

ARTICLE VI
MORTGAGES, MORTGAGEES AND PROCEDURES AND
LIGHTS RELATING THERETO

6.01 Register of Owners and Mortgages. The Association shall at all times maintain a register setting forth the names of the Owners, and, in the event of a sale or transfer of any Lot to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Lot, together with such recording information that shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Lot. Further, the Owner shall at all times notify the Association of any Mortgage and the name of the Mortgagee on any Lot, and the recording information which shall be pertinent to identify the Mortgage and Mortgagee. The Mortgagee may, if it so desires, notify the Association of the existence of any Mortgage held by it, and upon receipt of such notice, the Association shall register in its records all pertinent information pertaining to the same.

6.02 Subordination of Lien to First Mortgages. The liens provided for in this Declaration shall be subordinate to the lien of a First Mortgage on any Lot if, and only if, all assessments, whether annual or special, with respect to such Lot having a due date on or prior to the date such Mortgage is recorded have been paid. In the event any such First Mortgage (i.e., one who records a Mortgage on a Lot for which all assessments have been paid prior to recording) shall acquire title to any Lot by virtue of any foreclosure, deed in lieu of foreclosure, or judicial sale, such Mortgagee acquiring title shall only be liable and obligated for assessments, whether annual or special, as shall accrue and become due and payable for said Lot subsequent to date of acquisition of such title. In the event of the acquisition of title to a Lot by foreclosure, deed in lieu of foreclosure, or judicial sale, any assessments, whether annual or special, as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Owners as part of the Common Expense; provided, however, nothing contained herein shall be construed as releasing the party or parties liable for such delinquent assessments from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

6.03 Amendments. No Amendment to this Article shall adversely affect the rights of any First Mortgagee whose Mortgage was recorded prior to the Amendment unless such Amendment is approved by the affirmative seventy-five percent (75%) vote of the Mortgagees of which the Association has been notified (based upon one vote for each Lot on which a First Mortgage is held) and who vote within the period of time set by the Board, which shall be at least ten (10) days and no more than sixty (60) days.

6.04 Extension of Benefits to Other Mortgagees. By subordination agreement executed by the Board on behalf of the Association, the benefits of this Article may be extended to Mortgagees not otherwise entitled thereto.

6.05 Mortgagees' Approval of Certain Actions. Unless at least seventy-five percent (75%) of the First Mortgagees of which the Association has been properly notified have given their prior written approval (based upon one vote for each Lot on which a First Mortgage

is held) in accordance with and within the time periods set out in this Article, the Association shall not be entitled to:

- (a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Properties owned, directly or indirectly, by the Association;
- (b) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot Owner;
- (c) By act or omission change, waive or abandon the plan of regulations, or enforcement thereof, pertaining to the architectural design or exterior appearance of the Houses, the maintenance of the Common Properties or the upkeep thereof; or
- (d) Use hazard insurance proceeds for losses to any Common Properties for other than the repair, replacement or reconstruction of such Common Properties.

6.06 Notice of Default to First Mortgagees. If requested by a First Mortgagee, the Association shall notify each First Mortgagee of any default by the Mortgagor of a Lot in the performance of said Mortgagor's obligations under this Declaration which is not cured within sixty (60) days.

6.07 Examination of Books. Each Owner and each Mortgagee of a Lot shall be permitted to examine the books and records of the Board and Association during regular business hours.

ARTICLE VII OWNER COMPLAINTS

7.01 Scope. The procedures set forth in this Article for Owner Complaints shall apply to all complaints regarding the use or enjoyment of the Property or any portion thereof or regarding any matter within the control or jurisdiction of the Association, including, without limitation, decisions of the Association or of the Board of Directors of the Association.

7.02 Grievance Committee. There shall be established by the Board a Grievance Committee to receive and consider all Owner complaints. The Grievance Committee shall be composed of the President of the Association and two other Owners appointed by and serving at the pleasure of the Board of Directors, or the Manager may be appointed by the Board to function as the Grievance Committee.

7.03 Form of Complaint. All complaints shall be in writing and shall set forth the substance of the complaint and the facts upon which it is based. Complaints are to be addressed to the President of the Association and sent in the manner provided in Section 10.03 for sending notices.

