

RECORDER OF DEEDS
CITY OF ST. LOUIS
RECORDED-CERTIFIED ON
02/05/2009 03:16PM

SHARON QUIGLEY CARPENTER
RECORDER OF DEEDS

PAGES: 42
AMOUNT DUE: \$228.00

Clerk: 1559733028 604274

RECORDING MEMORANDUM

Instrument: Restatement of Declaration of Covenants, Conditions and Restrictions for Kingsbury Square

Grantor: Unit Owners of Kingsbury Square Association
5720 Kingsbury Place
St. Louis, MO 63112

Grantee: Kingsbury Square Association
5720 Kingsbury Place
St. Louis, MO 63112

Date: February 2, 2009

Legal Description: "Declaration of Covenants, Conditions and Restrictions for Kingsbury Square" recorded on October 1, 1979 in Book 209M, Page 1659 of the records of the City of St. Louis, Missouri (exhibit "A" attached hereto) in City Block 5667

County: St. Louis City, Missouri

Return to: Mr. Marvin J. Nodiff
Law Offices of Marvin J. Nodiff, P.C.
500 N. Skinker Blvd.
St. Louis, MO 63130
(314) 727-8989

**RESTATEMENT
OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
KINGSBURY SQUARE
CITY OF ST. LOUIS, MISSOURI**

**RESTATEMENT
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
KINGSBURY SQUARE**

THIS RESTATEMENT OF DECLARATION of Covenants, Conditions and Restrictions for Kingsbury Square is made by the Lot Owners as Members of The Kingsbury Square Association, a Missouri nonprofit corporation ("Association"), this 27th day of JANUARY, 2009.

WHEREAS, Kingsbury Square ("Subdivision") was created under the "Declaration of Covenants, Conditions and Restrictions for Kingsbury Square" as recorded on October 1, 1979 in Book 209M, Page 1659 of the records of the City of St. Louis, Missouri, as amended, and by the Declaration of Covenants, Conditions and Restrictions for Kingsbury Square II as recorded on December 23, 1996 in Book 1258, Page 0592 of the records of the City of St. Louis, Missouri, as amended; Kingsbury Square and Kingsbury Square II were merged by the Merger Agreement recorded on September 29, 2006 in Book 09292006, Page 0124 of the records of the City of St. Louis, Missouri; the successor governing document under the Merger Agreement is the KSII Declaration, hereinafter referred to as the "Original Declaration"; and

WHEREAS, certain real property situated in City of St. Louis, Missouri, as described in the Plat of Kingsbury Square as recorded in Plat Book 19, Page 97 and the Plat of Kingsbury Square II as recorded in Plat Book 65, Page 16, of the records of the City of St. Louis, Missouri (collectively referred to as the "Plat") is subject to the Original Declaration; and

WHEREAS, the real property subjected to the Original Declaration is more particularly described in Exhibit "A" attached to said documents and attached hereto and incorporated by reference herein; and

WHEREAS, Article X, Section 3 of the Original Declaration as amended by the Merger Agreement authorizes the Owners to amend the Original Declaration at any time by vote or agreement of the Owners of two-thirds (2/3rds) of the Lots subject thereto; and

WHEREAS, all Owners of Lots in the Subdivision are Members of the Association; the Association is organized as a Missouri nonprofit corporation; and

WHEREAS, the Owners, as Members of the Association, desire to amend the Original Declaration, as more particularly set forth herein below.

NOW THEREFORE, the Original Declaration is hereby superseded and this Restatement of Declaration of Covenants, Conditions and Restrictions for Kingsbury Square is adopted in lieu thereof, and all properties within the Plat and Exhibit "A" attached hereto shall be held, sold and conveyed subject to the covenants, conditions and

restrictions contained in this Restatement of Declaration which shall run with the land and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

TABLE OF CONTENTS

		<u>Page</u>
PART ONE: INTRODUCTION		1
Article I	Definitions	1
1.1	Association	1
1.2	Board of Directors or Board	1
1.3	By-Laws	1
1.4	Common Expenses	1
1.5	Common Ground	1
1.6	Declaration	1
1.7	Documents or Governing Documents	1
1.8	Dwelling	1
1.9	Lot	1
1.10	Member	1
1.11	Member in Good Standing.....	2
1.12	Nonprofit Corporation Act or NPCA	2
1.13	Ordinance	2
1.14	Original Declaration	2
1.15	Owner	2
1.16	Person	2
1.17	Plat	2
1.18	Property	2
1.19	Rules	2
1.20	Security Interest.....	2
1.21	Subdivision or Kingsbury Square Subdivision	3
 PART TWO: COMMUNITY GOVERNANCE		 3
Article II	Location, Lots, Boundaries, Allocated Interests	3
2.1	Location	3
2.2	Number of Lots	3
2.3	Separate Taxation	3
2.4	Subdividing, Converting and Relocating Lot Boundaries	3
2.5	City of St. Louis	3
 Article III	 Association	 3
3.1	Creation, Name	4

3.2	Membership	4
3.3	Management	4
3.4	Authority	4
3.5	Board of Directors	4
3.6	Indemnification	4
3.7	By-Laws	4
Article IV	Association Powers and Duties	5
4.1	Budgets	5
4.2	Maintenance	5
4.3	Manager	5
4.4	Utility Easements	5
4.5	Contracting	5
4.6	Rulemaking	5
4.7	Standing	6
4.8	Penalties	6
4.9	Neglected Lots and Dwellings	6
4.10	Administrative Charges	6
4.11	Insurance	6
4.12	Borrowing	7
4.13	Trash and Recycling	7
4.14	Community Activities	7
4.15	Enforcement of Restrictions	7
4.16	Resale Certificates	7
4.17	Interpretation	8
4.18	Limitations on Board	8
4.19	General	8
PART THREE: PROPERTY RIGHTS AND RESPONSIBILITIES		8
Article V	Allocated Interests.....	8
5.1	Common Ground	8
5.2	Common Expense Liability	9
5.3	Votes in the Association	9
Article VI	Maintenance Responsibilities	9
6.1	Association Responsibilities	9
6.2	Owner Responsibilities	9
6.3	Common Walls	10
6.4	Failure to Maintain	10

Article VII	Easements.....	10
7.1	Easement Appurtenant	10
7.2	Easements in Gross	11
7.3	Driveway, Walkway and Utility Easement	11
7.4	Effect of Easements	11
 PART FOUR: FINANCIAL MATTERS.....		11
Article VIII	Budgets and Assessments.....	11
8.1	Authority; Covenant to Pay	11
8.2	Common Expenses Attributable to Fewer than all Lots	11
8.3	Preparation of Budget	12
8.4	Ratification of Budget	12
8.5	Budget Adjustments; Special Assessments	13
8.6	Certificate of Payment	13
8.7	Payment Schedule	13
8.8	Accounting	13
Article IX	Collection Authority.....	13
9.1	Personal Liability of Owners	13
9.2	No Waiver of Liability	13
9.3	Interest and Late Fees	13
9.4	Acceleration.....	14
9.5	Lien for Assessments	14
9.6	Costs and Fees	14
9.7	Enforcement	15
9.8	Exemptions	15
Article X	Mortgagee Provisions	15
10.1	Right to Grant Security Interest	15
10.2	Notice of Actions	15
10.3	No Priority	15
10.4	Notice to Association	16
10.5	Right to Cure Default	16
 PART FIVE: RESTRICTIONS ON USE; DESIGN REVIEW		16
Article XI	Use Restrictions	16
11.1	Use and Occupancy	16
11.2	Obstructions	16
11.3	Pets and Animals	16
11.4	Nuisances	17

11.5	Commercial Use	17
11.6	Parking, Trucks, Boats, Etc.	17
11.7	Vehicular Sight Lines	17
11.8	Signs	17
11.9	Satellite dishes, Antennas	18
11.10	Utility and Drainage Easements	19
11.11	Hazardous Materials	19
11.12	Temporary Structures.....	19
Article XII	Restrictions on Leasing, Regulation of Leases	19
12.1	Restrictions on Leasing	20
12.2	Regulations of Leases	20
12.3	Waiver	21
12.4	Local Government Inspection, Occupancy Permit.....	21
12.5	Rulemaking.....	22
12.6	Remedies	22
Article XIII	Design Review and Architectural Covenants	22
13.1	Design Review Committee: Membership; Functions	22
13.2	New Construction, Alteration, Application to ARC	24
13.3	Review Standards	25
13.4	Application Fees, Security for Performance; Damage	25
13.5	Appeals	26
PART SIX: CHANGES AFFECTING THE COMMUNITY		26
Article XIV	Common Ground	26
14.1	Change in Use of Common Ground	26
14.2	Conveyance of Common Ground	26
Article XV	Changes in Governance.....	26
15.1	Master Association	26
15.2	Merger and Consolidation	26
15.3	Improvement District.....	27
Article XVI	Condemnation, Termination	27
16.1	Condemnation	27
16.2	Termination of Subdivision	27
Article XVII	Relief and Remedies	28
17.1	Relief, Attorney's Fees	28
17.2	Board Discretion in Enforcement	28
17.3	Alternative Dispute Resolution	29

Article XVIII	Amendments to Governing Documents	29
18.1	Declaration: General	29
18.2	By-Laws	30
18.3	Execution of Amendments.....	30
18.4	Board Amendments	30
Article XIX	General Provisions	30
19.1	Validity	30
19.2	Construction	31
19.3	Persons Bound by the Documents	31
19.4	Term	31
19.5	Effective Date	31
19.6	Applicability	31
Exhibit A	Legal Description of Subdivision Property	

PART ONE: INTRODUCTION

ARTICLE I DEFINITIONS

1.1 **“Association”** means Kingsbury Square Association, its successors and assigns.

1.2 **“Board of Directors”** or **“Board”** means the body designated to act on behalf of the Association.

1.3 **“By-Laws”** means the By-Laws of the Association and any amendments.

1.4 **“Common Expenses”** means expenses or financial liabilities of the Association, including: (a) expenses of administration, maintenance, repair, improvements, or replacements on the Common Ground, including improvements thereon; (b) expenses relating to implementation and enforcement of the Governing Documents; (c) expenses declared to be Common Expenses by this Declaration; (d) expenses agreed upon as Common Expenses by the Association; and (e) such reasonable reserves as may be established by the Association.

1.5 **“Common Ground”** means all portions of the Subdivision other than the Lots including the streets, green space, drainage channels, easements, recreation facilities, community facilities and other improvements thereon, and common properties depicted on the Plat and/or held by the Association, which shall be held and operated for the common use and enjoyment of the Owners.

1.6 **“Declaration”** means this instrument, as may be amended.

1.7 **“Documents”** or **“Governing Documents”** means this Declaration, Plat, Articles of Incorporation, By-Laws, and Rules, and any amendments.

1.8 **“Dwelling”** means any building on a Lot depicted on the Plat designed and intended for independent residential use.

1.9 **“Lot”** means a separate parcel of land, including a Dwelling and other improvements thereon, the location and dimensions of which are depicted on the Plat.

1.10 **“Member”** means the record Owner of a Lot in the Subdivision.

1.11 “Member in Good Standing” means a Member who is current in the payment of assessments, fines and other charges imposed under the Governing Documents.

1.12 “Nonprofit Corporation Act” or “NPCA” means the Missouri Nonprofit Corporation Act, Chapter 355, Mo. Rev. Stat., as may be amended.

1.13 “Ordinance” means any applicable ordinance of the City of St. Louis or its successor(s), or of such municipal or county government as may have jurisdiction in the future.

1.14 “Original Declaration” means the Declaration of Covenants, Conditions and Restrictions for Kingsbury Square as recorded on October 1, 1979 in Book 209M, Page 1659 of the records of the City of St. Louis, Missouri, as amended, and by the Declaration of Covenants, Conditions and Restrictions for Kingsbury Square II recorded on December 23, 1996 in Book 1258, Page 0592 of the records of the City of St. Louis, Missouri, as amended; Kingsbury Square and Kingsbury Square II were merged by the Merger Agreement recorded on September 29, 2006 in Book 09292006, Page 0124 of the records of the City of St. Louis, Missouri; the successor governing document under the Merger Agreement is the KSII Declaration, referred herein to as the “Original Declaration.”

1.15 “Owner” means any Person who has a recorded fee simple title to a Lot in the Subdivision, not including any person having a Security Interest in the Lot.

1.16 “Person” means a natural person, corporation, business trust, estate trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity; provided, however that in the case of a land trust, “person” means the beneficiary of the trust rather than the trust or the trustee.

1.17 “Plat” means the “Plat of Kingsbury Square” recorded on in Plat Book 19, Page 97 and the Plat of Kingsbury Square II as recorded in Plat Book 65, Page 16, of the records of the City of St. Louis, Missouri, and any amendments, and is incorporated by reference herein.

