

EXHIBIT "D"

BY-LAWS
OF
PHOENIX V ASSOCIATION, INC.

1. IDENTITY.

These are the By-Laws of PHOENIX V ASSOCIATION, INC., an association organized pursuant to the Alabama Uniform Condominium Act, 35-8A-101 et seq., Code of Alabama, as amended, for the purpose of administering PHOENIX V, a condominium, located in Baldwin County, Alabama.

.1. The office of the Association shall be at 3259 Gulf Shores Parkway, Gulf Shores, Alabama 36542, P.O. Box 1727, Gulf Shores, Alabama 36547.

.2. The fiscal year of the Association shall be such as may from time to time be established by the Association.

2. MEMBERS' MEETINGS.

.1. The first meeting of the unit owners to organize the Association shall be called as soon as practicable by the Directors of the Association after closing and conveyance of the units commences and progresses, all in accord with the provisions of the Alabama Uniform Condominium Act.

.2. Thereafter, the annual meetings of the unit owners shall be held at the office of the Association at 9:00 a.m., the local time, on the ~~Third Saturday of~~ Third Saturday of October of each year for the purpose of electing Directors and of transacting any other business authorized to be transacted by the members; provided, however, if that day is a legal holiday, the meeting shall be held at the same hour on the next day following that is not a legal holiday.

.3. Change of Date. The time of holding the annual meeting of members may be changed at any time prior to fifteen (15) days before the regular day for holding such meeting by a resolution duly adopted by the Board of Directors or by the members; provided that such notice of such change be mailed to each member of record at such address as appears upon the records of the Association not less than ten (10) days before the holding of such meeting; and further provided that each annual meeting of members shall be held within one (1) month of the date on which it should regularly have been held but for such change.

.4. 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 twenty (20%) percent of the votes in the Association.

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.5. Notice of all members' meetings stating the time and place and the Objects for which a meeting is called shall be given by the President or Vice President or Secretary 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. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

.6. Voting shall be on a percentage basis and the percentage of the vote to which a member is entitled is the percentage assigned to the unit of which the member is the owner, as stated in the Declaration of Condominium.

.7. A quorum at members' meetings shall consist of persons entitled to cast a majority of the votes of the entire membership. As used in these By-Laws, the term "majority" means fifty-one (51%) percent of the votes in accordance with the percentages assigned in the Declaration of Condominium.

.8. Proxies. Votes may be cast in person or by proxy. Proxies may be made by any person entitled to vote and shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting.

.9. Vote required to transact business. When a quorum is present at any meeting, the holders of a majority of the voting rights present in person or represented by written proxy shall decide on any questions brought before the meeting, unless the question is one upon which, by express provision of the statutes, the Declaration of Condominium or the By-Laws, a different number is required, in which case the express provision shall govern and control the decision in question.

.10. Adjourned meetings. Any meeting of the Association may be adjourned from time to time to such date and time as may be determined by the majority vote of the members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

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

- (a) Call to Order,
- (b) Calling of the roll and certifying of proxies,
- (c) Proof of notice of meeting or waiver of notice,
- (d) Reading and disposal of any unapproved minutes,
- (e) Report of Officers,
- (f) Reports of Committees,
- (g) Election of Directors,
- (h) Unfinished Business,
- (i) New Business,
- (j) Adjournment.

.12. Cumulative Voting shall not be permitted at any meeting of the owners.

.13. Proviso. Provide, however, that until the Developer has sold seventy-five percent (75%) of the units of the Condominium, or until two (2) years after the units have ceased to be sold, or until Developer elects to terminate its control over the Condominium, whichever shall first occur, there shall be no meeting of the members of the Association unless a meeting is called by the Board of Directors.

3. BOARD OF DIRECTORS.

.1. Membership. The affairs of the Association shall be conducted by the Board of Directors which shall consist of such number not less than three (3) nor more than eight (8) with staggered terms, as shall, from time to time, be determined and affixed by a vote of a majority of the voting rights present at any annual meeting of the members. Each Director shall be an owner of a unit, except as provided in subparagraph .2.(d) below.

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

(a) Directors shall be elected at the annual meeting of the members of the Association.

(b) Except as to vacancies created 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.

(c) Any Director may be removed by concurrence of two-thirds (2/3) of the members of the Association at a special meeting of the members called for that purpose. The vacancy thus created shall be filled at the same meeting by the members of the Association in the same manner as was provided for the election of the removed Director.

