IN THE CHANCERY COURT FOR MONROE COUNTY, TENNESSEE

MICHAEL FRISBEY and wife,
JAMIE FRISBEY,

Plaintiffs,

v. **Docket No. _____**

SALEM POINTE CAPITAL, LLC,
MICHAEL AYERS, and RARITY BAY
COMMUNITY ASSOCIATION, INC.

Defendants.

VERIFIED COMPLAINT

Come now the Plaintiffs, Michael Frisbey and wife Jamie Frisbey, by and through counsel, and for Complaint against the Defendants Salem Pointe Capital, LLC, Michael Ayers, and Rarity Bay Community Association, Inc. state as follows:

PARTIES

1. Plaintiff Michael Frisbey is a citizen and resident of Loudon County, Tennessee. He lives in the Rarity Bay Community in Loudon County, Tennessee and owns property located at 550 Cormorant Drive. Michael Frisbey is a member of the Rarity Bay Community Association, Inc. ("Association"). Jamie Frisbey is the wife of Michael Frisbey and lives at and owns property at this same address. She is also an Association member.

2. Defendant Salem Pointe Capital, LLC is a Tennessee Limited Liability Company and may be served with process through its agent for service of process, Michael Ayers 4712 Messer Lane, Knoxville Tennessee 37849.

3. Defendant Michael Ayers is a citizen and resident of Knox County, Tennessee and may be served with process at 4712 Messer Lane, Knoxville Tennessee 37849. Michael Ayers claims to have decision making powers for Salem Pointe Capital, LLC.

4. Rarity Bay Community Association, Inc. is a Tennessee nonprofit corporation and may be served with process by serving its Secretary, Steve Wohlford, at 159 Pineberry Drive, Vonore, Tennessee 37885.

VENUE

5. Venue if appropriate in this Court inasmuch as the controversies arose in and involve real property located in Monroe County, Tennessee . The Association has its principal place of business in Monroe County, Tennessee.

BACKGROUND

6. Rarity Bay is a community of approximately 1,339 lots located in Monroe County and Loudon County, Tennessee.

7. The Rarity Bay community is purportedly bound by restrictions of record in Book M112, Page 323 in the Register's Office for Monroe County, Tennessee, as amended, and restrictions of record in Book T444, Page 248 in the Register's Office for Loudon County, Tennessee, as amended (collectively, "Restrictive Covenants"). The most recent amendment to the Restrictive Covenants is the Sixth Amendment to the Restrictive Covenants and Amendment to Bylaws found at Book M249, Page 374 in the Register's Office for Monroe County, Tennessee and at Book T1248, Page 517 in the Register's Office for Loudon County, Tennessee ("Sixth Amendment") recorded on May 19, 2015.

8. Mike Frisbey and Jamie Frisbey own property subject to the Restrictive Covenants.

9. Salem Pointe Capital, LLC claims to be the "Declarant" for Rarity Bay and claims broad, sweeping powers under the Sixth Amendment. These powers include the alleged right to control the Board of Directors ("Board") of the Association and the actions of the Board.

10. The Restrictive Covenants call for creation of the Association, and membership in the Association for Rarity Bay property owners subject to the Restrictive Covenants, including Michael Frisbey and Jamie Frisbey, is mandatory for owners in Rarity Bay. The Association is a Tennessee not for profit corporation. See Exhibit A.

11. The Association has Bylaws that are attached hereto as Exhibit B ("Bylaws). Bylaws for the Association are of record in Book T979, Page 216 in the Register's Office for Loudon County, Tennessee and in Book M192, Page 481 in the Register's Office for Monroe County, Tennessee. These Bylaws were purportedly amended in part by the Sixth Amendment.

12. The Association has a Charter attached hereto as Exhibit C ("Charter"). It has not been amended.

ELECTION AND PURPORTED REMOVAL FROM BOARD

13. This action primarily challenges the recent purported removal of two members of the Board of the Association who had been recently elected by the members of the Association. These two Board members are Michael Frisbey and Crystal Pate. Crystal Pate has challenged her removal from the Board in a separate case styled *Rarity Bay Partners, formerly known as Salem Pointe Capital Partners v. Rarity Bay Community Association, et al.* Monroe County Chancery Court No 21, 173. ("Election Case").

14. The "removal" occurred at the Association's required Organizational Board meeting on March 1, 2022 where Michael Ayers, acting on behalf of Salem Point Capital, LLC as "Declarant", simply announced these elected Board members, Michael Frisbey and Crystal Pate,

were removed from their Board positions. The Bylaws required that any such removal occur at a Special Called Meeting. See Bylaws §§ 7.3 and 8.5.

15. The annual election for the Association Board of Directors took place on February 23, 2022. Four (4) Board seats were up for election, including Michael Ayers' seat on the Board. Members vote for the Directors in the Association.

16. Just prior to the election, on February 22, 2022, Michael Ayers, purportedly acting as "Declarant", sent an email to the Board as set forth on Exhibit D hereto. This email claimed that the "Declarant" had the right to remove, with or without cause, any Directors of the Association and that any replacement Director elected by the Members had to be approved in advance by the Declarant. It also purported to give notice of a "Special Called Meeting" to remove one or more of the Directors (who had not even been yet elected) at the Organizational Meeting of the Board on March 1, 222 at 11:00 a.m.

17. This notice was sent as a blanket email to all Board members. At that time, Michael Frisbey was not a Board member. The notice did not specify which of the Board members would be "removed."

18. The election was held on February 23, 2022, and the results were provided to the community on February 24, 2022.

19. Michael Ayers received only 6.6% of the votes and was not elected to the Board.

20. The four (4) candidates who received the most votes were elected to the Board. Michael Frisbey had 631 votes which was 15.3% of the total votes. Michael Frisbey and three others were elected to the Board by the Members, to join the four existing Board members, including Crystal Pate.

21. Following his defeat in the election, Michael Ayers sent the email attached as Exhibit E to all Board members, including Michael Frisbey. While this email said that Directors elected by the members would be removed at the upcoming March 1, 2022 meeting, the notice did not state which Board members were to be removed.

22. At the March 1, 2022 meeting Michael Ayers announced that he, on behalf of the Declarant, was removing Michael Frisbey and Crystal Pate from the Board. See two sets of meeting minutes from the March 1, 2022 Organizational Meeting, attached hereto as Exhibit F.

23. Objections were made as to the notice for his action being improper. The Bylaws provide in Section 8.5 as follows:

> Removal of Directors and Vacancies. Any director may be removed, with or without cause, by Members holding a Majority of the total votes in the Association, or by the Declarant. *Any director whose removal is sought shall be given notice prior to any meeting called for that purpose*. Upon removal of a director, a successor shall be elected by the members to fill the vacancy for the remainder of the term for such director, *which successor must also be approved by the Declarant*. (emphasis added).

24. The Board at first seemed to reject this decision by Ayers and/or the "Declarant" and voted to obtain independent legal counsel. In subsequent days, after threats were made about legal action, the Board reversed course and took the position that Michael Frisbey and Crystal Pate were no longer on the Board, having been removed by the Declarant. Michael Frisbey and Crystal Pate have not been permitted to participate in Board meetings or decisions since their alleged removal by the "Declarant" was accredited by the Board in mid-March, 2022.

25. The Association has scheduled an election for July 1, 2022-August 1, 2022 to elect new Board members to replace Michael Frisbey and Crystal Pate.

RARITY BAY COUNTRY CLUB SUSPENSION

26. Plaintiffs Michael Frisbey and Jamie Frisbey are paying members of the Rarity Bay Country Club ("Club") . They are required to be members of the club under the Sixth Amendment and by their deed. See Deed at Record Book 371, Page 389 in the Register's Office for Loudon County, Tennessee. . It is a social club with certain benefits. Rarity Bay County Club is an assumed name for Salem Pointe Capital, LLC. See Exhibit G. After he was purportedly removed from the Board, Michael Frisbey was advised by Michael Ayers, acting as "Declarant", that he and his wife Jamie were both suspended from the Club for six months. See Exhibit H. This action was in blatant retaliation for Michael Frisbey challenging Michael Ayers and the "Declarant" in their positions on Association issues and affairs. This suspension was arbitrary and capricious and shows the level of bad faith of Ayers and the "Declarant" in dealing with anyone who opposes them in Rarity Bay. No specific facts or incidents were provided as grounds for the suspension.

27. The Frisbey's Club dues have been paid, and they have violated no Club rules to their knowledge, other than the unwritten rule of not angering Michael Ayers.

EQUITABLE CONSIDERATIONS

28. In equity, it is also important to consider that Salem Pointe Capital, LLC and/or Michael Ayers have minimal investment in Rarity Bay at this time, owning approximately twenty-three (23) lots out of a total of approximately 1,339 lots in the community that they purport to control as "Declarant" under a strict authoritarian regime. Records of the tax assessor show that lots owned by Ayers and or Salem Pointe Capital, LLC have a total assessed value of approximately $800,000. All of the property in Rarity Bay combined has a tax assessed value of approximately $800,000,000. To allow an entity with such a relatively minor investment in

the community to have ongoing the control and power it is claiming under the Sixth Amendment is inequitable and unjust.

LEGAL ISSUES WITH REMOVAL

29. Michael Frisbey challenges his removal from the Board on five grounds: 1) There was improper notice pursuant to the Bylaws; 2) Under Tennessee law, the "Declarant" does not have the power to unilaterally remove the Directors in the first instance; 3) The action was a violation of the fiduciary duty by the Declarant; 4) The action was improper because it in effect prevents the Bord from managing and controlling the Association as is required by law and by the Charter; and 5) The action of the Declarant partially undoing the results of the election by the members of Board members was in violation of the spirit of the Court's Order that the Association have an election to elect Board members.

NOTICE

30. As to the notice issue, the "Declarant" gave improper notice of the removal of Michael Frisbey to the Board when he sent it in a blanket email to all Board members as shown on Exhibit E. The notice needed to identify a particular Board member or Members who were subject to removal in order to be effective notice. The notice failed to give actual notice as to who was to be considered for removal at the March 1, 2022 meeting of the Board. Therefore, the Bylaws have not been followed as to the issue of required notice of removal of Board members, and the removal of Michael Frisbey from the Board should be declared by this Court to be null and void.

TENNESSEE LAW ON REMOVAL OF DIRECTORS

31. Michael Ayers has stated that the Sixth Amendment is the Declarant's "God Card," giving it rights to do basically whatever it wants in Association affairs. However, the Declarant

did not legally have the power to unilaterally remove the Board members that had previously been elected by the membership of the Association as he did with Michael Frisbey. The Association is a Tennessee nonprofit corporation governed by Tennessee Code Title 48 Chapters 51-70 (the Tennessee Nonprofit Corporation Act, "the Act"). Chapters 51-68 of the Act apply to all nonprofit corporations. See T.C.A. § 48-51-104 Applicability. The Act applies to all nonprofit corporations in Tennessee including this Association and the requirements of the Act must be followed.

32. T.C.A. § 48-52-106(b) provides that Bylaws for a nonprofit corporation must be consistent with the Act and the Charter of the corporation. The Bylaws provide in Section 8.5 provide in pertinent part for the Declarant to be permitted to unilaterally remove a director with or without cause. ("Any director may be removed, with or without cause, by Members holding a Majority of the total votes in the Association, *or by the Declarant*." (emphasis added)).

33. The above language violates T.C.A. § 48-58-108 which provides how Directors elected by members of a nonprofit corporation are to be removed. This statute provides that the members can remove one or more directors elected by them with or without cause unless the Charter provides that the directors may be removed only for cause. Subsection (e) of this same statute provides that a director elected by the members may be removed by the members **only** at a meeting called for the purpose for removing the director (emphasis added). There is no provision in this law to change this requirement by adopting bylaw provisions that provide other means of removal of directors elected by members. This is the only way a director elected by the members can be removed.

34. There is no provision in state law under which a third party, such as a declarant ore developer, can unilaterally remove a director elected by the members, and the alleged "right" of

the "Declarant" to unilaterally remove a director stated in the Sixth Amendment to the Bylaws is inconsistent with T.C.A. § 48-58-108 and other portions of the Act. State law trumps Section 8.5 of the Bylaws.

35. The Bylaws state as follows regarding conflicts in 13.11:

> Any conflicts between Tennessee Law, the Bylaws, the Charter and the Declarations shall be resolved in accordance with Tennessee Law, the Charter, the Bylaws and the Declaration in that order of priority.

The Sixth Amendment added:

> Notwithstanding Section 13.11 of the Bylaws, in the event of any conflict between he terms of the Master Declaration which are referred to in this amendment and the terms of the Bylaws, the terms of the Master Declaration referenced in this amendment shall control.

The fact that state law takes presence over the Declaration and Bylaws remains even with the Sixth Amendment.

