

PREPARED BY AND AFTER
RECORDING RETURN TO:

William B. Phillips, Esq.
Levin, McParland, Phillips & Leydig
180 North Wacker Drive
Chicago, Illinois 60606

98K104863

FILED FOR RECORD
KANE COUNTY, ILL.

98 NOV 12 PM 2:30

Lynda M. Rivers
RECORDER

FOR RECORDERS USE ONLY

**FIRST AMENDMENT TO
DECLARATION OF PARTY WALL RIGHTS, COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR THE TOWNES OF MILL CREEK**

K189

THIS FIRST AMENDMENT TO DECLARATION OF PARTY WALL RIGHTS, COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE TOWNES OF MILL CREEK is made and entered into this 3rd day of November, 1998 by HARRIS BANK ST. CHARLES, not personally but solely as Trustee under the provisions of a Trust Agreement dated December 30, 1996 and known as Trust No. LT-2447 (hereinafter referred to as the "Declarant").

RECITALS:

A. The Declarant has previously executed the Declaration of Party Wall Rights, Covenants, Conditions, Restrictions and Easements for the Townes of Mill Creek dated September 27, 1998 (the "Declaration") which was recorded in the Office of the Recorder of Deeds of Kane County, Illinois on October 2, 1998 as Document No. 98K089806.

B. The Declarant is the owner of all the Property and is the sole Member of the Association.

C. The Declarant hereby amends the provisions of the Declaration.

D. Any capitalized terms which are not defined herein shall have the meaning contained in the Declaration.

NOW, THEREFORE, the Declarant, as owner of all the Property and as the sole Member of the Association, hereby declares that the Declaration is hereby amended as follows:

1. Article IV is hereby amended by adding the following provision:

MILLCREEK

6)

98K104863

Chicago Title Chgo 1

17.00

“Section 4.10. Easements for Ingress and Egress. The Declarant hereby reserves for the benefit of the Declarant, the Developer and their respective agents, employees, guests, invitees, licensees, grantees, mortgagees, successors and assigns, an easement over and upon any portion of a Lot on which a driveway may be constructed to permit ingress and egress from a publicly dedicated or privately owned road or street over and upon such driveway to another Lot.”

2. In all other respects the Declaration remains in full force and effect.

3. This First Amendment to Declaration is executed by Harris Bank St. Charles, as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this First Amendment to Declaration that Harris Bank St. Charles, as Trustee aforesaid, and not personally, has joined in the execution of this Declaration for the sole purpose of subjecting the title holding interest and the trust estate under said Trust No. LT-2447 to the terms of this Declaration; that any and all obligations, duties, covenants and agreements of every nature herein set forth by Harris Bank St. Charles as Trustee aforesaid, to be kept and performed, are intended to be kept, performed and discharged by the beneficiaries under said Trust No. LT-2447 or their successors, and not by Harris Bank St. Charles personally; and further, that no duty shall rest upon Harris Bank St. Charles, either personally or as such Trustee, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation, express or implied, arising under the terms of this Declaration, except where said Trustee is acting pursuant to direction as provided by the terms of said Trust No. LT-2447 and after the Trustee has first been supplied with funds required for the purpose. In the event of conflict between the terms of this paragraph and of the remainder of the Declaration on any question of apparent liability or obligation resting upon said Trustee, the exculpatory provision hereof shall be controlling.

IN WITNESS WHEREOF, the said Harris Bank St. Charles, as Trustee as aforesaid, and not individually, has caused its corporate seal to be affixed hereunto and has caused its name to be signed to these presents by its Trust Officer & Vice President and attested by its _____ Secretary this 4th day of November, 1998.

Subject to Exculpatory Rider Attached

DECLARANT:

HARRIS BANK ST. CHARLES, as Trustee
of Trust No. LT-2447

By: 

Title: Cheryl Fair, Vice President & Trust Officer

ATTEST:

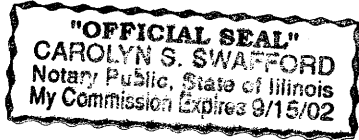
By: 

Title: Judith M. Hemingway
Assistant Vice President

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

I, Carolyn S. Swafford, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Cheryl Fair, Trust Officer & Vice President of HARRIS BANK ST. CHARLES, not personally but solely as Trustee pursuant to Trust Agreement dated December 30, 1996 and known as Trust No. LT-2447, and Judith M. Hemingway, Assistant Vice President, Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such TO & Vice President and AVP Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth; and the said AVP Secretary did also then and there acknowledge that as custodian of the corporate seal of said Corporation, did affix the said corporate seal of said Corporation to said instrument as her own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this 4th day of November, 1998.



Carolyn Swafford
Notary Public

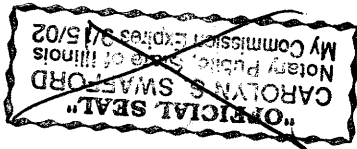


EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

Parcel 14 in Mill Creek, Blackberry and Geneva Townships, Kane County, Illinois, excepting therefrom that part thereof falling within Mill Creek, Neighborhood P, Phase I, Blackberry Township, Kane County, Illinois, and also excepting therefrom that part thereof falling within Mill Creek Neighborhood P, Phase II, Blackberry Township, Kane County, Illinois.

CONSENT OF MORTGAGEE

PARKWAY BANK & TRUST COMPANY, Mortgagee pursuant to a certain Mortgage dated August 29, 1996 and recorded September 23, 1996 in the Office of the Recorder of Deeds of Kane County, Illinois as Document Number 96K067862, does hereby consent to the recording of the foregoing Declaration of Party Wall Rights, Covenants, Conditions, Restrictions and Easements for The Townes of Mill Creek and agrees that the lien of the aforesaid Mortgage shall be subject to the provisions of the aforesaid Declaration.

IN WITNESS WHEREOF, Parkway Bank & Trust Company, as Mortgagee aforesaid, has caused its corporate seal to be affixed hereto and has caused its name to be signed to these presents by its duly authorized officers, as of the 3rd day of November, 1998.

PARKWAY BANK & TRUST COMPANY,
as Mortgagee aforesaid

By: [Signature]
Title: Asst. Vice President

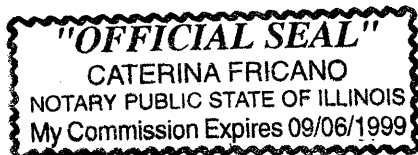
ATTEST:
By: [Signature]
Title: Loan Officer

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

I, Caterina Fricano, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that David F. Hyde, Asst. Vice, President of PARKWAY BANK & TRUST COMPANY, and [Signature], Loan Officer Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Asst. Vice President and Loan Officer Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth; and the said Loan Officer Secretary did also then and there acknowledge that as custodian of the corporate seal of said Corporation, did affix the said corporate seal of said Corporation to said instrument as his own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this 3rd day of November, 1998.

[Signature]
Notary Public



98K104863

EXCULPATORY RIDER

This instrument is executed by the Harris Bank St. Charles as Trustee under the provisions of a Trust Agreement dated 12/30/96, and known as Trust no. LT-2447, not personally, but solely as Trustee aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. This instrument is executed and delivered by the Trust solely in the exercise of the powers expressly conferred upon the Trustee under the Trust and upon the written direction of the beneficiaries and/or holders of the power of direction of said Trust and Harris Bank St. Charles warrants that it possesses full power and authority to execute this instrument. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, warranties, covenants, undertakings and agreements herein made on the part of the trustee while in form purporting to be the said representations, warranties, covenants, undertakings and agreements of said Trustee are each and every one of them not made with the intention of binding Harris Bank St. Charles in its individual capacity, but are made and intended solely for the purpose of binding only that portion of the Trust property specifically described herein. No personal liability or personal responsibility is assumed by or nor shall at any time be asserted or enforceable against the Harris Bank St. Charles on account of any representations, Warranties, (including but not limited to any representations and/or warranties in regards to potential and/or existant Hazardous Waste) covenants, undertakings and agreements contained in the instrument, (including but not limited to any indebtedness accruing plus interest hereunder) either express or implied or arising in any way out of the transaction in connection with which this instrument is executed, all such personal liability or responsibility, if any, being expressly waived and released, and any liability (including any and all liability for any violation under the Federal and/or State Environmental or Hazardous Waste laws) hereunder being specifically limited to the Trust assets, if any, securing this instrument. Any provision of this instrument referring to a right of any person to be indemnified or held harmless, or reimbursed by the Trustee for any costs, claims, losses, fines, penalties, damages, costs of any nature including attorney's fees and expenses, arising in any way out of the execution of this instrument or in connection thereto are expressly waived and released by all parties to and parties claiming, under this instrument. Any person claiming or any provision of this instrument referring to a right to be held harmless, indemnified or reimbursed for any and all costs, losses and expenses of any nature, in connection with the execution of this instrument, shall be construed as only a right of redemption out of the assets of the Trust. Notwithstanding anything in this instrument contained, in the event of any conflict between the body of this exoneration and the body of this instrument, the provisions of this paragraph shall control. Trustee being fully exempted, nothing herein contained shall limit the right of any party to enforce the personal liability of any other party to this instrument.

CAOFFICESHODEENMILLCREEVVLGHMSA.WPD020300
PREPARED BY AND AFTER
RECORDING RETURN TO:
William B. Phillips, Esq.
Levin, McParland, Phillips & Minetz
180 North Wacker Drive
Chicago, Illinois 60606

2000K025282
4/7/00

FOR RECORDERS USE ONLY

**SECOND AMENDMENT TO
DECLARATION OF RIGHTS, COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR THE MILL CREEK VILLAGE HOMES**

THIS SECOND AMENDMENT is made and entered into this 28th day of March 2000 by HARRIS BANK ST. CHARLES, not personally but solely as Trustee under the provisions of a Trust Agreement dated December 30, 1996 and known as Trust No. LT-2447 (the "Declarant").

