

DECLARATION MADE PURSUANT TO THE CONDOMINIUM ACT

This Declaration (hereinafter called the "Declaration") is made and executed pursuant to the provisions of The Condominium Act, S.O. 1978, ch. 84, as amended and the regulations made thereunder (all of which are hereinafter referred to as the "Act") by The Cadillac Fairview Corporation Limited, a company duly incorporated under the laws of the Province of Ontario and having its head office in the City of Toronto (hereinafter called the "Declarant").

WHEREAS the Declarant is the owner in fee simple of the lands and premises situate in the City of Kanata in the Regional Municipality of Ottawa-Carleton, and being more particularly described in Schedule "A" and in the description submitted herewith by the Declarant for registration in accordance with section 4 of the Act;

WHEREAS the Declarant has constructed buildings upon the said lands containing sixty-eight residential units, being Units 1 to 34 inclusive on Levels 1 and 2 and sixty-eight garage units, being Units 35 to 102 inclusive on Level 1.

WHEREAS the Declarant intends that the said lands together with the said buildings constructed thereon should be governed by the Act;

AND WHEREAS pursuant to Section 22(7) of The Condominium Act, no garage unit is entitled to a vote and all references to units herein should be read accordingly.

NOW THEREFORE the Declarant hereby declares as follows:

- 1. **DEFINITIONS**
 - 1.01 In the Declaration
 - (a) "Act" means The Condominium Act, S.O. 1978, ch. 84, as amended from time to time and regulations made thereunder.
 - (b) "Board" means the Board of Directors of the corporation.
 - (c) "Building" means the buildings included in the property.
 - (d) "By-law" means a by-law of the corporation as authorized by the Act.
 - (e) "Common Elements" means all of the property except the units.
 - (f) "Common Expenses" means the expenses of the performance of the objects and duties of the corporation and any expenses specified as Common Expenses in the Declaration.
 - (g) "Common Interest" means the interest in the Common Elements appurtenant to a unit.
 - (h) "Corporation" means the corporation incorporated by the Act and the registration of this Declaration.
 - (i) "Declaration" means the declaration specified in the Act and includes amendments made to it from time to time.
 - (j) "Description" means the description filed herewith pursuant to the provisions of the Act.
 - (k) "Encumbrance" means a claim that secures the payment of money or the performance of any other obligation and includes, without limiting the foregoing, a charge under The Land Titles Act, a mortgage and a lien.
 - (l) "Exclusive Use Areas" means that part of the Common Elements appurtenant to an owner's unit over which the owner has exclusive use.
 - (m) "Land" means the freehold land described in Schedule "A" attached hereto.

- (n) "Mortgage or Mortgagee" shall include Charge or Chargee.
- (o) "Occupant" means any person residing within a unit.
- (p) "Owner" means the owner or owners of the freehold estate or estates in a unit and Common Interest, but does not include a Mortgagee unless such Mortgagee is in possession.
- (q) "Property" means the land and interest appurtenant to the land described in the description in Schedule "A" annexed hereto and includes any land and interest appurtenant to the lands that are added to the Common Elements.
- (r) "Special By-law" means a by-law that is not effective until it is: 1. passed by the board, and 2. confirmed with or without variation by owners who own not less than two-thirds of the units at a meeting duly called for that purpose.
- (s) "Termination" means termination of the government of the property by the Act.
- (t) "Unit" means part or parts of the land included in the description and designated as a unit by the Description, and comprises the space enclosed by its boundaries and all the material parts of the land within this space at the time the Declaration and Description are registered. The definition of "Unit" for the purpose of duties to repair and maintain in accordance with the provisions of this Declaration and the Act shall extend to all improvements made by the Declarant in accordance with its architectural plans, notwithstanding that some of such improvements may be made after registration of the Declaration.
- (u) Other terms used herein shall have ascribed to them the definition contained in the Act as amended from time to time.

2. MANDATORY STATUTORY PROVISIONS

2.01 Statement of Intention

The Declarant intends that the lands and premises and interests appurtenant thereto described in Schedule "A" hereto as is more particularly described in the Description be governed by the Act and any amendments thereto.

2.02 Consent of Encumbrancers

The consent to the registration of the Declaration of all parties having a registered encumbrance, including without limiting the generality of the foregoing, registered charge, mortgage, lien or other claim securing the payment of money against the land and/or interest appurtenant to the land described in the Description, is contained in Schedule "B" attached hereto.

2.03 Boundaries of Units and Monuments

The monuments controlling the extent of the units are the physical surfaces mentioned in the boundaries of the units in Schedule "C" attached hereto.

2.04 Common Interests and Common Expenses

Each owner shall have an undivided interest in the common elements as a tenant in common with all other owners and shall contribute to the common expenses in the proportions set forth opposite each number in Schedule "D" attached hereto. The total number of the proportions of the common interests shall be 100 percent.

2.05 Address for Service and Mailing Address

The corporation's address for service shall be Carleton Condominium No. , 12 Stonehill Court, City of Kanata, or such other address as the Board may from time to time by resolution designate. Any change of address shall not be effective until notice thereof is registered in accordance with the provisions of the Act.

3. PERMISSIVE STATUTORY PROVISIONS

3.01 Common Expenses and Reserve Funds

Common expenses shall include all expenses incurred in the performance of the objects and duties of the corporation whether such objects and duties are imposed under the provisions of the Act or of the within Declaration or performed pursuant to the registered by-law of the corporation including without limiting the generality of the foregoing:

