



2005026397

FOR REGISTRATION REGISTER OF DEEDS
Willie L. Covington
DURHAM COUNTY, NC
2005 JUN 16 01:58:37 PM
BK:4834 PG:373-412 FEE:\$128.00

INSTRUMENT # 2005026397

DECLARATION OF CONDOMINIUM

FOR

MADISON CENTRE, A CONDOMINIUM

Filed for Record on

June 16, 2005

Recorded in Book 4834, Page 373

**In the Office of the Register of Deeds
for Durham County
North Carolina**

**Consisting of 39 Pages,
Numbered 1 through (not all numbered)
Including Exhibits A through D**

Plans filed in Condominium File Number 7, Pages 364-367,-370-373

Prepared by and mail to:

David S. Kennett, Esq.
Hedrick Murray & Cheek PLLC
Post Office Box 52394
Durham, North Carolina 27717-2394

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**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF
MADISON CENTRE, A CONDOMINIUM**

This DECLARATION, made on the date hereinafter set forth by Madison Centre Partners, LLC, a North Carolina limited liability company, Declarant,

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property located on the north side of Martin Luther King, Jr. Parkway, City-Out Township, Durham County, North Carolina, and more particularly described as follows (herein "Property"):

See Exhibit A which is attached hereto and incorporated herein by reference.

WHEREAS, Paragon Commercial Bank (hereinafter "Paragon") is the holder of a security interest in the Property by virtue of that Deed of Trust, dated January 28, 2005 and recorded in Book 4685, Page 184, Durham County Registry, North Carolina, (the "Paragon Deed of Trust") together with any other documents and instruments evidencing, securing, or in any manner relating to the indebtedness evidenced or secured by the Paragon Deed of Trust (all such documents are hereinafter referred to as the "Paragon Security Documents") and Paragon desires to subordinate the lien of the Paragon Security Documents to this Declaration and by the execution of this instrument does hereby consent to the terms of this Declaration and subordinates the lien of the Paragon Deed of Trust hereto; provided, however, that Paragon shall not be liable for any obligations hereunder in the event it should become the owner of the Property or any portion thereof via foreclosure or deed in lieu of foreclosure.

WHEREAS, Declarant desires and intends to convert three (3) buildings on the Property, with two (2) buildings each containing with eight (8) Units and one (1) building containing ten (10) Units into condominium Units, or "Units" as those terms are defined under the provisions of the North Carolina Condominium Act, and to sell and convey the same to various purchasers subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, Declarant desires and intends by the filing of this Declaration, to submit the above described property and the buildings to be located thereon and all other improvements to be constructed, together with all appurtenances thereto, to the provisions of the North Carolina Condominium Act (Chapter 47C, North Carolina General Statutes):

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the real property and be binding on all parties having any right,

title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

PART 1
DEFINITIONS

- Section 1. “Allocated Interests” means the undivided interest in the Common Elements, Common Expense liability and votes in the Association, allocated to each Unit. The Allocated Interests are shown on **Exhibit C**.
- Section 2. “Articles of Incorporation” means the Articles of Incorporation of the Association as they may be amended from time to time. A copy of the initial Articles of Incorporation are attached hereto as **Exhibit D**.
- Section 3. “Association” means Madison Centre Owners Association, Inc., its successors and assigns.
- Section 4. “Bylaws” means the Bylaws of the Association as they may be amended from time to time. A copy of the initial Bylaws are attached hereto as **Exhibit B**.
- Section 5. “Common Elements” means all portions of a condominium other than the Units, including, but not limited to, any and all stormwater facilities further described herein.
- Section 6. “Condominium” means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions.
- Section 7. “Declarant” means Madison Centre Partners, LLC, a North Carolina limited liability company, and its heirs and assigns.
- Section 8. “Declaration” means this Declaration of Covenants, Conditions and Restrictions.
- Section 9. “Executive Board” means the body designated in the Declaration to act on behalf of the Association.
- Section 10. “Limited Common Elements” means a portion of the Common Elements allocated by the Declaration for the exclusive use of one or more but fewer than all of the Units.
- Section 11. “Member” means every person or entity who holds membership in the Association.

- Section 12. “Owner” means the record owner, whether one or more persons or entities, of a fee simple title to any Unit which is a part of the Property, together with an undivided interest in the Common Elements as hereinafter set forth, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- Section 13. “Period of Declarant Control” means the period commencing on the date hereof and continuing until the earlier of (i) five (5) years after the date of the first conveyance of a Unit to an Owner other than a Declarant; (ii) one hundred twenty (120) days after conveyance of seventy-five percent (75%) of the Units (including any Units which may be created pursuant to Special Declarant Rights) to Unit Owners other than Declarant; (iii) two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business; (iv) two (2) years after any development right to add new Units was last exercised , or (v) the date upon which Declarant voluntarily surrenders control of the condominiums.
- Section 14. “Plats and Plans” means the plats and plans recorded in Condominium Book 7, Pages* at Durham County Register of Deeds, and constituting a part hereof, as the same may be amended from time to time.
* 364, 367, 370, 373
- Section 15. “Unit” means a physical portion of the condominium designated for separate ownership or occupancy.

PART II
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

ARTICLE I
GENERAL

- Section 1. Declarant hereby submits the Property to the provisions of North Carolina General Statutes Chapter 47C. The Property will be administered in accordance with the provisions of North Carolina General Statutes Chapter 47C, the Declaration, and the Bylaws.
- Section 2. The name of the condominium shall be “Madison Centre, A Condominium.”
- Section 3. The Property is located on Martin Luther King, Jr. Parkway in Durham County, North Carolina.
- Section 4. The maximum number of Units that Declarant reserves the right to create is thirty (30).

- Section 5. Declarant does hereby establish within the Property twenty-six (26), Units and does hereby designate all such Units for separate ownership. Reference is hereby made to the Plats and Plans for a separate description of the boundaries of each Unit, identified by number, said Plats and Plans being by this reference incorporated herein.
- Section 6. Each Owner shall be a member of the Association.
- Section 7. There are no Limited Common Elements with the exception of the parking space rights as provided in Article II, Section 3 and the Limited Common Elements created under Article V.
- Section 8. Insurance policies upon the condominium (other than title insurance) shall be purchased by the Association in the name of the Executive Board of the Association, as trustees for the condominium Unit Owners and their respective mortgagees as their interest may appear, and shall provide for the issuance of certificates or mortgage endorsements to the holders of first mortgages on the condominium Units or any of them; and, if the companies writing such policies will agree, the policies shall provide that the insurer waives its rights of subrogation as to any claims against condominium Unit Owners, the Association and their respective servants, agents and guests. The Association shall maintain replacement cost coverage of the original Building(s) and Common Elements. Each condominium Unit Owner shall obtain insurance, at his own expense, affording coverage upon his condominium Unit as upfitted as further described in Article V, Section 8 hereinbelow, his personal property and for his personal liability and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available.
- Section 9. Declarant reserves the following Special Declarant Rights for the entire Property, which shall be exercisable during the Period of Declarant Control:
- (a) To complete any and all improvements indicated on the Plats and Plans;
 - (b) To maintain signs on the Common Elements advertising the Condominium until all of the Units have been conveyed to Unit Owners other than the Declarant. Declarant shall remove all such signs not later than thirty (30) days after all of the Units have been conveyed to a Unit Owner other than the Declarant and shall repair or pay for the repair of all damage done by removal of such signs;
 - (c) To alter the size of any Unit, combine or merge two or more Units, and subdivide any Unit;

- (d) To appoint and remove any Executive Board members during the Period of Declarant Control;
- (e) To approve all nameplates and signage attached to the exterior of the Condominium and in and about the Common Areas, and to provide uniform appearance and location;
- (f) To amend this Declaration as necessary to exercise the development rights reserved pursuant to this Section 9 and Section 10, or if required by any governmental agency;
- (g) Notwithstanding anything to the contrary, the right to amend, in the Declarant's sole discretion and without the need for any approval from any other person or party whatsoever, the Unit Owner parking allotments set forth in Article II, Section 3 below; and

Section 10. Until such time that all of the Units have been sold by the Declarant, the Declarant hereby reserves the following Development Rights:

- (a) The right by amendment to add and create Units, Common Elements and Limited Common Elements within the Condominium, including, but not limited to, the right to add additional land to the Property and the Condominium; and
- (b) The right to construct and modify underground utility lines, pipes, wires, ducts, conduits, driveways, parking lots and other facilities across the land anywhere in the Condominium for the purpose of furnishing utility, stormwater protection, and other services to the building and improvements to be constructed in connection with such additional Units. The Declarant also reserves the right to grant easements for drainage, access and public and private utilities and to convey improvements within those easements anywhere in the Condominium for the above-mentioned purposes.

ARTICLE II **PROPERTY RIGHTS**

Section 1. Ownership of a Unit shall vest fee simple title to such Unit in the Owner.

Section 2. Every Owner shall own an undivided interest in the Common Elements and shall have a right and easement of enjoyment in the Common Elements, which shall be appurtenant to and shall pass with the title to every Unit. The undivided interest

in the Common Elements and the right and easement of enjoyment in such Common Elements are subject to the following:

- (a) The Association shall have the right to adopt such rules and regulations as may be needed to regulate the use and enjoyment of the Common Elements;
- (b) Special Declarant rights as set forth in Article I, Section 9 and reserved Development Rights as set forth in Article I, Section 10; and
- (c) The Association shall have the right to dedicate or transfer, or encumber all or any part of the Common Elements subject to approval by the Owners as provided in G.S. § 47C-3-112, provided that the transferee of all of any part of the Common Elements has executed a Permit Agreement with the City of Durham with regard to the stormwater facilities further described herein.

