

**DOCUMENT NUMBER 7**

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**WYNDCREST CONDOMINIUM**

Chappaqua Road and North State Road  
Briarcliff Manor, New York 10510

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**CONDOMINIUM BY-LAWS**

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BY –LAWS  
OF  
WYNDCREST CONDOMINIUM

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# BY-LAWS

## OF

### WYNDCREST CONDOMINIUM

#### ARTICLE I. PLAN OF CONDOMINIUM HOME OWNERSHIP

Section 1. **Condominium Home Ownership.** The property located at Chappaqua Road and North State Road in the Village of Briarcliff Manor, County of Westchester, New York, as specifically set forth in the Declaration of Condominium (the "**Declaration**") for Wyndcrest Condominium (the "**Condominium**") recorded in the Office of the County Clerk of Westchester County, Division of Land Records, has been submitted to the provisions of Article 9-B of the Real Property Law of the State of New York.

Section 2. **By-Laws Applicability.** The provisions of these By-Laws are applicable to the Property. The term "**Property**" as used hereby shall include the land of the Condominium and all buildings and improvements thereon including the Condominium Units (individually a "**Unit**" and collectively the "**Units**"), and the Common Elements and the use and occupancy thereof. The term "**Building**" as hereinafter used shall be defined as the exterior walls and roof of a number of Units, all of which are constructed under a continuous roof, or the entire interior and exterior of any building or structure which shall form a part of the Condominium, but does not contain any Units.

Section 3. **Personal Application.** All present or future Unit Owners, occupants, mortgagees and lessees, and their guests, tenants, invitees and employees and any other person that might use the facilities of the Condominium in any manner are subject to these By-Laws, the Declaration and any Rules and Regulations established by the Board of Managers and as from time to time may be amended. The mere acquisition or rental of any of the Units or the mere act of occupancy of any of said Units will signify that these By-Laws, the Declaration and the Rules and Regulations, as from time to time may be amended, are accepted, ratified, and will be complied with by any such Unit Owner, occupant, mortgagee and lessee, and their guests, tenants, invitees and employees.

Section 4. **Office.** The office of the Condominium shall be at the Property or at such other place as may be designated by the Board of Managers.

## ARTICLE II. CONDOMINIUM, VOTING, QUORUM, PROXIES & WAIVERS

Section 1. **Condominium.** The Condominium's constituency shall be limited to Unit owners. "**Unit Owner**" as referred to herein shall mean all of the owners of each Condominium Unit.

Section 2. **Voting.** Each Unit Owner (including the Sponsor and the Board of Managers, if the Sponsor or Board of Managers shall then hold title to one or more Units) or some person designated by such Unit Owner or Unit Owners to act as proxy on his, or their behalf and who need not be an Unit Owner, shall be entitled to cast one vote at all meetings of Unit Owners for each Unit owned by such Unit Owner. Any or all such Unit Owners may be present at any meeting of the Unit Owners and (those constituting a group acting unanimously), may vote or take any other action as a Unit Owner either in person or by proxy. In the event of co-ownership of a Unit, each co-owner shall be entitled to a one vote for their Unit. The Board of Managers as an Owner of a Unit or Units, shall not cast any of its votes for the election of any member to the Board.

Section 3. **Quorum.** So many Unit Owners as shall represent at least 51 % of the total authorized votes of all Unit Owners present in person or represented by written proxy shall be required to and shall constitute a quorum at all meetings of the Unit Owners for the transaction of business, except as otherwise provided by Statute, by the Declaration, or by these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the Unit Owners, the Unit Owners entitled to vote thereat, present in person or represented by written proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting originally called.

Section 4. **Vote Required to Transact Business.** When a quorum is present at any meeting, the vote of a majority of the Unit Owners present in person or represented by written proxy shall decide any question brought before such meeting and such vote shall be binding upon all Unit Owners, unless the question is one which, by express provision of the Declaration, Statute or of these By-Laws, a different vote is required, in which case such express provision shall govern and control the decision in question.

Section 5. **Right to Vote.** At any meeting of Unit Owners, every Unit Owner having the right to vote shall be entitled to vote in person, or by proxy. Such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof.

Section 6. **Proxies.** All proxies shall be in writing and shall be filed with the Secretary prior to or at the beginning of the meeting at which the same are to be used. The proxy shall be revocable at any time by written notice to the Secretary by the Unit Owner(s) as designated thereunder. A notation of such proxies shall be made in the minutes of the meeting.

Section 7. **Waiver and Consent.** Whenever the vote of the Unit Owners is required or permitted at a meeting by any provision of the Declaration, or of any Statute or of these By-Laws to be taken in connection with any action of the Condominium, the meeting and vote of Unit Owners may be dispensed with if all Unit Owners who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken without a meeting and vote.

Section 8. **Place of Meetings.** Meetings shall be held at such suitable place convenient to the Unit Owners as may be designated by the Board of Managers.

Section 9. **Annual Meetings.** The first meeting of the Unit Owners shall be held within sixty (60) days of the date of the sale of at least 35% of the Units or two years from the date of sale of the first Unit, whichever is earlier. The Sponsor shall call the first annual Unit Owners meeting. At such meeting the Board of Managers shall resign and a new Board shall be elected by the Unit Owners. Thereafter, annual meetings shall be held on or about the anniversary of such date each succeeding year. At such meetings there shall be elected by ballot of the Unit Owners a Board of Managers in accordance with the requirements of Article III of these By-Laws. The Unit Owners may also transact such other business of the Condominium as may properly come before them.

Section 10. **Special Meetings.** It shall be the duty of the President to call a special meeting of the Unit Owners as directed by the Board of Managers or upon his own initiative or upon a petition signed by 25% of the Unit Owners and having been presented to the Secretary.

Section 11. **Notice of Meetings.** It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Unit Owner of record, at least ten (10) but not more than thirty (30) days prior to such meeting. The mailing of a notice in the manner provided in these By-Laws shall be considered notice served.

Section 12. **Order of Business.** The order of business at all meetings shall be as follows:

- (1) Roll Call
- (2) Proof of service of notice of meeting or waiver of notice;
- (3) Reading of minutes of preceding meeting or waiver thereof.;
- (4) Report of officers and/or Board of Managers;
- (5) Report of committees;

- (6) **Election of inspectors of election** (in the event there is an election);
- (7) Election of managers (in the event there is an election);
- (8) Unfinished business; and
- (9) New business.

### **ARTICLE III. BOARD OF MANAGERS**

Section 1. **Number and Term.** The number of Managers which shall constitute the Board of Managers (sometimes referred to herein as the "**Board**") shall not be less than three (3) and not more than seven (7). Until succeeded by the Managers I elected at the first annual meeting of Unit Owners, Managers need not be Unit Owners; thereafter, all Managers, except those Managers designated by the Sponsor, shall be Unit Owners. Within the limits above specified, the number of Managers shall be determined by the Unit Owners at the annual meeting. The Managers shall be elected at the annual meeting of the Unit Owners. At the first annual meeting of Unit Owners the term of office of 1/3 of the Managers shall be fixed for three (3) years, the term of office of 1/3 of the Managers shall be fixed at two (2) years, and the term of office of 1/3 of the Managers shall be fixed at one (1) year. At the expiration of the initial term of office of each respective Manager, his successor shall be elected to serve a term of three (3) years. The Managers shall hold office until their successors have been elected and hold their first meeting. But, in any event, at least one-third of the terms of the members of the Board of Managers shall expire annually. The Sponsor may, so long as it owns more than eight (8) Units in the Condominium and prior to the fifth anniversary of the date of closing of the first Unit, designate a majority of the Board of Managers, which Managers need not be Unit Owners. So long as the Sponsor owns one (1) Unit in the Condominium it may designate a minority of the Board of Managers, which Managers need not be Unit Owners.

Section 2. **Vacancy and Replacement.** If the office of any Manager or Managers becomes vacant by reason of death, resignation, disqualification, removal from office or otherwise, a majority of the remaining Managers (even if less than a quorum) at a special meeting of the Managers duly called for this purpose, shall choose a successor or successors, who shall hold office for the unexpired term in respect to which such vacancy occurred or until replaced at the next annual meeting. In the event that the entire Board of Managers resigns, dies or is removed from office, a special meeting shall be held on the 5th day following, for the purpose of electing a new Board of Managers, which election shall follow the manner of election as set forth above for the first annual meeting. If any Manager designated by Sponsor vacates his office, the Sponsor only shall have the right to choose a successor to complete the unexpired portion of such Manager's term.

Section 3. **Removal.** Managers may be removed for any reason by an affirmative vote of a majority of the Unit Owners. No Manager shall continue to serve on the Board if, during his term of office he shall cease to be a Unit Owner; Managers may be removed for cause by affirmative vote of a majority of the Board. Only the Sponsor may remove Manager designated by the Sponsor.

Section 4. **First Board of Managers.** The first Board of Managers shall consist of three (3) persons designated by the Sponsor, who shall hold office and exercise all powers of the Board of Managers until the first meeting of Unit Owners. At the first meeting of Unit Owners, to be held within sixty (60) days of the date of the closing of at least 35% of the Units or two (2) years from the date of closing of the first Unit, whichever is earlier, three (3) Managers shall be elected, except that the Sponsor shall designate the Managers to which it is entitled under Section 1, of this Article (one for a three-year term, one for a two-year term, and one for a one-year term). In no event shall the Sponsor or its designees constitute a majority of the Board of Managers after the fifth anniversary of the date of closing of the first Unit. Any or all of the said Managers shall be subject to replacement in the event of resignation or death in the manner set forth in Section 2 of this Article.

Section 5. **Powers.** The property and business of the Condominium shall be managed by its Board of Managers, which may exercise all such powers of the Condominium and do all such lawful acts and things as are not by Statute or by the Declaration or by these By-Laws, directed or required to be exercised or done by the Unit Owners personally. These powers shall specifically include, but not be limited to the following items:

- a) to operate, care for and maintain the Common Elements;
- b) To determine and levy monthly assessments ("**Common Charges**") to cover the cost of common expenses, payable in advance. The Board of Managers may increase the monthly assessments or vote a special assessment in excess of that amount, if required, to meet any additional necessary expenses, but said increases can only be assessed among the Unit Owners on a pro rata basis according to their respective undivided interests in the Common Elements;
- c) To collect, use and expend the assessments collected to maintain, care for and preserve the Units, Buildings and other Common Elements or create or add to a reserve fund;
- d) To make repairs, restore or alter any Units or the Common Elements after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings;

- e) To enter into and upon the Units when necessary and at as little inconvenience to the Unit Owners as possible in connection with the maintenance, care and preservation of the Property;
- f) To open, use and maintain bank accounts on behalf of the Condominium and to designate the signatories to such bank accounts;
- g) To insure and keep insured the Common Elements and Buildings in accordance with Article VII of these By-Laws;
- h) To collect delinquent assessments by suit or otherwise, to abate nuisances and to enjoin or seek damages from the Unit Owners for violations of the Rules and Regulations herein referred to (as may be amended from time to time), and to otherwise enforce, by appropriate legal action the provisions of Article 9-B of the New York State Real Property Law, the Declaration and these By-Laws;
- i) To repair and maintain the exterior of the Buildings;
- j) To purchase any Condominium Unit either at a foreclosure sale on behalf of all the Unit Owners or from a Unit Owner pursuant to Article X of these By-Laws;
- k) To make reasonable rules and regulations and to amend the same from time to time. Such rules and regulations and amendments shall be binding upon the Unit Owners when the Board has approved them in writing. A copy of such rules and regulations and all amendments shall be delivered to each Unit Owner;
- l) To employ managing agents, workmen, janitors, gardeners and other independent contractors, and to purchase supplies and equipment, to enter into contracts, and generally to have the powers of manager in connection with the matters herein set forth. The Board of Managers shall perform such duties and services as the Board of Managers shall authorize, including, but not limited to the duties listed in Section 5 of this Article III. The Board of Managers may delegate to a Manager or managing agent, any or all of the powers granted to the Board of Managers by these By-Laws;
- m) To bring and defend claims, actions and other proceedings by or against one or more Unit Owners and pertinent to the operation of the Condominium;

- n) To acquire Units in foreclosure or as a result of abandonment and to take any and all steps necessary to repair renovate any Unit so acquired, to vote as Unit Owner (except as specifically excluded by these By-Laws), to offer such Unit for sale or lease or to take any other steps regarding such unit as shall be deemed proper by the Board of Managers.
- o) Grant any consent, easement or license, or make any covenant, restriction or declaration, or any site plan or subdivision map and/or application pertaining thereto, or any amendment thereto affecting the Condominium or the Common Elements, that the Board of Managers deems necessary or appropriate, provided such is consistent with the Condominium Act.
- p) Sell, lease, mortgage (but not vote the votes appurtenant to), or otherwise deal with Units acquired by, and sublease Units leased by the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners;
- q) Organize corporations to act as designees of the Board of Managers in acquiring title to or leasing of Units on behalf of all Unit Owners;
- r) To repair, add to, alter, improve or restore the Property in accordance with the provisions of these By-Laws, whether after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings or otherwise;
- s) Levy fines against any Unit Owner for violating the Rules and Regulations established to govern the conduct of Unit. Owners. No fine may be levied for more than \$50.00 for any separate violation, but for each day the situation creating such violation continues after a Unit Owner has been sent notice of such violation, such situation may be considered a separate violation resulting in an additional fine unless the Board deems otherwise. Collection of fines may be enforced against the Unit Owner(s) as if such , fines were a Common Charge assessed with respect to and payable by the particular Unit Owner(s) against whom such fines were levied. Such fines shall be collected in addition to, and not in derogation of any rights of the Unit Owners, Board of Manager or the Condominium; and
- t) The Board of Managers, may by resolution or resolutions, passed by a majority of the whole Board, designate one or more committees, each of such committees to consist of at least three (3) members of Unit Owners one of whom shall be a Manager, which, to the extent provided in said resolution or resolutions, shall have and may exercise the powers of the Board of Managers in the management of the business and affairs of the Condominium and may have power to sign all papers which may be

required, provided the said resolution or resolutions shall specifically so provide. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Managers. Committees established by resolution of the Board of Managers shall keep regular minutes of their proceedings and shall report the same to the Board as required.