- (a) the cost of borrowing money to carry out the objects and duties of the corporation and the repayment including principal and interest of debts incurred for the objects and duties of the corporation provided that the borrowing of such money shall have been duly authorized under the terms of the by-laws of the corporation and the provisions of the Act.
- (b) all sums of money payable by the corporation on account of any and all public and private suppliers of insurance coverage, utilities and services including, without limiting the generality of the foregoing, monies payable on account of
 - (i) insurance premiums and the necessary appraisals;
 - (ii) electricity respecting common elements;
 - (iii) water;
 - (iv) waste disposal;
 - (v) snow removal;
 - (vi) property maintenance and supervisory staff;
 - (vii) maintenance materials, tools and supplies
- (c) the payment of realty taxes (including local improvement charges) levied against the property until such time as said taxes are levied against each unit.
- (d) all sums of money required by the corporation for the acquisition or retention of real property for the use and enjoyment of the property or for the acquisition or repair or maintenance or replacement of personal property for the use and enjoyment in or about the common elements.
- (e) all sums of money paid or payable by the corporation to any and all persons, firms or companies engaged or retained by the corporation, its duly authorized agents, servants and employees for the purpose of performing any or all of the duties of the corporation.
- (f) all sums of money paid or payable by the corporation for legal, engineering, accounting, auditing, expert appraising, advising, maintenance, managerial and secretarial advice and services required by the corporation in the performance by the corporation of its objects and duties.
- (g) the fees and disbursements of the insurance trustee if any.
- (h) the cost of obtaining and maintaining fidelity bonds as provided in the by-law.
- (i) the cost of the corporation's share of maintenance, repairs and operation of recreational facilities.
- (j) all sums of money required by s. 36 of The Condominium Act and/or assessed by the Corporation to be set aside in a separate fund or funds (hereinafter called the "Reserve Fund") and to be applied from time to time, in whole or in part, to major repair and replacement of common elements and assets of the corporation including where applicable without limiting the generality of the foregoing roofs, exteriors of buildings, roads, sidewalks, sewers, heating, electrical and plumbing systems, recreational, and parking facilities.

3.02 Payment of Common Expenses

Each owner including the Declarant shall pay to the corporation his proportionate share of the common expenses as may be provided for by the by-laws of the corporation and the assessment and collection of contributions towards the common expenses may be regulated by the Board pursuant to the by-laws of the corporation.

3.03 Lien

The provisions of the Act with respect to the corporation's lien for unpaid common expenses shall apply both to unpaid contributions to common expenses and reserve funds.

3.04 Use of Common Elements

Subject to the provisions of the Act, this Declaration, the by-laws and any rules and regulations passed pursuant thereto each owner may make reasonable use of the whole or any part of the common elements except as herein otherwise provided.

3.05 Exclusive Use Common Elements

Subject to the provisions of the Act, this Declaration, the by-laws and any rules and regulations passed pursuant thereto the owner of each unit shall have the exclusive use of those parts of the common elements as set out in Schedule "E" attached hereto.

3.06 Restricted Access Areas

No owner shall without the consent in writing of the Board have any right of access to those parts of the common elements used from time to time as a utility area, building maintenance storage area, manager's office, operating machinery, or any other parts of the common elements used for the care, maintenance or operation of the property. Provided however that this paragraph shall not apply to any first mortgagees holding mortgages on at least 10 percent of the units who shall have a right of access for inspection upon 48 hours notice to the corporation.

3.07 Change in the Common Elements

- (a) The corporation may by vote of members who together own 80 percent of the units make any substantial additions, alterations or improvements to or renovation of the common elements or make any substantial change in the assets of the corporation.
- (b) The corporation may by vote of members who together own a majority of units make any other addition, alteration or improvement to or renovation of the common elements or may make any other change in the assets of the corporation.
- (c) For the purposes of this clause, the Board shall decide whether any addition, alteration or improvement to or renovation of the common elements or any change in the assets of the corporation is substantial.

4. OCCUPATION AND USE OF UNITS

4.01 The occupation and use of the units shall be in accordance with the following restrictions and stipulations and in accordance with the Act and the by-laws of the corporation and the rules and regulations made thereunder:

- (a) Each residential unit shall be occupied and used for residential purposes only. Each shall be occupied as a single family, private residence and no other purposes. Provided however that the foregoing shall not prevent the Declarant from completing the buildings and all improvements to the property maintaining units as models for display and sale purposes in the development and otherwise maintaining construction offices, displays and signs until all units have been sold by the Declarant in Block A, Plan M-182.

- (b) No owner shall make any structural change in or to his unit or any change to an installation upon the common elements or paint, stain, decorate or alter or repair any part of the common elements without the prior written consent thereto of the Board. Any such change shall if approved by the Board be made in accordance with the provisions of all relevant municipal and other governmental by-laws, rules, regulations or ordinances and in accordance with the conditions if any of such approval by the Board.
- (c) No unit or any part of the common elements shall be occupied or used by anyone in such a manner as to result in a cancellation or a threat of cancellation of any policy of insurance referred to in this Declaration. No unit owner shall bring or keep anything in the unit and/or common elements which may result in the cancellation or threat of cancellation of a policy of insurance referred to in this Declaration.
- (d) The owner of each unit shall comply and shall require all residents, occupants, visitors to his units to comply with the Act, this Declaration and by-laws and the rules and regulations passed pursuant thereto.
- (e) If any of the unit owners shall do or permit anything to be done in the unit and/or common elements or bring or keep anything which will in any way increase the risk of fire or other perils insured against and consequently will increase the premium rate of policy or policies of insurance referred to in this Declaration, then the unit owner shall pay in his next monthly contribution towards the common expenses after receipt of notice from the corporation all increases in premium in respect of such policy or policies of insurance. All payments pursuant to this clause are deemed to be additional contribution towards common expenses and recoverable as such.
- (f) Except as herein provided no part of the common elements shall be used for any purpose other than for such purpose or purposes as are incidental to the use of the units, as single family, private residences. Notwithstanding the foregoing no part of the common elements shall be occupied or used for parking, standing, placing, storing, leaving, leave standing or permitting the leaving of any motorized vehicle including an automobile, snowmobile, bicycle, motorcycle, truck or any other type of vehicle or accommodation including a trailer, bicycle, cart, wagon, boat, houseboat or any other article or thing which the Board may from time to time by by-law pass, pursuant to the said Act, be deemed to be included within the aforesaid deemed to adversely affect the use of the common elements for residential purposes except with the written consent of the Board. The Board may in the absolute discretion of the Board upon determining that a part of the common elements has been or is being used or occupied for a purpose herein prohibited cause such use or occupation to be terminated in such manner as the Board in its sole discretion deems necessary, the cost of which shall be borne jointly and severally by the owner of such units having exclusive use of the part of the common elements so affected where applicable and the owner of such chattel as is found to be the case for violation of such prohibited use or occupation. Nothing herein shall be deemed to prevent the parking of an automobile by a unit owner in the exclusive use portion of the driveway associated to his unit or in such part or parts of the common elements designated by the Board as general parking.
- (g) The Board may from time to time designate such part or parts of the common elements designated in the Description as general parking for the use of the owner's guests, agents or tenants or such other persons as the Board may from time to time determine for the purpose of parking such kinds of motor vehicles as the Board may determine. The Board may lease any part or parts or all of the parts of the common

elements so designated for such period and upon the terms and conditions as the Board may from time to time determine. No part of the said parts of the common elements so designated may be used by any person without prior consent of the Board.

