

BY-LAWS
OF
PROMENADE PLACE CONDOMINIUM OWNERS ASSOCIATION, INC.

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**BY-LAWS OF
PROMENADE PLACE CONDOMINIUM OWNERS ASSOCIATION, INC.**

PROMENADE PLACE CONDOMINIUM OWNERS ASSOCIATION, INC., a Texas non-profit corporation (the "Association"), formed under and pursuant to the Texas Non-profit Corporation Law (the "Law") is the corporation referred to in the Promenade Place Declaration of Condominium (the "Declaration"), which creates a condominium regime in Houston, Harris County, Texas, pursuant to the provisions of the Texas Uniform Condominium Act. The terms used in these By-Laws shall have the same meanings given to them in the Declaration, unless otherwise specifically provided in the event of any conflict between the terms and provisions of these By-Laws and the Declaration, the Declaration shall control.

**ARTICLE I.
Members, Meetings and Voting Rights**

Section 1. Members. Each Owner shall be a member of the Association so long as he shall be an Owner of a Residence Unit, all as more fully set forth in the Declaration.

Section 2. Voting. Each Owner shall be entitled to one vote for each Residence Unit owned by such Owner, weighted in proportion to the Allocated Interest of such Unit in the Common Elements, all as more fully set forth in the Declaration.

Section 3. Qualifications for Voting. No Owner, other than the Declarant, shall be entitled to vote at any meeting of the Association until such Owner has presented evidence of ownership of a Residence Unit in the Condominium to the Secretary of the Association. Any Owner who is in default for more than thirty (30) days in the payment of his Common Expense Charges or any other sums owed to the Association may have his right to vote revoked by action of the Board of Directors, pending payment of such amounts. In the event that ownership interests in a Unit are owned by more than one member of the Association, such members shall exercise their right to vote in such manner as they may among themselves determine, but in no event shall more than one vote be cast for each Unit. Such Owners shall appoint one member who shall be entitled to exercise the vote of that Unit at any meeting of the Association. Such designation shall be made in writing to the Board of Directors and shall be revocable at any time by actual written notice to the Board. The Board shall be entitled to rely on any such designation until written notice revoking such designation is received by the Board. In the event that a Unit is owned by more than one member and only one of such members is present at a meeting of the Association, that Member may cast the vote allocable to such Unit; however, if more than one member is present and no single member is designated to vote on behalf of the members having an ownership interest in such Unit, then none of such members shall be allowed to vote. All members of the Association may attend meetings of the Association and all voting members may exercise their vote at such meetings either in person or by proxy.

Section 4. Annual Meetings. After the election of the first Fully Elected Board, the annual meeting of the members of the Association shall be held in the Building, or at such other

place as may be designated in writing by the Board at 8:00 p.m. on the third Wednesday in March of each calendar year (or the first business day thereafter if such day is a federal holiday). At the discretion of the Board, the annual meeting of the members of the Association may be held at such other reasonable time as may be designated by written notice of the Board delivered to the members not less than ten (10) nor more than fifty (50) days prior to the date fixed for said meeting.

Section 5. Notice. Any notice permitted or required to be given to a member of the Board or to an Owner may be delivered personally, by mail, by placing such notice in the mail distribution facilities of each Owner in the Building, or by facsimile. If delivery is made by mail, it shall be deemed to have been delivered upon deposit in the U.S. Mail postage prepaid, addressed to an Owner at his Residence Unit or to such other address as the Owner may have given in writing to the Secretary of the Association for the purpose of service of notices. If transmitted by facsimile, notice is deemed to be delivered on successful transmission of the facsimile. Any address for purposes of notice may be changed from time to time in writing to the Secretary. For the purpose of determining the members entitled to notice of a meeting and to vote at any meeting, the membership of the Association shall be determined at the close of business on the twenty-first day preceding such meeting.

Section 6. Special Meetings. Special meetings of the members may be called at any time by the President or any Vice President, by members having twenty percent (20%) of the total voting power in the Association or by a majority of the Board of Directors. Written or printed notice stating the place, date and time of such special meeting and the purpose or purposes for which the meeting is called shall be delivered to each member not less than ten (10) nor more than thirty-one (31) days before the date of such meeting.