36. Accordingly, the removal of Michael Frisbey from the Board should be declared null and void. The removal was contrary to state law.

BREACH OF FIDUCIARY DUTY

37. "Declarant" rights are synonymous with "developer" rights legally, as they are different names for the same set of rights derived in the same way: from restrictive covenants in a common interest community.

38. Developers have a fiduciary duty to owners and homeowners' associations. See *Innerimages v. Newman,* 579 S.W.3d 29 (Tenn. App. 2018).

39. The actions by Michael Ayers and Salem Pointe Capital, LLC are in violation of their fiduciary duties to the community and to Michael Frisbey as an owner in Rarity Bay as alleged "Developers" or "Declarants." They are acting in their own perceived best interests in

removing from the Board those like Michael Frisbey who question their claims of absolute power and authority as "declarant" in the Rarity Bay community. Their actions in removing Michael Frisbey from the Board were self-serving and contrary to the interest of Michael Frisbey as an owner in Rarity Bay and contrary to the interests of the community at large in Rarity Bay.

40. Accordingly, the removal of Michael Frisbey from the Board should be declared null and void because it was a result of actions that constituted a breach of fiduciary duty by Michael Ayers and/or Salem Pointe Capital, LLC.

NEGATING BOARD CONTROL OF THE ASSOCIATION

41. Bb state law, unless otherwise provided by statute, all corporate powers are to be exercised by or under the authority of, and the affairs of the corporation (here, the Association) managed under the direction of its board. T.C.A. §48-58-101 (b). Here, the "Declarant" is controlling the Association, not the Board, where the "Declarant" purports to have unilaterally removed Michael Frisbey as a Board member. The Association is being managed by Michael Ayers and/or the "Declarant" under the current facts unless this situation is remedied by the Court.

42. Since the Association has members, under Tennessee law, all directors are supposed to be elected at the first annual meeting of the members, and at each annual meeting thereafter, unless the Charter or Bylaws provide some other time or method of election or provide that some directors are appointed by some other person or designated. See TCA § 48-58-104(a). Here, arguably, the Declarant could have reserved the power to **appoint** certain Board seats in the Sixth Amendment. It failed to do so. Instead, it got greedy and purported to give itself , under the "God Card", the ability to control the Association in an unchecked manner by allowing

"Declarant", among other "rights", to have the stated unilateral right to remove or approve of directors depending on whether or not the director will do the bidding of the "Declarant" in Association affairs.

43. This set-up robs the Board of decision-making autonomy that it is required to have under the Charter and state law. The Board's powers are illusory because if a director makes one false move or goes against the wishes of the Declarant, he or she can be removed by the "Declarant."

44. The Charter provides in pertinent part in Article 11, Section (a) that the business and affairs of the Association shall be conducted , managed, and controlled by a board of directors...

45. The actions of the "Declarant" in purporting to remove Michael Frisbey unilaterally from the Board on March 1, 2022 was illegal and improper because it took away from the Association the ability to be run and managed in fact (and not in name only) by its duly elected or appointed Board of Directors.

46. "Declarant" also claims the right to veto any action of the Board generally. See Sixth Amendment, § 11.6.

47. Accordingly, the removal of Michael Frisbey from the Board should be declared null and void because the Declarant, not the Board, is managed completely by the Association, if Michael Frisbey's removal is allowed to stand.

COURT ORDERED ELECTION RENDERED A SHAM

48. In the Election Case, this Court, by Order dated February 10, 2021, required the Association to hold the 2020 annual meeting of the Association and the Board of Directors election for at least four (4) Director positions on the Association of Directors within sixty (60) days of February 24, 2021. See Exhibit I.

49. Prior to the 2019 election, all members of the Association Board since 2015 were either appointed by Michael Ayers and/or the "Declarant" or were members of the community hand selected to serve the "Declarant".

50. The 2021 election was delayed due to COVID-19 concerns. The election was actually held on February 23, 2022, where Michael Frisbey was elected by the member to the Board, among others.

51. The actions of Michael Ayers and/or the "Declarant" in immediately overturning the results of the election are counter to the Court's order that the election be held. If the current result of Michael Frisbey being removed from the Board is allowed to stand, the election was a sham. It is not logical that a court would order an election where the results did not matter because they could be unilaterally overturned by parties to the order and specifically Salem Pointe Capital, LLC and Michael Ayers.

52. Accordingly, the removal of Michael Frisbey from the Board should be declared null and void because otherwise the court ordered election in the Election Case was a sham.

RELIEF SOUGHT

53. Michael Frisbey askes this court for injunctive relief in the form of a temporary injunction, followed by a permanent injunction that prevents Michael Ayers, Salem Pointe Capital, LLC and the Association from continuing to take the position that Michael Frisbey was removed from his elected position on the Board of the Association or that he was or could have been removed by the "Declarant" from the Board under the terms of the Sixth Amendment. This would mean that the prior illegal removal of Michael Frisbey from the Board is declared null and void and of no effect. It would further mean that Michael Frisbey would be allowed to remain on the Board pending trial. The temporary injunction is also asked to include a prohibition on the

seat of Michael Frisbey being filled by any "election" to replace him, as scheduled. At trial, the plaintiffs ask for a declaration that his election to the Board was legal and binding, and it is asked that the Court declare he was and is not subject to removal by Michael Ayers or the "Declarant."

54. If Michael Frisbey is not allowed to have his seat on the Board recognized pending trial, irreparable harm will be done because the Declarant would continue to control the votes of the Board improperly and illegally by intimidation and threat, to the detriment of the Rarity Bay community Michael Frisbey was duly elected to serve as a Board member.

55. Salem Pointe Capital, LLC and Michael Ayers should be restrained and enjoined by temporary injunction from claiming further that Michael Frisbey and Jamie Frisbey are banned or suspended from the Club pending trial since the removal was arbitrary and capricious and was done just because Michael Frisbey dared to go against the "Declarant" and Ayers. At trial, they ask for a permanent injunction enjoining their removal or suspension from the Club unless it is pursuant to a legitimate reason according to rules that apply to all other Club members.

Wherefore, Plaintiffs pray as follows:

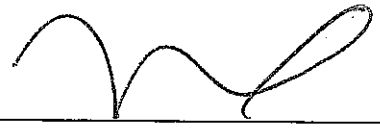
1) That proper process be served on the Defendants requiring them to respond as required by law.
2) That upon a hearing, a temporary injunction issue that prevents Michael Ayers, Salem Pointe Capital, LLC, and the Association from continuing to take the position that Michael Frisbey was removed from his elected position on the Board of the Association or that he can be removed by the actions of the "Declarant" purporting to unilaterally remove him under the Sixth Amendment, pending trial or further order of the Court. The temporary injunction is also asked to include a prohibition on the seat of Michael Frisbey being filled by any "election" to replace him, as scheduled.

3) That at trial, the Court declares that Michael Frisbey be declared a duly elected and serving member of the Board of the Association and that the Defendants be prevented and enjoined from attempting or purporting to remove him from his position on the Board unless the same is done lawfully, and that state law be followed in relation to any future removals of Michael Frisbey from the Board so that only the members can remove Michael Frisbey from the Board if he otherwise remains qualified to serve.
4) That this court issue a temporary injunction enjoining Salem Pointe Capital, LLC from suspending or revoking to Club membership rights of Michael Frisbey and Jamie Frisbey pending trial so long as they obey reasonable and generally applicable Club rules and so long as they pay their dues for Club membership.
5) That at trial, this court permanently enjoin Michael Ayers and/or Salem Pointe Capital, LLC from suspending or ejecting Michael Frisbey or Jamie Frisbey from the Club as they obey reasonable and generally applicable Club rules and so long as they pay their dues for Club membership.
6) That the court cost be charged to the Defendants.
7) For such other further and general relief the Plaintiffs may show themselves entitled to at a hearing of this cause .

THIS IS THE FIRST APPLICATION FOR EXTRAORDINARY RELIEF IN THIS CAUSE

Respectfully submitted this 12 day of June, 2022.

KIZER & BLACK, ATTORNEYS, PLLC



MELANIE E. DAVIS BPR #017947
217 E. Broadway Ave.
Maryville, Tennessee 37804
Telephone: (865) 980-1625
Attorney for Plaintiffs

VERIFICATION

I, Michael Frisbey, make oath that the statements above made in the foregoing Verified Complaint are made of my own knowledge and are true and correct.

This the 13 day of June, 2022.

MICHAEL FRISBEY

Subscribed and sworn to before me on this the 13 day of June, 2022.

My commission expires: 4-27-24

Notary Public

VERIFICATION

I, Jamie Frisbey, make oath that the statements above made in the foregoing Verified Complaint are made of my own knowledge and are true and correct.

This the 13 day of June, 2022.

JAMIE FRISBEY

Subscribed and sworn to before me on this the 13 day of June, 2022.

My commission expires: 4-23-24

Notary Public

COST BOND

We, the undersigned, hereby bind ourselves for the costs of the cause in accordance with T.C.A. §20-12-120.

KIZER AND BLACK, ATTORNEYS, PLLC:

BY: _____

COST BOND

We, the undersigned, hereby bind ourselves for the costs of the cause in accordance with T.C.A. §20-12-120.

KIZER AND BLACK, ATTORNEYS, PLLC:

BY: _____

EXHIBIT A

Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102

Filing Information

Name: **RARITY BAY COMMUNITY ASSOCIATION, INC.**

General Information

SOS Control #	**000358112**	Formation Locale:	TENNESSEE
Filing Type:	Nonprofit Corporation - Domestic	Date Formed:	09/28/1998
	09/28/1998 10:53 AM	Fiscal Year Close	12
Status:	Active		
Duration Term:	Perpetual		
Public/Mutual Benefit:	Public		

Registered Agent Address
RARITY BAY COMMUNITY ASSOCIATION, INC.
150 RARITY BAY PKWY
VONORE, TN 37885-2047

Principal Address
150 RARITY BAY PKWY
VONORE, TN 37885-2047

The following document(s) was/were filed in this office on the date(s) indicated below:

Date Filed	Filing Description	Image #
04/14/2022	2021 Annual Report	B1201-1016
01/06/2021	2020 Annual Report	B0964-5959
01/10/2020	2019 Annual Report	B0799-4114
01/07/2019	2018 Annual Report	B0635-1125
01/04/2018	2017 Annual Report	B0472-6119
01/02/2017	2016 Annual Report	B0328-5747

Registered Agent Organization Name Changed From: FIRSTSERVICE RESIDENTIAL GEORGIA, INC. To: RARITY BAY COMMUNITY ASSOCIATION, INC.

Registered Agent Physical Address 3 Changed From: RARITY BAY To: No Value

01/27/2016	2015 Annual Report	B0182-7830
02/03/2015	2014 Annual Report	B0048-3951
01/17/2014	2013 Annual Report	7273-0338

Registered Agent Organization Name Changed From: No Value To: FIRSTSERVICE RESIDENTIAL GEORGIA, INC

Registered Agent First Name Changed From: RICHARD To: No Value

Registered Agent Last Name Changed From: BERNSTEIN To: No Value

Registered Agent Physical Address 3 Changed From: ERIN DAVENPORT To: RARITY BAY

03/05/2013	2012 Annual Report	A0159-0137

Filing Information

Name: **RARITY BAY COMMUNITY ASSOCIATION, INC.**

Principal Address 1 Changed From: 100 RARITY BAY PKWY To: 150 RARITY BAY PKWY
Registered Agent First Name Changed From: CAROLYN To: RICHARD
Registered Agent Middle Name Changed From: B To: No Value
Registered Agent Last Name Changed From: BEATTY To: BERNSTEIN
Registered Agent Physical Address 1 Changed From: 100 RARITY BAY PKWY To: 150 RARITY BAY PKWY
Registered Agent Physical Address 3 Changed From: No Value To: ERIN DAVENPORT
Registered Agent Physical County Changed From: No Value To: MONROE COUNTY
04/06/2012 2011 Annual Report A0118-0956
Principal Postal Code Changed From: 37885 To: 37885-2047
Principal County Changed From: MONROE To: MONROE COUNTY
04/01/2011 2010 Annual Report 6868-1500
Principal County Changed From: Monroe County To: MONROE
Registered Agent First Name Changed From: JANIE To: CAROLYN
Registered Agent Middle Name Changed From: M To: B
Registered Agent Last Name Changed From: LANCASTER To: BEATTY
Registered Agent Physical County Changed From: Monroe County To: No Value
04/13/2010 2009 Annual Report 6706-0685
04/02/2009 2008 Annual Report 6505-0963
03/19/2008 2007 Annual Report 6253-2294
Registered Agent Changed
Mail Address Changed
03/29/2007 2006 Annual Report 6008-1765
Mail Address Changed
03/21/2006 2005 Annual Report 5726-1821
Registered Agent Changed
03/30/2005 2004 Annual Report 5407-3229
Principal Address Changed
Registered Agent Physical Address Changed
Mail Address Changed
02/09/2004 2003 Annual Report 5031-0287
01/15/2003 2002 Annual Report 4699-2056
01/22/2002 2001 Annual Report 4399-0350
03/14/2001 2000 Annual Report 4146-0244
Principal Address Changed
05/08/2000 Merger 3904-0751
Merged Control # Changed From: 000277144
Merged Control # Changed From: 000322242

Filing Information

Name: **RARITY BAY COMMUNITY ASSOCIATION, INC.**

Merged Control # Changed From: 000358112		
05/02/2000	1999 Annual Report	3900-0236
Registered Agent Physical Address Changed		
Registered Agent Changed		
Fiscal Year Close Changed		
03/17/2000	Notice of Determination	ROLL 3857
09/28/1998	Initial Filing	3567-0856

Active Assumed Names (if any)	Date	Expires

EXHIBIT

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BY-LAWS

OF

RARITY BAY COMMUNITY ASSOCIATION, INC.

