IND. CODE § 32-25 (the "Act"). The Plans have been filed with the Recorder of Marion County, Indiana as Instrument No. 08-46559, on April 28, 2008.

DECLARATION:

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant provides as follows:

1. Declarant does hereby include Expansion Parcel No. 2, more particularly described on Exhibit A attached hereto, as part of Westbourne and subjects it to the covenants, restrictions and standards contained in the Declaration and to the Act. From and after the date hereof, the Expansion Parcel No. 2 shall be part of the "Tract" and "Property" as defined in the Declaration.

2. Exhibit D to the Declaration is hereby replaced and substituted by Exhibit D attached hereto.

3. The grants and obligations and benefits and burdens created herein shall run with the property burdened and/or benefited hereby, as the case may be, and shall apply to, and be binding upon the parties' successors and assigns.

4. All capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Declaration.

IN WITNESS WHEREOF, Declarant has executed this Supplemental No. 2 as of the day and year first above written.

"DECLARANT"

BEAZER HOMES INDIANA LLP

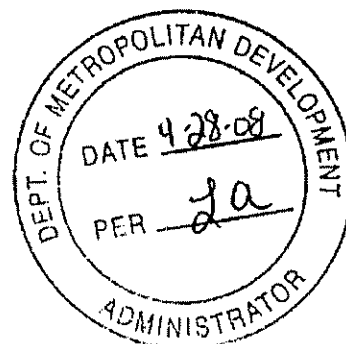
By: Beazer Homes Corp., its Managing Partner

By:

(Signature)

(Printed Name)

(Title)



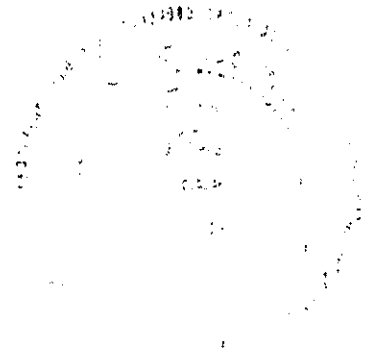
STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Bruce Craig, the President of Beazer Homes Corp., the Managing Partner of Beazer Homes Indiana LLP, an Indiana limited liability partnership, who acknowledged the execution of the foregoing Supplemental Declaration No. 2 to Declaration of Horizontal Ownership for Westbourne Horizontal Property Regime, in his capacity as such officer acting for and on behalf of said corporation, in its capacity as managing partner of said limited liability partnership.

Witness my hand and Notarial Seal this 18th day of April, 2008.

My Commission Expires:
December 28, 2013

Jenea Bowlin
Notary Public Residing in Hendricks County, Indiana
Jenea S. Bowlin
(Printed Signature)



I affirm, under penalties and perjury, that I have taken reasonable care to redact each Social Security number from this document, unless required by law. Donald E. Williams


This instrument prepared by (and return to): Donald E. Williams, 
Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204

EXHIBIT A

LEGAL DESCRIPTION OF EXPANSION PARCEL NO. 2

Part of the West Half of the Southwest quarter of Section 26, Township 17 North, Range 2 East, Marion County, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of said Half quarter Section: Thence South 88 degrees 50 minutes 15 seconds West (assumed bearing) along the South line of said Quarter Section a distance of 810.00 feet; thence North 00 degrees 00 minutes 16 seconds East 215.30 feet to the POINT OF BEGINNING of this description; thence North 00 degrees 00 minutes 16 seconds East 140.45 feet; thence South 75 degrees 55 minutes 41 seconds East 37.23 feet; thence South 13 degrees 50 minutes 14 seconds West 19.98 feet; thence South 76 degrees 10 minutes 00 seconds East 90.00 feet; thence North 13 degrees 50 minutes 00 seconds East 19.63 feet; thence South 75 degrees 56 minutes 25 seconds East 54.46 feet; thence South 00 degrees 00 minutes 00 seconds East 96.31 feet; thence North 90 degrees 00 minutes 00 seconds West 176.27 feet to the POINT OF BEGINNING of this description containing in all 0.4 acres, more or less.

EXHIBIT D

DESCRIPTION OF BUILDINGS AND CONDOMINIUM UNITS

Each Building shall consist of one (1) 3-story wood frame structure without basements.

Each Building contains a total of five (5) separate Condominium Units.

<u>Address</u>	<u>Unit Number</u>	<u>Gross Square Footage</u>	<u>Percentage Interest</u>
Building One			
6540 West 71 st Street	0105	2,116	6.66%
6542 West 71 st Street	0104	2,387	6.66%
6544 West 71 st Street	0103	1,884	6.66%
6546 West 71 st Street	0102	2,387	6.66%
6548 West 71 st Street	0101	2,116	6.66%
Building Twelve			
7152 Caversham Place	1205	2,130	6.66%
7150 Caversham Place	1204	2,406	6.66%
7148 Caversham Place	1203	1,882	6.66%
7146 Caversham Place	1202	2,406	6.66%
7144 Caversham Place	1201	2,130	6.66%
Building Eleven			
7136 Caversham Place	1105	2,130	6.66%
7134 Caversham Place	1104	2,406	6.66%

7132 Caversham Place	1103	1,882	6.66%
7130 Caversham Place	1102	2,406	6.66%
7128 Caversham Place	1101	2,130	6.66%

BILLIE L. BEAUX
MARION COUNTY RECORDER

966367 JUN 17 08

CROSS REFERENCE: Instrument No. 2007-0072891; Instrument No. 2007-135603;
SUBJECT: Instrument No. 2007-0154454; Instrument No. 2008-0046560.



**SUPPLEMENTAL DECLARATION NO. 3 TO DECLARATION OF
HORIZONTAL PROPERTY OWNERSHIP FOR WESTBOURNE
HORIZONTAL PROPERTY REGIME**

This Supplemental Declaration No. 3 to Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime ("Supplemental No. 3") is made this 10th day of June, 2008, by **BEAZER HOMES INDIANA LLP**, an Indiana limited liability partnership ("**Declarant**").

RECITALS:

A. Declarant executed that certain Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime dated April 30, 2007 and recorded May 16, 2007, as Instrument No. 2007-0072891 in the Office of the Recorder of Marion County, Indiana, as amended by that certain Amendment No. 1 to Declaration of Horizontal Property Ownership dated September 14, 2007, and recorded September 17, 2007, as Instrument No. 2007-135603 in the Office of the Recorder of Marion County, Indiana, as further amended by that certain Supplemental Declaration No. 1 to Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime dated October 25, 2007, and recorded October 29, 2007, as Instrument No. 2007-0154454 in the Office of the Recorder of Marion County, Indiana, and as further amended by that certain Supplemental Declaration No. 2 to Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime dated April 18, 2008, and recorded April 28, 2008, as Instrument No. 2008-0046560 in the Office of the Recorder of Marion County, Indiana (as amended and supplemented, the "**Declaration**"), which Declaration burdens certain real estate, more particularly described in the Declaration to be developed and known as "Westbourne."

B. Section 16 of the Declaration provides that Declarant may add additional phases to Westbourne by subjecting additional tracts of the real estate described on Exhibit B to the Declaration (the "**Future Expansion Area**").

C. Declarant now desires to add an additional phase to Westbourne and in connection therewith to subject that portion of the Future Expansion Area more particularly described on **Exhibit A** attached hereto (the "**Expansion Parcel No. 3**") to the covenants, restrictions and standards contained in the Declaration and to the Act.

D. Simultaneously with the recording of this Supplemental No. 3, Declarant has recorded new floor and building plans, elevations and site plan (the "**Plans**") as required by Indiana Horizontal

Property Law, IND. CODE § 32-25 (the "Act"). The Plans have been filed with the Recorder of Marion County, Indiana as Instrument No. 2008-0071623, on June __, 2008.

DECLARATION:

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant provides as follows:

1. Declarant does hereby include Expansion Parcel No. 3, more particularly described on Exhibit A attached hereto, as part of Westbourne and subjects it to the covenants, restrictions and standards contained in the Declaration and to the Act. From and after the date hereof, the Expansion Parcel No. 3 shall be part of the "Tract" and "Property" as defined in the Declaration.

2. Exhibit D to the Declaration is hereby replaced and substituted by Exhibit D attached hereto.

3. The grants and obligations and benefits and burdens created herein shall run with the property burdened and/or benefited hereby, as the case may be, and shall apply to, and be binding upon the parties' successors and assigns.

4. All capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Declaration.

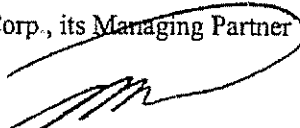
IN WITNESS WHEREOF, Declarant has executed this Supplemental No. 3 as of the day and year first above written.

