

FOR REGISTRATION JUDITH A. GIBSON
REGISTER OF DEEDS
MECKLENBURG COUNTY, NC
2006 JUL 14 10:43 AM
BK: 20741 PG: 805-851 FEE: \$149.00
INSTRUMENT # 2006142036



2006142036

DECLARATION
OF
AREY AT HUNTERS CROSSING CONDOMINIUM IV

Filed for Record on the
14th day of July, 2006

PREPARED BY AND MAIL TO:

Richard E. Marsh, Jr.
Marsh Law Firm
828 East Boulevard
Charlotte, NC 28203

DECLARATION OF
AREY AT HUNTERS CROSSING CONDOMINIUM IV

THIS DECLARATION, made this ~~22nd~~ day of July, 2006, by 16147 LANCASTER HIGHWAY, LLC, a North Carolina limited liability company ("Declarant"), pursuant to the North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes ("Act").

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain real estate situated in or near the City of Charlotte, County of Mecklenburg, and State of North Carolina, more particularly described on Exhibit A attached hereto and made a part hereof, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate; and

WHEREAS, Declarant desires to submit all of said property to the Act.

NOW, THEREFORE, Declarant, as the owner of said property, hereby declares as follows:

ARTICLE I.

Definitions

Definitions. As used herein, the following words and terms shall have the following meanings:

1.1 Act. The North Carolina Condominium Act, Chapter 47C, North Carolina General Statutes.

1.2 Association. Arey at Hunters Crossing Condominium IV, Inc., a nonprofit corporation organized under Section 47C-3-101, North Carolina General Statutes. The Articles of Incorporation of the Association are attached hereto as Exhibit D.

1.3 Board. The Executive Board of the Association.

1.4 Bylaws. The Bylaws of the Association which are incorporated herein and made a part hereof by this reference, and attached as Exhibit E.

1.5 Common Elements. All portions of the Condominium except the Units. Limited Common Elements are Common Elements.

1.6 Common Expenses. Expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves.

1.7 Condominium. The condominium created by this Declaration.

1.8 Declarant. 16147 LANCASTER HIGHWAY, LLC, a North Carolina limited liability company, and (i) any other owner who has executed this Declaration except First Mortgagees and except persons whose interests in the Property will not be conveyed to Unit Owners and (ii) any person who succeeds to any Special Declarant Rights as defined in Section 47C-1-103(23) of the Act.

1.9 Declarant Control Period. The period commencing on the date hereof and continuing until the earlier of (i) the date two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business, or (ii) the date upon which Declarant surrenders control of the Condominium, or (iii) the date one hundred twenty (120) days after the Declarant has conveyed seventy-five percent (75%) of the maximum number of Units which Declarant may create on the Property.

1.10 First Mortgage and First Mortgagee. A First Mortgage is a mortgage or deed of trust which has been recorded so as to give constructive notice thereof, and which is a first lien on the Unit or Units described therein. A First Mortgagee is the holder, from time to time, of a First Mortgage as shown by the records of the Office of the Register of Deeds for Mecklenburg County, North Carolina, in which the First Mortgage is recorded, including a purchaser at foreclosure sale upon foreclosure of a First Mortgage until expiration of the mortgagor's period of redemption. If there be more than one holder of a First Mortgage, they shall be considered as, and act as, one First Mortgage for all purposes under this Declaration and the Bylaws.

1.11 Limited Common Elements. Those portions of the Common Elements allocated by this Declaration, the Plans or by operation of Section 47C-2-102(2) or (4) of the Act for the exclusive use of at least one but fewer than all of the Units including, but not limited to, any balcony, porch or patio appurtenant to a Unit and any attic storage areas appurtenant to a Unit. That portion of the property upon which heating and air conditioning equipment serving a Unit is located shall constitute a Limited Common Element allocated specifically to the Unit served by such equipment.

1.12 Occupant. Any person or persons in possession of a Unit, including Unit Owners, the family members, lessees, guests and invitees of such person or persons, and family members, guests and invitees of such lessees.

1.13 Person. A natural person, corporation, partnership, trust or other legal or commercial entity, or any combination thereof.

1.14 Plans. The plans of the Condominium, including a survey map depicting the Condominium (the "Map") recorded in Unit Ownership File No. 796, Page 1 in the Office of the Register of Deeds for Mecklenburg County, North Carolina, and by the Act made a part of this Declaration.

1.15 Property. The real estate described on Exhibit A, together with all building and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

1.16 Rules and Regulations. The rules and regulations of the Condominium promulgated by the Executive Board from time to time.