TABLE OF CONTENTS

		Page
ARTICLE 1: NAME, PRINCIPAL OFFICE, AND DEFINITIONS		1
1.1.	Name	1
1.2.	Principal Office	1
1.3.	Background	1
ARTICLE 2: DEFINITIONS		1
2.1.	"Area of Common Responsibility"	1
2.2.	"Board of Directors" or "Board"	1
2.3.	"By-Laws"	1
2.4.	"Charter"	1
2.5.	"Common Area"	2
2.6.	"Common Expenses"	2
2.7.	"Community-Wide Standard"	2
2.8.	"Cost Sharing Agreement"	2
2.9.	"Days"	2
2.10.	"Declarant"	2
2.11.	"Declarations"	2
2.12.	"Design Guidelines"	2
2.13.	"Development"	2
2.14.	"Development Period"	2
2.15.	"DRB"	2
2.16.	"Exclusive Common Area"	2
2.17.	"General Assessment"	2
2.18.	"Governing Documents"	3
2.19.	"Majority"	3
2.20.	"Master Declaration"	3
2.21.	"Master Plan"	3
2.22.	"Member"	3
2.23.	"Mortgage"	3
2.24.	"Mortgagee"	3
2.25.	"Neighborhood"	3
2.26.	"Neighborhood Assessments"	3
2.27.	"Neighborhood Association"	3
2.28.	"Neighborhood Expenses"	3
2.29.	"Person"	3
2.30.	"Phase Declarations"	3
2.31.	"Private Amenity"	4
2.32.	"Public Records"	4
2.33.	"Special Assessment"	4
2.34.	"Specific Assessment"	4
2.35.	"TRDA"	4
2.36.	"TVA"	4
2.37.	"Unit"	4

ARTICLE 3: PROPERTY RIGHTS 4
3.1. Common Area 4
3.2. Private Streets 5
3.3. Exclusive Common Area 5
3.4. Condemnation 6

ARTICLE 4: MEMBERSHIP AND VOTING RIGHTS 6
4.1. Classes of Membership 6
4.2. Voting 6
4.3. Neighborhoods 7

ARTICLE 5: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION 7
5.1. Function of Association 7
5.2. Personal Property and Real Property for Common Use 7
5.3. Implied Rights; Board Authority 7
5.4. Governmental Interests 7
5.5. Dedication of or Grant of Easement on Common Area 8
5.6. Security 8
5.7. Provision of Services 8
5.8. Maintenance 8
5.9. Cost Sharing Agreements 10

ARTICLE 6: ASSOCIATION INSURANCE 11
6.1. Required Coverages 11
6.2. Policy Requirements 12
6.3. Damage and Destruction 13

ARTICLE 7: MEETINGS, QUORUM, VOTING, PROXIES 13
7.1. Place of Meetings 13
7.2. Annual Meetings 14
7.3. Special Meetings 14
7.4. Notice of Meetings 14
7.5. Waiver of Notice 14
7.6. Adjournment of Meetings 14
7.7. Voting 14
7.8. List for Voting 14
7.9. Proxies 14
7.10. Quorum 15
7.11. Conduct of Meetings 15

ARTICLE 8: BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS 15
8.1. Governing Body; Composition 15
8.2. Number of Directors 15
8.3. Nomination and Election Procedures 16
8.4. Term of Office 16
8.5. Removal of Directors and Vacancies 16
8.6. Organizational Meetings 16

8.7. Regular Meetings 16
8.8. Special Meetings 16
8.9. Notice 17
8.10. Waiver of Notice 17
8.11. Participation in Meetings 17
8.12. Quorum of Board of Directors 17
8.13. Compensation 17
8.14. Conduct of Meetings 18
8.15. Open Meetings 18
8.16. Action Without a Formal Meeting 18
8.17. Powers 18
8.18. Duties 18
8.19. Right of the Declarant to Disapprove Actions 19
8.20. Management 20
8.21. Accounts and Reports 20
8.22. Borrowing 20
8.23. Right to Contract 21
8.24. Enforcement 21

ARTICLE 9: OFFICERS 23
9.1. Officers 23
9.2. Election and Term of Office 23
9.3. Removal and Vacancies 23
9.4. Powers and Duties 23
9.5. Resignation 23
9.6. Agreements, Contracts, Deeds, Leases, Checks, Etc 23
9.7. Compensation 23

ARTICLE 10: COMMITTEES 23
10.1. General 23
10.2. Covenants Committee 23

ARTICLE 11: MORTGAGEE PROVISIONS 24
11.1. Notices of Action 24
11.2. No Priority 24
11.3. Notice to Association 24
11.4. Failure of Mortgagee to Respond 24

ARTICLE 12: GENERAL ASSESSMENTS 25
12.1. General Assessments 25
12.2. Computation of General Assessments 25
12.3. Maximum General Assessments 26
12.4. Computation of Neighborhood Assessments 26
12.5. Reserve Budget 27
12.6. Special Assessments 27
12.7. Specific Assessments 27
12.8. Date of Commencement of Assessments 28
12.9. Failure to Assess 28

12.10. Exempt Property 28

ARTICLE 13: MISCELLANEOUS 28
13.1. Architectural Review 28
13.2. Architectural Review by Private Amenity 29
13.3. Rules and Regulations 29
13.4. Development and Sales 29
13.5. Litigation 29
13.6. Fiscal Year 30
13.7. Parliamentary Rules 30
13.8. Books and Records 30
13.9. Notices 30
13.10. Amendment 31
13.11. Conflicts 31

BY-LAWS

OF

RARITY BAY COMMUNITY ASSOCIATION, INC.

ARTICLE 1: NAME, PRINCIPAL OFFICE, AND DEFINITIONS

1.1. Name. The name of the corporation is Rarity Bay Community Association, Inc. (the "Association"), a Tennessee nonprofit corporation.

1.2. Principal Office. The principal office of the Association shall be located in Monroe County, Tennessee. The Association may have such other offices, either within or outside the State of Tennessee, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Background. Rarity Bay on Lake Tellico is a mixed-use community. The Development, as that term is hereinafter defined, has been developed in phases for which several declarations of covenants, conditions and restrictions have been recorded, namely the Master Declaration and the Phase Declarations as those terms are hereinafter defined and which are jointly referred to as the "Declarations". The Declarations refer to three (3) associations. They are Rarity Bay Property Owners Association, Inc. ("Association 1"), Rarity Bay Property Owners Association II ("Association II") and Rarity Bay Community Association, Inc. ("Association"). Associations I and II have been merged into the Association in order to consolidate ownership of Common Areas, minimize administrative expenses, and minimize confusion. As such, the Association shall own all Common Area within the Development and shall be the entity responsible for assessing and otherwise administering to the rights and responsibilities of Association I, Association II and the Association as set forth in the Master Declaration and Phase Declarations.

ARTICLE 2: DEFINITIONS

The terms these By-laws shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

2.1. "Area of Common Responsibility": The Common Area, together with those areas, if any, for which the Association has or assumes responsibility pursuant to the terms of the Declarations or other applicable covenant, contract, or agreement.

2.2. "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in these By-laws and serving as the board of directors under Tennessee corporate law.

2.3. "By-Laws": These By-Laws of Rarity Bay Community Association, Inc., as they may be amended.

2.4. "Charter": The Charter of Rarity Bay Community Association, Inc., as filed with the Secretary of State of the State of Tennessee.

2.5. "Common Area": All real and personal property, including easements, which the Association owns, leases or holds possessory or use rights in for the common use and enjoyment of the Members. The term also shall include the Exclusive Common Area, as defined below.

2.6. "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Members, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.

2.7. "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Development. Such standard shall initially be established by the Declarant and may be more specifically determined by the Board of Directors and the Design Review Board.

2.8. "Cost Sharing Agreement": Any agreement, contract or covenant between the Association and any owner or operator of property adjacent to, in the vicinity of, or within the Development, including any Private Amenity, for the allocation of expenses that benefit both the Association and the owner or operator of such property.

2.9. "Days": Calendar days; provided however, if the time period by which any action required hereunder must be performed expires on Saturday, Sunday or legal holiday, then such time period automatically shall be extended to the close of business on the next regular business day.

2.10. "Declarant": Tellico Lake Properties, L.P., a Tennessee limited partnership, or any successors, successor-in-title, or assigns.

2.11. "Declarations": The Master Declaration and Phase Declarations.

2.12. "Design Guidelines": The Community Design Guidelines, as amended from time to time, and the application and review procedures applicable to all or any portion of the Development.

2.13. "Development": The real property subjected to the Master Declaration and the Phase Declarations, as amended or supplemented from time to time to reflect additions or removal of property subjected to the Declarations, and all Common Areas.

2.14. "Development Period": The period of time during which the Declarant owns any property which is subject to any of the Declarations, or which may be subjected to any of the Declarations, or any Private Amenity.

2.15. "DRB": The "Design Review Board" or the "Rarity Bay Design Review Board" as provided for in the Master Declaration and the Phase Declarations.

2.16. "Exclusive Common Area": A portion of the Common Area intended for the exclusive use or primary benefit of one (1) or more, but less than all, Neighborhoods or Units.

2.17. "General Assessment": Assessments levied on all Units subject to assessment to fund Common Expenses for the general benefit of all Units.

2.18. "Governing Documents": The Declarations, By-Laws, Charter, all Design Guidelines, the rules of the Association, all Cost Sharing Agreements, and all additional covenants governing any portion of the Development, any of the Units, or any of the above, as each may be amended from time to time.

2.19. "Majority": Those votes of the Members, or other groups, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

2.20. "Master Declaration": The Master Declaration of Covenants, Conditions and Restrictions for Rarity Bay, as amended or supplemented from time to time.

2.21. "Master Plan": The Master Plan, Land Use Plan for Rarity Bay, as such plan may be amended from time to time.

2.22. "Member": A Person subject to membership in the Association, but specifically excluding the Class "C" members.

2.23. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit.

2.24. "Mortgagee": A beneficiary or holder of a Mortgage.

2.25. "Neighborhood": A separately developed area within the Development and subjected to the Master Declaration, whether or not governed by a Neighborhood Association (as defined below), in which the owners of Units may have common interests other than those common to all Members of the Association.

2.26. "Neighborhood Assessments": Assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses.

2.27. "Neighborhood Association": Any condominium association or other association having subordinate jurisdiction to the Association.

2.28. "Neighborhood Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of Units within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements, as the Board may specifically authorize from time to time.

2.29. "Person": A natural person, a corporation, a partnership, a limited liability company, a fiduciary acting on behalf of another person or any other legal entity.

2.30. "Phase Declarations": The Declaration of Covenants, Conditions and Restrictions For Properties of Rarity Bay Subdivision, Phase I, Sections 1, 2 and 3; Declaration of Covenants, Conditions and Restrictions For Properties of Rarity Bay Subdivision, Phase II, Sections 1, 2, and 3; Declaration of Covenants, Conditions and Restriction For Properties of Rarity Bay Subdivision, Phase III, Sections 1 and 2; Declaration of Covenants, Conditions and Restrictions For Properties of Rarity Bay Subdivision, Phase IV; and Declaration of Covenants, Conditions and Restrictions For Properties of Rarity Bay Subdivision, Phase V and all as recorded in the Public Records.

2.31. "Private Amenity": Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Development which are owned and operated, in whole or in part, by Persons other than the Association for recreational or other purposes. The use of the tem "Private Amenity" shall not be construed to imply or require a private club. Private Amenities may be operated as a club membership, daily fee, use fee, public, or private basis. Any Private Amenity shall be designated by the Declarant in its sole discretion, and The Rarity Bay Golf & Country Club and The Rarity Bay Equestrian Center are hereby designated as Private Amenities.

2.32. "Public Records": The real estate records of Monroe and Loudon Counties, Tennessee, or such other place which is designated as the official location for recording of deeds and similar documents affecting title to real estate.

