NAME AND ADDRESS OF NEW OWNER(S):
Landmark Homes of Tennessee, Inc.
6064 Central Pike
Mt. Juliet, Tennessee 37122

PREPARED BY:
J.D. Kious, Attorney
Kious, Rodgers, Barger,
Holder & Kious, PLLC
503 North Maple Street
Murfreesboro, Tennessee 37130

SEND TAX BILLS TO:
Same as Above

Davidson County DEEDMAST
Recvd: 07/08/16 12:45 26 pgs
Fees:132.00 Taxes:0.00
20160708-0070116

Map & Parcel: 092 09 0 206.00

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 440 37^{h} AVENUE NORTH A HORIZONTAL PROPERTY REGIME WITH PRIVATE ELEMENTS

THIS DECLARATION, made and entered into by Landmark Homes of Tennessee, Inc. (hereinafter called "Declarant"), its successors and assigns.

W I T N E S S E T H:

WHEREAS, Declarant is the legal title holder of certain real estate located in the County of Davidson and State of Tennessee, which real estate is more fully described in Exhibit "A" attached hereto. Being the property conveyed to Landmark Homes of Tennessee, Inc., by deed of record in Instrument Number 20160706-0069238 of the Register's Office of Davidson County, Tennessee.

WHEREAS, Declarant intends to and does hereby submit the above described parcel of real estate, together with all buildings, structures, improvements, and other permanent fixtures of whatsoever kind thereon and all rights and privileges belonging or in any way pertaining thereto to the provisions of the Horizontal Property Act of the State of Tennessee as the same may be amended from time to time; and

WHEREAS, Declarant further desires to establish for its own benefit and for the mutual benefit of all future owners or occupants of the property or any part thereof, and intends that all future owners, occupants, mortgagees, and any other persons hereinafter acquiring any interest in the Property shall hold said interest subject to certain rights, easements, and privileges in, over, and upon said premises and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct, and maintenance thereof, hereinafter set forth, all of which are declared to be in furtherance of a plan to promote and protect the cooperative aspects of offices on the Property and are established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Property.

NOW, THEREFORE, Declarant, as the legal title holder of the real estate hereinbefore described in Exhibit "A," and for the purposes above set forth, makes the following declarations and submissions as part of this Declaration:

ARTICLE I
DEFINITIONS

As used herein, unless the context otherwise requires:

Act means the Horizontal Property Act of the State of Tennessee, Tennessee Code Annotated Section 66-27-101, et. Seq., as the same may be amended from time to time.

Association means "440 37th Avenue North Homeowners' Association, Inc.", a Tennessee nonprofit corporation.

Board means the Board of Directors of the Association.

Buildings shall mean those structures located on the Property and containing the Units.

By-Laws means the By-Laws of the Association attached hereto as Exhibit "C" and made a part hereof, as amended from time to time. For purposes of the Act, all provisions contained in the body of this Declaration dealing with the administration and maintenance of the Property shall be deemed to be part of the By-Laws.

Common Elements means all real property and improvements, owned by the Association for the common use and enjoyment of the Owners. Common Elements shall remain undivided and shall not be the subject of an action for partition.

Limited Common Elements means all Common Elements contiguous to and serving exclusively a single Unit or one or more adjoining Units as an inseparable appurtenance thereto, the enjoyment, benefit, or use of which is reserved to the lawful Occupants of such Units either in this Declaration, on the plat or by the Board. Said Limited Common Elements shall include, but shall not be limited to, the following:

(1) All that portion of the Property needed for ingress and egress to any Unit.

(2) All other Common Elements and facilities as may be located within the bounds of such Property which serve only one Unit.

Majority or Majority of the Unit Owners means the Owners of more than fifty percent (50%) of the voting rights of the Unit Owners.

Declaration means this instrument, by which the Property is submitted to the provisions of the Act, as hereinafter provided, as amended from time to time, including all Exhibits hereto.

Mortgage means a valid recorded first deed of trust securing an indebtedness owed to an individual, lending institution, or any other entity.

Mortgagee means the beneficiary of any deed of trust who has a valid and enforceable

security interest in the Property.

Occupant means a person or persons in possession of a Unit, regardless of whether said person is a Unit Owner.

Parcel or Plat means the plat of survey submitted to the provisions of the Act showing the number and/or letter of each Unit, expressing its area, location, and other data necessary for identification. Said plat of the project is attached hereto as Exhibit "B" recorded herewith and as amended from time to time.

Private Elements means and includes the land upon which a Unit is located as shown on the Plat for which fee simple ownership and exclusive use is reserved to that Unit only. All Limited Common Elements shall also be deemed to be Private Elements.

Project means the entire Property including all structures thereon.

Property means all the land, property, and space comprising the Parcel, and all improvements and structures erected, constructed, or contained therein or thereon, including the Buildings and all easements, rights, and appurtenances belonging thereto, and any furniture, furnishings, fixtures, and equipment intended for the mutual use, benefit or enjoyment of the Unit Owners, submitted to the provisions of the Act.

Record or Recording refers to the record or recording in the office of the Register of Deeds in Davidson County, Tennessee.

Unit means that part of the Property intended for individual ownership and use. Each individual Unit shall consist of all the improvements and space therein within the boundary lines for the Unit, as set out on the Plat, attached hereto as Exhibit B.

Unit Owners means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit and of the undivided interest in the Common Elements appurtenant thereto.

