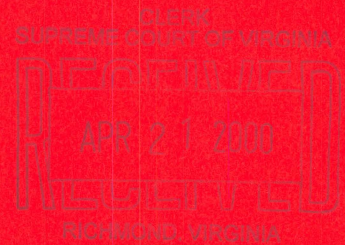


2LEO VA 3LELE

In The
Supreme Court of Virginia

RECORD NO. 992331



SUGARLAND RUN HOMEOWNERS ASSOCIATION,

Appellant,

v.

**WALTER D. HALFMANN and BARBARA B. HALFMANN,
PERSONAL REPRESENTATIVES OF THE ESTATE OF
WALTER R. HALFMANN, DECEASED,**

Appellees.

APPELLEES' SUPPLEMENTAL APPENDIX

Daniel L. Robey
Virginia State Bar Number 15531
ROBEY, SPENCE & DRASH
12500 Fair Lakes Circle
Suite 125
Fairfax, Virginia 22033-3804
(703) 449-0076 Telephone
(703) 449-7001 Facsimile

Counsel for Appellant

Robert L. Vaughn, Jr.
Virginia State Bar Number 20633
GLENNON, GOODMAN,
LUBELEY, VAUGHN
& WALKER, L.L.P.
11480 Sunset Hills Road
Reston, Virginia 20190
(703) 689-2100 Telephone
(703) 471-6496 Facsimile

Counsel for Appellees

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5. Please set forth the facts upon which you base your allegation that Sugarland Run Homeowners Association had notice and knowledge of an unreasonably dangerous condition of the location and area where the incident which is the subject of this action occurred.

ANSWER: Plaintiff objects to the extent Interrogatory No. 5 calls for opinion, attorney work product, and the application of facts to law. Without in any way waiving said objections, Plaintiffs would state that the Association is charged with maintaining all of the common areas within the community, which includes the subject bike path. The Association is charged with both actual and constructive knowledge as to the condition of all such common elements. Said pathway, by virtue of the location at which it intersects with Sugarland Run Road, the manner in which it intersects so as to continue to the path across the road, the lack of any signs or markings indicating a crossing, the lack of any signs or markings to indicate persons using the trail are to stop before entering the roadway, and its close proximity to two (2) large Virginia Power electrical structures which blocked both the view of persons using the path to oncoming traffic and the view of oncoming traffic to persons using the path, such structures having been in existence many years, the existence of all of which was open, obvious and well known within the community, including the Association, the deficiency of which is best exemplified by the remedial measures undertaken after this tragedy (moving the path itself, adding "stop" signs to the path, installing crossing signs and painting cross walk markings).

VIRGINIA:

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

WALTER D. HALFMANN AND
BARBARA B. HALFMANN, PERSONAL
REPRESENTATIVES OF THE ESTATE OF
WALTER R. HALFMANN, DECEASED,

Plaintiffs,

V.

AT LAW NO. 20501

TRINA KABIRI, et al.,

Defendants.

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of July, 1998, a true and accurate copy of the foregoing unsigned Plaintiffs' Answers to Defendant Sugarland Run Homeowners Association's Interrogatories, and Response to Request for Production of Documents was sent via courier, to:

Daniel Robey, Esquire
BURNS, ROBEY & TEUMER
12500 Fair Lakes Circle, Suite 125
Fairfax, VA 22033
Counsel for Defendant
Sugarland Homeowners Run Association

Robert L. Vaughn, Jr.

VIRGINIA:

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

WALTER D. HALFMANN AND	:	
BARBARA B. HALFMANN, Personal	:	
Representatives of the Estate of	:	AT LAW NO. 20501
Walter R. Halfmann, deceased,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
TRINA KABIRI, et al.,	:	
	:	
Defendants.	:	

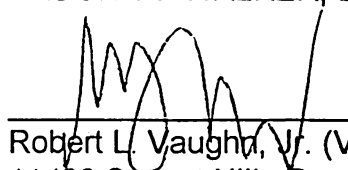
**SECOND AMENDED MOTION FOR JUDGMENT
SOLELY AS TO VIRGINIA ELECTRIC AND POWER COMPANY**

COME NOW the Plaintiffs, by counsel, and, for their Second Amended Motion for Judgment solely as to Defendant Virginia Electric and Power Company, re-alleges and restates Count V of its Amended Motion for Judgment.

WALTER D. HALFMANN
BARBARA B. HALFMANN, Personal
Representatives of the Estate of
Walter R. Halfmann, Deceased
By Counsel

GLENNON, GOODMAN, LUBELEY,
VAUGHN & WALKER, L.L.P.

By:



Robert L. Vaughn, Jr. (VSB # 20633)
11480 Sunset Hills Road
Reston, Virginia 20190
(703) 689-2100

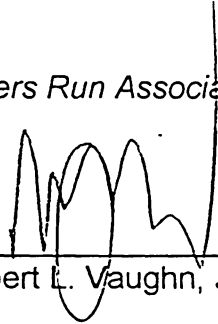
CERTIFICATE OF MAILING

I hereby certify that on the **25th day of September, 1998**, a true and accurate copy of the foregoing was mailed, postage prepaid, sent to:

Stephen M. Sayers, Esquire
HUNTON & WILLIAMS
1751 Pinnacle Drive, Suite 1700
McLean, VA 22102
Counsel for Defendant
Virginia Electric and Power Company

John Roberts, Esquire
SLENKER, BRANDT, JENNINGS, & JOHNSTON
3026 Javier Road
Fairfax, VA 22031
Counsel for Defendant, Trina Kabiri

Daniel Robey, Esquire
BURNS, ROBEY & TEUMER
12500 Fair Lakes Circle, Suite 125
Fairfax, VA 22033
Counsel for Defendant
Sugarland Homeowners Run Association



Robert L. Vaughn, Jr.

VIRGINIA:

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

WALTER D. HALFMANN and
BARBARA B. HALFMANN, Personal
Representatives of the Estate of
WALTER R. HALFMANN, Deceased,

Plaintiffs,

vs.

TRINA KABIRI, et al.,

Defendants.

At Law No. 20521

REQUEST

THE CLERK OF THE COURT will kindly issue a subpoena under Rule 4:9(C), Supreme Court of Virginia, to the following:

Traffic Safety Consultants, Inc.
1773 North Parham Road, Suite 205
Richmond, VA 23229

for the production of any and all field notes, accident reports, notes, pictures, photographs, or other documentation which relates to the conduct and completion of your investigation involving an automobile accident involving Walter R. Halfmann and Trina Kabiri which occurred on January 19, 1995 on #604 Sugarland Run Dr. in Loudoun County, Virginia.

NO PERSONAL APPEARANCE IS REQUIRED. Copies of the aforementioned records may be produced in lieu of the originals, provided such copies are clear and readable, and the reasonable cost thereof will be paid by. BRANDT, JENNINGS, ROBERTS, DAVIS & SNEE, PLLC Pursuant to § 8.01-413 of the Code of Virginia, we ask that any bill which you submit for this reproduction include the number of pages in your response, as that statute stipulates a maximum

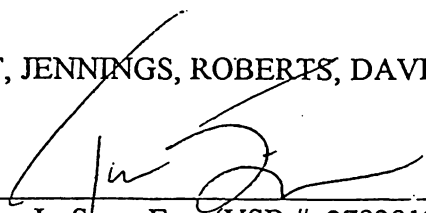
copying and search fee in this regard. Said records are to be forwarded to the following address on or before July 10, 1999:

BRANDT, JENNINGS, ROBERTS, DAVIS & SNEE, PLLC.
Tina L. Snee, Esq.
6565 Arlington Boulevard, Suite 200
Falls Church, VA 22042

TRINA KABIRI
By Counsel

BRANDT, JENNINGS, ROBERTS, DAVIS & SNEE, PLLC

By:


Tina L. Snee, Esq. (VSB # 2783812261)
6565 Arlington Boulevard
Suite 200
Falls Church, Virginia 22042
(703) 536-2500

Brandt, Jennings, Roberts,
Davis & Snee, PLLC
SUITE 200
ARLINGTON BOULEVARD
FALLS CHURCH, VIRGINIA 22042

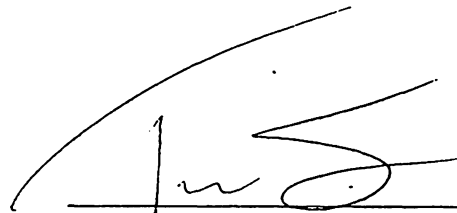
(703) 536-2500

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed first class,
postage prepaid this 21 day of June, 1999 to:

Robert L. Vaughn, Jr., Esquire
Glennon, Goodman, Lubeley, et al.
11480 Sunset Hills Road
Reston, Virginia 20190
Counsel for Plaintiffs

Daniel Robey, Esquire
Burns, Robey & Teumer
Suite 125
12500 Fair Lakes Circle
Fairfax, Virginia 22033
Counsel for Defendant
Sugarland Run Homeowner's Association



Tina L. Snee, Esq.