2.33. "Special Assessment": Assessments levied in accordance with Section 12.6.

2.34. "Specific Assessment": Assessments levied in accordance with Section 12.7.

2.35. "TRDA": The Tellico Reservoir Development Agency, or any successor in interest thereof.

2.36. "TVA": The Tennessee Valley Authority.

2.37. "Unit": A portion of the Development, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvement thereon. The term shall include within its meaning, by the way of illustration but not limitation, cluster homes and single-family detached houses on separately platted lots, as well as vacant land intended for development as such, but shall not include Common Area, common property owned by any Neighborhood Association, or property dedicated to the public. In the case of a condominium or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit.

In the case of an unplatted parcel of land, the parcel shall be deemed to include the number of Units reflected on the Master Plan for such parcel until such time as a subdivision plat or condominium plat is filed with respect to all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph, and any portion not encompassed by such plat shall contain the number of Units as determined in accordance with this paragraph.

ARTICLE 3: PROPERTY RIGHTS

3.1. Common Area. Every Member shall have a right and non-exclusive license and easement of use, access, and enjoyment in and to the Common Area, which is appurtenant to and shall pass with the title to each Unit, subject to:

(a) The Governing Documents;

(b) Any restrictions or limitations contained in any deed conveying such property to the Association;

(c) Any restrictions or limitations imposed by the TVA or TRDA;

(d) The right of the Board to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;

(e) The right of the Board to suspend the right of a Member to use recreational and social facilities within the Common Area;

(f) The right of the Board to impose reasonable requirements and charge reasonable admission or other use fees for the use of any facility situated upon the Common Area;

(g) The right of the Board to permit use of any facilities situated on the Common Area by persons other than Members, their families, lessees and guests upon payment of reasonable use fees, if any, established by the Board;

(h) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(i) The right of the Association, acting through the Board, to dedicate or transfer all or any portion of the Common Area;

(j) The rights of certain Members to the exclusive use of those portions of the Common Area designated Exclusive Common Areas; and

(k) The right of the Declarant to conduct activities and establish facilities within the Development.

Any Member may extend his or her right to use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. A Member who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit.

3.2. Private Streets. Every Member shall have a license and nonexclusive easement of use, access, and enjoyment in and to, over and across any private streets and roads within the Development ("Private Streets"), whether or not such Private Streets are Common Area, for the purpose of ingress and egress to public rights-of-way. The rights and non-exclusive licenses and easements granted herein are appurtenant to the title to each Unit and shall be subject to any restrictions or limitations governing such property. Any Member may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable. Members and other permitted users of the Private Streets shall be obligated to refrain from any actions which would deter from or interfere with the use and enjoyment of the Private Streets by other authorized users of the Private Streets. Prohibited activities shall include without limitation obstruction of any of the Private Streets.

3.3. Exclusive Common Area. The Master Declaration provides that certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use

or primary benefit or one (1) or more, but less that all Members. Exclusive Common Areas may be assigned and reassigned to Units as provided in the Master Declaration. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be assessed against the Members to which the Exclusive Common Areas are assigned either as a Neighborhood Assessment or as a Specific Assessment, as applicable.

3.4. Condemnation. The Association shall be the sole representative with respect to condemnation proceedings or conveyances in lieu of or under threat of condemnation, concerning Common Area and shall act as attorney-in-fact for all Members in such matters. If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) Days after such taking Members holding at least sixty-seven percent (67%) of the total votes of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board and the DRB.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

ARTICLE 4: MEMBERSHIP AND VOTING RIGHTS

4.1. Classes of Membership. The Association shall have three (3) classes of membership, Class "A", Class "B" and Class "C" as defined below.

(a) Class "A". Every owner of a Unit, except the Declarant, shall be a Class "A" Member of the Association. There shall be only one (1) membership per Unit. If a Unit is owned by more than one (1) Person, all co-owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in the By-Laws. All co-owners shall be jointly and severally obligated to perform the responsibilities of Members. The membership rights of a Member which is not a natural person may be exercised by any officer, director, member, manager, partner or trustee of such Member, or by any individual designated from time to time by the Member in a written instrument provided to the secretary of the Association.

(b) Class "B". The Declarant shall be the sole Class "B" Member and shall be entitled to one (1) such membership for each Unit it owns.

(c) Class "C". Class "C" members shall be all members of the Private Amenities who are not owners of a Unit.

(d) Additional Classes of Membership. The Board may create additional classes of membership with such rights, privileges and obligations as deemed appropriate by the Board.

4.2. Voting.

(a) Class "A". Class "A" Members shall have one (1) equal vote for each Unit in which they hold the interest required for membership.

(b) Class "B". The Declarant shall have five (5) equal votes for each Unit in which it holds the interest required for membership.

(c) Class "C". Class "C" members shall not be entitled to notice of meetings, shall not be entitled to attend meetings and shall have no right to vote on any Association matters.

4.3. Neighborhoods. The Declarant, in its sole discretion, may establish Neighborhoods for property subject to the Master Declaration by designation on recorded covenants or a plat. Any Neighborhood may request that the Association provide a higher level of service or special services for the benefit of Units in such Neighborhood as provided in the Master Declaration. The Association may, in its sole discretion, provide the requested services. The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate, shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment.

ARTICLE 5: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

5.1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility and all improvements thereon. The Association shall be the primary entity responsible for enforcement of the Declarations, and such reasonable rules regulating use of the Development as the Board may adopt. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in the Declarations and in the Design Guidelines. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Tennessee.

5.2. Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant may convey to the Association improved or unimproved real estate, or interests in real estate, personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. The Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section. Upon the written request of the Declarant, the Association shall reconvey to the Declarant any portions of the Development originally conveyed by the Declarant, for no consideration.

5.3. Implied Rights: Board Authority. The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

5.4. Governmental Interests. During the Development Period, the Declarant may designate sites within the Development for fire, police, and utility facilities, public schools and parks, streets, and other public or quasi-public facilities. No membership approval shall be required for such designation. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. The sites may include other property not owned by Declarant provided the owner consents.

5.5. Dedication of or Grant of Easement on Common Area. The Association may dedicate or grant easements across portions of the Common Area to the owners of the Private Amenities, Monroe County or Loudon County, Tennessee, or to any other local, state, or federal governmental or quasi-governmental entity.

5.6. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Development designed to make the Development safer than they otherwise might be. Neither the Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Development, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any system or measures, including any mechanism or system for limiting access to the Development, can not be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Member shall inform its tenants and all occupants of its Unit that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Development assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

5.7. Provision of Services. The Association may provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. By way of example, some services and facilities which may be provided include sewer service, landscape maintenance, pest control service, cable television service, security, caretaker, fire protection, utilities, and similar services and facilities. The Board, without consent of the Members of the Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein can be relied upon as a representation as to the services and facilities, if any, which will be provided by the Association.

The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities through Specific Assessments or by requiring payment at the time the service or facility is provided. The Association may charge a connection fee to access the sewer system.

5.8. Maintenance.

(a) The Association shall maintain and keep in good condition, order and repair the Area of Common Responsibility, which may include, but need not be limited to:

(i) all Common Area;

(ii) all landscaping and other flora, parks, wildlife corridors, cemeteries, lakes, ponds, structures, and improvements, including any entry features, private streets, wildlife corridors, parking areas, sidewalks, bike and pedestrian pathways/trails situated upon the Common Area;

(iii) all furnishings, equipment and other personal property of the Association;

(iv) any landscaping and other flora, parks, bike and pedestrian pathways/trails, sidewalks, ponds, docks, buffers, entry features, structures and improvements within public rights-of-way within or abutting the Development or upon such other public land adjacent to the Development as deemed necessary in the discretion of the Board;

(v) such additional portions of any property included within the Area of Common Responsibility as may be dictated by the Declarations, any recorded covenants, any Cost Sharing Agreement, or any contract or agreement for maintenance thereof entered into by the Association;

(vi) all ponds, lakes, streams and/or wetlands located within the Development which serve as part of the drainage and storm water retention system for the Development, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith unless such facilities are located within a Private Amenity and are maintained by the owner of the Private Amenity; and

(vii) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may, as a Common Expense, maintain other property and improvements which it does not own, including, without limitation, property dedicated to the public, or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(b) The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members holding sixty-seven percent (67%) of the total votes in the Association and during the Development Period the Declarant agree in writing to discontinue such operation.

(c) The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is otherwise assumed by or assigned to a Member or a Neighborhood Association or (ii) such property is dedicated to any local, state, or federal government or quasi-governmental entity; provided however, that in connection with such assumption, assignment or dedication, that Association may reserve or assume that right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of the Declarations or any other means during the Development Period except with the written consent of the Declarant.

(d) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be

allocated among all Members as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to the Declarations, any Cost Sharing Agreement, any recorded covenants, or any agreements with the owners(s) thereof. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a Neighborhood Expense assessed as a Neighborhood Assessment solely against the Members within the Neighborhood(s) to which the Exclusive Common Areas are assigned, or a Specific Assessment against the particular Members to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

(e) Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all Governing Documents. Neither the Association, any Member nor any Neighborhood Association shall be liable for any damage or injury occurring on, or arising out of the condition of, property which such Person does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

5.9. Cost Sharing Agreements. Adjacent to or in the vicinity of the Development, there may be certain residential, nonresidential or recreational areas, including without limitation single family residential developments, retail, commercial, or business areas and Private Amenities, which are not subject to the Declarations and which are neither Units nor Common Area as defined herein (hereinafter "adjacent properties"). Except as provided herein to the contrary, the owners of such adjacent properties shall not be Members of the Association, shall not be entitled to vote, and shall not be subject to assessment.

The Association may enter into Cost Sharing Agreements with the owners or operators of portions of the adjacent properties:

(a) to obligate the owners or operators of such adjacent properties to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of the Area of Common Responsibility, if any, which are used by or benefit jointly the owners or operators of such adjacent properties and the Members of the Association;

(b) to permit use of any recreational and other facilities located on such adjacent properties by all Members or by the Members within specified Neighborhoods; and/or

(c) to obligate the Association to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of such adjacent properties, if any , which are used by or benefit jointly the owners or operators of such adjacent properties and the Members of the Association.

The owners or operators of such adjacent properties shall be subject to assessment by the Association only in accordance with the provisions of such Cost Sharing Agreement(s). If the Association is obligated to share costs incurred by the owners of such adjacent properties, the Cost Sharing Agreement shall provide whether such payments by the Association shall constitute Common Expenses or Neighborhood Expenses of the Association. The owners or operators of the adjacent properties shall not be subject to the restrictions contained in the Declarations except as otherwise specifically provided herein.

ARTICLE 6: ASSOCIATION INSURANCE

6.1. Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(a) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area, if any, and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The Association shall have the authority to and interest in insuring any property for which it has maintenance or repair responsibility, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements and shall have a maximum deductible of the lessor of $10,000.00 or one percent (1%) of the face amount of the policy;

(b) Commercial general liability insurance on all public ways located within the Development and on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least $1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage, provided should additional coverage and higher limits be available at reasonable cost, the Association shall obtain such additional coverages or limits;

(c) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(d) Directors and officers liability coverage;

(e) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth ($1/6^{th}$) of the annual General Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation;

(f) Such additional insurance as the Board, in its best business judgment, determines advisable, which may include, without limitation, flood insurance.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the General Assessment, except that (a) premiums for property insurance obtained on behalf of a Neighborhood shall be charged to the Members within the benefited Neighborhood as a Neighborhood Assessment; and (b) premiums for insurance on Exclusive Common Areas may be included in the Neighborhood Assessment of the Neighborhood(s) benefited unless the Board of Directors reasonably determines that other treatment of the premiums is more appropriate. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense and assessed in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance

with the By-Laws, that the loss is the result of the negligence or willful misconduct of one (1) or more Members, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Member(s) and their Units.

The Association shall have no insurance responsibility for any portion of the Private Amenities.

6.2. Policy Requirements. The Association shall arrange for periodic reviews of the sufficiency of insurance coverage by one (1) or more qualified Persons.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and to each Member upon request. The policies may contain a reasonable deductible and the amount thereof shall not be subtracted for the face amount of the policy in determining whether the policy limits satisfy the requirement of Section 6.1.

(a) All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of Tennessee which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Members within the Neighborhood and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by Members, occupants, or their Mortgagees individually;

(iv) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(v) include an endorsement requiring at lease thirty (30) Days prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

(b) In addition, the Board shall use reasonable efforts to secure insurance policies which list the Members as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, its officers, DRB members, and employees, and the Members and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one (1) or more individual Members, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(iv) an endorsement excluding Members' individual policies from consideration under any "other insurance" clause;

(v) a cross liability provision; and

(vi) a provision vesting the Board with the exclusive authority to adjust losses; provided however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

6.3. Damage and Destruction. Immediately after damage or destruction to all or any part of the property covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this subsection, means repairing or restoring the property in substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless Members holding at least sixty-seven percent (67%) of the total votes in the Association, and during the Development Period the Declarant decide within sixty (60) Days after the loss not to repair or reconstruct.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60) Day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional Days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association or the Neighborhood, as appropriate, and placed in a capital improvements account.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Members responsible for the premiums for the applicable insurance coverage under Section 6.1.

