

BOOK 3517 PAGE 001

18311

MASTER DEED  
BAYBERRY SQUARE CONDOMINIUM

This Master Deed of the Bayberry Square Condominium dated this 13<sup>th</sup> day of July, 1982.

WITNESSETH that STANLEY P. NOWAK, PETER M. DAIGLE and MARY C. CROUGHWELL, Trustees of the Bayberry Square Realty Trust, a Massachusetts Business Trust under a Declaration of Trust dated March 11, 1982 recorded at Barnstable County Registry of Deeds in Book 3476, Page 324, being the sole owners of certain premises in Barnstable (Centerville), Barnstable County, Massachusetts, hereinafter described, by duly executing and recording this Master Deed, do hereby submit said premises to the provisions of Chapter 183A of the General Laws of Massachusetts and propose to create a condominium to be governed by and subject to the provisions of said Chapter 183A (including any amendment thereto hereafter enacted) and to that end said Trustees do hereby declare and provide as follows:

*SEE PLAN BOOK 365 PAGES 40 AND 41*

1. NAME OF CONDOMINIUM.

The name of the condominium shall be BAYBERRY SQUARE CONDOMINIUM. Said condominium will be developed in seven (7) phases, designated as Phase 1 through Phase 7 by amendment to this Master Deed, as hereinafter provided in Paragraph 16, said phases being shown on a plan entitled "Plan of Land in Barnstable (Centerville) Mass. for Bayberry Square Realty Trust"

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*See* BOOK 3539 PAGE 239

*See* " 3918 " 233

*See* BOOK 4612 PAGE 23

dated April 9, 1982 and revised May 11, 1982, drawn by Baxter & Nye, Inc., said plan being part of the condominium plans hereafter referred to, all of which are recorded herewith.

2. DESCRIPTION OF LAND.

The premises which constitute the condominium comprise the land shown as Lot 1 containing about 1.68 acres on 1639 Falmouth Road (Route 28) in Barnstable (Centerville), Barnstable County, Massachusetts as shown on a plan entitled "Plan of Land in Barnstable (Centerville) Mass. for Bayberry Square Realty Trust" dated April 9, 1982 and revised May 11, 1982, drawn by Baxter & Nye, Inc. to be recorded herewith. Said plan shows the location of all buildings in Phases 1, 2 and 3, together with the proposed location of buildings in Phases 4 through 7. (Phases 4 and 5 are horizontal and vertical phasing to the existing building in Phase 1).

The land, being Lot 1 as shown on the first plan as hereinbefore described, is bounded and described as follows:

A certain parcel of land in Barnstable (Centerville), Barnstable County, Massachusetts being Lot 1 on a plan entitled "Plan of Land in Barnstable (Centerville), Mass. for Bayberry Square Realty Trust" dated April 9, 1982 and May 11, 1982, drawn by Baxter & Nye, Inc., to be recorded herewith, being bounded and described as follows:

NORTHERLY by Falmouth Road (Route 28), a State highway, two hundred thirty-eight and 27/100 (238.27) feet;

NORTHEASTERLY by land now or formerly of Sun Oil Company and land now or formerly of Massachusetts Society for the Prevention of Cruelty to Animals, three hundred ninety-six and 74/100 (396.74) feet;

SOUTHERLY by land formerly of Norma I. Sims (Lot 2 on a plan in Plan Book , Page ), two hundred forty-seven and 77/100 (247.77) feet; and

SOUTHWESTERLY by land now or formerly of William J. and Muriel R. Fitzpatrick, three hundred eighty and 52/100 (380.52) feet.

CONTAINING about 1.68 acres according to said plan.

Said premises are conveyed subject to an easement to Cape & Vineyard Electric Company et al dated June 24, 1971, recorded in Barnstable Deeds Book 1516, Page 1137, insofar as the same is now in force and applicable.

Said premises are conveyed subject to a taking by the County of Barnstable for the layout of South County Road (now known as Route 28 or Falmouth Road) dated December 19, 1930, recorded in Barnstable Deeds Book 479, Page 284.

For title see a portion of the land in deed of Norma I. Sims dated April 19, 1982 recorded in Book 3476, Page 336.