ARTICLE II
SUBMISSION OF PROPERTY TO THE ACT

Declarant, as the legal title holder in fee simple of the Parcel, expressly intends to, and by recording this Declaration does hereby, submit, and subject the Parcel also known as the Property (Exhibit "A") to the provisions of the Act and hereby establishes a Horizontal Property Regime to be known as 440 37th Avenue North. Provided, however, and in addition to Development Rights and Special Declarant Rights reserved to Declarant as hereinafter stated, easements are hereby reserved in the Property by Declarant for the benefit of future development for the following purposes and uses: (i) an easement is reserved in the Property exclusive of the buildings, to use the land area of the property in conjunction with future development to satisfy existing or future zoning law requirements, relating to the ratio of land or lot area to office units, when the additional phase or

phases are developed, should Declarant choose to develop such land whether or not Declarant chooses to annex same into the Horizontal Property Regime herein established; (ii) easements are hereby reserved in the Property for the benefit of the owners of units in other projects, annexed phases or separate developments which may be established by Declarant on adjoining property of Declarant, which easements shall be for use by the occupants of units in the buildings for driveways and public utility service facilities located on the Property; (iii) an easement is reserved for Declarant to use the land of the Property to relocate, expand, modify, reduce, or extend driveways, relocate sewers, utility lines, or service connections in order to serve the existing buildings of said Property and in order to properly maintain and repair the buildings located therein; (iv) and Declarant shall have the unrestricted right, at its sole expense, to relocate, expand, modify, reduce, or extend existing driveways, parking areas and yard, and to construct, expand, enlarge, or relocate sewers, utility lines, or service connections, in order to serve existing buildings with their co-owners or tenants, along with other buildings which may be constructed on adjoining tracts, and their co-owners or tenants. The unrestricted rights reserved by Declarants in this paragraph shall be assignable by it and shall be easements running with the land described in Exhibit "A." The exercise of any of the rights reserved by Declarant shall be subject to an obligation of the Declarant to repair and/or replace any damage to the common areas or Units incurred during the exercise of such rights, and that such repair and/or replacement shall be to a condition similar to the prior condition, normal wear and tear excepted.

Nothing herein contained shall be construed as a restriction on Declarant's use and development of the areas outside the boundary of the Property described in Exhibit "A" attached hereto, it being expressly stated that Declarant may use and develop, sell, and/or lease said areas for purposes totally outside and unrelated to this Project.

ARTICLE III
PLAT

The plat or survey of the Property is attached hereto as Exhibit B, incorporated herein by reference, and sets forth the numbers, areas, locations, and other data, as required by the Act. The Exhibit B may be amended or modified solely by Declarant by additional surveys and plats showing subdivision of Units and/or annexation of additional phases or otherwise, subject to the limitations and requirements imposed by the Act.

ARTICLE IV
UNITS; RESTRICTION ON USE

1. The legal description of each Unit shall consist of the identifying letter and/or number of such Unit as shown by corresponding unit letter and/or number on the plat as heretofore referenced. Every deed, lease, mortgage, deed of trust, or other instrument shall legally describe a Unit by its corresponding unit identifying letter and/or number as shown on the plat and every such description shall be deemed good and sufficient for all purposes, as provided in the Act. Except as allowed by the Act, no Unit Owner shall, by deed, plat, court decree, or otherwise, subdivide or in any other manner cause a Unit to be separated into any units different from the whole Unit as shown on the plat. The aforementioned prohibition on subdividing shall not be applicable to Declarant as to any Unit Declarant may own; however, in exercising such right, Declarant shall be subject to the

limitations and requirements imposed by the Act.

2. A unit shall be used only in keeping with the zoning use restrictions that may be placed on the Property by the Metropolitan Government of Nashville and Davidson County, Tennessee.

Notwithstanding the Development Rights and Special Declarant Rights reserved, this Article IV shall not be subject to amendment unless by unanimous approval of all Unit Owners.

ARTICLE V
OWNERS' ASSOCIATION

There has been or will be formed an Association having the name "440 37th Avenue North Homeowners' Association, Inc.," a Tennessee nonprofit corporation, which Association shall be the governing body for all of the Unit Owners, subject only to certain Development Rights and Special Declarant Rights herein reserved. The Association shall oversee the maintenance, repair, replacement, administration and operation of the Property, as provided in the Act, this Declaration and the Bylaws. The Bylaws for the Association shall be the Bylaws attached to this Declaration as Exhibit C and made a part hereof. The Board shall be elected and shall serve in accordance with the provisions of the Bylaws. The fiscal year of the Association shall be determined by the Board, and may be changed from time to time, as the Board deems advisable. The Association shall not be deemed to be conducting a business of any kind. All activities undertaken by the Association shall be for the sole benefit of the Unit Owners, and all funds received by the Association shall be held and applied by it for the use and benefit of the Unit Owners in accordance with the provision of the Act, this Declaration and the Bylaws. Each Unit Owner shall be a member of the Association so long as he is a Unit Owner. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. Upon the conveyance or transfer of a Unit Owner's ownership interest to a new Unit Owner, the new Unit Owner shall simultaneously succeed to the former Unit Owner's membership in the Association. The aggregate number of votes for all members of the Association shall be two (2).

ARTICLE VI
PROPORTIONATE SHARE

Each Unit Owner shall be entitled to the percentage of undivided ownership in the Common Elements allocated to the respective Unit owned by such Unit Owner, as set forth in Exhibit D hereto. The percentages of ownership interest set forth in Exhibit D shall remain constant unless amended pursuant to the reservation set forth herein or unless hereafter changed by recorded amendment to this Declaration as provided for herein or consented to in writing by the necessary Unit Owners and first mortgagees. Said ownership interest in the Common Elements shall be undivided interests, and the Common Elements shall be owned by the Unit Owners as in accordance with their respective percentages of ownership. The ownership of each Unit shall not be conveyed separate from the percentage of ownership in the Common Elements corresponding to said Unit. The undivided percentage of ownership in the Common Elements corresponding to any Unit shall be deemed conveyed or encumbered with that Unit, even though the legal description in the instrument conveying or encumbering said Unit may refer only to the fee title to that Unit. Such Common

Elements are not and shall not be the subject of any partition action.

