

Book: 868 Page: 5238



Debra J. Register
Register of Deeds
Riley County, Kansas
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Riley County Scanning Label

**FIRST AMENDMENT TO THE AMENDED AND RESTATED BYLAWS
OF
WESTBANK TOWNHOMES ASSOCIATION, INC.**

THIS FIRST AMENDMENT is made on the date provided below by the "Association Members," of Westbank Townhomes Association, Inc., a Kansas Corporation.

KNOW ALL MEN BY THESE PRESENT:

WHEREAS, certain real property legally described on Exhibit "A" attached hereto was made subject to those certain Bylaws of Westbank Townhomes Association, Inc. (hereinafter the "Bylaws"), which were subsequently amended and restated on November 27, 2012 and recorded in Book 868, Page 3320 in the office of the Riley County, Kansas Register of Deeds on October 19, 2016; and

WHEREAS, the Association Members desire to amend the Bylaws to place certain restrictions upon the leasing of "Townhouse Units," as that term is defined in the Declaration of Covenants, Conditions, and Restrictions for Westbank Townhomes Declaration (the "Declaration").

NOW, THEREFORE, in consideration of the premises and for the purposes above set forth, the Association Members hereby declare, agree, restrict, and covenant that the use, enjoyment, and ownership of the Townhouse Units shall be and are hereby restricted, limited, conditioned, and protected and such restrictions, limitations, conditions, and protections shall be binding upon all parties having right, title, or interest in any Townhouse Unit or any portion thereof, their heirs, successors, and assigns, and shall inure to the benefit of and be the responsibility of each Association Member as follows:

1. Article IX shall be amended to read as follows:

**Article IX
Selling, Leasing, and Mortgaging of Townhouse Units**

Section 1. *Selling.* No Townhouse Unit Owner shall sell a Townhouse Unit without complying with the following provisions:

- (a) Any deed to an outside offeror shall provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the Bylaws, and the Rules and Regulations as they may be amended from time to time.

(b) No provision of this section shall be construed as to impair any mortgagee's right to: (i) foreclose on its mortgage; (ii) accept a deed from the Townhouse Unit Owner in lieu of foreclosure; or (iii) sell or lease a unit acquired by the mortgagee.

Section 2. *Conveyance by Townhouse Unit Owner; Restrictions.* Any Townhouse Unit Owner shall be free to convey or transfer his or her Unit by gift, to devise his or her Unit by will, or to have his or her Unit passed by intestacy without restriction; provided, however, that each succeeding Townhouse Unit Owner shall be bound by, and his or her Unit subject to the provisions of this Article.

Section 3. *Payment of Assessments.* No Townhouse Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate, or lease his Unit unless and until he or she shall have paid in full to the Board of Directors all unpaid common charges theretofore assessed by the Board of Directors against his or her Unit and until he or she shall have satisfied all unpaid liens against such Unit except permitted mortgages.

Section 4. *Mortgage of Unit Subject to Preceding Section 3.* Each Townhouse Unit Owner shall have the right to mortgage his or her Unit without restriction; provided, however, that he or she complies with the provisions of Kansas law concerning execution of said mortgage.

Section 5. *Leasing.* No Townhouse Unit, or any portion thereof, may be leased at any given time to a Third Party. For purposes of this provision, "Third Party" shall be defined as any Person who is not a Townhouse Unit Owner as that term is defined in the Declaration.

2. All other terms and conditions of the Bylaws shall remain in full force and effect.

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CERTIFICATION

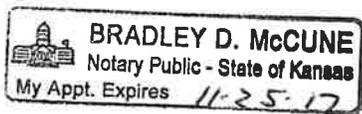
I, Melvin L. Chastain, Secretary of the Westbank Townhomes Association, Inc., hereby certify that the above and foregoing is a true and complete copy of the First Amendment to the Amended and Restated Bylaws of Westbank Townhomes Association, Inc., pertaining to the real estate described on Exhibit "A" attached hereto, as amended, restated, and adopted by the Association Members as of the 26 day of October, 2016.

Melvin L. Chastain, Secretary
Melvin L. Chastain, Secretary

STATE OF KANSAS, COUNTY OF RILEY, ss:

BE IT REMEMBERED that on this 26th day of OCTOBER, 2016, before me, the undersigned, a Notary Public in and for the county and state aforesaid, came Melvin L. Chastain, Secretary of Westbank Townhomes Association, Inc., said person being known to me to be the party who signed the Certification for the foregoing Amended and Restated Bylaws and said person acknowledged the execution of the same as his voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year above written.



Bradley D. McCune
Notary Public

My appointment expires:

Exhibit "A"

Lots 1A, 1B, 2A, 2B, 10, and all Common Areas in Unit 2 of the Westbank Townhomes addition to the City of Manhattan, Riley County, Kansas

Lots 3A, 3B, 4A, 4B, and 4C in Unit 3 of the Westbank Townhomes addition to the City of Manhattan, Riley County, Kansas

Lots 5A, 5B, 6A, 6B, and 6C in Unit 4 of the Westbank Townhomes addition to the City of Manhattan, Riley County, Kansas

Lots 7, 8A, 8B, 9A, and 9B in Unit 5 of the Westbank Townhomes addition to the City of Manhattan, Riley County, Kansas



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AMENDED AND RESTATED BYLAWS

OF

WESTBANK TOWNHOMES ASSOCIATION, INC.

ARTICLE I

Name, Offices and Definitions

Section 1. *Name.* The name of the corporation is Westbank Townhomes Association, Inc. (hereinafter the "Association").

Section 2. *Definitions.* The capitalized words and terms used but not otherwise defined herein shall be deemed to have the same meanings as are given those words and terms in the Declaration for Westbank Townhomes which was recorded on July 8, 1999, in the office of the Register of Deeds of Riley County, Kansas in Book 761, Page 953 (the "Declaration"), and as stated in the Kansas Townhouse Ownership Act, K.S.A. 58-3701 through 58-3713, as such act may be amended from time to time, and which is hereinafter referred to as the Townhouse Ownership Act, unless the context otherwise requires.

Section 3. *Principal Office.* The principal office of the Association shall be located at the clubhouse at 4841 Rockridge Court, in the City of Manhattan, County of Riley, State of Kansas 66503.

Section 4. *Other Offices.* The Association may also have offices at such other places both within and without the State of Kansas as its board of directors may from time to time determine or the business of the Association may require.

ARTICLE II

Membership

Section 1. *Membership.* Each Townhouse Unit Owner which is subject to assessment or subject to payment of maintenance expenses pursuant to the Declaration shall be a Member of the Association. When more than one person holds an interest in a Townhouse Unit, all such persons shall be Association Members. The vote for such Townhouse Unit shall be exercised as such persons shall, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Townhouse Unit.



ARTICLE III Meetings of Members

Section 1. *Annual Meetings.* Annual meetings of the Association Members shall be held on the 15th day of November of each calendar year (unless otherwise designated by the Board of Directors), or if that day shall be a legal holiday, on the next succeeding day not a legal holiday, at which meeting the Association Members shall elect a Board of Directors and transact such other business as may be properly brought before the meeting.

Section 2. *Place of Meetings.* Meetings of the Association Members shall be held at the principal office of the Association or at such other suitable place convenient to the Association Members as may be designated by the Board of Directors.