Said premises are conveyed subject to and with the benefit of rights in common with others now or hereafter entitled to use the parking areas and proposed drives as shown on the "Phase Plan" hereinbefore referred to, for all purposes for which parking areas and ways are used in the Town of Barnstable, but not limited to the right of the Declarants, their successors and assigns, to use said parking areas and ways being shown on the Phase Plan hereinbefore referred to or as now laid out and used, together with the right to reconstruct and/or relocate within the

layout of said parking areas and ways, to be laid out or as now exist and, further, the right of the Declarants, their successors and assigns, to install, repair, replace and maintain now or in the future drain lines, electric, water lines, pipes and conduits for all types of utilities including the right to grant access and other similar rights for the benefit of other land of the Declarants, whether or not now owned or hereafter acquired adjoining the same, or to any land owners adjoining said condominium and as shown on said plan and, further, reserving the right of Declarants to discontinue any parking or ways as shown or now or hereafter existing for the purpose of construction in any phase provided access is always provided to Route 28 and the total number of parking spaces in the whole condominium at the end of Phase Seven is not less than the total parking space as are now shown on said phase plan. Until all of the phase areas as shown on said "Phase Plan" have been made subject to the provisions of Chapter 183A of the General Laws of Massachusetts by amendment of this Master Deed as hereinafter set forth, the Declarants herein hereby reserve for themselves, their successors, assigns or agents, the right to pass and repass over the parking



areas, ways and other portions of the common areas of the condominium, for the purpose of constructing and marketing the units in all of said succeeding phases of the condominium.

3. DEFINITIONS.

All terms and expressions herein used which are defined in Chapter 183A of General Laws of Massachusetts, as amended, shall have the same meaning unless the context otherwise requires. "Association" shall refer to the Bayberry Square Condominium Trust (see legal organization, Paragraph 4 of this document). In addition, "By-laws of the Association" shall refer to the By-laws of the Bayberry Square Condominium Trust.

4. LEGAL ORGANIZATION.

The Bayberry Square Condominium Trust, hereinafter referred to as the "Association" is a trust formed in accordance

with said Chapter 183A, through which the Unit Owners will manage and regulate the Bayberry Square Condominium pursuant to the By-laws of the Association, this instrument, and Chapter 183A of General Laws of Commonwealth of Massachusetts.

The initial Trustees of the Trust shall be Stanley P. Nowak, Peter M. Daigle and Mary C. Croughwell, and shall always consist of at least three trustees, in accordance with the terms and conditions of said Trust to be recorded herewith.

The "By-laws of the Association" shall refer to those By-laws of the Association which have been duly adopted in accordance with the provisions of said Chapter 183A set forth in said Trust recorded herewith, and such amendments thereto as may from time to time be enacted.

The "Bayberry Square Condominium Rules & Regulations" shall refer to those rules and regulations as may be hereafter adopted by the Trustees of the Association for use of the common areas and facilities of the Bayberry Square Condominium.

5. DESCRIPTION OF BUILDINGS.

PHASE ONE:

Two buildings comprise Phase One of the Condominium. Said buildings are described as follows:

1. Building A. This building is a one-story structure of wood frame construction, approximately 40.4 feet long and 34.4 feet in width, constructed on a poured concrete foundation with basement, with wood shingled sidewalls, and wood shingled roof (or other roofing material), containing one unit

with basement.

2. Building B. This building is a one-story building of wood frame construction, approximately 68.4 feet long and 28.4 feet in width, constructed on a poured concrete slab, with crawl space but no basement, with wood shingled sidewalls and wood shingled roof (or other roofing material), containing two units.

PHASE TWO:

One building comprises Phase Two of the Condominium. Said building is described as follows:

1. Building C. This building is a two-story structure (presently under construction) of wood frame construction, approximately 40.3 feet long and 28.4 feet in width, constructed on a poured concrete slab, with crawl space but no basement, with wood shingled sidewalls and wood shingled roof (or other roofing material), containing four units.

PHASE THREE:

Phase Three of the Condominium will involve the addition of the following described building:

1. Building D. This building will be a two-story building of wood frame construction, approximately 72 feet long and 32 feet in width, constructed on a poured concrete foundation with basement, with wood shingled sidewalls and wood shingled roof (or other roofing material), containing five units.

PHASE FOUR:

Phase Four of the Condominium will involve the following vertical and horizontal additions to Building A in Phase One:

1. Building A (Phase Four). This is an addition

to Building A in Phase One by adding a vertical and horizontal (two-story) addition, approximately 32 feet long and 27 feet in width, and a second floor over the existing Building A in Phase One, approximately 40.4 feet long and 34.4 feet in width, said horizontal addition to be constructed on poured concrete slab, with crawl space but no basement, both horizontal and vertical additions to be of wood frame construction, with wood shingled sidewalls and wood shingled roof (or other roofing material), containing two additional units, together with the one unit established in Phase One, for a total of three units in Building A (Phase Four).

