



CREATING AND FORMING COLORADO RESORT CONDOMINIUM AND PLANNED COMMUNITIES

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CREATING AND FORMING COLORADO RESORT CONDOMINIUM AND PLANNED COMMUNITIES

I. INTRODUCTION

A. Definition of Key Terms.

1. General Comment. Because mandatory membership in an association is a continually growing and changing concept, accepted definitions have been and continue to change.
2. Condominium.
 - a. old law - air space
 - b. new law - based on co-ownership of common elements
3. Planned Communities or PUD's.
 - a. old law - based on special subdivision into tracts, parcels or lots
 - b. new law - based on absence of co-ownership of common elements. (i.e. high rise planned communities).
4. Cooperatives. In a cooperative, the real property or community is owned by an association and each member of the association, by virtue of their membership, is entitled to exclusive possession of a unit.
5. Owners Association or Community Association.
 - a. old law - condominium association, homeowners association, property owners association, property owners company
 - b. new law - community association
6. Unit.
 - a. old law - condominium
 - b. new law - any individually owned property in a common interest community, including a single family home on a lot, a condo, a townhome, a cooperative
7. Board of Directors or Executive Board.
8. The Common Interest Community.
9. Common Elements. The common property in a condominium or planned community. The property that is not part of a unit.
10. Development Rights. Rights reserved in the declaration to change the community throughout the development of the community, including the right to add units, convert common elements to units, convert units to common elements, create or assign limited common elements, withdraw real estate, etc.
11. Special Declarant Rights. These rights are similar to development rights, but relate more to the operation and control of the community throughout the development, including the power to control the community association, maintain sales offices, maintain signs, construction activities, complete improvements indicated on the map, plat or declaration, the exercise of a development right, to add a master declaration or association, to merge or consolidate, etc.

B. The Evolution of Common Interest Communities.

1. The Background - Today's common interest communities can trace their roots to Roman law and to English common law. Condominiums were an acknowledged form of property ownership in the 6th Century B.C. and were prevalent in the major Roman cities of that day. The renaissance of the concept occurred in Europe at the beginning of the 20th Century and later spread to Central and South America. Today, condominiums are an accepted part of the international housing scene.

Today in Colorado, under the Colorado Common Interest Ownership Act (CCIOA) common interest communities (condos, planned communities or cooperatives) are a legal form of ownership of real estate; they are not a specific building style or type of use. The purchaser has title to a unit and the right to use common elements. The property is identified in a declaration and a map or plat and the declaration and map or plat are recorded with the Clerk and Recorder. The common elements can, but are not required to include the land underneath and surrounding the building, the improvements on the land, the plumbing, wiring, and major utility systems, the interior areas between walls, the public interior spaces, the exterior of the residential structure, the streets, and the recreational facilities.

2. Condos.

The enactment of Section 234 of the National Housing Act of 1961 became the impetus for condominium development in this country. That act provided federal mortgage insurance for this new form of home ownership. Concurrent with the passage of the 1961 National Housing Act, the Federal Housing Administration (FHA) drafted a model Horizontal Property Act as a guide for state enabling legislation for condominiums. From that model act other uniform or model laws followed, including the Uniform Common Interest Ownership Act (UCIOA) from which CCIOA is modeled.

As a result of the federal guidelines drawn and adopted in the early 1960s and the legislation that followed, condominium development became prevalent in Puerto Rico, Hawaii, California, and Florida. But condominium ownership did not become widespread in Colorado until the late 1960s and early 1970. From 1970 through 1972 condominiums captured approximately 9 percent of the new for-sale national housing market. That rate rose to 15.7 percent from 1973 through 1974. Condominium development continued to grow in Colorado and throughout the nation through the 1970s and 1980s. As of 1993, one industry trade group has estimated that there were approximately 5 million condominium units and 6 ½ million planned community units.

The explosive growth in popularity of the condominium as a primary or resort residence came about because the condominium more nearly meets the following needs of certain major segments of today's home and resort buying public than the more traditional forms of housing:

- Condominiums are generally priced lower than detached units.
- With a condominium, the owner has less responsibility for exterior maintenance and upkeep and thus more time for leisure activities.
- Generally more amenities and recreational facilities are available.

- Usually the condominium is located in more densely settled areas closer to community amenities, jobs, and other urban services, while new detached housing is further removed from urban centers.

3. **Planned Communities.**

In contrast to the condominium, the planned community concept has experienced slower but steady growth in Colorado and throughout the United States. Clustered housing and shared maintenance of grounds and facilities reflected in planned communities can be traced back to English planning concepts first used in the 1700s, and the earliest American use of the open space community concept directly reflects this English experience. The first American developments using HOAs were Louisburg Square in Boston in 1826 and New York City's Grammercy Park in 1831.

Under CCIOA, planned communities are not limited to cluster and PUD communities but can also now include high or mid-rise buildings.

Planned communities are popular because:

- They permit a flexible land and housing design concept that allows residential development in clusters and maximizes open space and the use of the natural elements of the land.
- Clustering reduces construction costs by using central utility runs, major collector streets, and greater unit densities per acre.
- More amenities can be offered at a lower price due to the sharing of expenses and maintenance responsibilities.
- Multilevel developments can be done as planned communities.

4. **CCIOA.**

Condominium and planned community developments now use one law, CCIOA, and a similar approach for achieving efficiency, flexibility, and economy through shared ownership or use of land and facilities. In the condominium the unit owner owns their unit and an undivided interest (with all other unit owners) in the common land and facilities. In the planned community the owner owns their unit and has access to all common facilities which are owned by the association. To maintain the common grounds and facilities and to preserve a degree of order in the development an association of owners, a community association, is created with each owner automatically a member. Whether the approach is condominium or planned community, the success of the entire development hinges upon the success of the community association in meeting its responsibility to maintain the grounds and facilities and to govern the community.

C. **Types of Common Interest Communities.**

1. **The basic forms --**

- a. Condominium Communities
- b. Planned Communities
- c. Cooperatives

2. Sophisticated forms

- a. The single phase development
- b. Multiple phase developments
- c. Multiple layers of Common Interest Communities -- the Master Association or Resort Company
- d. Residential uses, commercial use and mixed use communities
- e. Small or limited expense planned communities
- f. Resort developments - The resort development involves a specialized form of real estate ownership. The appeal and value of the units is based on natural or man-made amenities which give the development its resort quality. Purchasers hold title to their units and may occupy them whenever they wish, just as in primary residential communities. A mandatory rental pool may be in place to allow the owner to lease their unit during portions of the year when it is unoccupied through an agreement made with a management agent. The purchase of a unit together with an agreement or offer to provide or to arrange the rental is legally construed as a form of investment contract. The Securities and Exchange Commission (SEC) interprets this arrangement as a formal offering by the seller within the Securities Act of 1933 and the Securities Exchange Act of 1934. As a security the unit with a rental pool arrangement is subject to the registration requirements of the SEC.

