

MUTUAL 14 - DECLARATION

THIS DECLARATION, made and entered into the 5th day of November, 1976, by ROSSMOOR CONSTRUCTION CORPORATION, a corporation organized and existing under the laws of the State of Maryland, hereinafter and in the Exhibits hereto sometimes called the "Declarant."

WHEREAS, the Declarant is the owner in fee simple of certain land and premises located in the County of Montgomery, State of Maryland, and more particularly described on "EXHIBIT A" attached hereto and by this reference made a part hereof; and

WHEREAS, the Declarant is the owner of certain buildings and other improvements constructed upon the aforesaid premises, which property constitutes a "condominium" pursuant to Title 11 of the Real Property Article of the Annotated Code of Maryland (1974 Repl. Vol.) and it is the desire and intention of the Declarant to divide said property and the improvements thereon into condominium units and to sell and convey the same subject to the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens, hereinafter set forth, each of which is for the benefit of said property and the subsequent owners thereof; and

WHEREAS, prior to the recordation hereof, the Declarant has filed for record in the office of the Clerk of Court for the Circuit Court for Montgomery County, Maryland, a certain Plat, hereinafter referred to as the "Condominium Plat," which Condominium Plat consisting of eighteen (18) sheets, is recorded in Condominium Plat Book 17, beginning at plat 1804; and

WHEREAS, the Declarant desires and intends by the recordation of the Condominium Plat and this Declaration, to submit the property described on "EXHIBIT A" attached hereto, together with the improvements heretofore or hereafter constructed thereon, and all appurtenances thereto, to the provisions of Title 11 of the Real Property Article of the Annotated Code of Maryland (1974 Repl. Vol.) as a condominium:

NOW, THEREFORE, the Declarant hereby declares that all of the property described on "EXHIBIT A" attached hereto, together with all improvements heretofore or hereafter constructed thereon, and all appurtenances thereto, shall be held, conveyed, divided or subdivided, leased, rented and occupied, improved, hypothecated and encumbered subject to the covenants, restrictions, uses, limitations, obligations, easements, equitable servitudes, charges and liens (hereinafter sometimes referred to as "covenants and restrictions") hereinafter set forth, including the provisions of the Bylaws of the Council of Unit Owners of the condominium, attached hereto as "EXHIBIT B" and by this reference incorporated herein, all of which are declared and agreed to be in aid of a plan for improvement of said property, and the division thereof into condominium units and common elements, and shall be deemed to run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, its successors and assigns, and any person acquiring or owning an interest in said property and improvements, including, without limitation, any person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who holds such interest solely as security for the performance of an obligation.

ARTICLE I

Section 1. Definitions. Unless the context shall plainly require otherwise, the following words when used in this Declaration and any and all exhibits hereto, shall have the following meanings:

- (a) "The Act" or "The Condominium Act" means Title 11 of the Real Property Article, Annotated Code of Maryland (1974 Repl. Vol.) and shall include any revisions thereof and amendments and supplements thereto which are enacted subsequent to the date of this Declaration and which are not inconsistent with the provisions hereof.
- (b) "Condominium" or "the condominium project" means the property subject to this Declaration.
- (c) "Unit" or "condominium unit" means a three dimensional area, as hereinafter and on the Condominium Plat described and identified, and shall include all improvements contained within that area except those excluded in this Declaration.

- (d) "Common elements" means both general common elements and limited common elements, as hereinafter and on the Condominium Plat described and identified, and shall include all of the condominium except the condominium units.
- (e) "Unit owner" or "owner" means any person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who holds legal title to a unit within the condominium; provided, however, that any person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who holds such interest solely as security for the performance of an obligation shall not be a unit owner by reason only of such interest.
- (f) "Council of Unit Owners" means all of the unit owners in association.
- (g) "Common expenses and common profits" means the expenses and profits of the Council of Unit Owners.
- (h) "Community Facilities Trustee" means Suburban Trust Company, a Maryland banking corporation, and its successor trustee under that certain Trust Agreement known as The Leisure World of Maryland Trust dated the 9th day of March, 1966, and recorded the 15th day of March, 1966, in Liber 3479 at Folio 396 among the Land Records for Montgomery County, Maryland, as amended.

Section 2. Other Definitions. Unless it is plainly evident from the context that a different meaning is intended, all other terms used herein shall have the same meaning as they are defined to have in the Bylaws of the Council of Unit Owners or the Condominium Act.

