

DECLARATION OF CONDOMINIUM
FOR
SCENIC TERRACE CONDOMINIUMS

Prepared By

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DECLARATION OF CONDOMINIUM

FOR

SCENIC TERRACE CONDOMINIUMS

MADE, this 27th day of September, 1999, by **SCENIC TERRACE CONDOMINIUMS, INC.**, a Florida corporation, as owner of a fee simple interest in the real property hereinafter described, and developer of the improvements thereon (hereinafter called the "Developer"), for itself, its successors, grantees, assignees and/or their transferees.

WHEREAS, said Developer, as owner, makes the following declaration:

1. PURPOSE

The purpose of this Declaration is to submit the lands described in Exhibit "A" of this instrument and improvements on such lands to the condominium form of ownership and use in the manner provided by *Chapter 718, Florida Statutes* (hereinafter referred to as the "Condominium Act"), and the Developer does hereby submit the lands described in this instrument and improvements on such lands to the condominium form of ownership and use.

1.1 The name by which this condominium is to be identified is SCENIC TERRACE CONDOMINIUMS.

1.2 The address of this condominium is 1900 Scenic Highway, Pensacola, Florida 32501.

1.3 The lands covered by said fee simple interest owned by the Developer, which by this instrument are submitted to condominium form of ownership, are those certain lands lying in Escambia County, Florida, as described in Exhibit "A," attached hereto and made a part hereof, which shall hereinafter be referred to as "the Land." Said Land shall be subject to the conditions, restrictions, limitations, easements, and reservations of record.

1.4 All provisions of the Declaration shall be construed to be perpetual covenants running with the Land, and with every part thereof and interest therein, and every condominium parcel owner and claimant of the Land or any part thereof or interest therein, and his heirs, executors and administrators, successors and assigns, shall be bound by all of the provisions of the Declaration, unless this Declaration shall be terminated pursuant to the Condominium Act and/or as provided herein. Both the burdens imposed and the benefits shall run with each condominium parcel as herein defined.

2. DEFINITIONS

The terms used in this Declaration and in the Articles of Incorporation and the By-Laws shall have a meaning stated in the Condominium Act, unless the context otherwise requires. FURTHER, whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of the plural shall include the singular and the singular shall include the plural.

3. DEVELOPMENT PLANS

3.1 Improvements

3.1.1 A survey and legal description of the Land, together with a narrative and graphic description of the improvements in which units are located and a site plan thereof, in sufficient detail to identify the common elements, limited common elements, and each unit in their relative location and approximate dimensions is set forth in Exhibit "A" to this Declaration of Condominium.

3.1.2 Where more than one typical unit has been acquired by the same owner and combined into a single dwelling place, the unit plans, as described in Exhibit "A," may not reflect the interior plans of the combined units, but the exterior boundaries of the combined unit remain the same. Should any units be combined, the combined units shall exist as separate units as described in this Declaration for the purpose of applying the provisions of this Declaration and all exhibits attached hereto. Should the combining of units, as described in this paragraph, be determined to violate the provisions of *F.S. 718.110(4)*, an Amendment to this Declaration shall be approved, executed, and recorded as required by *F.S. 718.110(4)*.

3.2 Unit Identification

The legal description of each unit shall consist of the identifying number of such unit as shown in Exhibit "A" attached hereto. Every deed, lease, mortgage, or other instrument may legally describe a unit, apartment and/or condominium parcel by its identifying number as provided for on the attached Exhibit "A" and each and every description shall be deemed good and sufficient for all purposes.

3.3 No Time-Share Estates

Time-share estates will not be created with respect to units in this condominium.

4. UNIT BOUNDARIES, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

Each unit shall include that part of the unit, which boundaries are as follows:

4.1 Upper and Lower Boundaries

The upper and lower boundaries of the unit shall be the following boundaries extended to an intersection with the perimetrical boundaries:

4.1.1 **Upper Boundary** shall be the horizontal plane of the undecorated, finished ceiling.

4.1.2 **Lower Boundary** shall be the horizontal plane of the undecorated, finished floor.

4.2 Perimetrical Boundaries

The perimetrical boundaries of the unit shall be the vertical plane of the undecorated and/or unfinished inner surfaces of the walls bounding the unit, extended to intersection with each other and with the upper and lower boundaries.

4.3 **Boundaries — Further Defined**

The boundaries of the unit shall not include all of those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of the perimeter walls and those surfaces above the undecorated finished ceilings of each unit, and those surfaces below the undecorated finished floor of each unit, and further, shall not include those spaces and improvements lying within the undecorated and/or unfinished inner surfaces of all interior bearing walls and/or bearing partitions, and further, shall exclude all pipes, ducts, wires, conduits and other utilities running through any interior wall or partition for the furnishing of utility services to other units and/or for the common elements.

4.4 **Common Elements**

The common elements shall include the following:

4.4.1 All condominium property which is not included within the units.

4.4.2 Easements through units for conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services to units and the common elements.

4.4.3 An easement of support in every portion of a unit which contributes to the support of the building.

4.4.4 The property and installations required for the furnishing of utilities and other services to more than one (1) unit or to the common elements.

4.4.5 The storm water management system.

4.4.6 All parking and storage areas on Levels One and Two.

4.5 **Limited Common Elements**

Limited common elements, as the term is used herein, shall mean the common elements which are reserved herein, or assigned, or granted separately herefrom, for the use of a certain unit to the exclusion of other units, and shall include:

4.5.1 To each unit containing a balcony the balcony area contiguous to and serving only that unit.

4.5.2 To each unit in the condominium, the heating and air-conditioning equipment serving only that unit.

5. **OWNERSHIP**

5.1 **Type of Ownership**

Ownership of each condominium parcel may be in fee simple or in any other estate in real property recognized by law and subject to this Declaration.

5.2 **Association Membership**

The owners of record of the units shall be members of Scenic Terrace Owners Association, Inc., hereinafter the "Association." There shall be one (1) membership for each unit and if there is more than one (1) record owner per unit, then such membership shall be divided among such owners in the same manner and proportion as is their ownership in the unit.

5.3 Unit Owner's Rights

The owner of the unit is entitled to the exclusive possession of his unit. He shall be entitled to use the common elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of owners of other units. There shall be a joint use of the common elements and a joint mutual easement for that purpose is hereby created.

6. RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS

The fee simple title of each condominium parcel shall include both the condominium unit and an undivided interest in the common elements; said undivided interest in the common elements is deemed to be conveyed or encumbered with its respective condominium unit, even though the description in the instrument of conveyance may refer only to the fee simple interest to the condominium unit. The share in the common elements appurtenant to a unit cannot be conveyed or encumbered except together with the unit. Any attempt to separate and/or any action to partition the fee simple title to a condominium unit from the undivided interest in the common elements appurtenant to each unit shall be null and void.

7. PERCENTAGE OF OWNERSHIP OF COMMON ELEMENTS

Each of the unit owners of the condominium shall own an undivided interest in the common elements according to the "Schedule of Shares" attached hereto as Exhibit "B."

8. COMMON EXPENSE AND COMMON SURPLUS

The common expenses to be borne by each unit owner shall be a proportionate share of the total expenses and costs of the Association. Each unit owner shall be responsible for a portion of the common expenses and costs, and such share shall be in the percentage of the undivided share in the common elements to his unit as set forth in Exhibit "B" of this Declaration.

Any common surplus of the Association shall be owned by each of the unit owners in the same proportion as their percentage liability for common expenses.

9. MAINTENANCE, ALTERATIONS AND IMPROVEMENTS

Responsibility for the maintenance of the condominium property and restrictions upon its alterations and improvements shall be as follows:

9.1 Units

9.1.1 **By the Association.** The Association shall maintain, repair, and replace at the Association's expense:

9.1.1.1 All portions of a unit contributing to the support of the condominium building, which portions shall include, but not be limited to, outside walls of the apartment building and all fixtures on its exterior, those portions of boundary walls not a part of a unit; floor and ceiling slabs; load-bearing columns and load-bearing walls.

9.1.1.2 All conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services contained in the common elements and any portions of a unit maintained by the Association; and all such facilities contained within a unit that service part, or parts, of the condominium other than the unit within which contained.

9.1.1.3 All incidental damage caused to a unit by such work immediately above-described shall be repaired promptly at the expense of the Association.

9.1.1.4 All common elements of the condominium.

9.1.2 **By the Unit Owner.** The responsibility of the unit owner shall be as follows:

9.1.2.1 To keep and maintain his unit, its equipment and appurtenances, in good order, condition, and repair, and to perform promptly all maintenance and repair work within the unit which, if omitted, would affect the condominium in its entirety or in a part belonging to others; being expressly responsible for the damages and liability which his failure to do so may engender. Notwithstanding anything contained in this Declaration, the owner of each unit shall be liable and responsible for the maintenance, repair, and replacement, as the case may be, of all windows and all exterior doors, including sliding glass doors, storm doors, and windows, and all air-conditioning and heating equipment, whether located with or without the unit, stoves, refrigerators, fans, and other appliances and equipment, including pipes, wiring, ducts, fixtures and/or their connection required to provide water, light, power, air-conditioning and heating, telephone, sewage, and sanitary service to his unit which may now or hereafter be situated in his unit.

9.1.2.2 To maintain, repair, and replace any and all walls, ceilings and floor interior surfaces, painting, decorating furnishings, and all other accessories which such owner may desire to place and maintain in his unit.

9.1.2.3 Where applicable, to maintain and keep in a neat and trim condition the floor, interior walls, railings, columns, or balconies, provided however, that the appearance and structural integrity of the floor, walls, and railings of the balconies shall not be disturbed. Major maintenance and repair of the floor, walls, and railings of the balconies, including, but not limited to, waterproofing, painting, structural defects or problems, and leaks shall be by the Association and shall be a common expense.

9.1.2.4 To promptly report to the Association any defect or need for repairs for which the Association is responsible.

9.1.2.5 Plumbing and electrical repairs to fixtures and equipment located within a unit and exclusively servicing a unit shall be paid for and be the financial obligation of the unit owner. Generally, as to wiring, the Association shall maintain all wiring up to the electrical panel in the unit and the unit owner shall maintain from the panel into the unit. Generally, as to plumbing, the Association shall maintain all pipes and plumbing to the point where same enter the unit with the unit owner maintaining all pipes, plumbing, and plumbing fixtures within the unit.

9.1.2.6 The Association has the irrevocable right of access to each unit during reasonable hours when necessary for the maintenance, repair, or replacement of any common elements or of any portion of a unit to be maintained by the Association pursuant to the Declaration or as necessary to prevent damage to the Common Elements or to a unit or units.

9.1.2.7 Not to change the paint color or otherwise decorate or change the appearance of any portion of the exterior of the condominium building and/or property.

9.1.2.8 To keep clean and in orderly condition those limited common elements which are assigned or granted to a particular unit to the exclusion of other units. The cost shall be borne by the owner or owners of the unit to which the same are appurtenant.

9.1.2.9 To maintain, repair, and replace, at the owner's expense, the heating and air-conditioning unit and all of its parts, serving only his unit.

9.1.2.10 A unit owner shall be responsible for any damages caused by his actions, or his willful, careless, or negligent failure to act, for the willful action or

negligence of his family or his or their guests, lessees, employees, or agents, to the extent such expense is not defrayed by the proceeds of insurance carried by the Association.

9.1.3 **Alteration and Improvement.** Except as elsewhere reserved to the Developer, neither a unit owner nor the Association shall make any alteration in the portions of a unit that are to be maintained by the Association, remove any portion of such, make any additions to them, do anything that would jeopardize the safety or soundness of the building or impair any easement, without first obtaining written approval of the Board of Directors of the Association. A copy of plans for all such work prepared by an architect licensed to practice in this state shall be filed with the Association prior to the start of the work.

9.2 Common Elements

9.2.1 **By the Association.** The maintenance and operation of the common elements (including the storm water management system), including the repair, maintenance, and replacement of landscaping and other improvements and facilities shall be the responsibility of the Association as a common expense.

9.2.2 **Alteration and Improvement.** There shall be no alteration or further improvement of the real property constituting the common elements without prior approval, in writing, by not less than two-thirds (2/3) of the members of the Association if the cost of same shall be a common expense which exceeds in cumulative expenditure for the calendar year the sum of \$20,000.00. Any such alteration or improvement shall not interfere with the rights of any unit owner without their consent.

9.2.3 **Land Acquisition.** After all planned improvements are completed, land acquired by the Association may be added to the Land submitted to condominium ownership hereby. This may be done by an amendment to this Declaration that includes the description of the acquired land and submits the said land to condominium ownership under the terms of this Declaration. The amendment shall be executed by the Association and adopted by the unit owners in the manner elsewhere required. Such amendment, when recorded in the public records of Escambia County, Florida, shall divest the Association of title to the Land and shall state that it conveys all interest of the Association to and vests the title in the unit owners, without naming them and without further conveyance, in the same undivided shares as the undivided shares in the common elements appurtenant to the units owned by them.

9.2.4 **Land Not Incorporated.** Any land acquired by the Association that is not incorporated into the Land by amendment of this Declaration, may be sold or mortgaged or otherwise disposed of by the Association after approval, in writing, by the record unit owners of not less than seventy-five percent (75%) of the common elements of Scenic Terrace Condominiums. This approval shall be evidenced by a certificate stating that the approval was duly given, which certificate shall be executed by the officers of the Association with the formalities of a deed and delivered to a purchaser or mortgagee of such land.

9.2.5 **Personal Property.** Any personal property acquired by the Association may be sold or mortgaged or otherwise disposed of by the Association.

9.3 Enforcement of Maintenance

In the event the owner of a unit fails to maintain a unit as required above, the Association, Developer, or any other unit owner, shall have the right to proceed to any appropriate court to seek compliance with the foregoing provisions; or the Association shall have the right to charge the unit owner and the unit for the necessary sums to put the improvements within the unit in good condition, or to take such other lawful steps as may be necessary to remedy the violation.

In addition, the Association may levy reasonable fines against a unit for the failure of the owner of the unit to comply with the maintenance provisions set forth above.

No fine may exceed \$100.00 per day. However, in the case of a continuing violation, the Association may levy a fine each day. Such fine in no event shall exceed the aggregate of \$1,000.00. No fine shall be levied absent notice to and an opportunity to be heard by the unit owner, and no fine will become a lien against a unit.

The Association shall be entitled to reasonable costs and attorney's fees for any collection efforts under this section, whether or not a suit is filed.

10. USE RESTRICTIONS

The use of the property of the condominium shall be in accordance with the following provisions:

10.1 Residential and Restricted Rental Use.

Each unit is restricted to residential or residential rental use, provided however, that (1) no rental shall be for less than a "six-month and one day term", (2) all rentals shall be pursuant to a written lease approved by the Board of Directors of the Association prior to rental occupancy, and (3) all renters shall be subject to prior written approval of the Board of Directors of the Association as more particularly set forth in paragraph 24 of this Declaration. The Board of Directors may establish such additional rules relating to residential rental use, including but not limited to time frames, required information on prospective renters, and required lease provisions, provided that same are not inconsistent with the minimum requirements of this section and the requirements of paragraph 24 of this Declaration.

10.2 Rules and Regulations.

The use of Common Elements by the owners or lessees of all units and all other parties authorized to use same, shall be at all times subject to such rules and regulations as may be prescribed and established in the condominium documents governing such use or which may be hereafter prescribed and established in the condominium documents by the Association. The Developer will not assign parking spaces but the Association will have the right to assign parking spaces, if the Board of Directors elects to do so, after the removal of Association control by the Developer to the Owners.

10.3 Lawful Use.

No immoral, improper, offensive, or unlawful use shall be made of any unit or of the Common Elements or of any part thereof, and all laws, zoning ordinances, and regulations of all governmental authorities having jurisdiction over Scenic Terrace Condominiums, shall be observed.

10.4 Insurance.

Nothing shall be done or kept in any unit or in the Common Elements which will increase the cost of insurance paid by the Association, without the prior written consent of the Association. No unit owner shall permit anything to be done or kept in his or her unit or in the Common Elements which will result in the cancellation of insurance in the Condominium property or contents thereof, or which would be in violation of any law. No wasting of Condominium property will be permitted.

10.5 Nuisances.

No nuisance shall be allowed upon the Condominium property, nor shall any use or practice be allowed which is an unreasonable source of annoyance to unit owners or which interferes with the peaceful and proper use of the Condominium property by any unit

owner, including—but not limited to, repairs made within a unit before 9:00 a.m. or after 5:00 p.m.

10.6 No business.

In order to preserve the residential character of the Condominium, no business, trade, or profession of any type whatsoever shall be conducted from within any unit in the Condominium without the prior written consent of the Association. The Association shall possess the additional authority to promulgate reasonable rules and regulations governing the manner, method and to what degree said uses may be permitted, and further, shall have the power to revoke the granting of such permitted uses, when in the Association's sole discretion, the use in question has become excessive and/or violates the original character of the Condominium.

10.7 Window Treatment.

In order to preserve the aesthetic qualities of the Condominium, all fabric and materials used as draperies or other window treatment located within the interior of any unit, which can be viewed from the exterior of the unit through the windows thereof from any heights or location must be lined, finished, or otherwise covered with white drapery linings.

10.8 Unit Keys.

In case of an emergency originating or threatening any unit, regardless of whether the owner is present at the time of such emergency, the Board of Directors of the Association, or any person authorized by it, shall have the right to enter such unit for the purpose of remedying or abating the cause of such emergency. Such right of entry shall be immediate and to facilitate entry in the event of any such emergency, the owner of each unit, as required by the Association, shall deposit a key with the Association.

10.9 Emergency Entry.

Whenever it shall be necessary to enter any unit for the purpose of performing any maintenance, repair, or replacement to any portion of the Common Elements or to any portion of a unit to be maintained by the Association, the owner of each unit shall permit the Association, or its representatives, or the duly constituted and authorized agent of the Association, to enter such unit for such purposes, provided that such entry shall be made only at reasonable times and with reasonable advance notice.

10.10 Structural Modifications.

No owner of a unit (except the Developer) shall permit any structural modification or alterations to be made within such unit without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of Directors of said Association determines, in its sole discretion, that such structural modifications or alterations would affect or in any manner endanger the Condominium in part or in its entirety. If the modification or alteration desired by the owner of any unit involves the removal of any permanent interior partitions, the Association shall have the right to permit such removal so long as the permanent interior partition to be removed is not a load bearing partition and so long as the removal thereof would be in no manner an interference with the providing of utility services constituting Common Elements located therein.

10.11 Alterations or Improvements to Common Property.

The Association shall not have the right to make or cause to be made such alterations or improvements to the Common Elements which prejudice the rights of the owner of any unit in the use and enjoyment of his unit, unless, in each instance, such owner's written consent has been obtained. The making of such alterations and improvements must be approved

by the Board of Directors of the Association, and the cost of such alterations or improvement shall be assessed as common expense to be assessed and collected from all of the owners of units. However, where any alterations and improvements are exclusively or substantially exclusively for the benefit of the owner of a unit requesting the same, then the cost of such alterations and improvements shall be charged to the owner of the unit exclusively or substantially benefitted. Such charges are to be levied in such proportion as may be determined by the Board of Directors.

10.12 **Animals.**

No livestock, animals, chickens, or fowl of any kind shall be permitted except dogs, cats, and birds owned as personal pets. Dogs, cats, and birds shall not be kept in such number as to be an annoyance to other unit owners. In addition, no dogs or cats shall be permitted on the condominium property, except inside a unit, without being on a hand leash and under the immediate control of a responsible individual. All such pets must be walked in appropriate areas and owners of such pets must clean up after their pets. If any such pet owner fails to properly clean up after his pet then the Association shall perform such service and shall bill the pet owner accordingly. The Association shall have the right to adopt and enforce such additional pet regulations as are reasonably necessary to ensure that such pets are not and do not become a nuisance.

10.13 **Parking.**

No trailer, mobile home, house trailer, truck, tractor, commercial vehicle of any kind, or other machine, equipment or apparatus, or motorbike, motorcycle, or motor scooter (herein collectively referred to as "vehicles") shall be parked any place on the condominium property other than in the designated parking areas. No such vehicle that takes up more than one regular parking space shall be permitted on the condominium property. All such vehicles which were initially designed and manufactured to be self-propelled with an individual engine must be in operating condition in order to be parked in any designated parking space and no designated parking space shall be used as a site to store, repair, and/or overhaul any such vehicle. Parking of boats and boat trailers shall be prohibited. This restriction, with respect to parking, does not apply to the Developer in the performance of activities authorized by the Declaration and does not apply to commercial vehicles, machines, and equipment required to perform construction, maintenance, refurbishing, or repair services to a unit or building for the period of time necessary for such construction, maintenance, refurbishing, or repair.

10.14 **Proviso.**

Provided, however, that until the Developer has completed all of the contemplated improvements and closed the sales of all of the units of this condominium, neither the unit owners, nor the Association, nor the use of the Condominium property shall interfere with the completion of all contemplated improvements and the sale of all units, and the Developer may make such use of the unsold units and common elements as may facilitate such completion and sale, including, but not limited to, maintenance of a sales office, showing of the property and the display of signs.

10.15 **Combining Units.**

Units may be physically combined into a single dwelling, but they shall nevertheless, for all other pertinent purposes, including—but not limited to, assessments, attribution of common elements, and voting, be deemed separate units. Units which had been or are combined to form one dwelling may be severed into their component units (separate units) at any time the owner of the combined units so desires. Any construction or modification of the interior of such units, as may be required to effectuate the severance of the combined units into separate units, shall be subject to the written approval of the Board of Directors of the Association, which approval shall not be unreasonably withheld. Such modification for the combining or severing of combined units shall in any and all events be accomplished at the sole

expense of the unit owner or owners of the combined units and not at the expense of the Association. Nothing herein shall be deemed to require the Association or the Developer to approve any structural modifications of any load-bearing element. Furthermore, nothing herein shall be deemed to require the Association or Developer to approve any modification which will alter the exterior appearance of the condominium apartment building in which the combined unit being severed into its component units is located or in which the separate units being combined are located. Should the combining of units, as described in this paragraph, be determined to violate the provisions of *F.S. 718.110(4)*, an Amendment to this Declaration shall be approved, executed, and recorded as required by *F.S. 718.110(4)*.

11. NOTICE OF LIEN OR SUIT

11.1 Notice of Lien

A unit owner shall give notice to the Association of every lien upon his unit other than for permitted mortgages, taxes, and special assessments within five (5) days after the attaching of the lien.

11.2 Notice of Suit

A unit owner shall give notice to the Association of every suit or other proceeding which may affect title to his unit, such notice to be given within five (5) days after the unit owner receives knowledge thereof.

Failure to comply with this subsection concerning liens will not affect the validity of any judicial sale.

12. EASEMENTS

Each of the following easements is a covenant running with the Land of the condominium and notwithstanding any of the other provisions of this Declaration, may not be substantially amended or revoked in such a way as to unreasonably interfere with their proper and intended use and purpose, and shall survive the termination of the condominium and the exclusion of any lands of the condominium from the condominium.

12.1 Utilities

As may be required for utility services in order to adequately serve the condominium property; provided, however, easements through a unit shall be only according to the plans and specifications for the building or as the building is actually constructed, unless approved, in writing, by the unit owner.

12.2 Pedestrian and Vehicular Traffic

For pedestrian traffic over, through, and across sidewalks, paths, lanes, and walks, as the same may from time to time exist, upon the common elements; and for the vehicular traffic over, through, and across such portions of the common elements as may be from time to time paved and intended for such purposes.

12.3 Support

Every portion of a unit contributing to the support of the condominium building or an adjacent unit shall be burdened with an easement of support for the benefit of all other units and common elements in the building.

12.4 **Perpetual Non-Exclusive Easement in Common Elements**

The common elements shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the owners of units in the condominium for their use and the use of their immediate families, guests, and invitees, for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended for the enjoyment of said owners.

12.5 **Right of Access to Units**

The Association has the irrevocable right of access to each unit during reasonable hours, when necessary, for the maintenance, repair, or replacement of any common elements, or any portion of a unit to be maintained by the Association pursuant to the declaration or, as necessary, to prevent damage to common elements or to a unit or units.

12.6 **Easement for Unintentional and Non-Negligent Encroachment**

In the event that any unit shall encroach upon any of the common elements for any reason not caused by the purposeful or negligent act of the unit owner or owners, or agents of such owner or owners, then an easement appurtenant to such unit shall exist for the continuance of such encroachment into the common elements for so long as such encroachment shall naturally exist; and, in the event that any portion of the common elements shall encroach upon any apartment unit, then an easement shall exist for the continuance of such encroachment of the common elements into any unit for as long as such encroachment shall naturally exist.

12.7 **Air Space**

An exclusive easement for the use of the air space occupied by a condominium unit as it exists at any particular time and as the unit may lawfully be altered.

12.8 **Easements or Encroachments**

Easements or encroachments by the perimeter walls, ceilings, and floor surrounding each condominium unit.

12.9 **Easement for Overhangs**

Easement for overhanging troughs or gutters, downspout, and the discharge therefrom of rainwater and the subsequent flow thereof over condominium units or any of them.

12.10 **Easement for Air Space of Common Elements**

An exclusive easement for the use of the area and air space occupied by the air-conditioning compressor and the equipment and fixtures appurtenant thereof, situated in and/or on common elements of the condominium, but exclusively serving and individually owned by the owner of the unit as the same exist in and on the Land which exclusive easement shall be terminated automatically in any air space which is permanently vacated by such air-conditioning compressor, and the equipment and fixtures appurtenant thereto; provided, however, that the removal of same for repair and/or replacement shall not be construed to be a permanent vacation of the air space which it occupies.

12.11 **Easements.** Other than the easements set forth in the Declaration of Condominium, the property submitted to condominium ownership will be subject to the Grant of Easement recorded in Official Records Book 1640, Page 537, public records of Escambia County, Florida, providing ingress and egress to the three townhouses on the adjoining parcel to the north.

13. ASSOCIATION

In order to provide for the proficient and effective administration of this condominium, each unit owner shall become a member of a non-profit corporation known and designated as SCENIC TERRACE OWNERS ASSOCIATION, INC., organized under the laws of the State of Florida. Said corporation shall administer the operation and management of this condominium, and undertake and perform all acts and duties incident thereto in accordance with the terms, provisions, and conditions of this Declaration of Condominium, the Articles of Incorporation, and By-Laws of the Association, the Rules and Regulations promulgated by the Association from time to time, and the laws of Florida.

13.1 Articles of Incorporation

A copy of the Articles of Incorporation of the Association is attached hereto as Exhibit "C."

13.2 By-Laws

The By-Laws of the Association shall be the By-Laws of the condominium, a copy of which is attached hereto as Exhibit "D."

13.3 Limitation Upon Liability of Association

Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to unit owners for injury or damage, other than the cost of maintenance and repair caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.

13.4 Restraint Upon Assignment of Shares in Assets

The shares of members in the funds and assets of the Association cannot be assigned, hypothecated, or transferred in any manner—except as an appurtenance to a unit.

13.5 Approval or Disapproval of Matters

Whenever the decision of a unit owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed in accordance with the By-Laws of the Association.

13.6 Membership

The record owners of all units in this condominium shall be members of the Association and no other persons or entities shall be entitled to membership. Membership shall be established by acquisition of ownership of a fee simple interest in a condominium parcel in this condominium, whether by conveyance, devise, judicial decree, or otherwise, subject to the provisions of this Declaration and by the recordation among the public records of Escambia County, Florida, of the deed or other instrument establishing the acquisition and designating the parcel affected thereby and by the delivery to the Association of a true copy of such recorded deed or other instrument. The new owner designated in such deed or other instrument shall thereupon become a member of the Association and the membership of the prior owner, as to the parcel designated, shall be terminated.

13.7 Voting

On all matters as to which the membership shall be entitled to vote, there shall be only one (1) vote for each unit.

13.8 Information

The Association shall make available to unit owners and lenders, and to holders, insurers, or guarantors of any first mortgage, current copies of the Declaration, By-Laws, other rules concerning the project and the books, records, and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

13.9 Financial Statements

Any holder of a first mortgage shall be entitled, upon written request, to a financial statement for the immediately preceding fiscal year.

13.10 Association's Rights and Restrictions

The Association shall have the right to grant permits, licenses, and easements over the common elements for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the project.

14. INSURANCE

The insurance, other than title insurance, which shall be carried upon the condominium property and the property of the unit owners shall be governed by the following provisions:

14.1 Authority to Purchase

All insurance policies upon the condominium property shall be purchased by the Association for the benefit of the Association and the unit owners and their mortgagees, as their interest may appear, and provisions shall be made for the issuance of certificates or mortgagee endorsements to the mortgagees of unit owners. Such policies and endorsements shall be held by the Association. Unit owners are strongly encouraged to obtain insurance coverage, at their own expense, upon the interior of their individual unit, their contents and personal property, and for their personal liability and living expense. All policies purchased by the Association must be written by insurance companies authorized to do business in the State of Florida, and with offices or agents in Florida.

14.2 Coverage

14.2.1 **Casualty.** All buildings and improvements upon the Land, including units and all personal property of the Association included in the condominium property (but not including the contents, cabinets, appliances, fixtures, or floor, wall and ceiling coverings of individual units), are to be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined by the Board of Directors of the Association after review at least every three years, and all such insurance must be obtained, if possible, from the same company. Such coverage shall provide protection against:

14.2.1.1 Loss or damage by fire, wind and other perils covered by a Special Cause of Loss Form.

14.2.1.2 Such other risks as from time to time are determined by the Board of Directors of the Association to be customarily covered with respect to buildings similar in construction, location and use.

14.2.2 **Public Liability.** In such amounts and with such coverage as shall be required by the Board of Directors of the Association.

14.2.3 **Workmen's Compensation.** As shall be required to meet the requirements of law.

14.2.4 **Fidelity Bonding.** The Association, at its own expense, will obtain and maintain adequate fidelity bonding of all persons who control or disperse funds of the Association. Such bonding will cover all individuals authorized to sign checks, and the President, Secretary and Treasurer of the Association. The principal amount of each bond shall be set in accordance with the requirements of Fla. Stat. 718.112(2)(j).

14.2.5 **Association Insurance.** Such other insurance as the Board of Directors of the Association, in its discretion, may determine from time to time to be in the best interest of the Association and the unit owners, including but not limited to, Director's liability insurance, cross liability endorsements to the public liability insurance to cover liability of the unit owners as a group to a unit owner, or other insurance that an institutional mortgagee may reasonably require so long as it is the owner of a mortgage on any condominium parcel.

14.3 **Premiums**

Premiums for insurance policies purchased by the Association shall be paid by the Association.

14.4 **Assured**

All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees, as their interest may appear, and shall provide that all proceeds covering casualty losses shall be paid to the Association. All insurance policies shall require *written* notification to each institutional mortgagee not less than ten (10) days in advance of cancellation of any insurance policy insuring the condominium property.

The Association shall receive such proceeds as are paid and hold same in trust for the purposes elsewhere stated herein and for the benefit of the unit owners and their mortgagees in the following shares.

14.4.1 **Common Elements.** Proceeds on account of common elements shall be held in as many undivided shares as there are units—the shares of each unit owner being the same as his share in the common elements as same are hereinabove stated.

14.4.2 **Units.** Proceeds on account of units shall be held in the following undivided shares:

14.4.2.1 **Partial Destruction.** When the building is to be restored, for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner.