In the resort or recreational development with a mandatory unit rental pool, the selection of a management agent will be of the utmost importance since the developer, during their involvement with the project, and the unit owners will rely heavily on the ability of the agent to maintain and improve the property and to lease the units.

- g. Large planned communities
- h. Lot sale developments
- i. Ranchette developments
- j. 35 acre parcel developments
- k. Leasehold common interest communities
- l. Time shares or fractional share communities
- m. Co-housing communities

D. The Community Association.

1. Nonprofit corporation
2. Members - all unit owners
3. Purpose - preserve and enhance value/to operate manage the property
4. Small private government
5. Small private business
6. Created by developer, shaped by the developer, effected by the quality of transition
7. Different planning and preparation required of the developer (vs. development without a community association).

II. WHY DEVELOP WITH A COMMUNITY ASSOCIATION?

A. The Common Interest Community vs. a Community without a mandatory community association.

Does a need exist to provide maintenance and services? Consider these factors:

- Does the development plan require maintenance of common ground, open space, or facilities; or require certain services such as security or trash removal?

- Is there a need or desire to preserve the nature and character of the development through the enforcement of covenants which control the practices of owners (such as architectural controls or standards)?
- Is the building type such that the owners must share structural features such as accessways, hallways, and walkways in garden type or high-rise units?

1. **The Impact of Physical Design**

Competent land planning can create better communities and increase the developer's profit. By the careful clustering of units the developer can save on drainage and sewage systems, and shorter utility runs. The developer can also save on per unit land costs because of the higher level of density. These savings can be used to provide more amenities and lower unit costs, both of which should increase marketability. The costs of operating and maintaining these amenities, however, might significantly detract from the sales appeal of the individual units. Therefore, the developer should make the following basic decisions before he commits to a land plan:

- Should the recreational package be part of the project to be maintained by a community association or should it be placed in a voluntary membership club type corporation?
 - Will a voluntary organization have the strength and resources to do the job?
 - Will the costs of a community association detract from the developer's efforts to sell the units?
 - Will the open space and natural amenities have a significant bearing on the association budget?
 - Are they accessible to maintenance?
 - What will be the time and dollar investment required to retain their value and attractiveness?
 - What is their potential for erosion or destruction?
 - Are they important enough to the project over the long run to justify their operating costs?
 - Are all the elements of the recreational package necessary or basic to the success of the project? The developer must carefully examine the need to construct ancillary facilities which might not be in demand by the market because they might not be used enough to warrant the additional cost to the residents and further capital expense to the developer. The developer not only has to decide which amenities to include, but as with the natural features he must decide how these elements will be owned, maintained, operated, and funded.
 - The developer should institute a financial program that sets aside funds in reserve for the repair and replacement of facilities, and should determine how much of the assessments will be earmarked for these future capital expenses based on the extent of the common property, the type and quality of construction, the design life of the facilities, and their replacement costs.
 - Underestimation or "low balling" of these assessments of an HOA community or condominium development has been one of the most serious abuses in the field, and the developer may be open to a serious legal challenge for failure to estimate operating expenses properly.
2. Associations have the ability and inclination to sue the developer.

3. Local Government. Local government officials have demonstrated a growing concern for the administration, maintenance, and improvement of commonly shared properties after the developer leaves the scene.

B. Lender Requirements will need to be met.

Common interest communities have presented unique problems for the mortgage lending industry. Conventional appraisal and financing techniques and principles are not sufficient to handle developments with an association, common property, and the enforcement of the rules and regulations to which each owner is bound through covenants and upon which the future viability of the development may rest. To a lender who may hold a mortgage for 30 years, the association clearly takes on significant importance. The lender is often concerned with reviewing not only the individual unit, but the entire financial, legal, and operational basis of the association and the common property.

Individual lenders and the secondary mortgage markets share these concerns. Each of secondary mortgage markets has developed guidelines or requirements which must be met before their agencies will become involved in a common interest community project. The Federal National Mortgage Corporation (FNMA or Fannie Mae) and the Federal Home Loan Mortgage Corporation (FHLMC or Freddie Mae) each have developed requirements which must be met before they will purchase a unit mortgage from a lending institution. Although these corporations do not actually make or insure direct loans to the developer or purchaser, by providing a market for the mortgages in these types of developments their requirements have a considerable impact on what mortgages local lenders are prepared to make.

The Veterans Administration (VA) and the Federal Housing Administration (FHA) have also developed requirements for the condominium and the HOA community.

The developer must decide how to finance unit sales. While the decision may be premised on available financial sources, the market will also be a consideration. But in financing unit loans in a condominium or a planned community development, the developer must also make a determination based on which agency's requirements the developer is prepared to meet. Unfortunately, the requirements of these four agencies are not the same, so the developer must make some significant choices and decisions, decisions that must be made during the design phase of the association so that steps can be taken to assure that the requirements of the appropriate agency or agencies can be complied with.

The private mortgage insurance (PMI) industry also imposes unique requirements and the developer should check directly with the PMI to be used.

C. Drafting Documents.

Drafting association legal documents is an additional requirement when the developer elects to convey units with an association. The legal forms and documents must be tailored to include the rights, responsibilities, and duties of unit owners and the association. Additionally, descriptions of the individual property, the common elements, and the private and public dedications must all be exactly worded and written. All documents must conform to local, state, and, where appropriate, federal statutes. The legal documents must be definitive for protective purposes, but be flexible enough to permit the developer, and then the residents, to operate the association. The structure of the association must be carefully set forth by these documents prior to sales.

There are several basic operating concepts which exist for the community association that must be included in the legal documents. They are:

- the automatic membership provision when a unit is purchased.
- the allocation of voting rights.
- the allocation of a proportionate share of the financial responsibility for common expenses (to be paid to the association).
- the ownership of the common elements.
- the provision for perpetual rights of access to the common elements and facilities as long as the resident owns property in the community.
- the stipulation of the lien rights of the association upon individual units should the owner fail to pay the mandatory assessments (now covered under CCIOA).
- the provision for the process of governance of the association (also now covered under CCIOA).

The legal documents typically include:

- a Declaration
- a map or plat
- Articles of Incorporation to the Community Association
- Bylaws
- Rules and Regulations
- Minutes of Meetings of the Executive Board and of the members

D. Longer Period of Developer Involvement.

There is no question that the developer should prepare for a lengthier and more complex involvement if a community association is to be used. The developer is undertaking a second level of operations which affects planning, design, and construction programs--the responsibility of setting up and initiating the operation of the community association. The developer is responsible for the preparation of association legal documents, the disclosure of adequate information to prospective buyers, the preparation of a projected association budget, and must also recruit resident leaders and prepare them to take over the association.

