

BY - LAWS
of
THE NEW MARK COMMONS HOMES ASSOCIATION, INC.

ARTICLE I

Section 1. Name and Location of Corporation. The name of this Corporation is The New Mark Commons Homes Association, Inc., hereinafter in these By-Laws sometimes called "the Association" or "the Corporation." Its principal office is temporarily located at 7315 Wisconsin Avenue, Suite 1001, Bethesda, Maryland.

ARTICLE II

Section 1. Purpose. The purpose of this Corporation is to provide for the maintenance and management of certain recreational and other community facilities located within the community known as New Mark Commons and to provide architectural control for the residential properties located therein, all consonant with the provisions of its Articles of Incorporation and these By-Laws.

ARTICLE III

Membership

Section I. Eligibility, Classes and Voting Rights. The Association shall have two classes of voting membership:

- a) Every person, group of persons or entity who is a record owner of a fee interest in any Living Unit which is or becomes subject by covenants of record to assessment by the Association shall be a Class A member of the Association, provided, however, that any such person, group of persons, or entity who holds such interest solely as security for the performance of an obligation shall not be a member. Class A members shall be entitled to one vote for each Living Unit in which they hold the interest required for membership.
- (b) There shall be 540 Class B memberships, all of which shall be issued to Edmund J. Bennett Associates, Inc., and Edmund J. Bennett. The Class B members shall be entitled to one vote for each membership so held; provided, however that each Class B membership shall lapse and become a nullity on the first to happen of the following events:
 - (i) when the total authorized, issued and outstanding Class A memberships equal 384;
or
 - (ii) on January 1, 1977; or
 - (iii) upon surrender of said Class B memberships by the then holders thereof for cancellation on the books of the Corporation.

Section 2. Assessments. The rights of the membership are subject in all respects to the payment of initial, annual and special assessments levied by the Association, the obligation of which assessments is imposed upon each Class A member and becomes a lien upon the Living Unit against which such assessments are made as more fully provided in Article VI of the Declaration of Covenants and Restrictions dated the 15th day of September, 1967, and recorded the 26th day of October, 1967, among the Land Records for Montgomery County, Maryland, in Liber 3679, folio 320.

Section 3. Suspension of Membership Rights. The membership rights of any person whose Living Unit is subject to assessments as herein above set forth, whether or not he be personally obligated to pay such assessments, may be suspended by action of the Board of Directors during the period when assessments remain unpaid; provided, however, that upon full payment of any such delinquent assessments, his membership rights shall be automatically restored. In the event the Board of Directors shall adopt and publish rules and regulations governing the use of the recreational and other community facilities; and the personal conduct of any person thereon, as it is hereinafter empowered to do, it may, in its discretion, suspend the rights of any member or other person for violation of such rules and regulations for a period not to exceed thirty (30) days.

Section 4. Membership Certificates. Each membership certificate shall state that the Corporation is organized under the Laws of the State of Maryland, the name of the registered holder of the membership represented thereby, the preferences and restrictions applicable thereto and a brief statement of the Corporation's lien rights. Membership certificates shall be consecutively numbered, bound in one or more books, and shall be originally issued therefrom upon payment of the initial assessment applicable thereto. Every membership shall be signed by the President or Vice President and the Secretary or Assistant Secretary and shall be sealed with the corporate seal. The signatures and the seal may be original or facsimile.

Section 5. Lost Certificates. The Board of Directors may direct a new certificate or certificates to be issued in place of any certificate or certificates previously issued by the Corporation and alleged to have been lost or destroyed, upon the making of an affidavit of that fact by the person claiming the membership certificate to be lost or destroyed. When authorizing such issuance of a new certificate or certificates, the Board of Directors may, in its discretion and as a condition precedent to the issuance thereof, require the registered owner of such lost or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as the Board of Directors shall require and to give the Corporation a bond in such sum as the Board of Directors may require as indemnity against any claim that may be made against the Corporation.

Section 6. Lien. The Corporation shall have a lien on the outstanding Class A memberships in order to secure payment of any sums which shall be due or become due from the holders thereof for any reason whatsoever. Nothing herein contained shall prohibit or estop the Corporation from asserting any other lien which may inure to it.

ARTICLE IV

MEETINGS OF MEMBERS

Section 1. Place of Meetings. Meetings of the membership shall be held at the principal office or place of business of the Corporation or at such other suitable place convenient to the membership as may be designated by the Board of Directors.