(d) Provided, however, that until the Developer of the condominium has completed and sold all of the units of the condominium or until January 1, 1998, or until Developer elects to terminate its control of the condominium, whichever shall first occur, there shall be no meeting of the members of the Association unless a meeting is called by the Board of Directors; and provided, further, that until the Developer of the condominium has completed and sold seventy-five percent (75%) of the aggregate of all of the units of the condominium or until two (2) years after the date of the filing of a certificate by the Developer or until Developer elects to terminate its control over the condominium, whichever shall first occur, there shall be no meeting of members of the Association unless a meeting is called by the Board of Directors.

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

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

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

.7. Waiver of notice. 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.

.8. A quorum at Directors' meetings shall consist of the Directors entitled to cast a majority of the votes of the entire Board of Directors. The acts of the Board approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of Directors is required by the Declaration of Condominium or by these By-Laws. 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 until a quorum is present. At any adjourned meeting from any business which might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum.

.9. The presiding officer of Directors' meetings shall be the President. In the absence of the President, the Directors present shall designate one of their members to preside.

.10. Directors shall serve without compensation, and a Director may not be an employee of the Association.

4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

The Board of Directors, for the benefit of the owners, shall have the following powers and duties:

.1. To exercise all of the powers of the Association with respect to the operation and regulation of the condominium project which are conferred upon the Board by the Condominium Ownership Act or which may be conferred upon the Board by these By-Laws pursuant to such Act, and to exercise all of the powers of the Association which are conferred upon it by law and by its Articles of Incorporation.

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.2. To make contracts and incur liabilities in connection with the exercise of any of the powers and duties of the Board.

.3. To provide or cause to be provided all goods and services required by the By-Laws or by law, or which the Board, at its discretion, deems necessary for the proper operation of the condominium project, or which are used in common or jointly by the common elements and condominium units, in each case to the extent such goods and services shall not be otherwise provided.

.4. To collect monthly assessments from the owners, and to render or cause to be rendered statements, when required or useful, of any assessments which remain unpaid by any owner.

.5. To maintain a class action, and to settle a cause of action, on behalf of owners with reference to the common elements, the roof and structural components of a building or other improvement, and mechanical, electrical and plumbing elements serving an improvement or a building as distinguished from mechanical elements serving only a unit; and to bring an action, and to settle the same, on behalf of two (2) or more of the owners, as their respective interests may appear, with respect to any cause of action relating to the common elements or more than one (1) condominium; all as the Board deems advisable.

.6. To elect the officers of the Association and otherwise exercise the powers regarding officers of the Association as set forth in these By-Laws.

.7. To determine who shall be authorized to make and sign all instruments on behalf of the Association and the Board.

.8. To employ a management agent or manager, at a compensation established by the Board, to perform such duties and services as the Board shall authorize, including, but not limited to, the duties listed in this Section, and any such duties so conferred upon the managing agent or manager by the Board of Directors may at any moment be revoked, modified or amplified by the majority of the votes in a duly constituted meeting.

.9. To designate and remove personnel necessary for the maintenance, repair and replacement of the common elements.

.10. To procure such property and other insurance of all kinds and such fidelity bonds as the Board deems advisable covering officers and employees of the Association handling and responsible for the Association's funds and personal property, and to procure Directors and officers liability insurance if the Board deems it advisable; and the premium of such bonds and insurance shall be paid by the Association as common expense.

.11. To determine policies and to adopt administrative rules and regulations governing the details of the operation and use of the condominium project, including the common elements, and to amend such administrative rules and regulations from time to time as the Board deems advisable.

.12. To designate, by resolution passed by a majority of the whole Board, one (1) or more more committees to consist of two (2) or more of the Directors. Any such committee, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the business and affairs of the corporation, except where action of the full Board of Directors is required by law, the Articles of Incorporation, the Declaration or the By-Laws.

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.13. To designate, by resolution adopted by a majority of the Directors present at a meeting at which a quorum is present, or by the President thereto duly authorized by a like resolution of the Board of Directors, or other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the corporation. Membership on such committees may, but need not be limited to Directors or members of the Association.

.14. All committees so appointed shall keep regular minutes of the transactions of their meetings, and shall cause them to be recorded in books kept for that purpose in the office of the Association, and shall report the same to the Board of Directors at the next meeting of such Board.

5. OFFICERS.

.1. 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 and a Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by vote of the Directors at any meeting. Any person may hold two (2) or more offices except that the President shall not also be Secretary. The Board of Directors shall from time to time elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.

.2. 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.

.3. The Vice President shall, in the absence of 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.

.4. 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 have custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed. He shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of the secretary of an association as may be required by the Directors or the President.

.5. The Treasurer shall have custody of all property of the Association, including funds, securities, and evidence of indebtedness. He shall keep the financial records and books of account of the Association in accordance with good accounting practices; shall keep detailed, accurate records in chronological order of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expense of the common area and facilities and any other expenses incurred; and he shall perform all other duties incident to the office of Treasurer. The records, books of account and the vouchers authorizing payments, shall be available for examination by a member of the Association at convenient hours of weekdays.

