

# Lafayette Parish Recording Page

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**First VENDOR**

MCLAIN INVESTMENTS LLC

**First VENDEE**

MCLAIN INVESTMENTS LLC

Index Type : Conveyances

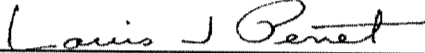
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**Recorded Information**

I hereby certify that the attached document was filed for registry and recorded in the Clerk of Court's office for Lafayette Parish, Louisiana

  
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**DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
ELLA TRACE SUBDIVISION**

BE IT KNOWN that on the 25th day of June, 2013, before the undersigned Notary Public, duly commissioned and qualified, and in the presence of the undersigned competent witnesses, personally came and appeared:

**MCLAIN INVESTMENTS, LLC** (TIN 27-3127519) a Louisiana limited liability company, domiciled in Lafayette Parish, Louisiana, with a mailing address of 101 Brightwood Drive, Lafayette, Louisiana 70508, herein represented by its duly authorized Member, Bryan McLain, pursuant to the authority granted in the Certificate of Authority attached hereto and made a part hereof, hereinafter referred to as "Appearer",

who declared that Appearer is the owner of the property described on Exhibit "A" attached hereto and made a part hereof (the "Property"). Appearer does by these presents declare that the above described property has been surveyed and divided into lots as more fully shown on the Subdivision Plat (as herein defined).

Appearer further declares that the hereinabove tract of land as shown on the aforesaid plat of survey shall be known and designated as **ELLA TRACE SUBDIVISION**, a subdivision of the Parish of Lafayette, Louisiana, hereinafter referred to as the "Subdivision" or "Development".

Appearer further declares that in order to assure all future Owners and all prospective purchasers that said property will be properly and uniformly developed and to make said property more desirable and attractive, it bind itself, its successors and assigns, not to sell any of the property situated in the Subdivision, unless under the following restrictions which are covenants to run with the land, and it does hereafter impose said restrictions, and such amendments as may be made as provided for herein, which shall affect the said property and all future purchasers whether set forth in any act of sale or not for the terms and under the conditions set forth herein, to-wit:

**ARTICLE I**

**DEFINITIONS**

**1.01 Definitions.** When used in this Declaration, unless the context shall prohibit or otherwise require, the following words, shall have all the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

- (a) "Appearer" shall mean McLain Investments, LLC.
- (b) "Architectural Control Committee" shall mean and refer to the committee which approves exterior and structural improvements, additions, and changes within the Subdivision as provided herein.
- (c) "Assessment" shall mean and refer to an Owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association in the manner herein provided.
- (d) "Association" shall mean and refer to Ella Trace Homeowners Association, Inc., a Louisiana non-profit corporation either already existing or to be formed.
- (e) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.
- (f) "By-Laws of the Association" or the "By-Laws" shall mean and refer to those By-Laws of the Association, which govern the administration, and operation of the Association as the same may be amended from time to time.
- (g) "Common Areas" shall mean and refer to all real and personal property now or hereafter owned by the Association or over which the Association holds a servitude for the common or restricted use and enjoyment of the Owners.
- (h) "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association.
- (i) "Declaration" shall mean and refer to this document, the Act of Declaration of Covenants, Conditions, and Restrictions for Ella Trace Subdivision, and all amendments thereto filed for record in the records of the Clerk of Court for Lafayette Parish, Louisiana.
- (j) "Dwelling" with an initial capital letter, shall mean and refer to any home or residence constructed on a Lot within the Subdivision.
- (k) "Living Area" shall mean and refer to enclosed and covered areas within a home, exclusive of garages, carports, porches, terraces, balconies, decks, courtyards, greenhouses, atriums, and attics.
- (l) "Lot" shall mean and refer to any portion of the Property upon which it is intended that a dwelling or home shall be constructed as such Lots are shown on the Subdivision Plat.
- (m) "Occupant" shall mean and refer to any person, including, without limitation, any Owner or any guest, invitee, lessee, tenant, or family member of an Owner, occupying or otherwise using a Dwelling within the Development.
- (n) "Owner" with an initial capital letter, shall mean and refer to one or more persons, who or which owns title to any Lot.
- (p) "Person" shall mean and refer to any person, corporation, partnership, association, trust, or other legal entity, or any combination thereof.
- (o) "Property" with an initial capital letter, shall mean the real property described on Exhibit "A" hereof.
- (p) "Subdivision Plat" shall mean and refer to that certain plat of Ella Trace Subdivision, prepared by Montagnet & Domingue, Inc., dated September 2, 2011, last revised June 4, 2013, a copy of which is filed under Entry No. 2013-26347, records of Lafayette Parish, Louisiana, together with any future revisions thereof.