VIRGINIA:

IN THE CIRCUIT COURT OF LOUDOUN COUNTY

WALTER D. HALFMANN AND	:	
BARBARA B. HALFMANN, Personal	:	
Representatives of the Estate of	:	At Law No. 20501
Walter R. Halfmann, Deceased,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
TRINA KABIRI, et al.,	:	
	:	
Defendants.	:	

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that the Plaintiffs, Walter D. Halfmann and Barbara B. Halfmann, by and through counsel, pursuant to Rule 4:5 of the Rules of the Supreme Court of Virginia, shall take the deposition of the Defendant, Sugarland Run Homeowners' Association, on the ^{22nd} ~~20th~~ day of July, 1999, at 4:00 p.m., in the offices of Glennon, Goodman, Lubeley, Vaughn & Walker, L.L.P., 11480 Sunset Hills Road, Reston, Virginia, 20190, on the subjects set forth below. Pursuant to the aforesaid Rule, the Defendant is obligated to designate one or more persons having knowledge of the matter set forth below that can answer fully and completely:

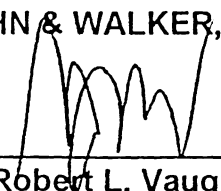
- (1) Knowledge of the design, installation and construction of the pedestrian/bicycle pathways in Section 6 of the Subdivision known as Sugarland Run;
- (2) Knowledge of the design, installation and construction of the pedestrian/bicycle pathway which forms the subject matter of this litigation;
- (3) Knowledge of the policies, procedures, and requirements for the maintenance and repair of the pedestrian/bicycle pathways in Sugarland Run;

- (4) Knowledge of the policies, procedures, and requirements for the maintenance and repair of the pedestrian/bicycle pathway which forms the subject matter of this litigation;
- (5) Knowledge of the design, installation and construction of the modifications made to the pathway which forms the subject matter of this litigation subject to the events that give rise to this action, including, but not limited to, the pathway itself, the surrounding roadway, and any signage.

Walter D. Halfmann and
Barbara B. Halfmann, Plaintiffs
By Counsel

GLENNON, GOODMAN, LUBELEY,
VAUGHN & WALKER, L.L.P.

By

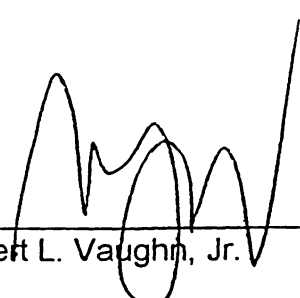

Robert L. Vaughn, Jr.
11480 Sunset Hills Road
Reston, Virginia 20190
(703) 689-2100
VSB No. 20633
Counsel for Plaintiffs

Certificate of Mailing

The undersigned does hereby certify that a copy of the foregoing Notice of Deposition was sent this 23rd day of June, 1999, via facsimile and first class mail, postage prepaid, to:

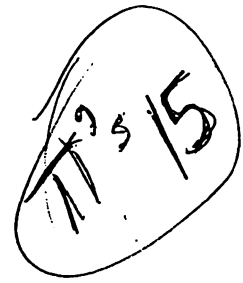
Daniel L. Robey, Esquire
12500 Fair Lakes Circle, Suite 125
Fairfax, Virginia, 22033
Counsel for Defendant,
Sugarland Run Homeowners' Association
Facsimile (703) 449-7001

Tina L. Snee, Esquire
6565 Arlington Boulevard, Suite 200
Falls Church, Virginia 22042
Facsimile (703) 536-2600


Robert L. Vaughn, Jr.

JENNIFER L. TOOLE, AICP

Planning Director - Mid-Atlantic Region, The RBA Group



EDUCATION AND CERTIFICATIONS

Bachelor of Environmental Design in Landscape Architecture, North Carolina State University
Cum Laude - 1990
American Institute of Certified Planners, Certificate #011817

APPOINTMENTS/AFFILIATIONS

- 2-Term Chair, North Carolina Trails Committee, NC Division of Parks
- Board of Directors, Association of Pedestrian and Bicycle Professionals
- U.S. Representative, Velo Mondiale 2000 Conference Organizing Committee
- Board of Directors, NC Rail-Trails, Inc. (1993-94)
- American Planning Association
- East Coast Greenway Alliance
- Rails-to-Trails Conservancy

EXPERIENCE

Jennifer Toole is a certified planner with a degree in Landscape Architecture. She has 10 years of experience in bicycle and pedestrian planning and design, and has served as an expert consultant on projects throughout the United States.

In her position at RBA and as the former Vice President of Greenways Incorporated, Jennifer has designed over 200 miles of trails and on-road bikeways. She is skilled in developing pedestrian facilities and in developing traffic calming plans. In addition to her planning and design experience, Jennifer recently authored portions of AASHTO's 1999 edition of the *Guide for the Development of Bicycle Facilities*, working with State Bicycle Coordinators throughout the country to develop suitable national standards. She is also serving as a chapter author for the 1998 edition of ITE's *Transportation Planning Handbook*. She has made presentations on pedestrian and bicycle issues at numerous conferences throughout the country.

Jennifer is currently the project manager for the Philadelphia Bicycle Network Plan (a \$3.7 million CMAQ project). In addition, she has worked on comprehensive traffic calming and bicycle and pedestrian plans in Charleston, SC; Portland, ME; Durham, NC; Murfreesboro, TN; Pittsburgh, PA; Roanoke, VA; Birmingham, AL; Tacoma Park, MD; Yonkers, NY; Wilmington, DE; and Baltimore, MD.

PUBLICATIONS

- *Transportation Planning Handbook* (1999 edition) – Bicycle and Pedestrian Transportation Chapter, Institute of Transportation Engineers
- *AASHTO Guide for the Development of Bicycle Facilities* (1999 edition) – Served as prime consultant to FHWA in the development of recommended text revisions to the Guide, based on the comments of State DOT Bike/Ped Coordinators.

- "Dealing with NIMBY's", *Trends Magazine* (National Park Service), Volume 33, Number 2, 1996.
- *Graduate Coursebook in Bicycle and Pedestrian Transportation* (for graduate engineering and planning curricula), FHWA Publication due in 1999, as consultant to UNC – Highway Safety Research Center

PRESENTATIONS

- Transportation Research Board – Human Powered Transportation Workshop – 1997
- American Planning Association National Conference 1997
- Pro-Bike/Pro-Walk National Conferences 1994, 1996, 1998
- International Trails and Greenways Conferences 1995, 1997
- National Pedestrian Conference 1997
- PA Governor's Conference on Greenways and Trails 1997
- ABC's of Greenways and Trails (10 workshops developed by PA DCNR) – 1997-1998
- North Carolina Parks and Recreation Society Annual Meeting 1996

RELEVANT PROJECT EXPERIENCE

- NJDOT Roadway Design Standards Revisions: ADA Compliance, Bicycle and Pedestrian Issues - 1998
- FHWA Bicycle and Pedestrian Coursebook for Graduate Engineering and Planning Students (for UNC-HSRC) - 1997 to present
- Philadelphia Bicycle Network Plan - 1996 to present
- Pennsylvania DOT Pedestrian, Bicycle and Traffic Calming Design Guidelines - 1996
- Pittsburgh to Washington Trail, PA - 1998 to present
- Chambersburg Rail-Trail Master Plan, PA - 1998
- Lebanon Valley Rail-Trail Feasibility Study, PA - 1997
- Baltimore Area Bicycle Suitability and Latent Demand Analysis - 1998 to present
- Cape May, NJ Route 9 Bike/Ped Improvements - 1998
- Rockville Bicycle Beltway, Maryland - 1999
- Arctlen Susquehanna Trail, Pennsylvania - 1995
- Delaware Statewide Bicycle Level of Service Analysis - 1997 to present
- Research Triangle Park Pedestrian Trail System, NC - 1992-1997
- Guilford County Bicentennial Greenway, NC - 1990-1996
- Cary Recycled Greenway, NC - 1995
- NJDOT On-Call Bicycle and Pedestrian Planning and Design Services - 1997 to present
- Regional Bicycle Plan for Durham and Orange Counties, NC - 1992
- Indian River County Bicycle and Pedestrian Plan, FL - 1995
- Case Study #24 for the National Bicycling and Walking Study (co-author) - 1993-1994
- North Carolina State University Master Transportation Plan (Bike and Ped Elements) - 1994
- US 15-501 MIS – Bicycle and Pedestrian Elements (for HNTB) - 1996
- Dover Bicycle and Pedestrian Plan, DE - 1997
- Birmingham Area Bicycle and Pedestrian Plan, AL - 1995-1996
- Portland Metro Bicycle and Pedestrian Plan, ME - 1993-1994
- Charleston Metropolitan Bicycle Plan, SC - 1994-1995

II

ARTICLES OF
INCORPORATION AND BY-LAWS

Declaration

Covenants, Conditions and Restrictions

HOMEOWNERS ASSOCIATION



Plaintiff's Exhibit No 19
Case No 20521 Date 7/21/89

ARTICLES OF INCORPORATION
OF
SUGARLAND RUN HOMEOWNERS ASSOCIATION, INC.