III. THE DECISION HAS BEEN MADE -- DEVELOP WITH A COMMUNITY ASSOCIATION -- SO NOW WHAT? PLANNING THE COMMUNITY.

- A. The Process/Four Stages. Once the developer has carefully reviewed the common property and facility requirements of the project, has decided to use the association form of management and maintenance, and has decided which type of community to build, the developer is ready to begin the process of creating a successfully operating association. The key consideration now is for the developer to know and understand the entire community association process--the decisions that will be required, when it will be necessary to reach those decision, and how to organize staff and consultants in order to establish a successful association.

The four stages are:

- Design
- Start-up
- Transition
- Governance

B. The Team Concept.

The developer as coordinator of the team. The team players:

- architect
- land planner
- attorney
- marketing
- lender
- manager for the association
- insurer

C. The Design Phase.

During the review and design of the site the developer will make market decisions, land planning decisions, and project design decisions that will affect the specific role of the association, its financial structure, and its governance responsibilities. All association design, program, legal, financial, communication, marketing, and management decisions will follow from decisions made regarding what property is to be common, what services will be necessary, and what facilities will be provided.

- what types of services and amenities are desired, and how these services will be financed by the association.
- site plan decisions determine what land, if any, is to be shared by the owners, and decisions on housing type can mandate the use of an association.
- the developer must decide which common grounds and services are to be maintained and serviced by what vehicle--a municipality, a private club, or a community association.
- what types and levels of amenities are offered and maintained by the association. For most associations the costs of maintenance and amenity-related services is one of the main expenditures.
- comply with local state and federal law.
- the developer must decide if the approach to common property management can be marketed successfully in the area.
- determine the applicability of CCIOA.
 - a. Condos. All of CCIOA applies to all new condominium communities, whether the community is small (i.e. less than 20 units) or restricted to commercial uses. Simply stated, all new condominium community developments are subject to all of CCIOA.
 - b. Planned Communities. All of CCIOA applies to new planned communities, except:

- (1) The Small Exception. Planned communities with no more than 20 units and with no development rights are subject only to Section 105, 106 and 107 of CCIOA (Separate Titles and Taxation; Applicability of Local Ordinances, Regulations and Building Codes and Eminent Domain).
- (2) The Limited Expense Exception. Planned communities with a restriction in the declaration that assessments (exclusive of optional user fees and any insurance paid by the Association) of units restricted to residential use cannot be greater than \$400.00 per year (with cpi adjustments) are subject only to Sections 105, 106 and 107 of CCIOA.
- (3) Commercial Uses Only. If a planned community is restricted to non-residential uses, the community is not subject to any provisions in CCIOA.

c. Cooperatives. All of CCIOA applies to new cooperatives, except:

- (1) The Small Exception. Planned communities with no more than 20 units and with no development rights are subject only to Sections 105, 106 and 107 of CCIOA.
- (2) Commercial Use Exception. Cooperatives that are restricted to non-residential uses are subject only to Sections 105, 106 and 107 of CCIOA.

d. Mixed Use Common Interest Communities. Mixed use common interest communities are subject to CCIOA only if the residential units would be a planned community on their own, i.e. in the absence of the commercial units.

- Preparing the capital and operating budgets. A capital budget, full occupancy budget, and phased development budget should be prepared after taking into consideration the association's responsibilities and operational design. After a determination of major capital equipment and facilities, a system should be established to accumulate reserves for capital replacement. The operating budget(s) and the homeowner and developer assessments should also be designated after a re-examination of the project site plan, facilities, and unit design in order to keep association operational and capital costs to a minimum.

D. The Start-Up Phase.

The association start-up phase begins with the legal establishment of the association before unit sales begin. During this period prior design decisions on association operations will begin to be implemented, and, as sales are made and the owners begin to occupy their units, the developer moves toward completion of the project. During this phase, the following events occur:

- Fund the association.
- Acquire insurance.
- Arrange for the maintenance of the grounds, pool and equipment.
- Arrange for snow and trash removal along with other common services.
- Set management policies for the collection of assessments, bookkeeping, maintenance, and repair.

- Refine the association operating and capital budgets.
- Establish a working relationship between the sales force and the association management in order to identify potential resident leaders and to precipitate owner participation in the association.
- Maintain appropriate records and minutes of these and other association-related decisions made by the executive board.

E. The Transition Phase.

Before CCIOA, "transition" from declarant control to owner control was a haphazard, informal, ongoing and never ending process. CCIOA has changed this dramatically. CCIOA requires the Declarant to gradually turn over control of the Association as Units are sold.

At all times, the Executive Board elects the officers.

Under CCIOA, three special meetings are anticipated during the Declarant Control Period. More meetings may be advisable and fewer may be possible, but are not advisable. Preparations and planning for these special meetings should begin before the first sale and then be implemented through management of the Association.

The first meeting is the meeting that is to occur not later than 60 days after the conveyance of 1/4 of the units that may be created to owners other than the Declarant. At that time, at least one member, but not less than 1/4 of the members of the Executive Board, must be elected by owners other than the Declarant.

The second special meeting is the meeting of members that must be held not later than 60 days after the conveyance of 1/2 of the units that may be conveyed to owners other than the Declarant. At this meeting, not less than 1/3 of the members of the Executive Board must be elected by unit owners other than the Declarant.

The third special meeting is the meeting that must be held not later than the termination of the period of Declarant Control. At that meeting, unit owners are to elect an Executive Board of at least three members, a majority of whom must be unit owners other than the Declarant. Declarant control of the Association is a defined concept under CCIOA. The Declarant Control Period terminates 60 days after the earliest to occur of the following events:

1. 75% of the units that may be created have been conveyed to owners;
2. two years after the last conveyance of a Unit by the Declarant in the ordinary course of business (i.e. if sales coming to a stop for a two year period); or
3. two years after any Declarant right to add new units was last exercised.

Within 60 days after the earliest of one of these events to occur, the third meeting must be held and certain records must be turned over and an audit of the Association performed.

The Declarant may voluntarily surrender the right of appointment and removal of the Executive Board members before the termination of the declarant control period. If such is the case, CCIOA provides that the Declarant may require, for the duration of the period of the declarant control period, that certain actions of the Executive Board, which the Declarant has previously set forth in a recorded instrument, be approved by the Declarant

before they become effective. This would typically be in the area of the Design Review Committee, assessments, etc. CCIOA gives the Declarant this power to veto certain actions of the Executive Board as long as the veto is executed properly.

