

NORTH CAROLINA

DURHAM COUNTY

DECLARATION OF CONDOMINIUM FOR
COLONY HILL CONDOMINIUM I

77.1
This Declaration made this 25th day of July, 1973, by Colony Company, a partnership registered in Durham County, North Carolina, hereinafter called "Developer," pursuant to the provisions of the Unit Ownership Act contained in North Carolina General Statutes Chapter 47A.

The Developer hereby publishes and declares that the property hereinafter described shall be held, conveyed, leased, encumbered, used, occupied and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations which are in furtherance of the condominium plan and which shall be deemed to run with the title to the land binding upon Developer, its successors and assigns, and any person acquiring or owning any interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. Name. The name by which the condominium property hereinafter described shall be known is Colony Hill Condominium I, and located thereon are those certain buildings now designated as 3060, 3062, 3064 and 3084 Colony Road. The responsibilities of the association of unit owners as set forth herein or by statute for the operation of the condominium shall be carried out through an unincorporated association or a non-profit corporation known as the Colony Hill Condominium I Association, and hereinafter referred to as the "Association."

2. Description of Property. The property, together with the buildings and improvements now or hereafter placed thereon, which is subjected to this Declaration is generally located on the northerly side of Colony Road in the City of Durham, County of Durham, State of North Carolina, and is more particularly described in Exhibit 1-A attached hereto.

3. Description of Buildings and Unit Description. The location and designation of the buildings, the units (sometimes herein also called "apartments") therein and the common areas are as shown on the survey exhibit(s), identified as Exhibit No. 1, attached hereto and made a part of this Declaration.

The buildings known as 3060 and 3084 Colony Road are both two-story frame and stone veneer structures containing four townhouse apartments, each of which encompasses approximately 1960 square feet. Each of said apartments consists of a first floor with entry foyer, living room with fireplace, dining room, kitchen, half-bath, storage room and stairway inside and a patio outside, and a second floor with three bedrooms, two full bathrooms, hallway, utility room and study.

The building known as 3062 Colony Road is a two-story frame structure with an unheated partial basement and contains six townhouse apartments. The building known as 3064 Colony Road is a two-story frame structure with an unheated partial basement and contains four townhouse apartments. Each of said apartments encompasses approximately 1560 square feet of heated area and consists of an unheated storage room in the basement, a first floor with entry foyer, living room with fireplace, dining room, kitchen, den, half-bath and stairway inside, and a rear deck and steps to the ground outside, and a second floor with two bedrooms, two full bathrooms, hall and utility room.

In accordance with N. C. G. S. 47A-15 there is attached to this Declaration a copy of the plans for each of the aforesaid buildings bearing the verified certification of Samuel C. Hodges, Jr., A.I.A., that they are accurate copies of portions of those plans which were filed with the Building Inspection Department of the City of Durham.

The immediate common area to which each of the foregoing units has access is that porch or stoop and yard space which is directly in front and to the rear of the unit.

Each unit consists of that part of its respective building which lies within the boundaries of the unit, exclusive of interior load-bearing walls and

pillars, and any pipes, wires, conduits, ducts, vents and other service and utility lines utilized for or to serve more than one condominium unit.

The vertical boundaries of each unit shall be the perimeter walls, which walls shall be considered to include any door, window or other closure therein, and the boundary shall be the unfinished surface of such wall on the unit side to the effect that the unit shall include the paint, wallcovering, enamel, stain or other finish on such surface; additionally the boundary lines of each apartment are the exteriors of windows, glass doors and glass walls, or, where applicable, the metal screens for window and door openings. Where the unit consists, in part, of unenclosed space, the boundaries of such space shall be the unfinished surface on the inner side of the perimeter walls or railing and finished floor surfaces defining the space.

The horizontal boundaries of the heated area of each unit for each floor shall be for the lower portion the unfinished surface of the concrete or, in the absence thereof, plywood subfloor to the effect that the unit shall include the carpeting, hardwood flooring, or other finish floor covering and for the upper portion the unfinished surface of the lower side of the gypsum-board ceiling, except that where there is a stairway or other opening in the floor or ceiling, the boundary shall be the surface resulting from extensions of the aforementioned surfaces of the floor or ceiling, as the case may be. In addition, there shall be included as part of the apartments having same the basement storage room, the patio and the space above the deck and outside stairs.

