

AMENDED AND RESTATED BYLAWS OF  
SOUTH NEGLEY COMMONS  
CONDOMINIUM ASSOCIATION

BYLAWS

ARTICLE I - INTRODUCTORY - PROVISIONS

1.1 Applicability. These Bylaws provide for the governance of the Association pursuant to the requirements of Section 3306 of the Act with respect to the Condominium created by the recording of the Declaration of Condominium (the "Declaration") in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, in Deed Book Volume 12605, Page 523.

1.2 Definitions. Capitalized terms used herein without definition shall have the meanings specified for such terms in the Declaration to which these Bylaws pertain or, if not defined therein, the meanings specified or used for such terms in the Act.

1.3 Compliance. Pursuant to the provisions of the Act, every Unit Owner and all Persons entitled to occupy a Unit shall comply with these Bylaws.

1.4 Office. The office of the Condominium, the Association and the Executive Board shall be located at the Management office, 5570 Centre Ave, Pittsburgh, Pennsylvania 15232, or at such other place as may be designated from time to time by the Executive Board.

ARTICLE II - THE ASSOCIATION

2.1 Composition. The Association is organized as an unincorporated association under Pennsylvania law. The membership of the Association shall consist of all of the Unit Owners acting as a group in accordance with the Act, the Declaration and these Bylaws. The Association shall have the responsibility of administering the Condominium, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the Association pursuant to the Act, the Declaration and these Bylaws. Except as otherwise specifically noted to the contrary, the foregoing responsibilities shall be performed by the Executive Board as more particularly set forth in these Bylaws.

2.2 Annual Meeting. The annual meeting of the Association shall be held on the first Wednesday of December of each year unless such date shall occur on a holiday, in which event the meeting shall be held on the first Thursday of December. At such annual meeting, the Executive Board shall be elected by ballot of the Unit Owners in accordance with the requirements of Section 3.4 of these Bylaws and such other business as may properly come before the meeting may be transacted.

2.3 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Unit Owners as may be designated by the Executive Board.

2.4 Notice of Annual and Special Meetings. Not less than twenty (20) nor more than forty-five (45) days prior to any meeting, the Secretary shall cause notice to be hand delivered or sent prepaid by United States Mail to the mailing address of each Unit or to any other mailing addresses designated in writing by a Unit Owner(s) for such purpose. Every notice must state the time and place of meeting and the items listed on the agenda, including but not limited to the general nature of any proposed amendment to the Bylaws; provided, any matter related to the Condominium may be discussed and voted upon at any Regular Meeting whether or not listed in the Agenda except an amendment to the Declaration, to these By-laws or the removal of an Executive Board member or an officer.

2.5 Special Meetings.

(a) The President shall call a special meeting of the Association if so directed by resolution of the Executive Board or upon a petition signed and presented to the Secretary by Unit Owners entitled to cast at least (25%) of the votes in the Association. Such meeting shall be held not less than twenty (20), nor more than forty-five (45) days after receipt by the President of said resolution or petition, due notice having been given to the Unit Owners;

(b) Notwithstanding the foregoing, if any meeting required pursuant to subparagraph (a) above, in the judgment of the President, may reasonably be held on the date an annual meeting of the Association is scheduled, then such meeting(s) shall be held concurrently with such annual meeting.

2.6 Adjournment of Meeting. If at any meeting of the Association a quorum as defined in Section 2.9 is not present, Unit Owners entitled to cast a majority of the votes represented at such meeting may adjourn the meeting to a time not less than twenty-four (24) hours after the time for which the original meeting was called.

