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MARY SUE OOTS
N.H.CO. REG/DEED
CLERK #. 02

OF NORTH CAROLINA
OF NEW HANOVER

FIRST AMENDMENT IN 1996 TO BYLAWS OF
FRANKLIN SQUARE HOMEOWNERS, INC.

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#. BK2013 PG841
APR. 10 '96 15:26

MISC/INS 20.00
PROBATE 2.00
#. CK8547

Recitals

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WHEREAS, Franklin Square Homeowners Association, Inc. (the "Association") is a

profit corporation organized and existing under and by virtue of the laws of the State of

North Carolina; and

WHEREAS, by Declaration Creating Unit Ownership of Property Under the Provisions of Chapter 47A of the General Statutes of North Carolina recorded in Book 1273 at Page 0650 (the "Declaration") of the New Hanover County Registry, together with all amendments thereto and supplements thereof, an association was created; and

WHEREAS, the Bylaws of the Association are attached to the Declaration at Page 0696

~~000148~~ (Exhibit "C") and;

WHEREAS, paragraph 8 of the Bylaws provide that the same may be amended by an affirmative vote of the members of the Association owning not less than a majority (fifty-one percent) of the units in the association, all phases; and

WHEREAS, at a special joint meeting of the members and Board of Directors of the Association, the following amendments to the Bylaws of the Association were duly adopted by the requisite affirmative vote of the Board of Directors and members of the Association.

NOW, THEREFORE, BE IT KNOWN BY ALL PERSONS AND ENTITIES, that the Bylaws of Franklin Square Homeowners Association, Inc. have been, and are hereby, amended as follows:

FIRST AMENDMENT

Delete in its entirety paragraph 4J(viii) of the Bylaws and insert in lieu thereof the following new paragraph 4J(viii) to read as follows:

(viii) To impose upon a Unit Owner a fine or other monetary imposition for such Unit Owner's, or the immediate family, guests, invitees, tenants, independent contractors or lessees of such Unit Owner, failure or refusal, for any reason, to strictly comply with and abide by the terms, conditions, provisions, covenants and restrictions of the Declarations, these Bylaws and

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Articles of Incorporation of the Association and/or the Rules and Regulations adopted by the Association from time to time, all as the same may be amended from time to time; provided, however, the Association or its Board of Directors shall impose any such fine or other monetary imposition only in accordance with the terms, conditions and provisions of paragraph 4N and the various subparts thereof, of these Bylaws, as the same may be amended from time to time, and to otherwise enforce, by legal means or proceedings, the provisions of the Declarations, the Bylaws, and the Articles of Incorporation of the Association, and the Rules and Regulations adopted from time to time governing use of common property in the Association.

SECOND AMENDMENT

Add a new paragraph 4N to the Bylaws to read as follows:

- N. Fines, Etc. 1. Notwithstanding anything to the contrary contained elsewhere in the "Control Documents" (as hereinafter defined), in addition to and not in lieu of any other rights or remedies the Association and/or other Unit Owners may have, if a Unit Owner (the "Defaulting Owner") or his immediate family, guests, invitees, tenants, independent contractors or lessees (hereinafter singularly and collectively called the "Occupants") shall fail or refuse to strictly comply with and abide by (the "Default") the terms, conditions, provisions, covenants and restrictions of the Declarations, these Bylaws, the Articles of Incorporation, and/or the rules and regulations adopted by the Association from time to time (hereinafter collectively called the "Control Documents" in this paragraph 4N) then, in such event, the Association may, at its sole option and discretion, do the following:
- (a) Impose a fine upon the Defaulting Owner for each occurrence of a Default of the Control Documents by the Occupants of up to One Hundred Fifty Dollars (\$150.00) per occurrence or up to the maximum amount set forth in N.C.G.S. 47C-3-107A, as amended from time to time; and/or
 - (b) During any period in which a Unit Owner is a Defaulting Owner by reason of an event of Default by the Occupants, one or more, under the Control Documents, including without limitation the failure of such Unit Owner to timely pay assessments levied or assessed against such Unit Owner by the Association, the Association may suspend, if not prohibited by law, the voting rights of the Defaulting Owner in the Association and/or suspend such Defaulting Owner's right to the use, benefit and enjoyment of the Common Areas and Facilities (such suspension of the right of the Defaulting Owner to the use, benefit and enjoyment of the

Common Areas shall be for a period not to exceed sixty (60) calendar days per occurrence of an event of Default), subject, however, to the provisions set out hereinafter in this subparagraph N.

(c) Violation of any Rule or Regulation of the Franklin Square Homeowners Association, Inc., its Declaration or By-Laws may be subject to the following procedure:

1ST VIOLATION: Written notification of violation shall be sent to unit owner giving ten (10) days to correct or cease violation.

2ND OCCURANCE: Written notification to unit owner of continuing violation and fine of \$25.00 per day will be assessed if not corrected or ceased within ten (10) days of U.S. Postal mark of written notification.

3RD OCCURANCE: Notice of continuing violation and fine of \$25.00 per day until violation is corrected or ceased.

ADDITIONAL VIOLATIONS: Notice of continuous violation and fine, to be determined by Board of Directors, not to exceed \$150.00 per day until violation is corrected or ceased.

2. Subject to the provisions set out hereinafter regarding emergencies, the Association, or its duly authorized agent or manager, shall not impose a fine upon or suspend a Defaulting Owner's right to the use, benefit and enjoyment of the Common Areas and Facilities unless and until the following procedures as followed:

(a) Demand: The Association, or its manager, shall send written demand to the Defaulting Owner at his last address as shown on the records of the Association demanding that the Occupants cease and desist from the violation causing a Default.