PHASE FIVE:

Phase Five of the Condominium will involve the following vertical and horizontal additions to Building B in Phase One:

1. Building B (Phase Five). This is an addition to Building B in Phase One by adding a horizontal addition, approximately 35 feet long and 24 feet in width, increasing Unit 2B in Building B of Phase One, and by an addition 25 feet long and 16 feet in width to the south side of Building B in Phase One, and by adding a second floor over the existing Units 1B and 2B of Phase Two and over the horizontal addition thereto, described above. Said second floor is to be approximately 90 feet long and about 28.4 feet in width, said additions are to be wood frame construction, with poured concrete slab with crawl space but no basement, with covered exterior sidewalls and wood shingled roof (or other roofing material), containing two additional units, together with the two units established under Phase One.

PHASE SIX:

Phase Six of the Condominium will involve the addition of the following described building:

1. Building E. This building will be a two-story building of wood frame construction, approximately 33 feet long and 30 feet in width, constructed on a poured concrete foundation with basement, with wood shingled sidewalls and wood shingled roof (or other roofing material), containing two units, one with basement.

PHASE SEVEN:

Phase Seven of the Condominium will involve the addition of the following described building:

1. Building F. This building will be a two-story building of wood frame construction, approximately 70 feet long and 40 feet in width, constructed on a poured concrete foundation with basement, with wood shingled sidewalls and wood shingled roof (or other roofing material), containing seven units, one with basement. The location of the existing building, proposed additions thereto, and the proposed location of the remaining buildings to be built are shown on said aforementioned Phase Plan. The Declarants hereunder reserve the right to vary the locations as proposed, provided the variation does not affect the percentage ownership of the units as set forth in Schedule B herein.

6. DESCRIPTION OF UNITS.

The description of Units 1A, 2A, and 3A in Building A; and 1B, 2B, 3B, 4B and 5B in Building B; and 1C, 2C, 3C and 4C in Building C; and 1D, 2D, 3D, 4D and 5D in Building D; and 1E, and 2E in Building E; and 1F, 2F, 3F, 4F, 5F, 6F and 7F in Building F, the type, number of floors, number of rooms, approximate area, location and other descriptive information are shown on Schedule A attached hereto.

7. INTEREST OF UNIT OWNER.

The owner of each unit shall be entitled to an undivided interest in the common areas and facilities of the Condominium in the (%) percentages set forth in Schedule B attached hereto.

8. BOUNDARIES OF THE UNITS.

The boundaries of the condominium units are as follows:

A. Floors: The upper surface of the concrete basement floor, in those units containing basements, and the upper surface of the subflooring, in those units without a basement.

B. Ceilings: The plane of the lower surface of the ceiling joists.

C. Interior Building Walls: The plane of the interior surface of the wall studs facing each unit.

D. Exterior Building Walls, Doors and Windows: As to the walls, the plane of the interior surface of the wall studs; As to the doors, the exterior surface thereof; As to the windows, the exterior surface of the glass and window frame; as to the

basement, where applicable, the interior surface of the concrete walls; As to the roof skylight, where applicable, the exterior surface of the skylight.

E. Chimneys: Within the boundaries of the units are part of the common areas and facilities of the condominium.

9. MODIFICATION OF UNITS.

The owner of any unit may not at any time make any change or modifications of the exterior of said unit or any interior changes that would affect or in any way modify the structural or supportive characteristics of the building or its surfaces; however, such owner may at any time and from time to time change the use and designation of any room or space within such unit, subject always to the provisions of this Master Deed, and the provisions of the By-laws of the Association including the Rules and Regulations promulgated thereunder as the same may be amended from time to time. Any and all work with respect to the foregoing shall be done in a good and workmanlike manner pursuant to a building permit duly issued by the Town of Barnstable, where required, and pursuant to plans and specifications which have been submitted to and approved by the Trustees or managing agent, as the case may be, of the Association. Such approval shall not be unreasonably withheld or delayed.

10. RESTRICTIONS ON USE OF UNITS.

No unit is intended or designated for occupancy for residential purposes. Each unit is hereby restricted to limited commercial use, as hereinafter defined, and/or professional

use, by the unit owner (thereof). No unit shall be used for any purpose other than the maintenance of limited retail and professional purposes and offices therein and purposes which in the case of each unit owner or occupant are incidental to the maintenance of such purposes and offices by that owner or occupant in one or more units such as, but not limited to, a low-traffic retail store compatible with professional use as would be allowable in a limited business zone surrounded by residential use, banking, brokerage, travel agency, limited restaurant with seating of less than twenty-five persons for breakfast and lunch type food, but no MacDonald or other franchise type restaurant or fast food restaurant, newsstands, barbershop, health and fitness store and/or clinic, medical office, dental office, lawyer, accountant, architect, and similar type professional offices, however, no use, including without limitation, any office use or retail use shall be permitted which in the opinion of the Trustees is inconsistent with the maintenance of the general character of the condominium development as a limited retail, professional business complex of the first class, in the quality of its maintenance, use and occupancy. In addition, the use of the property shall be limited in accordance with the following provisions:

A. The units and common elements shall be used only for purposes consistent with their design.

B. Each unit shall be used only for such purposes and to such extent as will not overload or interfere with any common element or the enjoyment thereof by the owners of other units.