14.4.2.2 **Mortgagee.** In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests appear. In no event shall any mortgagee have the right to demand the application of insurance proceeds to any mortgage or mortgages which it may hold against units and no mortgagee shall have any right to participate in the determination as to whether or not improvements will be restored after casualty.

14.5 **Distribution of Proceeds**

Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficial owners in the following manner:

14.5.1 **Reconstruction or Repair.** If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the costs thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to all unit owners in proportion to their undivided share of the common surplus.

14.5.2 **Failure to Reconstruct or Repair.** If it is determined, in the manner elsewhere provided, that the damages for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to all unit owners in proportion to their "termination share" as defined in Paragraph 20.4, remittances to unit owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a unit and may be enforced by such mortgagee.

14.5.3 **Certificate.** In making distribution to unit owners and their mortgagees, the Association may rely upon a certificate of the President and Secretary of the Association as to the names of the unit owners and their mortgagees, and their respective shares of the distribution.

14.5.4 **Association as Agent.** The Association is hereby irrevocably appointed agent for each unit owner to adjust all claims arising under insurance policies purchased by the Association.

15. RECONSTRUCTION OR REPAIR AFTER CASUALTY

15.1 Determination to Reconstruct or Repair

If any part of the condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner.

15.1.1 **Common Elements.** If the damaged improvements are common elements, the damaged property shall be reconstructed or repaired—unless it is determined in the manner elsewhere provided that the condominium shall be terminated.

15.1.2 Condominium Building.

15.1.2.1 **Lesser Damage.** If the damaged improvement is a part of the condominium buildings, and if units to which forty percent (40%) of the common elements are appurtenant are found by the Board of Directors of the Association to be tenantable, the damaged property shall be reconstructed or repaired, unless within ninety (90) days after the casualty it is determined in the manner elsewhere provided that the condominium shall be terminated.

15.1.2.2 **Major Damage.** If the damaged improvement is part of the condominium buildings and if units to which more than sixty percent (60%) of the common elements are appurtenant are found by the Board of Directors of the Association to be not tenantable, then the damaged property will not be reconstructed or repaired and the condominium will be terminated, as elsewhere provided, unless within sixty (60) days after the casualty the owners of seventy-five percent (75%) of the common elements agree, in writing, to such reconstruction or repair.

15.2 Plans and Specifications.

Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original buildings or, if not, then according to plans and specifications approved by the Board of Directors of the Association.

15.3 Responsibility.

If the damage is only to those parts of one (1) unit for which the responsibility of maintenance and repair is that of the unit owner, then the unit owner shall be responsible for coordination of the reconstruction and repair after casualty. In all other instances, the responsibility for coordination of construction or repair after casualty shall be that of the Association.

15.4 Estimates of Costs.

Immediately after a casualty causing damage to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to repair or rebuild.

15.5 Assessments.

If the proceeds of Insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association or if at any time during the reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all unit owners in sufficient amounts to provide funds to pay the estimated costs. Such assessments shall be in proportion to the owner's share in the common elements.

15.6 Deductible Provision.

The funds necessary to cover any deductible amount under an Association insurance policy against which a claim is made shall be a common expense.

15.7 Construction Funds.

The proceeds of insurance collected on account of a casualty, and the sums collected by the Association from assessments against unit owners on account of such casualty, shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the following manner:

15.7.1 Unit Owner. The portion of the construction fund representing damage for which the responsibility of reconstruction and repair lies with the unit owner, shall be paid by the Association to the unit owner, or if there is a mortgagee endorsement, then to the unit owner and the mortgagee—jointly.

15.7.2 Association. The portion of the construction fund representing damage for which the responsibility of reconstruction and repair lies with the Association, shall be disbursed in payment of such cost in the manner required by the Board of Directors of the Association.

15.7.3 Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the owner of the fund in the manner elsewhere stated.

16. ASSESSMENTS

The making and collecting of assessments against unit owners for common expenses shall be the obligation of the Board of Directors pursuant to the By-Laws and subject to the following provisions:

16.1 Share of the Common Expenses.

Each unit owner shall be liable for a proportionate share of the common expenses and shall be entitled to an undivided share of the common surplus, such shares being set forth in Exhibit "B." A unit owner, regardless of how title is acquired, including, without limitation, a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the owner of a unit. Additionally, a unit owner is jointly and severally liable with the previous owner for all unpaid assessments that come due up to the time of transfer of title. This liability is without prejudice to any right the new unit owner may have to recover from the previous owner the amounts paid by the new unit owner.

16.2 Non-Waiver.

The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements or by abandonment of the unit for which the assessment is made.

16.3 Interest, Administrative Late Fees, and Application of Payments.

Assessments and installments on such assessments paid on or before ten (10) days after the date when due shall not bear interest, but all sums not paid on or before ten (10) days after the date when due shall bear interest at the highest rate allowed by the laws of the State of Florida from the date when due, until paid. In addition to interest, the Association may charge an administrative late fee in an amount not to exceed the greater of \$25.00 or five percent of the assessment for each delinquent installment that is late. All payments received by the Association upon account shall be first applied to interest, then to any administrative late fee, then to any costs and reasonable attorneys fees incurred in collection, and then to the delinquent assessment.

16.4 Lien for Assessments.

The Association has a lien on each condominium parcel to secure the payment of assessments. Except as otherwise provided, the lien is effective from and shall relate back to the recording of the original Declaration of Condominium. However, as to first mortgages of record, the lien is effective from and after recording of a claim of lien in the public records of the county in which the condominium parcel is located. Nothing in this subsection shall be construed to bestow upon any lien, mortgage, or certified judgment of record on April 1, 1992, including the lien for unpaid assessments created herein, a priority which, by law, the lien, mortgage, or judgment did not have before that date.

To be valid, a claim of lien must state the description of the condominium parcel, the name of the record owner, the name and address of the Association, the amount due, and the due dates. It must be executed and acknowledged by an officer or authorized agent of the Association. No such lien shall be effective longer than one (1) year after the claim of lien was recorded unless, within that time, an action to enforce the lien is commenced. The one-year period shall automatically be extended for any length of time during which the Association is prevented from filing a foreclosure action by an automatic stay resulting from a bankruptcy petition filed by the parcel owner or any other person claiming an interest in the parcel.

Where a unit owner is delinquent in the payment of assessments, and the Association institutes collection procedures by pursuing the claim of lien, for the purposes of that action, the Association may include the assessments due for the remaining budget year. If accelerated, those assessments become due and payable on the date the claim of lien is filed, regardless of the fact they might not have otherwise been billed or payable until a later date. Further, the claim of lien may secure interest owed on assessments and all reasonable costs and attorneys fees incurred by the Association incident to the collection process. Upon payment in full, the person making the payment is entitled to satisfaction of the lien.

16.5 Collection and Foreclosure.

The Association may bring an action in its name to foreclose a lien for assessments in the manner a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. The Association shall give notice to the unit owner of its intention to foreclose its lien at least 30 days before the foreclosure action is filed. The Association shall be entitled to bid at any sale held pursuant to a suit to foreclose an assessment lien and to apply as a cash credit against its bid all sums due the Association covered by the lien enforced. In case of such foreclosure, the unit owner shall be required to pay a reasonable rental for the condominium parcel and the plaintiff in such foreclosure shall be entitled to the appointment of a Receiver to collect same from the unit owner and/or occupant. The Association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments.

16.6 Liability of Mortgagee, Lienor, or Judicial Sale Purchaser for Assessment.

A unit owner, regardless of how his title has been acquired—including by purchase at a foreclosure sale or by deed in lieu of foreclosure, is liable for all assessments which come due while he is the unit owner. Additionally, a unit owner is jointly and severally liable with the previous owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the owner may have to recover from the previous owner the amounts paid by the owner. A first mortgagee acquiring title to a condominium parcel as a result of foreclosure, or a deed in lieu of foreclosure, may not, during the period of its ownership of such parcel, whether or not such parcel is unoccupied, be excused from the payment of some or all of the common expenses coming due during the period of such ownership.

16.7 Assignment of Claim of Lien Rights

Provided that the Association first complies with applicable statutory requirements, the Association, acting through its Board of Directors, shall have the right to assign its claim and lien rights for the recovery of any unpaid assessment to the Developer, or to any unit owner or group of unit owners, or to any third party.

16.8 Unpaid Assessments - Certificate

Any unit owner, mortgagee, or other lienholder shall have the right to require from the Association a certificate showing the amount of unpaid assessments against the condominium parcel to which he has an interest. Within 15 days after receiving a written request, the Association shall provide a certificate stating all assessments and other monies owed to the Association by the unit owner. Any person other than the owner who relies upon such certificate shall be protected thereby.

16.9 Priority of Lien

Any lien of the Association for common expenses, assessments or other charges becoming payable on or after the date of recordation of the first mortgage on any unit shall be subordinated to the lien of the first mortgage.

16.10 Operating Fund

An operating fund shall be established by the payment of each purchaser of two (2) months maintenance charges for each unit. Each unit's share of the operating fund will be collected and transferred to the Association at the time of closing of the sale of each unit and maintained in a segregated account for the use and benefit of the Association. The purpose of the fund is to provide funds to reimburse the Developer for and to pay advance utility deposits,

advance premiums on casualty, workmen's compensation and liability policies and to provide an initial operating fund and to ensure that the Association board will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board. Amounts paid into the fund are not advance payments of regular assessments but a separate and distinct payment of two (2) months' maintenance charges into the operating fund. Other than as set forth above for reimbursement, the operating fund may not be used by the Developer.

16.11 Lenders' Notices

Upon written request to the Association identifying the name and address of the holder, insurer, or guarantor and the unit number or address, any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

16.11.1 Any condemnation loss or any casualty loss which affects a material portion of the project or any unit estate on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable.

16.11.2 Any delinquency in the payment of assessments or charges owed by an owner of a unit subject to a first mortgage held insured or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days.

16.11.3 Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

16.11.4 Any proposed action which would require the consent of a specified percentage of mortgage holders.

17. COMPLIANCE AND DEFAULT

Each unit owner shall be governed by and shall comply with the terms of the Declaration of Condominium, By-Laws, and Rules and Regulations adopted pursuant thereto, and said documents and rules and regulations as they may be amended from time to time. Failure of unit owners to comply therewith shall entitle the Association, or other unit owners, to the following relief in addition to the remedies provided by the Condominium Act.

17.1 Negligence

A unit owner shall be liable for the expenses of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness or by that of any member of his family or his or their guests, invitees, employees or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association.

17.2 Costs and Attorneys' Fees

In any proceeding arising because of an alleged failure of a unit owner to comply with the terms of the Declaration, the By-Laws, and the Rules and Regulations adopted pursuant thereto, and said documents and rules and regulations as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be awarded by the court.

17.3 No Waiver of Rights

The failure of the Association or any unit owner to enforce a covenant, restriction, or other provision of the Condominium Act, this Declaration, or any of the exhibits attached hereto, shall not constitute a waiver of the right to do so thereafter.

18. AMENDMENT OF DECLARATION

This Declaration of Condominium may be amended in accordance with the requirements of *Chapter 718, Florida Statutes* and the provisions of Paragraph 19 below, not inconsistent with the requirements of *Chapter 718, Florida Statutes*.

19. DEVELOPER'S UNITS AND PRIVILEGES

19.1 Developer

The Developer, at the time of filing of this Declaration, is the owner of all of the real property, individual units, and appurtenances comprising this condominium. Therefore, the Developer, until all of the units have been sold and closed, shall be irrevocably empowered, notwithstanding anything herein to the contrary, to sell, lease, or rent units to any person approved by the Developer. Said Developer shall have the right to transact upon the condominium property any business necessary to consummate the sale of units, including, but not limited to, the right to maintain models, have signs, staff employees, maintain offices, use the common elements, entertain prospective purchasers and show units. Any sales office, signs, fixtures or furnishings, or other tangible personal property belonging to the Developer shall not be considered common elements and shall remain the property of the Developer.

19.2 Amendment of Plans

Developer reserves the right to change the interior design and arrangement of all units so long as Developer owns the units so changed and altered, provided such change shall be reflected by an amendment of this Declaration and provided further that an amendment for such purpose need be signed and acknowledged only by the Developer and need not be approved by the Association or Condominium unit owners—whether or not elsewhere required for an amendment.

19.2.1 An amendment of this Declaration reflecting such alteration by the Developer need be signed and acknowledged only by the Developer and need not be approved by the Association, condominium unit owners or any other persons whomsoever.

19.2.2 Nothing herein set forth in this Declaration shall be constructed as prohibiting the Developer from removing, or authorizing the removal of, any party wall between any units, as long as Developer owns the unit affected thereby, in order that said units may be used together as a single unit. In each event, all assessments, voting rights, and shares in the Common Elements shall be determined as if such units were as originally designated on the exhibits attached to this Declaration, notwithstanding the fact that several units are used as one, to the intent and purpose that the unit owner of such combined unit shall be treated as the unit owner of as many units as have been combined. Should the combining of units as described in this paragraph be determined to violate the provisions of *F.S. 718.110(4)*, an Amendment to this Declaration shall be approved, executed, and recorded as required by *F.S. 718.110(4)*.

19.3 Developer's Share of the Common Expenses and Assessments

The Developer shall be excused from the payment of share of the common expenses and assessments related to all units owned by the Developer for a period of time terminating on the first day of the fourth calendar month following the month in which the closing of the purchase and sale of the first condominium unit occurs. The beginning date is the date of the closing of the purchase and sale of the first condominium unit. The Developer shall pay the portion of common expenses incurred during that period which exceed the amount assessed against other unit owners.

19.4 Amendment

Notwithstanding anything herein to the contrary, the provisions of this section shall not be subject to any amendment until the Developer has sold all of the units in SCENIC TERRACE CONDOMINIUMS.

20. TERMINATION

The condominium may be terminated in the following manner in addition to the manner provided in the Condominium Act:

20.1 Destruction

In the event that it is determined in the manner elsewhere provided that the condominium building shall not be reconstructed because of major damage, the condominium plan of ownership will be thereby terminated without agreement.

20.2 Agreement

The condominium may be terminated by the approval, in writing, of all of the owners of the units therein and by all record owners of mortgages thereon. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice of the proposed termination, and if the approval of the owners of not less than seventy-five percent (75%) of the common elements, and of the record owners of all mortgages upon the units, are obtained, in writing, not later than thirty (30) days from the date of such meeting, then the approving owners shall have an option to buy all of the units of the other owners for the period ending on the sixtieth (60th) day from the day of such meeting. Such approvals shall be irrevocable until the expiration of the option and, if the option is exercised, the approval shall be irrevocable. Such option shall be upon the following terms:

20.2.1 Exercise of Option. The option shall be exercised by delivery or mailing by certified mail, to each of the record owners of the units to be purchased, of an agreement to purchase, signed by the record owners of units who will participate in the purchase. Such agreement shall indicate which unit will be purchased by each participating owner and shall provide for the purchase of all of the units owned by owners not approving the termination, and the effect of said agreement shall be to create a separate contract between each seller and his purchaser.

20.2.2 Price. The sale price for each unit shall be the fair market value determined by agreement between the seller and purchaser within thirty (30) days from the delivery or mailing of such agreement and, in the absence of agreement as to price, it shall be determined *by arbitration* in accordance with the *then existing* rules of the American Arbitration Association, except that the arbitrators shall be two (2) appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the unit; and a judgment of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

20.2.3 Payment. The purchase price shall be paid in cash.

20.2.4 Closing. The sale shall be closed within thirty (30) days following the determination of the sale price.

20.3 Certificate

The termination of the condominium in either of the foregoing manners shall be evidenced by a certificate of the Association, executed by the president and secretary,

certifying as to the facts effecting the termination, which certificate shall become effective upon being recorded in the public records of Escambia County, Florida.

20.4 Shares of Owners After Termination

After termination of the condominium, unit owners shall own the condominium property and all assets of the Association as tenants in common in undivided shares, and their respective mortgagees and lienors shall have mortgages and liens upon the respective undivided shares of the unit owners. Such undivided shares of the unit owners shall be known as "termination shares" and shall be ascertained as follows:

20.4.1 The Board of Directors, upon advisement by one or more independent appraisers, shall determine the value of each unit and appurtenances thereto prior to termination and of the total condominium property prior to termination. The total value of all units and appurtenances thereto shall equal the value of the condominium property.

20.4.2 The undivided share of each unit owner after termination shall equal the appraised value of his unit and appurtenance thereto divided by the appraised value of the total condominium property terminated.

20.4.3 The undivided share of each unit owner after termination shall be referred as a "termination share." After termination, the words "termination share" shall be to the Secretary of the Association by each such owner, substituted for the words "share in the common elements" or similar phrases used in this Declaration in order to ascertain the rights and duties of the holders of termination shares.

21. SEVERABILITY AND INVALIDITY

The invalidity, in whole or in part, of any covenant or restriction or any section, subsection, sentence, clause, phrase or word, or the provision of this Declaration of Condominium and the Articles of Incorporation, By-Laws, and the Rules and Regulations of the Association, shall not affect the validity of the remaining portions which shall remain in full force and effect.

In the event any court shall hereafter determine that any provisions of this Declaration of Condominium, as originally drafted or as amended, violates the rule against perpetuities or any other rules of law because of the duration of the period involved, the period specified in the Declaration shall not thereby become invalid but, instead, shall be reduced to the maximum period allowed under such rules of law and for such purpose measuring lives shall be those of the incorporators of the Association.

22. INTERPRETATION

The provisions of this Declaration of Condominium shall be liberally construed to effectuate its purposes of creating a uniform plan for the operation of a condominium in accordance with the laws made and provided for same; i.e., *Chapter 718, Florida Statutes*, as amended.

23. ASSOCIATION CONTROL

When unit owners other than the developer own 15 percent more of the units in a condominium that will be operated ultimately by an association, the unit owners other than the developer shall be entitled to elect no less than one-third of the members of the board of directors of the association. Unit owners other than the developer are entitled to elect not less than a majority of the members of the board of an association:

23.1 Three years after 50 percent of the units that will be operated ultimately by the Association have been conveyed to purchasers;

23.2 Three months after 90 percent of the units that will be operated ultimately by the Association have been conveyed to purchasers;

23.3 When all the units that will be operated ultimately by the Association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the Developer in the ordinary course of business;

23.4 When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or

23.5 Seven years after recordation of the Declaration, whichever occurs first.

Transfer of Association Control shall be in accordance with *F.S. 718.301*.

24. **INTER VIVOS TRANSFERS.**

In order to assure a community of congenial residents and occupants and protect the value of the apartments and to further the continuous harmonious development of the condominium community, the sale, lease, and mortgage of apartments shall be subject to the following provisions which shall be covenants running with the Land so long as the condominium property shall be subject to the condominium form of ownership under the laws of the State of Florida.

24.1 No unit owner may dispose of his unit or any interest therein by lease, gift, or sale, or in any other manner, except to his spouse or lineal descendants, ascendants or sibling, or to any other member of the Association, without first providing the Association with written notice of his intention to so dispose of his unit, said notice to include the name and address of the intended grantee of the unit and such other information as the Association may reasonably require, including the terms of the transaction. The giving of such notice shall constitute a warranty and representation by the unit owner that he believes the transfer proposal, or that his intent to make a gift, is bona fide in all respects.

24.2 Except as else where provided in this Declaration, no sale, gift, lease, or conveyance, or transfer by any other manner of a condominium unit shall be valid without the approval of the Association, which approval shall not be unreasonably withheld. Approval shall be by a Certificate of Approval, in recordable form, signed by the president, vice president, or secretary of the Association and shall be delivered to the purchaser, grantee, or lessee and made a part of the document of conveyance.

24.3 Failure of the Association to issue approval or written disapproval within thirty (30) days from receipt of notice, as provided for in Paragraph 24.1 above, shall be deemed to constitute approval, in which event the Association must, on demand, prepare and deliver approval in recordable form.

24.4 No unit owner shall sell or lease or otherwise transfer his unit nor shall approval be given until and unless all assessments due are paid, or their payment provided for to the satisfaction of the Association, and unless the proposed grantee or lessee can qualify as to the use restrictions.

24.5 If a unit owner shall lease his unit, he shall remain liable for the performance of all agreements and covenants in the condominium Documents and shall be liable for the violations by his lessee of any and all use restrictions.

24.6 If the proposed transfer is a sale or lease, notice to the Association provided for in sub-Paragraph 24.1 of this section may, at the unit owner's option, include a demand that the Association, if it does not approve the sale or lease, furnish a purchaser or lessee for the unit on the same terms as set forth in the unit owner's contract for sale or lease. Such demand shall include a copy of the properly executed sale or lease contract documents. In no event shall the Association have less than thirty (30) days from the date of disapproval to provide a purchaser or lessee.

24.7 If the Association shall fail to provide a purchaser or lessee upon the demand of the unit owner, in the manner provided, or if a purchaser or lessee furnished by the Association shall default in his agreement to purchase or lease then, notwithstanding the disapproval, the proposed transaction shall be deemed to have been approved by the Association and the Association shall, upon the owner's demand, furnish a Certificate of Approval as elsewhere provided, which shall be recorded in the Public Records of Escambia County, Florida, at the expense of the purchaser or lessee.

24.8 Notwithstanding the above, if the Association provides a purchaser in lieu of approving a unit owner's proposed purchaser, the purchase price shall be paid in cash at closing to the unit owner who shall not, without his written consent, be required to rely on the credit of a purchaser provided by the Association.

24.9 Nothing contained in this Paragraph 24 shall preclude or prevent the Association from itself being a purchaser in lieu of furnishing a purchaser as provided for herein; provided, however, such purchase by the Association shall be on the same terms and conditions which would have to be met by any other purchaser hereunder.

24.10 If the proposed transfer of a unit is by gift, or by a manner not contemplated in this Paragraph 24 or in Paragraph 25, disapproval of such transfer by the Association shall be final, and the Association shall have no further duty.

24.11 No unit owner may mortgage his unit, nor any interest in it, without approval of the Association except to a bank, life insurance company, savings and loan association or other institutional lender or institutional investor, or to an approved vendor to secure a portion or all of the purchase price. The approval of any other mortgage may be upon conditions determined by the Association or may be arbitrarily withheld.

24.12 The foregoing provisions of this Paragraph 24 shall not apply to a transfer from, or to a purchase by, Developer. Neither shall such provisions apply to a transfer from, or purchase by, a bank, a life insurance company, savings and loan association, or other institutional lender or institutional investor that acquires its title as the result of owning a mortgage upon the unit concerned, and this shall be so whether the title is acquired by deed from the mortgagor, his successors or assigns, or through foreclosure proceedings. Neither shall such provisions require the approval of a purchaser who acquires the title to a unit at a duly advertised public sale with open biddings provided by law, such as, but not limited to, execution sale, foreclosure sale, judicial sale or tax sale.

24.13 Notwithstanding anything to the contrary in this Declaration, sales by Developer shall not be subject to approval by the Association and are to be made in the discretion of the Developer.

24.14 The Association may, but shall have no obligation to, approve a transfer previously made without its approval and in violation of this Paragraph 24, upon written request of the transferee. Approval so granted shall be deemed to be effective as if properly granted. If approval is not granted, the transfer shall be invalid, the Association shall have no duty toward the transferee or transferor, to provide a new transferee, and the disapproved transfer shall be void and of no effect.

25. RIGHT OF HEIRS AND DEVISEES OF DECEASED UNIT OWNERS.

25.1 If the owner of a condominium parcel should die and the title to the parcel shall pass to his surviving spouse, or to a son, daughter, parent, or sibling of the owner, then such successor in title shall fully succeed to the ownership, rights, duties and obligations of the unit owner, the provisions of Paragraph 24 of this Declaration notwithstanding.

25.2 If the title to the condominium parcel of such deceased owner shall pass to any person other than a person or persons designated in sub-Paragraph 25.1 above, then, within ninety (90) days of such person or persons taking title, occupancy, or possession of the parcel of the deceased owner, he shall advise the Association, in writing, of his intention of residing in the parcel and of his or their current address. The Association shall have thirty (30) days thereafter to advise said person or persons, in writing, delivered or mailed to the said current address, whether his or their occupancy and ownership of the parcel is approved. The failure of the Association to give such advice within the said thirty (30) days shall be deemed automatic approval. If the Association does not approve the ownership and/or occupancy of the parcel by said person or persons and so notifies them, said person or persons shall remain in occupancy only until the Association or such other person or persons shall have procured a purchaser acceptable to the Association for said parcel at a fair market value therefore, established by averaging the appraised value stated by two (2) M.A.I. appraisers, the expense of the appraisals to be borne by the Association, which value shall be conclusive upon all persons for all purposes unless grossly inadequate or fraudulent. Thereupon, the person or persons having title, possession, and/or occupancy of said parcel shall execute such papers and documents as the Association may require to effect the transfer of title, possession, and occupancy of the parcel to such purchaser, which purchaser may be the Association.

25.3 Nothing in this Paragraph 25 shall be deemed to reduce, forgive or abate any amounts due the Association from the unit owner at the time of his death, nor the assessments attributable to the unit becoming due after the owner's death, all of which shall be fully due and payable as if the unit owner had not died.

25.4 Nothing herein shall prevent the sale and transfer of a condominium parcel by the owner thereof in the manner otherwise provided in this Declaration.

IN WITNESS WHEREOF, the Developer has caused the execution of this Declaration of Condominium, this 27th day of September, 1999.

Signed, sealed, and delivered
in the presence of:

SCENIC TERRACE CONDOMINIUMS, INC.
a Florida corporation

Melissa E. Johnson
Print/Type Name: MELISSA E JOHNSON

By: John S. Carr
John S. Carr, President

Joyce A. Williams
Print/Type Name Joyce A. Williams

CORPORATE SEAL



STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 27th day of September 1999 by John S. Carr, President of Scenic Terrace Condominiums, Inc., a Florida corporation, on behalf of the corporation. He () is personally known to me, or () has shown me _____ as identification.

Notary Seal

Joyce A. Williams
Notary Public
Print/Type Name: _____
My Commission No.: _____
My Commission Expires: _____



JOYCE A. WILLIAMS
Notary Public - State of FL.
Comm. Exp. Apr. 14, 2003
Comm. No. CC804946

JOINDER OF
MORTGAGEE OF
DECLARATION OF CONDOMINIUM

**JOINDER OF MORTGAGEE
OF
DECLARATION OF CONDOMINIUM**

AmSouth Bank, the owner and holder of a mortgage encumbering the land described in Exhibit "A", attached to the Declaration of Condominium of Scenic Terrace Condominiums, according to the Declaration thereof to which this Joinder is attached, hereby consents to and joins in the said Declaration thereof and agrees that the lien of its mortgage, to the extent of the encumbrance upon the land described in Exhibit "A" attached to the Declaration of Condominium shall be upon all of the condominium parcels of Scenic Terrace Condominiums, according to the Declaration thereof, together with all of the appurtenances, including, but not limited to, any common elements appurtenant to the condominium parcels so encumbered and to the undivided shares of the common elements.

Nothing contained herein shall be deemed to or in any way limit or affect the mortgage held by AmSouth Bank or the priority of the lien created thereby and the sole purpose of this Joinder is to acknowledge the consent of said Mortgagee to the Declaration of Condominium as hereinabove provided.

This instrument is executed by the undersigned for the purpose of complying with and pursuant to Florida Statute 718.104(4)(m).

EXECUTED this 24th day of September, 1999.

WITNESSES:

**AmSOUTH BANK,
Mortgagee**

Mary Cornett
Print Name: MARY CORNETT
Nan B. Bradley
Print Name: NAN B. BRADLEY

By: James R. Schmitz
**JAMES R. SCHMITZ,
Vice-President**

[CORPORATE SEAL]

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing Joinder of Mortgagee of Declaration of Condominium was acknowledged before me this 24th day of September, 1999, by **James R. Schmitz**, Vice-President of AmSouth Bank, on behalf of the Bank.

Mary Cornett
NOTARY PUBLIC

My Commission Expires:



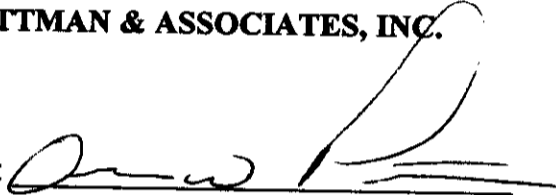
SURVEYOR'S CERTIFICATE

SURVEYOR'S CERTIFICATE

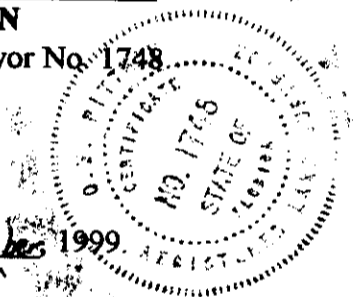
SCENIC TERRACE CONDOMINIUMS

I, Oscar W. Pittman (Registered Land Surveyor No. 1748, State of Florida), a surveyor authorized to practice in the State of Florida, on behalf of Pittman & Associates, Inc., hereby certify that the construction of the improvements described in Exhibit "A" of the Declaration of Condominium of Scenic Terrace Condominiums attached hereto, consisting of ~~62~~ ⁶⁷ pages, is substantially complete except for the pool fencing and units 203, 600, 702-703, 800-803, 900-903, 1000-1003, and the three penthouse units (1100, 1110, and 1120), so that the material, together with the provisions of the Declaration relating to matters of survey describing the condominium property is an accurate representation of the location and dimensions of the improvements, and that the identification, location and dimensions of the common elements, limited common elements, and of each unit can be determined from these materials and that improvements, including but not limited to, landscaping, utility services and access to the unit and common element facilities have been substantially completed.

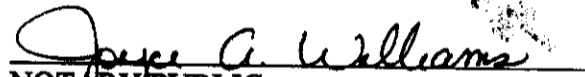
PITTMAN & ASSOCIATES, INC.

By: 

OSCAR W. PITTMAN
Registered Land Surveyor No. 1748
State of Florida



SWORN TO AND SUBSCRIBED before me this 27th day of September 1999.


NOTARY PUBLIC

My Commission expires:

[NOTARY SEAL]



JOYCE A. WILLIAMS
Notary Public - State of FL.
Comm. Exp. Apr. 14, 2003
Comm. No. CC804946

EXHIBIT "A"
NARRATIVE DESCRIPTION, LEGAL DESCRIPTION,
SITE PLAN, FLOOR PLANS,
AND ELEVATION

NARRATIVE DESCRIPTION

Scenic Terrace Condominiums contains one high-rise building containing eleven floors above grade with two basement levels for parking. The Condominium contains a total of 44 units. Two elevators will be provided.

The common elements in the Condominium include all lands and improvements thereon which are not included in the units.

Reference should be made to the site plan, floor plans, and building elevations set forth in this exhibit. The construction is not complete and upon completion this Declaration shall be amended to show the certificate of a surveyor authorized to practice in this state certifying that the construction of the improvements is substantially complete so that the material, together with the provisions of this Declaration describing the condominium property, constitute an accurate representation of the location and dimensions of the improvements and that the identification, location, and dimensions of the common elements, and limited common elements, appurtenant to each unit, can be determined from these materials.