4. Appurtenances, Limited Common Areas and Facilities and Common Areas and Facilities.

(a) As an appurtenance to each apartment, there is the permanent easement to use for pedestrian and vehicular travel and parking, that driveway and parking area near the unit as shown on the plat in Exhibit No. 1, which said area provides ingress and egress to Colony Road.

(b) The area from the ground to the lower side of a deck, and steps, porches or stoops leading to an apartment door are limited common areas reserved for the use of the apartment to which they are related.

(c) All other areas of the described property not within any units and not heretofore mentioned in this article shall be common areas; and all portions of any building or other improvement not included within a unit shall be a common facility. Without limiting the foregoing, some of the common areas and facilities include (a) all of the land within the condominium other than that which is a limited common area, (b) the foundations, outer walls, beams, roof trusses, roofs of each building. The common facilities shall include all installations, items and equipment for utility service to more than one apartment and shall also include tangible personal property required for the maintenance and operation of the condominium even though owned by the Association. The use of the term "common elements" in this document shall be synonymous with "common areas and facilities."

5. Ownership of Common Elements. Each of the unit owners of the condominium shall own an undivided interest in the common elements and limited common elements, and the undivided interest, stated as a percentage, of such ownership in the said common elements and limited common elements, is set forth on Exhibit No. 2 which is annexed to this Declaration and made a part hereof.

The fee title to each condominium parcel shall include both the condominium unit and the above respective undivided interest in the common elements, said undivided interest in the common elements to be deemed to be conveyed or encumbered with its respective condominium unit. Any attempt to separate the fee title to a condominium unit from the undivided interest in the common elements appurtenant to each unit shall be null and void.

Each apartment owner shall be liable for or entitled to that proportionate share of the common expenses or common profits which is equal to his undivided interest in the common elements. Unless changed as provided by present or future statute, this ratio shall remain regardless of the size, location or purchase price of the unit.

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Common expenses include

(a) Expenses of administration; expenses of maintenance, operation, repair or replacement of the common elements, and of the portions of apartments to be maintained by the Association.

(b) Expenses declared common expenses by provisions of this Declaration or the By-laws, or North Carolina statute.

(c) All sums lawfully assessed by the Association against the unit owners.

(d) Any valid charge against the condominium as a whole.

6. Maintenance, Alteration and Improvement. Responsibility for the maintenance of the condominium property, and restrictions upon the alteration and improvement thereof shall be as follows:

.1 Apartments.

(a) By the Association. The Association shall maintain, repair and replace at the Association's expense

(1) All common elements which shall include but not be limited to the outside walls of the apartment building and all fixtures on the exterior thereof, boundary walls of apartments, floor joists, subfloors and ceilings, load-bearing columns and load-bearing walls.

(2) All conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services which are contained in the portions of an apartment maintained by the Association; and all such facilities contained within an apartment which service part or parts of the condominium other than the apartment within which contained.

(3) All incidental damage caused to an apartment by such work shall be promptly repaired at the expense of the Association.

(4) Provided that the unit owners are members of the homeowners association and if the item of maintenance, repair or replacement is of the nature that would be provided by the homeowners association for its members, then unit owners shall call upon the homeowners association for such work. If under the rules of the homeowners association such work carries an additional assessment to the homeowners involved, such assessment shall be treated as a common expense.

(b) ^{unit} By the apartment owner. The responsibility of the apartment

owner shall be as follows:

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

(2) Not to paint or otherwise decorate or change the appearance of any portion of the exterior of the apartment building.

(3) To promptly report to the Association any defect or need for repairs the responsibility for the remedying of which is that of the Association.

(c) Alteration and Improvement. Neither an apartment owner nor the Association shall make any alterations in the portions of an apartment or apartment building which are to be maintained by the Association, or remove any portion thereof, or make any additions thereto, or do anything which would jeopardize the safety or soundness of the apartment building, or impair any easement, without first obtaining approval in writing of owners of all other apartments in the same building and the approval of the board of directors of the Association.

.2 Common Elements.