ARTICLE 7: MEETINGS, QUORUM, VOTING, PROXIES

7.1. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate, either within the Development or as convenient as is possible and practical. Meetings may be held by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation by one of these methods shall constitute presence in person at such meeting.

7.2. Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association. Subsequent regular meetings shall be held annually on a date and at a time set by the Board.

7.3. Special Meetings. The president may call special meetings. In addition, it shall be the duty of the president to call a special meeting within thirty (30) Days if so directed by resolution of the Board or upon a petition signed by Members holding at least twenty-five percent (25%) of the total votes in the Association or upon written request of the Declarant.

7.4. Notice of Meetings. Written notice stating the place, day, and time of any meeting of the Members shall be delivered to each Class "A" and Class "B" Member entitled to vote at such meeting, not less than thirty (30) nor more than sixty (60) Days before the date of such meeting, by or at the direction of the president or the secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

7.5. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting either before or after such meeting. Attendance at a meeting by a Member shall be deemed a waiver by such Member of any objection as to notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

7.6. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, Members holding a Majority of the votes represented as such meeting may adjourn the meeting to a later time. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

7.7. Voting. The Board may adopt policies and procedures regarding the methods of casting votes, such as written ballots, secret ballots or computer access. Only Class "A" and Class "B" Members shall be entitled to vote at a meeting. No vote may be exercised on behalf of any Unit if any assessment for each Unit is delinquent.

7.8. List of Voting. After setting a record date for notice of a meeting, the Board shall prepare an alphabetical list of the names of the Members entitled to notice of such meeting. The list shall show the address of the Member and the number of votes each is entitled to vote at the meeting. The list for voting shall be made available for inspection in accordance with Tennessee law.

7.9. Proxies. Subject to the limitations of Tennessee law relating to use of general proxies and subject to any specific provision to the contrary in these By-Laws, every proxy shall be in writing specifying the Unit(s) for which it is given, signed by the Member or such Member's duly authorized

attorney-in-fact, dated, and filed with the secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two (2) or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Unit for which it was given, or upon receipt of notice by the secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

7.10. Quorum. Notwithstanding anything to the contrary, the presence, in person or by proxy, of Members holding ten percent (10%) of the total votes in the Association shall constitute a quorum at all meetings of the Association.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by at least a Majority of the votes required to constitute a quorum.

7.11. Conduct of Meetings. The president shall preside over all meetings of the Association, and the secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

ARTICLE 8: BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

A. Composition and Selection

8.1. Governing Body: Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) equal vote. Except with respect to directors serving as a representative of the Declarant, the directors shall be eligible Members or residents; provided however, no Member and resident representing the same Unit may serve on the Board at the same time. No Member or resident shall be eligible to serve as a director if any assessment for such Member's or resident's Unit is delinquent. A "resident" shall be any natural person eighteen (18) years of age or older whose principle place of residence is a Unit. In the case of a Member which is not a natural person, any officer, director, partner, member, manager, employee, or fiduciary of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member, provided that no Member may have more than one (1) such representative on the Board at a time, except in the case of directors serving as a representative of the Declarant. Notwithstanding the foregoing, at all times, at least one (1) director shall be a Member of the Association.

8.2. Number of Directors. The Board shall consist of five (5) directors, as provided. The number of directors may be increased or decreased upon the unanimous consent of the existing directors and the consent of Declarant during the Development Period.

8.3. Nomination and Election Procedures.

(a) Nomination of Directors. The Board may establish a nominating committee consisting of a chairperson, who shall be a member of the Board, and three (3) or more Members or representatives of Members. If established, the nominating committee shall be appointed by the Board not less than thirty (30) Days prior to each election to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such election. A nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled. In making its nominations, a nominating committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates. Directors serving as a representative of the Declarant shall not be subject to these nomination requirements.

(b) Election Procedures. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

8.4. Term of Office. Each director shall serve until the next annual meeting of the Members, or until such time as a successor is duly elected.

8.5. Removal of Directors and Vacancies. Any director may be removed, with or without cause, by Members holding a Majority of the total votes in the Association. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Members to fill the vacancy for the remainder of the term of such director.

Any director who has three (3) or more consecutive unexcused absences from Board meetings, or who is more than thirty (30) Days delinquent (or is the resident of a Unit that is delinquent or is an officer, director, partner, member, employee, or trust officer of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a Majority of the directors, and the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term.

In the event of the death, disability, or resignation of an elected director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term.

B. Meetings.

8.6. Organizational Meetings. Within ten (10) Days after the election of new directors, the Board shall hold an organizational meeting at such time and place as the Board shall set.

8.7. Regular Meetings. Regular meetings of the Board may be held at such time and place as a Majority of the directors shall determine.

8.8. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the president or vice president or by any two (2) directors.

8.9. Notice. Notice of the time and place of a regular meeting shall be communicated to directors not less than four (4) Days prior to the meeting. Notice of the time and place of a special meeting shall be communicated to directors not less than seventy-two (72) hours prior to the meeting. No notice need to be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. Notices shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; (d) telecopier transmission to the director's home or office, with confirmation of receipt by the receiving telecopier; (e) telegram, charges prepaid; (f) overnight or same day delivery, charges prepaid; or (g) e-mail using Internet accessible equipment and services if the director has consented in writing to such method of delivery and has provided the Board with an e-mail address. All such notices shall be given at the director's telephone or telecopier number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deemed communicated when deposited into a United States mailbox. Notices given by personal, overnight or courier delivery, telephone, telecopier, or telegraph shall be deemed communicated when delivered, telephoned, telecopied or given to the telegraph company.

8.10. Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be a valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

8.11. Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

8.12. Quorum of Board of Directors. At all meetings of the Board, a Majority of the directors shall constitute a quorum for the transaction of business, and the votes of a Majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in the By-Laws. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a Majority of the directors present at such meeting may adjourn the meeting to a time not less than four (4) nor more than twenty (20) Days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

8.13. Compensation. Directors shall not receive any compensation from the Association for acting as such unless approved by Members holding a Majority of the votes in the Association represented at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a Majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a

director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a Majority of the Board of Directors, excluding the interested director.

8.14.Conduct of Meetings. The president shall preside over all meetings of the Board, and the secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

8.15.Open Meetings. Subject to the provisions of Sections 8.11 and 8.16, all meetings of the Board shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested on an attendee's behalf by a director. In such case, the president may limit the time any individual may speak. Notwithstanding the above, the president may adjourn any meeting of the Board, reconvene in executive session, and exclude Persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

8.16.Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

8.17.Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done all acts and things which the Governing Documents of Tennessee law do not direct to be done and exercised exclusively by the membership generally.

8.18.Duties. The duties of the Board shall include, without limitation:

(a) preparing and adopting an annual budget establishing each Member's share of the Common Expenses and any Neighborhood Expenses;

(b) levying and collecting such assessments from the Members;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve and using such funds to operate the Association, provided any reserve funds may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) contracting for repairs, additions, and improvements to or alterations of the Common Area;

(i) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Members concerning the Association;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the By-Laws, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) making available to any Member, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association;

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Development; and

(o) indemnifying a director, officer or DRB or committee member, or former director, officer or DRB or committee member of the Association to the extent such indemnity is required or permitted under Tennessee law, the Charter or the Declarations.

8.19.Right of the Declarant to Disapprove Actions. During the Development Period, the Declarant shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Declarant, would tend to impair rights of the Declarant under the Governing Documents, or interfere with development of or construction on any portion of the Development, or diminish the level of services being provided by the Association.

(a) The Declarant shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Declarant has registered with the secretary of the Association, which notice complies with Section 8.9 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting; and

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless that requirements of subsections (a) and (b) above have been met.

The Declarant acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within ten (10) Days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) Days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

8.20.Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

The Board may delegate to one (1) of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

8.21.Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles,

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, services fees, prizes, gifts, or otherwise; any item of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;

(f) an annual financial report shall be made available to all Members within one hundred twenty (120) Days after the close of the fiscal year. Such annual report may be prepared on an audited, reviewed or complied basis, as the Board determines; and

(g) monthly statements for each account maintained on behalf of the Association must be provided to the Association by the financial institution holding the account.

8.22.Borrowing. The Association shall have the power to borrow money for any legal purpose; provided however, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed ten percent (10%) of the budgeted gross

expenses of the Association for that fiscal year, the Board shall obtain the approval of Members holding at least sixty-seven percent (67%) of the total votes in the Association prior to borrowing such money.

8.23. Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Neighborhood and other owners or residents associations, within and outside the Development; provided, any common management agreement shall require the consent of a Majority of the total number of directors of the Association.

8.24. Enforcement.

(a) Methods of Enforcement. The Board or any committee established by the Board, with the Board's approval, may impose sanctions for violation of the Governing Documents after compliance with the notice and hearing procedures set forth in subsection (b) below. Such sanctions may include, without limitation:

(i) imposing monetary fines which shall constitute a lien upon the Member's Unit. (In the event that any occupant, guest or invitee of a Member violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the occupant; provided however, if the fine is not paid by the occupant within the time period set by the Board, the Member shall pay the fine upon notice from the Board.);

(ii) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;

(iii) suspending a Member's right to vote;

(iv) suspending any Person's right to use any recreational facilities within the Common Area; provided however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(v) suspending any services provided by the Association to a Member or the Member's Unit if the Member is more than thirty (30) Days delinquent in paying any assessment or other charge owed to the Association; and

(vi) levying Specific Assessments to cover costs incurred in bringing a Unit into compliance.

In addition, the Board, or the covenants committee if established, may elect to enforce any provision of the Governing Documents by entering the Unit and exercising self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules, the removal of pets that are in violation of pet rules, or the correction of any maintenance, construction or other violation of the Governing Documents) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in the By-Laws.

In the event that any occupant, guest or invitee of a Member violates the Governing Documents, the Board or any committee established by the Board, with the Board's approval, may sanction such occupant, guest or invitee and/or the Member.

All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorney's fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or prevent the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce county, city, state, federal, TVA or TRDA rules or ordinances, if applicable, and permit local and other governments to enforce ordinances on the Development for the benefit of the Association and its Members.

(b) Notice and Hearing Procedures.

(i) Notice. Prior to imposition of any sanction, the Board or its delegate shall serve the alleged violator with written notice including (1) the nature of the alleged violation, (2) the proposed sanction to be imposed, (3) a statement that the alleged violator may present a written request for a hearing to the Board or the covenants committee, if one has been appointed; and (4) a statement that the proposed sanction shall be imposed as contained in the notice unless a request for a hearing is received within fifteen (15) Days of the notice. If a timely request is not received, the sanction stated in the notice shall be imposed; provided however, the Board or covenants committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fifteen (15) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any person. In the event of a continuing violation, each day the violation continues beyond the fifteen (15) day period shall constitute a separate offense, and fines may be imposed on a per diem basis without further notice to the violator. In the event of a violation which recurs within one (1) year from the date of any notice hereunder, the Board or covenants committee may impose a sanction without further notice to the violator.

(ii) Hearing. If a hearing is requested within the allotted fifteen (15) day period, the hearing shall be held before the covenants committee, or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard.

(iii) Appeal. If a hearing is held before a covenants committee, the violator shall have the right to appeal the committee's decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, president, or secretary of the Association within fifteen (15) Days after the hearing date.

ARTICLE 9: OFFICERS

9.1. Officers. The officers of the Association shall be a president, secretary, and treasurer. The president and secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one or more vice presidents and one (1) or more assistant treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two (2) or more offices may be held by the same person, except the offices of president and secretary.

9.2. Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of the Members, to serve until their successors are elected.

9.3. Removal and Vacancies. The Board may remove any officer whenever in its judgment the best interests of the Association will be served and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

9.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The president shall be the chief executive officer of the Association. The treasurer shall have primary responsibility for the preparation of the budget as provided for in the By-Laws and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The secretary shall be responsible for preparing minutes of meetings of the Members and the Board and for authenticating records of the Association.

9.5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

9.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

9.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 8.13.

ARTICLE 10: COMMITTEES

10.1. General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. No committee appointed by the Board shall be empowered to take any affirmative action without the consent of the Board.

10.2. Covenants Committee. In addition to any other committees which the Board may establish pursuant to the Declarations and these By-Laws, the Board may appoint a covenants committee. Acting in accordance with the provisions of the Declarations, these By-Laws, and resolutions the Board

may adopt, the covenants committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 8.24 of these By-Laws.