7.04 Consideration by the Grievance Committee. Within twenty (20) days of receipt of a complaint, the Grievance Committee shall consider the merits of the same and notify the complainant in writing of its decision and the reasons therefor. Within ten (10) days after notice of the decision, the complainant may proceed under Section 7.05; but if complainant does not, the decision shall be final and binding upon the complainant.

7.05 Hearing Before the Grievance Committee. Within ten (10) days after notice of the decision of the Grievance Committee, the complainant may, in a writing addressed to the President of the Association, request a hearing before the Grievance Committee. Such hearing shall be held within twenty (20) days of receipt of complainant's request. The complainant, at his expense, and the Grievance Committee, at the expense of the Association, shall be entitled to legal representation at such hearing. The hearing shall be conducted before at least two members of the Grievance Committee and may be adjourned from time to time as the Grievance Committee in its discretion deems necessary or advisable. The Grievance Committee shall render its decision and notify the complainant in writing of its decision and the reasons therefor within ten (10) days of the final adjournment of the hearing. If the decision is not submitted to arbitration within ten (10) days after notice of the decision, as provided for in Section 7.07, the decision shall be final and binding upon the complainant.

7.06 Questions of Law. Legal counsel for the Association shall decide all issues of law arising out of the complaint, and such decisions shall be binding on the complainant.

7.07 Questions of Fact; Arbitration. If there shall be any dispute as to any material fact, either the Grievance Committee or the complainant may, at their option, within ten (10) days after notice of the decision as provided for in Section 7.05, submit the same to arbitration in accordance with the provisions for arbitration adopted by the American Arbitration Association by filing with the other party a notice of its intention to do so. The decision of the arbitrator shall be final and binding upon the complainant and the Grievance Committee. In the event of arbitration, each party shall bear one-half of the expense thereof.

7.08 Exclusive Remedy. The remedy for Owner complaints provided herein shall be exclusive of any other remedy, and no Owner shall bring suit against the Grievance Committee, the Association, the Board of Directors or any member of same in his capacity as such member without first complying with the procedures for complaints herein established.

7.09 Expenses. All expenses incurred by complainant, including, without limitation, attorneys' fees and arbitration expenses and the like, shall be the sole responsibility of complainant. All expenses of the Grievance Committee incident to such complaint shall be deemed a Common Expense of the Association.

ARTICLE VIII
REMEDIES ON DEFAULT

8.01 Scope. Each Owner shall comply with the provisions of this Declaration, the Bylaws and the Rules and Regulations of the Association as they presently exist or as they may be amended from time to time, and each Owner shall be responsible for the actions of his or her family members, servants, guests, occupants, invitees or agents.

8.02 Grounds for and Form of Relief. Failure to comply with any of the Covenants of this Declaration, the Bylaws, or the Rules and Regulations promulgated by the Board which may be adopted pursuant thereto shall constitute a default and shall entitle the Developer or the Association to seek relief which may include, without limitation, an action to recover any unpaid assessment, annual or special, together with interest as provided for herein, any sums due for damages, injunctive relief, foreclosure of lien or any combination thereof, and which relief may be sought by the Developer or the Association or, if appropriate and not in conflict with the provisions of this Declaration or the Bylaws, by an aggrieved Owner.

8.03 Recovery of Expenses. In any proceeding arising because of an alleged default by an Owner, the Developer or the Association, if successful, shall, in addition to the relief provided for in Section 8.02, be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be allowed by the court, but in no event shall the Owner be entitled to such attorneys' fees.

8.04 Denial of Access to and Use of Common Properties. At the option of the Developer or the Association, an Owner in default may be denied access to and use of any or all of the Common Properties until such time as the default has been cured.

8.05 Waiver. The failure of the Developer, the Association or an Owner to enforce any right, provision, covenant or condition which may be granted herein or the receipt or acceptance by the Association of any part payment of an assessment shall not constitute a waiver of any breach of a Covenant, nor shall same constitute a waiver to enforce such Covenant(s) in the future.

8.06 Election of Remedies. All rights, remedies and privileges granted to the Developer, the Association or an Owner or Owners pursuant to any term, provision, covenant or condition of this Declaration or the Bylaws shall be deemed to be cumulative and in addition to any and every other remedy given herein or otherwise existing, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to any such party at law or in equity.