"DECLARANT"

BEAZER HOMES INDIANA LLP

By: Beazer Homes Corp., its Managing Partner

By:



(Signature) Bruce Clark

(Printed Name) VP & GENERAL MGR

(Title)

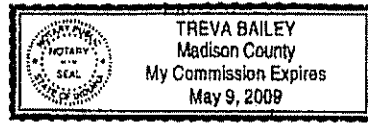
STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Bruce Craig, the VP & General Manager of Beazer Homes Corp., the Managing Partner of Beazer Homes Indiana LLP, an Indiana limited liability partnership, who acknowledged the execution of the foregoing Supplemental Declaration No. 3 to Declaration of Horizontal Ownership for Westbourne Horizontal Property Regime, in his capacity as such officer acting for and on behalf of said corporation, in its capacity as managing partner of said limited liability partnership.

Witness my hand and Notarial Seal this 10th day of June, 2008.

My Commission Expires:
5/9/09

Treva Bailey
Notary Public Residing in _____ County, Indiana
Treva Bailey
(Printed Signature)



I affirm, under penalties and perjury, that I have taken reasonable care to redact each Social Security number from this document, unless required by law. Donald E. Williams

A This instrument prepared by (and return to): Donald E. Williams,
Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204

EXHIBIT A

LEGAL DESCRIPTION OF EXPANSION PARCEL NO. 3

Part of the West Half of the Southwest quarter of Section 26, Township 17 North, Range 2 East, Marion County, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of said Half quarter Section: Thence South 88 degrees 50 minutes 15 seconds West (assumed bearing) along the South line of said Quarter Section a distance of 810.00 feet; thence North 00 degrees 00 minutes 16 seconds East 516.58 feet to the Northwest corner of Tract L, Building 12 recorded as Instrument Number 2007-00154453 in the Office of the Marion County Recorder; thence South 84 degrees 51 minutes 30 seconds East 172.98 feet; thence North 03 degrees 59 minutes 35 seconds West 19.65 feet to the POINT OF BEGINNING of this description; thence continuing North 03 degrees 59 minutes 35 seconds West 142.92 feet; thence North 88 degrees 50 minutes 15 seconds East 179.13 feet; thence South 00 degrees 00 minutes 00 seconds East 146.21 feet; thence North 90 degrees 00 minutes 00 seconds West 169.14 feet to the POINT OF BEGINNING, containing 0.6 acres, more or less.

EXHIBIT D

DESCRIPTION OF BUILDINGS AND CONDOMINIUM UNITS

Each Building shall consist of one (1) 3-story wood frame structure without basements.

Each Building contains a total of five (5) separate Condominium Units.

<u>Address</u>	<u>Unit Number</u>	<u>Gross Square Footage</u>	<u>Percentage Interest</u>
Building One			
6540 West 71 st Street	0105	2,116	5%
6542 West 71 st Street	0104	2,387	5%
6544 West 71 st Street	0103	1,884	5%
6546 West 71 st Street	0102	2,387	5%
6548 West 71 st Street	0101	2,116	5%
Building Twelve			
7152 Caversham Place	1205	2,130	5%
7150 Caversham Place	1204	2,406	5%
7148 Caversham Place	1203	1,882	5%
7146 Caversham Place	1202	2,406	5%
7144 Caversham Place	1201	2,130	5%
Building Eleven			
7136 Caversham Place	1105	2,130	5%
7134 Caversham Place	1104	2,406	5%
7132 Caversham Place	1103	1,882	5%
7130 Caversham Place	1102	2,406	5%
7128 Caversham Place	1101	2,130	5%
Building Sixteen			
7159 Caversham Place	1601	2,130	5%

<u>Address</u>	<u>Unit Number</u>	<u>Gross Square Footage</u>	<u>Percentage Interest</u>
7161 Caversham Place	1602	2,406	5%
7163 Caversham Place	1603	1,882	5%
7165 Caversham Place	1604	2,406	5%
7167 Caversham Place	1605	2,130	5%

6
21

BILLIE J. BREAUX
MARION COUNTY AUDITOR

989944 JAN 27 09

DULY RECEIVED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

09-7873

CROSS REFERENCE: Instrument No. 2007-0072891; Instrument No. 2007-135603;
Instrument No. 2007-0154454; Instrument No. 2008-0046560; Instrument No. 2008-0071624.

**SUPPLEMENTAL DECLARATION NO. 4 TO DECLARATION OF
HORIZONTAL PROPERTY OWNERSHIP FOR WESTBOURNE
HORIZONTAL PROPERTY REGIME**

This Supplemental Declaration No. 4 to Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime ("Supplemental No. 4") is made this 21st day of January, 2009, by **BEAZER HOMES INDIANA LLP**, an Indiana limited liability partnership ("Declarant").

RECITALS:

A. Declarant executed that certain Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime dated April 30, 2007 and recorded May 16, 2007, as Instrument No. 2007-0072891 in the Office of the Recorder of Marion County, Indiana, as amended by that certain Amendment No. 1 to Declaration of Horizontal Property Ownership dated September 14, 2007, and recorded September 17, 2007, as Instrument No. 2007-135603 in the Office of the Recorder of Marion County, Indiana, as further amended by that certain Supplemental Declaration No. 1 to Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime dated October 25, 2007, and recorded October 29, 2007, as Instrument No. 2007-0154454 in the Office of the Recorder of Marion County, Indiana, as further amended by that certain Supplemental Declaration No. 2 to Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime dated April 18, 2008, and recorded April 28, 2008, as Instrument No. 2008-0046560 in the Office of the Recorder of Marion County, Indiana, and as amended by that certain Supplemental Declaration No. 3 to Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime dated June 10, 2008, and recorded June 17, 2008, as Instrument No. 2008-0071624 in the Office of the Recorder of Marion County, Indiana (as amended and supplemented, the "Declaration"), which Declaration burdens certain real estate, more particularly described in the Declaration to be developed and known as "Westbourne."

B. Section 16 of the Declaration provides that Declarant may add additional phases to Westbourne by subjecting additional tracts of the real estate described on Exhibit B to the Declaration (the "Future Expansion Area").

C. Declarant now desires to add an additional phase to Westbourne and in connection therewith to subject that portion of the Future Expansion Area more particularly described on Exhibit A attached hereto (the "Expansion Parcel No. 4") to the covenants, restrictions and standards contained in the Declaration and to the Act.



1/27/2009 10:46 Julie Voorhies MARION COUNTY RECORDER JHW 34.50 PAGES: 6
Inst # 2009-0007874

D. There was an incorrect recitation in that certain Supplemental Declaration No. 3 to Declaration of Horizontal Property Ownership for Westbourne Horizontal Property Regime dated June 10, 2008, and recorded June 17, 2008, as Instrument No. 2008-0071624 in the Office of the Recorder of Marion County, Indiana. Recital D incorrectly referenced the recording information as Instrument No. 2006-0071623 for the new floor and building plans, elevations and site plan (the "Supplemental Declaration 3 Plan"). The correct recording information for the Supplemental Declaration 3 Plan is Instrument No. 2008-0071623, recorded on June 17, 2008 with the Recorder of Marion County, Indiana.

E. Simultaneously with the recording of this Supplemental No. 4, Declarant has recorded new floor and building plans, elevations and site plan (the "Plans") as required by Indiana Horizontal Property Law, IND. CODE § 32-25 (the "Act"). The Plans have been filed with the Recorder of Marion County, Indiana as Instrument No. 2009- 7873, on January 27, 2009.

DECLARATION:

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant provides as follows:

1. Declarant does hereby include Expansion Parcel No. 4, more particularly described on Exhibit A attached hereto, as part of Westbourne and subjects it to the covenants, restrictions and standards contained in the Declaration and to the Act. From and after the date hereof, the Expansion Parcel No. 4 shall be part of the "Tract" and "Property" as defined in the Declaration.

2. Exhibit D to the Declaration is hereby replaced and substituted by Exhibit D attached hereto.

3. The grants and obligations and benefits and burdens created herein shall run with the property burdened and/or benefited hereby, as the case may be, and shall apply to, and be binding upon the parties' successors and assigns.

4. All capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Declaration.

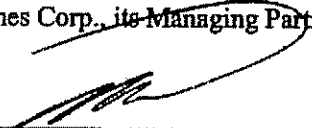
IN WITNESS WHEREOF, Declarant has executed this Supplemental No. 4 as of the day and year first above written.

