

BY-LAWS
OF
HIGHPOINTE AT MALTA HOMEOWNERS ASSOCIATION, INC.

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BY-LAWS
OF
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ARTICLE I

NAME, LOCATION AND MEMBERSHIP

Section 1.01. Name and Location. The name of the not-for-profit corporation, organized pursuant to the New York State Not-for-Profit Corporation Law, is the HIGHPOINTE AT MALTA HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the corporation shall be located in the Town of Colonie, County of Albany and State of New York. The Certificate of Incorporation was filed in the Office of the Secretary of State of the State of New York, on September 2, 1998.

Section 1.02. Applicability of By-Laws. The provisions of these By-Laws are applicable to the Property of the Association and the use thereof.

Section 1.03. Personal Application. All present and future Owners, their guests, lessees, licensees, invitees and Mortgagees, and any other person having a right to use all or a portion of the Property by virtue of rights previously granted by deed and any other person who may use the facilities of the Property in any manner, are subject to these By-Laws and the Declaration.

ARTICLE II

DEFINITIONS

As used by these By-Laws, the following terms shall be defined as:

Section 2.01. Association Property. All land, improvements and other properties heretofore or hereafter owned by or in the possession of the Association.

Section 2.02. Declaration. The document entitled "Declaration of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens of the Highpointe at Malta Homeowners Association" as it may from time to time be supplemented or amended in the manner provided for in said Declaration which is incorporated herein by reference.

Section 2.03. Sponsor. Shall mean and refer to Robert Marini Builders, Inc., A New York State Corporation with principal offices at 16 Petra Lane, Albany, New York 12205.

Section 2.04. Property. All such land and the improvements thereon, and such additions as may be made thereto from time to time, as are subject to the Declaration.

Section 2.05. Capitalized terms herein shall have the meaning subscribed to such terms in the Declaration, unless otherwise indicated.

ARTICLE III

MEMBERS

Section 3.01. Membership. The Association shall have one class of members. Only Owners shall be "Member(s)". Each Owner shall be deemed automatically to be a Member upon the date that title to the Lot is transferred to said Owner and there shall be no other qualification for membership. Membership as an Owner appurtenant to any Lot shall terminate when such Owner transfers title to such Lot.

Section 3.02. Right to Assign Membership. Members may not transfer or assign their membership except upon the transfer of fee simple title to such Member's Lot as a right appurtenant thereto.

Section 3.03. Voting Rights. Each Member shall have one (1) vote in the Association for each Lot owned by such member. Directors shall be elected by a plurality of the votes cast at a meeting of Members by the Members entitled to vote in the election. In addition, whenever any corporate action, other than the election of directors, is to be taken under this Declaration by vote of the Members, it shall, except as otherwise required by the Certificate of Incorporation, this Declaration or the By-Laws, be authorized by a majority of the votes cast at a meeting of Members by the Members entitled to vote thereon. Except as provided in the preceding sentence, any reference to corporate action at a meeting of Members by "majority vote" or "two-thirds vote" shall require the action to be taken by such proposition of the votes cast at such meeting, provided that the affirmative votes cast in favor of any such action shall be at least equal to the quorum. Blank votes or abstentions shall not be counted in the number of votes cast.

Section 3.04. Assigning Right to Vote. Any Member may assign his or her right to vote, by written proxy to any other Member, provided that each such proxy shall specify the meeting or issue to which it applies. All proxies shall be in writing and shall be filed with the Secretary prior to the commencement of the meeting at which the same are to be used. Such proxies shall only be valid for such meeting or subsequent adjourned meetings thereof. A notation of such proxies shall be made in the minutes of the meeting.

Section 3.05. Voting Regulations. The Board of Directors may make such regulations, consistent with the terms of the Declaration, the Certificate of Incorporation, these By-Laws and the Not-for-Profit Corporation Law of the State of New York, as it deems advisable for any

meeting of the Members, in regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Members for voting purposes, the establishment of representative voting procedures and such other matters concerning the conduct of meetings and voting as it shall deem appropriate.

ARTICLE IV

MEETING OF MEMBERS

Section 4.01. Annual Meeting. The first annual Association meeting of Members shall be held within 30 days after the first meeting of the Board of Directors of the Association. Thereafter, annual meetings shall be held on the anniversary date thereof in each succeeding year; except that if such date is a Saturday, Sunday or legal holiday, the annual meeting shall be held on the next succeeding business day.