CCIOA also requires the Declarant to turnover miscellaneous documents, records and an audit of the Association at the final point of transition. The items to be turned over, within 60 days after the end of Declarant Control (i.e. 120 days after 75% of the units are sold, or 120 days after two years without a sale or 120 days after two years from the last expansion), include the following:

1. the original or certified copy of the recorded Declaration, as amended and/or supplemented;
2. the Association's Articles of Incorporation, Bylaws, Minute Book, other books, records and all Rules and Regulations that may have been promulgated;
3. an accounting of Association funds and financial statements from the date the Association commenced receiving funds and ending on the date on which the Declarant Control Period ends (the "Transition Audit");
4. the Association's funds or the control thereof;
5. all of the tangible personal property of the owners and the Association held or controlled by the Declarant;
6. copies of the plans and specifications used in the construction of the improvements in the Common Elements;
7. all insurance policies currently in effect;
8. copies of all certificates of occupancy that may have been issued for common element improvements;
9. all other governmental permits;
10. all warranties of contractors, subcontractors, suppliers and manufacturers that are still in effect;
11. a roster of the unit owners and their mortgagees, together with addresses and telephone numbers;
12. employment contracts and service contracts in which the Association is the contracting party.

From our experience, the Declarant also furnishes the Association with the following to complete transition:

1. all documents needed to support any special meetings of the Association held to elect members of the Executive Board (to include notice, proxy, certificate of mailing, control list of the members, attendance records, together with the ballots);
2. the resignations of the Declarant's appointed members of the Executive Board and officers;
3. certificate of Good Standing for the Association from the Secretary of State dated just prior to transition;

4. signature cards for all Association bank accounts and appropriate banking resolutions;
5. prior and current budgets;
6. prior year's income tax returns (Colorado and federal);
7. tax ID numbers;
8. Change of address cards for the billing of all services rendered to the Association (trash, utilities, etc.).

The most significant of transition requirements is the Transition Audit (item c, above). The Transition Audit must be performed by an independent CPA and the delivery of the audit must be accompanied by a letter from the CPA expressing the CPA's opinion that the Association's financial statements fairly reflect the financial position of the Association in conformity with general accepted accounting principles; or a disclaimer of the CPA's ability to attest to the fairness of the presentation of the financial information in conformity with general accepted accounting principles and the reasons therefor.

CCIOA states that the expense of the Transition Audit shall not be paid for or charged to the Association. Depending upon the length of the time the Community takes to sell out, this audit could be expensive. If sales are not completed within a year or two, it is advisable to then perform annual audits, even while the Association is controlled by the Declarant. It is for this reason that we recommend an audit expense item be added to the Annual Budget.

At all times, participation should be provided for and encouraged by the developer as another step in training the owners to take over the operational responsibilities of the association.

F. The Governance Phase.

The association reaches maturity (the governance phase) with the election of an owner majority to the board. The entire operation of the association (physical, financial, and administrative) will be controlled by the owner-elected board; board members will set policies, enter into contracts, implement or change controls--in general, decide and shape the course of the association and the community. How well these elected representatives function on behalf of the association will in part be determined by the previous actions and guidance of the developer, and in part by the desire of owners to maintain the value of their units and the common property.

During the governance phase the developer prepares to exit. As the developer ties up loose ends, the developer needs to be particularly sure that all association transactions have been properly completed, that all records related to the association (corporate and financial) have been transferred, that all contracts, plans, specifications, and insurance policies for common facilities have been passed on, and that no other outstanding debts or issues remain. The association is now ready to function on its own.

IV. SPECIAL CONCERNS IN FORMING NEW COMMON INTEREST COMMUNITIES

A. Application of CCIOA (See the discussion above).

Application of CCIOA is mandatory and cannot be varied by agreement or waiver and will be effective for all common interest communities created on or after July 1, 1992.

1. Condos
 2. Planned Communities
 - a. Exceptions
 3. Cooperatives
 - a. Exceptions
- B. Purposes of the Legal Documents.
- To comply with CCIOA, as that law applies to the Community being developed.
 - To define what is owned and by whom, including the specific location and parameters of the units and the common elements.
 - To establish a system of interlocking relationships binding each owner to all other owners for the purpose of maintaining and preserving what is owned and used in common.
 - To establish an array of protective standards or restrictions designed to establish limits and assure that a certain level of appearance is maintained.
 - To create an association administrative vehicle to manage those elements share in common and to enforce standards.
 - To provide for the operation and financing of the association.
 - To specify the process involved in effecting the transfer of control of the association and responsibility for the common elements from the developer to the unit owners collectively.
- C. CCIOA Requirements and Special Factors.
1. Defined Relationships. All the loose dealings between the Declarant and the Association which occurred in the past have come to an end. CCIOA organizes and establishes the relationship between the Declarant and the Association's operations.
 2. The Rule Against Perpetuities no longer applies. Declarations no longer are required to have strange terms of existence, i.e. for the life of a given person or for a term of 20 years, with automatic renewals every 10 years.
 3. Allocation of Interests.
 - ownership (condo vs. planned community vs. cooperative)
 - voting
 - common expense liability a formula is required and the formula cannot favor the declarant or an affiliate of the declarant. For example, a reduced assessment rate on declarant owned units is not longer possible, nor is weighted voting permitted.

4. Declaration requirements. The Declaration must contain certain provisions. CCIOA, in Section 205, provides as follows:

a. 38-33.3-205. Contents of declaration.

The declaration must contain:

- (1) the names of the common interest community and the association and a statement that the common interest community is a condominium, cooperative, or planned community;
- (2) the name of every county in which any part of the common interest community is situated;
- (3) a legally sufficient description of the real estate included in the common interest community;
- (4) a statement of the maximum number of units that the declarant reserves the right to create;
- (5) in a condominium or planned community, a description, which may be by plat or map, of the boundaries of each unit created by the declaration, including the unit's identifying number; or, in a cooperative, a description, which may be by plat or map, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms, and its location within a building if it is within a building containing more than one unit;
- (6) a description of any limited common elements, other than those specified in section 38-33.3-202 (1) (B) and (1) (d) or shown on the map as provided in section 38-33.3-209 (2) (J) and, in a planned community, any real estate that is or must become common elements;
- (7) a description of any real estate, except real estate subject to development rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in section 38-33.3-202 (1) (B) and (1) (d), together with a statement that they may be so allocated;
- (8) a description of any development rights and other special declarant rights reserved by the declarant, together with a legally sufficient description of the real estate to which each of those rights applies and the time limit within which each of those rights must be exercised;
- (9) if any development right may be exercised with respect to different parcels of real estate at different times, a statement to that effect together with:
 - (a) either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right or a statement that no assurances are made in those regards; and
 - (b) a statement as to whether, if any development right is exercised in any portion of the real estate subject to that development right, that development right must be exercised in all or in any other portion of the remainder of that real estate;

