

11384

FIRST AMENDMENT TO DECLARATION OF  
TODAY HOMES HORIZONTAL PROPERTY REGIME

The undersigned, all of the owners of all of the apartments in Today Homes Horizontal Property Regime, hereby amend the Declaration of Today Homes Horizontal Property Regime, dated December 12, 1972 and recorded in the Office of the Recorder of Tippecanoe County, Indiana in Deed Record 72, page 3951, in the following respects:

1. Section 1a is amended to read:

"a. 'Building' means any of the twelve residential buildings, eleven of which contain four individual single-family apartments and one which contains three individual single-family apartments."

2. Section 1c is amended to read:

"c. 'Floor Plans' means the documents entitled 'Today Homes Horizontal Property Regime-Floor Plans' dated December 12, 1972, filed on December 14, 1972, Condominium Plat Book 1, Pages 2-13 inclusive, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File #11119, as amended by the addition of the documents entitled 'Today Homes Horizontal Property Regime Amended Floor Plans' dated January 11, 1974, filed on December 24, 1975, in Condominium Plat Book 1, Pages 2022, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File # 11385, all of which documents are by this reference, made a part of this Declaration."

RECORDED IN RECORD  
RECORDS DEPARTMENT  
NO. 11385 FILE NO. 4062  
DATE: 11-25-75

NOV 27 1975

*Lynne A. Brist*  
Recorder Tippecanoe Co., Ind.

3. Section 2 is hereby amended to read as follows:

"2. Description of real estate. The real estate which is hereby submitted to the provisions of the Act and on which the buildings are to be located, is located in the City of Lafayette, Tippecanoe County, Indiana, and is described as follows:

A part of the Southeast Quarter of Section 4, Township 22 North, Range 4 West, in Woa Township, Tippecanoe County, Indiana, and described as follows:

Commencing at a point on the North line of said Southeast Quarter of Section 4, 850.01 feet North 29°16'00" East of the Northwest corner of said Southeast Quarter of Section 4; thence South 01°09'00" East, 147.50 feet for a Point of Beginning; thence South 01°09'00" East, 1086.36 feet to a point on the Northerly right-of-way line of the Norfolk and Western Railroad; thence North 58°56'00" West along said Northerly line of said Railroad, 295.50 feet; thence North 01°09'00" West, 485.47 feet; thence North 88°51'00" East, 80.49 feet, to a point on a curve convex to the Northwest having a radius of 65.00 feet and a central angle of 78°00'47"; thence Northeasterly along said curve an arc distance of 88.51 feet; thence North 01°09'00" West, 109.81 feet to the point of curvature of a curve convex to the Northeast, having a radius of 10.00 feet and a central angle of 78°41'28"; thence Northwesterly along said curve an arc distance of 13.73 feet to the point of reverse curvature with a curve convex to the West, having a radius of 40.00 feet and a central angle of 148°33'53"; thence Northwesterly and Northeasterly along said curve an arc distance of 193.72 feet to the point of reverse curvature with a curve convex to the Southeast, having a radius of 10.00 feet and a central angle of 84°49'35"; thence Northeasterly and Northwesterly along said curve an arc distance of 14.81 feet to the point of reverse curvature with a curve convex to the Northeast, having a radius of 228.53 feet and a central angle of 04°37'50"; thence Northwesterly along said curve an arc distance of 18.47 feet to the point of tangency of said curve; thence North 20°44'00" West, 38.01 feet to the point of curvature of a curve convex to the Southwest, having a radius of 302.74 feet and a central angle of 20°00'00"; thence Northwesterly along said curve an arc distance of 105.68 feet to the point of tangency of said curve; thence North 00°44'00" West, 14.33 feet; thence North 88°51'00" East, 161.36 feet to the Point of Beginning. Containing 4.681 acres, more or less.

Subject to rights of way for public streets as set forth in two deeds of dedication from National Homes Construction Corporation to the Public dated June 28, 1972, and recorded in the Office of the Recorder of Tippecanoe County, Indiana, in Deed Record 72, at page 1977 and 1978, respectively.