6. FISCAL MANAGEMENT.

.1. Budget. The Board of Directors shall determine the common expenses of the Association and adopt a budget for each calendar year of such estimated common expenses, including a reasonable allowance for contingencies and reserves, less the unneeded fund balances on hand.

Within thirty (30) days after adoption of a proposed budget for the condominium, the Board shall provide a copy of the budget and proposed assessments to all the unit owners, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after delivery or mailing of the budget to the unit owners. Unless at that meeting a majority of all the unit owners present in person or by proxy or any larger vote specified in the Declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the Board.

.2. Assessments for Recurring Expenses. Assessments for recurring common expenses shall be made for the calendar year annually in advance and transmitted to each member as provided supra. The Board may include a Maintenance Fund Reserve for contingencies in such assessments, and such Maintenance Fund Reserve may from time to time be increased or reduced at the discretion of the Board. The proportionate interest of each unit owner in said Fund cannot be withdrawn or separately assigned but shall be deemed to be transferred with such unit even though not expressly mentioned or described in the conveyance thereof. In case the condominium regime hereby created shall be terminated and the property removed from the Alabama Uniform Condominium Act, any part of the said Fund remaining after full payment of all common expenses of the Association shall be distributed to all unit owners in their respective proportionate shares. Such assessments shall be due in monthly installments of the first day of the month of the year for which the assessments are made. If such annual assessment is not made as required, an installment in the amount required by the last prior assessment shall be due upon each installment payment date until changed by a new assessment. The total of the assessments for recurring common expenses shall be not more than one hundred twenty percent (120%) of the assessments for this purpose for the prior year unless approved in writing by unit owners entitled to cast a majority of the votes in the Association. In the event such an annual assessment proves to be insufficient, it may be amended at any time after approval in writing by unit owners entitled to cast a majority of the votes in the Association, and the amended assessment for the remaining portion of the calendar year shall be due at the time the next monthly installment is due. The first assessment shall be determined by the Board of Directors of the Association.

.3. Assessments for Capital Improvements. Upon written notice to all the unit owners and upon approval in writing by unit owners entitled to cast a majority of the votes of the Association, the Board may establish and maintain one (1) or more capital reserve accounts, but the assessment of and payment by all the unit owners in equal monthly installments of their respective proportion shares of such reasonable annual amount, for such term of years as the Board may estimate as needed to cover each unit owner's obligation to provide for specified capital improvements, such as, by way of illustration and not limitation, the purchase of additional property, the paving or repaving of streets and areas, the construction or reconstruction of common elements, and the like. Each such capital

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reserve account shall not be commingled with the general assessment funds of the Association, but shall be deposited in a special account, shall be earmarked and designated. The proportionate interest of each unit owner in each such capital reserve account cannot be withdrawn or separately assigned, but shall be deemed to be transferred with such unit even though not expressly mentioned or described in the conveyance thereof. In case the condominium regime hereby created shall be terminated and the property removed from the Condominium Ownership Act, any part of each such capital reserve account remaining after full payment of all common expenses of the Association shall be distributed to all unit owners in their respective proportionate shares.

.4. Assessments for Emergencies. Assessments for common expenses for emergencies which cannot be paid from the assessments for recurring expenses shall be made only after notice of the need therefor to the unit owners concerned. After such notice and upon approval in writing of more than one-half (1/2) of such unit owners concerned, the assessment shall become effective, and it shall be due after thirty (30) days notice thereof in such manner as the Board of Directors may require.

.5. Acceleration of Assessment Installments Upon Default. If a unit owner shall be in default in the payments of an installment upon any assessment, the Board of Directors may accelerate the remaining installments of such assessment upon notice thereof to the unit owner, and there upon 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 unit 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.

.6. Default.

(a) In the event an owner of a unit does not pay any sums, charges or assessments required to be paid to the Association within thirty (30) days from due date, the Association may foreclose the lien encumbering the unit created by non-payment of the required moneys in the same fashion as mortgage liens are foreclosed; provided that thirty (30) days prior to the foreclosure, notice of such intention shall be mailed, postage prepaid, to the unit owner and to all persons having a mortgage lien or other interest of record in such unit as shown in the Association's record of ownership. The Association shall be entitled to the appointment of a Receiver, if it so requests. The Association shall have the right to bid on the unit at a foreclosure sale and to acquire, hold, mortgage and convey the same. In any such foreclosure action, the lien of the Association shall be subordinate and inferior to tax liens in favor of the state, county, any municipality and any special district, and any first mortgage liens or record encumbering such unit at the time of commencement of the foreclosure action by the Association. In lieu of foreclosing its lien, the Association may bring suit to recover a money judgment for any sums, charges or assessments required to be paid to the Association without waiving its lien securing the same. In any action either to foreclose its lien or to recover a money judgment brought by or on behalf of the Association against a unit owner, the losing defendant shall pay the cost thereof together with a reasonable attorney's fee.