**ARTICLE II**  
**PROPERTY RIGHTS**

**2.01 General.** Each Lot shall be conveyed, transferred, and encumbered subject to the provisions of this Declaration. Each Owner shall be entitled to the exclusive ownership and possession of his Lot, subject to the provisions of this Declaration, including, without limitation, the provisions of this Article II. Lots shall not be subdivided and the boundaries of Lots shall remain as established by the Subdivision Plat. However nothing herein shall prohibit the addition to an existing Lot of a portion of another Lot or of one or more entire Lots. However, when a part of one Lot is added to an existing Lot, the remainder of such Lot shall be added to another contiguous Lot or, with the prior consent of the Association, to contiguous Common Area. In no event shall the addition of a fractional Lot to an existing Lot result in any Lot having dimensions reduced from the original dimensions shown on the Subdivision Plat without the consent of at least a majority of the Owners.

**2.02 Owner's Servitude of Enjoyment.** Subject to the provisions of this Declaration and the rules, regulation, fees, and charges from time to time established by the Board of Directors in accordance with the By-Laws and the terms hereof, every Owner, his family, tenants, and guests shall have a non-exclusive right, privilege, and servitude of use and enjoyment in and to the Common Areas, such servitude to be appurtenant to and to pass and run with title to each Lot.

**2.03 Access.** All Owners, by accepting title to Lots conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress, and egress to and from such Lot and acknowledge and agree that such access, ingress, and egress shall be limited to roads located within the Subdivision from time to time, provided that pedestrian and vehicular access to and from all Lots shall be provided at all times. In order to provide such access, the Association and Appearer, subject to the terms and provisions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board of Directors, does hereby grant unto the Owners and to the Owners of Lots in Ella Trace Subdivision, a non-exclusive servitude of passage over those private streets/alleys and/or pedestrian paths designated on the Subdivision Plat. There is reserved unto the Association and its successors and assigns the right and privilege, but not the obligation, to maintain guarded or electronically-monitored gates controlling vehicular access to and from the Development. Appearer is responsible for the installation of any electronically monitored gates and will maintain said gates until such time as Appearer transfers the Common Areas to the Association or otherwise transfers this obligation to the Association.

**2.04 Servitudes for Utilities and Public Services.** (a) Appearer further declares that it does by these presents establish rights of servitude and/or acknowledge the existence of such servitudes previously established, with such dimensions and in such places and locations as shown on the Subdivision Plat, which servitudes shall be for the use and benefit of the Owners of said Lots where the same are established for the purpose of placing and maintaining any and all utilities for the service of said Subdivision. Utility easements established herein shall be independent of, and in addition to, any front, side and rear setback requirements provided for herein. Provided, however, that notwithstanding anything to the contrary contained herein, in addition to the utility servitudes established by this act, there may be utility easements, servitudes and rights-of-way granted to utility companies under separate agreements and recorded in the official records of the Clerk of Court of Lafayette Parish, Louisiana, which may affect the lots in the subdivision independently of this Act.