We, the undersigned, being natural persons acting as incorporators of a non-stock corporation under the provisions of Chapter 2 of Title 13.1 of the Code of Virginia, adopt the following Articles of Incorporation for such corporation:

(a) The name of the corporation is SUGARLAND RUN HOMEOWNERS ASSOCIATION, INC. (hereinafter referred to as the "Corporation.")

(b) The purposes for which the Corporation is organized are:

- (1) To maintain, operate and administer the common areas and "community facilities" (except the common areas and community facilities designated for townhouse use) on certain property located in Broad Run Magisterial District, Loudoun County, Virginia, and more particularly described in Exhibit "A" attached to a Declaration made by Boise Cascade Building Company (hereinafter referred to as the "Developer"), dated February 11, 1971 and recorded among the Land Records of Loudoun County in Book 524, Page 140 (such Declaration, as the same may be amended from time to time, being hereinafter referred to as the "Declaration"), and such property which may from time to time be annexed in accordance with the Declaration (all of such property being hereinafter referred to as the "Property"); to enforce the covenants, restrictions, easements, charges and liens provided in the Declaration to be enforced by the Corporation; to assess, collect, and disburse the charges created under the Declaration, all in the manner set forth in, and subject to the provisions of, the Declaration; and to exercise all powers and privileges and to perform all duties and obligations of the Corporation under the Declaration.
- (2) To acquire (by gift, purchase or otherwise), to own, hold, improve, build upon, operate, maintain, sell, lease, transfer, mortgage, encumber, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Corporation.

(3) To do any and all lawful things and acts that the Corporation, from time to time, in its discretion, may deem to be for the benefit of the Property and the owners and inhabitants thereof or advisable, proper, or convenient for the promotion of the peace, health, comfort, safety, or general welfare of the owners and inhabitants thereof.

(c) Provisions relating to the members of the Corporation are:

(1) The members of the Corporation shall be every Owner of a lot or Multifamily Structure (as such terms are defined in the Declaration) which, is subject to assessment, provided, however, that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.

(2) There shall be the following three classes of membership in the Corporation:

(A) The Class A members shall be all Lot Owners (with the exception of the Developer and Owners of Multifamily Structures) and shall be entitled to two (2) votes for each Lot owned. When more than one person holds an interest in any Lot, all persons shall be members. The votes for such Lot shall be exercised by such persons as they themselves determine, but in no event shall more than two (2) votes be allowed with respect to any such Lot.

(B) The Class B members shall be the Owners of Multifamily Structures and each Owner shall be entitled to one (1) vote for each Living Unit in a Multifamily Structure so owned provided that the vote of the Class B members shall not have a weight in excess of forty-nine percent (49%) of the total vote cast in any matter.

(C) The Class C member shall be the Developer, its successors and assigns, and shall be entitled to six (6) votes for each Lot or Living Unit owned. The Class C membership shall cease and be converted to Class A or Class B membership, as the case may be, on the happening of either of the following events, whichever occurs earlier:

NO MORE
CLASS "C"

(i) When the total votes outstanding in the Class A and Class B membership together equal the total votes outstanding in the Class C membership, or (ii) at the expiration of three (3) years after the date of the Declaration, provided that if a Supplemental Declaration is filed annexing additional land pursuant to Article III of the Declaration at any time or times prior to the expiration of said three (3) year period (as the same may have been extended by the filing of any Supplemental Declaration), such period shall be extended each such time until the expiration of three (3) years from the date of filing of the last such Supplemental Declaration.

(3) The Board of Directors of the Corporation may suspend any person from membership in the Corporation during any period of time when such person is in default of any of his obligations under the Declaration (including, without limitation, the failure to pay any assessment), provided that such default has continued uncured for a period of ten (10) days after written notice thereof to such member.

no, anyone
can run for the
BOD - BECAUSE
YOU DON'T HAVE TO
BE A MEMBER.
(ALSO IN BY-LAWS)

(4) The members of the Corporation shall have the right to vote for the election and removal of directors and upon such other matters with respect to which a vote of members is required under the Declaration or under the provisions of Chapter 2 of Title 13.1 of the Code of Virginia.

(d) Provisions for the regulation of the internal affairs of the Corporation

are:

(1) The Corporation is not organized for pecuniary profit, nor shall it have any power to issue certificates of stock or pay dividends, and no part of the net earnings or assets of the Corporation shall be distributed, upon dissolution or otherwise, to any member of the Corporation. No compensation may be paid to any officer or director of the Corporation other than reimbursement for expenses actually incurred in the performance of duties.

(2) The Corporation may enter into contracts with the Developer or with any other person for the performance of any of the powers, duties, or functions of the Corporation, provided that the Corporation may not enter into any contract with any officer or director of the Corporation.

(3) The Board of Directors of the Corporation may make such regulations as they deem advisable for any meeting of the members, including, but not limited to, proof of membership in the Corporation, evidence of the right to vote and the appointment and duties of inspectors of votes.

(4) As long as there is a Class C membership in the Corporation, as provided in the Declaration, the following actions will require the prior approval of the Federal Housing Administration or the Veterans' Administration, as the case may be: annexation of additional properties, mortgaging of Common Areas (as such term is defined in the Declaration), dedication of Common Areas and amendment of the Declaration.

*class C was
the Developer
they are
gone -*

(5) The Corporation may be dissolved pursuant to law. Except as provided by law, upon dissolution of the Corporation, the assets, both real and personal of the Corporation, shall be dedicated to an appropriate governmental body or agency to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Corporation. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Corporation. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Corporation. No such disposition of the Corporation's properties shall be effective to divest or diminish any right or title of any member vested in him under the Declaration applicable to the Property unless made in accordance with the provisions of such Declaration.

(e) The address of the registered office of the Corporation is Fagelson, Schonberger, Billowitz and Grenadier, 126 South Royal Street in the City of Alexandria, Virginia. The registered agent, whose business address is the same as above and who is a resident of Virginia and a member of the Virginia State Bar, is Herbert S. Billowitz, Esquire.

(f) The business and conduct of the Corporation shall be regulated by a Board of Directors initially comprised of nine (9) members, who need not be members of the Corporation. The names and addresses of the Directors who are to act in that capacity until their successors are duly chosen and qualify are as follows:

<u>Name</u>	<u>Address</u>
Warren J. Kotler	2920 Tallow Lane Bowie, Maryland 20715
Pete T. Scamardo	1280 - 21st Street, N.W., Apt. #106 Washington, D.C. 20036
Rush M. Fritz	5605 Kennedy Street Riverdale, Maryland 20840
John H. Liebl	4211 East-West Highway Hyattsville, Maryland 20782
Richard J. North	7928 Dunhill Village Circle Baltimore, Maryland 21207
Frank I. Previte	2800 Hill Road Vienna, Virginia 22180
Walter L. Foltz, Jr.	1700 Hampshire Green Lane Silver Spring, Maryland 20903
Joann Hunt	411 Branch Drive Silver Spring, Maryland 20901
Shirley Vreeland	7743 Riverdale Road New Carrollton, Maryland 20784

At their first annual meeting the members shall elect three Directors for a term of one year, three Directors for a term of two years, and three Directors for a term of three years, and at each annual meeting thereafter the members shall elect three Directors for a term of three years.

(g) The Corporation shall have perpetual existence.

(h) The Corporation may indemnify any Director or officer, or former director or officer, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, and the personal representatives of any of the foregoing, against

in settlement, whether or not with court approval, actually and necessarily incurred
by him in connection with the defense or settlement of any civil or criminal claim,
action, suit, or proceeding, including one to impose a fine or penalty, brought or
threatened to be brought against him by reason of his, or his testator, or intestate,
being or having been such a director or officer, or in connection with an appeal therein,
unless he, or his testator, or intestate shall be finally adjudged, in such action, suit,
or proceeding to be liable for negligence or misconduct in the performance of duty.
No amount shall be paid in settlement without court approval unless independent legal
counsel shall advise the Corporation that, in the opinion of such counsel, the matters
involved in such action, suit, or proceeding did not constitute negligence or misconduct
in the performance of duty by such director or officer, or by his testator or intestate.
A conviction or judgement (whether based on a plea of nolo contendere or its equivalent
or after trial) shall not of itself be deemed an adjudication that such director or
officer or testator or intestate has been negligent or guilty of misconduct in the per-
formance of his duties. An application for indemnification pursuant to this section
shall be made to the Board of Directors of the Corporation. Upon receipt of any such
application, the Board shall determine whether, under the circumstances of such claim,
action suite, or proceeding, any indemnity payments should be made and the amount thereof,
if any. Such determination shall be made by resolution adopted by a majority of a
quorum of the Board of Directors without counting in such majority or quorum any
interested director or, in the event that no quorum of disinterested directors is available,
adopted by a majority of a group of three or more persons appointed by a majority of
the disinterested members of the Board. Any determination under this section that a
payment by way of indemnity should be made shall be binding upon the Corporation and its
members.