- (h) The part of the common elements designated on the said Description as service buildings shall be used by the corporation as the head office of the corporation and for such maintenance and administrative purpose as the Board may from time to time determine provided that in no event shall the space be used for residential purpose.
- (i) The corporation may own a unit which may be used as a dwelling for any superintendent hired by the corporation.

4.02 Requirements for Leasing

- (a) No owner shall lease his unit unless he causes the tenant to deliver to the corporation an agreement signed by the tenant embodying the following clause: I, _____, covenant and agree that I, the members of my household, and my guests from time to time will in using the unit rented by me and the common elements comply with The Condominium Act, the Declaration and the by-laws and all rules and regulations of the condominium corporation during the term of my tenancy.
- (b) No tenant shall be liable for the payment of common expenses unless notified by the corporation that the owner is in default of payment of common expenses in which case the tenant shall deduct from the rent payable to the owner, the owner's share of the common expenses and shall pay the same to the corporation.
- (c) Any owner leasing his unit shall not be relieved hereby from any of his obligations with respect to the unit which shall be joint and several with his tenant.
- (d) Where a tenant residing in a unit is in breach of any of the provisions of this Declaration, the by-laws and/or rules or regulations of the corporation and such breach continues for a period of at least 10 days following written notification by the Board of Directors or the property manager to the tenant of such breach, or if such breach recurs, then the corporation in addition to any other remedies it may have pursuant to the Act, the Declaration, the by-laws and the rules and regulations of the corporation or any other remedies it may have that common law shall have the right to do the following:

(I) notify the unit owner of such breach or recurring breach by his tenant and require the unit owner to take immediate steps to remedy such breach, and

(II) if the unit owner fails within 7 days after notification to remedy such breach (and the opinion of the Board of Directors or the property manager shall be conclusive in this regard) the corporation shall be and is hereby irrevocably authorized, constituted and appointed the true and lawful attorney of the unit owner for and in his name to do the following:

(i) give notice to the tenant to terminate the tenancy in accordance with s. 99 of The Landlord and Tenant Act, R.S.O. 1970, c. 236 as amended.

(ii) apply for an Order declaring the tenancy terminated in accordance with s. 106 of The Landlord and Tenant Act, R.S.O. 1970.

(iii) do all manner of acts, assurances, deeds, covenants and things as shall be required and as the corporation or its counsel may see fit for any or all of the foregoing purposes.

(iv) any cost or expenses incurred by the corporation in respect of the above-mentioned procedures in article 4.02 (d), (I) and (II) shall be recoverable from the unit owner and are deemed to be additional contributions towards the common expenses and recoverable as such.

4.03 Compliance

All owners, tenants, and occupants of the unit shall be subject to and comply with the provisions of the Declaration, by-laws, rules and regulations. The acceptance of a deed or transfer or the entering into of a lease or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, the by-laws and the rules and regulations as they may be amended from time to time are accepted and ratified by such owner, tenant or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though such provisions were cited and stipulated in full in each and every such deed and transfer or lease.

4.04 Maintenance and Repairs

Each owner shall maintain his unit and subject to the provisions of this Declaration each owner shall repair his unit after damage all at his own expense. In addition and notwithstanding that they may be part of the common elements, each owner shall maintain part of the unit where access thereto is available from common elements of which the owner has the exclusive use, as well as any balcony to which his unit provides his sole and direct access.

Each owner shall be responsible for all damages to any and all other units and to the common elements which are caused by the failure of the owner to so maintain and repair his unit save and except for any damages to such common elements and other units for which the cost of repairing same may be recovered under any policy or policies of insurance held by the corporation.

The corporation shall make any repairs that an owner is obligated to make and that he does not make within a reasonable time and in such an event an owner shall be deemed to have consented to having repairs done to his unit by the corporation, and an owner shall reimburse the corporation in full for the cost of such repairs, including any legal or collection costs incurred by the corporation in order to collect the cost of such repairs and all such sums of money shall bear interest at the rate of 12 percent per annum. The corporation may collect all such sums of money in such instalments as the Board may decide upon which instalments shall be added to the monthly contributions towards the common expenses of such owner after receipt of a notice from the corporation thereof. All such payments are deemed to be additional contributions towards the common expenses and recoverable as such.

- (a) Each owner at his own expense shall maintain his unit.
- (b) Each owner shall maintain those exclusive use common elements associated with his unit save for the removal of snow from the exclusive laneway areas associated with any unit.

4.05 Repairs and Maintenance of the Common Elements by Corporation

The corporation shall repair and maintain the common elements at its own expense except for those portions of the common elements which are required to be maintained and repaired by the owners pursuant to paragraph 4.05. In the event that the corporation shall be put to any expenses as a result of an owner without authorization repairing or maintaining any part of the property which he is not obliged to repair or maintain, then such owner shall reimburse the corporation for such expense. All amounts due hereunder shall be deemed to be additional contributions towards the common expenses and recoverable as such.

4.06 Rights of Entry

The corporation or any person authorized by the Board may enter any unit or exclusive use area at any reasonable time to perform the objects or duties of the corporation and without limiting the generality of the foregoing:

- (a) the corporation or any insurer of the property or any part thereof, their respective agents or any other person authorized by the Board shall be entitled to enter any unit or any part of the common elements for which any owner has the exclusive use at all reasonable times and upon giving reasonable notice for the purpose of making inspection, adjusting losses, making repairs, correcting any condition which violates the provisions of the insurance policy or policies, remedying any condition which might result in damage to the property or carrying out any duty imposed upon the corporation.
- (b) in case of an emergency an agent of the corporation may enter a unit at any time and without notice for the purpose of repairing the unit, common elements, or part of the common elements over which any owner has the exclusive use, or for the purpose of correcting any condition which might result in damage or loss to the property. The corporation or anyone authorized by it may determine whether an emergency exists.
- (c) if an owner shall not be personally present to grant entry into his unit, the corporation or its agents may enter upon such unit without rendering it or them liable to any claim or cause of action for damage for reason thereof provided that they exercise reasonable care.
- (d) the rights and authority hereby reserved to the corporation, its agents or any insurer, or its agents, do not impose any responsibility or liability whatever for the care or supervision of any unit except as specifically provided in this Declaration or the by-laws.

