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**HILLTOP CONDOMINIUM
SECTION-TWO "A"
&
SECTION-TWO "B"**

**Declaration of
Covenants, Conditions**

JOE D. PEGG
RECORDER

and

JUL 6 1 47 PM '73

MONTGOMERY CO., OHIO
RECORDED

Fee 51⁰⁰

Restrictions

of Ownership

Condominiums by HUBER HOMES, INC.



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HILLTOP CONDOMINIUM

DECLARATION

SECTION TWO A and TWO B

General Plan

This Declaration is made for the purposes hereinafter set forth, as of the 25 day of May 1973, by HUBER HOMES, INC., an Ohio Corporation, (hereinafter called the "Declarant").

Whereas, the Declarant holds record title to certain real estate situated in the Township of Wayne, Montgomery County, Ohio, now described as:

Lot 11149, Herbert C. Huber Plat No. 51, Section Three, as recorded in Plat Book 91, Page 110, of the Plat Records of Montgomery County, Ohio. (Exhibit A Part I, hereinafter called the "Property").

Whereas, Declarant desires to cause to be developed and constructed on the property a residential community without commercial facilities (hereby named and herein sometimes called "Hilltop Condominium Section Two A" and "Hilltop Condominium Section Two B") designed for the purpose of obtaining for the owners and residents thereof the benefits of more effective and attractive land use, privacy and security, and freedom from the burdens of individual maintenance and repair of grounds and of exterior surfaces of the structures thereon.

Whereas, Hilltop Condominium Section Two A, will be established by filing for record in the office of the Recorder of Montgomery County, Ohio a replat of a part of the Property to be known and described of record thereafter as Hilltop Condominium Section Two A, which property is hereby declared to be subject to all the covenants, conditions and restrictions contained herein. A description of said part of the Property is attached hereto as Exhibit A, Part II.

At a later date, Hilltop Condominium Section Two B will be annexed by establishing on the remaining part of the property a Condominium which will incorporate all of the terms of this Declaration by reference and which will re-apportion 49.5% of the undivided interest in a part of the Property described in Exhibit A, Part III.

Whereas, Hilltop Condominium, Section Two A, will consist of five residential buildings, each containing seven individual single family, without basement, dwelling units, including an attached patio and outside storage cabinet, and one containing eight individual single family without basement, dwelling units, including an attached patio and outside storage cabinet, one of which unit shall be a

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non-residential unit without interior walls, which unit shall be numbered 12112, conveyed to and owned and maintained by the Property Owners Association for maintenance and storage purposes after December 15, 1973. Construction shall be frame and brick veneer and concrete or wood floors and wood framing. The dwelling units shall be numbered 12077 thru 12111, and 12113 thru 12119, inclusive, on the Record Plan, with the approximate area, number of rooms and other data necessary for the proper identification of each dwelling unit to be as set forth on the Record Plan as recorded and as shown on Exhibit C Part I. Hereinafter, such respective numbered individual dwelling units thereon are called "Residential Units", and the owners thereof are called "Residential Owners".

Whereas, the remainder of the Property (other than Residential Units delineated and described on the Record Plan by Unit number) shall be common areas and facilities (herein called the "Commons" and the "Limited Commons") which together with all of the land shall be owned in percentages as set forth on the Record Plan as computed in ratio in the proportion that the fair value of the unit bears to the aggregate value of all of the units having an interest in the Commons. See Exhibit C, Part II.

Now, therefore, said Declarant, the fee owner of the real property described on Exhibit A Part I hereby makes the following declaration as to divisions, covenants, restrictions, limitations, conditions and uses to which the real estate described on Exhibit A Part II or parts thereof, and improvements thereon, may be put, hereby specifying that these Declarations shall constitute covenants to run with the land and shall be binding on said Declarant, its successors and assigns, and all subsequent owners of all or any part of the real property and improvements subjected to these Declarations in accordance with its terms, together with their grantees, successors, heirs, executors, administrators, devisees or assigns, all in accord with Chapter 5311 of the Ohio Revised Code.

ARTICLE I

Definitions

1.01. "Declarant" shall mean Huber Homes, Inc., an Ohio Corporation, its successors and assigns.

1.02. "Property" shall mean all of the property described on Exhibit A Part I attached hereto and by this reference made a part hereof.

1.03. "Condominium Property" shall mean such part of the Property as may from time to time be subject to these Declarations together with all improvements and appurtenances thereto. Hilltop Condominium Section Two A being that part herein declared (See Exhibit A Part II). Hilltop Condominium Section Two B being that part to be declared (See Exhibit A Part III).

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1.04. "Association" shall mean and refer to Hilltop Condominium Section Two Property Owners Association, an Ohio not-for-profit corporation, its successors and assigns. (See Exhibit D Part I).

1.05. "Residential Unit" (Sometimes called "Unit") shall mean such of the Condominium Property as is individually and separately owned and being that part of the property within a building, including one or more rooms, occupying one or more floors or a part thereof, designed and intended for any type of independent use and having access to common elements and more specifically described and graphically shown on attached Exhibit B. Each Residential Unit consists of the space enclosed or bounded by the undecorated surfaces of the perimeter walls and interior surfaces and horizontal and vertical planes set forth in the delineation thereof in Exhibit B. Every deed, lease, mortgage, or other instrument may legally describe a unit by its identifying number or symbol, and every such description shall be deemed good and sufficient for all purposes. No Unit Owner shall, by deed, plat or otherwise, subdivide or in any other manner cause his unit to be separated into any tracts or parcels smaller than the whole unit as shown on Exhibit B, and every deed, mortgage, lease or other instrument affecting title to a Unit shall include therein both the interest in the Unit and the corresponding percentage of ownership in the Common Elements, whether or not such percentage interest is specifically stated, it being the intention hereof to prevent any severance of such combined ownership. Except as a tenant in common with other owners, no Owner shall own any pipes, wires, ducts, conduits, public utility lines, or structural components running through his Unit and serving more than his Unit, whether or not such items shall be located in the floors, ceilings, or perimeter or interior walls of the Unit.

1.06. "Limited Commons" shall mean such portion of the common elements designed or intended for such independent use by Unit Owners, as is not integral to the use and enjoyment of the units as independent single family dwellings. By way of illustration (but not in limitation), said term includes storage areas, and patios immediately adjacent to each Residential Unit, and automobile carports as are designated on the attached Exhibit C, Part I and Part III. Cement pads of approximately 3 feet by 3 feet in dimension, when elected as an option upon purchase or subsequently installed, are to be located adjacent to the patios and next to the buildings only, and shall be included, where installed, in the definition of Limited Commons.

1.07. "Commons" shall mean all of the Condominium Property except that which is specifically defined and referred to as Residential Units and including specifically both Limited Commons and Unit 12112 which, despite its undivided character, may be conveyed to the Association for purposes of convenience to Public Authorities in record keeping purposes. Each owner shall own an undivided interest in the Commons and Limited Commons as a tenant in common with all the other owners of the Property, and, except as otherwise limited in this Declaration, especially as to Limited Commons, shall have the right to use the Commons for all purposes incident to the use

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and occupancy of his Unit as a place of residence, and such other incidental uses permitted by this Declaration, which right shall be appurtenant to and run with his Unit. Declarant has determined each Unit's corresponding percentage of Ownership in the Commons and Limited Commons in accordance with the Statute and the same is hereby declared to be as set forth in the attached Exhibit C part II. Reference herein to Commons shall include Limited Commons when not inconsistent with the definitions herein contained.

1.08. "Residential Owner" shall mean and refer to the Owner of a Unit, being that person or persons whose estates or interests, individually or collectively, aggregate fee simple absolute ownership of a Unit.

1.09. "Occupant" shall mean person or persons, other than Owner, in possession.

1.10. "Person" shall mean a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

ARTICLE II

Establishment of Hilltop Condominium Section Two A

2.01. Hilltop Condominium, Section Two A, will be established by filing for record in the office of the Recorder of Montgomery County, Ohio, a condominium plan of the part of the Property described on Exhibit A Part I, being a 4.111 Acre parcel described in Exhibit A Part II, hereinafter referred to as "Hilltop Condominium Section Two A". When the additional part of the property, being a 3.683 Acre parcel described on Exhibit A Part III, is made subject to this Declaration, such will be accomplished by filing for record an instrument incorporating this Declaration by reference so that both sections shall constitute and comprise a single Condominium, subject to these Declarations. The percentage of ownership in the Commons of this Condominium on the remaining part of the Property described on Exhibit A Part III is shown in Exhibit C Part II; provided, however, that anything contained herein and said Exhibit to the contrary notwithstanding prior to the establishment of Hilltop Condominium Section Two B, the percentage of ownership in the Commons shall be a pro-rata portion based on the percentages shown in Exhibit C Part II.

2.02. Each Section of the Condominium Record Plan shall delineate and show the precise location of each Unit located within the bounds of such plan, with the Units being consecutively numbered starting with Unit 12077 in Hilltop Condominium Section Two A and continuing with Unit 12120 in Hilltop Condominium Section Two B.

2.03. Exhibit B of this Declaration describes each Residential Unit thereon, as to type of construction, approximate area, number

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of rooms and other data necessary for the proper identification, graphically showing the Residential Units by example and locating them by schedule of unit numbers which can be identified on Exhibit C Part I.

2.04. Each Residential Owner shall be the owner in fee simple of a Residential Unit together with an undivided percentage of ownership in all of the real property made subject to this Declaration. The condominium Record Plan and Exhibit C Part II sets forth the percentage of ownership of each Residential Unit as to the Commons in the proportion that the fair value of the unit bears to the aggregate value of all of the units having an interest in the Commons. "Fair Value" shall be the base sale price received by the Declarant as to units sold and the advertised sale price of Residential Units still owned or proposed to be constructed by the Declarant.

ARTICLE III

Property Rights

3.01. All of the property described and shown on the Record Plan of Section Two A shall be and is hereby declared to be subject to the covenants, agreements, easements and restrictions set forth in this Declaration, to be and remain in effect until such time as amended, modified or revoked in accordance with the provisions of this Declaration.

3.02. The Commons shall be held and maintained for the use and benefit of the Owners and Residents of the Residential Units and their guests and invitees, and not for the use or benefit of the public generally. Control of the Commons and its facilities is herewith declared to be in the Property Owners Association established by the Declarant (Exhibit D). Every Owner shall have a right and easement of enjoyment in and to the Commons which shall be appurtenant to and shall pass with the title to every Unit subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Commons;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Unit remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or grant by easement or right-of-way all or any part of the Commons to any public agency, authority, or utility for such purposes and subject

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to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by the Board of Managers agreeing to such dedication or transfer has been recorded.

(d) The right of individual Owners to the exclusive use of parking spaces as provided in 3.06 of this Article.

3.03. No trade or business shall be carried on and no signs shall be placed upon or about any Residential Unit or on the Commons (other than designations, in such styles and materials as the Association shall by regulations approve, of street addresses and names of Owners) except that Owners desiring to offer Residential Units for sale or rent shall have the right to place upon the Residential Unit concerned such "for sale" or "for rent" signs as the Association may approve.

3.04. Each Residential Unit is hereby declared to be subject to a reasonable easement and right to and in favor of the Association and its employees, agents, or instrumentalities to go upon such Residential Unit for reasonable repair thereof for the purpose of carrying out any and all of the obligations and functions with respect to such Residential Unit as are herein imposed upon or permitted to the Association, expressly including, the maintenance, repair and replacement of any and all of the facilities for the supply of utilities and other facilities, serving said Residential Unit and/or other Residential Units or the Commons.