2.7 Voting.

(a) Voting by each Unit Owner at all meetings of the Association shall be equal to the Percentage Interest allocated to the Unit of such Unit Owner. Where the ownership of a Unit is in more than one Person, a partnership or a corporation, the Person who shall be entitled to cast the single vote of such Unit shall be the Person named in a certificate executed by all of the Owners of such Unit and filed with the Secretary or, in the absence of such named Person from the meeting, the Person who shall be entitled to cast the vote of such Unit shall be the Person owning such Unit who is present. If more than one Person owning such Unit is present, then such vote shall be cast only in accordance with their unanimous agreement pursuant to Section 3310(a) of the Act. There shall be deemed to be unanimous agreement if any one of the multiple Owners casts that Unit's vote allocated to the Unit without protest being made, promptly and prior to the tallying of votes, to the Person presiding over the meeting by any of the other Owners of the Unit. Any such certificate shall be valid until revoked by a subsequent certificate similarly executed. Subject to the requirements of the Act, wherever the approval or disapproval

of a Unit Owner is required by the Act, the Declaration or these Bylaws, such approval or disapproval shall be made only by the Person who would be entitled to cast the vote of such Unit at any meeting of the Association;

(b) Except where a greater number is required by the Act, the Declaration or these Bylaws, the Owners of more than fifty percent (50%) of the total votes in the Condominium present and voting in person or by proxy at one time at a duly convened meeting at which a quorum is present is required to adopt decisions at any meeting of the Association;

(c) In all elections for Executive Board members, each Unit Owner shall be entitled to cast for each vacancy to be filled at such election the vote allocated to the Unit or Units owned by such Unit Owner as provided in the Declaration. Those candidates for election receiving the greatest number of votes cast in such elections shall be elected and, if Executive Board members are being elected to unequal terms, the candidates receiving the highest number of votes shall be elected to the longest terms;

(d) If the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the Association to cast the votes to which such Unit or Units are entitled. No votes allocated to a Unit owned by the Association may be cast. There shall be no cumulative or class voting.

2.8 Proxies. A vote may be cast in person or by proxy held only by a Unit Owner in good standing or a partner or corporate officer of such Unit Owner. If a Unit is owned by more than one Person, Section 2.7(a) above shall control. Proxies shall be duly executed in writing, shall be valid only for the particular meeting designated therein, and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the Person presiding over such meeting of written notice of revocation from the grantor(s) of the proxy. No proxy shall be valid for a period in excess of one year after the execution thereof. A proxy is void if it is not dated or purports to be revocable without notice.

2.9 Quorum. Except as set forth below, the presence in person or by proxy of Unit Owners of ten percent (10%) or more of the aggregate Percentage Interests at the commencement of a meeting shall constitute a quorum at all meetings of the Association. If a meeting is adjourned pursuant to Section 2.6 above, the quorum at such second meeting shall be deemed present throughout any meeting of the Association if Persons entitled to cast five percent (5%) of the votes which may be cast for the election of the Executive Board are present in person or by proxy at the beginning of the meeting.

2.10 Conduct of Meetings. The President (or in his absence, the vice-president) shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting in writing.. The President may appoint a Person to serve as parliamentarian at any meeting of the Association. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Declaration, these Bylaws or the Act. All votes shall be tallied by tellers appointed by the President.

### ARTICLE III - EXECUTIVE BOARD

3.1 Number and Qualification. The affairs of the Association shall be governed by an Executive Board. The Executive Board shall be composed of no less than three (3) and no more than seven (7) natural persons, all of whom shall be Unit Owners or designees of the Declarant. The number of members of the Executive Board may be determined by the members of the Association at the Association's annual meeting.

3.2 Delegation of Powers; Managing Agent. The Executive Board may employ for the Condominium a "Managing Agent" at a compensation established by the Executive Board. The Managing Agent shall perform such duties and services as the Executive Board shall authorize, including, but not limited to, all of the duties listed in the Act, the Declaration and these Bylaw; provided, however, where a Managing Agent does not have the power to act under the Act, the Declaration or these Bylaws, such duties shall be performed as advisory to the Executive Board. The Executive Board may delegate to the Managing Agent all of the powers granted to the Executive Board by the Act, the Declaration and these Bylaws other than the following powers:

- (a) to adopt the annual budget and any amendment thereto or to assess any Common Expenses;
- (b) to adopt, repeal or amend Rules and Regulations;
- (c) to designate signatories on Association bank accounts;
- (d) to borrow money on behalf of the Association;
- (e) to acquire and mortgage Units;
- (f) to allocate Limited Common Elements; and
- (g) to change Unit boundaries.