Section 3. *Special Meetings.* Special meetings of the Association Members then entitled to vote, for any purpose or purposes, unless otherwise prescribed by law or by the Articles of Incorporation, may be called by the President, by a majority of the Board of Directors, or upon the written request of the Association Members holding not less than 10% of the votes of the Association. Such request shall state the purpose or purposes of the meeting, as described in Section 4 of this Article III. Business transacted at any special meeting of the Association members shall be limited to the purposes stated in the notice.

Section 4. *Notice.* Written notice of each meeting of the Association Members stating the place, date and hour of the meeting and the purpose or purposes for which the meeting is called, shall be delivered or given to each Association Member then entitled to vote not less than 10 nor more than 30 days before the date of the meeting. If mailed, notice shall be deemed to have been given when deposited in the U.S. Mail, postage prepaid, directed to the Association Member at his or her address as it appears on the records of the Association. Attendance of an Association Member then entitled to vote at a meeting shall constitute a waiver of notice of such meeting, except when the Association Member attends a meeting for the express and exclusive purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened.

Section 5. *Quorum.* The presence in person or by proxy of the Association Members entitled to vote a majority of the votes of the Association shall constitute a quorum at all meetings of the Association Members for the transaction of business except as otherwise provided by law or by the Articles of Incorporation. If, however, such quorum shall not be present or represented at any meeting of the Association Members, the Association Members then entitled to vote at any meeting, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented; provided, however, if the adjournment is for more than 30 days, or if after the

adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Association Member of record then entitled to vote at the meeting. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 6. *Action by Association Members.* When a quorum is present at any meeting, the vote of a majority of the votes of the Association present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which by expressed provision of law or of the Articles of Incorporation, a different vote is required, in which case, such express provision shall govern and control a decision on such question.

Section 7. *Voting.* All Townhouse Unit Owners shall be entitled to one vote for each Townhouse Unit owned. When more than one person holds an interest in any Townhouse Unit, all such persons shall be Association Members. The vote for such Townhouse Unit shall be exercised as such persons shall, among themselves, determine, but in no event shall more than one vote be cast with respect to any Townhouse Unit.

Section 8. *Informal Action by Association Members.* Any action required to be taken at any annual or special meeting of the Association Members, or any action which may be taken at any annual or special meeting of such Association Members, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the actions so taken, shall be signed by all of the Association Members then entitled to vote with respect to the subject matter thereof. Such agreement or consent shall be filed with the Secretary in the minute book of the Association.

ARTICLE IV Directors

Section 1. *Management of Association.* The business of the Association shall be managed by its Board of Directors which may exercise all such powers of the Association and do all such lawful acts and things which are required by statute, the Declaration, the Articles of Incorporation, or these Bylaws.

Section 2. *Number and Term.* The initial number of Directors which shall constitute the whole Board shall be two (2). Thereafter, the number of Directors shall be not more than seven (7), and shall be determined by resolution adopted by a vote of the Association Members. The Directors shall be elected at the annual meeting of the Association Members and each Director elected shall hold office until his or her resignation, his or her removal, or the end of a three-year term, whichever first occurs. There shall be no limit on successive three-year terms of a Director.

Section 3. *Meetings of the Newly Elected Board.* The first annual meeting of each newly

elected Board of Directors shall be held (i) at such time and place either within or without the State of Kansas immediately after the meeting of Association Members at which such newly elected Board was elected, provided a quorum shall be present, or (ii) if a quorum shall not be present, at such time and place as shall be consented to in writing by a majority of the newly elected Directors, as provided herein, or (iii) at such time and place as shall be consented to in writing by all of the newly elected Directors. A meeting held under this Section shall be open to the Association Members except for executive sessions of the Board, and Association Members shall be given a reasonable opportunity to comment regarding any matter affecting the properties and the Association. A meeting held under this Section may be held only after notification to the Directors and Association Members at least five (5) days in advance of the meeting, unless the meeting is either an emergency or in a schedule previously given to the Association Members. The notice may be given by any officer having authority to call the meeting. Such notice must include the time, date, place, and agenda for the meeting. If mailed, such notice shall be deemed to be delivered when it is deposited in the United States mail with postage thereon addressed to the recipient at his or her residence or usual place of business. Copies of materials distributed to the Board, except for unapproved minutes or materials for executive sessions, must be reasonably available to all Association Members.

Every Director of the Association, upon his or her election, shall qualify by being at least twenty-one (21) years of age and by accepting the office of Director. Such person's attendance at, or written approval of the minutes of, any meeting of the Board subsequent to his or her election shall constitute his or her acceptance of such office; or he or she may execute such acceptance by a separate writing, which shall be placed in the minute book.

Section 4. *Regular Meetings.* Regular meetings of the Board of Directors shall be held at least annually, or more often as determined in the sole discretion of the Board, at such time and at such place, either within or without the State of Kansas, as shall from time to time be determined by resolution of the Board. A meeting held under this Section shall be open to the Association Members except for executive sessions of the Board, and Association Members shall be given a reasonable opportunity to comment regarding any matter affecting the properties and the Association. A meeting held under this Section may be held only after notification to the Directors and Association Members at least five (5) days in advance of the meeting, unless the meeting is either an emergency or in a schedule previously given to the Association Members. The notice may be given by any officer having authority to call the meeting. Such notice must include the time, date, place, and agenda for the meeting. If mailed, such notice shall be deemed to be delivered when it is deposited in the United States mail with postage thereon addressed to the recipient at his or her residence or usual place of business. Copies of materials distributed to the Board, except for unapproved minutes or materials for executive sessions, must be reasonably available to all Association Members.

Section 5. *Special Meetings.* Special meetings of the Board of Directors may be called at any time by the President or by any two (2) or more of the Directors. The place may be within or without the State of Kansas as designated in the Notice. A meeting held under this Section shall be

open to the Association Members except for executive sessions of the Board, and Association Members shall be given a reasonable opportunity to comment regarding any matter affecting the properties and the Association. A meeting held under this Section may be held only after notification to the Directors and Association Members at least five (5) days in advance of the meeting, unless the meeting is either an emergency or in a schedule previously given to the Association Members. The notice may be given by any officer having authority to call the meeting. Such notice must include the time, date, place, and agenda for the meeting. If mailed, such notice shall be deemed to be delivered when it is deposited in the United States mail with postage thereon addressed to the recipient at his or her residence or usual place of business. Copies of materials distributed to the Board, except for unapproved minutes or materials for executive sessions, must be reasonably available to all Association Members.

Section 6. *Executive Sessions.* The Board of Directors and committees of the Association may hold an executive session only during a regular or special meeting of the Board or a committee. Executive sessions need not be open to Association Members. No final vote or action may be taken during an executive session. An executive session may be held only to (1) consult with the Association's attorney concerning legal matters, (2) discuss existing or potential litigation or mediation, arbitration, or administrative proceedings, (3) discuss labor or personnel matters, (4) discuss contracts, leases, and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the Association at a disadvantage, or (5) prevent public knowledge of the matter to be discussed if the Board of Directors or committee determines that public knowledge would violate the privacy of any person.

Section 7. *Meetings by Conference Telephone or Similar Communications Equipment.* The Directors or any committee designated by the Board may meet by means of telephonic, video, or other conferencing process provided that (1) the meeting notice also states the conferencing process to be used and provides information explaining how Townhouse Unit Owners may participate in the conference directly or by meeting at a central location or conference connection; and (2) the process provides all Townhouse Unit Owners the opportunity to hear or perceive the discussion and to comment regarding any matter affecting the properties and the Association. Participation in a meeting pursuant hereto shall constitute presence in person at such meeting.

