

## ARTICLE XL

### MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

**Section 1. Notice of Action-** An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Int number) (therefore becoming an "eligible holder") will be entitled to timely written notice of:

- (a) any condemnation logs or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder.
- (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;
- (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
- (d) any proposed action which would require the consent of a specified percentage of Mortgage holders.

**Section 2. Approval of Action.** Unless two-thirds (2/3) of the first Mortgagees and Owners other than the Declarant give their consent, the Association shall not:

- (a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection) other than personal property of the Association;
- (b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner;
- (c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Property (The issuance and amendment of architectural standards, procedures, rules, and regulations or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this subsection.);

- (d) fail to maintain insurance, as required by this Declaration: or
- (e) use hazard insurance proceeds for any Common Property losses for other than the repair, replacement, or reconstruction of such property.

Nothing contained in this Section 2 shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration for any of the acts set out in this Section 2.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

**Section 3. No Priority.** No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or party priority over any rights of the first Mortgagee of any lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

**Section 4. Notice to Association.** Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

**Section 5. Amendments by Board.** Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

**Section 6. VA/HUD approval.** As long as the Declarant has the right to appoint and remove officers and directors of the Association, the following actions shall require the prior approval of the VA (so long as the VA is guaranteeing any Mortgage in the Community), and HUD (so long as HUD is insuring any Mortgage in the Community): annexation of additional property to the Community, except for annexation by Declarant in accordance with Article IX, Section I hereof pursuant to a previously approved plan of annexation; mergers and consolidations; dedication of Common Property to any public entity; dissolution; mortgaging of Common Property, and material amendment of the Declaration, Bylaws or Articles of Incorporation.

**Section 7. Applicability of This Article.** Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article.

**Section 8. Failure of Mortgagee to Respond** Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved

such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.