Section 3. Notwithstanding anything provided in this Declaration seemingly to the contrary, the Association shall have the exclusive right to establish the rules and regulations pursuant to which the Owner of any Unit, his employees, servants, invitees and lessees, may be entitled to use the Common Elements and any Limited Common Elements, including the right to make permanent and temporary assignments or allocations of parking spaces; to wit, it is hereby determine that the parking allotment for each Unit Owner shall be four (4) unassigned, unreserved parking spaces per Unit ownership.

Section 4. Any Owner may delegate his right of enjoyment to Common Elements to tenants.

Section 5. The Common Elements and any Limited Common Elements are not subject to partition, and any purported conveyance, encumbrance, judicial seal or other voluntary or involuntary transfer of any undivided interest in the Common Elements by a Unit Owner made without the Condominium Unit to which that interest is allocated is void.

ARTICLE III **ALLOCATED INTERESTS**

Section 1. The table showing Unit numbers and their Allocated Interests is attached as **Exhibit C**. These interests have been allocated in accordance with the formulas set out in this Article III. These formulas are to be used in reallocating interests if Units are added to the Condominium.

Section 2. The interests allocated to each Unit have been calculated on the following formulas:

- (a) The percentage of undivided interest in the Common Elements allocated to each Unit is based on each Unit having an equal undivided interest;
- (b) The percentage of liability for Common Expenses allocated to each Unit is based on each Unit having an equal undivided interest. Nothing contained in this Subsection shall prohibit certain Common Expenses from being apportioned to particular Units under Article IV of this Declaration; and
- (c) The vote in the Association allocated to each Unit is based on each Unit having one (1) vote.

Section 3. The effective date for assigning Allocated Interests to Units created pursuant to Declarant rights hereunder shall be the date on which the amendment creating the Units is recorded in the Registry of Durham County, North Carolina.

ARTICLE IV
ASSESSMENT AND COLLECTION OF COMMON EXPENSES

Section 1. The Declarant, for each Unit owned within the Property, and each Owner by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, hereby covenants and agrees to pay the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements and for the maintenance, reconstruction and repair of any and all stormwater facilities, such assessments to be established and collected as hereinafter provided. Except as provided in Section 2 of this Article IV, the liability of each Owner for the Common Expenses of the Association shall be in accordance with their stated allocation as shown in **Exhibit C**. Any assessment levied against a Unit remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on that Unit when filed of record in the office of the Clerk of Superior Court of Durham County and shall accrue interest at a rate set by the Association not to exceed 18% per annum, or the maximum interest rate allowed under the law, it being the intent to allow the Association to accrue interest at the highest amount permissible under the law. The Association may bring an action at law against the Owner, or foreclose the lien against the Property. Fees (including attorneys' fees), charges, late charges, fines, and interest are also enforceable as assessments. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessment shall not pass to his successors in title unless expressly assumed by them.

- Section 2.** Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed against the Unit or Units to which the Limited Common Element is assigned. Any Common Expense for services provided by the Association to an individual Unit at the request of the Unit Owner shall be assessed against such Unit. Any charge for a utility service provided solely to a particular Unit or Units shall be assessed against such Unit or Units.
- Section 3.** The lien of the assessments provided for herein shall only be subordinate to the lien of any first mortgage and ad valorem taxes. Sale or transfer of any Unit shall not affect the assessment lien. The sale or transfer of any Unit pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof, however, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Unit from liability for any assessments thereafter becoming due or from the lien thereof.
- Section 4.** The annual assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the occupants and in particular for the acquisition, improvement and maintenance of the condominium, services and facilities devoted to this purpose, and for the use and enjoyment of the Common Elements. The Association, in establishing the Annual Budget for the operation, management and maintenance of the condominium, may designate therein a sum to be collected and maintained as a reserve fund for replacement of, and the making of capital improvements to the Common Elements which Capital Improvement and Replacement Fund (herein "Capital Improvement Fund") shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Elements, as well as the replacement of personal property which may constitute a portion of the Common Elements or be owned by the Association and held for the joint use and benefit of the Owners of the condominium Units. The amount to be allocated to the Capital Improvement Fund may be established by the Executive Board so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Elements and other property owned by the Association. In addition to the Capital Improvement Fund, the Association, in establishing the Annual Budget for the operation, management and maintenance of the condominium, may designate therein a sum to be collected and maintained as a separate reserve fund for reconstruction and repair of any and all stormwater facilities (herein "Facility Fund") mandated by the City of Durham. The amount to be allocated to the Facility Fund may be established by the Executive Board so as to collect and maintain a sum reasonably necessary to accommodate the probable reconstruction and repair cost for a three-year period. Further, said Facility Fund shall be maintained in a separate account by the Association and such monies shall be used only to reconstruct or repair the said stormwater facilities.

Section 5. Until January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment shall be \$1,200.00 per Unit, prorated for the remainder of said year.

- (a) From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership by up to five percent (5%) of the previous year's maximum annual assessment;
- (b) From and after January 1 of the year immediately following the conveyance of the first Unit to an Owner, the maximum annual assessment for the next succeeding two (2) years may be increased above the increase permitted in Section 5(a), provided that any such assessment shall receive the affirmative vote of two-thirds (2/3rds) of the votes of the Owners who are voting in person or by proxy, at a meeting duly called for this purpose. Written notice setting forth the purpose of such meeting shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. No quorum shall be required; and
- (c) The Executive Board may fix the annual assessment at any amount not in excess of the maximum.

Section 6. Both annual and special assessments must be fixed at a uniform rate and may be collected on a quarterly basis.

Section 7. The annual assessments provided for herein shall commence at a date established by the Association. Once such annual assessments are established, written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Executive Board.

ARTICLE V **UNITS/PARTY WALLS**

Section 1. The walls, flooring and ceilings are the boundaries of each Unit. The walls and flooring connecting adjacent Units are "party walls" and are situated on or about the boundary line separating such Units.

Section 2. All finish flooring and any other materials constituting any part of the finished surfaces of the walls, floors, or ceilings are a part of the Units, pursuant to G.S. § 47C-2-102(1). To the extent any duct, wire, conduit, or any other fixtures lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated

exclusively to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements, pursuant to G.S. § 47C-2-102(2). Any decks, porches, balconies, patios and all other exterior doors and windows or other fixtures designated to serve a single Unit but located outside the Unit's boundaries are Limited Common Elements allocated exclusively to that Unit, pursuant to G.S. § 47C-2-102(4). Stairways, landings, hallways, porches, entrance ways, the use of which is limited to certain Units as shown on the Plats and Plans are Limited Common Elements assigned to the Units as shown.

- Section 3. Each wall which is built as a part of the original construction of a Unit and placed on the dividing line between the Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.
- Section 4. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.
- Section 5. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act, or the negligent or willful act of the Owner's family, guests, invitees, tenants or agents, causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.
- Section 6. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.
- Section 7. If any Owner desires to sell his Unit, such Owner may, in order to assure a prospective purchaser that no adjoining Unit Owner has a right of contributions provided in this Article V, request of the adjoining Unit Owner a certification that no right of contribution exists, whereupon it shall be the duty of the adjoining Unit Owner to make such certification immediately upon request and without charges; provided, however, that where the adjoining Unit Owner claims a right of contribution, the certification shall contain a recital of the amount claimed.
- Section 8. The Association will insure the shell and the Common Elements. The Unit Owner will be responsible to insure the Units as upfitted including wall coverings, ceiling material, finished floors, wall to wall carpeting, interior partitioning that is affixed to the Units, cabinets that are affixed to the Units, built in appliances, mechanical systems such as plumbing, heating ventilation, and air conditioning, electrical system and those portions of any wiring for communications systems such as telephone or computer that are built into the premises. The Unit Owner

will additionally be responsible to insure furniture, equipment, all personal property, computers, telephones, or other communications equipment, movable furnishings and decorative items, specialized equipment and trade fixtures such as dental chairs and dental equipment, even though such specialized equipment may be affixed.

Section 9. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina as then existing.

ARTICLE VI **MAINTENANCE**

Section 1. In addition to maintaining the Common Elements, the Association shall provide exterior maintenance for each Unit, subject to assessment hereunder, including the performance of the following, as needed: Paint, repair, replace and care of roofs, exterior building surfaces, trees, shrubs, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces of the Units. Maintenance, repair and replacement of glass surfaces of the Unit shall be the responsibility of the Unit Owner and not the Association. However, any replacement must be in keeping with the original material. The repair and maintenance of HVAC system equipment for each Unit shall be the responsibility of the Unit Owner.

Section 2. In the event that the need for maintenance, repair, or replacement to the Common Elements is caused through the willful or negligent act of an Owner, his family, guests, invitees, or tenants, the cost of such maintenance, replacement, or repairs shall be added to and become a part of the assessment to which such Unit is subject.

Section 3. All interior maintenance or repair of each Unit shall be the sole responsibility of the Unit Owner unless the cause of the maintenance or repair is due to items covered under the repair and maintenance responsibilities of the Association as defined in Section 1 above.

ARTICLE VII **ARCHITECTURAL CONTROL**

No building, fence, wall, or other structure or improvement shall be commenced, erected or maintained upon the condominium or upon the roof of the condominium, (including, but not limited to the installation of electrical wiring, television or radio antennae or satellite dish or other objects which may protrude through the walls or roof of the condominium), nor shall any exterior addition or change whatsoever be made to any portion of the condominium until the

plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the Executive Board.

