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RECORDED ✓  
PREPARED ✓

FILED NO. 1100

BOOK 139 PAGE 527

98 SEP -2 PM 4: 11

MICHELLE UTSLER  
RECORDER  
MADISON COUNTY, IOWA

Lewis H. Jordan P.O. Box 230 Winterset 515/462-3731

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS  
FOR  
MARVIN D. COX RURAL DEVELOPMENT**

**THIS DECLARATION** is made on the date set forth below by **Marvin D. Cox and Mary A. Cox, husband and wife**, hereinafter referred to as **Declarant**;

**WITNESSETH:**

**WHEREAS, Declarant and Louis Van Daele, Single, and Thomas R. Clause and Mary K. Clause, Husband and Wife, are the owners of certain real estate in Madison County, Iowa located in the That part of the Southeast Quarter (SE¼) of Section Three (3), and the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of Section Two (2), all in Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5th P.M. Madison County, Iowa, described as follows: Beginning at the southeast corner of said Section Three (3); thence on an assumed bearing of South 90 degrees 00 minutes 00 seconds West along the south line of the Southeast Quarter (SE¼) of said Section Three (3) a distance of 2466.02 feet; thence North 16 degrees 13 minutes 46 seconds East 784.16 feet; thence North 42 degrees 15 minutes 30 seconds East 440.36 feet; thence North 22 degrees 25 minutes 10 seconds West 559.78 feet; thence South 83 degrees 52 minutes 12 seconds West 443.23 feet; thence North 06 degrees 47 minutes 25 seconds East 431.09 feet; thence North 40 degrees 09 minutes 01 seconds West 80.04 feet; thence North 00 degrees 12 minutes 50 seconds West 266.05 feet; thence 78 degrees 38 minutes 50 seconds East 572.97 feet; thence North 51 degrees 31 minutes 57 seconds East 114.49 feet; thence South 83 degrees 49 minutes 05 seconds East 675.38 feet; thence South 86 degrees 18 minutes 08 seconds East 373.57 feet; thence South 67 degrees 17 minutes 52 seconds East 827.67 feet; thence South 63 degrees 23 minutes 10 seconds East 771.24 feet; thence South 11 degrees 02 minutes 00 seconds East 405.87 feet to the south line of the Northwest Quarter (NW¼) of the Southwest Quarter of said Section Two (2); thence South 89 degrees 26 minutes 30 seconds West along said south line a distance of 608.26 feet to the northeast corner of the Southeast Quarter (SE) of the Southeast Quarter of said Section Three (3); thence South 00 degrees 30 minutes 10 seconds West along the east line of said Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) a distance of 1322.28 feet to the southeast corner of said Section Three (3) and the point of beginning**

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

#### **ARTICLE I - Definitions**

##### **Section 1.**

**"Association"** shall refer to the Union Township, Sections 2 and 3, Owners' Association, Inc., which shall be a Residential Real Estate Management Association, its successors and assigns.

##### **Section 2.**

**"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any parcel which is a part of the property, except that a vendee in possession under a recorded contract of sale of any parcel shall be considered the owner rather than the contract seller being the owner. Those having an interest merely as security for the performance of an obligation shall not be considered an owner.

##### **Section 3.**

**"Properties"** shall mean and refer to that certain real property hereinbefore described and such additional real property which includes lots or plats as may hereafter become subject by covenants of record to assessment by the Association or hereinafter become Common Area.

##### **Section 4.**

**"Common Area"** shall mean and refer to the roadway, including the improvements thereon, ownership of which shall be retained by the Association for the common use and enjoyment of the owners, the legal description of which is attached hereto and by this reference made a part hereof, marked Exhibit "A". The Common Area shall also be all portions of paving, rock roads, and utilities located in the Common Area and included in the property owned by municipality or municipal agency. The Common Area and any improvements thereon shall be conveyed to the Association.

**Section 5.**

"Lots" shall mean and refer to the numbered lots or plats as shown upon any Plats within the Property.

**Section 6.**

"Association Responsibility Elements" shall mean the following, whether located upon a "Parcel" or upon the "Common Area":

- (a) The access roads constructed by the Declarant or the Association and owned by the Association.
- (b) Conduits, ducts, plumbing, wiring, pipes and other facilities located on the above rock roads which are carrying any service to more than one "Parcel".
- (c) Street signs owned by the Association, including such signs located on property owned by Madison County, Iowa.

**ARTICLE II - Property Rights and Maintenance**

**Section 1. Owners' Easements and Enjoyment.**

Every Owner shall have a right and easement and enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Parcel, subject to the right of the Association to dedicate or transfer any part of the Common Area to any public agency, authority or utility for such purposes. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer, signed by a majority of the members entitled to vote, has been recorded.

**Section 2. Delegation of Use.**

Any Owner may delegate, in accordance with the by-laws, his right of enjoyment to the Common Area and facilities to the members of his family or his tenants.

**Section 3. Association Responsibility Elements.**

No person, other than the owner of a Parcel, and his invitees, shall have the right to enter upon, use or affect an Association Responsibility Element located adjacent to a Parcel except that the Association and its designees may enter the Common Area at reasonable times for the following purposes:

- (a) Enforcement of any provision of this Declaration or the Articles of Incorporation or the By-Laws of the Association.
- (b) Mowing and maintenance of grass areas.
- (c) Snow removal; and
- (d) Maintenance and repair of the road areas.

**Section 4. Maintenance.**

The Association shall be responsible for the maintenance of the Common Area and the improvements thereon.