1.17 Special Declarant Rights. The rights as defined in Section 47C-1-103(23) of the Act for the benefit of a Declarant, including but not limited to the following: to complete the improvements indicated on the Plans; to maintain sales offices, management offices, models and signs advertising the Condominium; to exercise any development right as defined in Section 47C-2-110 of the Act; to use easements through the Common Elements; to elect, appoint or remove members of the Board during the Declarant Control Period; to withdraw any portion of the Property from the Condominium; and to add additional real estate.

1.18 Unit. A portion of the Condominium, whether or not contained solely or partially within a building, together with its percentage of undivided interest in the Common Elements as set forth on, Exhibit B. Each Unit is designated and delineated on the Plans.

1.19 Unit Boundaries. The boundaries of each Unit, both as to vertical and horizontal planes, as shown on the Plans, are the undecorated surfaces of the perimeter walls, exterior doors and exterior windows facing the interior of the Unit, the undecorated surfaces of the roof facing the interior of the Unit, and the topmost surfaces of the subflooring, and include the decoration on all such interior and topmost surfaces, including, without limitation, all paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the decorated surfaces thereof, and also includes all spaces, interior partitions and other fixtures and improvements within such boundaries. Also included as a part of the Unit shall be those portions of the heating and air conditioning system for the Unit which are located within the perimeter walls of the Unit and those portions of the heating and air conditioning system located in the Common Elements, wherever located.

1.20 Unit Owner. The person or persons, including the Declarant, owning a Unit in fee simple.

ARTICLE II.

Submission of Property to the Act

2.1 Submission. Declarant hereby submits the Property to the Act.

2.2 Name. The Property shall hereafter be known as Arey at Hunters Crossing Condominium IV.

2.3 Division of Property into Separately Owned Units. Declarant, pursuant to the Act, and to establish a plan of condominium ownership for the Condominium, does hereby

divide the property into two (2) Units and does hereby designate all such Units for separate ownership, subject however, to the provisions of Section 2.4 hereof.

2.4 Alterations of Units. Subject to the provisions of the Bylaws, a Unit may be altered pursuant to the provisions of Section 47C-2-111 and 47C-2-112 of the Act.

2.5 Limited Common Elements. The Limited Common Elements serving or designed to serve each Unit are hereby allocated solely and exclusively to each such Unit.

2.6 Unit Allocations. The allocations to each Unit of a percentage of undivided interest in the Common Elements and of a percentage of the Common Expenses are as stated on Exhibit B. The allocation of undivided interest in the Common Elements and of the Common Expenses has been determined by a ratio formulated upon the relation that the square foot area of each Unit bears to the then aggregate square foot area of all Units. The votes are not equally allocated to all Units with each Unit Owner having one (1) vote for each square foot of area within the Unit.

2.7 Encumbrances. The liens, defects and encumbrances affecting the Property to which the rights of Unit Owners and Occupants are hereby made subject are set out on Exhibit C.

2.8 Condominium Ordinances. The Condominium is not subject to any code, real estate use law, ordinance, charter provisions, or regulation (i) prohibiting the condominium form of ownership, or (ii) imposing conditions or requirements upon a condominium which are not imposed upon physically similar developments under a different form of ownership. This statement is made pursuant to Section 47C-1-106 of the Act for the purpose of providing marketable title to the Units in the Condominium.

2.9 Reservation of Special Declarant Rights. Declarant hereby reserves all Special Declarant Rights, as defined in Article 1.17, including the right to subdivide a Unit or convert a Unit previously created into additional Units, Common Elements or both pursuant to the provisions of Section 47C-2-110 of the Act. Each Unit created in the Condominium shall be assigned a letter.

ARTICLE III.

Easements

3.1 Encroachments. In the event that, by reason of the construction, reconstruction, rehabilitation, alteration or improvement of the buildings or improvements comprising a part of the Property, any part of the Common Elements now or hereafter encroaches upon any part of any Unit, or any part of Common Elements, or upon any part of another Unit, an easement for the continued existence and maintenance of each such encroachment is hereby declared and granted and shall continue for so long as each such encroachment exists; provided that in no event shall an easement for such encroachment be created if such encroachment is detrimental to or interferes with the reasonable use and enjoyment of the Common Elements or Units so encroached upon.

3.2 Easements Through Walls. Easements are hereby declared and granted to the Association and to such persons as are authorized by the Association, to install, lay, maintain, repair and replace any chutes, flues, ducts, vents, pipes, wires, conduits and other utility installations, and structural components running through the walls of the Units, whether or not such walls lie in whole or in part within the boundaries of any Unit.

3.3 Easements to Repair, Maintain, Restore and Reconstruct. Wherever in, and whenever by, this Declaration, the Bylaws or the Act, a Unit Owner, the Association, the Board or any other person, is authorized to enter upon a Unit or the Common Elements to inspect, repair, maintain, restore or reconstruct all or any part of a Unit or the Common Elements, such easements as are necessary for such entry and such repair, maintenance, restoration or reconstruction are hereby declared and granted.