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Subject to the easements set out in Section 6 hereof."

4. Section 3 is hereby amended to read:

"3. Division of Property into Apartments. The property is hereby divided into forty-seven separate apartments which are located in twelve separate buildings. The buildings and apartments are respectively identified and designated by numbers and letters; are located with respect to each other and to the lot lines of the real estate on the Floor Plans; and have dimensions, elevations, boundaries, layouts and floor plans as shown on the Floor Plans. Each apartment shall contain one individual single-family dwelling unit. Buildings 1 through 11 shall contain four apartments and shall be two stories in height with respect to a portion thereof, with the remaining portion being one story in height. Building twelve shall contain three apartments and shall be one story in height.

Declarant reserves the right to change the interior design and arrangement of any apartment and to alter interior boundaries between apartments so long as Declarant owns the apartments so altered. Any such alteration shall be reflected by an amendment to this Declaration which may be executed by the Declarant alone, notwithstanding the procedure for amendment in Section 16. However, no such change shall increase the number of apartments nor alter the boundaries of the common areas and facilities (except that between the apartments being altered) without amendment of the Declaration as provided in Section 16.

Each apartment shall consist of the space enclosed or bounded by the horizontal and vertical planes set forth in the delineation thereof on the Floor Plans, plus the interior space of the storage facility.

The legal description of each apartment shall consist of the building number and the apartment letter shown

on the Floor Plans and every deed, lease, mortgage or other instrument may legally describe the apartment by using its appropriate identifying number and letter designation as shown on the Floor Plans, followed by the words 'in Today Homes Horizontal Property Regime as recorded in Volume 1, Pages 2-13 inclusive, under the date of December 14, 1972, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana, and as amended by instrument recorded in Volume 1, Pages 20421 under the date of December 29, 1978, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana,' and that shall be deemed to be a deed and sufficient description for all purposes.

In accordance with the Act, each deed of conveyance shall also include: a statement of the use for which the apartment is intended and the restrictions on its use (see Sections 4 and 5 herein); the percentage of undivided interest appertaining to the apartment in the common areas and facilities (see Section 4(b) herein); and any other details and restrictions which the grantor and grantee deem desirable that are consistent with the Declaration and the Act.

Except as provided by the Act, no owner shall, by deed, plat or otherwise, sub-divide or cause his apartment to be separated into tracts or parcels different from the whole apartment as shown on the Floor Plans."

5. Section 4b is hereby amended to read:

"b. The owner of each apartment shall be seized of the fee simple title to and exclusive ownership and possession of his apartment and of the fee simple title in an undivided interest in the common areas and facilities, which undivided interest shall be equal to 2.127659% per apartment (herein sometimes referred to as 'single ownership percentage'), it being the intention of

this Declaration that each of the forty-seven apartments shall share equally in the ownership of the common areas and facilities and shall bear the common expenses equally. The ownership percentage of undivided interest in the common areas and facilities as set forth above shall be permanent, shall not be altered without the consent of all of the owners expressed in an amendment to this Declaration, duly executed and recorded, and shall, except as otherwise provided in the Articles and By-Laws with respect to the Declarant, determine and govern the respective voting rights of the owners for all purposes."

v. Section 6c is hereby amended to read:

6c. Easements as shown on the amended Floor Plans and which lie outside the real estate described in Section 2 of this Declaration, are hereby granted to all public utilities and governmental agencies to lay, construct, repair, renew, replace, operate and maintain, conduits, cables, pipes, wires, transformers, switching apparatus and other equipment for the purpose of providing water, gas, sewage, electrical, telephone, television, storm sewer, surface drainage and other utility services to and through the property. Such easements shall be perpetual, non-exclusive and shall inure to the benefit of the Declarant, its successors and assigns, and any owner.

purchaser, mortgagee or other person having an interest in the property."

7. The undersigned hereby consent to the relocation of easements as shown on the amended Floor Plans and which lie outside the real estate described in Section 2 of the Declaration and, except for the Declarant, abandon all rights in and to that portion of the real estate lying outside the real estate described in Section 2 of the Declaration and lying outside those easements shown on the revised Floor Plans.

