

EXHIBIT "D"

BY-LAWS OF SPENWICK VILLAGE
CONDOMINIUM ASSOCIATION, INC.

ARTICLE I.

APPLICABILITY, MEMBERS, MEMBERSHIP
AND DEFINITIONS

SECTION 1. These By-Laws shall be applicable to SPENWICK VILLAGE Condominium Association, Inc., a non-profit corporation of the State of Texas, hereinafter referred to as the "Association" to all of the members thereof as hereinafter defined, to the community and recreational facilities owned or leased by the Association and to each SPENWICK VILLAGE Condominium which is now or may hereafter be created, hereinafter referred to as the "Condominiums."

SECTION 2. All present and future owners, tenants, future tenants, their guests, invitees, licensees, agents, employees and any other person or persons that shall be permitted to use the facilities of the Association or of the Condominiums, shall be subject to these By-Laws and to the Rules and Regulations issued by the Association to govern the conduct of its members. Acquisition, rental or occupancy of any of the units in the Condominiums shall be conclusively deemed to mean that the said owner, tenant or occupant has accepted and ratified these By-Laws and the Rules and Regulations of the Association and will comply with them.

SECTION 3. Unless it is plainly evident from the context that a different meaning is intended, as used throughout these By-Laws:

(a) "Property" means and includes the land whether leasehold or in fee simple and the building, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto;

(b) "Building" includes the principal structure or structures erected or to be erected upon the land described in the Declaration provided for in Section (g) which determines the use to be made of the improved land whether or not such improvement is composed of one (1) or more separate buildings containing one (1) or more floors or stories.

(c) "Condominium Project" means a real estate condominium project; a plan or project whereby four (4) or more apartments, rooms, or other units in existing or proposed buildings or structures are offered or proposed to be offered for sale;

(d) "Condominium" means the separate ownership of single units or apartments in a multiple unit structure or structures with common elements;

(e) "Apartment" means an enclosed space consisting of one (1) or more rooms occupying all or part of a floor or floors in a building if one (1) or more floors or stories, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare;

(f) "Developer" means OLSON-LIVELY ENTERPRISES, INC., its successors or assigns;

(g) "Master Deed" or "Master Lease" or "Declaration" means the deed, lease or declaration establishing the property as a condominium regime;

(h) "Co-owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns an apartment or apartments within the condominium project;

(i) "Council of Co-owners" means all the Co-owners as defined in Subsection (h) of this section;

(j) "Majority of Co-owners" means the apartment owners with fifty-one (51%) percent or more of the votes weighed so as to coincide with percentages or fractions assigned in the Declaration;

(k) "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereof;

(l) "Unit or Dwelling Unit" are synonymous with "apartment".

(m) "General Common Elements" means and includes:

1. The land, whether leased or in fee simple, on which the building stands;

2. The foundations, bearing walls and columns, roofs, halls, lobbies, stairways and entrances and exits or communication ways;

3. The flat roofs, yard and gardens except as provided or stipulated;

4. The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided for or stipulated;

5. The compartments or installation of central services such as power, light, gas, cold and hot water, refrigeration, central air conditioning and central heating, reservoirs, water tanks and pumps, and the like;

6. The garbage incinerators and, in general all devices or installations existing for common use; and

7. All other elements of the building desirable or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime, and any other elements described in the Declaration filed pursuant to Section (g).

(n) "Limited Common Elements" means and included those common elements which are agreed upon by all of the Co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as:

(i) Parking spaces designated with a Unit Number corresponding to a Unit Number as described on the condominium subdivision plan attached hereto as Exhibit "B".

(ii) patios designated with a Unit Number corresponding to a Unit Number as described on the condominium subdivision plan attached hereto as Exhibit "B".

(o) "To Record" means to record in the office of the County Clerk of the county in which the property is situated in accordance with the provisions of Title 115, Revised Civil Statutes of Texas, 1925, as amended.

(p) All pronouns used herein include the singular or plural numbers, as the case may be.

SECTION 4. Except as otherwise provided, membership in the Association shall be limited to the owners or Co-owners of apartments in the Condominiums, provided that whenever title to a unit is vested in two or more persons, such Co-owners shall be entitled jointly to one vote for their particular apartment.

In the event that a member shall lease or permit another to occupy his Condominium unit, the tenant or occupant shall be permitted to enjoy the recreational and community facilities of the Association but shall not vote in the affairs of the Association except as the member shall permit the tenant or occupant to exercise the proxy vote of the member. The use of community and recreational facilities of the Association shall be limited to occupants of apartments and their guest and invitees.

In the event that a member shall mortgage his unit, the lien of the mortgage shall be deemed to attach to the member's rights, privileges and obligations in the Association, including the right to vote in the affairs of the Association so that if the member shall be in default of any of the terms of the mortgage and such default shall result in foreclosure thereof, the member's membership in the association shall automatically terminate and all of the rights, privileges and obligations of membership shall inure to the mortgagee and its assigns, or purchaser at foreclosure.

Every lawful transfer of title to a member's apartment shall include membership in the Association and upon making such transfer, the previous owner's membership shall automatically terminate and fully vest in the new owner.