The written demand shall specify:

- (1) the nature of the alleged Default;
- (2) that the Association intends to impose a fine for the Default against the Defaulting Owner and/or suspend the Defaulting Owner's right to vote and/or the Occupants right to the use, benefit and enjoyment of the Common Areas;
- (3) that the Defaulting Owner may, within twenty (20) days of the date of such written demand from the Association, request in writing to the Association a hearing regarding the Default and the action proposed to be taken by the Association;
- (4) that the Defaulting Owner may produce at the hearing such statements, evidence and/or witnesses as the Defaulting Owner may deem appropriate;
- (5) that all rights of the Defaulting Owner to have the actions proposed to be taken by the Association be reconsidered are waived and relinquished if the Defaulting

Owner does not request a hearing within twenty (20) days of the date of the written demand from the Association to the Defaulting Owner; and

(6) the mailing address to which the Defaulting Owner shall send his request for a hearing.

(b) Hearing: If a hearing is timely requested by the Defaulting Owner, it shall be held before the Board of Directors of the Association, or a "Hearings Committee" established by the Board of Directors of the Association, at the next scheduled regular or special meeting of said Board of Directors or "Hearings Committee" or at such other date and time as determined by the said Board of Directors of Hearings Committee, whichever is applicable, and at such hearing the Defaulting Owner shall be given a reasonable opportunity to be heard. The Board of Directors or Hearings Committee shall keep minutes of such meeting containing a written statement of the results of the hearing.

(c) Notice: Notwithstanding anything to the contrary contained elsewhere in these Bylaws, the notice described hereinabove to the Defaulting Owner shall be deemed given to and received by the Defaulting Owner on the fifth (5th) business day following the date the same is deposited in the United States mail, first class mail postage prepaid, and addressed to the Defaulting Owner at his last known address as shown in the records of the Association. Any notice by the Defaulting Owner requesting a hearing shall be deemed received when actually received by the Association, or its manager or agent, at the mailing address provided to the Defaulting Owner by the Association in the notice of default.

(d) Effective Date of Fine, Etc. Any fine imposed on a Defaulting Owner under the provisions hereinabove set forth shall become an Assessment and lien on such Defaulting Owner's Unit effective the date the Board of Directors imposes the same upon such Defaulting Owner or the date of hearing if a Defaulting Owner requests a hearing as hereinabove provided, whichever is later, unless such fine is waived by the Board of Directors of the Association. Any suspension of an Occupant's right to the use, benefit and enjoyment of the Common Area and Facilities shall be effective on the same date as determined for the effective date of a fine as set forth hereinabove or such other date as the Board of Directors may determine as set forth in a written notice to the Defaulting Owner.

(e) Continuing Violation: If any Default, other than non-payment of an

assessment, under the Control Documents shall be a Default which is continuing in nature, as determined by the Board of Directors, then any fine levied, imposed or assessed against a Defaulting Owner may be levied, imposed and assessed against a Defaulting Owner for each calendar day that such Defaulting continues unabated.

(f) Non-Fine Past Due Assessments: Notwithstanding anything to the contrary set forth in any part of this paragraph 4N, no fine shall be levied, imposed or assessed under this paragraph 4N against a Unit Owner for his failure to timely pay assessments levied or assessed against him by the Association. Late payment fees and/or interest on past due Assessments are permitted to be assessed, levied or imposed against a Unit Owner for his failure to timely pay his assessments and are not to be considered fines under this paragraph 4N.

(g) Classification: Any fine(s) imposed upon a Defaulting Owner under the provisions of this paragraph 4N shall be deemed to be, and shall be, assessments for the purposes of the Declarations for Franklin Square HOA and for the purposes of these Bylaws.

3. Conflict: If there shall be any conflict between any of the terms and provisions of this paragraph 4N with the terms and conditions of any other part of these Bylaws and/or the Declaration of Condominium, the terms and conditions of this paragraph 4N shall control.

END OF AMENDMENTS

EXCEPT as specifically amended by this First Amendment in 1996 to Bylaws of Franklin Square Homeowners Association, Inc., all of the remaining terms, conditions, provisions, covenants and restrictions of the Bylaws shall be and remain in full force and effect.

All of the amendments to the Bylaws set forth hereinabove shall be effective on the date this instrument is recorded in the office of the Register of Deeds of New Hanover County, North Carolina.

We the undersigned, being the duly elected and presently serving president and secretary of Franklin Square Homeowners Association, Inc. do hereby execute this document for and on behalf of Franklin Square Homeowners Association, Inc. and have caused its corporate seal to be affixed hereto, all as the act and deed of Franklin Square Homeowners Association, Inc. Furthermore, we, by the execution hereof, do certify, (i) that the amendments of the Bylaws hereinabove set forth are true and correct amendments to the Bylaws of Franklin Square

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Homeowners Association, Inc. (ii) that said amendments hereinabove set forth were duly adopted in accordance with the provisions of paragraph 8 title "Amendments to Bylaws" of the Bylaws of Franklin Square Homeowners Association, Inc. and (iii) that this amendment has been recorded in the office of the Register of Deeds of New Hanover County, North Carolina, within ten (10) days from the date such amendments were affirmatively approved by the Board of Directors and members of Franklin Square Homeowners Association, Inc.

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This 27th day of March 1996.

FRANKLIN SQUARE HOMEOWNERS
ASSOCIATION, INC.