8. In all other respects the Declaration shall remain unamended and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of this 22nd day of January, 1974.

~~Owner of Apartments A, B, C and D, Building 1; Apartment C, Building 2; Apartment B, Building 3; Apartments C and D, Building 4; Apartments B, C and D, Building 5; Apartments B, C and D, Building 6; Apartments A, B, C and D, Building 7; Apartments A, B, C and D, Building 8; Apartments B, C and D, Building 9; Apartments B, C and D, Building 10; and Apartments B, C and D, Building 11.~~  
NATIONAL HOMES CONSTRUCTION CORPORATION  
By \_\_\_\_\_

Owner of Apartment A,  
Building 2

Wisher Myers  
Wisher Myers

Frances L. Myers  
Frances L. Myers

Owner of Apartment A,  
Building 3

Martha F. Berg  
Martha F. Berg

Owner of Apartment A,  
Building 4

Helen Louise Hickman  
Helen Louise Hickman

This instrument prepared by Thomas L. Ryan, Stuart, Branigin, Ricks & Schilling.

13221

SECOND AMENDMENT TO DECLARATION OF  
TODAY HOMES HORIZONTAL PROPERTY REGIME

The undersigned, all of the owners of all of the apartments in Today Homes Horizontal Property Regime, hereby amend the Declaration of Today Homes Horizontal Property Regime, dated December 12, 1972, and recorded in the Office of the Recorder of Tippecanoe County, Indiana in Deed Record 72, page 3951, and heretofore amended by instrument dated January 22, 1974, recorded in Deed Record 75, page 4060, in the following respects:

1. Section 1a is amended to read:  
"a. 'Building' means any of the fourteen residential buildings, thirteen of which contain four individual single-family apartments and one which contains three individual single-family apartments."
2. Section 1c is amended to read:  
"a. 'Floor Plans' means the documents entitled 'Today Homes Horizontal Property Regime-Floor Plans' dated December 12, 1972, filed on December 14, 1972, Condominium Plat Book 1, Pages 2-13 inclusive, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File #11119, as amended by the addition of the documents entitled 'Today Homes Horizontal Property Regime Amended Floor Plans' dated May 21, 1974, filed on December 24, 1973, in Condominium Plat

Book 1, Pages 20 and 21, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File #11385, and by document entitled 'Today Homes Horizontal Property Regime Amended Floor Plans (Second Amendment)' dated October 29, 1976, filed on December 2, 1976, in Condominium Plat Book 1, pages 22-32, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File # L.P.R. 53, all of which documents are by this reference, made a part of this Declaration."

3. Section 2 is hereby amended to read as follows:

"2. Description of real estate. The real estate which is hereby submitted to the provisions of the Act and on which the buildings are to be located, is located in the City of Lafayette, Tippecanoe County, Indiana, and is described as follows:

A part of the Southeast Quarter of Section 4, Township 22 North, Range 4 West, Wea Township, Tippecanoe County, Indiana, described as follows: Beginning at a point 600.01 feet North 89°16'00" East and 384.30 feet South 01°09'00" East of the Northwest corner of the Southeast Quarter of said Section 4; thence North 88°51'00" East, 94.32 feet; thence Northeasterly 63.07 feet along an arc to the right having a radius of 40.00 feet, subtended by a chord having a bearing of North 23°33'19" East and a length of 56.73 feet; thence Northeasterly 14.81 feet along an arc to the left having a radius of 10.30 feet, subtended by a chord having a bearing of North 26°18'38" East and a length of 13.49 feet; thence Northwesterly 19.47 feet along an arc to the left having a radius of 228.53 feet, subtended by a chord having a bearing of North 18°28'05" West and a length of 18.46 feet; thence North 20°44'00" West, 38.01 feet; thence Northwesterly 105.68 feet along an arc to the right having a radius of 302.74 feet, subtended by a chord having a bearing of North 10°44'00" West and a length of 105.14 feet; thence North 00°44'00" West, 14.33 feet; thence North 88°51'00" East, 161.36 feet; thence South 01°09'00" East, 1086.36 feet to the point



on the Northerly right-of-way line of the Norfolk and Western Railroad; thence North 58°56'00" West along said Northerly railroad right-of-way line, a distance of 295.50 feet; thence North 01°09'00" West, 693.90 feet to the place of beginning. The tract described above contains 5.239 acres, more or less.