**Section 5. Residences.**

There shall be located on each Parcel sold a single-family residence of at least thirteen hundred (1300) square feet living area and no other use shall be allowed except single-family residency, except that on Lot Four (4) there shall be allowed a separate building to be constructed as an architectural business studio which may not be used for any other commercial purpose. No structure shall be erected on any Parcel except a single-family residential dwelling structure, a one- to three-car garage, and certain accessory buildings provided that accessory buildings, other than garages, may not be erected in excess of 1000 square feet of area. No construction shall start on any such dwelling until plans have been approved by the Declarant. No mobile homes or double-wide homes shall be erected or placed on any of the lots, plats or Parcels included in the real estate described above. No trailer, basement, tent, shack, garage, barn or other accessory building on the Parcel shall at anytime be used as a residence, temporarily or permanently; nor, shall any residence of a temporary character be permitted. The titleholder of each lot, tract or Parcel shall keep his lot or lots free of noxious weeds and debris and shall not engage in any activity which is a nuisance.

The owners of Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6) and Seven (7) shall construct and maintain a fence between their respective properties and the adjacent farmland, unless there is an existing fence, in which case the respective owners shall maintain said existing fence, except that no fence shall be required on the wooded section of Lot 4.

**Section 6.**

There shall be a 50-foot setback for the construction of any residence and other buildings permitted by these covenants, conditions and restrictions, on Lots Six (6), Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11) and Twelve (12). On all other lots there shall be a 100-foot setback.

**Section 7.**

Declarant retains an easement on Lots Four (4), Five (5), and Seven (7) to construct and maintain diversion terraces for the control of surface water on the setback areas.

**Section 8.**

All wiring shall be underground.

**Section 9.**

Not lot shall be subdivided, except that Lot Seven (7) may be subdivided once; and, except that an owner may sell a portion of his lot to an adjacent landowner for the purpose of increasing the size of the adjacent landowners' lot.

**ARTICLE III - Membership And Voting Rights.**

**Section 1.**

Every owner of a Parcel which is subject to assessment shall be a member of the Association. Membership is mandatory and shall be appurtenant to and may not be separated from ownership of any Parcel which is subject to assessment.

**Section 2.**

All owners shall be entitled to one vote in the Association for each Parcel. When more than one person holds an interest to any Parcel, all such persons shall be members. The vote for such Parcel shall be exercised as they determine; but, in no event, shall more than one vote be cast with respect to any Parcel. Such vote shall be one-sixteenth (1/16) of the total votes.

**Section 3.**

Notwithstanding any other provisions of this Declaration, the Declarant, their successors and assigns, shall be the sole voting membership of the Association until Declarant no longer owns any portion of the property, or until Declarant waives in writing this right to be the sole voting membership, whichever first occurs. While the sole voting member the Declarant, their successors and assigns, shall have the right to elect all Directors of the Association. Declarant shall waive in writing his right to be the sole voting membership when all lots have been sold.

**ARTICLE IV - Covenants For Maintenance Assessments****Section 1. Creation of Liens and Personal Obligations of Assessments.**

The Declarant, for each Parcel owned within the properties, hereby covenants, and each Owner of any Parcel by acceptance of a Deed therefor, whether or not it shall be so expressed in such deed, is deemed to consent and agree to pay to the Association: (1) Annual assessments or charges; and (2) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided, together with interest, costs and reasonable attorney's fees, which shall be a charge upon each Parcel and shall be a continuing lien upon the Parcel against which such assessment is made. Each such assessment, together with interest, cost and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of such Parcel at the time the assessment came due. The personal obligation for delinquent assessments shall not pass to the owner's successors in title unless expressly assumed by them. The owners of Lots Fifteen (15) and Sixteen (16) shall have no obligation to pay to the Association any assessment for the maintenance of the roadway.

The owners of Lots Six (6), Seven (7), Eight (8), Nine (9), ten (10) and Eleven (11) shall be the only lot-owners subject to assessment for the extension of the roadway North and West of the West line of Lot Five (5) where the roadway narrows from 100 feet to 50 feet, and then, only in the event such lot owners use said extension of the roadway for access to their respective lots.

**Section 2. Purpose of Assessments.**

The assessments levied by and for the Association shall be used exclusively to promote the health, safety and welfare of the residents of the property and for the improvement and maintenance of the Common Area and the Association Responsibility Elements.

**Section 3. Annual Assessment.**

- (a) For the period commencing January 1st of the year immediately following the conveyance of the first Parcel to an Owner, the annual assessment shall be fixed by the Board of Directors of the Association.
- (b) The Board of Directors shall fix the annual assessment each year thereafter.
- (c) A Parcel shall not be subject to assessment until the first day of the month following the date of possession of such Parcel.

**Section 4. Special Assessments for Capital Improvements.**

In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, which shall include the surfacing or maintenance of any such roads, provided that any such assessment shall have the assent of a majority of the votes of members entitled to vote who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 5. Notice And Quorum For Any Action Authorized under Sections 3 And 4 Above.**

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or Section 4 shall be sent to all Members entitled to vote not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Members entitled to vote or of proxies entitled to vote shall constitute a quorum. At Such time as the Declarant no longer controls the Board of Directors of the Association, a quorum shall consist of a majority of the then parcelholders

**Section 6. Uniform Rate of Assessment.**

Annual assessments, special assessments for capital improvements, and insurance assessments shall be fixed at a uniform rate for all Parcels and may be collected on a monthly basis.