Section 2. Annual Meetings. The first annual meeting of the members of the Corporation shall be held on March 10, 1968. Thereafter, the annual meetings of the members of the Corporation shall be held on the second Monday of March each succeeding year. If the day for the annual meeting shall fall upon a holiday, the meeting will be held on the first day following which is not a holiday. At such meeting a Board of Directors shall be elected by a ballot of the members in accordance with the requirements of Section 4 of Article V of these By-Laws. The members may also transact such other business of the Corporation as may properly come before them.

Section 3. Special Meetings. It shall be the duty of the President to call a special meeting of the members, when directed so to do by a resolution of the Board of Directors or upon the written request of at least twenty-five per cent (25%) of the members, which request shall be presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at any special meeting except that set out in the notice thereof unless there is first obtained the consent of two-thirds (2/3) of the members present, either in person or by proxy.

Section 4. Notice of Meetings. At least ten (10) but not more than sixty (60) days prior to each annual or special meeting of the members of the Corporation, it shall be the duty of the Secretary to send notice thereof by ordinary mail, postage prepaid, to each member at his address as it appears on the books of the Corporation. Such notice shall set forth the time, place and purpose of the meeting. Notice may also be accomplished by delivery of the same to the member at his residence.

Section 5. Quorum. The presence, either in person or by proxy, of at least twenty-five per cent (25%) of the members of record of the Corporation shall be requisite for, and shall constitute a quorum for the transaction of business at all meetings of members. If the number of members at a meeting is less than that required for a quorum, and the question of quorum is raised, no business may thereafter be transacted. Any duly organized meeting of members may continue to do business until adjournment notwithstanding the fact that sufficient members withdraw to leave less than a quorum.

Section 6. Adjourned Meetings. If, at any regular or special meeting of the members of the Corporation, there be less than a quorum present, a majority of those members present and entitled to vote may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called, at which time the quorum requirement shall be twenty per cent (20%) and any business which might lawfully have been transacted at the meeting as originally called may be transacted without further notice.

Section 7. Voting. At any meeting of the members of the Corporation, each member present, either in person or by proxy, shall have the right to cast one vote for each membership of which he appears the owner on the books of the Corporation and never more than one vote. The vote of the majority of those present, either in person or by proxy, shall

decide any question brought before the meeting, unless the question is one upon which a different vote is required by express provision of the General Laws of the State of Maryland or of the Articles of Incorporation or of these By-Laws or of the Declaration of Covenants and Restrictions hereinabove mentioned.

Section 8. Suspension of Voting Privileges. No member shall be eligible to vote or to be elected to the Board of Directors who is shown on the books of the Corporation to be more than thirty (30) days delinquent in the payment of any assessments due the Corporation.

Section 9. Proxies. A member entitled to vote may do so in person or by proxy executed in writing by the member or his attorney-in-fact. No proxy shall be valid after eleven (11) months from its date of execution and any proxy shall automatically become a nullity upon the sale by a member of the Living Unit to which his membership is appurtenant. A member may appoint as his proxy only a member of his immediate family or household, a director of the Corporation or a tenant in the Living Unit to which the membership to be voted by proxy is appurtenant. Any proxy must be filed with the Secretary prior to the appointed time of each meeting.

Section 10. Order of Business. The order of business at all regular meetings of the members of the Corporation shall be as follows:

- (a) Roll Call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Reports of officers
- (e) Report of committees
- (f) Election of directors
- (g) Unfinished business
- (h) New business

In the case of special meetings, items (a) through (d) shall be applicable and thereafter the agenda shall consist of the items specified in the notice of meeting.

ARTICLE V

DIRECTORS

Section 1. Number and Qualification. The affairs of the Corporation shall be governed by a Board of Directors composed of not less than three persons. From and after the first annual meeting of members of the Corporation, a majority of the Board of Directors shall be members of the Corporation.

Section 2. Powers and Duties. The Board of Directors shall have all the powers and duties necessary for the administration of the affairs of the Corporation and may do all such acts and things as are not by law or by these By-Laws directed to be exercised and done by the members. The powers of the Board of Directors shall include but not be limited to the following:

- (a) To call special meetings of the members whenever it deems the same to be necessary and whenever requested in writing so to do by at least

one-fourth of the voting membership, as herein elsewhere provided.

