

EXHIBIT B

## BYLAWS OF THE WESTBURY CONDOMINIUM ASSOCIATION

## Article I. Office

Section 1. Principal Office. The principal office of the Association shall be maintained at 3737 West End Avenue, Nashville, Tennessee 37205.

Section 2. Place of Meetings. All meetings of the Association shall be held at its principal office unless some other place is stated in the call.

## Article II. Association of Unit Owners

Section 1. Annual Meeting. The annual meeting of the Association (except for the first annual meeting) shall be held on the first Tuesday of the second calendar month following the close of the Association's fiscal year.

Section 2. Special Meetings. Special meetings may be held at any time upon the call of the President or upon the call of any three Unit Owners. Upon receipt of such call, the Secretary shall send out notices of the meeting to all members of the Association.

Section 3. Notice of Meetings. A written or printed notice of every meeting of the Association, stating whether it is an annual meeting or special meeting, the authority for the call of the meeting, the place, day and hour thereof and the

purpose therefor, shall be given by the Secretary or the person or persons calling the meeting at least three days before the date set for such meeting. Such notice shall be given to each member in any of the following ways: (a) by any manner permitted under the Deed, or (b) by leaving the same with him personally, or (c) by leaving the same at the residence or usual place of business of such member, or (d) by mailing it, postage prepaid, addressed to such member at his address as it appears on the records of the Association, or (e) if such member cannot be located by reasonable efforts, by posting said notice in the main lobby of the Buildings. If notice is given pursuant to the provisions of this section, the failure of any member to receive actual notice of the meeting shall in no way invalidate the meeting or any proceedings at such meeting.

Upon written request for notices, mailed by certified mail, addressed to the secretary of the Association at the address of the Association, the holder of any duly recorded first mortgage or deed of trust against any Unit may obtain a copy of any and all notices permitted or required to be given, and any such mortgagee requesting such notice shall thereafter receive all notices sent to the members from and after receipt of said request until said request is withdrawn or said mortgage is discharged of Record.

Section 4. Waiver of Notice. The presence of all the members, in person or by proxy, at any meeting shall render the

same a valid meeting, unless any member shall, at the opening of such meeting, object to the holding of the same for noncompliance with the provisions of Section 3 of this Article II. Any meeting so held without objection shall, notwithstanding the fact that no notice thereof was given, or that the notice given was improper, be valid for all purposes, and at such meeting any general business may be transacted and any action may be taken; provided, however, that where a member has pledged his vote by mortgage, deed of trust or agreement of sale, only the presence of the pledgee will be counted in determining whether notice is waived with regard to business dealing with such matters upon which the member's vote is so pledged.

Section 5. Quorum; Voting. At any meeting of the Association, two-thirds (2/3) of the Unit Owners, present or by proxy, shall constitute a quorum, and, except as otherwise provided herein, in the Deed or in the Act, the concurring vote of a Majority of the Unit Owners shall be valid and binding upon the Association. In the event a member has pledged his vote by mortgage, deed of trust or agreement of sale, the member's vote will be recognized in computing a quorum with respect to any business conducted concerning such matters upon which said member's vote is so pledged or mortgaged unless the mortgage, deed of trust or agreement of sale provides otherwise, in which event such instruments shall control. In

the event of such mortgage or pledge, the Unit Owner shall provide the Association with a copy of the pledging or mortgaging instrument.

Section 6. Membership; Voting. Any Person or combination thereof owning any Unit duly recorded in his or its name, the ownership of which shall be determined by the records of the Register's Office for Davidson County, Tennessee, shall be a member of the Association, and either in person or by proxy entitled to a vote equivalent to one vote for each Unit so owned at all meetings of the Association. Any provision to the contrary notwithstanding, co-owners or joint owners shall be deemed one Unit Owner and one member. The authority given by a member to another person to represent such member at meetings of the Association shall be in writing, signed by such member (or if a Unit is jointly owned then by co-owners or joint owners, by all such co-owners or joint owners; or if such member is a corporation, by the proper officers thereof), and shall be filed with the Secretary, and unless limited by its terms, such authority shall be deemed good until revoked in a writing filed with the Secretary. An executor, administrator, guardian or trustee may vote in person or by proxy at any meeting of the Association with respect to any Unit owned or held by him in such capacity, whether or not the same shall have been transferred to his name by a duly recorded conveyance. In case such Unit shall not have so been

transferred to his name, he shall satisfy the Secretary that he is the executor, administrator, guardian or trustee holding such Unit in such capacity. Whenever any such Unit is owned by two or more persons jointly according to the Record, the vote therefor may be exercised by any one of the owners present in the absence of protest by the other or others; PROVIDED, HOWEVER, that when the vote of an owner or owners has been pledged by mortgage or deed of trust of Record, only the vote of the pledgee will be recognized upon those matters upon which the owner's or owners' vote is so pledged except as otherwise provided in Section 5.