ARTICLE VII
DEVELOPMENT RIGHTS AND SPECIAL DECLARANT RIGHTS RESERVED

1. Development Rights Reserved to Declarant

Declarant shall have the following Development Rights:

(a) The right to add real estate to the Project by annexation and amendment to the Declaration and Plat without the consent of Unit Owners within ten (10) years of the date of recording of this instrument in the Register's Office for Davidson County, Tennessee.

(b) The right to create Units, Common Elements and Limited Common Elements within the Project provided that in exercising such right, Declarant shall comply with the applicable provisions of the Act.

(c) The right to allocate Limited Common Elements and expenses thereof to specific Units other than those Limited Common Elements specifically identified in Article I hereof under the definition of Unit.

(d) The right to amend Exhibit D to this Declaration provided that such right is exercised for the specific purpose of equitably re-allocating the percentage of common expenses resulting from the addition or removal of Units.

The exercise of any of the aforesaid Development Rights shall be in compliance with all applicable provisions of the Act.

2. Special Declarant Rights Reserved

Declarant shall have the following Special Declarant Rights:

(a) The right to complete improvements indicated on plats and plans filed with the Declaration and in accordance with the Act.

(b) The right to exercise any of the Development Rights as hereinabove stated.

(c) The right to maintain sales offices, management offices, signs advertising the Project, and sales models pursuant to the Act.

(d) The right to use easements through the common elements for the purpose of making improvements within the Project or within real estate which may be added to the Project pursuant to the Act.

(e) The right to make the Project part of a larger project or a planned

community pursuant to the Act.

(f) The right to make the Project subject to a master association pursuant to the Act.

(g) The right to appoint or remove any officer of the Association or any master association or any member of the Board of Directors during any period of Declarant Control as hereinafter stated.

The exercise of any of the aforesaid Special Declarant Rights shall be in compliance with all applicable provisions of the Act.

ARTICLE VIII
EASEMENTS

1. Easements for Utilities, Etc.

(a) There are hereby reserved unto Declarant so long as the Declarant owns a Unit and thereafter unto the Association, and the successors and assigns of each, access and maintenance Easements upon, across, through, over, and under all of the Property and each of the Units to the extent reasonably necessary for the purpose of installing, replacing, repairing, and maintaining devices that provide utility services, including all sewer, water, power and telephone, pipes, lines, mains, conduits, poles, transformers, heating or air conditioning systems, ventilation systems, cable television systems, master television antenna systems, satellite television systems, security and similar systems, computer systems, roads, walkways, irrigation systems, drainage systems, lights, light fixtures, appliances, signage, and any and all other appurtenances, equipment or machinery necessary or incidental to the proper functioning of the same which serve the Property, any Unit thereon, or any adjacent property of Declarant, and the improvements thereto, including the right of ingress and egress. No utility service proposed to be installed by a Unit Owner shall be installed unless the Unit Owner shall first have obtained the written approval for such utility service from the Declarant, so long as the Declarant owns a Unit, and thereafter from the Association and the successors and assigns of each. Any such utility service shall be designed to minimize interference with Common Elements and with other Units. Should any governmental agency or utility company finishing one of the foregoing services hereafter request a specific Easement by a separate recordable instrument in connection with the furnishing of any such service, the Declarant, so long as the Declarant owns a Unit and thereafter the Association and the successors and assigns of each, shall have the right to grant such Easement without payment of any consideration and without the prior consent of any Unit Owners. Any damage to a Unit resulting from the use of such Easement by a Unit Owner, or by its agents or contractors, shall promptly be repaired by, and at the expense of, the Unit Owner so using the Easement. The use of this Easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry into any Unit shall be made only after reasonable notice to the Unit Owner or occupant.

(b) In addition to the above provisions, upon the recording of this Declaration, Declarant specifically grants to the local water supplier, electric company, telephone company, cable television company, and natural gas supplier Easements across the Property for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes.

(c) Every Unit Owner shall also have a perpetual non-exclusive Easement to use and maintain all pipes, wires, ducts, cables, conduits and public utility lines which serve the Unit Owner and are located within the boundaries of another Unit.

2. Easements for Maintenance. Perpetual non-exclusive Easements for ingress and egress over, under, across, in and upon the Property (but not so as to interfere with improvements on the Property located in accordance with an approved parcel site plan) are hereby declared created and reserved by Declarant for the benefit and use of itself and/or the Association, as the case may be, their respective successors and assigns, agents and employees, to provide reasonable access to Common Areas and to enter upon the Properties for the purposes of performing the maintenance and related activities.

3. Easements of Encroachment. There shall be reciprocal appurtenant Easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvement constructed, reconstructed, or altered thereon (in accordance with the terns of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a tine perpendicular to such boundary. However, in no event shall an Easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, a Unit Owner, occupant, or the Association.

4. Effect of Easements. All Easements provided for in this Article shall run with the land and bind all Unit Owners, their successors, assigns and successors in title, and the rights, reservations and privileges for the use and benefit of Declarant shall continue until they expire by their terms.

ARTICLE IX
DECLARANT CONTROL PERIOD

The right of the Declarant in Article VII 2(g) of this Declaration to appoint or remove any officer of the Association or any master association or any member of the Board of Directors (the "Declarant Control Period") shall continue in favor of the Declarant as long as Declarant owns at least One (1) of the Units; provided, however, such Declarant Control Period may terminate sooner under the provisions of T.C.A. § 66-27-403 (c)(1) and (d) of the Act, incorporated herein by reference.