The exterior color of a Unit cannot be changed unless the color scheme of the entire condominium is similarly changed. Any such change requires the approval of two-thirds (2/3rds) of the Owners at a duly called meeting at which a quorum is present.

ARTICLE VIII **USE RESTRICTIONS**

- Section 1. No Unit shall be used except for business and professional purposes and such use must conform to state and local zoning ordinances insomuch as each Unit is hereby restricted to use by the Owner thereof, his employees, servants, guests, invitees and lessees, for those uses and purposes permitted in the zoning district in which the Condominiums located, excluding those uses permitted therein only upon obtaining a special use permit or variance. Provided, however, with the prior written consent of the Association, a Unit Owner may seek a variance or special use permit and upon obtaining the same may engage in those uses of the Unit permitted by such variance or special use permit subject to the further restrictions of this Declaration. Upon obtaining a special use permit or variance, the Unit Owner shall file a certified copy thereof with the Secretary of the Association. No Unit shall be used for a hair, nail or tanning salon. In any event, no Unit shall be used in any manner except in accordance with applicable law.
- Section 2. No noxious or unreasonably offensive activity shall be conducted upon any Unit nor shall anything be done thereon which may be or may become an unreasonable annoyance or nuisance. The determination of a violation of foregoing shall be in the sole discretion of the Declarant during the Period of Declarant Control. While any such violation continues to exist, the Unit Owner committing such violation shall be fined in the amount of one hundred fifty and 00/100 Dollars (\$150.00) per day, which fine shall constitute a special assessment against the Unit Owner's Unit in accordance with the terms of Article IV, Section 1, including, but not limited to, all lien rights of the Association as described therein. For purposes hereof, the phrase "noxious or unreasonably offensive activity" shall include the existence of any fixture, decoration or item of personal property that is visible from the exterior of any Unit and is reasonably objected to by the Declarant or by any Unit Owner.
- Section 3. No animals or any kind shall be kept or maintained in any Unit without permission of the Executive Board, or except as may be permitted by rules and regulations adopted by the Executive Board.

- Section 4. No outside radio or television antennas, including satellite dishes or receivers shall be erected on any Unit unless and until permission for the same has been granted by the Executive Board.
- Section 5. No signs may be placed in or on the Common Elements advertising or promoting a business except within thirty (30) days of a grand opening, or a for sale or lease by a real estate firm. No sign shall exceed 18" x 24." No other sign shall be permitted on or about the Units, other than those signs specifically referred to in Article I, Section 9.
- Section 6. All window coverings (i.e., curtains, blinds, draperies, shades, etc.) shall appear off-white from the exterior and are deemed the responsibility of the Unit Owner.
- Section 7. Owners shall not park or store any boat, camper, trailer, trailer vehicle, or similar vehicle anywhere on the premises. No trucks shall be permitted except for standard passenger vans, pickup trucks or sport utility vehicle. No motor vehicle that is not currently registered, inspected or licensed shall be parked or stored anywhere on the premises. The Association reserves the right to tow any vehicle in violation of this Section and charge the Owner for the cost of towing. In no event shall the Association be held liable for the towing of any vehicle that is in violation of this Section.

ARTICLE IX **EASEMENTS**

- Section 1. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plats and Plans and other like easements may be granted by the Executive Board in the name of the Association for the benefit of the condominium and for the benefit of any Unit, including the right to install, lay, maintain, repair and replace, waterlines, pipes, sewer lines, storm drainage facilities, telephone wires, cable television wires and electrical conduits, wires over, under and along any portion of the Property, and the Owners of any Unit hereby grant to the Association an irrevocable power of attorney to execute, acknowledge and record for and in the name of each Unit Owner such instruments as may be necessary to effectuate the foregoing. Within these easements no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may obstruct or change the flow of drainage channels in the easements.
- Section 2. All Units and Common Elements shall be subject to easements for the encroachment of improvements constructed on adjacent Units by the Declarant to the extent that such improvements actually encroach, including, but not limited to, such items as overhanging eaves, stoops, misaligned common wall foundation

footings and walls, provided such encroachment does not interfere with the reasonable use of the Common Elements or Units so encroached upon.

- Section 3. Declarant shall have a reasonable construction easement across the Common Elements for the purpose of constructing improvements on the Units. Declarant shall also have such easements through the Common Elements as may be reasonably necessary for the purpose of discharging a Declarant's obligations or exercising Special Declarant Rights as provided herein.
- Section 4. The Association shall have a right of entry upon the Units and any limited Common Elements to effect emergency repairs, and a reasonable right of entry upon the Units to effect other repairs, improvements, replacement or maintenance as necessary.
- Section 5. All easements granted herein are appurtenant to and shall run with the land, and shall inure to the benefit of and be binding upon the Declarant, the Association, Owners, occupants, and mortgage holders, and any other person or entity having an interest in the condominium.
- Section 6. Each Unit Owner shall have an easement in common with the Owners of all other Units to use all chutes, flues, pipes, wires, ducts, cables, conduits, and public utilities serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the chutes, flues, pipes, wires, ducts, cables, conduits, and public utility lines, and other Common Elements serving such other Units and located in such Unit. The Executive Board, or its agents, shall have a right of access necessary to inspect the same, to remove violations therefrom, and to maintain, repair or replace the Common elements contained therein or accessible therefrom, and to make emergency repairs therein necessary to prevent damage to the Common Elements or to another Unit or Units. Each Unit Owner specifically shall have an easement of access through all other Units as may be reasonably necessary to maintain, repair and replace all components of mechanical systems serving his Unit and to maintain, repair and replace those portions of his Unit or Limited Common Elements within his sphere of responsibility.
- Section 7. An easement is hereby established over the Common Elements for the benefit of applicable governmental agencies, utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna lines, fire fighting, garbage, collection, postal delivery, emergency and rescue activities and law enforcement activities.

ARTICLE X
TERMINATION

- Section 1. The termination of the Condominium may be effected only by the unanimous agreement of all Condominium Unit Owners expressed in an instrument to that effect duly recorded; and, provided, that the holders of all liens affecting any of the Condominium Units consent thereunto, or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the undivided interest of the Condominium Unit Owner in the Property as provided in Section 3 below. The termination shall become effective when such agreement has been recorded in the public records of Durham County, North Carolina. The termination agreement must be executed and the termination agreement must specify a date after which the agreement will be void unless recorded before that date.
- Section 2. If it is determined in the manner elsewhere provided that the Condominium shall not be reconstructed after casualty, the Condominium plan of ownership shall be terminated and the Declaration of Condominium revoked. The determination not to reconstruct after casualty shall be evidenced by a Certificate of the Association certifying as to the facts effecting the termination, which Certificate shall become effective upon being recorded in the public records of Durham County, North Carolina.
- Section 3. After termination of the Condominium, the Condominium Unit Owners shall own the Property as tenants in common in undivided shares and the holders of mortgages and liens against the Condominium Unit or Units formerly owned by such Condominium Unit Owners shall have mortgages and liens upon the respective undivided shares of the Condominium Unit Owners. The undivided share or interest owned as tenants in common shall be that percentage of the undivided interest in the Common Area and Common Elements previously owned by each Unit Owner. All funds held by the Association and insurance proceeds, if any, shall be and continue to be held for the Unit Owners in the same proportion. The costs incurred by the Association in connection with the termination shall be a Common Expense.
- Section 4. Following termination, an action or suit may be brought upon the application of any Condominium Unit Owner to have the property partitioned or sold in lieu of partition. In addition, the Executive Board, pursuant to a vote of not less than a majority of its members, may bring an action or suit to have the property sold in lieu of partition. In such latter event, any action for partition or other division of the property shall be held in abeyance pending such sale, and upon the consummation thereof shall be discontinued by all parties thereto.

Section 5. The members of the Executive Board, acting collectively as agent of all Condominium Units, shall continue to have such powers as in this Article are granted, notwithstanding the fact that the Association itself may be dissolved upon a termination.

ARTICLE XI
GENERAL PROVISIONS

Section 1. All powers granted in the Declaration or the Bylaws to the Association shall be exercisable by the Executive Board, except as expressly provided in the Declaration, the Bylaws, or G.S. § 47-C.

Section 2. The Association may adopt and enforce reasonable rules and regulations not in conflict with the Declaration and supplementary thereto, as more fully provided in the Bylaws.

Section 3. The Association shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the Bylaws and the Articles of Incorporation of the Association. Failure by the Association to enforce any covenants or restriction herein shall in no event be deemed a waiver of the right to do so thereafter. Upon notice to the Association of a violation hereunder and a failure of the Association to take action upon said violation within 90 days, any Unit Owner, or other holder of an interest in the condominium may undertake the enforcement of the provisions of the Declaration at his own expense.

Section 4. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first 20-year period by an instrument signed by not less than ninety (90%) percent of the Unit Owners, and thereafter by an instrument signed by not less than sixty-six (66%) percent of the Owners. Any amendment must be recorded. As long as North State maintains a security interest in the Property under the Paragon Security Documents, Paragon must consent to any amendment hereto.

Section 6. The fiscal year of the Association shall begin on the first day of January and end the 31st day of December of each year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, Declarant of this Declaration has caused this instrument to be executed in its name by its duly authorized member/manager, this ___ day of _____, 2005.