(a) By the Association. The maintenance and operation of the common elements shall be the responsibility of the Association; however, it may contract for any or all of these services to be carried out by the homeowners association. If the unit owners, as members of the homeowners association, are paying directly for such services, then the Association shall avoid a duplication of charges.

(b) Alteration and Improvement. After the completion of the improvements included in the common elements which are contemplated by this Declaration, there shall be no alteration, nor further improvement of common elements without prior approval of the Board of Directors of the Association.

7. Assessments. The making and collection of charges and assessments against apartment owners for common expenses shall be done pursuant to the By-Laws of the Association and the proportionate share for which each apartment owner is responsible is in accordance with his undivided interest in the common elements as set forth in Exhibit No. 2 attached hereto.

8. Association. The operation of the Condominium shall be by an unincorporated association or a non-profit corporation which shall be organized and act pursuant to the following provisions:

.1 Name. The name of the Association shall be Colony Hill Condominium I Association.

.2 Powers. The Association shall have all of the powers and duties set forth in N. C. G. S. 47A, except as limited by this Declaration and the By-Laws, and all of the powers and duties reasonably necessary to operate the Condominium as set forth in this Declaration and the By-Laws and as they may be amended from time to time.

.3 Members.

(a) Qualification. The members of the Association shall consist of all of the record owners of apartments.

(b) Change of Membership. Change of membership in the Association shall be established by recording in the public records of Durham County, North Carolina a deed or other instrument establishing a record title to an apartment in the Condominium and the delivery to the Association of a certified copy of such instrument, the owner designated by such instrument thereby becoming a member of the Association. The membership of the prior owner shall be thereby terminated.

(c) Voting rights. The members of the Association shall be entitled to cast a vote for each apartment owned by them, and the weight of each vote shall be in accordance with the percentage of the common elements which that apartment unit carries.

(d) Designation of Voting Representative. If an apartment is owned by one person his right to vote shall be established by the record title to his apartment. If an apartment is owned by more than one person, or is under lease, the person entitled to cast the vote for the apartment shall be designated by a certificate signed by all of the record owners of the apartment and filed with the secretary of the Association. If an apartment is owned by a corporation, the person entitled to cast the vote for the apartment shall be designated by a certificate of appointment signed by the president, vice president or secretary of the corporation and filed with the secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the apartment concerned.

(e) Approval or Disapproval of Matters. Whenever the decision of an apartment owner is required upon any matter, whether or not the subject of an Association meeting, such decision shall be expressed by the same person who would cast the vote of such owner if in an Association meeting, unless the joinder of record owners is specifically required by this Declaration or by North Carolina statute.

(f) Restraint upon Assignment of Shares in Assets. The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his apartment.

.4 Board of Directors. The affairs of the Association shall be conducted by a board of directors who shall be designated in the manner provided in the By-Laws.

.5 Indemnification. Every director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in

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connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer of the Association, or any settlement thereof, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the board of directors approves such settlement and reimbursement as being for the best interests of the Association. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

.6 Limitation upon Liability of Association. Notwithstanding the duty of the Association to maintain and repair parts of the Condominium property, the Association shall not be liable for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or by the elements or other owners or persons.

.7 The By-Laws of the Association shall be in the form attached hereto as Exhibit No. 3.

.8 Property in Trust. All funds and the titles of all properties acquired by the Association and the net proceeds thereof shall be held in trust for the members in accordance with the provisions of the Declaration of Condominium and the By-Laws.

.9 Organization. This Association shall have its initial organizational meeting upon fifteen (15) days written notice given by Colony Company after ten (10) units have been sold and occupied.

9. Use, Compliance and Waiver. The use of the units, buildings, improvements and other property is to be made in accordance with the Restrictions and other provisions stated in the By-Laws which are attached hereto as Exhibit No. 3.

present and future owners, tenants and occupants of units shall be subject to, and shall comply with the provisions of this Declaration, the By-Laws of the Association, and any rules and regulations as may be adopted in accordance with said By-Laws, as said Declaration, By-Laws, Rules and Regulations may be amended from time to time. The acceptance of a deed of any unit shall constitute an agreement that the provisions of this Declaration, By-Laws, and any rules and regulations which may be adopted are accepted and ratified by such owner, tenant or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though such provisions were made a part of each and every deed or conveyance or lease.