"DECLARANT"

BEAZER HOMES INDIANA LLP

By: Beazer Homes Corp., its Managing Partner

By:


Bruce Craig, Executive Vice President &
General Manager

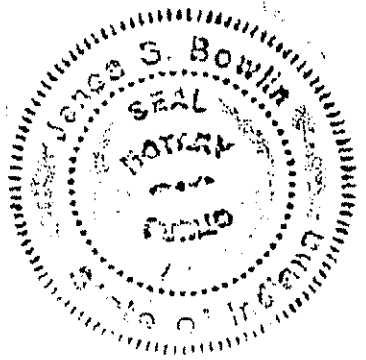
STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Bruce Craig, the Executive Vice President and General Manager of Beazer Homes Corp., the Managing Partner of Beazer Homes Indiana LLP, an Indiana limited liability partnership, who acknowledged the execution of the foregoing Supplemental Declaration No. 4 to Declaration of Horizontal Ownership for Westbourne Horizontal Property Regime, in his capacity as such officer acting for and on behalf of said corporation, in its capacity as managing partner of said limited liability partnership.

Witness my hand and Notarial Seal this 21 day of January, 2009.

My Commission Expires:
December 28, 2013

Jenca S. Bowlin
Notary Public Residing in Hendricks County, Indiana
Jenca S. Bowlin
(Printed Signature)



I affirm, under penalties and perjury, that I have taken reasonable care to redact each Social Security number from this document, unless required by law. Tara H. Lord

This instrument prepared by (and return to): Tara H. Lord, Esq.,
Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204



EXHIBIT A

LEGAL DESCRIPTION OF EXPANSION PARCEL NO. 4

Part of the West Half of the Southwest quarter of Section 26, Township 17 North, Range 2 East, Marion County, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of said Half quarter Section: Thence South 88 degrees 50 minutes 15 seconds West (assumed bearing) along the South line of said Quarter Section a distance of 810.00 feet; thence North 00 degrees 00 minutes 16 seconds East 516.58 feet to the Northwest corner of Tract L, Building 12 recorded as Instrument Number 2007-00154453 in the Office of the Marion County Recorder; thence South 84 degrees 51 minutes 30 seconds East along the north line of said Tract L a distance 172.98 feet; thence North 03 degrees 59 minutes 35 seconds West 19.65 feet thence South 90 degrees 00 minutes 00 seconds East 90.46 feet to the Northeast corner of said Tract L Building 12 and the POINT OF BEGINNING of this description; thence continuing South 90 degrees 00 minutes 00 seconds East 128.04 feet; thence South 01 degree 44 minutes 50 seconds East 205.54 feet; thence South 89 degrees 59 minutes 48 seconds West 103.46 feet to the Southeast corner of said Tract L Building 12 thence North 08 degrees 32 minutes 22 seconds West along the East line of said Tract L Building 12 a distance of 207.75 feet to the POINT OF BEGINNING containing 0.6 acres, more or less.

Subject to all legal easements, rights-of-way, restrictions and covenants.

EXHIBIT D
DESCRIPTION OF BUILDINGS AND CONDOMINIUM UNITS
(Page 1 of 2)

Each Building shall consist of one (1) 3-story wood frame structure without basements.

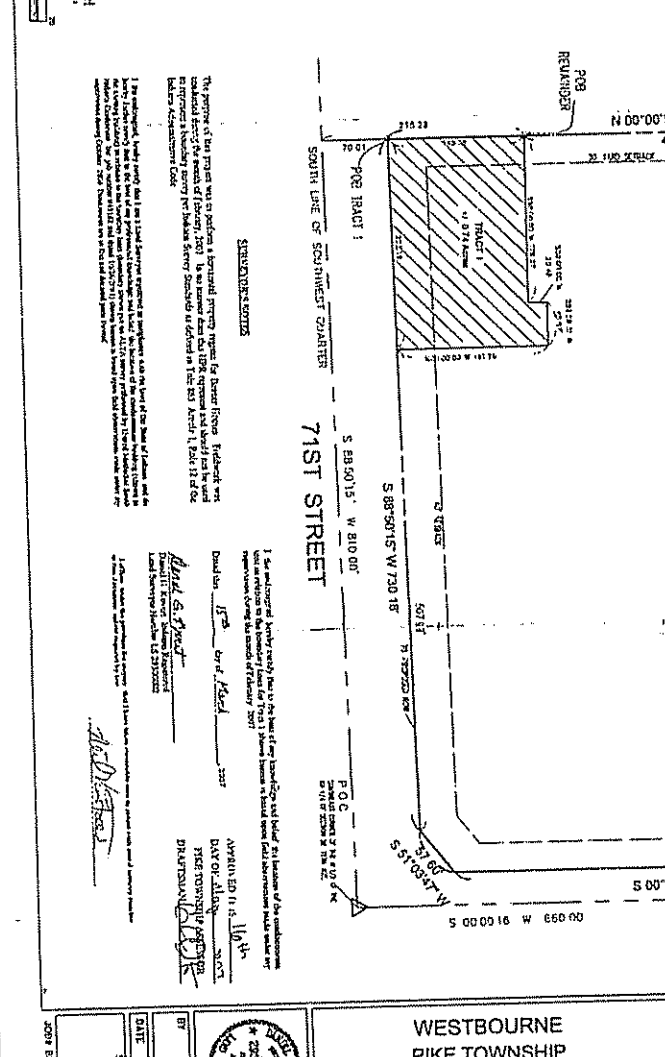
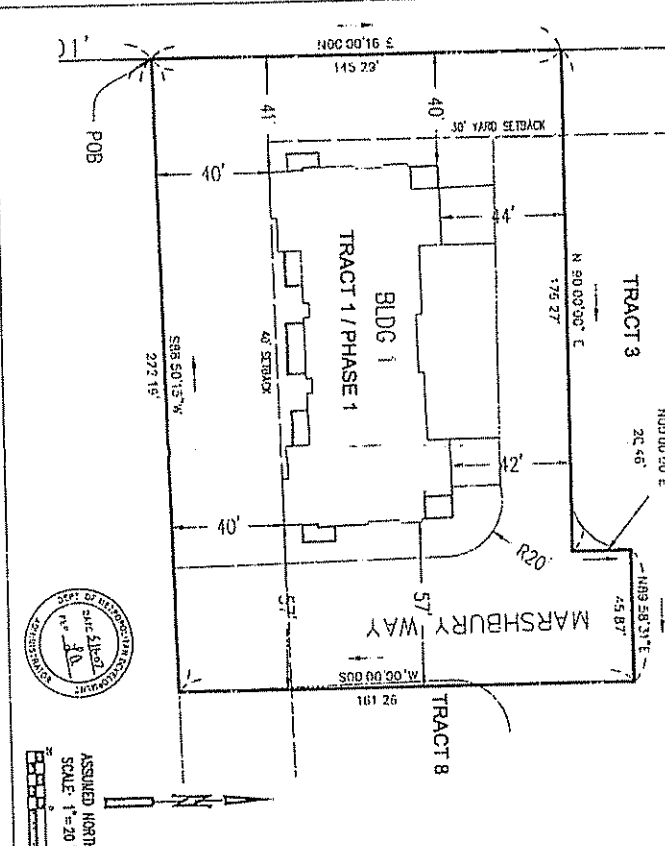
Each Building contains a total of five (5) separate Condominium Units.

<u>Address</u>	<u>Unit Number</u>	<u>Gross Square Footage</u>	<u>Percentage Interest</u>
Building One			
6540 West 71 st Street	0105	2,116	4%
6542 West 71 st Street	0104	2,387	4%
6544 West 71 st Street	0103	1,884	4%
6546 West 71 st Street	0102	2,387	4%
6548 West 71 st Street	0101	2,116	4%
Building Twelve			
7152 Caversham Place	1205	2,130	4%
7150 Caversham Place	1204	2,406	4%
7148 Caversham Place	1203	1,882	4%
7146 Caversham Place	1202	2,406	4%
7144 Caversham Place	1201	2,130	4%
Building Eleven			
7136 Caversham Place	1105	2,130	4%
7134 Caversham Place	1104	2,406	4%
7132 Caversham Place	1103	1,882	4%
7130 Caversham Place	1102	2,406	4%
7128 Caversham Place	1101	2,130	4%

DESCRIPTION OF BUILDINGS AND CONDOMINIUM UNITS

(Page 2 of 2)

Building Sixteen			
7159 Caversham Place	1601	2,130	4%
7161 Caversham Place	1602	2,406	4%
7163 Caversham Place	1603	1,882	4%
7165 Caversham Place	1604	2,406	4%
7167 Caversham Place	1605	2,130	4%
Building Thirteen			
7151 Caversham Place	1301	2,130	4%
7149 Caversham Place	1302	2,406	4%
7147 Caversham Place	1303	1,882	4%
7145 Caversham Place	1304	2,406	4%
7143 Caversham Place	1305	2,130	4%