The unit numbers, unit types, and numbers of bathrooms and bedrooms in each unit are set forth as follows:

Unit No.	Type	Number of Bedrooms	Number of Baths	Unit No.	Type	Number of Bedrooms	Number of Baths
200	D-2	3	3	603	C	2	2
201	A (SW)	2	2	604	D-1 (NE)	3	3
202	B	2	2	700	D-2	3	3
203	C	2	2	701	D-1 (SW)	3	2
204	D-1 (NE)	3	3	702	D-2	3	3
300	D-2	3	3	703	D-1 (NE)	3	3
301	A (SW)	2	2	800	E	3	3.5
302	B	2	2	801	D-1 (SW)	3	3
303	C	2	2	802	D-2	3	3
304	D-1 (NE)	3	3	803	A (NE)	2	2
400	D-2	3	3	900	E	3	3.5
401	A (SW)	2	2	901	D-1 (SW)	3	3
402	B	2	2	902	D-2	3	3
403	C	2	2	903	A (NE)	2	2
404	D-1 (NE)	3	3	1000	E	3	3.5
500	D-2	3	3	1001	D-1 (SW)	3	3

Unit No.	Type	Number of Bedrooms	Number of Baths	Unit No.	Type	Number of Bedrooms	Number of Baths
501	A (SW)	2	2	1002	D-2	3	3
502	B	2	2	1003	A (NE)	3	3
503	C	2	2	1100	P		
504	D-1 (NE)	3	3	1110	P		
600	D-2	3	3	1120	P		
601	A (SW)	2	2				
602	B	2	2				

SW = Southwest Unit

NE = Northeast Unit

P = Penthouse Unit

LEGAL DESCRIPTION

PARCEL 1:

A portion of land in Section 2, Township 2 South, Range 29 West, Escambia County, Florida, being more particularly described as follows:

Begin at the Southwest corner of Cervello Subdivision, according to Plat recorded in Plat Book 10 at page 87; thence North 87 degrees 15'00" East along the south line of said Cervello Subdivision for a distance of 159.52 feet; thence South 02 degrees 45'00" East for a distance of 95.00 feet; thence North 87 degrees 15'00" East for a distance of 131.34 feet to the West right of way line of the Louisville & Nashville Railroad (100' R/W), said point being on a circular curve concave to the West, having a radius of 3451.56 and a delta angle of 02 degrees 49'41"; thence Southeasterly along the arc of said curve for an arc distance of 170.37 feet (chord = 170.35 feet and chord bearing = South 03 degrees 59'43" East) to the northerly line of Bayfront Apartments; thence South 87 degrees 18'46" West along said northerly line for a distance of 469.32 feet to the Easterly right of way line of Scenic Highway (State Road #10A, 80' R/W); said point being on a circular curve concave to the Southeast, having a radius of 865.13 and a delta angle of 12 degrees 46'10"; thence Northeasterly (this course and the next two courses are along said Easterly right of way) along said curve for an arc distance of 192.81 feet (chord = 192.41 and chord bearing = North 28 degrees 11'50" East) to the point of tangency; thence North 34 degrees 34'55" East for a distance of 103.81 feet to the point of curvature of a circular curve concave to the Northwest, having a radius of 1022.64 and a delta angle of 01 degrees 12'17"; thence Northeasterly along the arc of said curve for an arc distance of 21.50 (chord = 21.50 feet and chord bearing = North 33 degrees 58'47" East) to the Point of Beginning.

All lying and being in Section 2, Township 2 South, Range 29 West, Escambia County, Florida. Containing 2.07 acres, more or less.

SITE PLAN

SCENIC TERRACE
IN SECTION 2, T. 3-S, R. 24-W,
A CONDOMINIUM
CITY OF PANACOLA, ESCAMBIA COUNTY, FLORIDA

Surveyed by **DAVID D. GLAZIER**
Date of Survey: **11/15/99**
Date of Plat: **11/15/99**

Surveyed by **OSCAR W. PITTMAN**
Date of Survey: **11/15/99**
Date of Plat: **11/15/99**

PITTMAN
LAND SURVEYORS
INC.

1401 NORTH 7TH STREET
PANACOLA, FLORIDA 32403
(904) 491-6666 FAX (904) 491-4411

OSCAR W. PITTMAN
M.S. NO. 9828
DAVID D. GLAZIER
M.S. NO. 9828

LS No. 2444
SHEET 1 OF 1

NOT VALID
IF NOT RECORDED

BY SURVEYOR

Source of Information: Records of the Public Records Office, Escambia County, Florida, and the Public Records Office, Panacola, Florida.

I hereby certify that this survey was made under my supervision and that the information contained hereon is true and correct to the best of my knowledge and belief.

Dated this 15th day of November, 1999.

OSCAR W. PITTMAN
DAVID D. GLAZIER

CONDOMINIUM
PLAT BOOK
PAGE

80 R/W
STATE ROAD NO. 94
SCENIC HIGHWAY
ENTRANCE ROAD
CORNER OF STATE & 94
CORNER OF STATE & 94

LOT 9 - CERVELLO PLAT BOOK NO. PAGE 87

N 57°15'00" E 194.32'
N 57°15'00" E 450.00'
S 02°45'00" E 450.00'
N 81°50'00" E 512.34'

DELTA = 02°44'41" CB = 9.058445 E
R = 6451.86' ARC = 105.87' CH = 1025.5'

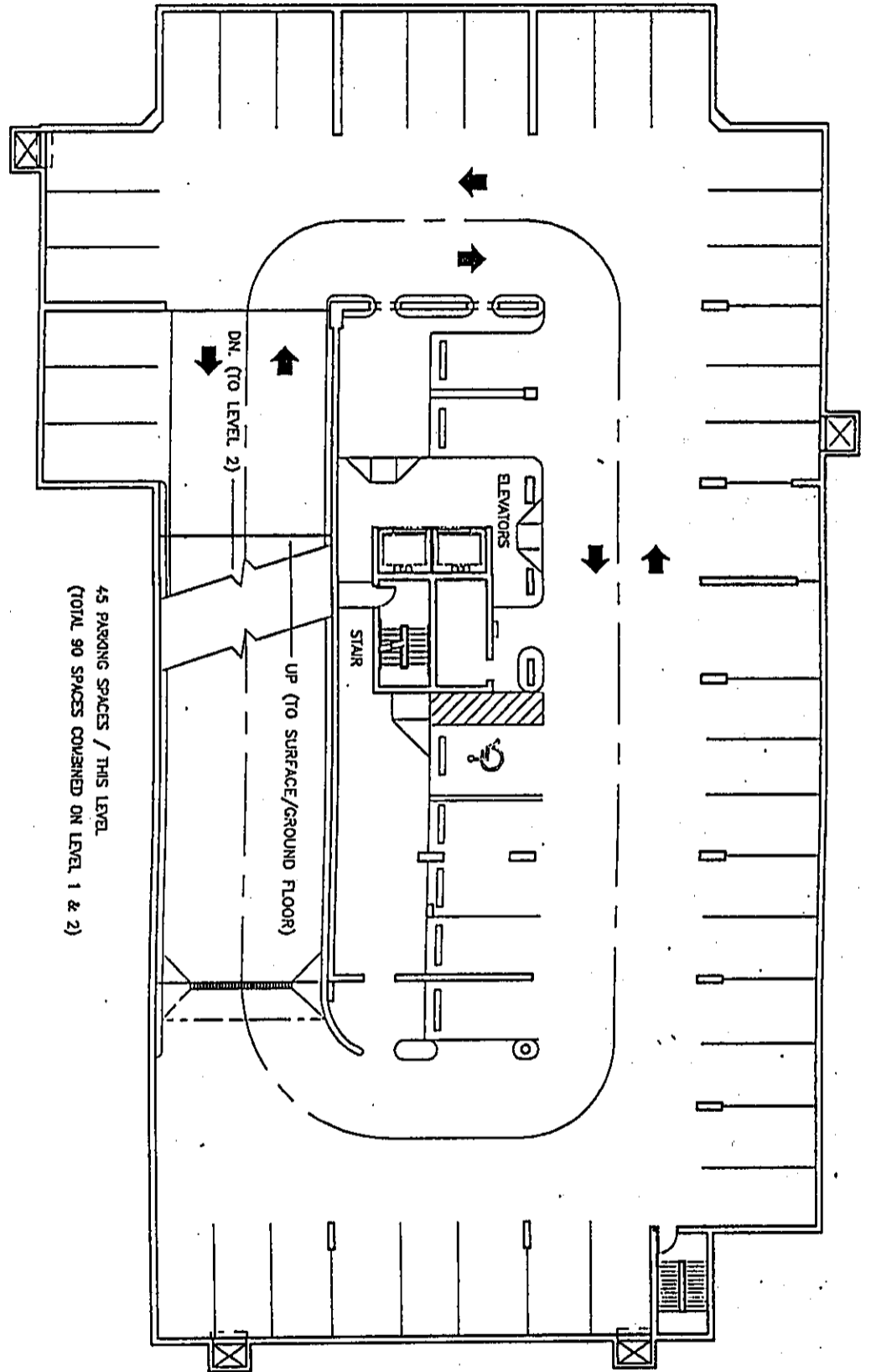
LOUISVILLE AND NASHVILLE RAILROAD 100' R/W

GRAPHIC SCALE
1 inch = 50 feet

LOCAL DESCRIPTION: The subject property is located on the northeast corner of the intersection of State Road No. 94 and Scenic Highway, in Section 2, Township 3 South, Range 24 West, Escambia County, Florida. The subject property is a condominium unit consisting of approximately 1,200 square feet of space, including a parking space, and is situated on a lot that is part of a larger tract of land known as the Cerrello Tract. The Cerrello Tract is a tract of land that is approximately 100 acres in size and is situated on the northeast corner of the intersection of State Road No. 94 and Scenic Highway. The Cerrello Tract is a tract of land that is approximately 100 acres in size and is situated on the northeast corner of the intersection of State Road No. 94 and Scenic Highway.

LOCAL DESCRIPTION: The subject property is located on the northeast corner of the intersection of State Road No. 94 and Scenic Highway, in Section 2, Township 3 South, Range 24 West, Escambia County, Florida. The subject property is a condominium unit consisting of approximately 1,200 square feet of space, including a parking space, and is situated on a lot that is part of a larger tract of land known as the Cerrello Tract. The Cerrello Tract is a tract of land that is approximately 100 acres in size and is situated on the northeast corner of the intersection of State Road No. 94 and Scenic Highway. The Cerrello Tract is a tract of land that is approximately 100 acres in size and is situated on the northeast corner of the intersection of State Road No. 94 and Scenic Highway.

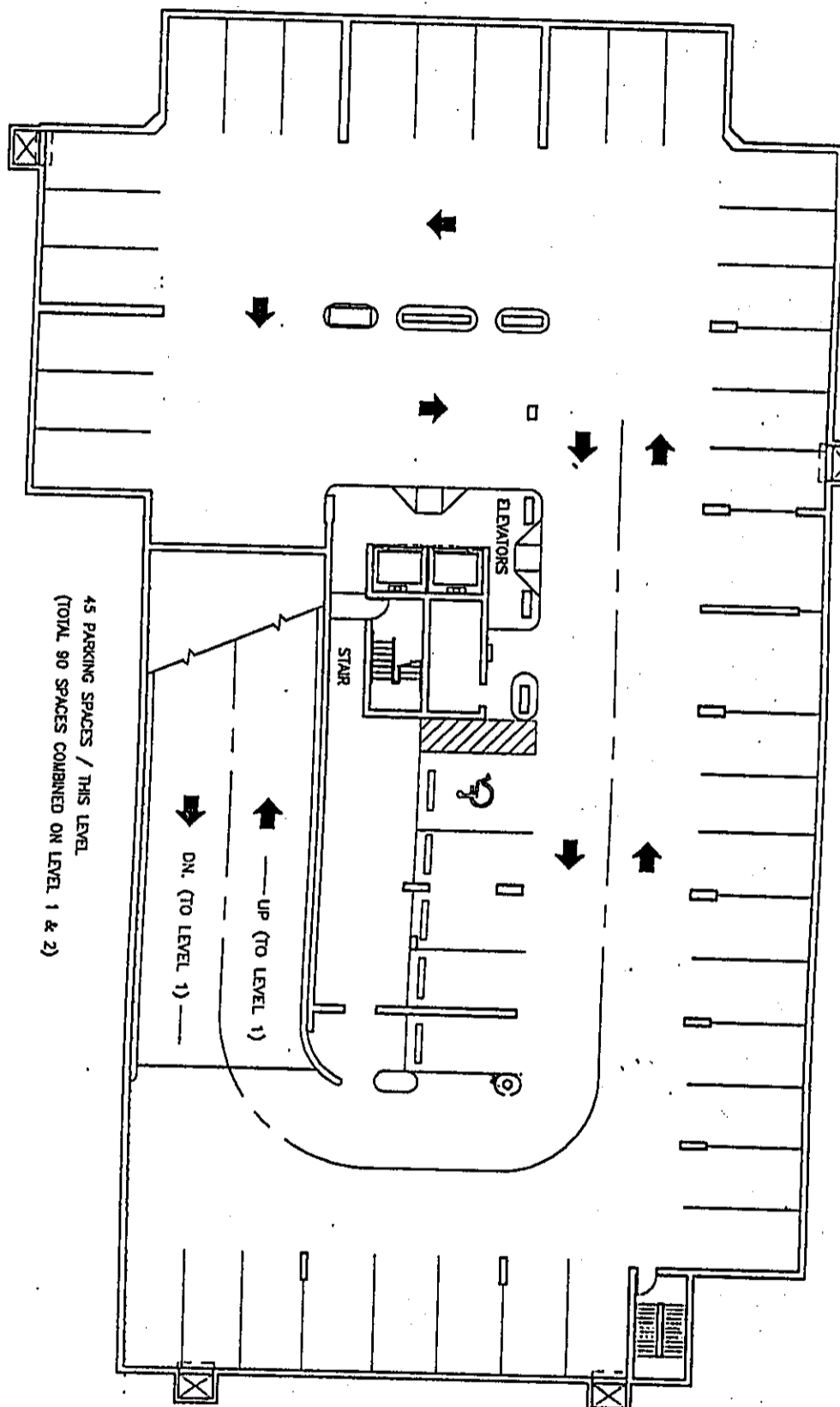
FLOOR PLANS



SCENIC TERRACE CONDOMINIUMS
BASEMENT - LEVEL ONE

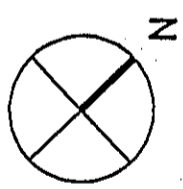
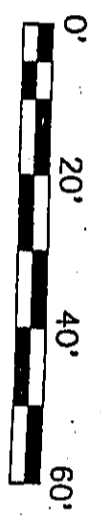
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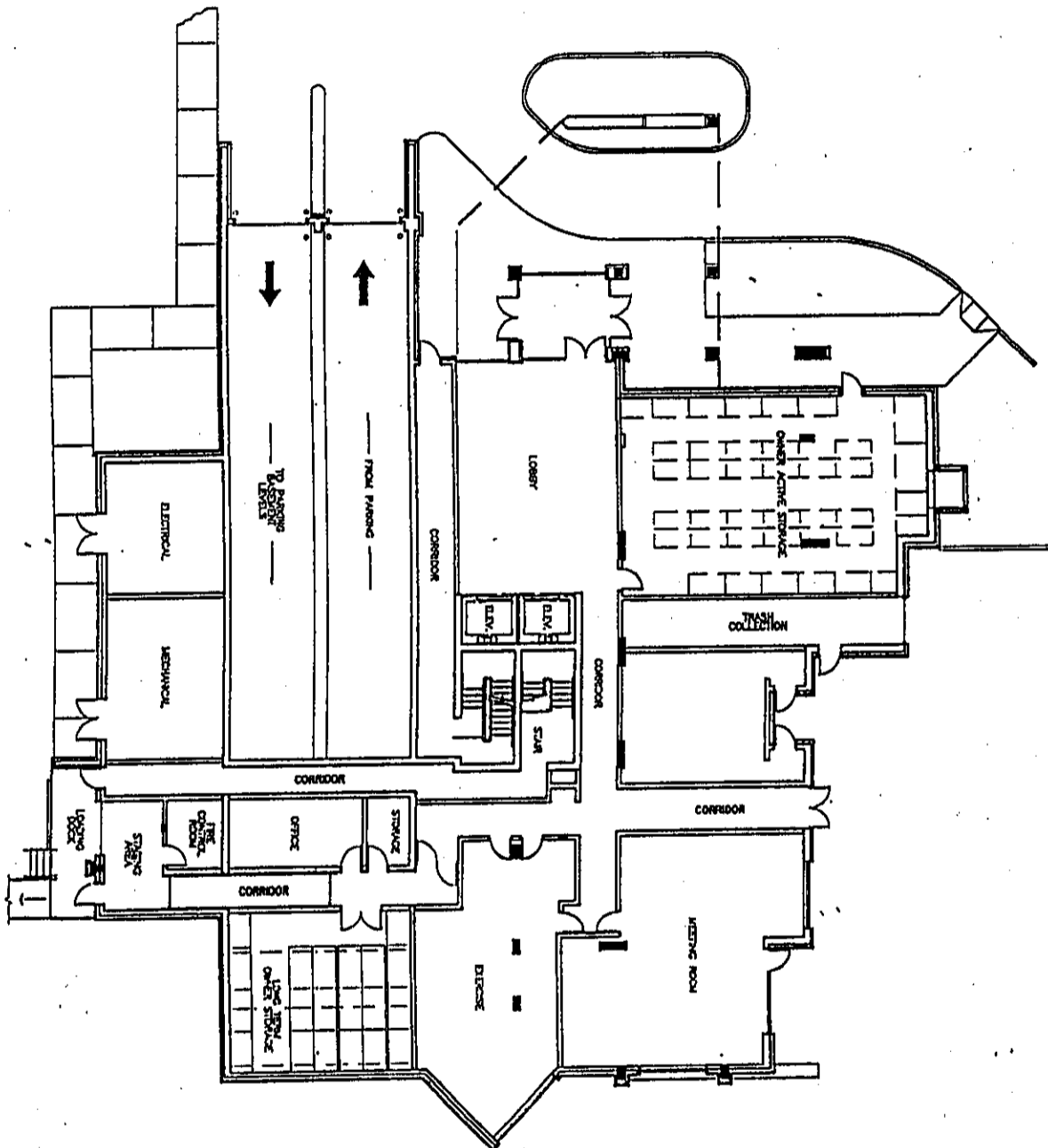




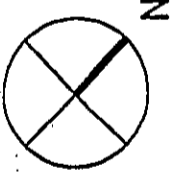
45 PARKING SPACES / THIS LEVEL
(TOTAL 90 SPACES COMBINED ON LEVEL 1 & 2)

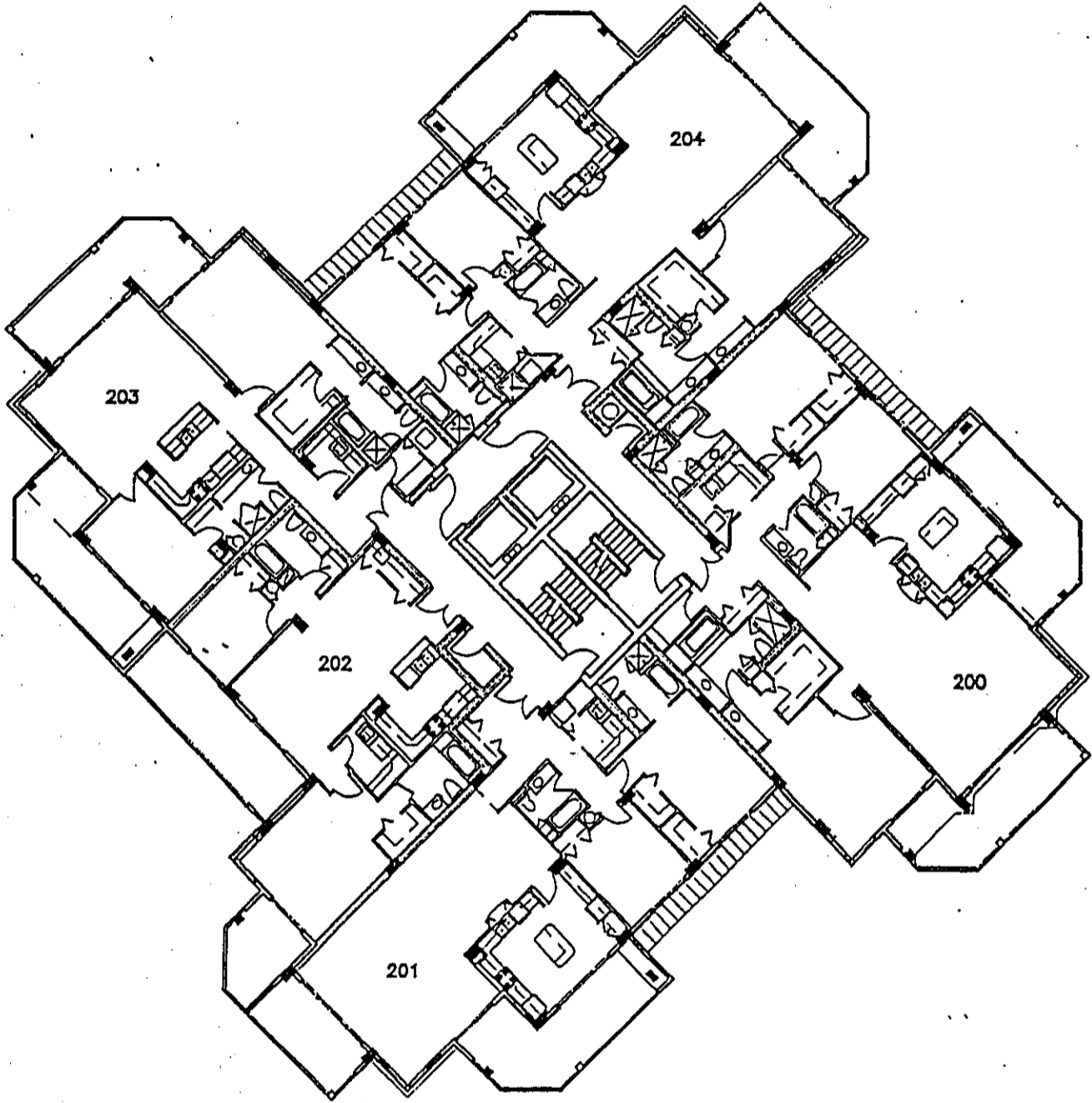
SCENIC TERRACE CONDOMINIUMS
BASEMENT - LEVEL TWO





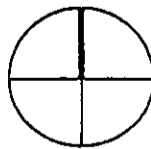
SCENIC TERRACE CONDOMINIUMS
GROUND FLOOR PLAN



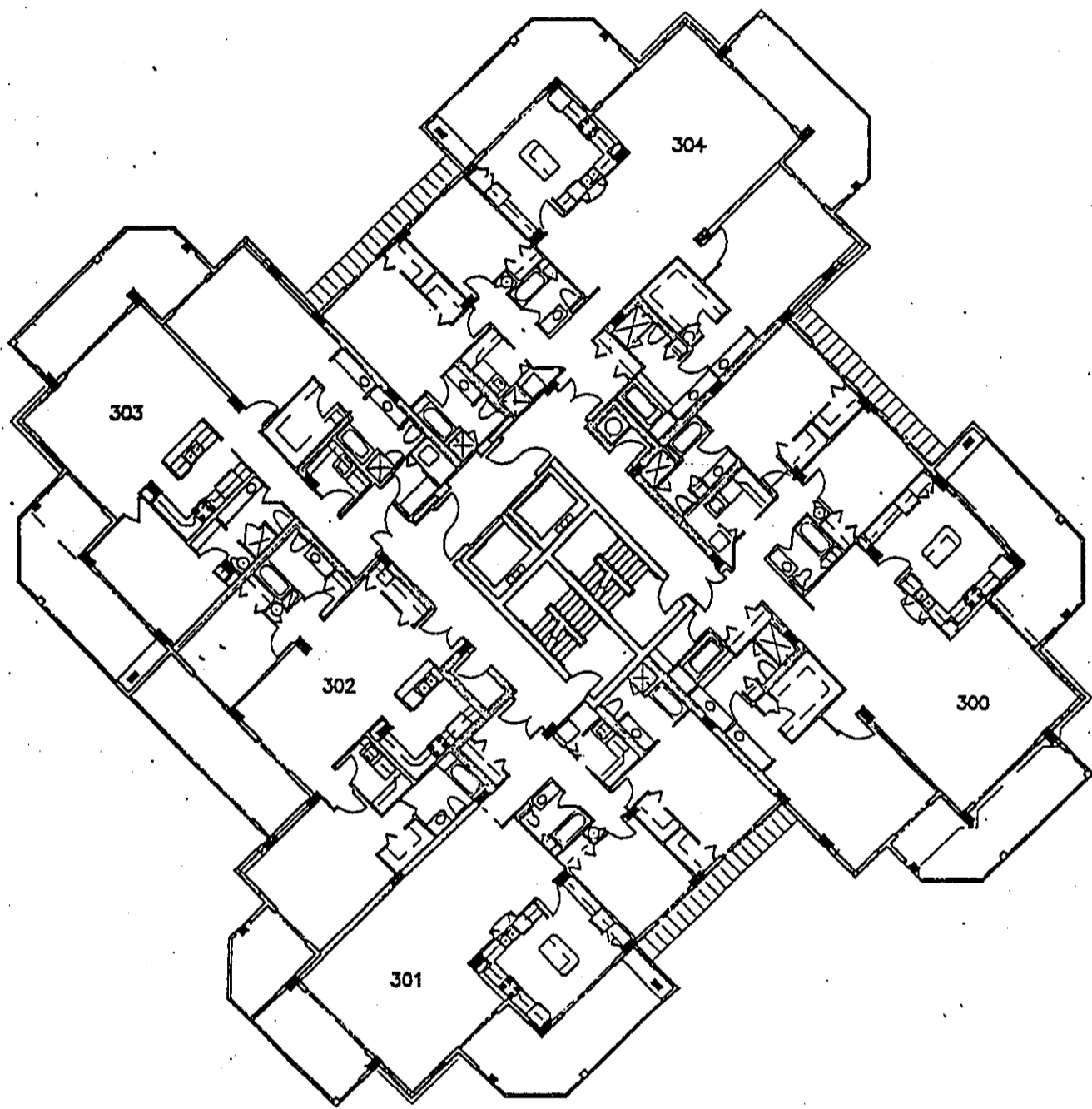


SCENIC TERRACE CONDOMINIUMS

FLOOR 2

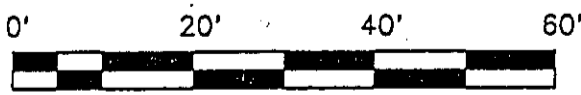
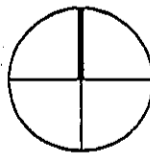


The interior dimensions and design of units shown in this overall floor plan have been modified slightly in accordance with individual agreements between original unit purchasers and the Developer. Please refer to the individual unit plan for your unit (following these floor plans), for the final as-built interior dimensions of your unit.