BY:

William W. Roberts
President

ATTEST:

Corlie Bullard

Secretary

(corporate seal)



WILLIAM W. ROBERTS

Printed Name of President

CORLIE BULLARD

Printed Name of Secretary

William W. Roberts

President of Franklin Square
Homeowners Association, Inc.

Corlie Bullard

Secretary of Franklin Square
Homeowners Association, Inc.

STATE OF North Carolina

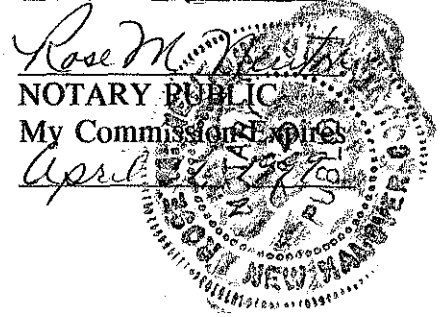
COUNTY OF New Hanover

I, Rose M. Newton, a Notary Public in and for, the County and State aforesaid do hereby certify that Corlie Bullard personally appeared before me this day and acknowledged that he/she is _____ Secretary of Franklin Square HOA, Inc. and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its William W. Roberts President, sealed with its corporate seal, and attested by himself/herself as its _____ Secretary.

WITNESS my hand and notarial seal this the 27th day of March 1996.

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STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, Rose M. Newton, a Notary Public in and for the State and County aforesaid, do certify that William W. Roberts, President of Franklin Square Homeowners Association, Inc. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS, my hand and notarial seal this the 27th day of March 1996.

Rose M. Newton
Notary Public
My Commission Expires
April 17, 1999



STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, Rose M. Newton, A Notary Public in and for the State and County aforesaid, do certify that Corlie Bullard, Secretary of Franklin Square Homeowners Association, Inc. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS, my hand and notarial seal this the 27th day of March 1996.

Rose M. Newton
Notary Public
My Commission Expires
April 17, 1999



STATE OF NORTH CAROLINA
New Hanover County
The Foregoing/ Annexed Certificate(s) of

Rose M. Newton

Notary (Notaries) Public is/ are certified to be correct.

This the 10 day of April 1996

Mary Sue Opts, Register of deeds

by [Signature]
Deputy/Assistant

EXHIBIT "C"

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BY-LAWS
OFFRANKLIN SQUARE HOMEOWNERS ASSOCIATION, INC.

A corporation not for profit under
the laws of the State of North Carolina

1. IDENTITY: These are the By-Laws of FRANKLIN SQUARE HOMEOWNERS ASSOCIATION, INC. , a nonprofit corporation under the laws of the State of North Carolina, the Articles of Incorporation of which are filed in the Office of the Secretary of State on _____, 198__ , hereinafter call "Association", has been organized for the purpose of administering the operation and management of FRANKLIN SQUARE , a condominium established or to be established in accordance with the laws of the State of North Carolina upon the property situate, lying and being in New Hanover County, North Carolina, and described in Exhibit "A" attached hereto and incorporated herein by reference.

A. The provisions of these By-Laws are applicable to FRANKLIN SQUARE , and the terms and provisions hereof are expressly subject to the terms, provisions, conditions and authorization contained in the Articles of Incorporation and which may be contained in the formal Declaration of Condominium and/or Supplemental Declarations of Condominium which will be recorded in the Public Records of New Hanover County, North Carolina, at the time said property or properties and the improvements now or hereafter situated thereon are submitted to the plan of condominium ownership, the terms and provisions of said Articles of Incorporation and Declaration of Condominium and/or Supplemental Declarations of Condominium to be controlling wherever the same may be in conflict herewith.

B. All present or future owners, tenants, future tenants, or their employees, or any other person that might use FRANKLIN SQUARE or any of the facilities thereof in any manner, are subject to the regulations set forth in these By-Laws and in said Articles of

Incorporation and Declarations of Condominium.

C. The office of the Association shall be at 513 Market Street, Wilmington, N. C. 28401 .

D. The fiscal year of the Association shall be the calendar year, except that in the initial year of operation of the condominium, the fiscal year shall commence with the closing of the sale of the first Condominium unit.

2. MEMBERSHIP, VOTING, QUORUM, PROXIES:

A. The qualification of members, the manner of their admission to membership and termination of such membership, and voting by members, shall be as set forth in Article VI of the Articles of Incorporation of the Association, the provisions of which said Article VI of the Articles of Incorporation are incorporated herein by reference.

B. A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such person for the purpose of determining a quorum.

C. The vote of the owners of a Condominium unit owned by more than one person or by a corporation or other entity shall be cast by the one person named in a certificate signed by all of the owners of the Condominium unit and filed with the Secretary of the Association, and such certificate shall be valid until revoked by subsequent certificate.

If such a certificate is not on file, the vote of such owners shall not be considered in determining the requirement for a quorum, nor for any other purpose.

D. Votes may be cast in person or by proxy. Proxies shall be valid only for the particular meeting designated thereon and must be filed with the Secretary before the appointed time of the meeting.

E. Approval or disapproval of a unit owner upon any matter, whether or not the subject of an Association meeting, shall be done by the same person who cast the vote of such owner if in an Association meeting.

F. Except where otherwise required under the provisions of the

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Articles of Incorporation of the Association, these By-Laws, the Declaration of Condominium, or whether the same may otherwise be required by law, the affirmative vote of the persons entitled to cast a majority of the votes at any duly called members' meeting at which a quorum is present shall be binding upon the members.