WITNESSETH:

WHEREAS, the property legally described as parcel 1 on Exhibit "A" attached hereto is subject to the terms of a Declaration of Rights, Covenants, Conditions, Restrictions and Easements for the Mill Creek Village Homes dated October 9, 1997 and recorded in Kane County, Illinois on October 9, 1997 as Document No. 97K068476, as amended by First Amendment To Declaration of Rights, Covenants, Conditions, Restrictions and Easements for the Mill Creek Village Homes dated April 8, 1998 and recorded April 14, 1998 as Document No. 98K030350 (collectively the "Declaration"); and

WHEREAS, the Declarant is entitled to cast more than seventy-five per cent (75%) of the total votes as provided in Article III, Section 3.01 of the Declaration; and

WHEREAS, the Declarant desires to amend certain provisions of the Declaration; and

WHEREAS, the Declarant is the owner of the property legally described as parcels 2 and 3 on Exhibit "A" attached hereto which the Declarant intends to submit to the provisions of the Declaration.

NOW, THEREFORE, the Declarant hereby declares that the Declaration is hereby amended as follows:

- 1. Article I, Section 1.10 is hereby amended by deleting Exhibit "A" attached to the Declaration and replacing it with Exhibit "A" attached hereto. Upon recording of this Second


CHICAGO TITLE INSURANCE CO.
Kane County Office
Geneva, Illinois 60134
Phone 232-2750

Amendment "Property" shall mean and refer to all the real estate described in Exhibit "A" attached hereto which shall hereafter be transferred, held, sold, conveyed and accepted subject to the provisions of the Declaration, as amended hereby.

2. Article I is hereby amended by adding the following Section 1.12:

"Section 1.12 'Additional Real Estate' means the real estate legally described on Exhibit "B" attached hereto."

3. The Declaration is hereby amended by adding the following Article XI and the Sections contained therein:

"ARTICLE XI
ADDITIONAL REAL ESTATE

Section 11.01. The Declarant hereby reserves the right and option at any time and from time to time, within a period of seven (7) years after the date of the recording of this Declaration in the office of the Recorder of Deeds of Kane County, Illinois, to add on and subject to the provisions of this Declaration, all or any portion of the Additional Real Estate by recording an amendment or amendments to this Declaration executed solely by the Declarant (each such instrument being hereinafter referred to as "Amendment to Declaration") which shall set forth the legal description of the additional parcel or parcels within the Additional Real Estate to be added to and made subject to the provisions of this Declaration. Upon the recording of each such Amendment to Declaration, the additional parcel or parcels therein described shall be deemed subject to this Declaration and governed in all respects by the provisions of this Declaration. No portion or portions of the Additional Real Estate shall be subject to any of the provisions of this Declaration unless and until an Amendment to Declaration is recorded as aforesaid. The Owners shall have no rights whatsoever in or to any portion of the Additional Real Estate, unless and until an Amendment to Declaration is recorded as aforesaid. Upon the expiration of said seven (7) year period, no portions of the Additional Real Estate which have not theretofore been added to and made subject to the provisions of this Declaration shall thereafter be made subject to this Declaration. No portions of the Additional Real Estate must be submitted to this Declaration. Portions of the Additional Real Estate may be added to and made subject to this Declaration at different times within such seven (7) year period. Except as may be required by applicable laws and ordinances, there shall be no limitations (a) on the order in which portions of the Additional Real Estate may be added to and made subject to this Declaration; (b) fixing the boundaries of these portions; or (c) on the location of improvements which may be made on the Additional Real Estate. Structures, improvements, buildings and units to be constructed on portions of the Additional Real Estate shall be compatible with the configuration of the Village Homes on the Property in relation to density and

use and similar in construction and architectural style to the Village Homes initially made subject to this Declaration. Subject to any limitation imposed by applicable laws and ordinances, the maximum number of Village Homes which may be constructed on the Property and the Additional Real Estate shall be one hundred ninety-five (195).

Section 11.02. Each Amendment to this Declaration shall include:

a). An amendment to the legal description on Exhibit "A" attached hereto and made a part hereof which shall add to the legal description of the Property that portion or portions of the Additional Real Estate made subject to this Declaration;

b). An amendment to Exhibit "B" attached hereto which shall subtract from the legal description of the Additional Real Estate those portions of the Additional Real Estate made subject to this Declaration by such Amendment to Declaration.

Section 11.03. Any Village Home which is located on a portion of the Additional Real Estate which is made subject to this Declaration shall be entitled to, and be subject to, all the benefits and burdens of this Declaration as of the date of recording of the Amendment to Declaration. Any common areas which are part of the portion of the Additional Real Estate which is made subject to this Declaration shall become Common Areas as of the date of recording of the Amendment to Declaration."

4. In all other respects the Declaration remains in full force and effect.

5. This Declaration is executed by Harris Bank St. Charles, as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and warrants that it possess full power and authority to execute this instrument). It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this Declaration that Harris Bank St. Charles, as Trustee aforesaid, and not personally, has joined in the execution of this Declaration for the sole purpose of subjecting the title holding interest and the trust estate under said Trust No. LT-2447 to the terms of this Declaration; that any and all obligations, duties, covenants and agreements of every nature herein set forth by Harris Bank St. Charles as Trustee aforesaid, to be kept and performed, are intended to be kept, performed and discharged by the beneficiaries under said Trust No. LT-2447 or their successors, and not by Harris Bank St. Charles personally; and further, that no duty shall rest upon Harris Bank St. Charles, either personally or as such Trustee, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation, express or implied, arising under the terms of this Declaration, except where said Trustee is acting pursuant to direction as provided by the terms of said Trust No. LT-2447 and after the Trustee has first been supplied with funds required for the purpose. In the event of conflict between the terms of this

paragraph and the remainder of the Declaration on any question of apparent liability or obligation resting upon said Trustee, the exculpatory provision hereof shall be controlling.

IN WITNESS WHEREOF, the Declarant has executed these presents as of the day and year first above written.

DECLARANT:

HARRIS BANK ST. CHARLES, as Trustee
of Trust No. LT-2447 dtd 12/30/96 and not personally.

By: Carolyn S. Swafford
Title: Carolyn S. Swafford, Trust Officer

ATTEST:

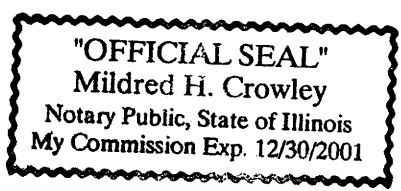
By: Cheryl Fair 10-10
Title: Cheryl Fair, V.P. & Trust Officer **Subject to Exculpatory Rider Attached**

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

I, Mildred H. Crowley, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Carolyn S. Swafford, Trust Officer of HARRIS BANK ST. CHARLES, not personally but solely as Trustee pursuant to Trust Agreement dated December 30, 1996 and known as Trust No. LT-2447, and Cheryl Fair, V.P. & Trust Officer,

thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Trust Officer and V.P. & T.O. respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth; and the said V.P. and Trust Officer did also then and there acknowledge that as custodian of the corporate seal of said Corporation, did affix the said corporate seal of said Corporation to said instrument as her own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this 28th day of March, 2000.



Mildred H. Crowley
Notary Public

EXCULPATORY RIDER

This instrument is executed by the Harris Bank St. Charles as Trustee under the provisions of a Trust Agreement dated 12/30/96, and known as Trust no. LT 2447, not personally, but solely as Trustee aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. This instrument is executed and delivered by the Trust solely in the exercise of the powers expressly conferred upon the Trustee under the Trust and upon the written direction of the beneficiaries and/or holders of the power of direction of said Trust and Harris Bank St. Charles warrants that it possesses full power and authority to execute this instrument. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, warranties, covenants, undertakings and agreements herein made on the part of the trustee while in form purporting to be the said representations, warranties, covenants, undertakings and agreements of said Trustee are each and every one of them not made with the intention of binding Harris Bank St. Charles in its individual capacity, but are made and intended solely for the purpose of binding only that portion of the Trust property specifically described herein. No personal liability or personal responsibility is assumed by or nor shall at any time be asserted or enforceable against the Harris Bank St. Charles on account of any representations, Warranties, (including but not limited to any representations and/or warranties in regards to potential and/or existant Hazardous Waste) covenants, undertakings and agreements contained in the instrument, (including but not limited to any indebtedness accruing plus interest hereunder) either express or implied or arising in any way out of the transaction in connection with which this instrument is executed, all such personal liability or responsibility, if any, being expressly waived and released, and any liability (including any and all liability for any violation under the Federal and/or State Environmental or Hazardous Waste laws) hereunder being specifically limited to the Trust assets, if any, securing this instrument. Any provision of this instrument referring to a right of any person to be indemnified or held harmless, or reimbursed by the Trustee for any costs, claims, losses, fines, penalties, damages, costs of any nature including attorney's fees and expenses, arising in any way out of the execution of this instrument or in connection thereto are expressly waived and released by all parties to and parties claiming, under this instrument. Any person claiming or any provision of this instrument referring to a right to be held harmless, indemnified or reimbursed for any and all costs, losses and expenses of any nature, in connection with the execution of this instrument, shall be construed as only a right of redemption out of the assets of the Trust. Notwithstanding anything in this instrument contained, in the event of any conflict between the body of this exoneration and the body of this instrument, the provisions of this paragraph shall control. Trustee being fully exempted, nothing herein contained shall limit the right of any party to enforce the personal liability of any other party to this instrument.

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

Parcel 1:

Lots 1 through 18, both inclusive, of Mill Creek, Neighborhood P, Phase I, Blackberry Township, Kane County, Illinois.

Parcel 2:

Lot 23 and Lots 26 through 51, both inclusive, of Mill Creek, Neighborhood P, Phase II, Blackberry Township, Kane County, Illinois.

Parcel 3:

Lots 81 through 89, both inclusive, of Mill Creek, Neighborhood P, Phase III, Blackberry Township, Kane County, Illinois.

EXHIBIT "B"
ADDITIONAL REAL ESTATE

Parcel 14 in Mill Creek, Blackberry and Geneva Townships, Kane County, Illinois, excepting therefrom that part thereof falling within Mill Creek, Neighborhood P, Phase I, Blackberry Township, Kane County, Illinois, and also excepting therefrom that part thereof falling within Mill Creek, Neighborhood P, Phase II, Blackberry Township, Kane County, Illinois, and also excepting therefrom that part thereof falling within Mill Creek, Neighborhood P, Phase III, Blackberry Township, Kane County, Illinois.