3.05. There shall be and hereby are reserved, whether shown on the Plat or not, easements and rights-of-way for the benefit of governmental agencies, authorities or instrumentalities, and for the benefit of public utilities, and for the benefit of the Association and for the benefit of the Residential Units, on, under and through the Property for the ownership, use, operation, maintenance, repair and replacement of water, sewage, gas, electrical and other facilities, including lines, pipes, wires, valves, switches, etc., and all parts of the Property may be entered under reasonable circumstances for maintenance and repair of the aforementioned utilities or of the facilities

3.06. Ownership of each Unit shall entitle the Owner or Owners thereof to the use of at least one automobile parking space in a carport which shall be in the carport closest to the group of units in which each unit is located (See Exhibit C Part III), and shall be as near and convenient to said unit as reasonably possible, together with the right of ingress and egress in and upon said parking area. The Association may permanently assign vehicle parking spaces and carport spaces for each dwelling, and limit the use of the parking areas and carports for vehicles used daily for transportation purposes, establishing reasonable regulations with reference to other uses of said areas.

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3.07. The Residential Units shall have no party walls nor are there any structural items in common to two or more Residential Units. It is intended that each interior wall shall be erected so that the exterior side of the wall is co-terminus with the exterior sidewall of the adjacent residential unit.

3.08. The Property described and shown on the Plat and the use thereof shall be subject to such additional rules and regulations as shall be in force from time to time by reason of action taken by the Association pursuant to Article VI hereof.

ARTICLE IV

Property Owners Association

4.01. In order to carry out the intents and purposes hereof, a corporation (hereinafter called the "Association") has been formed under and pursuant to the General Not-For-Profit Corporation Act of Ohio. The Association and its Articles of Incorporation shall conform to the By-Laws recorded in the Office of the Recorder of Montgomery County, Ohio, as Exhibit D Part II to these Declarations which are incorporated herewith and made a part hereof by reference. The name and address of the person to receive service of process for the Association shall be:

F. Darrell Casto
5318 Pollard Way
Dayton, Ohio 45424

4.02. The Owner or Owners of each Residential Unit in both Sections shall be a member of the Association, and shall be entitled to cast upon all matters which the members shall be entitled to vote, one vote for each Residential Unit, in both Sections combined, regardless of the number of persons or entities who shall share in the title to or be beneficially interested in such Residential Unit; except that until 75% of the total Residential Units in both Sections combined have been sold by Declarant, or until January 1, 1975, whichever shall be the earlier, the Declarant shall be entitled to three votes for each Residential Unit owned by Declarant instead of one vote.

4.03. The provision of Section 4.02 hereof shall be mandatory and the transfer of membership shall be automatic upon transfer of title to a Unit. No owner of any interest in any Residential Unit shall have any right or power to disclaim, terminate or withdraw from his membership in the Association or any of his obligations as such member, and no purported disclaimer, termination or withdrawal thereof or therefrom on the part of any such owner shall be of any force or effect for any purpose.

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4.04. The Purpose of the Association shall be to perform all the functions provided in this Declaration to be performed by the Association and the Association shall have and possess all such powers as shall be necessary or appropriate for the accomplishment thereof. Such powers shall be exercised in accordance with the By-Laws. (Exhibit D Part II).

4.05. Except as expressly otherwise provided by the Articles of Incorporation or By-Laws of the Association or this Declaration, or as otherwise required by law, all power and authority to act on behalf of the Association both pursuant to this Declaration and otherwise shall be vested in its Board of Managers and its officers under the direction of said Board, and shall not be subject to any requirement of approval on the part of its members. The By-Laws of the Association may include such provisions for the protection and indemnification of its officers and directors as shall be permissible by law.

4.06. The Association shall deal with the Commons, and such other assets as it may receive from time to time, in accordance with the provisions of this Declaration and of its Articles of Incorporation and By-Laws. The Corporate Charter of the Association shall provide that upon dissolution of the Association, which requires approval by the affirmative vote of members entitled to vote not less than 2/3 of the votes of each class of members, its assets shall be dedicated or distributed to an appropriate public agency or other non-profit organization to be devoted to uses and purposes corresponding as nearly as practicable to those set forth in this Declaration or in said Corporate Charter.

4.07. By reason of the nature of the planned community herein contemplated, any violation on the part of any Residential Owner of any of the terms and conditions of this Declaration to be kept, observed or performed by him or of any rules or regulations adopted by the Association pursuant to the authority herein granted to it so to do, will or is likely to result in damages which are irreparable or impossible of ascertainment. Therefore, the Association shall have, and is hereby granted, the right to prevent any such actual or threatened violation on the part of any Residential owner, or the further continuation of any such violation, as the case may be, by means of injunctive proceedings, as well as by restricting or entirely suspending for such period or periods not exceeding sixty (60) days as the Board of Managers of the Association may from time to time determine, the use by the offending person of any facility or service the privilege of which use has been abused.

4.08. The various rights and remedies herein granted to the Association shall be in addition to all other rights and remedies which may be available and in addition to each other. All the rights and remedies available to the Association may be exercised either concurrently or consecutively, or partly concurrently and partly consecutively, as the Association may from time to time elect, and as often as the Association may elect.

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4.09. The making of changes or amendments in this Declaration or in the easements, restrictions and rights herein set forth, and the amendment, modification and revocation thereof, all pursuant to the powers to do so granted or reserved to the Association in and by this Declaration, shall be done only with the approval by affirmative vote of members entitled to vote not less than seventy-five per cent (75%) of all the votes which the members of the Association shall be entitled to vote.

ARTICLE V

Obligations of Residential Owners and the Association Regarding Assessments, Maintenance and Insurance

5.01. The Declarant, for each Unit owned within the Property, hereby covenants, and each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual assessments or charges which shall include by way of example items of maintenance and repair, contract services, and insurance premiums, and (2) Special Assessments other than annual items of replacement, repair and reserves in connection with new items to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the Property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

The amount of such assessments shall be based on the percentage of ownership as set forth in Exhibit C Part II, and shall be determined not less frequently than annually by the Board of Managers of the Association who shall notify the members thereof of the imposition thereof or of any change in the amount thereof, as the case may be, not less than 30 days before such action shall become effective and shall be paid monthly. The initial assessment until modified as herein is established at \$21/mo. S Type; \$22/mo. A Type; \$24/mo R Type.

The assessment as to each Unit (including those owned by Declarant) shall commence as of the 1st day of the second month after construction of such unit is certified complete by the Building Inspector of Montgomery County, Ohio or comparable governmental agency, provided however, that the Declarant shall begin payment in all events on January 1, 1974 as to Hilltop Condominium Section Two A. Further, the Declarant shall begin payment in all events on Units in Hilltop Condominium Section Two B on the 1st day of the eighth month after filing of the Declarations as to said Section.

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5.02. In addition to the special assessments authorized above, the Association may levy, in any assessment year, a special assessment for capital improvements provided that any such assessment shall have the assent of 2/3 of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

5.03. No Residential Owner may exempt himself from liability for the assessment imposed by this Article V by waiver of the use or enjoyment of any of the areas or facilities of the Commons or by the abandonment of his Residential Unit or otherwise.

5.04. Notwithstanding anything to the contrary in this Declaration contained, if the Association shall incur any cost or expense for or on account of any items of maintenance, repair or other matter directly or indirectly occasioned or made necessary by any wrongful or negligent act or omission of any Residential Owner, such cost or expense shall not be borne by the Association but by such Residential Owner, and if paid out by the Association, shall be paid or reimbursed to the Association by such Owner as a special assessment forthwith upon the Association's demand.

5.05. Any sum due to be paid by any Residential Owner to the Association, as a regular or special assessment as provided in 5.01 of this Article V or a special capital improvement assessment as provided in 5.02 of this Article V or otherwise, which shall not be paid when due shall bear interest until paid at the rate of the maximum allowable by law, and if there be no maximum, then at the greater of a rate of eight per cent (8%) or the prime rate then being charged by national banks in Dayton, Ohio. If any such sum shall not be paid when due, the Association shall have the right upon not less than 15 days' notice to such Residential Owner, to collect such sum by suit at law and all other legal means and to add to such sum and collect to the extent and if allowable by law reasonable attorney's fees and all other expenses incurred by the Association in connection therewith.

5.06. The obligation of each Residential Owner to pay all sums assessed or imposed upon him to pay pursuant to this Declaration and to keep, observe and perform all the terms and provisions of this Declaration to be kept, observed and performed by him shall be a continuing lien upon the Residential Unit owned by such Residential Owner, subject only to the lien of a first mortgage as may be placed upon such Residential Unit.

5.07. The Association shall determine and carry out or cause to be performed all maintenance, improvements and repair of the Commons and all the private streets, foot paths, fences and landscaping, structures and facilities for the supply of water, gas,

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electricity, removal of sewage and other utilities and other improvements situated therein or appurtenant thereto, but in any event shall cause all said private streets and facilities to be and to be maintained and repaired. Without limitation of the foregoing, it is expressly stipulated and agreed that said private streets shall be kept free of snow and other obstructions so as to be open for the passage of fire, police and other emergency vehicles, personnel and equipment at all times, and that the Residential Owners shall be obligated and responsible therefor in any case in which the Association shall fail so to do.

5.08. The Association shall determine the need for and carry out or cause to be performed all maintenance of the exterior surfaces of the Residential Units (and roof repair and replacement; but specifically not including glass surfaces) including without limitation painting, and tuck pointing thereof at such intervals as shall be prudent. The Association shall also perform all maintenance, improvement and repair of the grounds and landscaping of the Commons which is by definition situated without the exterior walls of the Residential Units. All Residential Owners are prohibited from making any alterations or improvements to such exterior surfaces and Commons without consent of the Association.

5.09. The Association shall determine the need for and carry out or cause to be performed the maintenance, repair or replacement of all water, sewer, gas and electric lines incorporated in or forming a part of the Residential Units as originally constructed and serving more than one unit, not including however, the maintenance, repair or replacement of any furnaces, water heaters, stoves, refrigerators, washing machines or household appliances.

5.10. The Association shall also carry out or cause to be performed or provided in or about the Property all such additional functions in the nature of maintenance, improvements, repairs and services and recreational and other facilities for the use and benefit of the Property and its inhabitants generally as shall be determined by its Board of Managers from time to time. The Association shall have power to impose upon the individuals actually using or benefiting therefrom such additional charges for the use thereof as the Association shall from time to time deem appropriate.

5.11. In the event the Property or any part thereof or any of the Residential Units thereon shall be damaged or destroyed by fire, other casualty or any other cause or event whatsoever, the owner or owners of the property so damaged or destroyed shall cause it to be repaired, restored or rebuilt, as the case may be, as rapidly as reasonably possible to the condition in which such property was immediately prior to such damage or destruction.

5.12. All repair, restoration or rebuilding pursuant to the provisions of this Article V shall be carried out under such supervision and direction as the Board of Managers of the Association

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shall deem appropriate in order to assure the expeditious and correct completion of the work concerned, and the owner or owners of each Residential Unit which shall have been damaged or destroyed shall fully cooperate with and abide by all instructions and directions of the Association in connection therewith.

5.13. In any case in which the owner or owners of the Residential Units concerned shall fail after 30 days notice to carry out and see to the repair, restoration or rebuilding of his Residential Unit or any part thereof as required by the provisions of this Article V, or shall request the Association to carry out and see to such repair, restoration or rebuilding, the Association shall carry out and see to the repair, restoration or rebuilding required by the provisions of this Article V.