Waiver. No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

10. Easements. Each unit owner shall have an easement in common with the other owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Board of Directors of the Association or their designee shall have the right of access to each unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the common facilities contained therein or elsewhere in the building.

The Board of Directors of the Association may hereafter grant easements for utility purposes for the benefit of the property, including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, telephone wires

and equipment and electrical conduits, and wires over, under, along and on any portion of the common areas; and each unit owner hereby grants the Board of Directors an irrevocable power of attorney to execute, acknowledge and record for and in the name of each unit owner such instruments as may be necessary to effectuate the foregoing.

11. Insurance. The insurance coverage on the property shall be governed by the following provisions.

.1 Authority to Purchase. All insurance policies upon the condominium property shall be purchased by the Association for the benefit of the Association and the apartment owners and their mortgagees as their interests may appear, and provision shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of apartment owners. Such policies and endorsements thereon shall be held by the Association. Apartment owners may obtain insurance coverage at their own expense upon their own personal property, fixtures and decorations, and for their personal liability and living expense.

.2 Coverage.

(a) Casualty. All buildings and improvements upon the land and all personal property included in the common elements shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, or by 90% co-insurance blanket coverage or by such other form of policy as the Board annually determines will most reasonably provide the funds necessary to repair or reconstruct the insured improvements. Such coverage shall afford protection against (1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and (2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land, including, but not limited to vandalism and malicious mischief.

(b) Public liability in such amounts and with such coverage as shall be required by the board of directors of the Association, and with cross liability endorsement to cover liabilities of the apartment owners as a group to an apartment owner.

(c) Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable.

.3 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense.

.4 Share of proceeds. All insurance policies purchased by the Board of Directors shall be for the benefit of the Association and the apartment owners and their mortgagees as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Board as insurance trustee under this Declaration. The Board shall have the right to select a bank with trust authority, or other institution or individual which it deems qualified, to act as insurance trustee for a general or limited purpose; and upon notification to the insurance company or companies, through their agent, of this fact, said party shall have all of the rights, powers and obligations of the insurance trustee as provided in this instrument or elsewhere. The sole duty of the Board of Directors as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein or stated in the By-Laws and for the benefit of the apartment owners and their mortgagees in the following shares:

(a) Common elements. Proceeds on account of damage to common elements-- an undivided share for each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.

(b) Units Apartments. Proceeds on account of damage to apartments shall be held in the following undivided shares:

(1) When the building is to be restored--for the owners of damaged apartments in proportion to the cost of replacing the damage suffered by each apartment owner, which cost shall be determined by the Association.

(2) When the building is not to be restored--an undivided share for each apartment owner, such share being the same as the undivided share in the common elements appurtenant to his apartment.

(c) Mortgagees. In the event a mortgagee endorsement has been issue as to an apartment, the share of the apartment owner shall be held in trust for the mortgagee and the apartment owner as their interests may appear; provided, however, that no mortgagee shall

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have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired.

.5 Distribution of Proceeds. Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) Expense of the trust. All expenses of the insurance trustee shall be first paid or provision made therefor.

(b) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them.

(c) Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, remittances to apartment owners and their mortgagees being payable jointly to them.

.6 Association as Agent. The Association is hereby irrevocably appointed agent for each apartment owner and for each owner of a mortgage or other lien upon an apartment and for each owner of any other interest in the Condominium property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

12. Reconstruction or Repair after Casualty.

.1 Determination to reconstruct or repair. If any part of the Condominium property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner:

(a) Common element. If the damaged improvement is a common element, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the Condominium shall be terminated.

(b) Apartment Building.

(1) Partial destruction. If the damaged improvement is an apartment building, and if termination as provided in subparagraph (2) below does not take place, the damaged property shall be reconstructed or repaired unless within sixty days after the casualty it is determined by agreement in the manner elsewhere provided that the Condominium shall be terminated.

(2) Total Destruction. If any apartment building within this Condominium should be more than two-thirds (2/3) destroyed and the owners of three-fourths (3/4) of the units in the entire Condominium should determine not to proceed with repair or restoration, then the procedure set forth in Section 47A-25 of the North Carolina Statutes shall take place.