ARTICLE IX
EMINENT DOMAIN

9.01 Board's Authority. If all or any part of the Common Properties (excluding personalty) is taken or threatened to be taken by Eminent Domain, the Board is authorized and directed to proceed as follows:

(a) To obtain and pay for such assistance from such attorneys, appraisers, architects, engineers, expert witnesses and other persons, as the Board in its discretion deems necessary or advisable, to aid and advise it in all matters relating to such taking and its effect, including, but not limited to (i) determining whether or not to resist such proceedings or convey in lieu thereof, (ii) defending or instituting any necessary proceedings and appeals, (iii) making any settlements with respect to such taking or attempted taking and (iv) deciding if, how and when to restore the Common Properties.

(b) To negotiate with respect to any such taking, to grant permits, licenses and releases and to convey all or any portion of the Common Properties and to defend or institute, and appeal from, all proceedings as it may deem necessary or advisable in connection with the same.

(c) To have and exercise all such powers with respect to such taking or proposed taking and such restoration as those vested in Boards of Directors of corporations with respect to corporate property, including but not limited to, purchasing, improving, demolishing and selling real estate.

9.02 Notice to Owners and Mortgagees. Each Owner and each First Mortgagee on the records of the Association shall be given reasonable written advance notice of all final offers before acceptance, proposed conveyances, settlements and releases, contemplated by the Board, legal proceedings and final plans for restoration, and shall be given reasonable opportunity to be heard with respect to each of the same and to participate in and be represented by counsel in any litigation and all hearings, at such Owner's or Mortgagee's own expense.

9.03 Reimbursement of Expenses. The Board shall be reimbursed for all attorneys', engineers', architects' and appraisers' fees, and other costs and expenses paid or incurred by it in preparation for, and in connection with, or as a result of, any such taking out of the compensation, if any. To the extent that the expenses exceed the compensation received, such expenses shall be deemed a Common Expense.

ARTICLE X
GENERAL PROVISIONS

10.01 Duration. The Covenants of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Board, the Association, the Developer or Owner, their respective legal representatives, heirs, successors and assigns, in perpetuity, unless amended or terminated as provided herein.

10.02 Amendments. This Declaration may be amended, modified or revoked in any respect from time to time by the Developer prior to the date that the governing authority for the Development is transferred from the Developer to the Board in accordance with the Bylaws. Thereafter, this Declaration may be amended in accordance with the following procedure:

(a) An amendment to this Declaration may be considered at any annual or special meeting of the Association; provided, however, that, if considered at an annual meeting, notice of consideration of the amendment and a general description of the terms of such amendment shall be included in the notice of the annual meeting provided for in the Bylaws, and, if considered at a special meeting, similar notice shall be included in the notice of the special meeting provided for in the Bylaws. Notice of any meeting to consider an amendment that would adversely affect Mortgagees' rights shall also be sent to each Mortgagee listed upon the register of the Association.

(b) At any such meeting of the members of the Association, the amendment must be approved by an affirmative seventy-five percent (75%) vote of those Owners who are in attendance or represented at the meeting. At any such meeting, the Developer shall have the number of votes as provided in the Bylaws. Any amendment which adversely affects the rights of the Mortgagees must be approved by an affirmative seventy-five percent (75%) vote of the Mortgagees of which the Association has been properly notified (based upon one vote for each Lot on which a First Mortgage is held) and who vote within the period of time set by the Board to vote, which shall be at least ten (10) days and no longer than sixty (60) days.

(c) An amendment adopted under subsection (b) of this Section shall become effective upon its recording with the Recorder, and the President of the Association and Secretary of the Association shall execute, acknowledge and record the amendment and the Secretary shall certify on its face that it has been adopted in accordance with the provisions of this Section; provided, that in the event of the disability or other incapacity of either, the Vice President of the Association shall be empowered to execute, acknowledge and record the amendment. The certificate shall be conclusive evidence to any person who relies thereon in good faith, including, without limitation, any Mortgagee, prospective purchaser, tenant, lienor or title insurance company that the amendment was adopted in accordance with the provisions of this Section.