5.14. The Association shall maintain in force at all times insurance covering the Residential Units and that portion of the Commons connected to Residential Units, consisting of, or providing all the protections afforded by, at least the insurance now generally described as fire, extended coverage, additional extended coverage, vandalism and malicious mischief to the full insurable value thereof, either without co-insurance or on an 80% maximum co-insurance basis, with loss payable on the basis of the cost of replacement without deduction for depreciation. Any such insurance shall be purchased on the condition that such company will issue separate Certificates of Insurance to mortgagees of individual units and shall provide for notice to mortgagees and the Insurance Trustee prior to cancellation. The Association shall also maintain in force such insurance protecting the Association from loss, damage, expense or liability resulting directly or indirectly from any act or omission of any Residential Owner or any employer, agent, representative, guest or invitee of such Residential Owner as the Association shall by rule or regulation require from time to time; provided, however, that no such rule or regulation shall require the obtaining of any insurance of any type not then issued by responsible insurance companies authorized to do business in the State of Ohio.

5.15. All insurance required to be maintained by the Association shall be issued by companies and through agencies selected by the Association and shall provide that all proceeds becoming payable shall be paid to any national bank and trust company which maintains an office at Dayton, Ohio, as Insurance Trustee designated by the Association as Trustee for the benefit of all owners and mortgagees as their interests appear and shall be applied to rebuilding as required by this Article V. The name of such Trustee shall be designated in writing in an instrument recorded in the Office of the Montgomery County Recorder from time to time as a Supplement to this Declaration. In the event the Association fails to purchase and pay for any insurance required to be maintained herein, any mortgagee may advance such premium, and any sum so paid shall be due and payable immediately upon notice given, with such sums being chargeable as a Special Assessment under Section 5.01. Such Trustee shall not be liable for the payment of premiums, for the renewal or sufficiency of insurance coverage, for the form or contents of the policies, or for the failure to collect any insurance proceeds.

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5.16. Immediately after a casualty causing damage to any portion of the Condominium Property, the Association shall obtain reliable estimates of the cost to place the damaged property in as good condition as before the casualty, including such professional fees and bond premiums as the Board deems necessary.

The insurance proceeds and the sums deposited with the Insurance Trustee by the Association from collections of special assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed by the Insurance Trustee to payment of the cost of reconstruction and repair of the Condominium Property as the work progresses. Said Trustee shall make such payments upon the written request of the Association, accompanied by a certificate, dated not more than ten (10) days prior to such request, signed by an officer of the Association and an architect supervising the work selected by the Association, setting forth (1) that the sum then requested has been paid by the Association, or is justly due to persons who have rendered services or furnished materials therein described in connection with the work, and that the sum requested does not exceed the value of the services and materials described, (2) that except for the amount stated in such certificate to be due as aforesaid and for work subsequently performed, there is no outstanding indebtedness known to the persons signing such certificate after due inquiry which might become the basis of lien rights arising from such work, and (3) that the cost estimated of the work remaining to be done after the date of such certificate does not exceed the amount of the construction fund remaining in the hands of the Insurance Trustee after the payment of the sum requested. It shall be presumed that the first disbursement of such costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance after payment of all costs of reconstruction and repair for which the fund is established, such balance shall be disbursed to the Association.

5.17. The Association and its officers, managers, employees, agents and representatives shall have no liability to any Residential Owner for damage to or loss of either the Residential Unit of such Owner or any personal property of said Owner. Each insurer of any said Owner's interest in said Residential Unit or personal property shall be bound by the provisions of this Section 5.16 and shall, to the extent that such practice is normal and customary in the insurance industry, by appropriate provision in each policy of insurance concerned, waive all its rights of subrogation against the Association and its officers, managers, employees, agents and representatives.

5.18. In any case in which insurance proceeds shall not be paid or payable on account of any damage to or destruction of any Residential Unit and that portion of the Commons connected to the Residential Units, or shall be inadequate to fully cover the cost of repair, restoration or rebuilding which the Association is by the provisions of this Article V required to carry out, the cost

- 73361B11 -

of such repair, restoration or rebuilding in excess of the amount of insurance proceeds available shall be borne and paid for by the Association, and shall become collectable as a Special Assessment under Section 5.04, but without diminishing or in any way affecting any rights of recovery thereof which the Association may have by law against any person or persons who shall be directly or indirectly responsible for such damage or destruction by reason of any negligent or wrongful act or omission.

5.19. Notwithstanding anything to the contrary herein contained, the obligations of the Association under the provisions of this Article V shall be limited to the repair, restoration and rebuilding of any loss, damage or destruction to or of the Commons and to or of so much of the Residential Units as constitutes structure or improvement upon the real estate, and the Association shall not be responsible for repair, restoration or replacement of any personal property of the Residential Owners or others which, although situated in or about the Residential Units, shall not be attached thereto so as to form an affixed part thereof.

5.20. The Association is required to obtain and maintain additional insurance to the full insurable value thereof with respect to damage to or destruction to that portion of the Commons that is connected to the Residential Units, and may, but shall not be required to insure any other tangible or intangible assets owned by the Association or for which the Association may have responsibility from time to time, from any cause, and may also obtain such liability and other kinds of insurance protection against such other matters or happenings as its Board of Managers shall from time to time deem prudent.

5.21. After January 1, 1976, and upon notice to the Association, the first mortgagees of Residential Units representing 51% of the total Units in Section Two A of this Condominium, or, if Section Two B has been annexed, 51% of the total units in both sections, may require that the Association employ the use of a professional manager or management company approved by such first mortgagees, to fulfill the obligations of the Association. The Association will provide such first mortgagees with a copy of any management agreement entered into by the Association and such manager or management company.

ARTICLE VI

Mortgages

6.01. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Unit pursuant to first mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Unit from liability for any assessments due or from the lien thereof. Any Mortgagee, bona fide purchaser, or his proposed Mortgagee, shall be entitled to a certification that the current installment and all prior installments have been paid and the dollar amounts of the current assessment from the Association promptly upon request.

6.02. For all the purposes of this Declaration, the term "mortgage" shall mean and include mortgages, trust deeds, and all other documents in the nature of mortgages.

ARTICLE VII

Amendments and Miscellaneous Additional Rules

7.01. The Association shall have, and is hereby granted, the power to amend, modify and otherwise alter this Declaration and each and all of the terms and provisions hereof and each and all of the rules, covenants, easements, agreements and restrictions herein contained, at any time and from time to time, by action recommended by its Board of Managers and approved by the affirmative vote of any proportion of its members herein stipulated but in no event less than those Unit Owners exercising not less than seventy-five per cent (75%) of the voting power, subject to the limitation that such action shall not cause the Property or any part thereof to be in non-compliance with any zoning ordinance or other applicable law or governmental regulation, nor shall such action change the percentage of ownership in the Commons by any Residential Unit, nor shall such action prejudice the rights or priority of any Mortgagee without its consent in writing.

7.02. Any action taken pursuant to 7.01 of this Article VII shall be evidenced by an appropriate written instrument issued by the Association and shall become and be effective as of such date as shall be designated in such instrument, but not earlier than the date upon which such instrument shall be filed for record in the Office of the Recorder of Montgomery County, Ohio.

7.03. The Association shall have, and is hereby granted, the power to adopt, amend, modify, otherwise alter and enforce additional rules and regulations bearing upon the use and the manner of occupancy and maintenance of the Property, including either or both the Commons and the Residential Units, or any part thereof, at any time and from time to time by action recommended by its Board of Managers, subject only to the limitations that any such action bearing upon Residential Units shall be applied uniformly to all the Residential Units, and that such action shall not cause the Property or any part thereof to be in non-compliance with any zoning ordinance or other applicable governmental law or regulation or any provision of this Declaration or the Articles of Incorporation of the Association. The failure of the Association to seek redress for any violation, or to enforce any term or provisions of this Declaration or of any rule or regulation issued hereunder or pursuant hereto shall never be deemed a waiver of any such right of redress or enforcement, either as to any subsequent violation of a similar or other nature or as to any further continuation of any violation.

- 73361C01 -

7.04. If the effect of taking through condemnation of any part of the Property by any governmental authority having power so to do shall be to isolate any part of the Property from the remainder of the Property, and if no dwelling units shall then have been constructed or be upon any of the Residential Units situated within the portion of the Property so isolated; then all the Residential Units lying wholly or partly within the portion of the Property so isolated and all of the Commons lying within the portion of the Property so isolated shall be deemed to have been and shall be removed from and released from all of the terms and provisions of this Declaration and this Declaration shall be of no further force or effect with respect thereto. For all the purposes of this Article VII, the term "condemnation" shall include also any sale under threat of condemnation to any governmental authority having condemnation power.

7.05. Any notice to be given hereunder shall be deemed conclusively to have been given to the following recipients in the following manners respectively: (a) In the case of a Residential Owner, if delivered personally to him, or to a member of his household of the age of more than 16 years, or when placed in the United States mail, first class and registered or certified, postage fully prepaid, addressed to him at his most recent address as shown on the records of the Association (or of the Declarant prior to the organization of the Association); (b) In the case of the Declarant, upon delivery to the Declarant at its usual place of business, provided that no notice shall be binding upon the Declarant until actually received by it; (c) In the case of the Association, upon delivery to its president, its secretary, or its statutory agent in person or when placed in the United States mail, first class and registered or certified, postage fully prepaid, addressed to the Association in care of its then Statutory Agent. Upon written request to the Board of Managers, the holder of any duly recorded mortgage or trust deed against any unit ownership shall be given a copy of any and all notices permitted or required by the Declaration or these By-Laws to be given to the owner or owners whose unit ownership is subject to such mortgage or trust deed.

7.06. If any term, provision, covenant, easement, agreement or condition contained in this Declaration, or any rule or regulation issued hereunder, shall be or be held to be invalid, the remainder of this Declaration and the remainder of such rules and regulations shall not be invalidated or terminated thereby but shall remain in full force and effect to all intents and purposes as though such invalid term, provision, covenant, easement, agreement, condition, rule or regulation had never been.

7.07. The divisions of this Declaration into Articles, and the Articles and Section numbers and headings, are for convenience only, and the validity and enforceability of any portion of this

- 73361C02 -

Declaration shall never be effected or called into question by reason of the position thereof in this Declaration or the captions or Article headings pertaining thereto.

IN WITNESS WHEREOF, this Declaration has been executed by HUBER HOMES, INC., by F. Darrell Casto, its Vice President, and by Richard H. Packard, its Secretary, this 25th day of May 1973.

In the presence of:

[Signature]
[Signature]

HUBER HOMES, INC.

By F. Darrell Casto

its Vice President

By Richard H. Packard

its Secretary

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

BE IT REMEMBERED that on this 25th day of May 1973, before me, the subscriber, a Notary Public in and for said County and State, personally came the aforementioned Huber Homes, Inc., by F. Darrell Casto, its Vice President and Richard H. Packard, its Secretary who acknowledged the signing of this instrument to be their voluntary act and deed and as the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal this 25th day of May 1973.

[Signature]
Notary Public

HARRY G. EBELING, Attorney-at-Law
Notary Public - State of Ohio
My Commission Expires _____ Date
Section 1, 7.03 R. C.