1.18 “Property” means the land, all improvements, easements, rights and appurtenances, described in Exhibit “A” attached hereto depicted on the Plat and subjected to the Original Declaration.

1.19 “Rules” means rules, regulations and policies, adopted by the Board pursuant to the Governing Documents and any amendments.

1.20 “Security Interest” means an interest in any Lot in the Subdivision created by contract or conveyance, which secures payment or performance of an obligation.

1.21 “Subdivision” or “Kingsbury Square Subdivision” means that subdivision and the Property which are subject to this Declaration.

PART TWO: COMMUNITY GOVERNANCE

ARTICLE II

LOCATION, LOTS, BOUNDARIES, ALLOCATED INTERESTS

2.1 Location. The Subdivision is situated in the City of St. Louis, Missouri, and is located on the Property.

2.2 Number of Lots. The number of Lots included in the Subdivision and subject to this Declaration is _____ (____), which Lots are numbered and described more particularly in the Plat.

2.3 Separate Taxation. Each Lot constitutes for all purposes a separate parcel of real estate, and shall be separately assessed and taxed. The Common Ground shall not be subject to separate assessment or taxation.

2.4 Subdividing, Converting and Relocating Lot Boundaries. The subdivision of a Lot or the consolidation of adjacent Lots is prohibited. Subject to applicable provisions of law, the boundaries between adjoining Lots may be adjusted, by an amendment to the Plat, by the affected Owners and at their expense, and with the Board=s consent, which shall be evidenced by the Board joining in the execution of such instrument on behalf of the Association. No such adjustment of Lot boundaries shall reduce the number of Lots for assessment purposes.

2.5 City of St. Louis. The subdivision is subject to the Ordinances.

ARTICLE III ASSOCIATION

The success of the Kingsbury Square community is dependent upon the support and participation of every Owner in its governance and administration. This Declaration establishes the Association as the mechanism by which each Owner is able to provide that support and participation. While many powers and responsibilities are vested in the Association=s Board of Directors, some decisions are reserved for the Association’s membership -- the Owners in the Subdivision.

3.1 Creation, Name. There shall be a homeowners association, the name of which shall be "Kingsbury Square Association," and shall be organized as a nonprofit corporation under the NPCA.

3.2 Membership. Membership in the Association at all times shall consist exclusively of all the Owners or, following a taking of all the Property under Section 16.1 or termination of the Subdivision under Section 16.2, of all former Owners entitled to distributions of proceeds, or their heirs, successors or assigns. Only a Member in Good Standing with the Association may vote and serve on the Board.

3.3 Management. Operation of the Subdivision shall be vested in the Association.

3.4 Authority. No Owner, except an officer of the Board, shall have any authority to act for or on behalf of the Association, unless authorized in writing by the Board.

3.5 Board of Directors. There shall be a Board of Directors ("Board") which shall act on behalf of the Association, except as expressly limited by Governing Documents. The Board shall be deemed to be the board of directors under the NPCA. The number of Directors shall be set in the By-Laws, but shall not be less than three (3).

(a) **Qualifications of Directors.** The Board shall consist of Owners who are residents of the Subdivision who are at least twenty-one (21) years of age and Members in Good Standing of the Association, and shall not be engaged in any unresolved litigation, administrative or arbitration proceeding adverse to the Association's interests. Not more than one (1) Owner of the same Lot may serve as a Director at the same time.

(b) **Election of Directors.** The Directors shall be elected by the Owners at the annual meeting of the Association and shall serve as provided in the By-Laws.

(c) **Removal of Directors.** Any Director may be removed as provided in the By-Laws.

3.6 Indemnification. Except for their intentional acts or gross negligence, the Members of the Association and Directors and officers of the Board, acting within their authority, shall not be individually or personally liable for the debts, liabilities or obligations of the Association, except to the extent of their obligation to pay assessments as Members of the Association and limited to the value of their Lot provided, however, that an Owner may be liable for injury to persons or property based on the comparative fault of the Owner.

3.7 By-Laws. The administration of the Association shall be governed by the By-Laws, which need not be recorded.

ARTICLE IV
ASSOCIATION POWERS AND DUTIES

The Association is the entity responsible for governance and administration of the Subdivision, for performance of certain maintenance responsibilities, enforcement of restrictions, and otherwise for implementation of the Governing Documents. The powers and duties of the Association, acting by and through the Board except for such matters reserved exclusively for the Owners, shall include those set forth in the Governing Documents. The Association shall be entitled to exercise any of the rights conferred upon it and shall be subject to all of the obligations imposed upon it under law and the Governing Documents.

The Association shall have the following powers:

4.1 Budgets. The power to adopt and amend budgets for the income and Common Expenses of the Association, and to levy and collect annual and special assessments from the Owners as provided in Articles VIII and IX.

4.2 Maintenance. The power to maintain, repair and replace the Common Ground and improvements thereon as provided in Article VI.

4.3 Manager. The power to employ and to terminate a community manager as agent to carry out such duties of the Association as may be delegated by the Board, and such other persons deemed reasonable and necessary to carry out the Association's responsibilities.

4.4 Utility Easements. The power to establish, grant and dedicate easements for public utilities and private service providers, including telecommunications services, in addition to any shown on the Plat, and leases, licenses and concessions in, over and through the Common Ground.

4.5 Contracting. The power to enter into contracts and make liabilities for the maintenance, management, administration, operation, repair, replacement, improvement and servicing of the Common Ground and the Association.

4.6 Rulemaking. The power to adopt and amend reasonable Rules, after notice and opportunity to comment for the Owners, to implement and enforce the design review covenants and the restrictions on use contained in this Declaration. The Association may adopt any other reasonable Rules to maintain Common Ground and carry out other responsibilities under the Governing Documents without such prior notice and opportunity to comment. The Association may require permits for particular use of the Common Ground and to revoke same. All Rules adopted under this authority shall be for the maintenance and conservation of the Subdivision and for the health, comfort and welfare

of the Owners and to preserve and enhance the Property, and to implement the intent and purposes of the Governing Documents, all in the best interests of the community as a whole. All Owners, their families, tenants, occupants, guests and invitees, and mortgagees, shall be subject to such Rules.

4.7 Standing. The power to institute, defend or intervene in litigation or administrative proceedings in its own name and on behalf of itself or two (2) or more Owners on matters affecting the Subdivision or the Association.

4.8 Penalties. The power (a) to impose interest and charges for late payment of assessments and (b) after notice and opportunity to be heard, to levy reasonable fines and/or penalties for a violation of any provision of the Governing Documents.

4.9 Neglected Lots and Dwellings. The power and right of access, after notice and opportunity to be heard (except in an emergency as may be determined by the Board), to correct neglected conditions on any Lot and to restore the exterior appearance of any Dwelling which is damaged or in disrepair, and the Owners and/or occupants thereof may be charged with the reasonable expenses so incurred, including reasonable attorney's fees, which shall be collectable in the same manner as assessments under Article IX. The Association shall also have the power and right of access, as may be necessary to maintain, repair or replace any Common Ground accessible from any Lot, or to make repairs necessary to prevent damage to the Common Ground or to another Lot or Dwelling, or abate or remove any violation on the Common Ground. The Association and its agents and employees shall be entitled to entrance by exhibiting to the Owner or occupant a Board resolution, and shall not be deemed guilty or liable for any manner of trespass. If damage is inflicted on Common Ground or a Lot or Dwelling by the Association's acts, the Association is liable for the prompt repair thereof.

4.10 Administrative Charges. The power to impose reasonable charges for the preparation and recordation of amendments to this Declaration, resale information as may be requested, statements of unpaid assessments, and such other matters as may be requested or required of the Association by an Owner. In the event any professional services are required by the Association in connection with a request by an Owner, the fees incurred for such services shall be paid by or assessed against the Lot of said Owner.

4.11 Insurance. The power to purchase and maintain in force such insurance as deemed appropriate by the Board and to the extent reasonably available, including but not limited to property insurance covering improvements on the Common Ground, comprehensive liability insurance, directors' and officers' liability insurance, fidelity bond, and such other coverage as may be provided in the By-Laws or deemed appropriate by the Board, and the power to provide for the indemnification of the Board and its officers and the Members of the Association.

4.12 Borrowing. The power to borrow funds in furtherance of Association purposes, including to encumber Association assets and to assign its rights to future income (including the right to receive assessments), provided that the Members in Good Standing ratify such borrowing in the same manner as ratification of the annual budget under Section 8.4.

4.13 Trash and Recycling. The power to contract for community-wide trash, garbage and recycling services in the event the City of St. Louis discontinues any such services.

4.14 Community Activities. The power to provide social, educational, wellness, environmental, and other community activities.

4.15 Enforcement of Restrictions. The power to enforce the restrictions and covenants contained in this Declaration.

4.16 Resale Certificates. The power to prepare a resale certificate for the purchaser of a Lot as provided in this Section.

(a) **Notice.** The selling Owner shall provide notice to the Association that his Lot is under contract for sale. Such notice shall be made within ten days after a sale contract for the Lot is executed. In the absence of such notice by the selling Owner, the Association may obtain information that a Lot is under contract for sale.

(b) **Contents.** Upon receipt of notice under subsection (a) of this Section, the Association shall prepare a resale certificate including, at minimum, the following: (1) a copy of this Declaration, the By-Laws, Rules, and any amendments thereto, (2) a copy of the certificate of insurance, (3) a copy of the current annual budget, (4) a copy of the most recent annual statement of income and expenses, (5) a statement of the annual assessment and any special assessment against the Lot, and the date such assessment is due, (6) a statement of any unpaid assessments, fines, fees or other charges against the Lot, and (7) a statement of any uncured violation affecting the Lot or Dwelling of which the Association has actual knowledge.

(c) **Delivery.** Not more than ten days after receipt of notice under subsection (a) of this Section, the Association shall deliver the resale certificate to the selling Owner who shall promptly deliver it to the purchaser of the Lot. In the event the selling Owner fails to notify the Association of the pending sale, said Owner shall be responsible for providing all the information described in subsection (b) of this Section to the purchaser prior to closing.

(d) **Title Company Requests.** In addition to the resale certificate, the Association shall furnish resale information upon request by purchaser's title insurance company and/or lender.

(e) **Receipt.** The purchaser shall acknowledge receipt of the resale certificate at closing. A copy of the receipt shall be furnished to the Association.

(f) **Payment of Delinquency.** Any unpaid assessments, fines, fees or other charges against the Lot set forth in the resale certificate, and administrative costs incurred under this Section, shall be paid at closing. Upon satisfaction of such delinquency, the Association shall execute and deliver a release of lien to the purchaser's title insurance company or other closing agent.

4.17 Interpretation. The power to interpret and construe the Governing Documents, and to implement and to carry out the purposes and intentions of the Governing Documents for the benefit of the community as a whole.

4.18 Limitations on Board. The Board shall not have any power to amend this Declaration (except as provided in Section 14.3), or to terminate the Association or the Subdivision, or to elect Directors or determine the qualifications, powers and duties or terms of office of Directors (except that the Board shall fill vacancies among its Directors as provided in the By-Laws), or to take any other action expressly reserved to the Owners.

4.19 General. The power to exercise such other powers as may be provided under law, the Governing Documents, and the NPCA, and to exercise all other powers that may be exercised in Missouri by legal entities of the same type as the Association and any other powers necessary and proper for the governance and operation of the Association in the best interests of the community as a whole.

PART THREE: PROPERTY RIGHTS AND RESPONSIBILITIES

ARTICLE V ALLOCATED INTERESTS

The allocation of interests in the Association is as follows:

5.1 Common Ground. Each Owner shall have a nonexclusive easement and right to use the Common Ground by virtue of membership in the Association, subject to the provisions of the Governing Documents.

5.2 Common Expense Liability. Common Expense Liability shall be allocated on the basis of equality, subject to Section 8.2.

5.3 Votes in the Association. Votes in the Association for all purposes are allocated on an equal basis, i.e. the Owner of each Lot having one vote of equal weight.

ARTICLE VI
MAINTENANCE RESPONSIBILITIES

Responsibilities for maintenance of the properties in the Subdivision are allocated as provided in this Article.

6.1 Association Responsibilities.

(a) Title to Common Ground. Any interest in the ownership of the Common Ground acquired by any predecessor in interest under the Original Declaration shall be deemed conveyed in fee simple to the Association upon the Effective Date of this Declaration to the same extent and effect as if this Declaration were a deed of conveyance.

(b) Control of the Common Ground. The Association shall exercise such control over the Common Ground (except for those easements, streets and roads, and sidewalks which may hereafter be dedicated to public bodies or agencies) as is necessary to maintain, repair, rebuild, supervise and insure the proper use of the easements, streets, roads, and other improvements by the necessary public and private utilities and others, including the right (to itself and others to whom it may grant permission) to contract for, construct, operate and maintain on, under and over said easements and streets, sidewalks, sewers, pipes, poles, wires and other facilities and public utilities for services to the Lots and Dwellings.

