

STATE OF COLORADO, COUNTY OF MESA 3:45 P.M.  
RECORDED AT.....  
RECEPTION NO. 1278783 DEC 30 1981  
EARL SAWYER, RECORDER

BOOK 1350 PAGE 121

CONDOMINIUM DECLARATION

FOR

WELLINGTON - III CONDOMINIUM ASSOCIATION, INC.

KNOW MEN BY THESE PRESENTS:

THAT WHEREAS, WELLINGTON - III, a Colorado joint venture, (hereinafter called "Declarant") is the owner of the real property described on Exhibit "A" attached hereto and by this reference expressly incorporated herein; and

WHEREAS, Declarant desires to establish a commercial Condominium Project under the Condominium Ownership Act of the State of Colorado; and

WHEREAS, Declarant does hereby establish a plan for the ownership in fee simple of the real property estates, subject to the easements, restrictions, reservations, conditions, taxes and assessments as set forth in this Declaration, consisting of the area or space contained in each of the air space units in the building improvements, and co-ownership by individual and separate owners thereof, as tenants in common, of all of the remaining property, which property is hereinafter defined and referred to as the "common elements."

NOW, THEREFORE, Declarant does hereby publish and declare that the following terms, covenants, conditions, easements, restrictions, uses, reservations, limitations and obligations shall be deemed to run with the land, shall be a burden and a benefit to Declarant, its successors and assigns, and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees or assigns.

1. Submission to Condominium Ownership. Declarant does hereby submit the real property described on Exhibit A and the improvements situated thereon to condominium ownership pursuant to the Condominium Ownership Act of the State of Colorado.

2. Definitions. Unless the context shall expressly provide otherwise:

A. "Unit" means an individual airspace which is contained within the windows, doors and unfinished perimeter walls, floors and ceilings of each unit as shown on the Condominium Map to be filed for record, together with all fixtures and improvements therein contained but not including any of the common elements, if any, located within the unit.

B. "Condominium Unit" means the fee simple interest and title in and to a unit, together with the undivided interest in the common elements appurtenant to such unit, and all other rights and burdens created by this Declaration.

C. "Owner" means a person, persons, firm, corporation, partnership, association or other legal entity, or any combination thereof, which own an interest in one or more condominium units.

D. "Common elements" means and includes all of the land described in Exhibit A and all the improvements thereto and thereon located, excluding units. Common elements shall consist of the general common elements and limited common elements. The common elements shall be owned, as tenants in common, by the owners of the separate units, each owner of a unit having an undivided interest in such common elements as is hereinafter provided.

(i) "General common elements" means a part of the common elements and includes the land described on Exhibit A; the structural components of the building; the service roads, if any; such improvements and portions of the building and areas therein as are provided for the community use, recreation, utility and common use of all owners; and all other parts of such land and the improvements thereon necessary or convenient to its existence, maintenance and safety which are normally and reasonably in general common use, including the air above such land. General common elements shall include all tangible physical properties of this project except limited common elements and the units.

(ii) "Limited common elements" which are either limited to and reserved for the exclusive use of an owner of a condominium unit or are limited to and reserved for the common use of more than one but fewer than all of the condominium unit owners, which shall include by way of illustration and not limitation, storage areas and parking spaces, which are specifically designated as being appurtenant to a particular unit.

E. "Condominium project" means all of the land and improvements initially submitted by this Declaration and subsequently submitted, if any, as is hereinafter provided.

F. "Declaration" means this Declaration and supplements thereto, if any.

G. "Common expenses" means and includes (i) expenses of administration, operation and management, repair or replacement of the common elements; (ii) expenses declared common expenses by the provisions

of this Declaration or by the By-Laws of the Association; (iii) all sums lawfully assessed against the common elements by the Board of Managers of the Association; and (iv) expenses agreed upon as common expenses by the Association of unit owners.

H. "Association of unit owners" or "Association" means the Association formed as a Colorado not-for-profit corporation bearing the name of Wellington - III Condominium Association, Inc., the Articles of Incorporation and By-Laws of which shall govern the administration of this condominium project, the members of which Association shall be all of the owners of the condominium units.

I. "Building" means a single building containing condominium units as shown on the Map.

J. "Map," Condominium Map" or "Supplemental Map" means and includes the engineering survey of the land depicting and locating thereon all of the improvements; the floor and elevation plans and any other drawing or diagrammatic plan depicting a part of or all of the improvements and land which are included in this condominium project.

### 3. Division of Property into Condominium Units.

A. The real property described on Exhibit A including the improvements thereon (condominium project) is hereby divided into eleven (11) fee simple estates (condominium units). Each such estate shall consist of a separately designated unit and the undivided interest in and to the common elements appurtenant to such unit set forth on Exhibit B attached hereto and incorporated by reference herein.

B. Right to Combine Condominium Units. Declarant hereby reserves the right to physically combine the area or space of one unit with the area or space of one or more adjoining units; provided, however, that Declarant shall not exercise said right without the written consent of any mortgagee having an interest in said units. In the event of any such physical combining of units to create a combined unit, such combined unit shall also include the combining of the fixtures and improvements and of the undivided interests in common elements appurtenant to the units so combined. Declarant reserves the right to designate and convey to any purchaser of any such combined unit, as additional limited common elements appurtenant thereto, any walls, floors or other structural separations between the units so combined, or any space which would be occupied by such structural separations but for the combination of such units; provided, however, that such walls, floors or other structural separations or such space shall automatically become common elements if the combined units become subject to separate ownership in the future.

4. Limited Common Elements. Subject to the definition thereof, the limited common elements shall be identified on the Map. All of the owners of condominium units in this condominium project shall have a non-exclusive right in common with all of the other owners to use of sidewalks, streets and drives located within the entire condominium project. In addition to rights of use herein described and elsewhere described in this Declaration, the Association, Board of Managers and Managing Agent shall have the unrestricted irrevocable easement to traverse, cross and utilize any portion of the common elements which may be necessary in order to maintain, repair or replace general and/or limited common elements. Except as specifically hereinabove required, no reference thereto, whether such limited common elements are exclusive or non-exclusive, need be made in any instrument of conveyance or other instrument in accordance with paragraph 5 of this Declaration.

5. Description of Condominium Unit.

A. Every contract, deed, lease, mortgage, trust deed, will or other instrument may legally describe a condominium unit by its identifying unit designation, followed by the words "Wellington - III Condominiums." The location of such condominium unit shall be depicted on the Map subsequently recorded. Upon recordation of the Condominium Map in the County of Mesa, Colorado, such description shall be conclusively presumed to relate to the thereon described condominium units.