THIS INSTRUMENT PREPARED BY:
Richard H. Packard
and Harry G. Ebeling
Attorneys at Law
Dayton, Ohio

SUBMISSION OF MORTGAGEE

The undersigned is mortgagee of premises described in the within Declaration of Condominium Ownership by virtue of a Mortgage Deed executed by Huber Homes, Inc. dated September 20, 1972, and recorded in the Mortgage Records in the Office of the Recorder of Montgomery County, Ohio, in Volume 2807, Page 104, on September 26, 1972.

The undersigned hereby submits its said Mortgage to this Declaration and the By-Laws and Drawings attached thereto and to the provisions of Chapter 5311, Ohio Revised Code.

Signed in the Presence of:

M. F. [Signature]
Lay Locke

THE FIRST NATIONAL BANK OF DAYTON
By Jack E. Pummill
Jack E. Pummill
Assistant Vice President

STATE OF OHIO, COUNTY OF MONTGOMERY, SS:

Before me, a Notary Public in and for said County and State personally appeared Jack E. Pummill, ^{Assistant} Vice President, of The First National Bank of Dayton, who, having been first duly sworn according to law, acknowledged that he did execute the foregoing instrument and that the same was his free act and deed individually and as such officer and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at Dayton, Ohio, this 22nd day of May 1973.

G. R. Francis
Notary Public

G. R. FRANCIS, Notary Public
In and for Montgomery County, Ohio
My Commission Expires June 26, 1977

73361C04 -

Certified Statement of Surveyor and Engineer

The below named Registered Surveyor and Registered Engineer under the laws of the State of Ohio, hereby certify that the drawings attached to the within Declaration for Hilltop Condominium, Section "Two-A" shown as Exhibits "A", "B", and "C" show graphically all of the particulars of the buildings, the lay-out, location, designation and dimensions of each unit and common areas and facilities and limited common areas and facilities insofar as is graphically possible and that said graphic representation shows the buildings as constructed.

RALPH L. WOOLPERT COMPANY

By Charles H. Black
Charles H. Black
Registered Surveyor #3147
State of Ohio

By Robert F. Archdeacon
Robert F. Archdeacon
Registered Engineer #22446
State of Ohio

EXHIBIT A

PART I

Description of Entire Tract

Situate in the Township of Wayne, County of Montgomery,
State of Ohio, and being Lot Numbered 11149 Herbert C.
Huber Plat No. 51, Section Three, as recorded in Plat Book
91, Page 110, of the Plat Records of Montgomery County,
Ohio.

- 73361C07 -

RALPH L. WOOLPERT COMPANY

CONSULTING ENGINEERS AND PLANNERS

2324 STANLEY AVENUE

DAYTON, OHIO 45404

RALPH L. WOOLPERT (1916-1970)
A. M. FRIEND (1938-1969)

CHARLES H. BLACK
CHARLES ABRAMOVITZ
JOHN E. ESCHLIMAN
PHILLIP N. SCHAEFFER
ROBERT F. ARCHDEACON
ROBERT L. BARNETT
DALE L. FLAHERTY
MARK LAWNER

DONALD E. ERNST
JAMES A. HERMAN
WALLACE E. SMITH

HERBERT W. STARICK
(CONSULTANT)

CIVIL ENGINEERS
SANITARY ENGINEERS
CITY PLANNERS
REGIONAL PLANNERS
PHOTOGRAMMETRISTS
LAND PLANNERS

513/461-5660

April 6, 1973

Description of Part Lot 11149
Herbert C. Huber Plat No. 51, Section Three
for Hilltop Condominium Section Two "A"

Located in Section 29, Town 2, Range 8 M. R. S., Wayne Township, Montgomery County, State of Ohio and being part of Lot 11149 in Herbert C. Huber Plat No. 51, Section Three as recorded in Book 91, Page 110 in the Plat Records of Montgomery County, Ohio and being more particularly described as follows: beginning on the north line of Taylorsville Road at the southeast corner of said Lot 11149; thence with the north line of Taylorsville Road, North eighty-eight degrees forty-six minutes twenty seconds ($88^{\circ} 46' 20''$) West for three hundred eighty-six and $45/100$ (386.45) feet; thence North one degree ten minutes ($1^{\circ} 10''$) East for one hundred fifty-seven and $00/100$ (157.00) feet; thence North seventy-nine degrees no minutes ($79^{\circ} 00'$) East for eighty-seven and $00/100$ (87.00) feet; thence North eleven degrees thirty-nine minutes thirty seconds ($11^{\circ} 39' 30''$) East for one hundred twenty-eight and $00/100$ (128.00) feet; thence North five degrees nine minutes forty seconds ($5^{\circ} 09' 40''$) East for two hundred eighty-two and $82/100$ (282.82) feet to the north line of said Lot 11149; thence with the north line of said Lot 11149, South eighty-eight degrees fifty minutes ($88^{\circ} 50'$) East for two hundred fifty-eight and $00/100$ (258.00) feet to the northeast corner of said Lot 11149; thence with the east line of said Lot 11149, South one degree seven minutes fifty seconds ($1^{\circ} 07' 50''$) West for five hundred eighty-three and $74/100$ (583.74) feet to the point of beginning, containing four and $111/1000$ (4.111) acres, more or less, subject, however, to all legal highways and easements of record.

— 73361C08 —

WLD:wn-#7842

BRANCH OFFICE: 680 NORTHLAND ROAD, CINCINNATI, OHIO 45240

EXHIBIT A PART II

RALPH L. WOOLPERT COMPANY

CONSULTING ENGINEERS AND PLANNERS

2324 STANLEY AVENUE

DAYTON, OHIO 45404

RALPH L. WOOLPERT (1916-1970)
A. M. FRIEND (1938-1969)

CHARLES H. BLACK
CHARLES ABRAMOVITZ
JOHN E. ESCHLIMAN
PHILLIP N. SCHAEFFER
ROBERT F. ARCHDEACON
ROBERT L. BARNETT
DALE L. FLAHERTY
MARK LAWNER

DONALD E. ERNST
JAMES A. HERMAN
WALLACE E. SMITH

HERBERT W. STARICK
(CONSULTANT)

CIVIL ENGINEERS
SANITARY ENGINEERS
CITY PLANNERS
REGIONAL PLANNERS
PHOTOGRAMMETRISTS
LAND PLANNERS

513/461-5660

April 6, 1973

Description of Part Lot 11149
Herbert C. Huber Plat No. 51, Section Three
for Hilltop Condominium Section Two-B

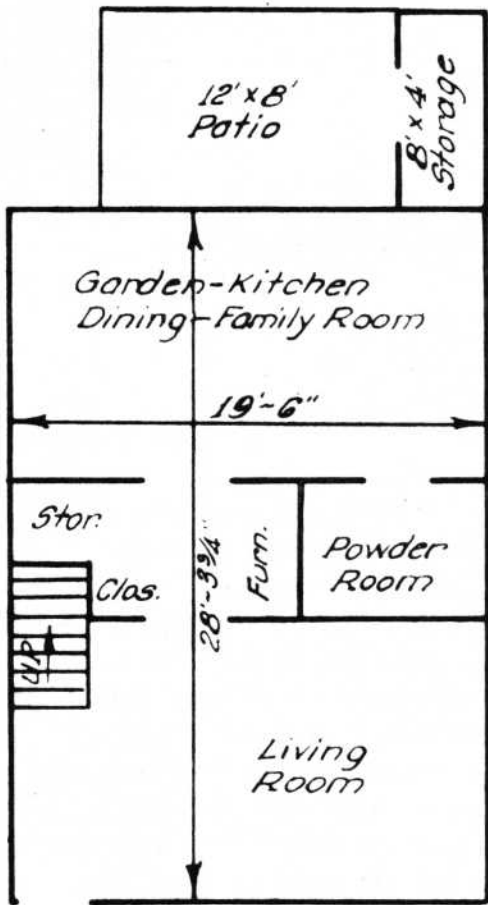
Located in Section 29, Town 2, Range 8 M.R.S., Wayne Township, Montgomery County, State of Ohio and being part of Lot 11149 in Herbert C. Huber Plat No. 51, Section Three as recorded in Book 91, Page 110 in the Plat Records of Montgomery County, Ohio and being more particularly described as follows: beginning on the east line of Mount Hood at the northwest corner of said Lot 11149; thence with the north line of said Lot 11149, South eighty-eight degrees fifty minutes ($88^{\circ} 50'$) East for three hundred sixty-three and $90/100$ (363.90) feet; thence South five degrees nine minutes forty seconds ($5^{\circ} 09' 40''$) West for two hundred eighty-two and $82/100$ (282.82) feet; thence South eleven degrees thirty-nine minutes thirty seconds ($11^{\circ} 39' 30''$) West for one hundred twenty-eight and $00/100$ (128.00) feet; thence South seventy-nine degrees no minutes ($79^{\circ} 00'$) West for eighty-seven and $00/100$ (87.00) feet to the north line of land belonging to Ambrose A. Trimbach, et al.; thence with the north line of said Trimbach land, North eighty-eight degrees forty-six minutes twenty seconds ($88^{\circ} 46' 20''$) West for two hundred seventy-three and $00/100$ (273.00) feet to the east line of Mount Hood; thence with the east line of Mount Hood, North one degree ten minutes ($1^{\circ} 10'$) East for two hundred forty-three and $03/100$ (243.03) feet; thence in a northerly direction on a curve to the right with a radius of four hundred sixty-nine and $00/100$ (469.00) feet for one hundred eighty-eight and $00/100$ (188.00) feet (long chord bears North twelve degrees thirty-nine minutes ($12^{\circ} 39'$) East for one hundred eighty-six and $74/100$ (186.74) feet) to the point of beginning, containing three and $683/1000$ (3.683) acres, more or less, subject, however, to all legal highways and easements of record. Curve distance is measured on the arc.