WESTBOURNE - TRACT 1
BUILDING 1
(A HORIZONTAL PROPERTY REGIME)
PIKE TOWNSHIP
MARION COUNTY, INDIANA

2007-72890

SURVEYOR
 THIS INSTRUMENT WAS PREPARED BY
BEACON
 Surveying & Engineering
 100 West 17th Street, Marion, IN 46952

ASSUMED NORTH
 SCALE 1" = 60'

Seal: **Surveyor**, **2007-72890**, **WESTBOURNE PIKE TOWNSHIP**

WESTBOURNE PIKE TOWNSHIP

2007-72890

REVISIONS

DATE

BY

WESTBOURNE
PIKE TOWNSHIP
MARION COUNTY, INDIANA

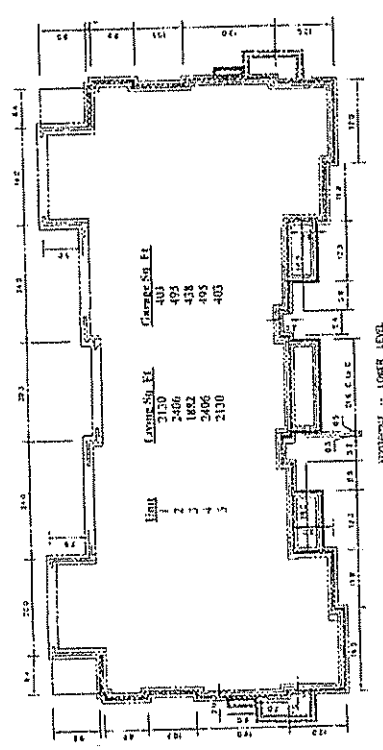
HORIZONTAL PROPERTY REGIME

ROGER WARD
ENGINEERING
INCORPORATED
 Civil Engineers Land Surveyors Development Consultants
 100 West 17th Street, Marion, Indiana 46952

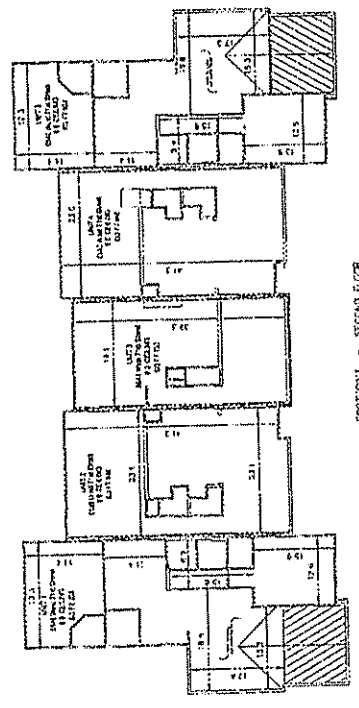
WESTBOURNE - TRACT 1
 BUILDING 1
 (A HORIZONTAL PROPERTY REGIME)
 PART OF THE WEST 1/2, SW 1/4 OF SECTION 26-T7N-R2E
 PIKE TOWNSHIP
 MARION COUNTY, INDIANA

OWNER/SUBDIVIDER
 Beate Homes, Indiana, LLP
 18010 S. 100th East
 ESCANABO, INDIANA 46009

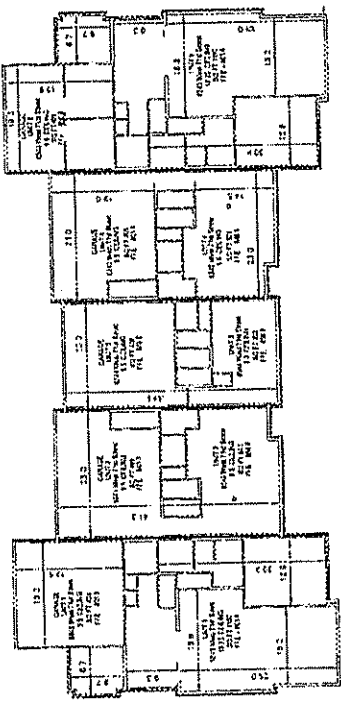
ROGER WARD
 ENGINEERING
 1102 N. STATE ST.
 MARION, INDIANA 46754
 (317) 331-1234 Fax (317) 331-1233



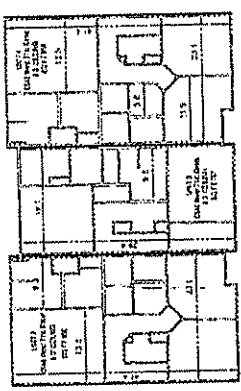
FOOTPRINT - LOWER LEVEL



FOOTPRINT - SECOND FLOOR



FOOTPRINT - FIRST FLOOR



FOOTPRINT - THIRD FLOOR

DESIGNED BY: Roger Ward, P.E., License No. 12577
 The attached plan shows the proposed building footprint and the location of the building on the site. The building footprint is shown in solid lines and the site boundaries are shown in dashed lines. The building footprint is shown in solid lines and the site boundaries are shown in dashed lines.

CONTRACT NO.: 2007-72890
 CONTRACT DATE: 08/15/07
 CONTRACT VALUE: \$1,000,000
 PROJECT NO.: 07-001
 SHEET NO.: 2 OF 2

DATE: 08/15/07

SCALE: AS SHOWN

PROJECT: WESTBOURNE - TRACT 1, BUILDING 1
 PART OF THE WEST 1/2, SW 1/4 OF SECTION 26-T7N-R2E
 PIKE TOWNSHIP, MARION COUNTY, INDIANA



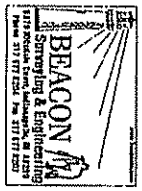
2007-154453

2007-095945

Gregg Reference Subdivisions Also

WESTBOURNE - TRACT L
BUILDING 12
(A HORIZONTAL PROPERTY REGIME)
PART OF THE WEST 1/2, SW 1/4 OF SECTION 26-T19-R02
PIKE TOWNSHIP
MARION COUNTY, INDIANA

RECORDED RECORD
INDEXED IN 1 OF
ASSISTANCE THIS INSTRUMENT WAS PREPARED BY
SURVEYOR



ASSURED NORTH
SCALE 1" = 80'



Part of the West 1/2 of the Section 26 of Township 19 North, Range 2 East, Marion County, Indiana, being more particularly described as follows: ...

Part of the West 1/2 of the Section 26 of Township 19 North, Range 2 East, Marion County, Indiana, being more particularly described as follows: ...

Part of the West 1/2 of the Section 26 of Township 19 North, Range 2 East, Marion County, Indiana, being more particularly described as follows: ...

The purpose of this project was to perform a horizontal property regime for the ...



APPROVED THIS 29th DAY OF OCTOBER 2007

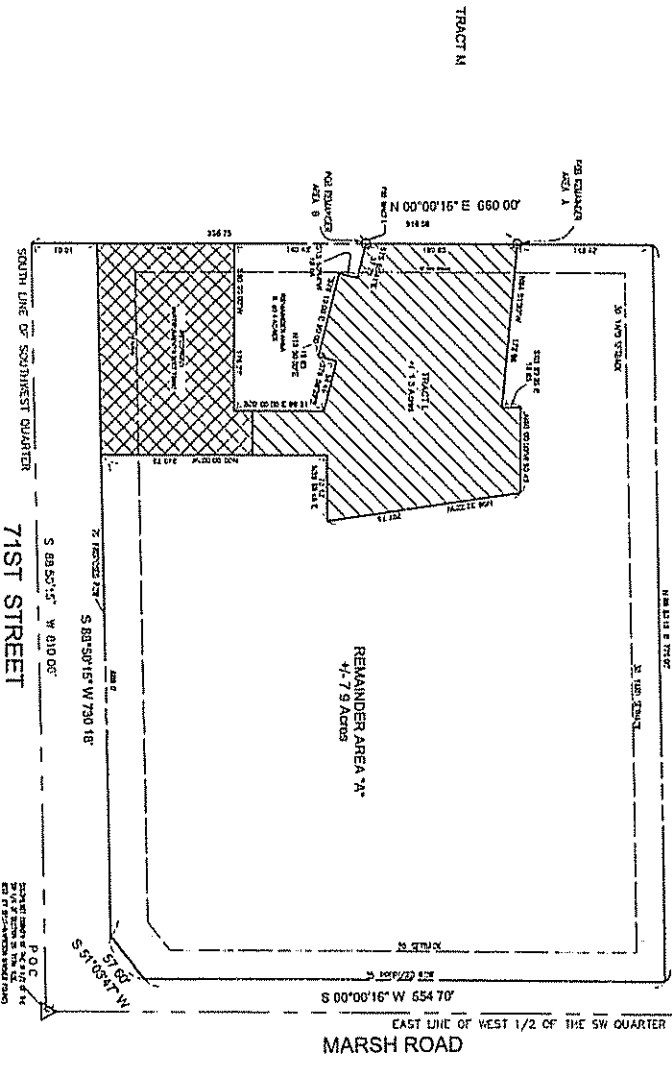
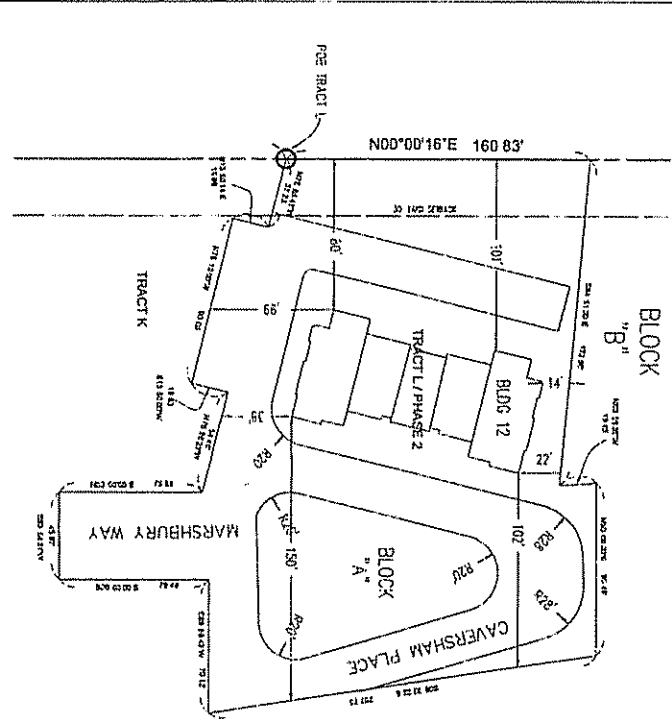
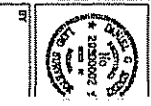