**MADISON CENTRE
PARTNERS, LLC**

MPS Investments, LLC

By: 

Mark P. Schweibinz, Manager

Hoel Investments, LLC

By: 

Edwin B. Hoel, Manager

DiFranco Investments, LLC

By: 

Salvatore DiFranco, Manager

Devinsire Holdings, LLC

By: 

Leo Daniel Devin, Manager

PARAGON COMMERCIAL BANK

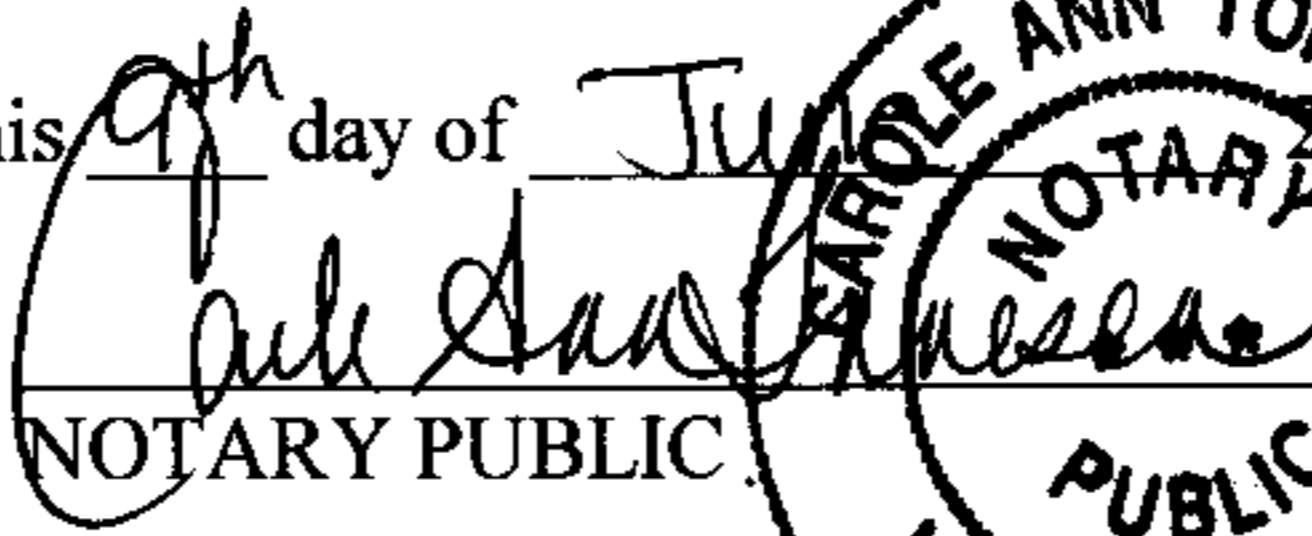

By: 

SR. VICE, President

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, Carole Ann Tonnesen, a Notary Public of Wake County, North Carolina, do certify that **Mark P. Schweibinz**, Manager of MPS Investments, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and official seal, this 9th day of June, 2005.

NOTARY PUBLIC


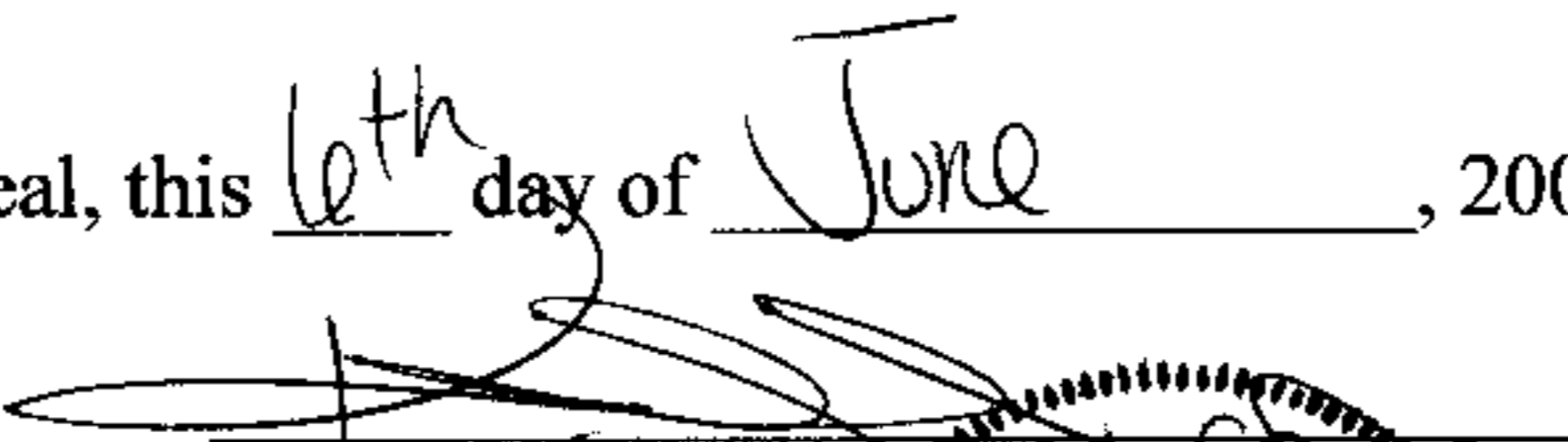
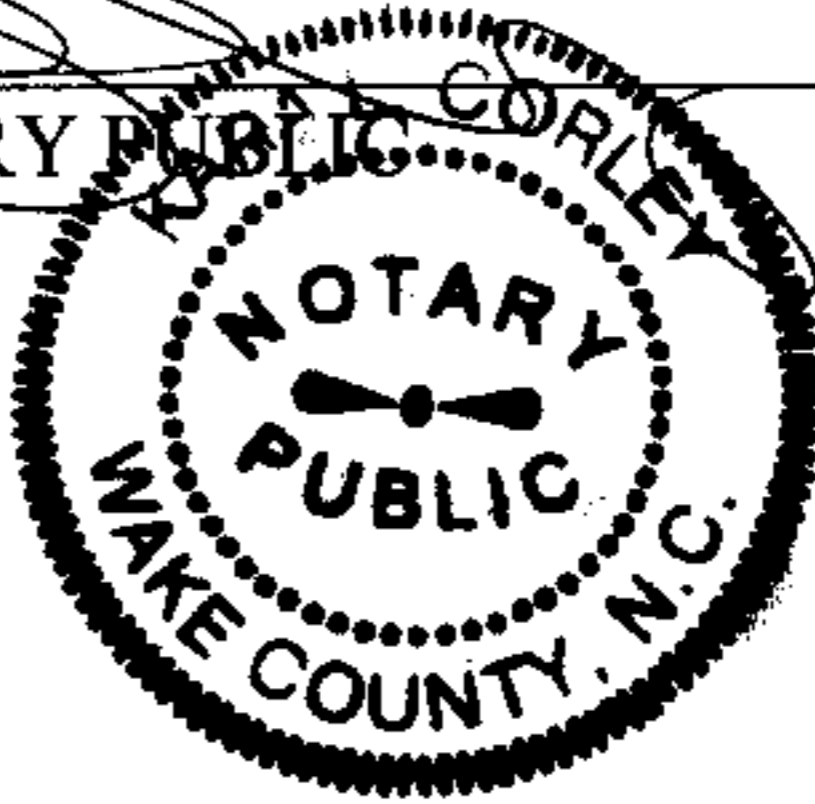
My Commission Expires:
My Commission Expires 3-4-2006

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, Kara L. Corley, a Notary Public of Wake County, North Carolina, do certify that **Edwin B. Hoel**, Manager of Hoel Investments, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and official seal, this 6th day of June, 2005.


NOTARY PUBLIC


My Commission Expires:
12-16-05

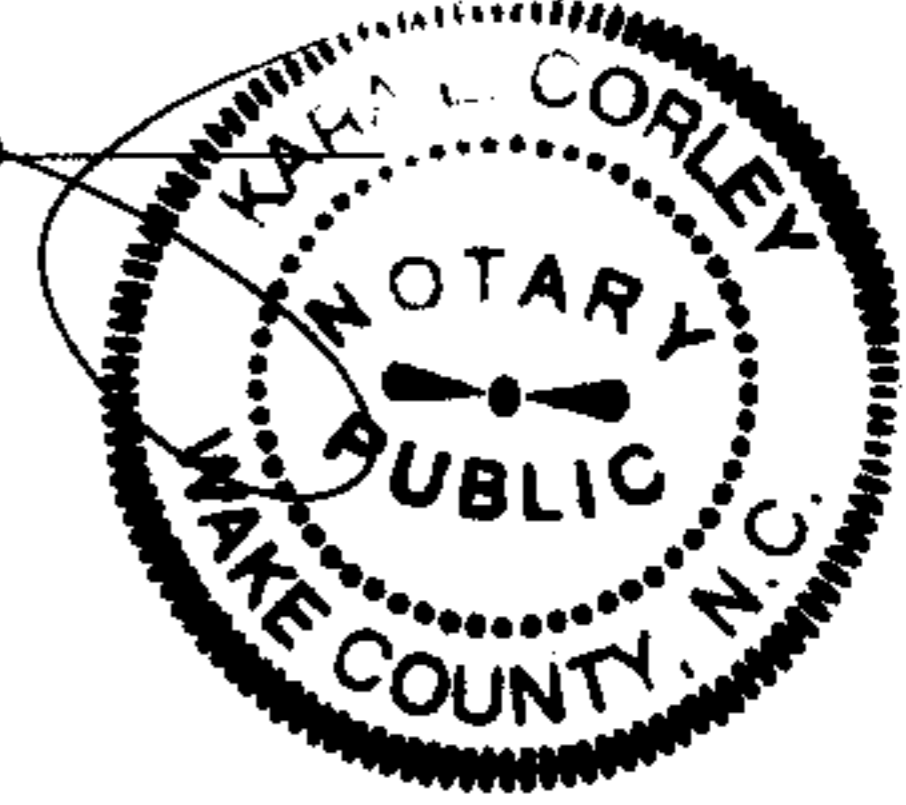
STATE OF NORTH CAROLINA

COUNTY OF Wake

I, Karel Corley, a Notary Public of Wake County, North Carolina, do certify that **Salvatore DiFranco**, Manager of DiFranco Investments, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and official seal, this 1st day of June, 2005.