IN WITNESS WHEREOF, we have signed these Articles of Incorporation on the
22nd day of February 1971.

WITNESS:

Elaine Renaud (s)

Joseph M. Fries (s)

Elaine Renaud (s)

Richard B. Abramson (s)

Elaine Renaud (s)

Jack L. Lewis (s)

This is a true copy

ARTICLES OF INCORPORATION

OF

SUGARLAND RUN HOMEOWNERS ASSOCIATION, INC.

11.5.19

We, the undersigned, being natural persons acting as incorporators of a non-stock corporation under the provisions of Chapter 2 of Title 13.1 of the Code of Virginia, adopt the following Articles of Incorporation for such corporation:

(a) The name of the corporation is SUGARLAND RUN HOMEOWNERS ASSOCIATION, INC. (hereinafter referred to as the "Corporation").

(b) The purposes for which the Corporation is organized are:

(1) To maintain, operate and administer the common areas and community facilities (except the common areas and community facilities designated for townhouse use) on certain property located in Broad Run Magisterial District, Loudoun County, Virginia, and more particularly described in Exhibit "A" attached to a Declaration made by Boise Cascade Building Company (hereinafter referred to as the "Developer"), dated February 11, 1971 and recorded among the Land Records of Loudoun County in Book 524, Page 140 (such Declaration, as the same may be amended from time to time, being hereinafter referred to as the "Declaration"), and such property which may from time to time be annexed in accordance with the Declaration (all of such property being hereinafter referred to as the "Property"); to enforce the covenants, restrictions, easements, charges and liens provided in the Declaration to be enforced by the Corporation; to assess, collect, and disburse the charges created under the Declaration, all in the manner set forth in, and subject to the provisions of, the Declaration; and to exercise all powers and privileges and to perform all duties and obligations of the Corporation under the Declaration.

(2) To acquire (by gift, purchase or otherwise), to own, hold, improve, build upon, operate, maintain, sell, lease, transfer, mortgage, encumber, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Corporation.

(3) To do any and all lawful things and acts that the Corporation, from time to time, in its discretion, may deem to be for the benefit of the Property and the owners and inhabitants thereof or advisable, proper, or convenient for the promotion of the peace, health, comfort, safety, or general welfare of the owners and inhabitants thereof.

(c) Provisions relating to the members of the Corporation are:

(1) The members of the Corporation shall be every Owner of a lot or Multifamily Structure (as such terms are defined in the Declaration) which is subject to assessment, provided, however, that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.

(2) There shall be the following two classes of membership in the Corporation:

(A) The Class A members shall be all Lot Owners (with the exception of the Developer and Owners of Multifamily Structures) and shall be entitled to two (2) votes for each Lot owned. When more than one person holds an interest in any Lot, all persons shall be members. The votes for such Lot shall be exercised by such persons as they themselves determine, but in no event shall more than two (2) votes be allowed with respect to any such Lot.

(B) The Class B members shall be the Owners of Multifamily Structures and each Owner shall be entitled to one (1) vote for each Living Unit in a Multifamily Structure so owned provided that the vote of the Class B members shall not have a weight in excess of forty-nine percent (49%) of the total vote cast in any matter.

(3) The Board of Directors of the Corporation may suspend any person from membership in the Corporation during any period of time when such person is in default of any of his obligations under the Declaration (including, without limitation, the failure to pay any assessment), provided that such default has continued uncured for a period of ten (10) days after written notice thereof to such member.

(4) The members of the Corporation shall have the right to vote for the ejection and removal of directors and upon such other matters with respect to which a vote of members is required under the Declaration or under the provisions of Chapter 2 of Title 13.1 of the Code of Virginia.

(d) Provisions for the regulation of the internal affairs of the Corporation are:

(1) The Corporation is not organized for pecuniary profit, nor shall it have any power to issue certificates of stock or pay dividends, and no part of the net earnings or assets of the Corporation shall be distributed, upon dissolution or otherwise, to any member of the Corporation. No compensation may be paid to any officer or director of the Corporation other than reimbursement for expenses actually incurred in the performance of duties.

(2) The Corporation may enter into contracts with any other person for the performance of any of the powers, duties, or functions of the Corporation, provided that the Corporation may not enter into any contract with any officer or director of the Corporation.

(3) The Board of Directors of the Corporation may make such regulations as they deemed advisable for any meeting of the members, including, but not limited to, proof of membership in the Corporation, evidence of the right to vote and the appointment and duties of inspectors of votes.

(4) Deleted in Abridged version. Pertains only to Class C.

(5) The Corporation may be dissolved pursuant to law. Except as provided by law, upon dissolution of the Corporation, the assets, both real and personal of the Corporation, shall be dedicated to an appropriate governmental body or agency to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Corporation. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Corporation. No such disposition of the Corporation's properties shall be effective to divest or diminish any right or title of any member vested in him under the Declaration applicable to the Property unless made in accordance with the provisions of such Declaration.

(e) The address of the registered office of the Corporation is Hanes, Sevilla, Saunders and McCahill, P.C., 30 North King Street in Leesburg, Virginia. The registered agent, whose business address is the same as above and who is a resident of Virginia and a member of the Virginia State Bar, is Robert E. Sevilla.

(f) The business and conduct of the Corporation shall be regulated by a Board of Directors comprised of nine (9) members, who need not be members of the Corporation. At each annual meeting the members shall elect three Directors for a term of three years.

(g) The Corporation shall have perpetual existence.

(h) The Corporation may indemnify any director or officer, or former director or officer, or any person who may have served at its request as a director or officer of another corporation in which it owns shares of capital stock or of which it is a creditor, and the personal representatives of any of the foregoing, against the reasonable expense, including attorneys' fees, judgments, fines, and amounts paid in settlement, whether or not with court approval, actually and necessarily incurred by him in connection with the defense or settlement of any civil or criminal claim, action, suit, or proceeding, including one to impose a fine or penalty, brought or threatened to be brought against him by reason of his, or his testator, or intestate, being or having been such a director or officer, or in connection with an appeal therein, unless he, or his testator, or intestate shall be finally adjudged, in such action, suit, or proceeding to be liable for negligence or misconduct in the performance of duty. No amount shall be paid in settlement without court approval unless independent legal counsel shall advise the Corporation that, in the opinion of such counsel, the matters involved in such action, suit, or proceeding did not constitute negligence or misconduct in the performance of duty by such director or officer, or by his testator or intestate. A conviction or judgment (whether based on a plea of nolo contendere or its equivalent or after trial) shall not of itself be deemed an adjudication that such director or testator or intestate has been negligent or guilty of misconduct in the performance of his duties. An

application for indemnification pursuant to this section shall be made to the Board of Directors of the Corporation. Upon receipt of any such application, the Board shall determine whether, under the circumstances of such claim, action suit, or proceeding, any indemnity payments should be made and the amount thereof, if any. Such determination shall be made by resolution adopted by a majority of a quorum of the Board of Directors without counting in such majority or quorum any interested director or, in the event that no quorum of disinterested directors is available, adopted by a majority of a group of three or more persons appointed by a majority of the disinterested members of the Board. Any determination under this section that a payment by way of indemnity should be made shall be binding upon the Corporation and its members.

IN WITNESS WHEREOF, we have signed these Articles of Incorporation on the 22nd day of February 1971.

I

SUGARLAND RUN

DECLARATION

THIS DECLARATION is made and executed this 11th day of February, 1971, by BOISE CASCADE BUILDING COMPANY, a Maryland corporation (hereinafter referred to as the "Developer").

W I T N E S S E T H

★ WHEREAS, Developer is the fee simple owner of certain real property located in Broad Run Magisterial District, Loudoun County, Virginia, as described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Property"), and desires to develop therein a residential community together with common lands and facilities for recreational purposes for the benefit of such community; and

(WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common lands and facilities; and to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens (hereinafter referred to collectively as the "Restrictions") as hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community to create an agency to which will be delegated and assigned the powers of maintaining and administering the community facilities; administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated or intends to incorporate under the laws of the State of Virginia, as a non-profit corporation the Sugarland Run Homeowners Association, Inc. for the purpose of exercising the functions aforesaid; and

Plaintiff's Exhibit No 20

Case No 20521 Date 7/21/99

WHEREAS, the Developer desires that the Restrictions shall run with, bundle, and bind the Property;

NOW, THEREFORE, the Developer hereby declares the Property is and shall be held, transferred, sold, conveyed, occupied and used subject to the Restrictions hereinafter set forth, for and during the period of time hereinafter specified.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplement hereto (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the Sugar-land Run Homeowners Association, Inc., its successors and assigns.