Any contract between the Association and the Managing Agent must at a minimum provide that it may be terminated with or without cause on ninety (90) days' written notice. The term of any such contract may not exceed three (3) years. Subject to the requirements of the Act and the Declaration, the Managing Agent may be an affiliate of the Declarant.

3.3 Powers and Duties. Subject only to the provisions of the Act and the Declaration, the Executive Board shall have all the powers and duties necessary to administer and manage the business, operation and affairs of the Property and of the Association, including those listed in 3.2 above and the powers from time to time to:

- (a) hire and terminate managing agents and other employees, agents, attorneys, accountants and other independent contractors;
- (b) institute, defend, or intervene in litigation or administrative proceedings in its own name, on behalf of itself, or two or more Unit Owners on matters affecting the Condominium;

- (c) make contracts and incur liabilities;
- (d) enter into contracts for and regulate the use, maintenance, repair, replacement, and modification of Common Elements and Parking Areas; and designate common elements as limited common elements and vice versa in its reasonable discretion;
- (e) acquire, hold, encumber, and sell in the name of the Association or in the name of a nominee or trustee, any right, title or interest in real or personal property;
- (f) grant easements, leases, licenses, agreements and concessions through or over the Common Elements, including Limited Common Elements and the Parking Areas;
- (g) impose and receive any payments, fees or charges for the use, rental or operation of the Common Elements and Parking Areas except as not permitted by the Act;
- (h) impose charges for late payment of Assessments and, after notice and an opportunity to be heard, levy reasonable fines not to exceed One Hundred Dollars (\$100.00) per day for the first three (3) days and Five Hundred Dollars (\$500.00) thereafter for a violation or violations of the Declaration, Bylaws, and Rules and Regulations of the Association;
- (i) impose reasonable charges for the preparation and recordation of amendments to the Declaration, resale certificates, or statements of unpaid assessments, and any other required reports or notices;
- (j) provide for the indemnification of its officers and Executive Board and maintain directors and officers' liability insurance;
- (k) make a final determination of any claim or dispute by a Unit Owner as to whether any charge or expense applies against the Unit Owner or is a Common Expense and such determination shall be final, conclusive and binding;
- (l) establish a reserve or reserves and collect the Common Expenses from the Unit Owners for working capital, and to make up any deficit in the Common Expense for any prior year.
- (m) make inspections as required, and carry out such required maintenance;
- (n) at the closing of each Unit sold by Declarant, collect a "one time" payment from a Unit Owner of a sum not to exceed one (1) time the expected amount of the first monthly Common Expense payment to be assessed against said Unit. Said "one time" payment will be paid into the working capital account;
- (n) adopt, amend and enforce minimum standards for floor covering within Units and standards governing drapery liners and blinds on the windows visible from any public street pursuant to the guidelines set forth in the Declaration;
- (o) open bank accounts on behalf of the Condominium and designate the signatories required therefore;

- (q) designate exterior parking spaces for guest and handicap parking and loading spaces;
- (s) sell Parking Licenses after Declarant ceases to be a Unit Owner;
- (p) enter into agreements concerning the Building and the Property and the use, occupancy and maintenance thereof and services related thereto;
- (q) make repairs, additions and improvements to or alterations to the Property and repairs to or restoration of the Property after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings;
- (r) act as agent for the collection of any utility payments which are not Common Expenses but which are paid on some other basis;
- (s) establish reasonable rules and regulations for the use and enjoyment of the Condominium including, without limitation, the Parking Area;
- (t) make rules and regulations, and enter into agreements for the use of Community Areas by Unit Owners and by others and establish a fee schedule and collect fees for such use;
- (u) exercise any other powers and duties provided for in the Act, the Declaration or these Bylaws;
- (v) exercise all other powers, that may be exercised in this state by legal entities of the same type as the Association; and
- (w) exercise any other powers necessary and proper for the governance and operation of the Association.