.2 Plans. Any reconstruction or repair must be substantially in accordance with the plans for the original building, portions of which are attached hereto as exhibits; or if not, then according to plans approved by the board of directors of the Association, and if the damaged property is an apartment building, by the owners of all damaged apartments therein which approvals shall not be unreasonably withheld.

.3 Responsibility. If the damage is only to those parts of one apartment for which the responsibility of maintenance and repair is that of the apartment owner, then the apartment owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

.4 Estimate of costs. Immediately after a determination to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the cost to rebuild or repair.

.5 Assessments. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the apartment owners who own the damaged apartments, and against all apartment owners in the case of damage to common elements, in sufficient amounts to provide funds for the payment of such costs. Such assessments against apartment owners for damage to apartments shall be in proportion to the cost of reconstruction and repair of their respective apartments. Such assessments on account of damage to common elements shall be in proportion to the owner's share in the common elements.

.6 Construction Funds. The funds for payment of costs of reconstruction and repair after casualty, which shall consist of proceeds of insurance held by the insurance trustee and funds collected by the Association from assessments against apartment owners, shall be disbursed in payment of such costs in the following manner:

(a) Apartment Owner. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with an apartment owner shall be paid by the insurance trustee to the apartment owner, or if there is a mortgagee endorsement as to such apartment, then to the apartment owner and the mortgagee jointly, who may use such proceeds as they may be advised.

(b) Association. The portion of insurance proceeds representing damage for which the responsibility of reconstruction and repair lies with the Association, shall be disbursed in payment of the construction cost in the manner required by the Board of Directors of the Association and upon approval of the technically qualified party employed by the Association to supervise the work.

13. Process Agent. The person upon whom process may be served in matters within the contemplation of the North Carolina Statutes or for actions against the Association is William C. Spann, c/o Colony Company, 208 Foster Street, Durham, North Carolina. The process agent may be changed by a majority vote of the Board of Directors without the necessity of following the other procedures for amendment of this Declaration as elsewhere provided; however, the change shall not be effective until a written document certifying it shall have been recorded in the office of the Register of Deeds of Durham County, North Carolina.

14. Membership in Homeowners Association. It is planned that a homeowners association, to be known as Proprietors of Colony Hill, Inc., will be organized to own or lease property and to provide recreation, property maintenance, supervision, selected services and undertake other matters of common benefit to the entire development to be made by Colony Company of that property on the west side of U. S. 15-501 By-pass and the north side of Pickett Road generally known as the Colony Hill area. By the acceptance of a deed to an apartment unit in this Condominium property the grantees agree to be bound by the Declaration of Covenants and Restrictions which has or will be filed by Colony Company and the Charter, By-Laws and actions of said homeowners association, of which they will automatically become members.

15. Termination. The Condominium may be terminated in the following manner in addition to the manner provided by Chapter 47A:

.1 Destruction. In the event it is determined in the manner elsewhere provided that the apartment building shall not be reconstructed because of major damage, the Condominium plan of ownership will be thereby terminated without agreement.

.2 Agreement. The Condominium may be terminated at any time by the approval in writing of all of the owners of the Condominium, and

by all record owners of first deeds of trust upon apartments therein. If the proposed termination is submitted to a meeting of the members of the Association, the notice of which meeting gives notice of the proposed termination, and if the approval of the owners of not less than 75% of the common elements and of the record owners of all first deeds of trust upon apartments in the Condominium are obtained not later than 30 days from the date of such meeting, then the approving owners shall have an option to buy all of the apartments of the other owners for the period ending on the 90th day from the date of such meeting. Such option shall be upon the following terms:

(a) Exercise of Option. The option shall be exercised by delivery or mailing by registered mail to each of the record owners of the apartments to be purchased of an agreement to purchase signed by the record owners of apartments who will participate in the purchase. Such agreement shall indicate which apartments will be purchased by each participating owner and shall agree to purchase all of the apartments owned by owners not approving the termination, but the agreement shall effect a separate contract between each seller and his purchaser.