Section 8. *Quorum.* At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute, by the Declaration or by the Articles of Incorporation. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 9. *Designation of Committees.* The Board of Directors may, by resolution passed by a majority of the whole Board, designate one or more committees which may consist of one or more of the Directors. The Board may designate alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence of disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Association, and may authorize the seal of the Association to be affixed to all papers which may require such seal; but no such committee shall have the power or authority in reference to amending the Articles of Incorporation, adopting an agreement of merger or consolidation, recommending to the Association members the sale, lease, or exchange of all or substantially all of the Association's property and assets, recommending to the Association Members a dissolution of the Association or a revocation of a dissolution, or amending the Bylaws of the Association. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors.

Section 10. *Minutes of Committee Meetings.* Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

Section 11. *Compensation of Directors.* Directors shall not receive any stated salary for their services as Directors, but, by resolution of the Board, adopted in advance of, or after the meeting for which payment is to be made, a fixed fee, with or without expenses of attendance, may be allowed one or more of the Directors for attendance at each meeting. Nothing herein contained shall be construed to preclude any Director from serving the Association in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

Section 12. *Director Vacancies.* Any director vacancies, however created, may be filled by the Directors then in office for the unexpired portion of any term, even if less than a quorum, or by a sole remaining Director. The Directors so chosen shall hold office until the next annual election and until their successors are duly elected and qualified, unless sooner displaced. If there are no Directors in office, then an election of Directors may be held in the manner provided by statute.

Section 13. *Removal of Director.* One or more Directors, whether elected or appointed by the Board of Directors, may be removed from office, with or without cause, at any time by a majority of the votes of the Association, provided that the removal of any such Director was listed in the notice of the meeting and that the Director being considered for removal is given a reasonable opportunity to speak before the vote.

Section 14. *Resignations.* Any Director may resign at any time upon written notice to the Association. Such resignation shall take effect at the time specified therein or, if no time is specified therein, shall take effect upon receipt thereof by the Association, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

ARTICLE V Powers and Duties of Board of Directors

Section 1. *Powers and Duties.* In addition to the powers and duties set forth in the Declaration, the powers and duties of the Directors shall include, but shall not be limited to, the following, subject to the provisions of the Declaration and these Bylaws:

- (a) To make, collect, and use assessments against Association Members as provided in the Declaration.
- (b) To make and amend reasonable rules and regulations respecting the use of the properties, as provided by the Declaration. Before adopting, amending, or repealing any rule or regulation, the Board shall give all Association Members notice of (1) the Board's intention to adopt, amend, or repeal a rule or regulation and provide the text of the rule, regulation, or the proposed change, and (2) a date on which the Board will act on the proposed rule, regulation, or amendment after considering comments from Association Members. Following adoption, amendment, or repeal of a rule or regulation, the Association shall notify the Association Members of its action and provide a copy of any new or revised rule or regulation.
- (c) To enforce by legal means the provisions of the Townhouse Ownership Act and Kansas Uniform Common Interest Owners Bill of Rights Act, as amended, the Declaration, and these Bylaws and Regulations for the use of property in the townhouses.
- (d) To maintain bank accounts on behalf of the Association and designate signatories required therefor.
- (e) To purchase, lease, or otherwise acquire in the name of the Board of Directors or its designee on behalf of all Townhouse Unit Owners' units offered for sale or lease as surrendered to the Board of Directors by their owners.
- (f) To purchase units at foreclosure or other judicial sales.
- (g) To require that disputes between the Association and Townhouse Unit Owners or between two or more Townhouse Unit Owners regarding the properties be submitted to nonbinding alternative dispute resolution as a prerequisite to commencement of a judicial proceeding.

(h) To sell, lease, mortgage, or otherwise deal with Units acquired by and sublease Units leased by the Board of Directors or its designee on behalf of all Townhouse Unit Owners.

(i) To obtain and review insurance for the property, if necessary.

(k) To adjust and settle claims under insurance policies.

Section 2. *Executive Committee.* The Board of Directors may, by resolution duly adopted, appoint an Executive Committee to consist of two or more members of the Board of Directors. Said Executive Committee shall have and may exercise all the powers of the Board of Directors in the management of the business and affairs of the Association during the period between the meetings of the Board of Directors insofar as may be permitted by law, except that the Executive Committee shall not have power (a) to determine common expenses required for the affairs of Association, (b) to determine the common charges payable by Townhouse Unit Owners to meet to common expenses of the Association, (c) to adopt or amend the rules and regulations covering details of operation and use of the property, or (d) to exercise any powers reserved to the Board of Directors exclusively.

ARTICLE VI Officers

Section 1. *Designation.* The principal officers of the Association shall be the President, the Vice-President, the Secretary, and the Treasurer. Only the President and Vice-President need be Townhouse Unit Owners, both of whom also shall be members of the Board of Directors. All officers of the Association shall be at least twenty-one (21) years of age.

Section 2. *Election of Officers.* The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors and shall hold office at the pleasure of Board of Directors and until their successors are elected.

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

Section 4. *President.* The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Association Members and of the Board of Directors. He or she shall have all the general powers and duties which are incident to the office of the President of a stock corporation organized under the corporation laws of the State of Kansas.

Section 5. *Vice-President.* The Vice-President shall take the place of the President and perform his or her duties whenever the President shall be absent or unable to act. If neither the President or the Vice-President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in place of the President on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him or her by the Board of Directors or the President.

Section 6. *Secretary.* The Secretary shall keep the minutes of all meetings of Association Members and of the Board of Directors, shall have charge of such books and papers as the Board of Directors may direct, and shall, in general, perform all other duties incident to the office of Secretary of a stock corporation organized under the corporation laws of the State of Kansas.

Section 7. *Treasurer.* The Treasurer shall be responsible for the Association funds and securities and shall be responsible for keeping full and accurate financial records and books of accounts showing all receipts and disbursements necessary for the preparation of all required financial data. He or she shall be responsible for the deposit of all funds and securities in the name of the Board of Directors or the managing agent in such depositories as may, from time to time, be designated by the Board of Directors.

Section 8. *Execution of Documents.* All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by any two officers of the Association or by such other person or persons as may be designated by the Board of Directors.

Section 9. *Compensation of Officers.* No officers shall receive any compensation from the Association for acting as such.

Section 10. *Amendments to the Declaration.* Either the Secretary or any two officers of the Association may prepare, execute, certify, and record amendments to the Declaration on behalf of the Association.

ARTICLE VII

Assessment

The assessments levied by the Association pursuant to Article 8 of the Declaration shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Townhouse Units and for the improvement and maintenance of the Common Area, and of the Units situated thereon. The assessment shall be levied in such amounts so to include an adequate reserve fund for maintenance, repairs, and replacements.

ARTICLE VIII
Power and Authority of Association

The Association shall have all of the powers to generally do any and all things that a corporation organized under the laws of Kansas may lawfully do in operating for the benefit of its members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Declaration and these Bylaws, and to do any and all lawful things which may be authorized, required, or permitted to be done by the Association under and by virtue of the Bylaws and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association or for the peace, health, comfort, safety, and/or general welfare of the Townhouse Unit Owners and their guests.

ARTICLE IX
Selling, Leasing, and Mortgaging of Units

Section 1. *Selling and Leasing.* No Townhouse Unit Owner shall sell or lease a unit without complying with the following provisions:

(a) Any deed to an outside offeror shall provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the Bylaws, and the Rules and Regulations as they may be amended from time to time.