#### 3.4 Election and term of Office.

- (a) The election of members of the Executive Board shall be held at the annual meeting of the Association. The term of office of any Executive Board member to be elected (except as set forth in Section 3.6 hereof) shall be fixed at three (3) years. The members of the Executive Board shall hold office until the earlier to occur of the election of their respective successors or their death, adjudication of incompetency, removal, or resignation. An Executive Board member may serve an unlimited number of terms and may succeed himself;
- (b) Any interested and eligible Unit Owner may submit to the Secretary at least ten (10) days before the October Executive Board meeting a nominating petition signed by at least three (3) Unit Owners, together with a statement that the person nominated is willing to serve on the Executive Board and a biographical sketch of the nominee. The Secretary shall mail or hand deliver the submitted items to every Unit Owner along with the notice of the Annual meeting; and
- (c) Vacancies shall be filled by those candidates receiving the highest number of votes. In the event of a tie, subsequent ballots may be employed.

3.5 Removal or Resignation of Members of the Executive Board. Except with respect to those members designated by Declarant, at any regular or special meeting of the Association duly called, any one or more of the members of the Executive Board may be removed with or without cause by the casting of votes representing a majority of the votes allocated to all Unit Owners. Additionally, a successor may then and there be elected to fill the vacancy thus created. Any Unit Owner proposing removal of a Board member shall give notice thereof to the Secretary. Any Executive Board member whose removal has been proposed by a Unit Owner shall be given at least thirty (30) days' notice by the Secretary of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. This sentence may not be modified or amended to the detriment of any member of the Executive Board. A member of the Executive Board may resign at any time and shall be deemed to have resigned upon transfer of title to his Unit. Declarant shall have the right to remove and replace any or all Executive Board members appointed by Declarant at any time and from time to time until the required resignation date specified in the Declaration.

3.6 Vacancies. Except as set forth in Section 3.5 above with respect to Executive Board members appointed by Declarant vacancies in the Executive Board caused by any reason other than the removal of an Executive Board member by a vote of the Unit Owners shall be filled by a vote of a majority of the remaining members of the Executive Board at a meeting held for such purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. In the event of a tie vote, a special meeting of the Association will be promptly called to fill the vacancy. Each person so elected shall be a member of the Executive Board for the remainder of the term of the member being replaced and until a successor shall be elected at the next annual meeting of the Association at which such seat is to be filled upon expiration of the term of his predecessor.

In any case of multiple vacancies, the person receiving the greatest number of votes shall be elected for the longest term and so on.

3.7 Organization Meeting. The first meeting of the Executive Board shall be held within thirty (30) days following the first annual meeting of the Association at such time and place as shall be fixed by the President who presided at the first meeting of the Association at which such Executive Board was elected. No further notice need be given newly elected members of the Executive Board, provided a majority of the Executive Board members must be present at such organization meeting.

3.8 Regular Meeting. Regular meetings of the Executive Board may be held at such time and place as shall be determined from time to time by a majority of the members thereof, but such meetings shall be held at least once each quarter during each fiscal year. Notice of regular meetings of the Executive Board shall be given to each member thereof, by regular mail, fax or electronic mail, at least ten (10) business days prior to the day named for such meeting. Notice of any such Regular Meetings shall be posted in the lobby of the Building at least ten days prior to the date thereof.

3.9 Special Meetings. Special meetings of the Executive Board may be called by the President or on the written request of at least two (2) members of the Executive Board on at least five (5) business days' notice to each member, given by regular mail, fax or electronic mail,

which notice shall state the time, place and purpose of the meeting. Only the matters stated in the notice may be considered at any such special meeting unless all members are present or deemed to be present..

3.10 Waiver of Notice. Any member of the Executive Board may at any time, in writing, waive notice of any meeting, and such waiver shall be deemed equivalent to the receipt of such notice. Attendance by a member at any meeting of the Executive Board shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all members are present at any meeting of the Executive Board, no notice shall be required and any business may be transacted at such meeting.

3.11 Quorum of the Executive Board. At all meetings of the Executive Board, a majority of the members shall constitute a quorum for the transaction of business, and the votes of a majority of the members present at a meeting at which a quorum is present shall constitute the decision of the Executive Board. If at any meeting of the Executive Board there shall be less than a quorum present, a majority of Board Members present may adjourn the meeting to another time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. One or more members of the Executive Board may participate in and be counted for quorum purposes at any meeting by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other.

3.12 Compensation. No member of the Executive Board shall receive any compensation from the Association for acting as such, but may be reimbursed for any expenses incurred in the performance of his duties.