In no event unless more than seventy-four (74) of the Units have been sold to bona fide purchasers, or after five (5) years from the time of conveyance of the first Unit, whichever first occurs, shall the Board of Managers have the power to, without the consent of the Sponsor, increase the number or change the type of employees provided for in the budget for the first year of operation of the Condominium as set forth in the offering Plan; provide equipment or services in excess thereof, except as required by law; increase the management fee, building insurance, liability insurance, accounting fee, fidelity bond; increase the reserve for contingencies; make any assessments for capital improvements, whether designated on the books as such or not; or spend any sums for any other purpose, except as set forth in the said budget.

**Section 6. Repairs and Maintenance.** All maintenance, repairs and replacement to the Common Elements of the Property including but not limited to exterior walls, courtyard floors and fences, roof and roof members as well as all maintenance, repairs and replacements to any pipes, wires, conduits, cable T.V. and public utility lines, any portion of which is located in one Unit and services another Unit or more than one unit or so much of any pipes, wires, conduits, cable T.V. and public utility lines as are located in the Common Elements but serve one or more Units shall be made by the Board of Managers and the cost thereof shall be a common expense. All maintenance (including painting and decorating of the Units), repairs and replacements to the Units including windows, doors (except re-painting, as opposed to initial painting, of the exterior surface of windows and doors which open from a Unit which re-painting is to be performed by the Board of Managers), stairs and storage rooms (except exterior walls, windows and doors of storage rooms which are maintained by the Board of Managers) abutting a Unit or limited to the use of a particular Unit Owner and repairs to pipes, wires and conduits and cable T.V. located in and servicing the same Unit, other than as set forth above, shall be made by the respective Unit Owners at their own expense. All irrevocably restricted Common Elements shall be maintained and repaired by the Unit Owner to whom such Common Element is restricted in use, except for structural repairs to and painting of entrances, decks, porches and terraces. However, the Board of Managers shall repair and replace any pipes, wires, conduits, cable T.V. and public utility lines located underground or overhead of any irrevocably restricted Common Element. The foregoing notwithstanding, where any such repair or replacement is necessitated because of the negligence or misuse or neglect of any Unit Owner or occupant or any family member, guest, tenant or invitee of such Unit Owner or occupant, such Unit Owner or occupant shall make such repair or replacement at his own expense or such repair or replacement may be made by the Board and charged to such Unit Owner, which

charge shall become a lien against the Unit. The Board of Managers shall repair all plumbing stoppages and electrical repairs occurring in the Common Elements.

The Board of Managers, and its agents, employees and contractors shall have a right of access to any Unit and to all portions of the Common Elements for the purpose of carrying out any of its obligations under these By-Laws or the Declaration. The Board of Managers will provide or make arrangements for snow removal from the walks and driveways on the Property. Should any Unit Owner refuse or fail to perform any repair, replacement or maintenance which he shall be obligated to perform under these By-Laws, said repair, replacement or maintenance may be performed by the Board of Managers and the cost thereof charged to the individual Unit Owner. Any such charge to an individual Unit Owner, together with any reasonable attorneys' fees incurred in connection therewith shall become a lien on such Unit in accordance with the terms of these By-Laws.

Section 7. **Compensation.** Managers and officers of the Board, as such, shall receive no compensation for their services.

Section 8. **Meetings.**

(a) The first meeting of each Board newly elected by the Unit

Owners shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board of Managers shall be held at the same place as the Unit Owners' meetings, and immediately after the adjournment of same, at which time, dates, places and times of regularly scheduled meetings of the Board shall be set.

(b) Regularly scheduled meetings of the Board may be held without special notice.

(c) Special meetings of the Board may be called by the President on two (2) days notice to each Manager either personally or by mail or telegram. Special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of a majority of the Managers.

(d) At all meetings of the Board, a majority of the Managers shall be necessary and sufficient to constitute a quorum for the transaction of business, and an act of the majority of the Managers present at any meeting at which there is a quorum shall be the act of the Board of Managers, except as may be otherwise specifically provided by statute or by the Declaration or by these By-Laws. If a quorum shall not be present at any meeting of Managers, the Managers present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

(e) Before or at any meeting of the Board of Managers, any Manager may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Manager at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Managers are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 9. **Annual Statement.** The Board of Managers shall furnish to all Unit Owners, their mortgagees and the Department of Law of the State of New York and shall present annually and, when called for by a vote of the Unit Owners at any special meeting of the Unit Owners, a full and clear statement of the business conditions and affairs of the Condominium, including a balance sheet, a profit and loss statement verified by an independent public accountant, a statement regarding any taxable income attributable to the Unit Owners and a notice of the holding of the annual Unit Owners meeting.

Section 10. **Fidelity Bonds.** The Board of Managers shall require that all officers and employees of the Condominium handling or responsible for Condominium funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be a common expense.

Section 11. **Liability of the Board of Managers and Unit Owners.** Any contract, agreement or commitment made by the Board of Managers shall state that it is made by the Board of Managers as agent for the Unit Owners as a group only and that no member of the Board of Managers or an individual Unit Owner shall be liable for such contract, agreement or commitment. The Unit Owners shall be liable as a group under such contract, agreement or commitment, but the liability of each Unit Owner shall be limited to such portion of the total liability there under as his common interest bears to the common interest of all Unit Owners. The Board of Managers shall have no liability to the Unit Owner in the management of the Condominium except for willful misconduct or bad faith, and the Unit Owner shall severally indemnify all members of the Board of Managers against any liabilities or claims arising from acts taken by a member of the Board of Managers in accordance with his duties as such member, except acts of willful misconduct or acts made in bad faith. Such several liability of the Unit Owners, however, shall be limited to such proportion of the total liability thereunder as such Unit Owner's common interest bears to the common interest of all Unit Owners.

#### **ARTICLE IV. OFFICERS**

Section 1. **Elective Officers.** The officers of the Condominium shall be chosen by the Board of Managers and shall be a President, a Vice President, a Secretary and a Treasurer. The Board of Managers may also choose one or more assistant secretaries and assistant treasurers and such other officers as in their judgment may be

necessary. Except for the period during which the Board is controlled by the Sponsor, all officers must be Unit Owners. Two or more offices may not be held by the same person, except that one person may hold the offices of Secretary and Treasurer.

Section 2. **Election.** The Board of Managers at its first meeting after each annual Unit Owners meeting shall elect a President, a Vice President, a Secretary and Treasurer.

Section 3. **Appointive Offices.** The Board may appoint such other officers and agents as it shall deem necessary, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

Section 4. **Term.** The officers shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Managers may be removed, with or without cause, at any time, by the affirmative vote of a majority of the whole Board of Managers. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Managers.

Section 5. **The President.** The President shall be the chief executive officer of the Condominium; he shall preside at all meetings of the Unit Owners and Managers, shall be an ex-officio member of all standing committees, shall have responsibility for the general and active management of the business of the Condominium, shall see that all orders and resolutions of the Board are carried into effect and shall have such other powers and duties as are usually vested in the office of President of a stock corporation organized under the Business Corporation Law of the State of New York.

Section 6. **The Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act and shall have such other powers and duties as are usually vested in the office of Vice President of a stock corporation organized under the Business Corporation Law of the State of New York.

Section 7. **The Secretary.** The Secretary and/or Assistant Secretary shall attend all sessions of the Board and all Unit Owners meetings and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He shall give, or cause to be given notice of all Unit Owners meetings and special meetings of the Board of Managers, and shall perform such other duties as may be prescribed by the Board of Managers or by the President, under whose supervision he shall be.

Section 8. **The Treasurer.** The Treasurer shall have the custody of the Condominium funds and securities and shall keep full and accurate chronological

accounts of receipts and disbursements in books belonging to the Condominium including the vouchers for such disbursements, and shall deposit all moneys and other valuable effects in the name and to the credit of the Condominium in such depositories as may be designated by the Board of Managers. The Treasurer shall disburse the funds of the Condominium as he may be ordered by the Board, making proper vouchers for such disbursements, and shall render to the President and Managers, at the regular meeting of the Board or whenever they may require it, an account of all his transactions as Treasurer and of the financial condition of the Condominium. The Treasurer shall keep detailed financial records and books of account of the Condominium, including a separate account for each Condominium Unit which, among other things, shall contain the amount of each assessment of common charges against such Unit, the date when due, the amounts paid thereon and the balance remaining unpaid.

Section 9. **Agreements, etc.** All agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by the President of the Condominium or by such other person or persons as may be designated by the Board of Managers.

## ARTICLE V. NOTICES

Section 1. **Definition.** Whenever under the provisions of the Declaration or of these By-Laws, notice is required to be given to the Board of Managers, any Manager or Unit Owner, it shall not be construed to mean personal service, except when specifically stated otherwise. Unless otherwise provided, such notice must be given in writing, by mail, by depositing the same in a post office or letter box in a postpaid sealed wrapper, addressed to the Board of Managers, such Manager or Unit Owner at such address as appears on the books of the Condominium.

Section 2. **Service of Notice - Waiver.** Whenever any notice is required to be given under the provisions of the Declaration, or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall constitute an effective waiver of such notice requirement.

## ARTICLE VI. FINANCES

Section 1. **Checks.** All checks or demands for money and all notes of the Condominium shall be signed by the President, Treasurer or by such other officer or officers or such other person or persons as the Board of Managers, may from time to time designate. If a check is for more than \$2,500.00, two signatures shall be required, at least one of which shall be that of an officer of the Condominium.

Section 2. **Assessments.** The Board of Managers shall, from time to time, but at least annually, prepare a budget representing the sum or sums necessary and adequate for the continued operation of the Condominium and shall send a copy of such budget and any supplement to the budget to every Unit Owner. The Board of Managers shall determine the total amount required, including the cost of operational items such as insurance, repairs, reserves, betterments, maintenance of the Common Elements and other operating expenses as well as charges to cover any deficits from prior years. The total annual requirement shall be assessed as a single sum against all Units and prorated against each of the said Units according to the respective common interests appurtenant to such Units. This proration of assessments shall remain constant regardless of the percentage of the building square footage included in each Unit or the Common Elements restricted to the use of the Unit Owner of said Condominium Unit. Said assessments (the "**Common Charges**") shall be payable in advance on the first day of each month or as otherwise ordered by the Board of Managers. Special assessments, should such be required, shall be levied and paid in the same manner as hereinabove provided for regular assessments. The common expenses or special assessments may also include such amounts as may be required for the purchase or lease by the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners, of any Unit whose owner has elected to sell or lease such Unit or of any Unit which is to be sold at a foreclosure or other judicial sale. Every Unit Owner agrees to pay promptly when due the monthly and all special assessments assessed against his own Unit. Any Unit Owner who fails to pay a monthly or special assessment imposed by the Condominium at the time designated for the payment thereof, shall be liable for any expenses incurred by the Condominium in collecting said monthly and/or special assessment including such late charges as may be assessed by the Board of Managers from time to time and reasonable attorneys fees. The Board shall take appropriate action to collect any assessment of Common Charges due from any Unit Owner which remains unpaid 30 days from its due date by way of foreclosure of the lien on such Unit in accordance with Section 339 of the New York State Real Property Law or otherwise. In any such foreclosure, the Unit Owner shall be required to pay a reasonable rental for the Unit for any period prior to sale pursuant to a judgment of foreclosure and sale and the Board of Managers shall be entitled in such proceeding to the appointment of a receiver to collect same.

A Unit Owner who is in default in the payment of Common Charges shall not vote at any regular or special meeting of Unit Owners. The number of Units in the Condominium shall be reduced by the number of Units for which Unit Owners are not permitted to vote for purposes of computing quorum requirements and the outcome of votes on issues which require voting by Unit Owners of a specific percentage of the total number of Units in the Condominium.

No Unit Owner shall be liable for any Common Charges which accrue against his Unit subsequent to a sale, transfer or other conveyance by him of his Unit in accordance with these By-Laws and the Declaration. A purchaser of a Unit shall be liable

for the payment of all Common Charges assessed against the Unit and unpaid at the time of the purchase and such unpaid Common Charges shall constitute a lien on the Unit

### **Section 3. Foreclosure of Liens for Unpaid Common Charges.**

The Board shall have the power to purchase any Unit at a foreclosure sale resulting from any action brought by the Board to foreclose a lien on the Unit because of unpaid Common Charges. In the event of such purchase, the Board shall have the power to hold, lease, mortgage, vote, sell or otherwise deal with the Unit. The Board may also sue to recover a money judgment for unpaid Common Charges without waiving the lien on the Unit or the right to foreclose upon the same.

Section 4. **Statement of Common Charges.** Upon the written request of any Unit Owner or a permitted mortgagee of such Unit Owner's Unit, the Board shall promptly furnish such Unit Owner or such mortgagee with a written statement of the unpaid Common Charges owed by such Unit Owner.

Section 5. **Liability for Water, Electricity and Refuse Removal.** All costs and expenses incurred by the Condominium for refuse removal and all water consumed on the Common Elements shall be a common expense, as shall all electricity consumed on the Common Elements. Electricity and water consumed in each Unit or the Limited Common Elements of each Unit shall be paid for by the individual Unit Owners.

Section 6. **Operating Account.** There shall be established and maintained a cash deposit account to be known as the "Operating Account", into which shall be deposited the operating portion of all monthly and special assessments as fixed and determined for all Units. Disbursements from said account shall be made as required for the operation and maintenance of the Property, including, but not limited to, wages, repairs, betterments, maintenance and other operating expenses of the Property and for the purchase, lease, sale or other expenses resulting from the purchase or lease of Units.

Section 7. **Other Accounts.** The Board shall maintain any other accounts it shall deem necessary to carry out its purposes and duties including, but not limited to, an account for a reserve for capital improvements or replacements.