3. ANNUAL AND SPECIAL MEETING OF MEMBERSHIP:

A. The first annual meeting shall be held within one (1) year from the date of incorporation of the Association. Until such time, the Association shall be managed and controlled by the initial Board of Directors as provided for in Article IV hereinbelow. The annual members' meeting shall thereafter be held at such hour and place designated by the Board of Directors, on the first Tuesday in December of each year for the purpose of electing Directors and of transacting any other business authorized to be transacted by the members, provided, however, that if the day is a legal holiday, the meeting shall be held at the same hour on the next succeeding Tuesday.

B. Special members' meetings shall be held whenever called by the President or Vice President or by a majority of the Board of Directors and must be called by such officers upon receipt of a written request from members of the Association owning a majority of the Condominium units.

C. Notice of all members' meetings, regular or special, shall be given by the President, Vice President or Secretary of the Association, or other officer of the Association in absence of said officers, to each member, unless waived in writing, such notice to be written or printed and to state the time and place and object for which the meeting is called. Such notice shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting, which notice shall be mailed or presented personally to each member within said time. If presented personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail addressed to the member at his post office address as it appears on

the records of the Association (register of owners) as of the date of mailing such notice, the postage thereon prepaid. Proof of such mailing shall be given by the affidavit of the person giving the notice. Any member may, by signed written waiver of notice, waive such notice and, when filed in the records of the Association whether before or after the holding of the meeting, such waiver shall be deemed equivalent to the giving of notice of the member. If any members' meeting cannot be organized because a quorum has not attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended (Wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws or the Declaration of Condominium) the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance, if greater than a quorum, is present.

D. The order of business at annual members' meetings and, as far as practical, at any other members' meetings, shall be:

- i) Calling of the roll and certifying of proxies;
- ii) Proof of notice of meeting or waiver of notice;
- iii) Reading and disposal of any unapproved minutes;
- iv) Reports of officers;
- v) Reports of committees;
- vi) Appointment of inspectors of election by Chairman;
- vii) Unfinished business;
- viii) New business; and
- ix) Adjournment.

4. BOARD OF DIRECTORS:

A. The first Board of Directors of the Association shall consist of two (2) persons whose terms shall expire on the date of the first annual meeting of the members of the Association stated hereinabove. Each succeeding Board of Directors shall consist of five (5) persons, each of whom must be either an owner, a representative of the Declarant, or an employee of a corporate owner. Notwithstanding the foregoing, until such time as 75% of the units in all phases of

FRANKLIN SQUARE have been sold and deeded to purchasers, or until SEPTEMBER 30, 1986 whichever first occurs, A & S PROPERTIES, the Declarant, shall have the right and option to designate and select the persons who shall serve as members of the Board of Directors of the Association.

B. Election of Directors shall be conducted in the following manner:

(i) Beginning with the first annual meeting of the membership of the Association, stated hereinabove, all members of the Board of Directors shall be elected by a plurality of the votes cast at the annual meeting of the members of the Association.

(ii) Vacancies in the Board of Directors may be filled until the date of the next annual meeting by the remaining Directors.

(iii) At the first annual meeting of the members of the Association, the term of office of the two (2) directors receiving the highest plurality of votes shall be established at two (2) years, and the terms of office of the other three (3) Directors shall be established at one (1) year. Thereafter, as many Directors of the Association shall be elected at the annual meeting as there are regular terms of office of Directors expiring at such time, and the term of office of the Directors so elected at the annual meeting of the members each year shall be for two (2) years expiring at the second annual meeting following their election, and thereafter until their successors are duly elected and qualified, or until removed in the manner elsewhere provided or as may be provided by law.

(iv) In the election of Directors, there shall be appurtenant to each Condominium unit a total vote equal to the number of Directors to be elected multiplied by the unit's appurtenant undivided interest in the common area as set for in the Declaration; provided, however, that no member or owner of one (1) Condominium unit may cast a vote greater than the unit's appurtenant undivided interest in the common area for any one person nominated as a Director, it being the intent hereof that voting for Directors shall be noncumulative.

(v) In the event that Declarant, in accordance with the

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rights herein established, selects any person or persons to serve on any Board of Directors of the Association, Declarant shall have the absolute right at any time, in its sole discretion, to replace such person or persons with another person or persons to serve on said Board of Directors. Replacement of any person or persons designated by Declarant to serve on any Board of Directors of the Association shall be made by written instrument delivered to any officer of the Association, which instrument shall specify the name or names of the person or persons to be replaced and the name or names of the person or persons designated as successor or successors to the persons so removed from said Board of Directors. The removal of any Director and designation of his successor shall be effective immediately upon delivery of such written instrument by Declarant to any officer of the Association.

C. The organizational meeting of each newly elected Board of Directors shall be held within ten (10) days of their election, at such time and at such place as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary provided a quorum shall be present.

D. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least three (3) days prior to the day named for such meeting, unless notice is waived.

E. Special meetings of the Directors may be called by the President, and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board. Not less than three (3) days' notice of a meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.

F. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

G. A quorum at a Directors' meeting shall consist of the

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Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes cast at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as specifically otherwise provided in the Articles of Incorporation or these By-Laws or the Declaration of Condominium. If any Directors' meeting cannot be organized because a quorum has not attended, or because the greater percentage of the Directors required to constitute a quorum for particular purpose has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws or Declaration of Condominium, the Directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of attendance if greater than a quorum, is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

H. The presiding officer of Directors' meetings shall be the Chairman of the Board, if such an officer has been elected; and if none, then the President of the Association shall preside. In the absence of the presiding officer, the Directors present shall designate one of their number to preside.