3.13 Conduct of Meetings. The President shall preside over all meetings of the Executive Board and the Secretary shall keep a minute book of the Executive Board meetings, recording therein all resolutions adopted by the Executive Board and a record of all transactions and proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Executive Board if and to the extent not in conflict with the Declaration, these Bylaws or the Act.

3.14 Action Without Meeting. Any action by the Executive Board required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Executive Board shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Executive Board.

3.15 Validity of Contracts with Interested Executive Board Members. No contract or other transaction between the Association and one or more of its Executive Board members or between the Association and any corporation, firm, or association in which one or more of the Executive Board members are directors or officers, or are financially interested, shall be void or voidable because such Executive Board member or members are present at any meeting of the Executive Board which authorized or approved the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:



(a) The fact that an Executive Board member is also such a director or officer or has such financial interest is disclosed or known to the Executive Board and is noted in the minutes thereof, and the Executive Board authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of the Executive Board member or members having such an interest; or

(b) The contract or transaction is made in good faith and is not unconscionable to the Association at the time it is authorized, approved or ratified.

3.16 Inclusion of Interested Executive Board Members in the Quorum. Any Executive Board member holding such director or officer position or having such financial interest in another corporation, firm or association may be counted in determining the presence of a quorum at a meeting of the Executive Board or a committee thereof which authorizes, approves or ratifies a contract or transaction of the type described in Section 3.15 above.

#### ARTICLE IV - OFFICERS

4.1 Designation. The principal officers of the Association shall be the President, the Vice President, the Secretary and the Treasurer, all of whom shall be elected by the Executive Board. The Executive Board may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. The President and Vice President must be members of the Executive Board. Any other officers may, but need not, be Unit Owners or members of the Executive Board. An officer other than the President may hold more than one office.

4.2 Election of Officers. The officers of the Association shall be elected annually by the Executive Board at the organization meeting of each new Board and shall hold office at the pleasure of the Executive Board.

4.3 Removal of Officers. Upon the affirmative vote of a majority of all members of the Executive Board, any officer may be removed, either with or without cause, and a successor may be elected at any meeting of the Executive Board called for such purpose.

4.4 President. The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Executive Board and have all of the general powers and duties which are incident to the office of president of a corporation organized under the laws of Pennsylvania including without limitation the power to appoint committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association. The President shall, without further action, automatically cease holding such office at such time as he ceases to be a member of the Executive Board.

4.5 Vice President The Vice President shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Executive Board shall appoint some other member of the Executive Board to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be delegated or assigned him by the Executive Board or by the President. The Vice President shall,

without further action, automatically cease holding such office at such time as he ceases to be a member of the Executive Board.

4.6 Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Executive Board, have charge of such books and papers as the Executive Board may direct, maintain a register setting forth the place to which all notices to Unit Owners and holders of Qualified Mortgages shall be delivered and, in general, perform all the duties incident to the office of secretary of a corporation organized under the laws of Pennsylvania. The Secretary shall, upon request, provide any Person, or cause to be provided to any Person entitled thereto, a written statement or certification of the information required to be provided by the Association pursuant to Sections 3315 (g) or 3407 (b) of the Act, by the Declaration, or by Sections 5.9 and 5.11 of these Bylaws.

4.7 Treasurer. The Treasurer shall have the responsibility for the safekeeping of Association funds and securities, be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, and for the preparation of all required financial data, and be responsible for the deposit of all monies in the name of the Executive Board, the Association or the Managing Agent, in such depositories as may from time to time be designated by the Executive Board and, in general, perform all the duties incident to the office of treasurer of a corporation organized under the laws of Pennsylvania.

4.8 Salaries and cost Reimbursement. Any officer who is not a Unit Owner or a member of the Executive Board may be paid a reasonable salary for his or her services, as determined by the Executive Board. Such persons and Executive Board members may be reimbursed for costs incurred in carrying out their duties hereunder.