- (10) any other conditions or limitations under which the rights described in paragraph (8) of this subsection
 - (a) may be exercised or will lapse;
- (11) an allocation to each unit of the allocated interests in the manner described in section 38-33.3-207;
- (12) any restrictions on the use, occupancy, and alienation of the units and on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation, or casualty loss to the unit or to the common interest community or on termination of the common interest community;
- (13) the recording data for recorded easements and licenses appurtenant to, or included in, the common interest community or to which any portion of the common interest community is or may become subject by virtue of a reservation in the declaration;
- (14) all matters required by sections 38-33.3-201, 38-33.3-206 to 38-33.3-209, 38-33.3-215, 38-33.3-216, and 38-33.3-303 (4);
- (15) reasonable provisions concerning the manner in which notice of matters affecting the common interest community may be given to unit owners by the association or other unit owners.
 - b. The declaration may contain any other matters the declarant considers appropriate.
 - c. The plats and maps described in section 38-33.3-209 may contain certain information required to be included in the declaration by this section.

5. Plat and Map Requirements. Plats and maps must also contain certain provisions. CCIOA provides, in Section 209, as follows:

38-33.3-209. Plats and maps.

- a. Plats and maps are a part of the declaration and are required for all common interest communities except cooperatives. Separate plats and maps are not required by this article if all the information required by this section is contained in either a plat or a map. Each plat and map must be clear and legible and contain a certification that the plat or map contains all the information required by this section.
- b. In addition to meeting the requirements of a land survey plat as set forth in section 38-51-102, each plat must show:
 - (1) the name and a general schematic plan of the entire common interest community;
 - (2) the location and dimensions of all real estate not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing improvements within that real estate;

- (3) a legally sufficient description of any real estate subject to development rights, labeled to identify the rights applicable to each parcel;
 - (4) the extent of any existing encroachments across any common interest community boundary;
 - (5) to the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the common interest community;
 - (6) the location and dimensions of any vertical boundaries not shown or projected on maps recorded pursuant to subsection (4) of this section and that unit's identifying number;
 - (7) the location, with reference to established data, of horizontal boundaries, if any, not shown or projected on maps recorded pursuant to subsection (4) of this section, and that unit's identifying number;
 - (8) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate";
 - (9) the distance between noncontiguous parcels of real estate comprising the common interest community; and
 - (10) the approximate location and dimensions of limited common elements, including porches, balconies, and patios, other than the limited common elements described in section 38-33.3-202 (1) (B) and (1) (d).
- c. To the extent not shown or projected on the plats, maps of the units must show or project:
- (1) the location and dimensions of the vertical boundaries of each unit and that unit's identifying number;
 - (2) horizontal boundaries, if any, with reference to all established data, and that unit's identifying number;
 - (3) any units in which the declarant has reserved the right to create additional units or common elements, identified appropriately; and
 - (4) the approximate location and dimensions of limited common elements, including porches, balconies, and patios, other than parking spaces and other than common elements described in section 38-33.3-202 (1) (B) and (1) (d).
- d. Unless the declaration provides otherwise, the horizontal boundaries of any part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part and need not be depicted on the plats and maps.
- e. Upon exercising any development right, the declarant shall record either new plats and maps with respect to that real estate reflecting change as a result of such exercise necessary to conform to the requirements of subsections (1), (2), and (4) of this section or new certifications of plats and maps previously recorded if those plats and maps otherwise conform to the requirements of subsections (1), (2), and (4) of this section.

- f. Any certification of a plat or map required by this article must be made by a registered land surveyor.
 - g. The requirements of a plat or map under this article shall not be deemed to satisfy any subdivision platting requirement enacted by a county or municipality pursuant to section 30-28-133, C.R.S., Part 1 of article 23 of title 31, C.R.S., Or a similar provision of a home rule city, nor shall the plat or map requirements under this article be deemed to be incorporated into any subdivision platting requirements enacted by a county or municipality.
6. Assessments, the Annual Budget and the Budget Process. The allocation of each Unit's responsibility for assessments is to be based on a formula set forth in the Declaration. By applying each unit's percentage of expense liability to the budget, the annual assessment for each unit is obtained.

An initial budget must be prepared to represent to buyers what their annual assessment will be. We have attached our form of budget.

The Colorado Common Interest Ownership Act requires the budgets to be approved in a very specific manner. The process for the initial budget is completed through member approval of the organizational minutes by the Declarant as the sole owner of all units.

The process to be followed after this initial budget is as follows: The Executive Board of the Association is to prepare and approve a budget at least annually. The budget could be prepared and approved by the Executive Board in early January of each year. Within 30 days after the Board's adoption of the proposed budget (i.e., by early February), the Board would then be required to mail or deliver a summary of the budget to all owners and set a date for a special meeting of the owners to consider ratification of the budget. We recommend this budget meeting be combined with the annual meeting, and in the example given, would be held in March. Notice for the meeting at which the budget will be considered by owners must be mailed not less than 14 days nor more than 60 days before the meeting. At the meeting, unless a majority of the owners reject the budget, the budget is ratified. CCIOA does not require that a quorum of owners be present at the meeting, if it is just a budget meeting, but does require a quorum if the meeting is also an annual meeting. In the event the proposed budget is rejected by a majority of your owners, the budget last ratified by the owners is continued until such time as the owners ratify a subsequent budget proposed by the Executive Board.

7. Development Rights -- Reserved Rights -- Special Declarant Rights.
- a. The Declaration must contain a description of any development rights and special declarant rights reserved by the Declarant, together with a legally sufficient description of the real estate to which each of these rights applies and a time limit within which each of those rights must be exercised.
 - b. The exercise of these rights requires a recorded instrument, as an amendment to either the declaration, the map or plat, or to both the declaration and the map or plat.
 - c. If the Declarant fails to exercise any development rights within the time limit and in accordance with any conditions or fixed limitations described in the Declaration, the development rights lapse. Specifically, subsection 5 of Section 210 of CCIOA provides as follows:

(5) If a declarant fails to exercise any development right within the time limit and in accordance with any conditions or fixed limitations described in the declaration pursuant to section 38-33.3-205 (1) (H), or records an instrument surrendering a development right, that development right shall lapse unless the association, upon the request of the declarant or the owner of the real estate subject to development right, agrees to an extension of the time period for exercise of the development right or a reinstatement of the development right subject to whatever terms, conditions, and limitations the association may impose on the subsequent exercise of the development right. The extension or renewal of the development right and any terms, conditions, and limitations shall be included in an amendment executed by the declarant or the owner of the real estate subject to development right and the association.