Except as provided above, membership in the Association may not be assigned or transferred and any attempted assignment or transfer thereof shall be void and of no effect.

SECTION 5. Evidence of membership and ownership in the Association may be evidenced by a membership card issued to each member of the Association.

ARTICLE II

PRINCIPAL OFFICE

SECTION 1. The principal office of the Association shall be located at 8102 Amelia, Houston, Texas 77055 but may be located at such other suitable and convenient place or places as shall be permitted by law and designated by the Directors.

MEETING OF MEMBERS: VOTING

SECTION 1. All annual and special meetings of the Association shall be held at the principal office of the Association or at such other suitable and convenient place as may be permitted by law and from time to time fixed by the Directors and designated in the notices of such meetings.

SECTION 2. Annual meetings of the members of the Association shall be held on the Fourth Tuesday in March of each year. At each annual meeting, there shall be elected by a ballot of a majority of the members entitled to vote, the Directors of the Association in accordance with the provisions of Article V, Section 2 of these By-Laws. The members may also transact such other business as may properly come before the meeting.

SECTION 3. The Secretary shall mail notices of annual meetings to each member of the Association, directed to his last known post office address as shown on the records of the Association, by uncertified mail, postage prepaid. Such notice shall be mailed not less

than ten days nor more than twenty days before the date of such meeting and shall state the date, time and place of the meeting and the purpose or purposes thereof. In lieu of mailing notice as herein provided, such notice may be delivered by hand or left at their residence in their absence.

SECTION 4. The President may call a special meeting of the members of the Association, and it shall be the duty of the Association whenever he is directed to do so by resolution of a majority of the Directors or upon presentation to the Secretary of a petition signed by 33-1/3% of the members entitled to vote at such meeting.

SECTION 5. The Secretary shall mail notice of such special meeting to each member of the Association in the manner provided in Section 3 of this Article, except that notices of such special meetings shall be mailed not less than five nor more than ten days before the date fixed for such meetings. In lieu of mailing notice as herein provided, such notice may be delivered by hand to the members or left at their residence in their absence. No business shall be transacted at any special meeting except as stated in the notice thereof unless by consent of two-thirds of the members entitled to vote at such meeting either in person or by proxy.

SECTION 6. The Secretary shall compile and keep up to date at the principal office of the Association, a complete list of the members and their last known post office addresses. Such list shall also show opposite each member's name the number of the dwelling unit owned by him, the parking space assigned to said unit and the percentage of ownership of the member in the common elements in the particular Condominium in which his unit is located. This list shall be open to inspection by all members and other persons lawfully entitled to inspect the same at reasonable hours during regular business days. The Secretary shall also keep current and retain custody of the minute book of the Association, containing the minutes of all annual and special meetings of the Association and all resolutions of the Directors.

SECTION 7. Each Condominium apartment shall have one vote in the Association. If a member owns more than one apartment, he shall be entitled to one vote for each unit owned. The vote of an apartment unit shall not be divisible among co-owners.

SECTION 8. A member shall be deemed to be in "good standing" and "entitled to vote" at any annual or special meeting of the Association if, and only if, he shall have fully paid all assessments made or levied against him and his unit by the Directors as hereinafter provided, together with all interest, costs, attorney's fees, penalties and other expenses, if any, properly chargeable to him and against his unit, at least three days prior to the date fixed for such annual or special meetings.

SECTION 9. Except as otherwise provided in these By-Laws, the presence in person or by proxy of members representing a majority of the total number of votes in the Association shall constitute a quorum at any annual or special meeting of members. If any meeting of members cannot be organized because a quorum has not attended, the members present, either in person or by proxy, may adjourn the meeting to a time not less than eighteen hours from the time the original meeting was called. In the event of any such adjourned meeting, no further notice of the adjourned date need be given to any of the members.

SECTION 10. Votes may be cast either in person or by proxy. Proxies must be in writing and filed with the Secretary at least two days before the time appointed for each meeting in the notice thereof.

SECTION 11. All decisions shall require for passage, the affirmative vote of at least a majority of the members in good standing and entitled to vote and who vote in person or by proxy.

SECTION 12. The order of business at all annual meetings of the members of the Association shall be as follows:

- (a) Roll call;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Certification to minutes of Association of names of members in good standing and entitled to vote;
- (d) Reading of minutes of preceding meeting;
- (e) Reports of committees;
- (f) Reports of officers;
- (g) Appointment of inspectors of election;
- (h) Election of Directors;
- (i) Unfinished business;
- (j) New business.

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ARTICLE IV

OBLIGATIONS OF MEMBERS

SECTION 1. Each member shall perform promptly and at his own risk, cost and expense, all maintenance and repair work with respect to the portion of each apartment owned by him which does not comprise a part of the common elements and which, if omitted, would adversely affect or jeopardize the safety of the Condominium in which his unit is located or any part of parts thereof belonging in whole or in part to other members and each member shall be liable for any damages, liabilities, costs or expenses, including attorney's fees, caused by or arising out of his failure to promptly perform any such maintenance and repair work.