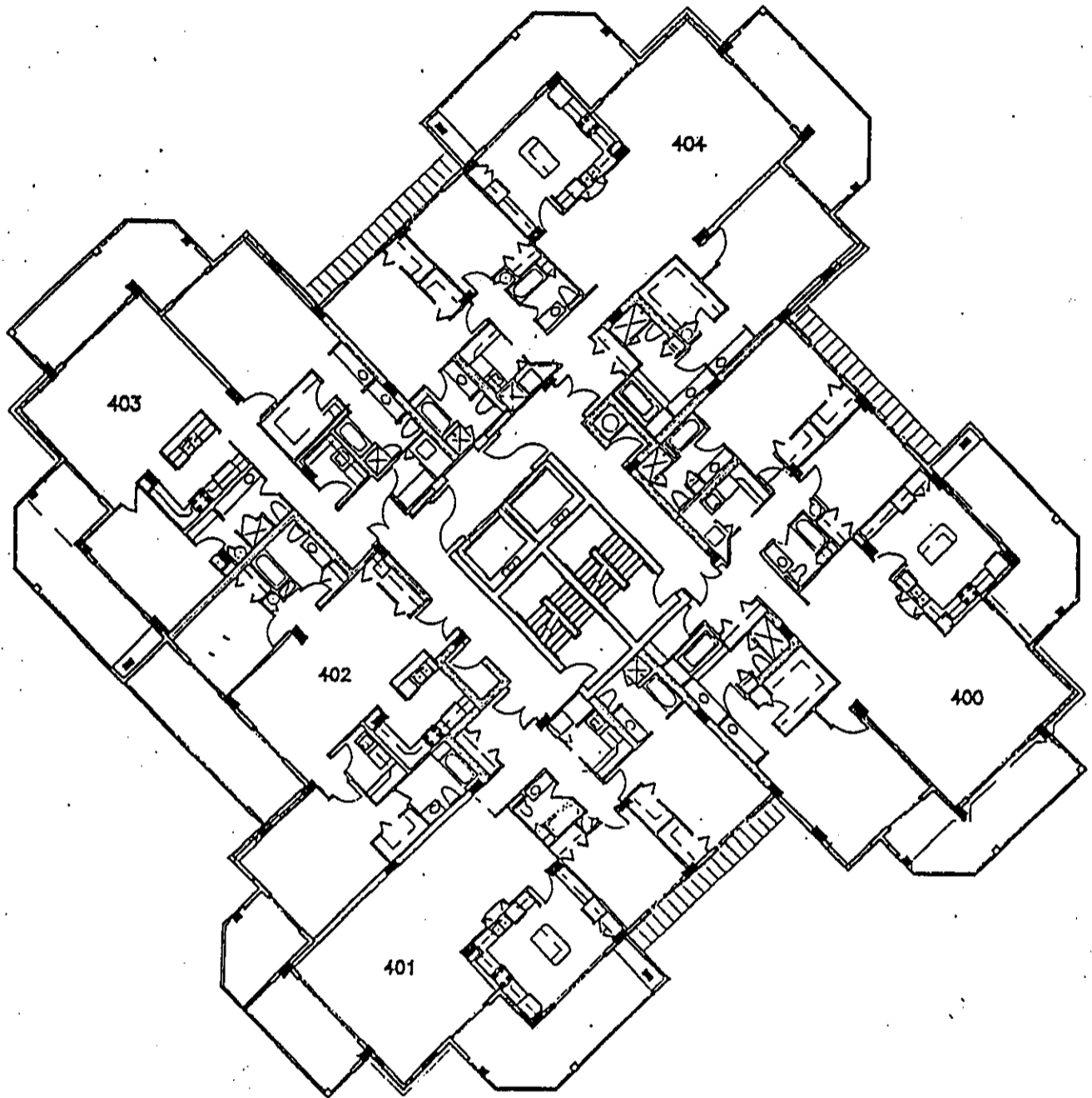


SCENIC TERRACE CONDOMINIUMS

FLOOR 3

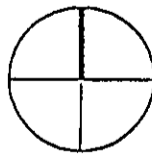


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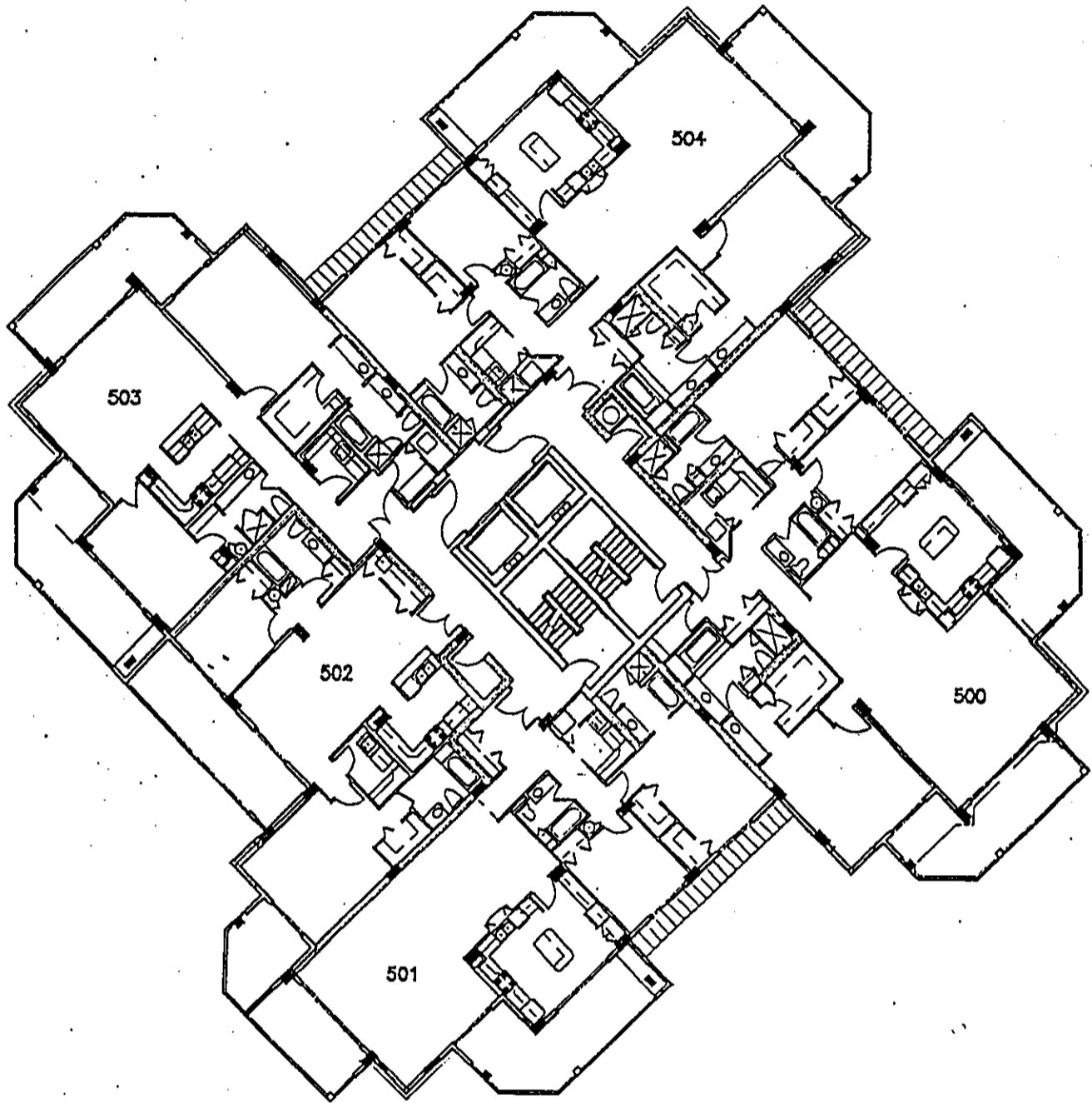


SCENIC TERRACE CONDOMINIUMS

FLOOR 4

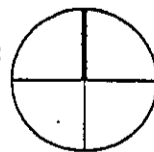


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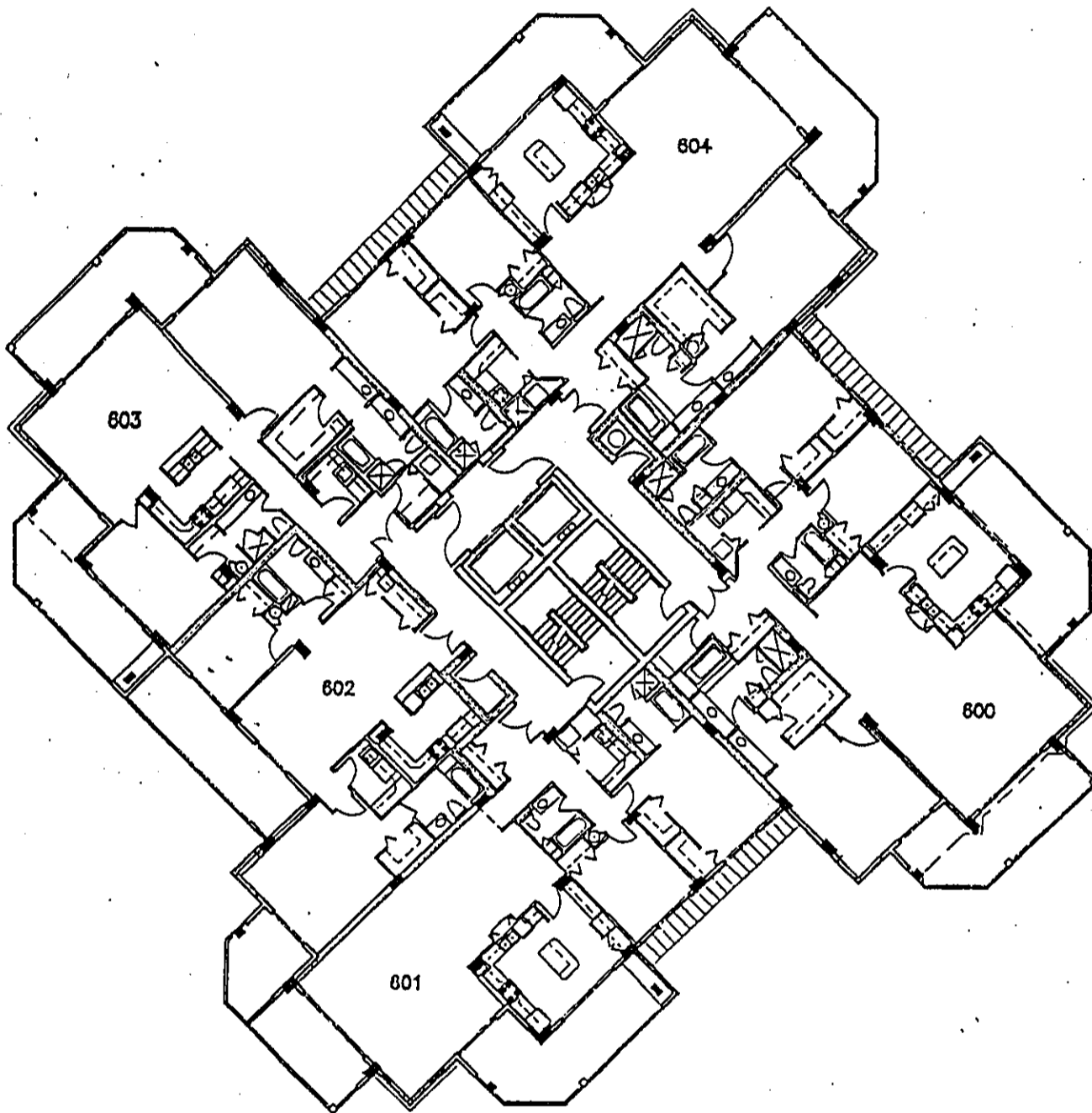


SCENIC TERRACE CONDOMINIUMS

FLOOR 5

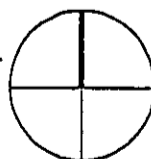


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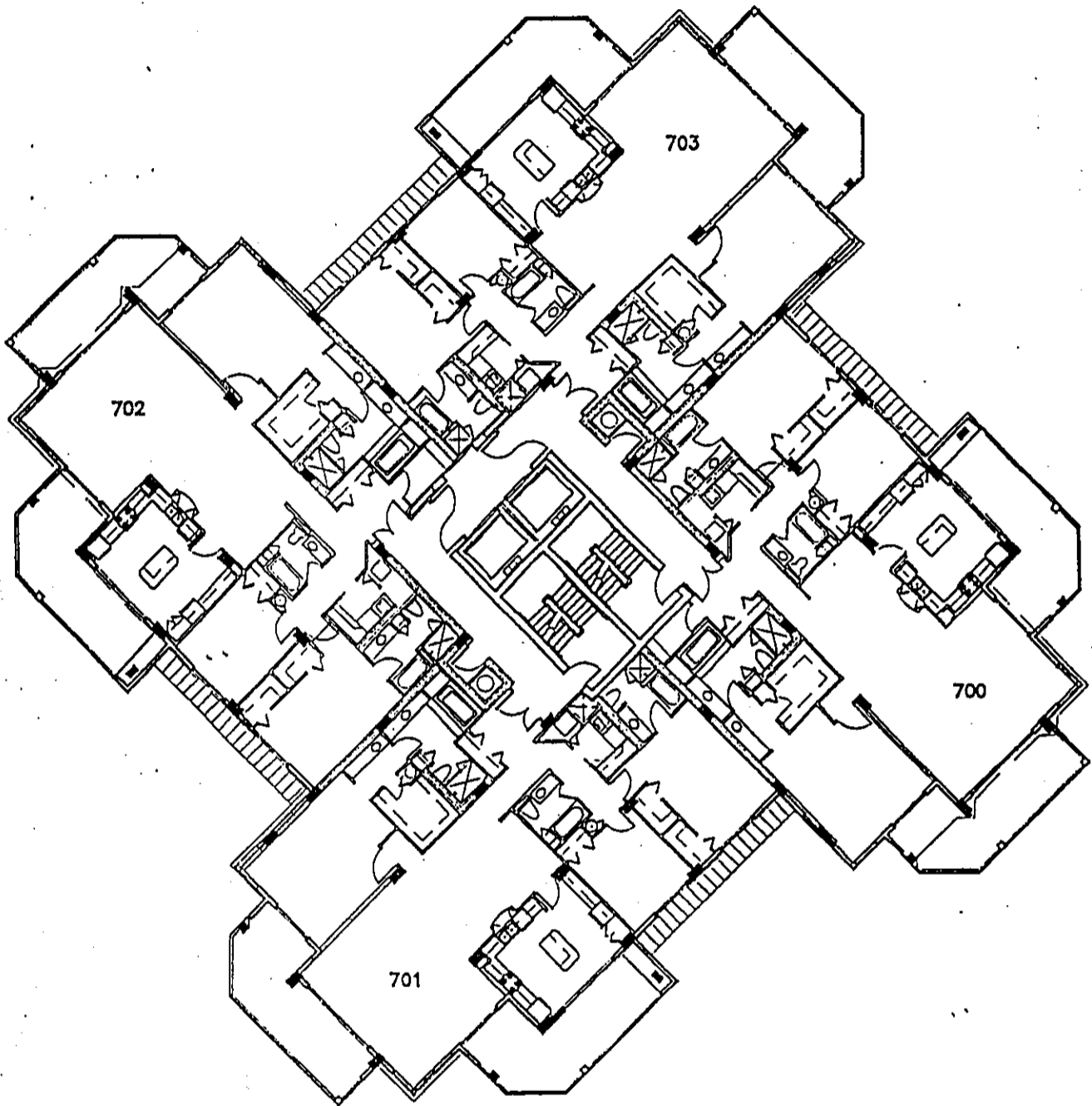


SCENIC TERRACE CONDOMINIUMS

FLOOR 6

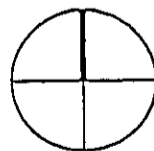


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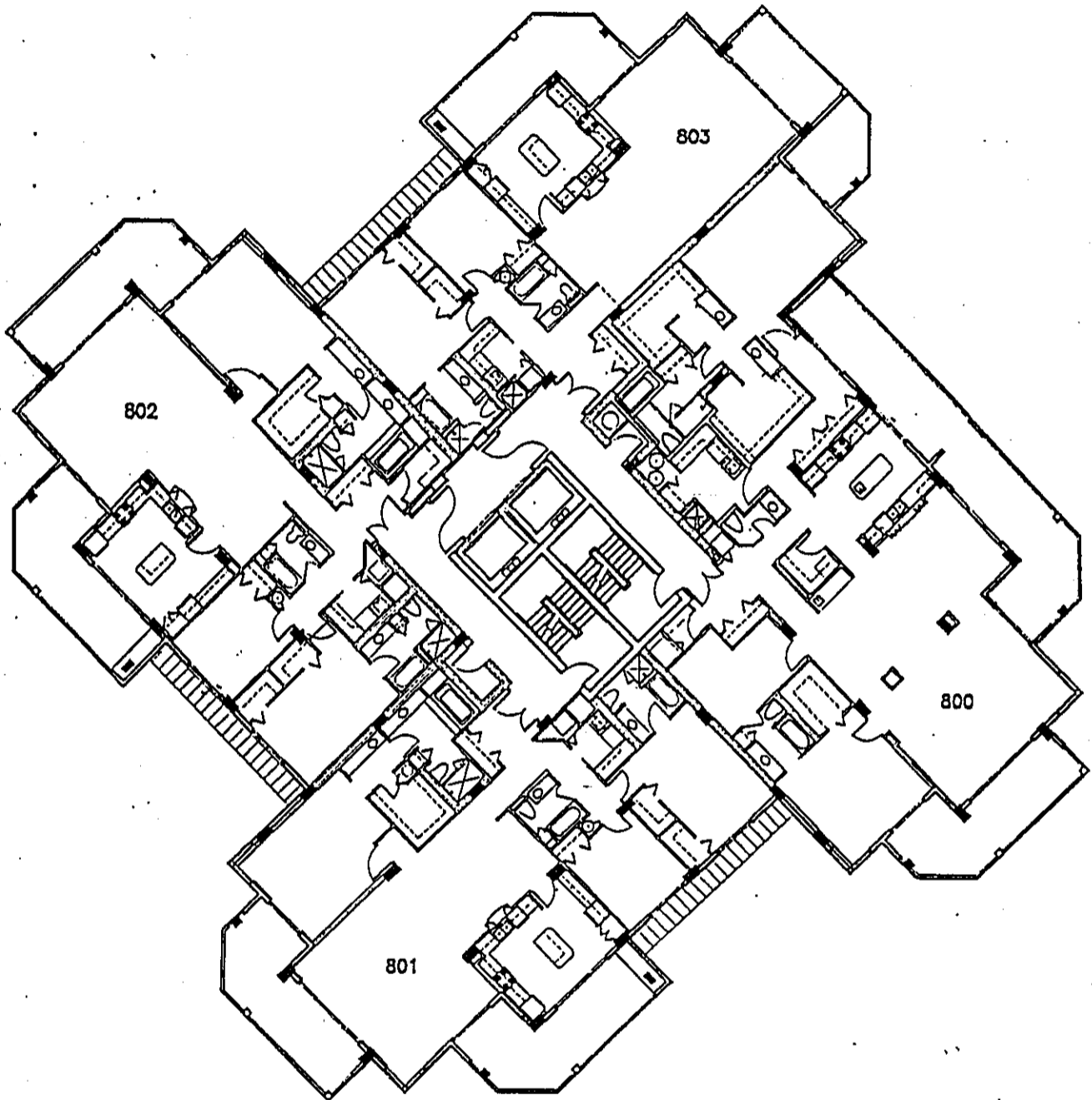


SCENIC TERRACE CONDOMINIUMS

FLOOR 7

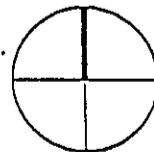


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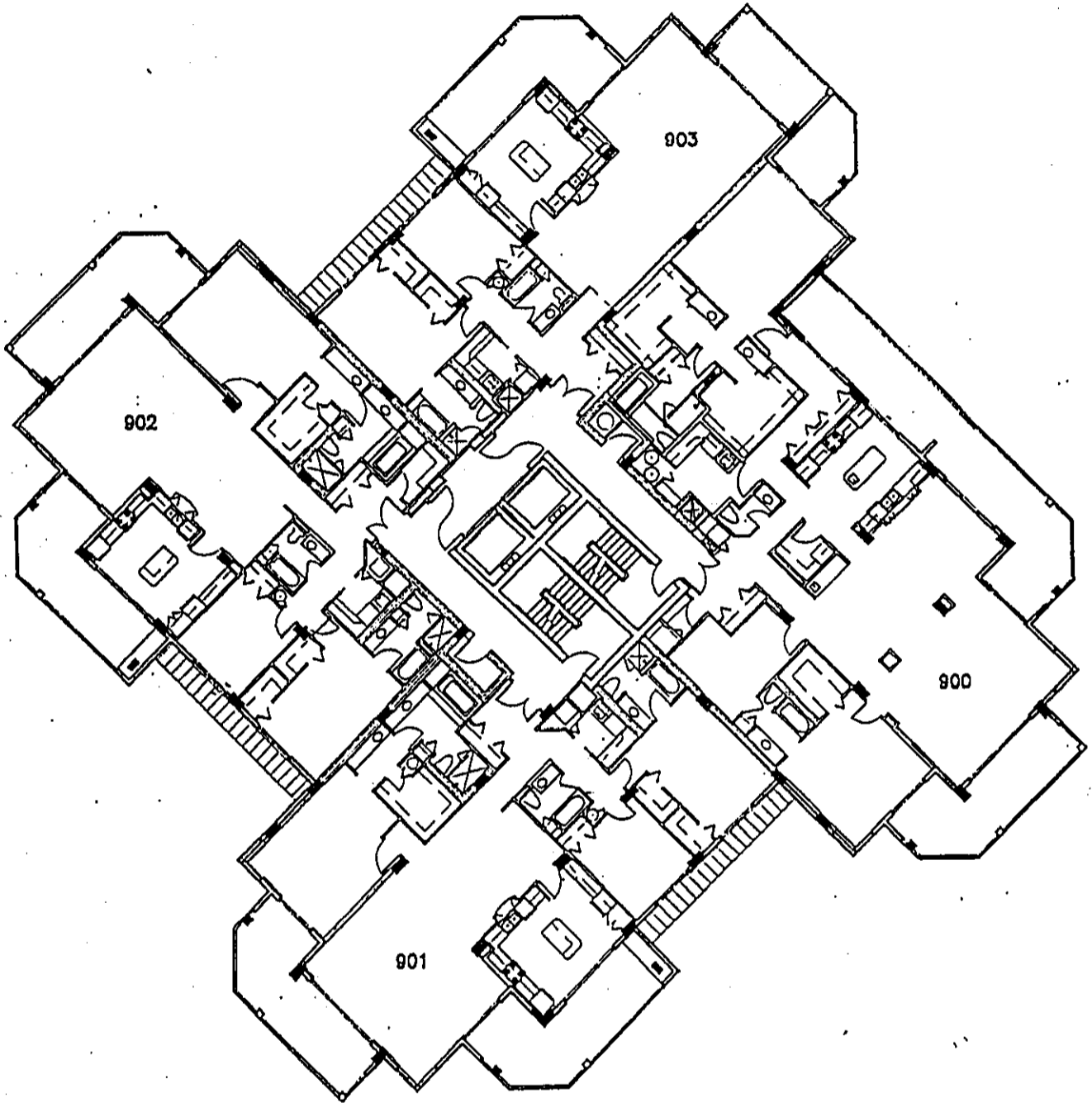


SCENIC TERRACE CONDOMINIUMS

FLOOR 8

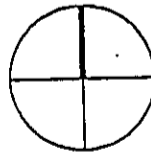


The interior dimensions and design of units shown in this overall floor plan have been modified slightly in accordance with individual agreements between original unit purchasers and the Developer. Please refer to the individual unit plan for your unit (following these floor plans), for the final as-built interior dimensions of your unit.

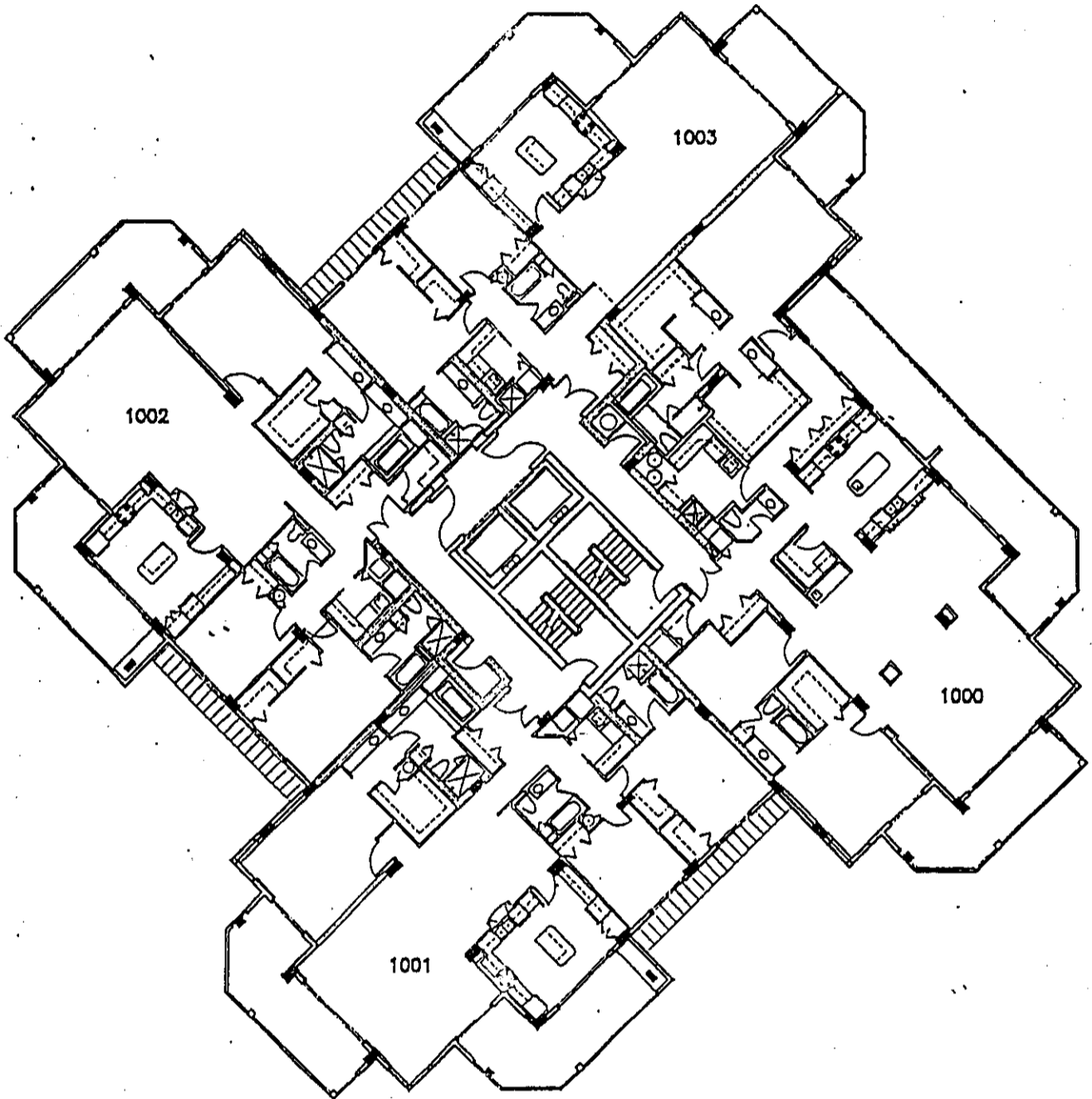


SCENIC TERRACE CONDOMINIUMS

FLOOR 9

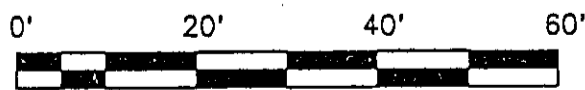
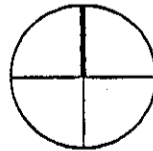


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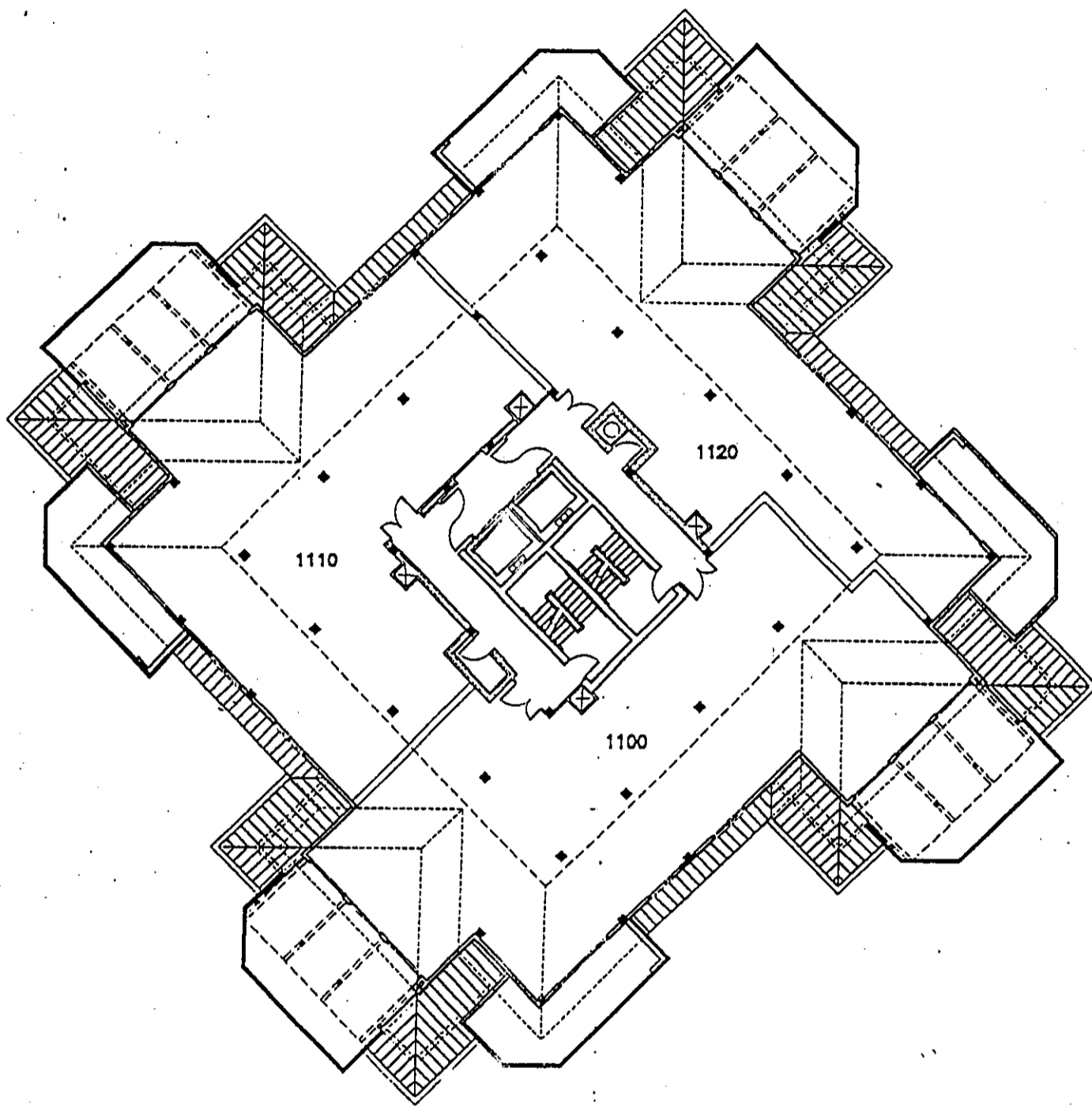


SCENIC TERRACE CONDOMINIUMS

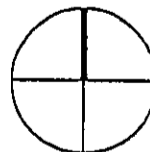
FLOOR 10



The interior dimensions and design of units shown in this overall floor plan have been modified slightly in accordance with individual agreements between original unit purchasers and the Developer. Please refer to the individual unit plan for your unit (following these floor plans), for the final as-built interior dimensions of your unit.



SCENIC TERRACE CONDOMINIUMS
PENTHOUSE (FLOOR 11)

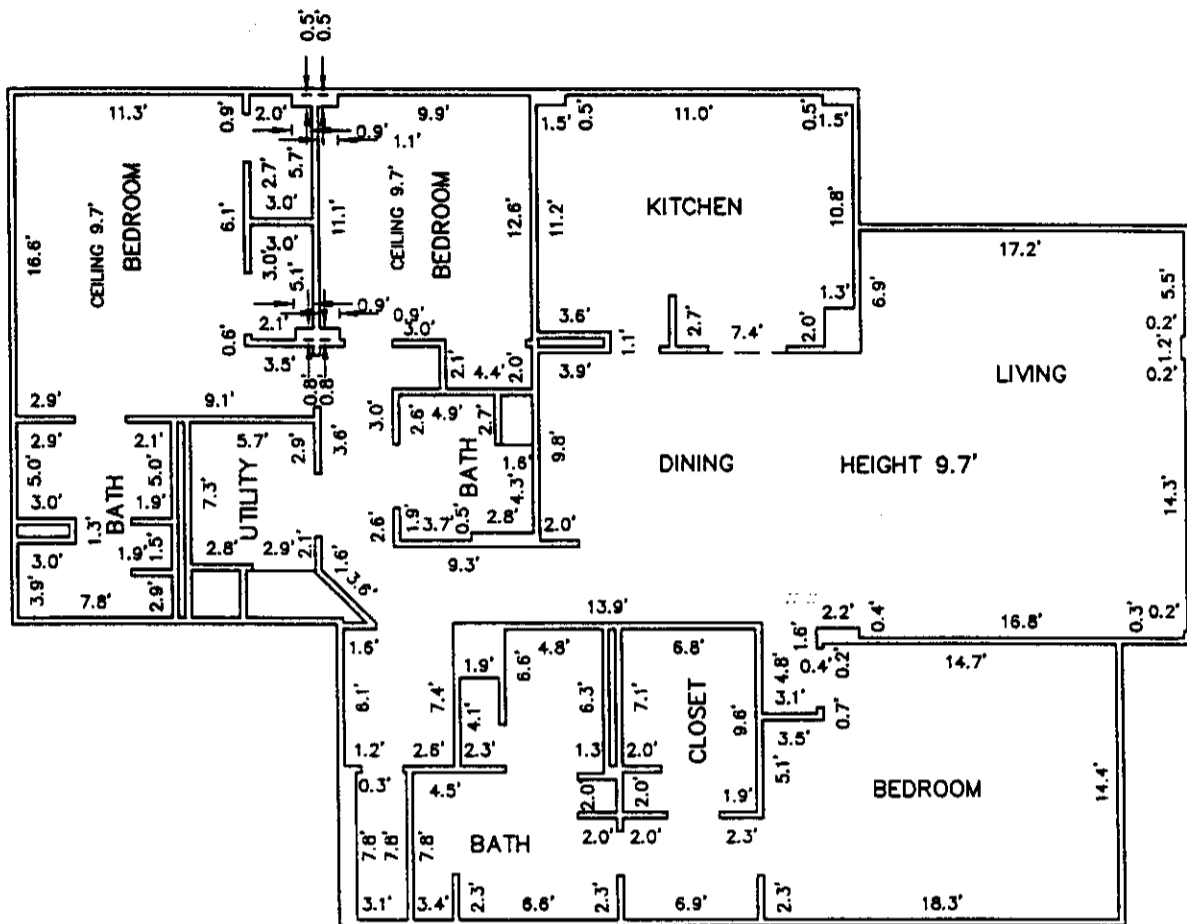


The interior dimensions and design of units shown in this overall floor plan have been modified slightly in accordance with individual agreements between original unit purchasers and the Developer. Please refer to the individual unit plan for your unit (following these floor plans), for the final as-built interior dimensions of your unit.

