

04000488 01/06/2004 04:22pm
PAMELA K BERGLUND, TIPPECANOE COUNTY RECORDER

Key Numbers: 160-16402-0082 thru 0819; 160-16403-0015 thru 0125;
160-16406-0012 thru 0639; and 160-16402-0841 thru 1413; 160-16405-0013 thru 0101

**RESTATEMENT OF THE DECLARATION AND BY-LAWS OF
MILL CREEK
HOME OWNERS' ASSOCIATION**

WHEREAS, the Declaration and By-Laws of the Mill Creek Home Owners' Association having been recorded in the Office of the Recorder of Tippecanoe County on September 24, 1997, as document number 9719851;

WHEREAS, Mill Creek Home Owners' Association together with its Board of Directors, by majority vote, have approved the formation of a corporation for the subdivision and this Amended Declaration and By-Laws.

NOW, THEREFORE, the Mill Creek Home Owners' Association hereby authorizes the formation of Mill Creek Homeowners Association, Inc. as the successor and assigns of the existing Mill Creek Home Owners' Association and further declares this Amended Declaration and By-Laws of the Mill Creek Home Owners' Association to be the Declaration and By-Laws of Mill Creek Homeowners Association, Inc., replacing all existing by-laws of the Association:

**ARTICLE I
DEFINITIONS**

Section 1. "Association" shall refer to the MILL CREEK HOME OWNERS' ASSOCIATION, its successors and assigns.

Section 2. "By-Laws" shall mean the By-Laws initially adopted by Mill Creek Home Owners' Association and all amendments, additions and restatements thereto.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Declarant" shall mean Abbington Development, Inc., an Indiana corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Developer under the Declaration, including, without limitation, any mortgagee acquiring title to any portion of the Property (as such term is defined in the Declaration) pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Developer.

Section 5. "Declaration" shall mean and refer to the Declaration and By-Laws of the Mill Creek Home Owners' Association, which was recorded in the office of the Recorder of Tippecanoe County, Indiana on September 24, 1997, as Instrument Number 9719851.

Section 6. "Dwelling Unit" shall mean and refer to the structure used as a residential living unit located upon a Lot, including any appurtenances.

Section 7. "Lot" shall mean any type of Lot as platted or any tract or tracts of land as conveyed originally or by subsequent Owners, which may consist of one or more Lots as platted, upon which a single-family residence, duplex, or multi-residence may be erected in accordance with the restrictions herein set out or such further restrictions as may be imposed by any applicable zoning ordinance.

Section 8. "Mill Creek" shall mean and refer collectively to each phase, subdivision or section of the Mill Creek development as it is now recorded and as it may change from time to time.

Section 9. "Mill Creek Homeowners Association, Inc." shall mean the successor and assign to the Association.

Section 10. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 11. "Restrictive Covenants" shall mean the Restrictive Covenants of Mill Creek Subdivision, Phase I, R-1B Zoned Lots 1 through 74, which was recorded in the office of the Recorder of Tippecanoe County, Indiana on April 25, 1997, as Instrument Number 9707631; the Restrictive Covenants of Mill Creek Subdivision, Phase I, R-2 Zoned Lots 75 through 132, which was recorded in the office of the Recorder of Tippecanoe County, Indiana on April 25, 1997, as Instrument Number 9707631; the Restrictive Covenants of Mill Creek Subdivision, Phase II, R-3 Zoned Lots 133 through 144, which was recorded in the office of the Recorder of Tippecanoe County, Indiana on September 18, 1997, as Instrument Number 9719432; the Restrictive Covenants of Mill Creek Subdivision, Phase 3, R1-B Zoned Lots 1 through 63, which was recorded in the office of the Recorder of Tippecanoe County, Indiana on September 18, 1997, as Instrument Number 9922158; and the Restrictive Covenants of Mill Creek Subdivision Phase 4, which was recorded in the office of the Recorder of Tippecanoe County, Indiana on November 5, 1998, as Instrument Number 9829984.

