

CORRECTED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

THIS DECLARATION made as of the 29th day of June, 1978, by WESTPHALIA ROAD JOINT VENTURE, (hereinafter referred to as "Declarant"); WITNESSETH THAT:

WHEREAS, Declarant is the owner of those certain pieces or parcels of real property situate in the SPAULDING ELECTION DISTRICT of Prince George's County, State of Maryland, more particularly described on Schedule A appended hereto as a part hereof, and

WHEREAS, Declarant desires to convey the said property from time to time, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges, as hereinafter set forth, and

WHEREAS, Declarant wants to comply with the Zoning Ordinance for the Maryland-Washington Regional District in Prince George's County, Maryland, as enacted on November 29, 1949, and as amended;

NOW, THEREFORE, the Declarant hereby declares that all of the property described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. The easements, covenants, restrictions, and conditions shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to CHESTER GROVE ASSOCIATION, INC., a Maryland corporation, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association and initially being more particularly described as follows:

PARCEL E in the subdivision known as CHESTER GROVE APARTMENTS, containing ~~6.9 acres~~ more or less, as per plat recorded in Plat Book NLP101 at Plat No. 19 among the Land Records of Prince George's County, Maryland.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the said parcels of land upon which a dwelling house is to be constructed.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities of a fee simple title to any Lot which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to WESTPHALIA ROAD JOINT VENTURE, its successors and assigns, provided that in any action required to be taken by the Declarant the approval evidenced by the signature of the president or vice president of Rock's Engineering Company, on its behalf, shall be sufficient notwithstanding any provisions which may be contained herein to the contrary.

WITNESSETH THAT: NILEN & GILMORE

NOT A PUBLIC RECORD 2350

ARTICLE II
MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, shall be a member of the Association; provided that any persons, or entities, who hold an interest merely as security for the performance of an obligation shall not be a member. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. The Association shall not be dissolved except upon approval by the Prince George's County Planning Board.

ARTICLE III
VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A: Class A members shall be all those owners as defined in Article II with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article II. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B member shall be the Declarant. The Class B member shall be entitled to three votes for each Lot in which it holds the interest required for membership by Article II, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equals or exceeds the total votes outstanding in the Class B membership, or
- (b) On February 1, 1980.

ARTICLE IV
PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right of easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

- (a) The right of the Association to limit the number of guests of members;
- (b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (c) The right of the Declarant and/or the Association, in accordance with its Articles and By-Laws, to borrow money for the purposes of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the home owners hereunder;
- (d) The right of the Association to suspend the voting rights and right to use of the recreational facilities by a member for any period during which any assessment against his Lot remains unpaid and for a period not to exceed ninety (90) days for any infraction of its published rules and regulations;

- (e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3rds) of the votes of the Class A membership and two-thirds (2/3rds) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days, nor more than sixty (60) days in advance of the date such action is to be taken.

Section 2. Delegation of Use. Any member may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens, prior to the conveyance of the first Lot.

Section 4. Parking Rights. Ownership of each Lot shall entitle the owner or owners thereof to the use of not more than two automobile parking spaces, which shall be as near and convenient to said Lot as reasonably possible together with the right of ingress and egress in and upon said parking areas. The Association shall have the right to permanently assign one vehicular parking space for each dwelling.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties and, in particular, for the improvement and maintenance of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the properties.

Section 3. Establishment of Annual Assessments. A minimum assessment will be established by the Board of Directors of the Association in an amount to assure the purposes of the Association as set forth in Section 2 of this Article V. This minimum shall be adjusted from time to time based on actual experience cost data. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be ONE HUNDRED DOLLARS (\$100).

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July; provided that maximum increase in any one year shall not exceed five per cent (5%) of the annual assessment for the preceding year.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above that established by the Consumer Price Index formula by a vote of the members for the next succeeding five (5) years, and at the end of such period of five (5) years for each succeeding period of five (5) years, PROVIDED, THAT, any such change shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting.
- (c) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the Maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments 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 or reconstruction, unexpected repair, or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, PROVIDED, THAT, any such assessments shall have the assent of ~~two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy~~ at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 6. Quorum for any Action Authorized under Sections 3 and 4. At the first meeting called, as provided in Sections 3 and 4 hereof, the presence at the meeting of members or of proxies entitled to cast sixty per cent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 3 and 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment 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 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 at any time, furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such

certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six per cent (6%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. 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 Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinated to the lien of any bona fide first mortgage or first deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot, pursuant to a decree of foreclosure under a mortgage or deed of trust or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein:

- (a) All properties dedicated to and accepted by a local public authority;
- (b) The Common Area; and
- (c) All properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Maryland.