[Signature]
NOTARY PUBLIC



My Commission Expires:
12-16-06

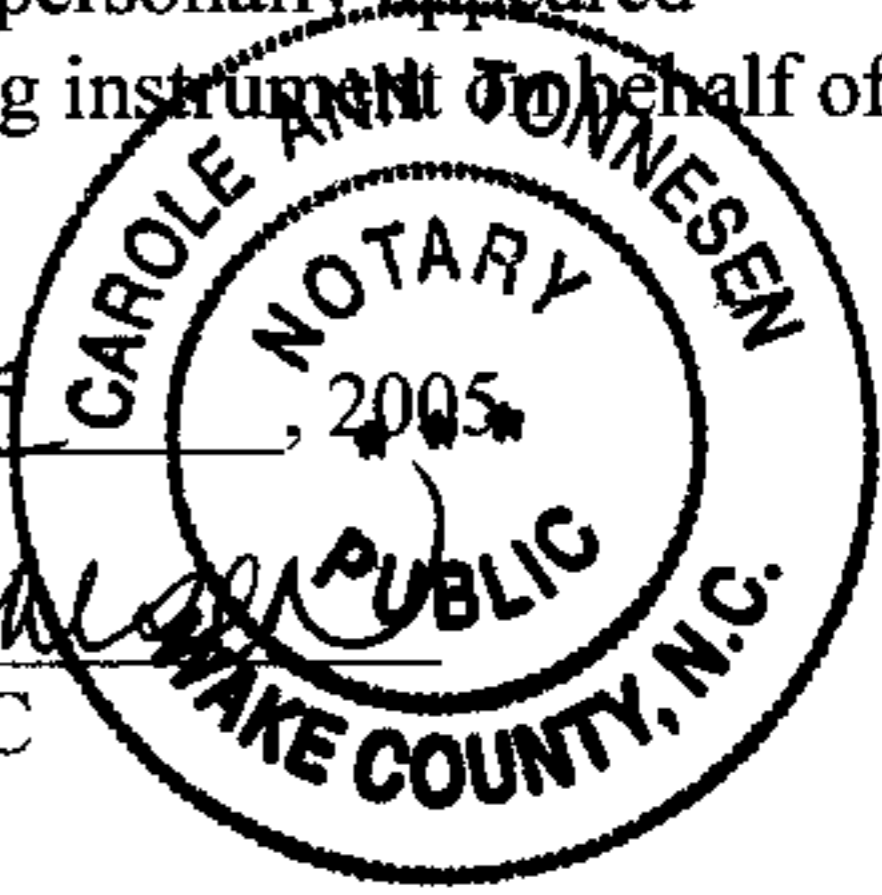
STATE OF NORTH CAROLINA

COUNTY OF Wake

I, Carole Ann Tomnesen, a Notary Public of Wake County, North Carolina, do certify that, **Leo Daniel Devin**, Manager of Devinshire Holdings, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and official seal, this 9th day of June, 2005.

[Signature]
NOTARY PUBLIC



My Commission Expires:
My Commission Expires 3-4-2006

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, Brenda Perie, a Notary Public of Wake County, North Carolina, do certify that, Martin W. Borden personally appeared before me this day and acknowledged that she/he is the S. Vice President of **PARAGON COMMERCIAL BANK**, a North Carolina banking corporation and further acknowledge the due execution of the foregoing instrument on behalf of the corporation.

Witness my hand and official seal, this 13th day of June, 2005.

Brenda Perie
NOTARY PUBLIC

My Commission Expires:

10-24-09

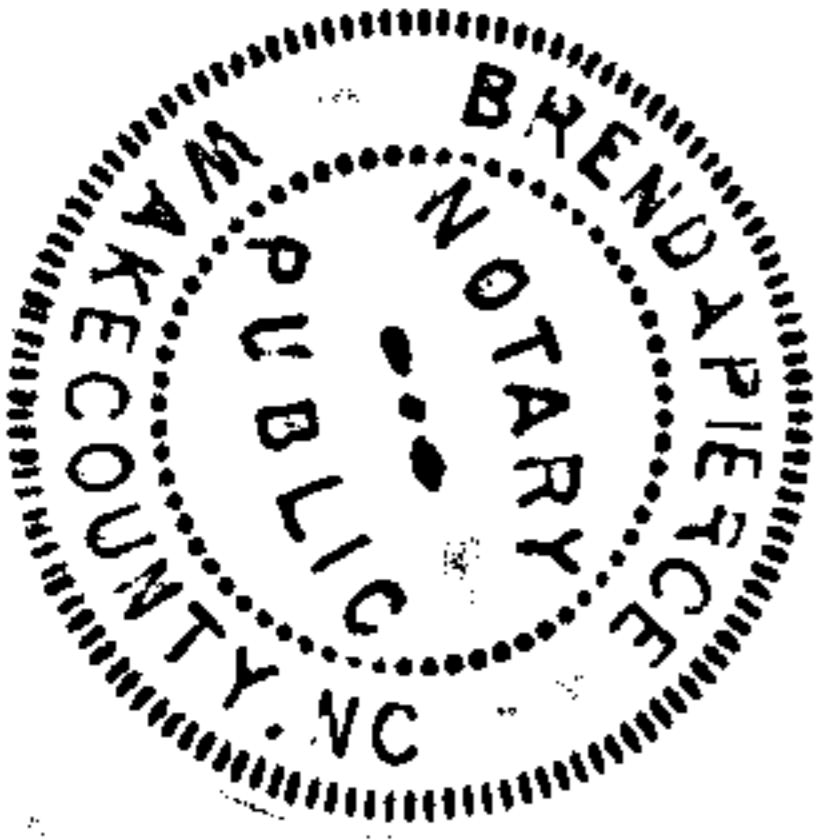


EXHIBIT A

BEGINNING at an existing iron pin in the northern right-of-way line of Martin Luther King Parkway having North Carolina State Plane coordinates $N(y) = 804,697.69$ and $E(x) = 2,012,501.01$ and $CF = 0.9999390$ and running thence along the western property line of Bigger Staff and Crawley King, LLC North $02^{\circ} 30' 47''$ East 327.02 feet to an existing iron pin; thence South $53^{\circ} 40' 13''$ East 59.05 feet to an iron pin set; thence South $78^{\circ} 56' 02''$ East 200.35 feet to an existing iron pin; thence South $62^{\circ} 05' 38''$ East 230.40 feet to an iron pin set; thence along a curve to the right, said curve having a radius of 644.07 feet, an arc length of 85.99 feet (said curve having a chord bearing South $04^{\circ} 29' 55''$ East 85.93 feet; thence South $00^{\circ} 04' 11''$ West 38.33 feet; thence South $68^{\circ} 55' 42''$ West 48.02 feet to a right-of-way monument in the northern right-of-way line of Martin Luther King Parkway; thence South $89^{\circ} 21' 57''$ West 264.45 feet to a right-of-way disc in the northern right-of-way line of Martin Luther King Parkway; thence South $71^{\circ} 33' 20''$ West 26.86 feet to a right-of-way disc in the northern right-of-way line of Martin Luther King Parkway; thence North $86^{\circ} 54' 07''$ West 134.31 feet to the point and place of BEGINNING containing 111,268 square feet (2.55 acres), more or less, as shown on the survey entitled "Property of TICON-KDT Partnership" by Newcomb Land Surveyors, LLC, dated January 25, 2005.

EXHIBIT B

BYLAWS OF MADISON CENTRE OWNERS ASSOCIATION, INC., a North Carolina Nonprofit Corporation

ARTICLE I MEETINGS OF MEMBERS

- Section 1. The first annual meeting of the members shall be held within one year from the date of formation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day and the same month of each year thereafter.
- Section 2. Special meetings of the members may be called at any time by the President or the Executive Board, or upon written request of twenty (20%) percent of the members, pursuant to G.S. § 47C-3-108.
- Section 3. Written notice of each meeting shall be given by, or at the direction of, the Secretary or person(s) authorized to call the meeting, by hand delivering or mailing a copy of such notice, postage prepaid, at least ten (10) days and not more than fifty (50) days before such meeting to each member as provided in G.S. § 47C-3-108.
- Section 4. The Executive Board shall develop a budget and present it to all the Unit Owners for approval and adoption. The budget shall be considered at a meeting of the Unit Owners as set forth in G.S. § 47C-3-103(c). Within thirty (30) days after adoption of any proposed budget for the condominium, the Executive Board shall provide a summary of the budget to all the Unit Owners.
- Section 5. The presence at the meeting of members or proxies entitled to cast fifty-one (51%) percent of the votes shall constitute a quorum for any action except as otherwise provided by law. In the event a quorum is not present a second meeting will be called wherein the presence at the meeting of members or proxies entitled to cast forty (40%) percent of the votes shall constitute a quorum for any action except as otherwise provided by law.
- Section 6. Every Unit Owner shall be entitled to cast the number or percentage of votes as provided in the Declaration for the Units owned by such member.
- Section 7. Pursuant to G.S. § 47C-3-1 10, votes allocated to a Unit may be cast pursuant to a dated written proxy signed by a Unit Owner. A Unit Owner may not revoke a proxy except by written notice delivered to the person presiding over a meeting of

the Association. A proxy terminates one (1) year after its date, unless it specifies a shorter term.