Subject to rights of way for public streets as set forth in two deeds of dedication from National Homes Construction Corporation to the Public dated June 28, 1972, and recorded in the Office of the Recorder of Tippecanoe County, Indiana, in Deed Record 72, at page 1977 and 1978, respectively.

Subject to the easements set out in Section 6 hereof."

4. Section 3 is hereby amended to read:

"3. Division of Property into Apartments. The property is hereby divided into fifty-five separate apartments which are located in fourteen separate buildings. The buildings and apartments are respectively identified and designated by numbers and letters; are located with respect to each other and to the lot lines of the real estate on the Floor Plans; and have dimensions, elevations, boundaries, layouts and floor plans as shown on the Floor Plans. Each apartment shall contain one individual single-family dwelling unit. Buildings 1 through 11 and 13 and 14 shall contain four apartments and shall be two stories in height with respect to a portion thereof, with the remaining portion being one story in height. Building twelve shall contain three apartments and shall be one story in height.

Declarant reserves the right to change the interior design and arrangement of any apartment and to alter interior boundaries between apartments so long as Declarant owns the apartments so altered. Any such alteration shall be reflected by an amendment to this Declaration which may be executed by the Declarant alone, notwithstanding the procedure for amendment in Section 18. However, no such change shall increase

the number of apartments, the number of common areas and facilities (including those being altered) without amendment of the provisions provided in Section 18.

Each apartment shall consist of the space enclosed or bounded by the horizontal and vertical planes set forth in the delineation thereof on the Floor Plans, plus the interior space of the storage facility.

The legal description of each apartment shall consist of the building number and the apartment letter shown on the Floor Plans and every deed, lease, mortgage or other instrument may legally describe the apartment by using its appropriate identifying number and letter designation as shown on the Floor Plans, followed by the words "in Today Homes Horizontal Property Regime as recorded in Volume 1, Pages 2-13 inclusive, under date of December 14, 1972, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana; as amended by instrument recorded in Volume 1, Pages 20 and 21 under date of December 24, 1975, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana; and as further amended by instrument recorded in Volume 1, Pages 32-32 under date of February 1, 1976, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana, and that shall be deemed to be a good and sufficient description for all purposes.

In accordance with the Act, each deed of conveyance shall also include: a statement of the use for which the apartment is intended and the restrictions on its use (see

Sections 4 and 5 herein); the percentage of undivided interest appertaining to the apartment in the common areas and facilities (see Section 4(b) herein); and any other details and restrictions which the grantor and grantee deem desirable that are consistent with the Declaration and the Act.

Except as provided by the Act, no owner shall, by deed, plat or otherwise, sub-divide or cause his apartment to be separated into tracts or parcels different from the whole apartment as shown on the Floor Plans."

5. Section 4b is hereby amended to read:

"b. The owner of each apartment shall be seized of the fee simple title to and exclusive ownership and possession of his apartment and of the fee simple title in an undivided interest in the common areas and facilities, which undivided interest shall be equal to 1.818181% per apartment (herein sometimes referred to as 'ownership percentage'), it being the intention of this Declaration that each of the fifty-five apartments shall share equally in the ownership of the common areas and facilities and shall bear the common expenses equally. The ownership percentage of undivided interest in the common areas and facilities as set forth above shall be permanent, shall not be altered without the consent of all of the owners expressed in an

amendment to this Declaration, duly executed and recorded, and shall, except as otherwise provided in the Articles and By-Laws with respect to the Declarant, determine and govern the respective voting rights of the owners for all purposes."