Section 12. "Subdivision" shall mean Mill Creek Subdivision, a subdivision located in Fairfield Township, Tippecanoe County, Indiana.

Section 13. All of the terms as defined and used in the Declaration shall have the same meanings in these Amended Declaration and By-Laws.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to any Common Area which shall be owned by the Association, and which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to the use of any recreational facility by an Owner for any period during which any assessments against such Owner's Lot remains unpaid; and for a period not to exceed 30 days for any infraction of its published rules and regulations after hearing by the Board of Directors of the Association;
- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by a majority of the members. At such time as the membership ceases in accordance with Section 1 of Article IV hereof, no further dedication or transfer by the Association of any part of the Common Area to any public agency, authority or utility shall be effective unless an instrument signed by two-thirds (2/3) of the members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with these By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

Section 3. Additions to Common Area. The Declarant reserves the right to convey and transfer to the Association such additional real and/or personal property as the Developer within its sole discretion deems appropriate, and the Association shall accept such transfer and shall hold such property as a part of the Common Area of the Subdivision.

ARTICLE III
COVENANT FOR MAINTENANCE AND OTHER ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, by acceptance of a deed therefore whether or not they shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association such assessments to be established and collected for the care and maintenance of entrance ways and common areas.

Assessments or any installments thereof which are not paid when due shall bear interest at a fluctuating rate equal to the maximum rate of interest which may be charged under the laws of the State of Indiana for consumer loans, adjudged on the first day of each calendar year together with late fees as determined by the Board of Directors of the Association. If any Owner shall fail, refuse or neglect to make any payment of any Assessment when due, the Board of Directors of the Association may in its discretion declare the entire balance of unpaid Assessments to be due and payable, with interest as aforesaid, and file a written Notice of Lien against said Owner's Lot in the office of the Recorder of Tippecanoe County, Indiana, which Notice of Lien shall perfect the lien of the Association and have the same force and effect as, and be enforced in the same manner as, a mortgage lien under Indiana Law, and shall include late fees, attorney's fees, title expenses, interest and any costs of collection.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of residents of Mill Creek, and in particular for the improvement and maintenance of the entrance ways, the maintenance of which shall be the obligation of the Association, and all other Common Areas, including storm water structures and swales, including but not limited to, repair maintenance, the cost of labor, equipment and materials, supervision, security, lighting, lawn care, snow removal, insurances, taxes, and all other things necessary or desirable in the opinion of the Board of Directors of the Association in connection therewith.

In the event the Association fails to exercise its authority, obligation and responsibility for maintenance of the storm water structures and swales or of the storm sewers of Mill Creek lying outside of public right-of-way, the Tippecanoe County Drainage Board may perform such maintenance and all other actions necessary to make such storm water facilities perform properly. The cost of any such maintenance or other action performed by the Tippecanoe County Drainage Board shall be paid by the Association.

Section 3. Amount of Assessments. Assessments shall be billed to each Owner on an annual or semi-annual basis. Each Owner shall pay their pro-rata share per Lot owned of the cost of the upkeep and maintenance of the entrance ways and common areas. The Owners of lots in Phase II R-3 Zoned Lots 133 through 144 and Phase I R-2 Zoned Lots 75 through 132 shall pay their pro-rata share per resident living unit.

Section 4. Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized above, the Board of Directors of the Association may levy, in any assessment year, a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of 51% of the Owners.

Section 5. Notice and Quorum for Any Action Authorized Under Section 4. Any action authorized under Section 4 of this Article III and requiring a vote or written assent of a certain percentage of the Association membership shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite 51% of the Owners, Owners who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than 30 days from the date of such meeting.

Section 6. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date as provided in Section 1 of this Article III together with late fees. The Board of Directors of the Association may bring an action at law against the Owner personally obligated to pay the same; may foreclose the lien against the property in accordance with the provisions of Section 1 of this Article III; or may do both. No Owner may waive or otherwise escape personal liability for the assessments provided for in this Article III by non-use of the Common Area or by abandonment of his Lot.