5. CORPORATE STRUCTURE

5.01 Board of Directors

The specification of the number, qualification, nomination, election, term of office, compensation and removal of members of the Board in the meetings, quorum, functions and officers of the Board shall be specified from time to time in the registered by-laws of the corporation.

5.02 Duties and Powers of the Corporation

The duties and powers expressed, or implied, or imposed, or granted to the corporation by the Act, the Declaration and the by-laws shall include but shall not be limited to the following:

- (a) to repair and maintain in accordance with the Declaration.
- (b) to settle, adjust, compromise or refer to arbitration any claim or claims which may be made upon or which may be asserted by or on behalf of the corporation of the property or any part thereof.

- (c) subject to prior authorization by a by-law in accordance with the provisions of paragraph 5.03(1) in each instance to borrow such amounts from time to time as in its discretion it deems necessary or desirable to borrow in order to protect, preserve, maintain or ensure the due and continued operation of the property in accordance with the terms hereof and to secure such loan by mortgage, pledge or charge of any of the real or personal property of the corporation and to add the cost of paying the interest on and the principal of any such loan to the common expenses.
- (d) to deposit any reserve fund pending its application in a separate account with a chartered bank or trust company, to invest the reserved funds held by the corporation provided that any investment shall be only that permitted by The Trustee Act, R.S.O. 1970, c. 470 as amended and convertible into cash in not more than 120 days.
- (e) to adopt and amend the rules and regulations respecting the use of the units and the common elements.
- (f) to supply heat, electricity and water to the buildings except where the corporation is prevented from carrying out such duty by reason of any event beyond the reasonable control of the corporation. If at any time any apparatus or equipment used in effecting the supply of heat, electricity or water becomes incapable of fulfilling its function or is damaged or destroyed, the corporation shall have reasonable time in which to repair or replace such apparatus and the corporation shall not be liable for direct, indirect or consequential damages, or for damages for personal discomfort or illness by reason of the breach of such duty.
- (g) to maintain accurate accounts and financial records of the financial transactions of the corporation, to cause audits to be made after every year, and to make audit statements available to the owners and mortgagees during reasonable business hours.
- (h) to effect compliance by the owners with the Act, Declaration, by-laws and rules and regulations of the corporation.
- (i) subject as herein provided to sell, convey, exchange, give an option or other right to buy, or sell, or otherwise dispose of any and all real and personal property at any time held hereunder by the corporation either at public auction or private sale for cash or upon credit, secured or unsecured, and at such time or times and in such manner and for such price as the corporation in its sole discretion deems advisable and to make, execute and deliver good and sufficient deeds and conveyances thereof and therefor.
- (j) to employ and pay the compensation of such counsel, engineers, accountants, experts, appraisers, advisors, maintenance and repairmen, or other persons as it may deem advisable.
- (k) to enter into such management agreement or agreements with any person, firm or company upon such terms and conditions as the corporation may, subject to the approval of the first mortgagee holding first mortgages on not less than fifty (50%) percent of the registered units for five years following declaration determine from time to time, provided that no such management agreement shall exceed the term of two years including any and all rights or renewal thereof, and provided further that for five years following declaration of the condominium that any person or firm responsible for the management of the condominium shall be a professional manager approved by the first mortgagee holding mortgages on not less than fifty (50%) percent of registered units.

- (l) notwithstanding the foregoing the corporation may in its sole and absolute discretion enter into any agreement or agreements with any public or private supplier of electric power, telephone service or any fuel including oil and gas for the purpose of such supplier repairing or replacing, or operating and maintaining the equipment necessary to service such power, telephone service or fuel.
- (m) Subject to the provisions of s. 9(l) of the Act, to lease such part or parts of the common elements for such period and upon such terms and conditions as the board may from time to time determine.

5.03 By-laws

The board may pass by-laws not contrary to the Act or this Declaration:

- (a) governing the number, qualification, nomination, election, term of office and remuneration of the directors.
- (b) regulating the meeting, quorum and functions of the board.
- (c) governing the appointment, remuneration, functions, duties, and removal of agents, officers and employees of the corporation and the security if any to be given by them to it.
- (d) governing the management of the property.
- (e) regulating the maintenance of the units and common elements.
- (f) governing the use and management of the assets of the corporation.
- (g) specifying duties of the corporation.
- (h) regulating the assessment, collections and contributions towards the common expenses.
- (i) authorizing the borrowing of money to carry out the objects and duties of the corporation provided that each borrowing shall require the individual approval of the majority of the owners at a meeting called for the purpose of obtaining such approval.
- (j) respecting the conduct generally of the affairs of the corporation.

Provided that such by-laws are not effective until confirmed with or without variation by owners who own not less than 51% of the units at a meeting duly called for that purpose.

5.04 The Corporation shall register a copy of any by-law or special by-law together with a certificate executed by the Corporation that the by-law was made in accordance with the Act, this Declaration and the by-laws and until the copy and the certificate are registered such by-law is ineffective.

6. DAMAGE

6.01 The provisions of the Act shall apply. Where the Board determines that there has been substantial damage to the percentage of buildings as set out in the Act, it shall within ten (10) days following the occurrence of such damage send notice by registered mail of such damage to the first mortgagees of the units noted in the Condominium Register together with notice of any meetings required by the Act to be held to determine whether the corporation shall repair such damage.

6.02 Plans and Specifications

A complete set of all the original plans and specifications for the building including the plans and specifications for any additions, alterations or improvements from time to time made to the common elements or to any unit with the prior consent of the Board shall be maintained in the office of the corporation at all times for the use of the corporation rebuilding or repairing the damage to the building and for the use of the owner.