6. Section 6c is hereby amended to read:

"c. Easements as shown on the amended Floor Plans and which lie outside the real estate described in Section 2 of this Declaration, are hereby granted to all public utilities and governmental agencies to lay, construct, repair, renew, replace, operate and maintain, conduits, cables, pipes, wires, transformers, switching apparatus and other equipment for the purpose of providing water, gas, sewage, electrical, telephone, television, storm sewer, surface drainage and other utility services to and through the property. Such easements shall be perpetual, non-exclusive and shall inure to the benefit of the Declarant, its successors and assigns, and any owner, purchaser, mortgagee or other person having an interest in the property."

7. In all other respects the Declaration shall remain unamended and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed  
this instrument as of this 12<sup>th</sup> day of December, 1976.

*This instrument prepared by the law office of Stuart, Shanigin, Richs & Schiffman  
by Thomas R. Richs.*

5848

THIRD AMENDMENT TO DECLARATION OF  
TODAY HOMES HORIZONTAL PROPERTY REGIME

The undersigned, all of the owners of all of the apartments in Today Homes Horizontal Property Regime, hereby amend the Declaration of Today Homes Horizontal Property Regime, dated December 12, 1972, and recorded in the Office of the Recorder of Tippecanoe County, Indiana in Deed Record 72, page 3951, and heretofore amended by instrument dated January 22, 1974, recorded in Deed Record 75, page 4060, and by instrument dated December 1, 1976, recorded in Deed Record 76, page 4663, in the following respects:

1. Section 1a is amended to read:
  - "a. 'Building' means any of the seventeen residential buildings, sixteen of which contain four individual single-family apartments and one which contains three individual single-family apartments."
2. Section 1c is amended to read:
  - "a. 'Floor Plans' means the documents entitled 'Today Homes Horizontal Property Regime-Floor Plans' dated December 12, 1972, filed on December 14, 1972, Condominium Plat Book 1, Pages 2-13 inclusive, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File #11111, as amended by the addition of the documents entitled 'Today Homes Horizontal Property Regime Amended Floor Plans' dated May 21, 1974, filed on December 24, 1975, in Condominium Plat

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 MR. 2. 30  
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 [Signature]  
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Book 1, Pages 20 and 21, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File #11385, and by document entitled 'Today Homes Horizontal Property Regime Amended Floor Plans (Second Amendment)' dated October 29, 1976, filed on December 2, 1976, in Condominium Plat Book 1, pages 27-32, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File # 13222, and by documents entitled 'Today Homes Horizontal Property Regime Amended Floor Plans (Third Amendment)' dated April 14, 1977, filed on May 31, 1977, in Condominium Plat Book 1, pages 33-43, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File # 5847, all of which documents are by this reference, made a part of this Declaration."

3. Section 2 is hereby amended to read as follows:

"2. Description of real estate. The real estate which is hereby submitted to the provisions of the Act and on which the buildings are to be located, is located in the City of Lafayette, Tippecanoe County, Indiana, and is described as follows:

A part of the Southeast Quarter of Section 4, Township 22 North, Range 4 West, in Wes Township, Tippecanoe County, Indiana, and described as follows:

Beginning at a point 600.01 feet North 89°16'00" East and 30.00 feet South 01°09'00" East of the Northwest corner of the Southeast Quarter of said Section 4; thence North 89°16'00" East, 129.68 feet; thence Southwesterly 8.78 feet along an arc to the left having a radius of 20.00 feet subtended by a chord having a bearing of South 11°56'36" West and a

length of 8.71 feet; thence Southwesterly 31.77 feet along an arc to the right having a radius of 87.30 feet, subtended by a chord having a bearing of South 09°41'33" West and a length of 31.60 feet; thence Southwesterly 32.13 feet along an arc to the left having a radius of 88.28 feet, subtended by a chord having a bearing of South 09°41'33" West and a length of 31.95 feet; thence South 00°44'00" East, 47.48 feet; thence North 88°51'00" East, 134.58 feet; thence South 01°09'00" East, a distance of 1086.36 feet to the point on the Northerly right-of-way line of Norfolk and Western Railroad; thence North 58°56'00" West along said Northerly Railroad right-of-way line, a distance of 295.50 feet; thence North 01°09'00" West a distance of 1048.20 feet to the place of beginning. Contains 6.115 acres, more or less.