(c) Maintenance of Common Ground. The Association shall maintain, repair and replace all the Common Ground and any improvements thereon in accordance with community standards as may be established by the Board.

(d) Perimeter Fencing. The Association shall maintain, repair and replace, as a Common Expense, (i) all perimeter fencing that serves the Subdivision and is located on more than one (1) Lot, and (ii) access gates, entrance monument and entrance signage serving the Subdivision and located on property of the City of St. Louis.

6.2 Owner Responsibilities. Each Owner at his own expense shall maintain, repair and replace his respective Lot and Dwelling, including all utilities, sewer lateral lines and surface drainage servicing same, and trees and landscaping on the Lot in accordance with community standards as may be established by the Board. No Owner shall do anything in violation of law or the Ordinances.

6.3 Common Walls. Each interior wall (including common garage walls, if any), which is built as a part of the original construction of a Dwelling and placed on or about the dividing line between the Lots shall constitute a common wall, and to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions apply thereto. Each Owner shall enjoy a perpetual easement running with the land for structural support and to maintain, repair and replace the common wall and any ductwork, plumbing, gas, electrical, telephone or other utility lines serving her or his Dwelling.

(a) **Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of common walls, walkways and driveways shall be shared equally by the Owners making use of any part of the common wall, walkway or driveway.

(b) **Destruction by Fire or Other Casualty.** If a common wall, walkway or driveway is destroyed or damaged by fire or other casualty, any Owner who uses or has access to the wall, walkway or driveway shall restore it, and the other Owners sharing the use thereof shall contribute equally to the cost of restoration without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(c) **Willful or Negligent Acts.** Notwithstanding anything herein to the contrary, in the event that any such damage or destruction of a common wall, walkway or driveway is caused by the willful or negligent act of an Owner, such Owner shall be responsible to pay the cost of repair thereof.

6.4 Failure to Maintain. In the event an Owner fails to fulfill any maintenance responsibility set forth in this Article in accordance with community standards as may be established by the Board, or causes damage to his Lot or Dwelling, or any property of another Owner or the Common Ground, and fails to take appropriate corrective measures, the Board may, in its discretion, notify the Owner of the particular condition and prescribe an appropriate corrective measure and reasonable schedule for completion of the corrective work. In the event the Owner fails to comply with said notice, the Board, after opportunity to be heard, may affect the corrective measures and assess all costs and expenses against the defaulting Owner, which if unpaid shall be collectable in the same manner as assessments as provided in Article IX.

ARTICLE VII **EASEMENTS**

7.1 Easement Appurtenant. Perpetual easements for the use and enjoyment of the Common Ground are hereby established appurtenant to all Lots for use by the Owners thereof, their families, guests and invitees.

7.2 Easements in Gross. The Property shall be subject to a perpetual easement in gross to the Association for ingress and egress, to perform its obligations and duties as required by the Governing Documents.

7.3 Driveway, Walkway and Utility Easement. Easements as shown on the Plat are established and dedicated for streets and roads, electricity, gas, water and telephones and for all other public and private utility purposes, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, drainage, gas mains, telecommunications wires and equipment and electrical conduits and wires on the Common Ground.

7.4 Effect of Easements. All easements and rights herein established shall run with the land and inure to the benefit of and be binding on the Association, its successors and assigns, and any Owner, purchaser, mortgagee, holder of a Security Interest, or other person having an interest in any portion of the Property herein described, whether or not such easements are mentioned or described in any deed of conveyance.

PART FOUR: FINANCIAL MATTERS

ARTICLE VIII BUDGETS AND ASSESSMENTS

The objectives of this Article are to foster financial stability of the Association, establish a budget process to meet the reasonable and necessary expenses of the Association with oversight by the Owners, and to provide flexibility to meet unanticipated circumstances and major repairs over time.

8.1 Authority; Covenant to Pay. Each Owner, regardless of the manner in which he acquired title to his Lot, including without limit, purchase at a judicial sale, covenants to pay and shall be liable for all assessments and other charges coming due while he is Owner.

8.2 Common Expenses Attributable to Fewer than all Lots. Notwithstanding the allocation of Common Expense Liability stated in Section 5.2:

(a) Common Expenses relating to maintenance, repair and replacement of driveways serving the Lots in the plat of Kingsbury Square II shall be assessed against said Lots, as a group, on the basis of equality. Any other Common Expense of the Association, or portion thereof, which benefits fewer than all of the Lots, may be assessed exclusively against the Lots benefited, equally or on any basis deemed equitable by the Board under the circumstances.

(b) Any Common Expense for services provided by the Association to an individual Lot at the request of the Owner, and beyond the Association's duties expressed herein or assumed, shall be assessed against the Lot which benefits from such service.

(c) Any insurance premium increase attributable to a particular Lot by virtue of activities in or construction on the Lot shall be assessed against such Lot.

(d) Any Owner, after notice and opportunity to be heard, shall be liable for any damages to any other Lot or Dwelling, or to the Common Ground, caused intentionally, negligently or by his failure to properly maintain, repair or make replacements to his Lot or Dwelling.

(e) If unpaid, fees, charges, expenses, costs of correcting or abating a violation, late charges, fines, collection costs, interest, court costs and other expenses of litigation, and reasonable attorney's fees, charged against an Owner pursuant to the Governing Documents, are enforceable in the same manner as an assessment under this Article.

8.3 Preparation of Budget. The Board shall prepare the proposed annual budget as follows:

(a) The annual budget shall provide a reasonable estimate of the Common Expenses, including reserves, for the forthcoming year. The Common Expenses shall be allocated to the Lots under Sections 5.2 and 8.2(a). The budget shall include a statement of late fees and interest to be charged on delinquent accounts under Section 9.3 and the By-Laws.

(b) Funding for a capital improvement costing more than \$10,000.00, whether in the annual budget, special assessment, borrowing or other source, must be approved by a majority of all Members in Good Standing. For the purposes of this provision, "capital improvement" means any new physical improvement on the Common Ground not included in the Subdivision on the Effective Date of this Declaration.

(c) In the event the Association borrows money as provided in Section 4.12, repayment of the loan shall be provided for in the budget as "debt service."

8.4 Ratification of the Budget. The Board shall provide a copy of the proposed budget to the Owners and set a date for a meeting of the Owners to consider ratification. Unless at the meeting a majority of all the Members in Good Standing reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the most recent budget shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board.

8.5 Budget Adjustments; Special Assessments. In the event that, at any time during the year, the Board shall determine that the projected revenue is insufficient to meet current operating expenses, or that a special assessment is required, the Board (i) may increase the assessment or levy a special assessment up to 20% of the annual assessment and shall notify the Owners at least sixty (60) days prior to the date payment is due, or (ii) may increase the assessment or levy a special assessment more than 20% of the annual assessment and shall notify each Owner, in writing, as to the amount of the revised budget or special assessment, which shall then become effective upon ratification as provided in Section 8.4.

8.6 Certificate of Payment. The Association, within ten (10) business days after receipt of written request from an Owner, shall furnish to him a statement setting out the amount of unpaid assessments against the Lot.

8.7 Payment of Assessments. The annual assessment shall be due and payable in January of each year. Special assessments may be payable in a single payment or periodic installments as determined by the Board, unless otherwise provided in the By-Laws.

8.8 Accounting. Within sixty (60) days following the end of each fiscal year, the Board shall furnish to all Owners an itemized accounting of all income and expenses of the preceding calendar year. At the discretion of the Board, any or all surplus funds of the Association shall be applied to reserves and anticipated Common Expenses for the next year.

ARTICLE IX **COLLECTION AUTHORITY**

This Article authorizes the Association to collect assessments and other charges to foster financial stability for the Association.

9.1 Personal Liability of Owners. The Owner at the time an assessment is levied and is due shall be personally liable for same, together with such charges as may be imposed under this Declaration. Personal liability for said assessment shall not pass to a successor in title unless he agrees to assume the obligation.

9.2 No Waiver of Liability. Liability for assessments shall be an independent and affirmative covenant and may not be avoided by waiver of the use of the Common Ground or services, or by abandonment of the Lot against which the assessment was made, or by reliance upon any claim against the Association, Board, another Owner or any third party.

9.3 Interest and Late Fees. Delinquent assessments shall be charged interest and late fees in such amounts as provided in the By-Laws.

9.4 Acceleration. In the event that a delinquency in excess of thirty (30) days occurs in the payment of any assessment that is payable in installments, the full amount of such assessment may be accelerated, and collected as provided in this Article.

9.5 Lien for Assessments.

(a) In addition to each Owner's personal liability for assessments and fines under Section 9.1 above, the Association has a lien against a Lot for any assessment imposed under this Declaration, from the time the assessment or fine becomes due, including all other fees and charges authorized under this Declaration.

(b) A lien under this Section is prior to all other liens and encumbrances on a Lot except: (1) a first security interest on the Lot recorded before the date on which the assessment sought to be enforced became delinquent, and (2) liens for real estate taxes and other governmental assessments or charges against the Lot. A lien under this Section is not subject to the provisions of Section 513.475 Mo. Rev. Stat. (homestead exemption).

(c) A notice of the Association's lien for assessments shall be recorded in the office of Recorder of Deeds, City of St. Louis, Missouri.

(d) If an Owner of a Lot subject to a lien under this Section files a petition for relief under the United States Bankruptcy Code, the period of time for instituting proceedings to enforce the Association's lien shall be tolled until thirty (30) days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

(e) This Section does not prohibit any action to recover sums for which Subsection (a) of this Section creates a lien or prohibits the Association from taking a deed in lieu of foreclosure.

(f) The Association's lien may be foreclosed by judicial proceeding or by publication in like manner as a mortgage on real estate or power of sale under Sections 443.290 to 443.440, Mo. Rev. Stat.

(g) In the case of any foreclosure of the Association's lien, the Association shall give reasonable notice of its action to each lien holder whose interest would be affected.

9.6 Costs and Fees. A judgment or decree in any action brought under this Article shall include all costs, fees and other charges authorized under this Declaration, and attorney's fees and paralegal fees for the prevailing party.

9.7 Enforcement. A judgment or decree in any action brought under this Article shall be enforceable by execution of the judgment.

9.8 Exemptions. The Common Ground shall be exempt from the assessments, charges and liens created herein.

ARTICLE X **MORTGAGEE PROVISIONS**

The provisions of this Article are for the benefit of holders, insurers and guarantors of first Security Interests on Lots in the Subdivision.

10.1 Right to Grant Security Interest. Each Owner shall have the right to grant one or more Security Interests against his Lot.

10.2 Notice of Actions. As used herein, the term "Eligible Mortgagee" means any institutional holder, insurer, or guarantor of a first Security Interest in a Lot which provides a written request to the Association, stating the name and address of such holder, insurer or guarantor and the identifying number of the Lot to which its Security Interest relates. The Association shall give timely written notice to each Eligible Mortgagee of:

(a) Any condemnation loss or casualty loss which affects a material portion of the Property or which affects any Lot on which there is a first Security Interest held, insured or guaranteed by such Eligible Mortgagee;

(b) Any delinquency in the payment of assessments or charges owed by an Owner whose Lot is subject to a Security Interest held, insured or guaranteed by such Eligible Mortgagee, which remains unsecured for a period of sixty (60) days, or any other violation of the Governing Documents relating to such Lot, of the Owner or occupant, which is not cured within sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy maintained by the Association; and

(d) Such other notices as permitted or required by this Declaration.

10.3 No Priority. No provision of the Governing Documents gives or shall be construed to give any Owner or other party priority over any rights of a holder, insurer or guarantor of a first Security Interest of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Ground.

10.4 Notice to Association. Upon request, each Owner shall furnish to the Association the name and address of the holder, insurer or guarantor of any Security Interest encumbering such Owner's Lot.

10.5 Right to Cure Default. If any Owner fails to pay any amount required to be paid under the provisions of any Security Interest against such Owner's interest, the Association shall have the right to cure such default by paying the amount so owing to the party entitled thereto and shall thereupon have all rights to recover same as provided in Article IX. The holder of a Security Interest against any Lot shall give notice of default under such Security Interest to the Association at the same time as such notice is given to the defaulting Owner. The foregoing shall not be construed to require the holder of a Security Interest to receive permission from the Association to foreclose the lien of its Security Interest.

PART FIVE: RESTRICTIONS ON USE; DESIGN REVIEW

ARTICLE XI USE RESTRICTIONS

This Article contains certain restrictions on the use of properties within the Subdivision that are deemed reasonable for the preservation of an attractive residential neighborhood over time. These restrictions are applicable upon the Effective Date of this Declaration. Existing uses on the Effective Date shall not be deemed to be in violation of this Declaration, but violations existing under the Original Declaration may be enforced pursuant to the provisions of said document after the Effective Date of this Declaration. The use of Lots and Dwellings shall also comply with all applicable Ordinances.