## **ARTICLE VII. INSURANCE AND INSURANCE TRUSTEE**

Section 1. **Insurance to be Carried by the Board.** The Board of Managers shall be required to obtain and maintain, to the extent obtainable, the following insurance: fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements, insuring the Buildings including all of the Units, and the bathroom and kitchen fixtures initially installed therein by the Sponsors (but not including furniture, furnishings or other personal property supplied or installed by Unit

Owners), together with all air conditioning and other service machinery contained therein, covering the interests of the Condominium, the Board of Managers and all Unit Owners and their permitted mortgagees, as their respective interests may appear, in an amount equal to the full replacement value of the Buildings and such machinery, fixtures equipment and property. Each such policies shall contain a New York standard mortgagee clause in favor of each mortgagee of a Unit which shall provide that the loss if any, thereunder shall be payable to such mortgagee as its interest may appear, subject, however, to the loss payment provisions in favor of the Board of Managers and the Insurance Trustee hereinafter set forth, and such other insurance as the Board of Managers may determine. All such policies shall provide that adjustment of loss shall be made by the Board of Managers (with the approval of the Insurance Trustee, if any and that the net proceeds thereof, if \$100,000.00 or more, shall be payable to the Insurance Trustee). The Board of Managers shall also obtain and maintain workmen's compensation insurance and disability insurance for any employees of the Condominium, and other such insurance as the Board of Managers deems necessary.

The fire insurance coverage will commence with the closing of title to the first Unit in an amount as required by the mortgagee of such Unit, and such amount will be increased from time to time until the closing of title to all Units, and until the first meeting of the Board of Managers following the first annual Unit Owners meeting, such amount shall be at least in the sum of \$1, 000,000.00.

All physical damage insurance policies shall contain waivers of subrogation and waivers of any reduction of pro rata liability of the insurer as a result of any insurance carried by Unit Owners or of the invalidity of such coverage arising from any acts of the insured or any Unit Owners, and shall provide that such policies may not be canceled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including all Unit Owners and permitted mortgagees of Units. Insurance binders or certificates evidencing the placement of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all Unit Owners and permitted mortgagees of Units at least ten (10) days prior to expiration of then current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board of Managers shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the Buildings, including all of the Common Elements appurtenant thereto for the purpose of determining the amount of fire insurance to be effected pursuant to this Section.

The Board of Managers shall also be required to obtain and maintain, to the extent obtainable, public liability insurance in such limits as the Board of Managers may from time to time determine, covering each member of the Board of Managers, the managing agent and each Unit Owner. Such public liability coverage shall also cover cross liability claims of one insured against another. Until the first meeting of the Board of Managers following the first annual Unit Owners meeting, such public liability insurance shall be in a single limit of \$ 1,000,000.00 covering all claims for bodily injury

or property damage arising out of one occurrence. Such public liability insurance shall commence on the closing of title to the first Unit.

Unit Owners shall not be prohibited from carrying other insurance for their own benefit provided that such policies contain waivers of subrogation and further provided that the liability of the carriers issuing insurance procured by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

**Section 2. The Insurance Trustee.** The Insurance Trustee shall be a bank or trust company located in the State of New York, designated by the Board of Managers. All fees and disbursements of the Insurance Trustee shall be paid by the Board of Managers and shall constitute a common expense of the Condominium. In the event an Insurance Trustee resigns or fails to qualify, the Board of Managers shall designate a new Insurance Trustee which shall likewise be a bank or trust company located in the State of New York.

**Section 3. Restoration or Reconstruction After Fire or Other Casualty.** In the event of damage to or destruction of the Buildings as a result of fire or other casualty (unless 75% or more of the Units are destroyed or substantially damaged and 75% or more of the Unit Owners do not duly and promptly resolve to proceed with repair or restoration), the Board of Managers shall arrange for the prompt repair and restoration of the Buildings (including any damaged Units, and any kitchen or bathroom fixtures initially installed therein by the Sponsors, but not including any wall, ceiling or door decorations or coverings or other furniture, furnishings, fixtures or equipment installed by Unit Owners in the Units), and the Board of Managers (or the Insurance Trustee), as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a common expense and the Board of Managers may assess all the Unit Owners for such deficit as part of the Common Charges.

If 75% or more of the Units are destroyed or substantially damaged and 75% or more of the Unit Owners do not duly and promptly resolve to proceed with repair or restoration, the Property shall be subject to an action for partition at the suit of any Unit Owner or lienor, as if owned in common, in which event the net proceeds of any resulting sale, together with the net proceeds of insurance policies (or if there shall have been a repair or restoration pursuant to the first paragraph of this Section 3, and the amount of insurance proceeds shall have exceeded the cost of such repair or restoration, then the excess of such insurance proceeds) shall be divided by the Board of Managers or the Insurance Trustee, as the case may be, among all the Unit Owners in proportion to their respective common interests, after first paying out of the share of each Unit Owner the amount of any unpaid liens on his Unit, in the order of the priority of such liens.

## ARTICLE VIII. DEFAULT

In the event a Unit Owner does not pay any sums, charges or assessments required to be paid when due (which sums, charges and assessments shall constitute a lien on such unit), the Board of Managers or a Manager, acting on behalf of the Board shall notify the Unit Owner and the mortgagee, if any, of such Unit. If such sum, charge or assessment shall remain unpaid for thirty (30) days after the giving of such notice, the Board may institute an action for collection thereof, or it may foreclose the lien encumbering the Unit as a result of the non-payment of the required moneys as set forth in the Declaration in the same manner as the foreclosure of a mortgage. If a Unit Owner does not pay any assessment required to be paid by him within ten (10) days of its due date, said Unit Owner shall be liable for such late charge as may be imposed by the Board of Managers from time to time, as well as the Condominium's reasonable costs and expenses, including, without limitation, reasonable attorney's fees incurred by it in connection with the collection or enforcement of such lien.

Each Unit Owner, for himself, his heirs, successors and assigns, agrees to the foregoing provisions relating to default, regardless of the harshness of the remedy available to the Condominium and regardless of the availability of other, equally adequate legal procedures. It is the intent of all Unit Owners to give the Condominium a method and procedure which will enable it at all times to operate on a business-like basis, to collect those moneys due and owing it from the Unit Owners and to preserve each Unit Owner's right to enjoy his Unit free from unreasonable restraint.

## ARTICLE IX. AMENDMENTS

These By-Laws may be altered, amended or added to at any duly called Unit Owners' meeting; provided: (1) that the notice of such meeting shall contain a full statement of the proposed amendment; (2) that twenty (20) days prior written notice of the proposed amendment shall be given to each Unit Owner entitled to vote thereon; (3) that such amendment shall be approved by two-thirds of the Unit Owners in number and common interest, and (3) that said amendment shall be set forth in a duly recorded amendment to the Declaration. However, no amendment may affect or impair the validity or priority of the interests of a holder of a permitted mortgage encumbering a Unit or Units without having first obtained the written consent of such mortgagee so affected.

## ARTICLE X.SALES, LEASES AND MORTGAGES OF UNITS

Section 1. **Sales and Leases.** No Unit Owner other than the Sponsor may sell or lease his Unit or any interest therein except by complying with the following provisions:

Any Unit Owner who receives a bona fide offer for the sale of his Unit together with:

(i) the undivided interest of the Common Elements, general and limited, appurtenant thereto; (ii) the interest of such Unit Owner in any Units theretofore acquired by the Board of Managers, or its designee, on behalf of all Unit Owners, or the proceeds of the sale or lease thereof, if any; and (iii) the interest of such Unit Owner in any other assets of the Condominium; (hereinafter collectively called the "**Appurtenant Interests**"), or a bona fide offer for a lease of his Unit, (hereinafter called an "Outside Offer"), which he intends to accept, shall give notice by Certified or Registered Mail to the Board of Managers of such offer and of such intention, the name and address of the proposed purchaser or lessee, the terms of the proposed transaction and such other information as the Board of Managers may reasonably require, and shall offer to sell such Unit, together with the Appurtenant Interests, or to lease such Unit, as the case may be, to the Board of Managers, or its designee, corporate or otherwise, on behalf of all other Units Owners, on the same terms and conditions as contained in such Outside Offer. The giving of such notice shall constitute a warranty and representation by the Unit Owner who has received such offer, to the Board of Managers on behalf of the other Unit Owners, that such Unit Owner believes the Outside Offer to be bona fide in all respects.

Within twenty {20} days after receipt of such notice from the Unit Owner, together with any supplemental information required by the Board, the Board of Managers may elect, by notice to such Unit Owner, by Certified or Registered Mail, to purchase such Unit, together with the Appurtenant Interests, or to lease such Unit, as the case may be (or to cause the same to be purchased or leased by its designee, corporate or otherwise), on behalf of all other Unit Owners, on the same terms and conditions as contained in the Outside Offer and as stated in the notice from the offering Unit Owner. In the event the Board of Managers shall elect to purchase such Unit, together with the Appurtenant Interests, or to lease such Unit, as the case may be, or to cause the same to be purchased or leased by its designee, corporate or otherwise, title shall close or the lease shall be executed at the office of the attorneys for the Condominium in accordance with the terms of such offer but in no event more than forty-five (45) days after the giving of notice by the Board of Managers of its election to accept such offer. At the closing, the Unit Owner, if such Unit, together with the Appurtenant Interests, is to be sold, shall convey the same to the Board of Managers, or to its designee, on behalf of all other Unit Owners, by Deed in the form required by Section 339-o of the Real Property Law of the State of New York, with all documentary stamps affixed, and shall pay all other taxes arising out of such sale. In the event such Unit is to be leased, the offering Unit Owner shall execute and deliver to the Board of Managers, or to its designee, a lease between the offering Unit Owner, as landlord, and the Board of Managers or its designee, as tenant,

covering such Unit, for the rental and term contained in such Outside Offer. In the event the Board of Managers or its designee fails to accept such offer within twenty (20) days after receipt of notice together with any required supplemental information as aforesaid, the offering Unit Owner shall be free to contract to sell such Unit, together with the Appurtenant Interests, or to lease such Unit, as the case may be, within sixty (60) days after the expiration of the period in which the Board of Managers or its designee might have accepted such offer, to the prospective purchaser or tenant named in such Unit Owner's notice (the "Outside Offeror ") Outside Offeror, on the same terms and conditions set forth in the notice from the offering Unit Owner to the Board of Managers of such Outside Offer. Any such Deed to an Outside Offeror shall provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the By-Laws and the Rules and Regulations, as the same may be amended from time to time. Any such lease shall be for a term of not less than one (1) year, shall be consistent with these By-Laws and shall provide that it may not be modified, amended, extended or assigned, without the prior consent in writing of the Board of Managers, that the tenant shall not sublet the demised premises, or any part thereof, without the prior consent in writing of the Board of Managers, and that the Board of Managers shall have power to terminate such lease and/or to bring summary proceedings to evict the tenant in the name of the landlord thereunder, in the event of default by the tenant in the performance of such lease. Except as hereinbefore set forth, the form of any such lease shall be the then current form of lease recommended by the Real Estate Board of New York, Inc., with such modifications as shall be approved in writing by the Board of Managers. In the event the offering Unit Owner shall not, within such sixty (60) day period, contract to sell such Unit together with the Appurtenant Interests, or to lease such Unit, as the case may be, to the Outside Offeror on the same terms and conditions contained in the Outside Offer, or if the Unit Owner shall so contract to sell or lease his Unit within such sixty (60) day period, but such sale or lease shall not be consummated pursuant to the terms of such contract, then should such offering Unit Owner thereafter elect to sell such Unit, together with the Appurtenant Interests, or to lease such Unit, as the case may be, to the Outside Offeror or another prospective purchaser or tenant on the same or other terms and conditions, the offering Unit Owner shall be required to again comply with all of the terms and provisions of this Section 1 of this Article.

Any purported sale or lease of a Unit in violation of this Section shall be voidable at the election of the Board of Managers.

The provisions set forth in this Article shall not apply to the Sponsor and the Sponsor is irrevocably authorized and empowered to sell or lease Units to any purchaser or lessee, as the case may be, as Sponsor may approve in its sole discretion.. The Sponsor may sell or lease any Unit not previously sold to a bona fide purchaser on such terms and conditions as the Sponsors deems fit.

In the event of any transfer of a unit to a corporation or trust, such transfer shall be contingent upon the approval by the Board of Managers of all present and future occupants thereof.

**Section 2. Consent of Unit Owners to Purchase or Lease of Units by Board of Managers.**

The Board of Managers shall not exercise any option hereinabove set forth to purchase or lease any Unit without the prior approval of a majority of the Unit Owners.

**Section 3. No Severance of Ownership.** No Unit Owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his Unit without including therein the Appurtenant Interests, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage, or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests of any Unit maybe sold, transferred or otherwise disposed of except as part of a sale, transfer or other disposition of the Unit to which such interest or interests are appurtenant, or as part of a sale, transfer or other disposition of such part of the Appurtenant Interests of all Units.

**Section 4. Release by Board of Managers of Right of First Refusal.**

The right of first refusal contained in Section 1 of this Article X may be released or waived by the Board of Managers in which event the Unit, together with the Appurtenant Interests, may be sold, conveyed, or leased, free and clear of the provisions of such section.

**Section 5. Certificate of Termination of Right of First Refusal.**

A certificate, executed and acknowledged by the Secretary of the Condominium or such other person as the Board of Managers may designate, stating that the provisions of Section 1 of this Article X have been met by a Unit Owner, or have been duly waived by the Board of Managers, and the rights of the Board of Managers thereunder have terminated, shall be conclusive upon the Board of Managers and the Unit Owners in favor of all persons who rely thereon in good faith. Such certificates shall be furnished to any Unit Owner who has in fact complied with the provisions of Section 1 of this Article XI or in respect to whom the provisions of such section have been waived, upon payment of a reasonable administrative fee, which shall be set by the Board. Until modified by vote of the Board, such fee shall be seventy-five (\$75.00) Dollars.

**Section 6. Financing of Purchase of Units by Board of Managers.**

Acquisition of Units by the Board of Managers, or its designee, on behalf of all Unit Owners, may be made from the working capital and common charges in the hands of the Board of Managers, or if such funds are insufficient, the Board of Managers may levy an assessment against each Unit Owner in proportion to his ownership in the Common Elements, as a Common Charge, which assessment shall be enforceable in the same manner as provided in Section 2 and 3 of Article VI, or the Board of Managers, in its discretion, may borrow money to finance the acquisition of such Unit, provided, however, that no financing may be secured by an encumbrance or hypothecation of any property other than the Unit, together with the Appurtenant Interests, so to be acquired by the Board of Managers. The foregoing notwithstanding, no assessment may be levied under this Section 6 against any permitted mortgagee who has acquired title to a Unit, whether by foreclosure or deed in lieu thereof.