CONSENT OF MORTGAGEE

PARKWAY BANK & TRUST COMPANY, Mortgagee pursuant to a certain Mortgage dated August 29, 1996 and recorded September 23, 1996 in the Office of the Recorder of Deeds of Kane County, Illinois as Document Number 96K067862, does hereby consent to the recording of the foregoing Second Amendment to Declaration of Rights, Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes and agrees that the lien of the aforesaid Mortgage shall be subject to the provisions of the aforesaid Declaration.

IN WITNESS WHEREOF, PARKWAY BANK & TRUST COMPANY, as Mortgagee aforesaid, has caused its corporate seal to be affixed hereto and has caused its name to be signed to these presents by its duly authorized officers, as of the 24th day of March, 2000.

PARKWAY BANK & TRUST COMPANY
as Mortgagee aforesaid

By: [Signature]
Title: Asst.

ATTEST:

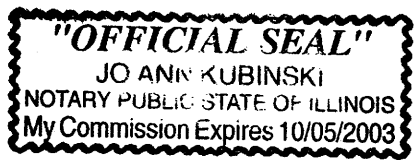
By: [Signature]
Title: Loan Operations Officer

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

I, Jo Ann Kubinski, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that David E. Hyde, Robert Hugo of PARKWAY BANK & TRUST COMPANY, and [Signature] thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Asst. Vice Pres. and Loan Operations Officer, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth.

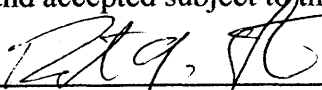
GIVEN under my hand and seal this 24th day of March, 2000.

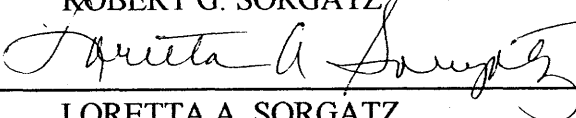
[Signature]
Notary Public



JOINDER AGREEMENT

Robert G. Sorgatz and Loretta A. Sorgatz, his wife, being the owners of Lot 26 in Mill Creek Neighborhood P, Phase II, Blackberry Township, Kane County, Illinois (the "Lot") hereby submit the Lot to the provisions of the Declaration of Rights Covenants, Conditions, Restrictions and Easements for the Mill Creek Village Homes recorded in Kane County, Illinois on October 9, 1997 as Document No. 97K068476, as amended by First Amendment to the Declaration of Rights, Covenants, Conditions, Restrictions and Easement for the Mill Creek Village Homes recorded in Kane County, Illinois on April 14, 1998 as Document No. 98K030350, as amended by Second Amendment to Declaration of Rights Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes (collectively the "Declaration"), and agree that from and after this date the Lot shall be transferred, held, sold, conveyed and accepted subject to the Declaration.



ROBERT G. SORGATZ


LORETTA A. SORGATZ

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

I, Valerie L. Frerk, a Notary Public in and for said Country, in the State aforesaid, DO HEREBY CERTIFY that ROBERT G. SORGATZ and LORETTA A. SORGATZ, his wife personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal this 16th day of March, 2000.

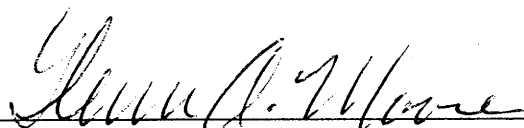





Notary Public

JOINDER AGREEMENT

GLENN A. MOORE and WENDELIN MOORE, his wife, being the owners of Lot 41 in Mill Creek, Neighborhood P, Phase II, Blackberry Township, Kane County, Illinois (the "Lot") hereby submit the Lot to the provisions of the Declaration of Rights, Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes recorded in Kane County, Illinois on October 9, 1997 as Document No. 97K068476, as amended by First Amendment to Declaration of Rights, Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes recorded in Kane County, Illinois on April 14, 1998 as Document No. 98K030350, as amended by Second Amendment to Declaration of Rights, Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes (collectively the "Declaration"), and agree that from and after this date the Lot shall be transferred, held, sold, conveyed and accepted subject to the Declaration.



GLENN A. MOORE

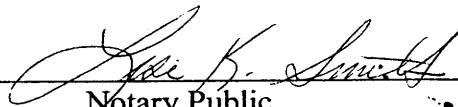


WENDELIN MOORE

STATE OF ILLINOIS)
) SS.
COUNTY OF *Kane*)

I, *Lisa K. Smith*, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that GLENN A. MOORE and WENDELIN MOORE, his wife, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal this *16th* day of *March*, 2000.



Notary Public



JOINDER AGREEMENT

VIOLET G. PETONE, being the owner of Lot 52 in Mill Creek, Neighborhood P, Phase II, Blackberry Township, Kane County, Illinois (the "Lot") hereby submits the Lot to the provisions of the Declaration of Rights, Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes recorded in Kane County, Illinois on October 9, 1997 as Document No. 97K068476, as amended by First Amendment to Declaration of Rights, Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes recorded in Kane County, Illinois on April 14, 1998 as Document No. 98K030350, as amended by Second Amendment to Declaration of Rights, Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes (collectively the "Declaration"), and agrees that from and after this date the Lot shall be transferred, held, sold, conveyed and accepted subject to the Declaration.

Violet G. Petone

VIOLET G. PETONE

STATE OF ILLINOIS)
) SS.
COUNTY OF *Kane*)

I, *Lisa K. Smith*, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that VIOLET G. PETONE, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal this *10th* day of *March*, 2000.

Lisa K. Smith
Notary Public



JOINDER AGREEMENT

WAYNE RADA and KATHLEEN RADA, his wife, being the owners of Lot 42 in Mill Creek, Neighborhood P, Phase II, Blackberry Township, Kane County, Illinois (the "Lot") hereby submit the Lot to the provisions of the Declaration of Rights, Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes recorded in Kane County, Illinois on October 9, 1997 as Document No. 97K068476, as amended by First Amendment to Declaration of Rights, Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes recorded in Kane County, Illinois on April 14, 1998 as Document No. 98K030350, as amended by Second Amendment to Declaration of Rights, Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes (collectively the "Declaration"), and agree that from and after this date the Lot shall be transferred, held, sold, conveyed and accepted subject to the Declaration.

Wayne Rada

WAYNE RADA

Kathleen Rada

KATHLEEN RADA

STATE OF ILLINOIS)
)
) SS.
COUNTY OF)

I, AMY J. ENGSTROM - MASON, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that WAYNE RADA and KATHLEEN RADA, his wife, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and seal this 15th day of March, 2000.

Amy Engstrom
Notary Public
OFFICIAL SEAL
AMY J. ENGSTROM-MASON
Notary Public, State of Illinois
My Commission Expires 03/16/03

JOINDER AGREEMENT

SHO-DEEN, INC., a corporation created and existing under and by virtue of the laws of the State of **Illinois** and duly authorized to transact business in the State of **Illinois**, being the owner of Lot 23 and 47 in Mill Creek Neighborhood P, Phase II, Blackberry Township, Kane County, Illinois, (the "Lot") hereby submit the Lot to the provisions of the Declaration of Rights Covenants, Conditions, Restrictions and Easements for the Mill Creek Village Homes recorded in Kane County, Illinois on October 9, 1997 as Document No. 97K068476, as amended by First Amendment to the Declaration of Rights, Covenants, Conditions, Restrictions and Easement for the Mill Creek Village Homes recorded in Kane County, Illinois on April 14, 1998 as Document No. 98K030350, as amended by Second Amendment of Rights, Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes (collectively the "Declaration"), and agree that from and after this date the Lot shall be transferred, held, sold, conveyed and accepted subject to the Declaration.

SHO-DEEN, INC.

By: *Kent W. Shodeen*
Kent W. Shodeen; Chairman and C.E.O.

Attest: *Judy A. Basar*
Judy A. Basar; Treasurer

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

I, **Lisa K. Smith**, the undersigned, a Notary Public in and for said County, in the State aforesaid, CERTIFY THAT **Kent W. Shodeen** personally known to me to be the **Chairman and C.E.O.** of the **Sho-Deen, Inc.**, and **Judy A. Basar** personally known to me to be the **Treasurer** of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and severally acknowledged that as such Chairman and C.E.O. and **Treasurer**, they signed, sealed and delivered the instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 24th Day of March, ²⁰⁰⁰1999.

Lisa K. Smith
Notary Public

My commission expires on 2/26/02



PINS:

PARCEL 1

11-12-407-001-014 AND
11-12-408-001-004

PARCEL 2:

11-12-407-016
11-12-402-001-009
11-12-260-001-007
11-12-261-001-004
11-12-403-001-006

PARCEL 3:

11-12-401-003
11-12-401-004
11-12-426-002 AND
11-12-426-007 all underlying

PARCEL 4:

11-12-252-010, 011
11-12-401-003 + 004
11-12-426-002 + 003 + 007
12-07-361-002 + 003 + 004

Vacant land, Geneva, Illinois

PREPARED BY AND AFTER
RECORDING RETURN TO:
William B. Phillips, Esq.
Levin, McParland, Phillips & Leydig
180 North Wacker Drive
Chicago, Illinois 60606

PA 3.00

97K068476

FILED FOR RECORD
KANE COUNTY, ILL.