Section 7. Subordination of the Lien to Mortgages. The lien of any assessments provided for in this Article III shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot shall not affect such assessment lien. However, the sale or transfer of any Lot pursuant to judgment and court order on a foreclosure of any first mortgage shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE IV **MEMBERSHIP AND VOTING RIGHTS**

Section 1. The initial Board of Directors named in the Articles of Incorporation of Mill Creek Homeowners Association, Inc. shall control the subdivision and assume administrative responsibilities of the Association until the first annual meeting of the Members of the Corporation.

Section 2. Membership and Voting Rights. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot which is subject to assessment.

All Owners of Lots shall be entitled to one vote for each Lot owned, except in the case of Owners of Lots zoned R-2 and R-3, which shall have one vote per living unit. When more than one person holds an interest in an Lot, all such persons shall be members. The vote for such Lot

shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot except as provided above.

Section 3. Quorum. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the total number of votes entitled to be cast shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 4. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary of the Association before the appointed time of each meeting of the Members of the Association. Cumulative voting shall not be permitted.

Section 5. Majority Required. A majority of the votes of Members present (in person or by proxy) at a meeting at which a quorum is present shall be sufficient for the transaction of all business of the Association except on matters where a greater vote is required by the Declaration, the Articles of Incorporation, the By-Laws or by statute.

Section 6. Meetings. Meetings of the Members of the Association shall be in accordance with the following provisions:

A. Place. Meetings of the Members shall be held at such place in Tippecanoe County, Indiana, as may be designed by the Board of Directors of the Association.

B. Annual Meetings. The Board of Directors may designate the day or date of annual meetings until such a designation is made by the Members. If any designated day or date falls upon a legal holiday, the actual date of the meeting shall be the next business day succeeding such designated day or date.

C. Special Meetings. Special meetings of the Members shall be called by the president of the Association, by resolution of the Board of Directors of the Association or upon a written petition signed by Members of the Association who are entitled to vote sixty percent (60%) of all votes of the membership. Notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

D. Notice of Meetings. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all members not less than

thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

E. Order of Business. The order of business at all meetings of the members shall, to the extent applicable, be as follows:

1. Roll call.
- 1.2 Proof of notice of meeting or waiver of notice.
- 1.3 Reading of minutes of preceding meeting.
- 1.4 Reports of officers.
- 1.5 Reports of committees.
- 1.6 Election of directors.
- 1.7 Unfinished business.
- 1.8 New business.

F. Voting by Co-Owners and Entitles. The vote appurtenant to any Lot in which more than one person owns an interest, or in the case of Lots zoned R-2 and R-3, the vote appurtenant to any living unit in which more than one person owns an interest, may be exercised by any of such persons present at any meeting, unless the Association is advised (by objection or protest at the meeting or written notice prior thereto) by any other person owning an interest in such Lot or living unit that the Owners of the Lot or unit are unable to agree upon the manner in which the vote appurtenant to such Lot or unit shall be cast at such meeting or on any particular question to come before such meeting. In such event, the vote appurtenant to the Lot or unit shall not be counted at the meeting or on the particular question noted, as the case may be. In the event any Lot or unit is owned by a corporation, then the vote appurtenant to such Lot or unit shall be cast by a person designated in a certificate signed by the president or any vice president of such corporation and attested by the secretary or an assistant secretary of such corporation and filed with the Secretary of the Association prior to the meeting. The vote appurtenant to any Lot or unit owned by a trust or partnership may be exercised by any trustee or partner thereof, as the case may be, and unless any objection or protest by any other such trustee or partner is noted at such meeting or in writing prior thereto, the Chairman of such meeting shall have no duty to inquire as to the authority of the person casting such vote or votes.

G. Suspension of Voting Rights. No Member shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment

due to the Association shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors.

ARTICLE V
NOMINATION AND ELECTION OF DIRECTORS

Section 1. Initial Board. The Initial Board of Directors shall be named in the Articles of Incorporation of Mill Creek Homeowners Association, Inc., which shall serve as the Board of Directors of the Association until the first annual meeting of the Members of the Corporation.