11.1 Use and Occupancy. No more than one (1) Dwelling shall be located on each Lot. Each Lot and Dwelling thereon shall be used solely for single family residential purposes, including not more than three (3) unrelated persons living together as a single-family unit. The number of occupants shall comply with applicable Ordinances.

11.2 Obstructions. There shall be no obstructions on the Common Ground without prior written consent of the Board.

11.3 Pets and Animals. No animals, reptiles, birds, horses, rabbits, fowl, poultry, cattle or livestock of any kind shall be brought onto or kept on the Properties, except that no more than three (3) dogs, cats, or other household pets (except house pets with vicious propensities) may be kept or maintained on any Lot, provided that such pets are not kept for any commercial purpose and provided that such pets are at all times leashed outside the Dwelling, and no outside structures are erected without approval under Article XIII. The Owner shall immediately remove all fecal wastes of his pet. No Owner shall keep any pet

which by reason of its noisiness or other factor is a nuisance or annoyance to the neighborhood, as determined by the Board in its sole judgment.

11.4 Nuisances. No noxious or offensive activity shall be conducted or permitted by any Owner or resident nor shall anything be done which would become an annoyance or a nuisance to other Owners or residents. No Owner shall permit or suffer anything to be done or kept in or on his Lot which will increase the insurance rate of the other Lots or Dwellings or the Common Ground or which obstructs or interferes with the rights of other Owners or residents, or disturbs them by unreasonable conduct or otherwise permit any nuisance or illegal act on his Lot, Dwelling or on the Common Ground.

11.5 Commercial Use. No commercial use of a Lot or Dwelling shall be permitted except for office in the home and home parties; provided, that no such use shall include employees (other than Owners and residents) or create a nuisance or in any way impair the rights of any Owner, and shall be in strict compliance with applicable Ordinances. No storage of commercial equipment or materials, placement of commercial signs, or any other commercial activity shall be permitted on the exterior of any Lot, Dwelling, or on the Common Ground.

11.6 Parking, Trucks, Boats, Etc. Owners and residents shall park or store their vehicles only in their respective garage and driveway. Additional vehicles may be parked in the street unless otherwise provided for particular types of vehicles in this Section. No derelict, abandoned, inoperative, or unlicensed vehicle shall be parked or stored on the Property except in a garage with the door closed. Repairs and maintenance of any vehicle shall not be permitted in the driveway except for emergency repairs (changing flat tire, jump-starting) or routine maintenance (cleaning, washing). No trailer, camper, mobile home, recreation vehicle, motorcycle, boat or boat trailer, commercial vehicle, or truck in excess of $\frac{3}{4}$ -Ton, shall be parked or stored on the Property except in a garage with the door closed or at such location on the Common Ground provided for such purpose, with business advertising or signage displayed to the public, and/or equipment attached to the exterior of the vehicle, while such vehicle is parked or stored in the Subdivision, except in an enclosed garage. No Owner shall park or keep a temporary storage container, dumpster, or any other object on the streets. Any vehicle in violation of this Section, or parked illegally, may be removed at the Owner's expense, after notice and opportunity to be heard (which notice is waived if the Board determines that an emergency exists).

11.7 Vehicular Sight Lines. No fence, wall, tree, hedge or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffic.

11.8 Signs. The following signs are permitted:

- (a) two signs relating to home security systems,

- (b) one sign identifying the address,
- (c) one "for sale" sign not more than 2' x 3' in size placed in the window of the Dwelling and one "open house" sign displayed at the entrance to the Dwelling during an open house,
- (d) two reasonable signs not more than 2' x 3' in size containing a political message relating to a candidate or ballot issue in a forthcoming election, placed in the front yard of the Lot not more than 30 days before such election and removed three days after the election. Such signs may be placed inside a window at any time,
- (e) one sign celebrating a joyous occasion for a period of 24 hours, and
- (f) any sign required by a governmental proceedings.

Otherwise no signs of any kind shall be displayed to the public view on any Lot, Dwelling or on the Common Ground, without the prior written consent of the Board. The Board may regulate the size, placement and duration of all signs as it deems reasonable and necessary. The Board may erect appropriate signs on the Common Ground as it deems reasonable and necessary.

11.9 Satellite dishes, Antennas: Satellite dishes and antennas must comply with the following:

- (a) Each Owner may install, on property the Owner owns or has the right of exclusive use or control, the following *reception* Devices ("Permitted Devices"):
 - (1) A "dish" antenna that is one meter (39.37 inches) or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite.
 - (2) An antenna that is one meter (39.37 inches) or less in diameter or diagonal measurement and is designed to receive video programming services via broadband radio service (wireless cable) or to receive or transmit fixed wireless signals other than via satellite.
 - (3) An antenna that is designed to receive local television broadcast signals, with no size limitation. Masts higher than 12 feet above the roofline may be subject to Association safety regulations.

Any such Permitted Device shall be placed in the least conspicuous location on the Lot or Dwelling at which an acceptable quality signal can be received and is not visible from the street or from neighboring Lots. In the event a Permitted Device is visible, the Board may require the Owner to install screening, unless such screening unreasonably interferes with the use of or involves unreasonable costs.

(b) No Owner may install any satellite dish, antenna or similar device exclusively for the *transmission* of television, radio, satellite or other signals of any kind, without prior written consent of the Board.

(c) The Association shall have the right, without obligation, to erect or install and maintain any transmission Device or reception Device for the benefit of the Owners or a group of Owners.

11.10 Utility and Drainage Easements. Easements for installation and maintenance of utilities and drainage facilities are depicted on the Plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

11.11 Hazardous Materials. No above-ground gas, propane or gasoline, oil or other hazardous material storage tanks, except those used for standard sized barbecue grills or common household applications, or devices shall be permitted upon or in any Lot or the Common Ground.

11.12 Temporary Structures. No structure of a temporary character, trailer, tent shack garage, shed, barn or other out building shall be installed, constructed or maintained on any Lot at any time. Basketball stands may be erected with approval under Article XIII. Play equipment in good condition is allowed on the rear of the Lot.

ARTICLE XII

RESTRICTIONS ON LEASING, REGULATION OF LEASES

The Owners deem it to be in the best interests of the entire community as a whole to preserve the Subdivision as a community in which the Dwellings are primarily owned by Owner-occupants. Accordingly, the purpose of this Article is to foster Owner-occupancy and thereby improve stability among residents, inhibit transiency and safeguard the value of investment, by limiting the right of future owners to lease their Dwellings after the Effective Date. The provisions of this Article shall be effective on the date 60 days after the recording date of this amendment (the "Effective Date of Article XII").

12.1 Restriction on Leasing.

(a) Notwithstanding any provision of the Declaration to the contrary, no Person who acquires title to a Lot on or after the Effective Date of Article XII, regardless of the manner in which title may be acquired (excluding a mortgage holder by foreclosure or deed in lieu), shall enter into a lease of his Dwelling if such lease would cause more than ten (10) Dwellings to be leased at the same time, except as provided in this Article. The term "Lease" means any agreement for the exclusive possession of the Dwelling that creates a relationship of landlord-tenant or lessor-lessee in which the record Owner does not occupy the Dwelling. Provided, however, that a Dwelling shall not be deemed as leased if it is occupied by:

- (1) parents or children of the record Owner, or
- (2) if the record Owner is a trust, and the Dwelling is occupied by a beneficiary of the trust, as long as the beneficiary is also the grantor of the trust or the spouse or direct family member of the grantor of the trust. A "direct family member" means children or siblings of the beneficiary, or
- (3) a shareholder, partner or managing member if the record Owner is a corporation, partnership or limited liability company, respectively, and has given written notice to the Board of the occupant's position in such entity and his authority to occupy the Dwelling.

The records of the City of St. Louis County Recorder of Deeds shall be conclusive in determining the record Owner of a Lot.

(b) Any contract for the purchase of a Lot shall be exempt from this Section 12.1 if the contract is fully executed prior to the Effective Date of Article XII.

(c) Nothing in this Section 12.1 shall be construed to impair the right of any Owner of a Lot on the Effective Date of Article XII to lease his Dwelling after the Effective Date, and to continue to enjoy such right so long as he is the Owner of the Lot, subject to the regulations contained in Section 12.2.

12.2 Regulation of Leases. Any lease agreement permitted under this Article XII after the Effective Date of Article XII shall be in writing and, whether or not expressly set forth in the agreement, shall be deemed to include the following provisions:

- (1) the lease and tenant shall be subject to the provisions of the Governing Documents,

- (2) any violation of the Governing Documents may be deemed a default of the lease,
- (3) the lease shall have a minimum initial term of at least twelve (12) months,
- (4) no Dwelling shall be leased for transient or hotel purposes,
- (5) not less than the entire Dwelling shall be leased unless it is also occupied by the Owner,
- (6) no Dwelling shall be subleased, nor shall the lease be assigned, without the prior written consent of the Board,
- (7) the Owner appoints the Board as his/her attorney-in-fact to enforce any violation of the Governing Documents by the tenant (except nonpayment of rent),
- (8) the Board may require that a Lease Addendum, in such form as the Board may determine, be signed by the Owner and tenant as part of the lease,
- (9) the Owner shall furnish a complete copy of the Governing Documents to the tenant, and the tenant shall be afforded reasonable time to review same prior to signing the lease and
- (10) the Owner shall furnish a copy of the executed lease and Lease Addendum, if any, and the names and contact information of all tenants, to the Board not less than 10 days prior to the commencement date of the lease. The Board shall have the right to review the lease to determine compliance with this Article and other applicable provisions of the Governing Documents,

12.3 Waiver. Upon written application by an Owner, the Board may waive any provision of Sections 12.1 and 12.2 for a reasonable period of time in the event of unforeseen circumstances, military service, sabbatical, hardship, or other good cause shown by the Owner. Any such waiver shall be set forth in writing, shall describe the scope and duration of the waiver, and shall be signed by the Owner and the Board.

12.4 Local Government Inspection, Occupancy Permit. Any change of occupancy of a Dwelling in connection with a sale or lease must comply with inspections and other applicable Ordinances and codes of local government. A copy of any permit required by local government shall be furnished to the Board prior to such change in occupancy.

12.5 Rulemaking. The Board may adopt forms and reasonable rules to implement the provisions of this Article.

12.6 Remedies. In the event of any violation of this Article or any other provision of the Governing Documents, the Board shall be entitled to any appropriate relief and remedies under the Governing Documents, against the Owner and/or tenant, including but not limited to termination of the lease and eviction of the tenant, and recovery of attorney's fees and costs incurred, at the Owner's expense.

ARTICLE XIII **DESIGN REVIEW AND ARCHITECTURAL COVENANTS**

This Article contains the procedure for review and approval of new construction of Dwellings and exterior alterations of the Lots and Dwellings. The purpose of this review is to maintain the quality and aesthetics of exterior architectural design for the best interests of the community as a whole. This Article shall apply to all plans and specifications submitted for approval after the Effective Date of this Declaration; provided, however, that violations existing under the Original Declaration may be enforced pursuant to the provisions of said document after the Effective Date of this Declaration. Alterations are also subject to applicable Ordinances.

13.1 Design Review Committee: Membership; Functions.

(a) Creation. The Board may establish a committee to be known as the Architectural Review Committee ("ARC") to carry out the design review functions of this Declaration. In the event the ARC is not established or is not functioning, the Board shall exercise the functions in this Article.

(b) Membership. If established, the ARC shall be comprised of at least three (3) Members in Good Standing, other than Directors, appointed by the Board. Each member of the ARC shall be appointed to a term of three years for staggered terms. The Board may remove any member of the ARC who ceases to be a Member in Good Standing or is absent without excuse for three consecutive meetings, or for good cause shown, or by petition signed by at least a majority of the Owners; in such event, the Board shall appoint a successor to serve the unexpired term.

(c) Authority. The ARC shall be authorized to review and approve or reject any application for New Construction or Alterations as defined in Section 13.2. The ARC shall have the power to issue and revoke permits, to engage an independent architect or engineer to assist in reviewing any application, to conduct inspections of site conditions and work in progress or require the Owner to provide such inspections by a licensed architect or engineer, and to impose reasonable fines for noncompliance.

(1) The provisions of this Article are intended to provide guidance to Owners, contractors, engineers, architects and others providing services on behalf of the Owners, regarding matters of particular concern to the ARC in considering applications. These provisions are not the exclusive basis for decisions of the ARC and compliance with them does not guarantee approval of any application.