97 OCT -9 PM 2:30

Lynda M. Reina
RECORDER

FOR RECORDERS USE ONLY

**DECLARATION OF RIGHTS, COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR THE MILL CREEK VILLAGE HOMES**

THIS DECLARATION is made and entered into this 9th day of October,
1997 by HARRIS BANK ST. CHARLES, not personally but solely as Trustee under the
provisions of a Trust Agreement dated December 30, 1996 and known as Trust No. LT-2447
(hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, the Declarant is the owner and legal title holder of certain real estate in the
County of Kane and State of Illinois which real estate is legally described in Exhibit "A" attached
hereto and by this reference made a part hereof (the "Property"); and

WHEREAS, Sho Deen, Inc., an Illinois corporation (the "Developer") presently intends
to construct on the Property single family dwellings (the "Village Homes"), which will require
uniformity and continuing care and maintenance for the privacy, benefit and enjoyment of all
persons owning and residing in the Village Homes; and

WHEREAS, the Developer has deemed it desirable for the preservation of the values and
amenities of the Property to create an agency to which shall be delegated and assigned the
powers of maintaining and administering certain areas of the Property and the administering and
enforcing the covenants and restrictions hereinafter contained and created; and

WHEREAS, the Developer will incorporate under the laws of the State of Illinois, as a
not-for-profit corporation, The Mill Creek Village Homeowners Association for the purpose of
exercising the functions aforesaid; and

MILLCRNP1 (*)

43.00

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WHEREAS, the Developer desires to establish for its own benefit and the mutual benefit of all future owners, tenants and occupants of the Property and any part thereof, certain easements and rights in, over, under, upon and along the Property and certain mutually beneficial restrictions and obligations with respect to the use, conduct and maintenance thereof; and

NOW, THEREFORE, the Declarant hereby declares that the Property described in Exhibit "A" is and such shall be transferred, held, sold, conveyed and accepted subject to this Declaration of Covenants, Conditions, Restrictions and Easements. The Declarant does hereby further declare that the following easements, covenants, restrictions, conditions and burdens, uses, privileges, charges and liens shall: (1) exist at all times hereafter amongst all parties having or acquired right, title or interest in any portions of the Property; (2) be binding upon and inure to the benefit of each Owner (as hereinafter defined); and (3) run with the land subject to this Declaration, to be held, sold and conveyed subject thereto.

ARTICLE I DEFINITIONS

Section 1.01. "Association" shall mean and refer to the Mill Creek Village Homeowners Association, an Illinois not-for-profit corporation.

Section 1.02. "Board" shall mean the Board of Directions of the Association as constituted at any time or from time to time, in accordance with the applicable provisions of Article III.

Section 1.03. "By-Laws" shall mean the By-Laws of the Mill Creek Village Homeowners Association, a copy of which is attached as Exhibit "B" hereto and by this reference made a part hereof.

Section 1.04. "Common Areas" shall mean all real property owned by the Association for the common use and enjoyment of all Members of the Association and such uses thereto by way of easement or other grant from the Declarant, the Association or others as may be granted to or by the Association for the common use and enjoyment of the Owners.

Section 1.05. "Landscaped Areas" shall mean that part of the Common Areas and islands in the public right-of-way which have been landscaped with grass, trees, shrubbery, berms and other forms of vegetation and physical landscaping.

Section 1.06. "Lot" shall mean and refer to that portion of the Property which shall be a subdivided lot created by a recorded plat of subdivision and upon which one (1) Village Home is constructed or will be constructed and title to which shall be conveyed to an Owner by deed.

Section 1.07. "Member" shall mean and refer to any person or entity who holds membership in the Association.

Section 1.08. "Occupant" shall mean any person or persons other than the Owner in possession of a Village Home.

Section 1.09. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot (as hereinafter defined) including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include the Developer to the extent of the number of Lots owned by the Developer or the Declarant and also includes the interest of the Declarant or of the Developer as contract seller of any Lot.

Section 1.10. "Property" shall mean and refer to that certain real estate described in Exhibit "A".

Section 1.11. "Village Home" shall mean a detached single family residential house constructed on a Lot by the Developer upon the Property.

ARTICLE II
MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot, including a contract seller, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification of membership. Nothing herein contained shall be interpreted to exclude Developer from membership while it or its successors in interest, if any, owns one or more Lots. Voting rights with regard to each Member are set forth in Article III hereof.

ARTICLE III
VOTING RIGHTS AND BOARD OF DIRECTORS

Section 3.01. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all those Owners defined in Article II, with the exception of the Developer. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article II. When more than one person holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Developer. The Class B Member shall initially be entitled to five hundred eighty-five (585) votes, provided that the number of votes of the Developer shall be reduced by three (3)

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votes for each Lot conveyed by the Declarant to an Owner other than the Developer.

Section 3.02. No Owner of any interest in any Lot shall have any right or power to disclaim, terminate or withdraw from his membership in the Association or any of his obligations as such Member, and no purported disclaimer, termination or withdrawal thereof or therefrom on the part of any Owner shall be of any force or effect for any purpose.

Section 3.03. The Association shall have a Board of five (5) Directors who shall be elected by the Members of the Association at such intervals as the corporate charter and By-Laws of the Association shall provide, except that any vacancies in the Board occurring between regularly scheduled meetings of the Members may be filled by the Board by majority vote if so provided by the corporate charter or By-Laws. Notwithstanding the foregoing, until the initial meeting of the Members as provided in the By-Laws, the first Board shall consist of three (3) persons who shall be appointed by the Developer and shall serve until resignation or their successors have been appointed by the Developer or elected at the initial meeting of the Members, whichever is applicable. The Association shall have such officers as shall be appropriate from time to time, who shall be elected by the Board, and who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly otherwise provided by the charter or By-Laws, all power and authority to act on behalf of the Association both pursuant to this Declaration and otherwise shall be vested in its Board from time to time and its officers under the direction of the Board, and shall not be subject to any requirement of approval on the part of its Members. The corporate charter and By-Laws of the Association may include such provisions for the protection and indemnification of its officers and directors as shall be permissible by law.

Section 3.04. The Association, being a not-for-profit corporation, shall not distribute to its Members any sums in the nature of dividends upon its shares. To the extent that funds shall not be required for current expenditures or for reserves, the next monthly assessments may, in the discretion of the Board, be eliminated or the amount thereof appropriately reduced. Such reduction shall not prevent reinstatement of or increase in such assessments when required, but such reinstatement or increase shall not be retroactive.

Section 3.05. Whenever possible, the Association shall perform its functions and carry out its duties by entering into agreements for the performance thereof with such persons and business entities regularly engaged in the performance of generally similar functions and duties as the Board shall determine, which agreements shall be for such length of time, at such rates of compensation and upon such other terms and provisions as the Board shall determine from time to time. Such persons or business entities may, but need not, be persons or business entities owning or otherwise directly or indirectly interested in the Property or any part thereof. The Association itself shall also have power to perform its functions and carry out its duties.

Section 3.06. The Association, through the resolutions of the Board, shall have the right to adopt rules and regulations governing the Lots and the use thereof.

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Section 3.07. The books and records to be kept by the Board shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, or any holder of a first mortgage lien of a Lot at such reasonable times during the normal business hours as may be requested by the Owner or by the holder of said first mortgage lien.

ARTICLE IV
MAINTENANCE OF COMMON AREAS BY THE ASSOCIATION

Section 4.01. Common Area Care. To the extent such services are not performed by the Mill Creek Special Service Area, the Association shall maintain the Common Areas, including the Landscaped Areas, in a manner which will enhance and protect the value, desirability, appearance and aesthetics of the Property, which maintenance shall include, but not be limited to:

- a). the mowing of Landscaped Areas;
- b). cultivating of Landscaped Areas;
- c). trimming and feeding of evergreens and shrubs;
- d). snow removal on sidewalks and driveways;
- e). fertilizing and weed control programs;
- f). spraying, feeding and trimming of trees;
- g). replacement of Landscaped Areas, shrubbery, trees, evergreens and plantings as required from time to time.

The Association shall have the right to draw water from individual Village Homes as required for the efficient performance of its duties hereunder.

Section 4.02. Easements for Common Area Maintenance. The Association is hereby granted an easement over, under and upon each Lot as may be necessary or convenient for the maintenance of the Common Areas (together "Easement Areas") and the Association, its agents and employees, shall have the right to go upon such Easement Areas for such purposes.

ARTICLE V
RESTRICTIONS AND EASEMENTS

Section 5.01. Restrictions Relating to Lots and Village Homes.

a). Use. Each Lot and Village Home shall be used exclusively for residential purposes. No Lot or Village Home shall be used at any time for business or commercial activities; PROVIDED, HOWEVER, until such time as Declarant has conveyed all the Lots to Owners other than the Developer, the Developer, or its nominee, may use any part of the Property for model homes, promotions, displays and sales offices, construction offices, buildings for storage or equipment and necessary open storage of equipment, or to provide the services necessary and required pursuant to the provisions hereof.

b). Village Home Standards. All Village Homes shall be initially constructed in accordance with plans and specifications approved by the Developer, or its successor, and all applicable governmental requirements, including but not limited to compliance with building and side yard set back requirements and height restrictions.

No television or radio antennas or towers or swimming pools shall be permitted at any time. Satellite disk systems shall not exceed eighteen inches (18") in size and shall be installed in a discrete location approved by the Developer, or its successor.

No Village Home shall be rebuilt, reconstructed, added to, or have the exterior elevation remodeled or changed in any way except in accordance with plans and specifications approved by the Developer, or its successor.

c). Architectural Controls. All plans, specifications and other materials pertinent to any proposed construction or reconstruction shall be submitted to the Developer, or its successor, together with the payment of Fifty Dollars (\$50.00). A report in writing setting forth the decisions of the Developer, or its successor, shall thereafter be transmitted to the applicant within thirty (30) days after the date of filing of the plans, specifications and other material by the applicant. The decisions of the Developer, or its successor, shall be binding on all Owners. The Developer, or its successor, following the submission of the aforesaid, will aid and assist the Owner and will make every attempt to reasonably cooperate with the wishes of the Owner. Owners are encouraged to submit preliminary sketches for "informal comment" prior to the submittal of drawings and specifications for full review. In the event the Developer, or its successor, fails to approve or disapprove the final plans, specifications and other material within thirty (30) days as required in this Declaration, approval shall not be required and the related requirements of this Declaration shall be deemed to have received compliance.