UNIT PLANS

CONDOMINIUM
 PLAT BOOK _____ PAGE _____

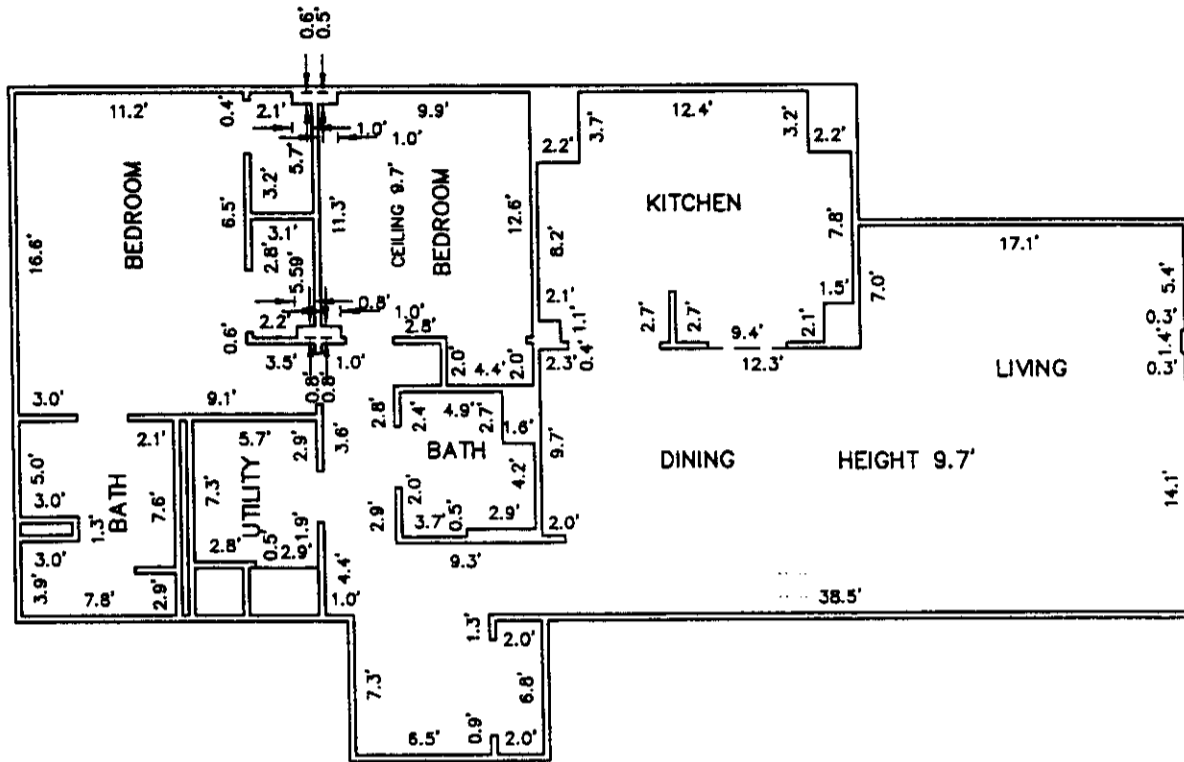
OR BK 4474 PG1254
 Escambia County, Florida
 INSTRUMENT 99-667600



NOTES:
 Unit dimensions may vary 0.1' +/- . Typical unit dimensions shown.

Scale 1" = 10'
 Job No. 26279-99
 File No. A-11302

OR BK 4474 PG1255
Escambia County, Florida
INSTRUMENT 99-667600

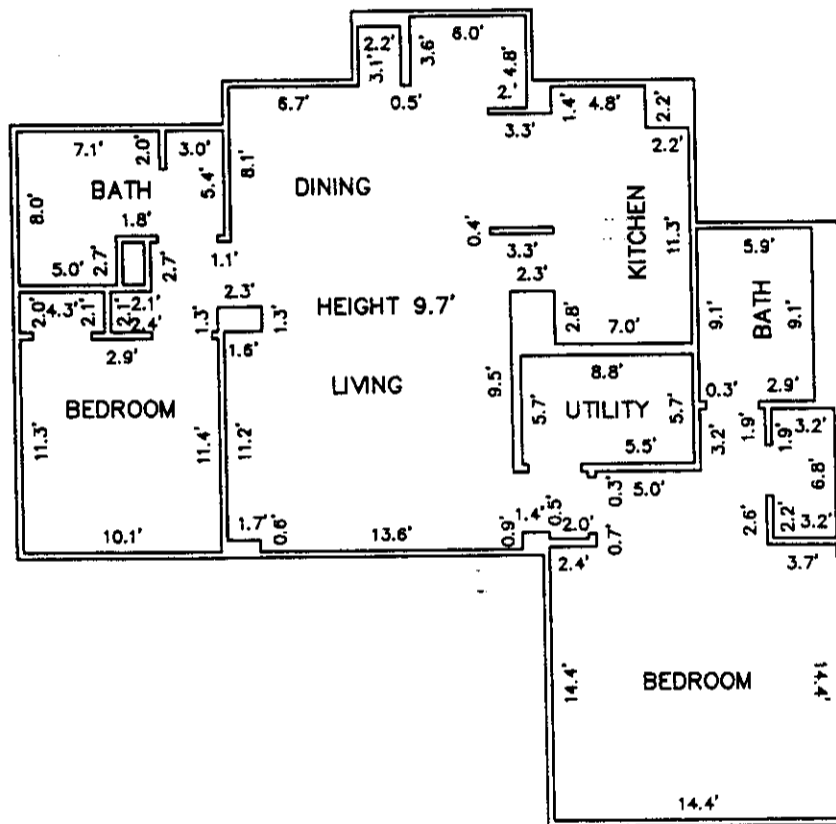


NOTES:

Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

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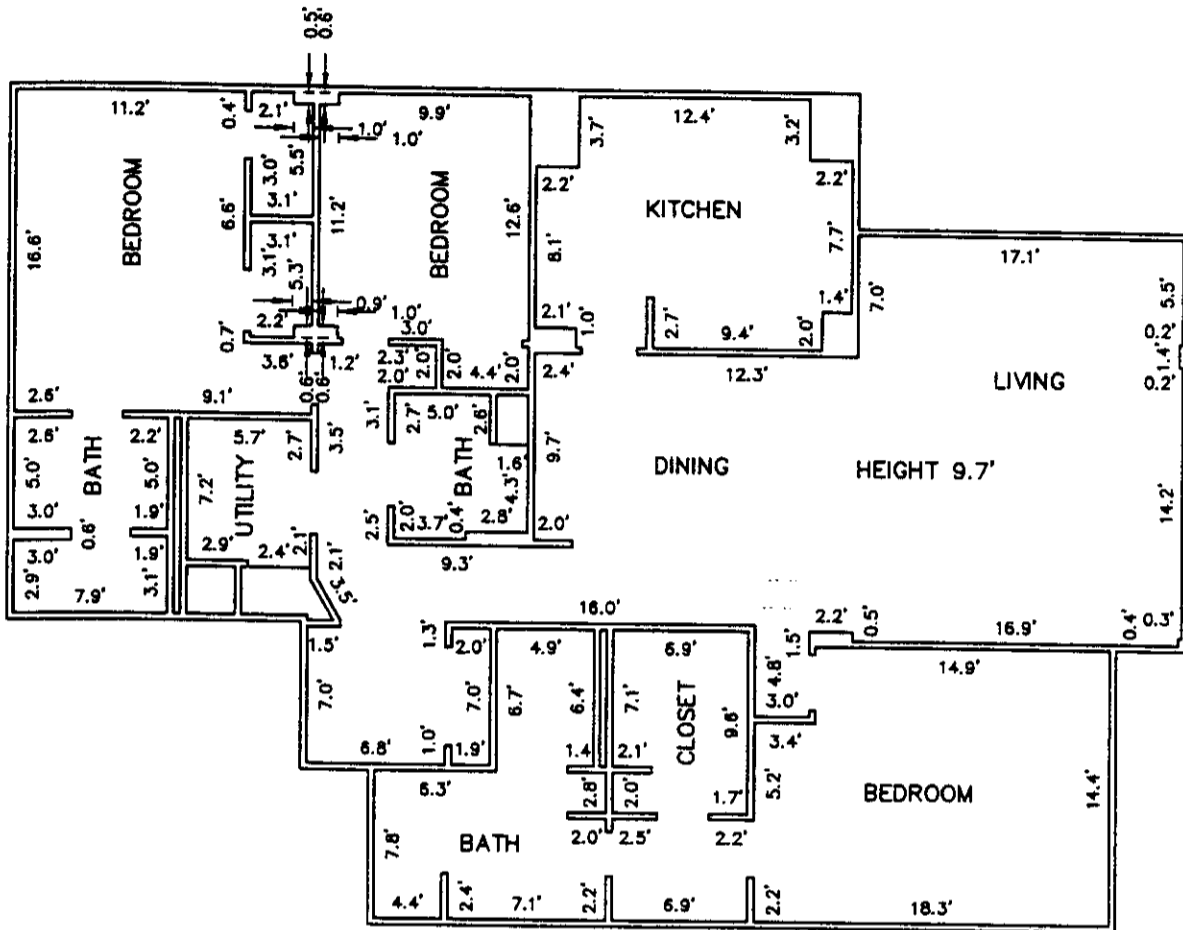
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INSTRUMENT 99-667600



NOTES:
Unit dimensions may vary 0.1'+/- . Typical unit dimensions shown.

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OR BK 4474 PG 1257
Escambia County, Florida
INSTRUMENT 99-667600

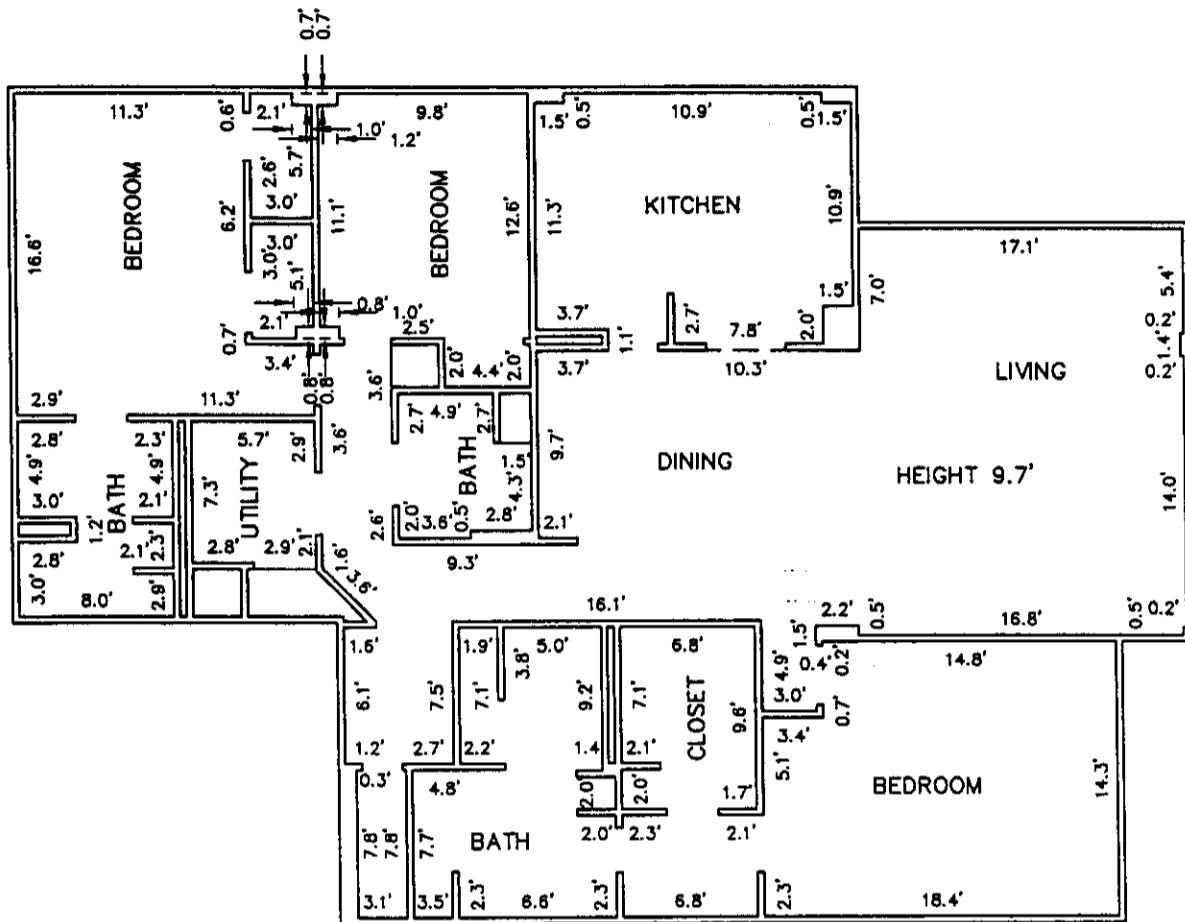


NOTES:
Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

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Job No. 26279-99
File No. A-11306

CONDOMINIUM
PLAT BOOK _____ PAGE _____

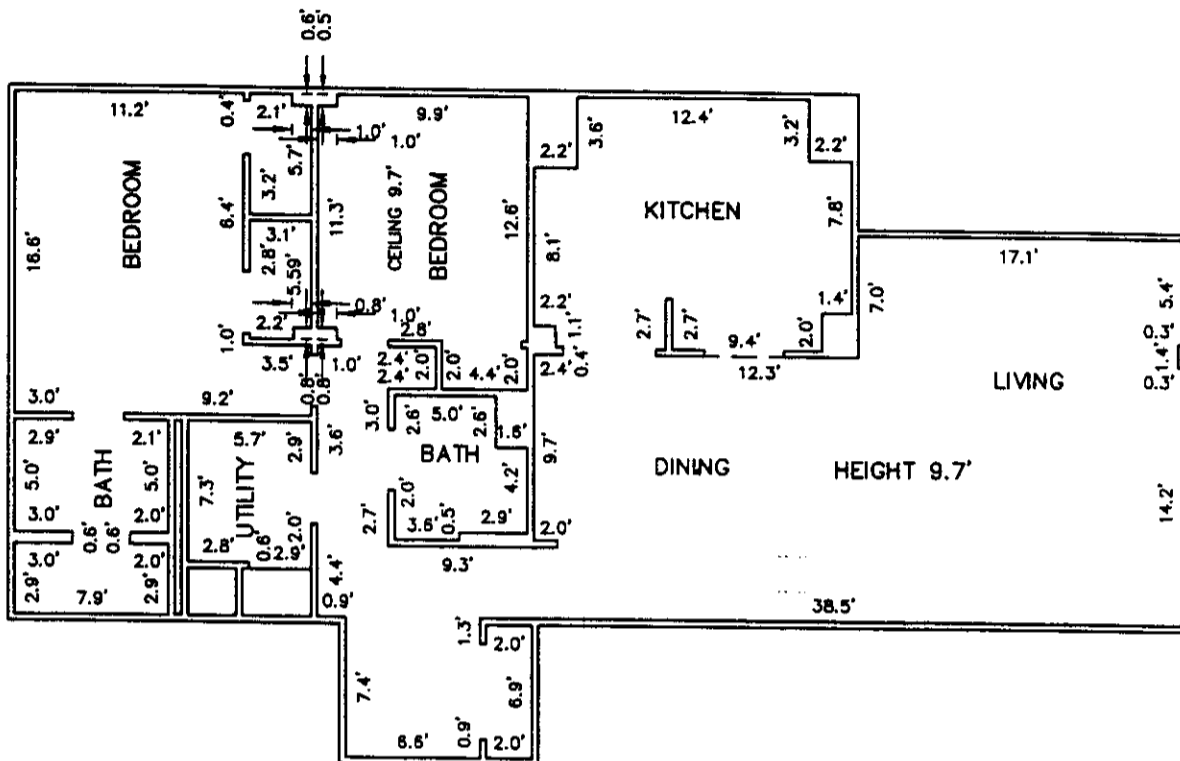
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Escambia County, Florida
INSTRUMENT 99-667600



NOTES:
Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

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Job No. 26279-99
File No. A-11307

DR BK 4474 PG 1259
Escambia County, Florida
INSTRUMENT 99-667600



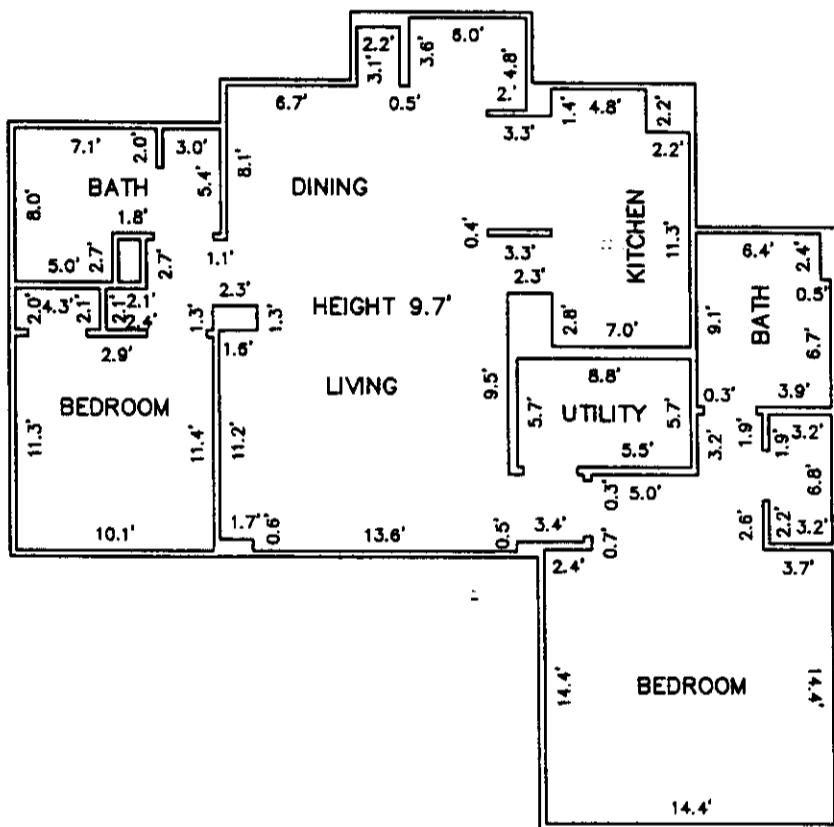
NOTES:

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Job No. 26279-99
File No. A-11308

CONDOMINIUM
PLAT BOOK _____ PAGE _____

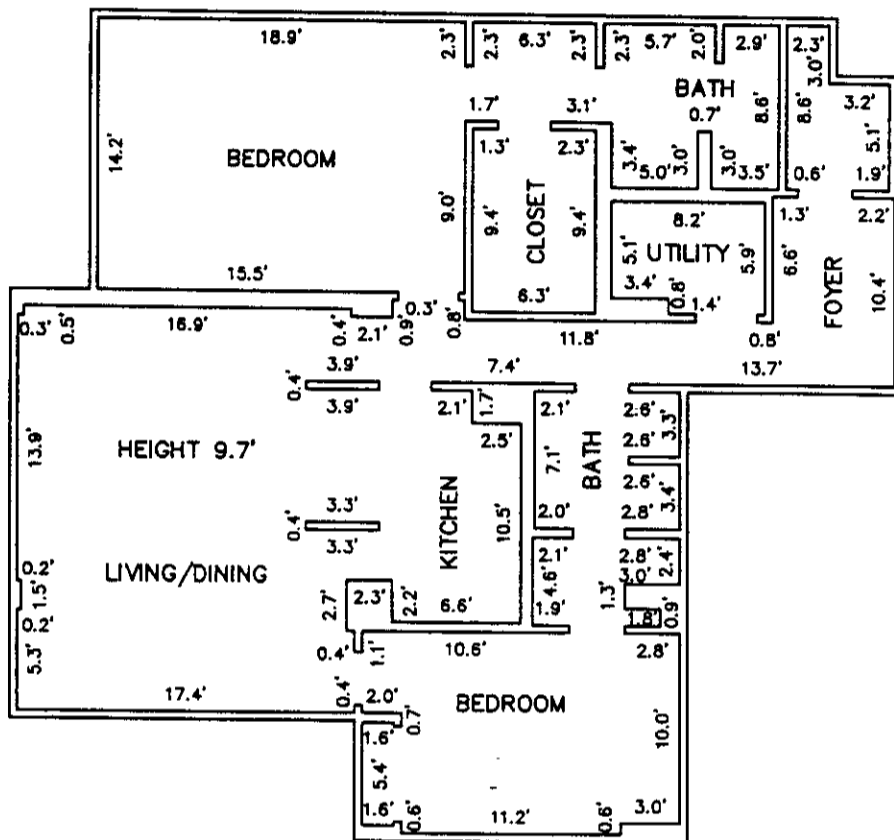
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Escambia County, Florida
INSTRUMENT 99-667600



NOTES:
Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

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File No. A-11309

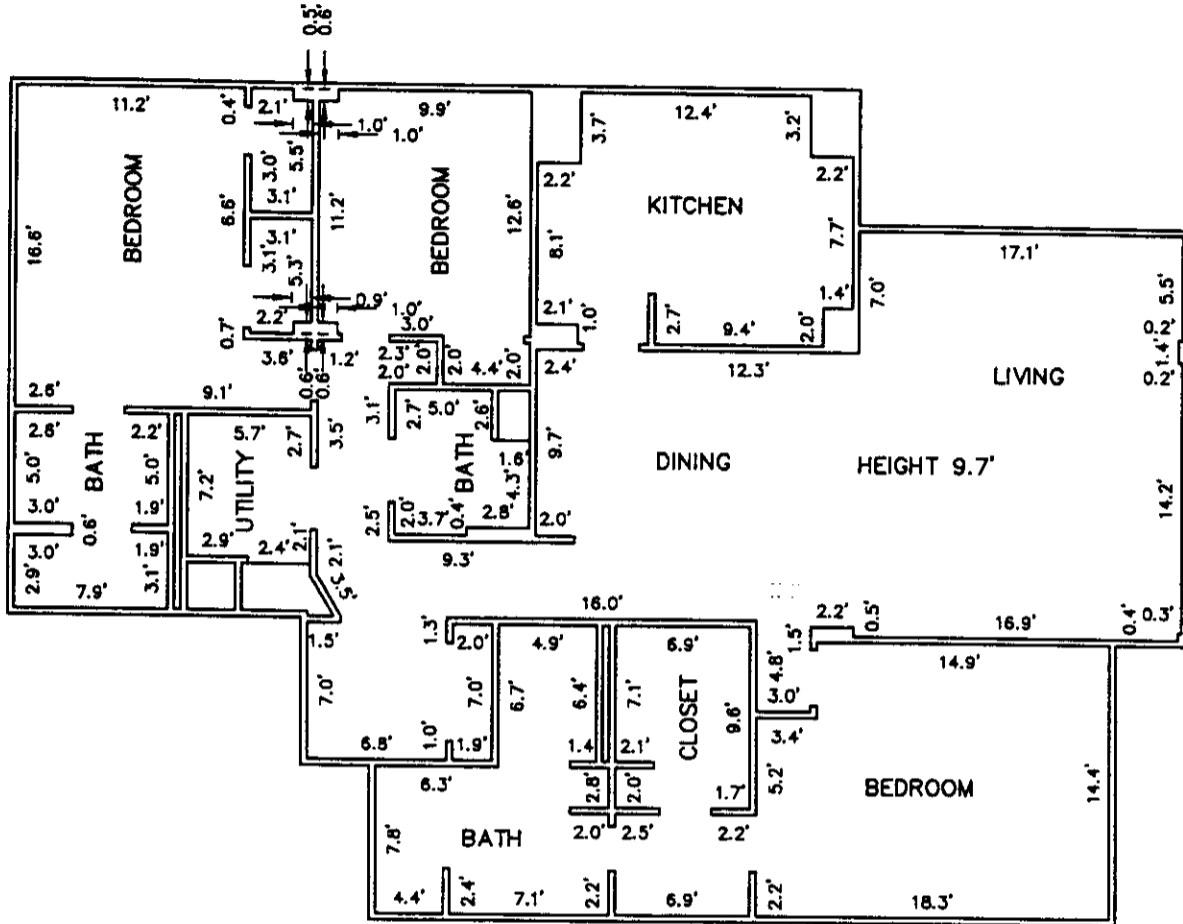
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 Escambia County, Florida
 INSTRUMENT 99-667600



NOTES:
 Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

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 File No. A-11310

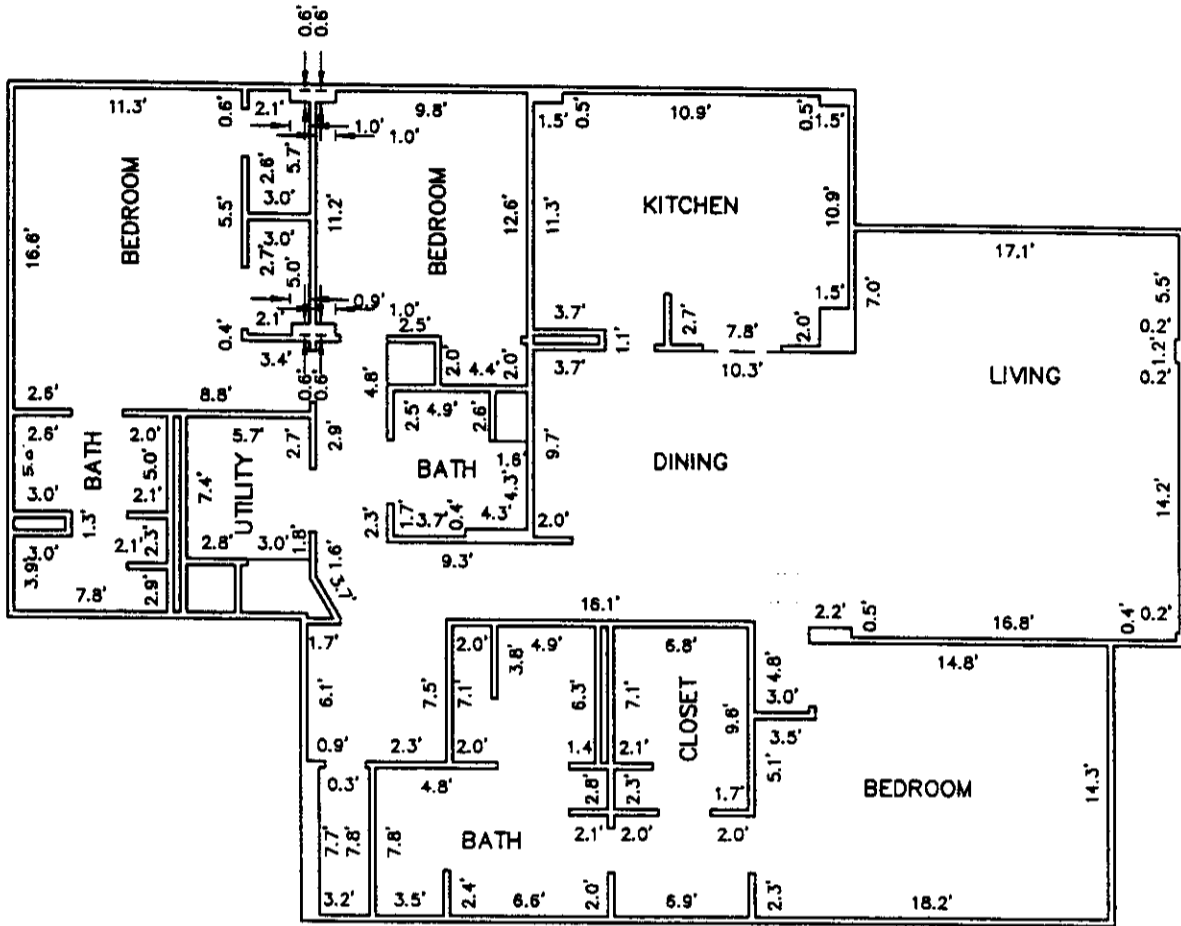
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 Escambia County, Florida
 INSTRUMENT 99-667600



NOTES:
 Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

Scale 1" = 10'
 Job No. 26279-99
 File No. A-11311

OR BK 4474 PG 1263
Escambia County, Florida
INSTRUMENT 99-667600



CEILING HEIGHT: LOWEST 8.4' HIGHEST 9.6'

NOTES:

Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

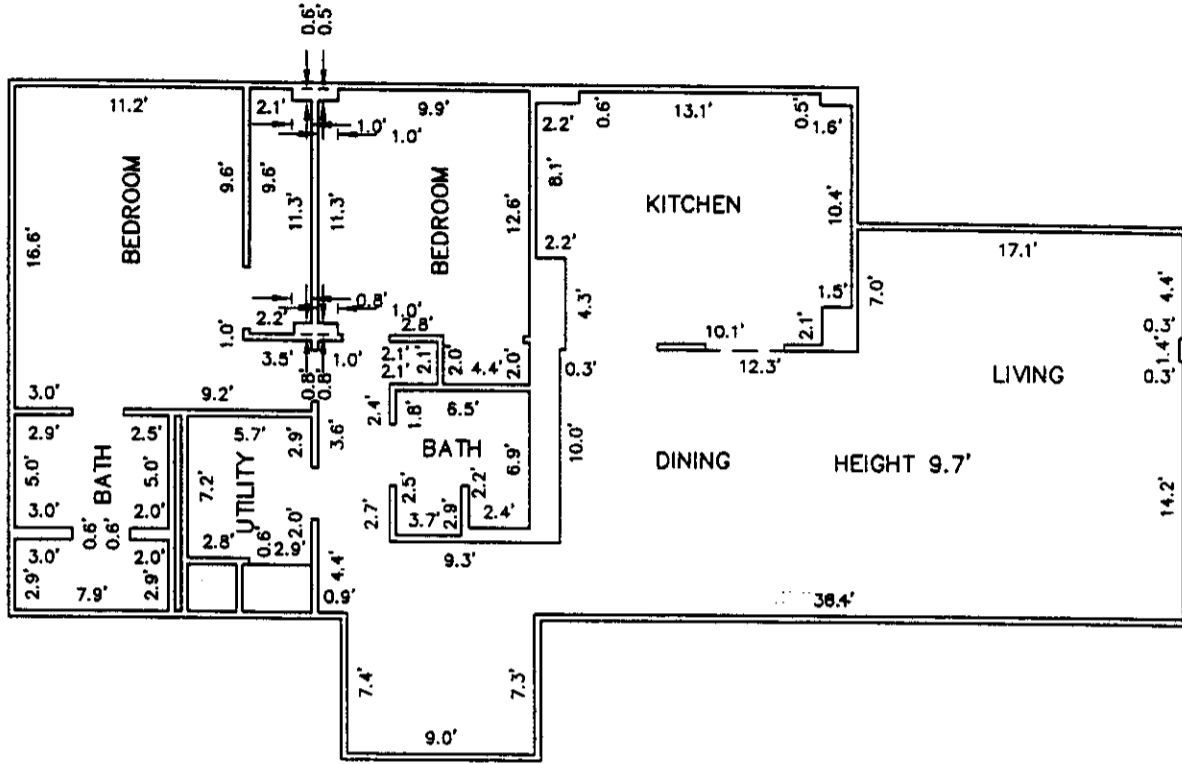
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Job No. 26279-99