ARTICLE 11: MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Development.

11.1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notices of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) Days, or any other violation of the Declarations or By-Laws relating to such Unit, or the Member or occupant of such Unit which is not cured within sixty (60) Days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of "Eligible Holders" pursuant to Federal Home Loan Mortgage Corporation requirements.

11.2. No Priority. No provision of the Declarations or the By-Laws gives or shall be construed as giving any Member or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Member of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

11.3. Notice to Association. Upon request, each Member shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Member's Unit.

11.4. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) Days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE 12: GENERAL ASSESSMENTS

12.1. General Assessments. The Board may assess the Members in accordance with the Declarations and as provided herein below. There shall be four (4) types of assessments: (a) General Assessments to fund Common Expenses for the general benefit of all Members; (b) Neighborhood Assessments for Neighborhood Expenses benefiting only Members within a particular Neighborhood or Neighborhoods; (c) Special Assessments; and (d) Specific Assessments.

All assessments and other charges, together with interest, late charges, costs of collection, and reasonable attorneys fees, shall be a charge and continuing lien upon each Unit against which the assessment or charge is made until paid. Each such assessment or charge, together with interest, late charges, costs, and reasonable attorneys fees, also shall be the personal obligation of the Member owning such Unit at the time the assessment arose. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Unit by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon request, furnish to any Member liable for any type of assessment a written statement signed by an Association officer setting forth whether such assessment has been paid. Such statement shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such statement.

Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price differentials. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Members with a history of delinquent payment. If the Board so elects, assessments may be paid in two (2) or more installments. Unless the Board otherwise provides, the General Assessment and any Neighborhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Member is delinquent in paying any assessments or other charges levied on his or her Unit, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any assessment or installment thereof shall be considered delinquent on the fifteenth (15th) day following the due date unless otherwise specified by Board resolution.

No Member may exempt himself or herself from liability for assessments by non-use of Common Area, including Exclusive Common Area reserved for such Member's use, abandonment of his or her Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Member. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

12.2. Computation of General Assessments. Before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year which may include a contribution to establish a reserve fund. General Assessments shall be levied equally

against all Units subject to assessment and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses. The Board shall send a copy of the budget and notice of the amount of the General Assessment for the following year to each Member.

During the Development Period, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy and/or contributions of services and materials, which may be treated as either a contribution or a loan with interest, in the Declarant's discretion. Any such anticipated payment or contribution by the Declarant shall be disclosed as a line item in the Common Expense budget. Payments by the Declarant in any year shall under no circumstances obligate the Declarant to continue such payments in future years unless otherwise provided in a written agreement between the Association and the Declarant.

12.3. Maximum General Assessment. The General Assessment for each Member may not exceed the "Maximum Annual Assessment". The Maximum Annual Assessment is calculated using a base Maximum Annual Assessment for fiscal year 1995 of $240.00. The Maximum Annual Assessment will be increased over the previous year's Maximum Annual Assessment by five percent (5%) or the Consumer Price Index for the twelve (12) month period ending December 31 of the preceding year using the "All Urban Consumer, U.S. City Average" for "General Summary All Items" as promulgated by the U.S. Department of Labor and Statistics, whichever is greater.

The Board shall not be required to set the General Assessment for any given year at the Maximum Annual Assessment, however, the Board shall not be entitled to set the General Assessment for any given year above the Maximum Annual Assessment for that year without the approval of Members holding sixty-seven percent (67%) of the votes represented at a meeting called for that purpose.

The Maximum Annual Assessment shall not affect the Board's ability to set Neighborhood Assessments, Special Assessments and Specific Assessments, all of which shall be excluded from consideration of the Maximum Annual Assessment.

12.4. Computation of Neighborhood Assessments. Before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that the Master Declaration, any recorded covenants, or the By-Laws specifically authorizes the Board to assess certain costs as a Neighborhood Assessment. Any Neighborhood may request that additional services or a higher level of services be provided by the Association and, upon approval of Members holding a Majority of the votes allocated to Units within the Neighborhood, any additional costs shall be added to such budget. Such budget may include a contribution establishing a reserve fund for repair and replacement of capital items maintained as a Neighborhood Expense, if any, within the Neighborhood. Neighborhood Expenses shall be allocated equally among all Units within the Neighborhood(s) benefited thereby and levied as a Neighborhood Assessment.

The Board shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment for the coming year to be delivered to each Member in the Neighborhood prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved by Members holding a Majority of votes allocated to the Units within the Neighborhood to which the Neighborhood Assessment applies. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members holding at least ten percent (10%) of the votes

allocated to the Units in such Neighborhood. This right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood. If a meeting is requested, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

If the Members within any Neighborhood disapprove any line item of a Neighborhood budget, the Association shall not be obligated to provide the services anticipated to the funded by such line item of the budget. If the Board fails for any reason to determine a Neighborhood budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

12.5. Reserve Budget. The Board may annually prepare reserve budgets for both General and Neighborhood purposed which take into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost.

12.6. Special Assessments. The Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against all Units, if such Special Assessment is for Common Expenses, or against the Units within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Special Assessments shall be allocated equally among all Units subject to such Special Assessment. Any Special Assessment shall become effective upon approval by Members holding at least sixty-seven percent (67%) of the total votes allocated to Units which will be subject to such Special Assessment, and during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Members as provided for in Section 7.3, which petition must be presented to the Board within twenty (20) days after delivery of the notice of the Special Assessment. During the Development Period, any Special Assessment shall require the written consent of the Declarant. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

12.7. Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit(s) or occupants thereof upon request of the Member pursuant to a menu of special services which the Board may from time to time authorize to be offered to Members and occupants (which might include, without limitation, sewer service, landscape maintenance, janitorial service, pest control, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Member;

(b) to cover the costs associated with maintenance, repair, replacement and insurance of any Exclusive Common Area assigned to one (1) or more Units; and

(c) to cover costs incurred in bringing the Unit(s) into compliance with the terms of the Governing Documents, or costs incurred as a consequence of the conduct of the Member or the occupants of such Unit, their agents, contractors, employees, licensees, invitees, or guests; provided however, the

Board shall give the Member prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment.

The Association may also levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declarations, any applicable supplemental declaration, the Charter, the By-Laws, and rules and regulations; provided however, the Board shall give prior written notice to the Members affected, and an opportunity for such Members to be heard before levying any such assessment.

12.8. Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Unit on the date which the Unit is conveyed to a Person other than the Declarant. The first annual General Assessment and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit. During the Development Period, this provision may not be changed without the consent of the Declarant.

12.9. Failure to Assess. Failure of the Board to establish assessment amounts or rates or to deliver or mail each Member an assessment notice shall not be deemed a waiver, modification, or a release of any Member from the obligation to pay assessments. In such event, each Member shall continue to pay General Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

12.10.Exempt Property. The following property shall be exempt from payment of General Assessments, Neighborhood Assessments, and Special Assessments:

(a) All Common Area and such portions of the Development owned by the Declarant and included in the Area of Common Responsibility;

(b) Any property dedicated to and accepted by any governmental authority or public utility; and

(c) Property owned by any Neighborhood Association, or by the Members of a Neighborhood Association as tenants-in-common, for the common use and enjoyment of all Members within the Neighborhood.

ARTICLE 13: MISCELLANEOUS

13.1. Architectural Review. Responsibility for administration of the Design Guidelines and review of all applications for construction and modifications shall be handled by the DRB, the members of which need not be Members of the Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the DRB. The DRB may establish and charge reasonable fees for review of applications and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred by the DRB in having any application reviewed by architects, engineers or other professionals. The DRB shall have exclusive jurisdiction over all construction on any portion of the Development. The Declarant retains the right to appoint all members

of the DRB who shall serve at the Declarant's discretion. There shall be no surrender of this right except in a written instrument in recordable form executed by Declarant. Upon the surrender of such right, the Board shall appoint the members of the DRB, who shall thereafter serve and may be removed in the Board's discretion.

13.2. Architectural Review by Private Amenity. Neither the Association, nor any committee thereof, shall approve or permit any construction, addition, alternation, change, or installation on or to any portion of the Development which is adjacent to, or otherwise in the direct line of sight of any Private Amenity without giving the Private Amenity at least fifteen (15) Days prior written notice of its intent to approve or permit the same together with copies of the request and all other documents and information finally submitted in such regard. The Private Amenity shall then have fifteen (15) Days to approve or disapprove the proposal in writing delivered to the appropriate committee or Association, stating in detail the reasons for any disapproval. The failure of the Private Amenity to respond to the notice within the fifteen (15) day period shall constitute a waiver of the Private Amenity's right to object to the matter. This Section shall also apply to any work on the Common Area.

13.3. Rules and Regulations. In addition to the use restrictions set forth in the Declarations, the Board may, from time to time, without consent of the Members, promulgate, modify, or delete rules and regulations applicable to the Development. Such rules shall be distributed to all Members and occupants prior to the date that they are to become effective and shall thereafter be binding upon all Members and occupants until and unless overruled, canceled, or modified in regular or special meeting by a vote of Members holding a Majority of the votes in the Association, and, during the Development Period, the written consent of the Declarant.

13.4. Development and Sales. The Declarant and brokers authorized by the Declarant may maintain and carry on the Development such activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Development and/or the construction or sale of Units, such as sales activities, tournaments, charitable events, and promotional events, and restrict Members from using the Common Area during such activities. The Declarant and authorized brokers shall have a license and easements over the Development for access, ingress and conducting such activities.

In addition, the Declarant and brokers authorized by Declarant may establish within the Development, including any meeting hall, such facilities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Development and/or the construction or sale of Units, including, but not limited to, business offices, signs, model Units, tents, sales offices, sales centers and related parking facilities. During the Development Period, Members may be excluded from use of all or a portion of such facilities in the Declarant's sole discretion. The Declarant and authorized brokers shall have easements over the Development for access, ingress, and egress and use of such facilities.

Declarant may permit the use of any facilities situated on the Common Area by Persons other than Members without the payment of any use fees.

13.5. Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by Members holding seventy-five percent (75%) of the votes in the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of the Governing Documents (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments; (c) proceedings involving

challenges to ad valorem taxation; (d) counter-claims brought by the Association in proceedings instituted against, it or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

13.6. Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

13.7. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order Newly Revised (current edition) shall govern the conduct of Association proceedings when not in conflict with Tennessee law, the Charter, the Declarations, or these By-Laws.

13.8. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Declarations, By-Laws and the Charter, any amendments and supplements to the foregoing, the rules of the Association, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Development as the Board shall designate during normal business hours.

(b) Rules for Inspection. The Board shall establish rules with respect to:

(i) notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made; and

(iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

13.9. Notices. Except as otherwise provide in the Declarations or these By-Laws, all notices, demands, bills, statements, and other communications under the Declarations or these By-Laws, shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by Untied States mail, first class postage prepaid;

(a) if to a Member, at the address which the Member or has designated in writing and filed with the secretary or, if no such address has been designated, at the address of the Unit of such Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

If mailed, any notice shall be deemed to be delivered when deposited in the United States mail addressed with postage prepaid. To increase flexibility, any Person, including the Association, may consent to or request additional methods of receiving notice, including but not limited to, facsimile or Internet e-mail.

13.10.Amendment.

(a) By Declarant. Until termination of the Development Period, the Declarant may unilaterally amend these By-Laws for any purpose. Thereafter, the Declarant may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statue, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Member shall consent thereto in writing.

(b) By Members. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding sixty-seven percent (67%) of the votes in the Association, and, during the Development Period, the written consent of the Declarant.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date. An amendment to these By-Laws shall become effective upon adoption, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its adoption or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege.

If a Member consent to any amendment to these By-Laws, it will be conclusively presumed that such Member has the authority to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.

13.11.Conflicts. Any conflicts between Tennessee Law, the By-Laws, the Charter and the Declarations shall be resolved in accordance with Tennessee Law, the Charter, the By-Laws and the Declarations, in that order of priority.

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SECRETARY OF STATE

EXHIBIT
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CHARTER

OF

RARITY BAY COMMUNITY ASSOCIATION, INC.
(A Tennessee Nonprofit Corporation)

FILED

Article 1. **Name.** The name of the corporation is Rarity Bay Community Association, Inc. ("Association").

Article 2. **Nonprofit Corporation.** The Association is formed as a nonstock, nonprofit corporation under the laws of the State of Tennessee.

Article 3. **Principal Office.** The initial principal office of the Association is located in Monroe County, Tennessee at the following address:

403 Rarity Bay Parkway
Vonore, Tennessee 37885

Article 4. **Duration.** The Association shall have perpetual duration.