(b) The Association hereby grants to the City of Broussard, Louisiana, or such other governmental authority or agency as shall from time to time have jurisdiction over the Subdivision with respect to law enforcement and fire protection, the perpetual, non-exclusive right and servitude upon, over and across all of the Common Areas for purposes of performing such duties and activities related to law enforcement and fire protection in the Subdivision as shall be required or appropriate from time to time by such governmental authorities under applicable law.

**2.05 Maintenance Servitude.** Subject to the terms of Section 4.02 hereof, there is hereby reserved for the benefit of the Association, and its agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and servitude to enter upon any Lot for the purpose of moving, removing, clearing, cutting or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety,

and appearance within the Subdivision, provided that such servitudes shall not impose any duty or obligation upon the Association to perform any such actions.

### **ARTICLE III** **MEMBERSHIP**

**3.01 Membership.** Each Owner shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Lot, and ownership of a Lot shall be the sole qualification for such membership. In the event that ownership of a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. The foregoing is not intended to include Mortgagees or any other persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association. The rights and privileges of membership, including the right to vote and to hold an office in the Association, may be exercised by a member or a member's spouse, but in no event shall more than one vote be cast or more than one office held for each Lot, and further provided that a member casting a vote or holding an office with respect to his Lot shall not be entitled to cast an additional vote or to hold an additional office for the Lot upon which his residential unit is located. Except as otherwise provided herein, the voting weight appurtenant to each Lot is equal and each Lot shall have one vote.

**3.02 Multiple Owners.** Notwithstanding any of the foregoing to the contrary, no Owner, whether one or more persons, shall have more than one membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided herein. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as those Owners of such Lot themselves determine and advise the Secretary or an Assistant Secretary of the Association prior to any meeting. In the absence of such advice, the vote appurtenant to such Lot shall be suspended in the event more than one person seeks to exercise it.

**3.03 Ownership of More Than One Lot.** In the event a Person owns more than one Lot, such Person shall have all the rights and obligations of an owner owning multiple Lots. The voting rights and obligations associated with owning a Lot can be prorated in the event such Lot is split between two adjacent Lot owners. It is the intent of Appearer that the total number of Lots in the Subdivision remain unchanged for purposes of voting and payment of assessments.

**3.04 Voting Rights of Appearer.** Notwithstanding anything contained herein to the contrary, it is understood and agreed that as long as Appearer owns a Lot in the Subdivision, Appearer shall be considered a Class B member of the Association, and shall be entitled to seventy-seven (77) votes for each Lot owned as adopted in the Articles of Incorporation of Ella Trace Homeowners Association, Inc. The voting provisions contained in this Paragraph 3.04 cannot be amended or changed without consent of 100% of the Owners, or unless Appearer waives its Class B voting rights.

### **ARTICLE IV** **MAINTENANCE**

**4.01 Responsibilities of Owners.** Unless specifically identified herein as being the responsibility of the Association, all maintenance and repair of Lots together with all other improvements thereon or therein and all lawns, landscaping, and grounds on and within a Lot shall be the responsibility of the Owner of such Lot or Dwelling. As provided in Section 4.03 hereof, each Owner shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining, or cleaning any item which is the responsibility of such Owner, but which responsibility such Owner fails or refuses to discharge.

**4.02 Responsibilities of Association.** (a) Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Areas, which responsibility shall include, but shall not be limited to, the maintenance, repair and replacement of (i) all alleys, trails, landscaped areas, recreational areas, lakes, playground equipment, and fences, and other improvements situated within the Common Areas, (ii) such security systems and utility lines, pipes, plumbing, wires, conduits, and related systems which are a

part of the Common Areas and which are not maintained by the public service district, public or private utility, or other person, and (iii) all lawns, trees shrubs, hedges, grass, and other landscaping situated within or upon the Common Areas. The Association shall not be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored in or upon any portion of the Common Areas or any other portion of the Property. No diminution or abatement of the assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.

(b) The Association shall pay all property taxes assessed against the Common Areas and shall maintain liability insurance for accidents or damage occurring on said Common Areas or as a result of conditions thereon.