7. INSURANCE PROVISIONS

7.01 Obligations of the Corporation

The corporation shall be required to obtain and maintain to the extent obtainable from the insurance industry the following insurance in one or more policies:

- (a) insurance against damage by fire with extended coverage and such other perils the Board may from time to time deem advisable insuring

(i) the property excluding the units,

(ii) personal property owned by the corporation but not including furnishings, furniture or other personal property supplied or installed by the owners in an amount equal to the full replacement cost of such real and personal property without deduction for depreciation which policy may be subject to a cost deductible clause.

(b) insurance against damage by fire with extended coverage for such other perils that the Board may from time to time deem advisable insuring the unit, but excluding any improvements made by the owners thereof, in an amount equal to the full replacement cost of such units without deduction for depreciation and for an amount not less than the minimum co-insurance (not less than 80% of full replacement cost) limits which policy may be subject to a loss deductible clause.

7.02 The policy or policies set out in paragraphs (a) and (b) of article 7.01 herein shall ensure the interests of the corporation and the owners from time to time as their respective interests may appear with mortgagee endorsements which shall be subject to the provisions of this Declaration and the insurance trust agreement and shall if obtainable contain the following provisions:

(i) that the loss shall be payable to the insurance trustee for claims over \$5,000.

(ii) waivers of subrogation against the corporation, its manager, agents, employees, and servants, and owners, and any member of the household, his spouse, the relatives of either, and any person under the age of 18 and in the care of such owner except for arson and fraud.

(iii) that such policy or policies shall not be cancelled or substantially modified by the insurer without at least 60 days prior written notice to all parties appearing on such policy or policies as having an interest therein and to the insurance trustee.

(iv) waivers of any defence based on co-insurance or of invalidity arising from the conduct, or any act, or omission, or breach of a statutory condition of any insured.

(v) all policies of insurance shall provide that the same be primary insurance in respect of any other insurance carried by any owner.

(vi) a waiver of the insurer's option to repair, rebuild or replace in the event that, after damage, the government of the property by the Act is terminated.

7.03 Public Liability

The corporation shall be required to obtain and maintain public liability and property damage insurance insuring the liability of the corporation and the owners from time to time with limits to be determined by the Board but in no event less than One Million Dollars (\$1,000,000.00) and without right of subrogation as against the corporation, its manager, agents, servants, and employees, and as against the owners, and any member of the household or guests, or any owner or occupant of the unit.

7.04 The corporation shall obtain and maintain liability insurance insuring the owners individually or collectively and the members of the Board individually or collectively against claims arising out of or based upon negligent acts, errors, omissions, alleged breaches of duty of any member of the Board or officer while acting in their capacity as such in an amount up to ~~Three Hundred Thousand~~ ~~(\$300,000.00)~~ Dollars for each occurrence such limits to be reviewed no less often than annually.

7.05 The corporation shall obtain and maintain workman's compensation insurance to the extent necessary to comply with any applicable law.

7.06 General Provisions

(a) Prior to obtaining any policy or policies of insurance under this article, tri-annually thereafter, or at such other time as the Board may deem advisable the Board shall obtain an appraisal from an independent qualified appraiser of the

full replacement cost of the property for the purpose of determining the amount of insurance to be effected pursuant to this article and the cost of such appraisal shall be a common expense.

- (b) the corporation, its Board, and its officers shall have the exclusive right on behalf of itself and as agents for the owners to adjust any loss or settle any claims with respect to all insurance placed by the corporation and to give such releases as are required and any claimant including the owner of a damaged unit shall be bound by such adjustment. Provided however that the Board may in writing authorize an owner to adjust any loss to his unit.
- (c) no mortgage may be placed against any unit unless the mortgagee agrees to waive any contractual or statutory provisions giving the mortgagee the right to have the proceeds of any insurance policy or policies applied on account of the mortgage and thereby prevent application of the proceeds of any insurance policy or policies towards the repair of the property pursuant to the provisions of the Declaration. This paragraph shall be read without prejudice to the right of any mortgagee to exercise the right of an owner to vote or to consent if the mortgage itself contains a provision giving the mortgagee that right, and also the right of any mortgagee to receive the proceeds of any insurance policy if the property is not repaired.
- (d) a certificate or memorandum of all insurance policies and endorsements thereto shall be issued as soon as possible to each owner and the duplicate original or certified copy of the policy to each mortgagee. Renewal certificates or certificates of new insurance policies shall be furnished to each owner and the renewal certificates or certified copies of new insurance policies to each mortgagee not later than 10 days before the expiry of any current insurance policy. The master policy for any insurance coverage shall be kept available by the corporation at its office for inspection by any owner or purchaser or mortgagee on reasonable notice to the corporation.
- (e) any insurance proceeds available for the purpose of effecting repairs to an owner's unit shall be held until such owner or the corporation has effected such repairs and the proceeds may be paid to the owner, or the corporation, or the contractor as the repairs are proceeded with.
- (f) no insured other than the corporation shall be entitled to amend any policy or policies of insurance obtained and maintained by the corporation or to direct that the loss shall be payable in any manner other than as provided in this Declaration.

7.07 Owners Insurance Obligations

It is acknowledged that the foregoing insurance is the only insurance required to be obtained and maintained by the corporation and that the following insurance or any other insurance if deemed necessary or desirable by an owner may be obtained and maintained by such owner.

- (a) Insurance on any additions or improvements made by the owner of his unit and for the furnishings, fixtures, equipment, decorating, personal property, and chattels of the owner contained within his unit and his personal property and chattels stored elsewhere on the property including his automobile or automobiles and for loss of use and occupancy of his unit in the event of damage which policy or policies of insurance shall contain a waiver of subrogation as the corporation, its manager, agents, and employees, and servants, and against the other owners and any members of their household except for vehicle impact, arson and fraud.
- (b) Public liability insurance covering any liability of any owner to the extent not covered by any public liability and property damage insurance obtained and maintained by the corporation.