Article 5. **Declarations.** References herein to the "Master Declaration" shall refer to the Master Declaration of Covenants, Conditions, and Restrictions for Rarity Bay recorded, or to be recorded, in the public records of Loudon and Monroe Counties, Tennessee (the "Public Records"), as it may be amended. References herein to the "Phase Declarations" shall refer to Declaration of Covenants, Conditions and Restrictions For Properties of Rarity Bay Subdivision, Phase I, Section 1, 2 and 3, recorded in Trust Book 340, page 156, and noted in Book S, Page 197 in the Registers Office of Loudon County, Tennessee and recorded in Misc. book 91, Page 58 and noted in Note Book 36, Page 130, Monroe County, Tennessee; Declaration of Covenants, Conditions and Restrictions For Properties of Rarity Bay Subdivision, Phase II, Section 1, 2 and 3, recorded in Trust Book 366, page 592, and noted in Book I, Page 205 in the Registers Office of Loudon County, Tennessee and recorded in Misc. book 96, Page 249 and noted in Note Book 38, Page 146, Monroe County, Tennessee; Declaration of Covenants, Conditions and Restrictions For Properties of Rarity Bay Subdivision, Phase III, Section 1 and 2, recorded in Trust Book 394, page 924, and noted in Book U, Page 205 in the Registers Office of Loudon County, Tennessee and recorded in Misc. book 98, Page 151 and noted in Note Book 39, Page 103, Monroe County, Tennessee; Declaration of Covenants, Conditions and Restrictions For Properties of Rarity Bay Subdivision, Phase IV, recorded in Trust Book 394, page 924, and noted in Book U, Page 205 in the Registers Office of Loudon County, Tennessee; and Declaration of Covenants, Conditions and Restrictions For Properties of Rarity Bay Subdivision, Phase V, recorded in Trust Book 410, page 889, and noted in Book U, Page 393 in the Registers Office of Loudon County, Tennessee. The Master Declaration and Phase Declarations are hereinafter collectively referred to as the "Declarations". References herein to the "Declarant" shall have the meaning ascribed to such term by the Declarations.

Article 6. **Purposes.** The Association is formed to be and constitute the Association to which reference is made in the Declarations, to perform all obligations and duties of the Association as set forth in the Declarations and the by-laws of the Association ("By-Laws"), and to exercise all rights and powers of the Association, as specified in the Declarations and the By-Laws, and as provided by law.

Article 7. **Powers.** The Association shall have the following powers, which, unless otherwise indicated by the Declarations, may be exercised by the board of directors of the Association (the "Board"):

(a) all of the common law and statutory powers conferred upon nonprofit corporations under Tennessee law; and

(b) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in this Charter, the By-Laws, and the Declarations, including, without limitation, the power:

(i) to establish, collect, and enforce payment, by any lawful means, of assessments and other charges;

(ii) to manage, control, operate, maintain, repair, and improve any other property for which the Association by rule, regulation, covenant, merger, or contract has a right or duty to provide such services;

(iii) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Declarations or By-Laws;

(iv) to engage in activities which will actively foster, promote, and advance the common interests of all members of the Association ("Members");

(v) to buy or otherwise acquire, sell, dedicate for public use, or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, own, hold, use, operate, grant easements, and otherwise deal in and with real and personal property of all kinds and any right or interest therein for any purpose of the Association, subject to such limitations as may be set forth in the Declarations or By-Laws;

(vi) to borrow money for any purpose, subject to such limitations as may be set forth in the Declarations or By-Laws;

(vii) to enter into, make, perform, and enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other association, corporation, or other entity or agency, public or private; and

(viii) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporations, firms, or individuals.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other rights and powers which may now or hereafter be permitted by law. The powers specified in each of the paragraphs of this Article are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph of this Article.

(c) The Association does not contemplate pecuniary gain or profit, direct or indirect, to its Members and shall make no distributions of income to its Members, directors, or officers.

Article 8. Members.

(a) The Association shall be a membership corporation without certificates or shares of stock. Membership in the Association shall be in accordance with the terms of the Declarations and the By-Laws. The Association shall have three (3) classes of membership, Class "A", Class "B " and Class "C", as fully set forth in the By-Laws.

(b) Changes of membership in the Association shall be established by recording in the Public Records a deed or other instrument establishing record title to real property subject to the Declarations. Upon such recordation, the owner designated by such instrument shall become a Member of the Association and the membership of the prior owner shall be terminated.

(c) The share of a Member in the privileges, rights and assets of the Association cannot be assigned, hypothecated, or transferred in any manner, except as an appurtenance to real property subject to the Declarations.

Article 9. Dissolution. The Association may be dissolved only upon a resolution duly adopted by the Board and the approval of Members holding at least two-thirds (2/3) of the votes in the Association and the written consent of the Declarant. In the event of dissolution, liquidation or winding up of the Association, subject to the Declarations, the Association's assets remaining after payment, or provisions of payment, of all known debts and liabilities of the Association shall be conveyed to a non-profit organization with similar purposes.

Article 10. Merger and Consolidation. The Association may merge or consolidate in accordance with Title 48, Chapter 61 Section 10, et seq. of the Tennessee Code Annotated, as amended.

Article 11. Directors and Officers.

(a) The business and affairs of the Association shall be conducted, managed, and controlled by a board of directors. The initial board of directors shall consist of five (5) directors. The number of directors may be increased in accordance with the By-Laws.

(b) The method of election, removal, and filling of vacancies on the board of directors and the term of office of directors and officers shall be as set forth in the By-Laws.

(c) The Board may do or cause to be done all acts and things which the Declarations, the By-Laws, this Charter or Tennessee law do not direct to be done and exercised exclusively by the membership generally.

(d) The Board may delegate its operating authority to such corporations, officers, individuals, and committees as it, in its discretion, may determine.

Article 12. By-Laws. The By-Laws of the Association shall be adopted by the Board and may be altered, amended, or rescinded in the manner provided in the By-Laws. The quorum requirements for meetings of Members, and directors shall be set forth in the By-Laws.

Article 13. Liability of Directors, Officers and Committee Members. To the fullest extent that Tennessee law, as it exists on the date hereof or as it may hereafter be amended, permits the limitation or elimination of the liability of directors, officers, Design Review Board ("DRB") members and committee

members, no director or officer of the Association or DRB member or committee member shall be personally liable to the Association or its Members for monetary damages for breach of duty of care or other duty as a director, officer or DRB or committee member. No amendment to or repeal of this Article shall apply to or have any effect on the liability or alleged liability of any director or officer of the Association or DRB member or committee member for or with respect to any acts or omissions of such director, officer, or DRB member or committee member occurring prior to such amendment or repeal. The Association shall indemnify any director, former director, officer, former officer, DRB member or former DRB member, committee member or former committee member against liability to the fullest extent permitted under Tennessee law.

Article 14. Amendments. This Charter may be amended by a resolution duly adopted by the Board and the approval of Members holding at least two-thirds (2/3) of the votes in the Association. No Members shall be entitled to vote on any amendment which is for the sole purpose of complying with the requirements of any governmental or quasi governmental entity or institutional lender authorized to fund, insure or guarantee Mortgages, as such requirements may exist from time to time.

Article 15. Incorporator. The name and address of the incorporator of the Association are as follows:

Chuck Olderman
Cofer, Beauchamp, Stradley & Hicks, LLP
99 West Paces Ferry Road NW, Suite 200
Atlanta, Georgia 30303

Article 16. Registered Agent and Address. The Association hereby appoints Carolyn D. Blair, whose address in Monroe County, Tennessee is 403 Rarity Bay Parkway, Vonore, Tennessee 37885, as its lawful statutory agent upon whom all notices and processes, including service of summons, may be served, and which when served, shall be lawful, personal service upon this corporation. The Board may, at any time, appoint another agent for such purpose and the filling of such appointment shall revoke this or any other previous appointment of such agent.

IN WITNESS WHEREOF, the undersigned has executed this Charter, this 24 day of September, 1998.

Chuck Olderman, Incorporator

EXHIBIT D

From: "Salem Pointe (Michael@RarityBayLiving.com)" <Michael@RarityBayLiving.com>
Date: 2/22/22 11:50 PM (GMT-05:00)
To: RB Admin <Admin@RarityBayLiving.com>, "Crystal Pate" <Crystal.Pate@apexbank.com>, Steve Christ <bartpd549@yahoo.com>, CHAD STORY <cstory2@comcast.net>, Denzil Thles <denzil.rbcai@gmail.com>, Jim Atchley <jimrbcai@gmail.com>, Chuck Porter <cporter.rbcai@gmail.com>
Cc: Kevin Stephens Stevens <kstevens@kmfpc.com>, RB Communications <Corie@RarityBayLiving.com>
Subject: [External]Declarant Notice of Removal of RBCAI BOD

CAUTION: This email originated from outside of Apex Bank. Do not click links or open attachments unless you recognize the sender and know the content is safe.

February 22, 2022

VIA ELECTRONIC MAIL

Rarity Bay Community Association, Inc.

150 Rarity Bay Pkwy, Vonore, TN 37885

Attention: All Board of Directors

Dear RBCAI Board of Directors,

In accordance with the By-Laws of the Rarity Bay Community Association, Inc., as amended (the "By-laws"), the Declarant (being Salem Pointe Capital, LLC, referred to as "SPC") has the ability to remove, with or without cause, any director(s) of the Community Association (the "CAI"), in accordance with Section 8.5, at any time. Any such director being removed will be given notice of such action prior to any meeting (whether an annual meeting or special meeting). Upon the removal of any director, a successor will be elected by the Members of the CAI to fill the vacancy provided such successor is also approved in advance by SPC.

Therefore, as stated herein, please consider this correspondence from SPC as official "notice" of the special called meeting for the pending removal of one and/or more Members from the CAI Board of Directors on March 1, 2022 at 11am in the Community Activity Center.

Thank you for attention to this matter.

Best Regards,

FILED
APR 25 2022
TIME Ex. A 11:47
TERESA A. CHOATE
CLERK & MASTER MONROE CTY.

Michael David Ayres

Rarity Bay Community

403 Rarity Bay Parkway

Vonore, TN 37885

Office: (423) 884-3020

http://RarityBayLiving.com

RARITY BAY
ON TELLICO LAKE

Rarity Bay Declarant

Rarity Bay Properties Owner/Agent

RBCAI Vice-President

Rarity Bay Country Club Owner

Design Review Board Chairman

Renaissance Condo Association Board Member

Veteran Owned and Operated

EXHIBIT
tabbies
E

From: Salem Pointe <Michael@RarityBayLiving.com>
Sent: Thursday, February 24, 2022 2:46 PM
To: Michael D. Frisbey <mfrisbey@governmentsuppliers.com>; Curtis Crawford <Curtis37885@outlook.com>; bob mundle <bobmundle@yahoo.com>; wohlford1@me.com
Cc: Kevin Stephens Stevens <kstevens@kmfpc.com>; RB Communications <Corie@RarityBayLiving.com>
Subject: Declarant Notice of Removal of RBCAI BOD

February 24, 2022

VIA ELECTRONIC MAIL

Rarity Bay Community Association, Inc.

150 Rarity Bay Pkwy, Vonore, TN 37885

Attention: All Board of Directors

Dear RBCAI Board of Directors,

In accordance with the By-Laws of the Rarity Bay Community Association, Inc., as amended (the "By-laws"), the Declarant (being Salem Pointe Capital, LLC, referred to as "SPC") has the ability to remove, with or without cause, any director(s) of the Community Association (the "CAI"), in accordance with Section 8.5, at any time. Any such director being removed will be given notice of such action prior to any meeting (whether an annual meeting or special meeting). Upon the removal of any director, a successor will be elected by the Members of the CAI to fill the vacancy provided such successor is also approved in advance by SPC.

Therefore, as stated herein, please consider this correspondence from SPC as official "notice" of the special called meeting for the pending removal of one and/or more Members from the CAI Board of Directors on March 1, 2022 at 11am in the Community Activity Center.

Thank you for attention to this matter.
Best Regards,

Michael David Ayres
Rarity Bay Community
403 Rarity Bay Parkway
Vonore, TN 37885
Office: (423) 884-3020
http://RarityBayLiving.com

RARITY BAY
ON TELLICO LAKE

FILED
APR 25 2022
TIME EX. B 11:40
TERESA A. CHOATE
CLERK & MASTER MONROE CTY.

Rarity Bay Declarant
Rarity Bay Properties Owner/Agent
RBCAI Vice-President
Rarity Bay Country Club Owner
Design Review Board Chairman
Renaissance Condo Association Board Member
Veteran Owned and Operated

Michael Frisbey

From: Rarity Bay No Reply <no-reply@raritybaycai.com>
Sent: Wednesday, March 2, 2022 6:41 PM
To: mfrisbey@governmentsuppliers.com
Subject: Organizational Meeting Follow Up

Flag Status: Flagged

EXHIBIT F

RARITY BAY
ON TELLICO LAKE

Good Evening Everyone!