**4.03 Association's Remedy Upon Owner's Default.** In the event that the Association determines that: (i) any Owner has failed or refused to discharge properly his or its obligations with regard to the maintenance, cleaning, repair, or replacement of items for which he or it is responsible hereunder, or (ii) the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused by the willful or negligent act of an Owner, his family, tenants, guests, or invitees, and is not covered or paid for by insurance in whole or in part, then in either event, the Association, except in the event of an emergency situation, may give such Owner written notice of the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement, at the sole cost and expense of such Owner and setting forth with reasonable particularity the maintenance, cleaning, repairs or replacement deemed necessary. Except in the event of emergency situations, such Owner shall have fifteen (15) days within which to complete the same in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair, or replacement is not capable of completion within said fifteen (15) day period, to commence said maintenance, cleaning, repair, or replacement, and diligently proceed to complete the same in good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice, the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair, or replacement at the sole cost and expense of such Owner and said cost shall be added to and become a part of the assessment to which such Owner and his Lot are subject and shall become a lien against such Lot.

## **ARTICLE V**

### **INSURANCE AND CASUALTY LOSSES**

**5.01 Insurance.** (a) The Board of Directors or its duly authorized agents shall have the authority to and shall obtain and continue in effect public liability insurance and such other insurances as the Board of Directors deems appropriate.

(b) All insurance coverage obtained by the Board of Directors shall be written in the name of the Association for the benefit of each of the Owners and costs of all such coverage shall be a Common Expense.

(c) It shall be the individual responsibility of each Owner at his own expense to provide public liability, property damage, title, and other insurance with respect to his own Lot and the improvements located thereon. The Board of Directors may require all Owners to carry public liability and property damage insurance with respect to their respective Lots and to furnish copies or certificates thereof to the Association.

**5.02 Damage or Destruction of Improvements on Lots.** In the event of damage or destruction by fire or other casualty to any improvement on a Lot, and in the further event that either the Owner of such Lot elects not to repair or rebuild the damaged or destroyed improvement, such Owner making such election shall promptly clean away the ruins and debris of any damaged improvements or vegetation and leave such Lot in a clean, orderly, safe, and sightly condition. Should such Owner elect to repair or rebuild such Lot improvements, such Owner shall repair or rebuild such Lot improvements to substantially the same condition as existed prior to such fire or other casualty and in accordance with all applicable standards, restrictions, and provisions of this

Declaration, as it may be subsequently amended, and all applicable zoning, subdivision, building and other governmental regulations. All such work of repair or construction shall be commenced promptly following such damage or destruction and shall be carried through diligently to conclusion.

## **ARTICLE VI** **ADMINISTRATION**

**6.01 Common Areas.** The Association shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon and shall keep the same in a good, clean, attractive, and sanitary condition, order, and repair. Except to the extent otherwise required by the provisions of the Non-Profit Corporation Law of Louisiana this Declaration, the By-Laws, or the Articles of Incorporation, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors, acting through the officers of the Association, without any further consent or action on the part of the Owners.

**6.02 Duties and Powers.** The duties and powers of the Association shall be those set forth in the provisions of the Non-Profit Corporation Law of Louisiana this Declaration, the By-Laws, and the Articles of Incorporation, together with those reasonably implied to effect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies between the Non-Profit Corporation Law of Louisiana, this Declaration, the By-Laws, or the Articles of Incorporation, the provisions of the Non-Profit Corporation Law of Louisiana, this Declaration, and the By-Laws, in that order, shall prevail, and each Owner of a Lot, by acceptance of title thereto, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

**6.03 Rules and Regulations.** The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Lots and Common Areas, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

**6.04 Indemnification.** The Association shall indemnify every officer or director of the Association against any and all expenses, including court costs and reasonable attorney fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding if approved by the Board of Directors) to which he may be made a party by reason of being or having been an officer or director at the time such expenses are incurred. The officers and directors shall not be liable for any mistake of judgment, negligence, or otherwise, except for their own willful misconduct or nonfeasance. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officer or directors may also be members of the Association) and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein, shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled.