Once all the Lots have been sold by the Declarant the Association shall take over the obligations of the Developer contained herein.

d). Noxious or Offensive Activities. No noxious or offensive activities shall be carried on in any part of the Property, nor shall anything be done which is or may become a nuisance or cause a disturbance or annoyance to others.

e). No Hazardous Activities. No activities shall be conducted in any part of the Property, and no improvements shall be constructed thereon which are or might be unsafe or hazardous. Without limiting the generality of the foregoing, no firearms shall be discharged, and no open fires shall be lighted or permitted, excepting in a contained barbecue at ground level while attended and in use for cooking purposes, or within a safe and well designed interior fireplace.

f). Unsightliness. No unsightliness shall be permitted, and all utility lines shall be underground.

g). Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred, or kept at the Property except dogs, cats or other common household pets [not to exceed a total of two (2) pets] may be kept in a Village Home, provided, that they are not kept, bred or maintained for any commercial purposes and are in compliance with all applicable rules and regulations promulgated by the Association.

h). Laundry. No clothes, sheets, blankets or other household articles shall be hung or exposed on any part of a Lot.

i). Debris. No storage piles or materials shall be kept except within a Village Home and no lumber, grass, shrubbery, tree clippings, plant waste, metals, bulk materials, scrap, refuse or trash shall be kept, stored or allowed to accumulate on any part of a Lot. Materials for fireplace use and storage of refuse and trash shall be at places and in containers as prescribed by Rules and Regulations promulgated by the Association from time to time.

j). Lights, Sound and Odors. No exterior lighting shall be installed on any part of a Lot which is unreasonably bright or causes unreasonable glare; PROVIDED, HOWEVER, that each Owner may install exterior lighting which shall be either indirect or of such controlled focus and intensity so as to not disturb residences of adjoining Lots, which exterior lighting is subject to regulation by the Association. No sounds shall be emitted which are unreasonably loud and annoying and no odors shall be emitted which are noxious or offensive to others.

k). Temporary Structures. No tent, shed, or temporary building or structure shall be placed upon any Lot; PROVIDED, HOWEVER, that until such time as the Declarant has conveyed all the Lots to Owners other than the Developer, the Developer may erect construction sheds, temporary construction buildings and other like above grade structures which are required in the improvement of the Property with Village Homes or as otherwise permitted by the provisions of the Declaration.

l). Signs. No sign or other advertising device shall be erected or maintained on any Lot or on or inside any Village Home or on any part of the Common Areas; PROVIDED, HOWEVER, that until such time as the Declarant has conveyed all the Lots to Owners other than the Developer, the Developer may maintain signs advertising the sale of Village Homes, including but not limited to entrance signs and other signs or advertising devices reasonably necessary to implement and facilitate the residential use and enjoyment of the Property. For sale signs may be placed on a Lot by an Owner in accordance with Regulations promulgated by the Association from time to time.

m). Grading. Except as shall be designed or performed by the Developer, there shall be no change in the grading of the Property after completion of the Village Homes and grading of the Lots, nor shall any established pattern of drainage of surface waters be altered without the approval of the Association or the Developer.

n). Parking. All Owners and Occupants shall use their respective garages for the parking and storage of motor vehicles; PROVIDED, HOWEVER, that the use of such driveways for the permanent parking of commercial vehicles is prohibited and provided further that all recreational vehicles must be stored in a closed garage. For the purposes hereof, recreational vehicles shall include, but shall not be limited to, campers, mobile homes, trailers, boats and snowmobiles. All such parking shall be further regulated by the Rules and Regulations promulgated by the Association from time to time.

o). Planting. No plants or seeds, trees, shrubberies or bushes incompatible with the natural aesthetics of the Property will be permitted, no such vegetation shall be permitted on the Lots or Landscaped Areas and no plants, trees or shrubberies shall be removed without the prior written approval of Developer or Association.

p). Fences. No fences shall be permitted on the Lots except for fences which comply with the following standards. Fencing or fence columns may be up to 3'6" in height in a front or corner side yard facing a street (and for a distance of 10 feet behind the facade facing a street along a side lot line) and up to 6'0" in height in all other areas. Fences must be set back 12" or more from a public

sidewalk. Fences or garden walls may be solid stone or masonry up to 12" in height and wood or metal with open pickets up to 6'0" in height. Additional privacy in private garden areas may be created with planted hedges that are maintained to a height of 6'0". Fences must be constructed using compatible, complimentary, or same materials, and have similar styling and details, as the home.

Section 5.02. Easement for Police and Fire Protection. An easement is hereby granted to the County of Kane (the "County") to go upon the Lots and the Common Areas for the purpose of providing police and fire protection services and maintaining and repairing those portions of the Lots (streets, sidewalks, sewer and water mains and lines) which the County shall deem to require maintenance or repair for the purpose of keeping (a) the streets and sidewalks thereon open at all times for the passing of fire, police and other emergency vehicles, personnel and equipment from the date such notice is received; and (b) the sewer and water main lines functioning and for their intended purposes.

Section 5.03. Easement For Use of Common Areas. Each Owner and their respective guests, invitees and employees shall have a non-exclusive easement for the use and enjoyment in and to the Common Areas subject to the following: (a) the right of the Association to pass reasonable rules and regulations relating to such use and enjoyment; (b) the right of the Association to suspend an Owner's right to use or enjoy such easement for any period during which such Owner may be in violation of this Declaration; (c) the right of the Association to levy assessments as herein provided; and (d) any and all rights reserved to the Declarant, the Developer and the Association as herein provided.

Section 5.04. Easement For Drainage and Utilities. A non-exclusive easement for the installation and maintenance of drainage facilities and utility easements is hereby granted to the Association and reserved by the Declarant over, under, across and through the Common Areas. If any such drainage or utility facilities are not installed or if any easements for such purposes are not created with respect to a Lot or any portion thereof prior to delivery of a deed to an Owner, the Owner hereby grants to the Declarant and the Association a power of attorney to execute and record any such easements with respect to any Lots owned by said Owner for the benefit of the Property. The foregoing power of attorney is hereby coupled with an interest and is therefore irrevocable.

Section 5.05. Easement Reserved For Common Area Repairs. The Declarant, the Developer, the Association and any of their respective agents, employees and independent contractors shall have the right to enter upon the Common Areas and any Lot to the extent necessary for the purpose of maintaining, repairing and replacing the Common Areas and any improvements in, on, under or upon the Common Areas as herein provided or for performing any of their respective obligations herein provided. In any such case, the Declarant, the Developer, the Association or any of their agents, employees or independent contractors shall not be guilty of any trespass. 9

Section 5.06. Easement Reserved For Utility Repairs. The Declarant, the Developer and the Association hereby reserve the right to grant easements for ingress, egress, installation, construction, reconstruction, maintenance, repair, operation and inspection of utility services over, under, across and through the Common Areas as they deem necessary or desirable in order to effectuate the intent of this Declaration.

Section 5.07. Easement For Golf Balls. The Declarant hereby reserves an easement over the Property for the benefit of the Declarant, the Developer, the Mill Creek Country Club, Inc. and their respective agents, employees, guests, invitees, licensees, successors and assigns to enter upon the Property to retrieve golf balls which have been hit thereon. By acceptance of a deed to a Lot and Village Home the Owner assumes all liability for any damage caused by golf balls being hit onto the Property.

ARTICLE VI MAINTENANCE OF VILLAGE HOMES

Section 6.01. Each Owner shall carry out or cause to be performed all maintenance and repairs to the exterior of the Village Homes and the Lots including, without limitation, all masonry walls, including the foundations thereof, front masonry steps, roofs, gutters and downspouts made necessary and desirable as a result of natural or ordinary wear and deterioration. Each Owner shall, in addition, carry out or cause to be performed all such maintenance and repairs of all water, sewer, gas, telephone and electrical lines incorporated in and forming a part of the Village Home and located within the boundaries of the Lot owned by such Owner. In addition, each Owner shall have the obligation to maintain in good condition and repair his glass surfaces, windows, front entry and garage doors, electrical fixtures, patio, and walkways located on his or her Lot. Upon the failure of any Owner to maintain those areas which are not the maintenance responsibility of the Association, the Association, through its agents and employees, is hereby granted the right to enter upon the Lot and make such reasonable repairs, maintenance, rehabilitation or restoration of the premises as may be necessary, and the costs thereof shall become a lien upon the Lot in the same manner as provided in Article VII hereof for nonpayment of maintenance assessments, including the provision for interest and attorneys' fees as provided in Section 7.06.

ARTICLE VII COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 7.01. The Developer, for each Lot owned within the Property, hereby covenants, and each Owner by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (a) annual assessments or charges; and (b) special assessments for capital improvements or such other improvements upon the Property, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made.

Each such assessment, together with such interests, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them, but shall continue to be a lien upon the Lot until paid.

Section 7.02. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in the Property and in particular for the improvement and maintenance of the Property, services and facilities devoted to this purpose and of the Village Homes situated upon the Property. Such uses shall include, but are not limited to, the cost to the Association of maintaining the Common Areas as may from time to time be authorized by the Association, and other facilities and activities including, but not limited to, mowing grass, caring for the grounds, landscaping, equipment, street lighting, if any, all sanitary and storm sewer and water lines, structures and appurtenances (other than maintained by any governmental authority or utility company), perimeter fencing, if any, and other charges required by this Declaration or that the Association shall determine to be necessary or desirable to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, replacements, taxes and other charges as specified herein. In addition, water, waste removal and/or any utilities which are not separately metered or otherwise directly charged to individual Owners shall be paid for by the Association from the maintenance fund. The Association reserves the right to levy additional assessments against any Owner to reimburse it for excessive use by such Owner of any utility service, the expense of which is charged to the maintenance fund. At the time each Village Home is first occupied, the Owner shall pay (in addition to the first monthly assessment) to the Association, or as otherwise directed by the Association, an amount equal to two (2) times the first full monthly assessment for such Owner, which amount shall be used and applied as a working capital fund in the manner herein provided. In the event, however, that the Association determines that there exists a surplus in the replacement reserve, the Association shall have the authority to transfer such funds into the operating account to fund any deficit in said account.

Section 7.03. The Association shall be authorized to fix the annual assessment in an amount sufficient to meet the costs and expenses as contained in Section 7.02 hereof. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair, maintenance or replacement (including those items of maintenance and repair set forth in Section 4.01 hereof).

Section 7.04. The annual assessments must be fixed at a uniform rate for all Lots, and shall be paid by the Owners in equal monthly installments.