C. No nuisances shall be allowed on the property nor shall any use or practice be allowed which is in violation of the By-laws or Rules and Regulations of the Association or which unreasonably interferes with or is an unreasonable annoyance to the peaceful possession or proper use of the property by other unit owners or occupants or which requires (unless the Trustees consent thereto) any alteration of or addition to any common element.

D. No unit owner or occupant shall commit or permit any violation of the policies of insurance taken out by the Trustees in accordance with the By-laws, or do or permit anything to be done, or keep or permit anything to be kept, or permit any condition to exist, which might (1) result in termination of any of such policies, (ii) adversely affect the right of recovery thereunder, (iii) result in reputable insurance companies refusing to provide insurance as required or permitted by the By-laws, or result in an increase in the insurance rate or premium unless, in the case of such increase, the unit owner responsible for such increase shall pay the same. If the rate of premium payable with respect to the policies of insurance taken out by the Trustees in accordance with the By-laws, or with respect to any policy of insurance carried independently by any unit owner in the building as permitted by the By-laws shall be increased, or shall otherwise reflect the imposition of a higher rate than that applicable to the lowest-rated unit in the building, by reason of anything that is done or kept in a particular unit, or as a result of the failure of any unit owner or any occupant of a unit to comply with the requirements

of the policies of insurance taken out by the Trustees, or as a result of the failure of any such unit owner or occupant to comply with any of the other terms and provisions of this Master Deed, the By-laws or the Rules and Regulations, the unit owner of that particular unit shall reimburse the Trustees and such other unit owners respectively for the resulting additional premiums which shall be payable by the Trustees or such other unit owners as the case may be. The amount of any such reimbursement due the Trustees may without prejudice to any other remedy of the Trustees be enforced by assessing the same to that particular unit as a Special Common Charge under the By-laws.

E. No unlawful use shall be made of the Property or any part thereof, and all valid laws, rules and regulations of all governmental agencies having jurisdiction thereof (collectively "Legal Requirements") shall be strictly complied with. Compliance with any Legal Requirements shall be accomplished by and at the sole expense of the unit owner or owners, or the Trustees, as the case may be, whichever shall have the obligation under the By-laws to maintain and repair the portion of the property affected by any such Legal Requirement. Each unit owner shall give prompt notice to the Trustees of any written notice it receives of the violation of any Legal Requirement affecting its unit or the property. Notwithstanding the foregoing provisions, any unit owner may, at its expense, defer compliance with and contest, by appropriate proceedings prosecuted diligently and in good faith the validity

or applicability of any Legal Requirement affecting any portion of the property which such unit owner is obligated to maintain and repair, and the Trustees shall cooperate with such unit owner in such proceedings, provided that:

(i) Such unit owner shall pay and shall defend, save harmless, and indemnify the Trustees, the Association, and each other unit owner against all liability loss or damage which any of them respectively shall suffer by reason of such contest and any noncompliance with such Legal Requirement, including reasonable attorneys' fees and other expenses reasonably incurred; and

(ii) Such unit owner shall keep the Trustees advised as to the status of such proceedings. Such unit owner need not comply with any Legal Requirement so long as it shall be so contesting the validity or applicability thereof, provided that noncompliance shall not create a dangerous condition or constitute a crime or an offense punishable by fine or imprisonment, and that no part of the building shall be subject to being condemned or vacated by reason of noncompliance or otherwise by reason of such contest. The Trustees may also contest any Legal Requirement without being subject to the foregoing conditions as to contest and may also defer compliance with any Legal Requirement, but only subject to the foregoing conditions as to deferral of compliance. The costs and expenses of any contest by the Trustees shall be a common expense as defined in the By-laws. The amount due the Trustees and the Association under the foregoing obligation of a

unit owner to defend, save harmless and indemnify the Trustees and the Association may without prejudice to any other remedy of the Trustees and the Association be enforced by assessing the same to the unit or units of such unit owner as a Special Common Charge under the By-laws.

F. If any governmental license or permit (other than a certificate of occupancy, or a license or permit applicable to the building as a whole and required in order to render lawful the operation of the building for general limited retail office purposes) shall be required for the proper and lawful conduct of business in any particular unit, and if failure to secure such license or permit would in any way affect any other unit or the owner thereof or the Trustees or Association, the owner of such particular unit at its expense shall procure and maintain such license or permit, submit the same to inspection by the Trustees and comply with all the terms and conditions thereof.

G. No unit owner or occupant shall discharge, or permit to be discharged, anything into waste lines, vents or flues of the building which might reasonably be anticipated to cause damage thereto, spread odors or otherwise be offensive.