(d) The certificate referred to in subparagraph (c) of this Section shall be in substantially the following form:

C E R T I F I C A T E

I, _____, do hereby certify that I am the Secretary of Timber Creek Homeowners' Association, Inc. and that the within amendment to the Declaration of Covenants and Restrictions of Timber Creek was duly adopted by the Owners of said Association and the Mortgagees, if applicable, in accordance with the provisions of Section 10.02 of said Declaration.

Witness my hand this ___ day of _____, _____.

Secretary
Timber Creek Homeowners'
Association, Inc.

10.03 Notices. Any notice required to be sent to any Owner or Mortgagee under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to the last known address of the Owner or Mortgagee on the records of the Association at the time of such mailing. Notice to one of two or more co-owners of a Lot shall constitute notice to all co-owners. It shall be the obligation of every Owner to immediately notify the Secretary in writing of any change of address. Any notice required to be sent to the Board, the Association or any officer thereof, or the Developer under the provisions of this Declaration shall likewise be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to such entity or person at the following address:

430 Oak Chase Boulevard
Lenoir City, TN 37772

The address for the Board, the Association, or any officer thereof may be changed by the Secretary or President of the Association by executing, acknowledging and recording an amendment to this Declaration stating the new address or addresses. Likewise, the Developer may change its address by executing, acknowledging, and recording an amendment to this Declaration stating its new address.

10.04 Severability. Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force and effect.

10.05 Captions. The captions herein are inserted only as a matter of convenience and for reference and are in no way intended to define, limit or describe the scope of this Declaration nor any provision hereof.

10.06 Use of Terms. Any use herein of the masculine shall include the feminine, and the singular the plural, when such meaning is appropriate.

10.07 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

10.08 Law Governing. This Declaration is made in the State of Tennessee, and any question pertaining to its validity, enforceability, construction or administration shall be determined in accordance with the laws of that State.

10.09 Effective Date. This Declaration shall become effective upon its recording in the office of the Register of Bradley County, Tennessee.

IN WITNESS WHEREOF, the Developer has executed this Declaration to be effective as of the date first above written.

DEVELOPER

JRT COMMUNITIES, LLC, a Tennessee limited liability company

By: [Signature]
Thomas W. McClellan, Chief Manager

STATE OF TENNESSEE)
COUNTY OF BRADLEY)

Before me, the undersigned authority, a Notary Public within and for the State and County aforesaid, personally appeared THOMAS W. McCLELLAN with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that he executed the within instrument for the purposes therein contained, and who further acknowledged that he is the Chief Manager of JRT Communities, LLC, the within named bargainer, and is authorized by the company to execute this instrument on its behalf.

WITNESS my hand, at office, this 16th day of November, 2006.

[Signature]
Notary Public

My Commission Expires: 5-24-08



EXHIBIT "A"

Property Subject To The Declaration

Lots 1 through 27 as shown on that certain plat recorded in Plat Book 22, Page 23 in the Register's Office of Bradley County, Tennessee ("ROBCT").

The source of Developer's title to the above-referenced property is that certain Deed recorded in Book 1443, Page 774 ROBCT.

EXHIBIT "B"

Property Owned By The Developer
That May Become Subject To The Declaration

Located in the First Civil District of Bradley County, Tennessee, to-wit:

[Description to be supplied]

The source of Developer's title to the above-described property is that certain Deed recorded in Book 1443, Page 774 in the Register's Office of Bradley County, Tennessee.

NOTWITHSTANDING THE FOREGOING LEGAL DESCRIPTION, THE PROPERTY DESCRIBED IN THIS EXHIBIT "B" SHALL NOT INCLUDE ANY PROPERTY DESCRIBED IN EXHIBIT "A" HEREOF, WHICH PROPERTY CONSISTS OF LOTS 1 THROUGH 37 AS SHOWN ON THAT CERTAIN PLAT RECORDED IN PLAT BOOK 222, PAGE 23 IN THE REGISTER'S OFFICE OF BRADLEY COUNTY, TENNESSEE.

EXHIBIT "C"

Initial Text Of Bylaws Of Timber Creek
Homeowners' Association, Inc.

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Book 1697 Page 612