**Section 7. Date of Commencement of Annual Assessments: Due Dates.**

Annual assessments shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Parcel at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Parcel have been paid. A properly executed Certificate of the Association as to the status of an assessment on a Parcel is binding upon the Association as of the date of its issuance.

**Section 8. Insurance and Insurance Assessments.**

In addition to the annual assessments and special assessments for capital improvements, the Association may levy assessments for insurance purchased by the Association. The Association shall obtain liability and casualty insurance for the Common Area and for the Association Responsibility Elements. This provision shall not alleviate any

owner of any Parcel from obtaining homeowners' liability insurance and casualty insurance for the property of such owner. In the event of a casualty loss upon the Common Area, the Association shall be responsible for the repair and restoration of the Common Area and the Owner shall be responsible for the repair and restoration of any building or improvements on his Parcel.

**Section 9. Effect of Nonpayment of Assessments: Remedies of the Association.**

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Parcel.

**Section 10. Subordination of the Lien to Mortgages.**

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Parcel shall not affect the assessment lien. However, the sale or transfer of any Parcel pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Parcel from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 11. Utilities.**

Each Owner shall be responsible for payment of all utility services to his Parcel, including but not limited to, electricity, water, gas, telephone, sewer services, and cable television services.

**Section 12. Assessments for County Related Improvements.**

Notwithstanding any other provisions of this Article, the Board of Directors may establish an assessment for the maintenance, improvements or reconstruction of street signs, street lights, fences and sidewalks, if necessary, to comply with any directive of Madison County, Iowa.

**ARTICLE V - Architectural Control**

No alteration of surface drainage be made until the plans and specifications showing the nature, kind, shape, height, material and location of the same have been submitted to and approved in writing as to the topography by the Board of Directors of the Association. In the event said Board of Directors fails to approve or disapprove such design and location within



thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. This Article shall not apply to construction, improvements or alterations made by the Declarant.

#### **ARTICLE VI - Easements**

- (a) Each Parcel is burdened with an easement for surface drainage for the benefit of all other Parcels and the Common Area.
- (b) Each Parcel is burdened with easements for public utilities and sidewalks, if the latter is required by Madison County.

#### **ARTICLE VII - Use Restrictions**

##### **Section 1. Subjection of the Property to Certain Provisions.**

The ownership, use, occupation and enjoyment of each Parcel and the Common Area shall be subject to the provisions of the By-Laws and Articles of Incorporation of the Association, and this Declaration, all of which provisions irrespective of where set forth or classified, shall have equal status and shall be enforceable and binding as a covenant, condition, restriction or requirement running with the land and shall be binding on or enforceable against each and all Parcels and the Owners thereof and their respective assigns, lessees, tenants, occupants and successors in interest.

##### **Section 2. Use of Properties.**

The use of the Properties shall be in accordance with and subject to the following provisions:

- (a) A Parcel shall be used or occupied for single family dwelling purposes only, except that on Lot Four (4) there shall be allowed a separate building to be constructed as an architectural business structure which may not be used for any other commercial purpose.
- (b) A Parcel may be rented or leased by the Owner or his lessee provided the entire Parcel is rented, and the period of rental is at least one month unless some other period is established in the rules, regulations or By-Laws of the Association. No lease shall relieve the Owner as against the Association and other owners from any responsibility or liability.
- (c) Nothing shall be altered in, constructed in, or removed from the Common Area, except upon written consent of the Board of Directors of the Association, which may be given through regulations of the Association.

- (d) No livestock or other animals of any kind shall be raised, bred, or kept in any Parcel or in any Common Area, except an Owners shall be permitted to keep cats, dogs or other usual household pets and to walk them, upon the Common Area, subject to rules and regulations adopted by the Association. Two (2) horses shall be allowed in any one lot; but, in the event horses are kept by the owner of a parcel, the owner of such parcel shall have the duty to build and maintain sufficient fence to restrain said horses from running at large.
- (e) No activity shall be allowed which unduly interferes with the peaceful possession and use of the Parcels by the Owner nor shall any fire hazard or unsightly accumulation of refuse be allowed.
- (f) Nothing shall be done or kept in any Parcel or in the Common Area which will increase the rate of insurance on the Common Area or the Association Responsibility Elements, without the prior written consent of the Board of Directors of the Association. No Owner shall permit anything to be done or kept in his Parcel or in the Common Area which will result in the cancellation of insurance on any Parcel or any part of the Common Area or the Association Responsibility Elements, which would be in violation of any law, or which may be or become a nuisance or annoyance to the other Owners.
- (g) All valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance modification or repair of property shall be the same as the responsibility for the maintenance and repair of the property concerned.
- (h) The Board of Directors of the Association shall have the authority to adopt rules and regulations governing the use of Parcels, the Common Area and the Association Responsibility Elements and such rules shall be observed and obeyed by the Owners, their guests, lessees, assigns and licensees.
- (i) Agents or contractors hired by the Board of Directors of the Association may enter any Parcel when necessary in connection with any installation, repair, removal, replacement or inspection of any Association responsibility element, or in connection with landscaping, or construction for which the Association is responsible, provided such entry shall be made with as little inconvenience to the Owner as practicable.

(j) An Owner shall be liable to the Association for the expense of any maintenance, repair, or replacement to the Common Area or the Association Responsibility Elements rendered necessary by his act, neglect, or carelessness, or by that of his family, guests, employee, agents, or lessee, which liability shall include any increase in insurance rates resulting therefrom.