H. All business machines and equipment, kitchen equipment and all other mechanical equipment installed in any unit shall be so designed, installed, maintained and used by the owner and occupant of such unit, at the expense of such owner, as to minimize insofar as possible and in any event reduce to a reasonably acceptable level the transmission of noise, vibration, odors

and other objectionable transmissions from such unit to any other area of the building.

The Trustees of the Association also reserve the right and easement to enter upon the premises from time to time at reasonable hours, for the purpose of reconstructing and repairing adjoining units, common areas and facilities, and to perform any obligations of the Association required or permitted to be performed under this Master Deed and/or the By-laws of the Association.

The maintenance, repair and improvement of the exterior portion of the units shall be performed by the Association and the cost of such maintenance, repair and improvements shall be a common expense and shall be allocated and assessed to each unit owner in the Bayberry Square Condominium as any other common expense.

11. UNIT APPURTENANCES.

Appurtenances to each unit are the following:

A. The exclusive right and easement to use that portion of the chimney, if any there be, beyond the limits of the unit.

B. The exclusive right and easement to use the steps and outside wooden stairways adjacent to the unit, where applicable.

C. The exclusive right and easement to maintain, install, use and repair and replace, the air conditioning compressor, if any, serving the unit together with the concrete pad providing support therefor.

D. Membership in the Association which shall be the same percentage as an individual unit owner's common interest, which memberships are not assignable or severable from the ownership of the unit.

All of the units shall have appurtenant thereto, in common with each other, the right and easement to use the remaining yard area and the parking areas of the said condominium, subject to and in accordance with restrictions, limitations, provisions, and conditions as hereinbefore and hereinafter set forth in this Master Deed and the provisions of the By-laws of the Association, and the Rules and Regulations promulgated under the By-laws as the same may be amended.

12. COMMON AREAS AND FACILITIES.

The common areas and facilities of the Bayberry Square Condominium comprise and consist of (a) the land described in paragraph 2 hereof, as may from time to time be amended, together with the benefit of and subject to the rights and easements referred to in paragraph 2 hereof and common areas and facilities shown on the Bayberry Square Condominium Plans annexed hereto; (b) the foundations, structural columns, girders, beams, supports, exterior walls, interior floor and ceiling joists, including all studding, balconies, if any, foyers where applicable, exterior stairs where applicable, roofs of the buildings, and the carrying common walls between said units of the buildings; (c) all sewer, water and electric lines, chimneys and flue lines, conduits, ducts, pipes, plumbing, wiring, flues and other facilities for the

furnishing of utility services which are contained in portions of the building contributing to the service and/or support of the units, other units or common areas and facilities, but not including the lighting, heating, plumbing, fixtures and kitchen (where applicable) and bathroom cabinets located within said unit serving the same exclusively; (d) all such facilities contained within any unit which serve parts of the Condominium other than the unit within which such facilities are contained; (e) the yards, lawns, gardens, driveways, walkways, and the improvements thereon and thereof, including walls, railings, steps, lighting fixtures and plants; and (f) the parking spaces.

13. ENCROACHMENTS.

If any unit, now or hereafter, encroaches upon any other unit or upon a portion of the common areas and facilities, or if any portion of the common areas and facilities, now or hereafter, encroaches upon any unit as a result of the settling or construction of a building, or a unit therein, or the alteration or repair of such building or unit, a valid easement of the encroachment and for the maintenance of the same, so long as the buildings stand, shall exist.

14. COMMON ELEMENTS: DETERMINATION OF PERCENTAGE

The determination of the percentage of interest of the respective units in the common areas and facilities has been made upon the basis of the approximate relative fair market value of each unit to the aggregate fair market value of all the units in the condominium, including Phases 1 through 7, or such portions

thereof as are included by amendment to the Master Deed.

15. RIGHT OF FIRST REFUSAL.

The Declarants shall have a right of first refusal with respect to all sales of units and to that end, no owner of any unit shall sell or convey the same to any person other than a spouse or child of such owner unless (1) the owner has received a bona fide offer to purchase the unit, (2) the owner has given the Declarants written notice stating, the name and address of the offeror, the price less broker's commission and conditions of said offer, and containing a signed offer by the owner at the price less broker's commission to sell said unit to the Declarants on the same terms and conditions of the bona fide offer, and (3) the Declarants shall not, within fifteen (15) days after the receiving of such notice, have given the owner written notice of the election of the Declarants to purchase the unit in accordance with the offer. In the event that the Declarants shall so elect to purchase, the deed shall be delivered and consideration paid at Barnstable Registry of Deeds at 11:00 a.m. on the thirtieth registry business day after the date of the giving of such notice of election to purchase or any other date and time agreed upon. In the event that the Declarants do not elect to purchase the unit, then said owner shall be free thereafter to sell and convey the unit to the offeror named in the owner's notice at a price not lower than that specified therein, but the owner shall not sell or convey the unit to any other person or at any lower price without again offering the same to the Declarants .