I. Directors' fees, if any, shall be determined by vote of the members of any annual meeting of the membership.

J. All of the powers of and duties of the Association shall be exercised by the Board of Directors, including those existing under the common law and statutes, the Articles of Incorporation of the Association, these By-Laws and the Declaration of Condominium. Such powers and duties shall be exercised in accordance with said Articles of Incorporation, these By-Laws and the Declaration of Condominium, and shall include, without limiting the generality of the foregoing, the following:

(i) To make, levy and collect assessments against members

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and members' Condominium units to defray the cost of the Condominium, as provided for in Article VII of the Declaration of Condominium which Article is herein incorporated by reference, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association. Provided, however, the annual assessment may not be increased more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(ii) To maintain, repair, replace, operate and manage the common areas and facilities wherever the same is required to be done and accomplished by the Association for the benefit of its members; and, further, to approve any expenditures made or to be made for said purposes.

(iii) To reconstruct any part of the common property after casualty in accordance with Article VII of the Declaration of Condominium, and to make further improvement to the common property, real and personal, and to enter into any and all contracts, necessary or desirable to accomplish said purposes.

(iv) To make, amend and enforce regulations governing the use of the common property and Condominium units so long as such regulations or amendments thereto do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles of Incorporation and Declaration of Condominium.

(v) To acquire, operate, lease, manage, and otherwise trade and deal with the property, real and personal, including Condominium units in the Condominium as may be necessary or convenient in the operation and management of the Condominium, and in accomplishing the purposes set forth in the Declaration of Condominium, provided that the acquisition of real property other than Condominium units shall require the approval of the Association.

(vi) To acquire now or at any time hereafter, and to enter into leases and agreements whereby the Association requires leaseholds, memberships, and other possessory or use interests in lands or facilities including, but not limited to, swimming pools, tennis and

other recreational facilities whether or not contiguous to the lands of the Condominium to provide enjoyment, recreation, or other use or benefit to the owners of Condominium units.

(vii) To conduct for the management of the Condominium and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Declaration of Condominium to have approval of the Board of Directors or membership of the Association.

(viii) To enforce by legal means or proceedings the provisions of the Articles of Incorporation and By-Laws of the Association, the Declaration of Condominium and the regulations hereinafter promulgated governing use of the common property in the Condominium.

(ix) To pay all taxes and assessments which are now or may become liens against any part of the Condominium units and the appurtenances thereto and to assess the same against the members and their respective Condominium units subject to such liens.

(x) To purchase insurance for the protection of the members and the association against casualty and liability in accordance with Article VII of the Declaration of Condominium.

(xi) To pay all costs of power, water, sewer and other utility services rendered to the Condominium and not billed to the owners of the separate Condominium units.

(xii) To designate and remove personnel necessary for the maintenance, repair, replacement and operation of the Condominium, including the common property.

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K. The initial Board of Directors of the Association shall be comprised of the two (2) persons designated to act and serve as Directors in the Articles of Incorporation, which said persons shall serve until their successors are selected or elected at the first annual meeting of the members of the Association provided for hereinabove. Should any member of the initial Board of Directors be unable to serve for any reason, A & S PROPERTIES shall have the right to select and designate a party to act and serve as a Director until the first annual meeting of the members of the Association.

L. The undertakings and contracts authorized by the initial Board of Directors shall be binding upon the Association in the same manner as though such undertakings and contracts have been authorized by any Board of Directors duly elected by the membership after the property identified herein has been submitted to the plan of condominium ownership, so long as such undertakings and contracts are within the scope of the powers and duties which may be exercised by the Board of Directors of the Association in accordance with all applicable Condominium documents.

M. Any one or more of the members of the Board of Directors may be removed, either with or without cause, at any time by a vote of the members owning a majority of the Condominium units in the Condominium, at any special meeting called for such purpose, or at the annual meeting; provided, however, that only the Developer shall have the right to remove a Director appointed by it.

5. OFFICERS:

A. The executive officer of the Association shall be a President, who shall be a Director, a Vice President, a Treasurer, a Secretary and an Assistant Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by a vote of the Directors at any meeting. Any person may hold two or more offices, except that the President shall not also be Vice President, Secretary or an Assistant Secretary. The Board of Directors shall, from time to time, elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

B: The President shall be the Chief Executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of the president of any association, including, but not limited to, the power to appoint committees from among the members from time to time, as he may, in his discretion, determine appropriate to assist in the conduct of the affairs of the Association.

C. The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He shall also generally assist the President and exercise such powers and perform such other duties as shall be prescribed by the Directors.

D. The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors, and such other notices required by law. He shall have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of secretary of an association and as may be required by the Directors or the President. The Assistant Secretary shall perform the duties of Secretary when the Secretary is absent.

E. The Treasurer shall have custody of all of the property of the Association, including funds, securities and evidences of indebtedness. He shall keep, or supervise the keeping of, the

assessment rolls and accounts of the members; he shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties incident to the office of Treasurer.

F. The compensation of all officers and employees of the Association shall be fixed by the Directors. This provision shall not preclude the Board of Directors from employing a Director as an employee of the Association, nor preclude the contracting with a Director for the management of the Condominium.

G. All officers shall serve at the pleasure of the Board of Directors and any officer may be removed from office at any time, with or without cause, by a majority vote of the Board of Directors.