(k) Neither the Owners nor the Association nor the use of the Common Area shall interfere with the completion of the contemplated improvements and the sale of the Parcels by the Declarant. The Declarant may make such use of the unsold Parcels and the Common Area as may facilitate such completion and sale.

(l) Police, firemen, emergency units, inspectors and any other public officials or law enforcement agencies shall have the same right of entry onto and the same enforcement powers as to the Common Area as they have with respect to public streets and publicly owned parks and areas.

**Section 3. No Waiver.**

Failure of the Association or any Owner to enforce any covenant, condition or restriction, this Declaration, the Articles of Incorporation or By-Laws of the Association, or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to enforce the same thereafter.

**ARTICLE VIII - General Provisions**

**Section 1. Enforcement.**

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

**Section 2. Severability.**

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

**Section 3. Amendment.**

The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration

may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five percent (75%) of the Parcel Owners, but no amendment shall alter any rights of the Declarant or impose any additional obligations upon the Declarant without the consent of the Declarant. Any amendment must be recorded. During such time as the Declarant is the sole voting member of the Association, this Declaration may be amended by Declarant.

ARTICLE IX - By-Laws

Attached hereto and incorporated herein by this reference are the By-Laws of **Marvin D. Cox Rural Development Association.**

Dated this 28 day of August, 1998.

Marvin D. Cox  
Marvin D. Cox

Mary A. Cox  
Mary A. Cox

DECLARANT

The undersigned, being owners of a portion of the real estate described above, hereby consent to and agree to the within and foregoing Declaration of Covenants, Conditions and Restrictions for Marvin D. Cox Rural Development.

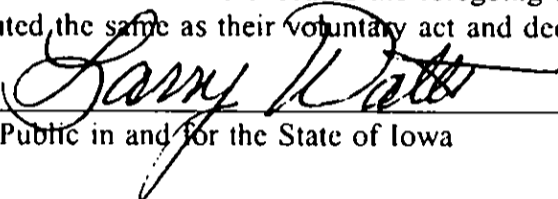
Louis Van Daele  
Louis Van Daele

Thomas R. Clause  
Thomas R. Clause

Mary K. Clause  
Mary K. Clause

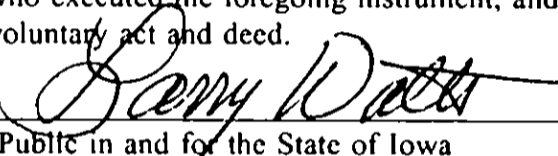
STATE OF IOWA :  
:SS  
COUNTY OF MADISON :

On this 28 day of August, 1998, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Marvin D. Cox and Mary A. Cox, to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

  
\_\_\_\_\_  
Notary Public in and for the State of Iowa

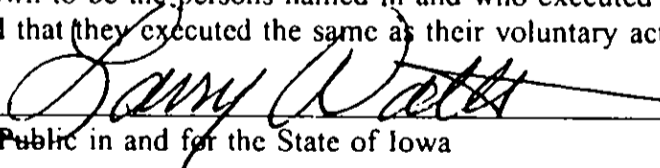
STATE OF IOWA :  
:SS  
COUNTY OF MADISON :

On this 28 day of August, 1998, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Louis Van Daele, to me personally to be the person named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

  
\_\_\_\_\_  
Notary Public in and for the State of Iowa

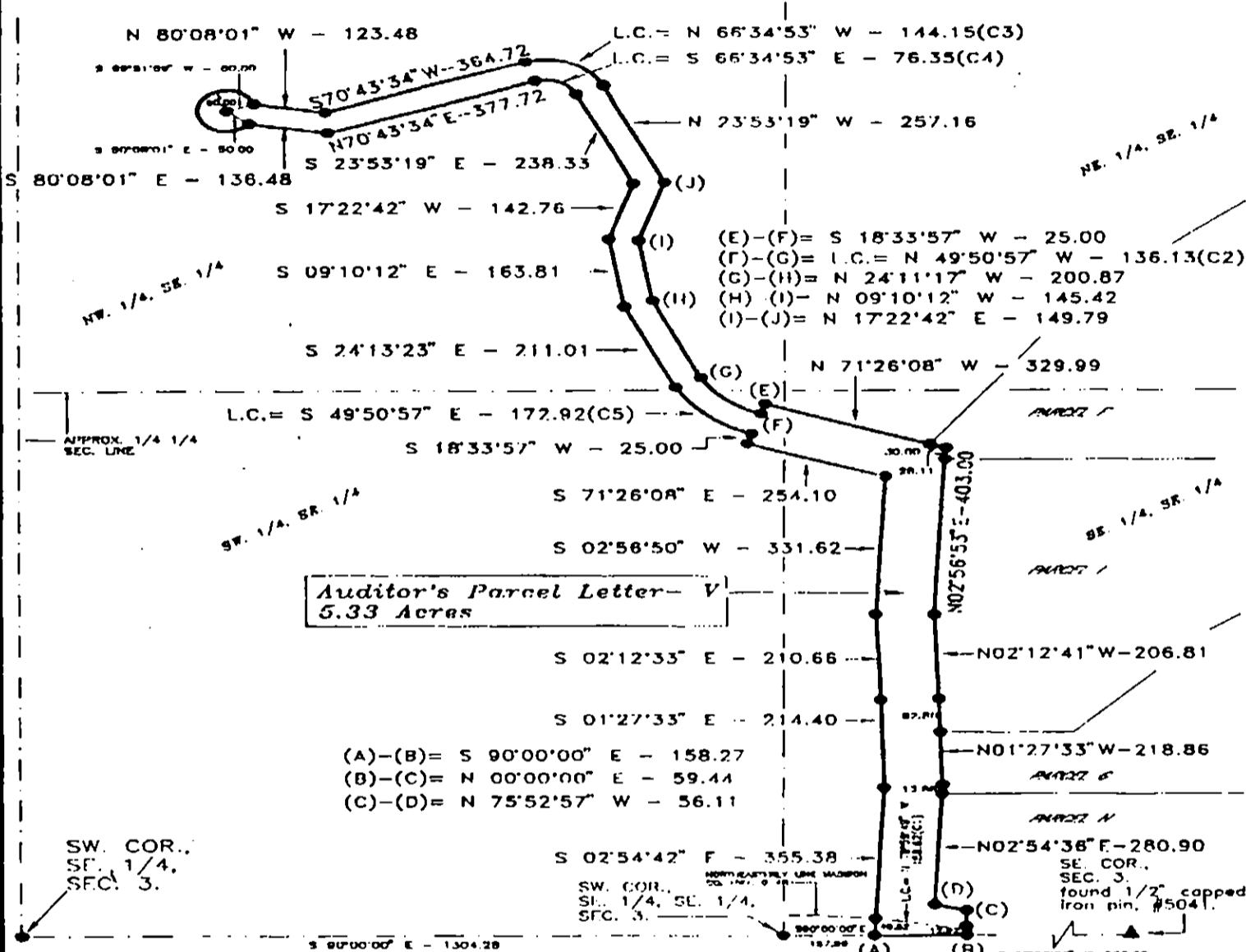
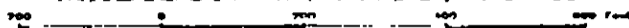
STATE OF IOWA :  
:SS  
COUNTY OF MADISON :