Section 4.02. Special Meetings. Special meetings of the Members unless otherwise regulated by statute, may be called at any time by the President by resolution of Board of Directors, or by the President or Secretary at the request in writing of a majority of the Board of Directors or at the request in writing of not less than one-tenth (1/10) of the Members. Such request shall state the purpose of the meeting.

Section 4.03. Notice of Meetings. Not less than ten (10) nor more than thirty (30) days before the date of any Annual or Special meeting of members, the Association shall provide each Member, written notice stating the time and place of the meeting and, in the case of Special Meeting, indicating that it is being issued by or at the direction of the person or persons calling the meeting, at the Member's last known address as shown on the records of the Association. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the Member at his or her post office address as it appears on the records of the Association with postage thereon prepaid. Notwithstanding the foregoing provisions, a waiver of notice in writing signed by the Member either before or after the meeting, or actual attendance at the meeting in person, shall be deemed equivalent to the giving of such notice to such Member. Any meeting of Members, Annual or Special, may adjourn from time to time and reconvene at the same or some other place, and no notice need be given of any such adjourned meeting other than by announcement at the meeting at which the adjournment is taken.

Section 4.04. Quorum. At each meeting of Members, there shall be present in person or by proxy, to constitute a quorum for the transaction of business at such meeting, not less than one-tenth of the total number of Members. If a quorum is not present at any meeting of Members, a majority of the Members present may adjourn the meeting from time to time to a future date without further notice. The act of a majority of the Members present in person or by proxy at a meeting at which a quorum is present shall be the act of the Members unless the act of a greater number is

required by law, or by the Certificate of Incorporation of the Association or by the Declaration.

ARTICLE V

BOARD OF DIRECTORS

Section 5.01. Number and Qualifications of Directors. The business and affairs of the Association shall be managed by a Board of Directors consisting of not less than three nor more than five directors. Directors shall be selected as follows:

a. Sponsor hereby appoints Robert Marini, Sr., Nancy T. Marini and Robert Marini, Jr., to the first Board of Directors of the Association ("Appointed Directors"). The first Board shall hold office and exercise all powers of the Board of Directors until the sooner of: (1) the fifth annual meeting of the Association members, or (2) the annual meeting of the Association members immediately following the date of the closing and transfer of title to 60% of the Lots. The first meeting of the Board of Directors shall be held within six (6) months of the first closing.

b. following the term of the first Board of Directors of the Association as provided in (a) above, the appointed directors shall be replaced by directors elected in accordance with the procedures set forth in the By-Laws of the Association.

c. Elected directors shall serve for two year terms and shall be members of the Association.

Section 5.02. Nominations for Elected Directors. Only Members (or in the case of a Member which is an entity, principals of Members) may be nominated for Elected Directors. Nominations for Elected Directors shall be made initially by a Nominating Committee consisting of a Chairman, who shall be a member of the Board of Directors and two (2) or more Members. The Members of the Nominating Committee shall be appointed by the Board of Directors at least sixty (60) days prior to each Annual Meeting of members and shall serve only to make nominations for Elected Directors as it shall, in its sole discretion, determine, but not less than the number of vacancies that are to be filled.

The Nominating Committee shall submit its list of Nominees to the Secretary of the Association not less than thirty (30) days prior to the Annual Meeting and such list shall be included in the Notice of the Annual Meeting.

In addition to nominations by the Nominating Committee, any other Member may be nominated for Elected Director by a written nominating petition signed by ten (10) or more Members and submitted to the Secretary of the Association not less than ten (10) days prior to the date of the Annual Meeting; provided however, if any such nominating petition is submitted to the secretary not less than thirty (30) days prior to the

Annual Meeting, the person nominated therein shall be included in the list of nominees in the notice of the Annual Meeting.

In addition to the foregoing, write-in votes for Members not previously nominated shall be permitted at the time of voting.

Section 5.03. Voting for Elected Directors. Voting shall be by secret written ballot which shall:

- a. set forth the number of vacancies to be filled;
- b. set forth the names of those nominated by the nominating petition;
- c. provide space for a write-in vote for each vacancy.