6. FISCAL MANAGEMENT: The provisions for fiscal management of the Association set forth in the Declaration of Condominium and Articles of Incorporation shall be supplemented by the following provisions:

A. An assessment roll shall be maintained in a set of accounting books in which there shall be an account for each Condominium unit. Such account shall designate the name and address of the unit owner or owners, the amount of each assessment against the owners, the dates and amounts in which assessments come due, the amounts paid upon the account and the balance due upon assessments.

B. The Board of Directors shall adopt a budget for each calendar year which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to, the following:

(i) Common expense budget, which may include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of and capital improvements to the common property including landscaping, streets and walkways, office expense, utility services, casualty insurance, liability insurance, administration and reserves (operating and capital improvement replacement), management fees and costs of maintaining leaseholds; memberships, and other possessory or use interests in lands or facilities whether or not contiguous to the lands of the Condominium, to provide enjoyment, recreation or other use or benefit to the unit

owners; and

(ii) Proposed assessments against each member and his unit.:

Copies of the proposed budget and proposed assessments shall be transmitted to each member prior to January 1 of the year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished each member concerned. Delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessments, nor shall delivery of a copy of such budget or amended budget yet to be considered be a condition precedent to the effectiveness of said budget and assessments levied pursuant thereto, and nothing herein contained shall be construed as restricting the right of the Board of Directors, at any time in their sole discretion, to levy any additional assessments in the event that the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management, or in the event of emergencies.

C. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only checks signed by such persons as are authorized by the Directors.

D. An audit of the accounts of the Association shall be made annually by a certified public accountant, and a copy of the report shall be furnished to each member not later than April 15 of the year following the year for which the report is made.

E. Fidelity bonds may be required by the Board of Directors from all officers and employees of the Association and from any contractor handling or responsible for Association funds. The amount of such bonds shall be determined by the Directors. The premiums of such bonds shall be paid by the Association.

7. PARLIAMENTARY RULES: Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the

Statutes of the State of North Carolina.

8. AMENDMENTS TO BY-LAWS: Amendments to these By-Laws shall be proposed and adopted in the following manner:

A. Amendments to these By-Laws may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by members of the Association owning a majority of the Condominium units in FRANKLIN SQUARE whether meeting as members or by instrument in writing signed by them.

B. Upon any amendment or amendments to these By-Laws being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the president of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a special joint meeting of the members of the Board of Directors of the Association and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members if required as herein set forth.

C. In order for such amendment or amendments to become effective, the same must be approved by an affirmative vote of a majority of the entire membership of the Board of Directors and by an affirmative vote of the members owning not less than a majority (fifty-one percent) of the Condominium units in the Condominium, all phases. Thereupon, such amendment or amendments to these By-Laws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the Public Records of New Hanover County, North Carolina, within ten (10) days from the date on which any amendment or amendments have been affirmatively approved by the Directors or members. No amendment shall become operative or effective until it shall have been duly recorded.

D. Upon the approval and proper recording of any amendment or amendments, the same shall become binding upon all unit owners.

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E. At any meeting held to consider any amendment or amendments to the By-Laws, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the association at or prior to such meeting.

F. Notwithstanding the foregoing provisions of this Article 8, no amendment to these By-Laws which shall abridge, amend, or alter the right of the Declarant to designate and select members of each Board of Directors of the Association, as provided in Article 4 hereof, may be adopted or become effective without the prior written consent of the Declarant. Provided, however, that so long as the declarant controls the Board of Directors of the Association, no additional properties, other than those contemplated by Declarant and set forth in the Declaration Creating Unit Ownership of Property and to be constructed upon the real estate described in Exhibit "A" to said Declaration, shall be annexed to the project;

9. COMPLIANCE: These By-Laws are set forth to comply with the requirements of the Unit Ownership Act, Chapter 47A of the General Statutes of North Carolina. In the event that any of these By-Laws conflict with the provisions of said statute, it is hereby agreed and accepted that the provisions of the statute shall apply.

The foregoing were adopted as the By-Laws of FRANKLIN SQUARE Homeowners Association, Inc. , a nonprofit corporation under the laws of the State of North Carolina, at the first meeting of the Board of Directors on NOVEMBER 27, 1984..

Suzanne M. Waters

Secretary

EXHIBIT "A" OF BY-LAWS 1273 0711

ARTICLES OF INCORPORATION
OF

FRANKLIN SQUARE HOMEOWNERS ASSOCIATION, INC.

In accordance with the requirements of Chapter 55A of the North Carolina General Statutes, the undersigned, a natural person of full age, has this day executed these Articles of Incorporation for the purpose of forming a nonprofit corporation and hereby certifies:

ARTICLE I'

The name of the corporation is FRANKLIN SQUARE HOMEOWNERS ASSOCIATION, INC. hereinafter called the "Association".

ARTICLE II

The principal and registered office of the Association is located at 513 Market Street, Post Office Box 178, Wilmington, New Hanover County, North Carolina, 28402.

ARTICLE III

DAVID ROCK WHITTEN, whose address is 513 Market Street, Wilmington, North Carolina 28401 is hereby appointed the initial registered agent of this corporation.

ARTICLE IV

This Association does not contemplate pecuniary gain or profit to the members thereof and no part of the Association's net income shall inure to the benefit of any of its officers, directors, or members, or any other private individual. The purposes and objects of the Association shall be to administer the operation and management of FRANKLIN SQUARE (hereinafter called "the Condominium"), a condominium to be established in accordance with the laws of the State of North Carolina upon the property situate, lying and being in Wilmington, New Hanover County, North Carolina, and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; to undertake the performances of the acts and duties incident to the

administration of the operation and management of said Condominium, present, future phases, if any, in accordance with the terms, provisions, conditions and authorizations contained in the Public Records of New Hanover County, North Carolina, at the time said property, and the improvements now or hereafter situate thereon, are submitted to a plan of Condominium ownership, by the registration of a Declaration of Condominium and/or Supplemental Declarations of Condominium, and to own, operate, lease, sell, trade, and otherwise deal with such property, whether real or personal, as may be necessary or convenient in the administration of said Condominium.

