

810-734

Waller
on page 12

EX 974 ME 45

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, C. Whit Walter, Jr., as Assistant Vice President of the Exchange Security Bank, Birmingham, Alabama, do hereby for and on behalf of said Exchange Security Bank ratify and consent to the recorded plat or map filed for record by Vebco, Inc., a corporation, recorded in the Office of the Judge of Probate of Jefferson County, Alabama, in Map Book 99, at page 84 and for and on behalf of said Exchange Security Bank I do further hereby consent to the filing for record of the Declaration of Covenants, Conditions and Restrictions effecting the following described land located in Jefferson County, Alabama, which has been filed for record in the Office of the Judge of Probate of Jefferson County, Alabama, in Volume 974 at page 21, viz:

A Parcel of land located in the NE 1/4 of the NW 1/4 of Section 20, Township 16 South, Range 1 West, more particularly described as follows:

COMMENCE at a point 15 feet South and 240 feet East of the Northwest Corner of the NE 1/4 of the NW 1/4 of Section 20, Township 16 South, Range 1 West; thence Southerly and parallel to the West line of said 1/4 - 1/4 Section, a distance of 1169 feet; thence 90 degrees 02 minutes left, in an Easterly direction, a distance of 780 feet; thence 89 degrees 58 minutes left, in a Northerly direction, a distance of 1169 feet; thence 90 degrees 02 minutes left in a Westerly direction, a distance of 780 feet to the point of beginning; containing 20.9 acres; situated in Jefferson County, Alabama.

It is hereby expressly understood and agreed that the mortgage which said Exchange Security Bank is holding on the above described real property is held subordinate to the terms and conditions of said Declaration of Covenants, Conditions and Restrictions.

EXCHANGE SECURITY BANK

BY C. Whit Walter, Jr.
C. Whit Walter, Jr.
Its ASST. V.P.

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned authority, in and for said County, in said State, hereby certify that C. Whit Walter, Jr., whose name as Assistant Vice President of Exchange Security Bank, a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

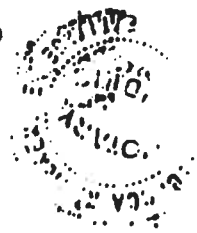
Given under my hand and official seal this 30th day of May, 19 73.

Rebecca K. McKinzie
Notary Public

MY COMMISSION EXPIRES JUNE 2, 1979

STATE OF ALA. JEFFERSON CO.
CERTIFY THIS INSTRUMENT
WAS FILED ON
874 FILE 45
JUN 21 1973
MRS. TAE
TAE HAS BEEN
IN THIS INSTRUMENT.
John McKinzie
NOTARY PUBLIC

ALL INSTRUMENTS THIS REPLYED BY
John P. McKinzie, Jr.
NAME PLEASE PRINT
JOHN P. McKinzie, Jr.
ADDRESS PLEASE PRINT
Birmingham Ala



DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by VEBCO, INC., hereafter referred to as "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the following described property situated in Jefferson County, Alabama, more particularly described, to-wit:

A parcel of land located in the NE 1/4 of the NW 1/4 of Section 20, Township 16 South, Range 1 West, more particularly described as follows:

COMMENCE at a point 15 feet South and 240 feet East of the Northwest Corner of the NE 1/4 of the NW 1/4 of Section 20, Township 16 South, Range 1 West; thence Southerly and parallel to the West line of said 1/4 - 1/4 Section, a distance of 1169 feet; thence 90 degrees 02 minutes left, in an Easterly direction, a distance of 760 feet; thence 89 degrees 58 minutes left, in a Northerly direction, a distance of 1169 feet; thence 90 degrees 02 minutes left in a Westerly direction, a distance of 780 feet to the point of beginning; containing 20.7 acres; situated in Jefferson County, Alabama.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to Eden Villas Garden Court Townhouses Association, Inc., its successors and assigns.

Section 2. "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

All of the "Common Area" of Eden Villas - First Sector, as recorded in the Office of the Judge of Probate of Jefferson County, Alabama, in Map Book 99, page 84, being all of the property contained in said subdivision except platted lots and blocks; and

All of the "Common Area" of Eden Villas - Second Sector, as recorded in the Office of the Judge of Probate of Jefferson County, Alabama, in Map Book 101, page 17, being all of the property contained in said subdivision except platted lots and blocks.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to VEDCO, Inc., its successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

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Section 8. "Class I Lots" shall mean and refer to any Lot upon which there is a residence or single family unit which has been completed and has been sold or contracted to be sold by the Declarant or its successors and assigns.

Section 9. "Class II Lots" shall mean and refer to any lot or lots upon which a residence or single family unit has been completed but not sold or contracted to be sold by the Declarant or its successors and assigns.

Section 10. "Class III Lots" shall mean and refer to any vacant lot or lots upon which a residence or single family unit has not been completed.

Section 11. "Townhouse" shall mean and refer to the single family residence duly erected and situated upon a Lot.

ARTICLE II

PROPERTY RIGHTS

Section 1. Lot Owners' Easements of Enjoyment. Every Lot Owner shall have a right and easement of enjoyment in and to the Common Area in such manner as not to unreasonably interfere, hinder or encroach upon the lawful rights of the other Lot Owners which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the Common Areas by Lot Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

(d) the right of the Association to limit the number of guests of members;

(e) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said properties and the rights of such mortgages in such properties shall be subordinate to the rights of the Lot Owners hereunder.