Section 7. Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted that might have been transacted by a quorum at the meeting originally called.

### ARTICLE III. Board of Directors

Section 1. Number and Qualification. The affairs of the Association shall be governed by a board of directors (the "Board of Directors" or the "Board") composed of five (5) persons, and all such directors shall be Unit Owners (or owners of an interest in a Unit).

Section 2. Powers and Duties. The Board of Directors shall have all of the powers and duties granted thereto in the Deed and all other powers and duties necessary for the administration of the affairs of the Association, and may do all such acts and things as are not by law, by the Deed or by these Bylaws directed to be exercised and done by the Unit Owners.

Section 3. Other Powers and Duties. In addition to duties imposed by the Deed, these Bylaws or by resolutions of the Association, the Board of Directors shall have the following powers and duties:

- (a) to elect and remove the officers of the Association as hereinafter provided;
- (b) to administer the affairs of the Association and the Property;
- (c) to engage the services of an agent (hereinafter sometimes called the "Managing Agent") to maintain, repair, replace, administer and operate the Property or any part thereof for all of the Unit Owners, upon such terms and for such compensation and with such authority as the Board may approve; provided, however, that any management agreement relating to the Property shall be terminable for cause upon thirty (30) days' notice and shall have a term of not less than one (1) year nor more than three (3) years, which term shall be renewable upon approval of the Board of Directors.

(d) to formulate policies for the administration, management and operation of the Property and the Common Elements thereof;

(e) to adopt rules and regulations, with written notice thereof to all Unit Owners, governing the administration, management, operation and use of the Property and the Common Elements, and to amend such rules and regulations from time to time;

(f) to provide for the surveillance, maintenance, repair and replacement of the Common Elements and the Buildings and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or Managing Agent;

(g) to provide for the designation, hiring and removal of employees and other personnel, including accountants and attorneys, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Property and the Common Elements, and to delegate any such powers to the Managing Agent (and any such employees or other personnel who may be the employees of a Managing Agent);

(h) to appoint committees of the Board and to delegate to such committees the Board's authority to carry out certain duties of the Board as provided in the Deed and these By-Laws;

(i) to determine the fiscal year of the Association and to change said fiscal year from time to time as the Board deems advisable;

(j) to estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Unit Owners their respective shares of such estimated expenses, as hereinafter provided;

(k) to enter into any lease agreement for lease of premises suitable for use as custodian apartments, upon such terms as the Board may approve;

(l) unless otherwise provided herein or in the Deed, to comply with the instructions of a Majority of the Unit Owners as expressed in a resolution duly adopted at any annual or special meeting of the Association;

(m) to secure insurance policies as required by the Deed and these By-Laws, and in this regard, annually to review the amounts of coverage afforded by such policies;

(n) to borrow money for the purposes of repair or restoration of the Common Elements without the approval of the members of the Association; and

(o) to exercise all other powers and duties of the board of administration or Unit Owners as a group that are provided in the Act, and all powers and duties of a board of managers or a board of directors referred to in the Deed or these By-Laws.



The Association shall not, in any event, be bound either directly or indirectly by any contract or lease entered into by the Developer on behalf of the Association (including but not limited to management contracts) unless such contract or lease has a term of one (1) year or less and contains a right of termination, which is exercisable without cause and without penalty at any time after passage of control from the Developer to the Association, upon not more than ninety (90) days' notice.