Section 3. Name. The name by which the condominium is to be identified is as follows:
 "MUTUAL 14 - CONDOMINIUM OF ROSSMOOR"

ARTICLE II

Section 1. Property Subject to Declaration. The property which is, and shall be, held, conveyed, divided or subdivided, hypothecated or encumbered, sold, leased, rented, used, occupied, and improved subject to this Declaration and the provisions of the Condominium Act is located in the County of Montgomery, State of Maryland, and is more particularly described on "EXHIBIT A" attached hereto and by this reference made a part hereof.

Section 2. Condominium Plat. The Condominium Plat is incorporated herein and by this reference and made a part of this Declaration.

ARTICLE III

Section 1. The Condominium Units. The general description and number of each condominium unit in the condominium, including its perimeters, approximate dimensions, and floor area, identifying number or letter, location and such other data as may be sufficient to identify it with reasonable certainty, is set forth on the Condominium Plat.

The lower boundary of any condominium unit in the condominium is a horizontal plane (or planes), the elevation of which coincides with the elevation of the upper surface of the unfinished concrete subfloor thereof. The upper boundary of a condominium unit situated in a single-story building in the condominium is a plane (or planes) which coincide with the lower surface of the plywood roof sheathing thereof, extended to intersect the lateral and perimetrical boundaries thereof; the upper boundary of a condominium unit situated in a three-story building in the condominium is a horizontal plane which coincides with the uppermost surface of the ceiling drywall thereof, extended to intersect the lateral or perimetrical boundaries thereof. (Article III, Section 1, paragraph 2, amended April 23, 1984.)

In the event any condominium unit in the condominium has a garage or carport appurtenant (but not necessarily attached) to it or an enclosed patio area attached to it as a part of original construction of the condominium, then and in any of such events, such garages, carports and enclosed patio areas shall be considered as a part of the condominium unit and not as a part of the common elements. In the event any condominium unit shall be constructed with windows which protrude beyond the confines of the lateral or perimetrical boundaries of said condominium unit as hereinabove described (such windows commonly known as "bay windows") or with fireplace structures which protrude beyond the confines of the lateral or perimetrical boundaries of the condominium unit as hereinabove described, then the lateral or perimetrical boundaries of the condominium unit shall be deemed to extend to include the area contained with such protrusions, and such areas shall be considered as a part of the condominium unit and not as a part of the common elements.

Equipment and appurtenances located within any condominium unit and designed or installed to serve only that unit, including, without limiting the generality of the foregoing, furnaces, air-conditioning equipment, mechanical equipment, appliances, range hoods, non-bearing partition walls, flooring materials, carpets, outlets, electrical receptacles and outlets, fixtures, cabinets and the like, shall be considered a part of the condominium unit and not a part of the common elements. Mechanical equipment and appurtenances located outside the boundaries of any condominium unit and designed or installed to serve only a particular unit, including, without limiting the generality of the foregoing, furnaces, air conditioning equipment, compressors, compressor pads, ducts, pipes, hoses, tubing and the like shall be considered a part of the condominium unit which they are designated or designed to serve and shall not be considered a part of the common elements.

Section 2. Easements. Each condominium unit shall be subject to an easement to the owners of all of the other condominium units to and for the unobstructed and uninterrupted use of any and all pipes, ducts, flues, chutes, conduits, cables, wires and wire outlets, utility lines and the like, and any other common elements located within or accessible only from any particular condominium unit, and for support.

ARTICLE IV

Section 1. Limited Common Elements. The limited common elements of the condominium are those common elements designated as such on the Condominium Plat and such other common elements as are agreed upon by all of the unit owners to be reserved for the exclusive use of one or more, but less than all, of the unit owners. Any area designated on the Condominium Plat as a walkway, deck, terrace, patio area, atrium, storage locker or the like, and designated on the Condominium Plat as a limited common element, are reserved for the exclusive use of the owner or owners of the condominium unit or units to which they are adjacent or to which they are declared to be appurtenant by appropriate designation on the Condominium Plat.

Section 2. General Common Elements. The general common elements are the real property described on "EXHIBIT A" and all of the condominium except the condominium units and the limited common elements.

Section 3. Covenant Against Partition. The common elements, both general and limited, shall remain undivided. No owner of any condominium unit or any other person shall bring any action for partition or division thereof except as may be provided for in the Condominium Act.