(f) the right of the Association, through its Board of Directors, to determine the time and manner of use of the Common Areas by the members.

Section 2. Delegation of Use. Any Lot Owner may delegate, in accordance with the By-Laws, his right to enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Lot Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made; subject, however, to any mortgage provided for in Section 9 of this Article IV. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. Subject to the provisions of Section 9 of this Article IV, the grantee of a Lot voluntarily conveyed shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area, and of the townhouses situated upon the Properties as herein provided.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to a Lot Owner, the maximum annual assessment for each Class I Lot shall be Three Hundred and No/100 Dollars (\$300.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to a Lot Owner, the maximum annual assessment for each class I Lot shall be Three Hundred and No/100 Dollars (\$300.00) per Lot, plus, as the Board of Directors may determine, the maximum annual assessment may be increased each year by an amount not more than five (5) per cent (5%) above the maximum assessment for the previous year without a vote of the membership.

Class A. Class A members shall be all Lot Owners with the exception of the Declarant, its successors and assigns, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant, its successors and assigns, and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on the 31st day of August, 1974.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Lot Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special

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(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment for each Class I Lot may be increased above five per cent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or upon the townhouses situated upon the Properties when the Association is obligated to repair, reconstruct or replace any portion thereof as herein provided, provided that any such assessment shall have the approval of two-thirds (2/3) of the votes of each class of members voting in person or by proxy at a meeting duly called for this purpose.

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Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more

than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots, provided, however, that the assessments on all Class II Lots shall be not greater than Seven and No/100 Dollars (\$7.00) per month and provided further that the assessments on all Class III Lots shall be not greater than One Dollar (\$1.00) per month.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, and, unless otherwise provided, the Association shall collect each month from the Owner of each Lot one-twelfth (1/12) of the annual assessment for such Lot. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent and shall constitute a lien against the Lot subject to said assessment. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of seven per

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cent (7%) per annum, and the Association may bring an action at law against the Lot Owner personally obligated to pay the same, and foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such Lot Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Eden Villas Garden Court Townhouses Association, Inc., or its agents, the right and power to bring all actions against such Lot Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Lot Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association, acting on behalf of the Lot Owners shall have the power to bid in any Lot or interest therein foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. No Lot Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The voluntary sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer as to the Lot, but shall not release the Lot Owner at the time said assessments were made from the obligation for payment thereof. No sale or transfer shall relieve such Lot from liability

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for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority, the Common Area, and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Alabama shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Management Agreements. Each Lot Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to each Lot Owner. In no event shall such management agreement be cancelled prior to the effecting by the Association or its Board of Directors of a new management agreement with a party or parties, which new management agreement will become operative immediately upon the cancellation of the preceding management agreement.

Section 12. Insurance Assessments. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance in the name of the Association for all buildings owned by the Association and all townhouses owned by the respective Lot Owners against loss or damage by fire and other hazards in an amount sufficient to cover the full replacement cost or any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all Common Area, and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance shall be common expenses. Insurance coverage shall be written in the name of and the proceeds thereof shall be payable to the Association or the Board of Directors as the Trustees for the Lot Owners. When requested by Lot Owner, a standard mortgage

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endorsement shall be issued to the holder of the first mortgage of such Lot Owner.

It shall be the individual responsibility of each Lot Owner at his own expense to provide homeowner's liability insurance, theft and other insurance covering personal property damage and loss. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractor, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all members of the Association, as established by Article IV, Section 4, above, to make up any deficiency for repair or rebuilding of the damaged or destroyed properties.

Section 13. Common Surplus. Common Surplus shall be the excess of all receipts of the Association including but not limited to assessments, rents, and revenues received from the Lot Owners over the amount of common expenses of the Association for the use and benefit of the Lot Owners. All Common Surplus shall be held and administered by the Association on behalf of the Lot Owners and shall be expended by the Association for the benefit of the Lot Owners as

Look up
Mgmt. contract

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the Board of Directors may determine.

ARTICLE V

SEPARATE MORTGAGE OF LOTS

Each Lot Owner shall have the right to mortgage or encumber his own Lot. As provided herein, the Association shall have the right to mortgage or encumber the Common Areas.

ARTICLE VI

SEPARATE REAL ESTATE TAXES

It is understood that real estate taxes are to be separately taxes to each Lot Owner for his respective Lot. It is further understood that real estate taxes chargeable and assessable against the real estate comprising the Common Areas are to be taxed to the Association and paid by the Association.

ARTICLE VII

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

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ARTICLE VIII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the townhouses upon the Properties and placed on the dividing line between the Lots

shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall not covered by fire and hazard insurance as provided in Section 12 of Article IV hereof shall be shared by the owners who make use of the wall in equal proportions to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other hazards, and the cost of restoration or repair is not covered by fire and casualty insurance as provided in Section 12 of Article IV hereof, then, any Lot Owner who has used the wall may restore it, and if the other Lot Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, subject, however, to the right of any such Lot Owners to call for a larger contribution from the other Lot Owners under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, a Lot Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Lot Owner to contribution from any other Lot Owner under this Article shall be appurtenant to the land and shall pass to such Lot Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor, the Board of Directors of the Association shall select an arbitrator for

ARTICLE IX

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each townhouse on each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, excluding patio shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces, screens and screen doors, exterior door and window fixtures and other hardware and patios. In addition, the Association shall provide maintenance upon all utility lines, pipes, wires, conduits and other utility equipment which is situated on each Lot which is subject to assessment hereunder, up to the point that said equipment and systems enter the exterior walls, ceilings and floors of a townhouse situated on said Lot.