On this 28 day of August, 1998, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Thomas R. Clause and Mary K. Clause, to me personally known to be the persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

  
\_\_\_\_\_  
Notary Public in and for the State of Iowa

MORRISSEY SURVEYING, 1926 PAMMEL PARK ROAD, WINIFRETT, IA 50273-8317, 515-462-2166

PLAT OF SURVEY  
SE 1/4, SEC. 3, T-76N, R-27W  
MADISON COUNTY, IOWA



Auditor's Parcel Letter - V  
5.33 Acres

- (A)-(B) = S 90°00'00" E - 158.27
- (B)-(C) = N 00°00'00" E - 59.44
- (C)-(D) = N 75°52'57" W - 56.11

SW. COR.,  
SE. 1/4,  
SEC. 3.

SW. COR.,  
SE. 1/4, SE. 1/4,  
SEC. 3.

SE. COR.,  
SEC. 3,  
found 1/2" capped  
iron pin, #5041.

NOTE: SEE PAGE 2 FOR CURVE DATA

MONUMENTS

- ▲ - found enc. cor. (pipe, stone, etc.)
- - found or set - 5/8" rebar with cap P.L.S. 7995, or P-K nail in pvmt.
- - no monument found or set
- - found lat. cor. (pipe, stone, etc.)



I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Iowa.

Signed *J. Brian Morrissey* Date 6/11/98  
J. Brian Morrissey Iowa Lic. No. 7995

My license renewal date is 12/31/99.  
Pages covered by this seal: 1 and 2

SURVEY FOR AND OWNER: MARVIN COX, 2432 OSAGE DR., WINIFRETT, IA 50273

PROJ. NO. 239-98V

DATE OF SURVEY: 6/26, 27/98, 7/11, 12/98

PAGE 1

EXHIBIT "A"

PLAT OF SURVEY  
SE 1/4, SEC. 3, T-76N, R-27W  
MADISON COUNTY, IOWA

DESCRIPTION - PARCEL V

That part of the Southeast Quarter of Section 3, Township 76 North, Range 27 West of the Fifth Principal Meridian, Madison County, Iowa, described as follows:

Commencing at the southeast corner of said Section 3;  
 thence on an assumed bearing of South 90 degrees 00 minutes 00 seconds West along the south line of said Southeast Quarter a distance of 988.02 feet to the point of beginning;  
 thence North 00 degrees 00 minutes 00 seconds East 59.44 feet;  
 thence North 75 degrees 52 minutes 57 seconds West 56.11 feet;  
 thence North 02 degrees 54 minutes 36 seconds East 280.90 feet;  
 thence North 01 degrees 27 minutes 33 seconds West 218.86 feet;  
 thence North 02 degrees 17 minutes 41 seconds West 206.81 feet;  
 thence North 02 degrees 56 minutes 53 seconds East 403.00 feet;  
 thence North 71 degrees 26 minutes 08 seconds West 329.99 feet;  
 thence South 18 degrees 33 minutes 57 seconds West 25.00 feet;  
 thence northwesterly 139.41 feet on a nontangential curve concave to the northeast and having a radius of 185.00 feet, a central angle of 43 degrees 10 minutes 29 seconds and a chord 136.13 feet in length bearing North 49 degrees 50 minutes 57 seconds West;  
 thence North 24 degrees 11 minutes 17 seconds West 200.87 feet;  
 thence North 09 degrees 10 minutes 12 seconds West 145.42 feet;  
 thence North 17 degrees 22 minutes 42 seconds East 149.79 feet;  
 thence North 23 degrees 53 minutes 19 seconds West 257.16 feet;  
 thence northwesterly 158.41 feet on a tangential curve concave to the southwest and having a radius of 106.30 feet, a central angle of 85 degrees 23 minutes 07 seconds and a chord 144.15 feet in length, bearing North 66 degrees 34 minutes 53 seconds West;  
 thence South 70 degrees 43 minutes 34 seconds West 364.72 feet;  
 thence North 80 degrees 08 minutes 01 seconds West 123.48 feet to the beginning of a 50.00 foot radius cul de sac;  
 thence South 69 degrees 51 minutes 59 seconds West 50.00 feet to the center of said cul de sac;  
 thence South 50 degrees 08 minutes 01 seconds East 50.00 feet to the terminus of said cul de sac;  
 thence South 80 degrees 08 minutes 01 seconds East 136.48 feet;  
 thence North 70 degrees 43 minutes 34 seconds East 377.72 feet;  
 thence southeasterly 83.90 feet on a tangential curve concave to the southeast and having a radius of 50.30 feet, a central angle of 85 degrees 23 minutes 07 seconds and a chord 70.35 feet in length, bearing South 66 degrees 34 minutes 53 seconds East;  
 thence South 23 degrees 53 minutes 19 seconds East 238.33 feet;  
 thence South 17 degrees 22 minutes 42 seconds West 142.78 feet;  
 thence South 09 degrees 10 minutes 12 seconds East 163.81 feet;  
 thence South 24 degrees 13 minutes 23 seconds East 211.01 feet;  
 thence southeasterly 177.08 feet on a nontangential curve concave to the northeast and having a radius of 235.00 feet, a central angle of 43 degrees 10 minutes 29 seconds and a chord 172.92 feet in length, bearing South 49 degrees 50 minutes 57 seconds East;  
 thence South 18 degrees 33 minutes 57 seconds West 25.00 feet;  
 thence South 71 degrees 26 minutes 08 seconds East 254.10 feet;  
 thence South 02 degrees 56 minutes 50 seconds West 331.62 feet;  
 thence South 02 degrees 12 minutes 33 seconds East 210.66 feet;  
 thence South 01 degrees 27 minutes 33 seconds East 214.40 feet;  
 thence South 02 degrees 54 minutes 42 seconds East 355.38 feet to the south line of the Southeast Quarter of said Section 3;  
 thence South 90 degrees 00 minutes 00 seconds East along said south line a distance of 158.27 feet to the point of beginning.

Said tract contains 5.33 acres and is subject to a Madison County Highway Easement over the southerly 0.10 acres thereof.

AREA BY 1/4 1/4 SECTION: SE 1/4, SE 1/4= 3.27 Ac (R.O.W.= 0.10 Ac)  
 NW 1/4, SE 1/4= 1.78 Ac.  
 SW 1/4, SE 1/4= 0.28 Ac

CURVE DATA

C1	C2	C3	C4	C5
DELTA= 6°52'18"	DELTA= 43°10'29"	DELTA= 85°23'07"	DELTA= 85°23'07"	DELTA= 43°10'29"
D = 4°19'47"	D = 30°58'14"	D = 53°54'00"	D = 101°46'07"	D = 24°22'52"
R = 1323.35	R = 185.00	R = 106.30	R = 56.30	R = 235.00
I = 79.45	T = 73.20	I = 98.07	T = 51.94	T = 92.98
L = 158.72	L = 139.41	L = 158.41	L = 83.90	L = 177.08
L.C. = 158.62	L.C. = 136.13	L.C. = 144.15	L.C. = 76.35	L.C. = 172.92

SURVEY FOR AND OWNER: MARVIN COX, 2432 OSAGE DR., WINTERSVILLE, IA 50273

PROJ. NO. 239-98V

DATE OF SURVEY: 6/26,27/98, 7/11,12/98

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EXHIBIT "A"

**BY -LAWS  
OF  
UNION TOWNSHIP, SECTIONS TWO AND THREE,  
RESIDENTIAL REAL ESTATE MANAGEMENT ASSOCIATION, INC.,  
A Corporation Not for Profit Under the Laws of the State of Iowa**

**1. IDENTITY.** These are the By-Laws of Union Township, Sections Two and Three, Residential Real Estate Management Association, Inc. (the "Association"), a corporation not for profit under the laws of the State of Iowa. The Association has been organized for the purpose of administering a residential real estate management association pursuant to Chapter 499B of the Code of Iowa (the "Horizontal Property Act"), which is identified by the name: "Union Township, Sections Two and Three, Residential Real Estate Management Association, Inc.", and is located upon the following land:

**That part of the Southeast Quarter (SE¼) of Section Three (3), and the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼) of Section Two (2), all in Township Seventy-six (76) North, Range Twenty-seven (27) West of the 5th P.M. Madison County, Iowa, described as follows: Beginning at the southeast corner of said Section Three (3); thence on an assumed bearing of South 90 degrees 00 minutes 00 seconds West along the south line of the Southeast Quarter (SE¼) of said Section Three (3) a distance of 2466.02 feet; thence North 16 degrees 13 minutes 46 seconds East 784.16 feet; thence North 42 degrees 15 minutes 30 seconds East 440.36 feet; thence North 22 degrees 25 minutes 10 seconds West 559.78 feet; thence South 83 degrees 52 minutes 12 seconds West 443.23 feet; thence North 06 degrees 47 minutes 25 seconds East 431.09 feet; thence North 40 degrees 09 minutes 01 seconds West 80.04 feet; thence North 00 degrees 12 minutes 50 seconds West 266.05 feet; thence 78 degrees 38 minutes 50 seconds East 572.97 feet; thence North 51 degrees 31 minutes 57 seconds East 114.49 feet; thence South 83 degrees 49 minutes 05 seconds East 675.38 feet; thence South 86 degrees 18 minutes 08 seconds East 373.57 feet; thence South 67 degrees 17 minutes 52 seconds East 827.67 feet; thence South 63 degrees 23 minutes 10 seconds East 771.24 feet; thence South 11 degrees 02 minutes 00 seconds East 405.87 feet to the south line of the Northwest Quarter (NW¼) of the Southwest Quarter of said Section Two (2); thence South 89 degrees 26 minutes 30 seconds West along said south line a distance of 608.26 feet to the northeast corner of the Southeast Quarter (SE) of the Southeast Quarter of said Section Three (3); thence South 00 degrees 30 minutes 10 seconds West along the east line of said Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) a distance of 1322.28 feet to the southeast corner of said Section Three (3) and the point of beginning**

The fiscal year of the Association shall be the calendar year.

**2 MEMBERS' MEETINGS.** (A) The annual members' meeting shall be held at 7:00 P.M. on the second Monday in January of each year for the purpose of electing directors and transacting any other business authorized to be transacted by the members. If that day is a legal holiday, the meeting shall be held at the same hour on the next day.



(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 entitled to cast one-third of the votes of the entire membership.

(C) Notice of all members' meetings, stating the time and place and the object for which the meeting is called, shall be given by the President or Vice President unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the Association and shall be mailed not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting. Notice of meeting may be waived before or after meetings.

(D) A quorum at members' meetings shall consist of persons entitled to cast votes and present, after proper notice under Paragraph 2© of these By-Laws.

(E) In any meeting of members the owners shall be entitled to cast one vote per Parcel for each of the sixteen (16) Parcels.

If a Parcel is owned by one person, his right to vote shall be established by the record title to his Parcel. If a Parcel is owned by more than one person, the persons entitled to cast the vote for the Parcel shall all be members but shall still have just one vote per Parcel.

(F) Votes may be cast in person or by proxy. Proxies may be made by any person entitled to vote. They shall be valid only for the particular meeting designated and must be filed with the Secretary.

(G) The order of business at annual members' meetings, and as far as practical at all other members' meetings, may be:

- (1) Election of chairman of the meeting;
- (2) Calling of the roll and certifying of proxies;
- (3) Proof of notice of meeting or waiver of notice;
- (4) Reading and disposal of any unapproved minutes;
- (5) Reports of officers;
- (6) Reports of committees;
- (7) Election of Directors (if necessary);
- (8) Unfinished business;
- (9) New Business; and
- (10) Adjournment.

(H) Until the developer has completed and sold all of the Parcels, or until the Developer elects to terminate his control, whichever shall first occur, there shall be no meeting of members of the Association unless a meeting is called by the Board of Directors.

3. **DIRECTORS.** (A) The affairs of the Association shall be managed by a board of not more than one director initially. The number may be changed at any annual or special meeting of the members.

(B) Election of directors shall be conducted at the annual members meeting. A nominating committee of five members shall be appointed by the Board of Directors prior to the annual members' meeting. Additional nominations for directorships and directors may be made from the floor. The election shall be by ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast, each person voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

(C) Except as to vacancies provided by removal of directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining directors.

(D) Any director may be removed by concurrence of two-thirds of the votes of the entire membership at a special meeting of the members called for that purpose. The vacancy in the Board of Directors so created shall be filled by the members of the association at the same meeting.

(E) Until the Developer has completed and sold all of the Parcels, or until the Developer elects to terminate his control, whichever shall first occur, the first directors of the Association shall serve, and in the event of vacancies the remaining directors shall fill the vacancies, and if there are no remaining directors, the vacancies shall be filled by the Developer.

(F) The term of each director's service shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

4. **DIRECTORS' MEETINGS.** (A) The organizational meeting of a newly-elected Board of Directors shall be held immediately after the annual meeting of the members, and no further notice of the organizational meeting shall be necessary providing a quorum shall be present.

(B) 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 telegraph at least three days prior to the day named for such meeting.

(C) 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 of the directors. Notice of the meeting shall be given personally or by mail, telephone, or telegraph at least three (3) days prior to the day named for such meeting, which notice shall state the time, place and purpose of the meeting.

(D) 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.

(E) A majority of the entire board of directors shall constitute a quorum at directors' meetings. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors.

(F) The President shall be the presiding officer at directors' meetings. In the absence of the presiding officer, the directors present shall designate one of their number to preside.

(G) The order of business at directors' meetings may be:

- (1) Calling of roll;
- (2) Proof of due notice of meeting;
- (3) Reading and disposal of any unapproved minutes;
- (4) Reports of officers and committees;
- (5) Election of officers;
- (6) Unfinished business;
- (7) New Business; and
- (8) Adjournment.