Subject to rights of way for public streets as set forth in two deeds of dedication from National Homes Construction Corporation to the Public dated June 28, 1972, and recorded in the Office of the Recorder of Tippecanoe County, Indiana, in Deed Record 72, at page 1977 and 1978, respectively.

Subject to the easements set out in Section 6 hereof."

4. Section 3 is hereby amended to read:

"3. Division of Property into Apartments. The property is hereby divided into sixty-seven separate apartments which are located in seventeen separate buildings. The buildings and apartments are respectively identified and designated by numbers and letters; are located with respect to each other and to the lot lines of the real estate on the Floor Plans; and have dimensions, elevations, boundaries, layouts and floor plans as shown on the Floor Plans. Each apartment shall contain one individual single-family dwelling unit. Buildings 1 through 11 and 13 through 17 shall contain four apartments and shall be two stories in height with respect to a portion thereof, with the remaining portion being one story in height. Building twelve shall contain three apartments and shall be one story in height.

Declarant reserves the right to change the interior design and arrangement of any apartment and to alter interior



boundaries between apartments so long as Declarant owns the apartments so altered. Any such alteration shall be reflected by an amendment to this Declaration which may be executed by the Declarant alone, notwithstanding the procedure for amendment in Section 18. However, no such change shall increase the number of apartments nor alter the boundaries of the common areas and facilities (except that between the apartments being altered) without amendment of the Declaration as provided in Section 18.

Each apartment shall consist of the space enclosed or bounded by the horizontal and vertical planes set forth in the delineation thereof on the Floor Plans, plus the interior space of the storage facility.

The legal description of each apartment shall consist of the building number and the apartment letter shown on the Floor Plans and every deed, lease, mortgage or other instrument may legally describe the apartment by using its appropriate identifying number and letter designation as shown on the Floor Plans, followed by the words 'in Today Homes Horizontal Property Regime as recorded in Volume 1, Pages 2-13 inclusive, under date of December 14, 1972, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana; as amended by instrument recorded in Volume 1, Pages 20 and 21 under date of December 24, 1975, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana; and as further amended by instrument recorded in Volume 1, Pages 20-32 under date of December 2, 1976, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana, and as further amended by instrument recorded in Volume 1, pages 33-48 under date of May 31, 1977.

in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana, and that shall be deemed to be a good and sufficient description for all purposes.

In accordance with the Act, each deed of conveyance shall also include: a statement of the use for which the apartment is intended and the restrictions on its use (see Sections 4 and 5 herein); the percentage of undivided interest appertaining to the apartment in the common areas and facilities (see Section 4(b) herein); and any other details and restrictions which the grantor and grantee deem desirable that are consistent with the Declaration and the Act.

Except as provided by the Act, no owner shall, by deed, plat or otherwise, sub-divide or cause his apartment to be separated into tracts or parcels different from the whole apartment as shown on the Floor Plans."

3. Section 4b is hereby amended to read:

"b. The owner of each apartment shall be seized of the fee simple title to and exclusive ownership and possession of his apartment and of the fee simple title in an undivided interest in the common areas and facilities, which undivided interest shall be equal to 1.492537% per apartment (herein sometimes referred to as 'ownership percentage'), it being the intention of this Declaration that each of the sixty-seven apartments shall share equally in the ownership of the common areas and facilities and shall bear the common expenses equally. The owner-

ship percentage of undivided interest in the common areas and facilities as set forth above shall be permanent, shall not be altered without the consent of all of the owners expressed in an amendment to this Declaration, duly executed and recorded, and shall, except as otherwise provided in the Articles and By-Laws with respect to the Declarant, determine and govern the respective voting rights of the owners for all purposes."