(b) Price. The sale price for each apartment shall be the fair market value determined by agreement between the seller and purchaser within 30 days from the delivery or mailing of such agreement, and in the absence of agreement as to price, it shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination upon an average of their appraisals of the apartment; and a judgment

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of specific performance of the sale upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The expense of the arbitration shall be paid by the purchaser.

(c) Payment. The purchase price shall be paid in cash.

(d) Closing. The sale shall be closed within twenty (20) days following the determination of the sale price.

.3 Certificate. The termination of the Condominium in either of the foregoing manners shall be evidenced by a certificate of the Association executed by its president and secretary certifying as to facts effecting the termination, which certificate shall become effective upon being recorded in the public records of Durham County, North Carolina.

.4 Share of Owners after Termination. After termination of the Condominium the apartment owners shall own the Condominium property and all assets of the Association as tenants in common in undivided shares, and their respective lienors shall have liens upon the respective undivided shares of the apartment owners. Such undivided shares of the apartment owners shall be the same as the undivided shares in the common elements appurtenant to the owners' apartments prior to the termination.

16. Amendment. Except as otherwise required by North Carolina Statute or as otherwise specifically provided elsewhere herein, this Declaration may be amended by the vote of at least sixty-six and two-thirds (66 2/3) percent in common interest of all unit owners, which said vote shall be cast in person or by proxy at a duly held meeting of the Association wherein notice of the subject matter of the proposed amendment shall have been included in the notice of the meeting. No such amendment shall be effective until recorded in the office of the Register of Deeds for Durham County, North Carolina.

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17. Severability, Language. The invalidity in whole or in part of any covenant or restriction, or any paragraph, section, subsection, sentence, clause, phrase or word, or other provision of this Declaration of Condominium and the By-Laws and regulations of the Association shall not affect the validity of the remaining portions thereof. The use of the singular or plural shall include the other; and the use of any gender shall be declared to include all genders.

IN WITNESS WHEREOF, Colony Company has executed this Declaration as of the day and year first above written.

COLONY COMPANY, a partnership (SEAL)

By: William C. Spann (SEAL)
Partner

NORTH CAROLINA-DURHAM COUNTY

I, Wero W. Kafara, a Notary Public of Durham County, N. C., do hereby certify that William C. Spann, a partner in Colony Company, a partnership, this day personally appeared before me and acknowledged the due execution of the foregoing instrument. Witness my hand and notarial seal, this 25 day of July, 1973.

Wero W. Kafara
NOTARY PUBLIC
My commission expires: January 27, 1976

FINAL PLAT

APPROVED BY THE SUBDIVISION
REVIEW BOARD OF THE CITY OF DURHAM, N. C. BY A
RESOLUTION ADOPTED BY IT DATED 6-27-73

John D. Harlan
Chairman Subdivision Review Board

APPROVAL VOID
IF NOT RECORDED WITHIN
60 DAYS OR BY 7-27-73

NORTH CAROLINA - DURHAM COUNTY
The foregoing certificate of Wero W. Kafara
Notary Public, of Durham Co. attested
by his Notarial seal is Certified to be correct. Let this
Instrument with all certificates be registered.
WITNESS my hand this 25 day of July 19 73
W. Gresham
Register of Deeds

FILED
BOOK 744 PAGE 724 H
JUL 25 4 52 PM '73 755
A. J. GRESHAM
REGISTER OF DEEDS
DURHAM COUNTY, N. C.

FIRST PARCEL: BEGINNING at a stake which is North 0 degrees 35 minutes 37 seconds East 293.97 feet from a monument in the northern right of way line of Colony Road, said monument being 1319.51 feet along the western and northwestern right of way line of Colony Road from the north side of Pickett Road; and running thence from the point of BEGINNING along the north side of a parking area North 89 degrees 07 minutes 49 seconds West 80.31 feet to a stake; thence North 47 degrees 24 minutes 59 seconds West 40.05 feet to a stake; thence North 0 degrees 28 minutes 02 seconds West 65.57 feet to a stake; thence North 86 degrees 39 minutes 44 seconds East 131.59 feet to a stake; thence South 0 degrees 23 minutes 57 seconds East 66.57 feet to a stake; thence South 31 degrees 34 minutes 48 seconds West 41.07 feet to a stake, the point of BEGINNING, and being that parcel identified as #3084 on that plat of the property of COLONY HILL CONDOMINIUM I dated May 1973 by Southeastern Surveys, Inc. and recorded in Plat Book 77, page 68, Durham County Registry, to which plat reference is hereby made for a more particular description. There is also conveyed an easement of ingress, egress and regress for pedestrian and vehicular traffic and parking over, along and within the entire driveway and parking area as outlined on the aforesaid plat between the northern right of way line of Colony Road and the southern property line of this First Parcel as above described.