B. Every such description shall be good and sufficient for all purposes to sell, convey, transfer, encumber or otherwise affect not only the unit, but also the undivided interest in the common elements appurtenant to said unit and all other appurtenant properties and property rights, and incorporate all of the rights and burdens incident to ownership of a condominium unit and all of the limitations thereon as described in this Declaration and Condominium Map. Each such description shall be construed to include a non-exclusive easement for ingress and egress to and from an owner's unit to the public streets adjoining the condominium project and the use of all of the limited common elements appurtenant to said unit as well as all the general common elements.

C. The reference to the Map and Declaration in any instrument shall be deemed to include any supplements or amendments to the Map or Declaration without specific reference thereto.

6. Condominium Map. The Map shall be recorded prior to the conveyance of the condominium units shown thereon and shall depict and show at least the following: the legal description of the land and a survey thereof; the location of the building in reference to the exterior boundaries of the land; the floor and elevation plans; the location of the unit within the building, both horizontally and vertically; the thickness

of the common walls between or separating the units; the condominium unit designations. The Map shall contain the certificate of a registered professional engineer, licensed architect or registered land surveyor certifying that the Map substantially depicts the location and the horizontal and vertical measurements of the units, the unit designations and the elevations of the constructed unfinished floors and ceilings, and that such Map was prepared subject to substantial completion of the improvements. In interpreting the Map, the existing physical boundaries of each separate unit as constructed shall be conclusively presumed to be its boundaries. Declarant reserves the right to amend the Map from time to time to conform the same according to the actual location of any of the constructed improvements and to establish, vacate and relocate easements as required by the providing utility companies.

7. Inseparability of a Condominium Unit. Each unit, the appurtenant undivided interest in the common elements and the appurtenant limited common elements, as well as all other appurtenances, rights and burdens, shall together comprise one condominium unit and shall be inseparable and may be conveyed, leased, devised or encumbered only as a condominium unit.

8. Separate Assessment and Taxation - Notice to Assessor. Declarant shall give written notice to the Assessor of the County of Mesa, Colorado, of the creation of the condominium ownership in this property, as is provided by law, so that each unit and the undivided interest in the common elements appurtenant thereto, shall be deemed a separate parcel for purposes of separate assessment and taxation; and Declarant, upon the request of any first mortgagee, shall furnish proof that all taxes, real estate assessments and charges shall relate only to the individual condominium unit and not to the condominium project as a whole.

9. Form of Ownership - Title. A condominium unit may be held and owned in any real property tenancy relationship recognized under the laws of the State of Colorado.

10. Non-Partitionability and Transfer of Common Elements. The common elements shall be owned in common by all of the owners of the units and shall remain undivided. Each owner specifically waives his right to institute and/or maintain a partition action or any other action designed to cause a division of the common elements, and each owner specifically agrees not to institute any action therefor. A violation of this provision shall entitle the Association to personally collect, jointly and severally, from the parties violating the same the actual attorney fees, costs and other damages the Association incurs in connection therewith. In addition to the foregoing, any decree of partition or proceeding to obtain such a decree shall be void. Further, all owners, including Declarant, covenant that they shall neither by act nor omission, seek to abandon, subdivided into subdivisions containing less than 500 square feet, encumber, sell or

transfer the common elements without first obtaining the written consent of at least 75 per cent of the first mortgagees of all of the individual condominium units. Each such first mortgagee shall have one vote for each mortgage owned by it. Any such action without the written consent of such mortgagees shall be null and void.

11. Use of General and Limited Common Elements. Each owner shall be entitled to exclusive ownership and possession of his unit. Each owner may use the appurtenant general and limited common elements and other appurtenances to his unit, in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners. The Association may adopt rules and regulations governing the use of general and limited common elements, but such rules and regulations shall be uniform and non-discriminatory and shall constitute a part of this Declaration.

12. Use and Occupancy. The units shall be used and occupied by the owner, his employees and business invitees only as and for doctors offices and other commercial activities (such as pharmacies, optical shops and laboratories) normally and usually associated with and beneficial to the primary usage as doctors offices.

13. Easements for Encroachments. In the event that any portion of the common elements encroaches upon any unit or units or in the event that any portion of a unit encroaches upon any other unit or units or upon any portion of the common elements or in the event any encroachment shall occur as a result of: (i) settling of the building, or (ii) alteration or repair to the common elements; or (iii) repair or restoration of the building or a unit after damage by fire or other casualty; or (iv) condemnation or eminent domain proceedings, a valid easement shall exist for the encroachment and for the maintenance of the same so long as the building stands. In the event that any one or more of the units or the building or other improvements comprising part of the common elements is partially or totally destroyed and is then rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding, any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment and for the maintenance thereof, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the common elements or on the units for purposes of marketability of title or other purposes. In interpreting any and all provisions of the Declaration, in subsequent unit deeds to and mortgages of units, the actual location of the unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally, vertically or laterally from the locations as indicated on the Condominium Map.

14. Termination of Mechanic's Lien Rights and Indemnification.

Subsequent to the completion of any alterations, modifications or additions to the improvements described on the Map, no labor performed or materials furnished and incorporated in a unit with the consent or at the request of the unit owner, his agent, his contractor or subcontractor, shall be the basis for filing a lien against the unit of any other unit owner not expressly consenting to or requesting the same or against the common elements. Each owner shall indemnify and hold harmless each of the other owners from and against all liability arising from the claim of any lien against the unit of any other owner or against the common elements for construction performed or for labor, materials, services or other products incorporated in the owner's unit at such owner's request. The provisions herein contained are subject to the rights of the Managing Agent or Board of Managers of the Association as set forth in paragraph 15. Notwithstanding the foregoing, any mortgagee of a unit who shall become the owner of such unit pursuant to a lawful foreclosure sale or deed in lieu of foreclosure shall not be under any obligation to indemnify and hold harmless any other owner against liability for claims arising prior to the date such mortgagee becomes an owner.

15. Wellington - III Condominium Association, Inc.

A. The interests of all owners of condominium units shall be governed and administered by the Articles of Incorporation and By-Laws of Wellington - III Condominium Association, Inc. An owner of a condominium unit upon becoming an owner shall be a member of the Association and shall remain a member for the period of his ownership.

B. The Association grants to each first mortgagee of a condominium unit the right to examine the books and records of the Association at any reasonable time. Further, the Association shall notify each first mortgagee of any condominium unit of any proposed amendment of the Association's Articles of Incorporation or By-Laws or any change in the Association's Managing Agent at least ten (10) days prior to the effective date of such amendment or change.