Section 7.05. The annual assessments provided for herein shall commence for all Lots on the first day of the month following the conveyance of the first Lot, except as otherwise provided in Section 7.08 hereof. The Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period and in lieu thereof, the amount of the prior year's annual assessment shall be the fixed amount. Written

notice of any changed amount of annual assessment shall be given one month before the effective date of the changed amount of the assessment. An Owner shall first be liable for payment of the full monthly assessment on the first day of the month following conveyance of a Lot to such Owner. This payment shall be in addition to the prorated portion of the monthly assessment which the Owner shall pay as of the date title to the Lot is conveyed to such Owner. The Association shall upon demand at any time furnish a certificate in writing signed by an officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid and, if not paid, the amount of any such deficiency. Such certificates shall be conclusive evidence of payment of any assessment therein.

Section 7.06. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve per cent (12%) per annum, and the Association may bring an action at law or in equity against the Owner personally obligated to pay the same, or foreclose the lien against the respective Lot and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. Each Owner, by acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a foreclosure of a mortgage or deed of trust lien on real property.

Section 7.07. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed on the Lots, provided, however, that such recorded mortgage shall be subject to the lien of all unpaid assessments with respect to such Lot which became due and payable subsequent to the date the holder of said mortgage takes possession of the Lot, accepts a conveyance of any interest in the Lot or has a receiver appointed in a suit to foreclose the lien of such mortgage.

Section 7.08. With regard to any Lots upon which Village Homes are being constructed or have been completed and title has not been conveyed by the Declarant, the assessment respecting any such Lot shall be limited to the aggregate amount of actual operating expenses from time to time required to be paid with respect to such Lot, provided, however, that in the event the Developer enters into a lease or installment contract for any Lot, then the Developer shall be responsible for any payment of assessments on those Lots on the same basis as any other Owner as provided in Section 7.01 hereof. Actual operating expenses shall mean those ordinary expenses attributable only to the period in question covering the maintenance and operation of the Property and shall not include capital expenditures, amounts set aside as a reserve for contingencies or replacements, prepaid items or inventory items to the extent attributable to subsequent periods. Until such time as the Declarant has conveyed title to seventy-five per cent (75%) of the Lots to Owners other than the Developer, the assessments covering the Lots which have not been sold by the Developer may be paid on a monthly basis or, at its option, paid to the Association at the close of each calendar year without interest.

ARTICLE VIII
INSURANCE

Section 8.01. The Association shall be further responsible for maintaining such policies of insurance against public liability, vandalism and malicious mischief endorsements as the Association may deem desirable insuring the Association and the Members from liability in connection with the ownership and/or use of the Common Areas, provided that such policies shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days written notice to the Association. The Association may also obtain such other kinds of insurance as the Association shall from time to time deem prudent.

Section 8.02. Each Owner shall procure and maintain in full force at all times insurance covering such Owner's Lot and Village Home consisting of, or providing all the protections afforded by, the insurance now generally described as fire, extended coverage, additional extended coverage, vandalism and malicious mischief, to one hundred per cent (100%) of the full insurable value thereof, with loss payable on the basis of the cost of replacement without deduction for depreciation. In the event a Village Home or any portion thereof shall be damaged or destroyed by fire or other casualty, the Owner shall cause it to be repaired, restored or rebuilt, as the case may be, as rapidly as possible to at least as good condition as existed immediately prior to such damage or destruction and in accordance with plans and specifications approved by the Developer, or its successors, and shall conform in all respects to all applicable laws or ordinances regulating the construction of buildings in force at the time of such repair or reconstruction.

ARTICLE IX
INTERIM PROCEDURE

Section 9.01. Until the Declarant shall have conveyed all of the Lots to Owners other than the Developer, the Developer shall, with respect to each such unsold Lot, have all the rights granted to the Owners.

Section 9.02. Until the initial meeting of the Members, the Developer shall appoint the Board which shall have the same powers and authority as given to the Board generally.

Section 9.03. The powers granted to the Developer by Section 9.02 hereof shall include, without limitation, the power to assess upon and collect from the individual Owners, their respective proportionate shares of the funds required for the carrying out of all the duties and obligations of the Association.

Section 9.04. Until such time as the Declarant has conveyed all of the Lots to Owners other than the Developer, the Developer shall have the right to use the Property and the Common Areas in such a manner as is reasonably necessary and desirable for the construction of the Village Homes and the development of the Property. Developer shall not be bound by any covenant or restriction hereof which would restrict or interfere with their ability to construct the

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Village Homes, develop the Property or sell Village Homes to the public. This right shall be deemed a power coupled with an interest and shall not be modified or abridged by any amendment to or modification of this right without the prior written consent of the Developer and the Declarant.

ARTICLE X
MISCELLANEOUS

Section 10.01. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, easements, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Any Owner found to be in violation by a court of competent jurisdiction of any of the foregoing shall also be liable for reasonable attorneys' fees incurred by the Association in prosecuting such action. The amount of such attorneys' fees together with court costs, if unpaid, shall constitute an additional lien against the defaulting Owner's Lot, enforceable as other liens herein established. Failure by the Association or by 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.

Section 10.02. Invalidation of any of these covenants or restrictions by judgment or order shall in no way affect any other provisions which shall remain in full force and effect.

Section 10.03. The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, subject to amendment as hereinafter set forth. Except with respect to the rights reserved by the Developer, the covenants and restrictions of this Declaration may be amended during the first fifty (50) year period or within any successive ten (10) year period by an instrument signed by those Members (Class A and Class B) entitled to cast seventy-five per cent (75%) of the total votes and as provided in Article III, Section 3.01 hereof and then properly recorded. These covenants and restrictions may also be cancelled or amended by an instrument signed by sixty per cent (60%) of Owners executed and recorded within ninety (90) days of the expiration of any successive ten (10) year period, such cancellation or amendment to be effective on the date of commencement of the ten (10) year period in question. Any instrument executed pursuant to the provision contained in this Section shall be filed for record in the Office of the Recorder of Deeds of Kane County, Illinois, and a true, complete copy of such instrument shall be transmitted to each Owner promptly.

Section 10.04. If and to the extent that any of the covenants would otherwise be unlawful or void for violation of (a) the rule against perpetuities; (b) the rule restricting restraints on alienation; or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provision concerned shall continue and endure only after the expiration of a period of twenty-one (21)

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years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of Kent W. Shodeen alive at the date of this Declaration.

Section 10.05. Any notices required to be sent to any member of the Association or to an Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Member or Owner as it appears on the records of the Association at the time of such mailing.

Section 10.06. If at any time or times the Board shall deem it necessary or advisable to re-record this Declaration or any part hereof in the Office of the Recorder of Deeds of Kane County, Illinois, in order to avoid the expiration hereof or of any of the covenants, easements, agreements or other provisions herein contained under any of the provisions of the laws of the State of Illinois presently in force commonly known as the Marketable Title Act, or any other law or statute of similar purport, they shall submit the matter to a meeting of the Members called upon not less than ten (10) days notice, and unless at such meeting at least two-thirds (2/3) of Members shall vote against such rerecording, the Association shall have, and is hereby granted, power to so rerecord this Declaration or such part thereof, and such rerecording shall be binding upon all Owners in every way and with all the full force and effect as though such action were taken by each of said Owners and rerecorded document executed and acknowledged by each of them.

Section 10.07. All the easements, rights, covenants, agreements, reservations, restrictions and conditions herein contained shall run with the land and shall inure to the benefit of and be binding upon the Declarant and each subsequent holder of any interest in any portion of the Property and their grantees, heirs, successors, personal representatives and assigns with the same full force and effect for all purposes as though set forth at length in each and every conveyance of the Property or any part thereof. Reference in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of such parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents.

Section 10.08. In amplification of and in addition to the provisions contained in Article VII, Section 7.07, in the event of any default of any Owner, the Association, all other Owners may and shall have all rights and remedies as shall otherwise be provided or permitted by law, including the right to take possession of such Owner's interest and Lot for the benefit of all other Owners by an action for possession in the manner prescribed in the Forcible Entry and Detainer Act of the State of Illinois.

Section 10.09. Notwithstanding anything in the Declaration to the contrary, with regard to the provisions of Section 10.03 dealing with the method of amending the Declaration and Section 7.07 which expressly subordinates the lien of the Association for unpaid assessment to the lien of any mortgage on any Lot, no amendment to, changes or modification of these Sections shall be effective unless such change or amendment shall be first consented to, in writing, by all mortgagees of record of such Lots.

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Section 10.10. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first class cooperative housing development.

Section 10.11. This Declaration is executed by Harris Bank St. Charles, as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee (and warrants that it possesses full power and authority to execute this instrument). It is expressly understood and agreed by every person, firm or corporation hereafter claiming any interest under this Declaration that Harris Bank St. Charles, as Trustee aforesaid, and not personally, has joined in the execution of this Declaration for the sole purpose of subjecting the title holding interest and the trust estate under said Trust No. LT-2447 to the terms of this Declaration; that any and all obligations, duties, covenants and agreements of every nature herein set forth by Harris Bank St. Charles as Trustee aforesaid, to be kept and performed, are intended to be kept, performed and discharged by the beneficiaries under said Trust No. LT-2447 or their successors, and not by Harris Bank St. Charles personally; and further, that no duty shall rest upon Harris Bank St. Charles, either personally or as such Trustee, to sequester trust assets, rentals, avails or proceeds of any kind, or otherwise to see to the fulfillment or discharge of any obligation, express or implied, arising under the terms of this Declaration, except where said Trustee is acting pursuant to direction as provided by the terms of said Trust No. LT-2447 and after the Trustee has first been supplied with funds required for the purpose. In the event of conflict between the terms of this paragraph and of the remainder of the Declaration on any question of apparent liability or obligation resting upon said Trustee, the exculpatory provision hereof shall be controlling.