8. INSURANCE TRUSTEE AND PROCEEDS OF INSURANCE

8.01 Insurance Trustee

The corporation shall enter into an agreement with an insurance trustee which shall be a trust company registered under the Loan and Trust Corporations Act and having a capital surplus in undivided profits of at least Ten Million Dollars (\$10,000,000.00) or shall be a chartered bank in Canada which agreement shall without limiting its generality provide for the following:

- (a) receipt by the insurance trustee of any proceeds of insurance coverage obtained and maintained by the corporation where such proceeds exceed \$5,000.
- (b) the holding of such proceeds in trust for those entitled thereto pursuant to the provisions of this Declaration.
- (c) the disbursement of such proceeds in accordance with the provisions of the insurance trust agreement, the Act and this Declaration.
- (d) the notification by the insurance trustee to the mortgagees of any insurance monies received by it.

In the event that the corporation is unable to enter into such agreement with such trust company or with such chartered bank by reason of their refusal to act, the corporation may enter into such agreement with such other corporation authorized to act as trustee as the owners may approve by by-law at a meeting called for that purpose. The corporation shall pay the fees and disbursements of any insurance trustee and any fees and disbursements shall constitute a common expense.

8.02 In the event

- (a) that the corporation or an owner is obligated to repair any unit insured in accordance with the provisions hereof or in accordance with the provisions of the Act, the insurance trustee shall hold all proceeds for the corporation, shall disburse same in accordance with the provisions of the Declaration and the insurance trust agreement in order to satisfy the obligation of the corporation or owner to make such repairs.
- (b) that there is no obligation by the corporation to repair any unit in accordance with the provisions of s. 42(2) of the Act and there is termination in accordance with the provisions of s. 43 of the Act, or otherwise the insurance trustee shall hold all proceeds for the owners in the proportion of their respective interests in the common elements and shall pay such proceeds to the owners in such proportions, upon registration of a notice of termination by the corporation.
- (c) that the Board in accordance with the provisions of s. 42(1) of the Act determines that there has not been substantial damage to the limits set out in the Act. The insurance trustee shall hold all proceeds for the corporation and

owners whose units have been damaged and shall disburse such proceeds for the benefit of the corporation and the owners whose units have been damaged as their respective interests may appear in accordance with the provisions of the Act, the Declaration and insurance trust agreement in order to satisfy their respective obligations to make repairs pursuant to the provisions of article 7 of this Declaration and s. 41(6) of the Act.

Notwithstanding anything to the contrary herein contained any proceeds payable by the insurance trustee to an owner shall be subject to payment in favour of any mortgagee or mortgagees to whom such loss be payable in such policy or policies of insurance and in satisfaction of the amount due under any liens registered by the corporation against such unit.

9. INDEMNIFICATION

9.01 Each owner shall indemnify and save harmless the corporation from and against any loss, cost, damage, injury or liability whatsoever which the corporation may suffer or incur resulting from or caused by an act or omission of such owner, his family or any member of any other resident or occupant of his unit or any guest, invitees or licensees of such owner or resident to or with respect to the common elements and/or all other units except for loss, cost, damages, injury, liability caused by an insured (as defined in any policy or policies of insurance and insured against by the corporation).

All payments pursuant to this clause are deemed to be additional contributions towards the common expenses and recoverable as such.

10. EXPROPRIATION

10.01 In the event of expropriation of the whole of the property the compensation to be paid for the whole of the property shall be negotiated and finalized by the corporation subject to the ratification of such compensation by the owners of seventy-five (75%) percent of the common interests at a special meeting called for the purpose whether or not proceedings are necessary and the compensation less expenses involved, if any, in obtaining the said compensation shall be paid to the owners in the proportion of their respective common interest subject to the rights of any mortgagee or lien claimant.

10.02 Notice of expropriation shall be given by the corporation to all owners and mortgagees within ten (10) days of receipt of notice of expropriation by the corporation.

10.03 Notwithstanding the foregoing each owner shall have the right to negotiate and settle his personal compensation for additions, alterations or improvements made by each owner to his unit, after registration of the Declaration the cost of moving and similar items personal to each owner.

10.04 If no units are expropriated and the expropriation includes only part of the common elements then compensation shall be negotiated and settled by the Board whether or not proceedings are necessary. The Board of Directors may deal with the compensation in any one or more of the following ways:

- (a) to pay any compensation so received to the owners in the proportion of their respective common interest subject to the rights of any mortgagee or lien claimant.
- (b) subject to the provisions of paragraph 3.07 hereof to use the compensation to add, change or alter the common elements.

10.05 In the event of a partial expropriation which includes some units each owner whose unit is expropriated shall deal with the expropriating authority with regard to compensation relating to his unit and the common interests and shall have no further

interest in the property except to receive the compensation to which he is entitled from the expropriating authority with respect to his unit and common interest.

10.06 The provisions of paragraph 10.04 will apply with respect to that part of the expropriation dealing with a part of the common elements where some units and part of the common elements are expropriated.

10.07 Where some of the units and part of the common elements are expropriated the Board of Directors of the corporation shall negotiate and settle the compensation for any damage to the property suffered by the remaining owners whether or not proceedings are necessary and the compensation so received from the expropriating authority less expenses involved, if any, in obtaining such compensation and less such monies as in the opinion of the Board of Directors are required to restore the property shall be paid to the remaining owners subject to the rights of any mortgagee or lien claimant.

10.08 In the event of expropriation of some of the units and part of the common elements the percentage contribution towards the common expenses of the remaining owners shall be recalculated on the basis that the percentage contribution to common expenses of the owners expropriated shall be divided among the remaining owners in the same ratio that the percentage contributions to common expenses the remaining owners bear to each other.

10.09 In the event of expropriation of some of the units and part of the common elements the common interest of the remaining owners shall be recalculated on the basis that the common interest of the owners expropriated shall be divided among the remaining owners in the same ratio that the common interests of the remaining owners bear to each other.

11. FIRST MEETING

As soon as practicable but not later than 3 months after the registration of this Declaration the members may without notice hold their first annual meeting for the purpose of electing directors. The Board so elected may without notice hold its first meeting provided that a quorum of directors is present. Any by-law may be passed by the corporation without a meeting provided that a consent to the by-law by members who own 100 percent of the common elements is endorsed thereon.