SECTION 2. Each member shall be obligated to reimburse the Association for any expenses incurred by it in repairing or replacing any part or parts of the common elements damaged solely by his negligence or by the negligence of his tenants, agents, guests, invitees or licensees, promptly upon the receipt of the Association's statement therefor.

SECTION 3. That the owner or co-owners of each unit are bound to contribute pro rata in the percentage of their ownership in the common elements as set out in Exhibit "C" attached to the Declaration hereto, toward the expenses of administration, maintenance, repair, and replacement of the said common elements within the particular condominium of which it is a part. As to expenses of administering and maintaining the Association and all of its real and personal property in such amount as shall from time to time be found by the Association to be necessary, including but not limited to expenses for the operation, maintenance, repair or replacement of the Association buildings, grounds, or facilities; the maintenance, operation, repair or replacement of the recreational facilities; or costs of carrying out the duties and powers of the Association; compensation of Association employees, insurance premiums and expenses relating thereto; taxes which may be assessed against Association property and other expenses of the Association set forth herein, or in the Declaration attached hereto, or which may be designated by the Board of Directors of such Association as "common expenses," each owner or co-owner of each unit are bound to contribute pro rata to such expenses as designated proportionate to the ratio as the total expenses bears to the total number of units owning interest in and administered by said Association, at any given time, as more fully set out in Article XIII hereof. No owner may exempt himself from contributing toward such expense, either as an owner or co-owner of a unit in the particular condominium of which it is a part, or in the said SPENWICK VILLAGE Condominium Association, Inc. by waiver of the use of or enjoyment of the common elements or the community or recreational facilities of the Association or by abandonment of the unit owned by him.

SECTION 4. Payment by the member of his share of the aforesaid expenses shall be made in the amount from time to time fixed by the Directors, to the Treasurer of the Association at the principal office of the Association or such other place as shall be designated by the Directors.

SECTION 5. All such charges and expenses chargeable to a member and his dwelling unit shall constitute a lien against the said unit in favor of the Association for the use and benefit of the members of the Association prior to all other liens except (1) assessments liens and charges for taxes past due and unpaid on the unit and (2) payments due under purchase money mortgage instruments of encumbrance, if any, duly recorded. The said lien may be foreclosed in the manner provided for the foreclosure and sale of real estate mortgages and in the event of foreclosure, the Association shall, in addition to the amount due, be entitled to recover reasonable expenses of the action including court costs and reasonable attorney's fees. The right of

the Association to foreclose the lien aforesaid shall be in addition to any other remedy which may be available to it at law for the collection of the charges and expenses including the right to proceed personally against any delinquent member for the recovery of a personal judgment against him for the amount due, court costs and reasonable attorney's fees.

SECTION 6. In the event a member shall fail to pay any assessment levied against him and the Condominium unit owned by him for the maintenance of the common elements of the Condominium in which his unit is located, for the expenses of administering, maintaining and operating the community and recreational facilities of the Association or any expense lawfully agreed upon, within ten days after the same shall become due and payable, the Association shall be entitled to foreclose the lien referred to in the preceding section.

SECTION 7. Upon the sale, conveyance or other lawful transfer or title to a unit, all unpaid assessments against a member for his pro rata share of the expenses of administration, maintenance and repair of the common elements and the community and recreational facilities of the Association and other expenses agreed upon, shall first be paid out of the sales price or by the acquirer in preference over any other assessments or charges of whatever nature except the following:

(a) Assessments, liens and charges for taxes past due and unpaid on the dwelling unit, and

(b) Payments due under purchase money mortgage instruments of encumbrance, if any, duly recorded.

SECTION 8. The acquirer of a Condominium apartment shall be jointly and severally liable with the seller for the amounts owing by the latter to the Association up to the time of the conveyance or transfer, without prejudice to the acquirer's right to recover from the seller the amount paid by him as such joint debtor. The Association shall provide for the issuance, and issue to every acquirer upon his request, a statement of such amounts due by the seller and the acquirer's liability under this Section shall be limited to the amount as set forth in said statement.

SECTION 9. All units shall be utilized for residential purposes only. A member shall not make structural modifications or alterations in his unit or installations located therein without the written consent of the Directors.

SECTION 10. The Association shall have the irrevocable right, to be exercised by the Directors or Manager of the Association, or any duly authorized agent, to have access to each dwelling unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common elements therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the common elements or to another dwelling unit or units.

SECTION 11. Each member shall comply strictly with these By-laws and with the administrative Rules and Regulations adopted pursuant thereto including swimming pool and recreational facilities rules as either of the same may be lawfully amended from time to time and with the covenants, conditions and restrictions set forth in the Declaration and in the Deed to his unit. Failure to comply with any of the same shall be grounds for a civil action to recover sums due, for damages or injunctive relief, or both, plus Court costs and reasonable attorney's fees; maintainable by the Association on behalf of the Council of Co-owners, or, may be brought as a class action.

ARTICLE V

BOARD OF DIRECTORS

SECTION 1. The affairs of the Association shall be governed by a Board of Directors consisting of seven (7) persons each of whom shall be either a member of the Association or an officer, director, employee or designee of the Developer.