The maintenance, upkeep and repair of individual patio areas appurtenant to each townhouse, exterior screens and screen doors, exterior doors and window fixtures, all exterior hardware shall be the sole responsibility of each Lot Owner.

An Owner shall do no work that will impair the structural soundness or integrity of another townhouse or impair any assessment or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other Lots or their Owners.

In the event that the need for maintenance or repair is caused through the willful or negligent act of a Lot Owner, his family or guests or invitees and not covered or paid for by insurance as herein provided, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Area and all exteriors

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and roofs of the townhouse and appurtenances, shall be taken by the Board of Directors or by its duly delegated representative.

ARTICLE X

INTERIOR MAINTENANCE

All maintenance, upkeep and repairs of any townhouse not assumed by the Association as herein provided shall be the sole responsibility of each Lot Owner. Each Lot Owner shall be responsible for the maintenance, upkeep and repair of, including but not limited to, all floors, floor foundations, studs, joists, supports, all walls as herein provided, and ceilings, ceiling studs and joist supports.

All decorating of the interior of each house shall be the sole responsibility of each Lot Owner and shall be done at his expense.

Each Lot Owner shall be responsible for the maintenance, upkeep and repairs of all fixtures and equipment installed within a house or apartment unit commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls, ceilings and floors of a townhouse.

ARTICLE XI

UTILITIES

Each Lot Owner shall pay for his own telephone, electricity and other utilities which are separately metered or billed to each user by the respective utility companies. Utilities which are not separately metered or billed shall be treated as a part of the expenses of the Association.

ARTICLE XII

USE RESTRICTIONS

Section 1. Said property is hereby restricted to single family residential dwellings for residential use. All buildings or structures erected upon said Property shall be of new construction and no buildings or structures shall be moved from other locations

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onto said Property and no subsequent buildings or structures other than townhouse apartment buildings, being single family townhouses joined together by a common exterior roof and foundation, shall be constructed. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any portion of said Property at any time as a residence either temporarily or permanently.

Section 2. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof.

Section 3. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for Declarant or the Builder of said Townhouses to maintain during the period of construction and sale of said Townhouses, upon such portion of the premises as Declarant deems necessary, such facilities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of said Townhouses, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office; provided, however, that these uses by the Declarant or Builder shall be restricted to lots owned by Declarant, except that a designated four hundred (400) square feet of the adult lounge in the clubhouse may be used for a sales office, provided that this space shall be used by the Declarant so as to not prevent Class A members from using the balance of the clubhouse for the purposes intended.

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Section 4. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said Lots, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

Section 5. No advertising signs (except one of not more than five square feet "for rent" or "for sale" sign per parcel), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on said Property, nor shall said Property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof. No business activities of any kind whatever shall be conducted in any building or in any portion of said Property; provided,

however, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of Declarant, its agents and assigns during the construction and sale period, and of Eden Villas Garden Court Townhouses Association, Inc., a non-profit corporation incorporated or to be incorporated under the laws of the State of Alabama, its successors, and assigns, in furtherance of its powers and purposes as hereinafter set forth.

Section 6. All clotheslines, equipment garbage cans, service yards, woodpiles, or storage piles shall be kept screened by quate planting or fencing so as to conceal them from view by neighboring Lot Owners and adjoining streets. All rubbish, trash or garbage shall be regularly removed from the premises to a specifical designated area for pickup. The Association shall provide each Lot Owner subject to the annual assessments with rubbish, trash and garbage pickup service which shall be paid from the assessments as herein provided. All clotheslines shall be confined to the patio as

Section 7. Except in the individual patio areas appurtenant to a Townhouse, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said Property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representative. Except for the right of ingress and egress, the Owners of Lots are prohibited and restricted from using any of said Property outside the exterior building lines, patio and carport areas, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of Lots in Eden Villas Garden Court Townhouses, and is necessary for the protection of said Owner

Section 8. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the Property, nor upon

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any structure situated upon the Property other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.

Section 11. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners.

ARTICLE XIII

EASEMENTS

Section 1. Each townhouse and the property included in the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure containing two or more Townhouses is partially or totally destroyed, and then rebuilt, the Owners of the Townhouses so affected agree that minor encroachments of parts of the adjacent Townhouse units or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. There is hereby created a blanket easement as reflected on the recorded subdivision map of the Properties upon, across, over and under all of the Common Area said Property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said Townhouses. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and Common Area in the performance of their

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duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company elected by the Association to enter in or to cross over the Common Area provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on the Common Area Property without conflicting with the terms hereof. The easements provided for in this Article XIII shall in no way affect any other recorded easement on said premises.

ARTICLE XIV

SALE OR LEASE BY A LOT OWNER - FIRST OPTION TO ASSOCIATION

If a Lot Owner, with the exception of the Developer, shall desire at any time to sell his Lot, he shall first give the Association at least thirty (30) days' prior written notice of the proposed sale, which notice shall state the name, address and financial and character references of the proposed purchaser and the terms of the proposed sale. The Association shall have the right of first option with respect to any sale by any Lot Owner as provided herein. During the period of thirty (30) days following the receipt by the Association of such written notice, the Association shall have the first right at its option to purchase such Lot upon the same terms as the proposed sale described in such notice.