Section 4. Manager or Managing Agent; Employees

Generally. The Managing Agent shall perform such duties and services as the Board of Directors shall authorize, including, but not limited to, the duties listed in Section 3 of this Article. The duties conferred upon the Managing Agent by the Board of Directors may be at any moment revoked, modified or amplified by the vote of the Association in a duly constituted meeting. The Board of Directors and/or the Managing Agent (with the approval of the Board of Directors) may employ any other employee or agents to perform such duties at such salaries as the Board of Directors may establish. The Board of Directors may enter into such service contracts on behalf of the Association as are necessary and appropriate and shall have authority, but not the obligation, to assume, on behalf of the Association, any initial service contracts entered into by Developer that comply with the requirements and limitations imposed herein.

Section 5. Election and Term of Office. The directors of the Association shall be elected by the affirmative vote of not less than two-thirds (2/3) of the Unit Owners. The first annual meeting of the Association will be called by Developer at such time as, in its discretion, it deems best, but in no event shall it be later than thirty (30) days after two (2) Units are occupied. Steve G. Fridrich, or his nominee, shall act as President of the Association until the President has been named by the Board of Directors. At the first annual meeting of the Association, the terms of office for the first board of directors (the "First Board") shall be fixed wherein two directors shall serve for one year, two directors shall serve for two years and one director for three years.

At the expiration of the initial term of office of each respective director, his successor shall be elected by all those entitled to vote to serve a term of three years. The directors shall hold office until their successors have been elected and hold their first meeting.

Section 6. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the Association shall be filled by vote of the majority of the remaining directors, even though they may constitute less than a quorum; and each person so elected shall be a director until a successor is elected at the next annual meeting of the Association.

Section 7. Removal of Directors. At any regular meeting or special meeting duly called, any one or more of the elected directors may be removed with or without cause by not less than two-thirds (2/3) of the Unit Owners and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting.

Section 8. Compensation. No compensation shall be paid to directors for their services as directors. No remuneration shall be paid to a director for services performed by him for the Association in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Board of Directors before the services are undertaken. A director may not be an employee of the Association.

Section 9. Organizational Meeting. The first meeting of a newly elected Board of Directors shall be held within one week of election at such place as shall be fixed by the directors at the meeting at which such directors were elected, and no notice shall be necessary to the newly elected directors in order legally to constitute such meeting, providing the whole Board is present.

Section 10. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by not less than two-thirds

(2/3) of the directors. Notice of regular meetings of the Board of Directors shall be given to each director, personally or by mail, addressed to his residence, or by telephone, at least three days prior to the day named for such meeting.

Section 11. Special Meetings. Special meetings of the Board of Directors may be called by the President on three days notice to each director, given personally or by mail, addressed to his residence, or by telephone, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of not less than two (2) directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 13. Board of Directors' Quorum. At all meetings of the Board of Directors, two-thirds (2/3) of the directors shall constitute a quorum for the transaction of business, and

the acts of a majority of the directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting to a different time. At any such adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

Section 14. Bonds of Officers and Employees. The Board of Directors shall require that all officers and employees (including without limitation any management agent) of the corporation handling or responsible for corporate funds shall be covered by blanket fidelity bonds naming the Association as obligee, which bonds shall be in an amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Project. Each such bond shall contain an agreement to notify the Board, the holder of a first mortgage or deed of trust on a Unit and every other person in interest who shall have requested such notice at least thirty (30) days' prior notice of any cancellation or material alteration of such bond. The premiums on such bonds shall be paid by the Association as a common expense of the Association.

## Article IV. Officers

Section 1. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board of Directors. The directors may appoint an assistant treasurer, an assistant secretary, and such other officers as in their judgment may be necessary. An officer may serve in more than one capacity; provided, however, that there shall be no less than two (2) persons serving as officers; and further provided that no one person shall serve as both President and Secretary simultaneously.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board of Directors for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He

shall have all of the general powers and duties that are usually vested in the office of president of an association, including but not limited to the power to appoint committees from among the Unit Owners from time to time as he may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 6. Treasurer. The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.

Section 7. Secretary. The Secretary shall attend and keep the minutes of all meetings of the Board of Directors or of the Association; shall give all notices as provided by these

By-Laws, and shall have other powers and duties as may be incidental to the office of Secretary, given him by these By-Laws or assigned to him from time to time by the directors. If the Secretary shall not be present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose.

Section 8. Auditor. The Association may at any meeting appoint some person, firm or corporation engaged in the business of auditing to act as auditor of the Association and to perform such audits and fiscal duties as may be requested of him by the Association.