The provisions of this section shall not be construed to apply to bona fide mortgages of any unit or to sales or other proceedings for the foreclosure thereof.

The rights of first refusal hereunder shall not be exercised so as to restrict ownership, use or occupancy of units because of race, creed, sex, color or national origin.

No owner shall be liable for any breach of the provisions of this section except such as occur during his or her ownership.

The Declarants may assign this right to the Association at any time during the development of the Bayberry Square Condominium but in any event, said right of first refusal shall be in the Association, acting through its Trustees, when the Declarants no longer own any unit (s) in the Bayberry Square Condominium.

When the Association holds the right of first refusal, it may purchase, by and through its Trustees, any unit directly from the owner in accordance with the above or at foreclosure sale; provided however, that any such purchase by the Association shall have the prior approval of eighty-five percent (85%) of the members of the Association, and provided that in the event that the majority of the Trustees do not desire to purchase said unit, then no further approval or disapproval shall be obtained from the members.

16. AMENDMENT OF MASTER DEED.

While the Declarants own at least fifty percent

(50%) of the units, this Master Deed may be amended by a majority vote of unit owners which shall constitute written consent of the unit owners and the written consent of the majority of the holders of the first mortgages on mortgaged units, but any such amendment shall not substantially reduce the enjoyment or substantially increase the burdens of any unit owner.

Thereafter, this Master Deed may be amended, subject to the restrictions of Chapter 183A of the General Laws of Massachusetts, and except as provided otherwise in this instrument or the By-laws of the Association, by a vote of sixty-six and two-thirds percent ( $66 \frac{2}{3}\%$ ) in interest of the unit owners and written consent of the holders of a majority of the first mortgages on mortgaged units.

If the amendment involves a change in percentage interest, such vote shall be by one hundred percent (100%) in interest of the unit owners, in addition to the written consent of the holders of all first mortgages on all the mortgaged units; PROVIDED HOWEVER, that this Master Deed may be amended without the consent of any unit owner or any mortgagee by Declarants, their successors in interest as to all or any portion of Phases 1 through 7 as shown on the plan referred to in paragraph 1 of this Master Deed, so as to subject all or any portion of Phases 2 through 7 to Chapter 183A of the General Laws Massachusetts. The Declarants or their successors in interest shall have the right prior to creating each such phase to change the number, size, layout, location and

percentage interest in the common elements of units in Phases 2 through 7; provided that no such change shall alter substantially the effective percentage interest in common areas and facilities set forth in this Master Deed or any amendment thereto with respect to units in Phase 1 or any phases which have already been submitted to the provisions of Chapter 183A of the General Laws of Massachusetts. In no event shall the Master Deed be voluntarily amended by the Declarants or their successors in interest aforesaid so as to provide for more units in Phases 2 through 7, than are indicated on Schedules A and B hereof. Any such amendment shall contain with respect to Phases 2 through 7, all of the particulars required by said Chapter 183A of the General Laws of Massachusetts. No amendment shall be effective until recorded with the Barnstable Registry of Deeds.

17. TERMINATION.

The unit owners may remove the property from the provisions of Chapter 183A of the General Laws of Massachusetts and this Master Deed by the procedure set forth in the appropriate section of said Chapter 183A, as may be amended from time to time.

Upon such removal, the unit owners shall be deemed to own the condominium property as tenants in common, with undivided interest therein in the percentage of undivided interest previously owned by each owner in the common areas and facilities.

The removal provided for in this paragraph and in the By-laws of the Association shall not bar the subsequent resubmission of the property to the provisions of Chapter 183A of the

General Laws of Massachusetts.

The Unit owners may not remove the property from the provisions of Chapter 183A, as amended, and this Master Deed until such time as the Declarants have conveyed all of the proposed units in Phases 2 through 7 to unit owners or until four years after the date of recording of this Master Deed, being the date by which the Declarants intend to submit said Phases 2 through 7 to the provisions of Chapter 183A, as amended, of the General Laws of Massachusetts.

18. MORTGAGEE STATUS.

A mortgagee acquiring title to a unit by foreclosure or by deed in lieu of foreclosure shall continue to be considered a mortgagee, as well as a unit owner, until such time as the foreclosure deed or deed in lieu of foreclosure is recorded with the Barnstable Registry of Deeds, or until the expiration of three (3) years from the date of entry for breach of the terms and conditions of a mortgage or the obligations secured by said mortgage, provided a certificate of entry as required by General Laws of Massachusetts Chapter 244, Section 2, is recorded.