(2) In reviewing applications, the ARC shall take into account the design review standards and procedures of this Article. Decisions may be made based on purely aesthetic considerations. Determinations as to such matters may be purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. Subject to the appeal procedure in Section 13.5, the ARC shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall be upheld so long as made in good faith and in accordance with the procedures contained herein.

(3) It is integral to the functioning of the ARC that the persons serving on the ARC and reviewing applications under these provisions will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the design review standards and procedures contained in this Article may vary accordingly. It may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the ARC may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, specifications, or other matters subsequently or additionally submitted for approval.

(4) The ARC may grant variances from compliance with any of the standards and procedures in this Article when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. No variance shall be effective unless in writing, or preclude the ARC from denying a variance in other circumstances. The inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

(5) The standards and procedures established in this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the community; they do not create any duty to any person. Review and approval of any application pursuant to these provisions may be made on the basis of aesthetic considerations only. The Association, Board, ARC and any other committee, or any member of any of the foregoing, shall not bear any responsibility for ensuring the structural integrity or soundness of approved New Construction or Alterations, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all Dwellings are of comparable quality, value or size, or of similar design, or aesthetically

pleasing or otherwise acceptable to Owners of neighboring properties.

(6) The Association, Board, ARC, and any other committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage (including but not limited to consequential damages and attorney's fees) arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents, whether or not the ARC has approved or featured such contractor as a builder in Missouri; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved New Construction or Alteration of any Dwelling. In all matters, the Board, ARC, and the members of each shall be defended and indemnified by the Association to the extent available under Section 3.6.

(7) Any Owner may request that the ARC issue a certificate of architectural compliance for such Owner's completed New Construction or Alteration, certifying that there are no known violations of this Article. The ARC shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificate. Issuance of such a certificate shall preclude the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

(8) The Board has full authority to adopt and amend Rules at any time for the ARC to implement the provisions of this Article. Such Rules and amendments shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved New Construction or Alteration has commenced. There shall be no limitation on the scope of amendments to these Rules, and such amendments may remove requirements previously imposed or otherwise make the Rules less restrictive.

13.2 New Construction, Alterations, Application to ARC.

(a) **New Construction, Alterations.** For the purposes of this Article, "New Construction" includes erection of a new Dwelling and any improvements on the Lot in connection with the new Dwelling, and "Alteration" includes (i) any significant modification of the exterior of an existing Dwelling such as extension or relocation of a wall or room addition of the Dwelling, (ii) erection or expansion of any fence, wall, retention wall, swimming pool, deck, driveway, or temporary structure of any kind, tent, shack, shed or other structure, (iii) change of exterior color or materials of the Unit, (iv) statuary, ornaments and other decorations (except seasonal decorations or other objects permitted by Rules), and (v) removal of any healthy tree larger than eight inches (8") in circumference measured three inches (3") above the base. The following items are prohibited: chain link fences, dog runs and above-ground pools.

(b) Application. No Owner of a Lot shall commence any New Construction of a Dwelling or Alteration of an existing Dwelling without the prior written consent of the ARC in accordance with this Article. An Owner shall submit to the ARC a written application for any New Construction or Alteration, including plans and specifications, a drawing or plot plan showing the location and dimensions, a copy of any application or information submitted to local government, names of contractors, proof of insurance (including naming Association as an additional insured), and schedule for commencement and completion, and such other information as the ARC may require.

(c) Response. The ARC may approve or reject any application, or approve with such conditions as it deems reasonable under the circumstances. The ARC shall provide a written response within thirty (30) days after receipt of a complete application. Failure to respond within the allotted time shall constitute approval unless said period of time is reasonably extended by the ARC for good cause.

13.3 Review Standards. The ARC shall apply the following standards in reviewing an application:

(a) General Standards. The ARC shall consider the following general criteria: harmony of exterior design and appearance with existing Dwellings, including architectural design, scale, mass, location, topography, grade, drainage, color and quality of construction and quality of exterior materials and detail.

(b) Specific Standards. The Board may adopt and amend particular standards and conditions for the design of New Construction and Alterations in accordance with Section 4.6.

13.4 Application Fees, Security for Performance; Damage.

(a) Application Fee. The ARC may charge a reasonable fee in connection with submission of applications and for any reasonable fee incurred for independent architects or engineers engaged by the ARC to review the plans and specifications.

(b) Performance Bond, Security Deposit. The ARC may require (i) a performance bond and/or (ii) a reasonable deposit from an Owner as a condition of approving an application. The purposes of such bond and/or deposit are to secure completion of all work and to provide for removal of all debris from the site and from adjacent Lots and Common Ground, and that any damaged areas of the Lot, adjacent Lots or Common Ground be repaired and restored to their prior condition. Any unused portion of such performance bond or security deposit shall be refunded upon satisfactory completion of all work and all restoration and cleanup.

(c) **Damage.** Notwithstanding payment of a bond or deposit under Section 13.4(b), any Owner who causes damage to another Lot or Dwelling, or to the Common Ground of the Association, shall be responsible to the full extent of such damage, and shall restore any such damaged area to its prior condition, and shall keep the streets clean and free of debris due to construction activities. In the event an Owner fails to comply with this provision, the Board may, after notice and opportunity to be heard, make such repairs and assess the Owner in which case the Association shall have the authority to recover such costs in the same manner as assessments, together with the Association's costs and attorney's fees. Nothing herein shall limit the right of any Owner whose property is damaged by another Owner or his agents or employees to any appropriate claim for relief or damages.

13.5 Appeals. Any Owner aggrieved by a decision or action of the ARC shall have the right of appeal to the Board. The Board may adopt procedures for fair, effective and efficient hearings for such appeals as it deems reasonable and necessary.

PART SIX: CHANGES AFFECTING THE COMMUNITY

ARTICLE XIV COMMON GROUND

14.1 Change Use of Common Ground. The Association may change the use of any portion of the Common Ground, with approval of at least two-thirds (2/3rds) of all the Members in Good Standing.

14.2 Conveyance of Common Ground. The Association may convey or subject to a Security Interest property owned by the Association, including the Common Ground or portions thereof, with approval of at least eighty percent (80%) of all the Members in Good Standing.

ARTICLE XV CHANGES IN GOVERNANCE

15.1 Master Association. The Association may delegate the exercise of certain of its powers and duties to a master association by agreement approved by a majority of all the Members in Good Standing.

15.2 Merger and Consolidation. The Association may merge or consolidate the Subdivision with one or more subdivisions into a single subdivision by agreement approved by eighty percent (80%) of all the Members in Good Standing.

15.3 Improvement District. The Association may apply to the City of St. Louis for establishment of a Community Improvement District, Neighborhood Improvement District, or such other special taxing district as may be appropriate for the Subdivision and the Association, with approval of the owners in accordance with Missouri law.

ARTICLE XVI **CONDEMNATION, TERMINATION**

16.1 Condemnation.

(a) **Acquisition of Lot.** If a Lot is acquired by eminent domain, or if part of a Lot is acquired by eminent domain leaving the Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Agreement, the award shall compensate the Owner for his Lot and its Allocated Interests, whether or not any Common Ground is acquired. Upon acquisition, unless the decree otherwise provides, that Lot's Allocated Interests are automatically reallocated to the remaining Lots. Any remnant of a Lot remaining after part of a Lot is taken is thereafter part of the Common Ground.

(b) **Reallocations.** Except as provided in Section 16.1(a), if a part of a Lot is acquired by eminent domain, the award shall compensate the Owner for the reduction in value of the Lot and its interest in the Common Ground, whether or not any Common Ground is acquired.

(c) **Acquisition of Common Ground.** In the event any public agency acquires all or any part of the Common Ground, the Association, acting through the Board, is hereby authorized to negotiate with such agency for such acquisition and to execute instruments necessary to that purpose; only the Association need be made party, and any proceeds received shall be paid to the Association.

(d) **Recording.** The court decree shall be recorded in the City of St. Louis, Missouri.

16.2 Termination of Subdivision. Except in the case of a taking of all the Property by eminent domain, the Subdivision may be terminated or sold only by agreement of eighty percent (80%) of all the Members in Good Standing. In the event of termination, fee simple title to the Common Ground shall remain vested in the Association until sold. None of the authority of the Association or Board shall be affected by such termination. No such agreement of termination or sale shall be effective unless made and recorded at least one (1) year in advance of the effective date of such termination or sale, and unless written notice of the proposed agreement of termination or sale is sent to every Owner at least ninety (90) days in advance of any action taken.

ARTICLE XVII
RELIEF AND REMEDIES

17.1 Relief, Attorney's Fees. If any Person subject to the Governing Documents fails to comply with any provision thereof, any Persons or class of Persons adversely affected by such failure to comply has a claim for appropriate relief. Punitive damages may be awarded in the case of a willful, wanton and malicious failure to comply with any such provision. All remedies set forth in this Declaration shall be cumulative of any remedies available at law or in equity. In addition to any other remedy provided in this Declaration, the Association may record a notice against the Lot describing the Owner's violation. The prevailing party shall be entitled to recover its reasonable attorney's fees, court costs and expenses incurred in enforcing the Governing Documents, whether or not the matter is finally adjudicated.

17.2 Board Discretion in Enforcement. The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(a) the Association's position lacks sufficient strength to justify taking any action or further action; or

(b) the covenant, restriction or Rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(d) that it is not in the best interests of the Association or the community as a whole, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed as a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or Rule.

The Association, by contract or other agreement, may enforce Ordinances, and permit local government to enforce Ordinances within the Subdivision for the benefit of the Association and its Members.

17.3 Alternative Dispute Resolution. The Association, Owners and residents shall encourage the amicable resolution of disputes involving the community without the emotional costs of litigation. The Association and all Persons subject to this Declaration, and any other Person who agrees to submit to this Article (collectively, "Bound Parties"), agree not to file suit unless and until it has first submitted such claim to the alternative dispute resolution procedures of this Section 17.3.

(a) any party to a dispute in a claim under Section 17.1 shall submit such matter to mediation by a disinterested mediator in accordance with the rules of the American Arbitration Association or of any other organization mutually agreed upon by the parties.

(b) any such dispute that is unresolved by mediation within 60 days may be resolved as follows:

(i) by mutual agreement, the parties may submit to binding arbitration in City of St. Louis, Missouri, in accordance with Chapter 435, Mo. Rev. Stat., and with the rules of the American Arbitration Association or of any other organization mutually agreed upon by the parties. The cost of arbitration shall be borne by the losing party and the arbitrator may award attorney's fees as provided in Section 17.1. Arbitration as provided herein shall be binding and shall be enforceable in a court of competent jurisdiction; or

(ii) either party may seek judicial relief as provided in Section 17.1.

(c) the alternative dispute resolution procedures in this Section 17.3 shall not apply to any collection action under Article IX or to any claim in which federal or state law requires dispute resolution procedures that preempt this Section.

ARTICLE XVIII

AMENDMENTS TO GOVERNING DOCUMENTS

18.1 Declaration: General. Except as may otherwise be expressly provided in this Declaration, this Declaration, including the Plat, may be amended only by vote or agreement of 67% of the Owners. No such amendment shall reduce or modify the obligations of the Association with respect to maintenance or the power to levy assessments therefore, or to eliminate the requirement that there be an Association and Board unless adequate substitution is made in a manner approved by the Director of Planning, City of St. Louis.

(a) Limitation of Challenges. No challenge to the validity of an amendment adopted by the Association pursuant to this Section may be brought more than one (1) year after the amendment is recorded; otherwise, such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provision of this Declaration.

(b) Recordation of Amendments. Each amendment shall be recorded in the City of St. Louis and is effective upon recording unless otherwise expressly stated therein.

18.2 By-Laws. The By-Laws may be amended by a majority of all the Members in Good Standing. An amendment to the By-Laws shall become effective upon recordation (if recorded), or upon execution by the designated officers (if not recorded), or, in either case, upon a later date if so specified therein. Any challenge to an amendment must be made within six (6) months after the effective date; otherwise, the amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provision of the By-Laws.

18.3 Execution of Amendments. Each amendment shall be executed, certified and recorded on behalf of the Association by officers of the Association designated in the By-Laws for that purpose or, in the absence of designation, executed by the President and certified by the Secretary.

18.4 Board Amendments. Notwithstanding anything to the contrary, the Board is authorized to amend this Declaration and the By-Laws, without further approval, to correct technical or drafting errors or to bring the Association and Governing Documents into compliance with conditions imposed by lenders providing government-insured or guaranteed loans.

ARTICLE XIX

GENERAL PROVISIONS

19.1 Validity.

(a) Severability. Invalidation of any one of the provisions of the Governing Documents, by judgment, order or decree shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

(b) Rule Against Perpetuities. The rule against perpetuities shall not be applied to defeat any provision of the Governing Documents.