Section 7. Quorum. The presence in person or by proxy of Owners representing a majority of the total voting power of the Association shall constitute a quorum for holding any meeting of the Association. The Owners present in person or represented by proxy at a meeting, though less than a quorum, shall have the power to adjourn and reconvene the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such reconvened meeting, at which a quorum shall be present or represented by proxy, any business may be transacted as was set out in the notification of the original meeting.

Section 8. Proxies. At any meeting of the Association, votes may be cast in person or by proxy. Proxies must be filed with the Secretary of the Association at or before the appointed time of each meeting of the Association. All proxies shall be revocable unless expressly provided therein, and shall automatically terminate upon conveyance by the Owner of his Residence Unit.

Section 9. Majority Vote. Except as otherwise provided in the Declaration or these By-Laws, all action to be taken or authorized by the members shall be deemed validly taken or

authorized upon adoption by the vote of Owners representing a majority of the total voting power of the Association.

Section 10. Cumulative Voting. At all meetings of the Association, cumulative voting shall not be permitted.

ARTICLE II. Board of Directors

Section 1. Number and Qualification. The Board of Directors shall consist of no less than three (3) and no more than five (5) persons, such number to be set by resolution of the Board of Directors, provided that no decrease in the number of Directors; that would have the effect of shortening the term of an incumbent Director may be made by the Board of Directors. None of the Directors need be members of the Association.

Section 2. Election. The Directors shall be elected by the members at each annual meeting. At the meeting of the members of the Association convened for the election of the first Fully Elected Board, the members shall elect one-third of the total number of Directors for terms of one (1) year each, one-third of the total number of Directors for terms of two (2) years each, and one-third of the total number of Directors for terms of three (3) years each, provided that if the total number of Directors set by the Board is not evenly divisible by three, the number of Directors to serve each term shall be adjusted so that the fewer number of Directors serve the shorter terms (and the number of Directors serving the same term shall never be more than one Director in excess of the number of Directors serving any other term). Thereafter, at the annual meeting of the members, the members shall elect the number of Directors necessary in order to fill the positions of the Directors whose terms have expired at the time of the annual meeting, each to serve a term of three (3) years. Members may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and these By-Laws. The nominees receiving the highest number of votes shall be elected. All votes shall be cast by written ballot.

The elected members of the Board (other than members of the Interim Board and the first Fully Elected Board) shall serve for a term of three (3) years unless sooner terminated by death, resignation or removal.

Section 3. Removal and Vacancies. Any Director may be removed from the Board with or without cause, by the affirmative vote of Owners representing a majority of the voting power in the Association, at a special meeting called for such purpose or at an annual meeting. In such an event, a successor for such removed Director shall be selected by a vote of the Association. Vacancies in the Board of Directors caused by reasons other than removal shall be filled by the remaining Directors. A Director elected or appointed to fill a vacancy created on the Board shall serve for the unexpired term of his predecessor.

Any Directorship to be filled by reason of an increase in the number of Directors shall be filled by election at an annual meeting of members or at a special meeting called for such purpose. The Directors elected to fill such newly created positions shall serve for the term that would bring about the distribution of Directors as described in the proviso contained in the second sentence of Section 2 of this Article III.

Section 4. Compensation and Expenses. No member of the Board shall receive any compensation from the Association for acting as such, but shall be reimbursed for reasonable expenses incurred while serving in such capacity.

Section 5. Action by Written Consent. The Directors shall have the right to take any action without a meeting which they could take at a meeting by obtaining the written approval of all of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Section 6. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or facsimile, at least five (5) days prior to the date set for such meeting.

Section 7. Special Meetings. Special meetings of the Directors may be called by the President or by any two (2) Directors. Not less than three (3) days notice of the meeting shall be given to each Director personally or by mail, telephone or facsimile, which notice shall state the time, place and purpose of the meeting.

Section 8. Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting by a signed, written waiver.

Section 9. Quorum. A quorum at Board meetings shall consist of a majority of the entire Board. The acts approved by a majority of those present at a duly called meeting at which a quorum is present shall constitute the acts of the Board.