3.4 Easements for Utilities. The Units and Common Elements shall be, and are hereby, made subject to easements in favor of the Declarant (until Declarant shall have satisfied all of its obligations under the Declaration and Bylaws and all commitments in favor of any Unit Owner and the Association), the Association, appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements provided for by this Section 3.4 shall include, without limitation, rights of Declarant, the Association, any providing utility, any service company, and any governmental agency or authority and any of them to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone wires and equipment, television and equipment facilities (cable or otherwise), electrical wires, conduits and equipment and ducts and vents and any other appropriate equipment and facilities over, under, through, along and on the Units and Common Elements. Notwithstanding the foregoing provisions of this Section 3.4, unless approved in writing by the Unit Owner or Unit Owners affected thereby, any such easement through a Unit shall be located either in substantially the same location as such facilities or similar facilities existed at the time of first conveyance of the Unit by the Declarant to a grantee other than the Declarant, or so as not to materially interfere with the use of occupancy of the Unit by its owners.

3.5 Declarant's Easement. Declarant hereby reserves such easements through the Common Elements as may be reasonably necessary for the purposes of discharging its obligations, exercising Special Declarant Rights, and completing the development and construction of the Condominium, which easements shall exist as long as reasonably necessary for such purpose.

3.6 Easements to Run With Land. All easements and rights described in this Article III are appurtenant easements running with the land, and except as otherwise expressly provided in this Article III shall be perpetually in full force and effect, and shall inure to the benefit of and be binding upon Declarant, its successors and assigns owning the Property, or any portion thereof Declarant's mortgagees, the Association, Unit Owners, Occupants, First Mortgagees and any other person having any interest in the Condominium or any part thereof. The Condominium and every part thereof shall be conveyed and encumbered subject to and

together with all easements and rights described in this Article III, whether or not specifically mentioned in any such conveyance or encumbrance.

ARTICLE IV.

Restrictions, Conditions and Covenants

4.1 Compliance with Declaration, Bylaws and Rules and Regulations. Each Unit Owner and Occupant shall comply with all applicable provisions of the Act, this Declaration, the Bylaws, the Articles of Incorporation of the Association, and the Rules and Regulations promulgated by the Board or the Association, as amended. Failure to comply shall be grounds for an action by the Association, an aggrieved Unit Owner, or any person adversely affected, for recovery of damages, injunction, or other relief.

4.2 Administration of Condominium. The Condominium shall be administered in accordance with the provisions of the Act, this Declaration and the Bylaws.

4.3 Use Restricted. Use by Declarant.

(a) Except as may be otherwise expressly provided in this Declaration, each Unit shall be used for general medical and professional office purposes only and ancillary uses with the prior written approval of the Board.

(b) Except as reserved by Declarant, no advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the Property subject to this Declaration without the prior written approval of the Board.

(c) The foregoing provisions of this Section or any other provision of this Declaration or the Bylaws notwithstanding, Declarant shall have an easement to maintain sales offices and models for sales of Units throughout the Condominium. Declarant shall have the right to relocate, from time to time, and to discontinue and reestablish, from time to time, within the Condominium, until all of the Units have been conveyed to a Unit Owner other than a Declarant, any one or more of such offices or models. Declarant also shall have the right to change the use or combination of uses of such offices or models, provided that such offices or models shall be used only for sales offices or models.

(d) Declarant shall also have an easement to maintain signs on the Common Elements advertising the Condominium until all of the Units have been conveyed to Unit Owners other than a Declarant. Declarant shall remove all such signs not later than thirty (30) days after all of the Units have been conveyed to Unit Owners other than Declarant and shall repair or pay for the repair of all damage done by removal of such signs.

4.4 Hazardous Use and Waste. Nothing shall be done to or kept in any Unit or the Common Elements that will increase any rate of insurance maintained with respect to the Condominium without the prior written consent of the Board. No Unit Owner or Occupant shall permit anything to be done to or kept in his Unit or the Common Elements that will result in the

cancellation of insurance maintained with respect to the Condominium, or that would be in violation of any law, or that will result in the commitment of waste (damage, abuse, or destruction) to or in his Unit or the Common Elements.

4.5 Alterations of Common Elements. No Unit Owner or Occupant, except Declarant during the Declarant Control Period, shall alter, construct anything upon, or remove anything from the Common Elements, or paint, decorate, landscape or adorn any portion of the Common Elements, without the prior written consent of the Board.