**Section 7. Exceptions.** The provisions of Section 1 of this Article X shall not apply with respect to any sale or conveyance or lease by a Unit Owner of his Unit, together with the Appurtenant Interests, to his spouse or to any of his children or to his parent or parents or to his brothers or sisters, or anyone or more of them, or to a Unit owned by the Sponsors, or to the acquisition or sale of a Unit, together with the Appurtenant Interests, by a mortgagee herein authorized who shall acquire title to such Unit by foreclosure or by deed in lieu of foreclosure. However, the provisions of this Section shall apply with respect to any purchaser of such Unit from such mortgagee.

**Section 8. Gifts and Devises, etc.** Any Unit Owner shall be free to convey or transfer his Unit by gift or to devise his Unit by will, or to pass the same by intestacy, without restriction.

**Section 9. Waiver of Right of Partition.**

In the event that a Unit shall be acquired by the Board of Managers, or its designee, on behalf of all Unit Owners as tenants in common, all such Unit Owners shall be deemed to have waived all rights of partition with respect to such Unit.

**Section 10. Payment of Assessments.** No Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate, sell or lease his Unit unless and until he shall have paid in full to the Board of Managers all unpaid Common Charges theretofore assessed by the Board of Managers against his Unit and until he shall have satisfied all unpaid liens against such Unit.

**Section 11. Mortgage of Units.** No Unit Owner shall mortgage his unit except by a mortgage or mortgages made to a bank, trust company, insurance company, Federal or state savings and loan association, pension fund or other institutional lender or a purchase money mortgage made to the seller of the Unit. Any such mortgage shall be

in such form as may be required in order to permit the particular institutional lender to make the mortgage loan, or to the extent permitted by the Board of Managers. A mortgage or mortgages may be made to an individual or other entity which is not an institutional lender only with the prior consent of the Board of Managers.

Section 12.. **Conveyance of Unit.** Upon the initial conveyance of any unit by the Sponsor, the purchaser thereof shall pay the equivalent of two months common charges for such Unit, which shall be paid to the Condominium by the purchaser and added to the Reserve Fund.

## **ARTICLE XI. CONDEMNATION**

In the event all or part of the Common Elements are taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the Insurance Trustee (if the award is more than \$50,000) and to the Board of Manager (if the award is \$50,000 or less), to be distributed in accordance with the following amounts:

(a) so much of the award as is applicable to unrestricted Common Elements, to the Unit Owners pro rata according to the respective common interests appurtenant to the Units owned by such Unit owners.

(b) so much of the award as is applicable to restricted Common Elements, to the Unit Owner(s) having general use of such restricted Common Elements.

In such eminent domain or condemnation proceeding the Board shall request that the award shall set forth the amount allocated to unrestricted Common Elements and to each irrevocably restricted Common Element. In the event the award does not set forth such allocation, then the question of allocation shall be submitted to a panel of arbitrators chosen in accordance with the rules and regulations of the American Arbitration Association, and the findings of such panel shall be conclusive and binding upon the parties.

## **ARTICLE XII. MISCELLANEOUS**

Section 1. **Insurance.** Under no circumstances shall a Unit Owner permit or suffer anything to be done or left in his Unit which will increase the insurance rates on his Unit or any other Unit or on the Common Elements.

Section 2. **Severability.** Should any of the covenants, terms or provisions herein imposed be void or become unenforceable at law or in equity, the remaining provisions of these By-Laws shall, nevertheless, be and remain in full force and effect.

Section 3. **Notice to Condominium.** A Unit Owner who mortgages his Unit, shall notify the Condominium through the managing agent, if any, or the President of the Board of Managers in the event there is no managing agent, of the name and address of his mortgagee; and the Board of Managers shall maintain such information in a book, entitled "Mortgagees of Units".

Section 4. **Notice of Unpaid Assessments.** The Board of Managers shall, at the request of a mortgagee of a Unit, report any unpaid assessments due from the Unit Owners of such Unit.

Section 5. **Examination of Books and Records.** Every Unit Owner or his representative, and mortgagee shall be entitled to examine the books and records of the Condominium on reasonable notice to the Board but not more often than once a month.

Section 6. **Construction.** Wherever the masculine or singular form of the pronoun is used in these By-Laws, it shall be construed to mean the masculine, feminine or neuter; singular or plural; wherever the context so requires.

Section 7. **Compliance with Article 9-B.** These By-Laws are set forth to comply with the requirements of Article 9-B of the Real Property Laws of the State of New York. In case any of these By-Laws conflict with the provisions of said Statute or of the Declaration, the provisions of the Statute or of the Declaration, whichever the case may be, shall control.

Section 8. **Additions, Alterations or Improvements by Board of Managers.** Whenever, in the judgment of the Board of Managers, the Common Elements shall require additions, alterations or improvements costing in excess of \$7,500.00 or five (5%) percent of the annual budget of the Condominium, which ever is greater, and the making of such additions, alterations or improvements shall have been approved by a majority of the Unit Owners, the Board of Managers shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a Common Charge. Any additions, alterations or improvements costing \$7,500.00 or five (5%) percent of the annual budget of the Condominium or less may be made by the Board of Managers without approval of the Unit Owners and the cost thereof shall constitute part of the common expenses of the Condominium.

Section 9. **Additions, Alterations or Improvements by Unit Owners.** No Unit Owner shall make any structural addition, alteration, or improvement in or to his Unit, without the prior written consent thereto of the Board of Managers. The Board of Managers shall have the obligation to answer any written request by a Unit Owner for approval of a proposed structural addition, alteration or improvement in such Unit Owner's Unit, within thirty (30) days after such request. The Board's failure to respond to such request within thirty (30) days shall be deemed an approval of such request. Any

application to any governmental authority for a permit to make an addition, alteration, or improvement in or to any Unit may be executed only by the Board of Managers. Neither the Board nor any managing agent, however, shall incur any cost or liability to such governmental authority or any contractor, subcontractor or materialman on account of such an addition, alteration or improvement, or to any person having any claim for injury to person or damage to property arising therefrom. The Board of Managers may prescribe and regulate with respect to any work for which its consent has been given, the time period during which any such work may be permitted, the manner in which construction debris will be handled, measures which must be taken to prevent compromising the security of the Buildings during construction, the interruption of services during construction, the form and substance of liability insurance required during construction, the submission to and approval by the Board of Managers of construction plans and drawings and such other matters as may concern the health, safety and welfare of the Condominium and its residents. The provisions of this Section 9 shall not apply Units owned by the Sponsor until such Units shall have been initially sold and paid for.

### **ARTICLE XIII. RULES AND REGULATIONS**

Rules and regulations (the "Rules and Regulations") concerning the use of Units and the Common Elements shall be promulgated and may be amended by the Board of Managers. A majority vote of the Unit Owners at a duly conducted Unit Owners' meeting shall be effective to repeal, amend or otherwise modify any such rules or regulations promulgated by the Board. Copies of such Rules and Regulations shall be furnished by the Board of Managers to each Unit Owner prior to the time when the same shall become effective. Initial Rules and Regulations, which shall be effective until amended by the Board of Managers or the Unit Owners are set forth herein below and made apart hereof:

1. The sidewalks, entrances, passages of or appurtenant to any Unit or Building shall not be obstructed or used for any other purpose than ingress to and egress from the Units.
2. Each Unit Owner and occupant shall keep his Unit in a good state of preservation and cleanliness, and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows thereof, any dirt or other substance.
3. No window guards or other window decorations shall be used on or about any Unit, except such as shall have been approved in writing by the Board or the managing agent thereof, which approval shall not be unreasonably withheld or delayed. No storm windows or doors shall be installed, nor any change made in the aesthetics of the exterior of any Unit without the prior written approval of the Board of Managers.

4. No radio or television aerial shall be attached to or hung from the exterior of any Unit and no sign, notice, advertisement or illumination shall be inscribed or exposed on or at any window or other part of any Units, except such as are pursuant to the Declaration or the By-Laws or shall have been approved in writing by the Board or the managing agent thereof; nor shall anything be projected from any window a Unit without similar approval.
5. No ventilator or air-conditioning device shall be installed in any Unit without prior written approval of the Board, which approval may be granted or refused in the sole discretion of the Board.
6. All radio, television or other electrical equipment of any kind or nature installed or used in each Unit shall fully comply with all rules, regulations, requirements or recommendations of the New York Board of Fire Underwriters and the public authorities having jurisdiction, and the Unit Owner alone shall be liable for any damage or injury caused by any radio, television or other electrical equipment in such Unit Owner's Unit.
7. No Unit Owner or occupant shall make or permit any disturbing noises or activity in the Unit, or cause or permit any objectionable odor to emanate therefrom or do or permit anything to be done therein which will interfere with the rights, comforts or conveniences of other Unit Owners or occupants. No Unit Owner or occupant shall play upon or suffer to be played upon any musical instrument, or operate or permit to be operated a phonograph, radio, television set, loudspeaker, or other sound amplification device in such Unit Owner's or occupant's Unit between 11:00 P.M. and the following 7:00 A.M. if the same shall disturb or annoy occupants of the other Units, and in no event shall practice or suffer to be practiced either vocal or instrumental music between the hours of 10:00 P.M. and the following 9:00 A.M. No construction or repair work or other installation involving noise shall be conducted in any Unit except on weekdays (not including legal holidays), and only between the hours of 8:00 A.M. and 5:00 P.M., unless such construction or repair work is necessitated by an emergency.
8. No recreational vehicles, motor homes, trailers, boats, commercial vehicles, or abandoned or inoperable vehicles may be parked or stored in any parking space or upon any driveway of the Condominium. Such vehicles may only be parked or stored inside garages.
9. Water closets and other water apparatus in the Units shall not be used for any purpose other than those for which they were designed, nor shall any

sweepings, rubbish, rags or any other article be thrown into the same. Any damage resulting from misuse of any water closets or other apparatus in a Unit shall be repaired and paid for by the Unit Owner or occupant of such Unit.

10. No occupant of any Unit shall send any employee of the Condominium or other managing agent out of the Condominium area on any private business.
11. The agents of the Board or the managing agent thereof, and any contractor or workman authorized by the Board or the managing agent thereof, may enter any room or Unit at any reasonable hour of the day, on at least one day's prior notice to the Unit Owner, for the purpose of inspecting such Unit for the presence of any vermin, insects or other pests and for the purpose of taking such measures as may be necessary to control or exterminate any such vermin, insects or other pests. Such entry, inspection and extermination, however, shall be done in a reasonable manner so as not to interfere unreasonably with the use of such Unit for its permitted purposes.
12. The Board or the managing agent thereof may retain a passkey to each Unit. If any lock is altered or a new lock is installed, the Board or the managing agent shall be provided with a new key thereto immediately upon such alteration or installation. If the Unit Owner or occupant is not personally present to open and permit an entry to his Unit at any time when an entry therein is necessary or permissible under these Rules and Regulations or under the By-Laws and has not furnished a key to the Board or the managing agent thereof, then the Board or such managing agent or their agents (but, except in an emergency, only when specifically authorized by an officer of the Condominium or any officer of the managing agent) may forcibly enter such Unit without liability for damages or trespass by reason thereof (if, during such entry, reasonable care is given to such Unit Owner's or occupant's property).
13. No vehicle belonging to a Unit Owner or occupant or to a member of the family or guest, tenant, invitee or employee of a Unit Owner or occupant shall be parked in such a manner as to impede or prevent ready access to any entrance to or exit from the Units or by another vehicle. In order to keep vehicles off the streets under most conditions, all Unit Owners and occupants and their guests shall utilize their garages or driveways or assigned parking spaces until full, then designated off-street parking spaces and finally street parking.

14. Complaints regarding the service of the Condominium shall be made in writing to the Board or to the managing agent thereof.
15. Unit Owners, their tenants, families, guests, servants, employees, agents, visitors or licensees shall not at any time or for any reason whatsoever enter upon or attempt to enter upon the roof of the Units.
16. Unit Owners and occupants shall not cause or permit any unusual or objectionable noises or odors to be produced upon or to emanate from their Units or any terrace, deck or patio appurtenant thereto.
17. No Unit Owner or occupant or any of his tenants, agents, servants, employees, licensees or visitors shall at any time bring into or keep in his Unit any inflammable, combustible or explosive fluid, material chemical or substance, except as shall be necessary and appropriate for the permitted uses of such Unit,
18. If any key or keys are entrusted by a Unit Owner or occupant or by any member of his family or by his tenant, agent, servant, employee, licensee or visitor to an employee of the Condominium or of the managing agent thereof, whether for such Unit Owner's or occupant's Unit, for an automobile, trunk or other item of personal property, the acceptance of the key shall be at the sole risk of such Unit Owner or occupant, and neither the Board nor the managing agent thereof shall be liable for injury, loss or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.
19. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance of the Units or contents thereof without the prior written consent of the Board. No Unit Owner or occupant shall permit anything to be done or kept in his Unit or in or upon the Common Elements which will result in the cancellation of insurance on the Units or which would be in violation of any zoning or other law, rule, regulation, ordinance, order or decision of any government authority. No waste shall be permitted in the Common Elements.
20. Nothing shall be altered or constructed in or upon or removed from the Common Elements without the prior written consent of the Board. No Unit Owner or occupant shall install, remove, alter or modify any exterior plantings or landscaping without the prior written approval of the Board.
21. Each Unit Owner and occupant shall keep the driveways and sidewalks appurtenant to such Unit free from debris, garbage or obstruction and shall keep all front, side or rear yard Limited Common Elements appurtenant to

such Unit in a clean and sightly condition, free from debris, garbage, bicycles, toys, etc.