(c) Compliance With Nonprofit Corporation Act. The Governing Documents are intended to comply with the requirements of the NPCA. In the event of any conflict between any provisions of the Governing Documents and any provisions of the NPCA, the provisions of the Governing Documents shall govern unless prohibited by the NPCA.

19.2 Construction. The provisions of the Governing Documents shall be liberally construed to effectuate their purpose of creating a uniform plan for the Subdivision and for operation of the Association. Whenever the context so requires, the use of any gender shall be deemed to include all genders, the use of plural shall include the singular and the singular shall include the plural. The captions contained in the Governing Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration or the intent of any provision thereof.

19.3 Persons Bound by the Documents. All Owners, and their families, tenants, guests and invitees, and mortgagees, are bound by and shall comply with the Governing Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or occupancy of a Lot constitutes agreement that the provisions of the Governing Documents are accepted and ratified by each such person. All provisions of the Governing Documents recorded in the Office of Recorder of Deeds of City of St. Louis, Missouri, are covenants running with the land and shall bind any Persons having at any time any interest or estate in the Property.

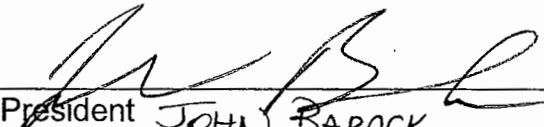
19.4 Term. Except where permanent easements or other permanent rights or interests are herein created, this Declaration shall run with the land and bind the Property until the Subdivision is terminated or sold, or taken by eminent domain. The rights of the Owners shall only be exercisable and appurtenant to and in conjunction with their ownership of a Lot.

19.5 Effective Date. Except as otherwise expressly provided in this Declaration, this Declaration shall be effective upon approval by the Owners and its recordation in the official records of the Recorder of Deeds of City of St. Louis, Missouri.

19.6 Applicability. This Declaration shall be applicable to events and circumstances occurring after the Effective Date unless otherwise expressly stated.

IN WITNESS WHEREOF, the President and Secretary of Kingsbury Square Association hereby execute the foregoing and, by their signatures, certify that Owners have approved the foregoing, and hereby execute this Declaration on the day and year first above written.

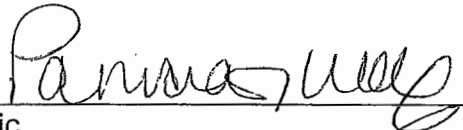
KINGSBURY SQUARE ASSOCIATION,
a Missouri nonprofit corporation

By: 
President JOHN BARACK


STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

On this 27 day of January, 2009, before me appeared John Barack to me personally known, who, being by me duly sworn, did say that he/she is the President of Kingsbury Square Association, a Missouri nonprofit corporation, which has no seal, and that said President acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed by official seal in the County and State aforesaid, the day and year first above written.


Notary Public

My Commission Expires: 11-21-10

Attest:

Secretary

PATRICIA J. WOLFE
Notary Public - Notary Seat
State of Missouri
Commissioned for St. Louis City
My Commission Expires: November 21, 2010
Commission Number: 06507371

DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
KINGSBURY SQUARE

Legal Description of Property Presently
Included in Kingsbury Square

Eastern Part of Proposed Lot D
(Parcel 1, Kingsbury Square Phase One)

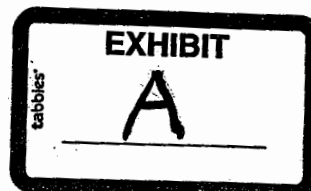
A parcel of ground in Block 5519 of the City of St. Louis, Missouri, said parcel being part of Lots 20 and 21 in Block 1 of "Washington Heights Second Addition," Plat Book 19, page 97, City of St. Louis records, said parcel more particularly described as follows:

Beginning at a point in the Southern line of Kingsbury Place, 50 feet wide, distant South 89 degrees 45 minutes 34 seconds West 188.29 feet from its intersection with the Western line of De Baliviere Avenue, 100 feet wide, said point also being in the Western line of a Street, 87.62 feet wide as per dedication in Plat Book 43, page 22, City of St. Louis records; thence South 0 degrees 00 minutes 00 seconds West 73.10 feet along the Western line of said Street, 87.62 feet wide, and parallel with said Western line of De Baliviere Avenue to the Northern line of an alley, 15 feet wide; thence South 89 degrees 45 minutes 35 seconds West 41.05 feet along the Northern line of said alley; thence North 0 degrees 14 minutes 26 seconds West 73.10 feet through a party wall to the Southern line of said Kingsbury Place; thence North 89 degrees 45 minutes 34 seconds East 41.36 feet along the Southern line of Kingsbury Place to the point of beginning and containing 3,012 square feet.

Western Part of Proposed Lot D
(Parcel 2, Kingsbury Square, Phase One)

A parcel of ground in Block 5519 of the City of St. Louis, Missouri, said parcel being part of Lots 19 and 20 in Block 1 of "Washington Heights Second Addition," Plat Book 19, page 97, City of St. Louis records, said parcel more particularly described as follows:

Beginning at a point in the Southern line of Kingsbury Place, 50 feet wide, distant South 89 degrees 45 minutes 34 seconds West 229.65 feet from its intersection with the Western line of De Baliviere Avenue, 100 feet wide; thence South 0 degrees 14 minutes 26 seconds East 73.10 feet through a party wall, to the Northern line of an alley, 15 feet wide; thence South 89 degrees 45 minutes 35 seconds West 38.95 feet along the Northern line of said alley; thence North 0 degrees 14 minutes 26 seconds West 73.10 feet to the Southern line of said Kingsbury Place; thence North 89 degrees 45 minutes 34 seconds East 38.95 feet along the Southern line of Kingsbury Place to the point of beginning and containing 2,847 square feet.



DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

KINGSBURY SQUARE II

THIS DECLARATION, is made this 20th day of December, 1996, by CITY REHAB CORPORATION, a Missouri corporation (hereinafter referred to as "Developer");

R E C I T A L S

A. Developer is the owner in fee simple of that tract of real estate in the City of St. Louis, State of Missouri described as Kingsbury Square Phase Five in Plat Book 65, page 16 of the St. Louis City Records with the exception of Lot A described in paragraph B of these Recitals (hereafter "Developer's Tract") and desires to create thereon a planned residential community.

B. Carl W. Sherrill is the owner in fee simple of Lot A of Kingsbury Square Phase Six, (hereafter "Lot A") a subdivision in the City of St. Louis, State of Missouri, according to the plat thereof recorded in Plat Book 68, page 3 of the St. Louis City Records and in City Block 5667 which Lot A is contiguous to Developer's Tract; and said Carl W. Sherrill desires that Lot A be subjected to the same obligations and have the same benefits as Developer's Tract.

C. Developer is presently building residential housing units on Developer's Tract.

D. Developer's Tract and Lot A shall hereafter be collectively described as "Kingsbury Square II."

E. Developer desires to provide for the preservation and enhancement of the property values, amenities and opportunities in Kingsbury Square II and for the maintenance of Kingsbury Square II and the improvements included therein, and to this end, intends to subject Kingsbury Square II to the covenants, restrictions, conditions and reservations hereinafter set forth, each and all of which is and are for the benefit of said property and the owners thereof;

E. Developer has deemed it desirable for the efficient preservation of the values and amenities of Kingsbury Square II to create a corporation to which shall be delegated and assigned the powers of maintaining, repairing and administering the "Common Elements" (as hereinafter defined) of Kingsbury Square II, enforcing the covenants and restrictions herein set forth, collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety and welfare of the residents of Kingsbury Square II.

END OF DOCUMENT

PAGES 4/21

BY-LAWS
OF
KINGSBURY SQUARE ASSOCIATION

**BY-LAWS
OF
KINGSBURY SQUARE ASSOCIATION**

TABLE OF CONTENTS

	<u>Page</u>
Article One	Membership, Offices, Applicability, Definitions 1
1.1	Name 1
1.2	Status 1
1.3	Membership 1
1.4	Office 1
1.5	Applicability 1
1.6	Definitions 1
Article Two	Association: Meetings, Quorum, Voting 1
2.1	Place of Meetings 1
2.2	Annual Meetings 2
2.3	Special Meetings 2
2.4	Notice of Meetings 2
2.5	Waiver of Notice 2
2.6	Adjournment of Meetings 2
2.7	Voting 2
2.8	Majority 4
2.9	Quorum 4
2.10	Action by Association 4
Article Three	Board of Directors: Number, Meetings 4
3.1	Governing Body 4
3.2	Number of Directors 4
3.3	Term of Office of Directors 4
3.4	Removal of Directors 4
3.5	Vacancies 4
3.6	Organization Meetings 5
3.7	Regular Meetings 5
3.8	Special Meetings 5
3.9	Notice; Waiver of Notice 5
3.10	Quorum of Board 5
3.11	Conduct of Meetings 5
3.12	Compensation 6
3.13	Open Meetings; Executive Session 6
3.14	Consent to Corporate Action 6
3.15	Conflict of Interest 6

3.16	Code of Ethics	6
Article Four	Powers and Duties of the Board	6
4.1	Authority	6
4.2	Administrative Powers and Duties	7
4.3	Notice and Opportunity to be Heard	9
4.4	Board Standards	9
Article Five	Officers	10
5.1	Designation	10
5.2	Election, Term of Office and Vacancies	10
5.3	Removal and Vacancies	10
5.4	Powers and Duties	10
5.5	Resignation	11
5.6	Agreements, Contracts, Deeds, Leases, Checks	11
5.7	Certification	11
5.8	Compensation	11
Article Six	Insurance: Damage or Destruction	11
6.1	Association Insurance	11
6.2	Owner Policies.....	12
6.3	Duty to Restore.....	14
6.4	Costs. Insufficient or Surplus Proceeds	14
6.5	Plans.....	15
6.6	Replacement of Less Than Entire Property	15
6.7	Insurance Proceeds	15
6.8	Termination	16
6.9	Certificates by the Board	16
6.10	Certificates by Attorneys	16
Article Seven	Miscellaneous	16
7.1	Fiscal Year	16
7.2	Parliamentary Rules	16
7.3	Conflict of Law	16
7.4	Access to Books and Records	16
7.5	Notices	17
7.6	Amendment	17
7.7	Applicability	17

BY-LAWS
of
KINGSBURY SQUARE ASSOCIATION

ARTICLE ONE
MEMBERSHIP, OFFICES, APPLICABILITY, DEFINITIONS

1.1 Name. The name of the Association shall be Kingsbury Square Association ("Association"), which shall be deemed to be the homeowners' association pursuant to the "Restatement Declaration of Covenants, Conditions and Restrictions for Kingsbury Square" as recorded on _____ in Book ____, Page ____ of the records of the City of St. Louis, Missouri.

1.2 Status. The Association shall be organized as a Missouri nonprofit corporation under the Missouri Nonprofit Corporation Act, Chapter 355, Mo.Rev.Stat. A different form of organization may be determined by approval of sixty-seven percent (67%) of the Members in Good Standing.

1.3 Membership. The Members of the Association shall consist of the Lot Owners of the Subdivision in accordance with their allocated voting interests as provided in the Declaration. The membership of each Owner shall terminate when he ceases to be an Owner, and upon the sale, transfer or other disposition of his ownership interest, his membership in the Association shall automatically be transferred to the new Owner succeeding to such ownership interest.

1.4 Office. The principal office of the Association shall be located within the Subdivision, or the City of St. Louis, as determined by the Board.

1.5 Applicability. The provisions of these By-Laws are applicable to all of the Property subjected to the Declaration.

1.6 Definitions. The definition of words and terms contained in the Declaration shall apply to these By-Laws.

ARTICLE TWO
ASSOCIATION: MEETINGS, QUORUM, VOTING

2.1 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or to such other convenient location as may be designated by the Board.

2.2 Annual Meeting. The annual meeting of the Members shall be held in the third (3rd) Monday of September or as soon thereafter as reasonably practical. At such meeting, the Directors shall be elected by the Members as provided in Article Three. The Members may transact other business at such meetings as may properly come before them, provided that written notice is given to all Members as provided in Section 2.4.

2.3 Special Meetings. Special meetings of the Association may be called by the President, by resolution of a majority of the Board or upon a petition signed by at least twenty percent (20%) of the total votes of the Association. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

2.4 Notice of Meetings. The Secretary or other officer specified in the By-Laws shall mail or cause to be delivered to each Member, at his Lot address, or by electronic means in accordance with Section 432.200, *et seq.*, RSMo (Missouri Uniform Electronic Transactions Act), a notice of each annual or special meeting of the Association stating the purpose and the time and place where it is to be held. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered service of notice. Notices shall be served not less than fourteen (14) nor more than thirty (30) days before a meeting.

2.5 Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may waive notice in writing, either before or after the meeting. Attendance at a meeting by a Member shall be deemed waiver by such member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.6 Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present as provided in Section 2.9 below, the Board shall reschedule the meeting. At the rescheduled meeting, if a quorum of five percent (5%) of Members in Good Standing is present, any business which might have been transacted at the meeting originally called may be transacted.