- d. The Declarant may, at any time, record an instrument surrendering development rights.
 - e. Special Declarant Rights and Development Rights may be transferred only by a recorded instrument evidencing the transfer. The instrument is not effective unless it is executed by the transferee. If you get involved with the rights of a Successor Declarant, please carefully read Section 304 of CCIOA regarding rights, liabilities and obligations of a Successor Declarant.
8. Alterations of Units (211), Relocation of Boundaries (212) and Subdivision of Units.
 9. Reservation for Sales Uses.
 10. Mergers and consolidations.
 11. Adding Now Unknown Real Estate.
 12. Dirt Condos. CCIOA ends the controversy as to whether dirt or a parking space may be a condominium in that the old statute required that a condominium be "an enclosed room or rooms." CCIOA does not depend upon the physical component of the real estate but instead depends upon the characteristics of the ownership. Through CCIOA, developers can now condominiumize dirt, parking spaces, RV spaces, marinas, or whatever.
 13. Restrictions on Contracts. Previously, some abuses occurred by developers creating sweetheart contracts for themselves or for an affiliate, as the management agent of the association, or through a lease of recreational facilities. These types of contracts are now restricted by CCIOA. Contracts entered into by the association, during declarant control, must now be subject to following:
 - a. the terms can't be unconscionable;
 - b. an obligation of good faith will be implied;
 - c. management contracts, employment contracts, and leases of recreational facilities or parking areas can be terminated on 90 days notice;
 - d. contracts between the Association and a developer or an affiliate may be terminated on 90 days notice;
 - e. any not bona fide or unconscionable contract or lease may be terminated on 90 days notice.

D. Foreclosure by the Association on Reserved Development Rights.

Development Rights of the Declarant can now be foreclosed upon the Association. Under Section 307 of CCIOA, the following is provided:

(2) In addition to the liability that a declarant as a unit owner has under this article, the declarant alone is liable for all expenses in connection with real estate subject to development rights. No other unit owner and no other portion of the common interest community is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real estate subject to development rights inures to the declarant. If the declarant fails to pay all expenses in connection with real estate within the common interest community subject to development rights, the association may pay such expenses, and such expenses shall be assessed as a common expense against the real estate subject to development rights, and the association may enforce the assessment pursuant to section 38-33.3-316 by treating each real estate as if it were a unit. If the association acquires title to the real estate subject to the development rights through foreclosure or otherwise, the development rights shall not be extinguished thereby, and, thereafter, the association may succeed to any special declarant rights specified in a written instrument prepared, executed, and recorded by the association in accordance with the requirements of section 38-33.3-304 (3).

E. Standards of Care.

CCIOA provides that if a member of the Executive Board is appointed by the Declarant, then in the performance of their duties, those officers and members of the Executive Board are required to exercise the care required of fiduciaries to the unit owners.

If a member of the Executive Board is not appointed by the Declarant, (i.e. elected by unit owners), then those members of the Executive Board and officers are liable only for wanton or willful acts or omissions.

PROPOSED FORM OF BUDGET

**ANALYSIS OF ANNUAL INCOME AND OPERATING EXPENSES
PROJECTION OF OPERATING BUDGET AND RESERVES
FOR THE YEAR 20__**

Project Name:

Address or Location:

ADMINISTRATIVE EXPENSES

1. Office expenses, supplies, equipment rental, etc.
2. Telephone.
3. Office salaries and related costs and benefits (itemize).
4. Management fee (name of management firm).
5. Legal and audit expenses.
6. Other.

OPERATING EXPENSES

7. Fuel (type).
8. Utilities (common elements only).
9. --Gas.

- 10. --Electric.
- 11. --Water & sewer.
- 12. Trash and garbage removal.
- 13. Exterminating.
- 14. Supplies.

REPAIRS AND MAINTENANCE

- 15. Decorating, (exterior and/or interior).
- 16. Cleaning expenses and supplies.
- 17. Snow removal.
- 18. Building maintenance and repairs.
- 19. Elevator maintenance and repairs.
- 20. Heating and air conditioning maintenance and repairs.
- 21. Pool maintenance and repairs.
- 22. Parking area maintenance and repairs.
- 23. Landscaping, gardening and yard maintenance and repairs, including shrub replacement.
- 24. Master TV antenna or cable TV.
- 25. Electrical repairs and fixtures.
- 26. Other (specify).
- 27. Salaries (itemize including employee benefits and payroll taxes).

FIXED EXPENSES

- 28. Other taxes and assessments (include sales or service tax).
- 29. Licenses and permits.
- 30. Insurance premiums (attach breakdown).
- 31. Recreation or other facilities rental.
- 32. Income taxes.

TOTAL EXPENSES

REPLACEMENT RESERVES (Note, replacement reserves should be consistent with an engineer's or other professional's report)

Item	Yrs. of Estimated Remaining Life	Expected Rplcmmt. Cost	Average Yearly Cost
33. Roof.		\$	\$
34. Siding.			
35. Pavement.			
36. Drainage system.			
37. Sewerage system.			
38. --Pumps and mechanicals.			
39. --Pipes and tanks.			

TOTAL REPLACEMENT RESERVES \$

TOTAL ANNUAL EXPENSES AND REPLACEMENT RESERVES \$ _____

PROJECT ANNUAL INCOME

40. Unit charges.

Income: Unit type_____/month x12 x____ Units \$____per year

Total: _____

41. Other Income (itemize).

Total: _____

If the income is less than the budget, discuss the deficit.

Actual Funds now Held:

For payment of operating expenses _____

In Replacement Reserve Fund _____

No. of Unit Owners over 30 days
delinquent in Unit Owner Charges _____

Number of Unit Owners over 30 days
Delinquent in Special Assessment
Charges _____

Explain any indebtedness or leases on the common elements, parking, utilities or other facilities. (If none, so state.)

Certified Correct:

Date

by

Title

Notes to Budget.

1. Office Expenses. Covers printing, copying, postage and administrative supplies (including stationery), documents, official Executive Board notices, etc. In the previous fiscal year, available records

show a cost of \$ _____ in this category for the printing of the annual meeting pamphlets and copies of the management contract. The amount in this category has been set at \$ _____ for the next fiscal year. Calculation has been made based upon office supplies for a similar-sized real estate office.

2. Telephone. Based on a single telephone line and an answering machine. Estimate based on telephone company estimated charges.

3. Office Salaries and Benefits. This estimate assumes one full-time secretary at \$ _____ per year, including benefits, estimated at 35 percent of base salary. An estimate of \$ _____ has been made for temporary replacement during vacation and illness.