IN WITNESS WHEREOF, the said Harris Bank St. Charles, as Trustee as aforesaid, and not individually, has caused its corporate seal to be affixed hereunto and has caused its name to be signed to these presents by its Trust Officer & Vice President and attested by its Assistant Vice Secretary this 9th day of October, 1997. President

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Subject to Exculpatory Rider Attached

DECLARANT:

HARRIS BANK ST. CHARLES, as Trustee
of Trust No. LT-2447

By: [Signature]
Cheryl Fair, Vice President & Trust Officer

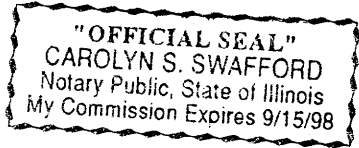
ATTEST:
By: [Signature] Title:
Deborah A. Buck, Assistant Vice President

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

I, Carolyn S. Swafford, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Cheryl Fair, IO & Vice President of HARRIS BANK ST. CHARLES, not personally but solely as Trustee pursuant to Trust Agreement dated December 30, 1996 and known as Trust No. LT-2447, and Deborah A. Buck, Assistant Vice President, Secretary thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such IO & Vice President and Asst. Vice Pres. Secretary, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth; and the said Asst. Vice Pres. Secretary did also then and there acknowledge that as custodian of the corporate seal of said Corporation, did affix the said corporate seal of said Corporation to said instrument as her own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this 9th day of October, 1997.

[Signature]
Notary Public



SHO-DEEN, INC.

[Signature]
Craig A. Shodeen, President

[Signature]
Nick Custer, Director of Sales

CONSENT OF MORTGAGEE

Parkway Bank & Trust Company, Mortgagee pursuant to a certain Mortgage dated August 29, 1996 and recorded September 23, 1996 in the Office of the Recorder of Deeds of Kane County, Illinois as Document Number 96K067862, does hereby consent to the recording of the foregoing Declaration of Covenants, Conditions, Restrictions and Easements for The Mill Creek Village Homes and agrees that the lien of the aforesaid Mortgage shall be ~~subject~~^{superior} to the provisions of the aforesaid Declaration.

IN WITNESS WHEREOF, Parkway Bank & Trust Company, as Mortgagee aforesaid, has caused its corporate seal to be affixed hereto and has caused its name to be signed to these presents by its duly authorized officers, as of the 4th day of October, 1997.

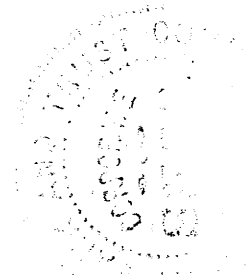
Parkway Bank & Trust Company,
as Mortgagee aforesaid

By: Paul Gembara, AVP
Title: Asst. Vice President

ATTEST:

By: John Langbein
Title: Loan Officer

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)



I, Caterina Fricano, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Paul Gembara, Assistant Vice, President of Parkway Bank & Trust Company, and John Langbein, Loan Officer ~~Secretary~~ thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Asst. Vice President and Loan Officer ~~Secretary~~, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth; and the said Loan Officer ~~Secretary~~ did also then and there acknowledge that as custodian of the corporate seal of said Corporation, did affix the said corporate seal of said Corporation to said instrument as his own free and voluntary act, and as the free and voluntary act of said Corporation for the uses and purposes therein set forth.

GIVEN under my hand and seal this 4th day of October, 1997.



Caterina Fricano
Notary Public

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EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 of Mill Creek, Neighborhood P,
Phase I, Blackberry Township, Kane County, Illinois.

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EXHIBIT "B"
BY-LAWS

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BY-LAWS OF
THE MILL CREEK VILLAGE HOMEOWNERS ASSOCIATION

ARTICLE I
PURPOSES AND POWERS

The Association shall be responsible for the general management and supervision of the Property and shall have all of the powers to perform, and shall be responsible to perform, all of the obligations provided in the Declaration of Covenants, Conditions, Restrictions and Easements recorded on _____, 1997 in Kane County, Illinois as Document No. _____ (the "Declaration"). Any capitalized terms which are not defined herein shall have the meaning contained in the Declaration. Further, the Association shall have all powers now or hereafter granted by the General Not-For-Profit Corporation Act of the State of Illinois which shall be consistent with the purposes specified herein and in the Declaration.

ARTICLE II
OFFICES

2.01. Registered Office. The Association shall have and continuously maintain in this State a registered office and a registered agent whose office shall be identical with such registered office. The Association may have other offices within or without the State of Illinois as the Board of Directors may from time to time determine.

2.02. Principal Office. The principal office of the Association shall be maintained in Kane County, Illinois.

ARTICLE III
MEMBERSHIP

3.01. Voting Members. Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of such Lot shall be the sole qualification of membership. Nothing herein contained shall be interpreted to exclude the Declarant from membership while it, or its successors in interest, if any, owns one or more Lots. Voting rights with regard to each Member are set forth in Section 3.02 hereof.

3.02. Classes of Membership. The Association shall have two (2) classes of voting membership:

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Class A. Class A Members shall be all those Owners as defined in Section 3.01, with the exception of the Developer. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 3.01. When more than one person holds such interest in any Lot, all such persons shall be Members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Developer. The Class B Member shall be entitled to five hundred eighty-five (585) votes provided that the number of votes of the Developer shall be reduced by three (3) votes for each Lot conveyed by the Declarant to an Owner other than the Developer.

3.03. Meetings.

a). Quorum and Procedure. Meetings of the Members shall be held at the principal office of the Association or at such other place in Kane County, Illinois as may be designated in any notice of a meeting. The presence at any meeting, in person or by proxy, of a majority of the total votes determined pursuant to Section 3.02 above shall constitute a quorum. Unless otherwise expressly provided herein, any action may be taken at any meeting of the Members at which a quorum is present upon the affirmative vote of the Members having a majority of the total votes present at such meeting. Any Member in writing may waive notice of a meeting, or consent to any action of the Association without a meeting.

b). Initial and Annual Meeting. The initial meeting of the Members shall be held at such time as may be designated upon thirty (30) days written notice given by the Developer, but in no event later than the earlier of three (3) years after the recording of the Declaration or the conveyance by the Declarant of not less than one hundred forty-seven (147) Lots to Owners other than the Developer. Thereafter, there shall be an annual meeting of the Members on the first Tuesday of February of each succeeding year at 7:30 P.M. If the date for the annual meeting of Members is a legal holiday, the meeting will be held at the same hour of the first day next succeeding such date which is not a legal holiday.

c). Special Meetings. Special meetings of the Members may be called at any time for the purpose of considering matters which, by the terms of the Declaration or these By-Laws, require the approval of all or some of the Members, or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by a majority of the Board or by the Members having one-fourth (1/4) of the total votes, and delivered not less than five (5) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

3.04. Notices of Meetings. Notices of meetings required to be given herein may be delivered either personally or by mail to the persons entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice, or to the Lot of that Owner with respect which such voting right appertains, if no address has been given to the Board. The notices required herein shall state the specific purpose of the nature of the business for which the meeting is called. No business may be transacted at any meeting other than that specified in the notice.

3.04. Proxies. At any meeting of Members, a Member entitled to vote may either vote in person or by proxy executed in writing by the Member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy.

ARTICLE IV BOARD OF DIRECTORS

4.01. Board of Directors. The direction and administration of the Property in accordance with the provisions of the Declaration shall be vested in the Board of Directors, consisting of five (5) persons who shall be elected in the manner hereinafter provided, except for the first Board of Directors appointed by the Developer which shall be three (3) in number and shall serve until the initial meeting of the Members. The Members having at least two-thirds (2/3) of the total votes may from time to time increase or decrease the number and term of the office of the Board members at any annual meeting, provided that such number shall not be less than five (5), and that the terms of at least two-fifths (2/5) of the persons on the Board shall expire annually. Each member of the Board, with the exception of the Board members initially appointed by the Developer shall be one of the Owners (including the Declarant); provided, however, that in the event an Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then any director or officer of such corporation, partner of such partnership, individual trustee or beneficiary of such trust, or manager of such legal entity, shall be eligible to serve as a member of the Board and provided further that in the event a member of the Board has entered into a contract to sell his Village Home and vacates the Village Home prior to the consummation of that transaction such member shall not longer be eligible to serve on the Board and his term of office shall be deemed terminated.

4.02. Determination of Board to be Binding. All matters of dispute or disagreement between Owners or with respect to interpretation or application of the provisions of the Declaration or these By-Laws shall be determined by the Board as hereinafter provided, which determination shall be final and binding on the Association and on all Owners.

4.03. Election of Board Members. At the initial meeting of the Members and at all subsequent annual meetings of the Members there shall be elected a Board of Directors. In all elections for members of the Board of Directors, each Member shall be entitled to vote on a cumulative voting basis and the candidates receiving the highest number of votes with respect to

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the number of offices to be filled shall be deemed to be elected. The initial Board of Directors designated by the Developer pursuant to Section 4.01 hereof shall serve for a period commencing on the date the Declaration is recorded and ending upon the qualification of the directors elected at the initial meeting of Members. Members of the Board elected at the initial meeting shall serve until the first annual meeting. Five (5) Board members shall be elected at the initial meeting. The three (3) persons receiving the highest number of votes at the first annual meeting shall be elected to the Board for a term of two (2) years and the two (2) persons receiving the next highest number of votes shall be elected to the Board for a term of one (1) year. In the event of a tie vote, the members of the Board shall determine which members shall have the two (2) year terms and which members shall have the one (1) year terms. Upon the expiration of the terms of office of the Board members so elected at the initial meeting and thereafter, successors shall be elected for a term of two (2) years each. Notwithstanding the aforesaid election procedure, the Declarant or its designee or beneficiaries may appoint a Board which shall have the same powers and authority as given to the Board generally, as provided hereinafter, and such appointed Board shall function until such time as the initial meeting of the Members is held.

4.04. Compensation. Members of the Board shall receive no compensation for their services, unless expressly allowed by the Board at the direction of the Members having two-thirds (2/3) of the total votes. However, any director may be reimbursed for reasonable expenses incurred in the performance of his duties.

4.05. Vacancies in the Board. Vacancies in the Board, other than as a result of removal pursuant to paragraph 4.07 hereof, including vacancies due to any increase in the number of persons on the Board, shall be filled by the remaining members of the Board or by the Members present at the next annual meeting or at a special meeting of the Members called for such purpose.

4.06. Election of Officers. The Board shall elect from among its Members a President who shall preside over both its meetings and those of the Members, and who shall be the chief executive officer of the Board and Association, a Secretary who will keep the minutes of all meetings of the Members and of the Board and who shall, in general, perform all the duties incident to the office of Secretary, and a Treasurer to keep the financial records and books of account, and such additional officers as the Board shall see fit to elect. All officers shall be elected at each annual meeting of the Board and shall hold office at the pleasure of the Board.