File No. A-11312

CONDOMINIUM
PLAT BOOK _____ PAGE _____

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Escambia County, Florida
INSTRUMENT 99-667600

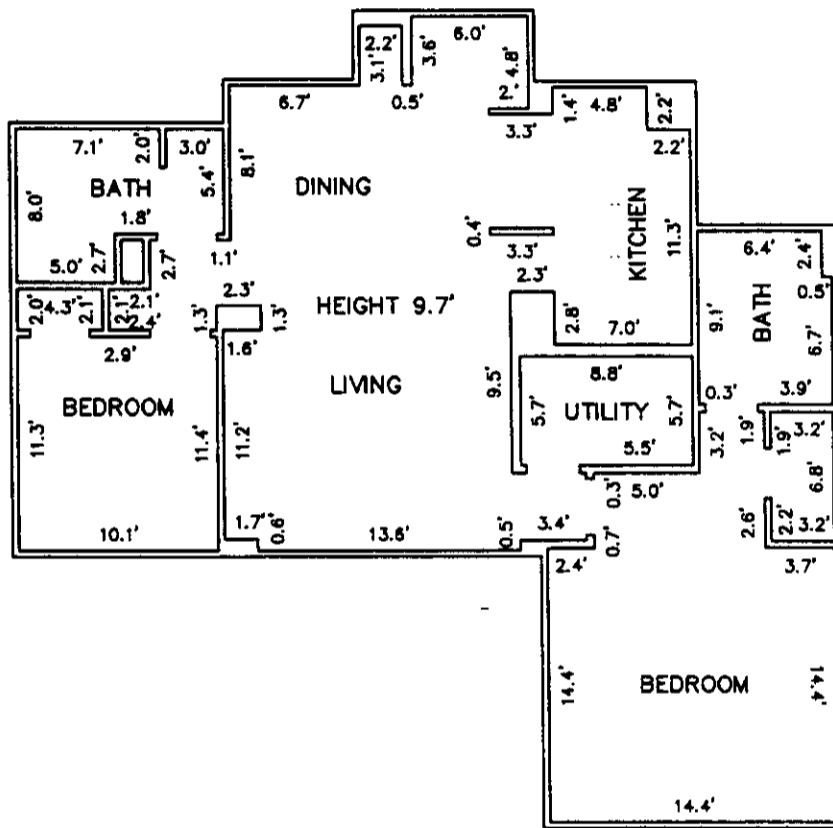


NOTES:
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CONDOMINIUM
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OR BK 4474 PG1265
Escambia County, Florida
INSTRUMENT 99-667600

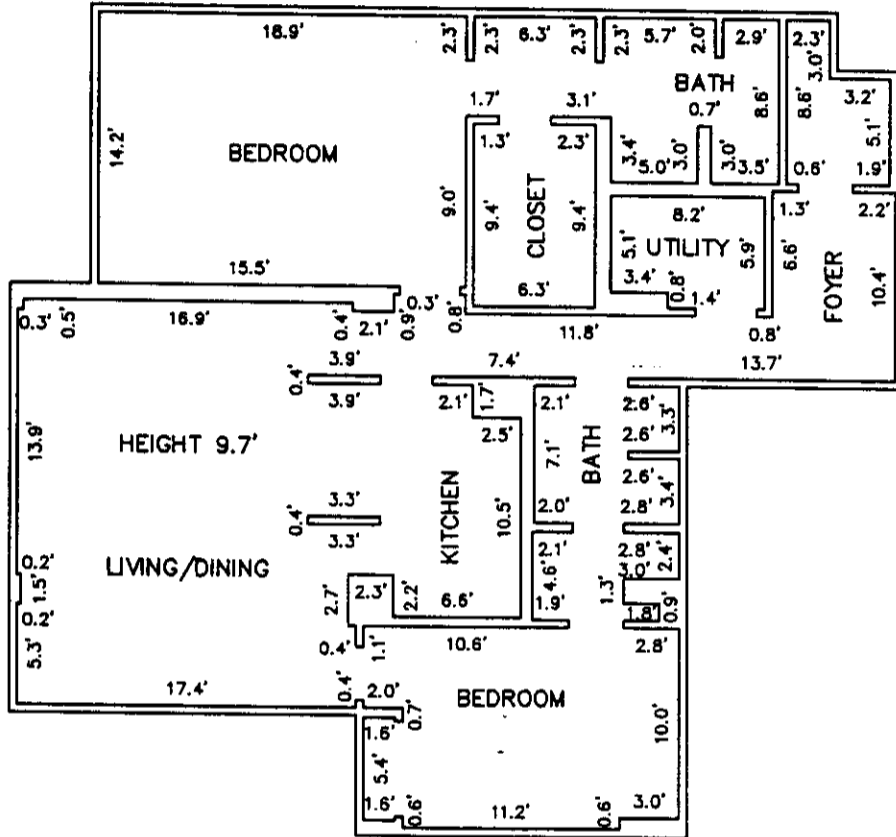


NOTES:

Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

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File No. A-11314

OR BK 4474 PG1266
Escambia County, Florida
INSTRUMENT 99-667600

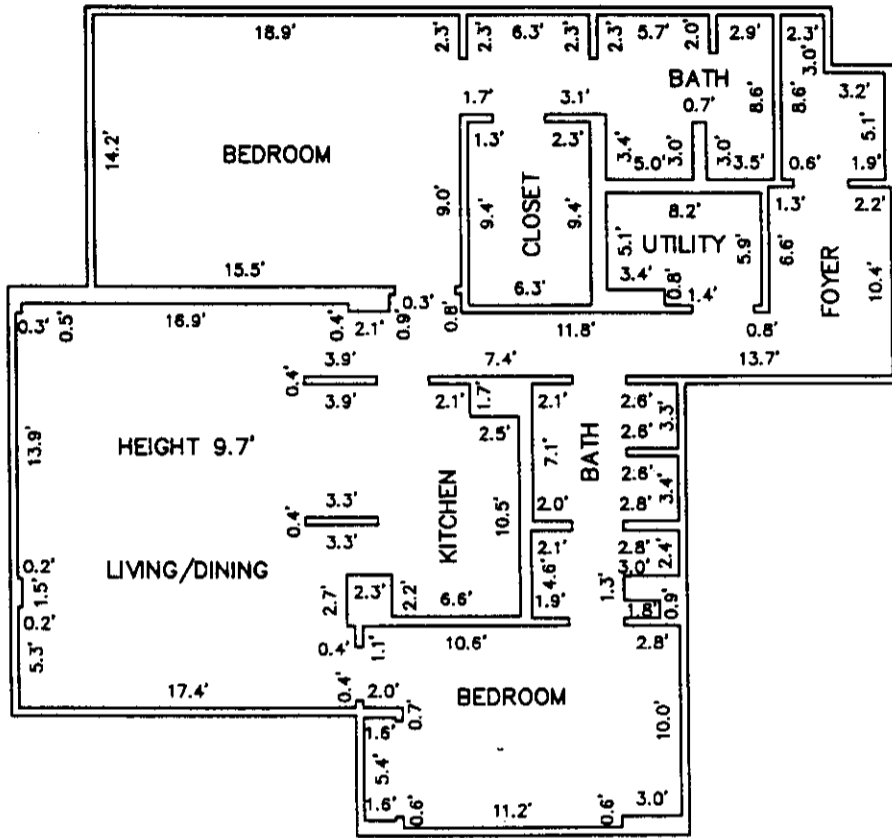


NOTES:
Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

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Job No. 26279-99
File No. A-11315

CONDOMINIUM
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OR BK 4474 PG 1271
Escambia County, Florida
INSTRUMENT 99-667600



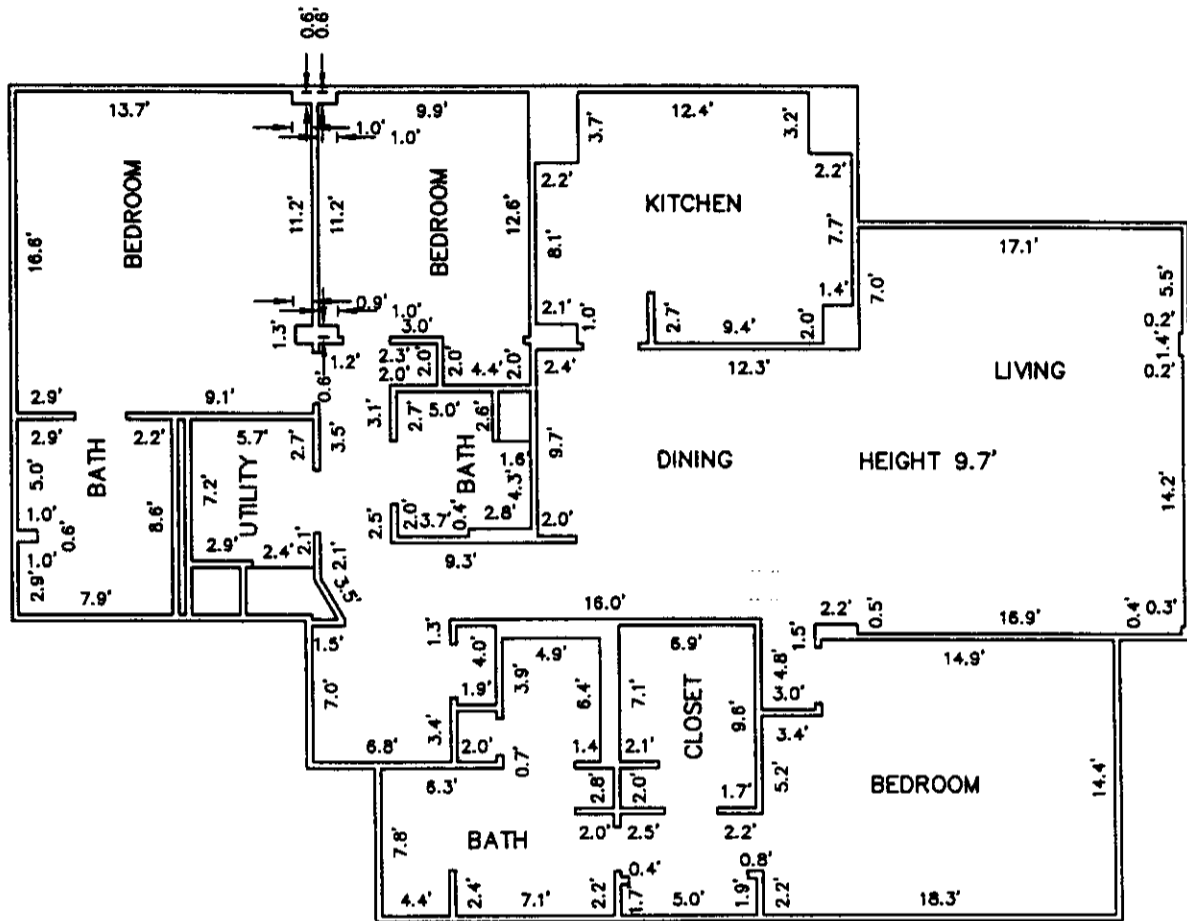
NOTES:

Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

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File No. A-11320

CONDOMINIUM
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OR BK 4474 PG 1272
Escambia County, Florida
INSTRUMENT 99-667600

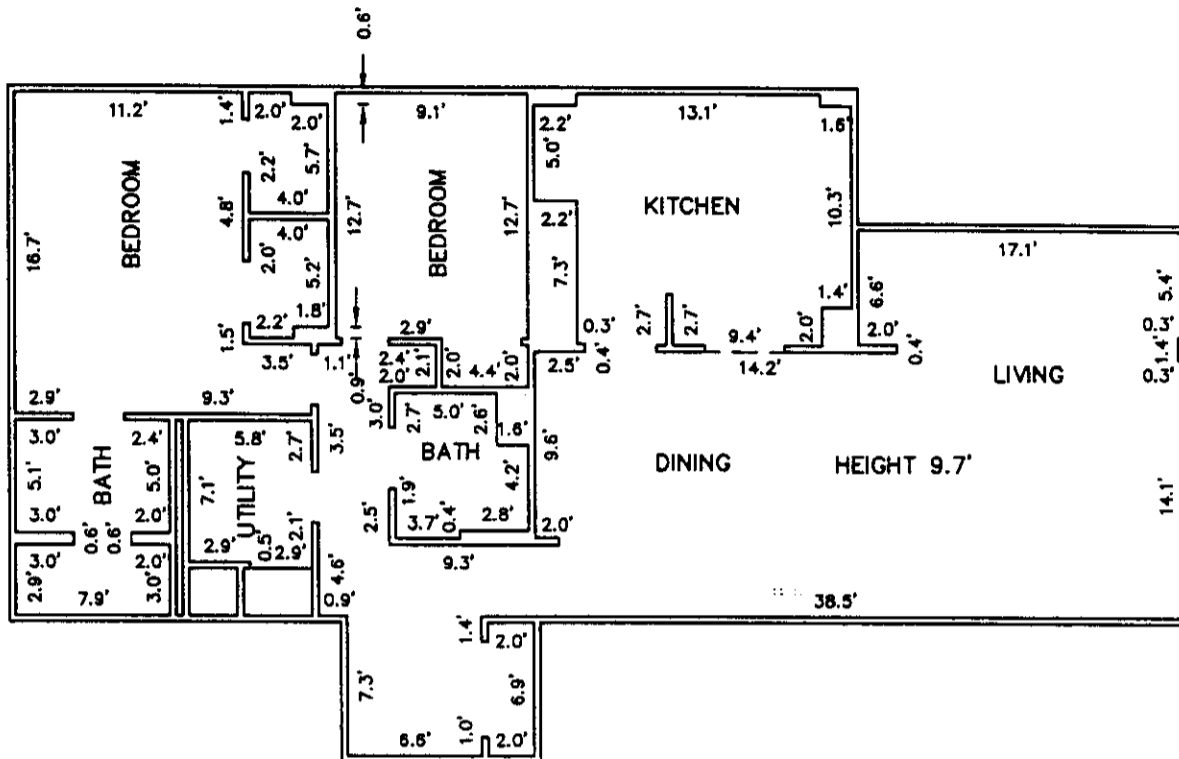


NOTES:
Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

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Job No. 26279-9c
File No. A-11321

CONDOMINIUM
PLAT BOOK _____ PAGE _____

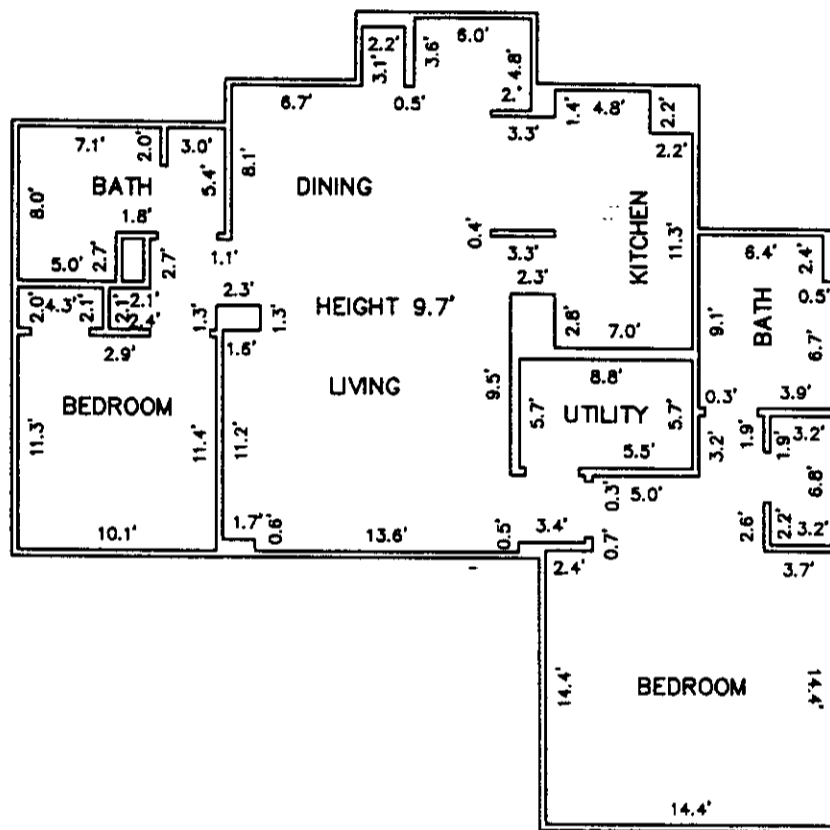
OR BK 4474 PG 1273
Escambia County, Florida
INSTRUMENT 99-667600



NOTES:
Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

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File No. A-11323

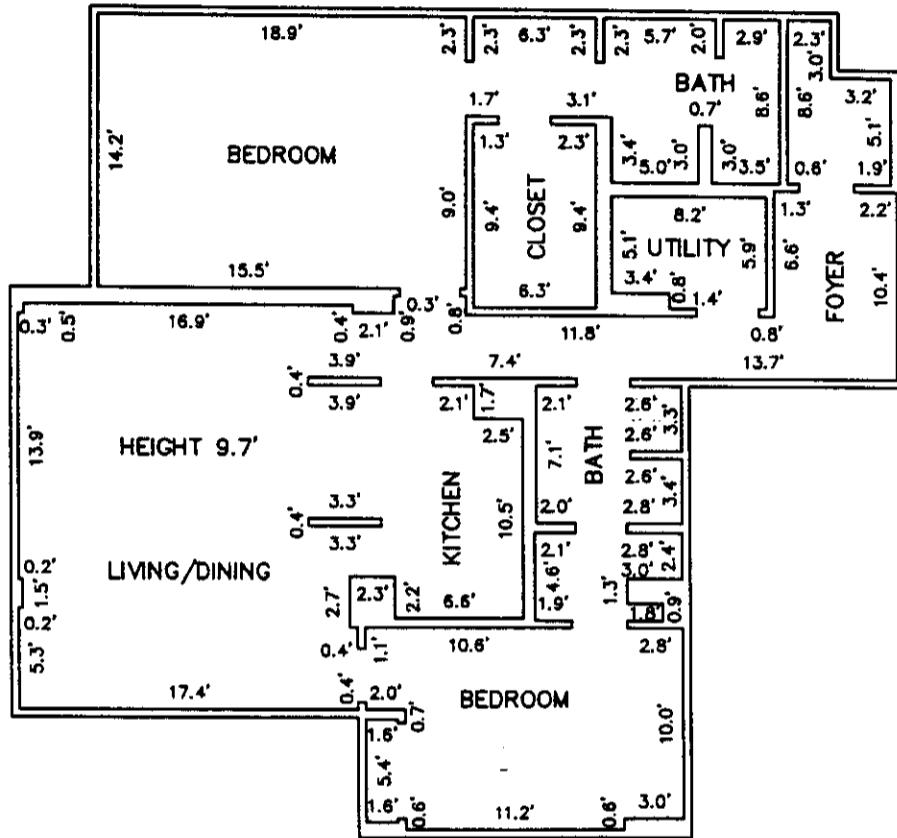
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Escambia County, Florida
INSTRUMENT 99-667600



NOTES:
Unit dimensions may vary 0.1' +/- . Typical unit dimensions shown.

Scale 1" = 10'
Job No. 26279-99
File No. A-11324

OR BK 4474 PG 1275
Escambia County, Florida
INSTRUMENT 99-667600

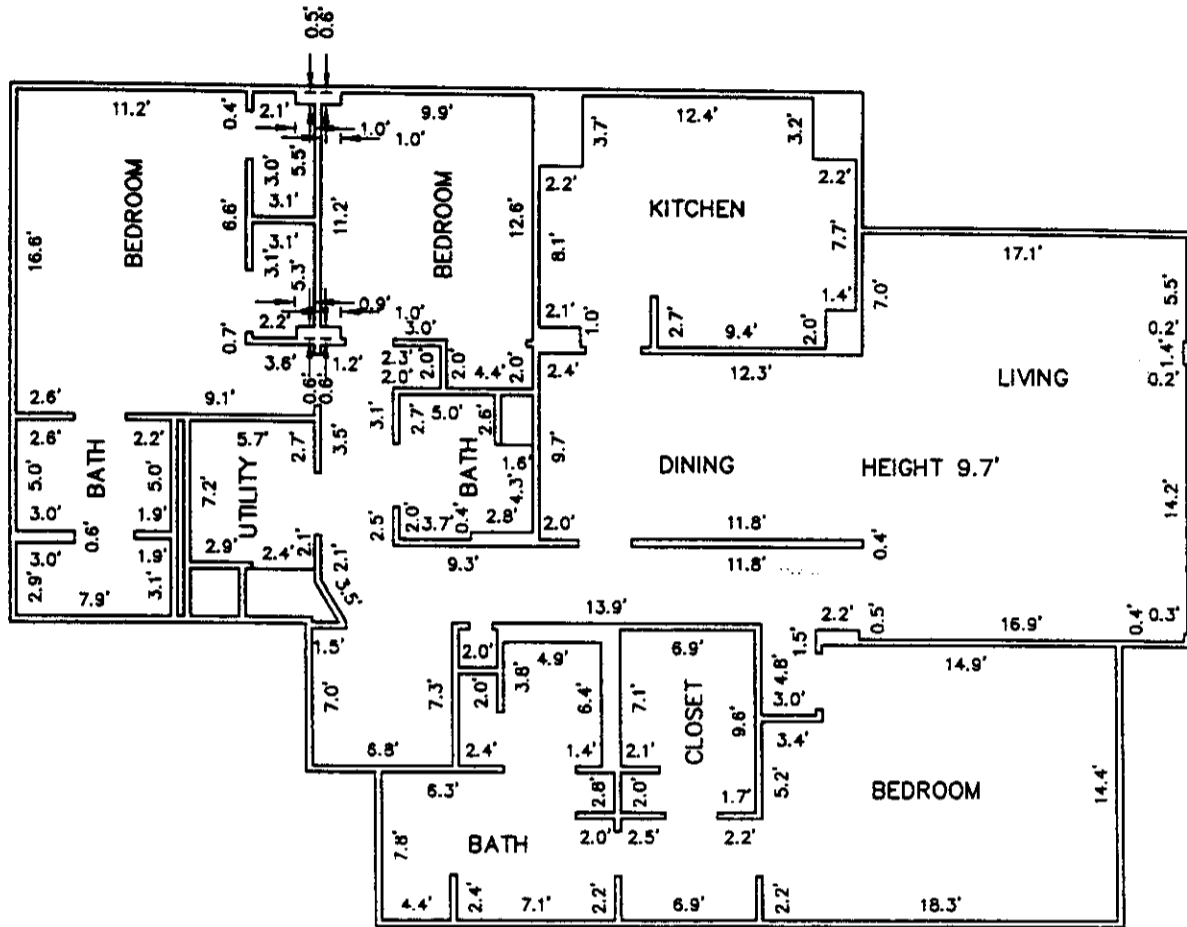


NOTES:
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Job No. 26279-99
File No. A-11325

CONDOMINIUM
PLAT BOOK _____ PAGE _____

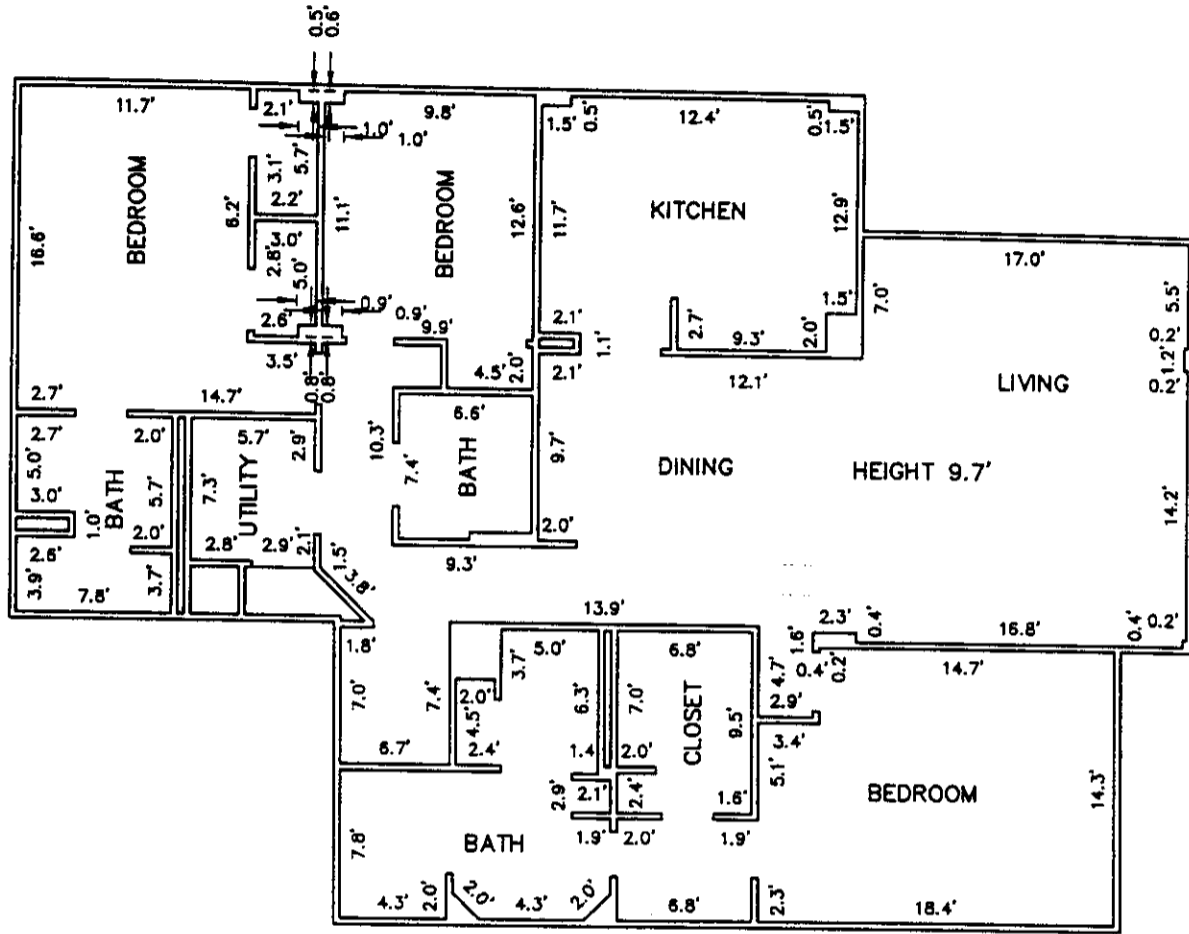
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Escambia County, Florida
INSTRUMENT 99-667600



NOTES:
Unit dimensions may vary 0.1'+/-. Typical unit dimensions shown.

Scale 1" = 10'
Job No. 26279-99
File No. A-11326

OR BK 4474 PG 1277
Escambia County, Florida
INSTRUMENT 99-667600



NOTES:
Unit dimensions may vary 0.1' +/- . Typical unit dimensions shown.

Scale 1" = 10'
Job No. 26279-99
File No. A-11328

ELEVATIONS

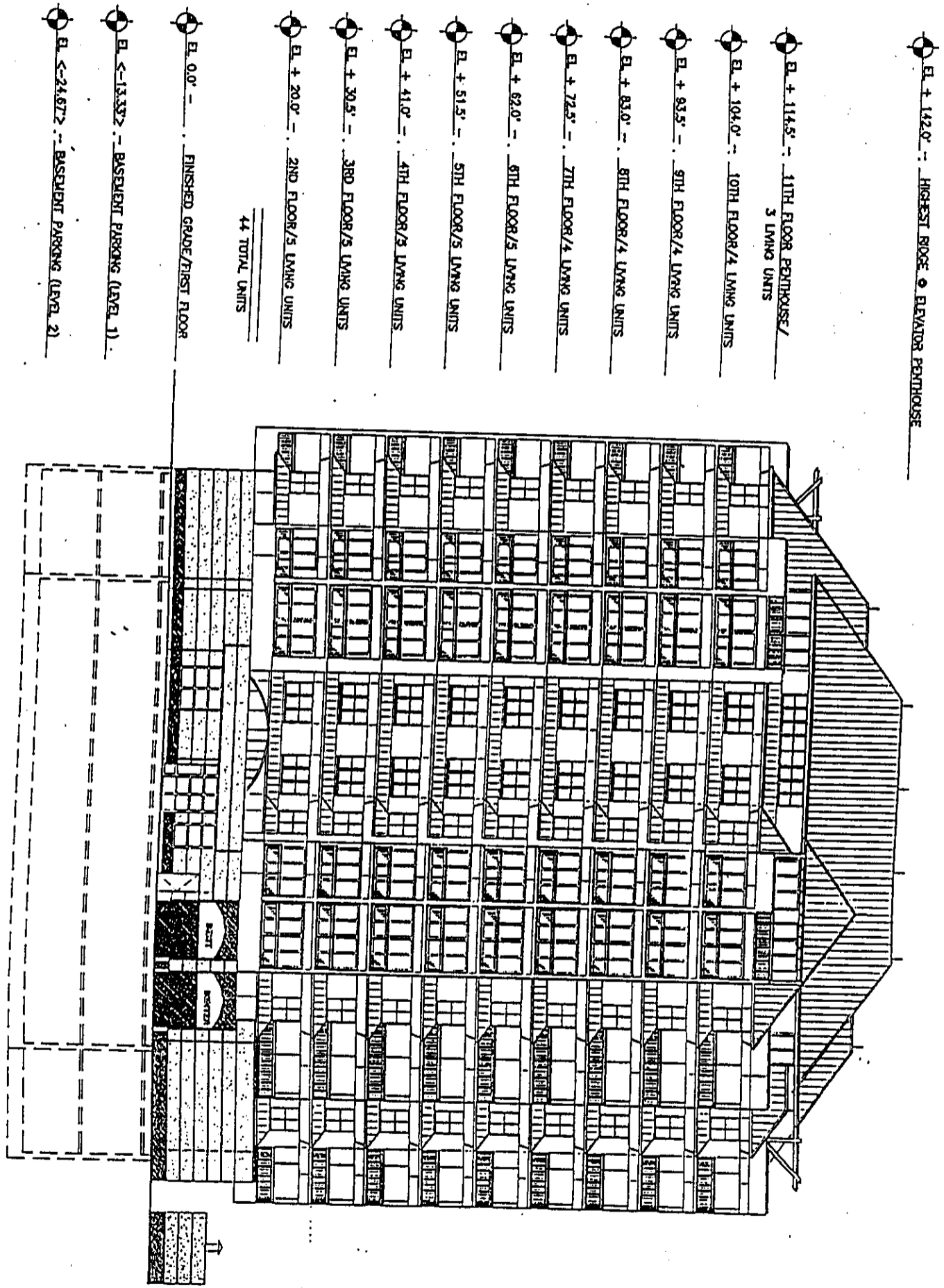


EXHIBIT "B"
SCHEDULE OF SHARES

EXHIBIT "B"

SCHEDULE OF SHARES IN THE COMMON EXPENSE, COMMON SURPLUS, AND OWNERSHIP OF THE COMMON ELEMENTS OF SCENIC TERRACE CONDOMINIUMS

TYPE	NUMBER OF UNITS	UNDIVIDED SHARE	TOTALS
A (NE)	3	1,744 / 91,719	5,232 / 91,719
A (SW)	5	1,737 / 91,719	8,685 / 91,719
B	5	1,300 / 91,719	6,500 / 91,719
C	5	1,630 / 91,719	8,150 / 91,719
D-1 (SW)	4	2,313 / 91,719	9,252 / 91,719
D-1 (NE)	6	2,320 / 91,719	13,920 / 91,719
D-2	10	2,354 / 91,719	23,540 / 91,719
E	3	2,930 / 91,719	8,790 / 91,719
P-1	1	2,803 / 91,719	2,803 / 91,719
P-2	1	2,467 / 91,719	2,467 / 91,719
P-3	1	2,380 / 91,719	2,380 / 91,719
TOTALS	44		100%

EXHIBIT "C"

ARTICLES OF
INCORPORATION

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of SCENIC TERRACE OWNERS ASSOCIATION, INC., a corporation organized under the laws of the State of Florida, filed on June 17, 1999, as shown by the records of this office.