Section 4. Easements. The common elements of the condominium shall be subject to mutual rights of support, access, use and enjoyment by all of the unit owners; provided, however, that any portions of the common elements designated as limited common elements are reserved for the exclusive use of the owner or owners of the condominium unit or units to which they are adjacent or to which they are declared to be appurtenant by appropriate designation on the Condominium Plat.

ARTICLE V

Section 1. The Condominium Units. Each condominium unit in the condominium shall have all of the incidents of real property.

Section 2. Undivided Percentage Interests in Common Elements. Each unit owner shall own an undivided percentage interest in the common elements of the condominium equal to that set forth on "EXHIBIT C" attached hereto and by this and other reference made a part hereof. The undivided percentage interests in the common elements set forth on "EXHIBIT C" shall have a permanent character and, except as specifically provided in the Condominium Act and this Declaration, may not be changed without the written consent of all of the unit owners and the holders of all mortgages on the condominium units. The undivided percentage interests in the common elements set forth on "EXHIBIT C" may not be separated from the condominium unit to which they appertain. Any instrument, matter, circumstances, action, occurrence or proceeding in any manner affecting a condominium unit also shall affect, in like manner, the individual percentage interest in the common elements appertaining to such unit, whether or not such percentage interest is expressly described or mentioned.

Section 3. Percentage Interests in Common Expenses and Common Profits. Each unit owner shall have a percentage interest in the common expenses and common profits of the condominium equal to that set forth on "EXHIBIT C" attached hereto and by this and other reference made a part hereof. The percentage interests in the common expenses and common profits set forth on "EXHIBIT C" shall have a permanent character and, except as specifically provided in the Condominium Act and this declaration, may not be changed without the written consent of all of the unit owners and the holders of all mortgages on the condominium units. The percentage interests in the common expenses and common profits set forth on "EXHIBIT C" may not be separated from the condominium unit to which they appertain. Any instrument, matter, circumstance, action, occurrence or proceeding in any manner affecting a condominium unit shall affect, in like manner, the percentage interests in the common expenses and common profits appertaining to such unit whether or not such percentage interest is expressly described or mentioned.

Section 4. Voting Rights. At any meeting of the Council of Unit Owners each unit owner shall be entitled to cast, on each question, the number of votes appurtenant to his condominium unit, as set forth on "EXHIBIT C" attached hereto and by this and other references made a part hereof. In the event the number of votes appurtenant to each condominium unit is not specifically set forth on "EXHIBIT C," then each unit owner shall be entitled to cast one vote on each question at any meeting of the Council of Unit Owners.

ARTICLE VI

Section 1. Encroachments. In the event any portion of the common elements encroaches upon any condominium unit, or in the event any condominium unit encroaches upon any other condominium unit or any common element, as a result of settlement, shifting, or the duly authorized construction or repair of any building, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the building stands.

In the event any portion of the condominium is partially or totally damaged or destroyed by fire or other casualty, or as a result of condemnation or eminent domain proceedings, and then repair or reconstructed as authorized in the Bylaws of the Council of Unit Owners and the Condominium Act, encroachments of any portion of the common elements upon any condominium unit or of any condominium unit upon any other condominium unit or any portion of the common elements due to such repair or reconstruction shall be permitted, and valid easements for such encroachments and the maintenance of the same shall exist so long as the building stands.

For all purposes incident to the interpretation of deeds, the Condominium Plat and all other instruments of title relating to any condominium unit in the condominium project, the existing physical boundaries of any condominium unit constructed or reconstructed in substantial conformity with the Condominium Plat shall be conclusively presumed to be its boundaries, regardless of the shifting, settling or lateral movement of any building and regardless of minor variations between the physical boundaries shown on the Condominium Plat and those of any condominium unit.

Section 2. Easement to Declaration. There is hereby reserved to the Declarant and its agents a non-exclusive easement over all of the common elements of the condominium for purposes of access, the storage of building supplies and materials and equipment and, without any limitation, for any and all purposes reasonably related to the completion of the marketing, construction, rehabilitation and repair of the condominium.

ARTICLE VII

Section 1. Rights of WSSC. In the event that any sewer or water use charge, or front foot benefit charge, or sewer charge, or ad valorem or other tax, imposed pursuant to the Washington Suburban Sanitary District Act is not paid by the Council of Unit Owners when due, then the Washington Suburban Sanitary Commission shall have the right, within the time provided by that Act or the Regulations of said Commission, to terminate sewer and water service to all of the condominium units.