ARTICLE II
OFFICERS AND EXECUTIVE BOARD: SELECTION: TERM OF OFFICE

- Section 1. The affairs of the Association shall be managed by an Executive Board of not fewer than three (3) and not more than five (5) members, who shall be entitled to act on behalf of the Association. Subject to the initial Period of Declarant Control as set forth in Article I of the Declaration, nomination for election of the Executive Board shall be made from the floor at the annual meeting. Election shall be by ballot and by a majority of the Unit Owners when a quorum is present. Cumulative voting is not permitted.
- Section 2. At the first annual meeting following the termination of Declarant control, a minimum of three (3) and a maximum of five (5) Executive Board members shall be elected to serve until the following annual meeting.
- Section 3. Any Executive Board member, except those appointed by the Declarant, may be removed in accordance with G.S. § 47C-3-103(b). In the event of death, resignation or removal of a director, his successor shall be selected by a majority of the members voting at a meeting when a quorum is present. The successor shall serve the remainder of the term.
- Section 4. No Executive Board member shall receive compensation for any service he may render to the Association. However, with the prior approval of the Executive Board, any Executive Board member may be reimbursed for actual expenses incurred in the performance of his duties.
- Section 5. The Executive Board shall have the right to take any action in the absence of a meeting which they could take a duly held meeting by obtaining the written consent of all the Executive Board members to the action. Any action so approved shall be filed in the corporate books and records and shall have the same effect as though taken at a meeting of the Executive Board.

ARTICLE III
MEETINGS OF EXECUTIVE BOARD

- Section 1. Meetings of the Executive Board shall be held quarterly, or as deemed necessary by the Board, without notice, or as determined by the Board, at such place and hour as may be fixed from time to time by resolution of the Board. Special meetings of the Executive Board may be called by any member of the Executive Board, after not less than five (5) days notice to each Executive Board member.

Section 2. A majority of the Executive Board members shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Executive Board members present at a duly held meeting shall be regarded as the act of the Board.

ARTICLE IV
POWERS AND DUTIES OF THE EXECUTIVE BOARD

Section 1. Subject to the provisions contained herein and applicable law, the Executive Board shall have the power and authority to exercise all the rights of the Association, including, but not limited to:

- (a) Adopt rules and regulations governing the use of the common area and facilities, the person conduct of the members and their guests thereon, establish penalties for the infraction thereof;
- (b) Suspend the voting rights of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- (c) Declare the office of a member of the Executive Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Executive Board;
- (d) Employ a professional property manager, an independent contractor, or other employees as they deem necessary, and prescribe their duties; provided always, any contract for professional management must contain a clause requiring not more than ninety (90) days termination notice;
- (e) Procure, maintain and pay premiums on an insurance master policy(ies) and equitably assess the Owners of the same for their prorata portion of such expense, and to procure and maintain liability insurance for the Board of Directors;
- (f) Impose and receive any payments, fees, or charges for the use, rental, or operation of the Common Elements other than for service provided to Unit Owners;
- (g) Exercise all other powers that may be exercised in this state by legal entities of the same type as the Association;

- (h) Exercise any other powers necessary and proper for the governance and operation of the Association; and
- (i) Have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of North Carolina by law may now or hereafter have or exercise.

Section 2. It shall be the duty of the Executive Board to:

- (a) Cause the Common Elements to be maintained, repaired, and replaced as necessary, and to assess the Unit Owners to recover the cost of the upkeep of the Common Elements;
- (b) Serve as the Architectural Committee;
- (c) Keep a complete record of all its acts and corporate affairs and present a statement thereof to the members at the annual meeting, or at any special meeting when such statement is requested in a writing signed by fifty-one (51%) percent of the members;
- (d) Supervise all officers, agents and employees of the Association, and see that their duties are properly performed;
- (e) Fix the amount of the annual assessment at least thirty (30) days in advance of each annual assessment period pursuant to the provisions set forth in the Declaration and G.S. § 47C-3-103(c);
- (f) Send written notice of each assessment to every Owner at least thirty (30) days in advance of each annual assessment period;
- (g) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;
- (h) Issue, or have issued, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (i) Procure and maintain, at all times, adequate replacement coverage hazard insurance on the property owned by the Association and all property for which the Association has the duty to maintain, and sufficient liability

insurance to adequately protect the Association as provided in G.S. § 47C-3-113; and

- (j) Cause all officers or employees, including officers and employees of professional management, having fiscal responsibilities to be bonded, as it may deem appropriate.

ARTICLE V **OFFICERS AND THEIR DUTIES**

Section 1. The officers of this Association shall be a President, Vice-President, and Secretary/Treasurer. The officers shall be appointed by the Executive Board from among the members of the Executive Board.

- (a) The President shall preside at all meetings of the Executive Board; see that orders and resolutions of the Executive Board are carried out; sign all leases, mortgages, deeds and other written instruments and may co-sign all checks and promissory notes. However, the President may elect to have a property manager be responsible for daily operation and for the manager to have periodic meetings to correctly oversee the Association;
- (b) The Vice-President shall act in the place of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Executive Board;
- (c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Executive Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Executive Board and of the members; keep appropriate current records showing the members of the Association together with their addresses; prepare, execute, certify, and record amendments to the Declaration on behalf of the Association; and perform such other duties as required by the Executive Board; and
- (d) The Treasurer shall receive and deposit or oversee the property manager in the receipt and deposit in appropriate bank accounts all monies of the Association and disburse such funds as directed by the Executive Board; may sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant or other person suitable to the Executive Board at the completion of each fiscal year; and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its annual meeting, and deliver a copy to each member.

The Treasurer with the consent of the board may assign any of these activities to a property manager.

ARTICLE VI
BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member or a mortgagee of any member. The Articles of Incorporation and the Declaration and Bylaws of the Association shall be available for inspection by any member at the principal office of the property manager or President of the Association, where copies may be purchased at reasonable cost.

ARTICLE VII
SEAL

The Association shall have a seal in circular form having within its circumference the words "Madison Centre Owners Association, Inc.," and the words: "SEAL-2005" in the center thereof.

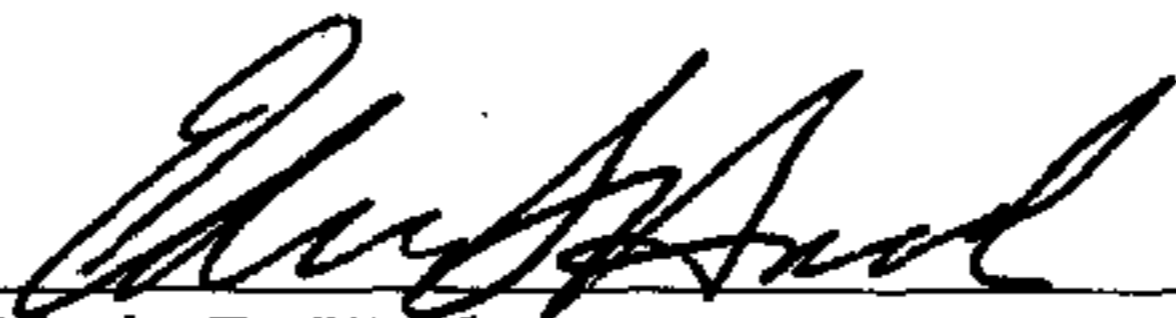
ARTICLE VIII
AMENDMENT TO BYLAWS

These Bylaws may be amended, at a regular or special meeting of the members, by a vote of the majority of the members.

IN WITNESS WHEREOF, we being all of the members of the Executive Board of Madison Centre Owners Association, Inc. have hereunto set our hands, this 13th day of June, 2005.



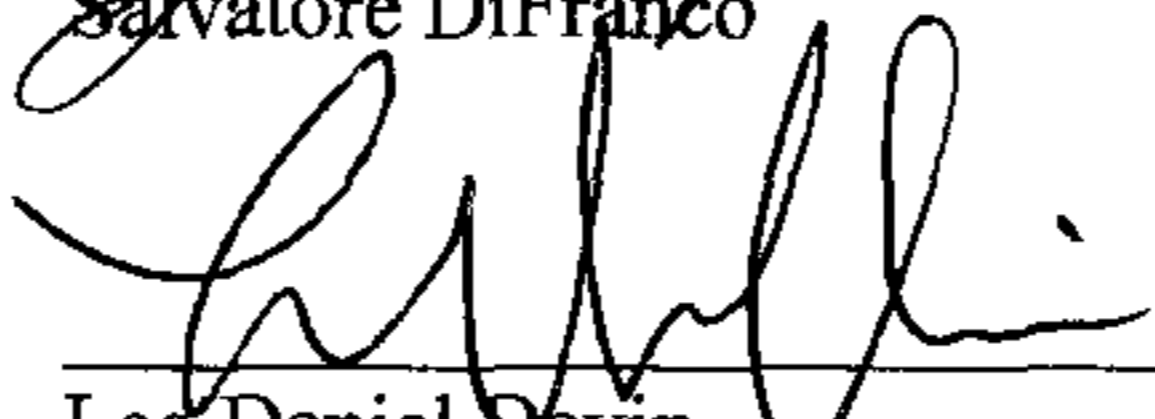
Mark P. Schweibinz



Edwin B. Hoel



Salvatore DiFranco



Leo Daniel Devin

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting Secretary of the Madison Centre Owners Association, Inc., a North Carolina nonprofit corporation, and

THAT the foregoing Bylaws constitute the original Bylaws of such Association and were duly adopted at a meeting of the Board of Directors thereof, held on the 13th day of June, 2005.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Association, this 13th day of June, 2005.