However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by majority of all the arbitrators.

ARTICLE VII ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board or its designated committee, 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.

ARTICLE VIII EXTERIOR MAINTENANCE

In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3rds) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE IX EASEMENTS

Notwithstanding any provisions herein, the Declarant and/or the Association shall have the unrestricted right to grant any necessary easements or rights of way across Common Areas for the installation and maintenance of public utilities, including sanitary and storm sewers which may be reasonably required for the development of the herein described property.

ARTICLE X 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 one 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.

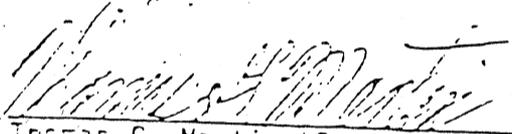
Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and

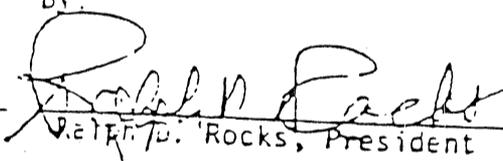
assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety per cent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five per cent (75%) of the Lot Owners. Any amendment must be properly recorded among the aforesaid Land Records.

Section 4. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration; annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions, and Restrictions; except that this provision shall not be applicable unless the herein described properties are being financed by loans which are insured by the Veterans Administration or the Federal Housing Administration.

Section 5. Approval. Any sale, transfer, assignment, dedication or donation of any common areas or facilities, or any part thereof, in fee or otherwise, whether by the Association or the Declarant, shall require approval of the Prince George's County Planning Board of the Maryland-National Capital Park and Planning Commission, said approval not to be unreasonably withheld. Furthermore, the Commission shall have the right to bring any action for any legal or equitable relief necessary to enforce the aforementioned Commission rights. In addition, the rights, privileges and obligations afforded to the Prince George's Planning Board of the Maryland-National Capital Park and Planning Commission as set forth herein, shall not be subject to any amendment procedure.

IN WITNESS WHEREOF, the Declarant has caused its corporate seal to be hereunto affixed and these presents to be executed in its corporate name by RALPH D. ROCKS, its president, attested by THOMAS G. MARTIN, its secretary, hereunto affixed as of the day and year first above written.

Attest: 
Thomas G. Martin, Secretary

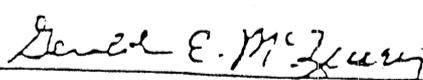
WESTPHALIA ROAD JOINT VENTURE
By: ROCKS ENGINEERING COMPANY
By: 
Ralph D. Rocks, President

STATE OF VIRGINIA
COUNTY OF FAIRFAX

, to wit: .

On the 29th day of June, 1978, before me, the undersigned officer, personally appeared RALPH D. ROCKS who acknowledged himself to be the president of ROCKS ENGINEERING COMPANY, a corporation, and that he as such president, being authorized so to do, executed the foregoing instrument bearing date as of the 29th day of June, 1978, for the purposes therein contained, by signing the name of the corporation by himself as president.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public

My commission expires: MARCH 17, 1980

SCHEDULE "A"

ALL of the Plat of Subdivision known as "Parcel "E", a resubdivision of Parcel "C", Chester Grove Apartments", as per plat duly recorded among the Land Records of Prince George's County, Maryland in Plat Book 101, Plat No. 19; and,

ALL of the Plat of Subdivision known as "A Resubdivision of Part of Parcel "C", Chester Grove Apartments", as per plat duly recorded among the Land Records of Prince George's County, Maryland in Plat Book 101, Plat No. 20; and

ALL of the Plat of Subdivision known as "A Resubdivision of Part of Parcel "C", Chester Grove Apartments", as per plat duly recorded among the Land Records of Prince George's County, Maryland in Plat Book 101, Plat No. 34.