5. **POWERS AND DUTIES OF THE BOARD OF DIRECTORS.** All of the powers and duties of the Association existing under the Horizontal Property Act, the Declaration, the Articles of Incorporation, and these By-Laws shall be exercised exclusively by the Board of Directors, its agent, contractors, or employees subject only to approval by parcel owners if such is specifically required. Compensation of employees of the Association shall be fixed by the directors. A director may be an employee of the Association, and a contract for management of the development may be entered into with a director

6 **OFFICERS.** (A) The executive officers of the Association shall be a President, who shall be a director, a Vice President, who shall be a Director, a Treasurer, a Secretary, and an Assistant Secretary, all of whom shall be elected annually by the Board of Directors and who may be removed by vote of the directors at any meeting. Any person may hold two or more offices except that the President shall not also be the Secretary or an Assistant Secretary. The Board of Directors may from time to time elect other officers to exercise such powers and duties as the Board shall deem necessary or appropriate to manage the affairs of the Association. Compensation of officers shall be fixed by the Board of Directors

(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 president of an association, in order to assist in the conduct of the affairs of the Association, including, without limitation, the power to appoint such committees as he may deem appropriate from time to time from among the members of the Board.

(C) The Vice President shall in the absence or disability of the President exercise the powers and perform the duties of the President. He shall also generally assist the President and exercise such other 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 other notices required by law. 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 of the President. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

(E) The Treasurer shall have custody of all property of the Association, including funds, securities, and evidences of indebtedness. He shall keep the books of the Association and shall perform all other duties incident to the office of Treasurer. The Association shall maintain, repair and replace common areas and facilities and common maintenance areas and facilities. Payment vouchers shall be approved by the board and prepared and paid by the Treasurer. The board may preapprove routine maintenance expenditures that are best paid without waiting for the next board meeting.

7) **ACCOUNTING.** The funds and expenditures of the Association shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall be common expenses:

(A) "Current expenses", which shall include all funds and expenditures to be made within the year for which the funds are budgeted, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves, to additional improvements, or to operations. The balance in this fund at the end of each year shall be applied to reduce the assessments for current expense for the succeeding year.

(B) "Reserve for deferred maintenance," which shall include funds for maintenance items which occur less frequently than annually.

(C) "Reserve for replacement," which shall include funds for repair or replacement required because of damage, depreciation, or obsolescence.

(D) "Additional improvements," which shall include the funds to be used for capital expenditures for additional improvements or additional personal property which will be part of the common elements.

8. **BUDGET.** The Board of Directors shall adopt a budget for each calendar year which shall include the estimated funds required to defray common expenses and to provide funds for the accounts listed in Section 7 of these By-Laws. The budget shall take into account the following items:

- (A) Current expense
- (B) Reserve for deferred maintenance
- (C) Reserve for replacement
- (D) Additional improvements;
- (E) Operations, the amount of which may be to provide a working fund or to meet loans.

Until the Developer has completed and sold all of the Parcels of Union Township, Sections Two and Three, Residential Real Estate Management Association, Inc., or until the Developer elects to terminate its control of said residential development, whichever shall first occur, the Board of directors may omit from the budget all allowances for contingencies and reserves.

9. **ASSESSMENTS.** (A) Assessments against the Parcel owners for their shares of the items of the budget shall be made on or before November 20th preceding the year for which the assessments are made. Such assessments shall be due in two equal payments on the first day of January and July of the year for which the assessments are made. If an annual assessment is not made as required, it shall be presumed to have been made in the amount of the last prior assessment. If the annual assessment proves to be insufficient, the budget and assessments therefor may be amended at any time by the Board of Directors if the items of the amended budget do not exceed the limitations therein for that year. Any item which does exceed such limitation shall be subject to the approval of the membership of the Association as provided in Section 8 of these By-laws. The unpaid assessment for the remaining portion of the calendar year for which the amended assessment is made shall be due upon the date of the assessment.

(B) If a Parcel owner shall default in the payment of an installment upon an assessment, the Board of Directors may accelerate the remaining installments of the assessment upon notice thereof to the owner, and thereupon the unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than ten (10) days after delivery thereof to the Parcel owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

(C) Assessments for common expenses of emergencies which cannot be paid from the annual assessments for common expenses shall be made only after notice of the need therefor to the owners concerned. After such notice and upon approval in writing by persons entitled to cast more than one-half of the votes of the owners concerned, the assessment shall become effective, and it shall be due after 30 days' notice thereof in such manner as the Board of Directors may require.

(D) 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 moneys of the Association shall be deposited. Withdrawal of moneys from such accounts shall be only by checks signed by such persons as are authorized by the directors.

(E) A report of the accounts of the Association shall be made annually, and a copy of the report shall be furnished to each member not later than April 1 of the year following the year for which the report is made.

10. **PARLIAMENTARY RULES.** Robers' Rules of Order (latest edition) shall govern the conduct of Association meetings when not in conflict with the Declaration, the Articles of Incorporation, or these By-Laws.

11. **AMENDMENTS.** THESE bY-LAWS MAY BE AMENDED IN THE FOLLOWING MANNER:

(A) Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is considered.

(B) A resolution adopting a proposed amendment may be proposed by either the Board of Directors or by the members of the Association. Directors and members not present in person or by proxy at the meetings considering the amendment may express their approval in writing, provided such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be by at least 75% of the entire membership or of the Board of Directors.

(C) A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the Public Records of Madison County, Iowa.

(D) These By-Laws shall be part of the Declaration of the Association. The Declaration is incorporated herein by this reference.

The foregoing were adopted as the By-Laws of Union Township, Sections Two and Three, Residential Real Estate Management Association, Inc., a corporation not for profit under the laws of the State of Iowa, at the first meeting of the Board of Directors on

August 28, 1998.

*William E. ...*  
Secretary

APPROVED:

*William E. ...*  
President