C. The Association shall not, unless at least 75 per cent of the holders of first mortgages or Deeds of Trust of condominium units (based upon one vote for each mortgage or Deed of Trust held) have given their prior written approval:

(i) by act or omission, seek to abandon or terminate the condominium regime;

(ii) change the pro-rata interest or obligations of any condominium unit for the purposes of levying assessments for the

common expense or allocating distributions of hazard insurance proceeds or condemnation awards;

(iii) allow the partition or subdivision of any condominium unit into subdivisions containing less than 500 square feet;

(iv) by act or omission, seek to abandon, partition, subdivide (except as herein permitted), encumber, sell or transfer the common elements;

(v) use hazard insurance proceeds for losses to any condominium property (whether to units or to common elements) for other than the repair, replacement or reconstruction of such improvements.

16. Reservation for Access - Maintenance, Repair and Emergencies.

A. The owners shall have the irrevocable right to be exercised by the Managing Agent or the Association's Board of Managers or officers, to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common elements therein or accessible therefrom, or at any hour for making emergency repairs, maintenance or inspection therein necessary to prevent damage to the common elements or to another unit.

B. Damage to the interior or any part of a unit resulting from the maintenance, repair, emergency repair or replacement of any of the common elements or as a result of emergency repairs within another unit, at the instance of the Association, shall be a common expense of all of the owners; provided, however, that if such damage is caused by negligent or tortious acts of a unit owner, his agents, employees, business invitees, licensees or tenants, then such unit owner shall be responsible and liable for all of such damage and the cost thereof shall forthwith become said unit owner's obligation and shall be paid to the Association within ten (10) days following written notice to such unit owner. All damaged improvements shall be restored substantially, to the extent reasonably practical, to the same condition in which they existed prior to the damage. All maintenance, repairs and replacement of the common elements, whether located inside or outside of units (unless necessitated by the negligence, misuse or tortious act of a unit owner, in which case such expense shall be charged to such unit owner) shall be the common expense of all of the owners. However, the Association shall not be obligated to seek redress for damages caused by a negligent owner and this covenant shall not abrogate the insurance provisions of this Declaration.

17. Maintenance Responsibility.

A. Owner:

(i) For maintenance purposes, an owner shall be deemed to own the interior non-supporting walls, the materials such as but not limited to, plaster, gypsum, drywall, paneling, wallpaper, paint, wall and floor tile and flooring, but not including the sub-flooring, which make up the finished surfaces of the perimeter walls, ceiling and floors within the unit, including unit doors and windows. Skylights shall be limited common elements and shall be maintained, repaired and replaced by the owner of the unit serviced by said skylight. The owner shall not be deemed to own lines, pipes, wire, conduits or systems (which are general common elements and for brevity are herein and hereafter referred to as "utilities") running through his unit which serve one or more other units except as a tenant in common with the other owners. Such utilities shall not be disturbed or relocated by an owner without the written prior consent and approval of the Board of Managers.

(ii) An owner shall maintain and keep in repair the interior of his own unit, including the fixtures thereof to the extent current repairs shall be necessary in order to avoid damaging other unit owners. All fixtures and equipment installed within the unit serving that unit only shall be maintained and kept in repair by the owner thereof commencing at a point where the utilities enter the unit. An owner shall do no act nor any work that will impair the structural soundness or impair the proper functioning of the utility, heating, air conditioning or plumbing systems or integrity of the building or impair any easement or hereditament. An owner shall always keep limited common elements appurtenant thereto in a clean, orderly and sanitary condition.

B. Association:

The Association shall have the duty of maintaining and repairing all of the common elements within the project and the cost of said maintenance and repair shall be a common expense of all of the owners.

18. Compliance with Provisions of Declaration, Articles of Incorporation and By-Laws of the Association. Each owner shall comply strictly with the provisions of the Declaration, the Articles of Incorporation and By-Laws of the Association, and the decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully made and amended and/or modified from time to time. Failure to comply with any of the same shall be grounds for an action to recover sums due for damages or injunctive relief or both, and for reimbursement of all

attorney's fees incurred in connection therewith, which action shall be maintainable by the Managing Agent or Board of Managers in the name of the Association on behalf of the owners, or, in a proper case, by an aggrieved owner.

19. Revocation or Amendment to Declaration.

A. Except as is otherwise provided, this Declaration shall not be revoked unless the owners representing an aggregate ownership interest of 90 per cent or more of the common elements and at least 90 per cent of the holders of recorded first mortgages or deeds of trust consent and agree to such revocation by instrument(s) duly recorded. This Declaration shall not be amended unless the owners representing an aggregate ownership interest of at least 75 per cent of the common elements and at least 75 per cent of the holders of recorded first mortgages or Deeds of Trust consent and agree to such amendment by instrument(s) duly recorded; provided, however, that the undivided interest in the common elements appurtenant to each unit, as expressed in the Declaration, shall have a permanent character and except in connection with the permissible subdivision of a unit shall not be altered without the consent of all of the condominium unit owners and all of the first mortgagees as expressed in an amended Declaration duly recorded. The consent of any junior mortgagee shall not be required under the provisions of this paragraph. In determining whether the appropriate percentage of mortgagee approval is obtained when so required by the terms of this Declaration, each first mortgagee shall have one vote for each first mortgage owned.

B. The Association shall at least thirty (30) days prior to the effective date of any amendment to this Declaration notify the holders of all recorded mortgages or deeds of trust affecting a condominium unit of such amendment.

20. Additions, Alterations and Improvements - General and Limited Common Elements. There shall be no capital additions, alterations or improvements of or to the common elements by the Association requiring an expenditure in excess of \$\_\_\_\_\_ per unit in any one calendar year without prior approval of a majority of the owners except in the event of an emergency. Such sums shall be in addition to the customary operating and ownership common expenses elsewhere defined in this Declaration.

21. Assessment for Common Expenses.

A. All owners shall be obligated to pay the estimated common expense assessments (hereinafter sometimes referred to as "Assessments") imposed by the Board of Managers or Managing Agent of the Association to meet the common expenses and reserves. The assessments shall be made in

proportion to each owner's interest in and to the common elements. Subject to specific provisions elsewhere provided in this Declaration, the limited common elements shall be maintained as general common elements, (except, however, this shall not impose upon the Association the obligation to clean interior storage spaces), and owners having exclusive use thereof shall not be subject to any special charges or assessments for the repair or maintenance thereof. Assessments for the estimated common expenses shall be due in advance on the first day of each calendar month. The managing Agent or Board of Managers shall cause to be prepared, delivered or mailed to each owner at least once each year a payment statement setting forth the estimated common expense assessments. Regarding any special assessments, the Board of Managers may implement such procedure as they deem appropriate.

B. In the event the ownership of a condominium unit, title to which is derived from Declarant, commences on a day other than the first day of the assessment period, the assessments for that period will be prorated.