Please see a message below from your RBCAI Board of Directors.

On 1 March 2022, the Rarity Bay CAI Board of Directors held an Organizational Meeting at the CAC to transition the new Board Members, elect officers, and assign committee liaisons. This meeting was announced at the Annual Meeting and intended to be a routine transitional business meeting.

The meeting is typically organizational in nature, with the election of new Officers and the new Board Members signing some documents and receiving a folder with information about the community and their role. It is not intended to be a public meeting. It was mentioned at the Annual meeting.

Michael Ayres, as Declarant, notified the Board in electronic format on Wednesday, February 23, 2022, and then on Thursday, February 24, 2022, the newly elected Board Members, the potential that any Board Member could be removed. Some community members were made aware of this private notification and decided to attend the Organizational Meeting.

The Board allowed Michael to address each Board Member, in which he notified two Board Members (Michael Frisbey and Crystal Pate) they are to be removed from the Board. As a result of this notification, the Board voted to seek further legal advice on the Declarant's requested action. Until a final decision is rendered, the Board Members you elected will continue to serve on the RBCAI Board. We will advise you of any future decisions on this matter.

One active board member, Steve Christ, resigned from the board due to his concern over the release of the communication from the declarant.

The following officers and committee liaisons were established:

RBCAI Board Positions
President – Charles Porter
Vice President – Chad Story
Treasurer – Curtis Crawford
Secretary – Steve Wohlford
Parliamentarian – Curtis Crawford
At Large – Crystal Pate
At Large – Robert Mundle
At Large – Michael Frisbey
At Large –

Committee Liaisons
CAC – Crystal Pate
Election Oversight – Curtis Crawford

Hiking Trails – Robert Mundle
Infrastructure – Curtis Crawford
Marketing – Mike Frisbey
New CAC/Pavilion – Chad Story
Nominating – Curtis Crawford
Safety & Gatehouse – Steve Wohlford

Official minutes of this meeting are to follow along with new Board Member email addresses. Thank you again for your understanding as we transition into serving this community.

Respectfully Submitted,

The RBCAI Board of Directors

Thank you and have a great day!

This email is intended for the members of the Rarity Bay Community Association, Inc. only.
You may modify your subscriptions to these email broadcasts by changing your preferences on the Membership/Web tab in your online member profile.

RARITY BAY
ON TELLICO LAKE

RBCAI Organizational Meeting
Meeting Minutes | March 1, 2022

Date, Time, Location
RBCAI's Organizational Meeting was held on Tuesday, March 1, 2022 at 11:00AM at the Community Activity Center.

Pledge of Allegiance
Crystal Pate led the membership in the Pledge of Allegiance.

Quorum and Call to Order
Board members in attendance were Crystal Pate, Chad Story, Steve Christ, Chuck Porter, Curtis Crawford, Bob Mundle, Michael Frisbey and Steve Wohlford. A quorum was established. Crystal Pate, Vice President, called the meeting to order at 11:00 a.m.

Election of Officers
President – Chuck Porter
Vice President – Chad Story
Treasurer – Curtis Crawford
Secretary – Steve Wohlford

Motion was made for adding a Parliamentarian to our officers.

Parliamentarian – Curtis Crawford

Committee Liaison Appointments

Building/Infrastructure Committee – Curtis Crawford
Hiking Trails – Bob Mundle
Marketing – Michael Frisbey
CAC/New Pavilion – Chad Story
Nominating/Election Committee - Curtis
Safety/Gatehouse – Steve Christ

Motion was made by Michael Frisbey to seek new counsel representation for the CAI due to potential conflict of interest with Kevin Stevens representing both the CAI and the Declarant. Seconded by Curtis Crawford.

Vote Count
Curtis – Yea
Steve W. – Yea
Michael Frisbey – Yea
Steve C. – Nay
Chad – Yea
Bob – Yea
Crystal – Yea
Chuck – Yea

Motion Passed

Steve Wohlford, Secretary Date

Declarant's Acceptance: These minutes are hereby accepted by:

_____ _____

Michael Ayres, Salem Pointe Capital, LLC. Date

Director	Signature	In Favor	Opposed	Abstained	Date
Chuck Porter President					
Chad Story Vice President					
Curtis Crawford Treasurer					
Steve Wohlford Secretary					
Crystal Pate Member at Large					
Michael Frisbey Member at Large					
Robert Mundle Member at Large					
Open Member at Large					

EXHIBIT G

Tre Hargett
Secretary of State

Division of Business Services
Department of State
State of Tennessee
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102

Filing Information

Name: **Salem Pointe Capital, LLC**

General Information

SOS Control #	**000769582**	Formation Locale:	TENNESSEE
Filing Type:	Limited Liability Company - Domestic	Date Formed:	08/27/2014
	08/27/2014 9:44 AM	Fiscal Year Close	12
Status:	Active	Member Count:	2
Duration Term:	Perpetual		
Managed By:	Manager Managed		

Registered Agent Address
MICHAEL AYRES
403 RARITY BAY PKWY
VONORE, TN 37885-2086

Principal Address
MICHAEL D AYRES
403 RARITY BAY PKWY
VONORE, TN 37885-2086

The following document(s) was/were filed in this office on the date(s) indicated below:

Date Filed	Filing Description	Image #
04/29/2022	Assumed Name	B1207-0063
New Assumed Name Changed From: No Value To: Rarity Bay Country Club		
03/25/2022	2021 Annual Report	B1186-6421
Member Count Changed From: 3 To: 2		
03/22/2021	2020 Annual Report	B1003-5587
03/25/2020	2019 Annual Report	B0845-4945
03/26/2019	2018 Annual Report	B0676-6221
Registered Agent First Name Changed From: RODNEY To: MICHAEL		
Registered Agent Last Name Changed From: FIELDS To: AYRES		
Registered Agent Physical Address 1 Changed From: 620 MARKET ST To: 403 RARITY BAY PKWY		
Registered Agent Physical City Changed From: KNOXVILLE To: VONORE		
Registered Agent Physical Postal Code Changed From: 37902-2231 To: 37885-2086		
01/15/2018	2017 Annual Report	B0477-6178
03/30/2017	Assumed Name	B0373-6299
New Assumed Name Changed From: No Value To: Rarity Bay Country Club		
02/16/2017	2016 Annual Report	B0346-6952
04/04/2016	2015 Annual Report	B0226-8673

Filing Information

Name: **Salem Pointe Capital, LLC**

Principal Address 1 Changed From: 428 SHELBYVILLE RD To: 403 RARITY BAY PKWY

Principal Address 3 Changed From: No value To: MICHAEL D AYRES

Principal City Changed From: KNOXVILLE To: VONORE

Principal Postal Code Changed From: 37922-3538 To: 37885-2086

Member Count Changed From: 1 To: 3

Registered Agent First Name Changed From: CLAYTON To: RODNEY

Registered Agent Last Name Changed From: WOOD To: FIELDS

Registered Agent Physical Address 1 Changed From: 428 SHELBYVILLE RD To: 620 MARKET ST

Registered Agent Physical Postal Code Changed From: 37922-3538 To: 37902-2231

10/12/2015	Mailing Address Update	B0160-0539
03/31/2015	2014 Annual Report	B0080-5383
08/27/2014	Initial Filing	A0263-0889

Record Status Changed From: Pending To: Active

Active Assumed Names (if any)	Date	Expires
Rarity Bay Country Club	04/29/2022	04/29/2027

RARITY BAY
ON TELLICO LAKE

EXHIBIT
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SalemPointe
CAPITAL

Rarity Bay Country Club
403 Rarity Bay Parkway
Vonore, TN 37885

March 5, 2022

Michael D. Frisbey
550 Cormorant Drive
Vonore, TN 37885

Notice of Membership Suspension:

Mr. and Mrs. Frisbey,

We regret to inform you that your membership privileges are being suspended effective immediately. This suspension will last 6 months, and pursuant to the Member Rules & Regulations if your account is kept current your privileges will be reinstated on September 1, 2022. This suspension is being executed pursuant to the Member Rules & Regulations, which states that a Club Member is subject to suspension and/or termination if the Member "Engages in conduct that is improper or likely to endanger the welfare, safety, harmony, or reputation of the Club or its members." This sort of behavior is not tolerated by the owners and management of Rarity Bay Country Club. Our Rules & Regulations clearly define unacceptable behavior, and this offense is grounds for suspension and/or termination of membership. During the 6 month suspension you will not have access to any of Rarity Bay Country Club's Amenities. This includes being physically present on any of the 250 acres and all facilities and/or any organized events held on Rarity Bay Country Club Grounds. Pursuant to Rules & Regulations you may request in writing a hearing with Club Management to discuss this suspension within 10 days.

Sincerely,

Michael D. Ayres
Owner

FILED
APR 25 2022
TIME EV.D 11:40
TERESA A. CHOATE
CLERK & MASTER MONROE CTY.

IN THE CHANCERY COURT FOR MONROE COUNTY, TENNESSEE

RARITY BAY PARTNERS, formerly known as SALEM POINTE CAPITAL PARTNERS,	)	
Plaintiff,	)	
vs.	)	Docket No.: 21,173
RARITY BAY COMMUNITY ASSOCIATION, INC., MICHAEL AYRES, AMY AYRES, CLAYTON WOOD, DOUG YOAKLEY, KRIS SCHUH, JEFF LAWS, JIM ATCHLEY, DENZIL THIES, SALEM POINTE CAPITAL, LLC and BEP RARITY BAY, LLC	)	
Defendants.	)	

FILED
FEB 10 2021
TIME 10:00
TERESA A. CHOATE
CLERK & MASTER MONROE CTY.

ORDER

This matter came to for hearing on January 20, 2021, upon the Motion to Require Production of Records Pursuant to Tenn. Code Ann. §48-66-104 and upon the Motion for Injunction Ordering 2020 Annual Meeting and Board Election filed by Plaintiff Rarity Bay Partners. Having heard the arguments of counsel and reviewed the Motions, supporting affidavit, opposing briefs, and entire Record in this case, the Court finds the motions are well-taken and shall be granted. Accordingly, it is hereby **ORDERED**:

1) The Rarity Bay Community Association, Inc. (the "Association") shall produce to Rarity Bay Partners the records related to the 2019 Association Board of Directors election which were sought in the Motion to Require Production of Records, including, but not limited to, records reflecting the identity of members who voted in the 2019 election and the number of votes cast by each, including the number of votes cast by Salem Pointe Capital, LLC and BEP Rarity Bay, LLC with respect to each Unit, the ballots cast in the election, and any ballots rejected by the Association that it did not include in the election results. Any such records produced pursuant to this Order shall be produced pursuant to a Protective

Order to be entered by the Court. The records shall be produced on or before Feb 14 @ 5pm, 2021.

2) On February 24, 2021, this Court will rule orally with a court reporter present on the pending Motions for Summary Judgment filed in the case of *Rarity Bay Community Association, Inc. v. Rarity Bay Partners et. al,* Monroe County Chancery Court, Case Number 20489. The Association shall hold the 2020 Annual Meeting of the Association and the Board of Directors election for at least four (4) Director positions on the Association Board of Directors within sixty (60) days of February 24, 2021.

IT IS SO ORDERED this 29 day of January, 2021.

Jerri S. Bryant, Chancellor

APPROVED FOR ENTRY:

By: Adrienne L. Anderson

Adrienne L. Anderson 015971
Anderson Busby, PLLC
P.O. Box 2588
Knoxville, Tennessee 37901

Shannon van Tol (BPR#017602)
430 Montbrook Lane
Knoxville, TN 37919

Attorneys for Defendant Rarity Bay Partners f/k/a Salem Pointe Capital Partners

CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2021, an exact copy of this Order has been emailed, faxed, hand-delivered and/or mailed to the following individual(s):

Thomas M. Hale, Esq.
Kramer Rayson, LLP
P.O. Box 629
Knoxville, TN 37901
TomHale@kramer-rayson.com

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Fisher Russell, PLLC
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arussell@fisher-russell.com

Josh Kahane
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Dana Pemberton
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Stokes, Williams, Sharp, Cope & Mann
P.O. Box 2644
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sandy@stokeswilliams.com
dana@stokeswilliams.com

Kevin C. Stevens
Kennerly, Montgomery & Finley, P.C.
550 Main Street
Bank of America Building, Suite 400
Knoxville, TN 37902
kstevens@kmfpc.com

Adrienne L. Anderson

CERTIFICATE OF SERVICE
The undersigned hereby certifies that a true and exact copy of this the foregoing document have been served upon all parties of interest in this case by delivering a true and exact copy to the offices of said parties or by placing a copy in the United States mail addressed with sufficient postage thereon to carry it to its destination.
This the 10th day of February 2021.
Clerk & Master

Joni Mizell

Emailed to ea. Atty listed hereon.