4.9 Execution of Documents.

(a) All agreements, contracts and instruments which the Managing Agent is authorized to execute for and on behalf of the Association (subject to Section 3.2 hereof), as well as purchase orders and checks in such amount (hereinafter the "Contract Limit") as may be established from time to time by the Executive Board under the terms of a Managing Agent Contract, may be executed by the Managing Agent;

(b) All other agreements, contracts, deeds, leases, and all checks and other instruments such as purchase orders of the Association for expenditures or obligations in excess of the Contract Limit shall be executed by two officers of the Association, including the President or the Vice President; provided, however if authorized by the Executive Board, the Managing Agent, alone or with a member of the Executive Board, may in individual instances be authorized to execute any such instruments or checks and purchase orders in excess of the Contract Limit;

(c) Without limiting the provisions of subsection (b) above, the Executive Board may waive the Contract Limit for checks and purchase orders where:

- (i) The Managing Agent posts a fidelity bond in an amount satisfactory to the Executive Board; and
- (ii) The purchase or expenditure is within the established Condominium budget limits or is otherwise expressly authorized by action of the Executive Board; or
- (iii) Capital improvements or equipment acquisitions have been previously authorized by the Executive Board.

## ARTICLE V - COMMON EXPENSES; BUDGETS

5.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by the Executive Board; provided, however, that the first fiscal year shall begin upon the recordation of the Declaration and end on December 31 of the year of recordation.

### 5.2 Preparation and Approval of Budget.

(a) On or before the 15<sup>th</sup> day of November of each year, the Executive Board shall adopt an annual budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which it is the responsibility of the Executive Board to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Act, the Declaration, these Bylaws or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. Such budget shall also include such reasonable amounts as the Executive Board considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements;

(b) On or before the next succeeding 10<sup>th</sup> day of December, the Executive Board shall make the budget available for inspection at the Association office and shall send to each Unit Owner a copy of the budget in a reasonably itemized form that sets forth the amount of the Common Expenses. Such budget shall constitute the basis for determining each Unit Owner's Assessments for General Common Expenses and Limited Common Expenses of the Association and shall automatically take effect at the beginning of the fiscal year for which it is adopted, subject, however, to Section 5.8 below;

(c) The Executive Board shall make reasonable efforts to meet the deadlines set forth above, but precise compliance with such deadlines shall not be a condition precedent to the effectiveness of any budget; provided in any event the Unit Owners shall have not less than ten (10) days after receiving notice of any budget to exercise their rights under Section 5.8 hereof.

### 5.3 Assessment and Payment of Common Expenses.

(a) Common Expenses. The Executive Board shall calculate the monthly assessments for General Common Expenses against each Unit by multiplying (i) the total amount of the estimated funds required for the operation of the Property set forth in the budget adopted by the Executive Board for the fiscal year in question, after-deducting any Limited Expenses and income expected to be received from sources other than Common Expense Assessments and the operation of the Limited Common Elements to which the Limited Expenses pertain, by (ii) the Percentage Interest allocated to such Unit, and dividing the resultant product by (iii) the number of calendar months in such fiscal year. Such assessments shall be deemed to have been adopted and assessed on a monthly basis and not on an annual basis payable in monthly installments, and shall be due and payable on the first day of each calendar month and shall be a lien against each Unit Owner's Unit as provided in the Act and the Declaration. Within ninety (90) days after the end of each fiscal year, the Executive Board shall prepare and deliver to each Unit Owner and to each record holder of a Qualified Mortgage on a Unit who has registered an address with the Secretary an itemized accounting of the Common Expenses and funds received during such fiscal year, less expenditures actually incurred and sums paid into reserves. Any net shortage with regard to General Common Expenses, after application of such reserves as the Executive Board may determine, shall be assessed promptly against the Unit Owners in accordance with their Percentage Interests and shall be payable in assessments, as the Executive Board may determine. Any net shortage with regard to Limited Expenses, after application of such reserves as the Executive Board may determine, shall be assessed promptly against the Unit Owners obligated to pay such Limited Expenses in accordance with their allocable share of such Limited Expenses and shall be payable in assessments, as the Executive Board may determine;

(b) Reserves. The Executive Board shall build up and maintain reasonable reserves for working capital, operations, maintenance, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year may at the option of the Executive Board be charged first against such reserves. If the reserves are deemed to be inadequate for any reason, including nonpayment of any Unit Owner's assessments, the Executive Board may at any time, levy further assessments for General Common Expenses and/or Limited Expenses which shall be assessed against the Unit Owners either according to their respective Percentage Interests with regard to General Common Expenses or in accordance with allocable shares of Limited Expenses with regard to Limited Expenses (whichever is appropriate), and shall be payable in assessments as the Executive Board may determine.