If the Association shall give written notice to such Lot Owner within said thirty (30) day period of its election to purchase such Lot upon the same terms as the proposed sale described in the

written notice to the Association, then the purchase by the Association shall be closed upon the same terms as the proposed sale.

The Board of Directors of the Association shall have the authority, on behalf of and in the name of the Association, to elect not to exercise an option to purchase and to give written notice of such election. A certificate executed by the President or Secretary of the Association, certifying that the Association by its Board of Directors has elected not to exercise its option to purchase a Lot upon the terms of a proposed sale, shall be conclusive evidence of such election by the Association and of the compliance with provisions hereof by the Lot Owner proposing to make the proposed sale.

If the Board of Directors of the Association shall adopt a resolution recommending that the Association shall exercise its option to purchase a Lot upon the terms of a proposed sale, it shall promptly call a meeting of all of the Association members for the purpose of voting upon the option, which meeting shall be held within said thirty (30) day period. If, at the meeting of the Association members, at least seventy-five per cent (75%) of the votes cast are in favor of the resolution, then the Board of Directors shall promptly give written notice of the decision as herein provided. The Board of Directors shall have the authority to make such mortgage or other financing arrangements, and to make such assessments proportionately among the respective Lot Owners, and to make such other arrangements, as the Board of Directors may deem desirable in order to close and consummate the purchase of a Lot by the Association. Assessments for such purpose shall be made among the owners of all Lots, exclusive of that Lot being purchased.

PL 974 MC 40

If the Association shall make any such purchase of a Lot as herein provided, the Board of Directors shall have the authority at any time thereafter to sell or lease such Lot on behalf of the Association upon such terms as the Board of Directors shall deem desirable, without complying with the foregoing provisions relating to the Association's right of first option, and all of the net proceeds or deficit therefrom shall be used by the Association, subject to all the provisions of this Declaration, Article of Incorporation and By-Laws for the use and benefit of the members.

The provisions of this Section with respect to the Association's right of first option shall not apply to any bank, insurance company or savings and loan association which becomes a Lot Owner by purchasing said unit, pursuant to foreclosure sale, provided that written notice of a default with respect to said mortgage was furnished to the Association and the Association was given the right to cure the default within ten (10) days and, provided further, that written notice of intention to institute foreclosure proceedings was furnished the Association and the Association was given the right to purchase the mortgage indebtedness within twenty (20) days.

The provisions hereof with respect to the Association's right of first option shall not apply to sales or leases made by the Developer.

If any sale of a Lot is made or attempted by any Lot Owner, without complying with the foregoing provisions, that sale shall be voidable by the Association and shall be subject to each and all of the rights and options of the Association hereunder and each and all of the remedies and actions available to the Association hereunder or at law or in equity in connection therewith.

The foregoing provisions with respect to the Association's right of first option as to any proposed sale shall be and remain in full force and effect until the property as a whole shall be removed from the provisions of this Declaration by rescission or amendment by the Lot Owners in the manner herein provided for amendments of this Declaration. The Board of Directors of the Association

ciation may adopt rules and regulations from time to time, consistent with and for the purpose of implementing and effectuating the foregoing provisions.

ARTICLE XV

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of not less than Sixty-Five per cent (65 %) of the Lots and thereafter by an instrument signed by the Owners of not less than sixty-Five per cent (65 %) of the Lots. Any amendment must be recorded.

Section 4. Annexation of Additional Property. Annexation of additional property shall require the assent of two-thirds (2/3) of the Class A members, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all Class A members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting.

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The presence of members or of proxies entitled to cast sixty per cent (60%) of the votes of Class A members shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership are not present in person or by proxy, Class A members not present may give their written consent to the action taken thereat.

Section 5. Determination of Board to be Binding. Matters of dispute or disagreement between Lot Owners with respect to interpretation or application of the provisions of this Declaration, the Articles or By-Laws, shall be determined by the Board of Directors, which determination shall be final and binding on all Lot Owners.

Section 6. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 29th day of June, 1975.



VERCO, INC.

BY

[Signature]
Its President

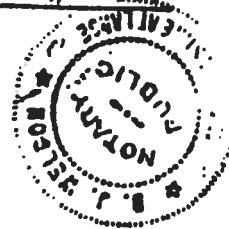
STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned authority, in and for said County, in said State, hereby certify that Van E. Belcher, whose name as President of VESCO, INC., a corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 29th
day of June, 1973.

C. J. Sheldon #10294
Notary Public

My Commission Expires 1/24/73



EX 974 REC 44

STATE OF ALABAMA
CERTIFY THIS INSTRUMENT
HAS BEEN FILED ON

EXAL 974 PAGE 21
JUL 23 1973

REC. TAX
L. 1973 TAX HAS BEEN
PAID ON THIS INSTRUMENT.
James M. Smith
JUDGE OF PROBATE

SEE INSTRUMENT THIS PREPARED BY:
JOHN T. MCKLEARY, JR.
NAME (PLEASE PRINT)
800 JIM HARRIS DR.
ADDRESS (PLEASE PRINT)
BIRMINGHAM, ALA.

NU 975 - 158

ARTICLES OF INCORPORATION

OF

EDEN VILLAS GARDEN COURT TOWNHOUSES ASSOCIATION, INC.