## **ARTICLE VII** **ASSESSMENTS**

**7.01 Purpose of Assessments.** The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Development, and maintaining the Development and improvements therein, all as may be more specifically authorized from time to time by the Board of Directors.

**7.02 Creation of Lien and Personal Obligation of Assessments.** Except as provided in Paragraph 7.10 hereinafter provided, each Owner of a Lot by acceptance of title thereto whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association: (a) annual assessments to be established and collected as provided in Section 7.03

hereof; (b) special assessments to be established and collected as provided in Section 7.04 hereof; (c) individual or specific assessments against any particular Lot which are established pursuant to the terms of this Declaration. Any such assessments, together with late charges, simple interest at the rate of twelve percent (12%) per annum, and court costs and attorneys' fees incurred to enforce or collect such assessments, shall be a real obligation and lien upon the Lot, the Owner of which is responsible for payment. Each Owner shall be personally liable for assessments coming due while he is the Owner of a Lot, and his successor-in-title shall take title to such Lot subject to the real obligation and lien, but without prejudice to the rights of such successor-in-title to recover from his predecessor in title any amounts paid by such successor-in-title therefor. In the event of co-ownership of any Lot, all of such co-owners shall be solidarily liable for the entire amount of such assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless otherwise provided by the Board, the annual assessments shall be paid in equal quarterly installments.

**7.03 Computation of Annual Assessments.** The Association shall operate on a calendar year. It is hereby established that the Association Dues shall commence on the date of this act, and shall be \$660.00 per Lot per year. It will be the duty of the Board of Directors, at least 30 days prior to the Association's annual meeting, to prepare a budget covering the estimated common area expenses for the coming year and will recommend the amount of the annual dues for the upcoming year. It will require the affirmative vote of 66% of the voting power of Owners and Appearer to approve an increase or decrease in the annual dues. Should a vote to increase or decrease not be made or the appropriate percentage vote not be obtained, then the dues shall remain the same as the previous year. Should a Lot be sold to a purchaser during the fiscal year of the Association, then the buyer and seller of the Lot agree to pro-rate the Association dues for the current year.

**7.04 Special Assessments.** In addition to the annual assessments authorized above, the Association, acting through its Board of Directors, may levy, in any assessment year, special assessments for Common Expenses, applicable to that year only, provided that any such assessment shall be approved by a majority of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose in accordance with the provisions of Section 7.06 hereof. The Board of Directors may make such special assessments payable in installments over a period which may, in the Board's discretion, extend in excess of the fiscal year in which adopted. Such special assessments are to be pro-rated among the Owners equally as provided with respect to annual assessments.

**7.05 Individual Assessments.** Any expenses of the Association occasioned by the conduct of less than all of the Owners or by the family, tenants, agents, guests, or invitees of any Owner shall be specially assessed against such Owners and their respective Lots. The individual assessments provided for in this Section shall be levied by the Board of Directors and the amount and due date of such assessment so levied by the Board shall be as specified by the Board.

**7.06 Notice of Meeting and Quorum.** Written notice of the annual meeting of the Association, as well as any other meeting called for the purpose of taking any action authorized under Sections 7.03 and 7.04 hereof, shall be sent to all members not less than ten (10) days nor more than forty-five (45) days in advance of such meetings. With respect to annual meetings, the presence of members or proxies entitled to cast over fifty percent (50%) of all the votes of the Association 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 the presence in person or by proxy of members having one-third (1/3) of the total votes of the Association. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**7.07 Liens.** All sums assessed against any Lot pursuant to this Declaration, together with court costs, reasonable attorneys' fees, late charges, and interest as provided herein, shall be a real obligation and lien on such Lot in favor of the Association.