SECTION 2. At the first annual meeting of the Association, two Directors shall be elected to serve for a term of three years, two Directors shall be elected to serve for a term of two years and the remaining three Directors shall be elected to serve for the term of one year. At the expiration of the initial term of each Director, his successor shall be elected to serve for a term of three years, provided that each Director shall continue to hold office until his successor is elected. Directors shall serve without compensation.

SECTION 3. If the office of any Director shall become vacant by reason of his death, resignation, retirement, disqualification removal from office or otherwise, the remaining Directors at a special meeting duly called for such purposes, shall choose a successor, who shall hold office until the next annual meeting of the members and his re-election or the election of his successor at such meeting. The person so elected shall serve for the unexpired term in respect to which such vacancy occurred.

SECTION 4. Directors may be removed with or without cause, by the affirmative vote of two-thirds of the members in good standing and entitled to vote at such annual or special meeting of members duly called for such purpose.

SECTION 5. The first or organizational meeting of each newly elected Board of Directors shall be held immediately upon adjournment of the meeting of members at which they were elected and at the same place where the meeting of members was held, provided a quorum is present. If a quorum of the Board is not then present, such first or organizational meeting shall be held as soon thereafter as may be practicable provided notice is given to each Director as set forth in Section 8 of this Article.

SECTION 6. Regular meetings of the Board of Directors may be held at such time and place permitted by law as from time to time may be determined by the Directors, but at least four such meetings shall be held in each fiscal year. Notice of regular meetings of the Board shall be given to each Director personally, by telegram or by United States mail, with postage prepaid, directed to him at his last known post office address as the same appears on the records of the Association, at least five days before the date appointed for such meeting. Such notice shall state the date, time and place of such meeting and the purpose thereof.

SECTION 7. Special meetings of the Board of Directors may be called by the President of the Association on three days' written notice to each Director, given in the same manner as provided in Section 6 of this Article. Special meetings of the Board shall be called by the President or the Secretary in like manner upon the written request of any two Directors.

SECTION 8. Before any meeting of the Board of Directors, whether regular or special, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall likewise constitute a waiver by him of such notice. If all Directors are present at any meeting of the Board, no notice of such meeting shall be required and any business may be transacted at such meeting except as prohibited by law or by these By-Laws.

SECTION 9. At all duly convened meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business except as otherwise expressly provided in these By-Laws or by law, and the acts of the majority of the Directors present at such meeting at which a quorum is present, shall be the acts of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, the Director or Directors present may adjourn the meeting from time to time, and at any such adjourned meeting at which a quorum is present, any business that might have been transacted at the meeting as originally called, may be transacted without further notice to any Director.

SECTION 10. The Board of Directors shall have and exercise all lawful power and duties necessary for the proper conduct and administration of the affairs of the Association and the operation and maintenance of a residential Condominium project and may do or cause to be done all such other lawful acts and things as are not by law, by these By-Laws or otherwise, directed or required to be done or exercised by members of the Association or owners of units, or by others. In the performance of its duties as the administering body of the Association and of the Condominiums being administered by said Association, the Board of Directors shall have powers and duties including, but not limited to, the following:

- A. The operation, maintenance, renewal, replacement, care, upkeep, protection and surveillance of the buildings in each Condominium, their general and limited common elements and services and the

community and recreational facilities and all other property, real or personal, of the Association.

- B. The preparation prior to the beginning of each fiscal year of a budget or estimate for the annual expenses of the operation of the Association, the expenses of the operation of the community and recreational facilities, and reasonable reserves for depreciation, retirements and renewals. The total amount of such budget or estimate shall be assessed against all of the dwelling units and the respective owners thereof, in the proportionate shares and percentages applicable to the units owned by them as set forth in the Declaration, and prorated as set forth in Article XIII herein to include the owners and units in all Condominiums which are now, or may hereafter, be administered by the Association. The proportionate amounts thus found applicable to each dwelling unit shall be payable by the owner thereof to the Association in equal installments, in advance, said billing dates to be determined by the Directors.
- C. By majority vote of the Board, to adjust or increase the amount of any annual assessment and equal installments, and to levy and collect in addition thereto, special assessments in such amounts as the Board may deem proper, whenever the Board is of opinion that it is necessary to do so in order to meet increased operating or maintenance costs, or additional capital expenses, or because of emergencies; provided, however, that all such increased or special assessments shall be made or levied against such owners and the family units owned by them respectively, in the same proportions or percentages as provided in Subsection (B) of Section 10 of this Article.
- D. To use and expend any sums collected from such assessments or levies for the operation, maintenance, renewal, care, upkeep, surveillance and protection of the common elements, community and recreational facilities of the Association and all of its real and personal property.
- E. To require all officers and employees of the Association handling, or responsible for funds of the Association or fund in its possession or under its control to furnish adequate fiduciary bonds, in form, penalties and with corporate surety satisfactory to the Board of Directors. The premiums on such bonds shall be paid by the Association as part of the common expenses.
- F. To pay all taxes and assessments levied or assessed against any property of the Association, exclusive of any taxes or assessments levied against any individual dwelling unit or otherwise properly chargeable to the owners thereof.