ARTICLE VIII

Section 1. Amendment. Except as otherwise provided in the Condominium Act, this Declaration may be amended only with the written consent of all of the unit owners and the holders of all mortgages on the condominium units in the condominium. Any such amendment shall be effective only upon the recordation of a Declaration of Amendment among the Land Records for Montgomery County, Maryland.

Section 2. Termination and Waiver. The condominium regime established by the recordation of this Declaration and the Condominium Plat may be terminated by Deed of Termination executed by all of the unit owners and, in a manner to indicate their consent to such termination, by all persons with recorded encumbrances, including judgment lienors, on the condominium units in the condominium, all in the manner provided in the Condominium Act. Any such termination shall be effective only upon the recordation of a Deed of Termination among the Land Records for Montgomery County, Maryland.

ARTICLE IX

Section 1. Construction and Enforcement. The provisions hereof shall be liberally construed to facilitate the purpose of creating a uniform plan for the creation and operation of a condominium. Enforcement of these covenants and restrictions and of the Bylaws attached hereto shall be by any proceeding to law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain or enjoin violation or to recover damages, or both, and against any condominium unit to enforce any lien; and the failure or forbearance by the Council of Unit Owners or the owner of any condominium unit to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

There shall be and there is hereby created and declared to be conclusive presumption that any violation or breach or any attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or exclusively by recovery of damages.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provisions hereof, each of which shall remain in full force and effect.

Section 3. Captions. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration.

IN WITNESS WHEREOF, the said ROSSMOOR CONSTRUCTION CORPORATION, a corporation organized and existing under the laws of the State of Maryland has caused these presents to be executed in its corporate name by LEWIS M. LETSON, its (Vice) President, attested by DONALD C. ELIAS, its (Assistant) Secretary, and its corporate name to be hereunto affixed; and does hereby appoint the said LEWIS M. LETSON as its true and lawful attorney-in-fact to acknowledge and deliver these presents as its act and deed, all as of the year and day first above written.

The undersigned Trustees under that certain Deed of Trust dated the 16th day of October, 1964 and recorded the 22nd day of October, 1964 in Liber 3283 at Folio 545 among the Land Records for Montgomery County, Maryland, hereby consent to the within Declaration and hereby consent to the legal effect and operation of said Declaration.

_____(signed)_____
Barry M. Fitzpatrick
for all

_____(signed)_____(SEAL)
Martin R. West, Jr., Trustee

_____(signed)_____(SEAL)
Clarence Dodge, Jr., Trustee

_____(signed)_____(SEAL)
Earl M. MacIntosh, Jr., Trustee

STATE OF MARYLAND)
) SS
COUNTY OF MONTGOMERY)

I HEREBY CERTIFY that on this 5th day of November, 1976, before me, the subscriber, a Notary Public in and for the jurisdiction aforesaid, personally appeared MARTIN R. WEST, JR., CLARENCE DODGE, JR., and EARL M. MacINTOSH, JR., known to me or satisfactorily proven to be the Trustees as aforesaid and as the persons who executed the foregoing Declaration as Trustees as aforesaid, and acknowledged the same to be their act and deed and that the same was executed for the purposes therein contained.

WITNESS my hand and Notarial Seal the year and day first above written.

_____(signed)_____
Barry M. Fitzpatrick, Notary Public
My Commission Expires: 7-1-78

Pursuant to the provisions and requirements of Section 11-102.1 of the Condominium Act, I hereby affirm, under penalty of perjury, that the notice requirements of Section 11-102.1 of the Condominium Act, if applicable, has been fulfilled.

ROSSMOOR CONSTRUCTION CORPORATION

By: _____(signed)_____
Lewis M. Letson, Vice President

The undersigned, a member in good standing of the Bar of the Court of Appeals of Maryland, hereby certifies that the within instrument was prepared by him or under his supervision.

_____(signed)_____
Barry M. Fitzpatrick

"EXHIBIT A"

Parcels 38 and 39 on Plat 24 in the subdivision known as "ROSSMOOR LEISURE WORLD" per plat of said subdivision recorded in Plat Book 95 at plat 10499 among the Land Records for Montgomery County, Maryland.