(b) Any lease executed in connection with the acceptance of any outside offer to lease a residential unit shall be consistent with these Bylaws and the Declaration and shall provide that it may not be assigned without prior consent in writing of the Board of Directors. The tenant shall not assign his or her interest in such lease or sublet the demised premises or any part thereof without the prior consent in writing of the Board of Directors. The Board of Directors shall have the power to terminate such lease and/or bring summary proceedings to evict the tenant in the name of the landlord thereunder in the event of a default by the tenant in the performance of its obligations under such lease.

(c) Any purported sale or lease of a residential unit in violation of this Section and the Declaration shall be voidable at the election of the Board of Directors and if the Board of Directors shall so elect, the Townhouse Unit Owner shall be deemed to have authorized and empowered the Board of Directors to institute legal proceedings to evict the purported tenant (in case of an unauthorized leasing) in the name of the Townhouse Unit Owner as the purported landlord.

(d) No provision of this section shall be construed as to impair any mortgagee's right to: (i) foreclose on its mortgage; (ii) accept a deed from the Townhouse Unit Owner in lieu of foreclosure; or (iii) sell or lease a unit acquired by the mortgagee.

Section 2. *Conveyance by Townhouse Unit Owner; Restrictions.* Any Townhouse Unit Owner shall be free to convey or transfer his or her Unit by gift, to devise his or her Unit by will, or to have his or her Unit passed by intestacy without restriction; provided, however, that each succeeding Townhouse Unit Owner shall be bound by, and his or her Unit subject to the provisions of this Article.

Section 3. *Payment of Assessments.* No Townhouse Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate, or lease his Unit unless and until he or she shall have paid in full to the Board of Directors all unpaid common charges theretofore assessed by the Board of Directors against his or her Unit and until he or she shall have satisfied all unpaid liens against such Unit except permitted mortgages.

Section 4. *Mortgage of Unit Subject to Preceding Section 3.* Each Townhouse Unit Owner shall have the right to mortgage his or her Unit without restriction; provided, however, that he or she complies with the provisions of Kansas law concerning execution of said mortgage.

ARTICLE X General Provisions

Section 1. *Prohibition of Dividends.* No dividends may be declared by the Board of Directors. The Association is a corporation not organized for profit under Kansas law, and no part of its net earnings or income shall be distributed to its Association Members.

Section 2. *Checks.* All checks or demands for money and notes of the Association shall be signed by the Treasurer or such officer or officers or such other person or persons as the Board of Directors may from time to time authorize.

ARTICLE XI Indemnification of Directors, Officers, Employees and Agents

Section 1. *Indemnification Generally.* The Association shall indemnify any Director, officer, employee or agent of the Association ("Indemnified Person") who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Association, by reason of the fact that the Indemnified Person is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, partner or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by the Indemnified Person in connection with such action, suit or proceeding, including

attorney fees, if the Indemnified Person acted in good faith and in a manner the Indemnified Person reasonably believed to be in or not opposed to the best interests of the Association; and, with respect to any criminal action or proceeding, had no reasonable cause to believe the Indemnified Person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the Indemnified Person did not act in good faith and in a manner which the Indemnified Person reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that the Indemnified Person's conduct was unlawful.

Section 2. *Indemnification in Derivative Actions.* The Association shall indemnify any Indemnified Person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that the Indemnified Person is or was the Developer or a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, partner or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses actually and reasonably incurred by the Indemnified Person in connection with the defense or settlement of such action or suit, including attorney fees, if the Indemnified Person acted in good faith and in a manner the Indemnified Person reasonably believed to be in, or not opposed to, the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue or matter as to which the Indemnified Person shall have been adjudged to be liable to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, the Indemnified Person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

Section 3. *Amount of Indemnification.* To the extent that an Indemnified Person has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 1 or 2 of this Article, or in defense of any claim, issue or matter therein, the Indemnified Person shall be indemnified against expenses actually and reasonably incurred in connection therewith, including attorney fees.

Section 4. *Standards for Discretionary Indemnification.* Any indemnification of an Indemnified Person by the Association pursuant to Section 1 or 2 of this Article, unless ordered by a court, shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Indemnified Person is proper in the circumstances because the Indemnified Person has met the applicable standard of conduct set forth in Sections 1 and 2 of this Article. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or even if obtainable, should a quorum of disinterested Directors so direct, by independent legal counsel in a written opinion, or (c) by vote of a majority of the Association Members having voting power.

Section 5. *Advances of Expenses.* Expenses incurred by an Indemnified Person in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Indemnified Person to repay such amount if it is ultimately determined that the Indemnified Person is not entitled to be indemnified by the Association as authorized in this Article.

Section 6. *Other Rights of Indemnified Person.* The indemnification and Advancement of expenses provided by, or granted pursuant to, the other sections of this Article shall not be deemed exclusive of any other rights to which an Indemnified Person seeking indemnification or advancement of expenses may be entitled under the Association Declaration, by any agreement, vote of Association Members or disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

Section 7. *Insurance.* The Association may purchase and maintain insurance on behalf of any Indemnified Person, including any person who is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, partner or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his status as such, whether or not the Association would otherwise be authorized to indemnify him or her against such liability under the provisions of this Article.

Section 8. *Definition of Association.* For purposes of this Article, references to “the Association” shall include, in addition to any board or committee, any constituent corporation, or other board or committee of a constituent absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers and employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this Article with respect to the resulting or surviving corporation as the Indemnified Person would have with respect to such constituent corporation if its separate existence had continued.

Section 9. *Definition of Other Enterprises.* For purposes of this Article, references to “other enterprises” shall include employee benefit plans; references to “fines” shall include, without limitation any civil money penalties imposed by any governmental agency and any excise taxes assessed on a person with respect to any employee benefit plan; and references to serving at the request of the Association shall include any services as a Director, officer, employee or agent of the Association which imposes duties on, or involves services by, the Indemnified Person with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner the Indemnified Person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the Association” as referred to in this Article.

Section 10. *Extent of Indemnification.* The indemnification and advancement of expenses provided by, or granted pursuant to, this Article shall continue as to an Indemnified Person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the Indemnified Person's heirs, executors and administrators, unless otherwise provided by provision of written contract between the Association and the Indemnified Person or by resolution adopted by the Association's Board of Directors at any time in its sole discretion, with respect to which resolution no notice need be given to the Indemnified Person. If the Indemnified Person performs services or duties for the Association which entitle the Indemnified Person to be indemnified or to receive advanced payment of expenses hereunder, and is at the same time also entitled to receive indemnification with respect to such services or duties from a third party, then the Association shall indemnify or advance only that portion of the Indemnified Person's expenses which the Indemnified Person has been unable to receive (after making a reasonable effort satisfactory to the Association) from the third party.

ARTICLE XII

Amendments

These Bylaws may be altered, amended, or repealed or new Bylaws may be adopted upon approval of not less than a majority vote of the Association Members at an annual or special meeting of the Association Members; no amendment shall be contrary to or supersede the provisions of the Declaration and the Articles of Incorporation.

ARTICLE XIII

Records

Section 1. *Inspection of Records.* The books, records, and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Association Member upon ten (10) days written notice, with an annual review by the Directors. The Declaration, the Articles of Incorporation, and the Bylaws shall be available for inspection by any Association Member at the principal office of the Association, where copies may be purchased at a reasonable cost.