22. No barbecue, fireplace or play equipment shall be installed, constructed erected on or within any of the Limited Common Elements without the prior written approval of the Board of Managers and no fence, patio, terrace or deck may be constructed or added to the Unit, or if already in existence, altered or modified without the prior written approval of the Board of Managers.
23. Any consent or approval given under these Rules and Regulations may be added to, amended or repealed at any time by resolution of the Board.
24. No part of the Property shall be used for other than the housing and common recreational purposes for the which the Property was designed. Each Unit shall be used as a single family residence only.
25. Unit Owners and occupants shall not cause or permit anything to be suspended, displayed from or placed on decks, patios, the exterior of windows or the exterior walls or doors of a Building, and no sign awning, canopy, shutter, or radio or television antenna shall be affixed to, placed upon or exposed from the exterior walls, doors or roof or any part thereof, or deck, patio or on or at any window without the prior written consent of the Board of Managers. Unit Owners and occupants shall not paint, stain or otherwise alter the color or appearance of the exterior of any Building or Limited Common Element or any part thereof.
26. No animals, livestock, or reptiles of any kind shall be raised, bred, or kept in any Unit or in the Common Elements; however, dogs, cats or other household pets, not to exceed two per Unit, may be kept subject to Rules and Regulations adopted by the Board of Managers, provided that they are not kept, bred, or maintained for any commercial purposes; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property upon ten (10) days' written notice from the Board of Managers.
27. No noxious, immoral, improper, offensive or unlawful activity shall be carried on in or use made of any Unit or the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Unit Owners or occupants.
28. Nothing shall be done in, on or to any Unit, The Common Elements or Limited Common Elements which will impair the structural integrity of

any Building, structurally change any Building or change the aesthetic character of the Property.

29. No clothes, linens, laundry or any other article shall be suspended from a Unit or exposed on any part of the Common Elements or Limited Common Elements. The Common Elements and Limited Common Elements shall be kept free and clear of rubbish, debris, and other unsightly materials.
30. Except in recreational or storage areas designated as such by the Board of Managers there shall be no playing, lounging, or parking of vehicles, benches, or chairs on any part of the Common Elements.
31. No industry, business, trade, occupation, or profession of any kind, be it commercial, religious, educational or otherwise designed for profit, altruism, or otherwise shall be conducted, maintained or permitted on any part of the Property, nor shall any "For Sale," "For Rent", or "For Lease" sign or other window display or advertising be maintained or permitted on any part of the Property, or in any Unit therein, nor shall any Unit be used or rented for transient, hotel or motel purposes. The right is reserved by the Sponsor, the Board of Managers, or their agents, to place "For Sale," "For Rent," or "For Lease" signs on any Unsold or unoccupied units, and the right is hereby given to any mortgagee who may become the owner of any Unit to place such signs on any Unit owned by such mortgagee.

**DOCUMENT NUMBER 8**

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**WYNDCREST CONDOMINIUM**

Chappaqua Road and North State Road  
Briarcliff Manor, New York 10510

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**COUNSEL'S TAX OPINION**

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MARK D. GINSBURG, ESQ.  
245 Saw Mill River Road  
Hawthorne, New York 10532

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**MARK D. GINSBURG**  
ATTORNEY AT LAW  
245 SAW MILL RIVER ROAD  
HAWTHORNE, NEW YORK 10532

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(914) 747-3533  
(914) 747-3679  
FAX (914) 747-1608

July 11, 1995

MBG Development, Inc.  
245 Saw Mill River Road  
Hawthorne, New York 10532

Re: Wyndcrest Condominium

Gentlemen:

I am serving as special counsel to you, the Sponsor, for Wyndcrest Condominium. You have requested my opinion concerning the availability of income tax deductions for Purchasers of Units in said Condominium.

I have reviewed the Condominium Offering Plan and the documents set forth therein, including the Declaration of Condominium. I have also received Article 9-B of the Real Property Law of the State of New York, as amended, pursuant to which said Condominium will be formed, the relevant Sections of the Internal Revenue Code of 1954, the regulations and rules issued thereunder and any judicial interpretations thereof, the Tax Reform Act of 1976 and the New York State Tax Law.

Based upon my review of the foregoing and assuming the Condominium is validly created pursuant to said Article 9-B, I am of the opinion that under present law each Unit owner of the Condominium who itemizes his deductions on his income tax return may deduct for both Federal and New York State Income Tax purposes all real estate taxes assessed against his or her Unit and paid, and may likewise deduct all interest paid by him or her on any mortgage indebtedness covering his or her Unit in the year in which such interest is paid. (Revenue Ruling 64-31, 1964-1 Cumulative Bulletin (Part I) 300 Internal Revenue Code as amended, Sections 163 and 164, providing for the deductibility of real estate taxes and deductibility of interest on mortgages). However a Unit owner having tax preference income as defined in the Code and adjusted gross

income in excess of a certain minimum amount, may be subject to Minimum Tax provisions and may not be entitled to the full deduction for said real estate taxes and mortgage interest for New York State Income Tax purposes.

In addition, if any of the Unit Owners is a Veteran of the United States Armed Forces, he may be entitled to a Veteran's Exemption covering part of the real estate taxes assessed against his Unit.

The Tax Reform Act of 1976 contains amendments to the Internal Revenue Code of 1954, which will, in effect, eliminate any ambiguity that existed previously in the law concerning the taxability of Condominiums. New Section 528 of the Code, which was added by the Tax Reform Act, defines a Condominium Management Association as an organization organized and operated to provide for the acquisition, construction, management, maintenance and care of property with respect to a Condominium project, substantially all of the Units of which are used as residences. Property is defined to include either (a) property held by the organization, or (b) property within the organization privately held by the members of the organization. If the Condominium fits within the definitions provided by Section 528, said Condominium will be taxed on its taxable income in the same manner as a corporation with certain modifications. However, subdivision (d) of the Section which defines taxable income, excludes from the gross income for the taxable year any "exempt function income". The term "exempt function income" is defined to mean "...any amount received as membership dues, fees or assessments from (A) owners of Condominium housing Units in the case of a Condominium Management Association". It is my opinion that Wyndcrest will qualify as a "Condominium Management Association" and therefore it is my further opinion that the receipts from the Unit Owners that qualify as dues and assessments, will be "exempt function income", thereby eliminating gross income from the taxable year for such association.

In order for a Condominium Management Association to qualify for the tax treatment provided by Section 528 of the Code, it must elect to have said Section apply for the taxable year of the Association. For taxable years ending on or after December 31, 1976, the election may be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Association, within the time provided for filing Federal income tax returns for the year from which the election is made including an extension. In the event the Association does not make the election or otherwise comply with the requirements of Section 528, the Association may lose the benefits of said section, thereby possibly resulting in income to the Association which would be taxable as though the Association were a corporation, except for certain modifications set forth in the Code.

No warranties are made that either the United States Treasury Department or the New York State Department of Taxation and Finance will allow the aforementioned deductions for real estate taxes and/or mortgage interest to a Unit owner or that tax laws, regulations and rulings upon which this opinion is based will not change. The

undersigned will, in no event, be liable if for any reason it should be held that the Unit Owners are not entitled to such income tax deductions for real estate taxes and/or mortgage interest or the Veteran's Exemption as aforesaid and/or any other matter except here in expressly set forth.

I hereby consent to the inclusion of this opinion letter in the Condominium offering plan.

Very truly yours,

  
Mark D. Ginsburg

MDG/km

IN OUR OPINION, THE ASSOCIATION WILL QUALIFY AS A CONDOMINIUM ASSOCIATION AND UNIT OWNERS WILL BE ENTITLED TO INCOME TAX DEDUCTIONS. HOWEVER, THIS OPINION IS NOT A GUARANTEE; IT IS BASED, UPON EXISTING RULES OF LAW APPLIED TO THE FACTS AND DOCUMENTS REFERRED TO ABOVE. NO ASSURANCES CAN BE GIVEN THAT THE TAX LAWS UPON WHICH COUNSEL BASES THIS OPINION WILL NOT CHANGE. IN NO EVENT WILL THE SPONSOR, THE SPONSOR'S COUNSEL, THE CONDOMINIUM ASSOCIATION, COUNSEL TO THE CONDOMINIUM ASSOCIATION, THE SELLING AGENT OR ANY OTHER PERSON BE LIABLE UNDER THE INTERNAL REVENUE CODE OF 1954, AS AMENDED, OR THE NEW YORK STATE TAX LAW, AS AMENDED, IF THERE ARE CHANGES IN THE FACTS ON WHICH COUNSEL RELIED IN ISSUING THIS OPINION, OR IF THERE ARE CHANGES IN THE APPLICABLE STATUTES, REGULATION DECISION LAW OR INTERNAL REVENUE SERVICE RULINGS ON WHICH COUNSEL RELIED.

**DOCUMENT NUMBER 9**

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**WYNDCREST CONDOMINIUM**

Chappaqua Road and North State Road  
Briarcliff Manor, New York 10510

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**MARKETING PLAN**

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MARK D. GINSBURG, ESQ.  
245 Saw Mill River Road  
Hawthorne, New York 10532

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## Wyndcrest Moderate Income Marketing Plan

1. Sponsor will notify the public that 14 townhouse units in Wyndcrest are being made available under the Moderate Income housing provisions of the Zoning Ordinance of the Village of Briarcliff Manor. Notices will be posted in public buildings such as Village Hall, schools, libraries, community centers, and others as the Village Review Board might specify. An advertisement will be placed in the Westchester Gannett newspaper announcing the sale of these units.

The notices and advertisement will include a coupon for the applicant to fill-out and send in to obtain an application for a position on the waiting list.

2. The applications for positions on the waiting list will request information needed to establish the priority category of the applicant as well as credit information needed to assess the ability of the applicant to obtain financing. The first three priority categories are, in order of preference, Village employees, employees of the Briarcliff Manor and Ossining school districts, and Village residents. The applicants will sign an affidavit stating that their family incomes do not exceed the income limit, which is now approximately \$73,700, and that they are indeed eligible to be included in the priority class for which they have applied.
3. These applications will be submitted to Sponsor's offices by an appointed date. Sponsor, working with a "developer liaison" from the Village of Briarcliff Manor, will open the application envelopes. At such time the waiting list will be established, based on the prioritized categories set forth in the Village Zoning Ordinance. A lottery will be conducted for preference within each of the priority categories and sub-categories, in the event there are more applicants in a category than available homes.
4. The credit of the individuals on the waiting list shall be qualified by one or more lenders making loans on projects similar to the Wyndcrest, using standard credit underwriting procedures, until the Sponsor has obtained a ranked list of at least 25 qualified applicants.
5. The top 20 qualified applicants will be introduced to Sponsor's sales staff and will be given a complete sales presentation on the development, including all applicable marketing materials and promotional literature. Sponsor reserves the right not to enter into an agreement with an applicant who, after using generally accepted industry standards, is found to be financially unable to purchase the unit chosen.

6. Once the Offering Plan is accepted by the Department of Law for filing, the top 14 applicants will be asked to make a deposit, not to exceed \$250, and to select a Unit. The applicants who have selected a Unit will be given two weeks to review the Offering Plan and Purchase Agreement with their attorneys and to execute and return a Purchase Agreement together with a 10% downpayment. The other qualified applicants will be held as back-ups, in the event a sale falls through. All Moderate Income Unit Purchase Agreements will be subject to confirmation of the eligibility statements made in the original application.

**DOCUMENT NUMBER 10**

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**WYNDCREST CONDOMINIUM**

Chappaqua Road and North State Road  
Briarcliff Manor, New York 10510

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**NOTE AND MORTGAGE**

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MARK D. GINSBURG, ESQ.  
245 Saw Mill River Road  
Hawthorne, New York 10532

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MORTGAGE NOTE

\$150,000.00

Hawthorne New York,

1997

**FOR VALUE RECEIVED,**

THE BOARD OF MANAGERS ON BEHALF OF WYNDCREST CONDOMINIUM,  
a condominium formed under and pursuant to Article 9-B  
of the New York Real Property Law, having an office at  
245 Saw Mill River Road, Hawthorne, NY 10532

promise to pay to

MBG DEVELOPMENT, INC., a New York corporation having an office at  
245 Saw Mill River Road, Hawthorne, NY 10532.

or order, at 245 Saw Mill River Road, Hawthorne, NY 10532

or at such other place as may be designated in writing by the holder of this note, the principal sum of

One Hundred Fifty Thousand (\$150,000.00) Dollars on \_\_\_\_\_, 20\_\_

—

with interest thereon to be computed from the date hereof, at the rate of eight (8) per centum per annum

and to be paid on the first 9 day of \_\_\_\_\_ 19 , next ensuing and

monthly thereafter for the next 360 months. Each monthly payment shall be in the amount of \$1,100.65 principal and interest. The entire principal amount and all unpaid interest shall be due and payable on \_\_\_\_\_ .20 . which date is thirty (30) years from the date hereof.

IT IS HEREBY EXPRESSLY AGREED, that the said principal sum secured by this note shall become due at the option of the holder thereof on the happening of any default or event by which, under the terms of the mortgage securing this note, said principal sum may or shall become due and payable; also; that all of the covenants, conditions and agreements contained in said mortgage are hereby made part of this instrument.

Presentment for payment, notice of dishonor, protest and notice of protest are hereby waived.

This note is secured by a mortgage made by the maker to the payee of even date herewith, on property situate in the

This note may not be changed or terminated orally.

THE BOARD OF MANAGERS ON BEHALF  
OF WYNDCREST CONDOMINIUM

By: \_\_\_\_\_

, President

STATE OF NEW YORK, COUNTY OF

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me  
personally came

to me known to be the individual \_\_\_\_\_ described in and who  
executed the foregoing instrument, and acknowledged that  
\_\_\_\_\_ executed the same.

STATE OF NEW YORK, COUNTY OF Westchester

On the \_\_\_\_\_ day of \_\_\_\_\_, 19 97, before me  
personally came

to me known, who, being duly sworn, did depose and say that  
\_\_\_\_\_ he resides at No. \_\_\_\_\_

that \_\_\_\_\_ he is the \_\_\_\_\_ President  
of \_\_\_\_\_ the Board of Managers of Wyndcrest  
Condominium \_\_\_\_\_, the condominium described  
In and which executed the foregoing instrument; ~~that he~~  
~~knows the seal of said corporation; that the seal affixed to said~~  
~~instrument is such corporate seal; that it was so fixed by order~~  
~~of directors of said corporation;~~ and that \_\_\_\_\_ he signed h\_\_\_\_\_ name  
thereto by ~~like~~ order. \_\_\_\_\_ the Board of Managers of Wyndcrest  
Condominium.