- (b) To elect and remove at pleasure all officers of the Corporation, fix their compensation, if any, and require of them such security or fidelity bond as it may deem necessary or expedient.
- (c) To engage and remove at pleasure all agents or employees of the Corporation upon such terms as the Board may determine.
- (d) To establish, levy and collect the assessments referred to in Section 2 of Article III of these By-Laws.
- (e) To authorize, in their sole and exclusive discretion, patronage refunds from residual receipts when and as reflected in the annual report.
- (f) To establish and promulgate such rules and regulations pertaining to the use of the recreational and other community facilities and the personal conduct of the members and their guests thereon as may be deemed proper and which are consistent with these By-Laws, the Articles of Incorporation and the Declaration of Covenants and Restrictions.
- (g) To suspend membership rights for cause.

The duties of the Board of Directors shall include but not be limited to the following:

- (a) To cause to be kept a complete record of all of its acts and corporate affairs which record shall be available to the members for inspection at reasonable times.
- (b) To supervise all officers, agents and employees of the Corporation, and to see that their duties are properly performed.

Section 3. Duty to Fix Assessments. As more fully set out in the Declaration of Covenants and Restrictions, it shall be the duty of the Board of Directors of this Corporation:

- (a) To fix the amount of the assessment against each Living Unit for each assessment period at least thirty (30) days prior to the beginning of such period; and
- (b) To prepare a roster of the Living Units and the assessments applicable thereto which shall be kept in the office of the Association and be available for inspection by any member at reasonable times; and
- (c) To send, by ordinary mail, postage prepaid, a written notice of each assessment to the owner of the Living Unit subject thereto; and
- (d) To issue or cause to be issued, upon demand by any person and payment of such fee as the Board may from time to time require, a certificate setting forth whether or not the current assessment against any Living Unit has been paid.

Section 4. Election and Term of Office. The term of the Directors named in the Articles of Incorporation shall expire when their successors have been elected at the first annual meeting or any special meeting called for that purpose. At the first annual meeting of the members the term of office of one Director shall be fixed at three (3) years, the term of office of one Director shall be fixed at two (2) years and the term of office of one Director shall be fixed at one (1) year. At the expiration of the initial term of office of each respective Director, his successor shall be elected to serve a term of three (3) years. The Directors shall hold office until their successors have been elected and hold their first meeting.

Section 5. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the members shall be filled by a vote of the majority of the remaining directors whether or not such remaining directors constitute a quorum. Any director so elected shall serve until a successor is elected by the members at the next annual meeting or at any special meeting duly called for that purpose.

Section 6. Removal of Directors. At any regular meeting, or at any special meeting duly called for such purposes, any director may be removed by the affirmative vote of the majority of the members entitled to vote at such meeting and a successor may then and there be elected to fill the vacancy thus created and to serve out the unexpired portion of the term of the director so removed. The term of any director who becomes delinquent in the payment of any assessment due to the Association shall be automatically terminated and the remaining directors shall elect his successor pursuant to the provisions of Section 5 of this Article.

Section 7. Compensation of Directors. No director shall receive compensation for his service as a director. A director may serve the Corporation in a capacity other than that of director and receive compensation for the services rendered in that other capacity.

ARTICLE VI

DIRECTORS' MEETINGS

Section 1. Organizational Meeting. The first meeting of a newly elected Board of Directors shall be held within ten (10) days following election at such time and place as shall be fixed by the directors at the meeting at which they were elected. No notice shall be necessary to the newly elected directors in order to legally constitute such meeting, provided that a majority of the Board of Directors shall be present.

Section 2. Regular Meetings. Regular meetings of the Board of Directors shall be held at least once during every quarter of each fiscal year at such time and place as shall be fixed by a majority of the Board of Directors. Notice of regular meetings of the Board of Directors shall be given to each director, by ordinary mail, postage prepaid, at least ten (10) days prior to the day named for such meeting.

Section 3. Special Meetings. Special meetings of the Board of Directors may be called by the President of the Corporation or by a majority of the Board of Directors upon five (5) days notice to each director, which notice shall fix the time, place and purpose of the meeting.

Section 4. Waiver of Notice. Before, at or after any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a director at any meeting of the Board, or an approval of the minutes thereof, shall be a waiver by such director of notice of the time, place

and purpose thereof, unless he attends for the express purpose of objecting to the transaction of business thereat on the basis that the meeting has not been lawfully called.