5.4 Further Assessments. The Executive Board shall serve notice on all Unit Owners of any further assessments pursuant to Sections 5.3 or otherwise as permitted or required by the Act, the Declaration or these Bylaws by a statement in writing giving the amount and reasons therefore, and such further assessments shall, unless otherwise specified in the notice, become effective with the next monthly assessment. All Unit Owners so assessed shall be obligated to pay the amount of such assessments. Such assessments shall be a lien as of the effective date as set forth in Section 5.3.

5.5 Initial Budget. At or prior to the time assessment of Common Expenses commences, the Executive Board shall adopt a budget, as described in this Article, for the period commencing on the date the Executive Board determines that assessments shall begin and ending on the last day of the fiscal year during which such commencement date occurs. Assessments shall be levied and become a lien against the Unit Owners during such period as is provided in Section 5.3 above.

5.6 Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Executive Board to prepare or adopt as budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay each monthly assessment at the rate established for the previous fiscal year until the new annual or adjusted budget shall have been adopted.

5.7 Accounts; Audits. All sums collected by the Executive Board with respect to Assessments against the Unit Owners or from any other source may be commingled into a single fund. All books and records of the Association shall be kept in accordance with generally accepted accounting practices, and the same shall be audited at least once each year by an independent accountant retained by the Executive Board.

5.8 Rejection of Budget; Limitations on Expenditures and Borrowing.

(a) Anything herein to the contrary notwithstanding, the Association, by majority vote of all votes in the Association, may reject any budget or capital expenditure approved by the Executive Board, within ten (10) days after notice is given to the Unit Owners pursuant to Section 5.2(a) above;

(b) If a budget is rejected in accordance with Section 5.8(a) above, either:

(i) Section 5.6 shall apply; or

(ii) The Executive Board may prepare a revised budget and submit it to the Unit Owners.

(c) The power of the Executive Board to expend funds, incur expenses or borrow money on behalf of the Association is subject to the requirement that the consent of Unit Owners entitled to cast at least a majority of the votes in the Association obtained at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to expend funds or incur expenses that it is reasonably anticipated will cause the aggregate amount of all expenses in the budget (including reserves) to be exceeded by more than ten percent (10%) of such aggregate amount after taking into account any projected increases in income.

5.9 Payment of Common Expenses. Each Unit Owner shall pay the Common Expenses assessed by the Executive Board against the Unit of such Unit Owner. No Unit Owner may exempt himself from liability for his contribution toward Common Expenses by waiver of the use or enjoyment of any of the Common Elements or by abandonment of the Unit of such Unit Owner. No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to the date of recordation of a conveyance by such Unit Owner in fee of such Unit. The purchaser of a Unit shall be jointly and severally liable with the selling Unit Owner for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of such recordation, without prejudice to the purchaser's right to recover from the selling Unit Owner amounts paid by the purchaser therefor. Any such purchaser shall be entitled to a statement setting forth the amount of the unpaid assessments against the selling Unit Owner within ten (10) days following a written request therefor to the Executive Board or Managing Agent, and such purchaser shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth plus interest

5.10 Collection of Assessments. The Executive Board or the Managing Agent, at the request of the Executive Board, shall take prompt action to collect any assessments for Common Expenses due from any Unit Owner which remain unpaid for more than thirty (30) days from the due date for payment thereof. Any assessment not paid within fifteen (15) calendar days after its due date shall accrue a late charge in the amount of five percent (5%) of the overdue assessment in addition to interest at the rate set forth in Section 10.5 of the Declaration. Nothing herein is intended to limit the rights and remedies of the Association set forth in the Declaration.