WLD:wn-#7842

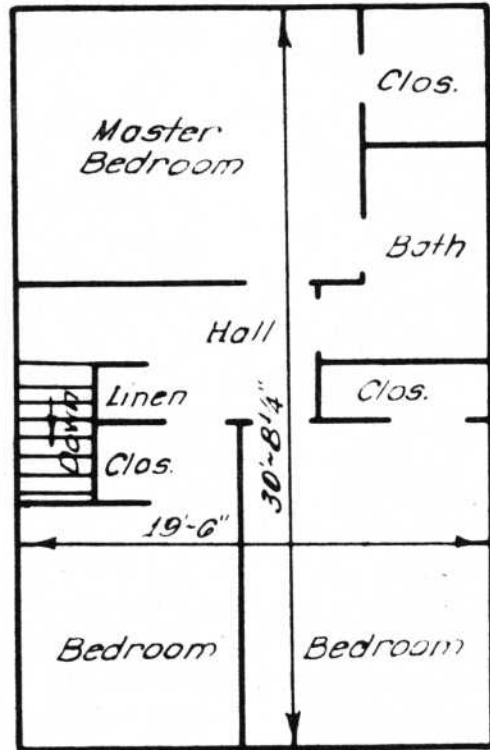
— 73361C09 —

BRANCH OFFICE: 680 NORTHLAND ROAD, CINCINNATI, OHIO 45240

EXHIBIT A PART III



1ST Floor

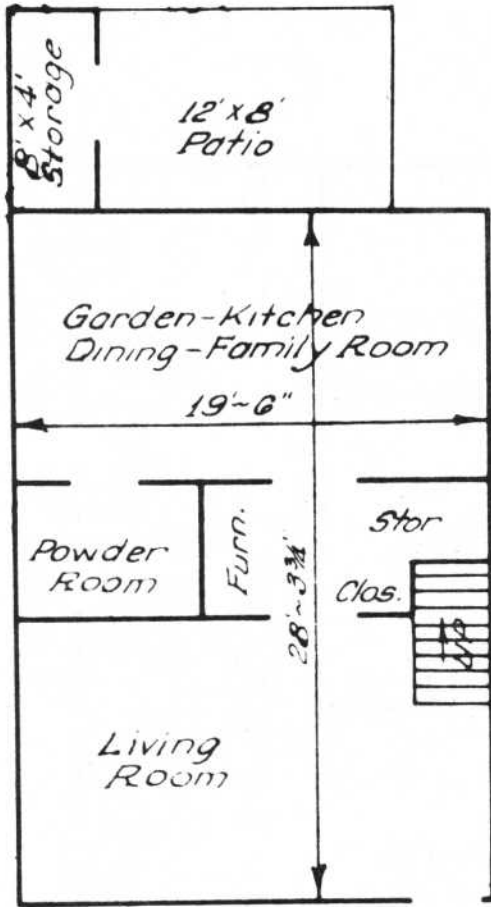


2ND Floor

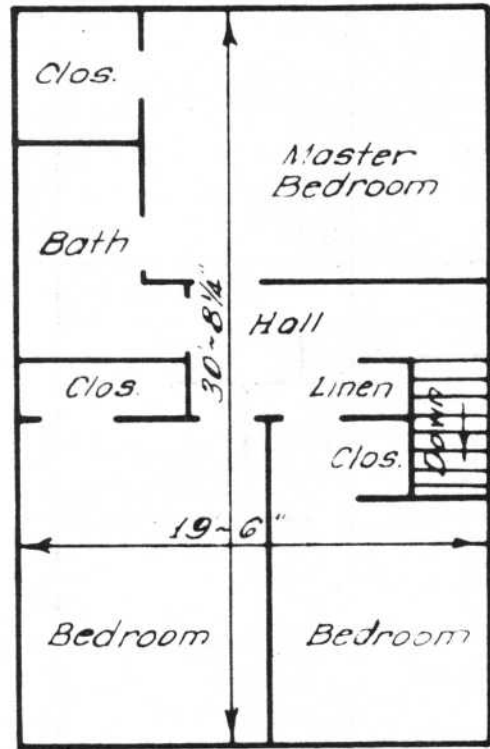
Left Entry
TYPE-A

Unit Numbers

- | | |
|-------|-------|
| 12078 | 12099 |
| 12085 | 12106 |
| 12092 | 12114 |



1ST Floor



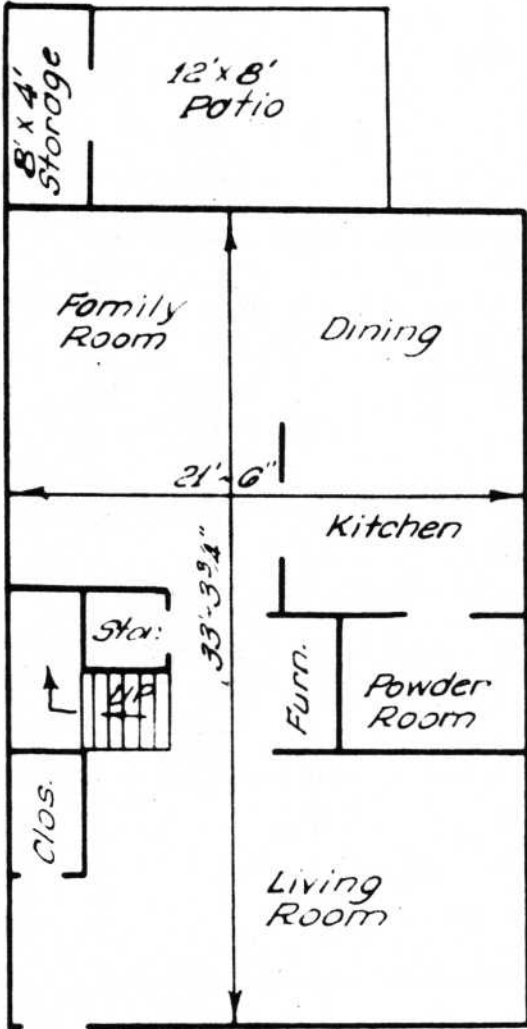
2ND Floor

Right Entry
TYPE-A

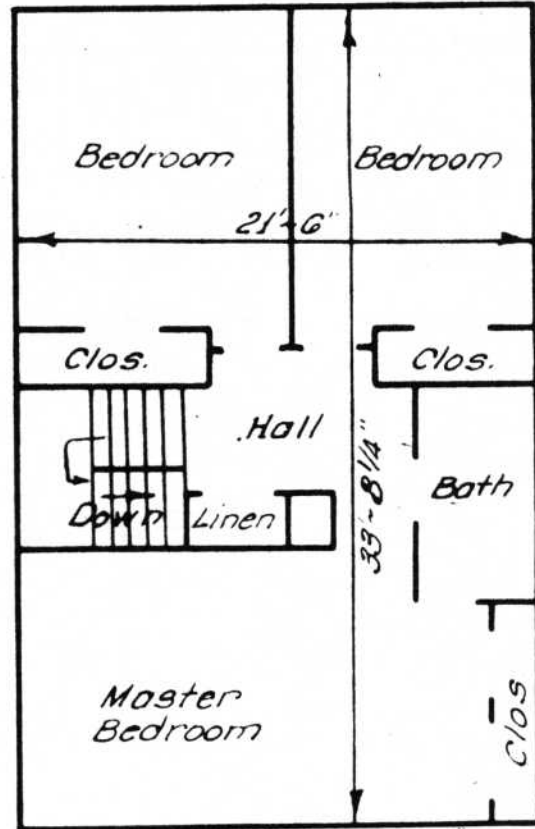
Unit Numbers

| | |
|-------|-------|
| 12082 | 12103 |
| 12089 | 12110 |
| 12096 | 12118 |

- 73361011 -



1ST Floor



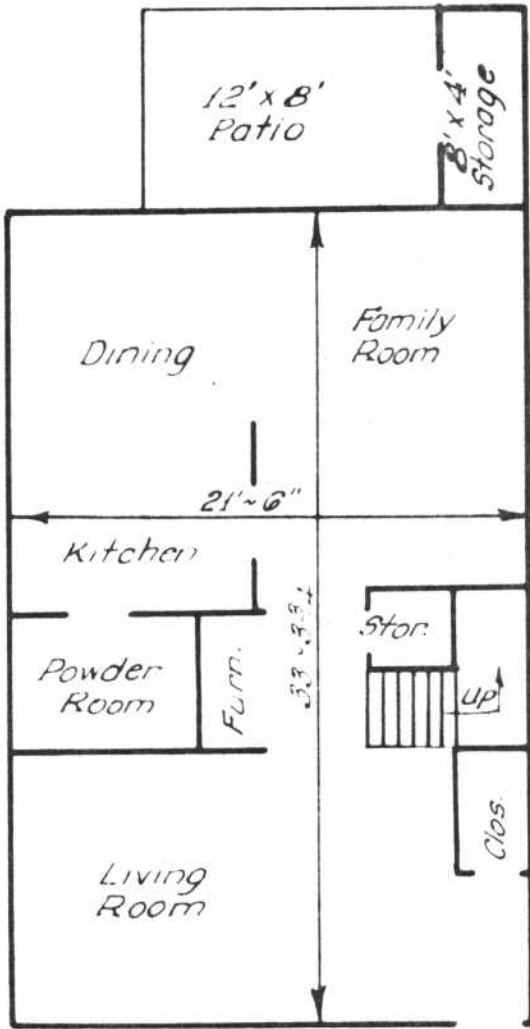
2ND Floor

Left Entry
TYPE-R

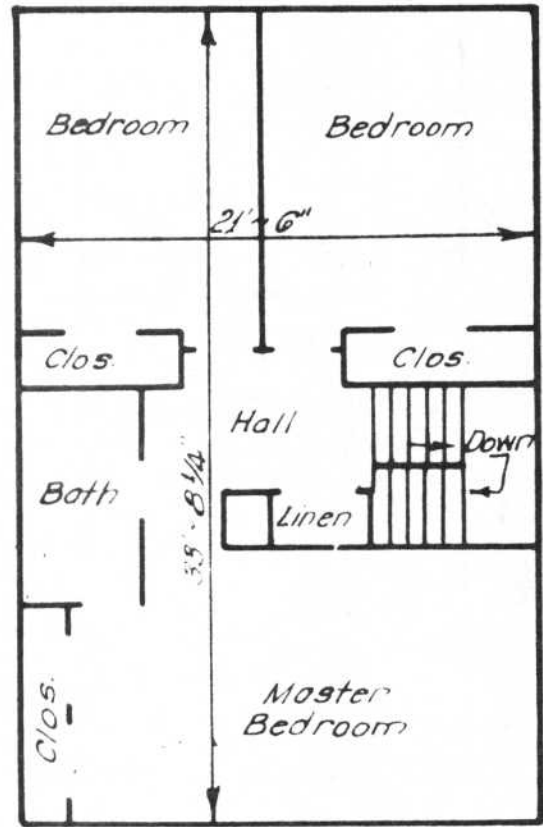
Unit Numbers

- | | |
|-------|-------|
| 12083 | 12104 |
| 12087 | 12108 |
| 12090 | 12111 |
| 12094 | 12116 |
| 12097 | 12119 |
| 12101 | |