ARTICLE X
PARTITION OR DIVISION PROHIBITED

The common and/or limited common areas and facilities shall remain undivided and no Unit Owner shall bring any action for partition or division.

The undivided interest in the common areas and facilities shall not be separated from the Unit to which it appertains and shall be deemed conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

ARTICLE XI
COMPLIANCE

Each Unit Owner shall comply with the provisions of this Declaration, the By-Laws, decisions, and resolutions of the Association or its representatives as lawfully amended from time to time, and failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover sums due for damages, or for injunctive relief.

ARTICLE XII
WAIVER OF USE PROHIBITED

No Unit Owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by the abandonment of his Unit.

ARTICLE XIII
PERSONS AND CONVEYANCES SUBJECT HERETO

All present or future Unit Owners, tenants, future tenants, or any other person that might use the facilities of the project in any manner, are subject to the provisions of this Declaration and that the mere acquisition or rental of any of the Units of the project or the mere act of occupancy of any of said Units shall signify that the provisions of this Declaration are accepted and ratified.

Any sale or lease of any Unit shall be subject to the terms and conditions of the Declaration and By-Laws.

ARTICLE XIV
INSURANCE; DESTRUCTION AND REPAIR

The Board shall have the authority to obtain insurance for the Property, (not to include the Limited Common Elements, Private Elements, additions within, improvements to and decorating of the Units) against loss or damage by fire, vandalism, malicious mischief and such other hazards as are covered under standard extended coverage provisions for the full insurable replacement cost of the Property, and against such other hazards and for such amounts as the Board may deem advisable.

Insurable replacement cost shall be deemed to be the cost of restoring the Common Elements. Such insurance coverage shall be written in the same of, and the proceeds thereof shall be payable to, the Board, as the trustee for each of the Unit Owners in direct proportion to said Unit Owner's respective percentage of ownership in the Common Elements, as set forth in this Declaration, and for the holders of mortgages on his Unit as loss payee, if any. The policy of insurance shall also contain, if possible, a waiver of subrogation rights by the insurer against individual Unit Owners. The premiums for such insurance shall be a common expense. However, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner for his Unit and his corresponding percentage of ownership in the Common Elements.

In the event of damage to or destruction of all or any part of the Common Elements as a result of fire or other casualty covered by insurance maintained by the Board pursuant hereto (unless more than two-thirds of such Buildings and Common Elements require reconstruction), the Board shall, in its sole and absolute discretion, determine, and without intervention of any Unit Owner, arrange for the prompt repair and restoration of the damaged portions of Common Elements substantially in accordance with the original plans and specifications therefore. Where the insurance proceeds are insufficient to cover the cost of such repairs and restoration, the deficit shall be paid by all Unit Owners directly affected by the damage, in proportion to each such Unit Owner's percentage of ownership in the Common Elements.

The Board shall not be responsible for the repair, replacement or restoration of any Limited Common Elements, Private Elements, furniture, furnishings, fixtures or equipment installed in the Unit by a Unit Owner or Occupant or any other personal property located on the Property owned by a Unit Owner or Occupant unless insurance thereof is specifically provided for in the insurance policy obtained by the Board. The Board in its sole discretion shall determine which Unit Owners are directly affected by the damage.

Reconstruction shall not be compulsory where the whole or more than two-thirds (2/3) of all Buildings and Common Elements are destroyed or damaged by fire or other casualty, as determined by the Board. In such case, and unless otherwise unanimously agreed upon by the Unit Owners, the insurance proceeds shall be delivered to the Unit Owners or their mortgagees, as their interests may appear, in proportion to the percentage of each Unit Owner in the Common Elements; and the Board, as soon as is reasonably practicable and as agent for the Unit Owners, shall sell the Property, in its then condition, free from the effect of this Declaration, which shall terminate upon sale, on the terms satisfactory to the Board, and the net proceeds of such sale and of all insurance policies shall thereupon be distributed to the Unit Owners or their mortgagees, as their interest may appear, in proportion to the percentage interest of each Unit Owner in the Common Elements. If the Board fails to consummate a sale pursuant to this paragraph within twenty-four (24) months after the destruction or damage occurs, then the Board shall, or if it does not, any Unit Owner or mortgagee may, record a sworn declaration setting forth such decision and reciting that under the provisions of this Declaration has terminated and that judicial partition of the Property may be obtained pursuant to the laws of the State of Tennessee. Upon final judgment of a court of competent jurisdiction decreeing such partition, this Declaration shall terminate.

Reconstruction also shall not be compulsory where the whole or more than two thirds (2/3) of anyone of the Buildings is destroyed, as determined by the Board. In such case, and unless otherwise unanimously agreed upon by the Unit Owners directly affected, the net proceeds of insurance policies shall be divided among all the Unit Owners directly affected by the casualty in proportion to their respective common interests as determined in the sole discretion of the Board, after paying from the share of such affected Unit Owner the just amount of any unpaid liens on his Unit, in the order of priority of such liens. Notwithstanding the foregoing, no such disbursement of each affected Unit Owner delivers to the Board a recordable deed quitclaiming his interest in his Unit or affected portion thereof to the Association and also delivers to the Board a recordable release of any release on his Unit or the affected portion thereof. Upon the recoding of the aforesaid deeds and releases, each such Unit or affected portion thereof shall be deemed withdrawn and thereafter to be Common Elements. Upon the withdrawal of any Unit or portion thereof, the percentage interest in the Common Element allocable to such Unit shall be reallocated among the remaining Units on the basis of the percentage of interest of each remaining Unit. If only a portion of a Unit is withdrawn, the percentage of interest appurtenant to that Unit shall be reduced accordingly, as determined by the Board. After the Board has effectuated any such withdrawal, the responsibility for the payment of assessments for any such withdrawn Unit or portion thereof shall cease.