#### Article V. Obligations of the Unit Owners

Section 1. Expenses, Assessments. Every Unit Owner shall contribute, pro rata on the basis of his percentage interest in the Common Elements as set forth in the Deed, toward the expenses of administration of the Property and the Association, including but not limited to all types of insurance and the costs of operation, maintenance, repair and replacement of the Common Elements. The Association shall fix a monthly charge for each Unit in an amount sufficient to provide for its pro rata share of all such current expenses, reasonable reserves for future expenses of administration, reasonable reserves for the expenses of utilities, periodic maintenance, repair and replacement associated with the Common Elements and such other



expenses as the Association may deem proper, subject to adjustment from time to time as the Association may deem necessary. Such monthly charge shall be due and payable in advance on the first day of every month, shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid, and such charges, together with interest as aforesaid and reasonable attorney's fees of the Association (all as provided in the Deed) shall be a lien on the Unit, assessed prior in right to all other charges whatsoever except assessments, liens and charges in favor of the State of Tennessee and the Metropolitan Government of Nashville and Davidson County for taxes past due and unpaid on such Unit, and amounts and liabilities secured by first mortgage instruments duly Recorded. In the event any Unit Owner is delinquent in the payment of any monthly assessment for a period in excess of thirty (30) days, the Association is authorized to sever or disconnect all utility connections to his Unit, provided such severance or disconnection does not invalidate the Association's fire and casualty insurance, and to take such other actions as are authorized by the Deed.

Section 2. Working Capital. A working capital fund shall be maintained by the Association during the initial months of the Property's operation, in an aggregate amount equal to at least two months' assessments for each Unit. Each Unit's share of the working capital fund must be collected and transferred

to the Association at the time of the closing of the sale of each Unit and maintained in an account for the use and benefit of the Association. The purpose of the working capital fund is to insure that the Association will have cash available to meet unforeseen expenditures, and/or to acquire additional equipment or services deemed necessary or advisable by the Board, and disbursements from such fund shall be made as directed by the Board. Amounts paid into the working capital fund shall in no event be considered advance payment(s) of monthly assessments.

Section 3. Maintenance and Repair.

(a) Every Unit Owner must perform promptly all maintenance and repair work within his Unit that, if omitted, would affect the Property in its entirety or a part belonging to other Unit Owners, and is responsible for the damages and liabilities that his failure to do so may cause.

(b) All the repairs of internal installations of a Unit such as water, light, power, sewage, telephone and sanitary installations, lamps and all other accessories belonging to the Unit area shall be maintained at the Unit Owner's expense.

(c) A Unit Owner shall reimburse the Association for any expenditure incurred in repairing or replacing any Common Elements damaged through his fault.

Section 4. Use of Units. All units shall be used in accordance with the provisions of the By-Laws, the Deed and the Rules and Regulations.

Section 5. Rules and Regulations. In order to assure the peaceful and orderly use and enjoyment of the Buildings and Common Elements of the Property, the Association may from time to time adopt, modify and revoke in whole or in part by a vote of not less than two-thirds (2/3) of the members at any meeting duly called for the purpose, such reasonable rules and regulations, to be called Rules and Regulations, governing the conduct of persons in said Property as it may deem necessary. The Rules and Regulations, upon adoption, and every amendment, modification and revocation thereof, shall be delivered promptly to each Unit Owner and shall be binding upon all members and occupants of the Property.

The initial Rules and Regulations shall be these:

1. The lobbies, corridor, elevator, entrances, fire escapes and stairwells of the Buildings shall not be obstructed or used for any purpose other than ingress to and egress from the Units.

2. No exterior of any Unit or the windows or doors thereof or any other portions of the common elements shall be painted or decorated by any Unit Owner in any manner without prior consent of the Board.

3. No furniture, equipment or other personal articles shall be placed in the entrances, stairwells or other Common Elements.
4. No Unit Owner shall make or permit any noise or objectionable odor that will disturb or annoy the occupants of any of the Units in the Property or do or permit anything to be done therein that will interfere with the rights, comfort or convenience of other Unit Owners.
5. Each Unit Owner shall keep his Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows thereof, any dirt or other substance.
6. No shades, awnings, window guards, ventilators, fans or air-conditioning devices shall be used in or about the Buildings or Common Elements except such as shall have been approved by the Board.
7. No window shutters shall be used in or about the Buildings or Common Elements, except that shutters approved by the Board may be attached to or beside the windows on the first floor of the Buildings.
8. All interior curtains, blinds and window treatments shall have white backings so that only such white backing shall be visible from the exterior of the Buildings.