★ (b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article III hereof.

(c) "Common Areas" shall mean and refer to those areas of land designated "Common Area" and/or "Green Area" on any recorded subdivision plat of The Properties, but shall not include any area designated "Townhouse Common Area". "Common Areas" include the real property described in Exhibit B attached hereto and made a part hereof, which shall be owned by the Association at the time of the conveyance of the first Lot by the Developer to an Owner. Said areas are intended to be devoted to the common use and enjoyment of the members of the Association as herein defined, and are not dedicated for use by the general public.

(d) "Living Unit" shall mean and refer to any portion of a Multifamily Structure situated upon The Properties designed and intended for use and occupancy as a residence by a single family.

(e) "Multifamily Structure" shall mean and refer to any building containing two or more Living Units under one roof except when each such Living Unit is situated upon its own individual Lot.

(f) "Lot" shall mean and refer to any plot of land intended and subdivided for single family residential use shown upon one of the recorded subdivisions maps of The Properties, but shall not include the Common Areas as herein defined.

(g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Multifamily Structure but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure.

(h) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article II, Section 1, hereof.

(i) "Mortgage" shall mean and refer to any mortgage, deed of trust or other similar instrument granted as security for the performance of any obligation.

(j) "Party Fence" shall mean and refer to a fence situated or intended to be situated, on the boundary line between adjoining properties.

(k) "Party Wall" shall mean and refer to the entire wall, all or a portion of which is used for support of each adjoining property, situated, or intended to be situated, on the boundary line between adjoining properties.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot or Multifamily Structure which is subject to assessment shall be a member of the Association, provided, however, that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Multifamily Structure which is subject to assessment.

Section 2. The Association shall have three classes of voting membership:

Class A. Class A members shall be all Lot Owners (with the exception of the Developer and Owners of Multifamily Structures) and shall be entitled to two (2) votes for each Lot owned. When more than one person holds an interest in any Lot, all persons shall be members. The votes for such Lot shall be exercised as they among themselves determine, but in no event shall more than two votes be cast with respect to any Lot.

Class B. The Class B members shall be the Owners of Multifamily Structures, and each Owner shall be entitled to one vote for each Living Unit in a Multifamily Structure so owned provided that the vote of the Class B members shall not have a weight in excess of forty-nine percent (49%) of the total vote cast in any matter.

*Huntington
Bridge*

Class C. The Class C member shall be the Developer, its successors and assigns, and shall be entitled to six (6) votes for each Lot owned by the Developer, and six (6) votes for each Living Unit in a Multifamily Structure owned by the Developer. The Class C membership shall cease and be converted to Class A or Class B membership, as the case may be, on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A and Class B membership together equal the total votes outstanding in the Class C membership, or

(b) at the expiration of three (3) years from the date of this Declaration, provided that if a Supplemental Declaration is filed annexing additional land to the Properties pursuant to Article III at any time or times prior to the expiration of said three (3) year period (as the same may have been extended by the filing of any Supplemental Declaration), such period shall be extended each such time until the expiration of three (3) years from the date of filing of the last such Supplemental Declaration.

*Guaranteed
waterway*

ARTICLE III

PROPERTY SUBJECT TO THIS DECLARATION;
ADDITIONS THERETO

Section 1. Existing Property.

All that property located in Broad Run Magisterial District, Loudoun County, Virginia, described in Exhibit A attached hereto and made a part hereof.

X

Section 2. Additions to the Properties By the Association.

Annexation of additional land shall require the assent of two-thirds of the Class A membership, two-thirds of the Class B membership and two-thirds of the Class C membership, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership or two-thirds (2/3) of the Class C membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat. Such annexation shall be effectuated by filing for record among the land records of Loudoun County, Virginia, a Supplemental Declaration with respect to such additional land.

X

Section 3. Additions to The Properties by Developer.

Notwithstanding the provisions of Section 2 of this Article III, if the Developer, its successors and assigns, should develop additional lands contiguous to the Properties, such additional lands may be annexed to The Properties at any time prior to the expiration of seven (7) years after the date of this Declaration without the assent of the Class A members or the Class B members by filing for record among the Land Records

of Loudoun County, Virginia, a Supplemental Declaration with respect to such additional lands; provided, however, that the development of the additional lands described in this section shall be in accordance with a general plan submitted to the Federal Housing Administration and the Veterans Administration with the processing papers for the first section. Detailed plans for the development of additional lands must be submitted to the FHA or the VA prior to such development. If either the FHA or the VA determines that such detailed plans are not in accordance with the general plan on file and either agency so advises the Association and the Developer, the annexation of the additional lands to The Properties must have the assent of two-thirds (2/3) of the Class A members and two-thirds (2/3) of the Class B members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting. At this meeting the presence of members or of proxies entitled to cast sixty percent (60%) of all votes of the Class A and Class B membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth above and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4. Mergers.

Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger; provided, however, that such merger shall have been approved by the vote of two-thirds of the

Class A membership, two-thirds of the Class B membership and two-thirds of the Class C membership, if any, at a meeting duly called for such purpose, in accordance with the provisions of Section 2 of this Article III. The provisions of Section 2 of this Article III with respect to notice, quorum, adjournment and proxies shall apply to any vote required under this Section 4. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within The Properties together with covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change, or addition to the covenants established by this Declaration within The Properties except as hereinafter provided.

Section 5. Other Additions. Upon approval in writing of the Association pursuant to a vote of its members as provided in its By-Laws, the owner of any property who desires to add it to the scheme of this Declaration and subject it to the jurisdiction of the Association, may file for record among the Land Records of Loudoun County, Virginia, a Supplementary Declaration so effecting the same; provided, however, that the development of the additional lands described in this section shall be in accordance with a general plan submitted to the Federal Housing Administration and the Veterans Administration with the processing papers for the first section.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Owners' Easements of Enjoyment. Subject to the provisions of Section 2 of this Article IV, every Owner shall have a right and easement of enjoyment in and to the Common Areas and such easement, shall be appurtenant to and shall pass with the title to every Lot, Living Unit and Multifamily Structure.

Section 2. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the rights of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage said properties and the rights of such mortgagee in said properties shall be subordinate to the rights of the Owners hereunder, provided, however, that no such borrowing or mortgaging shall be made unless approved by the vote of two-thirds of the Class A membership, two-thirds of the Class B membership and two-thirds of the Class C membership, if any, at a meeting duly called for such purpose, in accordance with the provisions of Section 2 of Article III, The provisions of Section 2 of Article III with respect to notice, quorum, adjournment and proxies shall apply to any vote required under this Section 2(a);

(b) the right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure;

(c) the right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any member in the recreational facilities for any period during which any assessment remains unpaid, and for any period not to exceed thirty days for any infraction of its published rules and regulations;

(d) the right of the Association to charge reasonable admission and other fees for the use of the Common Areas; and

(e) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedication or transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class A membership, two-thirds (2/3) of the votes of the Class B membership and two-thirds (2/3) of the votes of the Class C membership, if any, has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the action is sent to every member at least sixty (60) days in advance of any action taken.

Section 3. Delegation of Use. Any Owner may delegate his rights of enjoyment to the Common Areas and facilities to the members of his family, tenants, or contract purchasers (and members of the family of any tenant or contract purchaser) who reside on the property or to such other persons as may be permitted by the Association.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation or Assessments. The Declarant, for itself and its successors and assigns, and for each Lot or Multifamily Structure owned within the Property, hereby covenants, and each Owner of any Lot or Multifamily Structure by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fee, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fee, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by them

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Property and in particular for the improvement and maintenance of properties, and the homes situated therein, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Basis and Maximum of Monthly Assessments. On the first day of the month following the conveyance of the Common Areas to the Association and until January 1 of the year immediately following such conveyance, the monthly assessment imposed upon each Class A member of the Association shall be at the rate of Ten Dollars and Fifty Cents (\$10.50) per Lot, the monthly assessment imposed upon each Living Unit in a Multifamily Structure owned by a Class B member shall be at the rate of Five Dollars and Twenty-five Cents (\$5.25) per Living Unit, and the monthly assessment imposed upon each Lot or Living Unit owned by the Class C member shall be at the rate of Five Dollars and Twenty-five Cents (\$5.25) per Lot or Living Unit. The monthly assessment may be increased as hereinafter provided in Section 5 of this Article V.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the monthly assessment for any year in an amount not in excess of the maximum, and may provide for the payment of such assessment on an annual basis, rather than in monthly installments, if the amount of such annual assessment does not exceed Forty Dollars (\$40.00), provided that it shall be an affirmative obligation of the Association and its Board of Directors, to fix such assessments at an amount sufficient to maintain and operate the Common Areas and facilities; and provided further that the monthly assessment imposed upon a Living Unit owned by a Class B member and the monthly assessment imposed on a Lot or Living Unit owned by the Class C member shall always equal fifty percent (50%) of the monthly assessment imposed on a Lot owned by a Class A member.