The Board also shall have authority to obtain comprehensive public liability insurance, in such amounts as it deems desirable and worker's compensation insurance and other liability insurance as it deems desirable, insuring each Unit Owner, the mortgagee(s) of Record, if any, the Association, its officers, directors, Board and employees, Declarant and any Managing Agent, from (I) liability in connection with the Common Elements, and (ii) liability arising out of legal proceedings relating to employee contracts to which the Association is a party (to the extent such insurance is reasonably available). The premiums for such insurance shall be a common expense; however, at the option of the Board, and upon written notice to all Unit Owners, premiums for such insurance shall be separately billed to each Unit Owner in proportionate amounts corresponding to such Unit Owner's percentage of ownership in the Common Elements. The Board shall retain in safekeeping any such public liability policy for six (6) years after the expiration date of the policy.

The Board in its sole discretion, also shall have authority to and may obtain such other insurance and bonds as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable, insuring the Property and each member of the Board and officer of the Association, and each member of any committee appointed pursuant to the Bylaws of the Association, from liability arising from the fact that said person is or was director or office of the Association, or member of any such committee. The premiums for such insurance and bonds shall be a common expense.

Each Unit Owner shall be responsible for obtaining his own insurance for his Unit, Limited Common Elements and Private Elements, exclusively serving his Unit, contents of his own Unit as well as his additions and improvements thereto, all decorations, furnishings and personal property therein, and any personal property stored elsewhere on the Property. The insurance policy shall afford, as a minimum protection against loss or damage by fire or other perils normally covered by the "Cause of Loss – Special Form Basis: endorsement, where such is available, and such policy

shall be in an amount equal to 100% of current replacement cost of such individual Unit Building and all such alterations, additions, improvements or betterments thereto and any Limited Common Elements serving his Unit. Each Unit Owner shall also obtain his own comprehensive public liability insurance policy insuring each Owner, mortgagee or record, is any, the Association, its officers, directors, Board and employees from liability in connection with such Unit Owner's individual Unit or any Limited Common Element serving his Unit. In addition, in the event a Unit Owner desires to insure against his personal liability and loss or damage by fire or other hazards above and beyond the extent that his liability loss or damage is covered by the liability insurance and insurance against loss or damage by fire and such other hazards obtained by the Board for the benefit of all the Unit Owners as part of the common expense, as above provided, said Unit Owner may at his option and expense, obtain additional insurance.

DECLARANT:
LANDMARK HOMES OF TENNESSEE, INC.

Gary M. Wisniewski, President

State of Tennessee)
)
County of Rutherford)

Personally appeared before me, a notary public in and for the state and county aforementioned, Gary M. Wisniewski, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself to be President of Landmark Homes of Tennessee, Inc., and that he as such President executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as President.

Witness my hand and seal this 27th day of June, 2016.

Notary Public
My commission expires: 11-8-17

JOHN PARKER
STATE OF TENNESSEE NOTARY PUBLIC
RUTHERFORD COUNTY

EXHIBIT A
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 440 37th AVENUE NORTH

THE PROPERTY

Being Lot No. 60, on the W. R. Wilson subdivision of record in Plat Book 332, page 161, in the Register's Office for Davidson County, State of Tennessee, to which plat reference is hereby made for a more complete description.

Said property being the same property conveyed to Landmark Homes of Tennessee, Inc. by Warranty Deed of record in Instrument No. 20160706-0069238, in the Register's Office for Davidson County, Tennessee.

EXHIBIT B TO DECLARATION
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 440 37th AVENUE NORTH

THE PLAT

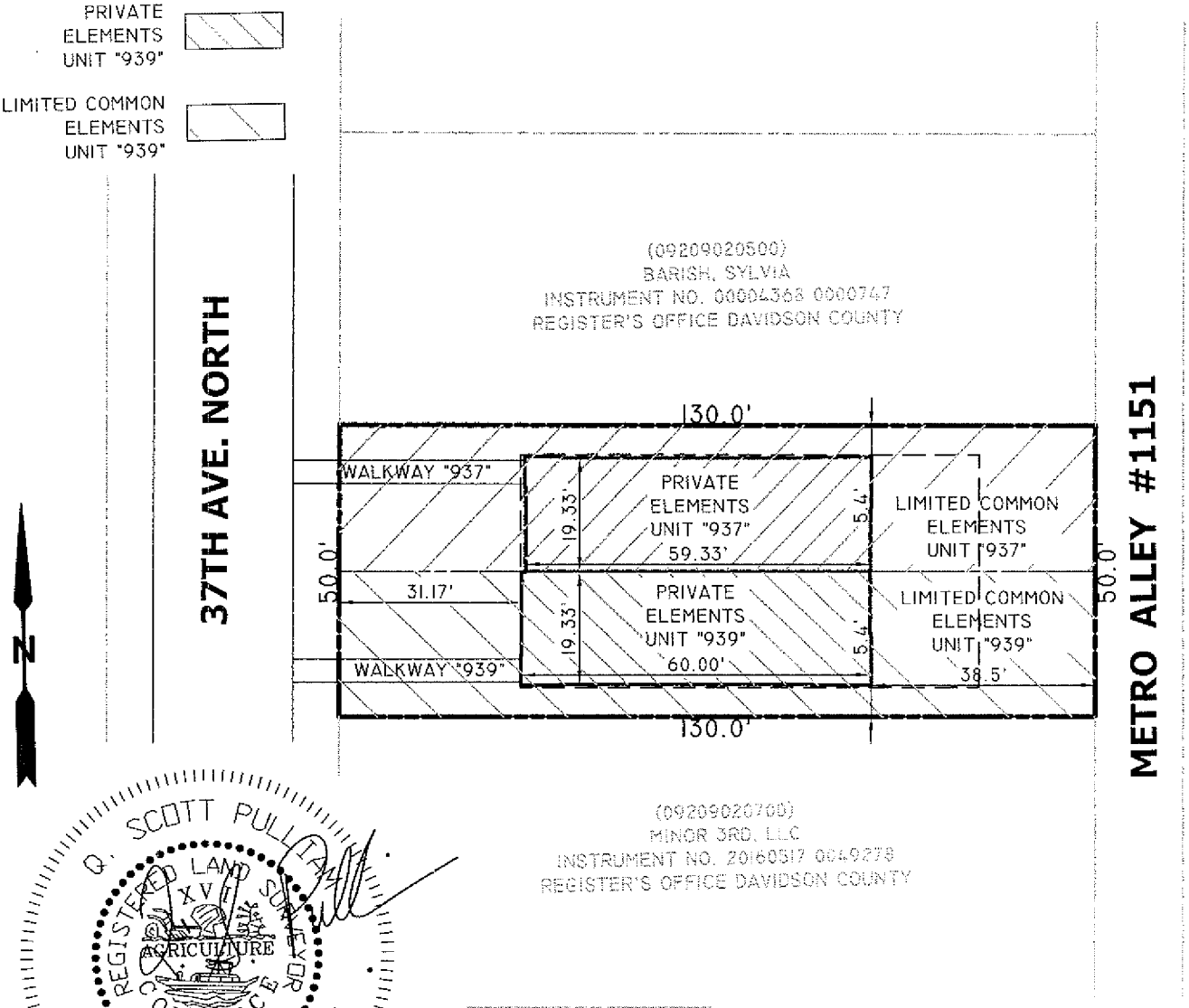
PREPARED BY:
Q.S. PULLIAM, RLS
HOBBS BUILDING - SUITE 300
4205 HILLSBORO PIKE
NASHVILLE, TENNESSEE 37215
qspulliamrls@yahoo.com

