

ARTICLE 5
ARCHITECTURAL REVIEW

Section 5.1. Architectural Committee: The Architectural Committee shall consist of not fewer than three (3) nor more than five (5) persons as fixed from time to time by resolution of the Board. The Declarant shall initially appoint the Architectural Committee. The Declarant shall retain the right to appoint, augment or replace all members of the Architectural Committee until one (1) year after the date of the issuance of a Final Subdivision Public Report covering Phase 1. The Declarant shall retain the right to appoint, augment or replace a majority of the members of the Architectural Committee until five (5) years after the date of the issuance of said Final Subdivision Public Report, or until ninety percent (90%) of the Condominiums within the Development have been conveyed by the Declarant, whichever shall first occur at which time the right to appoint, augment or replace all members of the Architectural Committee shall automatically be transferred to the Board. As long as Declarant has the right to appoint some but not all of the members of the Architectural Committee, the Board shall have the right but not the obligation to fill the remaining vacancies on the Architectural Committee. Persons appointed by the Board to the Architectural Committee must be Members; however, persons appointed by Declarant to the Architectural Committee need not be Members, in Declarant's sole discretion. The address of the Architectural Committee shall be the address established for giving notice to the Association. Such address shall be the place for the submittal of plans and specifications and the place where the current Architectural Standards shall be kept.

Section 5.2. Architectural Standards: The Board may, from time to time, adopt and promulgate architectural standards to be administered through the Architectural Committee (the "Architectural Standards"). The Architectural Standards may include among other things those restrictions and limitations upon the Owners set forth below:

(a) time limitations for the completion of the Improvements for which approval is required pursuant to the Architectural Standards;

(b) conformity of completed Improvements to plans and specifications approved by the Architectural Committee;

(c) such other limitations and restrictions on Improvements as the Board in its reasonable discretion shall adopt, including, without limitation, the regu-

lation of the placement, kind, shape, height, materials, species and location of any Improvement; and

(d) a description of the Improvements which, if completed in conformity with the Architectural Standards, do not require the approval of the Architectural Committee.

Section 5.3. Functions of Architectural Committee:

(a) It shall be the duty of the Architectural Committee to consider and act upon proposals or plans submitted pursuant to the terms of the Declaration or the Architectural Standards, and to perform such other duties delegated to it by the Board.

(b) The Architectural Committee may consult with outside professionals and may delegate its plan review responsibilities to one or more members of such Architectural Committee. Upon such delegation, the approval or disapproval of plans and specifications by such persons shall be equivalent to approval or disapproval by the entire Architectural Committee.

(c) The Architectural Committee may, from time to time, subject to the approval of the Board, adopt, amend and repeal Architectural Committee Rules, may require the prepayment of a deposit to be applied toward the payment of any Special Assessment levied by the Board if such Owner fails to restore any portion of the Property to a clean and attractive condition and may assess a reasonable fee as appropriate for the type and nature of the Improvement, to cover the cost of inspections that may be necessary to insure compliance and in connection with the review of plans and specifications for proposed Improvements, including without limitation, a procedure for approval of preliminary plans and drawings, as well as final approval, the number of sets of plans to be submitted, and may require such detail as it deems proper, including without limitation, floor plans, site plans, elevation drawings, and descriptions or samples of exterior material and colors. Unless any such rules are complied with, such plans and specifications shall be deemed not submitted.

Section 5.4. Allowable Modifications: An Owner shall have the right to make certain modifications in accordance with Section 1360 of the California Civil Code which as of the date of this Declaration, provides that subject to the provisions of the Association Management Documents and other applicable provisions of law, if the boundaries of the

Unit are contained within a building, the Owner of such Unit may do the following:

(a) make any Improvements within the boundaries of such Owner's Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Property; or

(b) modify a Unit, at the Owner's expense, to facilitate access for persons who are blind, visually handicapped, deaf, or physically disabled, or to alter conditions which could be hazardous to these persons. These modifications may also include modifications of the route from the public way to the door of the Unit for the purposes of this paragraph if the Unit is on the ground floor or already accessible by an existing ramp or elevator. The modifications shall be consistent with applicable building code requirements and shall be consistent with the intent of otherwise applicable provisions of the Association Management Documents pertaining to safety or aesthetics. The modifications external to the dwelling shall not prevent reasonable passage by other residents, and shall be removed by the Owner when the Unit is no longer occupied by persons requiring those modifications who are blind, visually handicapped, deaf, or physically disabled.