Section 4. Special Assessments for Capital Improvements. In addition to the monthly assessments authorized by Section 3 of this Article V, the Association may levy in any assessment year a special assessment (which must be fixed at one uniform rate for each Lot owned by a Class A member and a similar uniform rate for each Living Unit in a Multifamily Structure owned by a Class B member and for each Lot or Living Unit owned by the Class C member equal to one half of the uniform rate for each Lot owned by a Class A member) applicable to that year

only, for the purpose of defraying in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

Section 5. Change in Maximum of Monthly Assessments. From and after the first day of the calendar month immediately following the conveyance of the first Lot to an Owner, the Board of Directors of the Association may, without a vote of the members of the Association, prospectively increase the maximum of the monthly assessments (fixed by Section 3 hereof) to an amount which is the greater of (i) five percent (5%) above the monthly assessments for the previous December or (ii) the monthly assessment fees stated in the first paragraph of Section 3 of this Article V.

The Association may prospectively increase the maximum of the assessments above the amount permitted pursuant to the preceding sentence, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

The monthly assessment imposed on a living unit owned by a Class B member and the monthly assessment imposed on a Lot or Living Unit owned by the Class C member shall always equal fifty percent (50%) of the monthly assessment imposed on a Lot owned by a Class A member.

Section 6. Quorum for any Action Authorized Under Sections 4 and 5. The quorum required for any action authorized by Sections 4 and 5 of this Article V, shall be as follows: At the first meeting called, as provided in Sections 4 and 5 of this Article V, the presence at the meeting of members or of proxies, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum.

If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that such subsequent meeting shall not be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Monthly Assessments:

Due Dates. The monthly assessments as to all Lots shall commence on the first day of the month following the conveyance of the Common Areas to the Association.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Duties of the Board of Directors. In the event of any change in the monthly assessments as set forth herein, the Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Multifamily Structure for each assessment period at least thirty days in advance of such date or period and shall, at that time, prepare a roster of the Lots and Multifamily Structures and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid, or the amount of any unpaid assessment. A reasonable charge may be made by the Association for the issuance of such certificate. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner: The Lien; Remedies of Association.

If any assessment is not paid on the date when due (being the dates

specified in Section 7 hereof), then such assessment shall be deemed delinquent and shall, together with such interest thereon and cost of collection thereof as are hereinafter provided, continue as a lien on the Lot or Multifamily Structure which shall bind such Lot or Multifamily Structure in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to such lien rights, the personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation and shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by them.

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If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum and the Association may bring legal action against the Owner personally obligated to pay the same or may enforce or foreclose the lien against the property; and in the event a judgment is obtained, such judgment shall include interest on the assessments above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action. No Owner of a Lot or Multifamily Structure may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his or its Lot or Multifamily Structure.

Section 10. Subordination of the Lien to First Mortgages.

The Lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot or Multifamily Structure shall not affect the assessment lien. However, the sale or transfer of any Lot or Multifamily Structure by foreclosure of any first mortgage or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or Multifamily Structure from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. The following properties subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties dedicated to and accepted by a governmental body, agency or authority, and devoted to public use; and (b) all Common Areas as defined in Article 1, Section 1, hereof.

Notwithstanding any provisions herein, no land or improvements now devoted or intended in the future to be devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VI

PARTY WALLS OR PARTY FENCES

Section 1. General Rules of Law to Apply. To the extent not inconsistent with the provisions of this article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to each party wall or party fence which is built as part of the original construction of the homes upon The Properties and any replacement thereof. In the event that any portion of any structure, as originally constructed by the Developer, including any party wall or fence, shall protrude over an adjoining lot, such structure, party wall or fence shall not be deemed to be an encroachment upon the adjoining lot or lots, and Owners shall neither maintain any action for the removal of a party wall or fence or projection, nor any action for damages. In the event there is a protrusion as described in the immediately preceding sentence, it shall be deemed that said Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the projection, party wall or fence. The foregoing shall also apply to any replacements in conformance with the original structure, party wall or fence constructed by the Developer. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of these covenants and restrictions.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or party fence shall be equally shared by the Owners who make use of the wall or fence in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall or party fence is destroyed or damaged by fire or other casualty, any Owner who has used the wall or fence may restore it, and if the Owners

thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall or party fence, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators and be binding upon the parties.

ARTICLE VII

EXTERIOR MAINTENANCE

In the event an owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon as provided in Article VIII hereof, the Association, after approval by two-thirds (2/3) vote of the Board of Directors shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE IX

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or

change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an Architectural Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE X

GENERAL PROVISIONS

Section 1. Duration and Amendment. The covenants and restrictions of this Declaration run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot or Multifamily Structure subject to this Declaration, their respective legal representative, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded; after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by Owners holding not less than two-thirds (2/3) of the votes of the membership has been recorded, agreeing to change said covenants and restrictions in whole or in part; provided, however, that no such agreement to change shall be effective unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken. Unless specifically prohibited herein, this Declaration may be amended by an instrument signed by Owners holding not less than Ninety percent (90%) of the votes of the membership at any time until the end of the initial twenty (20) year term of this Deed and thereafter by an instrument signed by the Owners holding not less than seventy five percent (75%) of the votes of the membership. Any amendment must be properly recorded to be effective.

Section 2. Notices. Any notice required to be sent to any member or Owner under the provisions of this instrument shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. The Association, or any Owner, shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violation, to require specific performance and/or to recover damages; and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The expense of enforcement by the Association shall be chargeable to the Owner of the lot or Multifamily Structure violating these covenants and restrictions and shall constitute a lien on the lot or Multifamily Structure collectible in the same manner as assessments hereunder.

Section 4. Assignability. Developer, its successors and assigns, shall at all times have the right to fully transfer and assign any or all of its rights and powers under this Declaration, subject to Developer's obligations hereunder.

Section 5. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect the validity of any other provisions, which shall remain in full force and effect.

Section 6. FHA/VA Approval. As long as there is a Class C membership the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, dedication of Common Areas, amendment of this Declaration, and mortgaging of Common Areas.

IN WITNESS WHEREOF, BOISE CASCADE BUILDING COMPANY has caused this instrument to be executed by Fred Kober its Vice President, and its corporate seal to be hereunto affixed and attested by Pete T. Scamardo, its Assistant Secretary, on the day and year first above written.

ATTEST:

BOISE CASCADE BUILDING COMPANY

/s/ Pete T. Scamardo
Assistant Secretary

By: /s/ Fred Kober
Vice President

State of Maryland)
County of Prince George's) to wit:

I, Shirley Vreeland, a Notary Public in and for the State and County aforesaid, do certify that Fred Kober and Pete T. Scamardo, whose names are signed to the writing above bearing date on the 11th day of February, 1971, as Vice President and Assistant Secretary of Boise Cascade Building Company, have acknowledged the same before me in my county aforesaid.

Given under my hand this 11th day of February, 1971.

My commission expires: July 1, 1974

/s/ Shirley Vreeland
Notary Public

EXHIBIT "A"

The Property referred to herein is described as Lots 11 to 114, both inclusive, and Lots 127 to 284, both inclusive, Parcels One (1) and Nine, and Green Area Parcels 2, 3, 4, 5, 6, and 7, as the same appear on the plats of SECTION ONE, SUGARLAND RUN, recorded among the land records of Loudoun County, Virginia, in Deed Book 517 at Page 477, et seq.

EXHIBIT "B"

The Common Areas referred to herein are described as Parcels One (1) and Nine and Green Area Parcels 2, 3, 4, 5, 6, and 7, as the same appear on the plats of SECTION ONE, SUGARLAND RUN, recorded among the land records of Loudoun County, Virginia, in Deed Book 517 at Page 477, et seq.

VIRGINIA: In the office of the Clerk of the Circuit Court of Loudoun County, Feb. 12 1971 at 3:18 PM. The foregoing instrument was this day presented in said office and, with certificate annexed, admitted to record.

Teste: /s/ J. T. Martz Clerk
By Louisa S. Hutchison, Deputy Clerk

SUGARLAND RUN

DECLARATION

THIS DECLARATION is made and executed this 11th day of February, 1971, by BOISE CASCADE BUILDING COMPANY, a Maryland corporation (hereinafter referred to as the "Developer").