ARTICLE V

The Association shall have the following powers:

1. The Association shall have all the powers and privileges granted to nonprofit corporations under the law pursuant to which this Association is chartered, and all of the powers and privileges which may be granted unto said Association under any other applicable laws of the State of North Carolina, including the Unit Ownership Act.

2. The Association shall have all the powers reasonably necessary to implement and effectuate the purposes of the Association, including, but not limited to the following:

(a) To make and establish reasonable rules and regulations governing the use of Condominium units and common areas and facilities in the Condominium as said terms may be defined in said Declaration of Condominium to be recorded.

(b) To levy and collect assessments against members of the Association to defray the common expenses of the Condominium as may be provided in said Declaration of Condominium and in the By-Laws of this Association which may be hereafter adopted, including the right to levy and collect assessments for the purposes of acquiring, operating, leasing, managing and otherwise trading and dealing with such property, whether real or personal, including Condominium units in the Condominium, which may be necessary or convenient in the operation and management of the Condominium and in accomplishing the purposes set forth in said Declaration of Condominium.

(c) To maintain, repair, replace, operate and manage the Condominium and the property comprising same, including the right to reconstruct improvements after casualty and make further improvement of the Condominium property, and to make and enter into any and all contracts necessary or desirable to accomplish said purposes.

(d) To contract for the management of the Condominium and to delegate to such contractor all of the powers and duties of the Association except those which may be required by the Declaration of Condominium to have approval of the Board of Directors or membership of the Association.

(e) To enforce the provisions of the Declaration of Condominium these Articles of Incorporation, the By-Laws of the Association which may be hereafter adopted, and the Rules and Regulations governing the use of the Condominium as the same may be hereafter established.

(f) To exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the Association pursuant to the Declaration of Condominium aforementioned.

ARTICLE VI

The qualification of the members, the manner of their admission to membership and termination of such membership, and voting by members shall be as follows:

1. The owners of all Condominium units in FRANKLIN SQUARE, and all future phases, if any, shall be members of the Association, and no other person or entities shall be members, except as provided in Item 5 of this Article VI.

2. Membership shall be established by the acquisition of fee title to a Condominium unit in the Condominium, or by acquisition of a fee ownership interest therein, whether by conveyance, devise, judicial decree or otherwise, and the membership of any party shall be automatically terminated upon his being divested of all title to or his entire fee ownership interest in any Condominium unit, except that nothing herein contained shall be construed as terminating the membership of any party who may own two or more Condominium units, or

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who may own a fee ownership interest in two or more Condominium units, so long as such party shall retain title to or a fee ownership interest in any Condominium unit.

3. The interest of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance to his Condominium unit. The funds and assets of the Association shall belong solely to the Association subject to the limitation that the same be expended, held or used for the benefit of the membership and for the purposes authorized herein, in the Declaration of Condominium and in the By-Laws which may be hereafter adopted.

4. On all matters which the membership shall be entitled to vote, each Condominium unit shall have a vote equal to its appurtenant undivided interest in the common areas and facilities of the Condominium as set forth in the declaration of Condominium. The vote of each unit may be cast or exercised by the owner or owners of each Condominium unit in such manner as may be provided by the By-Laws hereafter adopted by the Association. Should any member own more than one Condominium unit, such member shall be entitled to exercise or cast the votes associated with each Condominium unit owned in the manner provided by said By-Laws.

5. Until such time as the property described in Exhibit "A" hereof, and the improvements constructed thereon, are submitted to a plan of Condominium ownership by the recordation of the declaration of Condominium, the membership of the Association shall be comprised of the two (2) individuals named in Article XI hereof as the initial Board of Directors of the Association, and each such individual shall be entitled to cast one vote on all matters on which the membership shall be entitled to vote.

ARTICLE VII.

The Association shall have perpetual existence.

ARTICLE VIII

The affairs of the Association shall be managed by the President of the association, assisted by the Vice President, secretary and

treasurer and, if any, the Assistant Secretaries and Assistant Treasurers, subject to the directions of the Board of Directors. The Board of Directors, or the President with the approval of the Board of Directors, may employ a managing agent and/or such other managerial and supervisory personnel or entities to administer or assist in the administration of the operation and management of the Condominium, and the affairs of the Association, and any such person or entity may be so employed without regard to whether such person or entity is a member of the Association or a director or officer of the Association, as the case may be.

ARTICLE IX

The number of members of the first Board of Directors of the Association shall be three (3). The number of members of succeeding Board of Directors shall be as provided from time to time by the By-Laws of the Association. The members of the Board of Directors shall be elected by the members of the Association at the annual meeting of the membership as provided by the By-Laws of the Association, and at least a majority of the Board of Directors shall be members of the Association or shall be authorized representatives, officers or employers or a corporate member of the Association. Notwithstanding the foregoing, until such time as 75% of the units of FRANKLIN SQUARE have been sold and deeded to purchasers, or September 30, 1986, which ever occurs first, A & S Properties shall have the right and option to designate and select the persons who shall serve as members of the Board of Directors of the Association. A & S Properties may designate and select the person or persons to serve as a member or members of said Board of Directors in the manner provided in the By-Laws of the Association, and such person or persons so designated and selected need not be a resident of the Condominium.