C. Assessments shall be based upon the cash requirements deemed to be such aggregate sum as the Managing Agent or the Board of Managers of the Association shall from time to time determine is to be paid by all of the condominium unit owners, including Declarant, to provide for the payment of all estimated expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the common elements and personal property owned by the Association, which sum may include, but shall not be limited to, expenses of management; taxes and special assessments until separately assessed; premiums for insurance; landscaping and care of grounds; common lighting and heating; repairs and renovations; trash collections; wages; common water and sewer charges; legal and accounting fees; management fees; expenses and liabilities incurred by the Managing Agent or Board of Managers on behalf of the unit owners under or by reason of this Declaration and the Articles of Incorporation and By-Laws of the Association; for any deficit remaining from a previous period; for the creation of reasonable contingency reserve, working capital and sinking funds; as well as other costs and expenses relating to the common elements.

D. The omission or failure to fix the assessment or deliver or mail a statement for any period shall not be deemed a waiver, modification or a release of the owners from their obligations to pay the same.

E. The Association shall establish a reserve fund for replacement of the common elements and such reserve fund shall be funded through the monthly payments of the common expenses and not by extra-ordinary special assessments.

22. Insurance.

A. The Board of Managers of the Association or Managing Agent shall obtain and maintain, to the extent obtainable, policies involving standard premium rates, established by the Colorado Insurance Commissioner, and written with companies licensed to do business in Colorado and having insureds with a Best's insurance report rating of AAA or better, covering the risks set forth below. The Board of Managers of the Association or Managing Agent shall not obtain any policy where: (i) under the terms of the insurance company's charter, by-laws or policy, contributions or assessments may be made against the mortgagor or mortgagee's designee; or (ii) by the terms of carrier's charter, by-laws or policy, loss payments are contingent upon action by the company's Board of Directors, policyholders or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent mortgagees or the mortgagor from collecting insurance proceeds.

(i) Fire insurance with extended coverage and all risk endorsements, which endorsements shall include endorsements for vandalism and malicious mischief with a minimum endorsed amount of \$50,000 per accident per location, insuring the entire condominium project and any other property, the nature of which is a common element (including all of the units, fixtures therein initially installed by the Declarant but not including furniture, furnishings or other personal property supplied by or installed by unit owners) together with all service equipment contained therein in an amount equal to the full replacement value, without deduction for depreciation, and which shall contain a standard non-contributory mortgage clause in favor of each mortgagee of a condominium unit which shall provide that the loss, if any, thereunder, shall be payable to Wellington - III Condominium Association, Inc. for the use and benefit of mortgagees as their interest may appear.

(ii) Public liability and property damage insurance in such limits as to the Board of Managers may from time to time determine, but not in an amount less than \$500,000 per injury, per person, per occurrence covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the ownership, operation, maintenance and other use of the project. Said policy shall also contain a "severability of interest endorsement."

(iii) Workmen's Compensation and employer's liability insurance and all other similar insurance in respect to employees of the Association in the amounts and in the forms now or hereafter required by law.

(iv) Fidelity Insurance. The Association shall purchase, in an amount not less than 150% of the Association's estimated annual operating expenses and reserves, fidelity coverage against dishonesty of employees, destruction or disappearance of money or securities and forgery. Said policy shall also contain endorsements thereto covering any persons who serve the Association without compensation.

(v) Other. The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the project, including plate of other glass insurance and any personal property of the Association located thereon.

B. All policies of insurance to the extent obtainable shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any act of a condominium unit owner and shall provide that such policies may not be cancelled or modified without at least ten (10) days prior written notice to all of the insureds, including mortgagees. Duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all mortgagees at least ten (10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming Wellington - III Condominium Association, Inc. as the insured, as attorney-in-fact for all of the condominium unit owners, which policy or policies shall identify the interest of each condominium unit owner (owner's name and unit number designation).

C. Prior to obtaining any policy of fire insurance or renewal thereof, the Board of Managers shall obtain an appraisal from a duly qualified real estate or insurance appraiser, which appraisal shall reasonably estimate the full replacement value of the entire condominium improvements, without deduction for depreciation, for the purpose of determining the amount of the insurance to be effected pursuant to the provisions of this insurance paragraph. In no event shall the insurance policy contain a co-insurance clause for less than 90% of the full replacement cost. Determination of maximum replacement value shall be made annually by one or more written appraisals to be furnished by a person knowledgeable of replacement cost, and each mortgagee shall be furnished with a copy thereof within thirty (30) days after receipt of such written appraisals. Such amounts of insurance shall be contemporized annually in accordance with their currently determined maximum replacement value.

D. Unit owners may carry other insurance for their benefit and at their expense, provided that all such policies shall contain waivers of subrogation, and provided further that the liability of the carriers issuing insurance obtained by the Board of Managers shall not be affected

or diminished by reason of any such additional insurance carried by any unit owners.

E. Insurance coverage on furnishings, including carpet, draperies, wallpaper or other interior finishings and other items of personalty and other property belonging to an owner and public liability coverage within each unit shall be the sole and direct responsibility of the unit owner thereof, and the Board of Managers, the Association and the Managing Agent shall have no responsibility therefor.

F. In the event that there shall be any damage or destruction to, or loss to a condominium unit which exceeds \$1,000 or any damage or destruction to, or loss to the common elements which exceeds \$10,000, then notice of such damage or loss shall be given by the Association to each first mortgagee of said unit within ten (10) days after the occurrence of such event.

23. Owner's Personal Obligation for Payment of Assessments. The amount of the common expenses assessed against each condominium unit shall be the personal and individual debt of the owner thereof. No owner may exempt himself from liability for his contribution for the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of his unit. In the case of corporate owners, the individual stockholders or members of the corporation shall at the time of initial purchase by the corporation execute a guaranty of payment of the corporate owners liability hereunder. Both the Board of Managers and Managing Agent shall have the responsibility to take prompt action to collect any unpaid assessment which remains unpaid for more than twenty (20) days from the due date for payment thereof. In the event of default in the payment of the assessment, the unit owner shall be obligated to pay interest at the rate of 10% per annum on the amount of the assessment from due date thereof, together with all incurred expenses, including attorney's fees, together with such late charges as shall be provided by the By-Laws of the Association. A suit to obtain a money judgment for unpaid common expenses shall be maintainable without constituting an election of remedies or waiving the lien securing said debt.

24. Assessment Lien.

A. All sums assessed but unpaid for the share of common expenses chargeable to any condominium unit shall constitute a lien on such unit superior to all other liens and encumbrances, except only for real estate taxes and special assessments liens on the condominium unit in favor of any public or quasi-public assessing entity, and all sums unpaid on a first mortgage or first deed of trust of record, including advances and all unpaid obligatory sums as may be provided by such encumbrances. To evidence such lien, the Board of Managers or the Managing Agent shall

prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of the accrued interest and late charges thereon, the name of the owner of the condominium unit and a description of the condominium unit. Such a notice shall be signed by one of the Board of Managers or by one of the officers of the Association or by the Managing Agent and shall be recorded in the office of the Clerk and Recorder of the County of Mesa, Colorado. Such lien shall attach on the date the Notice of Assessment is recorded. Such lien may be enforced by the foreclosure of the defaulting owner's condominium unit by the Association in like manner as a mortgage on real property upon the recording of a notice or claim thereof.