6. Section 5c is hereby amended to read:

"c. Easements as shown on the amended Floor Plans and which lie outside the real estate described in Section 2 of this Declaration, are hereby granted to all public utilities and governmental agencies to lay, construct, repair, renew, replace, operate and maintain, conduits, cables, pipes, wires, transformers, switching apparatus and other equipment for the purpose of providing water, gas, sewage, electrical, telephone, television, storm sewer, surface drainage and other utility services to and through the property. Such easements shall be perpetual, non-exclusive and shall inure to the benefit of the Declarant, its successors and assigns, and any owner, purchaser, mortgagee or other person having an interest in the property."

7. In all other respects the Declaration shall remain unamended and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of this 14th day of April, 1977.

This instrument was prepared by  
STUART, BRANIGAN, RICKS & SCHILLING  
BY: Thomas L. Ryan

SEP 22 1977

11541

FOURTH AMENDMENT TO DECLARATION OF  
TODAY HOMES HORIZONTAL PROPERTY REGIME

*James A. Bivins*  
Recorder Tippecanoe Co., Ind.

The undersigned, all of the owners of all of the apartments in Today Homes Horizontal Property Regime, hereby amend the Declaration of Today Homes Horizontal Property Regime, dated December 12, 1972, and recorded in the Office of the Recorder of Tippecanoe County, Indiana in Deed Record 72, page 3951, and heretofore amended by instruments dated: (1) January 22, 1974, recorded in Deed Record 75, page 4060; (2) December 1, 1976, recorded in Deed Record 76, page 4663; and (3) May 31, 1977, recorded in Deed Record 77, page 1819, in the following respects:

1. Section 1a is amended to read:  
"a. 'Building' means any of the eighteen residential buildings, seventeen of which contain four individual single-family apartments and one which contains three individual single-family apartments."
2. Section 1e is amended to read:  
"e. 'Floor Plans' means the documents entitled 'Today Homes Horizontal Property Regime-Floor Plans' dated December 12, 1972, filed on December 14, 1972, Condominium Plat Book 1, pages 2-13 inclusive, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File #11119, as amended by the addition of the documents entitled: (1) 'Today Homes Horizontal Property Regime Amended Floor Plans' dated

May 21, 1974, filed on December 24, 1975, in Condominium Plat Book 1, pages 20 and 21, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File #11385; (2) 'Today Homes Horizontal Property Regime Amended Floor Plans (Second Amendment)' dated October 29, 1976, filed on December 2, 1976, in Condominium Plat Book 1, pages 22-32, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File #13222; (3) 'Today Homes Horizontal Property Regime Amended Floor Plans (Third Amendment)' dated April 14, 1977, filed on May 31, 1977, in Condominium Plat Book 1, pages 33-48, in the Office of the Recorder of Tippecanoe County, Indiana, bearing File #5847; and (4) 'Today Homes Horizontal Regime Amended Floor Plans (Fourth Amendment)' dated September 22, 1977, filed on September 22, 1977, in Condominium Plat Book 1, pages 49-50 in the Office of the Recorder of Tippecanoe County, Indiana, bearing File # 16541, all of which documents are by this reference, made a part of this Declaration."

3. Section 2 is hereby amended to read as follows:

"2. Description of real estate. The real estate which is hereby submitted to the provisions of the Act and on which the buildings are to be located, is located in the City of Lafayette, Tippecanoe County, Indiana,

and is described as follows:

A part of the Southeast Quarter of Section 4, Township 22 North, Range 4 West, in Wea Township, Tippecanoe County, Indiana, and described as follows:

Commencing at the Northwest corner of the Southeast Quarter of said Section 4; thence North 89°16'00" East, along the North line of the Southeast Quarter of Section 4, (being also the centerline of Brady Lane), 600.01 feet; thence South 01°09'00" East, 30.00 feet to the Point of Beginning; thence North 89°16' East a distance of 250.0 feet; thence South 01°09' East, a distance of 1203.86 feet to a point on the Northerly Right-of-Way line of Norfolk and Western Railroad; thence North 58°56' West along said Northerly Railroad Right-of-Way line, a distance of 295.5 feet; thence North 01°09' West a distance of 1048.2 feet to the Place of Beginning. Contains 6.469 acres, more or less.