2.7 Voting. The voting rights of the Members shall be as set forth in the Declaration and as follows:

(a) Multiple Members who are record Owners of a Lot shall collectively be entitled to one vote.

(b) If only one of such multiple Members is present at a meeting of the Association, that Member is entitled to cast the vote allocated to that Lot. If more than one of the Members are present, the vote allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the multiple Members. There is a majority agreement if any one of the Members casts the vote allocated to the Lot without protest being made promptly to the person presiding over the meeting by any of the other Members of the Lot. In the event of such protest, the vote allocated to that Lot shall not be counted.

(c) If an Owner is a corporation, any designated officer of such corporation may act as the Member and cast the vote allocated to such Lot. If an Owner is a partnership, a designated partner of such partnership may act as Member and cast the vote allocated to such Lot. The person presiding over the meeting may require reasonable proof that the person who is voting on behalf of a corporation or partnership is qualified to so vote.

(d) Votes may be cast pursuant to a written proxy specifying the Lot for which it is given, duly executed by the Member as record Owner of said Lot, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. The proxy holder shall be another Member or the managing agent. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. A "directed proxy" may be used, containing instructions which shall bind the holder as to the casting of the vote. A proxy is void if it is not dated or purports to be revocable without notice. Every proxy shall be revocable and shall automatically cease upon (1) conveyance of any Lot for which it was given, (2) receipt by the Secretary of a written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person, or (3) eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

(e) Votes may be cast by electronic means in accordance with Section 432.200, *et seq.*, RSMo (Missouri Uniform Electronic Transactions Act).

(f) No vote allocated to a Lot owned by the Association may be cast.

(g) The Lot of any Member who is not in Good Standing is not eligible for voting purposes, and shall not be counted in determining whether a quorum is present at any meeting or calculating the percentage or number of votes required to make a decision or take an action.

(h) There shall be no cumulative voting.

2.8 Majority. As used in the Governing Documents, the term "Majority" shall mean those votes, Members, or other group as the context may indicate totaling more than fifty percent (50%) of the total eligible number.

2.9 Quorum. The presence at the beginning of any duly called meeting, in person or by proxy, of ten percent (10%) of all the Members in Good Standing of the Association shall constitute a quorum at all meetings of the Association.

2.10 Action by Association. The Association may make decisions or take action by the affirmative vote of a majority of the Members in Good Standing present at a meeting (in person or by proxy) at which a quorum is present, unless a different percentage is expressly provided by the Governing Documents for specific actions. Any action not required to be taken at a meeting may be taken by mail ballot, electronic means, or at a meeting called for said purpose, or a combination of these methods.

ARTICLE THREE

BOARD OF DIRECTORS: NUMBER, MEETINGS

3.1 Governing Body. The affairs of the Association shall be governed by a Board of Directors (hereinafter referred to as "Board"). The Directors shall be qualified as provided in the Declaration.

3.2 Number of Directors. The Board shall consist of three (3) Directors elected at the Annual Meeting (Section 2.2). A larger number of Directors may be determined by an Association resolution adopted prior to the election at each Annual Meeting, provided that the number shall not be less than three (3).

3.3 Term of Office of Directors. Directors shall each have a term of one (1) year, and shall hold office until their respective successors have been elected.

3.4 Removal of Directors. Upon petition signed by at least one-third (1/3) of all Members in Good Standing and presented to the Board requesting a vote to remove one (1) or more Directors, with or without cause, the Board shall notify the Members of a special meeting for said purpose. At such meeting, any Director named in the petition may be removed by the affirmative vote of two-thirds (2/3rds) of all Members in Good Standing. In the event any Director is removed under this provision, the remaining Directors shall set a special meeting of the Association, to be held within 14 to 30 days following such removal, for the Members to elect a successor to fill each vacancy created by such removal for the remainder of the term.

3.5 Vacancies. In the event of the death, disability, or resignation of a Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members in Good Standing may elect a successor for the remainder of the term. Any Director who has three (3) unexcused absences from

Board meetings within one (1) year or who is delinquent in the payment of any assessment or installment thereof for more than sixty (60) days may be removed by a majority vote of the Board at a meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.

3.6 Organization Meetings. The first meeting of the Directors following each election shall be held within 30 days thereafter at such time and place as shall be fixed by the Board.

3.7 Regular Meetings. Meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Directors. Directors may participate in a meeting of the Board by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other, and participation pursuant to this Section shall constitute presence in person at such meeting.

3.8 Special Meetings. Special meetings of the Board shall be held when called by notice by the President or by a majority of the Board specifying the time and place of the meeting and the nature of any special business to be considered.

3.9 Notice; Waiver of Notice. Notices of Board meetings shall be given to each Director by personal delivery, mail, or by such other means reasonably expected to communicate such notice promptly, shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be conducted. The transactions of any meeting of the Board shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the Directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes.

3.10 Quorum of Board. A majority of the Directors, present at the beginning of any Board meeting, shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute the decision of the Board.

3.11 Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and transactions and proceedings occurring at such meetings. The order of business shall be:

- (a) Calling the roll;
- (b) Proof of notice of meeting and waiver(s) of notice;
- (c) Reading and disposal of any unapproved minutes;
- (d) Reports of officers;
- (e) Reports of committees;

- (f) Election of officers;
- (g) Unfinished business;
- (h) New Business; and
- (i) Adjournment.

3.12 Compensation. No Director shall receive any compensation for acting as such; provided, however, that the Association may approve compensation by the affirmative approval of a majority of the Members in Good Standing at a meeting called for this purpose. A Director shall be entitled to reimbursement for actual and reasonable expenses incurred on behalf of the Association upon Board approval. Nothing herein shall prohibit the Association from compensating a Director, or any entity with which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such Director's interest was made known to the Board prior to entering into such contract and that such contract was approved by the Board, excluding the participation and vote of the interested Director.

3.13 Open Meetings; Executive Session. Except as provided in this Section, all meetings of the Board shall be open to all Members. The Board may designate portions of the meetings for the purpose of participation by the Members. Notwithstanding the foregoing, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude persons other than the Directors, to discuss confidential matters, such as pending or threatened litigation and personnel matters.

3.14 Consent to Corporate Action. If the Directors individually or collectively consent in writing to any action taken or to be taken by the Board, and the number of the Directors constitutes a quorum for such action, such action shall be valid as though it had been authorized at a meeting of the Board. The Secretary shall file such consents with the minutes of the official Board meetings.

3.15 Conflict of Interest. Any Director who has a financial interest or other conflict of interest in connection with any transaction or business of the Association shall fully disclose same before the Board votes on such matter, and said Director shall abstain from discussion and voting. The remaining Directors may appoint a disinterested Owner to the Board for the limited purpose of voting upon such matter(s).

3.16 Code of Ethics. The Board may adopt a code of ethics for the conduct of Directors and provide for training of Directors.

ARTICLE FOUR

POWERS AND DUTIES OF THE BOARD

4.1 Authority. The Board shall be responsible for the affairs of the Association and shall have all the powers and duties necessary for the administration of the

Association's affairs and, as provided by law, may do all acts and things as are not by the NPCA or Declaration exclusively reserved to the Members.

4.2 Administrative Powers and Duties. In addition to the powers and duties imposed by the Declaration, these By-Laws or by any resolution of the Association, the Board shall have the following powers and duties, to be carried out in accordance with the Declaration.

(a) To collect assessments as follows:

(1) Assessments and installments thereof, and fines, shall bear interest until paid at the rate of twelve percent (12%) per annum, or any other legal rate (not exceeding eighteen percent (18%)) adopted by resolution of the Board. The interest shall be calculated as simple interest on the amount of unpaid interest and not be compounded. If payment of any assessment or installment thereof, or any fine, is not received in full and timely manner, the Board shall charge a late fee in the sum of Twenty-Five Dollars (\$25.00) or such other reasonable fee as may be adopted by resolution of the Board.

(2) Assessments shall be due and payable within thirty (30) days after notice of the assessment is provided to the Members. If payment is not received by the thirtieth (30th) day, the assessment shall be designated as late and a late charge and interest shall attach. A written notice to the Member shall be provided.

(3) If payment of any assessment has not been received within forty-five (45) days of the date due, a second written notice shall be provided.

(4) If payment of any assessment has not been received within sixty (60) days after the due date, and the delinquent Owner has made no arrangements to pay, the Board may authorize the recordation of a Notice of Lien against the Dwelling and foreclosure of the Association's lien or initiation of a legal action to collect the debt against the Owner, including:

- a. Past due monthly installments.
- b. Special assessment (if any).
- c. Late charges.
- d. Interest on the delinquent assessment.
- e. Accelerate unpaid balance of the annual assessment.
- f. Attorney's fees.
- g. Recording costs.
- h. Other actual expenses incurred.

(5) Part payments on a delinquent account shall be applied in the following order:

- a. Court costs.
- b. Attorney's fees.
- c. Expenses, management fees, administrative costs and other charges incurred by the Board.
- d. All late charges accrued.
- e. All interest charges accrued.
- f. The principal amount of the assessment due.
- g. Other qualifying expenses, if any.
- h. Amount of accelerated assessment.

(6) The Board may waive late fees and interest for good cause.

(7) The Board may adopt Rules and written collection procedures for the efficient and effective collection of unpaid assessments.

(b) To open bank accounts on behalf of the Association and designate the signatories required, to deposit all funds received on behalf of the Association, and to use such funds to operate the Association; provided, that any reserve funds may be deposited in depositories other than banks, in the Board's best judgment. Reserve funds may be accessed only by approval of at least two (2) officers of the Board.

(c) To arrange or contract for and to pay the cost of all services rendered to the Association.

(d) To keep books with detailed accounts of the receipts and expenditures affecting the Association and its administration. All books and records shall be kept in accordance with generally accepted accounting principles and practices. All records shall be preserved for the period of time required by applicable law or regulation. A review of the accounts of the Association shall be made annually in such manner as the Board may decide; provided, however, after having received the Board's review at the annual meeting, the Members, by resolution, may require that the accounts of the Association be audited as a Common Expense by a certified public accountant.

(e) To permit utility and service providers to use the Common Ground reasonably necessary for services to the Property and individual Lots and Dwellings.

(f) To conduct any transaction or communication by electronic means if permitted by and in accordance with Section 432.200, *et seq.*, RSMo (Missouri Uniform Electronic Transactions Act).

(g) To establish committees, and to appoint chairs and members thereof, to perform such tasks and to serve for such periods as may be designated by a resolution which shall set forth the committee's duties, powers and duration. Each committee shall operate in accordance with the terms of the Board resolution and with rules adopted by the Board.

(h) To employ a management agent to perform such duties and services as the Board shall authorize, but the Board may not delegate the approval of budgets and assessments; adoption, amendment or termination of Rules; opening bank accounts or designation of signatories; access to reserve funds; or enforcement by legal means of any provision of the Governing Documents.

(i) To arrange for and pay the cost of such accounting, legal or other professional services as may be required or necessary to the operation of the Association.

4.3 Notice and Opportunity to be Heard. The Association shall have the power, as provided in the Declaration, to impose penalties for any violation of the Governing Documents. Where notice and opportunity to be heard are required by the Declaration, the Board shall comply with the following procedures prior to imposition of penalties:

(a) **Notice.** The Board or its delegate shall serve the alleged violator with written notice describing (1) the nature of the alleged violation, (2) the proposed sanction to be imposed, (3) a period of not less than ten (10) days within which the alleged violator may present a written request for a hearing to the Board, and (4) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions of the Governing Documents by any Person.

(b) **Hearing.** If a hearing is requested within the allotted ten (10) day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or his or her representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

4.4 Board Standards. The Board shall be guided by the following standards:

(a) **Business.** While conducting the Association's business affairs, the Board shall be protected by the business judgment rule. The business judgment rule protects a Director from personal liability so long as the party claiming liability does not prove that the Director failed to (1) act within his or her authority, (2) serve in a manner the Director believes to be in the best interests of the Association and its Members, (3) serve in

good faith, or (4) act with such care as an ordinarily prudent person in a like position would use under similar circumstances.

(b) Governance. In fulfilling its governance responsibilities, the Board's decisions and actions shall be governed and tested by the rule of reasonableness. The Board shall exercise its power in a fair and nondiscriminatory manner and shall adhere to the procedures established in the Declaration.

(c) Operations. Operational standards of the Board and any committee appointed by the Board shall be the requirements set forth in the Declaration or the minimum standards which the Board may establish. Operational standards may evolve as the needs and demands of the community and the Association change over time.