\_\_\_\_\_  
Notary Public

# Mortgage Note

TITLE NO.  
\_\_\_\_\_  
\_\_\_\_\_

THE BOARD OF MANAGERS OF ON BEHALF OF  
WYNDCREST CONDOMINIUM  
WITH

MBG DEVELOPMENT, INC

STATE OF NEW YORK, COUNTY OF

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me  
personally came

to me known to be the individual \_\_\_\_\_ described in and who  
executed the foregoing instrument, and acknowledged that  
\_\_\_\_\_ executed the same.

STATE OF NEW YORK, COUNTY OF

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me  
personally came

the subscribing witness to the foregoing instrument, with  
whom I am personally acquainted, who, being me duly  
sworn, did depose and say that \_\_\_\_\_ he resides at No. \_\_\_\_\_

that \_\_\_\_\_ he knows

\_\_\_\_\_ to be the individual  
described in and who executed the foregoing instrument;  
that \_\_\_\_\_ he, said subscribing witness, was present and saw  
\_\_\_\_\_ execute the same; and that \_\_\_\_\_ he, said witness,  
at the same time subscribed h\_\_\_\_\_ name as witness thereto.

SECTION \_\_\_\_\_

BLOCK \_\_\_\_\_

LOT \_\_\_\_\_

COUNTY OR TOWN \_\_\_\_\_

Recorded at Request of

CHICAGO TITLE INSURANCE COMPANY

**Return by Mail to**

Zip No. \_\_\_\_\_

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS

*Distributed by*  
CHICAGO TITLE  
INSURANCE COMPANY



**TOGETHER** with all right, title and interest of the mortgagor in and to the land lying in the streets and roads in front of and adjoining said premises;

**TOGETHER** with all fixtures, chattels and articles of personal property now or hereafter attached to or used in connection with said premises, including but not limited to furnaces, boilers, oil burners, radiators and piping, coal stokers, plumbing and bathroom fixtures, refrigeration, air conditioning and sprinkler systems, wash-tubs, sinks, gas and electric fixtures, stoves, ranges, awnings, screens, window shades, elevators, motors, dynamos, refrigerators, kitchen cabinets, incinerators, plants and shrubbery and all other equipment and machinery, appliances, fittings, and fixtures of every kind in or used in the operation of the buildings standing on said premises, together with any and all replacements thereof and additions thereto;

**TOGETHER** with all awards heretofore and hereafter made to the mortgagor for taking by eminent domain the whole or any part of said premises or any easement therein, including any awards for changes of grade of streets, which said awards are hereby assigned to the mortgagee, who is hereby authorized to collect and receive the proceeds of such awards and to give proper receipts and acquittances therefore, and to apply the same toward the payment of the mortgage debt, notwithstanding the fact that the amount owing thereon may not then be due and payable; and the said mortgagor hereby agrees, upon request, to make execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning said awards to the mortgagee, free, clear and discharged of any encumbrances of any kind or nature whatsoever.

**AND** the mortgagor covenants with the mortgagee as follows:

1. That the mortgagor will pay the indebtedness as hereinbefore provided.
2. That the mortgagor will keep the buildings on the premises insured (i) against loss by fire for the benefit of the mortgagee. (ii) against loss by flood if the premises are located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of nineteen hundred sixty-eight; that he will assign and deliver the policies to the mortgagee; and that he will reimburse the mortgagee for any premiums paid for insurance made by the mortgagee on the mortgagor's default in so insuring the buildings or in so assigning and delivering the policies.
3. That no building on the premises shall be altered, removed or demolished without the consent of the mortgagee.
4. That the whole of said principal sum and interest shall become due at the option of the mortgagee: after default in the payment of any instalment of principal or of interest for fifteen days; or after default in the payment of any tax, water rate, sewer rent or assessment for thirty days after notice and demand; or after default after notice and demand either in assigning and delivering the policies insuring the buildings against loss by fire or in reimbursing the mortgagee for premiums paid on such insurance, as hereinbefore provided; or after default upon request in furnishing a statement of the amount due on the mortgage and whether any offsets or defense exist against the mortgage debt; as hereinafter provided, An assessment which has been made payable in instalments at the application of the mortgagor or lessee of the premises shall nevertheless, for the purpose of the paragraph, be deemed due and payable in its entirety on the day the first instalment becomes due or payable or a lien.
5. That the holder of this mortgage, in any action to foreclose it, shall be entitled to the appointment of a receiver.
6. That the mortgagor will pay all taxes, assessments, sewer rents or water rates, and in default thereof, the mortgagee may pay the same.
7. That the mortgagor within five days upon request in person or within ten days upon request by mail furnish a written statement duly acknowledged of the amount due on this mortgage and whether any offsets or defenses exist against the mortgage debt.
8. That notice and demand or request may be in writing and may be served in person or by mail.
9. That the mortgagor warrants the title to the premises.
10. That the fire insurance policies required by paragraph No.2 above shall contain the usual extended coverage endorsement; that in addition thereto the mortgagor, within thirty days after notice and demand, will keep the premises insured against war risk and any other hazard that may reasonably be required by the mortgagee. All of the provisions of paragraphs No.2 and No.4 above relating to fire insurance and the provisions of Section 254 of the real Property Law construing the same shall apply to the additional insurance required by this paragraph.
11. That in case of a foreclosure sale, said premises, or so much thereof as may be affected by this mortgage, may be sold in one parcel.
12. That if any action or proceeding be commenced (except an action to foreclose this mortgage or to collect the debt secured thereby), to which action or proceeding the mortgagee is made a party, or in which it becomes necessary to defend or uphold the lien of this mortgage, all sums paid by the mortgagee for the expense of any litigation to prosecute or defend the rights and lien created by this mortgage (including reasonable counsel fee), shall be paid by the mortgagor, together with interest thereon at the rate of six per cent, per annum, and such sum and the interest thereon shall be a lien on said premises, prior to any right, or title to, interest in or claim upon said premises attaching or accruing subsequent to the lien of this mortgage, and shall be deemed to be secured by this mortgage. In any action or proceeding to foreclose this mortgage, or to recover or collect the debt secured thereby, the provisions of law respecting the recovering of costs, disbursements and allowances shall prevail unaffected by his covenant.

13. That the mortgagor hereby assigns to the mortgagee the rents, issues and profits of the premises as further security for the payment of said indebtedness, and the mortgagor grants to the mortgagee the right to enter upon and to take possession of the premises for the purpose of collecting the same and to let the premises or any pan thereof, and to apply the rents, issues and profits, after payment of all necessary charges and expenses, on account of said Indebtedness. This assignment and grant shall continue in effect until this mortgage is paid. The mortgagee hereby waives the right to enter upon and to take possession of said premises for the purpose of collecting said rents, issues and profits, and the mortgagor shall be entitled to collect and receive said rents, issues and profits until default under any of the covenants, conditions or agreements contained in this mortgage, and agrees to use such rents, issues and profits in payment of principal and interest becoming due on this mortgage and in payment of taxes, assessments, sewer rents, water rates and carrying charges becoming due against said premises, but such right of the mortgagor may be revoked by the mortgagee upon any default, on five days' written notice. The mortgagor will not, without the written consent of the mortgagee, receive or collect rent from any tenant of said premises or any part thereof for a period of more than one month in advance, and in the event of any default under this mortgage will pay monthly in advance to the mortgagee, or to any receiver appointed to collect said rents, issues and profits, the fair and reasonable rental value for the use and occupation of said premises or of such part thereof as may be in the possession of the mortgagor, and upon default in any such payment will vacate and surrender the possession of said premises to the mortgagee or to such receiver, and in default thereof may be evicted by summary proceedings.
14. That the whole of said principal sum and the interest shall become due at the option of the mortgagee: (a) after failure to exhibit to the mortgagee, within ten days after demand, receipts showing payment of all taxes, water rates, sewer rents and assessments; or (b) after the actual or threatened alteration, demolition or removal of any building on the premises without the written consent of the mortgagee; or (c) after the assignment of the rents of the premises or any pan thereof without the written consent of the mortgagee; or (d) if the buildings on said premises are not maintained in reasonably good repair; or (e) after failure to comply with any requirement or order or notice of violation of law or ordinance issued by any governmental department claiming jurisdiction over the premises within three months from the issuance thereof; or (f) if on application of the mortgagee two or more fire Insurance companies lawfully doing business in the State of New York refuse to issue policies insuring the buildings on the premises; or (g) In the event of the removal, demolition or destruction in whole or in pan of any of the fixtures, chattels or articles or personal property covered hereby, unless the same are promptly replaced by similar fixtures, chattels and articles of personal property at least equal in quality and condition to those replaced, free from chattel mortgages or other encumbrances thereon and free from any reservation of title thereto; or (h) after thirty days' notice to the mortgagor, in the event of the passage of any law deducting from the value of land for the purposes of taxation any lien thereon, or changing In any way the taxation of mortgages or debts secured thereby for state or local purposes; or (i) if the mortgagor fails to keep, observe and perform any of the other covenants, conditions or agreements contained in this mortgage.
15. That the mortgagor will, In compliance with Section 13 of the Lien Law, receive the advances secured here-by and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any pan of the total of the same for any other purpose.
16. That the execution of this mortgage has been duly authorized by the board of directors of the mortgagor.
17. The monthly payments of principal and interest required hereunder shall be paid by the Condominium as part of the common charges assessed against units of such Condominium and the owners hereof.
18. The real property secured hereunder is not principally improved or to be improved by one or more structures containing in the aggregate more than six residential dwelling units each.
19. SEE RIDER ATTACHED HERETO AND MADE A PART HEREOF.

This mortgage may not be changed or terminated orally. The covenants contained in this mortgage shall run with the land and bind the mortgagor, the heirs, personal representatives, successors and assigns of the mortgagor and all subsequent owners, encumbrancers, tenants and subtenants of the premises, and shall enure to the benefit of the mortgagee, the personal representatives, successors and assigns of the mortgagee and all subsequent holders of this mortgage. The word "mortgagor" shall be construed as if it read "mortgagors" and the word "mortgagee" shall be construed as if it read "mortgagees" whenever the sense of this mortgage so requires.

**IN WITNESS WHEREOF**, this mortgage has been duly executed by the mortgagor.

**IN PRESENCE OF:**

THE BOARD OF MANAGERS ON  
BEHALF OF WYNDCREST CONDOMINIUM

\_\_\_\_\_

\_\_\_\_\_

BY: \_\_\_\_\_  
. President

\_\_\_\_\_

\_\_\_\_\_

STATE OF NEW YORK, COUNTY OF

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me  
personally came

to me known to be the individual \_\_\_\_\_ described in and who  
executed the foregoing instrument, and acknowledged that  
\_\_\_\_\_ executed the same.

STATE OF NEW YORK, COUNTY OF Westchester

On the \_\_\_\_\_ day of \_\_\_\_\_, 19 97, before me  
personally came  
to me known, who, being duly sworn, did depose and say that  
\_\_\_\_\_ he resides at

that \_\_\_\_\_ he is the \_\_\_\_\_ President  
of \_\_\_\_\_ the Board of Managers of Wyndcrest  
Condominium \_\_\_\_\_, the condominium described  
In and which executed the foregoing instrument; ~~that he~~  
~~knows the seal of said corporation; that the seal affixed to said~~  
~~Instrument is such corporate seal; that it was so affixed by order~~  
~~of directors of said corporation;~~ and that \_\_\_\_\_ he signed his name  
thereto by ~~like~~ order of the Board of Managers of Wyndcrest  
Condominium.

\_\_\_\_\_  
Notary Public

# Mortgage

TITLE NO. \_\_\_\_\_

THE BOARD OF MANAGERS OF ON BEHALF OF  
WYNDCREST CONDOMINIUM

TO  
MBG DEVELOPMENT, INC

STANDARD FORM OF NEW YORK BOARD OF TITLE UNDERWRITERS

Distributed by  
Transamerica  
Title Insurance Services

STATE OF NEW YORK, COUNTY OF

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me  
personally came

to me known to be the individual \_\_\_\_\_ described in and who  
executed the foregoing instrument, and acknowledged that  
\_\_\_\_\_ executed the same.

STATE OF NEW YORK, COUNTY OF

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me  
personally came  
the subscribing witness to the foregoing instrument, with  
whom I am personally acquainted, who, being me duly  
sworn, did depose and say that \_\_\_\_\_ he resides at

\_\_\_\_\_ that \_\_\_\_\_ he knows  
\_\_\_\_\_ to be the individual  
described in and who executed the foregoing instrument;  
that \_\_\_\_\_ he, said subscribing witness, was present and saw  
\_\_\_\_\_ execute the same; and that \_\_\_\_\_ he, said witness,  
at the same time subscribed his name as witness thereto.

SECTION 4  
BLOCK 7  
LOT \_\_\_\_\_  
COUNTY ~~OR TOWN~~ Westchester  
~~STREET ADDRESS~~ Village of Briarcliff Manor

Recorded at Request of  
TRANSAMERICA TITLE INSURANCE COMPANY  
OF NEW YORK  
**Return by Mail to**

Mark D. Ginsburg, Esq.  
245 Saw Mill River Road  
Hawthorne, NY 10532

SCHEDULE A

*John A. McGloin*

PROFESSIONAL LAND SURVEYOR

P.O. BOX 636 32 COLONIAL AVENUE

WARWICK, NEW YORK 10990

(914) 986-1262 FAX: (914) 986-1577

*Pool Site*

Beginning at a point in the easterly boundary of the lands now or formerly Neustein (liber 10505 page 152) where the same is intersected by the lands now or formerly Ginsburg Development Corporation and running thence along the lands now or formerly Neustein (liber 10505 page 152) the following three (3) courses and distances:

1. N56°25'20"W a distance of 5.71 feet to a point,
2. N33°01'00"E a distance of 28.06 feet to a point,
3. N57°36'30"E a distance of 57.79 feet to a iron pin found;

thence along the lands now or formerly Beldotti (liber 9563 page 25) N48°47'15"E a distance of 14.24 feet to a point; 56.79

thence along the same N43°07'20"E a distance of 56.79 feet to a point; thence through the lands now or formerly Ginsburg Development Corporation the following three (3) courses and distances:

1. S40°00'00"E a distance of 100.00 feet to a point,
2. S50°00'00"W a distance of 153.12 feet to a point,
3. N40°00'00"W a distance of 86.88 feet to the point of beginning. acres Containing 0.340 plus or minus acres.