The person or persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 5.04. Vacancies. Any vacancy of an Appointed Director shall be filled by appointment by Sponsor. Any vacancy of an Elected Director shall be filled at the next meeting of the Board of Directors by the affirmative vote of a majority of the remaining Elected Directors or by the sole remaining Elected Director, or if not previously so filled, shall be filled at the next succeeding Annual Meeting of the Members (nominations and voting therefor to be provided in Sections 5.02 and 5.03 of these By-laws). Any Director appointed or elected to fill a vacancy shall serve as such until the expiration of the term of the vacant position.

Section 5.05. Removal. Sponsor may, at its discretion, remove any Appointed Director and may appoint the successor to fill the unexpired term of the removed Director.

At a duly called meeting of Members, Members may, by the affirmative vote of two-thirds of all Members, remove any Elected Director (or Director appointed to fill the vacancy of an Elected Director). The Members may thereafter elect the successor to fill the unexpired term of the Elected Director so removed.

Section 5.06. Compensation. No Director shall receive any compensation or salary for his or her services as Director. However, a Director may be reimbursed for his or her actual reasonable expenses incurred in the performance of his or her duties, and a Director who serves the Association in any other capacity may receive compensation therefor.

Section 5.07. Regular Meetings. The Board of Directors by resolution may provide for the holding of regular meetings and may fix the time and place within the County of Albany for the holding of such meetings. Notice of regular meetings need not be given.

Section 5.08. Special Meetings. Special meetings of the Board of Directors may be called by the President and shall be called by the

President or Secretary upon the written request of two or more Directors. The person or persons authorized to call such special meetings of the Board may fix any place within the County of Albany as the place for holding such special meetings.

Section 5.09. Notice of Special Meetings. Notice of the time and place of each Special Meeting of the Board of Directors shall be served upon each Director in one of the following ways: (a) by ordinary mail directed to him or her at his or her usual place of business or residence at least five (5) days before the day of the meeting, (b) by delivering the same to him or her personally at least two (2) days before the day of the meeting, (c) by sending the same to him or her by telegram, cablegram or notifying him or her by telephone at least three (3) days before the day of the meeting. Any Director may waive notice of any meeting by signing a written waiver before, at or after the meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting. Neither the business to be transacted at, nor the purpose of such Special Meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law, by the Declaration, by the Certificate of Incorporation, or by the By-Laws.

Section 5.10. Quorum and Voting. At all meetings of the Board of Directors, two-thirds of the Directors shall constitute a quorum for the transaction of business. Except in cases in which it is provided otherwise by statute, by the Certificate of Incorporation, the Declaration or these By-Laws, a vote of a majority of such quorum at a duly constituted meeting shall be sufficient of pass any measure. In the absence of a quorum, the Directors present may adjourn the meeting from time to time by a majority vote and without further notice, until a quorum shall attend. At any such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted as originally called.

ARTICLE VI

OFFICERS

Section 6.01. Officers. The Officers of the Association shall be a President (who shall be a member of the Board of Directors), one (1) or more Vice Presidents (the number thereof to be determined by the Board of Directors), a Secretary and a Treasurer and such other officers as may be elected by the Board of Directors. Any two or more offices may be held by the same person, except the offices of President and Secretary.

Section 6.02. Election and Term. Officers shall be elected annually by the Board of Directors at the First meeting of the Board of Directors following each Annual Meeting of members, to hold office until a successor shall have been duly elected. The vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 6.03. Resignation and Removal. Any Officer may be removed by the Board of Directors, with or without cause, whenever, in the judgment of the Board, the best interests of the Association will be served thereby. Any Officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6.04. President. The President shall be the chief executive officer, shall supervise the work of the other officers, shall preside at all meetings of Members, and if there is no Chairman of the Board, shall preside at all meetings of Directors, and shall perform such other duties and functions as are usually vested in the office of the President of a not-for-profit corporation. He or she may sign, in the name of the Association, any and all contracts or other instruments authorized by the Board. The President may not also serve simultaneously as Secretary or Treasurer.

Section 6.05. Vice President. The Vice President shall, in the absence of disability of the President, exercise the powers and perform the duties of the President. The Vice President shall also perform such other duties as shall, from time to time, be assigned to him by the Board or the President.