9. No sign, notice, lettering or advertisement shall be inscribed or exposed on or at any window, door or other part of the Property, except such as shall have been approved in writing by the Board; nor shall anything be projected out of any window of the Buildings without similar approval.

10. All garbage and refuse from the Buildings shall be deposited with care in receptacles intended for such purpose only at such times and in such manner as Managing Agent may direct.

11. Water closets and other water apparatus in the Buildings shall not be used for any purposes other than those for which they were constructed; nor shall any sweepings, rubbish, rags, paper, ashes or any other article be thrown into the same. Any damage resulting from misuse of any water closet or other apparatus shall be paid for by the Unit Owner causing such damage.

12. No shower, sauna, dishwasher, washing machine or other facility using more than 20 gallons of hot water per day shall be permitted unless hot water is furnished by a separate heater installed by the Unit Owner with Board approval.

13. Caged birds or animals and house cats may be kept in a Unit Owner's Unit unless the same shall become a nuisance or disturbance to other Unit owners. In no event

shall any other bird or animal, including without limitation dogs of any kind, be kept or harbored in the Buildings.

14. No radio or television aerial shall be attached to or hung from the exterior of the Buildings without written approval of the Board.

15. The agents of Managing Agent, and any contractor or workman authorized by Managing Agent, may enter any Unit at any reasonable hour of the day for any purpose permitted under the terms of the Deed, these Bylaws or the Rules and Regulations.

16. The Managing Agent may retain a passkey to each Unit, and each basement storage area. No Unit Owner shall alter any lock on any door leading to his Unit without the prior consent of Managing Agent. If such consent is given, the Unit Owner shall provide Managing Agent with a key for Managing Agent's use.

17. No Unit Owner or any employee or any client, visitor or guest of a Unit Owner shall be allowed on the roof of the Buildings or in the heating, air-conditioning or electrical equipment rooms without the express permission of the Managing Agent or the Board.

18. All damage to the Buildings or Common Elements caused by the moving or carrying of any article therein shall be paid by the Unit Owner responsible for the presence of such article.

19. No Unit Owner shall interfere in any manner with any portion of the heating, air-conditioning or lighting apparatus that are part of the Common Elements and not part of the Unit Owner's Unit.

20. No Unit Owner shall use or permit to be brought into the Buildings any inflammable oils or fluids such as gasoline, kerosene, naphtha or benzine, or other explosives or articles deemed extra hazardous to life, limb or property, without in each case obtaining the written consent of the Board.

21. The Unit Owners shall not be allowed to put their names on or near any entry to the Buildings or entrance to any Unit, except in the proper places provided by the Board for such purposes.

22. The Unit Owners must keep the interiors of their Units clean and free from obstructions. The Board and the Managing Agent assume no liability for loss or damage to articles stored or placed in the Buildings.

23. Any damage to the Buildings or equipment caused by Unit Owners, employees of Unit Owners or their invitees, licensees, guests, visitors, clients or patients shall be repaired at the expense of the Unit Owners responsible.

24. Unit Owners shall be held responsible for the actions of their employees, invitees, licensees, visitors, clients, patients or guests.

25. Complaints regarding the management of the Buildings and grounds or regarding the actions of other Unit Owners shall be made in writing to the President.

26. Supplies, goods and packages of every kind are to be delivered in such manner as the Board may prescribe and the Board is not responsible for the loss or damage of any such property, notwithstanding such loss or damage that may occur through the carelessness or negligence of the employees of the Buildings.

27. No Unit shall be used or occupied in such manner as to obstruct or interfere with the enjoyment of occupants, or other residents of adjoining Units; nor shall any nuisance or immoral or illegal activity be committed or permitted to occur in or about any Unit or upon any part of the Common Elements.