4. Management Fee. This fee covers administrative services including contract negotiation and supervision and financial services, such as collection of assessments, disbursements, bookkeeping and preparation of monthly financial statements. These services are provided through a full-service management contract with a management firm. The estimate of the annual fee includes the flat-dollars-per-month fee for the anticipated fiscal year. Also included are estimates for setting up new accounts (___ at \$ _____ each) and sending out certified delinquency letters (___ at \$ _____ each). Possible legal fees arising from processing overdue accounts (as dealt with in the management contract) are not included in this line but are included under legal fees. The fee indicated is the standard fee for similar management services in the vicinity, based upon a telephone sampling of a number of management companies.

5. Legal, Audit and Other Professional Fees. An auditor has been retained to audit the financial records of the Association for the preceding fiscal year. It is currently estimated that this will cost \$ _____. The auditor will also prepare the necessary tax forms if this service is not to be performed by someone in the Association. This fee was obtained from _____, CPA, the present accountant for the association.

Legal fees are intended primarily to cover the possibility that the Association will have to obtain legal counsel for a number of noncollection matters and file one or more collection actions to collect the overdue assessments. It is expected, however, that most of the collection costs will be collected from the defaulting unit owners. Under CCIOA, the costs of collection proceedings are established so that the cost of collection is automatically added to subsequent bills to the defaulting unit owner. Therefore, collection costs would not be included in the budget, except to the extent that they are not fully awarded by the courts. There is no bad debt expense in the budget. It is assumed that a positive effort toward assessment collection will eliminate the possibility of nonpayment of assessment income. Legal counsel may also be useful in amending documents, giving advice on tax problems, reviewing contracts or researching legal responsibilities, and payment for these services will be covered in the noncollection items covered by the estimated fee.

This category also includes fees for architectural, engineering, managerial or other professional services.

6. Other--Community Programs. The printing of a monthly or periodic newsletter plus a small amount included to cover refreshments and minor expenses at Executive Board meetings and social functions are included here. It is an expenditure well-considered and rather minor. Membership in CAI (the Community Association Institute) would also be included here. CAI is the Association's trade association, and the dues, some publication purchases and a number of seminars are shown. CAI publications, newsletters and meetings are essential to help the Executive Board keep abreast of the latest laws, management techniques, financial systems and trends.

7. Fuel. The common elements and buildings are heated by gas and provided with electricity for lighting and power needs. Units are supplied with gas and electricity which are separately metered. Water and sewerage are not separately metered.

8. Utilities. Common Elements for gas and electricity, total fees for water and sewerage:

9. Gas. Based on _____ days, the local utility has estimated a cost of \$_____ to heat the club room and common elements which are separately metered. In addition, the pool heater and hot water for showers and the cabana at the pool will cost an additional \$_____.

10. Electric. Electricity for the club room and cabana will be run through the common meter used for miscellaneous exterior lighting and power needs. This budget line also includes the electric utility charges to the Association for operating lighting standards along the drives, parking courts and pathways. These estimates were made by the Electric Company service representative in evaluating the common lighting, miscellaneous common power needs, and corridor supplemental lighting that will be needed and billed through the Association's common meter.

11. Water and Sewer. Quarterly water consumption figures for the Units were obtained from the local water authority. The local water authority expects that as of the next fiscal year, the water rate will be at \$_____ per one thousand gallons. Based upon meter readings for the preceding two years in a neighboring project similar to this one, it is anticipated that _____ gallons will be used for the next fiscal year. The budget is established accordingly, based upon current water rates. Sewer rates are based upon a factor of four times the winter usage multiplied by a charge of \$_____ (ie. \$.0056 per gallon). The sewer authority assumes that all of the water used during the winter runs into the sewer.

12. Trash and Garbage Removal. The present contract with a Refuse Company provides for twice weekly pickup from a maximum of two cans per Unit at \$_____ per Unit per month. The company has informed the Association that at the expiration of its present contract, it will increase its rate to \$_____ per Unit per month. The Association has taken comparative bids from other refuse companies, and this bid still appears to be appropriate. The Refuse Company is also charging \$_____ month for recyclable glass, aluminum, paper and household waste which must be in separate containers. The refuse bill, thus, is established at \$_____.

13. Exterminating. The present contract with Termite and Pest Control calls for semi-annual inspection and for spraying of individual Units as needed. The fee is \$_____ per month, with no signs of imminent increase. The expense, therefore, is established at the same rate as in the preceding year.

14. Supplies. Certain equipment will have to be replaced, including deck chairs and life-saving equipment. Since these items are expensed, the cost is included in this line. The estimate is \$_____ for these items. Other miscellaneous supplies include Pool chemicals not included in the pool contract, at \$_____, Rakes and grounds equipment at \$_____, and Miscellaneous supplies at \$_____.

15. Decorating. This category includes relatively minor nonreserve funded items which are expected to occur on a regular basis. Some one-time irregularly occurring items are also included. This year the Association will commence painting a portion of the exterior of the buildings and one of the corridors. There is no reserve established for painting in the budget because putting those funds into reserves would make the setting aside of this particular fund taxable if the Association elects not to make an IRC Sec 528 tax exempt election. Therefore, the Association has chosen to establish the painting program in such a way that a portion of the exterior of the buildings are painted every year. This eliminates the need for a reserve contribution.

16. Cleaning Expenses and Supplies. This year the Association expects to spend \$_____ on carpet and resilient tile cleaning through a Cleaning Service. Windows will be washed twice on the exterior of Units and the interior of the common element areas for a firm bid from a Window Service of \$_____ for the year.

17. Snow Removal. It is assumed that there will be () two-to-ten-inch snows during the next fiscal year and () ten-to-twenty-four inch snow storms. \$. \$ per 2-10 inch snow fall and \$ per 10-24 inch snow fall is budgeted to clear drives and parking areas and to blow snow off sidewalks. This figure is based on a contract with a Landscape or Snow Removal Contractor, who has agreed to provide snow plowing and has supplied this figure.

18. Building Maintenance and Repairs. These items require replacement this year, but the Association has decided to fund their replacement from the regular budget rather than using the capital reserve, which will be saved for the major items with longer lives. The item _____ requires replacement every five years, so the Association is electing to replace one-fifth of the cost per year from the regular budget. With respect to item _____, the Association does not have enough set aside in the regular reserve program and is supplementing the reserve contribution from the budget.

19. Elevator Maintenance. Based upon a contract with an Elevator Service, the elevator contract is for annual servicing and for regular repairs on an emergency basis and is \$_____ per year. This particular fee will be levied as part of the special charges against those Units which are served by the elevators.