PRIVATE ELEMENTS UNIT "937"

LIMITED COMMON ELEMENTS UNIT "937"

PRIVATE ELEMENTS UNIT "939"

LIMITED COMMON ELEMENTS UNIT "939"



HORIZONTAL PROPERTY REGIEME
OF

440 37th Avenue North

09209020600
TWENTY-FIRST COUNCIL DISTRICT
NASHVILLE, DAVIDSON COUNTY, TENNESSEE

30' 0' 30' 60'
SCALE IN FEET

Notes

1. Property is owned by Edward Perry and Thenia Perry as of record in Instrument No. 20070509-0055749, Register's Office of Davidson County, Tennessee.
2. Property shown hereon is Parcel (206.00) as shown on Metro Property Map 092-09. Metro Parcel Id# (09209020600)
3. Property is shown as Lot No. 60 on the Plan of W.R. Wilson as of record in Plat Book 20, Page 464, Register's Office of Davidson County, Tennessee.

LANDMARK HOMES
6064 CENTRAL PIKE
MT JULIET, TENNESSEE 37122

DATE: 06/27/16

EXHIBIT C
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
440 37th AVENUE NORTH

BY-LAWS
OF
440 37th AVENUE NORTH HOMEOWNERS' ASSOCIATION, INC.

ARTICLE I
LOCATION

The development to be administered under these By-Laws shall be located in Nashville, Davidson County, Tennessee, and more particularly as shown on the plat which is attached to the Declaration as Exhibit B (hereinafter referred to as the "Development" or "Project"), and shall be subject to the Tennessee Horizontal Property Act in Tennessee Code Annotated, Section 66-27-101, et seq., and as from time to time amended (the "Act").

ARTICLE II
APPLICATION AND ACCEPTANCE

All present or future owners, tenants, future tenants, or their employees, or any other persons who might use the facilities of the project in any manner, are subject to the regulations set forth in these By-Laws. The acquisition or rental of any of the Units of the project or occupancy of any of said buildings shall signify that these By-Laws are accepted, ratified, and obligatory.

These By-Laws and each change made in accordance herewith and pursuant to the Declaration and the Act are and shall be covenants running with each Unit and binding on each successive owner, lessee or mortgagee of each Unit in the Project, including properties annexed under this Horizontal Property Regime in accordance with the Declaration submitted simultaneously herewith.

ARTICLE III
VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES

Section 1. Voting. Each Unit Owner shall have one (1) vote.

Section 2. Majority of Owners. As used in these By-Laws, the term "majority of owners" shall mean those Unit Owners holding over fifty (50%) percent of the votes.

Section 3. Quorum. Except as otherwise provided in these By-Laws, the presence in person or by proxy of a "majority of owners" as defined in Section 2 of this Article shall constitute a quorum.

Section 4. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the

Secretary before the appointed time of each meeting.

ARTICLE IV
ADMINISTRATION

Section 1. Association Responsibilities. The Unit Owners will constitute the Association who will have the responsibility of administering the project, approving the annual budget, establishing and collecting assessments and arranging for the management of the project. Except as otherwise provided, decisions and resolutions of the Association shall require approval by a majority of owners.

In the event that a Unit Owner is a corporation, limited liability company or partnership, then that entity shall designate one of the shareholders, officers or directors, members or partners as that entity's representative and member of the Association.

Section 2. Place of Meetings. Meetings of the Association shall be held at the principal office of the project or such suitable place convenient to the Unit Owners as may be designated by the Board of Directors.

Section 3. Annual Meetings. The first annual meeting of the Association shall be held at a time and place declared by the Declarant. Thereafter, the annual meetings shall be held on the second Monday of January, unless a holiday, and then on the following Tuesday, of each succeeding year. At such meetings there shall be elected by ballot of the Unit Owners a Board of Directors in accordance with requirements of Section 5 of Article V of these By-Laws. The Unit Owners may also transact such other business of the Association as may properly come before them.