Section 2. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting of the members of the Association. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more members of the of the Association. The Nominating Committee shall be appointed by the Board of Directors at each annual meeting of the Members and shall serve until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made only from among Members of the Association, or persons deemed to be Members eligible to serve as directors thereof.

Section 3. Election. Election to the Board of Directors shall be by secret written ballot at the annual meeting of the Members of the Association. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI
BOARD OF DIRECTORS

Section 1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of no less than three (3) persons and not more than five (5) persons.

Section 2. Additional Qualifications. Where an Owner consists of more than one person, or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner or partner, officer or trustee, as the case may be, of the partnership, corporation, trust or other entity, shall be eligible to serve on the Board of Directors of the Association, except that no Lot, or in the case of Lots zoned R-2 and R-3, no living unit, may be represented on the Board of Directors by more than one person at a time.

Section 3. Term of Office. The term of office of each Director shall be two (2) years unless the Director resigns or is removed from office as provided for in these Bylaws or pursuant to statute.

Section 4. Duties. The Board of Directors shall have the following duties:

- A. To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is required in writing by Members holding twenty-five percent (25%) of the total votes of the membership entitled to vote;
- B. To supervise all officers, agents and employees of the Association;
- C. To establish the annual assessment period and fix the amount of the annual assessment against each Member for each Lot owned, all in accordance with the terms of the Declaration and these By-laws;
- D. To fix the amount of any special assessment against each Member for each Lot owned, all in accordance with the terms of the Declaration and these By-Laws;
- E. To send written notice of each assessment to each Owner in accordance with the Declaration;
- F. To foreclose the Association's lien for assessments against any property for which Assessments are not paid within thirty (30) days after the due date thereof or to bring an action at law against the Owner or other person personally obligated to pay the same;
- G. To issue, or to cause an appropriate officer to issue, upon demand by any person or entity, a certificate setting forth whether or not any Assessment has been paid;
- H. To procure and maintain the insurance coverages required by the Declaration and such other insurance coverages as the Board of Directors, in its sole discretion, deems necessary or advisable;
- I. To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate, and at least as required by the Declaration; and,
- J. To cause all of the Common Areas and all easements hereunder to be maintained to the extent to the Association's responsibilities therefor as provided in the Declaration.

Section 6. Vacancies. Any vacancy in the Board of Directors shall be filled by vote of the majority of remaining Directors, even though they may constitute less than a quorum. Each person so elected shall be a Director for the unexpired term of his predecessor, or until his successor is elected.

Section 7. Compensation. No Director shall receive compensation for any service he may render to the Association as such director. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties, and any Director may be paid and compensated for services to the Association in a capacity other than as a Director.

Section 8. Removal of Directors. Any Director may be removed with or without cause by a majority vote of the Members of the Association.

Section 9. Regular Meetings. Regular meetings of the Board of Directors shall be held at such regular intervals, without notice, at such place and hour as may be determined from time to time by resolution of the Board of Directors. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 10. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) days notice to each Director, given personally, by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two-thirds (2/3) of the Directors.

Section 11. Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent of the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be deemed a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the board, no notice shall be required and any business may be transacted at such meeting.

Section 12. Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which quorum is present shall be the acts of the Board of Directors except as otherwise provided in or required by the Declaration, Articles of Incorporation, these By-laws or statute. If, at any meeting of the Board of Directors, there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 13. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors.

ARTICLE VII **OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Offices. The officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time by resolution create. Only the President and Vice President need be members of the Board of Directors.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members of the Association.

Section 3. Term. The officers of the Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year or until his successor is elected and qualified unless he shall sooner resign, be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President or Secretary. Such resignation shall take effect on the date of receipt of such notice or at any time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

A. President. The President shall preside at all meetings of the Board of Directors. He shall see that orders and resolutions of the Board are carried out. He shall have the power to appoint committees from among the members of the Association from time to time as he may in his discretion deem appropriate to assist in conducting the affairs of the Association. The President shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of the State of Indiana.