Any change in the exterior appearance of a Unit shall be in accordance with the Association Management Documents and applicable provisions of law.

Section 5.5. Approval:

(a) No Improvements shall be made upon the Property, including those made pursuant to California Civil Code Section 1360 as provided above, except in compliance with plans and specifications therefor which have been submitted to and approved by the Architectural Committee except as may otherwise be provided in the Architectural Standards or in a Supplementary Declaration. An Owner who intends to modify a Unit pursuant to the foregoing Section entitled "Allowable Modifications" shall submit plans and specifications to the Architectural Committee to determine whether the modifications comply with such Section. The Architectural Committee shall not deny approval of the proposed modifications which comply with the provisions of subparagraph (b) of said Section without good cause.

(b) The Architectural Committee shall review plans and specifications submitted for its approval as to style, exterior design, appearance and location and

shall approve such plans and specifications only if it deems that the proposed Improvement will not be detrimental to the appearance of the Development as a whole; that the Improvement complies with the Architectural Standards; that the appearance of any Improvements will be in harmony with the surrounding structures; that the construction of any Improvement will not detract from the beauty and attractiveness of the Development or the enjoyment thereof by the Owners; and that the upkeep and maintenance of any Improvement will not become a burden on the Association. The Architectural Committee (i) may determine that such Improvement cannot be approved because of its effect on existing drainage, utility or other easements, (ii) may require submission of additional plans and specifications or other information or materials prior to approving or disapproving plans and specifications submitted, or (iii) may condition its approval of plans and specifications for any Improvement on such changes therein as it deems appropriate such as, and without limitation, the approval of such Improvement by a holder of an easement which may be impaired thereby or upon approval of any such Improvement by the appropriate governmental entity. Any Architectural Committee approval conditioned upon the approval by a governmental entity shall not imply the Association is enforcing any government codes or regulations, nor shall the failure to make such conditional approval imply that any such governmental agency approval is not required.

(c) In the event the Architectural Committee fails to approve or disapprove plans and specifications within forty-five (45) days after the same have been duly submitted in accordance with any rules regarding such submission adopted by the Architectural Committee, such plans and specifications will be deemed approved.

(d) If for any reason an inspection has not been made within forty-five (45) days of notification by the Owner of the completion of an Improvement or the Owner requesting such inspection has not been notified of any noncompliance within thirty (30) days after such inspection, the Improvement shall be deemed to be completed in substantial conformance with approved plans and specifications.

Section 5.6. Nonliability for Approval: Plans and specifications are not approved for (a) engineering design, (b) compliance with zoning and building ordinances, and other applicable statutes, ordinances or governmental rules or regulations, (c) compliance with the requirements of any public utility, (d) any easements or other agreement, or (e)

preservation of any view and by approving such plans and specifications neither the Architectural Committee, the members thereof, the Association, the Owners, the Board nor Declarant, nor agents, employees, attorneys or consultants of any of the foregoing, assume liability or responsibility therefor, or for any defect in any Improvement constructed from such plans and specifications or for any obstruction or impairment of view caused or created as the result of any Improvements approved by the Architectural Committee.

Section 5.7. Appeal: In the event plans and specifications submitted to the Architectural Committee are disapproved thereby, the party or parties making such submission may appeal in writing to the Board. The written request shall be received by the Board not more than fifteen (15) days following the final decision of the Architectural Committee. The Board shall submit such request to the Architectural Committee for review, whose written recommendations are to be submitted to the Board. Within forty-five (45) days following receipt of the request for appeal, the Board shall render its written decision. The failure of the Board to render a decision within said forty-five (45) day period shall be deemed a decision in favor of the appellant.

Section 5.8. Nonapplicability to Declarant: As provided elsewhere in the Association Management Documents, the Declarant is not subject to the provisions of the Association Management Documents pertaining to architectural control. Any Improvements constructed by the Declarant shall automatically be in compliance with the Association Management Documents and shall not be subject to further architectural control until and unless there has been a change or alteration made by a successor in title to the Declarant as to any Residence in the material, texture, color or appearance of any such Improvement upon such Residence. Normal maintenance, repair or reconstruction by any successor in title to the Declarant in the event of a destruction, in substantial conformance with the Improvements constructed by the Declarant, shall not be deemed to be an Improvement that requires approval pursuant to the provisions of this Article.