- G. To employ and dismiss such clerks, stenographers, workmen, janitors, gardeners, watchmen and other personnel, and to purchase or arrange for such services, machinery, equipment, tools, materials and supplies, as in the opinion of the Board of Directors may from time to time be necessary for the proper operation and maintenance of the Condominiums, and the community and recreational facilities of the Association, except the portions thereof required to be maintained by owners of dwelling units. The Board of Directors may also employ a Manager for the Association, at such compensation as may be established by the Board, to perform such duties and services as the Board may lawfully delegate.
- H. To enter or cause to be entered any dwelling unit when deemed necessary for or in connection with the operation, maintenance, repair, renewal or protection of any common elements, or to prevent damage to the common elements or any dwelling units, or in emergencies, provided that such entry and work shall be done with as little inconvenience as possible to the owners and occupants of such dwelling units. Each owner shall be deemed to have expressly granted such rights of entry by accepting and recording the Deed to his Condominium unit.
- I. To collect delinquent levies or assessments made by the Association through the Board of Directors against any dwelling units and the respective owners thereof, together with such costs and expenses incurred in connection therewith, including but not limited to Court costs and attorney's fees, whether by suit or otherwise, to abate nuisances and enforce observance of the Rules and Regulations relating to the Condominiums, by injunction or such other legal action or means as the Board of Directors may deem necessary or appropriate.
- J. To employ or retain legal counsel, engineers and accountants and to fix their compensation whenever such professional advice or services may be deemed necessary by the Board for any proper purposes of the Association, including but not limited to those provided in these By-Laws.
- K. To borrow money and sign any Promissory notes and accompanying documents in connection therewith, with consent of two-thirds of the members in good standing and entitled to vote.
- L. To hire an outside agent and/or management firm to perform all duties and services required by these By-Laws.
- M. To enter into any necessary contracts or agreements for the operation and administration of the corporation or the Condo-

miniums being administered by the Association, with private parties or any governmental agency.

- N. To cause such operating accounts, and escrow and other accounts, if any, to be established and opened as the Board of Directors may deem appropriate from time to time and as may be consistent with good accounting practices.
- O. 1. To cause a complete audit of the books and accounts of the Association to be made by an independent certified public accountant at the end of each fiscal year, and at such other time or times as may be deemed necessary. The Board of Directors shall also prepare at the end of each fiscal year and furnish to the owner of each dwelling unit a report of the business and affairs of the Association, showing its transactions and reflecting fully and accurately its financial condition.
2. To keep detailed books of account of the receipts and expenditures affecting each Condominium and its administration and specifying the maintenance and repair expenses of the common elements and all other expenses incurred.
- P. To make and enforce compliance with such Rules and Regulations relative to the operation, use and occupancy of the dwelling units, common elements and Association facilities, and to amend the same from time to time as the Board shall deem necessary or appropriate which Rules and Regulations when approved by appropriate resolutions shall be binding on the owner and occupant of dwelling units, their successors in title and assigns. A copy of such Rules and Regulations and copies of any amendments thereof shall be delivered or mailed to each owner of a family unit promptly upon the adoption thereof or posted in a conspicuous place in the Community Building.
- Q. 1. The Board of Directors, or its designee, shall be required to obtain and maintain, to the extent obtainable, the following insurance, (1) fire insurance with broad form fire and extended coverage, vandalism and malicious mischief endorsements, insuring all the buildings containing the units and common elements therein (including in all units, the fixtures, appliances and carpeting initially installed therein by the Developer, but not including the painted or decorated surfaces of interior walls, furniture, furnishings, personal property, contents or personal liability of individual unit owners) together with all central utility

and other service machinery contained therein, and all buildings, fixtures, equipment and personal property owned by the Association, in the amount determined by the Board and approved by all first mortgagees having mortgage liens upon the Condominium units contained in said buildings. All such policies shall provide that in the event of loss or damage, the proceeds of said policy or policies shall be payable to the Board of Directors or to its designees as an insurance trustee on behalf of each of the owners, co-owners and mortgagees of units in said buildings. Said insurance trustee shall be obligated to apply said proceeds as set forth in Article VI of these By-Laws. Each of said policies shall contain a standard mortgagee clause in favor of each mortgagee of a unit and shall provide that the loss, if any, thereunder shall be payable to such mortgagee as its respective interest may appear, subject however, to the right of the Board or its designees as insurance trustee, to receive said proceeds to be applied to repair or reconstruction as provided herein, (2) workmen's compensation, and (3) public liability insurance insuring the Association and its members against liability for any negligent act of commission or omission attributable to the Association or any of its members and which occurs on or in any of the common elements of the Condominiums or the community or recreational facilities of the Association, (4) boiler, glass, burglary, theft and such other insurance as will protect the interest of the Association, its employees, the members and mortgagees. All insurance premiums shall be paid by the Association as common expenses.

2. All policies of physical damage insurance shall contain waivers of subrogation and of any reduction of pro rata liability of the insurer as a result of any insurance carried by unit owners or of invalidity arising from any acts of insured or any unit owners, and shall provide that such policies may not be cancelled or substantially modified without at least ten days' prior written notice to all of the insureds, including all mortgagees of units.