Section 2. *Records Retained.* The Association shall retain copies of the following records for a period of five (5) years: (a) all receipts and expenditures; (b) minutes of all meetings except for executive sessions of the Board; (c) names of all Townhouse Unit Owners, in alphabetical order, with addresses; (d) the Association's Declaration, Bylaws, and rules and regulations; (e) names and addresses of current Directors; (f) the Association's most recent annual report, if any; (g) copies of current contracts to which the Association is a party; (h) records of architectural approvals, if any; and (i) ballots, proxies, and other records relating to voting Association Members for one (1) year



after the election, action, or vote to which they pertain. The Association must retain copies of all financial statements and tax returns for a period of three (3) years.

ARTICLE XIV

Miscellaneous

Section 1. *Construction.* The titles of the paragraphs and subparagraphs have been inserted as a matter of convenience and reference only, and shall not control or affect the meaning or construction of these Bylaws. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

Section 2. *Conflict with Association Declaration; Incorporation of Association Declaration Provisions in Bylaws.* These Bylaws are intended to be construed and interpreted in a manner consistent with the Declaration; however, if such consistency is not possible through reasonable construction and interpretation of these Bylaws, the provisions of the Declaration shall control. Any right, power, authority, discretion, or obligation granted, authorized, or imposed by the provisions of the Declaration shall be deemed to be so granted, authorized, or imposed to the same extent and with the same effect as if such provisions were set forth at length in these Bylaws.



CERTIFICATION

I, Ronald L. Madl, Secretary of the Westbank Townhomes Association, Inc., hereby certify that the above and foregoing is a true and complete copy of the Amended and Restated Bylaws of Westbank Townhomes Association, Inc., pertaining to the real estate described on Exhibit "A" attached hereto, as amended, restated, and adopted by the Association Members as of the 27th day of November, 2012.

Ronald L. Madl
Ronald L. Madl, Secretary

STATE OF KANSAS, COUNTY OF RILEY, ss:

BE IT REMEMBERED that on this 27th day of November, 2012, before me, the undersigned, a Notary Public in and for the county and state aforesaid, came Ronald L. Madl, Secretary of Westbank Townhomes Association, Inc., said person being known to me to be the party who signed the Certification for the foregoing Amended and Restated Bylaws and said person acknowledged the execution of the same as his voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year above written.

Karyl A. Croft
Notary Public

My appointment expires:

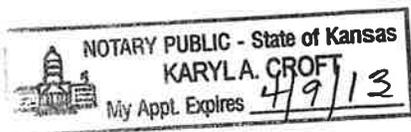


Exhibit "A"

Lots 1A, 1B, 2A, 2B, 10, and all Common Areas in Unit 2 of the Westbank Townhomes addition to the City of Manhattan, Riley County, Kansas

Lots 3A, 3B, 4A, 4B, and 4C in Unit 3 of the Westbank Townhomes addition to the City of Manhattan, Riley County, Kansas

Lots 5A, 5B, 6A, 6B, and 6C in Unit 4 of the Westbank Townhomes addition to the City of Manhattan, Riley County, Kansas

Lots 7, 8A, 8B, 9A, and 9B in Unit 5 of the Westbank Townhomes addition to the City of Manhattan, Riley County, Kansas

BYLAWS
OF
WESTBANK TOWNHOMES ASSOCIATION, INC.

ARTICLE I
Name, Offices and Definitions

Section 1. *Name.* The name of the corporation is Westbank Townhomes Association, Inc. (hereinafter the "Association").

Section 2. *Definitions.* The capitalized words and terms used but not otherwise defined herein shall be deemed to have the same meanings as are given those words and terms in the Declaration for Westbank Townhomes which was recorded on July 8, 1999, in the office of the Register of Deeds of Riley County, Kansas in Book 761, Page 953 (the "Declaration"), and as stated in the Kansas Townhouse Ownership Act, K.S.A. 58-3701 through 58-3713, as such act may be amended from time to time, and which is hereinafter referred to as the Townhouse Ownership Act, unless the context otherwise requires.

The term "Declarant" shall refer to Westbank Development Corp., a Kansas Corporation.

Section 3. *Principal Office.* The principal office of the Association shall be located at 4828 Rockridge Court, in the City of Manhattan, County of Riley, State of Kansas 66503.

Section 4. *Other Offices.* The Association may also have offices at such other places both within and without the State of Kansas as its board of directors may from time to time determine or the business of the Association may require.

ARTICLE II
Membership

Section 1. *Membership.* Each Townhouse Unit Owner which is subject to assessment or subject to payment of maintenance expenses pursuant to the Declaration shall be a Member of the Association. When more than one person holds an interest in a Townhouse Unit, all such persons shall be Members. The vote for such Townhouse Unit shall be exercised as such persons shall, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Townhouse Unit.

ARTICLE III
Meetings of Members

Section 1. *Annual Meetings.* Annual meetings of the Association Members shall be held on the 15th day of November of each calendar year (unless otherwise designated by the Board of Directors), or if that day shall be a legal holiday, on the next succeeding day not a legal holiday, at which meeting the Members shall elect a Board of Directors and transact such other business as may be properly brought before the meeting.

Section 2. *Place of Meetings.* Meetings of the Members shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors.

Section 3. *Special Meetings.* Special meetings of the Association Members then entitled to vote, for any purpose or purposes, unless otherwise prescribed by law or by the Articles of Incorporation, may be called by the Declarant, by the President, by the Board of Directors, or upon the written request of the Members of the Association holding not less than 50% of the votes of the Association. Such request shall state the purpose or purposes of the meeting, as described in Section 4 of this Article III. Business transacted at any special meeting of the Association members shall be limited to the purposes stated in the notice.

Section 4. *Notice.* Written notice of each meeting of the Members of the Association stating the place, date and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered or given to each Association Member then entitled to vote not less than 10 nor more than 30 days before the date of the meeting. If mailed, notice shall be deemed to have been given when deposited in the U.S. Mail, postage prepaid, directed to the Association Member at his or her address as it appears on the records of the Association. Attendance of a Member of the Association then entitled to vote at a meeting shall constitute a waiver of notice of such meeting, except when the Association Member attends a meeting for the express and exclusive purpose of objecting at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened.

Section 5. *Quorum.* The presence in person or by proxy of the Members entitled to vote a majority of the votes of the Association shall constitute a quorum at all meetings of the Association Members for the transaction of business except as otherwise provided by law or by the Articles of Incorporation. If, however, such quorum shall not be present or represented at any meeting of the Association Members, the Members then entitled to vote at any meeting, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented; provided, however, if the adjournment is for more than 30 days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each Association Member of record then entitled to vote at the meeting. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have

been transacted at the meeting as originally notified.

Section 6. *Action by Association Members.* When a quorum is present at any meeting, the vote of a majority of the votes of the Association present in person or represented by proxy shall decide any question brought before such meeting, unless the question is one upon which by expressed provision of law or of the Articles of Incorporation, a different vote is required, in which case, such express provision shall govern and control a decision on such question.

Section 7. *Voting.* As contemplated by the Declaration, the Association shall have two classes of voting Members:

(a) **Class "A".** Class "A" Members shall be all Townhouse Unit Owners other than Declarant. Class "A" Members shall be entitled to one vote for each Townhouse Unit owned. When more than one person holds an interest in any Townhouse Unit, all such persons shall be Members. The vote for such Townhouse Unit shall be exercised as such persons shall, among themselves, determine, but in no event shall more than one vote be cast with respect to any Townhouse Unit.