28. The Common Elements are intended for use for the purpose of affording movement within the Buildings and of providing access to the Units. No part of the Common Elements shall be obstructed so as to interfere with its use for the purposes hereinabove recited; nor shall any part of the Common Elements be used for general storage purposes after the completion of the construction of the Buildings by Developer, except the maintenance storage room(s); nor shall anything be done therein or thereon in any manner that may increase the rate of hazard and



liability insurance covering said area and the improvements situated thereon.

29. These Rules and Regulations may be added to, amended or repealed at any time by the Board of Directors.

Section 6. Remedies. In the event of any violation of the provisions of the Act, the Deed, these By-Laws or the Rules and Regulations by any Unit Owner (either by his own conduct or by the conduct of any occupant of his Unit), the Association, or its successors or assigns, shall have each and all of the rights and remedies that may be provided for in the Act, the Deed, these By-Laws and/or the Rules and Regulations, or that may be available at law or in equity, and may prosecute an action or other proceedings against such defaulting Unit Owner and/or others for enforcement of any lien and the appointment of a receiver for the Unit and ownership interest of such Unit Owner, or for damages or injunction or specific performance, or for judgment for payment of money and collection thereof, or for the right to take possession of the Unit and to sell the same as provided hereinafter, or for any combination of remedies or for any other relief. All expenses of the Association in connection with any such actions or proceedings, including court costs, attorney's fees, other fees and expenses and all damages, liquidated or otherwise, together with interest thereon at the rate of twelve percent (12%) per annum, until paid, shall be charged to and assessed against such

defaulting Unit Owner, and shall be added to and deemed part of his respective share of the common expenses, and the Association shall have a lien for all of the same, as well as for nonpayment of common expenses, upon the Unit, and its appurtenant interest in the Common Elements, of such defaulting Unit Owner and upon all his additions and improvements thereto and upon all of his personal property in his Unit or located elsewhere in the Property, all as provided in the Deed; provided, however, that such lien shall be subordinate to the lien of a Recorded first mortgage or deed of trust on the Unit as provided in the Deed. In the event of any such default by any Unit Owner, the Board shall have the authority to correct such default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner and be secured by the lien hereinbove provided. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Board, on behalf of the Association. This paragraph shall not be amended, changed, modified or rescinded without the prior consent of all holders of Record of mortgage and deed of trust liens against the Units.

The violation of any restriction, condition, rule or regulation adopted by the Board or the breach of any covenant or provision herein contained shall give the Board, acting on

behalf of the Association, the right, in addition to any other rights provided for in these By-laws: (a) to enter (either peaceably or forcibly without liability to such Unit Owner for such entry) upon the Unit, or any portion of the Property upon which or as to which such violation or breach exists, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist thereon contrary to the intent and meaning of the provisions hereof, and the Board, or its employees or agents, shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach; or (c) to take possession (either peaceably or forcibly without liability to such Unit Owner for such entry) of such Unit Owner's interest in the Property and to maintain an action for possession of such Unit in the manner provided by law.

If any Unit Owner (either by his own conduct or by the conduct of any other Occupant of his Unit) shall violate the Act or any of the covenants or restrictions or provisions of the Deed, these By-Laws or the Rules and Regulations, and if such default or violation shall continue for ten (10) days after notice to the Unit Owner in writing from the Board, or shall occur repeatedly during any ten (10) day period after such written notice or request to cure such violation from the Board, then the Board shall have the power to issue to said

defaulting Unit Owner a notice in writing terminating the rights of said defaulting Unit Owner to continue as a Unit Owner and to continue to occupy, use or control his Unit, and thereupon an action in equity may be filed by the Board, on behalf of the Association, against said defaulting Unit Owner for a decree of mandatory injunction against such defaulting Unit Owner or Occupant, or in the alternative, for a decree declaring the termination of said defaulting Unit Owner's right to occupy, use or control the Unit owned by him on account of said violation, and ordering that all right, title and interest of said defaulting Unit Owner in the Property shall be sold (subject to the lien of any existing deed of trust or mortgage) at a judicial sale upon such notice and terms as the court shall determine, except that the court shall enjoin and restrain the said defaulting Unit Owner from reacquiring his interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, court reporter charges, reasonable attorney's fees and all other expenses of the proceeding and sale, and all such items shall be taxed against said defaulting Unit Owner in said decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments or liens hereunder, shall be paid to said defaulting Unit Owner. Upon the confirmation of such sale, the purchaser shall thereupon be entitled to a deed to the Unit and the Unit Owner's corresponding percentage of

ownership in the Common Elements, and to immediate possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take title to the Unit sold subject to the Deed and these By-Laws.