## MORTGAGE RIDER

### WYNDCREST CONDOMINIUM to MBG DEVELOPMENT, INC.

1. Upon default in the payment of any installment of principal or interest, which default shall continue for a period often (10) days after notice, Mortgagee may foreclose on the Mortgage, may have a referee appointed and from the period of such default to the period of sale or redemption, this Mortgage shall carry an interest rate of 15% per annum upon the outstanding balance.
2. Mortgagor shall be required to maintain full liability insurance upon the property in the minimum amount of \$1,000,000/3,000,000 which Mortgagee being name as an additional insured. If such policy lapses or is cancelled, and Mortgagee, is required to obtain such insurance on behalf of Mortgagor, Mortgagor shall promptly reimburse Mortgagee for such expenses, together with interest at the rate of 15% per annum. Failure to make such reimbursement within fifteen (15) days of the demand will constitute a default under the mortgage.
3. Mortgagor, no more than once a year, within ten (10) days after request by Mortgagee and at its expense, will furnish Mortgagee with a statement, duly acknowledged and certified, setting forth the amount of the debt and the offsets or defenses thereto if any.
4. There shall be a \$0.04 per dollar late charge for payments received more than fifteen (15) days after due; in addition to any late payment charge which may be due if the loan is declared immediately due and payable by lender, or if the loan is not paid in full on the maturity date, Mortgagor shall thereafter pay interest on the principal balance from the date of such declaration or the maturity date, whichever it may be, until the date the principal balance is paid in full, at a rate per annum equal to 15%, provided, however, that such interest rate shall in no event exceed the maximum interest rate which Mortgagor may by law pay.
5. In the event of condemnation, or taking in lieu thereof, by purchase or otherwise, of all or a material part of the premises by any governmental authority or agency having jurisdiction, then the entire unpaid indebtedness shall, at mortgagee's option, immediately become due and payable. The condemnation, or taking in lieu thereof, by purchase or otherwise, of the whole or any part of the premises, shall not reduce the interest to be paid on the indebtedness secured hereby, notwithstanding any statutory provisions to the contrary.
6. Mortgagor agrees to bear all expenses (including reasonable attorney's fees for legal services of every kind) of or incidental to the enforcement of any provisions of this mortgage, including foreclosure and bankruptcy proceedings, or enforcement, compromise, or settlement or any of the collateral pledged hereunder, and for the curing

thereof, or defending or asserting the rights and claims of mortgagee in respect thereof by litigation or otherwise, and will pay to mortgagee any such expenses incurred (which sum is to be added to and collected in any foreclosure proceeding in addition to and apart from the usual costs and allowances to which mortgagee may be entitled or awarded under any law applicable to such action) and such expenses shall be deemed an indebtedness secured by this mortgage and shall be collectable in like manner as the principal indebtedness secured by this mortgage. All rights and remedies of mortgagee shall be cumulative and may be exercised singly or concurrently. Mortgagor waives trial by jury.

7. Mortgagee and/or its authorized representatives shall have the right, at all reasonable times, to enter upon and inspect any portion of the premises.

8. Mortgagee's failure to require strict performance at any time of the terms, covenants and conditions of this mortgage shall not constitute a waiver or release thereof.

9. Upon default of mortgagor in the performance of any terms, covenants, conditions or obligations by it to be performed under this Mortgage, Mortgagee shall have the right, but shall not be obligated, to cure such default in the name on and behalf of Mortgagor. All sums advanced and reasonable expenses incurred at any time by Mortgagee pursuant to this paragraph or as otherwise provided under the terms and provisions of this Mortgage or under applicable law shall be added to the Mortgage indebtedness, be secured by this Mortgage, and bear interest from the date that such sum is advanced or expense incurred, to and including the date of reimbursement, computed at an interest rate equal to 2% per month, or, if such rate is prohibited by law, at the highest lawful contract rate.

10. Mortgagor shall maintain and pay all taxes, assessments, sewer rents, water charges, and charges of whatever nature imposed by virtue of any rule, regulation, ordinance or law which may be assessed, levied upon or incurred by the mortgaged premises. Upon the failure of Mortgagor to make such payments when due, Mortgagee may make such payments on Mortgagor's behalf, and Mortgagor shall promptly reimburse Mortgagee for such expenses, together with interest. Failure to make any such reimbursement within thirty (30) days of the demand will constitute a default under this Mortgage. All sums advanced and reasonable expenses incurred at any time by Mortgagee pursuant to this paragraph 10 or as otherwise provided under the terms and provisions of this Mortgage or under applicable law shall be added to the Mortgage indebtedness, be secured by this Mortgage and bear interest from the date that such sum is advanced or expense incurred, to and including the date of reimbursement, computed at an interest rate equal to 2% per month, or, if such rate is prohibited by law, at the highest lawful contract rate.

11. Mortgagor shall furnish Mortgagee, not later than the date upon which the payment of any real estate tax, assessment, or water or sewer charge would be delinquent, official receipts of the appropriate taxing authority evidencing the payments thereof.

12. In no event shall payment of interest be made in an amount in excess of that permitted by law. Wherever in this Mortgage an interest rate in excess of the maximum legal rate is called for, it is agreed that only such maximum rate shall be collected and any excess payment shall be deemed a prepayment of principal.

13. Mortgagor shall perform all of Mortgagor's obligations under the Declaration of Condominium, the Condominium By-Laws, and all other equivalent documents. Any failure of Mortgagor to perform any obligation under the aforesaid documents, which is not cured within fifteen (15) days of notice from Mortgagee, shall constitute a default under the Mortgage.

14. The validity and enforceability of this Mortgage and all transactions and questions arising hereunder shall be construed and interpreted according to the laws of the State of New York. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law; but if any provision of this Mortgage shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remaining provisions of this Mortgage.

15. No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of Mortgagee in exercising any right or power accruing upon any event of default shall impair any such right or power, or shall be construed to be a waiver of any such event of default, or any acquiescence therein. Acceptance of any payment after the occurrence of an event of default shall not be deemed to waive or cure such event of default; and every power and remedy given by this Mortgage to Mortgagee may be exercised from time to time as often as may be deemed expedient by Mortgagee.

16. Mortgagor shall be required to maintain full fire and liability insurance upon the property for the replacement value thereof with Mortgagee being named as an additional named insured. Such policy shall provide that it may not be canceled except upon thirty (30) days written notice to the Mortgagee. If such policy lapses or is canceled and Mortgagee is required to obtain such insurance on behalf of Mortgagor, Mortgagor shall promptly reimburse Mortgagee of such expenses, together with interest at the rate of 9% per annum. Failure to make such reimbursement within ten (10) days of the demand will constitute a default under the Mortgage.

17. In the event of any inconsistency between the printed portion of this Mortgage and this rider, the provisions of this rider shall govern and prevail.

18 . This Mortgage is and will be maintained as a valid first lien on the premises. Mortgagor shall not directly or indirectly create or suffer or permit to be created against the premises or any portion thereof, or against the rents, issues and profits therefrom, any lien or charge prior to or upon a parity with the lien of this Mortgage.

19. Mortgagor shall have the right to prepay the indebtedness in whole or in part at any time without penalty upon thirty (30) days prior written notice. Any such prepayment shall be applied first to the payment of interest at the rate specified herein, and second, in reduction of the outstanding principal sum secured hereunder.

20. This instrument shall be construed as a security agreement under the Uniform Commercial Code.

21. If any mechanic's and/or materialmen's lien or any other lien or encumbrance is filed against the premises, Mortgagor shall cause such lien or encumbrance to be discharged of record by payment, bonding or otherwise, within sixty (60) days of the filing thereof. Failure to so discharge of record any such lien or encumbrance within the period specified shall constitute a default hereunder and shall entitle Mortgagee, at Mortgagee's option, to declare the whole of said principal sum and interest thereon and an other sums secured hereby to be due and payable. Mortgagee may, but shall not be obligated to, advance funds necessary to discharge of record such lien or encumbrance and all sums so advanced, together with interest thereon from the date of advance to the date of payment thereof at the rate of 2% per month, shall be payable by Mortgagor to Mortgagee on demand and, together with such interest, shall be secured by the lien of this Mortgage.

22. Mortgagor shall not, except after notice to and with the consent of the holder of this mortgage, either partition or subdivide the property or consent to:

(i) the abandonment or termination of the Condominium, except as required by law;

(ii) any amendment to any provision of the Declaration of Condominium, Declaration of Covenants and Restrictions, Condominium or Homeowner's Association By-Laws if the provision is for the express benefit of the holder of this Mortgage; or

(iii) termination of professional management and assumption of self- management of the Condominium.

**DOCUMENT NUMBER 11**

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**WYNDCREST CONDOMINIUM**

Chappaqua Road and North State Road  
Briarcliff Manor, New York 10510

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**CERTIFICATIONS**

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MARK D. GINSBURG, ESQ.  
245 Saw Mill River Road  
Hawthorne, New York 10532

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SPONSOR'S CERTIFICATION  
WYNDCREST CONDOMINIUM

STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        ) ss:

**Martin Ginsburg, President** of MBG DEVELOPMENT, INC., **being duly sworn, deposes and says :**

I am the sole principal of MBG DEVELOPMENT, INC., the Sponsor of the condominium offering plan for the above captioned property.

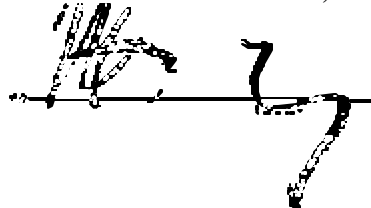
I understand that I have primary responsibility for compliance with the provisions of Article 23-A of the General Business Law, the regulations promulgated by the Department of Law in Part 20 and such other laws and regulations as may be applicable.

I have read the entire offering plan. I have investigated the facts set forth in the offering plan and the underlying facts. I have exercised due diligence to form a basis for this certification. I certify that the offering plan does, and that the documents submitted hereafter by me which amend or supplement the offering plan will:

1. set forth the detailed terms of the transaction and be complete, current and accurate;
2. afford potential investors, purchasers and participants an adequate basis upon which to found their judgment;
3. not omit any material fact;
4. not contain any untrue statement of a material fact;
5. not contain any fraud, deception, concealment, suppression, false pretense or fictitious or pretended purchase or sale;
6. not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;
7. not contain any representation or statement which is false, where I: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth, or (d) did not have knowledge concerning the representation or statement made.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. I understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

MBG DEVELOPMENT, INC.



Martin Ginsburg, President.

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF WESTCHESTER )

On the 10<sup>th</sup> day of July, 1995, before me personally came Martin Ginsburg, to me known, who being by me duly sworn, did depose and say that he resides at 45 Oliphant Avenue, Dobbs Ferry, New York, that he is the President of MBG DEVELOPMENT, INC., the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.



KATHRYN A. MEYER  
Notary Public State of New York .  
No.4973071  
Qualified in Westchester County  
Commission Expires October 9, 1996

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF WESTCHESTER )

On the 10<sup>th</sup> day of July, 1995, before me personally came MARTIN GINSBURG, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.



KATHRYN A. MEYER  
Notary Public State of New York .  
No.4973071  
Qualified in Westchester County  
Commission Expires October 9, 1996



(v) does not contain any fraud, deception, concealment or suppression;

(vi) does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;

(vii) does not contain any representation or statement which is false, where I:

(a) knew the truth;

(b) with reasonable effort could have known the truth;

(c) made no reasonable effort to ascertain the truth; or

(d) did not have knowledge concerning the representations or statements made.

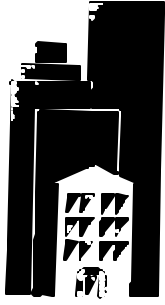
I further certify that I am not owed or controlled by and have no beneficial interest in the Sponsor and that my compensation for preparing this Report is not contingent on the conversion of the property to a condominium or on the profitability or price of the offering. This statement is not intended as a guarantee or warranty of the physical condition of the property.

---

JOHN K. KARHU, R.A.

Sworn to before me this  
10<sup>th</sup> day of July, 1995

  
Notary Public  
**MARK D. GINSBURG**  
Notary Public, State of New York  
No. 02G14906840  
Qualified in Westchester County  
Commission Expires August 31, 1995



# AMERICAN PROPERTY MANAGEMENT GROUP

INCORPORATED

WESTCHESTER PROPERTY MANAGEMENT GROUP, INC.  
AMERICAN PROPERTY MANAGEMENT GROUP CONNECTICUT DIVISION  
AMERICAN PROPERTY MANAGEMENT GROUP NYC/LI- METRO DIVISION

June 1, 1995

Department Of Law  
State Of New York  
120 Broadway - 23rd. Floor  
New York, New York 10271

**RE: WYNDCREST CONDOMINIUM ASSOCIATION**

## **CERTIFICATION OF SPONSOR'S EXPERT CONCERNING ADEQUACY OF BUDGET**

The Sponsor for the condominium offering plan for the captioned property retained our firm to review Schedule B containing projections of income and expenses for the first year of operation of the Condominium project. .

Our firm has been in Real Estate Brokerage and Management for approximately eight years, having performed management of all forms of residential properties. More specifically, our firm has managed over 35 Cooperative, Condominium, Homeowners Associations and rental properties in Westchester County in the past eight years. Our function as managing agent of these properties, involves, among other things the review and analysis of actual and proposed operating statements in determining the common charges for the adequate operation and maintenance of multi-family complex.

We understand that we are responsible for complying with Article 23-A of the General Business Law and regulations promulgated by the Department of Law in part 20 insofar as they are applicable to Schedule A.

We have reviewed the Schedule and investigated the facts set forth in the Schedule and the facts underlying it with due diligence in order to form a basis for this certification. We also relied on our experience in managing residential property.