(b) **Class "B".** Class "B" Members shall be the Declarant, which shall be entitled to 20 votes for each Townhouse Unit owned by the Declarant. Class "B" membership shall terminate on the happening of either of the following events, whichever occurs earlier:

(i) When the total votes outstanding in the Class "A" membership exceeds the total votes outstanding in the Class "B" membership; or

(ii) December 31, 2010.

Section 8. *Informal Action by Association Members.* Any action required to be taken at any annual or special meeting of the Association Members, or any action which may be taken at any annual or special meeting of such Association Members, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the actions so taken, shall be signed by all of the Association Members then entitled to vote with respect to the subject matter thereof. Such agreement or consent shall be filed with the Secretary in the minute book of the Association.

ARTICLE IV

Directors

Section 1. *Management of Association.* The business of the Association shall be managed by its Board of Directors which may exercise all such powers of the Association and do all such lawful acts and things which are required by statute, the Declaration, the Articles of Incorporation, or these Bylaws.

Section 2. *Number.* The initial number of Directors which shall constitute the whole Board shall be two (2). Thereafter, the number of Directors shall be not more than seven (7), and shall be determined by resolution adopted by a vote of the Association Members. The Directors shall be elected at the annual meeting of the Association Members, except as provided in Section 13 of this Article, and each Director elected shall hold office until his or her resignation, his or her removal, or his or her successor is elected and qualified, whichever first occurs.

Section 3. *Meetings of the Newly Elected Board; Notice.* The first annual meeting of each newly elected Board of Directors shall be held (i) at such time and place either within or without the State of Kansas immediately after the meeting of Association Members at which such newly elected Board was elected, and no notice of such meeting shall be necessary to the newly elected Directors in order legally to constitute the meeting, provided a quorum shall be present, or (ii) if a quorum shall not be present, at such time and place as shall be consented to in writing by a majority of the newly elected Directors, provided that written notice of such meeting shall be given to each of the other Directors in the same manner as provided in Section 6 of this Article IV with respect to the giving of notice for special meetings of the Board except that it shall not be necessary to state the purpose of the meeting in such notice, or (iii) at such time and place as shall be consented to in writing by all of the newly elected Directors.

Every Director of the Association, upon his or her election, shall qualify by accepting the office of Director, and his or her attendance at, or his or her written approval of the minutes of, any meeting of the Board subsequent to his or her election shall constitute his or her acceptance of such office; or he or she may execute such acceptance by a separate writing, which shall be placed in the minute book.

Section 4. *Regular Meetings.* Regular meetings of the Board of Directors may be held without notice at such time and at such place, either within or without the State of Kansas, as shall from time to time be determined by the Board and in any manner, including by means of conference telephone or similar communications equipment as provided in Section 7 of Article IV of these Bylaws, permitted under the Kansas Corporation Code, as amended.

Section 5. *Special Meetings.* Special meetings of the Board of Directors may be called at any time by the Declarant, the President, or by any two (2) or more of the Directors. The place may be within or without the State of Kansas as designated in the Notice, as described in Section 6 of this Article IV.

Section 6. *Notice of Special Meetings.* Written notice of each special meeting of the Board, stating the place, day and hour of the meeting and the purpose or purposes thereof, shall be mailed to each Director addressed to him or her at his or her residence or usual place of business at least three (3) days before the day on which the meeting is to be held, or shall be sent to him or her by telegram, or delivered to him or her personally, at least two (2) days before the day on which the meeting is to be held. If mailed, such notice shall be deemed to be delivered when it is deposited in the United States mail with postage thereon addressed to the Director at his or her residence or

usual place of business. The notice may be given by any officer having authority to call the meeting. Any meeting of the Board of Directors shall be a legal meeting without any notice thereof having been given if all Directors shall be present.

Section 7. *Meetings by Conference Telephone or Similar Communications Equipment.* The Directors or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant hereto shall constitute presence in person at such meeting.

Section 8. *Quorum.* At all meetings of the Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute, by the Declaration or by the Articles of Incorporation. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 9. *Informal Action by Directors.* Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board or committee, as the case may be, consent thereto in writing; and the writing or writings are filed with the minutes of proceedings of the Board or committee.

Section 10. *Designation of Committees.* The Board of Directors may, by resolution passed by a majority of the whole Board, designate one or more committees, each committee to consist of one or more of the Directors. The Board may designate one or more Directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence of disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Association, and may authorize the seal of the Association to be affixed to all papers which may require such seal; but no such committee shall have the power or authority in reference to amending the Articles of Incorporation, adopting an agreement of merger or consolidation, recommending to the Association members the sale, lease or exchange of all or substantially all of the Association's property and assets, recommending to the Association Members a dissolution of the Association or a revocation of a dissolution, or amending the Bylaws of the Association. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors.

Section 11. *Minutes of Committee Meetings.* Each committee shall keep regular minutes



of its meetings and report the same to the Board of Directors when required.

Section 12. *Compensation of Directors.* Directors shall not receive any stated salary for their services as Directors, but, by resolution of the board, adopted in advance of, or after the meeting for which payment is to be made, a fixed fee, with or without expenses of attendance, may be allowed one or more of the Directors for attendance at each meeting. Nothing herein contained shall be construed to preclude any Director from serving the Association in any other capacity as an officer, agent, employee, or otherwise, and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings.

Section 13. *Vacancies.* Any vacancies, however created, and newly created directorships resulting from any increase in the authorized number of Directors may be filled by a majority of the Directors then in office, even if less than a quorum, or by a sole remaining Director. The Directors so chosen shall hold office until the next annual election and until their successors are duly elected and qualified, unless sooner displaced. If there are no Directors in office, then an election of Directors may be held in the manner provided by statute. If, at the time of filling any vacancy or any newly created directorship, the Directors then in office shall constitute less than a majority of the whole Board (as constituted immediately prior to any such increase), the Declarant, in its discretion, may summarily fill any such vacancies or newly created directorships, or replace the Directors chosen by the Directors then in office.

Section 14. *Removal of Director.* One or more Directors, whether elected or appointed by the Directors, may be removed from office, with or without cause, at any time by a majority of the votes of the Association present at an election of Directors.

Section 15. *Resignations.* Any Director may resign at any time upon written notice to the Association. Such resignation shall take effect at the time specified therein or, if no time is specified therein, shall take effect upon receipt thereof by the Association, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

ARTICLE V

Powers and Duties of Board of Directors

Section 1. *Powers and Duties.* In addition to the powers and duties set forth in the Declaration, the powers and duties of the Directors shall include, but shall not be limited to, the following, subject to the provisions of the Declaration and these Bylaws:

(a) To make, collect, and use assessments against Members as provided in the Declaration.

(b) To make and amend reasonable regulations respecting the use of the property in the townhouses in the manner provided by the Declaration.

(c) To enforce by legal means the provisions of the Townhouse Ownership Act, the Declaration, and these Bylaws and Regulations for the use of property in the townhouses.

(d) To maintain bank accounts on behalf of the Association and designate signatories required therefor.

(e) To purchase, lease, or otherwise acquire in the name of the Board of Directors or its designee on behalf of all Townhouse Unit Owners' units offered for sale or lease as surrendered to the Board of Directors by their owners.

(f) To purchase units at foreclosure or other judicial sales.

(h) To sell, lease, mortgage, or otherwise deal with Units acquired by and sublease Units leased by the Board of Directors or its designee on behalf of all Townhouse Unit Owners.