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.3. Enforcement. Failure of any owner to comply strictly with the provisions of this Declaration, the By-Laws and the Rules and Regulations shall be grounds for an action to recover sums due, or damages, or injunctive relief, or any or all of them. Such actions may be maintained by the Association on its own behalf or on behalf of the unit owners aggrieved. In any case of flagrant or repeated violation by a unit owner, he may be required by the Association to give sufficient surety or sureties for his future compliance with the provisions of this Declaration, the By-Laws and the Rules and Regulations. Nothing herein contained shall prevent, in a proper case, an independent action by an aggrieved unit owner for such relief.

10. Maintenance.

The responsibility for the maintenance of the condominium property shall be as follows:

.1. Units.

(a) By the Association. The responsibility of the Association shall be as follows:

(i) To maintain, repair and replace all portions of a unit, except interior surfaces and surfacing materials, contributing to the support of the building, which portions shall include but not be limited to the outside walls of the building and all fixtures thereon, and boundary walls of units, floors, load-bearing columns and load-bearing walls.

(ii) To maintain, repair and replace all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of a unit maintained by the Association, and all such facilities contained within a unit which service part or parts of the condominium other than the unit within which contained.

(iii) To maintain and replace all balconies and balcony railings.

(iv) To repair all incidental damage caused to a unit in the performance of any of the foregoing work.

(b) By the Unit Owner. The responsibility of the unit owner shall be as follows:

(i) To maintain, repair and replace all portions of his unit except the portions to be maintained, repaired and replaced by the Association. Such shall be done without disturbing the rights of other unit owners.

(ii) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the building and/or the exterior of the balconies assigned to the exclusive use of the unit owner, and/or the exterior of the balcony area assigned to the exclusive use of the unit owner.

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.4. Right of Entry. The manager and any person authorized by the Board of Directors shall have the right to enter each unit in case of any emergency originating in or threatening such unit whether or not the owner or occupant, when so required, shall permit other unit owners or their representative to enter his unit at reasonable times for purpose of performing authorized installations, alterations, or repairs to the common elements therein for central services, provided that requests for entry are made in advance.

.5. Title. Every unit owner shall promptly cause to be duly recorded in the office of the Judge of Probate of Baldwin County, Alabama, the deed or other conveyance to him of his unit or other evidence of his title thereto and file such evidence of his title with the Association, and the Secretary shall maintain such information in the record of ownership of the Association.

.6. Mortgages.

(a) Any mortgagee of a unit may file a copy of its mortgage with the Association, and the Secretary shall maintain such information in the record of ownership of the Association. After the filing of the mortgage, the Association shall be required to notify the mortgagee of any unit owner who is in default in the expenses for the administration of the condominium and the mortgagee at its option may pay the delinquent expenses; and the holder of every such mortgage requesting the same shall be entitled to written notification from the Association of any default by mortgagor of such unit in the performance of such mortgagor's obligations under the condominium documents which is not cured within thirty (30) days.

(b) Unless all holder of first mortgage liens on units have given their prior written approval the Association shall not be entitled to:

(i) Change of pro rata interest or obligations of any unit for the purposes of levying assessments and charges, and determining shares of undivided interest in the common elements and proceeds of the project;

(ii) Partition or subdivide any unit or the common elements of the project, nor

(iii) By act of omission seek to abandon the condominium status of the project except as provided by statute in case of substantial destruction, deterioration or obsolescence to the units and condominium project.

8. AGENT TO RECEIVE SERVICE OF PROCESS.

The following person, who is a resident of the State of Alabama, is designated as agent to receive service of process upon the Association:

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NAME:

Tillis M. Brett

RESIDENT ADDRESS:

Post Office Box 1727
Gulf Shores, AL 36547

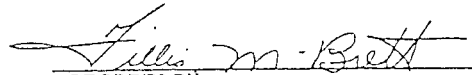
9. PARLIAMENTARY RULES.

Roberts Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Condominium Ownership Act, Declaration of Condominium, or these By-Laws.


10. AMENDMENTS.

These By-Laws may be amended by following the provision of Paragraph 19 of the Declaration of Condominium.

The foregoing were adopted as the By-Laws of PHOENIX V ASSOCIATION, INC., at the first meeting of the Board of Directors on April 19, 1996.


SECRETARY

APPROVED:


PRESIDENT

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THIS INSTRUMENT PREPARED BY:

MICHAEL J. SALMON
P.O. Box 162
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