Section 10. Nomination. Nomination for election to the Board (except the Appointed Board, the Interim Board and the first Fully Elected Board) shall be made by a nominating committee which shall consist of a chairman, who shall be a member of the Board whose term is not expiring, and two or more Owners, who shall be appointed by the Board prior to each annual meeting of the members of the Association. Each nominating committee member shall serve until his successor is appointed. The nominating committee shall nominate one or more candidates for each vacancy to be filled. Nominations may also be made from the floor at the annual meeting of the Association.

Section 11. Powers and Duties. All of the powers, authority and duties of the Association existing under the Law, the Declaration and the By-Laws shall be exercised

exclusively by the Board, its agents, contractors or employees, subject only to approval by Owners when such is specifically required by the Texas Uniform Condominium Act, the Declaration or the By-Laws.

Section 12. Order of Business. At meetings of the Board of Directors, business shall be transacted in such order as from time to time the Board may determine. A chairman shall be chosen annually by the Board from among the Directors to preside over all Board meetings. The Secretary of the Association shall act as secretary of the meetings of the Board of Directors, but in the absence of the Secretary, the presiding officer may appoint any person to act as secretary of the meeting.

Section 13. Presumption of Assent. A Director of the Association who is present at a meeting of the Board of Directors at which action on any matter is taken shall be presumed to have assented to the action unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

ARTICLE III. Officers

Section 1. Executive Officers. The executive officers of the Association shall be a President, one or more Vice Presidents, a Treasurer and a Secretary, none of whom need be members of the Association. All officers shall be elected annually by the Board of Directors and shall serve until their successors shall have been elected or until they have been removed or have resigned. All officers shall be subject to removal at any time by the Board of Directors. The Board of Directors may, in its discretion, elect acting or temporary officers and elect officers to fill vacancies occurring for any reason whatsoever, and may, in its discretion, limit or enlarge the duties and powers of any officer elected by it. Any person may hold two or more offices except the President shall not also be the Secretary. The Board shall, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be necessary or advisable to manage the affairs of the Association.

Section 2. President. The President shall be the chief executive officer of the Association and shall have all of the powers and duties which are usually vested in the office of President of an organized association including, but not limited to, the power to sign all leases, mortgages, deeds and other written instruments that have been approved by the Board or pursuant to the authority granted by the Board.

Section 3. Vice Presidents. Each Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of the President and shall also generally assist the President and exercise such other powers and perform such other duties as shall be

prescribed by the Board. If more than one Vice President is elected, the Board of Directors shall designate who is the First Vice President, who is the Second Vice President, etc. In the absence of the President, the First Vice President shall perform the duties of the President. Such authority to act for the President shall vest in the Vice Presidents in the order of their numerical designation by the Board of Directors.

Section 4. Secretary. The Secretary shall record the votes and keep the minutes of all proceedings of the Association and shall attend to the giving and serving of all notices to the Owners and Directors and other notices required by law; shall keep the records of the Association, except those of the Treasurer; and shall perform all other duties incident to the office of Secretary of an organized association and as may be required by the Board or the President.

Section 5. Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness; shall keep the books of the Association in accordance with generally accepted accounting procedures; shall cause an annual statement of the Association's books to be made at the completion of each fiscal year; shall prepare an annual budget and a statement of income and expenditures to be presented to the membership of the Association at its regular annual meeting, and shall make a copy available to each of the members of the Association; and shall perform all other duties assigned to him by the Board of Directors or incident to the office of Treasurer.

Section 6. Compensation. The compensation of all officers and employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing a Director as an employee of the Association nor preclude the Board from contracting with a Director for the management of the Condominium.

ARTICLE IV.

Delegation of Board Duties; Committees

Section 1. Delegation of Board Duties. Notwithstanding anything contained herein to the contrary, the Board may delegate any of its duties, powers or functions to a Managing Agent. The members of the Board shall not be liable for any acts or omissions of the Managing Agent.

Section 2. Committees. In addition to the committees provided for in the Declaration and the By-Laws, the Board of Directors may appoint such other committees as may be deemed appropriate by the Board.

ARTICLE V.