The document number of this corporation is N99000003802.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-fourth day of June, 1999



CR2EO22 (1-99)

Katherine Harris

Katherine Harris
Secretary of State

ARTICLES OF INCORPORATION
OF
SCENIC TERRACE OWNERS ASSOCIATION, INC.
A FLORIDA CORPORATION NOT FOR PROFIT

FILED
99 JUN 17 PM 3:50
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The undersigned incorporators by these articles associate themselves for the purpose of forming a corporation not for profit pursuant to the laws of the State of Florida, and adopt the following articles of incorporation:

ARTICLE I. NAME

The name of this corporation is SCENIC TERRACE OWNERS ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association," these articles of incorporation as the "Articles," and the Bylaws of the Association as the "Bylaws." The manner in which the directors are elected or appointed shall be stated in the bylaws.

ARTICLE II. TERM OF EXISTENCE

The Association shall have perpetual existence.

ARTICLE III. PURPOSE

This Association is organized for the purpose of providing an entity under the Florida Condominium Act (the Act) for the operation of a condominium located in Escambia County, Florida, and known as Scenic Terrace Condominiums (the "Condominium"), created pursuant to the Declaration of Condominium (the "Declaration").

ARTICLE IV. MEMBERS

The qualification of members and the manner of their admission shall be as regulated by the Bylaws.

ARTICLE V. INITIAL REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of this corporation is 601 S. Palafox Street, Pensacola, Florida 32501, and the name of the initial registered agent of this corporation at that address is John S. Carr. The principal office address shall be the same.

ARTICLE VI. FIRST BOARD OF DIRECTORS

The number of persons constituting the first board of directors shall be three and their names and addresses are as follows

NAME	ADDRESS
Billy Lovelace	601 S. Palafox Street 601 S. PALAFOX ST. Pensacola, Florida 32501
John S. Carr	601 S. Palafox Street Pensacola, Florida 32501
Eric J. Nickelsen	601 S. Palafox Street Pensacola, Florida 32501

ARTICLE VII. INCORPORATORS

NAME	ADDRESS
Billy Lovelace	601 S. Palafox St. Pensacola, Florida 32501
John S. Carr	601 S. Palafox Street Pensacola, Florida 32501
Eric J. Nickelsen	601 S. Palafox Street Pensacola, Florida 32501

IN WITNESS WHEREOF the undersigned incorporators have executed these Articles of Incorporation on this 14 day of June, 1999.

Billy Lovelace
Billy Lovelace, Incorporator

John S. Carr
John S. Carr, Incorporator

Eric J. Nickelsen
Eric J. Nickelsen, Incorporator

STATE OF FLORIDA

COUNTY OF ESCAMBIA

FILED
99 JUN 17 PM 3:50

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

The foregoing instrument was acknowledged before me this 14 day of JUNE, 1999,
by Billy Lovelace, John S. Carr and Eric J. Nickelsen, who [x] are personally known to me or
[] have produced _____ as identification,

Linda Aligood
NOTARY PUBLIC
Print/Type Name: Linda Aligood
Commission Expiration Date: June 21, 1999
Commission Number: CC461459

Notary Seal



ACCEPTANCE OF REGISTERED AGENT

Having been named as *registered agent* to accept service of process for SCENIC TERRACE OWNERS ASSOCIATION, INC., a Florida corporation not for profit, at the place designated in these Articles, I agree to act in this capacity and I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties.

Signature: John S. Carr
Registered Agent: John S. Carr

EXHIBIT "D"

BYLAWS

BYLAWS
OF
SCENIC TERRACE OWNERS ASSOCIATION, INC.

I
IDENTITY

These are the Bylaws of SCENIC TERRACE OWNERS ASSOCIATION, INC., a corporation not for profit under the laws of the State of Florida (the "Association"), organized for the purpose of operating that certain condominium located in Escambia County, Florida, and known as *Scenic Terrace Condominiums* (the "Condominium").

1.1 **Principal Office.** The principal office of the Association shall be at 601 S. Palafox Street, Pensacola, Florida 32501, or at such other place as may be designated by the Board of Directors.

1.2 **Fiscal Year.** The fiscal year of the Association shall be the calendar year.

1.3 **Seal.** The seal of the Association shall bear the name of the corporation, the word "*Florida*," the words "*Corporation Not for Profit*," and the year of incorporation.

1.4 **Definitions.** For convenience, these Bylaws shall be referred to as the "Bylaws;" the Articles of Incorporation of the Association as the "Articles;" and the Declaration of Condominium for the Condominium as the "Declaration." "Division" shall mean the Division of Land Sales, Condominiums, and Mobile Homes. "Board" shall mean the Board of Directors for the Association. The other terms used in these Bylaws shall have the same definitions and meaning as those set forth in *F.S. Chapter 718, The Condominium Act* (the "Act"), as well as those set forth in the Declaration and the Articles, unless provided to the contrary in these Bylaws, or unless the context otherwise requires.

II
MEETINGS OF UNIT OWNERS AND VOTING

2.1 **Membership-Designation of Unit Owners.** Persons or entities shall become members of the Association on the acquisition of a fee simple interest to a Unit in the Condominium after approval of the acquisition in the manner provided in the Declaration, and shall thereafter be Unit Owners. Membership shall be terminated when a person or entity no longer owns a Unit in the Condominium. If a Unit is owned by more than one natural person or a corporation, partnership, or other artificial entity, then the voting interest of that Unit shall be exercised only by such natural person as shall be named in a voting certificate signed by all the natural persons who are owners or by the chief executive officer of the artificial entity and filed with the Secretary of the Association among its official records.

2.2 **Annual Meeting.** The annual meeting of the Unit Owners shall be held on the date and at the place and time as determined by the Board from time to time, provided that there shall be an annual meeting every calendar year and no later than 13 months after the last annual meeting. The purpose of the meeting shall be to elect Directors and to transact any other business authorized to be transacted by the Unit Owners.

2.3 **Special Meetings.** Except as modified by the specific requirements for special kinds of Unit Owner meetings as set out in these Bylaws, notice of special meetings shall be delivered to each Unit Owner not less than 14 or more than 60 days before the date of the meeting. Unit Owner special meetings shall be held at such places as provided for annual meetings and may be called by the president or by a majority of the Board, and must be called by the president or secretary on receipt of a written request from at least 10% of the voting interests of the Association. Requests for a meeting by the Unit Owners shall state the purpose for the meeting and business conducted at any special meeting shall be limited to the matters stated in the notice for it.

2.4 Notice of Annual Meeting. Written notice of the annual meeting shall be mailed to each Unit Owner at least 14 days and not more than 60 days before the annual meeting. Notice of an annual meeting at which Directors will be elected shall be delivered pursuant to Provisions 2.9 and 3.3.

2.5 Notice of Budget Meeting. The Board shall mail a notice and a copy of the proposed annual budget to the Unit Owners not less than 14 days before the meeting at which the Board will consider the budget. Notice shall be delivered pursuant to Provision 2.9. Evidence of compliance with this fourteen day notice must be made by an affidavit executed by an officer of the Association or the Condominium Manager and filed among the official records of the Association.

2.6 Notice of Meeting to Consider Excessive Budget. If a budget adopted by the Board requires assessment against the Unit Owners for the calendar year exceeding 115% of assessment for the preceding year (less any lawfully excluded items), the Board, on written application of 10% of the voting interests to the Board, shall call a special meeting of the Unit Owners within 30 days upon not less than ten days' written notice to each unit owner. Notice shall be delivered pursuant to Provision 2.9 below.

2.7 Notice of Meeting to Consider Recall of Directors. A special meeting of the Unit Owners to recall a Director or Directors may be called by 10% of the voting interests giving notice of the meeting as required for a special meeting of Unit Owners. The notice must be accompanied by a dated copy of a signature list of at least 10% of the Unit Owners. The meeting shall be held not less than 10 days nor more than 60 days from the date the notice of the meeting is given. Recalls shall be held in accordance with Provision 3.7.

2.8 Notice of Meeting to Elect Non-developer Directors. Notice of a meeting to elect a Director or Directors from Unit Owners other than the Developer shall be given as described in Section 3.2(D), below. The meeting may be called and notice given by any Unit Owner if the Association fails to do so.

2.9 Delivery of Notice; Content; Posting; Waiver. Notice for all meetings, and all other purposes, shall be addressed to the address that the Developer initially identified for that purpose unless one or more of the Unit Owners advises the Association of a different address. If no address is given or the Unit Owners do not agree, the notice shall be delivered to the address provided on the deed of record. Notice for budget meetings shall be mailed or hand delivered to each Unit Owner at the address last furnished to the Association. For all other meetings, the Association shall mail or deliver, whether by separate Association mailing or included in another Association mailing or delivery, including regularly published newsletters, a copy of the notice. An officer of the Association shall provide an Affidavit, to be included in the official records of the Association affirming that notices of the Association meeting were mailed or otherwise delivered to each Unit Owner at the address last furnished to the Association. If mailed, the notice shall be deemed to be delivered when deposited in the United States mail addressed to the Unit Owner at the address as it appears in the records of the Association, with postage prepaid. Payment of postage for notice of any meeting, by whomever called, shall be an obligation of the association. The notice shall include the date, time, and location of the meeting. The notice shall also include an identification of agenda items. A copy of the notice shall also be posted in a conspicuous place on the condominium property at least 14 continuous days before the meeting. A Unit Owner may waive their right to receive notice of any meeting by a writing signed by them and filed with the Secretary of the Association either before, at, or after the meeting for which the waiver is given.

2.10 Quorum. A quorum at Unit Owner meetings shall consist of persons entitled to exercise, either in person or by proxy, a majority of the voting interests of the entire membership. Absentee ballots, alone, may not be counted in determining a quorum.

2.11 Participation. Unit Owners shall have the right to participate in meetings of Unit Owners with reference to all designated agenda items. The Association may, however, adopt reasonable rules governing the frequency, duration, and manner of Unit Owner participation. Any such rules must first be adopted in written form. The rules may limit a Unit Owner's presentation

time to not less than 3 minutes and may require that a Unit Owner file with the Association, at or a reasonable time before the meeting, a written request to speak at a meeting.

2.12 Voting; Number of Votes; Majority Vote. In any Unit Owner meeting, each Unit shall have one vote. The vote of a Unit is not divisible. The acts approved by a majority of the voting interests present in person or by proxy at a meeting at which a quorum is present shall be binding on all Unit Owners for all purposes unless the Act, the Declaration, the Articles, or these Bylaws require a larger percentage, in which case that larger percentage shall control.

2.13 Proxies; Powers of Attorney. Voting interests may be exercised in person or by proxy. Except as specifically provided herein, Unit Owners may not vote by general proxy, but may vote by limited proxy substantially conforming to a limited proxy form provided by the Association. Limited proxies and general proxies may be used to establish a quorum. No proxy, limited or general, shall be used in the election of Directors. Limited proxies shall be used for votes taken to waive or reduce association reserves, for votes taken to waive the requirement of the Association to deliver to the Unit Owners a complete set of financial statements for each preceding fiscal year, for votes taken to amend the Declaration of Condominium, for votes taken to amend the Articles of Incorporation or Bylaws, or for any other matter for which a Unit Owner is required or permitted to vote. General proxies may be used for other matters for which limited proxies are not required. Each proxy shall set forth specifically the name of the person voting by proxy, the name of the person authorized to vote the proxy, and the date the proxy was given. Each proxy shall contain the date, time, and place of the meeting for which the proxy is given. If the proxy is a limited proxy, it shall set forth those items that the holder of the proxy may vote and the manner in which the vote is to be cast. The proxy shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings. No proxy shall be valid for a period longer than 90 days after the date of the first meeting for which it was given, and it may be revoked at any time at the pleasure of the Unit Owner executing it. The proxy shall be signed by the Unit Owner or by the designated person mentioned in 2.1, or the duly authorized attorney-in-fact of that person or entity (provided the power of attorney is filed with the Secretary of the Association). The proxy shall be filed with the Secretary before or at the meeting for which the proxy is given. One holding a power of attorney from a Unit Owner, properly executed and granting such authority, may exercise the voting interest of that Unit. If the proxy expressly provides, any proxy holder may appoint, in writing, a substitute to act in his place. If no such provision is made, substitution is not authorized. Nothing contained herein shall prevent Unit Owners from voting in person.

2.14 Adjourned Meetings. If any meeting of Unit Owners cannot be organized because a quorum is not present, the Unit Owners who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present; except that in the cases where meetings have been called to consider the enactment of a budget to replace a proposed budget which exceeds 115% of the assessments for the preceding year, or to determine to provide no reserves or reserves less adequate than required, they may not be adjourned for lack of a quorum and if a quorum is not present the excessive budget, or the reserves as the case may be, shall go into effect as scheduled. The time and place to which the meeting is adjourned shall be announced at the meeting at which the adjournment is taken and a notice and a copy of the meeting agenda shall be posted in a conspicuous place on the condominium property as soon thereafter as may be practical stating the time and place to which the meeting is adjourned.

2.15 Action by Unit Owners Without a Meeting. Unit Owners may take action by written agreement without a meeting, provided written notice is given to the Unit Owners in the manner prescribed elsewhere in these Bylaws appropriate to the subject matter to be agreed on, unless that notice is waived as provided in these Bylaws. The decision of a majority of the Unit Owners, or a larger percentage vote as otherwise may be required by the Act, the Declaration, the Articles, or these Bylaws (the decision to be evidenced by written response to be solicited in the notice), shall be binding on the membership. The notice shall set forth a time period within which responses must be made by the Unit Owners, and responses received after that shall not be considered.

2.16 Minutes of Meetings. The minutes of all meetings of Unit Owners shall be kept in a book open to inspection by any Unit Owner or the authorized representative of such Owner, and Directors at all reasonable times. The minutes shall be retained by the Association for a period of not

less than seven (7) years. Unit Owners and their authorized representatives shall have the right to make or obtain copies at the reasonable expense, if any, of the Unit Owner.

2.17 Order of Business. The order of business at annual Unit Owner meeting and as far as practical at other Unit Owner meetings, shall be:

- A. Call to order.
- B. Election of a chairman of the meeting, unless the President or Vice President is present, in which case he or she shall preside.
- C. Calling of the roll, certifying of proxies, determination of a quorum.
- D. Proof of notice of meeting or waiver of notice.
- E. Reading and disposal of any unapproved minutes.
- F. Reports of Officers.
- G. Reports of Committees.
- H. Appointment of inspectors of election.
- I. Determination of number of Directors.
- J. Election of Directors.
- K. Unfinished business.
- L. New business.
- M. Adjournment.

2.18 Actions Specifically Requiring Unit Owner Approval. The following actions require approval by the Unit Owners and may not be taken by the Board acting alone:

- A. Amendments to the Declaration, except as otherwise provided specifically in the Declaration.
- B. Merger of two or more independent condominiums of a single complex to form a single condominium.
- C. Purchase of land or recreation lease.
- D. Cancellation of grants or reservations made by the Declaration, a lease or other document, and any contract made by the Association before the transfer of control of the Association from the Developer to Unit Owners that provides for operation, maintenance, or management of the Condominium Association or property serving the Unit Owners.
- E. Exercise of Option to purchase recreational or other commonly used facilities lease.
- F. Providing no Reserves, or less than adequate reserves.
- G. Recall of Directors.
- H. Other matters contained in the Declaration, the Articles, or these Bylaws that specifically require a vote of the Unit Owners.

III. DIRECTORS

3.1 **Number and Qualifications.** The affairs of the Association shall be managed initially by a Board of three Directors selected by the Developer. When Unit Owners, other than the Developer, are entitled to elect a majority of the Directors, as set forth in Florida Statute 718.301(1) and Paragraph 23 of the Declaration of Condominium, the Board shall be composed of any odd number of Directors that the Unit Owners may decide. The number of Directors, however, shall never be less than three. Other than those selected by the Developer, Directors must be either Unit Owners, tenants residing in the Condominium, officer of a corporate Unit Owner, or partners of a partnership Unit Owner. No Director (except those selected by the Developer) shall continue to serve on the Board after he ceases to be a Unit Owner, a tenant residing in the Condominium, an officer of a corporate Unit Owner, or a partner of a partnership Unit Owner.

3.2 **Transfer of Control of Association.**

- A. **One Third.** When Unit Owners other than the Developer own 15% or more of the Units in any one Condominium that will be operated ultimately by the Association, they shall be entitled to elect no less than one third of the Directors.
- B. **Majority.** Unit owners other than the Developer are entitled to elect not less than a majority of the Directors at the earliest of:
- (i) three years after 50% of the Units that ultimately will be operated by the Association have been conveyed to purchasers; or
 - (ii) three months after 90% of the Units that ultimately will be operated by the Association have been conveyed to purchasers; or
 - (iii) when all the Units that ultimately will be operated by the Association have been completed, some of them have been conveyed to purchasers and none of the others are being offered for sale by the Developer in the ordinary course of business; or
 - (iv) when some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or
 - (v) seven (7) years after recordation of the Declaration of Condominium, whichever occurs first.

Transfer of Association Control shall be in accordance with *F.S. 718.301*.

- C. **Developer Member.** The Developer is entitled to elect at least one Director as long as the Developer holds for sale in the ordinary course of business at least 5% of the Units that ultimately will be operated by the Association, if that number shall be fewer than 500 Units, and 2% if that number shall be more than 500 Units.
- D. **Election.** Within 75 days after the Unit Owners other than the Developer are entitled to elect a Director or Directors, the Association shall call, and give not less than 60 days notice of a meeting of the Unit Owners to elect a Director or Directors. The meeting may be called and the notice given by any Unit Owner if the Association fails to do so. Any eligible person may nominate himself or, with written permission from another eligible person, nominate that eligible person. Nominations must be provided in written form to the Association not less than 40 days before the meeting. Written notice of the meeting at which elections will be held, including an agenda, shall be mailed or delivered to each unit owner at least 14 days prior to the meeting and shall be posted in a conspicuous place on the condominium property at least 14 continuous

days preceding the meeting. Elections shall be held by ballot in accordance with procedures adopted by the Division. Neither general or limited proxies shall be used for the election of Directors. The quorum of Unit Owners for the meeting shall be based on the number of Unit Owners other than the Developer at the time the notice for that election meeting was sent, and shall be a majority of such Unit Owners. Upon election of the first Unit Owner other than the Developer to the Board, the Developer shall forward to the Division the name and mailing address of the Unit Owner Director. Notice of the meeting shall be provided pursuant to Provision 2.9.

- E. Relinquishment of Control. Either before or not more than 60 days after the time that Unit Owners other than the Developer elect a majority of the Directors, the Developer shall relinquish control of the Association and the Unit Owners shall accept control. Simultaneously, the Developer shall deliver to the Association at the Developer's expense, all property of the Unit Owners and of the Association held or controlled by the Developer, including but not limited to, those items specified in the Act. After relinquishing control of the Association, the Developer may exercise the right to vote any Developer-owned units in the same manner as any other Unit Owner except for purposes of re-acquiring control of the Association or selecting the majority of the Board.
- F. Compelling Compliance. In any action brought to compel compliance with *F.S. 718.301* regarding transfer of Association control and election of Directors by Unit Owners other than the Developer, the summary procedure provided for in *F.S. 51.011* may be employed, and the prevailing party shall be entitled to recover reasonable attorneys' fees.
- G. Early Transfer. Nothing contained in this Provision 3.2 shall be deemed to prevent the Developer from transferring control of the Association to Unit Owners other than the Developer before the occurrence of the events described in this section.

3.3 Election of Directors after Transfer of Control of Association. After the initial election of Directors by Unit Owners pursuant to Provision 3.2(D.), Directors shall be elected at the annual Unit Owner meeting. Each Unit Owner shall be entitled to cast votes for each of as many nominees as there are vacancies. Neither general or limited proxies shall be used for the election of Directors. There shall be no cumulative voting. Not less than 60 days before an annual meeting at which an election is scheduled, the Association shall deliver to each Unit Owner entitled to vote a first notice of the election. Any eligible person may nominate himself or, with written permission from another eligible person, nominate that eligible person. Nominations must be provided in written form to the Association not less than 40 days before a scheduled election. The Association shall deliver a second notice of the election to all unit owners entitled to vote, together with a ballot listing all candidates. Upon request of a candidate, the Association shall include an information sheet, no larger than 8-1/2" by 11", which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot. The failure of the Association to deliver all information sheets prepared by the candidates. Elections shall be decided by a plurality of votes. There shall be no quorum requirement; however, at least 20% of the eligible voters must vote to have a valid election. No Unit Owner shall permit any other person to vote his ballot, and any such ballots shall be void. A Unit Owner who needs assistance in voting for the reasons stated in *F.S. 101.051* may obtain such assistance. Notwithstanding the provisions of this section, an election is not required unless more candidates are available for election than vacancies exist on the Board. Any Notice required herein shall be provided pursuant to Provision 2.9.

3.4 Election Procedures. Elections shall be held in accordance with the Act and any Division regulations.

3.5 Term. Each Director's term of service shall extend until the next annual Unit Owner meeting and thereafter until his successor is duly elected and qualified or until he is removed in the manner provided in Provision 3.7. The Unit Owners, however, at any annual meeting after the Developer has relinquished control of the Association and to provide a continuity of experience, may

vote to create classes of directorships having a term of one, two, or three years to create a system of staggered terms.

3.6 Vacancies. Except for vacancies resulting from removal of Directors, vacancies occurring between annual Unit Owner meetings of members shall be filled by majority vote of the remaining Directors. Any Director elected to fill a vacancy shall hold office only until the next election of Directors, irrespective of the length of the remaining term of the vacating Director.

3.7 Removal. Any Director, except those selected by the Developer, may be recalled and removed from office with or without cause by the vote or agreement in writing of a majority of all voting interests. A special meeting of the Unit Owners to recall a Director or Directors may be called by 10% of the voting interests giving notice of the meeting as required in these Bylaws. The notice shall state the purpose of the meeting. Any vacancy on the Board thus created shall be filled by the Unit Owners at the same meeting. If more than one Director is subject to recall, there shall be a separate vote on the question to remove each Director. Recalls shall be further governed by the Act and any Division regulations.

3.8 Disqualification and Resignation. Any Director may resign at any time by sending or personally delivering a written notice of resignation to the Association, addressed to the Secretary. The resignation shall take effect on receipt by the Secretary, unless it states differently. Any Director elected by the Unit Owners who is absent from more than three consecutive regular meetings of the Board, unless excused by resolution of the Board, shall be deemed to have resigned from the Board automatically, effective when accepted by the Board.

3.9 Organization Meeting. The organizational meeting of a newly elected Board shall be held within 10 days of their election at a place and time established by the Directors at the meeting at which they were elected. Additional notice to the Directors shall not be required.

3.10 Regular Meetings. The Board may establish a schedule of regular meetings to be held at a time and place as a majority of them shall determine from time to time. Notice of regular meetings, however, shall be given to each Director personally or by mail, telephone or telegraph, at least 3 days before the meeting.

3.11 Special Meetings. Special meetings of the Board may be called by the President and, in his absence, by the Vice President, and must be called by the Secretary at the written request of one-third of the Directors. Notice of the meeting shall be given personally or by mail, telephone or telegraph. The notice shall state the time, place, and purpose of the meeting and shall be delivered to each Director at least 3 days before the meeting.

3.12 Emergency Items. Any item not included on the notice of a regular or special meeting may be taken up on an emergency basis by at least a majority plus one (1) of the Board. Such emergency action shall be noticed and ratified at the next regular meeting of the Board.

3.13 Posting of Notice to Unit Owners. Upon notice to the Unit Owners, the Board shall, by duly adopted rule, designate a specific location on the Condominium property or Association property for the posting of notices for all Board meetings. A copy of the notice of all Director or committee meetings shall be posted conspicuously at the selected location at least 48 continuous hours before the meeting, except in an emergency. The notice shall include an identification of agenda items and the date, time, and location of the meeting. If no property is so designated, notices of all Board meetings shall be delivered pursuant to Provision 2.9 at least fourteen (14) days before the meeting.

3.14 Written Notice to Unit Owners. Written notice of any meeting at which non-emergency special assessments, the Association budget, or amendments to rules regarding unit use will be considered shall be delivered to the Unit Owners pursuant to Provision 2.9 not less than fourteen (14) days before the meeting. The notice shall include an identification of agenda items and the date, time, and location of the meeting. Notice of any meeting in which regular assessments are to be considered shall specifically contain a statement that such assessments will be considered and the nature of any such assessments.

3.15 Waiver of Notice. Any Director may waive notice of a meeting before, at, or after the meeting and that waiver shall be deemed equivalent to the giving of notice. Attendance by any Director at a meeting shall constitute a waiver of notice of the meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

3.16 Quorum. A quorum at the meetings of the Directors shall consist of a majority of the Board. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board, except when approval by a greater number of Directors is required by the Declaration, the Articles or these Bylaws.

3.17 Adjourned Meetings. If there is less than a quorum present at any meeting of the Board, the majority of those present may adjourn the meeting until a quorum is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without notice.

3.18 No Proxy. There shall be no voting by proxy at any meeting of the Board.

3.19 Presumed Assent. A Director present at any Board meeting at which action on any corporate matter is taken shall be presumed to have assented to the action taken, unless he or she votes against such action or abstains from voting because of an asserted conflict of interest.

3.20 Joinder in Meeting by Approval of Minutes. A Director may join in the action of a meeting by signing and concurring in the minutes of that meeting. That concurrence, however, shall not constitute the presence of that Director for the purpose of determining a quorum.

3.21 Attendance by Conference Telephone. When a telephone conference is used, a telephone speaker shall be attached so that the discussion may be heard by the Board and by any Unit Owners present in an open meeting. Directors utilizing telephone conference calls may be counted toward obtaining a quorum and may vote over the telephone.

3.22 Meetings Open to Unit Owners. Meetings of the Board of Directors at which a quorum of the Directors is present shall be open to all Unit Owners. At such meetings, Unit Owners shall have the right to address agenda items. The Association may adopt reasonable rules governing the frequency, duration, and manner of Unit Owner statements. Any such rules must first be adopted in written form. The rules may limit a Unit Owner's presentation time to not less than 3 minutes and may require that a Unit Owner file with the Association, at or within a reasonable time before the meeting, a written request to speak at a meeting.

3.23 Presiding Officer. The presiding officer at Board meetings shall be the President or, in his absence, the Vice President, and, in his absence, the Directors present shall designate any one of their number to preside.

3.24 Minutes of Meetings. The minutes of all meetings of the Board shall be kept in a book open to inspection by any Unit Owner or the authorized representative of such Owner and Directors at all reasonable times. The Association shall retain these minutes for a period of not less than seven years. Unit owners and their authorized representatives shall have the right to make or obtain copies, at the reasonable expense, if any, of the Owner.

3.25 Executive Committee. The Board, by resolution, may appoint an executive committee to consist of three or more Directors. The executive committee shall have and may exercise all of the powers of the Board in the management of the business and affairs of the Condominium during the intervals between the meetings of the Board insofar as may be permitted by law. The executive committee, however, shall not have power to: (a) determine the common expenses required for the operation of the Condominium; (b) determine the assessments payable by the Unit Owners to meet the common expenses of the Condominium; (c) adopt or amend rules and regulations covering the details of the operation and use of the Common Elements; (d) purchase, lease, or otherwise acquire

Units in the Condominium in the name of the Association; (e) approve any actions or proposals required by the Act, the Declaration, the Articles or these Bylaws to be approved by Unit Owners; or (f) fill vacancies on the Board. Meetings of the executive committee shall be open to Unit Owners.

3.26 Compensation. Directors shall serve without pay but shall be entitled to reimbursement for expenses reasonably incurred in the discharge of their duties.

3.27 Order of Business. The order of business at meetings of Directors shall be:

- A. Calling of roll.
- B. Proof of notice of meeting or waiver of notice.
- C. Reading and disposal of any unapproved minutes.
- D. Reports of officers and committees.
- E. Election of Directors.
- F. Unfinished Business.
- G. New Business.
- H. Adjournment.

3.28 Failure to Elect Director Quorum. If the Association or the Board fails to fill vacancies on the Board sufficient to constitute a quorum, any Unit Owner may apply to the circuit court within whose jurisdiction the Condominium is situated for the appointment of a receiver to manage the affairs of the Association, in the manner prescribed in the Act. If a receiver is appointed, the Association shall be responsible for the salary of the receiver, court costs, and attorneys' fees. The receiver shall have all the powers and duties of a duly constituted Board and shall serve until the Association fills vacancies on the Board sufficient to constitute a quorum.

IV. POWERS AND DUTIES OF THE BOARD OF DIRECTORS

All of the powers and duties of the Association existing under the Act, the Declaration, the Articles and these Bylaws shall be exercised exclusively by the Board, or its duly authorized agents, contractors, or employees—subject only to the approval by Unit Owners when that approval is specifically required. The powers and duties of the Board shall include, but shall not be limited to, the following:

4.1 Maintenance, Management, and Operation of the Condominium Property.

4.2 Contract, Sue, or be Sued. After control of the Association is obtained by Unit Owners other than the Developer, the Association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all Unit Owners concerning matters of common interest, including, but not limited to, the common elements and commonly-used facilities. The statute of limitations for any actions in law or equity that the Association may have shall not begin to run until the Unit Owners have elected a majority of the Directors.

4.3 Right of Access to Units. The Association has the irrevocable right of access to each Unit during reasonable hours as necessary for the maintenance, repair, or replacement of any common elements or for making emergency repairs necessary to prevent damage to the common elements or to another Unit or Units.

4.4 Make and Collect Assessments; Common Elements. The Association has the power to make and collect assessments, and to lease, maintain, repair and replace the common elements. A user fee may not be charged for the use of common elements or Association property unless such

fee is provided for in the Declaration, approved by a majority vote of the Unit Owners, or relate to expenses incurred by the Unit Owner having exclusive use of the common element or Association property. Parking spaces purchased from the Developer are limited common elements and are not subject to assessment by the Association even though such parking spaces are used exclusively by their respective unit owners.