Subject to rights of way for public streets as set forth in two deeds of dedication from National Homes Construction Corporation to the Public dated June 28, 1972, and recorded in the Office of the Recorder of Tippecanoe County, Indiana, in Deed Record 72, at page 1977 and 1978, respectively.

Subject to the easements set out in Section 6 hereof."

4. Section 3 is hereby amended to read:

"3. Division of Property into Apartments. The property is hereby divided into seventy-one separate apartments which are located in eighteen separate buildings. The buildings and apartments are respectively identified and designated by numbers and letters; are located with respect to each other and to the lot lines of the real estate on the Floor Plans; and have dimensions, elevations, boundaries, layouts and floor plans as shown on the Floor Plans. Each apartment shall

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contain one individual single-family dwelling unit. Buildings 1 through 11 and 13 through 18 shall contain four apartments and shall be two stories in height with respect to a portion thereof, with the remaining portion being one story in height. Building twelve shall contain three apartments and shall be one story in height.

Declarant reserves the right to change the interior design and arrangement of any apartment to alter interior boundaries between apartments so long as Declarant owns the apartments so altered. Any such alteration shall be reflected by an amendment to this Declaration which may be executed by the Declarant alone, notwithstanding the procedure for amendment in Section 18. However, no such change shall increase the number of apartments nor alter the boundaries of the common areas and facilities (except that between the apartments being altered) without amendment of the Declaration as provided in Section 18.

Each apartment shall consist of the space enclosed or bounded by the horizontal and vertical planes set forth in the delineation thereof on the Floor Plans, plus the interior space of the storage facility.

The legal description of each apartment shall consist of the building number and the apartment letter shown on the Floor Plans and every deed, lease, mortgage or other instrument may legally describe the apartment by using its appropriate identifying number and letter designation as shown on the Floor Plans, followed by the words 'in Today Homes Horizontal Property Regime as recorded in Volume 1, Pages 2-13



inclusive, under date of December 14, 1972, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana; as amended by instrument recorded in Volume 1, Pages 20 and 21 under date of December 24, 1975, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana; as further amended by instrument recorded in Volume 1, Pages 22-32 under date of December 2, 1976, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana; as further amended by instrument recorded in Volume 1, Pages 33-48 under date of May 31, 1977, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana; and as further amended by instrument recorded in Volume 1, Pages 49-50 under date of Sept 24, 1977, in the Condominium Plat Book in the Office of the Recorder of Tippecanoe County, Indiana' and that shall be deemed to be a good and sufficient description for all purposes.

In accordance with the Act, each deed of conveyance shall also include: a statement of the use for which the apartment is intended and the restrictions on its use (see Sections 4 and 5 herein); the percentage of undivided interest appertaining to the apartment in the common areas and facilities (see Section 4(b) herein); and any other details and restrictions which the grantor and grantee deem desirable that are consistent with the Declaration and the Act.

Except as provided by the Act, no owner shall, by deed, plat or otherwise, sub-divide or cause his

apartment to be separated into tracts or parcels different from the whole apartment as shown on the Floor Plans."

5. Section 4b is hereby amended to read:

"b. The owner of each apartment shall be seized of the fee simple title to and exclusive ownership and possession of his apartment and of the fee simple title in an undivided interest in the common areas and facilities, which undivided interest shall be equal to 1.40845% per apartment (herein sometimes referred to as 'ownership percentage'), it being the intention of this Declaration that each of the seventy-one apartments shall share equally in the ownership of the common areas and facilities and shall bear the common expenses equally. The ownership percentage of undivided interest in the common areas and facilities as set forth above shall be permanent, shall not be altered without the consent of all of the owners expressed in an amendment to this Declaration, duly executed and recorded, and shall, except as otherwise provided in the Articles and By-Laws with respect to the Declarant, determine and govern the respective voting rights of the owners for all purposes."

6. Section 6c is hereby deleted.

7. In all other respects the Declaration shall remain unamended and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed  
this instrument as of this 1st day of August, 1977.

This instrument was prepared by  
STUART, BRANIGIN, RICKS & SCHILLING  
By: Thomas L. Ryan