B. Vice-President. The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by him by the Board of Directors or as are delegated to him by the President.

C. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the members; keep the corporate seal of the Association (if any is adopted) and affix it on all papers requiring said seal; serve notice of meetings of the Board of Directors and of the members; keep appropriate current records showing the members of the Association, together with their addresses, and shall perform such other duties as required by the Board of Directors.

D. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE VIII **COMMITTEES**

The Board of Directors shall appoint the committees provided for in the Declaration and the Nominating Committee referred to in Article V of these By-Laws. In addition, the Board of Directors or the President may appoint various other committees to carry out the purposes of the Association. Except as otherwise expressly provided in Article V of these By-Laws with respect to the Nominating Committee, members of such committees may, but need not, be members of the Board of Directors.

ARTICLE IX **BOOKS OF ACCOUNT AND FISCAL YEAR**

Section 1. Books of Account. The Association shall keep detailed books of account showing all expenditures and receipt of administration which shall specify the maintenance and repair expenses of the Common Areas and all easements and any other expenses incurred by or on behalf of the Association and the members. Such accounts, books, records, financial statements, and other papers of the Association shall be open for inspection by the members and other persons having an interest in any Lot, including any Owner, any lender and any holds, insurer or guarantor of the first mortgage on any Lot during reasonable business hours or under other reasonable circumstances and shall be audited annually by qualified auditors. The cost of such audits shall be a common expense payable by the Association. Any holder, insurer or guarantor of a first mortgage on a Lot shall be entitled upon written request to receive an audited financial statement for the immediately preceding fiscal year free of charge of the requesting party and within a reasonable time of such request. Current copies of the Declaration, the Articles of Incorporation, and the By-Laws of the Association, and other rules concerning the Property, shall be available for inspection by any Owner and lender, and to holders, insurers or guarantors of any first mortgage at the principal office of the Association during normal business hours or under other reasonable circumstances, where copies of the same and of audits may be purchased at reasonable costs.

Section 2. Fiscal Year. The fiscal year of the Association shall commence January 1, and end the following December 31 each year; provided, however, that the fiscal year for purposes of assessments may be difference than the general fiscal year of the Association.

ARTICLE X **CONTRACTS, LOANS AND CHECKS**

Section 1. Authorization. The Board of Directors may authorize any officer of officers or agent or agents of the Association to enter into any contract or execute any instrument on its behalf. Such authorization may be general or confined to specific instances. Except as provided in these By-Laws, no officer, agent or employee shall have any power to bind the Association or to render it liable for any purpose or amount unless so authorized by the Board of Directors.

Section 2. Checks. All checks, drafts, or other orders for payment of money by the Association shall be signed by the President, Secretary, Treasurer or such other person as the Board of Directors may from time to time designate by resolution.

ARTICLE XI **MISCELLANEOUS**

Section 1. These By-Laws may be amended, at a regular or special meeting of the Members of the Association, by a vote of a majority of the Members present in person or by proxy. The Board of Directors of the Association shall not have the right and power, without the consent of a majority of the Members, to make, alter, amend or repeal these By-Laws.

Section 2. In the case of any conflict between the Declarations and these By-Laws, the Declarations shall control.

Dated this 17th of December, 2003.

Mill Creek Home Owners' Association


Edward D. Cook, Secretary

STATE OF INDIANA)
) SS:
TIPPECANOE COUNTY)

Subscribed and sworn to before me, a Notary Public in and for said County and State, this
17th day of December, 2003.



Melissa M. Brooks
Melisa M. Brooks
NOTARY PUBLIC
Resident of Tippecanoe County, IN.

This instrument prepared by:
Daniel A. Teder of the firm of
REILING TEDER & SCHRIER
415 Columbia St., Suite 3000
P. O. Box 280
Lafayette, IN 47902-0280
Telephone: (765) 423-5333
Facsimile: (765) 423-4564
E-mail: dat@rtslawfirm.com