W I T N E S S E T H

WHEREAS, Developer is the fee simple of certain real property located in Broad Run Magisterial District, Loudoun County, Virginia, as described in Exhibit A attached hereto and made a part hereof (hereinafter referred to as the "Property"), and desires to develop therein a residential community together with common lands and facilities for recreational purposes for the benefit of such community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common lands and facilities; and to this end, desire to subject the Property to the covenants, restrictions, easements, charges and liens (hereinafter referred to collectively as the "Restrictions") as hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof; and

WHEREAS, Developer has incorporated or intends to incorporate under the laws of the State of Virginia, as a non-profit corporation the Sugarland Run Homeowners Association, Inc. for the purpose of exercising the functions aforesaid; and

WHEREAS, the Developer desires that the Restrictions shall run with, burden, and bind the Property;

NOW, THEREFORE, the Developer hereby declares the Property is and shall be held, transferred, sold, conveyed, occupied and used subject to the Restrictions hereinafter set forth, for and during the period of time hereinafter specified.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplement hereto (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the Sugarland Run Homeowners Association, Inc., its successors and assigns.

(b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article III hereof.

(c) "Common Areas" shall mean and refer to those areas of land designated "Common Area" and/or "Green Area" on any recorded subdivision plat of The Properties, but shall not include any area designated "Townhouse Common Area". "Common Areas" include the real property described in Exhibit B attached hereto and made a part hereof, which shall be owned by the Association at the time of the conveyance of the first Lot by the Developer to an Owner. Sold areas are intended to be devoted to the common use and enjoyment of the members of the Association as herein defined, and are not dedicated for use by the general public.

(d) "Living Unit" shall mean and refer to any portion of a Multifamily Structure situated upon The Properties designed and intended for use and occupancy as a residence by a single family.

(e) "Multifamily Structure" shall mean and refer to any building containing two or more Living Units under one roof except when each such Living Unit is situated upon its own individual Lot.

(f) "Lot" shall mean and refer to any plot of land intended and subdivided for single family residential use shown upon one of the recorded subdivisions maps of The Properties, but shall not include the Common Areas as herein defined.

(g) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Multifamily Structure but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure.

(h) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article II, Section 1, hereof.

(i) "Mortgage" shall mean and refer to any mortgage, deed of trust or other similar instrument granted as security for the performance of any obligation.

(j) "Party Fence" shall mean and refer to a fence situated or intended to be situated, on the boundary line between adjoining properties.

(k) "Party Wall" shall mean and refer to the entire wall, all or a portion of which is used for support of each adjoining property, situated, or intended to be situated, on the boundary line between adjoining properties.

ARTICLE II

Section 1. Every Owner of a Lot or Multifamily Structure which is subject to assessment shall be a member of the Association, provided, however, that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a member. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Multifamily Structure which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Lot Owners (with the exception of the Developer and Owners of Multifamily Structures) and shall be entitled to two (2) votes for each Lot owned. When more than one person holds an interest in any Lot, all persons shall be members. The votes for such Lot shall be exercised as they among themselves determine, but in no event shall more than two votes be cast with respect to any Lot.

Class B. The Class B members shall be the Owners of Multifamily Structure, and each Owner shall be entitled to one vote for each Living Unit in a Multifamily Structure so owned provided that the vote of the Class B members shall not have a weight in excess of forty-nine percent (49%) of the total vote cast in any manner.

ARTICLE III

PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

Section 1. Existing Property. All that property located in Broad Run Magisterial District, Loudoun County, Virginia, described in Exhibit A attached hereto and made a part hereof.

Section 2. Additions to the Properties By the Association. Annexation of addition land shall require the asset of two-thirds of the Class A membership, and two-thirds of the Class B membership at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The presence of members or proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. In the event that two-thirds (2/3) of the Class membership and two-thirds (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written

asset to the action taken thereat. Such annexation shall be effectuated by filing for record among the Land Records of Loudoun County, Virginia, a Supplemental Declaration with respect to such additional land.

Section 3. Additions to the Properties by Developer. Deleted in abridged version.

Section 4. Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger; provided, however, that such merger shall have been approved by the vote of two-thirds of the Class A membership, and two-thirds of the Class B membership at a meeting duly called for such purpose in accordance with the provisions of Section 2 of this Article III. The provisions of Section 2 of this Article III with respect to notice, quorum, adjournment and proxies shall apply to any vote required under this Section 4. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Properties together with covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change, or addition to the covenants established by this Declaration with The Properties except as hereinafter provided.

Section 5. Other Additions. Upon approval in writing of the Association pursuant to a vote of its members as provided in its By-Laws, the owner of any property who desire to add it to the scheme of this Declaration and subject it to the jurisdiction of the Association, may file for record among the Land Records of Loudoun County, Virginia, a Supplementary Declaration so effecting the same; provided, however, that the development of the additional lands described in this section shall be in accordance with a general plan submitted to the Federal Housing Administration and the Veterans Administration with the processing papers for the first section.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Owners' Easements of Enjoyment. Subject to the provisions of Section 2 of this Article IV, every Owner shall have a right and easement of enjoyment in and to the Common Areas and such easement, shall be appurtenant to and shall pass with the title to every lot, Living Unit and Multifamily Structure.

Section 2. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) the rights of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage said properties and the rights of such mortgage in said properties shall be subordinate to the rights of the Owners hereunder, provided, however, that no such borrowing or mortgaging shall be made unless approved by the vote of two-thirds of the Class A membership, and two-thirds of the Class B membership at a meeting duly called for such purpose, in accordance with the provisions of Section 2 of Article III. The provisions of Section 2 of Article III with respect to notice, quorum, adjournment and proxies shall apply to any vote required under this Section 2(a);

(b) the right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure;

(c) the right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any member in the recreational facilities for any period during which any assessment remains unpaid, and for any period not to exceed thirty days for any infraction of its published rules and regulations;

(d) the right of the Association to charge reasonable admission and other fees for the use of the Common Areas; and

(g) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members, provided that no such dedication or transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class A membership, and two-thirds (2/3) of the votes of the Class B membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the action is sent to every member at least (60) days in advance of any action taken.

Section 3. Delegation of Use. Any Owner may delegate his rights of enjoyment of the Common Areas and facilities to the members of his family, tenants, or contract purchasers (and members of the family of any tenant or contract purchaser) who reside on the property or to such other persons as may be permitted by the Association.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for itself and its successors and assigns, and for each Lot or Multifamily Structure owned within the Property, hereby covenants,

and each Owner of any Lot or Multifamily Structure by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected as hereinafter provided. The annual and special assessments, together with interest, cost and reasonable attorney's fee, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fee, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Property and in particular for the improvement and maintenance of properties, and the homes situated therein, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof.

Section 3. Basis and Maximum of Monthly Assessments. On the first day of the month following the conveyance of the Common Areas to the Association and until January 1 of the year immediately following such conveyance, the monthly assessment imposed upon each Class A member of the Association shall be at the rate of Ten Dollars and Fifty Cents (\$10.50) per Lot, the monthly assessment imposed upon each Living Unit in a Multifamily Structure owned by a Class B member shall be at the rate of Five Dollars and Twenty-five Cents (\$5.25) per Living Unit. The monthly assessment may be increased as hereinafter provided in Section 5 of this Article V.

The Board of Directors of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the monthly assessment for any year in an amount not in excess of the maximum, and may provide for the payment of such assessment on an annual basis, rather than in monthly installments, if the amount of such annual assessment does not exceed Forty Dollars (\$40.00), provided that it shall be an affirmative obligation of the Association and its Board of Directors, to fix such assessments at an amount sufficient to maintain and operate the Common Areas and facilities; and provided further that the monthly assessment imposed upon a Living Unit owned by a Class B member shall always equal fifty percent (50% of the monthly assessment imposed on a Lot owned by a Class A member.

Section 4. Special Assessments for Capital Improvements. In addition to the monthly assessments authorized by Section 3 of this Article V, the Association may levy in any assessment year a special assessment (which must be fixed at one uniform rate for each Lot owned by a Class A member and a similar uniform rate for each Living Unit in a Multifamily Structure owned by a Class B

member to one half of the uniform rate for each Lot owned by a Class A member) applicable to that year only, for the purpose of defraying in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

Section 5. Change in Maximum of Monthly Assessments. From and after the first day of the calendar month immediately following the conveyance of the first Lot to an Owner, the Board of Directors of the Association may, without a vote of the members of the Association, prospectively increase the maximum of the monthly assessments (fixed by Section 3 hereof) to an amount which is the greater of (i) five percent (5%) above the monthly assessments for the previous December or (ii) the monthly assessment fees stated in the first paragraph of Section 3 of this Article V.

The Association may prospectively increase the maximum of the assessments above the amount permitted pursuant to the preceding sentence, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

The monthly assessment imposed on a Living Unit owned by a Class B member shall always equal fifty percent (50%) of the monthly assessment imposed on a Lot owned by a Class A member.