Section 7. Right of Entry. The Managing Agent or any person authorized by the Board of Directors shall have the right to enter each Unit at any time in cases of emergency and at all other reasonable times if the Unit Owner or Occupant is present. Every Unit Owner and Occupant shall permit other Unit Owners or their representatives to enter his Unit at reasonable times for the purpose of performing authorized installations, alterations or repairs to any Common Elements therein for central services provided that requests for entry are made in advance.

Section 8. Title. Every Unit Owner shall promptly cause to be duly recorded in the Register's Office for Davidson County, Tennessee, the deed, lease, assignment or other conveyance to him of his Unit or other evidence of his title thereto and file such evidence of his title with the Board of Directors through the Secretary, and the Secretary shall maintain such information in the record of ownership of the Association.

Section 9. Deeds of Trust and Mortgages. Any holder of a deed of trust or mortgage with respect to a Unit may file a copy of such instrument with the Board of Directors through the Secretary, who shall be required to notify such holder or mortgagee of:

(1) Any condemnation loss or any casualty loss that affects a material portion of the Property or the Unit covered by such mortgage or deed of trust;

(2) Any delinquency in the payment of expenses or charges owed relating to the Unit that is covered by such mortgage or deed of trust that remains uncured for sixty (60) days, and that the holder or mortgagee may, at its option, pay such delinquent expenses;

(3) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

(4) Any proposed action that would require the consent of a specified percentage of deed of trust or mortgage lien holders.

Section 10. Insurance. The Board on behalf of the Association at its common expense shall at all times keep the Buildings insured against loss or damage by fire with extended coverage in an insurance company authorized to do business in the State of Tennessee in an amount as near as practicable to the full replacement value thereof without deduction for

depreciation, in the name of the Association, as trustee for all owners and mortgagees, according to the loss or damage to their respective Units and appurtenant common interests, and payable in case of loss to the Association as such trustee for custody and disposition, as provided herein and in the Deed, of all proceeds of such insurance, and from time to time upon receipt thereof cause to be deposited promptly with the owners and mortgagees of the Units or interests therein, true copies of such insurance policies or current certificates thereof, without prejudice to the right of each Unit Owner to insure his Unit for his own benefit. In every case of such loss or damage, all insurance proceeds shall be applied as set forth in the Deed. If reasonably available, every such policy of insurance shall:

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

(2) contain no provision relieving the insurer from liability for loss occurring while the hazard to the Buildings is increased, whether or not within the knowledge or control of the Board, or because of any breach of warranty or condition of any other act or neglect by the Board or any owner or any other person under either of them;

(3) provide that such policy may not be cancelled (whether or not requested by the Board), except by the insurer giving at least thirty (30) days' prior written notice thereof to the Board, the Unit Owners, each holder of a first mortgage or deed of trust relating to a Unit who has filed a copy thereof with the Board as hereinabove provided, and every other person in interest who shall have requested such notice of the insurer;

(4) contain a waiver by the insurer of any right of subrogation to any right of the Board or Unit Owners against any of them or any other person under them.

(5) contain a standard mortgagee clause that shall:

(a) provide that any preference to a mortgagee in such policy shall mean and include all holders of mortgages of any Unit, in their respective order and preference, whether or not named therein;

(b) provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Board or Unit Owners or any persons under any of them;

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



(d) provide that without affecting any protection afforded by such mortgagee clause, any proceeds payable under such policy shall be payable to the Association.

The Board, on behalf of the Association, as a common expense, shall also effect and maintain at all times comprehensive general liability insurance covering all Unit Owners in a responsible insurance company with minimum limits satisfactory to the Board (but in no event less than \$1,000,000.00), and from time to time upon receipt thereof, deposit promptly with the Unit Owners, current certificates of such insurance, without prejudice to the right of any Unit Owner to maintain additional liability insurance for their respective Units.

If the Property is located in an area designated by the Department of Housing and Urban Development as having special flood hazards, then the Board, on behalf of the Association, as a common expense, shall at all times keep the Property insured against damage or destruction occasioned by floods in an amount equal to 100% of the insurable value of the Property.