In addition, a mortgagee or other purchaser of a unit at a foreclosure sale of such unit shall be subject to, and shall be liable for, a lien of the payment of common charges assessed both prior to and subsequent to the foreclosures sale.

19. MISCELLANEOUS.

Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define,

limit or describe the scope of this Master Deed nor the intent of any provision hereof.

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

Waiver. No provisions contained in this Master Deed shall be deemed to have been waived or abrogated by reason of any failure to enforce the same, irrespective of the number of violations or breaches which occur.

Invalidity. The invalidity of any provision of this Master Deed shall not be deemed to impair or affect in any manner the validity, enforcement or effect of the remainder of this Master Deed and, in such event, all of the other provisions of this Master Deed shall continue in full force and effect as though such invalid provision has never been included herein.

Conflicts. This Master Deed is set forth to comply with the requirements of General Laws Chapter 183A, the provisions of such statute shall prevail.

Covenants and Restrictions. The covenants and restrictions contained in this Master Deed shall run with the land and shall inure to the benefit of and be enforceable by the Declarants, the Association and the unit owners acting through the Association or their respective legal representative, heirs, successors and assigns. The property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions,

charges and liens and subject to such rights of amendment and termination herein set forth. The said unit owner shall, in the event any action be instituted to enforce these restrictions, in addition to the Court order enforcing said restriction, be liable for the legal expenses incurred by the Association.

Duration of Restrictions. The restrictions upon the use of the property imposed by this Master Deed shall last for a period of ninety-nine (99) years.

WITNESS our hands and seals this 13 day of July 1982

BAYBERRY SQUARE REALTY TRUST

By Stanley P. Nowak Jr. Trustee

By Peter M. Daigle Jr. Trustee

By Mary C. Croughwell Trustee

COMMONWEALTH OF MASSACHUSETTS

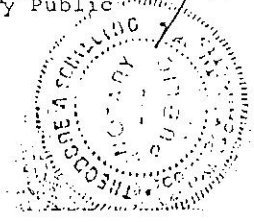
Barnstable, ss.

July 13, 1982

Then personally appeared the above named Stanley P. Nowak, Peter M. Daigle and Mary C. Croughwell, Trustees and acknowledged the foregoing instrument to be their free act and deed, before me

Robert K. Kelly  
Notary Public

My commission expires January 21, 1988  
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SCHEDULE A

BAYBERRY SQUARE CONDOMINIUM

DESCRIPTION OF UNITS

The unit designation, Phase, square footage and floor designation for each unit in each phase is set forth herein under Schedule A-1 attached hereto. Level on which each unit is located is designated by "1" for first floor, "2" for second floor, and "TH" for a unit located on both floors, equivalent to a town house unit.

PHASE ONE:

BUILDING A

Unit 1A contains five (5) rooms, a bathroom, and central hallway, which is part of the unit. The unit has access to the common area courtyard by a direct door and access to Foyer A-1, which is a common area reserved for Phase Four construction, and access to Phase Four units in Building A. The access of Unit 1-A to Foyer A-1 may be eliminated in Phase Four at the Declarants' option. The recording of the Phase Four amendment and plans shall be the final determination on the existence of said access to Foyer A-1 for Unit 1-A. Unit 1-A also contains a basement as part of the unit, containing two (2) finished rooms, two (2) bathrooms with sink, a hallway and an unfinished room.

BUILDING B

Unit 1-B contains seven (7) rooms, two (2) bathrooms with sink, and a central hallway, as part of said unit. Said unit has direct access to the common area courtyard and access to Foyer B-1, which foyer is a common area.

Unit 2-B contains two (2) rooms and two (2) bathrooms with sinks. Unit 2-B has direct access to the common area courtyard and access to Foyer B-1, which foyer is a common area.

PHASES TWO THROUGH SEVEN:

Each unit in Phases Two through Seven shall contain one (1) to six (6) rooms with one or more bathrooms. Buildings in Phases Three, Six and Seven shall contain basements which will be part of one or both units in each building, as the case may be, of the first floor and/or two-floor units, as the case may be. The recording of each phase amendment and associated as built plans shall be conclusive proof of the exact description of each unit so created hereunder, subject to further amendment in accordance with the Master Deed, Trust and By-laws of the Condominium.