ARTICLE FIVE **OFFICERS**

5.1 Designation. The officers of the Association shall be a President, Secretary, and Treasurer, all of whom shall be elected by the Board. The Board may elect such other officers, including a Vice-President, one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board. Any two or more offices may be held by the same person, excepting the offices of President and Secretary. The President, Vice President (if any), Secretary and Treasurer shall be elected from among the Directors.

5.2 Election, Term of Office and Vacancies. The officers of the Association shall be elected annually by the Board at the first meeting of the Board following each annual election.

5.3 Removal and Vacancies. The Board may remove any officer whenever in its judgment the best interests of the Association will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

5.4 Powers and Duties. The officers of the Board shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board. The President shall be the chief executive officer of the Association. The Secretary shall keep all official records and minutes of the Board and Association and provide all required notices. The Treasurer shall maintain all financial records and prepare the budget.

5.5 Resignation. Any officer may resign at any time by giving written notice to the President or Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, acceptance of such resignation shall not be necessary to make it effective.

5.6 Agreements, Contracts, Deeds, Leases, Checks. All agreements, contracts, deeds, leases, and other instruments of the Association approved by the Board shall be executed by the President or, in the absence of the President, any officer or such other person or person as may be designated by resolution of the Board. Checks shall be signed by the Treasurer and/or such other officer(s) designated by resolution of the Board. In the event of an emergency, the President shall have such authority as reasonably necessary under the circumstances to act on behalf of the Association.

5.7 Certification. The President, Secretary and Treasurer, in said order, shall be authorized to prepare, execute and record amendments to the Declaration and other instruments on behalf of the Association, and the Secretary shall be authorized to certify any instrument or document requiring certification.

5.8 Compensation. Compensation of officers shall be subject to the same limitations as compensation of Directors under Section 3.12 of these By-Laws.

ARTICLE SIX

INSURANCE; DAMAGE OR DESTRUCTION

6.1 Association Insurance. The Association shall, to the extent reasonably available and as a Common Expense, obtain and maintain insurance as follows:

(a) **Liability Insurance.** Liability insurance shall be provided in an amount determined by the Board but in no event less than \$1,000,000.00 for a single claim and \$1,000,000.00 aggregate in a single year, covering all occurrences commonly insured against for death, bodily injury, property damage and personal injury arising out of or in connection with the use, ownership or maintenance of the Common Ground, and the activities of the Association. Insurance policies carried pursuant to this Section shall provide that:

(1) Each Owner is an additional insured under the policy with respect to liability arising out of the interest of the Owner in the Common Ground or membership in the Association.

(2) The insurer waives the right to subrogation under the policy against an Owner or persons in his household (excepting tenants not related to the Owner).

(3) An act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy.

(4) If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(5) The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association.

(b) Fidelity Bond. A blanket fidelity bond or insurance is required for anyone who either handles or is responsible for funds held or administered by the Association, including the managing agent (if any), whether or not he receives compensation for his services. The bond or insurance shall name the Association as obligee and it shall cover the maximum funds that will be in the custody of the Association or the manager at any time while the bond or insurance is in force in the sum of reserves plus at least (i) the annual assessment or (ii) if payable in monthly installments, the sum of at least three (3) months' assessments.

(c) Directors' and Officers' Liability Insurance. The Association shall obtain and maintain directors' and officers' liability insurance covering current and former Directors, Officers and committee members of the Association, and the managing agent (if any), for claims of monetary damage and non-monetary relief, fair housing, and such other coverages as the Board shall deem reasonable, for administrative, judicial and alternative dispute resolution proceedings, in such limits as the Board may determine.

(d) Common Ground: Property and Casualty Insurance. The Association shall obtain and maintain a policy of insurance for the full insurable replacement cost, protecting any improvements on the Common Ground against perils, as broadly as reasonably available, including earthquake, under coverage known as 'special form' or 'special causes of loss.'

(e) Other Insurance. The Association may carry other insurance which the Board considers appropriate to protect the Association and the Owners' interests in the Property.

6.2 Owner Policies.

(a) Property Insurance. Each Owner, at his sole expense, is responsible to obtain and maintain insurance for the full insurable replacement cost of his Dwelling. The insurance shall afford protection against perils, as broadly as reasonably available, including earthquake, under coverage known as 'special form' or 'special causes of loss.' Each Owner is responsible to comply with the following conditions:

(1) Each policy shall name the Association as an insured or additional insured,

(2) Upon request by the Board, the Owner shall furnish a copy of his certificate of insurance and a copy of each policy,

(3) To the extent reasonably available, each policy shall provide that the insurer waives any right of subrogation against the Association, Board, employees, agents or contractors of the Association, and the Owners and residents of the other Dwellings,

(4) Each policy shall provide that it shall not be cancelled, terminated or amended without at least thirty (30) days prior written notice to the Association,

(5) The proceeds under the policy shall be paid to the Association for restoration and reconstruction of any portion of the Dwelling for which the Association is responsible to maintain, repair and replace under the Declaration,

(6) Subject to Sections 6.3 and 6.5, each Owner is responsible to apply the insurance proceeds promptly to restore and reconstruct the Dwelling in accordance with original plans and specifications. If the proceeds are insufficient, the Owner shall complete the restoration and reconstruction at his sole expense.

(7) In the event a Dwelling is damaged by an insurable peril but the Owner fails or refuses to make a claim under his insurance or his insurer denies the claim, and the Owner fails or refuses to restore or reconstruct the Dwelling, the Association may (but is not obligated to) restore and reconstruct all damaged exterior portions of the Dwelling and assess all costs incurred against the Lot,

(8) In the event the Owner fails to obtain insurance as required under this Section 6.2, or for any reason the Association does not receive the proceeds from the Owner's insurance or such proceeds are insufficient for restoration and reconstruction, the Association may (but is not obligated to) complete the restoration and reconstruction of all exterior portions of the Dwelling and to assess all costs incurred against the Lot,

(9) Any assessment made under this Section 6.2 shall be enforced under the same authority and in the same manner as delinquent assessments under Article IX of the Declaration, and

(10) Notwithstanding the provisions of this Section 6.2, however, the Board may procure and maintain property insurance for the Dwellings as a Common Expense upon amendment of these By-Laws or adoption of an Association resolution approved by a majority of all the Members in Good Standing.

The Owner shall be solely responsible to determine the value and procure the required coverages of the insurance on his Dwelling. If an Owner fails to maintain a policy of insurance protecting his Dwelling, or fails to obtain adequate coverage, the Owner shall be deemed to be self insured in the event of insufficient insurance proceeds to restore or reconstruct his Dwelling and shall be personally liable for all costs thereof. In no event shall the Association be responsible for an Owner's failure to obtain insurance or to obtain adequate insurance, or for an Owner's failure to satisfy any requirement set forth in this Section 6.2.

(b) **Liability Insurance.** Each Owner is responsible to maintain liability insurance for his premises and such other insurance for his own benefit and to protect his interests, in his sole discretion.

6.3 Duty to Restore. Any portion of the Property for which the Association is responsible to maintain, repair and replace under the Declaration, that is damaged or destroyed must be repaired or replaced promptly by the Association unless:

(a) the Community is terminated and the Declaration released from the records of the City of St. Louis by approval of 80% of all the Owners;

(b) repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or

(c) 80% of the Owners approve a resolution not to rebuild.

6.4 Costs. Insufficient or Surplus Proceeds.

(a) The cost of restoration or reconstruction of improvements on the Common Ground in excess of the Association's insurance proceeds shall be a Common Expense. The cost of restoration or reconstruction of a Dwelling in excess of an Owner's insurance proceeds shall be the Owner's sole responsibility. In the event the Association provides the restoration or reconstruction under Section 6.2(a)(7) and (8), the costs shall be assessed exclusively to that Lot.

(b) Any surplus insurance proceeds involving the Common Ground shall be allocated to the Association. Any surplus insurance proceeds attributable to a Dwelling shall be payable to the Owner of that Lot.

6.5 Plans. The Dwellings and other improvements on each Lot shall be restored and reconstructed in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Board and a majority of all affected Owners. In the event at least a majority of all the Dwellings require restoration and reconstruction, other plans and specifications may be approved by the Board and a majority of all the Owners.

6.6 Replacement of Less Than Entire Property.

(a) The insurance proceeds attributable to damaged improvements for which the Association is responsible to maintain, repair and replace under the Declaration shall be used to restore the damaged area to a condition compatible with the remainder of the Property.

(b) Except to the extent that other persons will be distributees,

(1) The insurance proceeds attributable to a Dwelling shall be paid to the Owner and applied to restore or reconstruct the Dwelling; provided, however, upon request by an Owner, the Association may agree not to restore or reconstruct the Dwelling by approval of 80% of all the Owners (excluding any Owner whose Dwelling would not be rebuilt). In the event at least a majority of all the Dwellings have been substantially damaged or destroyed, the Association may agree to terminate the Subdivision by approval of 80% of all Owners; and

(2) The remainder of the proceeds, if any, shall be distributed to each Owner or lien holder, as their interests may appear;

(c) If the Owners vote not to rebuild a Dwelling, the interests of the Lot are reallocated as if the Dwelling had been condemned, and the Association, acting through the Board, promptly shall prepare, execute and record an amendment to the Declaration and/or plat reflecting the reallocations.

6.7 Insurance Proceeds. The Insurance Trustee, or if there is no Insurance Trustee, then the Board, shall hold any insurance proceeds paid to the Association in trust for the Association, Owners and lien holders as their interests may appear. The proceeds shall be disbursed first for the restoration or reconstruction of the damaged portions of the Property for which the Association is responsible. The Owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Property has been completely restored or reconstruction as provided in Section 6.4(b), or the Community is terminated as provided in Section 6.3(a).

6.8 Termination. Notwithstanding anything to the contrary in Section 6.6 of this Article, in the event of termination of the Community in connection with a decision not to rebuild as provided in Section 6.3(a), the insurance proceeds of each Owner policy under Section 6.2 shall first be applied to removal of all debris, and the balance of the proceeds shall be distributed to the Owners.

6.9 Certificates by the Board. The Insurance Trustee, if any, may rely on the following certifications in writing made by the Board:

(a) Whether or not damaged or destroyed property is to be restored or reconstructed;

(b) The amount or amounts to be paid for restoration or reconstruction and the names and addresses of the parties to whom such amounts are to be paid.

6.10 Certificates by Attorneys. Title insurance companies or if payments are to be made to Owners or mortgagees, the Board, and the Insurance Trustee, if any, shall obtain and may rely on a title insurance company or attorney's certificate of title or a title insurance policy based on a search of the Records of the City of St. Louis, Missouri from the date of recording of the Declaration stating the names of the Owners and the Mortgagees.

ARTICLE SEVEN MISCELLANEOUS

7.1 Fiscal Year. The fiscal year of the Association shall be a calendar year unless otherwise set by resolution of the Board.

7.2 Parliamentary Rules. The Board may adopt Robert's Rule of Order parliamentary rules and procedures to govern the conduct of Association proceedings, provided that they are not in conflict with Missouri law or the Governing Documents.

7.3 Conflict of Law. In the event of conflict between the NPCA and other Missouri law, Articles of Incorporation, Declaration and these By-Laws, the provisions of the Declaration shall control unless expressly prohibited by the NPCA; otherwise the NPCA shall control, and then the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall control.

7.4 Access to Books and Records.

(a) The membership register, books of account, and minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any Member of the Association or by his or her duly appointed representative at

any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to notice to be given to the custodian of the records by the Member desiring to make the inspection, and payment of the cost of reproducing copies of documents requested by a Member.

(c) Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extracts and copies of documents at the expense of the Association.

7.5 Notices. Unless otherwise provided in the Governing Documents, all notices, demands, bills, statements, or other communications required by the Governing Documents shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by first class U.S. mail, postage prepaid, or served by electronic means in accordance with Section 432.200, *et seq.*, RSMo. (Missouri Uniform Electronic Transactions Act):

(a) to a Member, at the address which the member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot or Dwelling of such Member; or

(b) to the Association, the Board, or the Managing Agent, at the principal office of the Association or the Managing Agent, if any, or at such other address as shall be designated by the notice in writing to the owners pursuant to this Section.

7.6 Amendment. These By-Laws may be amended only as provided in the Declaration.

7.7 Applicability. These By-Laws shall be effective upon adoption by a majority of the Members.

CERTIFICATION


We, the undersigned, being the President and Secretary of the Board of Directors of Kingsbury Square Association, a Missouri nonprofit corporation, do hereby certify that the foregoing By-Laws constitute the By-Laws of said Association, as duly adopted by a majority of all the Members in Good Standing of the Association.

IN WITNESS WHEREOF, we have hereunto subscribed our names this 27th day
of January, 2009.


KINGSBURY SQUARE ASSOCIATION,
a Missouri nonprofit corporation

[No Seal]

By:


Its President

Attest:


Secretary