STATE OF ALABAMA)

JEFFERSON COUNTY)

TO THE HONORABLE J. PAUL MERKS, JUDGE OF PROBATE, JEFFERSON
COUNTY, ALABAMA:

We, the undersigned, all of whom are residents of Alabama and all of whom are of full age, in compliance with the Non-Profit Corporation Act of the State of Alabama, hereby associate ourselves together for the purpose of becoming incorporated under the laws of the State of Alabama as a corporation not for profit, and hereby adopt the following Articles of Incorporation:

ARTICLE I.

The name of this corporation shall be Eden Villas Garden Court Townhouses Association, Inc. which shall hereafter be referred to as the "Association". The corporation's principal office shall be at 1499 Woodvine Lane, Birmingham, County of Jefferson, State of Alabama.

ARTICLE II.

The corporation shall have perpetual succession and shall exist until it is dissolved pursuant to these Articles or to law.

ARTICLE III.

This Association does not contemplate monetary gain or profit to its members and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the residence lots and common area within that certain tract of property described as:

A parcel of land located in the NE 1/4 of the NW 1/4 of Section 20, Township 16 South, Range 1 West, more particularly described as follows:

Commence at a point 15 feet South and 240 feet East of the Northwest corner of the NE 1/4 of the NW 1/4 of Section 20, Township 16 South, Range 1 West; thence Southerly and parallel to the West line of said 1/4 - 1/4 Section, a distance of 1169 feet; thence 90 degrees 02 minutes left, in an Easterly direction, a distance of 780 feet; thence 89 degrees 58 minutes left, in a Northerly direction, a distance of 1169 feet; thence 90 degrees 02 minutes left in a Westerly direction, a distance of 780 feet to the point of beginning, containing 20.9 acres; situated in Jefferson County, Alabama.

and to promote the health, safety and welfare of the residents within the above-described property and any addition thereto as may hereafter be brought within the jurisdiction of this Association and for this purpose the Association shall exercise the following powers:

(a) To exercise all of the powers and privileges and perform all of the duties and obligations of the Associa-

tion as set forth in that certain declaration of covenants, conditions and restrictions, hereinafter called the "Declaration" applicable to the property recorded or to be recorded in the Office of the Judge of Probate, Jefferson County, Alabama, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) To make, levy and collect payment by any lawful means, all charges or assessments against members of the Association pursuant to the terms of the Declaration;

(c) To use the proceeds of assessments in the exercise of the Association's powers and duties, including the payment of all expenses in connection therewith, licenses, taxes or governmental charges levied or imposed against the property of the Association;

(d) To purchase insurance upon the Association property and upon the property of the residential lot owners as provided in the Declaration and to purchase insurance for protection of the Association and its members as lot owners;

(e) To construct, reconstruct and improve the Association property and property of the residential lot owners as provided for in the Declaration and the By-Laws;

(f) To approve or disapprove the transfer, mortgage and ownership of residential lots as may be provided by the Declaration and the By-Laws.

(g) To enforce by legal means the provisions of the Declaration, these Articles, the By-Laws of the Association and the rules and regulations for the use of the residential lots and the common areas in the property herein described;

(h) To contract for the management of the residential lots and common areas and to delegate to the Manager all powers and duties of the Association except such as are specifically required by the Declaration to have approval of the Board of Directors or the members of the Association;

(i) To employ personnel to perform the services required for proper operation of the Association;

(j) To acquire by gift, purchase or otherwise, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(k) To borrow money, and with the consent of two-thirds (2/3) of each class of members, pledge, mortgage or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(l) To dedicate, sell or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall

be effective unless an instrument has been duly signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer;

(m) To participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional property and common area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of each class of members;

(n) To have and to exercise any and all rights, powers and privileges as are prescribed by the Alabama Non-Profit Corporation Act, General Acts of the Alabama Legislature of the year 1955, page 1254 through 1258, and any amendments thereof, and to perform any acts permitted thereby.

ARTICLE IV.

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenant of record to assessment by the Association, including contract sellers, shall be a member of the Association. Persons or entities who hold an interest in any lot which is subject by covenant of record to assessment by the Association merely as security for the performance of an obligation shall not be and are not members of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association.

ARTICLE V.

The Association shall have two classes of voting membership:

CLASS A

Class A members shall be lot owners with the exception of VEBCO, INC., its successors and assigns, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they may among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

CLASS B

The Class B member(s) shall be VEBCO, INC., a corporation, its successors and assigns, the declarant, and shall be entitled to three (3) votes for each lot owned. Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occur earlier:

(a) When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, or

(b) On the 11st day of August,

1974.

ARTICLE VI.

The affairs and business of this Association shall be conducted by a Board of Directors which shall consist of not less than three (3) nor more than nine (9) members. The members of the Board need not be members of the Association. The names and addresses of the persons who shall act as Directors until their successors are duly elected are:

<u>NAME</u>	<u>ADDRESS</u>
Van E. Belcher	2112 Fox Valley Circle Birmingham, Alabama 35216
B. J. Weldon	1316 Fourth Way N. W. Birmingham, Alabama 35215
David W. Stuart	Route 2, Box 418-V Dogwood Road Bessemer, Alabama 35020

At the first annual meeting the members of the Association shall elect Directors such that the terms of office of at least one-third (1/3) of the Directors shall expire one year from the date of election, the term of office of at least one-third (1/3) of the Directors shall expire two years from the date of election and the term of office of the remaining Directors shall expire three (3) years from the date of election. At each annual meeting thereof, Directors shall be elected to replace the Directors whose term of office has expired.