3. Unit owners may obtain insurance for their own account and for their own benefit. No owner shall, however, insure any part of the common elements whereby, in the event of loss there-to, the right of the Association to recover the insurance proceeds for such loss in full, shall be diminished in any way.

R. The Board of Directors of the Association may appoint committees as deemed appropriate in carrying out its purposes, including but not limited to:

1. A Recreation Committee which shall advise the Board of Directors on all matters pertaining to the recreational program and activities of the Association and shall perform such other functions as the Board, in its discretion, determines;

2. A Maintenance Committee which shall advise the Board of Directors on all matters pertaining to the maintenance, repair or improvement of the Common Area and Properties, as appropriate, and shall perform such other functions as the Board in its descretion determines;

3. An Audit Committee which shall supervise the annual audit of the Association's books and approve the annual budget and statement, certified by an independent public accountant, of income and expenditures to be presented to the membership at its regular annual meeting. The Treasurer shall be an ex officio member of the Committee.

ARTICLE VI

RESTORATION AND REPLACEMENT OF CONDOMINIUM IN THE EVENT OF FIRE OR CASUALTY

SECTION 1. In the event of fire or other disaster or casualty resulting in damage to the buildings and common elements of any one or more of the Condominiums less than two-thirds of the livable area of building or buildings comprising the Condominium or Condominiums, as may be determined by the Council of Co-owners, the net proceeds of any insurance collected shall be made available for the purpose of restoration or replacement. Where the insurance indemnity is insufficient to cover the cost of reconstruction or replacement, the new building costs shall be paid by all of the co-owners directly affected by the damage, in proportion to the percentage of the value of their respective dwelling units as it bears to the total value of the damaged building or buildings. If any one or more of those composing the minority of the co-owners who were directly affected by the damage shall refuse to make such payments, the board of Directors shall levy an assessment in an amount proportionate to the percentage of value of the dwelling units affected by the damage, the proceeds of such assessment being paid, with the insurance indemnity to the Association for the purpose of covering the costs of repair and replacement. In the event any owner or owners shall fail to respond to the assessment by payment thereof within a reasonable time, the Association shall cause such restoration or reconstruction to be accomplished and to charge the cost thereof, less any applicable insurance credits, to the owners of the units affected in the proportions mentioned. Such costs less any insurance credits, shall constitute a lien against the dwelling unit or units of such owner or owners and may be enforced and collected in the same manner as all other liens as hereinbefore provided. The provisions of this Section may be changed by unanimous resolution of the owners of units or apartments then concerned within the Condominium as a whole, adopted subsequently to the date on which the fire or other disaster or casualty occurred.

SECTION 2. In the event of a total destruction of the entire Condominium or Condominiums, or if the common elements are damaged or destroyed to more than two-thirds of the livable area of building or buildings comprising the Condominium or Condominiums, the Council of Co-owners of the said Condominium or Condominiums upon unanimous consent by all the Co-owners may elect to reconstruct or replace the said buildings and common elements. In the event of an election to reconstruct or replace, payment of the costs thereof shall be made as provided in the preceding Section of this Article.

If the Council of Co-owners shall elect not to reconstruct or replace, the Council of Co-owners of the said Condominium or Condominiums, with the consent of all of the mortgagees holding first mortgages on the dwelling units within said Condominium or Condominiums, may sell for cash and upon terms, the entire Condominium or Condominiums, provided seventy-five percent or more of the owners are in accord and so vote at a regular duly called meeting of the said Council of Co-owners. In the event the election is made to sell, the covenants against partition contained in the Declaration of Restrictive and Protective Covenants, shall become null and void and the said owner or owners shall be entitled to convey their interest in the Condominium or Condominiums and may invoke relief in a Court of Equity to compel such a sale and partition against those owners who shall have refused to approve such a sale and partition.

All sums received from insurance shall be combined with the proceeds of sale of the Condominium or Condominiums. After providing for all necessary costs and expenses, including court costs and reasonable attorney's fees in the event of any litigation necessary to compel any owner or owners to join in a conveyance of their interests in the Condominium or Condominiums, distribution of the combined funds shall be made to the owner or owners of the dwelling units in the said Condominium or Condominiums, in accordance with their respective undivided interest in the common elements as set forth in the Declaration creating the particular Condominium or Condominiums, subject only to the rights of outstanding mortgage holders.

Except as provided in this section, the common elements shall remain undivided and shall not be the subject of an action for partition or division of the co-ownership.

ARTICLE VII

OFFICERS

SECTION 1. The officers of the Association shall be a President, Vice-President, Secretary and a Treasurer. The Secretary may be eligible to the office of Treasurer. The President shall also be a member of the Board of Directors. The Board of Directors may also appoint Assistant Secretaries and Assistant Treasurers as they may deem necessary.

SECTION 2. The officers of the Association shall be elected annually by the Board of Directors at the organization of each new Board and shall hold office until their successors are elected or appointed by the Board and qualify, provided that each officer shall hold office at the pleasure of the Board of Directors and may be removed either with or without cause and his successor elected at any annual or special meeting of the Board called for such purpose, upon the affirmative vote of a majority of the members of the Board.