B. The owner shall be required to pay the costs, expenses and attorney's fees incurred in regard to any such default by an owner and for preparation and filing the lien, and, in the event of foreclosure proceedings, all additional costs, expenses and attorney's fees incurred. The owner of the condominium unit being foreclosed shall be required to pay to the Association the monthly common expense assessment for the condominium unit during the period of foreclosure, and the Association shall be entitled to a receiver to collect the same. The Association shall have the power and authority to bid for the condominium unit at a foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same during such proceeding and its ownership thereof.

C. Any encumbrancer holding a lien on a condominium unit may pay, but shall not be required to pay, any unpaid common expenses payable with respect to such unit, and upon such payment, such encumbrancer shall have a lien on such unit for the amounts paid of the same rank as the lien of his encumbrance without the necessity of having to record a notice or claim of such lien. Upon request of a mortgagee, the Association shall report to the mortgagee of a condominium unit any unpaid assessments remaining unpaid for longer than thirty (30) days after the same is due, or other default of any covenant, condition, obligation or term of this Declaration not cured within thirty (30) days, provided, however, that a mortgagee shall have furnished to the Managing Agent, if any, and to the Board of Managers, notice of such encumbrance.

D. The recorded lien may be released by recording a Release of Lien to be executed by an officer of the Association or by a duly authorized representative of the Managing Agent on behalf of the Association.

26. Liability for Common Expenses Upon Transfer of Condominium is Joint.

A. The grantee of a condominium unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the unpaid common assessments up to the time of the grant or conveyance, without prejudice to the grantee's rights to recover from the grantor the amounts paid by the grantee therefor; provided, however, that upon payment of a reasonable fee periodically established by the Board of Managers, and upon written request, any such prospective grantee shall be entitled to a statement from the Managing Agent or Board of Managers of the Association, setting forth the amount of the current monthly assessment, the date that such assessment becomes due and credits for any advanced payments of common expenses and prepaid items, such as insurance premiums, but not including accumulated amounts for reserves, if any, which statement shall be conclusive upon the Association. Unless such request for such a statement shall be complied with within twenty (20) days from receipt thereof, then such requesting grantee shall not be liable for, nor shall the unit conveyed be subject to a lien therefor, together with all costs of collection, interest, penalties and reasonable attorney's fees.

B. Upon payment to the Managing Agent, or if there is no Managing Agent, then the Board of Managers of the Association, of a reasonable fee periodically established by the Board of Managers, and upon the written request of any owner or any mortgagee or prospective mortgagee, of a condominium unit, the Association, by its Managing Agent, or if there is no Managing Agent, then by an officer of the Association, shall issue a written statement setting forth the amount of the unpaid common expenses, if any, with respect to the subject unit, the amount of the current monthly assessment and the date that such assessment becomes due, credit for any advanced payments of common assessments and for prepaid items (such as insurance premiums, but not including accumulated amounts for reserves, if any), which statement shall be conclusive upon the Association in favor of all persons who rely thereon in good faith. Unless such request for a statement of indebtedness shall be complied within within twenty (20) days from receipt thereof, all unpaid common expenses which become due prior to the date of making such request shall be subordinate to the rights of the person requesting such statement.

C. Notwithstanding the terms and conditions of paragraph 25A, supra, in the event of any default on the part of any owner under any first mortgage or first deed of trust which entitles the holder thereof to foreclose the same, any sale under such foreclosure, including delivery of a deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of paragraph 24A relating to the liability of a grantee for the unpaid assessments of his grantor. Further, no first mortgagee shall be liable for any unpaid common expense assessments

accruing prior to the time such mortgagee becomes the owner of any condominium unit.

26. Encumbrances - Priority. The owner of a condominium unit may create junior mortgages (junior to the lien, deed of trust or other encumbrances of the first mortgagee), liens or encumbrances on his condominium unit; provided, however, that any such junior mortgages, liens or encumbrances shall always be subordinate to the prior and paramount lien of the Association for common expenses and all of the terms, conditions, covenants, restrictions, uses, limitations and obligations under this Declaration, Association Articles of Incorporation and By-Laws; and provided further that such junior encumbrancer(s) shall release, for purposes of restoration of any improvements upon the encumbered condominium unit, all of his right, title and interest in and to the proceeds under all insurance policies upon said premises by the Association. Such release shall be furnished forthwith by a junior mortgagee upon written request of the Association, and if such release is not granted, such release may be executed by the Association as attorney-in-fact for such junior mortgage.

27. Destruction, Damage or Obsolescence - Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact to deal with the property upon its destruction or damage, for its repair, reconstruction or obsolescence and to maintain, repair, replace and improve condominium units, buildings and common elements, or any portion thereof. Title to any condominium unit is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other instrument of conveyance from the Declarant or from any owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the owners irrevocably constitute and appoint Wellington - III Condominium Association, Inc., as their true and lawful attorney in their name, place and stead, for the purposes of dealing with the property upon its damage or destruction or obsolescence as is hereinafter provided. As Attorney-in-Fact, the Association, by its President and Secretary or Assistant Secretary or its other duly authorized officers and agents, shall have full and complete authorization, right and power to make, execute and deliver any contract, deed or other instrument with respect to the interests of a condominium unit owner which are necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of all of the condominium unit owners shall be held within thirty (30) days of either such event. At such meeting a new attorney-in-fact, to deal with the property upon its destruction, damage or obsolescence, shall be appointed. Said appointment must be approved by the owners representing an aggregate ownership interest of 70% or more of the common elements and 70% of the first lienholders of record. Repair and reconstruction of the improvements as used in the succeeding subparagraphs means restoring the improvements to substantially

the same condition in which they existed prior to the damage, with each unit and the general and limited common elements have substantially the same vertical and horizontal boundaries as before. The proceeds of any insurance collected shall be available to the Association for the purpose of repair, restoration, reconstruction or replacement unless all of the owners and all first mortgagees agree not to rebuild in accordance with the provisions hereinafter set forth.

A. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvement(s), shall be applied by the Association, as attorney-in fact, to such reconstruction, and the improvement(s) shall be promptly repaired and reconstructed. The Association shall have full authority, right and power as attorney-in-fact to cause the repair and restoration of the improvement(s). Assessments for common expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

B. If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is not more than 50% of the total replacement cost of all of the condominium units in this project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the owners and their condominium units. Such deficiency assessment shall be a common expense and made pro rata according to each Owner's interest in the common elements and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right and power as attorney-in-fact, to cause the repair, replacement or restoration of the improvement(s) using all of the insurance proceeds for such purpose, notwithstanding the failure of an owner to pay the assessment. The assessment provided for herein shall be a debt of each owner and a lien on his condominium unit and may be enforced and collected as is provided in paragraph 24. In addition thereto, the Association, as attorney-in-fact, shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such deficiency assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association, as attorney-in-fact, pursuant to the provisions of this paragraph. Assessments for common expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notice, interest at a rate which is periodically promulgated by the Board of Managers or its agents, on the amount of the assessment and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association, as attorney-in-fact, in the following order:

- (i) For payment of the balance of the lien of any first mortgage;
- (ii) For payment of taxes and special assessment liens in favor of any assessing entity and the customary expenses of sale;
- (iii) For payment of unpaid common expenses and all costs, expenses and fees incurred by the Association;
- (iv) For payment of junior liens and encumbrances in the order of and to the extent of their priority; and
- (v) The balance remaining, if any, shall be paid to the condominium unit owner.

C. If the insurance proceeds are insufficient to repair and reconstruct the improvement(s), and if such damage is more than 50% of the total replacement cost of all of the condominium units in this project, not including land, such damage or destruction shall be promptly repaired and reconstructed by the Association, as attorney-in-fact, using the proceeds of insurance and the proceeds of a special assessment to be made against all of the owners and their condominium units; provided, however, that owners representing an aggregate ownership interest of 75% or more of the common elements and at least 75% of the first mortgagees of record may agree not to repair or reconstruct the improvements, and in such event, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire remaining premises shall be held by the Association pursuant to the provisions of this paragraph, as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map, Articles of Incorporation and By-Laws. Assessments for common expenses shall not be abated during the period prior to sale. The insurance settlement proceeds shall be collected by the Association, and such proceeds shall be divided by the Association according to each owner's interest in the common elements, and such divided proceeds shall be paid into separate accounts, each such account representing one of the condominium units. Each such account shall be in the name of the Association and shall be further identified by the condominium unit designation and the name of the owner. From each separate account, the Association, as attorney-in-fact, shall forthwith use and disburse the total amount of each of such accounts, without contribution from one account to another, toward the partial or full payment of the lien of any first mortgagee against the condominium unit represented by such separate account. Thereafter, each such account shall be supplemented by the apportioned amount of the proceeds obtained from the sale of the entire property. Such apportionment shall be based upon each condominium unit owner's interest in the common elements. The total funds of each account

shall be used and disbursed, without contribution from one account to another, by the Association as attorney-in-fact for the same purposes and in the same order as is provided in subparagraph B(1) through (v) of this paragraph. In the event that the damage is to be repaired or reconstruction is to be made, then the provisions of Section 27B shall apply.

D. The owners representing an aggregate ownership interest of 80% or more of the common elements in this project may agree that the common elements are obsolete and adopt a plan for the renewal and reconstruction, which plan has the approval of at least 75% of the first mortgagees of record at the time of the adoption of such plan. If a plan for the renewal or reconstruction is adopted, notice of such plan shall be recorded, and the expense of renewal and reconstruction shall be payable by all of the owners as a common expense, whether or not they have previously consented to the plan of renewal and reconstruction. The Association as attorney in fact shall have the absolute right and power to sell the condominium unit of any owner refusing or failing to pay such assessment within the time provided, and if not so paid, the Association shall cause to be recorded a notice that the condominium unit of the delinquent owner shall be sold by the Association. The delinquent owner shall be required to pay to the Association the costs and expenses for filing the notice, interest at the rate which shall be periodically promulgated by the Board of Managers, or its agents, on the amount of the assessment, and all reasonable attorney's fees. The proceeds derived from the sale of such condominium unit shall be used and disbursed by the Association as attorney-in-fact for the same purposes and in the same order as is provided in subparagraphs B(1) through (v) of this paragraph.

E. The owners representing an aggregate ownership interest of 80% or more of the common elements in this project may agree that the condominium units are obsolete and that the same should be sold. Such plan or agreement must have the approval of at least 75% of the first mortgagees of record at the time of the adoption of such plan. In such instance, the Association shall forthwith record a notice setting forth such fact or facts, and upon the recording of such notice by the Association's President and Secretary or Assistant Secretary, the entire premises shall be sold by the Association as attorney-in-fact for all of the owners, free and clear of the provisions contained in this Declaration, the Map, the Articles of Incorporation and the By-Laws. The sale proceeds shall be apportioned among the owners on the basis of each owner's interest in the common elements, and such apportioned proceeds shall be paid into separate accounts, each such account representing one condominium unit. Each such account shall be in the name of the Association and shall be further identified by the condominium unit designation and the name of the owner. From each separate account, the Association as attorney-in-fact shall use and disburse the total amount of each of such accounts, without

contribution from one account to another, for the same purposes and in the same order as is provided in subparagraphs B(i) through (v) of this paragraph.

28. Condemnation. If at any time or times during the continuance of the condominium ownership pursuant to this Declaration all or any part of the condominium project shall be taken or condemned by any public authority or sold or otherwise disposed of in lieu of or in avoidance thereof, the following provisions of this Article shall apply:

A. Proceeds. All compensation, damages or other proceeds therefrom, the sum of which is hereafter called the "Condemnation Award," shall be payable to the Association.

B. Complete Taking.

(i) In the event that the entire condominium project is taken or condemned, or sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership pursuant hereto shall terminate. The Condemnation Award shall be apportioned among the owners on the same basis of each condominium unit owner's interest in the common elements provided that if a standard difference from the value of the property as a whole is employed as the measure of the Condemnation Award in the negotiation, judicial decree or otherwise, then in determining such shares the same standard shall be employed to the extent it is relevant and applicable.

(ii) On the basis of the principle set forth in the last preceding paragraph, the Association shall as soon as practicable determine the share of the condemnation award to which each owner is entitled. Such shares shall be paid into separate accounts and disbursed as soon as practicable in the same manner provided in Section 27B(i) through (v).

C. Partial Taking. In the event that less than the entire condominium project is taken or condemned, sold or otherwise disposed of in lieu of or in avoidance thereof, the condominium ownership hereunder 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 Association shall reasonably and in good faith, allocate the Condemnation Award between compensation, damages or other proceeds and shall apportion the amounts so allocated among the owners as follows:

(i) the total amount allocated to taking of or injury to the common elements shall be apportioned among the owners on the basis of each owner's interest respectively in the common elements;

(ii) the total amount allocated to severance damages shall be apportioned to those condominium units which were not taken or condemned;

(iii) the respective amounts allocated to the taking of or injury to a particular unit and to improvements an owner has made within his own unit shall be apportioned to the particular unit involved; and

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

If an allocation of the condemnation award is already established in negotiations, judicial decree or otherwise, then in allocating the Condemnation Award, the Association shall employ such allocation to the extent it is relevant and applicable. Distribution of apportioned proceeds shall be disbursed as soon as practicable in the same manner provided in Section 27B(i) through (v).