ARTICLE X

The Board of Directors shall elect a President, Vice President, Secretary and Treasurer, and as many Assistant Secretaries and Assistant Treasurers as the Board of Directors shall determine. The President shall be elected from among the membership of the Board of Directors,

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but no other officer need be a Director. The same person may hold two offices, the duties of which are not incompatible; provided, however, that the office of the President and Vice President shall not be held by the same person, nor shall the office of the President and Secretary or Assistant Secretary be held by the same person.

ARTICLE XI

The names and post office address of the initial Board of Directors who, subject to the provisions of these Articles of Incorporation, the By-Laws, and the laws of the State of North Carolina, shall hold office until the first annual meeting of the membership (or until their successors are elected and qualified) are as follows: David J. Ratcliff, 513 Market Street, Wilmington, North Carolina; David Greer, 513 Market Street, Wilmington, North Carolina; Richard D. Ratcliff, 513 Market Street, Wilmington, North Carolina.

ARTICLE XII

The original By-Laws of the Association shall be adopted by a majority vote of the members of the Association present at a meeting of the members at which a majority of the membership is present, and, thereafter, such By-Laws may be altered or rescinded in such manner as said By-Laws may provide.

ARTICLE XIII

Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or officer at the time such expenses are incurred, except in such cases wherein the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not

exclusive of all her rights to which such director or officer may be entitled.

ARTICLE XIV

An amendment or amendments to these Articles of Incorporation shall require the assent of ninety percent (90%) of the membership.

No amendment to these Articles of Incorporation which shall abridge, amend or alter the right of A & S Properties to designate and select members of the Board of Directors of the Association, as provided in Article IV hereof, may be adopted or become effective without the prior written consent of A & S Properties.

ARTICLE XV

The name and address of the incorporator is as follows:

DAVID ROCK WHITTEN

513 Market Street, Wilmington,
Wilmington, North Carolina, 28401

IN WITNESS WHEREOF, I, the undersigned incorporator, have hereunto set my hand and seal, this 28 day of November, 1984.

David Rock Whitten (SEAL)
DAVID ROCK WHITTEN . . .

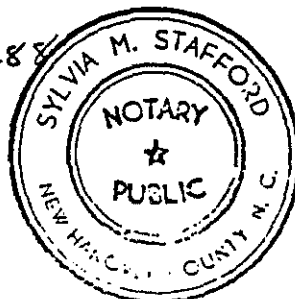
STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

This is to certify that on this the 28 day of November before me, Sylvia M. Stafford a notary public of said county and state, personally appeared David Rock Whitten, who I am satisfied is the person named in and who executed the foregoing Articles of Incorporation of Franklin Square Homeowners Association Inc. and having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as his voluntary act and deed for the uses and purposes therein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the 28th day of November, 1984.

Sylvia M. Stafford
Notary Public

My Commission Expires: 11-2-88



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EXHIBIT "A" of Articles of Incorporation

Tract 1

BEGINNING at an old iron pipe in the southern right of way line of Spirea Drive, 60.0 foot right of way, that is located South 09 degrees 00 minutes West - 30.0 feet from a point on the centerline of said Drive which is located South 81 degrees 00 minutes East - 784.80 feet, as measured along said centerline, from the point of intersection of the centerline of Spirea Drive with the centerline of 41st Street. Running thence from said point of beginning with the southern right of way line of Spirea Drive, South 81 degrees 00 minutes East - 154.0 feet to an iron pipe; thence South 09 degrees 00 minutes West - 382.50 feet to an iron pipe; thence North 81 degrees 00 minutes West - 154.0 feet to an iron pipe; thence North 09 degrees 00 minutes East 382.50 feet to the point of beginning, containing 1.35 acres more or less and being a portion of Farm 17, Winter Park Gardens, same being a portion of a tract of land conveyed to William D. Lewis and wife, Elizabeth Lewis by J.S. Brock and wife, Sudie C. Brock, by a deed recorded in Book 390 at Page 169 of the New Hanover County Registry.

Tract 2

BEGINNING at a point in the Southern line of Spirea Drive, (formerly known as Greenfield Street) (30 feet from centerline thereof), said point being located South 9 degrees West 13.5 feet from the original Northwest corner of Farm #17 of the Winter Park Gardens, same being shown on map in Book A of Division of Lands and Dowers, at Page 509 in the New Hanover County Registry; running thence from said beginning point with the dividing line between Farms #17 and 18, South 9 degrees West 382.5 feet to a point in said line; thence South 81 degrees East 110.0 feet to a point; thence North 9 degrees East 382.5 feet to a point in the Southern right of way line of Spirea Drive; thence with said Southern right of way line of Spirea Drive North 81 degrees West 110.0 feet to the point of beginning, the same being part of Farm #17, Winter Park Gardens as shown on the map above referred to, and being a portion of that tract of land conveyed to W. D. Lewis and wife by deed recorded in Book 390 at Page 169 in the New Hanover County Registry.

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EXHIBIT "D"

List of Market Values and Percentage Ownership of undivided interest
in common areas of Franklin Square.

Subject to the provisions of Article IV, Paragraph A of this Declaration,
Declarant hereby declares that each of the thirty-two (32) units in Franklin
Square have an equal market value as of the date hereof, and therefore each
owner of a unit in Franklin Square shall be entitled to a one-thirty-second
(1/32) undivided interest in the common areas and facilities of Franklin
Square.