Table with columns for date and other details.



WESTBOURNE PIKE TOWNSHIP

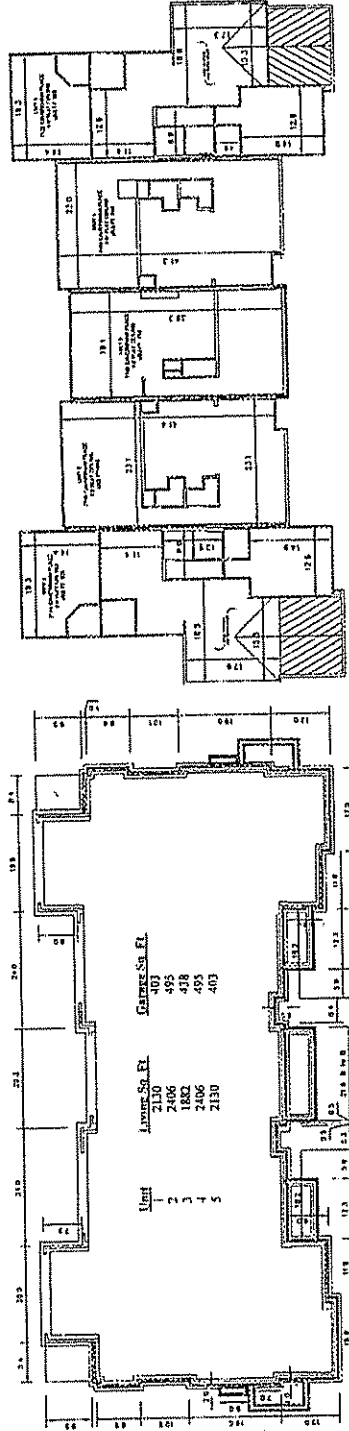
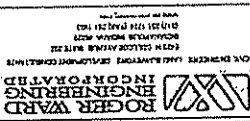
HORIZONTAL PROPERTY REGIME

**WESTBOURNE - TRACT L
BUILDING 12
(A HORIZONTAL PROPERTY REGIME)
PART OF THE WEST 1/2, SW 1/4 OF SECTION 26-T17N-R2E
PIKE TOWNSHIP
MARION COUNTY, INDIANA**

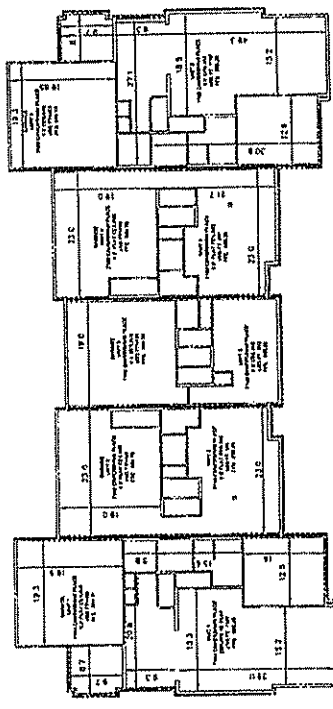
OWNER/SUBDIVIDER
Becker Homes, Indiana, LLP
5725 N. Meridian St., Suite 200
INDIANAPOLIS, INDIANA 46206

ENGINEER

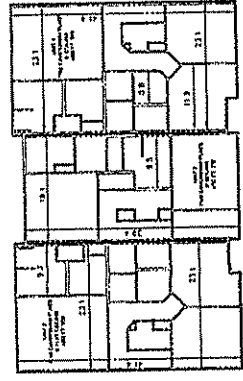
ROBERT C. WARD, JR.
REGISTERED PROFESSIONAL ENGINEER
5001 N. College Avenue, Suite 202
Indianapolis, Indiana 46220
(317) 251-1733 Fax (317) 251-1523



FOOTPRINT - LOWER LEVEL



FOOTPRINT - FIRST FLOOR



FOOTPRINT - SECOND FLOOR



FOOTPRINT - THIRD FLOOR

Prepared for: *Becker Homes*
 Date: *08/26/2024*
 Project: *Westbourne - Tract L Building 12*
 Location: *Part of the West 1/2, SW 1/4 of Section 26-T17N-R2E, Pike Township, Marion County, Indiana*
 Scale: *As Shown*
 Drawing No.: *24-001*
 Revision: *01*
 Designer: *Robert C. Ward, Jr.*
 Checker: *Robert C. Ward, Jr.*
 Engineer: *Robert C. Ward, Jr.*

**WESTBOURNE
PIKE TOWNSHIP
MARION COUNTY, INDIANA**

DATE: *08/26/2024*
 SHEET: *2*
 OF: *2*



1030001
 1030001
 1030001

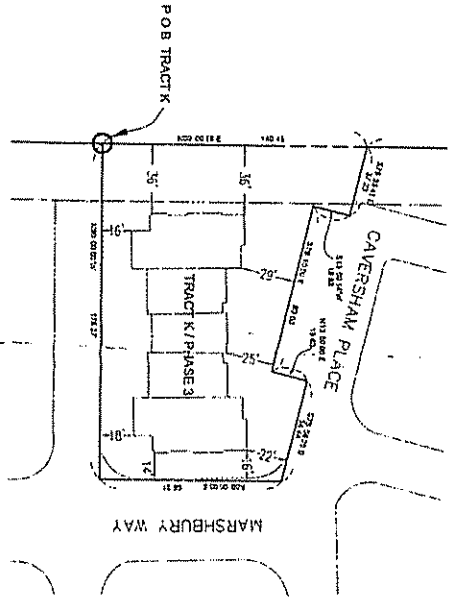
RECEIVED BY RECORDS
MAR 28 2011 10:00 AM

GENERAL DESCRIPTION

This plat is a subdivision of a portion of the land described in the plat of the Westbourne Building 11, a horizontal property regime, recorded in the Marion County Records on March 11, 2010, at page 950928. The land is located in the Westbourne Building 11, a horizontal property regime, recorded in the Marion County Records on March 11, 2010, at page 950928. The land is located in the Westbourne Building 11, a horizontal property regime, recorded in the Marion County Records on March 11, 2010, at page 950928.

LEGAL DESCRIPTION

Part of the Westbourne Building 11, a horizontal property regime, recorded in the Marion County Records on March 11, 2010, at page 950928, containing approximately 1.00 acre, more or less, situated in the Westbourne Building 11, a horizontal property regime, recorded in the Marion County Records on March 11, 2010, at page 950928.