ARTICLE VII.

Officers of the Association shall be elected at each annual meeting of the Board of Directors and shall hold office at the pleasure of the Board. Any officer may be removed with or without cause at any meeting by the affirmative vote of the majority of the members of the Board of Directors and any office may be filled by the Board at any meeting thereof.

The names of the officers who are to serve until their successors are duly elected are:

<u>OFFICE</u>	<u>NAME</u>
President	Van E. Belcher 2112 Fox Valley Circle Birmingham, Alabama 35216
Vice President	B. J. Weldon 1316 Fourth Way N. W. Birmingham, Alabama 35215
Secretary and Treasurer	David W. Stuart Route 2, Box 418-V Dogwood Road Bessemer, Alabama 35020

ARTICLE VIII.

Van E. Belcher, whose office address is 2720 - 19th Street South, Birmingham, Alabama, is hereby appointed to accept service of process as resident agent of this Association.

ARTICLE IX.

AMENDMENTS

Amendments of these Articles shall require the con-

NM 975 MC 166

9.
sent of Seventy-five per cent (75%) of the entire membership.

ARTICLE X.

DISSOLUTION

The Association may be dissolved with the consent given in writing and signed by not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets, both real and personal, of the Association shall be dedicated to an appropriate agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE XI.

NOTICE AND QUORUM

For those actions, which by the provisions of these Articles, require a vote of the members of the Association, there must be a duly held meeting. Notice of said meeting setting forth the purpose of the meeting must be given to all members in writing not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

The presence of members or of proxies entitled to cast sixty per cent (60%) of the votes of each class of

membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth herein, and the required quorum at such subsequent meetings shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting at which time a quorum was not present. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership, if any, are not present in person or by proxy, members not present may give their written assent and approval to the action taken thereat.

IN WITNESS WHEREOF, we have hereunto set our hands and seals and acknowledged the execution of these Articles of Incorporation under the laws of the State of Alabama on this 18th day of July, 1973.

Van W. Belcher (SEAL)

B. J. Weldon (SEAL)

David W. Stuart (SEAL)

ONE INSTRUMENT WAS PREPARED BY:

John T. McKeel, Jr.
NAME (PLEASE PRINT)

900 John Hand Hwy
ADDRESS (PLEASE PRINT)

Birmingham, Ala.

MM 975 168

11.

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, Joanita C. Thorne a Notary Public
in and for said County, in said State, hereby certify that
Van E. Belcher, S. J. Weldon and David W. Stuart, whose
names as incorporators of Eden Villas Garden Court Townhouses
Association, Inc. are signed to the foregoing Articles of
Incorporation and who are known to me, acknowledged before
me on this day that each of them is over the age of 21 years
and that being informed of the contents of the Articles of
Incorporation, they, in their capacity as such incorporators,
executed the same voluntarily on the day the same bears date.

GIVEN under my hand this 18th day of July.

1973.

Joanita C. Thorne
Notary Public

STATE OF ALA. - PUBLIC ON
COUNTY - JEFFERSON
MM 975 158

JUL 23 1 45 PM '73

ALL STATE TAX
HAS BEEN
PAID ON THIS INSTRUMENT.

John M. Meade
NOTARY PUBLIC



2829 910

178641
STATE OF ALABAMA)
JEFFERSON COUNTY)

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

WHEREAS, a Declaration of Covenants, Conditions and Restrictions was filed in the Office of the Judge of Probate of Jefferson County, Alabama, on the 29th day of June, 1973, and recorded in Real Volume 974, page 21, affecting properties located in Jefferson County, Alabama, which are more commonly known as Eden Villas Garden Court Townhouses, and

WHEREAS, Article XV, Section 3, of said Declaration of Covenants, Conditions and Restrictions provides for the amendment thereof by an instrument signed by the owners of not less than sixty-five per cent (65%) of the lots located in the Eden Villas Garden Court Townhouses development, and

WHEREAS, the undersigned owners of not less than sixty-five per cent (65%) of said lots desire to amend the following articles of said Declaration of Covenants, Conditions and Restrictions;

NOW, THEREFORE, the said Declaration of Covenants, Conditions and Restrictions recorded in Real Volume 974, page 21, in said Probate Office, is hereby amended as follows:

ARTICLE IV, SECTION 12 - Insurance Assessments, is hereby amended by adding the underlined wording thereto:

The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance in the name of the association for all buildings and personal property owned by the association and all townhouses owned by the respective lot owners against loss by fire, extended coverage perils, vandalism, and malicious mischief, and other perils normally covered by broad form perils coverage. This coverage shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard covered by such policy. This insurance shall also include comprehensive general liability with broad form or extended liability coverage covering all common area and all damages or injury caused by the negligence of the association or

any of its agents. Premiums for all such insurance shall be common expenses. Insurance coverage shall be written in the name of and the proceeds thereof shall be payable to the association, the Board of Directors as the trustees for the lot owners. When requested by the lot owner, a standard mortgagee endorsement shall be issued to the order of the first mortgage of such lot owner.

For the purpose of clarification as to intent as to what the association insurance is to apply to as opposed to the coverages individual lot owners must obtain, the following definitions apply to the insurance for which the association is responsible.