(i) To obtain and review insurance for the property, if necessary.

(k) To adjust and settle claims under insurance policies.

Section 2. *Executive Committee.* The Board of Directors may, by resolution duly adopted, appoint an Executive Committee to consist of two or more members of the Board of Directors. Said Executive Committee shall have and may exercise all the powers of the Board of Directors in the management of the business and affairs of the Association during the period between the meetings of the Board of Directors insofar as may be permitted by law, except that the Executive Committee shall not have power (a) to determine common expenses required for the affairs of Association, (b) to determine the common charges payable by Townhouse Unit Owners to meet to common expenses of the Association, (c) to adopt or amend the rules and regulations covering details of operation and use of the property, or (d) to exercise any powers reserved to the Declarant or the Board of Directors exclusively.

ARTICLE VI Officers

Section 1. *Designation.* The principal officers of the Association shall be the President, the Vice-President, the Secretary, and the Treasurer, all of whom shall be elected by the Declarant until a Board of Directors is elected by the Members at the first annual meeting. Thereafter, only the President and Vice-President need be Townhouse Unit Owners, both of whom also shall be members of the Board of Directors.

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

office at the pleasure of Board of Directors and until their successors are elected.

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

Section 4. *President.* The President shall be the chief executive officer of the Association. He or she shall preside at all meetings of the Members and of the Board of Directors. He or she shall have all the general powers and duties which are incident to the office of the President of a stock corporation organized under the corporation laws of the State of Kansas.

Section 5. *Vice-President.* The Vice-President shall take the place of the President and perform his or her duties whenever the President shall be absent or unable to act. If neither the President or the Vice-President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in place of the President on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him or her by the Board of Directors or the President.

Section 6. *Secretary.* The Secretary shall keep the minutes of all meetings of Members and of the Board of Directors, shall have charge of such books and papers as the Board of Directors may direct, and shall, in general, perform all other duties incident to the office of Secretary of a stock corporation organized under the corporation laws of the State of Kansas.

Section 7. *Treasurer.* The Treasurer shall be responsible for the Association funds and securities and shall be responsible for keeping full and accurate financial records and books of accounts showing all receipts and disbursements necessary for the preparation of all required financial data. He or she shall be responsible for the deposit of all funds and securities in the name of the Board of Directors or the managing agent in such depositories as may, from time to time, be designated by the Board of Directors.

Section 8. *Execution of Documents.* All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by any two officers of the Association or by such other person or persons as may be designed by the Board of Directors.

Section 9. *Compensation of Officers.* No officers shall receive any compensation from the Association for acting as such.

ARTICLE VII

Assessment

The assessments levied by the Association pursuant to Article 8 of the Declaration shall be

used exclusively to promote the recreation, health, safety, and welfare of the residents in the Townhouse Units and for the improvement and maintenance of the Common Area, and of the Units situated thereon. The assessment shall be levied in such amounts so to include an adequate reserve fund for maintenance, repairs, and replacements.

ARTICLE VIII
Power and Authority of Association

The Association shall have all of the powers to generally do any and all things that a corporation organized under the laws of Kansas may lawfully do in operating for the benefit of its members, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Declaration and these Bylaws, and to do any and all lawful things which may be authorized, required, or permitted to be done by the Association under and by virtue of the Bylaws and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association or for the peace, health, comfort, safety, and/or general welfare of the Townhouse Unit Owners and their guests.

ARTICLE IX
Limitation of Restrictions on Declarant

Declarant is undertaking the work of constructing residential single family dwellings and incidental improvements upon the Townhouses, including within the subject property. The completion of that work and the sale, rental, and other disposal of said residential units is essential to the establishment and welfare of property as a residential community. In order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in these Bylaws shall be understood or construed to:

- (a) Prevent Declarant, its contractors, or sub-contractors from doing on the units or any part thereof, whatever is reasonably necessary or advisable in connection with the completion of said work; or
- (b) Prevent Declarant or its representative from erecting, constructing, and maintaining on any part or parts of the units, such structures as may be reasonably necessary for the conduct of its business of completing said work and establishing said property as a residential community and disposing of the same in parcels by sale, lease, or otherwise; or
- (c) Prevent Declarant from conducting on any part of the properties its business of completing said work and of establishing of said properties as a residential community and of disposing of said properties in parcels or townhouses by sales, lease, or otherwise; or
- (d) Prevent Declarant from maintaining such sign or signs on any of the properties

as may be necessary for the sale, lease, or disposition thereof.

Declarant shall have the right at any time prior to acquisition of title by grantee to establish additional easements, reservations, and rights of way to itself and its successors and assigns in any conveyance it or they may make of said property or any portion thereof. Declarant or the organization for whose benefit easements, reservations, and rights of way have been established shall have the right at any time to cut and remove any trees or branches or any other unauthorized object from such easements, reservations, and rights of way.

ARTICLE X

Selling, Leasing, and Mortgaging of Units

Section 1. *Selling and Leasing.* No residential Unit Owner, other than Declarant or its successor or assign, shall sell or lease a unit without complying with the following provisions:

(a) Any deed to an outside offeror shall provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the Declaration, the Bylaws, and the Rules and Regulations as they may be amended from time to time.

(b) Any lease executed in connection with the acceptance of any outside offer to lease a residential unit shall be consistent with these Bylaws and the Declaration and shall provide that it may not be assigned without prior consent in writing of the Board of Directors. The tenant shall not assign his or her interest in such lease or sublet the demised premises or any part thereof without the prior consent in writing of the Board of Directors. The Board of Directors shall have the power to terminate such lease and/or bring summary proceedings to evict the tenant in the name of the landlord thereunder in the event of a default by the tenant in the performance of its obligations under such lease.

(c) Any purported sale or lease of a residential unit in violation of this Section and the Declaration shall be voidable at the election of the Board of Directors and if the Board of Directors shall so elect, the Unit Owner shall be deemed to have authorized and empowered the Board of Directors to institute legal proceedings to evict the purported tenant (in case of an unauthorized leasing) in the name of the Unit Owner as the purported landlord.

(d) No provision of this section shall be construed as to impair any mortgagee's right to: (i) foreclose on its mortgage; (ii) accept a deed from the Unit Owner in lieu of foreclosure; or (iii) sell or lease a unit acquired by the mortgagee.

Section 2. *Conveyance by Unit Owner; Restrictions.* Any Unit Owner shall be free to convey or transfer his or her Unit by gift, to devise his or her Unit by will, or to have his or her Unit passed by intestacy without restriction; provided, however, that each succeeding Unit Owner shall be bound by, and his or her Unit subject to the provisions of this Article.

Section 3. *Payment of Assessments.* No Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate, or lease his unit unless and until he or she shall have paid in full to the Board of Directors all unpaid common charges theretofore assessed by the Board of Directors against his or her Unit and until he or she shall have satisfied all unpaid liens against such Unit except permitted mortgages.

Section 4. *Mortgage of Unit Subject to Preceding Section 3.* Each Unit Owner shall have the right to mortgage his or her Unit without restriction; provided, however, that he or she complies with the provisions of Kansas law concerning execution of said mortgage.

ARTICLE XI General Provisions

Section 1. *Prohibition of Dividends.* No dividends may be declared by the Board of Directors. The Association is a corporation not organized for profit under Kansas law, and no part of its net earnings or income shall be distributed to its Members.