Section 4. Special Meetings. It shall be the duty of the President to call a special meeting of the Unit Owners as directed by resolutions of the Board of Directors, or upon a petition signed by a majority of the owners and having been presented to the Secretary. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless by consent of all of the Unit Owners present, either in person or by proxy.

Section 5. Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof, as well as the time and place where it is to be held, to each Unit Owner of record, at least five (5) but not more than ten (10) days prior to such meeting. The mailing of a notice in the manner provided in this Section shall be considered notice served.

Section 6. Adjourned meetings. If any meeting of the Unit Owners cannot be organized because a quorum has not attended, the Unit Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time the original meeting was called.

ARTICLE V
BOARD OF DIRECTORS

Section 1. Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons.

Section 2. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by these By-Laws prohibited.

Section 3. Other Duties. In addition to duties imposed by these By-Laws or by resolutions of the Association, the Board of Directors shall be responsible for the following:

(a) Care, upkeep, operation and maintenance of the project and the common areas and facilities and the limited common areas and facilities.

(b) Collection of assessments from the Unit Owners.

(c) Designation and dismissal of the personnel necessary for the maintenance and operation of the project, the common areas and facilities and the limited common areas and facilities.

Section 4. Management Agent. The Board of Directors may employ for the Association a Management Agent at a compensation established by the Board to perform such duties and services as the Board shall authorize including, but not limited to, the duties listed in Section 3 of this Article.

Section 5. Election and Term of Office. At the first annual meeting of the Association one (1) Director shall be elected for a period of one (1) year, one (1) Director shall be elected for a period of two (2) years, and one (1) Director shall be elected for a period of three (3) years so as to stagger the terms of the Directors. Thereafter, as the term of each Director expires his successor shall be elected for a period of one (1) year.

Section 6. Vacancies. Subject to and except for the Special Declarant Rights set forth in the Declaration, vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Association, shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum; and each person so elected shall take office immediately.

Section 7. Removal of Directors. Subject to and except for the Special Declarant Rights set forth in the Declaration, at any regular or special meeting duly called, any one or more of the Directors may be removed with or without cause by a majority of the Unit Owners and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Unit Owners shall be given an opportunity to be heard at the meeting.

Section 8. Organization Meeting. The first meeting of a newly elected Board of Directors

shall be held within ten (10) days of election, at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, provided a majority of the Board shall be present.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of Directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone, or telegraph, at least three (3) days prior to the day named for such meeting.

Section 10. Special Meetings. Special meetings of the Board of Directors may be called by the president on three (3) days notice to each Director, given personally or by mail, telephone, or telegraph, which notice shall state the time, place (as hereinabove provided) and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice, on the written request of any one (1) Director.

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

Section 12. Board of Directors' Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 13. Fidelity Bonds. The Board of Directors shall require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall constitute a common expense to be paid by the Association.

Section 14. Liability of the Board of Directors. The members of the Board of Directors shall not be liable to the co-owners for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall indemnify and hold harmless each of the members of the Board of Directors against all contractual liability to others arising out of contracts made by the Board of Directors affecting the project unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or of these By-Laws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the project. It is also intended that the liability of any Unit Owner arising out of any contract made by the Board of Directors or out of the aforesaid indemnity

in favor of the members of the Board of Directors shall be limited to such proportion of the total liability thereunder, as his interest in the common elements bears to the interest of all the Unit Owners in the common elements. Every agreement made by the Board of Directors or by the managing agent or by the manager on behalf of the Development shall provide that the members of the Board of Directors or the managing agent, or the manager, as the case may be, are acting only as agents for the Association and shall have no personal liability thereunder (except as Unit Owners), and that each Unit Owner's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the common elements bears to the interest of all Unit Owners in the common elements.

ARTICLE VI
OFFICERS

The following Sections of this Article VI are subject to and except for the Special Declarant Rights set forth in the Declaration.

Section 1. Designation. The principal officers of the Association shall be a President, Vice-President and a Secretary/Treasurer, all of whom shall be elected by and from the Board of Directors. The Directors may appoint such other officers as in their judgment may be necessary and they need not be members of the Board of Directors.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organization and meeting of each new Board and shall hold office at the pleasure of the Board.

Section 3. Removal of Officers. Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Directors, or at any special meeting of the Board called for such purpose.

Section 4. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all the general powers and duties which are usually vested in the office of the president of an Association, including but not limited to the power to appoint committees from among the Unit Owners from time to time as he may in his discretion decide to be appropriate to assist in the conduct of the affairs of the Association.

Section 5. Vice-President. The Vice-President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice-President is able to act, the Board of Directors shall appoint some other member of the Board to so do on an interim basis. The Vice-President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors.

Section 6. Secretary/Treasurer. The Secretary/Treasurer shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association; he shall have

charge of such books and papers as the Board of Directors may direct; and he shall in general, perform all the duties incident to the office of the Secretary. He shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors.

ARTICLE VII
OBLIGATION OF THE UNIT OWNERS

Section 1. Determination of Common Expenses and Fixing of Common Charges: The Board of Directors shall from time to time, and at least annually, prepare a budget for the project, determine the amount of the common charges payable by the Unit Owners to meet the expenses of administration and of maintenance and repair of the common elements, and, in the proper case, of the limited common elements of the property, and any other expenses lawfully agreed upon; and the Board of Directors shall allocate and assess such common charges among the Unit Owners equally. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors or, at the option of the Board, the insurance may be billed individually, apart from the monthly common expenses. The common expenses may also include such amounts as the Board of Directors may deem proper for the operation and maintenance of the property, including, without limitation, an amount for working capital of the project, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the common expenses for any prior year. The Board of Directors shall advise all Unit Owners, promptly in writing, of the amount of common charges payable by each of them and shall furnish copies of each budget on which such common charges are based, to all Unit Owners and their mortgagees, if requested.