_____, Secretary



EXHIBIT C
TABLE OF ALLOCATED INTERESTS

Each Unit shall have a one twenty-sixth (1/26) interest in the common elements.



EXHIBIT D

NORTH CAROLINA

Department of The Secretary of State

To all whom these presents shall come, Greetings:

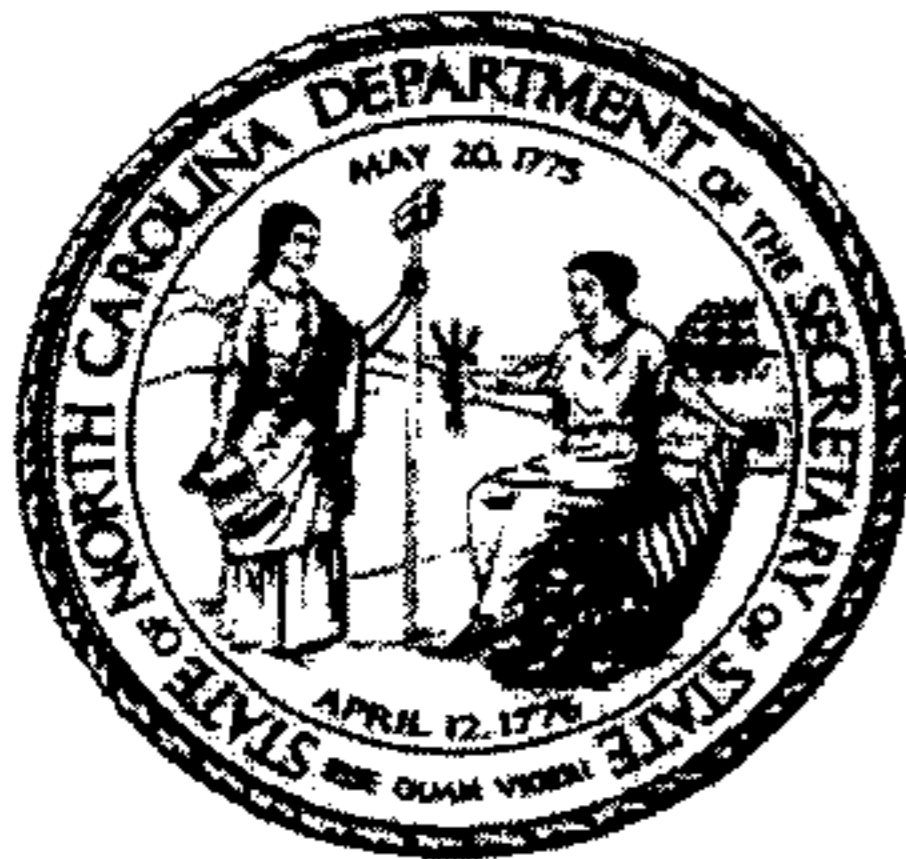
I, **ELAINE F. MARSHALL**, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

ARTICLES OF INCORPORATION

OF

MADISON CENTRE OWNERS ASSOCIATION, INC.

the original of which was filed in this office on the 26th day of May, 2005.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 26th day of May, 2005

Elaine F. Marshall

Secretary of State

**ARTICLES OF INCORPORATION
OF
MADISON CENTRE OWNERS ASSOCIATION, INC.
A North Carolina Nonprofit Corporation**

In compliance with the requirements of Chapter 55A of the North Carolina General Statutes, the undersigned, a natural person of full age, has this day executed these Articles of Incorporation for the purposes of forming a non-profit corporation and hereby certifies:

ARTICLE I

The name of the corporation is Madison Centre Owners Association, Inc., hereinafter sometimes called the "Association."

ARTICLE II

The principal and registered office of the Association is located at 7000 Six Forks Road, Suite 115, Raleigh, Wake County, North Carolina 27615.

ARTICLE III

Mark P. Schweibinz, whose address is 7000 Six Forks Road, Suite 115, Raleigh, Wake County, North Carolina 27615, is hereby appointed the initial Registered Agent of this Association.

ARTICLE IV

This Association does not contemplate pecuniary gain or profit to the members thereof and no part of the Association's net income shall inure to the benefit of any of its officers, directors or members or any other private individual. The purposes and objects of the corporation shall be to administer the operation and management of Madison Centre Condominium (hereinafter called "Condominium"), a condominium office park established in accordance with the laws of the State of North Carolina upon property more particularly described on Exhibit A attached hereto and incorporated herein by reference, and such other Property which may subsequently be annexed or subjected to the provisions of the Declaration of Condominium for Madison Centre, a Condominium (the "Declaration") to be recorded in the Durham County Registry; to undertake the performance of the acts and duties incident to the administration of the operation and management of said Condominium in accordance with the terms, provisions, conditions, and authorizations contained in these Articles of Incorporation and which will be recorded in the Public Records of Durham County, North Carolina, at the time said property, and the improvements now or hereafter situate thereon, are submitted to a Plan of Condominium; and to own, operate, lease, sell, trade and otherwise deal with such property, whether real or personal, as may be necessary or convenient in the administration of said Condominium, all subject to the ordinances of Durham County, North Carolina.

ARTICLE V

The Corporation shall have the following powers:

1. The Corporation shall have all of the powers and privileges granted to Non-Profit Corporations under the law pursuant to which this Corporation is chartered and all of the powers and privileges which may be granted unto said Corporation under any other applicable laws of the State of North Carolina, including the North Carolina Condominium Act.

2. The Corporation shall have all of the powers reasonably necessary to implement and effectuate the purposes of the Corporation, including the following powers:

- (a) To make and establish reasonable rules and regulations governing the use of individual Condominium Units and Common Property in the Condominium as said terms are defined in the Declaration;
- (b) To levy and collect assessments against members of the Corporation to defray the common expenses of the Condominium as may be provided in the Declaration and in the Bylaws of this Corporation which may be hereafter adopted, including the right to levy and collect assessments for the purposes of acquiring, operating, leasing, managing and otherwise trading and dealing with such property, whether real or personal, including Condominium Units in the Condominium, which may be necessary or convenient in the operation and management of the Condominium and in accomplishing the purposes set forth in said Declaration, all subject to the ordinances of Durham County, North Carolina;
- (c) To maintain, repair, replace, operate and manage the Condominium and the property comprising same, including the right to reconstruct improvements after casualty, to make further improvement of the Condominium property and to make and enter into any and all contracts necessary or desirable to accomplish said purposes;
- (d) To contract for the management of the Condominium and to delegate to such contractor all of the powers and duties of the Association except those which may be required by the Declaration to have approval of the Executive Board or membership of the Corporation;
- (e) To acquire and enter into, now or at any time hereafter, leases and agreements whereby the Association acquires leaseholds, memberships and other possessory or use interests in land or facilities including, but not limited to, swimming pools, tennis courts, and other recreation facilities, whether or not

contiguous to the lands of the Condominium, to provide enjoyment, recreation or other use or benefit to the owners of the Condominium;

- (f) To enforce the provisions of the Declaration, these Articles of Incorporation, the Bylaws of the Corporation (the "Bylaws") which may be hereafter adopted, and the rules and regulations governing the use of the Condominium as the same may be hereafter established; and
- (g) To exercise, undertake and accomplish all of the rights, duties and obligations that may be granted to or imposed upon the Corporation pursuant to the Declaration.

ARTICLE VI

The qualifications of the members, the manner of their admission to membership and termination of such membership, and voting by members shall be as follows:

1. The Owners of all Condominium Units in the Condominium shall be members of the Corporation, and no other person or entity shall be entitled to membership, except as provided in item (5) of this Article VI.

2. Membership shall be established by the acquisition of the fee title to a Condominium Unit in the Condominium, or by acquisition of a fee ownership interest therein, whether by conveyance, devise, judicial decree or otherwise, and the membership of any party shall be automatically terminated upon his being divested of all title to or his entire fee ownership interest in any Condominium Unit, except that nothing herein contained shall be construed as terminating the membership of any party who may own two or more Condominium Units, or who may own a fee ownership interest in two or more Condominium Units, so long as such party shall retain title to or a fee ownership interest in any Condominium Unit.

3. The interest of a member in the funds and assets of the Corporation cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to his Condominium Unit. The funds and assets of the Corporation shall belong solely to the Corporation subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, the Declaration and in the Bylaws which may be hereafter adopted.

4. The vote(s) of each Unit may be cast or exercised by the Owner or Owners of each Condominium Unit in such manner as may be provided in the Bylaws hereafter adopted by the Corporation. Should any member own more than one Condominium Unit, such member shall be entitled to exercise or cast the votes associated with each Condominium Unit owned in the manner provided by the Bylaws.