We certify that the projections in Schedule A appear reasonable and adequate under existing circumstances, and the projected income will be sufficient to meet the anticipated operating expenses for the projected first year of operation of Wyndcrest Condominium.

EXHIBIT A-3



**MOUNT KISCO EXECUTIVE CENTER 118 NORTH ROAD. SUITE 105. MOUNT KISCO, NEW YORK 10549**

**(914) 242.0420 TELECOPIER:(914) 242-0943**

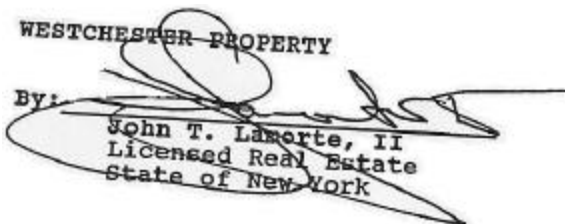
Member C.C.A.C., A.O.A.C., A.C.M.A.

We certify that the Schedule:

1. sets forth in detail the projected income and expenses for the first year of Condominium operation;
2. affords potential investors, purchasers, and participants adequate basis upon which to found their judgement concerning the first year of Condominium operation.
3. does not omit any material fact;
4. does not contain any untrue statement of material fact;
5. does not contain any fraud, deception, concealment, or suppression;
6. does not contain any promise or representations as to the future which is beyond reasonable expectation or unwarranted by existing circumstances.
7. does not contain any representation or statement which is false, where we:
  - a. knew the truth;
  - b. with reasonable effort could have known the truth;
  - c. made no reasonable effort to ascertain the truth; or
  - d. did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by the Sponsor. We understand that a copy of this certification is intended to be incorporated into the offering plan. This statement is not intended as a guarantee or warranty of the income and expenses for the first year of the Wyndcrest Condominium operation.

This certification is made under the penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business and Penal Law.

WESTCHESTER PROPERTY  
By:   
John T. Lamorte, II  
Licensed Real Estate  
State of New York

Sworn to before me this 2<sup>nd</sup>  
day of June, 1995.

Michael A. Richichi  
Notary Public

MICHAEL A. RICHICHI  
Notary Public, State of New York  
No. 4806164  
Qualified In Orange County  
Commission Expires 6/30/96

**DOCUMENT NUMBER 12**

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**WYNDCREST CONDOMINIUM**

Chappaqua Road and North State Road  
Briarcliff Manor, New York 10510

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**APPLICATSION TO THE ATTORNEY GENERAL FOR A  
DETERMINATION ON THE DISPOSITION OF DOWNPAYMENTS**

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MARK D. GINSBURG, ESQ.  
245 Saw Mill River Road  
Hawthorne, New York 10532

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APPLICATION TO THE ATTORNEY GENERAL  
FOR A DETERMINATION ON THE  
DISPOSITION OF DOWNPAYMENTS

[Send this application to the reviewing attorney assigned to the subject plan.]

Re: \_\_\_\_\_  
Address of Building or  
Name of Project

File Number: \_\_\_\_\_

Application is made to the Attorney General to consider and determine the disposition of down payments held pursuant to GBL Sections 352-e(2-b) and 352-h. The following information is submitted in support of this application:

1. Name \_\_\_\_\_  
of Applicant

2. Address \_\_\_\_\_  
of Applicant

3. Name, Address, and Telephone Number  
of Applicant's Attorney (if any) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

4. This is an application for  
 return of downpayment.  
 forfeiture of downpayment.  
 other: \_\_\_\_\_  
\_\_\_\_\_

5. The project is  
 a conversion of occupied premises.  
 newly constructed or rehabilitated.  
 vacant (as is).

6. The project is structured as

- a cooperative.
- a condominium.
- a homeowners association.
- a timehare.
- Other: \_\_\_\_\_

7. Name and Address

of Sponsor: \_\_\_\_\_  
\_\_\_\_\_

8. Name and Address

of Escrow Agent: \_\_\_\_\_  
\_\_\_\_\_

9. If downpayments are maintained in an escrow account:

(a) Name of account \_\_\_\_\_

(b) Name and Address  
of bank \_\_\_\_\_

(c) Account number (if known) \_\_\_\_\_

(d) Initial interest rate (if known) \_\_\_\_\_

10. If downpayments have been secured by bonds:

(a) Name and Address of  
bond issuer or surety \_\_\_\_\_  
\_\_\_\_\_

(b) Copy of bond included in this application. **(DO NOT SEND ORIGINAL BOND.)** If not included, explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. If downpayments have been secured by a letter of credit:  
(a) Name and address of bank which issued the letter of credit:  
\_\_\_\_\_  
\_\_\_\_\_

(b) Date of expiration of the letter of credit, If known:  
\_\_\_\_\_

12. Plan information:

(c) Date of filing of plan

(d) Plan

has been declared effective. Approximate date:

\_\_\_\_\_

has not been declared effective.

(e) If effective, the plan

Has closed or the first unit has closed. Approximate date:

\_\_\_\_\_

Has not closed.

don't know.

(f) Downpayments are secured by

escrow account.

bonds.

letter of credit.

13. Contract information:

(a) Copy of contract and of all riders or modification letters are attached, **(DO NOT SEND ORIGINALS.)**

(b) Date on which subscription or purchase agreement was signed:

\_\_\_\_\_

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(c) Date(s) of downpayment(s): \_\_\_\_\_

(d) Total amount of downpayment(s): \_\_\_\_\_

(e) Names and addresses of subscribers or purchasers affected by this application:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. State the basis for your claim. Please be as specific as possible, You may add additional sheets. Attach copies of an relevant documents.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. I am contemporaneously sending a copy of this application to the following persons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Note: You are required to mail a copy of this Application to all other affected parties.

In filing this application , I understand that the Attorney General is not my private attorney, but represents the public in enforcing laws designed to protect the public from unlawful business practices. I also understand that if I have any questions concerning my legal rights or responsibilities I may contact a private attorney. The above application is true and accurate to the best of my knowledge. False statements made herein are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name (Printed) : \_\_\_\_\_

Telephone: (Home) \_\_\_\_\_ (Business) \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

**DOCUMENT NUMBER 13**

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**WYNDCREST CONDOMINIUM**

Chappaqua Road and North State Road  
Briarcliff Manor, New York 10510

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**ESCROW AGREEMENT**

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MARK D. GINSBURG, ESQ.  
245 Saw Mill River Road  
Hawthorne, New York 10532

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ATTORNEY GENERAL  
OF THE STATE OF NEW YORK  
MODEL FORM  
FOR ESCROW AGREEMENT

AGREEMENT made this 10th day of July, 19 95, between MBG Development, Inc  
( "SPONSOR" ) as sponsor of the offering plan and Mark D. Ginsburg, ESQ ("ESCROW  
AGENT") as escrow agent.

WHEREAS, MBG Deve1opment, Inc is the sponsor of an offering plan to located at convert to  
~~cooperative~~ / condominium ownership the premises located at Chappagua Road and North State Road  
Briarcliff Manor, N.Y 10510 which premises are known as Wyndcrest Condominium; and

WHEREAS, Mark D. Ginsburg, Esq. is authorized to act as an escrow agent thereunder in  
accordance with General Business Law ("GBL" ) Section.. 352-e(2-b) and the Attorney General's regulations  
promulgated thereunder; and

WHEREAS, SPONSOR desires that ESCROW AGENT act as escrow agent for deposits and  
payments by purchasers and subscribers, pursuant to terms of this agreement.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein in and other  
good and valuable consideration, the parties hereby agree as follows:

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1. ESTABLISHMENT OF THE ESCROW ACCOUNT.

1.1 SPONSOR and ESCROW AGENT hereby establish an escrow account with ESCROW AGENT for the purpose of holding deposits or payments made by purchasers or subscribers. The escrow account has been opened with Union State Bank at its depository bank branch located at 76 Virginia Road, North White Plains, NY 10603.

address

The account number is 014006737

1.2 The name of the account is Mark D. Ginsburg, Esq. Attorney Escrow Account.

Trust Account

1.3 ESCROW AGENT is the sole signatory on the account.

1.4 The escrow account shall be an interest-bearing account as disclosed in the offering plan

1.5 The escrow account ~~is~~ / is not an IOLA established pursuant to Judiciary Law Section 497.

2. DEPOSITS INTO THE ESCROW ACCOUNT.

2.1 All funds received from prospective purchasers or subscribers prior to closing, whether in the form of checks, drafts, money orders, wire transfers, or other instruments which identify the payor, shall be deposited in the escrow account. All

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instruments to be deposited into escrow account shall be made payable to, or endorsed by the purchaser or subscriber to the order of Mark D. Ginsburg, ESQ. as escrow agent for Wyndcrest Condominium offering plan. Any instrument payable or endorsed other than as required hereby, and which cannot be deposited into such escrow account, shall be returned to the prospective purchaser or subscriber promptly, but in no event more than five business days following receipt of such instrument by ESCROW AGENT. In the event of such return of funds, the instrument shall be deemed not to have been delivered to ESCROW AGENT pursuant to the terms of this Agreement.

2.2 Within ten (10) business days after tender of the deposit submitted with the subscription or purchase agreement, ESCROW AGENT shall notify the purchaser of the deposit of such funds in the bank indicated in the offering plan, provide the account number, and disclose the initial interest rate. If the purchaser does not receive notification of such deposit within fifteen (15) business days after tender of the deposit, the purchaser cancel the purchase and rescind within ninety (90) days after tender of the deposit, or may apply to the apply the Attorney General for relief. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited in accordance with regulations and requisite notice was timely mailed to the subscriber or purchaser.

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3. RELEASE OF FUNDS

- 3.1 ESCROW AGENT shall not release the escrowed funds of a defaulting purchaser until after consummation of the plan as defined in the Attorney General's regulations. Consummation of the plan shall not relieve SPONSOR of its fiduciary obligations pursuant to GBL Section 352-h.
- 3.2 ESCROW AGENT shall continue to hold the funds in escrow until otherwise direct in (a) a writing signed by both sponsor and purchaser or (b) a determination of the Attorney General or (c) a judgment or order of a court of competent jurisdiction or until released pursuant to the regulations of the Attorney General pertaining to release of escrowed funds.
- 3.3 SPONSOR shall not object to the release of the escrowed funds to (a) a purchaser who timely rescinds in accordance with an offer of rescission contained in the plan or an amendment to the plan or (b) all purchasers after an amendment abandoning the plan is accepted for filing by the Department of Law.
- 3.4 If there is no written agreement between the parties to release the escrowed funds, ESCROW AGENT shall not pay the funds to SPONSOR until ESCROW AGENT has given the purchaser written notice of not fewer than ten (10) business days. Thereafter, the funds may be paid to SPONSOR unless the purchaser has made application to the Department of Law pursuant to the dispute resolution provision contained in the Attorney General's

regulations and has so notified ESCROW AGENT in accordance with such provisions.

4. **RECORDKEEPING.**

4.1 ESCROW AGENT shall maintain all records concerning the escrow account for seven years after release of the funds.

4.2 Upon the dissolution of a laws firm which was ESCROW AGENT, the former partners or members of the firm shall make appropriate arrangements for the maintenance of these records by one of the partners or members of the firm or by the successor firm and shall notify the Department of Law of such transfer.

4.3 ESCROW AGENT shall make available to the Attorney General, upon his request, all books and records of ESCROW AGENT relating to the funds deposited and disbursed hereunder,

5. **GENERAL OBLIGATIONS OF ESCROW AGENT.**

5.1 ESCROW AGENT shall maintain the accounts called for in this Agreement under the direct supervision and control of ESCROW AGENT.

5.2 A fiduciary relationship shall exist between ESCROW AGENT and Purchasers, and ESCROW AGENT acknowledges its fiduciary obligations.

6. RESPONSIBILITIES OF SPONSOR.

6.1 SPONSOR agrees that SPONSOR and its agents, including any selling agents, shall immediately deliver all deposits and payments received by them prior to closing of an individual transaction to ESCROW AGENT.

6.2 SPONSOR agrees that it shall not interfere with ESCROW AGENT'S performance of its fiduciary duties and compliance with the Attorney General's regulations.

7. TERMINATION OF AGREEMENT.

7.1 This Agreement shall remain in effect unless and until it is cancelled, by either:

(a) Written notice given by SPONSOR to ESCROW AGENT of cancellation of designation of ESCROW AGENT to act in said capacity, which cancellation shall take effect only upon the filing of an amendment with the Department of Law providing for a successor ESCROW AGENT; or

(b) The resignation of ESCROW AGENT upon giving notice to SPONSOR of its desire to so resign, which resignation shall take effect only upon the filing of an amendment with the Department of Law providing for a successor ESCROW AGENT; or

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(c) All shares or unites offered pursuant to the plan have been sold an all sales transactions have been consummated.

7.2 Upon termination of the duties of ESCROW AGENT as described in paragraph 7.1 above, ESCROW AGENT shall deliver any and all funds held by it in escrow and any and all contracts or documents maintained by ESCROW AGENT to the new escrow agent.

8. SUCCESSORS AND ASSIGNS.

8.1 This Agreement shall be binding upon SPONSOR and ESCROW AGENT and their successors and assigns.

9.0 GOVERNING LAW.

9.1 This Agreement shall be construed in accordance with and governed by the laws of the State of New York.

10. ESCROW AGENT'S COMPENSATION.

10.1 SPONSOR agrees that ESCROW AGENT's compensation shall no be paid from escrowed principal nor from any interest accruing thereon and that compensation to ESCROW AGENT, if any, shall not be deducted from escrowed funds by any financial institution under any circumstance.

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11. SEVERABILITY.

11.1 If any provision of this Agreement or the application thereof to any person or circumstance is determined to be invalid or unenforceable, the remaining provisions of this Agreement or the application of such provision to other persons or to other circumstances shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

12. ENTIRE AGREEMENT.

12.1 This Agreement, read together with GBL Section 352-e(2-b) and the Attorney General's regulations, constitutes the entire agreement between the parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first written above.

ESCROW AGENT

By: Mark D. Ginsburg .

Print Name

SPONSOR

By: Martin Ginsburg, President .

Print Name & Title      2/6/92