Buildings or townhouses - includes total exterior structure and interior portions consisting of structural walls, (but not interior decorations such as wallpaper); structural steps; structural floors, including permanently installed wall-to-wall floor coverings, permanent electrical fixtures; permanent plumbing fixtures and appliances of a built-in type (but not movable appliances consisting of washer, dryer, refrigerator or other portable units that are actually the personal property of individual lot owners).

Personal Property - includes contents of the Clubhouse which are owned by the association as well as all other commonly owned personal property that is the subject of personal property insurance under the association insurance coverage.

It shall be the individual responsibility of each lot owner at his or her own expense to provide his or her own homeowners or condominium insurance covering the individual's personal property as well as personal liability. Insurance for permanent additions or alterations to the interior including coverage for those interior items for which the association is not responsible such as wall coverings shall be the responsibility of each lot owner and such coverage can be obtained through their individual homeowners or condominium policies in the form of structural alteration and additions coverage with the amount to be insured as deemed necessary by each lot owner.

Also, insofar as flood insurance is required by the various mortgage companies due to the designated flood zone or is otherwise needed, it shall be the responsibility of each lot owner to obtain this coverage both as to the building and, if so desired, the lot owner's contents or personal property. The association does not provide flood insurance for buildings or personal property.

In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the association, the Board of Directors shall, with the concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal Governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third(1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractor, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all members of the association, as established by Article IV, Section 4, above, to make up any deficiency for repair or rebuilding of the damaged or destroyed property.

It is not the responsibility of the association to compensate any individual lot owner for the additional living expense they might incur while their individual units are uninhabitable due to fire or other casualty loss and while resulting repairs are in process. Coverage for additional living expense can be obtained by individual lot owners through their individual homeowners or condominium policies.

Nothing in this amended Section 12 shall be construed to otherwise change or alter the meaning in any way of Article VIII, Section 2, and Section 3 or Article X (Interior Maintenance).

EDEN VILLAS HOMEOWNERS ASSOCIATION

I hereby approve the attached change to Section 12 - Insurance Assessments, of our Association Declaration of Covenants, Conditions and Restrictions:

[illegible]

DEC 27 1966

STATE OF ALABAMA)

JEFFERSON COUNTY)

REAL 2018 PAGE 217

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

WHEREAS, a Declaration of Covenants, Conditions and Restrictions was filed in the Office of the Judge of Probate of Jefferson County, Alabama, on the 29th day of June, 1973, and recorded in Real Volume 974, page 21, affecting properties located in Jefferson County, Alabama, which are more commonly known as Eden Villas Garden Court Townhouses, and

WHEREAS, Article XV, Section 3, of said Declaration of Covenants, Conditions and Restrictions provides for the amendment thereof by an instrument signed by the owners of not less than sixty-five per cent (65%) of the lots located in the Eden Villas Garden Court Townhouses development, and

WHEREAS, the undersigned owners of not less than sixty-five per cent (65%) of said lots desire to amend the following articles of said Declaration of Covenants, Conditions and Restrictions;

NOW, THEREFORE, the said Declaration of Covenants, Conditions and Restrictions recorded in Real Volume 974, page 21, in said Probate Office, is hereby amended as follows:

1. Section 6 of Article I, which defines the term "Declarant", is hereby amended by adding thereto the following:

Benchmark Properties, Inc., is the owner of all the lots within Eden Villas, Second Sector, and, as the owner of said lots, is hereby acknowledged to be a successor of the original Declarant, as the word "Declarant" is used in the Declaration of Covenants, Conditions and Restrictions; and the said Benchmark Properties, Inc., is hereby acknowledged to possess all of the same powers, authorities, discretions and obligations as the Declarant thereunder.

2. Section 6, Article IV, entitled "Rate of Assessment" is hereby deleted in its entirety and the following Section 6 is substituted in lieu thereof:

Section 6: Rate of Assessment: Both annual and special assessments must be fixed at a uniform rate for all lots, provided, however, that Class II lots and Class III lots shall bear no assessment whatsoever until such

time as they have become Class I lots as provided for and defined in Articles I and XVI herein.

3. Section 8 of Article IV, entitled "Covenant for Maintenance Assessments - Effect of Nonpayment of Assessments; Remedies of the Association," is hereby amended by adding thereto the following:

The holder of a first mortgage upon a Lot or Townhouse, upon request, is entitled to written notification from the Association of any default in the performance by the Lot Owner of any of said Owner's obligations pursuant to this Declaration, the By-Laws, or Articles of Incorporation of the Association which is not cured within sixty (60) days.

4. Section 11 of Article IV, entitled "Covenant for Maintenance Assessments - Management Agreements," is hereby amended by adding thereto the following:

Other provisions herein to the contrary notwithstanding, any agreement for professional management, or any other contract providing for services of any developer, sponsor, or builder of the property subject to this Declaration, may not exceed three (3) years and must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days' written notice.

5. Section 12 of Article IV, entitled "Covenant for Maintenance Assessments - Insurance Assessments," is hereby amended by adding thereto the following:

The Association, by and through the Board of Directors, shall maintain fire and extended coverage on insurable common property on a current replacement cost basis in an amount not less than one hundred per cent (100%) of the insurable value. The Association, by and through the Board of Directors, shall use hazard insurance proceeds from losses to any common property only for the repair, replacement, or reconstruction of such common property, unless it first obtains the consent of two-thirds of the unit owners.