Section 6. Quorum for any Action Authorized Under Sections 4 and 5. The quorum required for any action authorized by Sections 4 and 5 of this Article V, shall be as follows: At the first meeting called, as provided in Sections 4 and 5 of this Article V, the presence at the meeting of members or of proxies, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that such subsequent meeting shall not be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Monthly Assessments: Due Dates. The monthly assessments as to all Lots shall commence on the first day of the month following the conveyance of the Common Areas to the Association.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Duties of the Board of Directors. In the event of any change in the monthly assessments as set forth herein, the Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot or Multifamily Structure for each assessment period at least thirty days in advance of such date or period and shall, at that time, prepare a roster of the Lots and Multifamily Structures and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid, or the amount of any unpaid assessment. A reasonable charge may be made by the Association for the issuance of such certificate. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner: The Lien: Remedies of Association. If any assessment is not paid on the date when due (being the dates specified in Section 7 hereof), then such assessment shall be deemed delinquent and shall, together with such interest thereon and cost of collection thereof as are hereinafter provided, continue as a lien on the Lot or Multifamily Structure which shall bind such Lot or Multifamily Structure in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to such lien rights, the personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation and shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum and the Association may bring legal action against the Owner personally obligated to pay the same or may enforce or foreclose the lien against the property; and in the event a judgment is obtained, such judgment shall include interest on the assessments above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action. No Owner of a Lot or Multifamily Structure may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his or its Lot or Multifamily Structure.

Section 10. Subordination of the Lien to First Mortgages. The Lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot or Multifamily Structure shall not affect the assessment lien. However, the sale or transfer of any Lot or Multifamily Structure by foreclosure of any first mortgage or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve

such Lot or Multifamily Structure from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. The following properties subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties dedicated to and accepted by a governmental body, agency or authority, and devoted to public use; and (b) all Common Areas as defined in Article I, Section 1, hereof. Notwithstanding any provisions herein, no land or improvements now devoted or intended in the future to be devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VI

PARTY WALLS OR PARTY FENCES

Section 1. General Rules of Law to Apply. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to each party wall or party fence which is built as part of the original construction of the homes upon The Properties and any replacement thereof. In the event that any portion of any structure, as originally constructed by the Developer, including any party wall or fence, shall protrude over an adjoining lot, such structure, party wall or fence shall not be deemed to be an encroachment upon the adjoining lot or lots, and Owners shall neither maintain any action for the removal of a party wall or fence or projection, nor any action for damages. In the event there is a protrusion as described in the immediately preceding sentence, it shall be deemed that said Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the projection, party wall or fence. The foregoing shall also apply to any replacements in conformance with the original structure, party wall or fence constructed by the Developer. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of these covenants and restrictions.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or party fence shall be equally shared by the Owners who make use of the wall or fence in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall or party fence is destroyed or damaged by fire or other casualty, any Owner who has used the wall or fence may restore it, and if the Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner by his negligent or willful act causes the party wall to

be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall or party fence, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators and be binding upon the parties.

ARTICLE VII

EXTERIOR MAINTENANCE

In the event an owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon as provided in Article VIII hereof, the Association, after approval by two-thirds (2/3) vote of the Board of Directors shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VIII

MAINTENANCE OF PROPERTY

Each Owner shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair, including but not limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management.

ARTICLE IX

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change

or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and locations in relation to surrounding structures and topography by the Board of Directors of the Association, or by an Architectural Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE X

GENERAL PROVISIONS

Section 1. Duration and Amendment. The covenants and restrictions of this Declaration run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot or Multifamily Structure subject to this Declaration, their respective legal representative, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded; after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by Owners holding not less than two-thirds (2/3) of the votes of the membership has been recorded, agreeing to change said covenants and restrictions in whole or in part; provided, however, that no such agreement to change shall be effective unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken. Unless specifically prohibited herein, this Declaration may be amended by an instrument signed by Owners holding not less than Ninety percent (90%) of the votes of the membership at any time until the end of the initial twenty (20) year term of this Deed and thereafter by an instrument signed by the Owners holding not less than seventy five percent (75%) of the votes of the membership. Any amendment must be properly recorded to be effective.

Section 2. Notices. Any notice required to be sent to any member or Owner under the provisions of this instrument shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. The Association, or any Owner, shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violation, to require specific performance and/or to recover damages; and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The expense of enforcement by the

Association shall be chargeable to the Owner of the Lot or Multifamily Structure violating these covenants and restrictions and shall constitute a lien on the Lot or Multifamily Structure collectible in the same manner as assessments hereunder.

Section 4. Assignability. Developer, its successors and assigns, shall at all times have the right to fully transfer and assign any or all of its rights and powers under this Declaration, subject to Developer's obligations hereunder.

Section 5. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect the validity of any other provisions, which shall remain in full force and effect.

INSTRUCTION 10

You must not base your verdict in any way upon sympathy, bias, guesswork or speculation. Your verdict must be based solely upon the evidence and instructions of the court.

INSTRUCTION 18

The standard by which a minor's conduct is to be measured is that degree of care which persons of the same age, experience, discretion, and knowledge would exercise under the circumstances of this case.

VMJI 6.030

INSTRUCTION 25

When the Defendants claim contributory negligence as a defense, they have the burden of proving by greater weight of the evidence that the Plaintiffs' decedent was negligent and that his negligence was a proximate cause of the Plaintiffs' decedent's injuries.

VMJI 6.040

INSTRUCTION NO. 28

A child between the ages of seven and fourteen years is presumed incapable of being contributorily negligent. This is a rebuttable presumption, and you may find the plaintiffs' decedent contributorily negligent if you find, by the greater weight of the evidence, considering plaintiffs' decedent's age, intelligence, maturity, and experience, that the plaintiffs' decedent could understand the danger sufficiently to avoid the accident.

INSTRUCTION NO. 29.

Sugarland Run Homeowners Association has a duty to use ordinary care to keep common areas in a reasonably safe condition for use by its members and those entitled to the use of those common areas.

If a homeowner's association fails to perform this duty, then it is negligent.

INSTRUCTION NO. 31

Sugarland Run Homeowner's Association had a duty to use ordinary care to remedy a defect within a reasonable time after it has notice of the defect. The notice may be either actual or constructive.

The Association had actual notice if any Board Member, any Officer, or any employee who supervises the common areas or who has the power to supervise the common areas or has the power to work on them actually knew of the defect.

The Association had constructive notice if the defect existed long enough that it would have been discovered if the Association had used ordinary care.

If the Association had notice, either actual or constructive, and fails to perform this duty, then it is negligent.

INSTRUCTION NO. H.

A licensee is one who enters the premises of another for his own convenience, benefit, or pleasure, with the knowledge and express or implied consent of the occupant.

MJI, VOL. 1, P. 525, No. 23.010

INSTRUCTION NO. ____I.____

Where the Defendant, Sugarland Run Homeowners Association, by the use of ordinary care:

- (1) knows or should know of an unsafe condition on its premises; and
- (2) knows or should know that it involves an unreasonable risk of harm to a licensee; and
- (3) knows or should know that a licensee will not discover or realize the unsafe condition; and
- (4) a licensee does not know or have reason to know of the unsafe condition and the risk involved;

then Sugarland Run Homeowners Association has a duty to use ordinary care either to make the condition reasonably safe or a duty to warn a licensee of the unsafe condition.

VIRGINIA:

IN THE CIRCUIT COURT FOR LOUDOUN COUNTY

WALTER D. HALFMANN AND
BARBARA B. HALFMANN,
PERSONAL REPRESENTATIVES OF
THE ESTATE OF WALTER R.
HALFMANN, DECEASED,

Plaintiffs,

v.

TRINA KABIRI, et al.

Defendants.

LAW NO. 20521

MOTION TO SET ASIDE JURY VERDICT

COMES NOW the Defendant, Sugarland Run Homeowners Association, by counsel, and hereby moves this Court to set aside the verdict of the jury pursuant to 8.01-430 of the Code of Virginia, 1950 as amended, and to enter judgment for the Defendant, and in support thereof states as follows:

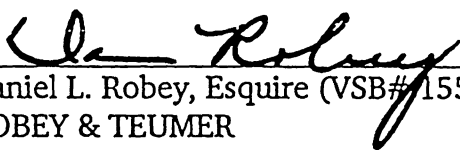
1. The Defendant moves this Court to set aside the verdict of the jury and enter judgment on behalf of the Defendant upon the grounds that the Plaintiffs did not present a *prima facie* case. In support thereof, the Defendant hereby incorporates by this reference the various arguments and authorities presented in support of its Motion To Strike during trial.

2. The Defendant hereby moves this Court to set aside the verdict of the jury and enter judgment on behalf of the Defendant upon the grounds that the

condition claimed by the Plaintiffs in this action was open and obvious. The Defendant hereby incorporates by this reference its various arguments and authorities presented in support of its Motion To Strike during the trial of this action.

WHEREFORE, having set forth its Motions To Set Aside The Verdict Of The Jury, the Defendant prays that it be granted the relief described above.

SUGARLAND RUN HOMEOWNERS ASSOCIATION
By Counsel


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CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of July, 1999 I mailed a true copy of the foregoing pleading, first class and postage prepaid to:

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