12. INVALIDITY

Each of the provisions of this Declaration shall be deemed independent and severable and the invalidity or unenforceability in whole or in part of any one or more of such provisions shall not be deemed to impair or affect in any manner the validity and enforceability or effect of the remainder of this Declaration and in such event all the provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

13. WAIVER

The failure by the corporation or any person to take action or enforce any provision contained in the Act, this Declaration, the by-laws or any other rules or regulations of the corporation irrespective of the number of violations or breaches which may occur shall not constitute a waiver of the right to do so thereafter nor be deemed to abrogate or waive any such provision.

14. NOTICE

METHOD OF GIVING NOTICE BY THE CORPORATION -

(a) Any notice, communication or other document, including budgets and notices of assessments required to be given or delivered by the Corporation, shall be sufficiently given if

delivered personally to the person to whom it is to be given or if delivered to the address noted in the register, or if mailed by prepaid ordinary mail or air mail in a sealed envelope addressed to him at such address or if sent by means of wire or wireless or any other form of transmitted or recorded communication, to such address. Any notice, communication or other document to be given by the Corporation to any other person entitled to notice and who is not a member shall be given or delivered to such person in the manner aforesaid to the address shown for him on the register. Such notice, communication or document shall be deemed to have been given when it is delivered personally or delivered to the address aforesaid; provided that a notice, communication or document so mailed shall be deemed to have been given when deposited in a post office or public letter box, and a notice sent by any means of wire or wireless or any other form of transmitted or recorded communication shall be deemed to have been given when delivered to the appropriate communication company or agency or its representative for dispatch.

(b) Notice to the Board or Corporation -

Any notice, communication or other document to be given to the board or Corporation shall be sufficiently given if delivered personally or if mailed by prepaid ordinary mail or air mail in a sealed envelope addressed to it at the address for service of the Corporation set out in the Declaration or as changed in accordance with the provisions of the Act. Any notice, communication or document so mailed shall be deemed to have been given when deposited in a post office or public letter box.

(c) Omissions and Errors -

The accidental omission to give any notice to anyone entitled thereto or the non-receipt of such notice or any error in any notice not affecting the substance thereof shall not invalidate any action taken at any meeting held pursuant to such notice or otherwise founded thereon.

15. COSTS

Whenever pursuant to the Act, this Declaration, by-laws or the rules and regulations, or an Order or a Judgment of a Court, tribunal or a Board of competent jurisdiction a sum is owing to the corporation by an owner such sum shall include all costs including any legal or collection costs incurred by the corporation in order to collect such sums and all monies owing shall bear interest as the corporation may by by-law from time to time determine. The corporation may collect all such sums of money in such instalments as the Board may decide upon which instalments shall be added to the contribution towards the common expenses of such owner after receiving a notice from the corporation thereof. All such payments shall be deemed to be additional contributions towards the common expenses and recoverable as such.

16. GENDER AND NUMBER

The use of the masculine gender in this Declaration shall be deemed to refer to the feminine and neuter and the use of the singular shall be deemed to refer to the plural and vice versa whenever context so requires.

17. HEADINGS AND MARGINAL NOTES

The headings and marginal notes shall not form part of this Declaration but shall be deemed to be inserted for reference only.

DATED at Ottawa this 25th day of June, A.D.,
1980.

IN WITNESS WHEREOF the Declarant has hereunto affixed its corporate seal under the hands of its proper signing officers duly authorized in that behalf.

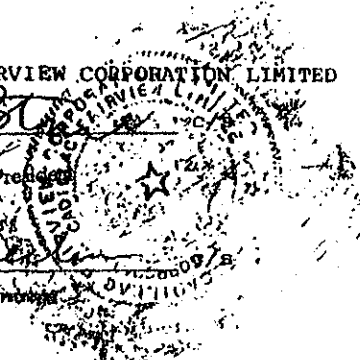
THE CADILLAC FAIRVIEW CORPORATION LIMITED

Per: W. L. St...

Executive Vice-President

Per: A. J. ...

Executive Vice-President



SCHEDULE A

ALL AND SINGULAR that certain parcel or tract of land and premises situate lying and being in the City of Kanata, in the Regional Municipality of Ottawa-Carleton and in the Province of Ontario. BEING COMPOSED OF Block FX and part of Block EX and part of Block A all as shown on a plan registered in the Registry Office for the Land Titles Division of Ottawa-Carleton No. 4 at Ottawa as Plan M-182 and designated as parts 1, 2, 3, 4 and 5 on a plan deposited in the said Land Registry Office as No. 4R-3379.

SUBJECT to an easement in favour of Ottawa Cablevision Limited over parts 2 and 3 on Plan 4R-3379 as more particularly set out in Instrument No. 141939.

SUBJECT to an easement in favour of The Bell Telephone Company of Canada over parts 2 and 3 on Plan 4R-3379 as more particularly set out in Instrument No. 141940.

SUBJECT to an easement in favour of The Hydro Electric Commission of the Township of Nepean over parts 2 and 3 on Plan 4R-3379 as more particularly set out in Instrument No. 141941.

BEING PART OF PARCEL A-2 IN THE REGISTER FOR SECTION M-182

SCHEDULE "C"

Each unit shall comprise the area bounded by:

Vertical boundaries Levels 1 and 2

- (a) save as hereinafter set out, backside surface of the interior drywall of the exterior walls and the extension of the planes of such surfaces;
- (b) the unpainted exterior face of door frames and doors leading from the unit in closed position;
- (c) the unpainted exterior surface of window frames and exterior surface of windows in closed position;

Horizontal boundaries Level 1 - Units 1 to 34

- (a) the upper surface of the drywall on the ceilings and extensions of the planes thereof;
- (b) the upper surface of the concrete floor slab and the extensions of the planes thereof;
- (c) in the area of the bay window, the lower boundary shall be the lower surface of the interior drywall forming the window sill and the upper boundary shall be the upper surface of the interior drywall forming the ceiling and the extension of the planes thereof to intersection with previously described boundaries.

Horizontal boundaries Level 1 - Units 35 to 102

- (a) the lower surface of the chords of the roof truss joists and the extension of the planes thereof;
- (b) the lower surface of the concrete floor slab and the extension of the planes thereof;

Horizontal boundaries Level 2 - Units 1 to 34

- (a) the upper surface of the drywall on ceilings and the extension of the planes thereof;
- (b) the upper surface of the plywood subfloor and the extension of the planes thereof;

In the vicinity of the fireplaces in Units 12, 20, 24, 28 and 30, Level 1, and Units 4, 12, 15, 20, 24, 28 and 30, Level 2, the unit shall include the pre-fabricated metal firebox, and metal flue pipes and all equipment appurtenant thereto.