D. The Association shall notify each first mortgagee of any condominium unit of the commencement of the condemnation proceedings and shall notify said mortgagees in the event of the taking of all or any part of the common elements, if the value of the common elements taken exceeds \$10,000.

29. Reorganization. In the event a partial taking results in the taking of a complete unit, the owner thereof automatically shall cease to be a member of the Association and shall cease to hold any right, title or interest in the remaining common elements. Thereafter, the Association shall reallocate the ownership, voting rights and assessment ratio in accordance with this Declaration according to the same principles employed in this Declaration at its inception (square footage ratio) and shall submit such reallocation to the owners and to first mortgagees of the remaining units for amendment of this Declaration as provided in Section 19.

30. Reconstruction and Repair. Any reconstruction and repair necessitated by condemnation shall be governed by the procedures specified in Section 27.

31. Registration of Mailing Address. Each owner and first mortgagee shall register his mailing address with the Association and notices or demands intended to be served upon an owner shall be sent by mail, postage prepaid, addressed in the name of the owner and first mortgagee at such registered address. Copies of such notices shall be sent to first mortgagees in a like manner, except when such notices pertain to matters

specifically relating to mortgagees, in which case such notice shall be sent certified, return receipt requested or registered.

32. Period of Condominium Ownership. The separate condominium estates created by this Declaration and the Map shall continue until this Declaration is revoked in the manner as is provided in Section 19 of this Declaration or until terminated in the manner as is provided in Sections 27 and 28 of this Declaration.

33. Assessment Reserves. Each owner, other than the Declarant, shall be required to deposit at time of initial purchase and thereafter to maintain with the Association the amount as set forth on Exhibit B opposite the particular unit in question, which sum shall be used for the Managing Agent or Board of Managers as a reserve for paying such owner's monthly common assessment, for capital repairs and/or replacements, purchase of equipment and for extraordinary common expenses. Such advance payment shall not relieve an owner from making the regular monthly common assessments as the same come due. Upon the sale of his condominium unit, an owner shall be entitled to a credit from his grantee for any unused portion thereof. Failure to so maintain said fund shall constitute a default on behalf of an owner. Said funds may be co-mingled and/or invested in common investments. Any interest accruing on such deposit shall not be required to be distributed by the Association. However, such interest, if any, for tax purposes is hereby recognized and declared to be a constructive receipt received by owner.

34. Association Right to Acquire Additional Property.

A. The Board of Managers may acquire and hold for the benefit of all of the condominium unit owners tangible personal property and may dispose of the same by sale or otherwise. The beneficial interest in any such property shall be owned by all of the condominium unit owners in the same proportions as their respective interests in the common elements, and such interest therein shall not be transferable except with a conveyance of a condominium unit. A conveyance of a condominium unit shall transfer to the grantee ownership of the grantor's beneficial interest in all such property interests associated with and appurtenant to the subject condominium unit.

B. The owners of the condominium units described in Exhibit B shall have a perpetual non-exclusive easement in common with all other condominium unit owners in this condominium project, on, over and across driveways and extensions thereof which are located on the condominium project for purposes of ingress and egress to and from the units from the public street which adjoins the condominium project and any other common element (e.g. area and facility) so designated on the Map or Maps; subject, however, to reasonable regulations adopted and amended by the Association.

35. Acceptance of Provisions of All Documents. The conveyance of a condominium unit shall be deemed to include the acceptance of all of the provisions of this Declaration, the Articles of Incorporation and Association By-Laws and Rules and Regulations and Management Agreement and shall be binding upon each grantee or encumbrancer without the necessity of inclusion of such an express provision in the instrument of conveyance or encumbrance.

36. Professional Manager. The Association may employ a Professional Manager for the management of this condominium project; provided, however, that the term of any Management Agreement shall not exceed three (3) years and shall provide for termination on ninety (90) days written notice by either party.

37. Subdivision of Units. Notwithstanding anything contained herein to the contrary, units may be subdivided subject to the following terms and conditions:

A. Any subdivision of a unit must be approved by the Mesa County Planning Commission and Building Department.

B. Any subdivision of a unit shall be subject to the approval of the first lienholder of the unit.

C. Any subdivision of a unit into sub-units containing less than 500 square feet shall be subject to the approval of 75% of the first lienholders and owners of all units.

D. In the event of a permissible subdivision of a unit, the common elements pertaining to that unit shall be apportioned in the ratio that the square footage of each subdivision of a unit bears to the total square footage of the entire unit.

38. Right of First Refusal.

A. In the event any owner of a condominium unit other than the Declarant wishes to sell or lease such unit and receives a bona fide offer therefor from a prospective purchaser or tenant, such owner shall give a written notice thereof to the Board of Directors or Managing Agent together with an executed copy of such offer. The Board of Directors or Managing Agent shall then notify the owners of such offer by giving written notice thereof. One or more of the owners shall have the right to purchase or lease the condominium unit upon the same terms and conditions as set forth in the offer. Those owners giving notice to the Board of Directors or Managing Agent shall have the first right to purchase or lease; provided, however, that such written notice of such election to purchase or lease and a matching down payment or deposit is given to the selling or leasing owner

on or before ten (10) days immediately following the delivery of the notice of the bona fide offer and copies thereof.

B. If any owner other than Declarant attempts to sell or lease his condominium unit without affording to the other owners the right of first refusal herein provided, such sale or lease shall be wholly null and void and shall confer no possessory rights, title or interest whatsoever upon the intended purchaser or lessee.

C. All liabilities and obligations of the owner under these covenants shall continue notwithstanding the fact that he may have leased said interest as provided herein.

D. The rights of first refusal reserved herein shall not affect the right of an owner to subject his interest to a trust deed, mortgage or other security instrument, but the provisions regarding encumbrances shall apply.

E. Failure of or refusal to exercise the right to so purchase or lease shall not constitute or be deemed a waiver of such right to purchase or lease when such owner or any successor receives any subsequent bona fide offer from a prospective purchaser or tenant.

F. The right of first refusal, as provided herein, shall extend for and run for a period of twenty-five (25) years from the date of recording this Declaration.

G. Except as otherwise provided in Section 39, and except upon a transfer of title to a Public Trustee or to a first mortgagee, each grantor of a condominium unit, subsequent to the original conveyance thereof by Declarant, in transferring or conveying his interest, shall incorporate in such instrument of conveyance an agreement that the grantee shall carry out the provisions of the "right of first refusal" herein provided; provided, however, that grantor's failure to so do shall in no way affect such right.