- 73361C12 -



1st Floor

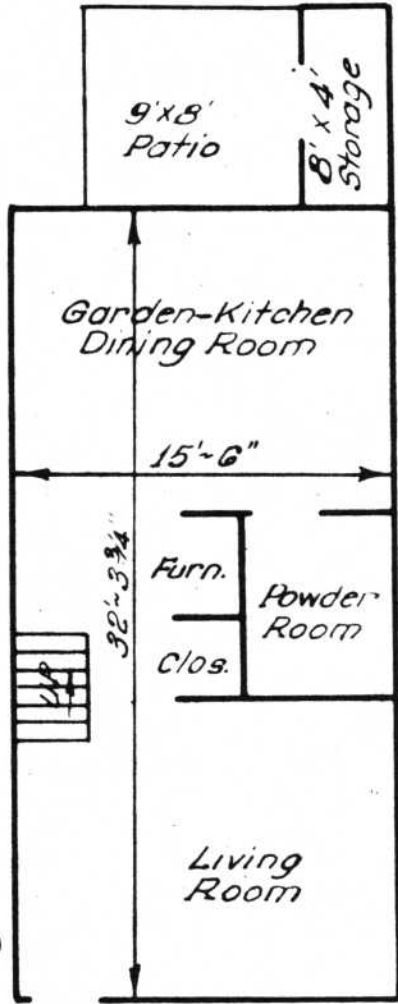


2nd Floor

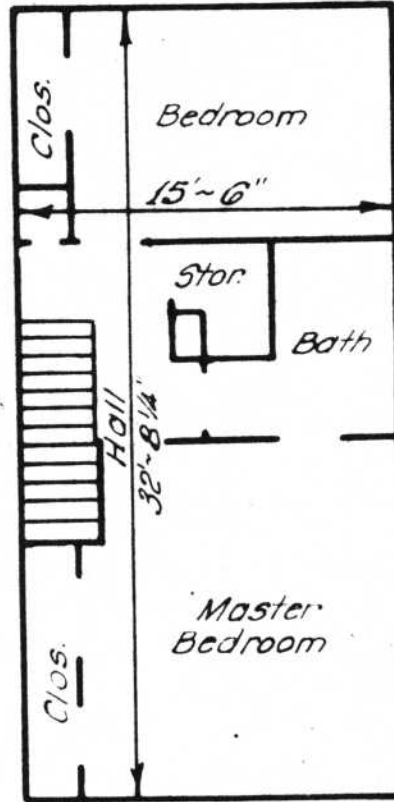
Right Entry
TYPE~R

Unit Numbers
 12077 12098
 12080 12105
 12084 12113
 12091

- 73361D01 -



1ST Floor



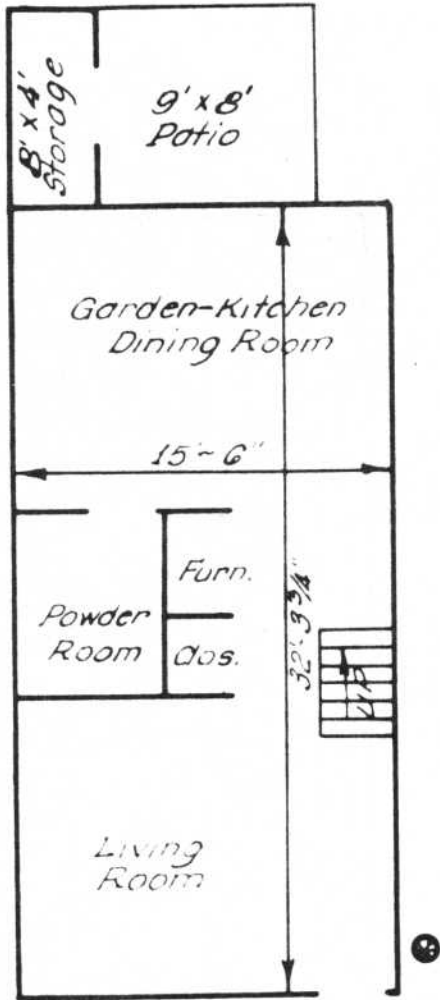
2ND Floor

Left Entry
TYPE-5

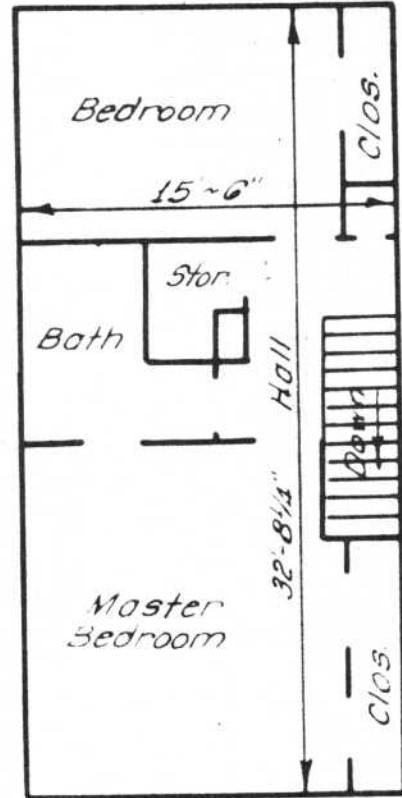
Unit Numbers

12100 ⊗ 12115 ⊗
12102 12117

⊗ = Side Entry



1ST Floor



2ND Floor

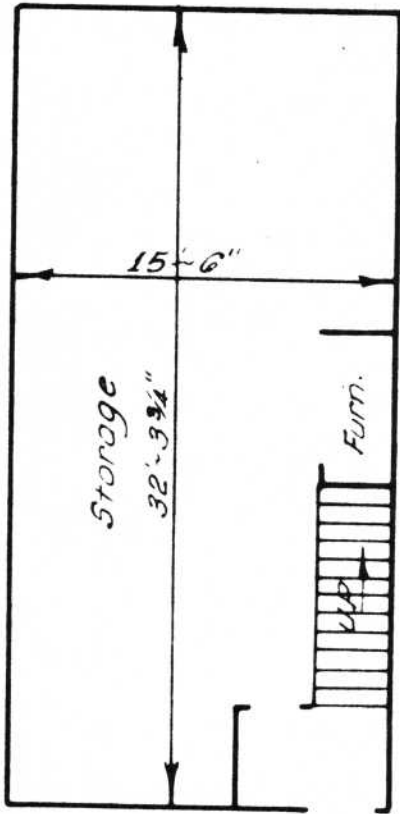
Right Entry
TYPE-S

Unit Numbers

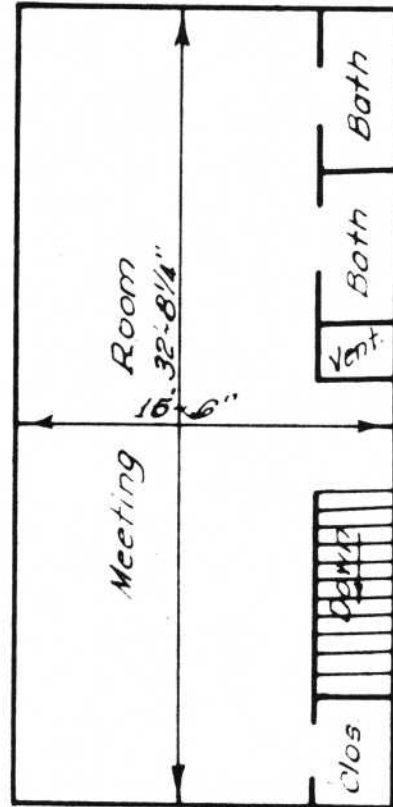
| | |
|---------|-------|
| 12079 | 12093 |
| 12081 ⊗ | 12095 |
| 12086 | 12107 |
| 12088 | 12109 |

⊗-Side Entry

- 73361D03 -



1ST Floor



2ND Floor

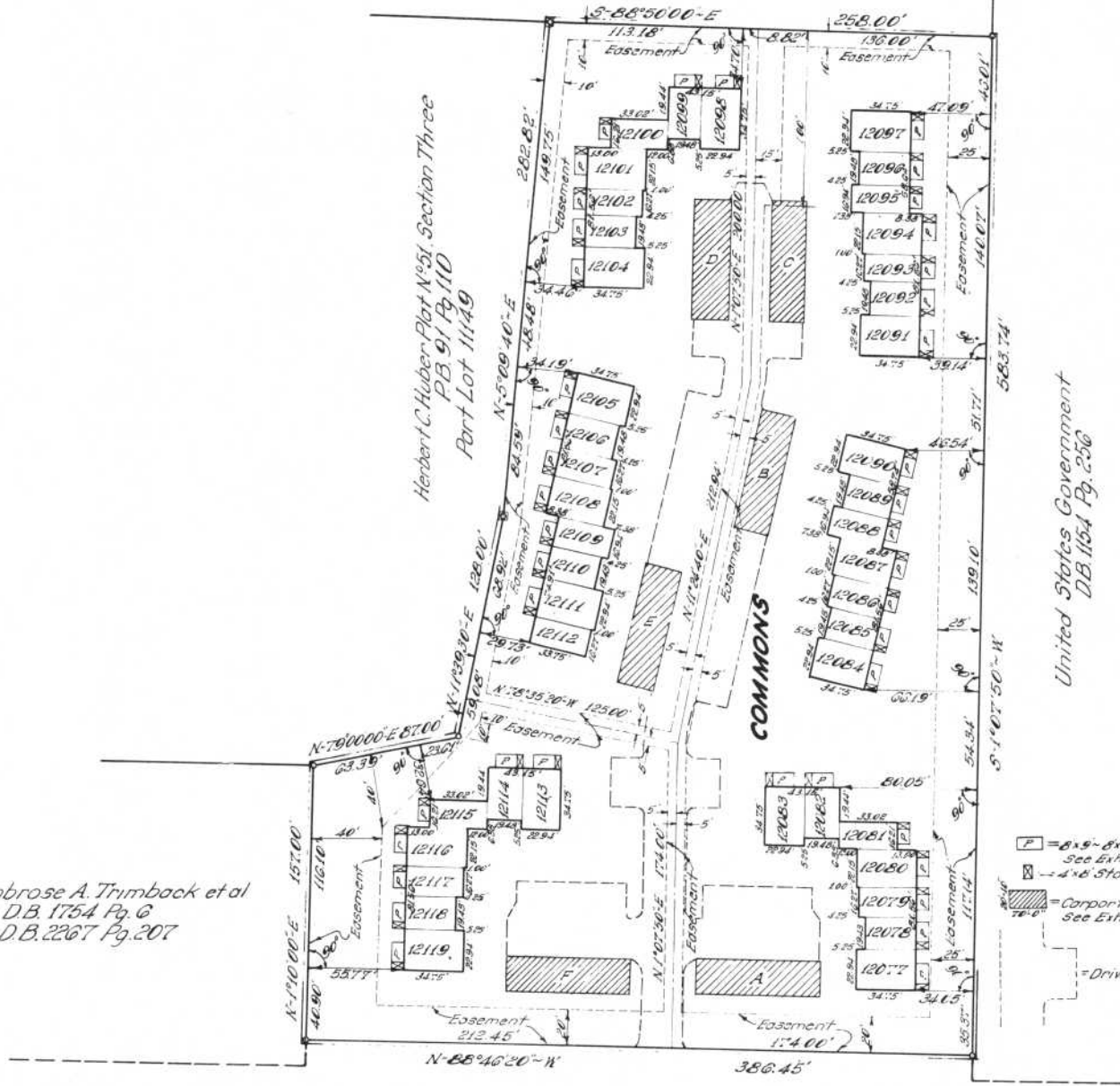
Maintenance
 Unit Number
 12112

- 73361D04 -

Herbert C. Huber Plat N° 51 Section Three
P.B. 91 Pg. 110
Part Lot 11149

Ambrose A. Trimback et al
D.B. 1754 Pg. 6
D.B. 2267 Pg. 207

United States Government
D.B. 1154 Pg. 256



- LEGEND
- = 6' x 8' Patio - Limited Commons See Exhibit "B"
 - = 4' x 6' Storage - Limited Commons
 - = Carport - Limited Commons See Exhibit-3 Part C
 - = Drives & Parking (Commons)

TAYLORSVILLE

ROAD

**RECORD PLAN
HILLTOP CONDOMINIUM SECTION-TWO "A"**

BEING A REPLAT OF PART LOT N° 11149 OF HERBERT
C. HUBER PLAT N° 51-SECTION-THREE
AS RECORDED IN PLATBOOK 91, PAGE 110
LOCATED IN
SECTION-29, T-2, R-8, M.R.S. WAYNE TOWNSHIP
MONTGOMERY COUNTY, OHIO



Prepared By
Ralph L. Woolpert Company
Consulting Engineers & Planners
Dayton, Ohio April, 1973