4.5 Lien and Foreclosure for Unpaid Assessments. The Association has a lien on each Condominium parcel for any unpaid assessments with interest and for reasonable costs and attorneys' fees incurred in the collection of the assessment or enforcement of the lien, regardless of whether or not a suit is filed. It also has the power to purchase the Condominium parcel at the foreclosure sale and to hold, lease, mortgage, or convey it.

4.6 Purchase Unit. In addition to its right to purchase Units at a lien foreclosure sale, the Association generally has the power to purchase Units in the Condominium and to acquire, hold, lease, mortgage, and convey them.

4.7 Grant or Modify Easements. The Association, without the joinder of any Unit Owner, may grant, modify, or move any easement if the easement constitutes part of or crosses common elements.

4.8 Purchase Land or Recreation Lease. Any land or recreation lease may be purchased by the Association on the approval of two-thirds of the voting interests of the Association.

4.9 Acquire Use Interest in Recreational Facilities. The Association may enter into agreements, acquire leaseholds, memberships, and other possessory or use interest in lands or facilities, such as country clubs, golf courses, marinas, and other recreational facilities, whether contiguous to the Condominium property or not if (a) they are intended to provide enjoyment, recreation, or other use or benefit to the Unit Owners and (b) if they exist or are created at the time the Declaration was recorded, they are fully stated and described in the Declaration.

4.10 Acquire Title to Property. The Association has the power to acquire title to property or otherwise hold property for the use and benefit of its members.

4.11 Authorize Certain Amendments. If it appears that through a drafter's error in the Declaration that the common elements, common expenses, or common surplus has been stated or distributed improperly, an amendment to the Declaration correcting that error may be approved by the Board or a majority of the voting interests.

4.12 Adopt Rules and Regulations. The Association may adopt reasonable rules and regulations for the operation and use of the common elements, and recreational facilities serving the Condominium.

4.13 Maintain Official Records. The Association shall maintain all of the records, where applicable, set forth in Article IX of these Bylaws, which shall constitute the official records of the Association.

4.14 Obtain Insurance. The Association shall use its best efforts to obtain and maintain adequate insurance to protect the Association, the Association property and the Condominium property. The Association may also obtain liability insurance for Directors and officers, insurance for the benefit of the Association employees, and flood insurance for common elements, Association property and units. The Association shall make available a copy of each policy for inspection by Unit Owners at reasonable times.

4.15 Obtain Fidelity Bonding. The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association, including all individuals authorized to sign checks and the President, Secretary and Treasurer of the Association. If the Association's annual gross receipts do not exceed \$100,000, all such bonds shall be in the principal sum of not less than \$10,000 for each such person. If the Association's annual gross receipts are

between \$100,000 - \$300,000, the bond shall be in the principal sum of at least \$30,000 for each covered person. If annual gross receipts exceed \$300,000, the bond shall be in the principal sum of not less than \$50,000 for each covered person. The Association shall bear the cost of bonding.

4.16 Furnish Annual Financial Reports to Unit Owners. the Board shall make available to the Unit Owners a complete set of financial statements for each preceding fiscal year. The statements shall be made available at or before a date to be determined by the Board. This requirement shall be satisfied if the Board makes the statements available for review by the Unit Owners. A Unit Owner may obtain copies of the statements at a reasonable cost to the Owner.

4.17 Give Notice of Liability Exposure. If the Association may be exposed to liability in excess of insurance coverage in any legal action, it shall give notice of the exposure to all Unit Owners, who shall have the right to intervene and defend.

4.18 Provide Certificate of Unpaid Assessment. Any Unit Owner or unit mortgagee has the right to request from the Association a certificate stating all assessments and other monies owed to the Association with respect to the Condominium parcel.

4.19 Pay the Annual Fee to the Division for Each Residential Unit Operated by the Association.

4.20 Approve or Disapprove Unit Transfer and Impose Fee. The Association may charge a preset fee of up to \$100 in connection with the approval or disapproval of any proposed mortgage, lease, sub-lease, sale, or other transfer of a Unit in the Condominium.

4.21 Contract for Operation, Maintenance, and Management of the Condominium.

4.22 Pay Taxes or Assessments Against the Common Elements or Association Property.

4.23 Pay Costs of Utilities Service Rendered to the Condominium and Association Property and Not Billed Directly to Individual Unit Owners.

4.24 Employ Personnel. The Association may employ and dismiss personnel as necessary for the maintenance and operation of the Condominium property and may retain those professional services that are required for those purposes.

4.25 Impose Fines. The Board may impose fines on Unit Owners in such reasonable sums as they may deem appropriate, not to exceed the maximum allowed by the Division or Act for violations of the Declaration, these Bylaws, or lawfully adopted rules and regulations by Owners or their guests or tenants. *See 7.10*

4.26 Suspend Approval for Delinquent Unit Owner. The Board may disapprove the prospective tenant of any Unit Owner as long as he is delinquent in the payment of assessments for Common Expenses.

4.27 Authorize Private Use of the Common Elements. The Board may authorize Unit Owners or others to use portions of the Common Elements, such as social rooms and meeting rooms for private parties and gatherings. Reasonable charges may be imposed provided a lease is entered into between the Association and the Unit Owner.

4.28 Repair or Reconstruct Improvements After Casualties.

4.29 Lien for Labor and Materials Furnished to the Common Elements. Labor performed on or materials furnished to the Common Elements, if authorized by the Board, may be the basis for the filing of a lien against all Condominium parcels in the proportions for which the Owners are liable for Common Expenses.

4.30 Evidence of Compliance to Fire and Safety Code. The Board may accept a certificate of compliance from a licensed electrical contractor or electrician as evidence of compliance of the condominium units to the applicable fire and life safety codes.

4.31 Owner Complaints. When a Unit Owner files a written complaint by certified mail with the Board, the Board shall respond to the Unit Owner within thirty (30) days of receipt of the complaint. The Board shall give a substantive response to the complainant, notify the complainant that a legal opinion has been requested, or notify the complainant that advice has been requested from the Division of Florida Land Sales, Condominiums, and Mobile Homes.

V. OFFICERS

5.1 Executive Officers. The executive officers of the Association shall be a *president*, who shall be a director, a *vice president*, who shall be a director, a *treasurer*, a *secretary*, and an *assistant secretary*. The officers shall be elected annually by the Board and may be removed without cause at any meeting by a vote of a majority of all of the directors. A person may hold more than one office except that the president may not also be the secretary or assistant secretary. No person shall sign an instrument nor perform an act in the capacity of more than one office. The Board, from time to time, shall elect other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

5.2 President. The president shall be the chief executive officer of the Association. He shall have all of the powers and duties that usually are vested in the office of president of an Association, including, but not limited to, the power to appoint committees from the Unit Owners to assist in the conduct of the affairs of the Association as he in his discretion may determine appropriate. He shall preside at all meetings of the Board.

5.3 Vice President. The Vice President shall exercise the powers and perform the duties of the President in the absence or disability of the President. He also shall assist the President and exercise those other powers and perform those other duties as shall be prescribed by the Directors.

5.4 Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the Unit Owners. He shall attend to the serving of all notices to the Unit Owners and Directors and other notices required by law. He shall have custody of the seal of the Association and shall affix it to instruments requiring the seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association and as may be required by the Directors or the President.

5.5 Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep books of account for the Association in accordance with good accounting practices, which, together with substantiating papers, shall be made available to the Board for examination at reasonable times. He shall submit a treasurer's report to the Board at reasonable intervals and shall perform all other duties incident to the office of treasurer. All money and other valuable effects shall be kept for the benefit of the Association in such depositories as may be designated by a majority of the Board.

5.6 Compensation. The compensation, if any, of all officers and other employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing a Director as an employee of the Association or preclude the contracting with a Director for the management of the Condominium.

VI.
FISCAL MANAGEMENT

6.1 Board Adoption of Budget. The Board shall adopt a budget for the common expenses of the Association in advance of each fiscal year at a special meeting of the Board called for that purpose at least 45 days before the end of each fiscal year.

6.2 Budget Requirements. The proposed annual budget of common expenses shall be detailed and shall show the amount budgeted by accounts and expense classifications, including, when applicable, but not limited to:

- A. Administration of the Association.
- B. Management fees.
- C. Maintenance.
- D. Rent for recreational and other commonly used facilities.
- E. Taxes on Association property.
- F. Taxes on leased areas.
- G. Insurance.
- H. Security provisions.
- I. Other expenses.
- J. Operating capital.
- K. Fees payable to the Division.
- L. Reserve accounts for capital expenditures and deferred maintenance pursuant to the Act and any Division regulations.

6.3 Notice of Budget Meeting. The Board shall mail or hand deliver to each unit owner at the address last furnished to the Association, a meeting notice and copies of the proposed annual budget of common expenses to the Unit Owners not less than 14 days before the meeting of Unit Owners or the Board of Directors at which the budget will be considered. Notice shall be provided pursuant to Provision 2.9. Evidence of compliance with this fourteen (14) day notice must be made by an affidavit executed by an Officer of the Association or other manager providing notice of the meeting and filed among the official records of the Association.

6.4 Unit Owner Rejection of Excessive Budget. If a budget adopted by the Board of Directors requires assessment against the Unit Owners in any fiscal year exceeding 115% of the assessment for the previous year, the Board, on written application of 10% of the voting interests, shall call a special meeting of the Unit Owner within 30 days. Each Unit Owner shall receive 10 days notice of the meeting. Notice shall be provided pursuant to Provision 2.9. At the special meeting, Unit Owners shall consider and enact a budget by not less than a majority of all voting interests. If a quorum is not attained or a substitute budget is not adopted by the Unit Owners, the budget adopted by the Board shall go into effect as scheduled. Provisions for reasonable reserves for repair or replacement of the Condominium property, nonrecurring expenses and assessments for betterment to the Condominium property shall be excluded from the computation in determining whether assessments exceed 115% of similar assessments in the previous year.

6.5 Alternative Budget Adoption by Directors. At its option, for any fiscal year, the Board may propose a budget to the Unit Owners at a meeting of Directors or in writing. If the

proposed budget is approved by the Unit Owners at the meeting or by a majority of all voting interests in writing, the budget shall be adopted.

6.6 Budget Restraints on Developer. As long as the Developer is in control of the Board, the Board shall not impose an assessment for any year greater than 115% of the previous year's assessment without approval of a majority of all voting interest other than those held by the Developer.

6.7 Accounting Records and Reports. The Association shall maintain accounting records in the county in which the Condominium is located, according to good accounting practices. The records shall be open to inspection by any Unit Owner or the authorized representative of such Owner at all reasonable times. The records shall include, but are not limited to:

- A. Accurate, itemized, and detailed records of all receipts and expenditures.
- B. A current account and a monthly, bi-monthly, or quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

VII. ASSESSMENTS AND COLLECTION

7.1 Assessments, Generally. Assessments shall be made against the Units not less frequently than quarterly in the discretion of the Board. The assessments shall be made in an amount no less than required to provide funds in advance for payment of all of the anticipated current operating expenses and for all of the unpaid operating expenses previously incurred. The assessment funds shall be collected against Units in the proportions or percentages provided in the Declaration.

7.2 Special Assessments. The specific purpose or purposes of any special assessment, including emergency assessments, that cannot be paid from the annual assessment for Common Expenses, as determined by the Board, shall be set forth in a written notice of such assessment sent or delivered to each Unit Owner. The notice shall be sent or delivered within such time before the payment or initial payment thereunder shall be due, as may be reasonable or practicable in the circumstances. Special assessments shall be paid at the times and in the manner that the Board may require in the notice of the assessment. The funds collected pursuant to a special assessment shall be used only for the specific purpose or purposes set forth in such notice, or returned to the Unit Owners. Upon completion of such specific purpose or purposes, however, any excess funds shall be considered Common Surplus.

7.3 Charges for Other than Common Expenses. Charges by the Association against individual Unit Owners for other than Common Expenses shall be payable in advance and the billing and collection thereof may be administered by the Association. Charges for other than Common Expenses may be made only after approval of a Unit Owner or when expressly provided for in the Declaration or other Condominium documents. These charges may include, without limitation, charges for the use of the Condominium property or recreation area, maintenance services furnished at the expense of a Unit Owner and other services furnished for the benefit of a Unit Owner. The provisions of Section 7.7 shall not apply to the charges described herein.

7.4 Liability for Assessments. Each Unit Owner, regardless of how title is acquired, shall be liable for all assessments coming due while he is the Unit Owner. The Unit Owner and his grantee in a voluntary conveyance shall be jointly and severally liable for all unpaid assessments due and payable up to the time of the transfer of title. A first mortgagee or other purchaser of a Condominium Unit who obtains title to the Condominium parcel by a purchase at the public sale resulting from the first mortgagee's foreclosure judgment in a foreclosure suit in which the Association has been properly named as a defendant junior lienholder, or who obtains title as a result of a deed given in lieu of foreclosure, together with his successors and assigns, is liable for the share of Common Expenses or assessments attributable to the Condominium parcel or chargeable to the former Unit Owner of the parcel as required by F.S. 718.116. The unpaid share of Common Expenses or assessments are Common Expenses collectible from all of the Unit Owners, including such acquirer and his successors

and assigns. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Element or by abandonment of the Unit for which the assessments are made.

7.5 Assessments Against Developer-Owned Units. If a Developer holds units for sale in the ordinary course of business, the Developer may not be assessed as a Unit Owner for capital improvements without written approval by the Developer.

7.6 Assessments, Amended Budget. If the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board. Unpaid assessments for the remaining portion of the year for which an amended assessment is made shall be payable in as many equal installments as there are installment payment dates remaining in the budget year as of the date of the amended assessment. The budget shall not be amended for emergency or special nonrecurring expenses.

7.7 Collection: Interest, Application of Payment. Assessments and installments on them, if not paid within ten days after the date they become due, shall bear interest at the rate of 18% per year until paid. All assessment payments shall be applied first to interest and then to the assessment payment due.

7.8 Lien for Assessment. The Association has a lien on each Condominium parcel for any unpaid assessments with interest and for reasonable attorneys' fees incurred by the Association incident to the collection of the assessment or enforcement of the lien. The lien is effective from and after recording a claim of lien in the public records in the county in which the Condominium parcel is located. No such lien shall continue for a period longer than one year after the claim of lien has been recorded, unless within that time an action to enforce the lien is commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid assessments, interest, costs, and attorneys' fees which are due and which may accrue after the recording of the claim of lien and before the entry of a final judgment of foreclosure. The lien is subordinate to any mortgage on the Condominium parcel recorded before it.

7.9 Collection: Suit, Notice. The Association may bring an action to foreclose any lien for assessments in the manner that a mortgage of real property is foreclosed. It also may bring an action to recover a money judgment for the unpaid assessment without waiving any claim of lien. The Association shall give notice to the Unit Owner of its intention to foreclose its lien at least 30 days before the foreclosure action is filed. The notice shall be given by delivery of a copy of it to the Unit Owner or by certified or registered mail, return-receipt requested, addressed to the Unit Owner at the last known address.

7.10 Fines. Before levying a fine pursuant to the Act, the Board shall afford an opportunity for hearing to the party against whom the fine is sought to be levied, after reasonable notice of not less than 14 days. The notice shall include:

- A. a statement of the date, time and place of the hearing;
- B. a statement of the provisions of the Declaration, these Bylaws and lawfully adopted rules and regulations which have allegedly been violated; and
- C. a short and plain statement of the matters asserted by the Association. The party against whom the fine may be levied shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. Upon the levying of any fine, the Board may collect such fines in one or more installments. Each day of violation shall be a separate violation. The affected Unit Owner, whether the offending party or not, shall always be given notice of the hearing. No fine shall become a lien against a Unit. No fines may be levied against unoccupied Units.

VIII. ASSOCIATION CONTRACTS

8.1 Fair and Reasonable, Cancellation. Any contracts made by the Association before the Unit Owners assume control from the Developer must be fair and reasonable. All contracts for the operation, maintenance or management of the Association or property serving the Unit Owners, made by the Association, whether before or after assumption of control of the Association by the Unit Owners, must not be in conflict with the powers and duties of the Association or the rights of the Unit Owners. Contracts made by the Association before the Unit Owners assume control may be canceled by the Unit Owners after assumption of control in the manner and under the circumstances as provided in the Act.

8.2 Laundry-Related Vending Equipment. The Developer may obligate the Association under lease agreements or other contractual arrangements for laundry-related vending equipment. The leases or agreements for such vending equipment may not be subject to cancellation by Unit Owners other than the Developer if those leases or agreements contain certain provisions as prescribed by the Act.

8.3 Escalation Clauses in Management Contracts Prohibited. No management contract entered into by the Association shall contain an escalation clause, since they have been declared to be against the public policy of the State of Florida.

8.4 Requirements for Maintenance and Management Contracts. Written contracts for operation, maintenance and management entered into by the Association must contain certain elements in order to be valid and enforceable. These include, but are not limited to:

- A. Specification of the services, obligations, and responsibilities of the service provider.
- B. Specification of costs for services performed.
- C. An indication of frequency of performance of services.
- D. Specification of minimum number of personnel to provide the services contracted for.
- E. The disclosure of any financial or ownership interest that the Developer has in the service provider, if the Developer is in control of the Association.

IX. ASSOCIATION OFFICIAL RECORDS

The Association, from its inception, shall maintain each of the following items when applicable, which shall constitute the official records of the Association:

- A. A copy of the plans, permits, warranties and other items provided by the Developer pursuant to *F.S. 718.301(4)* of the Act.
- B. A photocopy of the recorded Declaration of each Condominium operated by the Association and all amendments.
- C. A photocopy of the recorded Bylaws of the Association and all amendments.
- D. A certified copy of the Articles of Incorporation of the Association and all amendments.
- E. A copy of the current rules of the Association.
- F. A book or books containing the minutes of all meetings of the Association, of the Board and of Unit Owners, which minutes shall be retained for a period of not less than seven years.

- G. A current roster of all Unit Owners, their mailing addresses, Unit identifications, voting certifications, and, if known, telephone numbers. Additionally, the Association may require a copy of the deed or other instrument showing each Unit's ownership, together with a copy of any mortgage on the Unit and any satisfaction of that mortgage.
- H. All current insurance policies of the Association and Condominiums operated by the Association.
- I. A current copy of any management agreement, lease or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility.
- J. Bills of sale or transfer for all property owned by the Association.
- K. The accounting records required in Section 6.7.
- L. Voting proxies, which shall be maintained for a period of one year from the date of the meeting for which the proxy was given.
- M. All rental records where the Association is acting as agent for the rental of Condominium Units.

The official records of the Association shall be maintained in the county in which the Condominium is located and shall be open to inspection by any Unit Owner or the authorized representative of such Owner at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the Unit Owner. Failure to permit inspection of the Association records entitles any person prevailing in an enforcement action to recover reasonable attorneys' fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records for inspection.

X. OBLIGATIONS OF OWNERS

10.1 Violations, Notice, Actions.

In the case of a violation (other than the nonpayment of an assessment) by a Unit Owner of any of the provisions of the Act, the Declaration, the Articles, these Bylaws, or any lawfully adopted rules and regulations, the Association by direction of the Board may transmit to the Unit Owner by certified mail, return-receipt requested, a notice of the violation. If the violation shall continue for a period of 30 days from the date of the notice, the Association shall have the right to treat the violation as an intentional and material breach of the provision cited in the notice. It then, at its option, may take the following actions:

- A. File an action to recover for its damages on behalf of the Association or on behalf of other Unit Owners.
- B. File an action for injunctive relief requiring the offending Unit Owner to take or desist from taking certain actions.
- C. File an action for both damages and injunctive relief.

A Unit Owner may bring an action against the Association or any Director for damages, injunctive relief, or both, if the Association, or a Director willfully and knowingly, fails to comply with the provisions of the Act, the Declaration, the Articles, these Bylaws or the rules and regulations.

The foregoing action may be taken in addition to the Association's right to impose fines under Section 4.25.

10.2 **Attorneys' Fees.** In any action brought pursuant to Section 10.1, the prevailing party is entitled to recover reasonable attorneys' fees.

10.3 **No Waiver of Rights.** Neither a Unit Owner nor the Association may waive a provision of the Act if that waiver would adversely affect the rights of a Unit Owner or the purposes of the provision, except that Unit Owners or Directors may waive notice of specific meetings in writing.

XI. ARBITRATION OF INTERNAL DISPUTES

Disputes among Unit Owners, the Association, their agents, and assigns may be resolved by mandatory, non-binding arbitration pursuant to the Act and any Division regulations.

XII. LIABILITY SURVIVES MEMBERSHIP TERMINATION

Termination of membership in the Association shall not relieve or release a former member from any liability or obligation incurred with respect to the Condominium during the period of membership, nor impair any rights or remedies that the Association may have against the former member arising out of his membership and his covenants and obligations incident to that membership.

XIII. LIMITATIONS ON UNIT OWNER LIABILITY FOR USE OF COMMON ELEMENTS

Each Unit Owner may be personally liable for the acts or omissions of the Association relating to the use of the Common Elements. That liability shall be shared with other Unit Owners in the same percentages as their respective interests in the Common Elements. No individual Unit Owner's liability shall exceed the value of his Unit.

XIV. PARLIAMENTARY RULES

ROBERTS' RULES OF ORDER (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Act, the Declaration, the Articles, or these Bylaws.

XV. RULES AND REGULATIONS

15.1 **Board May Adopt.** The Board may adopt and amend, from time to time, reasonable rules and regulations governing the details or the use and operation of the Common Elements, Allocation property, and recreational facilities serving the Condominium.

15.2 **Posting and Furnishing Copies.** A copy of the rules and regulations adopted from time to time by the Board, and any amendments to existing rules and regulations, shall be posed in a conspicuous place on the Condominium property and a copy furnished to each Unit Owner. No rule, regulation, or amendment shall become effective until 30 days after posting, except in the case of an emergency, in which case the rule, regulation, or amendment shall become effective immediately on posting.

15.3 **Limitations on Authority.** The Board may not unreasonably restrict any Unit Owner's right to peaceably assemble or right to invite public officers or candidates for public office to appear and speak in Common Elements, Association property, common areas, and recreational facilities. The Board may not deny any resident of the Condominium, whether tenant or owner, access to any available franchised or licensed cable television service or exact a charge or anything of value in excess of charges normally paid for like services by residents of single-family homes within the same franchise or license area.

15.4 Reasonableness Test. Any rule or regulation created and imposed by the Board must be reasonably related to the promotion of the health, happiness, and peace of mind on the Unit Owners and uniformly applied and enforced.

**XVI.
RESTRICTIONS ON AND REQUIREMENTS FOR
USE, MAINTENANCE AND APPEARANCE OF THE UNITS.**

16.1 Where Contained. Restrictions on the use, maintenance, and appearance of the individual Condominium Units shall be as stated in the Declaration and no amendments to such restrictions shall be contained elsewhere than in the Declaration as adopted by a vote of the Unit Owners conducted in the manner prescribed elsewhere in these Bylaws.

16.2 Tests for Validity of Restrictions. Restrictions contained in the Declaration and any amendments duly adopted by a vote of the Unit Owners shall be valid and in the nature of covenants running with the land, unless it is shown that they: (1) are wholly arbitrary in their application; (2) are in violation of public policy; or (3) abrogate some fundamental constitutional right.

**XVII.
BYLAWS DEEMED AMENDED**

These Bylaws shall be deemed amended in those particulars as may be required to make them consistent with the provisions of the Act, as it may be amended from time to time.

**XVIII.
PRIORITIES IN CASE OF CONFLICT**

In the event of conflict between or among the provisions of any of the following, the order of priorities shall be, from highest priority to lowest:

- A. The Act, and any regulations promulgated by the Division.
- B. The Declaration.
- C. The Articles.
- D. These Bylaws.
- E. The Association's rules and regulations.

**XIX.
INDEMNIFICATION**

Every officer and Director shall be indemnified by the Association against all expenses and liabilities, including reasonable attorneys' fees incurred and imposed in connection with any proceedings to which he may be a party, or in which he may become involved by reason of his being or having been an officer or Director, whether or not he is an officer or Director at the time the expenses are incurred. The officer or Director shall not be indemnified if he is adjudged guilty of gross negligence or willful misconduct or shall have breached his fiduciary duty to the Unit Owner. The Association shall not be liable, however, for payment of a voluntary settlement unless it is first approved by the Board. The foregoing rights shall be in addition to and not exclusive of all other rights to which the Director or officer may be entitled.

**XX.
DEFECTIVE CONDOMINIUM DOCUMENTS,
CURATIVE PROVISIONS**

Pursuant to F.S. 718.110(10) of the Act, the Association or a Unit Owner may petition the circuit court having jurisdiction in the county in which the Condominium property is situated to correct an error or omission in the Declaration or any other documents required to establish the Condominium, affecting its valid existence, and which errors or omissions are not correctable by the amendment procedures in the Declaration or the Act. In any case, after three years from the filing of the Declaration, it shall be deemed to be effective under the Act to create a Condominium, whether in fact it substantially complies with the mandatory requirements of the Act or not.

**XXI.
AMENDMENTS**

Amendments to these Bylaws shall be proposed and adopted in the following manner:

21.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

21.2 Adoption. An amendment may be proposed either by a majority of the Board or by not less than one third of the voting interests of the Association. The amendment shall be adopted if it is approved by not less than two-thirds of the voting interests of the Association.

21.3 Limitation. No amendment shall be made that is in conflict with the Act or the Declaration, nor shall any amendment abridge, alter or amend the rights of the Developer or mortgagees of Units without their consent.

21.4 Recording. A copy of each amendment shall be attached to or included in a certificate certifying that the amendment was duly adopted as an amendment of the Bylaws. The certificate, which shall identify the first page of the book and page of the public records where the Declaration of each Condominium operated by the Association is recorded, shall be executed by the President or Vice President and attested by the Secretary or Assistant Secretary of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the county where the Declaration is recorded.

21.5 Format. Proposals to amend existing Bylaws shall contain the full text of the Bylaws to be amended. New words shall be underlined and words to be deleted shall be lined through with hyphens. If the proposed change is so extensive that this procedure would hinder rather than assist understanding, a notation must be inserted immediately preceding the proposed amendment saying "SUBSTANTIAL REWORDING OF BYLAW. SEE BYLAW NUMBER _____ FOR PRESENT TEXT".

**XXII.
CONSTRUCTION**

Whenever the context permits or requires, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall be deemed to include all genders.

RCD Sep 28, 1999 03:59 pm
Escambia County, Florida

Ernie Lee Magaha
Clerk of the Circuit Court
INSTRUMENT 99-667600

The foregoing were adopted as the Bylaws of SCENIC TERRACE OWNERS
ASSOCIATION, INC., on June 14, , 1999.

SCENIC TERRACE OWNERS
ASSOCIATION, INC.

ATTEST:

BY: John S. Carr
Name: JOHN S. CARR
[Print/Type Name]

[Corporate Seal]

Eric J. Nickelsen
Secretary Eric J. Nickelsen

THIS IS THE LAST PAGE TO THE DECLARATION OF CONDOMINIUM FOR SCENIC TERRACE CONDOMINIUMS.

This Instrument prepared by:
Raymond F. Newman, Jr.
Becker & Poliakoff, P.A.
348 Miracle Strip Parkway, SW
Paradise Village Suite 7
Ft. Walton Beach, FL 32548

**AMENDMENT TO BY-LAWS
OF
SCENIC TERRACE OWNERS ASSOCIATION, INC.**

THE UNDERSIGNED, being the duly elected and acting President of Scenic Terrace Owners Association, Inc., a Florida corporation not for profit, 1700 Scenic Highway, Pensacola, FL 32503, does hereby certify that the attached Amendment to the By-Laws of Scenic Terrace Owners Association, Inc., was proposed and duly adopted by the Board of Directors of the Association, and approved and duly adopted by at least two-thirds (2/3^{ds}) of the total voting interests of the Association on August 14, 2008, at a meeting of the members when a quorum was present, after due notice.

The sole condominium operated by Scenic Terrace Owners Association, Inc is Scenic Terrace Condominium, a Condominium, the initial Declaration of Condominium of which is recorded in Official Records Book 4474, Page 1202 of the public records of Escambia County, Florida.

WITNESSES:

SCENIC TERRACE OWNERS ASSOCIATION, INC.

Phoebe B. Hollimon
Printed Name: Phoebe B. Hollimon

By: Charles H. Nye
8/14/08, President
Charles H. Nye

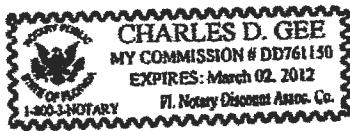
Eugene C. Rock, Jr.
Printed Name: EUGENE C. ROCK, JR.

STATE OF FLORIDA

COUNTY OF ESCAMBIA

Before me, the undersigned authority, appeared Charles H. Nye, to me personally known and known to be the President of Scenic Terrace Owners Association, Inc., a Florida not for profit corporation, and he acknowledged to and before me that he executed the foregoing for the uses and purposes therein stated.

WITNESS my hand and official seal this 14th day of August, 2008.



Charles D. Gee
NOTARY PUBLIC
My Commission Expires: March 2, 2012

**AMENDMENTS TO
BY-LAWS
FOR
SCENIC TERRACE OWNERS ASSOCIATION, INC.**

Article III, Section 3.1 is hereby amended as follows:

3.1. Numbers and Qualifications. The affairs of the Association shall be managed initially by a Board of ~~three~~ five (5) Directors. ~~selected by the Developer. When Unit Owners, other than the Developer, are entitled to elect a majority of the Directors, as set forth in Florida Statutes 718.301(1) and Paragraph 23 of the Declaration of Condominium, the Board shall be comprised of any odd number of Directors that the Unit Owners may decide. The number of Directors, however, shall never be less than three. Other than those selection by the Developer.~~ Directors must be either Unit Owners, tenants residing in the Condominium, officer of a corporate Unit Owners, or partners of a partnership Unit Owner. No Director ~~(except those selected by the Developer)~~ shall continue to serve on the Board after he ceases to be a Unit Owner, a tenant residing in the Condominium, an officer of a corporate Unit Owner, or a partner of a partnership Unit Owner.

(Additions, with the exception of headings, are shown by underline, deletions are shown by ~~strikethrough~~.)

Article III, Section 3.5 is hereby amended as follows:

3.5 Term. Each Director's term of service shall extend until ~~the next annual Unit Owners meeting~~ his term is completed and thereafter until his successor is duly elected and qualified or until he is removed in the manner provided in Provision 3.7. ~~The Unit Owners, however, at any annual meeting after the Developer has relinquished control of the Association and to provide a continuity of experience, may vote to create classes of directorships having a term of one, two, or three years to create a system of staggered terms. To comply with Section 718.112(2)(d)1, Florida Statutes (2008), all Directors will be elected for two (2) year staggered terms. Accordingly, at the 2008 Annual Meeting, three (3) members shall be elected for a term of two (2) years and two (2) members shall be elected for a term of one (1) year. Thereafter, all members shall be elected for a period of two (2) years. It is the intention of these Bylaws that a staggered Directorate be maintained. To implement and maintain a staggered Directorate, the Board may hold seats in future elections open for one or two year terms, when necessary or appropriate. In any election, those receiving the higher number of votes shall be elected to the longer terms and when no contested election is held, such decision shall be made by agreement of the affected parties, or by lot.~~

(Additions, with the exception of headings, are shown by underline, deletions are shown by ~~strikethrough~~.)