#### Article VI. Execution of Instruments

Section 1. Instruments Generally. All checks, drafts, notes, bonds, acceptances, contracts and all other instruments except conveyances shall be signed by such person(s) as shall be designated by general resolution applicable thereto.

Article VII. Liability of Officers, Directors  
and Members; Indemnification

Section 1. Exculpation. No director or officer of the Association shall be liable for acts or defaults of any other officer or member or for any loss sustained by the Association or any member thereof, unless the same has resulted from his own willful misconduct or negligence.

Section 2. Indemnification. The Association shall indemnify and hold harmless each of its directors and officers, each member of any committee appointed pursuant to these By-Laws, the Board and/or Developer against all contractual and other liabilities to others arising out of contracts made by or other acts of such directors, Board, officers, committee members or Developer, on behalf of the Unit Owners, or arising out of their status as directors, Board, officers, committee members or Developer, unless any such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director, officer, Board, committee member or Developer may be involved by virtue

of such person(s) being or having been such director, officer, Board, committee member or Developer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such director, officer, Board, committee member or Developer, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person(s) being adjudged liable for gross negligence or fraud in the performance of his or their duties as such director, officer, Board, committee member or Developer.

Section 3. Success on Merits. To the extent that the Developer or a member of the Board of Directors or an officer of the Association or a member of any committee appointed pursuant to the By-Laws of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 2 of this Article VII, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Section 4. Advance Payment. Expenses incurred in defending a 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 by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the person or entity seeking such indemnification or payment in advance to repay such amount unless it ultimately shall be determined that he is entitled to be indemnified by the Association as authorized in this Article VII.

Section 5. Miscellaneous. The Association and the Board shall have the power to raise and the responsibility for raising, by special assessment or otherwise, any sums required to discharge the Association's obligations under this Article; provided, however, that the liability of any Unit Owner arising out of any contract made by or other acts of the directors, Board, officers, members of such committees or Developer, or out of the aforesaid indemnity in favor of the directors, Board, officers, members of such committees or Developer, shall be limited to such proportion of the total liability hereunder as said Unit Owner's percentage of interest in the Common Elements bears to the total percentage interest of all of the Unit Owners in the Common Elements. Every agreement made by the directors, Board, officers, members of such committees, Developer or the Managing Agent on behalf of the Unit Owners shall provide that the directors, Board, officers, members of such committees, Developer or the Managing Agent, as the case

may be, are acting only as agents for the Unit Owners and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his percentage of interest in the Common Elements bears to the total percentage interest of all Unit Owners in the Common Elements.

The indemnification provided by this Article VII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Association or disinterested members of the Board of Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be Developer or a member of the Board of Directors, officer of the Association or a member of such committee, and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of such person or entity.

#### Article VIII. Books and Records

Current copies of the Deed, these By-Laws, other rules and regulations concerning the Property, and the books, records and financial statements of the Association shall be available for inspection by any Unit Owner or by any holder, guarantor or insurer of any first mortgage or deed of trust covering a Unit

at the principal office of the Association. For purposes of this paragraph, "available" shall mean available for inspection, upon request, during normal business hours. Copies may be purchased by such persons at reasonable cost, to be established from time to time by the Board.

#### Article IX. Amendment

Section 1. Amendment. These By-Laws may be amended, modified or revoked in any respect from time to time by vote of not less than two-thirds (2/3) of the Unit Owners at a meeting duly called for the purpose; PROVIDED, HOWEVER, that the contents of these By-Laws shall always contain those particulars that are required to be contained herein by the Act; and PROVIDED, FURTHER, that no modification of or amendment to these By-Laws shall be valid unless set forth in an amendment to the Deed.

Section 2. Conflict. In the event of any conflict between the provisions of these By-Laws on the one hand and the provisions of the Deed and/or the Act on the other hand, the latter shall govern and apply.

#### Article X. Miscellaneous

Section 1. Terminology. When used herein, the singular shall include the plural, and vice versa, and the masculine, feminine or neuter gender shall include all other genders, as the context requires.

## Article XI. Definitions

Section 1. Terms Defined in Deed. Capitalized terms not defined herein shall have the meaning given them in that certain Master Deed for The Westbury Condominiums executed by 3737 West End Developers, to which these By-Laws are attached and of which these By-Laws are a part.