SECTION 3. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and of the Board of Directors. He shall have the general powers and duties usually vested in the office of President of an Association, including but not limited to the power to appoint committees from among the members from time to time as he may deem appropriate to assist in the conduct of the affairs of the Association. He shall execute such contracts and other instruments where duly authorized in the name and on behalf of the Association and under its corporate seal when a seal is required, except when such documents are required or permitted by law to be otherwise executed and except when the signing and executing thereof shall be delegated by the Board of Directors to another officer or agent of the Association.

SECTION 4. The Vice President shall perform all of the duties of the President in his absence, and such other duties as may be required of him from time to time by the Board of Directors.

SECTION 5. The Secretary shall attend all meetings of the Board of Directors and all meetings of the members and record all votes and the minutes of all meetings and proceedings, including resolutions, in a minute book to be kept for that purpose and shall perform like duties for any committees when required. He shall have charge of the minute book and such records and papers as the Board shall direct and perform all duties incident to the office of Secretary, including the sending of notices of meetings to the members, the Board of Directors and committees and such other duties as may be prescribed by the By-laws or by the Board of Directors or the President. He shall also have custody of the corporate seal and when authorized by the Board, affix the same to any instrument requiring it and attest the same when appropriate.

SECTION 6. The Treasurer shall have responsibility for the Association's funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association and shall deposit all monies, checks and other valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors. He shall disburse the funds of the Association as may from time to time be ordered by the Board, making vouchers for such disbursements and shall render to the President and Directors, at the regular meetings of the Board or whenever they or either of them shall require, an account of his transactions as Treasurer and of the financial condition of the Association.

SECTION 7. The officers of the Association shall serve without compensation except that they shall be entitled to reimbursement for all expenses reasonable incurred in the discharge of their duties.

ARTICLE VIII

INDEMNIFICATION OF OFFICERS AND DIRECTORS

SECTION 1. The Association shall indemnify every Director and officer, his heirs, executors and administrators, against all loss, costs and expenses, including counsel fees, reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a Director or officer of the Association except as to matters as to which he shall be finally adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct. In the event of a settlement, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified had not been guilty of gross negligence or willful misconduct in the performance of his duty as such Director or officer in relation to the matter involved. The foregoing rights shall not be exclusive of other rights to which such Director or officer may be entitled. All liability, loss, damage, cost and expenses incurred or suffered by the Association by reason of or arising out of or in connection with the foregoing indemnification provisions shall be treated by the Association as common expenses, provided however, that nothing contained in this Article shall be deemed to obligate the Association to indemnify any member or owner of a dwelling unit, who is or has been a Director or officer of the Association, with respect to any duties or obligations assumed or liabilities incurred by him under and by virtue of his membership in the Association or as a member or owner of a dwelling unit in any Condominium or Condominiums.

ARTICLE IX

FISCAL YEAR

SECTION 1. The fiscal year of the association shall begin on the first day of January in each year.

ARTICLE X

CORPORATE SEAL

SECTION 1. The corporate seal of the Association shall consist of two concentric circles between the circumferences of which shall be inscribed the name of the Association and within the circumference of the inner circle the words, "Texas".

ARTICLE XI

AMENDMENTS TO BY-LAWS

SECTION 1. These By-Laws and form of administration set forth herein may be amended from time to time by the affirmative vote of two-thirds of the total number of votes prescribed by law. No such modification shall be operative until it is embodied in the minutes of the Association.

SECTION 2. Notwithstanding the provisions of Section 1 of this Article the DEVELOPER retains the sole and exclusive right to amend these By-laws until the expiration of one (1) year from the date of the recording of the last deed by DEVELOPER to a Condominium unit in any Condominium which is or may in the future be administered by the Association, whichever time is later. The intent and sole purpose of this provision is to provide for and allow the DEVELOPER to complete development of the various Condominiums which are or will in the future be administered by this Association. The provisions of this paragraph cannot be changed or amended by non-developer members during the aforesaid period of time, anything herein to the contrary notwithstanding.

ARTICLE XII

DISSOLUTION

SECTION 1. In the event of waiver of termination of the Condominium or Condominiums being administered by this Association, the Association shall immediately be dissolved as provided by law and this instrument.

SECTION 2. Prior to such dissolution, the assets of the Association, after the payment of all debts including mortgages and other encumbrances, shall be distributed to the members of the Association in accordance with their percentage of ownership therein.

ARTICLE XIII

MEMBER'S PERCENTAGE OF OWNERSHIP AND MAINTENANCE FEES

SECTION 1. The percentage of ownership of each member in the Association shall be computed in the same manner as set out in Section 2 hereof. Maintenance costs for the Association-owned land and facilities will be assessed to each unit owner in the same manner as set out in Section 2 hereof. Until the final determination of interest is made, the developer will retain all membership interest not distributed to unit owners.