Amendment

Section 1. Amendment. These By-Laws may be amended from time to time by the affirmative vote of members having not less than sixty percent (60%) of the total voting power of the Association, at an annual meeting or at a special meeting *provided* notice of said proposed amendment is contained in the notice of the special meeting.

ARTICLE VI.

Miscellaneous Provisions

Section 1. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 2. Deposits. All funds of the Association not otherwise employed shall be deposited, from time to time, to the credit of the Association in such banks, trust companies or other depositories (including certificates of deposit and money market or similar returns) as the Board of Directors may select.

Section 3. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the thirty-first day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 4. Insurance Proceeds. In the event of any casualty loss covered in Section 6.2 of the Declaration for which the insurance proceeds are insufficient to provide for the repair, restoration or rebuilding of the Building as required in said Section, the building costs in excess of the insurance proceeds shall be assessed against all of the Owners as a Special Assessment in proportion to the Allocated interest of each Owner, without the necessity for the consent of the members of the Association. The provisions of this Section of the By-Laws may be amended only by the affirmative vote of all the Owners and all Mortgagees, adopted subsequent to the date on which such fire or casualty loss occurs.

ARTICLE VII.

Indemnification of Directors and Officers

Section 1. Right to Indemnification. Subject to any limitations and conditions in these By-Laws, including, without limitation, this Article VII, each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitative or investigative (a "*Proceeding*"), or any appeal of a *Proceeding*, or any inquiry, or investigation that could lead to a *Proceeding*, by reason of the fact that he or a person of whom he is the legal

representative, is or was a director or officer of the Association or while a director or officer of the Association is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, shall be indemnified by the Association to the fullest extent authorized by the Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Association to provide broader indemnification rights than said law permitted the Association to provide prior to such amendment) against judgments, penalties (including excise and similar taxes), fees, settlements and reasonable expenses (including, without limitation, attorneys' fees) actually incurred by such person in connection with a Proceeding, but if the Proceeding was brought by or in behalf of the Association, the indemnification is limited to reasonable expenses actually incurred or suffered by such person in connection therewith. Indemnification under the By-Laws shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder. In no case, however, shall the Association indemnify any person, or the legal representatives of any person, with respect to any matters as to which such person shall be finally adjudged in any such Proceeding to be liable on the basis that personal benefit resulted from an action taken in such person's official capacity, or in which such person is found liable to the Association. Any person entitled to indemnification pursuant to this Article VII is sometimes referred to herein as an "*Indemnified Person*."

Section 2. Advance Payment. An Indemnified Person's right to indemnification conferred in this Article VII shall include the right to be paid or reimbursed by the Association for the reasonable expenses incurred by an Indemnified Person who was, is or is threatened to be made a named defendant or respondent in a Proceeding in advance of the final disposition of the Proceeding; provided, however, that the payment of such expenses incurred by an Indemnified Person in advance of the final disposition of a Proceeding shall be made only upon delivery to the Association of a written affirmation by such Indemnified Person of his good faith belief that he has met the standard of conduct necessary for indemnification under this Article VII and a written undertaking by or on behalf of such Indemnified Person to repay all amounts so advanced if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified under this Article VII or otherwise.

Section 3. Appearance as a Witness. Notwithstanding any other provision of this Article VII, the Association may pay or reimburse expenses incurred by an Indemnified Person in connection with his appearance as a witness or other participation in a Proceeding at a time when he is not a named defendant or respondent in the Proceeding.

Section 4. Non-Exclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Article VII shall not be exclusive of any other right which an Indemnified Person may have or hereafter acquire under any law (common or statutory), the Certificate of Formation, the By-Laws, agreement, vote of disinterested directors or otherwise.

Section 5. Insurance. The Association may purchase and maintain insurance, at its expense, to protect itself or any indemnified Person, whether or not the Association would have the power to indemnify such person against such expense, liability or loss under this Article VIII.

Section 6. Savings Clause. If this Article VII or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Association shall nevertheless indemnify and hold harmless each Indemnified Person as to costs, charges and expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by any applicable portion of this Article VII that shall not have been invalidated and to the fullest extent permitted by applicable law.

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