- 73361D05 -

Unit Type, Percentage of Ownership and Addresses
Hilltop Condominium, Section "Two-A"

| <u>Unit No.</u> | <u>Address Mount Ranier</u> | <u>Type Unit</u> | <u>Percentage Ownership in Commons</u> | <u>Unit No.</u> | <u>Address Mount Ranier</u> | <u>Type Unit</u> | <u>Percentage Ownership in Commons</u> |
|-----------------|-----------------------------|------------------|--|-----------------|-----------------------------|------------------|--|
| 12077 | 7500 | R | 1.41 | 12100 | 7543 | S | 0.98 |
| 12078 | 7502 | A | 1.03 | 12101 | 7441 | R | 1.41 |
| 12079 | 7504 | S | 0.98 | 12102 | 7539 | S | 0.98 |
| 12080 | 7506 | R | 1.41 | 12103 | 7537 | A | 1.03 |
| 12081 | 7508 | S | 0.98 | 12104 | 7535 | R | 1.41 |
| 12082 | 7510 | A | 1.03 | 12105 | 7531 | R | 1.41 |
| 12083 | 7512 | R | 1.41 | 12106 | 7529 | A | 1.03 |
| 12084 | 7516 | R | 1.41 | 12107 | 7527 | S | 0.98 |
| 12085 | 7518 | A | 1.03 | 12108 | 7525 | R | 1.41 |
| 12086 | 7520 | S | 0.98 | 12109 | 7523 | S | 0.98 |
| 12087 | 7522 | R | 1.41 | 12110 | 7521 | A | 1.03 |
| 12088 | 7524 | S | 0.98 | 12111 | 7519 | R | 1.41 |
| 12089 | 7526 | A | 1.03 | 12112 | 7517 | Maintenance | 1.00* |
| 12090 | 7528 | R | 1.41 | 12113 | 7513 | R | 1.41 |
| 12091 | 7532 | R | 1.41 | 12114 | 7511 | A | 1.03 |
| 12092 | 7534 | A | 1.03 | 12115 | 7509 | S | 0.98 |
| 12093 | 7536 | S | 0.98 | 12116 | 7507 | R | 1.41 |
| 12094 | 7538 | R | 1.41 | 12117 | 7505 | S | 0.98 |
| 12095 | 7540 | S | 0.98 | 12118 | 7503 | A | 1.03 |
| 12096 | 7542 | A | 1.03 | 12119 | 7501 | R | 1.41 |
| 12097 | 7544 | R | 1.41 | | | | |
| 12098 | 7547 | R | 1.41 | | | | |
| 12099 | 7545 | A | 1.03 | | | | |

*Remaining tract described as Exhibit A, Part II, contains 49.5%
(to be attributed to Declarant until Section Two B is recorded)

Schedule of Carport
Assignment Limitations
as provided in Section 3.06

Carport Building

Units Assigned

| | |
|---|----------------------------|
| A | 12077 thru 12083 inclusive |
| B | 12084 thru 12090 " |
| C | 12091 thru 12097 " |
| D | 12098 thru 12104 " |
| E | 12105 thru 12111 " |
| F | 12113 thru 12119 " |

B 889-0072

RECEIPT AND CERTIFICATE

Nº 15689

HILLTOP CONDOMINIUM SECTION TWO PROPERTY OWNERS ASSOCIATION

NAME

440962

NUMBER

DOMESTIC CORPORATIONS

- ARTICLES OF INCORPORATION
- AMENDMENT
- MERGER/CONSOLIDATION
- DISSOLUTION
- AGENT
- RE-INSTATEMENT
- CERTIFICATES OF CONTINUED EXISTENCE
- MISCELLANEOUS

FOREIGN CORPORATIONS

- LICENSE
- AMENDMENT
- SURRENDER OF LICENSE
- APPOINTMENT OF AGENT
- CHANGE OF ADDRESS OF AGENT
- CHANGE OF PRINCIPAL OFFICE
- RE-INSTATEMENT
- FORM 7
- PENALTY

MISCELLANEOUS FILINGS

- ANNEXATION/INCORPORATION—CITY OR VILLAGE
- RESERVATION OF CORPORATE NAMES
- REGISTRATION OF NAME
- REGISTRATION OF NAME RENEWALS
- REGISTRATION OF NAME—CHANGE OF REGISTRANTS ADDRESS
- TRADE MARK
- TRADE MARK RENEWAL
- SERVICE MARK
- SERVICE MARK RENEWAL
- MARK OF OWNERSHIP
- MARK OF OWNERSHIP RENEWAL
- EQUIPMENT CONTRACT/CHATTEL MORTGAGE
- POWER OF ATTORNEY
- SERVICE OF PROCESS
- MISCELLANEOUS
- ASSIGNMENT—TRADE MARK, MARK OF OWNERSHIP, SERVICE MARK, REGISTRATION OF NAME

I certify that the attached document was received and filed in the office of TED W. BROWN, Secretary of State, at Columbus, Ohio, on the 22nd day of June A. D. 1973, and recorded on Roll B889 at Frame 072 of the RECORDS OF INCORPORATION and MISCELLANEOUS FILINGS.

Ted W. Brown

TED W. BROWN,
Secretary of State

Filed by and Returned To: Pickrel, Schaeffer & Ebeling

2700 Winters Bank Tower

Dayton, Ohio 45402

FEE RECEIVED: \$ 25.00

HILLTOP CONDOMINIUM SECTION TWO PROPERTY OWNERS ASSOCIATION



NAME: _____

73361D08

148-82

B 889-0073

440962

APPROVED FOR FILING
By *[Signature]*
Date 6-22-73
Amount 2500

Articles of Incorporation

— OF —

HILLTOP CONDOMINIUM SECTION TWO PROPERTY OWNERS ASSOCIATION

(Name of Corporation)

The undersigned, a majority of whom are citizens of the United States, desiring to form a corporation for profit, under Sections 170.01 et seq. of the Revised Code of Ohio, do hereby certify:

FIRST. The name of said corporation shall be _____

HILLTOP CONDOMINIUM SECTION TWO PROPERTY OWNERS ASSOCIATION

SECOND. The place in Ohio where its principal office is to be located is _____

Wayne Township Montgomery County.

(City, Village or Township)

THIRD. The purposes for which it is formed are:

To exercise the powers and authority set forth in the Declaration of Covenants, Conditions and Restrictions of Condominium and By-Laws of Property Owners Association to be recorded in the Deed Records of Montgomery County, Ohio, as same may, from time to time, be amended or supplemented in accordance with the terms and provisions thereof, said Declaration and By-Laws being incorporated herein as if set forth at length; to do all things required or permitted by property owners' associations as provided in Chapter 5311 of the Revised Code of Ohio, and to have and to exercise all powers, rights and authority granted to non-profit corporations under Chapter 1702 of the Revised Code of Ohio.

In furtherance of the foregoing, and subject to the terms and conditions of said Declaration and By-Laws, the corporation may acquire, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, manage, administer and dedicate for common or public use real and personal property, and may borrow money for any of the purposes of the corporation and in connection therewith, issue bonds, debentures, notes, or other obligations therefor, either without security or by securing the same by pledge or mortgage of the whole or any part of the property of the corporation.

FOURTH, The members of the corporation shall be the owners of the real property described in the aforesaid Declaration.

— 73361D09 —

FIFTH, The names and addresses of the initial members of the Board of Managers of this corporation are, and their respective terms of office shall expire as of the annual meeting in the year indicated, as follows: *Trustees:*

| <u>Name</u> | <u>Address</u> | <u>Term End</u> |
|--------------------|--|-----------------|
| F. Darrell Casto | 5318 Pollard Way, Dayton, Ohio 45424 | 1976 |
| Richard H. Packard | 2700 Winters Tower, Dayton, Ohio 45402 | 1976 |
| Marshall Griffin | 5318 Pollard Way, Dayton, Ohio 45424 | 1975 |
| Harry G. Ebeling | 2700 Winters Tower, Dayton, Ohio 45402 | 1974 |
| Charles H. Huber | 5318 Pollard Way, Dayton, Ohio 45424 | 1974 |

IN WITNESS WHEREOF, we have hereunto subscribed our names, this 25th day of May 1973.

HUBER HOMES, INC. (incorporator)

By *F. Darrell Casto*
F. Darrell Casto
its Vice President

By *Richard H. Packard*
Richard H. Packard
its Secretary

B 889-0075

Original Appointment of Agent

The undersigned, being at least a majority of the incorporators of _____
(Name of Corporation)

HILLTOP CONDOMINIUM SECTION TWO PROPERTY OWNERS ASSOCIATION

hereby appoint F. Darrell Casto
(Name of Agent)

a natural person resident in the county in which the corporation has its principal office, ~~a corporation~~
~~having a business address in the county in which~~ _____
(Name of Corporation)

~~has its principal office (strike out phrase not applicable)~~, upon whom ~~(which)~~ any process, notice or demand required or permitted by statute to be served upon the corporation may be served. His ~~(its)~~

complete address is 5318 Pollard Way, Dayton
(Street or Avenue) (City or Village)

Montgomery County, Ohio, 45424
(Zip Code)

HILLTOP CONDOMINIUM SECTION TWO PROPERTY OWNERS ASSOCIATION
(Name of Corporation)

HUBER HOMES, INC.

By *F. Darrell Casto*
F. Darrell Casto, Vice President

By *Richard H. Packard*
Richard H. Packard, Secretary

(INCORPORATORS NAMES SHOULD BE TYPED OR PRINTED BENEATH SIGNATURES)

Dayton, Montgomery County, Ohio

May 25th, 1973

HILLTOP CONDOMINIUM SECTION TWO PROPERTY OWNERS ASSOCIATION
(Name of Corporation)

Gentlemen: I, ~~(strike out word not applicable)~~ hereby accept(s) appointment as agent of your corporation upon whom process, tax notices or demands may be served.

F. Darrell Casto
F. Darrell Casto (Signature of Agent of ~~Name of Corporation~~)

By _____
(Signature of Officer Signing and Title)

Remarks: All articles of incorporation must be accompanied by an original appointment of agent. There is no filing fee for this appointment.

73361D11 - 111932

INDEX TO BY-LAWS

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HILLTOP SECTION TWO
PROPERTY OWNERS ASSOCIATION
BY-LAWS

ARTICLE I

Definitions

Section 1. "Association" shall mean and refer to Hilltop Section Two Property Owners Association, a non-profit corporation organized and existing under the laws of the State of Ohio.

Section 2. "Declaration" shall mean and refer to Hilltop Section Two A Condominium Declaration of Covenants, Conditions and Restrictions of ownership recorded in the Deed Records of Montgomery County, Ohio, to which these By-Laws are attached and incorporated as an Exhibit, and Hilltop Condominium Section Two B, to be similarly recorded subsequently.

Section 3. "Property" shall mean and refer to land located in the Township of Wayne, Montgomery County, Ohio, more particularly described as Lot 11149 Herbert C. Huber Plat No. 51, Section Three, as recorded in Plat Book 91, page 110, of the Plat Records of Montgomery County, Ohio, and described on Exhibit A Parts I, II, III, of Hilltop Section Two Condominium.

Section 4. "Common Areas and Facilities" shall mean and refer to all properties owned or maintained by the Association for the common benefit and enjoyment of the residents within the Property, including but not limited to the Commons referred to and established by the Declaration and including specifically Unit Numbered 12112.

ARTICLE II

Location

The principal office of the Association shall be located at 5318 Pollard Way, Dayton, Ohio 45424.

ARTICLE III

Membership, Voting and Other Rights

The membership, voting rights, property rights in the Property and the purposes of the Association shall be as set forth in the Association's Articles of Incorporation and the Declaration.

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ARTICLE IV

Board of Managers

Section 1. Creation and Election. There shall be five members on the Board of Managers. Upon the expiration of the respective terms of the members of the initial Board of Managers as specified in the Articles of Incorporation of the Association, their respective successors shall be elected, each for the term of three (3) years, by a majority vote of the members of the Association present in person or by proxy at the annual meeting of said members at which such election shall be held. Nomination may be by nominating committee appointed by the Board of Managers and may also be made from the floor. Vacancies in the Board of Managers shall be filled by the majority of the remaining Managers, any such appointed Manager to hold office for the remainder of the term of the Manager whose office shall have become vacant. Members of the Board of Managers may, but need not, be members of the Association.