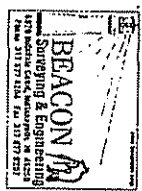
STATE OF INDIANA
MARION COUNTY
950928
WESTBOURNE BUILDING 11

**WESTBOURNE - TRACT K
BUILDING 11
(A HORIZONTAL PROPERTY REGIME)
PART OF THE WEST 1/2, SW 1/4 OF SECTION 26-T14-R02
PIKE TOWNSHIP
MARION COUNTY, INDIANA**

CGP 28
CP 46,560

THIS INSTRUMENT WAS PREPARED BY

SURVEYOR



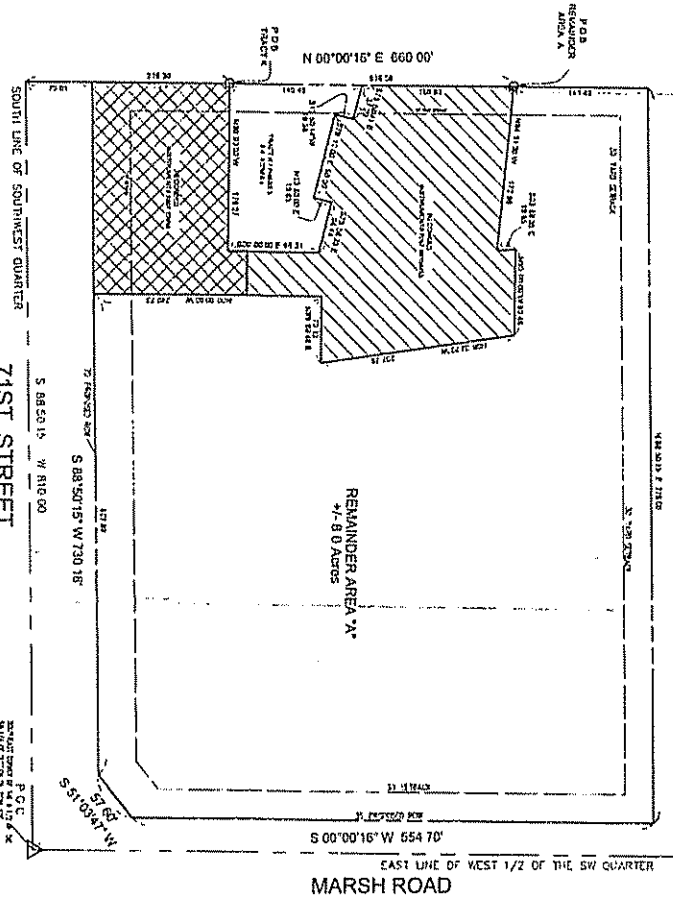
ASSUMED NORTH
SCALE 1" = 60'



The purpose of this project was to perform a horizontal property regime for the Westbourne Building 11, a horizontal property regime, recorded in the Marion County Records on March 11, 2010, at page 950928. The project was completed on March 28, 2011.

April E. Pratt
Surveyor
234
DAVID R. HAYES
PIKE TOWNSHIP ASSESSOR
DEPUTY TOWNSHIP CLERK

APPROVED BY
DAVID R. HAYES
PIKE TOWNSHIP ASSESSOR
DEPUTY TOWNSHIP CLERK



WESTBOURNE
PIKE TOWNSHIP
MARION COUNTY, INDIANA

HORIZONTAL PROPERTY REGIME

REVISIONS	CHANGED BY DATE

ROGER WARD ENGINEERING INCORPORATED
ONE FORBES LAND SURVEYING AND ENGINEERING
1111 N. W. 11th St.
MARION, IN 47304
PHONE: 317.777.1111
FAX: 317.777.1112

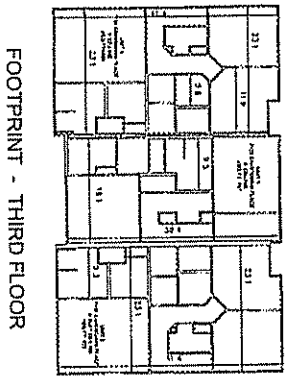
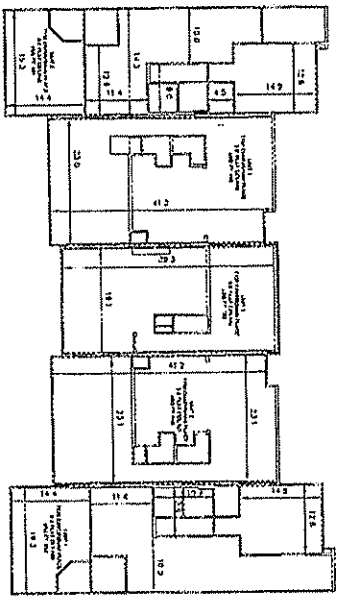
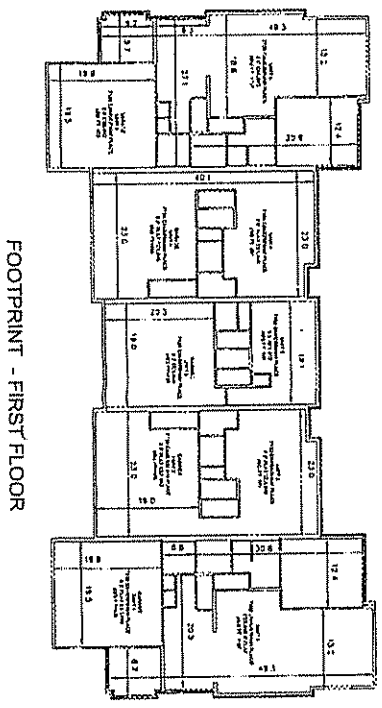
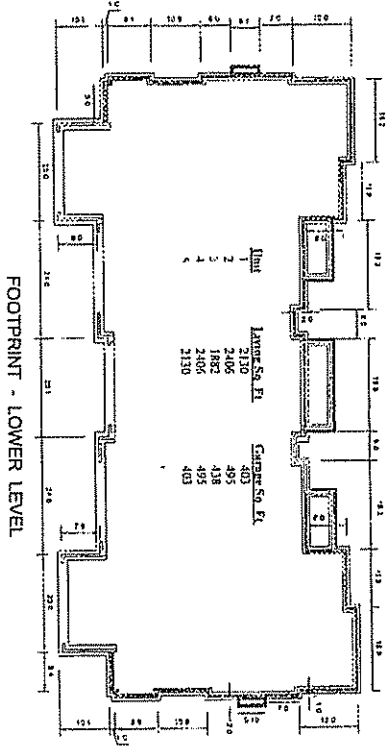


DATE: 03-11-2011
SHEET 1 OF 2

SCALE: 1" = 60'

OWNERS/SUBDIVIDER
 Robert Ward, Vice President
 38271 Marlowe Blvd. Suite 200
 Indianapolis, Indiana 46250

WESTBOURNE - TRACT K
 BUILDING 11
 (A HORIZONTAL PROPERTY REGIME)
 PART OF THE WEST 1/2, SW 1/4 OF SECTION 26-11th-R2E
 PIKE TOWNSHIP
 MARION COUNTY, INDIANA



ENGINEER

ROGER C WARD, JR.
 ENGINEERING
 38271 MARLOWE BLVD. SUITE 202
 INDIANAPOLIS, IN 46250
 (317) 251-1728 FAX (317) 251-1873

28th Nov 11, 2011
 28th Nov 11, 2011

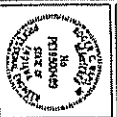
I, the undersigned, Robert Ward, Vice President, do hereby certify that the above described building is a horizontal property regime as defined in the Indiana Code, Title 32, Chapter 45, Article 1, Section 1-1.1, and that the same is subject to the provisions of the Indiana Code, Title 32, Chapter 45, Article 1, Section 1-1.1. I am a duly licensed Professional Engineer in the State of Indiana, No. 11111, and I am duly sworn to the truth of the foregoing. My commission expires on 11/11/11.