Section 5. Quorum. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the acts of the majority of the directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 6. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the Board.

Section 7. Fidelity Bonds. The Board of Directors shall require that all officers and employees of the Corporation handling or responsible for corporate funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Corporation.

ARTICLE VII

OFFICERS

Section 1. Designation. The principal officers of the Corporation shall be a President, a Vice President, a Secretary, and a Treasurer. The President and Vice President shall be elected from the Board of Directors. The Board may appoint an assistant treasurer, and an assistant secretary, and such other officers as in their judgment may be necessary. Until such time as the successors to the directors named in the Articles of Incorporation have been elected and hold their organizational meeting, the offices of Treasurer and Secretary may be filled by the same person.

Section 2. Election of Officers. The officers of the Corporation shall be elected annually by the Board of Directors at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Corporation. He shall preside at all meetings of the members and of the Board of Directors. He shall have all of the general powers and duties which are usually vested in the office of president of a corporation, including but not limited to the power to appoint committees from among the membership from time to time as he may in his discretion decide are appropriate to assist in the conduct of the affairs of the Corporation.

Section 5. Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other member of the Board to so do on an interim basis. The Vice President shall also perform such other duties as he shall from time to time be charged with by the Board of Directors.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the members of the Corporation; he shall have custody of the seal of the Corporation; he shall have charge of the membership transfer books and of such other books and records as the Board of Directors may direct; and he shall, in general, perform all the duties incident to the office of Secretary.

Section 7. Treasurer. The Treasurer shall have responsibility for corporate funds and securities and shall be responsible for keeping complete and accurate records and accounts of all receipts and disbursements in books belonging to the Corporation. The Treasurer shall receive and deposit, in the name and to the credit of the Corporation, all moneys of the Corporation in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall disburse such funds as are directed from time to time by resolution of the Board of Directors, provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business.

ARTICLE VIII

MISCELLANEOUS

Section 1. Corporate Seal. The Board of Directors shall provide a suitable corporate seal containing the name of the Corporation and the place and year of its incorporation, which seal shall be in the custody of the Secretary. If so directed by the Board of Directors, a duplicate of the seal may be obtained and kept in the custody of any other officer.

Section 2. Fiscal Year. The fiscal year shall begin on the first day of January every year, except that the first fiscal year of the Corporation shall begin at the date of incorporation. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors should corporate practice subsequently dictate.

Section 3. Audit. At the close of each fiscal year the books and records of the Corporation shall be audited by a Certified Public Accountant or other person acceptable to the Board of Directors, whose report will be prepared and certified in accordance with the requirements of the Board. Based upon such report, the Corporation shall furnish its members with an annual financial statement including the income and disbursements of the Corporation.

Section 4. Books and Records. The financial statements, books and membership records of the Corporation shall be available at the principal office of the Corporation for inspection at reasonable times by the members.

Section 5. Execution of Corporate Documents. With the prior authorization of the Board of Directors, all notes, contracts and other documents shall be executed on behalf of the Corporation by either the President or the Vice President, and all checks and other drafts shall

be executed on behalf of the Corporation by such officers, agents or other persons as are from time to time by the Board of Directors authorized so to do.

Section 6. Committees. There shall be no standing committees of the Association. The Board of Directors may, however, appoint such committees as it considers necessary or appropriate from the membership of the Association, each of which shall consist of a chairman and at least two (2) other members and shall include at least one (1) member of the Board of Directors. Any committee so appointed shall serve at the pleasure of the Board of Directors.

Section 7. Conflict. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration of Covenants and Restrictions referred to in Section 2 of Article III hereof and these By-Laws, the Declaration of Covenants and Restrictions shall control.

Section 8. Amendment. These By-Laws may be amended by the affirmative vote of the majority of the membership at any regular or special meeting, provided, however, that any matter stated herein to be or which is in fact governed by the Declaration of Covenants and Restrictions referred to in Section 2 of Article III hereof may not be amended except as provided in said Declaration of Covenants and Restrictions. Amendments to these By-Laws may be proposed by the Board of Directors or by a written request to them signed by at least twenty-five per cent (25%) of the membership. A description of any proposed amendment shall accompany the notice of any regular or special meeting at which such proposed amendment is to be voted upon.