SECTION 2. In addition to the above cost, the fee to be paid by each member for the maintenance of the condominium-owned lands and common elements shall be computed as follows:

- A. Where there is only one Condominium being administered by the Association, by dividing unit square footage by the total Condominium square footage and multiplying the result thereof by one hundred, the final being expressed in a percentage. The resulting percentage shall be used to determine an owner's percentage of ownership in the undivided common elements of the particular Condominium in which his unit is located, as reflected by Exhibit "C". The percentage of ownership of each owner in the undivided common elements of the Condominium in which his unit is located shall have a permanent character and shall not be altered except by the affirmative vote of all of the owners or co-owners and their first mortgagees of all the dwelling units in each particular Condominium.

The maintenance cost for each unit shall be determined by multiplying the percentage of ownership as above determined, by the total operating budget for the Condominium.

- B Where there is more than one Condominium being administered by the Association, by dividing the unit square footage by the aggregate unit square footage of all of the Condominium being thus administered and multiplying the result thereof by one hundred, the final figure being expressed in percentage. The method of allocation of the fee to be paid by each owner of co-owner toward maintenance of the Condominium owned lands and common elements shall be made annually by the Council of Co-owners but not inconsistent with the provisions of the Texas Condominium Act, Article 1301 a, Revised Civil Statutes of Texas.

The maintenance cost for each unit shall be determined by multiplying the percentage as determined in this Paragraph B, by the total operating budget for those Condominiums being administered by the Association.

SECTION 3. "Unit Square Footage" as used in this article shall mean the square footage of the enclosed area of each unit.

SECTION 4. "Condominium Square Footage" as used in this Article shall mean the total square footage of the enclosed area of all the units located in the particular Condominium.

SECTION 5. "Aggregate Square Footage of Condominium" as used in this Article shall mean the total square footage of all the Condominiums being administered by the Association.

ARTICLE XIV

ANNEXATION

SECTION 1. Association has been advised by Developer, that Developer, its parent corporation or one of its subsidiary or affiliated corporations may construct additional Condominiums or convert existing apartments to a Condominium or Condominiums, in the City of Houston, on property contiguous or adjacent to the property shown on Exhibit "A" attached to the Declaration, whether said property is separated by a public street or not.

SECTION 2. Unless specifically deemed otherwise by Developer any such additional Condominiums shall be considered annexed to and a part of SPENWICK VILLAGE Condominium and governed and administered by this Association and all owners or Co-owners of Condominium units therein shall be members of this Association and subject to the provisions of these By-Laws and to the Rules and Regulations of this Association.

ARTICLE XV

DEPOSITS REQUIRED

SECTION 1. Upon conveyance of a dwelling unit by Developer to an initial purchaser of said dwelling unit, said dwelling unit owner shall deposit with the Association three (3) months' estimated monthly association assessments and one (1) years estimated insurance premium, the latter to cover insurance on the unit owner's interest in the common elements of his particular Condominium.

SECTION 2. The aforesaid deposits shall be refunded to the unit owner (less any assessments currently owed) upon any resale of the dwelling unit by him, upon the condition that a deposit in an amount equal to that being held by the Association (excluding any assessments currently owed) is received from the purchaser of the particular dwelling unit. In the event said deposits are not received by the Association within thirty (30) days from the date of closing of title to such resale, the deposits shall be deemed credited to the account of the new owner. Nothing herein shall affect any unit owner's obligation for the payment of any Association assessments, charges or liens.

ARTICLE XVI

TAXATION

SECTION 1. Each Unit shall be assessed and taxed for all purposes as a separate parcel of real estate entirely independent of the building of which such Unit is a part, and independent of the Condominium Project

or Common Elements thereof, and each Owner shall be solely responsible for the payment of all taxes, municipal claims, charges and assessments of any nature whatsoever assessed against such Unit. Such payment shall be made prior to the due date of such taxes, municipal claims, charges and assessments.

ARTICLE XVII

MORTGAGEE RIGHTS

Section 1. Any first mortgagee on a unit in the Project will, upon request, be entitled to:

- A. Inspect the books and records of the Project during normal business hours; and
- B. Receive an annual audited financial statement of the Project within ninety (90) days following the end of any fiscal year of the Project.
- C. Written notice of all meetings of the Owners Association and be permitted to designate a representative to attend all such meetings.

ARTICLE XVIII

AMENDMENT

The foregoing amended By-Laws of SPENWICK VILLAGE CONDOMINIUM, NO. II shall be effective from and after the date thereof and shall supercede the original By-Laws of SPENWICK VILLAGE CONDOMINIUM, NO. II dated the 2nd day of June, 1977.

EXECUTED AT HOUSTON, TEXAS, on this the 19th day of January, 1979.

ATTEST:

Sam L. Olson, Jr., Secretary

SPENWICK VILLAGE CONDOMINIUM
ASSOCIATION, INC.

By: Truitt V. Lively, President

THE STATE OF TEXAS)
)
COUNTY OF HARRIS)

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared TRUITT V. LIVELY, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said SPENWICK VILLAGE CONDOMINIUM ASSOCIATION, INC., a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 19th day of January, 1979.

Adala I. Ruhge
Notary Public in and for
Harris County, Texas
ADALA I. Ruhge