All as shown on Sheets 1 and 2 of Part 1.

Notwithstanding anything contained herein the unit shall not include such pipes, wires, cables, conduits, ducts, flues or public utility lines or structural members within the unit which serve other units as well as that of the owner.

See O/Reg 933/78
Sec. 3(2)

George D. Annas
George D. Annas, O.L.S.
LAND SURVEYORS
ASSOCIATION OF
ONTARIO

SCHEDULE "D"

<u>Unit</u>	<u>Level</u>	<u>Proportion of Common Interest Proportion of Contribution to Common Expenses %</u>
1	1	1.5476
2	1	1.3708
3	1	1.1937
4	1	1.4902
5	1	1.5476
6	1	1.3708
7	1	1.1937
8	1	1.4902
9	1	1.5476
10	1	1.3708
11	1	1.1937
12	1	1.4900
13	1	1.5476
14	1	1.3708
15	1	1.4900
16	1	1.1937
17	1	1.3708
18	1	1.5476
19	1	1.1937
20	1	1.4900
21	1	1.5476
22	1	1.3708
23	1	1.1937
24	1	1.4900
25	1	1.5476
26	1	1.3708
27	1	1.1937
28	1	1.4900
29	1	1.1937
30	1	1.4900
31	1	1.5476
32	1	1.3708
33	1	1.1937
34	1	1.4902

SCHEDULE "D"

Proportion of Common Interest and
Proportion of Contribution to
Common Expenses %

<u>Unit</u>	<u>Level</u>	
35	1	.0735
36	1	.0735
37	1	.0735
38	1	.0735
39	1	.0735
40	1	.0735
41	1	.0735
42	1	.0735
43	1	.0735
44	1	.0735
45	1	.0735
46	1	.0735
47	1	.0735
48	1	.0735
49	1	.0735
50	1	.0735
51	1	.0735
52	1	.0735
53	1	.0735
54	1	.0735
55	1	.0735
56	1	.0735
57	1	.0735
58	1	.0735
59	1	.0735
60	1	.0735
61	1	.0735
62	1	.0735
63	1	.0735
64	1	.0735
65	1	.0735
66	1	.0735
67	1	.0735

SCHEDULE "D"

<u>Unit</u>	<u>Level</u>	<u>Proportion of Common Interest and Proportion of Contribution to Common Expenses %</u>
68	1	.0735
69	1	.0735
70	1	.0735
71	1	.0735
72	1	.0735
73	1	.0735
74	1	.0735
75	1	.0735
76	1	.0735
77	1	.0735
78	1	.0735
79	1	.0735
80	1	.0735
81	1	.0735
82	1	.0735
83	1	.0735
84	1	.0735
85	1	.0735
86	1	.0735
87	1	.0735
88	1	.0735
89	1	.0735
90	1	.0735
91	1	.0735
92	1	.0735
93	1	.0735
94	1	.0735
95	1	.0735
96	1	.0735
97	1	.0735
98	1	.0735
99	1	.0735

SCHEDULE "D"

<u>Unit</u>	<u>Level</u>	<u>Proportion of Common Interest and Proportion of Contribution to Common Expenses †</u>
100	1	.0735
101	1	.0735
102	1	.0735
1	2	1.5476
2	2	1.3708
3	2	1.1937
4	2	1.4900
5	2	1.5476
6	2	1.3708
7	2	1.1937
8	2	1.4902
9	2	1.5476
10	2	1.3708
11	2	1.1937
12	2	1.4900
13	2	1.5476
14	2	1.3708
15	2	1.4900
16	2	1.1937
17	2	1.3708
18	2	1.5476
19	2	1.1937
20	2	1.4900
21	2	1.5476
22	2	1.3708
23	2	1.1937
24	2	1.4900
25	2	1.5476
26	2	1.3708
27	2	1.1937
28	2	1.4900
29	2	1.1937
30	2	1.4900

SCHEDULE "D"

<u>Unit</u>	<u>Level</u>	<u>Proportion of Common Interest and Proportion of Contribution to Common Expenses</u>
31	2	1.5476
32	2	1.3708
33	2	1.1937
34	2	1.4902

SCHEDULE "E"

EXCLUSIVE USE COMMON ELEMENTS

Exclusive Use Patio

The owners of units 1 to 34 inclusive on level 1 shall have the exclusive use subject to the provisions of the Declaration, the By-Laws of the corporation and the rules and regulations passed pursuant thereto of a rear yard adjoining the dwelling unit designated in the description by being numbered the same as the number of such dwelling unit with the letter "R" following such number as shown on Sheet 1 of Part 2 of the description filed concurrently herewith.

Exclusive Use Balconies

The owners of units 1 to 34 inclusive on level 2 having sole and direct access to the balconies adjoining such units shall have the exclusive use thereto subject to the provisions of the Declaration and the By-Laws of the corporation and the rules and regulations passed pursuant thereto.

Exclusive Use Driveway

The owner of units 35 to 102 inclusive Level 1 shall have the exclusive use subject to the provisions of the Declaration and the By-laws of the corporation and the rules and regulations passed pursuant thereto of the driveway in front of the unit, and designated in the description by being numbered the same as the number of such unit with the letter "D" following such number, all as shown on Sheet 1 of Part 2 of the description filed concurrently herewith.

29

433810

LAND REGISTRY
GENERAL REGISTRY
REGISTRY

JUN 30 10 00 AM '80

[Signature]
JAMES T. COYLE
DEPUTY LAND REGISTRAR

Cond. 184

LAND REGISTRY #4

REC. BY	<i>[Signature]</i>
F.F. NO. OR PAGE	295
ABST. BY	<i>[Signature]</i>
CHECKED BY	
MICRO. BY	

DECLARATION MADE PURSUANT TO THE CONDOMINIUM ACT

HONEYWELL WOTHERSPOON
Barristers and Solicitors
90 Sparks Street
Ottawa Ontario

53025803 00184.00
53025803 00184.00

50.00 - 13.90 = 36.10
13.90
18
50.00 - 13.90 = 36.10
18