4.07. Removal of Board Members. Any Board member may be removed from office by affirmative vote of the Members having at least two-thirds (2/3) of the total votes, at any special meeting called for the purpose in the manner aforesaid. A successor to fill the unexpired term of a Board member removed may be elected by the Members at the same meeting or any subsequent meeting called for that purpose.

4.08. Meeting of Board. The initial meeting of the Board shall be held immediately following the initial meeting of the Members at the same place. At such meeting the Board shall elect its officers to serve until the first annual meeting of the Board which shall be held

immediately following the first annual meeting of the Members and at the same place. All subsequent annual meetings of the Board shall be held without other notice and shall be immediately after, and at the same place as, the annual meeting of Members. Special meetings of the Board shall be held upon call by the President or by a majority of the Board on no less than forty-eight (48) hours notice in writing to each member, delivered personally or by mail or telegram. Any member may in writing waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action of the Board without a meeting. A majority of the number of the Board members shall constitute a quorum for the transaction of business. Unless otherwise expressly provided herein, any action may be taken by the Board upon the affirmative vote of those present at its meetings when a quorum is present.

4.09. Execution of Investments. All agreements, contracts, deeds, leases, vouchers for payment of expenditures, and other instruments shall be signed by such officer or officers, agent or agents of the Board and in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board such documents shall be signed by the President and countersigned by the Secretary.

ARTICLE V POWERS OF THE BOARD

5.01. General Powers of the Board. Without limiting the general powers which may be provided by law, the Declaration or these By-Laws, the Board shall have the following general powers and duties:

- a). To elect the officers of the Association as hereinabove provided;
- b). To administer the affairs of the Association and the Property and the Common Areas;
- c). Subject to Section 5.02 b). below, to engage the services of a manager or managing agent who shall manage and operate the Property and the Common Areas;
- d). To formulate policies for the Administration, management and operation of the Property and the Common Areas;
- e). To adopt administrative rules and regulations governing the administration, management, operation and use of the Property and the Common Areas, and to amend such rules and regulations from time to time;
- f). To provide for the maintenance, repair and replacement of landscaped areas, Common Areas and payments therefor, and to approve payment

vouchers or to delegate such approval to the officers or the manager or managing agent;

g). To provide for the designation, hiring and removal of employees and other personnel, including accountants and legal counsel, and to engage or contract for the services of others, and to make purchases for the maintenance, repair, replacement, administration, management and operation of the Common Areas and to delegate any such powers to the manager or managing agent (and any such employees or other personnel as may be the employees of the managing agent);

h). To estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Owners of the Lots their respective shares of such estimated expenses, as hereinafter provided;

i). To exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Members by the Articles of Incorporation, the Declaration or these By-Laws.

5.02. Rules and Regulations; Management.

a). Rules. The Board may adopt such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the Owners and Occupants. Written notice of such rules and regulations shall be given to all Owners and Occupants, and the entire Property shall at all times be maintained subject to such rules and regulations.

b). Management. The Declarant, beneficiaries of the Declarant or the Board shall engage the initial management organization under contracts expiring not later than ninety (90) days after the date the initial meeting of Members is held. Thereafter, the Board may engage the services of an agent to manage the Property to the extent deemed advisable by the Board. Any management fees incurred pursuant to this Section 5.02 b). shall be paid from the assessments collected pursuant to Article VI hereof.

c). Not-For-Profit. Nothing hereinabove contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Owners or any of them.

5.03. Liability of the Board of Directors. The members of the Board and the officers of the Association shall not be personally liable to the Owners or others for any mistakes of judgment or for any acts or omissions made in good faith by such officers or Board members. The Owners shall indemnify and hold harmless each of the members of the Board and each of the officers

against all contractual liability to others arising out of contracts made by the Board or officers on behalf of the Owners unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration. The liability of any Owner arising out of any such contract made by the Board or officers or out of the aforesaid indemnity in favor of the members of the Board or officers, to the extent not covered by insurance, shall be limited to his proportionate share of the total liability thereunder.

ARTICLE VI
ASSESSMENTS - MAINTENANCE FUND

6.01. Preparation of Estimated Budget. Each year on or before December 1, the Board will estimate the total amount necessary to pay the cost of wages, materials, taxes, insurance, services and supplies which will be required during the ensuing calendar year for the rendering of all services authorized by the Board, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, and shall, on or before February 1, notify each Owner in writing as to the amount of such estimate ("Estimated Cash Requirement"), with reasonable itemization thereof. The Estimated Cash Requirement shall be assessed equally among all of the Owners other than the Declarant as provided in Section 6.09 hereof. On or before March 1 following and the first of each and every month of said year, each Owner, other than the Declarant, shall be obligated to pay to the Board, or as it may direct, one-twelfth (1/12) of the assessment made pursuant to this Section 6.01. On or before the date of the Annual Meeting of each calendar year, the Board shall supply to all Owners an itemized accounting of the maintenance expenses for the preceding fiscal year actually incurred and paid, together with a tabulation of the amounts collected from the Owners pursuant to assessments made during such year (including amounts collected from the Declarant) and showing the net amount over or short of the actual expenditures, plus reserves. The Board shall upon demand at any time furnish a certificate in writing signed by an officer or agent of the Association, setting forth whether the assessments on a specific Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein.

6.02. Extraordinary Expenditures. The Board shall build up and maintain a reasonable reserve for authorized capital expenditures, contingencies and replacements ("Extraordinary Expenditures") not originally included in the annual estimate. Extraordinary Expenditures which may become necessary during the year shall be charged first against such reserve. If such reserve proves inadequate for any reason, including non-payment of any Owner's assessment, the Board may, at any time, levy a further assessment which shall be divided prorata among the remaining installments for such fiscal year and assessed equally among the Owners, other than the Declarant. The Board shall serve notice of further assessment on all such Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall become effective with the monthly maintenance payment which is due more than ten (10) days after the delivery or mailing of such notice of further assessment. All such Owners shall be obligated to pay the adjusted monthly amount. At the time of closing of the sale of each Village Home by the Declarant, the Owner shall pay (in addition to the first monthly assessment to the manager or

managing agent, or as otherwise directed by the Board, an amount equal to two (2) times the first full monthly assessment for such Owner, which amount shall be added to the reserve for Extraordinary Expenditures. The Board shall have the authority to transfer such funds into the operating account to fund any deficit in said account.

6.03. Budget for First Year. When the first Board elected hereunder (or appointed by the Declarant or its beneficiaries) takes office, it shall determine the Estimated Cash Requirements, as hereinabove defined, for the period commencing on the first day of the month following the conveyance of the first Lot and ending on December 31 of the calendar year following said conveyance. The initial Estimated Cash Requirements shall be divided among the remaining monthly installments of such calendar year and assessed equally to all Owners, other than the Declarant.

6.04. Failure to Prepare Annual Budget. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on an Owner shall not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and, in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the monthly maintenance charge at the then existing monthly rate established for the previous period until the monthly maintenance payment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

6.05. Books and Records. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Common Areas, specifying and itemizing the maintenance and repair expenses of the Common Areas and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing at such reasonable time or times during normal business hours as may be requested by the Owner or his representative. Upon ten (10) days notice to the Board, any Owner shall be furnished a statement of his account, setting forth the amount of any unpaid assessments or other charges due and owing from such Owner.

6.06. Status of Collected Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all the Owners and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held in trust for the benefit, use and account of all the Owners. All funds not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board may select.

6.07. Remedies for Failure to Pay Assessments. Any assessments which are not paid within thirty (30) days after the due date shall bear interest from the due date at the prime rate announced from time to time by the Old Kent Bank, Elmhurst, Illinois, plus four per cent (4%),

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and the Association may bring an action of law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. To the extent permitted by any decision or any statute or law now or hereafter effective, the amount of any delinquent and unpaid charges or assessments, and interest, costs and fees as above provided, shall be and become a lien or charge against the Lot of the Owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. Unless otherwise provided in the Declaration, the members of the Board and their successors in office, acting on behalf of the other Owners, shall have the power to bid for the Lot so foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Any court shall be authorized to restrain the defaulting Owner from reacquiring his Lot at such foreclosure sale. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed on the Lots, provided, however, that such prior recorded mortgage shall be subject to the lien of all unpaid assessments with respect to such Lot which became due and payable subsequent to the date the holder of said mortgage takes possession of the Lot, accepts a conveyance of any interest in the Lot or as a receiver appointed in a suit to foreclose his lien.

6.08. Forcible Entry and Detainer. In addition to the rights and remedies set forth in Section 6.07, if any Owner shall default in the payment, when the same shall be due, of the aforesaid charges or assessments and said default shall continue for thirty (30) days after notice to said Owner by the Board, setting forth the amount of unpaid charges or assessments together with a demand for payment thereof, the Board shall have the right to declare said default a forcible detainer of the Lot and shall have the right, on behalf of the other Owners, to enter and take possession of the Lot from said defaulting Owner, to put out the Owner, or any Occupant claiming by, through or under the Owner, using such reasonable force as the Board shall deem necessary under the circumstances and to exercise any of the rights and remedies set forth in the Forcible Entry and Detainer Act of the State of Illinois.

6.09. Exempt Lots. With regard to Village Homes which are being constructed or have been completed and title has not been conveyed by the Declarant, the assessment respecting any such Lot shall be limited to the aggregate amount of operating expenses from time to time required to be paid with respect to such Lot, provided, however, that in the event the Declarant enters into a lease or installment contract for any Lot, then the Declarant shall be responsible for the payment of assessments on those Lots on the same basis as any other Owner as provided in Section 6.01 hereof. Actual operating expenses shall mean those ordinary expenses attributable only to the period in question covering the maintenance and operation of the Property and shall not include capital expenditures, amounts set aside as a reserve for contingencies or replacements, prepaid items or inventory items to the extent attributable to subsequent periods. Until such time as title to one hundred forty-seven (147) of the Lots have been conveyed, the assessments covering the Lots which have not been sold by the Declarant may be paid on a monthly basis or, at its option, paid to the Association at the close of each calendar year without interest.