39. Exempt Transfer.

A. In the event of any default on the part of any owners under any first mortgage which entitled the holder thereof to foreclose same, any sale under such foreclosure, including delivery of a bona fide deed to the first mortgagee in lieu of such foreclosure, shall be made free and clear of the provisions of Section 39, and the purchaser (or grantee under such deed in lieu of foreclosure) of such condominium unit shall thereupon and thereafter be subject to the provisions of this Declaration and By-Laws. If the purchaser following such foreclosure sale (or grantee under deed given in lieu of such foreclosure) shall be the then holder of the first mortgage, or its nominee, said holder or nominee may thereafter sell and

convey the condominium free and clear of the provisions of Section 38, but its grantee shall thereupon be subject to all of the provisions thereof.

B. In addition to transfer by Declarant, the following transfers are exempt from the provisions of Section 38; provided, however, that further transfers shall be subject thereto except as provided herein:

(i) The transfer by operation of law of a deceased joint tenant's interest to the surviving joint tenant(s).

(ii) The transfer of a deceased's interest to a devisee by will or his heirs at law under intestacy laws.

(iii) The transfer of all or any part of a partner's interest as a result of withdrawal, death or otherwise, to the remaining partners carrying on the partnership business.

(iv) The transfer of a corporation's interest to the persons formerly owning the stock of the corporation as a result of a dissolution, or a transfer to the resulting entity following a corporate merger or consolidation; provided, however, that at least 50% of the stock of the resulting entity is owned by the stockholders of the corporation formerly owning the condominium unit.

C. If an owner of a condominium unit can establish to the satisfaction of the Managing Agent or Board of Directors that a proposed transfer is not a sale or lease, then such transfer shall not be subject to the provisions of Section 38.

D. Upon written request of any prospective transferor, purchaser, tenant or an existing or prospective mortgagee of any condominium unit, the Managing Agent or Board of Directors of the Association shall forthwith, or where time is specified, at the end of the time, issue a written and acknowledged certificate in recordable form evidencing that:

(i) With respect to proposed lease or sale under Section 38, that proper notice was given by the selling or leasing owner and that the remaining owners did not elect to exercise their option to purchase or lease.

(ii) With respect to a deed to a first mortgagee or its nominee in lieu of foreclosure, and a deed from each first mortgagee or its nominee, pursuant to Section 38, that the deeds were in fact given in lieu of foreclosure and were not subject to the provisions of Section 38.

(iii) With respect to any contemplated transfer which is not in fact a sale or lease, that the transfer will not be subject to the provisions of Section 38, such a certificate shall be conclusive evidence of the facts contained therein.

40. Annexation. The real property described on Exhibit "C" attached hereto may be annexed by Declarant without the consent of the owners or lienholders at any time prior to December 31, 1983. Said annexation shall occur when Declarant records a Certificate of Annexation describing said real property, and on the date of recording said certificate, said real property shall be deemed to be a part of Wellington - III Condominiums defined herein and shall be subject to all of the terms and conditions of this Declaration. Property in addition to the above-described real property may be annexed only upon the consent of 51 % of the owners and 100 % of the first lienholders.

41. General.

A. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstances be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

B. "Declarant" as used herein means the named Declarant, its successors and assigns.

C. The provisions of this Declaration shall be in addition to and supplemental to the Condominium Ownership Act of the State of Colorado and to all other provisions of law.

D. That whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.



STATE OF COLORADO )  
 ) ss  
COUNTY OF MESA )

The above and foregoing was subscribed and sworn to before me this 30th day of November, 1981, by Patrick A. Gormley as President and SHIRLEY A DAVIS as Secretary of Mesa Federal Savings and Loan Association of Grand Junction.

My commission expires:

*August 8, 1984*

Witness my hand and official seal.



*Ivan R. Kessler*

Notary Public

Address:

1000 NORTH 9th STREET  
GRAND JUNCTION, CO 81501

EXHIBIT A  
TO  
CONDOMINIUM DECLARATION FOR  
WELLINGTON - III CONDOMINIUMS

Lot 1, WELLINGTON BUSINESS PARK, Mesa County, Colorado

EXHIBIT A

EXHIBIT B  
TO  
CONDOMINIUM DECLARATION FOR  
WELLINGTON - III CONDOMINIUMS

The real property described in Exhibit A is hereby divided into the following fee simple estates:

A. Eleven fee simple estates consisting of eleven separately designated units, each such unit being identified by number on the Map.

B. The remaining portion of the entire premises referred to as the common elements which shall be held (in fee simple) in common by the owners, each such undivided interest being appurtenant to one of the eleven units. Declarant does hereby establish each undivided interest in the common elements appurtenant to each of the units as follows:

Unit No.	Interior Sq.Ft. of Unit	Prorata Share of Common Area Plus Unit Area	Per Cent of Common Elements	Assessment Reserves
101	2422.1	3611.1	11.14	557.00
102	849.0	1265.8	3.90	195.00
103	4215.7	6285.2	19.39	969.50
104	796.7	1197.0	3.69	185.00
105	2500.9	3719.4	11.47	573.00
201	1935.1	2885.0	8.90	445.00
202	1336.1	1992.0	6.14	307.00
203	2071.0	3087.6	9.52	476.00
204	2192.4	3268.6	10.08	504.00
205	1363.2	2032.4	6.27	313.50
206	2065.0	3078.7	9.50	475.00
Totals	21747.2	32422.8	100.00	5000.00

Exhibit B

EXHIBIT C  
TO  
CONDOMINIUM DECLARATION FOR  
WELLINGTON III - CONDOMINIUMS

Lot 2 of Wellington Business Park, a subdivision located in the City of Grand Junction, State of Colorado, lying in part of the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 11, Township 1 South, Range 1 West of the Ute Meridian, except the following described parcel:

Beginning at the SW Corner of said Lot 2, Wellington Business Park; thence North 01°07'00" East 303.90 feet; thence South 64°00'00" East 48.79 feet; thence along the arc of a curve to the left whose radius is 225.00 feet and whose long chord bears South 71°45'00" East 60.68 feet; thence South 79°30'00" East 80.00 feet; thence along the arc of a curve to the right whose radius is 165.00 feet and whose long chord bears South 49°30'00" East 165.00 feet; thence South 19°30'00" East 47.50 feet; thence South 00°00'00" West 96.94 feet to a point on the South line of said Lot 2, Wellington Business Park; thence North 90°00'00" West along said South line of Lot 2, Wellington Business Park, a distance of 327.38 feet to the True Point of Beginning, subject to easements for road and utility purposes to be used in common by all owners of lots or portions of lots within said Subdivision as stated by Declaration made by Wellington III, a Colorado joint venture, and P-H Management, Inc., a Colorado corporation, dated September 22, 1981, recorded September 25, 1981, in Book 1335, page 193.

EXHIBIT C