ROGER C WARD, JR.
 ENGINEER
 38271 MARLOWE BLVD. SUITE 202
 INDIANAPOLIS, IN 46250
 (317) 251-1728 FAX (317) 251-1873

APPROVED AND AUTHORIZED FOR THE STATE OF INDIANA
 BY THE BOARD OF ENGINEERS
 APRIL 11, 2011

WESTBOURNE
 PIKE TOWNSHIP
 MARION COUNTY, INDIANA

HORIZONTAL PROPERTY REGIME



DATE 5-6-11
 SHEET 2 OF 2

28th Nov 11, 2011
 28th Nov 11, 2011

PROBATE RECORDS

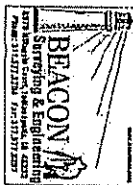
TRACT P
MARION COUNTY, INDIANA
(Municipal District)

RECEIVED FOR RECORD
MAR 11 11 AM '08
MARION COUNTY CLERK'S OFFICE

WESTBOURNE - TRACT P
BUILDING 16
(A HORIZONTAL PROPERTY REGIME)
PART OF THE WEST 1/2, SW 1/4 OF SECTION 26-T7N-R2E
PIKE TOWNSHIP
MARION COUNTY, INDIANA

2007-72891

2008-71623
SURVEYOR
THIS INSTRUMENT WAS PREPARED BY:



ASSUMED NORTH
SCALE: 1" = 60'



APPROVED FOR
BY
ROGER WARD
REGISTERED PROFESSIONAL SURVEYOR
NO. 11713
MARION COUNTY, INDIANA

ROGER WARD ENGINEERING
204 N. COLLEGE AVENUE, SUITE 202
MARIETTA, GEORGIA 30067
PH: 404.875.1111 FAX: 404.875.1112
WWW.ROGERWARD.COM

HORIZONTAL PROPERTY REGIME

DATE OF PREPARATION	2008-03-11
DATE OF RECORDING	2008-03-11
DATE OF EXPIRATION	PERMANENT
PREPARED BY	ROGER WARD
REVISIONS	1. ALL

**WESTBOURNE PIKE TOWNSHIP
MARION COUNTY, INDIANA**

PLAT
SHEET 1 OF 2
DATE: 2008-03-11
BY: [Signature]

The purpose of this project was to perform a horizontal property regime for Building 16, 16144 Westbourne Pike, located on the north side of Hwy. 1008, in an unincorporated area of Marion County, Indiana. The project was prepared in accordance with the provisions of the Indiana Horizontal Property Regime Act, as amended, and the rules and regulations of the Indiana Board of Surveying and Mapping. The project was completed on March 11, 2008.

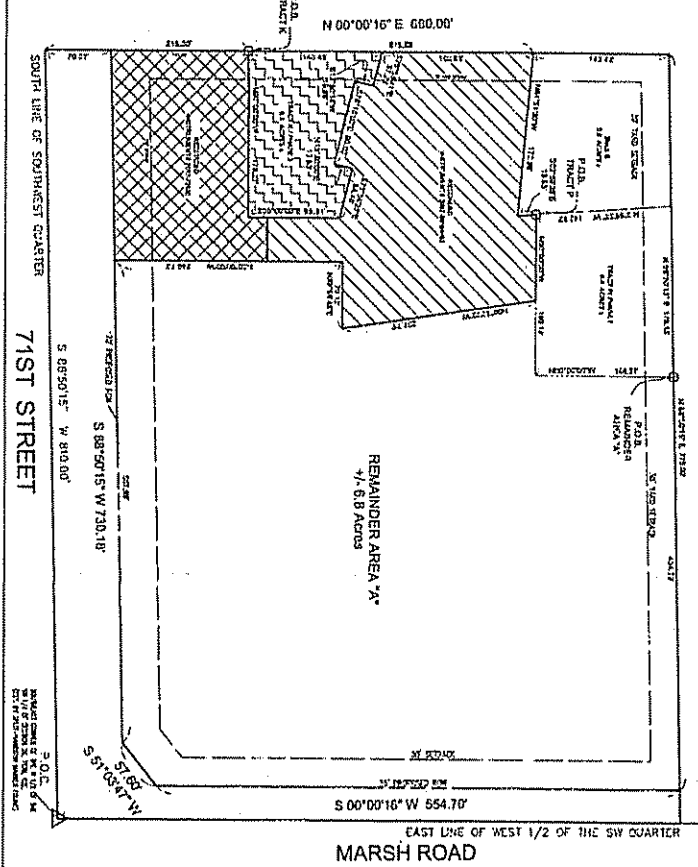
Underground utility lines are shown on this plat. The location of the underground utility lines was determined by a utility locator. The utility locator is licensed under the provisions of the Indiana Utility Locator Act, as amended, and the rules and regulations of the Indiana Board of Surveying and Mapping.

Dated this 11th day of March, 2008.

Roger Ward
Professional Surveyor
No. 11713
Marion County, Indiana

PLAT NUMBER

2008-71623



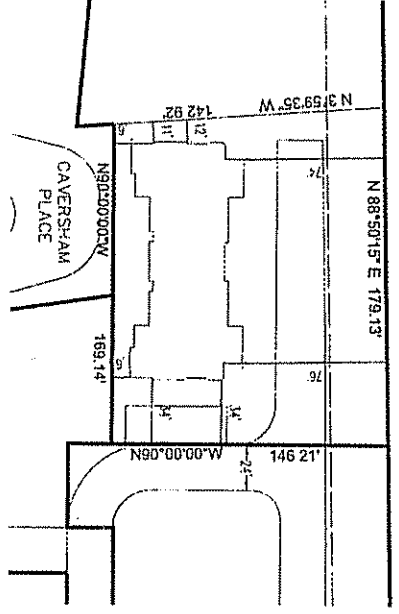
SOUTH LINE OF SOUTHWEST QUARTER
71ST STREET

PLAT NUMBER
SHEET 1 OF 2
DATE: 2008-03-11
BY: [Signature]

A part of the West 1/2 of the Southwest Quarter of Section 26, Township 7N, Range 2E, Marion County, Indiana, containing 1.25 acres, more or less, as shown on the plat hereto attached, is hereby conveyed to the owners thereof, to-wit: [Names], in and to the said owners, their heirs and assigns forever. The boundaries of the premises are as shown on the plat hereto attached, and the same are subject to the provisions of the Indiana Horizontal Property Regime Act, as amended, and the rules and regulations of the Indiana Board of Surveying and Mapping.

Recorded Pursuant to Plat No. 2008-71623

Part of the West 1/2 of the Southwest Quarter of Section 26, Township 7N, Range 2E, Marion County, Indiana, containing 1.25 acres, more or less, as shown on the plat hereto attached, is hereby conveyed to the owners thereof, to-wit: [Names], in and to the said owners, their heirs and assigns forever. The boundaries of the premises are as shown on the plat hereto attached, and the same are subject to the provisions of the Indiana Horizontal Property Regime Act, as amended, and the rules and regulations of the Indiana Board of Surveying and Mapping.



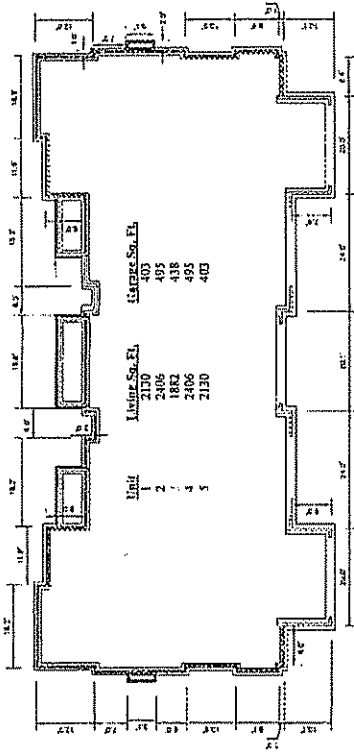
Roger Ward
Professional Surveyor

This plat was prepared by the Surveyor General of Marion County, Indiana, and is subject to the provisions of the Indiana Horizontal Property Regime Act, as amended, and the rules and regulations of the Indiana Board of Surveying and Mapping.

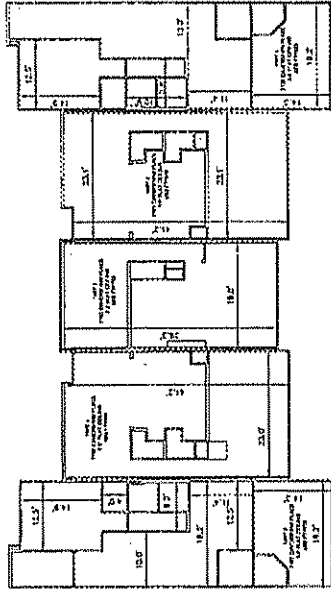
**WESTBOURNE - TRACT P
BUILDING 16
(A HORIZONTAL PROPERTY REGIME)
PART OF THE WEST 1/2, SW 1/4 OF SECTION 26-T17N-R2E
PIKE TOWNSHIP
MARION COUNTY, INDIANA**

OWNERSUBDIVIDER
BRISAK HORIZONTAL, INDIANA, L.L.P.
5023 N. HARCOSS, SUITE 200
INDIANAPOLIS, INDIANA 46250

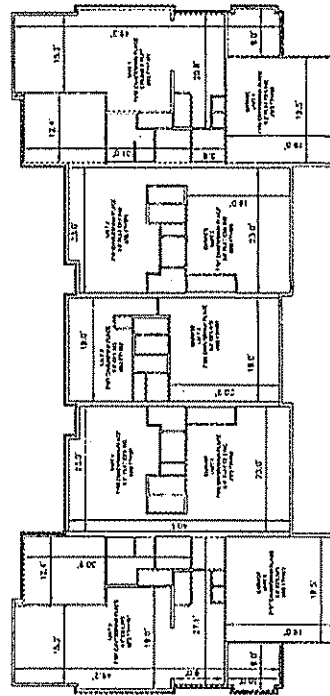
ENGINEER
ROGER C. WARD, JR.
ROGER WARD ENGINEERING
5420 N. COLLEGE AVENUE, SUITE 202
INDIANAPOLIS, INDIANA 46220
(317) 251-1739 Fax (317) 251-1923



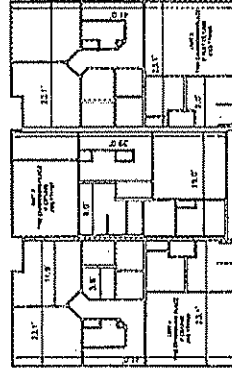
FOOTPRINT - LOWER LEVEL



FOOTPRINT - SECOND FLOOR



FOOTPRINT - FIRST FLOOR



FOOTPRINT - THIRD FLOOR

I, the undersigned, Roger Ward, Jr., Engineer, do hereby certify that the above described plans were prepared by me or under my direct supervision and that I am a duly licensed professional engineer in the State of Indiana. I further certify that the plans were prepared in accordance with the provisions of the Indiana Professional Engineers Act, Chapter 49, Article 10, and the rules and regulations of the Board of Engineers, Architects and Surveyors, State of Indiana.