Section 2. Powers. The Board of Managers shall manage the affairs of the corporation and shall have such powers as are given to it by law and by the Articles of Incorporation including, but not limited to, the power:

(a) To call special meetings of the members whenever it deems necessary and it shall call a meeting at any time upon written request of one-fourth (1/4) of the voting membership.

(b) To appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these By-Laws shall be construed to prohibit the employment of any member, officer or director of the Association in any capacity whatsoever;

(c) To establish, levy and assess, and collect all the various assessments or charges which under the terms and provisions of the Declaration the Association is empowered or required to establish, levy, assess or collect. The Board of Managers may designate and retain a collecting agent to collect assessments or charges.

The Board of Managers shall designate that portion of the assessment which shall be considered a contribution to the capital of the association by the residential owner. Such capital contribution shall be placed in a separate savings account or legal investment and shall be used solely for specified capital improvements to the property to be maintained by the association. Such capital improvements for which such funds are to be used include, but are not limited to:

Improvement to all common areas.

Replacement and initial construction of private streets, foot paths, fences, landscaping.

Construction of structures and facilities for the supply of public utilities including water, gas, electricity, sewage, and other utilities.

Construction and replacement of roofs and exterior walls of any structure.

Any project costing \$1,000.00 or more to complete shall be considered a capital improvement.

Such capital contribution shall be made in the same manner as assessments as set forth in Article IV, Section 4.09, of the Declaration. In addition to the procedures described in Section 4.09, the Board of Managers, by resolution, must identify all capital improvements. Notice will then be given to all residential owners of the proposed assessment and use of the capital contributions prior to the actual assessment.

The books and records of the association shall treat such assessment for capital improvements as a contribution to the capital of the association.

(d) To adopt and publish from time to time rules and regulations governing the use of the common area and facilities and the personal conduct of the members and their guests thereon and to amend, modify or withdraw such rules and regulations from time to time;

(e) To exercise for the Association all powers, duties and authority vested in or delegated to this Association.

Section 3. Duties. It shall be the duty of the Board of Managers:

(a) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at any special meeting when such is requested in writing by one-fourth (1/4) of the voting membership.

(b) To supervise all officers, agents and employees of the Association, and to see that their duties are properly performed.

(c) To carry out all of the obligations and duties imposed upon the Board of Managers by the Declaration.

Section 4. Compensation. The Managers may be paid no compensation for their services but shall be reimbursed for their actual expenses incurred.

ARTICLE V

Managers' Meetings

Section 1. Annual Meetings.

(a) An annual meeting of the Board of Managers shall be held at the principal office of the Association on the second Wednesday of May at the hour of 8:00 PM EST in each year beginning with the

year 1974. The Board of Managers may from time to time establish and alter a set time for the holding of additional meetings of the Board of Managers on a monthly or other regular basis.

(b) Notice of such annual and other regular meetings is hereby dispensed with. If the day for any such meeting shall fall upon a holiday, the meeting shall be held at the same hour on the first day following which is not a holiday, and no notice thereof need be given.

Section 2. Special Meetings. Special meetings of the Board of Managers shall be held when called by the President of the Association or by any three (3) Managers after not less than three (3) days' notice to each Manager.

Section 3. Conduct of Business.

(a) The transaction of any business at any meeting of the Board of Managers, however called or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present and if, either before or after the meeting, each of the managers not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and made part of the minutes of the meeting.

(b) The majority of the Board of Managers shall constitute a quorum thereof. In the event less than a quorum is present at any meeting, the majority of the managers present can adjourn the meeting from time to time without further notice.

(c) Any action which may be taken at a meeting of the Board of Managers may be taken without a meeting by means of a consent in writing, setting forth the action so taken, signed by all the Managers.

ARTICLE VI

Members Meetings

Section 1. Regular Meetings. The regular annual meeting of the members shall be held at a place designated by the Board of Managers on the third Wednesday of January in each year beginning with the year 1973 at the hour of 8:00 PM EST.

Section 2. Special Meetings. Special meetings of the members for any purpose, may be called at any time by the President, the Vice-President, the Secretary or the Treasurer, or by any three (3) members of the Board of Managers, or upon written request of the members who have a right to vote one-fourth (1/4) of all of the votes of the entire membership.

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Section 3. Notice. Notice of annual and special meetings shall be given in writing to the members by the Secretary. Notice may be given to the member either personally, or by sending a copy of the notice through the mail, postage thereon fully prepaid, to his address appearing on the books of the corporation. Each member shall register his address with the Secretary, and notice of meetings shall be mailed to him at such address. Notice of any meeting, regular or special, shall be given, or sent not less than five (5) days or more than forty (40) days in advance of the meeting and shall set forth in general the nature of the business to be transacted, provided, however, that for any action governed by the Articles of Incorporation or the Declaration, notice of such meeting shall be given or sent as therein provided.

Section 4. Conduct of Business.

(a) Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, ten per cent (10%) of the votes of the total membership shall constitute a quorum for any action governed by these By-Laws. Any action governed by the Articles of Incorporation or by the Declaration applicable to the property shall require a quorum as therein provided. In the event less than a quorum is present, the majority of the members present may adjourn the meeting from time to time without further notice.

(b) Unanimous Consent. Any action which may be taken at a meeting of members may be taken without a meeting by means of a consent in writing setting forth the action so taken and signed by all of the members entitled to vote thereon.

(c) Proxies. At all corporate meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically cease upon sale by the member of his Residential Unit.

ARTICLE VII

Officers

Section 1. Titles. The principal officers of the Association shall consist of a President, a Secretary and a Treasurer, and such Vice-President, Assistant Secretaries and Assistant Treasurers (the number and seniority thereof to be determined by the Board of Managers), and other officers and agents as the Board of Managers may from time to time determine. Any two or more offices may be held by the same persons, except the offices of President and Secretary.

Section 2. Appointment. The officers shall be chosen by majority vote of the Managers.

Section 3. Term. All officers shall hold office during the pleasure of the Board of Managers for terms not exceeding three (3) years.

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Section 4. Duties.

(a) The President shall preside at all meetings of the Board of Managers, shall see that orders and resolutions of the Board of Managers are carried out and perform such other duties as from time to time may be assigned to him by the Board of Managers.

(b) The Vice-President highest in seniority shall perform all the duties of the President in his absence, and the Vice-Presidents shall perform such other duties as from time to time may be assigned to them by the President or the Board of Managers.

(c) The Secretary shall be ex-officio the Secretary of the Board of Managers, shall record the votes and keep the minutes of all the proceedings in a book to be kept for the purposes. He shall sign all certificates of membership. He shall keep the records of the Association. He shall record in a book kept for that purpose the names of all members of the Association together with their addresses as registered by such members. He shall also perform such other duties as from time to time may be assigned to him by the President or the Board of Managers.

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Managers, provided, however, that a resolution of the Board of Managers shall not be necessary for disbursements made in the ordinary course of business. The Treasurer shall sign all checks and notes of the Association, provided that such checks and notes may be signed by the President, or the Vice-President in the absence of the Treasurer and the Assistant Treasurer, if any. He shall also perform such other duties as from time to time may be assigned to him by the President or the Board of Managers.

(e) The Treasurer shall keep proper books of account and cause an annual audit of the Association books to be made at the completion of each fiscal year. He shall prepare an annual budget and an annual balance sheet statement and the budget and balance sheet statement shall be presented to the membership at its regular annual meeting.

(f) Any Assistant Secretary or Assistant Treasurer shall perform all of the duties of the Secretary-Treasurer, respectively, in their absence; and such other duties as from time to time may be assigned to them by the President or the Board of Managers.

Section 5. Compensation. The Officers, or any of them may be paid such compensation for their services as may from time to time be fixed by the Board of Managers.

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ARTICLE VIII

The Business Management

Section 1. Contracts. The Board of Managers may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

Section 2. Loans. No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Managers. Such authority may be general or confined to specific instances.

Section 3. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Managers.

Section 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Managers may select.

Section 5. Books and Papers. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to the inspection by any members for any proper purpose.

ARTICLE IX

Indemnification

Each manager, officer, or employee, or former manager, officer, or employee, of the Association, and each person who is serving or has served at the request of the Association as a manager, officer, or employee of another corporation, shall be indemnified by the Association against all expenses actually and reasonably incurred, judgments, decrees, fines, penalties, or amounts paid in settlement in connection with the defense of any pending or threatened action, suits, or proceeding, criminal or civil, to which he is or may be made a party by reason of being or having been such manager, officer, or employee, provided a determination is made by or in accordance with the method hereafter provided for that:

(a) Such manager, officer or employee was not and has not been adjudicated to have been guilty of, or liable for, criminal acts, or willful misconduct or gross neglect of duty to the corporation of which he is a manager, officer, or employee; and

(b) In case of any amount paid in settlement, such settlement is or was reasonable and in the interest of such corporation.

The determination as to (b) and, in the absence of an adjudication as to (a) by a court of competent jurisdiction, the determination as to (a) shall be made by a court, by the members, or by the managers of the Association acting at a meeting at which a quorum consisting of managers who are not parties to or threatened with any such action, suit or proceedings, is present. Any manager who is a party to or threatened with any such action, suit, or proceeding, shall not be qualified to vote. If, for this reason, a quorum of managers cannot be obtained to vote on such determinations, or if such quorum exists and it is so resolved, the determinations shall be made by a group of three or more disinterested persons to whom the same shall be referred by a quorum of the entire Board of Managers. In making the determination above referred to, the quorum of the disinterested managers, or such disinterested group, as the case may be, may conclusively rely upon an opinion as to facts or law or both of independent legal counsel selected by them. Expenses incurred in defending any such civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding, as authorized in a method provided above, upon receipt of an undertaking by or on behalf of such manager, officer, or employee, to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association.

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which such manager, officer, or employee may be entitled under any agreement, any insurance purchased by the Association, vote of the members, or otherwise; shall continue as to a person who has ceased to be such manager, officer, or employee; and shall inure to the benefit of the heirs, executors and administrators of such person. The provisions of this paragraph shall be deemed to be a contract between the Association and each person who serves as such manager, officer, or employee at any time while this paragraph is in effect.

It is not intended that the provisions of this Article shall be applicable to matters as to which indemnification would be in contravention of the laws of the United States of America or of the State of Ohio whether as a matter of public policy or pursuant to statutory provision; and to such an end they shall be construed as severable.

The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was such manager, officer, or employee, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, except where he is adjudged guilty of, or liable for, willful misconduct, gross neglect of duty, or criminal acts.

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ARTICLE X

Conflicts with Declaration - Amendments

Section 1. These By-Laws are set forth to comply with the requirements of Chapter 5311 of the Ohio Revised Code, and in the case of any conflict between the provisions of such statutes and these By-Laws, the provisions of such statutes shall control. In case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

Section 2. Subject to the provisions of Section 1 of this Article, these By-Laws may be altered, amended or repealed and new By-Laws may be adopted at any meeting of the members of the corporation by a majority vote of the members present at the meeting, in person or by proxy, except that any such action prior to January 1, 1975 shall be only with the prior approval of the Declarant.

ADOPTED by the Incorporators of Hilltop Section Two Condominium Property Owners Association, the 25th day of May 1973.

T. Paul East

Richard J. Paul, Sec

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