Section 2. Maintenance and Repair.

(a) Every Unit Owner must perform promptly all maintenance and repair work to his own Unit, which if omitted would affect the project in its entirety or in part belonging to other Unit Owners, being expressly responsible for the damages and liabilities that his failure to do so may engender.

(b) All the repairs of internal installations of the Unit such as water, light, gas, power, sewage, telephones, air conditioners, sanitary installations, doors, windows and all other accessories belonging to the Unit area shall be at the Unit Owner's expense.

(c) A Unit Owner shall reimburse the Association for any expenditures incurred in repairing or replacing any common area and facility damaged through his fault.

Section 3. Use of Units and Internal Changes.

(a) A unit shall be used only in keeping with the zoning use restrictions that may be placed on the Property by the Metropolitan Government of Nashville and Davidson County,

Tennessee.

(b) A Unit Owner shall not make structural modifications or alterations in his Unit or installations located therein without the written consent of the Association; a Unit Owner may notify the Association in writing through the Management Agency, if any, or through the President of the Association, if no Management Agent is employed, of any proposed modification or alteration. The Association shall have the obligation to answer within fifteen (15) days and failure to do so within the stipulated time shall mean that there is no objection to the proposed modification or alteration.

Section 4. Right of Entry. A Unit Owner shall grant the right of entry to the Management Agent or to any other person authorized by the Board of Directors or the Association in case of any emergency originating in or threatening his Unit, whether the Unit Owner is present at the time or not.

Section 5. Rules of Conduct.

(a) During the Declarant Control Period as set forth in the Declaration, Declarant shall have the right and does hereby reserve to itself an easement over the property to construct and maintain any sign for sale or rent of a Unit; however, no Unit Owner shall post any signs, advertisements or posters of any kind in or on the project except as authorized by the Association or Declarant.

(b) No Unit Owner shall throw garbage or trash outside the disposal installations provided for such purposes in service areas.

(c) Unit owners agree to abide by the reasonable regulations of the Board of Directors which shall from time to time be promulgated.

(d) No Unit Owner shall install wiring for electrical or telephone installations, antennas, satellite dishes, machines, or air conditioning units, etc., on the exterior of the project or that protrude through the walls or the roof of the project except as authorized by the Association.

ARTICLE VIII
AMENDMENTS

Section 1. By-Laws. These By-Laws may be amended by the Association in a duly constituted meeting for such purpose and no amendment shall take effect unless approved by Unit Owners representing at least fifty-one percent (51%) percent of the total voting power of all Units in the project as shown in the Declaration.

Section 2. Voting Power. Voting power of the Unit Owners may be amended by amendment to the Declaration and these By-Laws.

ARTICLE IX
MORTGAGEES

Section 1. Notice to Association. A Unit Owner who mortgages his Unit shall notify the Association through the Management Agent, if any, or the President of the Board of Directors in the event there is no Management Agent, the name and address of his mortgagee; and the Association shall maintain such information in a book entitled "Mortgagees of Units".

Section 2. Notice of Unpaid Assessments. The Association shall at the request of a mortgagee of a Unit report any unpaid assessments due from the Unit Owner.

ARTICLE X
COMPLIANCE

These By-Laws are set forth to comply with the requirements of the Tennessee Horizontal Property Regime Act.

THE UNDERSIGNED hereby declares these By-Laws as governing provisions of the 440 37th AVENUE NORTH HOMEOWNERS' ASSOCIATION, INC., and consents to all obligations imposed on the undersigned.

LANDMARK HOMES OF TENNESSEE, INC.

By: _____
Gary Wisniewski

EXHIBIT D
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
440 37th AVENUE NORTH

PERCENTAGE OF OWNERSHIP INTEREST

UNIT NUMBER	PERCENTAGE OF OWNERSHIP
937	50%
939	50%

EXHIBIT E

ATTORNEY'S CERTIFICATE

This document is intended to serve as the attorney's opinion which is required under the terms of Tennessee Code Annotated, Section 66-27-103. The undersigned, J.D. Kious, an attorney licensed to practice law in the State of Tennessee, hereby declares (i) that the developer, Landmark Homes of Tennessee, Inc., has indicated that all improvements shall be in substantial compliance with local building codes and (ii) that upon proper recording of this certificate and the following additional documents, all legal requirements for the creation of a Planned Unit Development under the terms of the Tennessee Horizontal Property Act, Tennessee Code Annotated, Section 66-27—103(b), have been met:

(1) Declaration of Covenants, Conditions and Restrictions for 440 37th Avenue North, a Horizontal Property Regime with Private Elements.
(2) By-laws of 440 37th Avenue North Homeowners' Association, Inc.
(3) Plat for 440 37th Avenue North, a Horizontal Property Regime, which plat shows private elements.
(4) Charter of 440 37th Avenue North Homeowners' Association, Inc.

Witness my hand this 8th day of July, 2016.

J.D. Kious

True Copy Certification

I, Ben Carrier, do hereby make oath that I am a licensed attorney and/or the custodian of the electronic version of the attached document tendered for registration herewith and that this is a true and correct copy of the original document executed and authenticated according to law.

Signature

State of Tennessee

County of Rutherford

Personally appeared before me, Jessica L Tolley a notary public for this county and state, Ben Carrier who acknowledges that this certification of an electronic document is true and correct and whose signature I have witnessed.

Notary's Signature

My Commission Expires: 12-16-18

JESSICA L. TOLLEY
STATE OF TENNESSEE
NOTARY PUBLIC
RUTHERFORD COUNTY