**7.08 Effect of Nonpayment; Remedies of the Association.** Any assessment of an Owner or any portions thereof which are not paid when due shall be delinquent. Once any assessment or any portion thereof has become delinquent, the Association may file a notice of same in the records of the Clerk of Court for Lafayette Parish, Louisiana. Any assessment delinquent for a period of more than fifteen (15) days after the date when due shall incur a late charge in an amount as may be determined by the Board from time to time and shall also commence to accrue simple



interest at the rate of twelve percent (12%) per annum. A real obligation and lien as herein provided for such assessment shall attach simultaneously as the same shall become due and payable, and if an assessment has not been paid within thirty (30) days, the entire unpaid balance of the assessment may be accelerated at the option of the Board and be declared due and payable in full and the Board may, through its authorized representative, file in the mortgage records of Lafayette Parish, Louisiana, a Notice of Lien or other document memorializing the lien provided for herein and which shall put third parties on notice thereof. The real obligation and lien of such assessment shall include the late charge established by the Board of Directors, interest on the principal amount due at the rate of twelve percent (12%) per annum, all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law. In the event that the assessment remains unpaid after sixty (60) days from the original due date, the Association may, as the Board shall determine, institute suit to collect such amounts and to foreclose its lien. The real obligation and lien provided for in this Article shall be in favor of the Association, and by acceptance of title to a Lot, each Owner vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such assessments as a debt and/or to foreclose the aforesaid lien in the same manner as other liens for the improvement of immovable property. No Owner may waive or otherwise escape liability for the assessment provided for herein, including by way of illustration but not limitation, non-use of the Common Areas or abandonment of his Lot, and an Owner shall remain personally liable for assessments, interest, attorney fees, and late charges which accrue prior to a sale, transfer, or other conveyance of his Lot.

**7.09 Certificate.** Any officer of the Association shall, within fifteen (15) days of written request and upon payment of such fees and assessments as are from time to time assessed by the Board of Directors, furnish to any Owner or such Owner's Mortgagee which requests the same, a certificate in writing signed by such officer setting forth whether the assessments for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any assessments stated therein to have been paid.

**7.10 Waiver of Dues by Appearer.** Notwithstanding the provisions of this Article, the Appearer shall not be obligated to pay dues to the Association for Lots owned by Appearer unless Appearer or the principals of Appearer move into a Dwelling located on one of the Lots owned by the Appearer. The dues associated with any Lot sold by Appearer to a third party shall be prorated, with the third party purchaser paying his prorata share at the closing of the Lot. This covenant may not be amended or deleted without the consent of 100% of the Owners.

## **ARTICLE VIII**

### **ARCHITECTURAL STANDARDS**

**8.01 Purpose.** In order to preserve the natural setting and beauty of the Development, to establish and preserve a harmonious and aesthetically pleasing design for the Development, and to protect and promote the value of the Property, the Lots, and all improvements located therein or thereon, the Property shall be subject to the restrictions set forth in this Declaration. Every Owner by acceptance of title to his Lot agrees to be bound by the provisions of this Article.

**8.02 Architectural Control Committee.** (a) Notwithstanding the provisions of (b) below, Bryan McLain, and a professional plan designer selected by Bryan McLain shall be the Architectural Control Committee until homes are built on all the Lots in the Subdivision or Bryan McLain voluntarily resigns. This covenant cannot be changed without the consent of 100% of the Owners.

(b) Once the provisions of subsection (a) above expire or terminate, The Board of Directors shall establish the Architectural Control Committee which shall consist of three (3) members, all of whom shall be Owners or principals of Appearer (Bryan McLain) and who may or may not be members of the Board of Directors. The regular term of office for each member shall be one (1) year, coinciding with the fiscal year of the Association. Any member appointed by the Board may be removed, with or without cause, by the Board at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. The Architectural Control Committee shall elect a chairman and he, or in his absence, the vice-chairman, shall be the presiding officer at its meetings. The Architectural Control