Section 2. *Checks.* All checks or demands for money and notes of the Association shall be signed by the Treasurer or such officer or officers or such other person or persons as the Board of Directors may from time to time authorize.

ARTICLE XII Indemnification of Directors, Officers, Employees and Agents

Section 1. *Indemnification Generally.* The Association shall indemnify the Declarant, any Director, officer, employee or agent of the Association ("Indemnified Person") who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Association, by reason of the fact that the Indemnified Person is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, partner or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by the Indemnified Person in connection with such action, suit or proceeding, including attorney fees, if the Indemnified Person acted in good faith and in a manner the Indemnified Person reasonably believed to be in or not opposed to the best interests of the Association; and, with respect to any criminal action or proceeding, had no reasonable cause to believe the Indemnified Person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the Indemnified Person did not act in good faith and in a manner which the Indemnified Person reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had

reasonable cause to believe that the Indemnified Person's conduct was unlawful.

Section 2. *Indemnification in Derivative Actions.* The Association shall indemnify any Indemnified Person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that the Indemnified Person is or was the Developer or a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, partner or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses actually and reasonably incurred by the Indemnified Person in connection with the defense or settlement of such action or suit, including attorney fees, if the Indemnified Person acted in good faith and in a manner the Indemnified Person reasonably believed to be in, or not opposed to, the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue or matter as to which the Indemnified Person shall have been adjudged to be liable to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, the Indemnified Person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

Section 3. *Amount of Indemnification.* To the extent that an Indemnified Person has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 1 or 2 of this Article, or in defense of any claim, issue or matter therein, the Indemnified Person shall be indemnified against expenses actually and reasonably incurred in connection therewith, including attorney fees.

Section 4. *Standards for Discretionary Indemnification.* Any indemnification of an Indemnified Person by the Association pursuant to Section 1 or 2 of this Article, unless ordered by a court, shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the Indemnified Person is proper in the circumstances because the Indemnified Person has met the applicable standard of conduct set forth in Sections 1 and 2 of this Article. Such determination shall be made (a) by the Board of Directors by a majority vote of a quorum consisting of Directors who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or even if obtainable, should a quorum of disinterested Directors so direct, by independent legal counsel in a written opinion, or (c) by vote of a majority of the Association Members having voting power.

Section 5. *Advances of Expenses.* Expenses incurred by an Indemnified Person in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the Indemnified Person to repay such amount if it is ultimately determined that the Indemnified Person is not entitled to be indemnified by the Association as authorized in this Article.

Section 6. *Other Rights of Indemnified Person.* The indemnification and Advancement of expenses provided by, or granted pursuant to, the other sections of this Article shall not be deemed

exclusive of any other rights to which an Indemnified Person seeking indemnification or advancement of expenses may be entitled under the Association Declaration, by any agreement, vote of Association Members or disinterested Directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

Section 7. *Insurance.* The Association may purchase and maintain insurance on behalf of any Indemnified Person, including the Declarant or any person who is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, partner or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his status as such, whether or not the Association would otherwise be authorized to indemnify him or her against such liability under the provisions of this Article.

Section 8. *Definition of Association.* For purposes of this Article, references to "the Association" shall include, in addition to any board or committee, any constituent corporation, or other board or committee of a constituent absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers and employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under this Article with respect to the resulting or surviving corporation as the Indemnified Person would have with respect to such constituent corporation if its separate existence had continued.

Section 9. *Definition of Other Enterprises.* For purposes of this Article, references to "other enterprises" shall include employee benefit plans; references to "fines" shall include, without limitation any civil money penalties imposed by any governmental agency and any excise taxes assessed on a person with respect to any employee benefit plan; and references to serving at the request of the Association shall include any services as a Director, officer, employee or agent of the Association which imposes duties on, or involves services by, the Indemnified Person with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner the Indemnified Person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Association" as referred to in this Article.

Section 10. *Extent of Indemnification.* The indemnification and advancement of expenses provided by, or granted pursuant to, this Article shall continue as to an Indemnified Person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the Indemnified Person's heirs, executors and administrators, unless otherwise provided by provision of written contract between the Association and the Indemnified Person or by resolution adopted by the Association's Board of Directors at any time in its sole discretion, with respect to which resolution no notice need be given to the Indemnified Person. If the Indemnified Person performs services or duties for the Association which entitle the Indemnified Person to be indemnified or to receive advanced payment of expenses hereunder, and is at the same time also entitled to receive

indemnification with respect to such services or duties from a third party, then the Association shall indemnify or advance only that portion of the Indemnified Person's expenses which the Indemnified Person has been unable to receive (after making a reasonable effort satisfactory to the Association) from the third party.

ARTICLE XIII Amendments

These Bylaws may be altered, amended or repealed or new Bylaws may be adopted upon approval of not less than a majority of the Board of Directors or a majority vote of the Members; no amendment shall be contrary to or supersede the provisions of the Declaration and the Articles of Incorporation.

ARTICLE XIV Termination of any Responsibility of Declarant

In the event Declarant shall convey all of its rights, title, and interest in and to the real property described herein to any partnership, individual or individuals, or corporation or corporations, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, or corporation or corporations shall be obligated to perform all such duties and obligations of Declarant.

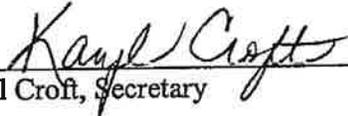
ARTICLE XV Miscellaneous

Section 1. *Construction.* The titles of the paragraphs and subparagraphs have been inserted as a matter of convenience and reference only, and shall not control or affect the meaning or construction of these Bylaws. Use of the masculine gender shall also be deemed to refer to the feminine gender and neuter gender and the singular to the plural unless the context clearly requires otherwise.

Section 2. *Conflict with Association Declaration; Incorporation of Association Declaration Provisions in Bylaws.* These Bylaws are intended to be construed and interpreted in a manner consistent with the Declaration; however, if such consistency is not possible through reasonable construction and interpretation of these Bylaws, the provisions of the Declaration shall control. Any right, power, authority, discretion, or obligation granted, authorized, or imposed by the provisions of the Declaration shall be deemed to be so granted, authorized, or imposed to the same extent and with the same effect as if such provisions were set forth at length in these Bylaws.

CERTIFICATION

I, Karyl Croft, Secretary of the Westbank Townhomes Association, Inc. hereby certify that the above and foregoing is a true and complete copy of the Bylaws of the Westbank Townhomes Association, Inc., pertaining to the real estate described on Exhibit "A" attached hereto, as adopted by the Directors as of the 9th day of February, 2004.

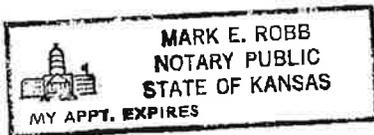


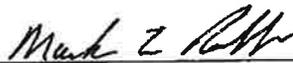
Karyl Croft, Secretary

STATE OF KANSAS, COUNTY OF RILEY, ss:

BE IT REMEMBERED that on this 30th day of May, 2004, before me the undersigned a Notary Public in and for the county and state aforesaid, came Karyl Croft, Secretary of Westbank Townhomes Association, Inc., said person being known to me to be the party who signed the foregoing Bylaws and said person acknowledged the execution of the same as her voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year above written.





Notary Public Mark E. Robb

My appointment expires: 11-4-2006

Exhibit "A"

Lots 1A-6B, 7, 8A-9B and Lot 10, Westbank Townhomes Additions to the City of Manhattan, Riley County, Kansas.