5.11 Statement of Common Expenses. The Executive Board shall promptly provide any Unit Owner, contract purchaser or holder of a Qualified Mortgage so requesting the same in writing with a written statement of all unpaid assessments for Common Expenses due from such Unit Owner. The Executive Board may impose a reasonable charge for the preparation of such statement to cover the cost of its preparation, to the extent permitted by the Act.

## ARTICLE VI - COMPLIANCE AND DEFAULT; DISPUTES

6.1 Relief. Each Unit Owner shall be governed by, and shall comply with, all of the terms of the Act, the Declaration, these Bylaws and the Rules and Regulations, as any of the same may be amended from time to time. In addition to the remedies provided in the Act and the Declaration, a default by a Unit Owner shall entitle the Association, acting through its Executive Board or through the Managing Agent, to the relief provided for in any such document or otherwise available at law or in equity. In any proceedings arising out of any alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorney's fees and costs as may be determined by the court. The failure of the Association, the Executive Board or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, these Bylaws, the Rules and Regulations or the Act shall not constitute a waiver of the right of the Association, the Executive Board or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Executive Board or any Unit Owner

pursuant to any term, provision, covenant or condition of the Declaration, these Bylaws, the Rules and Regulations or the Act shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Declaration, these Bylaws, the Rules and Regulations or the Act or at law or in equity. The violation of any of the Rules and Regulations adopted by the Executive Board, the breach of any Bylaw contained herein or the breach of any provision of the Declaration or the Act shall give the Executive Board the right, in addition to any other rights: (a) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Executive Board shall not thereby be deemed guilty in any manner of trespass; or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or equity, the continuance of any such breach.

#### ARTICLE VII - AMENDMENTS

7.1 Amendments to Bylaws. These Bylaws may be modified or amended only by vote of Unit Owners present in person or by proxy constituting a majority of the votes entitled to be cast at any annual or special meeting of the Association, except as otherwise expressly set forth herein or in the Act; provided, however, that notice of such proposed amendment and the purpose thereof must be given in writing to all Unit Owners with the notice of such meeting. Until the date on which all Declarant-appointed Board members voluntarily resign or are required to resign pursuant to the Declaration, these Bylaws may not be amended without the prior consent in writing of Declarant. Further, if any amendment is necessary in the judgment of the Executive Board to cure any ambiguity or to correct or supplement any provision of these Bylaws that is defective, missing, illegal, ambiguous or inconsistent with any other provision hereof, or with the Act or the Declaration, then at any time and from time to time the Executive Board may effect an appropriate corrective amendment without the approval of the Unit Owners or the holders of any liens on all or any part of the Property, upon receipt by the Executive Board of an opinion from independent legal counsel to the effect that the proposed amendment is permitted by the terms of this Section.

8.2 Amendments to the Declaration. Any two officers of the Executive Board who are members of the Association may prepare, execute, certify and record amendments to the Declaration on behalf of the Association.

#### ARTICLE VIII - MISCELLANEOUS

9.1 Notices. All notices, demands, bills, statements or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally to, or if sent by regular, registered or certified mail, return receipt requested, postage prepaid or delivery confirmation (or otherwise as the Act may permit), (i) if to a Unit Owner, at the single address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit Owner, or (ii) if to the Association, the Executive Board or to the Managing Agent, at the principal office of the Managing Agent or at such other address as shall be designated by notice in writing to the Unit

Owners pursuant to this Section. If a Unit is owned by more than one Person, such Persons must designate a single address in writing to the Secretary to receive all notices hereunder.

9.2 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

9.3 Gender. The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

9.4 Effective Date. These Bylaws shall become effective when the Declaration and the Plats and Plans have been duly recorded.

9.5 Invalidity. If any provisions of these Bylaws are determined by a court of competent jurisdiction to be invalid, the determination shall not affect the validity or effect of the remaining provisions hereof.

9.6 Conflicts. The terms and provisions of the Act and the Declaration shall control in case of any conflict between them and the provisions of these Bylaws.

[SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF these Bylaws have been duly adopted as of this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

EXECUTIVE BOARD OF THE SOUTH NEGLEY  
COMMONS CONDOMINIUM ASSOCIATION

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Thomas A. Karet

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Francesca A. Rossi

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Kenneth Shumsky

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Seldon Whitaker