6. Article V, entitled "Separate Mortgage of Lots," is hereby amended by adding thereto the following:

The holder of first mortgages on Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any common area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common property and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

7. Article VII, entitled "Architectural Control," is hereby amended by adding thereto the following:

The Association shall not, by act or omission, change, waive, or abandon the method of architectural control provided for in this article, or the enforcement thereof, unless at least two-thirds of the unit owners give their consent.

8. Article IX, entitled "Exterior Maintenance," is hereby amended by adding thereto the following:

The provisions of this article shall be enforced by the Association. The Association shall not, by act or omission, change, waive, or abandon the regulations of this article or the enforcement thereof, unless at least two-thirds of the unit owners give their consent.

9. Article XIII, entitled "Easements," is hereby supplemented by the addition of the following Section 3:

Section 3. Declarant's Easement: Declarant, its successors and assigns, shall have a non-exclusive easement and right of way for ingress and egress, by vehicle or by foot, in, to, upon and over the driveways, streets and walks and other Common Areas, as shown and described in the subdivision plats of Eden Villas, First Sector and Second Sector, for all purposes for which such driveways, streets and walks are commonly used, including the transportation of construction materials for use in the development of any improvements, including installation of utilities, streets and other improvements within the Common Area and the improvements of any lot or lots reflected on the subdivision map of Eden Villas, First Sector and Second Sector, until such time as all of said lots have been improved by the construction of a townhouse thereon.

Declarant, as the owner of all lots within Eden Villas, Second Sector, its successors and assigns, is hereby entitled to complete Eden Villas, Second Sector, at its own expense, consistent with the development plan originally conceived and recorded as Eden Villas, Second Sector, by the installation of streets and utilities serving same, and by the erection on the subdivided lots of townhome quadplex structures substantially identical to those situated in Eden Villas, First Sector.

10. Article XIV, entitled "Sale or Lease by a Lot Owner - First Option to Association," is hereby amended by adding thereto the following:

The option of the Association pursuant to this article shall be of no force and effect as against the right of the holder of a first mortgage upon any unit to:

(a) Foreclose or take title to a unit pursuant to the remedies provided in the mortgage;

(b) Accept a deed or assignment in lieu of foreclosure in the event of default by a mortgagor; or

(c) Sell or lease a unit so acquired by the mortgagee.

The provisions of this paragraph shall inure to the benefit of all holders of first mortgages on units whether previously or hereafter conveyed.

11. Article XV, entitled "General Provisions," is hereby amended by adding thereto the following:

Section 7. Provisions herein to the contrary notwithstanding, unless at least two-thirds of the first mortgagees or unit owners give their consent, the Association shall not by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer, the common property owned, directly or indirectly, by the Association.

12. Article XVI, entitled "Second Phase," is hereby added as follows:

Other provisions herein to the contrary notwithstanding, Class II and Class III lots shall not be entitled to vote as members of the Association nor enjoy any other rights of membership therein, nor shall they be entitled to enjoy the use or ownership of the common areas which are appurtenant to Class I lots, nor shall they bear any part of the assessments for maintenance of common areas appurtenant to Class I lots. Accordingly, the Association shall not be responsible for maintaining Class II and Class III lots nor any common areas appurtenant thereto.

In addition to the definitions of Class II and Class III lots as set out in Article I, Sections 9 and 10 herein, lots presently classed as Class II and Class III lots shall become Class I lots only upon their being improved by the construction of a townhouse thereon substantially identical to those presently existing on Class I lots, or as approved by an architectural committee composed of three (3) or more representatives appointed by the Board.

The lots comprising Class I lots, as of the date of this instrument, are listed on the attached Exhibit "A". The lots comprising Class III lots, as of the date of this instrument, are listed on the attached Exhibit "B". There are no Class II lots in the project as of the date of this agreement. The lots listed on said Exhibit "A" shall be deemed to comprise "Phase I" for the purpose of submission of this project to the Federal Home Loan Mortgage Corporation for its approval.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals this 10th day of September, 1980.

WITNESSES:

James C. Bessers, Rayner B. Bessers
 Richard P. Bessers, C. H. Bessers
 Ralph A. Bessers, John J. Bessers
 James F. Bessers, Benjamin A. Bessers
 Roy C. Bessers
 John L. Bessers, Charles L. Bessers
 John J. Bessers, David W. Bessers
 Barbara W. Bessers
 R. Bessers - Bessers
 Michael Bessers, Mary Bessers
 John D. Bessers
 James B. Bessers, Violet L. Bessers
 Hazel Wessers, Wanda Wessers, H. Wessers
 Claude A. Wessers, Jimmy L. Wessers
 William C. Wessers, Geraldine A. Wessers
 Thomas Wessers
 Robert C. Wessers
 Louie E. Wessers, Porter James
 John D. Wessers
 Susan A. Wessers
 James E. Wessers
 William A. Wessers, Edwin E. Wessers
 Carol M. Wessers
 E. B. Wessers
 Betty Wessers
 Patricia Wessers
 Frances C. Wessers, Ford
 Donald H. Wessers, James Wessers, Clark

BENCHMARK PROPERTIES, INC

By J. L. L. L. L.

FIRST ALABAMA BANK OF BIRMINGHAM

By Robert E. Williams, Jr.
-5- Its date