SCHEDULE A-1

<u>BLDG.</u>	<u>UNIT</u>	<u>SQ. FEET</u>	<u>FLOOR</u>
<u>PHASE 1:</u>			
A	1A	1014	1
B	1B	1064	1
B	2B	720	1
<u>PHASE 2:</u>			
A	1A	1014	1
B	1B	1064	1
B	2B	720	1
C	1C	708	TH *
C	2C	1189	1
C	3C	1088	2
C	4C	602	TH
<u>PHASE 3:</u>			
A	1A	1014	1
B	1B	1064	1
B	2B	720	1
C	1C	708	TH
C	2C	1039	1
C	3C	1088	2
C	4C	602	TH
D	1D	1860	TH
D	2D	826	1
D	3D	842	2
D	4D	448	1
D	5D	448	2
<u>PHASE 4:</u>			
A	1A	1014	1
B	1B	1064	1
B	2B	720	1
C	1C	708	TH
C	2C	1039	1
C	3C	1088	2
C	4C	602	TH
D	1D	1860	TH
D	2D	826	1
D	3D	842	2
D	4D	448	1
D	5D	448	2
A	2A	1014	2
A	3A	1152	TH Continued

\* TH - First and second floor equivalent to a town house

SCHEDULE A-1, Continued

<u>BLDG.</u>	<u>UNIT</u>	<u>SQ. FEET</u>	<u>FLOOR</u>
<u>PHASE 5:</u>			
A	1A	1014	1
B	1B	1064	1
B	2B	720	1
C	1C	708	TH
C	2C	1039	1
C	3C	1088	2
C	4C	602	TH
D	1D	1860	TH
D	2D	826	1
D	3D	842	2
D	4D	448	1
D	5D	448	2
A	2A	1014	2
A	3A	1152	TH
B	3B	1064	2
B	4B	570	2
B	5B	602	TH
<u>PHASE 6:</u>			
A	1A	1014	1
B	1B	1064	1
B	2B	720	1
C	1C	708	TH
C	2C	1039	1
C	3C	1088	2
C	4C	602	TH
D	1D	1860	TH
D	2D	826	1
D	3D	842	2
D	4D	448	1
D	5D	448	2
A	2A	1014	2
A	3A	1152	TH
B	3B	1064	2
B	4B	570	2
B	5B	602	TH
E	1E	698	1
E	2E	714	2

Continued

SCHEDULE A-1, Continued

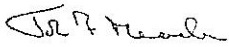
BLDG.	UNIT	SQ. FEET	FLOOR
<u>PHASE 7:</u>			
A	1A	1014	1
B	1B	1064	1
B	2B	720	1
C	1C	708	TH
C	2C	1039	1
C	3C	1088	2
C	4C	602	TH
D	1D	1860	TH
D	2D	826	1
D	3D	842	2
D	4D	448	1
D	5D	448	2
A	2A	1014	2
A	3A	1152	TH
B	3B	1064	2
B	4B	570	2
B	5B	602	TH
E	1E	698	1
E	2E	714	2
F	1F	960	1
F	2F	976	2
F	3F	552	1
F	4F	558	2
F	5F	480	1
F	6F	432	1
F	7F	928	2

SCHEDULE B

SCHEDULE B  
 BAYBERRY SQUARE CONDOMINIUM  
 PERCENTAGE OF COMMON OWNERSHIP

UNIT NO.	100% PHASE 1	100% PHASE 2	100% PHASE 3	100% PHASE 4	100% PHASE 5	100% PHASE 6	100% PHASE 7
1A	38.7255	18.2448	11.1977	9.3880	8.1654	7.4811	5.8046
2A				7.2490	6.3049	5.7765	4.4820
3A				8.9127	7.7519	7.1022	5.5107
1B	36.5196	17.2055	10.5599	8.8532	7.7003	7.0549	5.4739
2B	24.7549	11.6628	7.1580	6.0012	5.2196	4.7822	3.7105
3B					6.0465	5.5398	4.2983
4B					3.2558	2.9830	2.3145
5B					3.7209	3.4091	2.6451
1C	10.6236		6.5202	5.4664	4.7545	4.3561	3.3799
2C	18.0139		11.0560	9.2692	8.0620	7.3863	5.7311
3C	15.1270		9.2842	7.7837	6.7700	6.2027	4.8126
4C	9.1224		5.5989	4.6940	4.0827	3.7405	2.9023
1D			15.8044	13.2501	11.5246	10.5587	8.1925
2D			8.2211	6.8925	5.9948	5.4924	4.2616
3D			6.5911	5.5258	4.8062	4.4034	3.4166
4D			4.4649	3.7433	3.2558	2.9830	2.3145
5D			3.5436	2.9709	2.5841	2.3674	1.8368
1E					4.6402	4.6402	3.6003
2E					3.7405	3.7405	2.9023
1F							4.9229
2F							3.9309
3F							2.8655
4F							2.2777
5F							2.4614
6F							2.2043
7F							3.7472

RECORDED JUL 19 82

BARNSTABLE COUNTY  
 REGISTRY OF DEEDS  
 A TRUE COPY, ATTEST  
  
 JOHN F. MEADE, REGISTER