STATE OF INDIANA
COUNTY OF MARION
I, ROGER WARD, JR.
Engineer, do hereby certify that the above described plans were prepared by me or under my direct supervision and that I am a duly licensed professional engineer in the State of Indiana.

DATE: APRIL 13, 2011

APPROVED AND FORWARDED:
TOWNSHIP ENGINEER
DAVID S. BOWLIN

WESTBOURNE
PIKE TOWNSHIP
MARION COUNTY, INDIANA

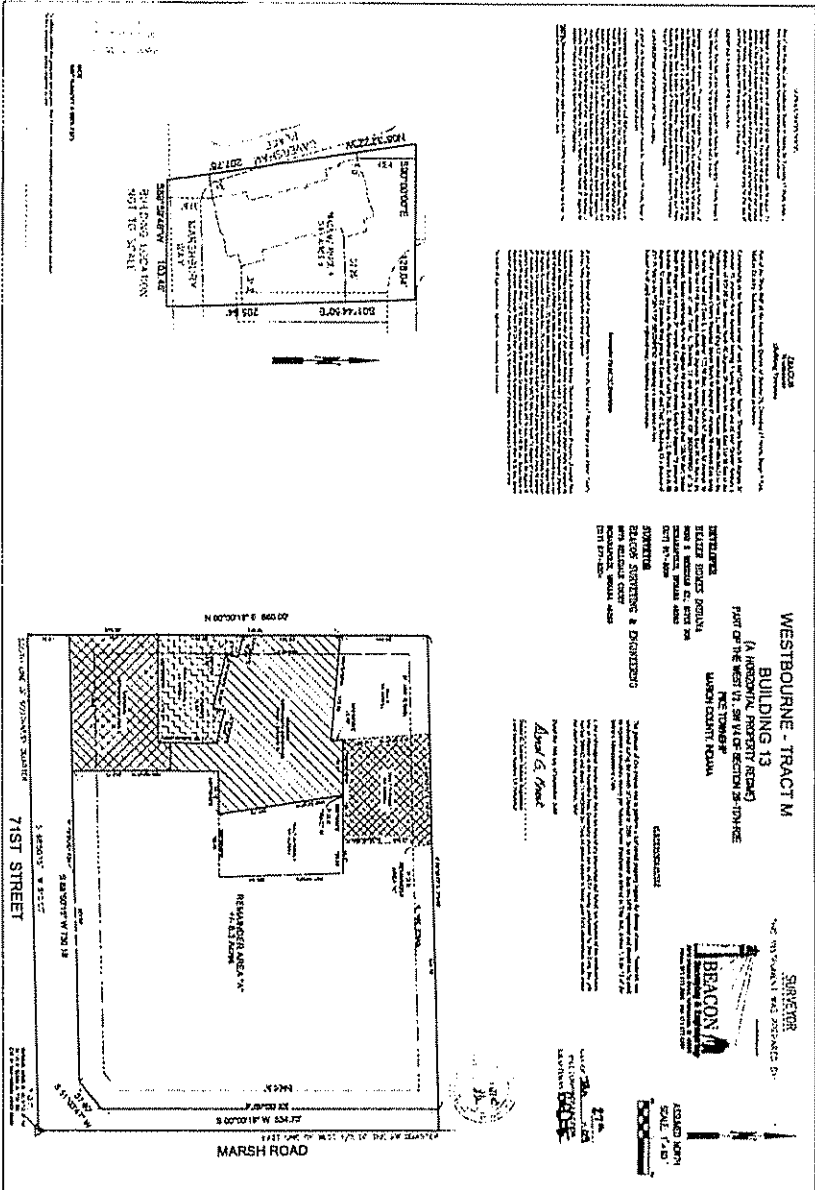


DATE: APR 13 2011
FILED: 2



REGISTERED PROFESSIONAL ENGINEER
STATE OF INDIANA
NO. 13454

10346 BR/03



WESTBOURNE TRACT M
BUILDING 13
 PART OF THE WEST 1/2 SECTION 13 - TOWNSHIP
 MARION COUNTY, INDIANA

BRACON
 SURVEYOR
 1000 N. W. 10th St., Marion, IN 46754
 (317) 375-1111

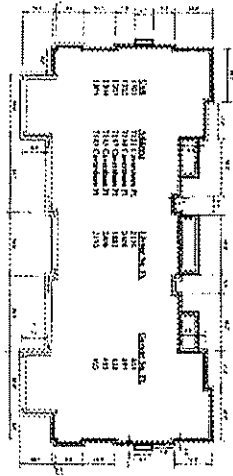
WESTBOURNE TRACT M
BUILDING 13
 PART OF THE WEST 1/2 SECTION 13 - TOWNSHIP
 MARION COUNTY, INDIANA

BRACON
 SURVEYOR
 1000 N. W. 10th St., Marion, IN 46754
 (317) 375-1111

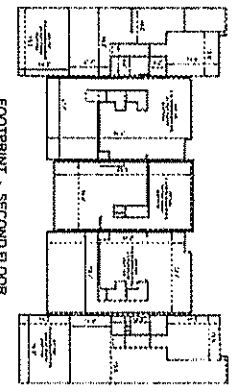
	<p>WESTBOURNE PIKE TOWNSHIP MARION COUNTY, INDIANA</p>	<p>HORIZONTAL PROPERTY REGIME</p>	
--	------------------------------------------------------------------------------	-----------------------------------	--

DATE: 11/15/2011
 TIME: 10:30 AM
 DRAWN BY: J. WARD
 CHECKED BY: J. WARD

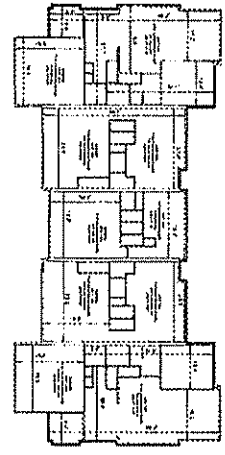
WESTBOURNE - TRACT M
BUILDING 13
 (A HORIZONTAL PROPERTY REGIME
 PART OF THE WEST 1/2, NW 1/4 OF SECTION 25, T19N-R12E
 PIKE TOWNSHIP
 MARION COUNTY, INDIANA)



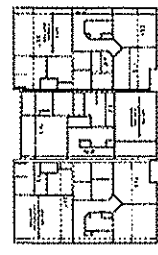
FOOTPRINT - LOWER LEVEL



FOOTPRINT - SECOND FLOOR



FOOTPRINT - FIRST FLOOR



FOOTPRINT - THIRD FLOOR

OWNER:
 WESTBOURNE TRACT M
 NORTH COUNTY, INDIANA
 NORTH COUNTY, INDIANA
 NORTH COUNTY, INDIANA
 NORTH COUNTY, INDIANA

NOTARIAL PUBLIC:
 My commission expires on 11/15/2011.
 I, John S. Ward, Notary Public for Marion County, Indiana, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in my records.
 Witness my hand and the seal of my office this 15th day of November, 2011.
 John S. Ward
 Notary Public
 Marion County, Indiana

REGISTERED PROFESSIONAL ENGINEER:
 My commission expires on 11/15/2011.
 I, John S. Ward, Registered Professional Engineer for Marion County, Indiana, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in my records.
 Witness my hand and the seal of my office this 15th day of November, 2011.
 John S. Ward
 Registered Professional Engineer
 Marion County, Indiana

	<p>WESTBOURNE PIKE TOWNSHIP MARION COUNTY, INDIANA</p>	<p>HORIZONTAL PROPERTY REGIME</p>	
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