20. Heating and Air Conditioning Maintenance and Repairs. Based upon a service contract with an Air Heating and Air Conditioning Service, the line item is \$_____.

21. Pool Maintenance and Repairs. A Pool Company will be providing the pool contract, including cleaning, regular testing, and making all reports to the health officer. Its fee will be \$_____, plus it estimates \$_____ for supplies other than those extras that the Association is purchasing on the open market. They have estimated an additional cost of \$_____ for repainting and opening the pool in the spring.

22. Parking Lot Maintenance and Repairs. Funds budgeted in this category are for maintenance and repairs which can be anticipated on a continuing basis, which are reasonably minor, and which occur regularly. Major repairs and replacements which are expected less often than annually are dealt with by setting aside certain amounts in a reserve fund. General maintenance items include fixing potholes, restriping a third of the parking spaces per year and repair of guard rails and bumper curbs.

23. Landscaping, Gardening and Yard Maintenance and Repairs. The estimate for this expenditure is based on an estimate of the kinds of grounds maintenance services contained in the Association's contract with a Landscape Contractor for the previous fiscal year in a neighboring project. The proposed services include lawn mowing (approximately 20 times/year), mulching of tree beds (once/year), deep root feeding of trees (once a year and touch up), fertilization of lawn areas (twice/year), and spraying and over-seeding of the play lawn in the vicinity of the tennis court (twice/year). This category also includes some general ground repairs, such as patching cracked cement, minor grass repairs, painting and repairing fences and maintaining and repairing the pool deck. These figures are based upon a reasonable estimate of the repairs that can be anticipated.

24. Cable TV. A cable TV provider is currently charging the Association \$_____ per Unit per month for basic CATV service. The movie service is an optional extra paid for by the individual Unit Owner. Based upon notice from the provider that the service will be increased to \$_____ per Unit per month, the Association has budgeted CATV service at that level.

25. Electrical Repairs and Fixtures. This category has been estimated to be \$_____, based on replacement of the pool area lighting and normal bulb and fixture repair and replacement not covered by the lighting contract.

26. Other. The sign will have to be replaced this year. No reserve has been established for it. A bid of \$_____ has been given by a Sign Company to replace the sign board and the light fixtures and to repair the base.

An operating reserve or contingency line has been included as a normal precautionary measure. The Association utilizes a contingency fund amounting to three percent of the assessment income in planning new associations; however, as two years of operating experience has reduced the unknowns somewhat, and various repair and maintenance categories have been conservatively estimated, the Association feels that a one-and-one-half-percent operating reserve is in order. At the end of a given year, if this money has not been spent, it can be allocated as additional income from the preceding year to the

succeeding year's income without having to pay taxes on the excess of income over expenses for the year. If the contingency fund is insufficient, after transfer of control of the Executive Board, it is expected that the Association can draw from the operating capital reserve and replace the reserve money with an allocation from the next years' budget.

27. Salaries. One and a half handypersons will be employed, at a cost of \$_____, including benefits at 35 percent of base salary. Leaf rakers will be employed during the fall from a temporary manpower service, at a cost of \$_____. A Life Guard will be employed during the summer for a cost of \$_____, including benefits.

28. Other Taxes and Assessments. \$_____ will be collected and disbursed for the sales and service tax.

29. Licenses and Permits. The pool inspection fee will be \$_____.

30. Insurance. See breakdown. The premium shown on this line includes the cost of all the forms of insurance coverage contained in the Association's insurance package as required by the Declaration. This package includes fire and extended coverage applicable to real property, comprehensive liability and personal injury, several additional liability coverages and a blanket fidelity bond. Several of these items, such as directors' and officers' liability, are most appropriately administrative expenses, while the bulk of the premium covers loss to real property, such as physical mishap to one or more units. Pursuant to CCIOA, since the building contains horizontal boundaries, the fire and extended coverage includes all buildings and improvements on the property excluding fixtures and installations installed at the Unit Owner's expense. The package does not include coverage of the Unit Owner's personal belongings (furnishings, etc.). The premium was obtained from an Insurance Agency.

33-39. Replacement Reserves--General. The process of setting reserve requirements is complicated by future uncertainties. Renovation and replacement costs can vary significantly with the locale, time of year and number and type of contractors who bid on a particular job. The effect of these factors cannot be accurately predicted, and the best the Association can do is utilize an average or expected replacement cost. The life of any facility, or the number of years before it will need major renovations or replacement, can also vary significantly. Taking these factors into account, however, it is the determination of the Executive Board that utilizing average replacement costs, expected lifetimes and base reserve amounts equal to replacement costs/expected lifetime is a sound starting point for calculating reserve requirements. Cumulative inflation factors have been applied to base reserve amounts merely by increasing the reserve amount each year and accumulating after tax interest. It is assumed that some income will be generated from reserve account investments, and there will, therefore, be a reasonable, anticipated inflation factor. The life of specific components can be indefinitely extended, or unexpectedly shortened, depending on the regular, preventive maintenance program. By virtue of the fiscal strength provided in CCIOA, these costs can also be paid for by borrowing, as well as by levying special assessments. These particular sources of income should be anticipated as part of the establishment of the reserve program. Thus, these reserves will not replace 100 percent of the improvements but are still adequate.

34 and 35. Roof and Siding. This particular program of Repair and Replacement Reserves is established with respect to the individual building components on the same basis as Repair and Replacement Reserves are established for the land in the general Common Element services described in paragraphs 33-39 above. Other medium-term capital components, such as corridor carpeting, pool furniture and equipment and the like will be expensed out of annual assessment when they deteriorate.

Although the Declaration establishes decks, patios and stoops and the elevator to the penthouse and other Units as specific Limited Common Elements allocated to particular Units, the Association is obligated to maintain them because they are Common Elements. The Association is beginning to set aside reserves for those particular items. However, the total amounts allocated to these reserves are billed as part of the special charges allocated specifically to certain Units and not in proportion to their Allocated Interests.

40. Income. Income from general common expense assessments was calculated by taking the expenses less other income described below, dividing it by the total number of Allocated Interest shares in the Common Expenses, dividing it by 12 to develop an average, monthly income per share, and then multiplying it by the number of shares attributed to each unit to establish the monthly charge per unit.

41. Other income. Other Assessment income is based upon two principal assessment sources: Special Unit assessments at a total of \$_____ for charges for maintenance of certain Limited Common Elements, principally the elevator, charged to the penthouse and other Units only, and the decks, patios and stoop reserve, charged to specific units. Additionally, there is anticipated miscellaneous income from interest on reserves. There will be income from fines, damage reimbursement and service fees. The service fees will be balanced by expenses directly attributable to the income from the service fees, and, for this reason, they are not indicated in the budget.