Section 5.9. Evidence of Approval: The Architectural Committee of the Association shall provide to any Owner, purchaser, Mortgagee or prospective Mortgagee of a Residence who has submitted a written request therefor a statement as to the compliance or noncompliance, as the case may be, of the Improvements upon such Residence made by Owners other than Declarant with the provisions of the Association Management Documents. If the Improvements upon such Residence comply with the provisions of the Association Management Documents, the Architectural Committee shall, upon such request, issue a statement (hereinafter a "Compliance Statement") which will evidence such compliance.

If any of the Improvements upon such Residence do not comply with the provisions of the Association Management Documents, the Architectural Committee shall, upon such request, issue a statement (hereinafter a "Noncompliance Statement") delineating the corrective action that is required to bring such Improvements into compliance with the Association Management Documents. In the event the Architectural Committee has issued a Noncompliance Statement as to any such Residence, the Architectural Committee shall provide a Compliance Statement, upon request, after the corrective work has been satisfactorily completed which shall then evidence that the Improvements upon such Residence comply with the provisions of the Association Management Documents.

The Architectural Committee shall provide either a Compliance Statement or a Noncompliance Statement, as applicable, within forty-five (45) days of a written request therefor by any such Owner, purchaser, Mortgagee or prospective Mortgagee provided that the Architectural Committee, after notice of not less than three (3) days delivered to the Owner of such Residence, was afforded the right to enter upon the affected Residence at a reasonable time specified by the Architectural Committee. Failure to schedule an inspection or to issue a Compliance Statement or Noncompliance Statement for any reason within the time limitation established herein shall be deemed to mean that all existing Improvements do comply with the Association Management Documents and any such requesting Owner, purchaser, Mortgagee or prospective Mortgagee shall be entitled to receive a Compliance Statement evidencing such compliance.

Any Compliance or Noncompliance Statement issued by the Architectural Committee shall be executed by any person or persons authorized by resolution of the Board or by the president and secretary of the Association. The signatures on a Compliance Statement shall be notarized. A Compliance Statement shall be conclusive evidence of compliance with the provisions of the Association Management Documents as to the Improvements described in the Compliance Statement and further approval of any such Improvements shall not be required unless there is a change or alteration in material, exterior appearance, color or texture in such Improvements. The Association shall be entitled to collect a fee to cover the cost of inspections and other costs in connection with the issuance of any Compliance Statements and Noncompliance Statements in accordance with the provisions of this Declaration contained in the Section entitled "Limitation on Fees" of the Article entitled "Assessments" and the Section entitled "Functions of Architectural Committee" of this Article.

Section 5.10. Nonconformity: In the event an Improvement was commenced without the required approval of

the Architectural Committee, or, if such Improvement was not completed within the time limitation established for such Improvement in the Architectural Standards or in substantial conformance with the approved plans and specifications, a notice of noncompliance or noncompletion shall be delivered to the violating Owner and the Architectural Committee shall correct the violation or take other appropriate action in accordance with the procedure described in the Article entitled "Discipline of Members" of the Bylaws.

Section 5.11. Variances: The Board may authorize a variance from compliance with the architectural controls set forth in this Article when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental consideration may require; provided, however, that no variance from the use restrictions contained in the Article entitled "Use Restrictions" of this Declaration may be granted. Written evidence of such variance must be delivered to such Owner and a copy of the resolution of the Board authorizing such variance must be retained in the permanent records of the Association. If such variances are granted, no violation of the covenants, conditions and restrictions contained in the Association Management Documents shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of the Association Management Documents for any purpose except as to the particular Condominium and particular provision of this Article covered by the variance, nor shall it affect in any way the Owner's obligation to comply with all government laws and regulations affecting his use of his Condominium including, but not limited to, zoning ordinances and lot setback lines or requirements imposed by any governmental or municipal authority.

Section 5.12. Reconstruction After Destruction: The reconstruction after destruction by casualty or otherwise of any Residences which is accomplished in substantial compliance with the provisions of the Section entitled "Compliance with Plans" of the Article entitled "Destruction of Improvements" of this Declaration shall not require compliance with this Article.

Section 5.13. Construction of Patio Covers: No patio cover may be constructed on or about the Exclusive Use Common Area unless the plans and specifications therefor have been approved in writing by the Architectural Committee in accordance with the provisions of this Article 5. Furthermore, unless otherwise approved by the Architectural Committee, no patio cover shall be constructed other than in accordance with the specifications, including the identical materials, elevations, measurements, height and colors, as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.