5. Until such time as a Condominium Unit is first sold, the membership of the

Corporation shall be composed of the four (4) individuals named in Article XI hereof as the initial Executive Board of the Corporation, and each such individual shall be entitled to cast one vote on all matters on which the membership shall be entitled to vote.

ARTICLE VII

The Corporation shall have perpetual existence.

ARTICLE VIII

The affairs of the Corporation shall be managed by the President of the Corporation, assisted by the Vice President, Secretary and Treasurer and Assistant Secretaries and Assistant Treasurers, if any, subject to the directions of the Executive Board, may employ a Managing Agent and/or such other managerial and supervisory personnel or entitles to administer or assist in the administration of the operation and management of the Condominium, and the affairs of the Corporation, and any such person or entity may be so employed without regard to whether such person or entity is a member of the Corporation or a Director or Officer of the Corporation, as the case may be.

ARTICLE IX

The number of members of the first Executive Board of the Corporation shall be no fewer than three (3) and no more than five (5). The number of members of succeeding Executive Boards shall be as provided from time to time by the Bylaws. The members of the Executive Board shall be elected by the members of the Corporation at the Annual Meeting of the membership as provided by the Bylaws, and at least a majority of the Executive Board shall be members of the Corporation or shall be authorized representatives, officers or employees of a member of the Corporation. Notwithstanding the foregoing, Declarant shall have the right to designate and select a majority of the persons who shall serve as members of the Executive Board of the Corporation for a period of time commencing on the date hereof and continuing until the earlier of (i) five (5) years after the date of the first conveyance of a Unit to a Unit Owner other than a Declarant; (ii) 120 days after conveyance of seventy-five percent (75%) of the Units (including any Units which may be created pursuant to Special Declarant Rights) to Unit Owners other than Declarant; (iii) two (2) years after Declarant has ceased to offer Units in the ordinary course of business; (iv) two (2) years after any development right to add new Units was last exercised, or (v) the date upon which Declarant voluntarily surrenders control of the condominium. Declarant may designate and select the person or person to serve as a member or members of said Executive Board in the manner provided in the Bylaws, and such person or persons so designated and selected need not be a resident of the Condominium, or a member of the Association.

ARTICLE X

The Executive Board shall elect a President, Vice-President, Secretary and Treasurer, and as many Assistant Secretaries and Assistant Treasurers as the Executive Board shall determine. The

President shall be elected from among the membership of the Executive Board but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of President and Vice-President shall not be held by the same person, nor shall the office of President and Secretary or Assistant Secretary be held by the same person.

ARTICLE XI

The names and post office addresses of the initial Executive Board who, subject to the provisions of these Articles of Incorporation, the Bylaws, and the laws of the State of North Carolina, shall hold office until the first Annual Meeting of the membership (or until their successors are elected and qualified or appointed by the Declarant as provided in Section IX hereof) are as follows:

	<u>Names</u>	<u>Addresses</u>
1.	Mark P. Schweibinz	7000 Six Forks Road, Suite 115 Raleigh, North Carolina 27615
2.	Leo Daniel Devin	7000 Six Forks Road, Suite 115 Raleigh, North Carolina 27615
3.	Edwin B. Hoel	200 Cascade Pointe Lane, Suite 101 Cary, North Carolina 27513
4.	Salvatore DiFranco	200 Cascade Pointe Lane, Suite 100 Cary, North Carolina 27513

ARTICLE XII

The original Bylaws shall be adopted by a majority vote of the Executive Board of the Corporation present at a meeting at which a majority of the members of the Board is present, and thereafter, such Bylaws may be altered or rescinded only in such manner as said Bylaws may provide.

ARTICLE XIII

Every Director and every Officer of the Corporation shall be indemnified by the Corporation against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or Officer of the Corporation, whether or not he is a Director or Officer at the time such expenses are incurred, except in such cases wherein the Director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or Officer seeking such reimbursement or

indemnification, the indemnification herein shall only apply if the Executive Board approves such settlement and reimbursement as being in the best interests of the Corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled. The foregoing right of indemnification shall not include indemnification from liability resulting from being a member of the Association.

ARTICLE XIV

An amendment or amendments to these Articles of Incorporation shall require the assent of two-thirds (2/3) of the membership.

No amendment to these Articles of Incorporation which shall abridge, amend or alter the right of Declarant to designate and select members of each Executive Board of the Corporation, as provided in Article XI hereof, may be adopted or become effective without the prior written consent of Declarant.

ARTICLE XV

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the voting members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE XVI

The name and address of the incorporator is as follows:

**David S. Kennett, Esq.
HEDRICK MURRAY & CHEEK PLLC
3511 Shannon Road, Suite 200
Durham, North Carolina 27707**

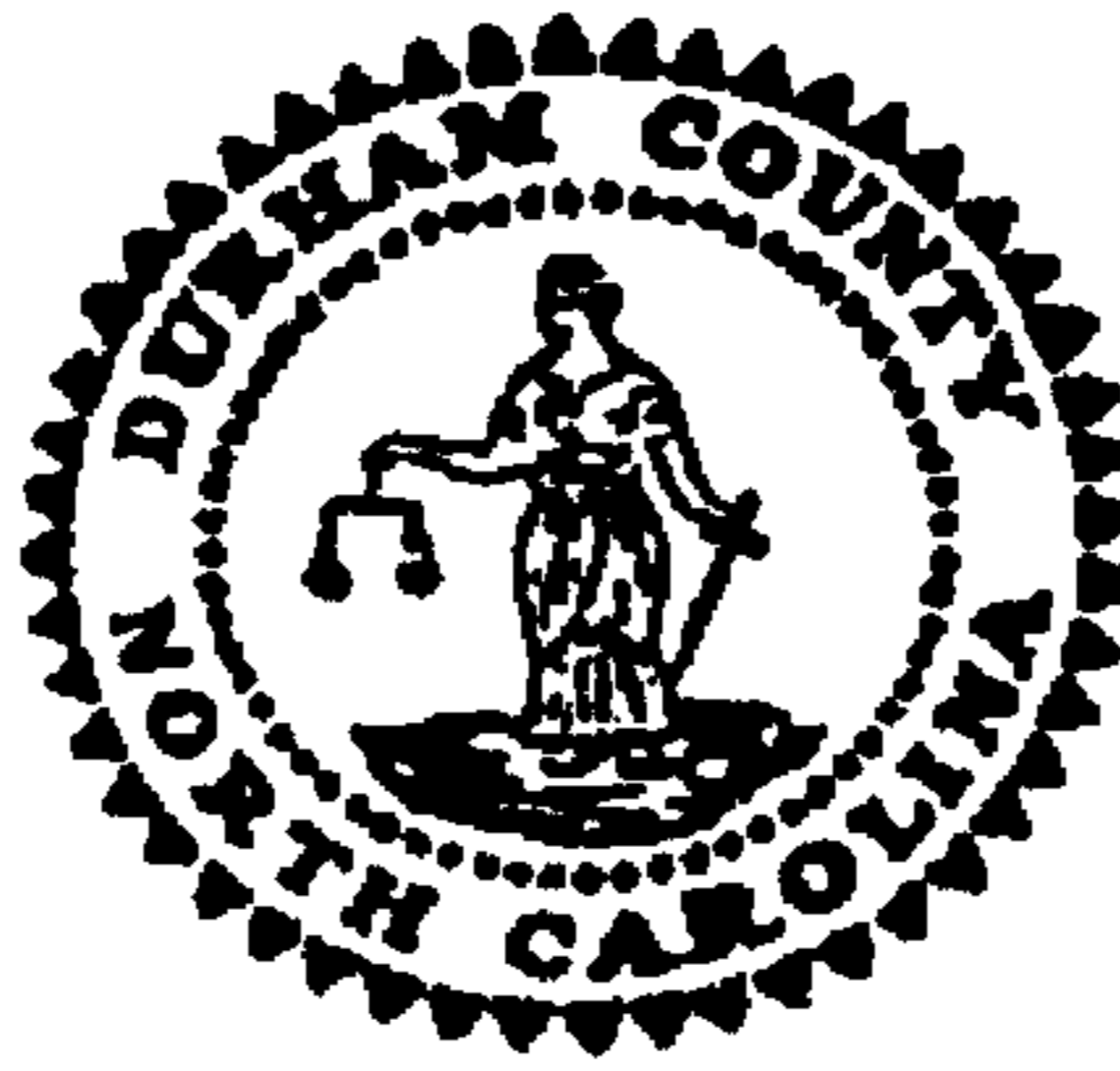
ARTICLE XVII

All capitalized terms herein are as defined in the Declaration.

IN WITNESS WHEREOF, I, the undersigned incorporator, have hereunto set my hand and seal, this 1st day of May, 2005.



DAVID S. KENNETT, ESQ. (SEAL)



WILLIE L. COVINGTON
REGISTER OF DEEDS, DURHAM COUNTY
DURHAM COUNTY COURTHOUSE
200 E. MAIN STREET
DURHAM, NC 27701

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and/or cancellation.

Filed For Registration: 06/16/2005 01:58:37 PM
Book: RE 4834 Page: 373-412
Document No.: 2005026397
DECL 40 PGS \$128.00
Recorder: APRIL J WILLIAMS

State of North Carolina, County of Durham

The foregoing certificate of CAROLE ANN TONNESEN , KARLA L CORLEY , BRENDA PIERCE Notaries are
certified to be correct. This 16TH of June 2005

WILLIE L. COVINGTON , REGISTER OF DEEDS

By: *April J Williams*
Deputy/Assistant Register of Deeds



2005026397