Section 6.06. Secretary. The Secretary shall cause notices of all meetings to be served as prescribed in these By-Laws, shall record the votes and keep the minutes of all meetings, shall have charge of the seal, if any, and corporate books and records of the Association, and the book of Mortgagees, and shall perform such other duties as are incident to the office of Secretary of a not-for-profit corporation, and as may be required of him by the Board or the President.

Section 6.07. Treasurer. The Treasurer shall have the custody of all monies and securities belonging to the Association and shall be responsible for keeping full and accurate records and books of account, showing all receipts and disbursements, necessary for preparation of required financial reports. He shall account to the President and the Board, whenever they may require it, with respect to all of his transactions as Treasurer and of the financial condition of the Association, and shall in general perform all other duties incident to the office of Treasurer of a not-for-profit corporation.

Section 6.08. Other Officers. The Board of Directors may elect such other officers as it shall deem desirable. Such officers shall have the authority and shall perform such duties prescribed from time to time by the Board of Directors.

ARTICLE VII

COMMITTEE

Section 7.01. Committees. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate one or more committees, which committees, to the extent provided in the resolution, shall have and exercise the authority of the Board of Directors in the management of the affairs of the Association provided, however, that no such committee shall have the authority of the Board of Directors to approve an Amendment to the Certificate of Incorporation of the Association, the Declaration or to these By-Laws or to plan a merger or consolidation or establish Assessments.

By way of example, and not by way of limitation, the Association may establish the following committees:

(a) Fiscal Affairs. This committee should have primary responsibility for preparation of the annual budget, establishment of adequate reserves, and periodic review of the development's insurance program. The committee should also supervise collection and disbursement of common charges, and when necessary, insurance proceeds paid to repair contractors.

(b) Committee on Owner Relations. This committee should be charged with the task of formulating, reviewing, and publishing house rules. It should serve as a public relations vehicle guaranteeing, as far as possible, two-way communication between the Board and constituent home and lot owners.

Section 7.02. Rules. Each committee may adopt rules and regulations for its own government not inconsistent with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

ARTICLE VIII

FINANCE

Section 8.01. Fiscal Year. The fiscal year of the Association shall be the twelve (12) calendar months, ending at such time as may be deemed appropriate by the Board of Directors.

Section 8.02. Annual Report and Budgets. There shall be prepared annually at the direction of the Board of Directors, a full and correct statement of the financial affairs of the Association, including a balance sheet and a financial statement of operation for the preceding fiscal year, and a budget for the ensuing year, which shall be submitted at the Annual Meeting of the Association, and will be made available to all Members.

ARTICLE IX

BOOKS, RECORDS AND LEGAL DOCUMENTS

Section 9.01. Books and Records. The Declaration, these By-Laws, Certificate of Incorporation and other books and records and papers of the Association, or copies, shall, during reasonable business hours, upon reasonable notice, be subject to inspection by any Owner or agent of an Owner or mortgagee of Owner's interest in a Lot or Home, at the principal office of the Association. The Board of Directors may furnish copies of such documents to such parties and may charge reasonable fees to cover the cost of furnishing such copies.

Section 9.02. Separate Account for Capital Reserve Funds. Any funds of the Association collected or designated as reserves for the replacement of capital items shall be segregated from all other funds of the Association in one (1) or more separate accounts. This shall not preclude the Association from segregating other portions of its funds in separate accounts for a specific purpose (e.g., reserves for non-capital items) or otherwise.

ARTICLE X

CERTIFICATES OF MEMBERSHIP

Section 10.01. Certificates of Membership. The Board of Directors may provide for the issuance of certificates evidencing membership in the Association, which shall be in such form as may be determined by the Board of Directors. The name and address of each Member and the date of issuance of the certificate shall be entered on the records of the Association. If any certificate shall become lost, mutilated or destroyed, a new certificate may be issued therefor, upon such terms and conditions as the Board of Directors may determine or prescribe.

ARTICLE XI

CORPORATE SEAL

Section 11.01. Corporate Seal. The Board of Directors, if they so desire, may provide a suitable corporate seal, bearing the name of the Association, the year of its incorporation and the words "New York".

ARTICLE XII

ORGANIZATION

Section 12.01. Organization. The Association is organized pursuant to the Not-For-Profit Corporation Law of New York. All the functions of this Association are subject to the provisions of such law.