SECOND PARCEL: BEGINNING at a stake which is North 24 degrees 55 minutes 46 seconds West 103.83 feet from that monument in the northern right of way line of Colony Road, which said monument is 1574.70 feet along the western and northern right of way line of Colony Road from the north side of Pickett Road, and running thence from said point of BEGINNING, North 89 degrees 10 minutes 34 seconds West 84.42 feet to a stake; thence North 3 degrees 33 minutes 59 seconds East 98.06 feet to a stake; thence South 89 degrees 10 minutes 34 seconds East 100.22 feet to a stake at the back of a curb; thence with the same along an arc in a southerly direction a distance of 12.95 feet to a stake; thence continuing with and beyond said curb South 11 degrees 14 minutes 08 seconds West 87.63 feet to a stake, the point of BEGINNING, and being that parcel identified as #3064 on that plat of the property of COLONY HILL CONDOMINIUM I dated May 1973 by Southeastern Surveys, Inc., and recorded in Plat Book 77, page 68, Durham County Registry, to which plat reference is hereby made for a more particular description.

THIRD PARCEL: BEGINNING at a stake which is 23.2 feet along the back of a curb from the northeast corner of Parcel 2 above, and running thence from said point of BEGINNING North 88 degrees 01 minute 15 seconds West 96.96 feet to a stake; thence North 11 degrees 36 minutes 11 seconds East 138.43 feet to a stake; thence South 88 degrees 09 minutes 17 seconds East 88.24 feet to a stake; thence North 0 degrees 15 minutes 46 seconds East 45 feet to a stake; thence South 85 degrees 53 minutes 35 seconds East 131.58 feet to a stake; thence South 0 degrees 27 minutes 40 seconds West 75.15 feet to a stake; thence North 89 degrees 41 minutes 00 seconds West 57.66 feet to a stake; thence South 14 degrees 43 minutes 38 seconds West 34.47 feet to a stake at the back of a curb; thence with said curb as follows: North 79 degrees 13 minutes 20 seconds West 30.97 feet to a stake; South 14 degrees 13 minutes 18 seconds West 12.29 feet to a stake; along an arc in a southwesterly direction a distance of 17.04 feet to a stake; North 79 degrees 31 minutes 28 seconds West 27.43 feet to a stake; and South 10 degrees 36 minutes 11 seconds West 54.97 feet to a stake, the point of BEGINNING, and being that parcel identified as #3060 and #3062 on that plat of the property of COLONY HILL CONDOMINIUM I dated May 1973 by Southeastern Surveys, Inc. and recorded in Plat Book 77, page 68, Durham County Registry, to which plat reference is hereby made for a more particular description.

There is also conveyed with Parcels Two and Three an easement of ingress, egress and regress for pedestrian and vehicular traffic and parking over, along and within the entire driveway and parking area as outlined on the aforesaid plat from the north side of Colony Road and to the east or south of the buildings identified as #3064, #3062 and #3060.

PERCENTAGE OF COMMON ELEMENTS AND EXPENSES ALLOCATED TO EACH APARTMENT

<u>Apartment Unit</u>	<u>Percentage of Undivided Interest</u>
3064-A	5.067
3064-B	4.918
3064-C	4.918
3064-D	5.067
3062-A	5.216
3062-B	5.067
3062-C	5.067
3062-D	5.067
3062-E	5.067
3062-F	5.365
3060-A	6.557
3060-B	6.409
3060-C	6.110
3060-D	6.185
3084-A	6.185
3084-B	5.887
3084-C	5.663
3084-D	<u>6.185</u>
TOTAL	100.000