4.6 Lease of Units. Any lease of a Unit or portion thereof shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the Condominium Documents and that any failure by the lessee to comply with all the terms of such Condominium Documents shall constitute a default under the lease.

4.7 Rules and Regulations. In addition to the foregoing restrictions, conditions and covenants concerning the use of the Condominium, reasonable rules and regulations not in conflict therewith and supplementary thereto may be promulgated and amended from time to time by the Board or the Association, as more fully provided in the Bylaws.

4.8 Restrictions, Conditions and Covenants to Run With Land. Each Unit Owner and Occupant shall be subject to all restrictions, conditions and covenants of this Declaration, and all such restrictions, conditions and covenants shall be deemed to be covenants running with the land, and shall bind every person having any interest in the Property, and shall inure to the benefit of every Unit Owner.

4.9 Access Easement. Each Unit Owner shall have the easement right and privileges for use, access and enjoyment of the Common Elements and the use of parking areas and driveways within the Common Elements.

4.10 Use of the Easements and Property Rights. The use of the easements and property rights granted herein shall be subject in all respects to the restrictions, conditions and covenants of the Professional Center Declaration and the expenses therefore shall be an obligation of the Association.

4.11 Access to Units. The Association and its agent shall have access to each Unit from time to time during reasonable working hours, upon oral or written notice to its Unit Owner or Occupant of the Unit, as may be necessary for the maintenance, repair or replacement of any of the Common Elements. The Association and its agents shall also have access to each Unit at all times without notice, as may be necessary to make emergency repairs to prevent damage to Common Elements.

ARTICLE V.

Assessments

5.1 Assessment Liens. The Board has the power to levy assessments against the Units for Common Expenses. Such assessments, together with a late payment charge of one hundred fifty dollars (\$150.00) for assessment which remains unpaid for more than thirty (30) days past the due date with interest at the rate of eighteen percent (18%) per annum, costs and reasonable attorney's fees shall be a lien on the Units against which they are assessed, and if any payment thereof becomes delinquent, the lien may be foreclosed and the Unit sold, or a money judgment obtained against the persons liable therefor, all as set forth in the Bylaws.

5.2 Personal Liability of Transferees; Statement; Liability of First Mortgage.

(a) The personal obligation for assessments which are delinquent at the time of transfer of a Unit shall not pass to the transferee of said Unit unless said delinquent assessments are expressly assumed by said transferee.

(b) Any transferee referred to in (a) above shall be entitled to a statement from the Board, pursuant to Section 6.3 of the Bylaws, and such transferee's Unit shall not be subject to a lien for any unpaid assessments against such Unit in excess of the amount therein set forth.

(c) Where a First Mortgagee, or other person claiming through such First Mortgagee, pursuant to the remedies provided in a mortgage or deed of trust, or by foreclosure or by deed, or assignment, in lieu of foreclosure, obtains title to a Unit, the liability of such First Mortgagee or such other person for assessments shall be only for the assessments, or installments thereof, that would become delinquent, if not paid, after acquisition of title. For purposes hereof, title to a Unit shall be deemed acquired by foreclosure upon expiration of the applicable period of redemption.

(d) Without releasing the transferor from any liability therefore, any unpaid portion of assessments which is not a lien under (a) above, or, resulting, as provided in (c) above, from the exercise of remedies in a mortgage or deed of trust, or by foreclosure thereof or by deed, or assignment, in lieu of such foreclosure, shall be a Common Expense collectible from all Unit Owners, including the transferee under (b) above and the First Mortgagee of such other person under (c) above who acquires ownership by foreclosure or by deed, or assignment, in lieu of foreclosure.

5.3 Prohibition of Exemption from Liability for Contribution Toward Common Expenses. No Unit Owner may exempt himself from liability for his share of the Common Expenses assessed by the Association by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit or otherwise.

5.4 Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Units on the first day of the month following the

conveyance of the first Unit by the Declarant. The first annual assessment shall be adjusted according to the number of months then remaining in that fiscal year.

5.5 Assessments. Assessments shall be due and payable in advance annually. As provided in Article VI of the Bylaws and as legally required by Section 47C-1-115 of the Act, Declarant shall pay all accrued expenses of the Condominium until assessments are levied against the Units. An assessment shall be deemed levied against a Unit upon the giving of notice by the Board to a member of the Association who is a Unit Owner of that Unit. Unit Owners shall have no obligation to pay assessments until an assessment is levied.

ARTICLE VI.

Management, Maintenance, Repairs, Replacements, Alterations and Improvements

6.1 Common Elements

(a) By the Association. The management, replacement, maintenance, repair, alteration, and improvement of the Common Elements shall be the responsibility of the Association provided such responsibility may be assigned by the Association to the Professional Center Association described in the Professional Center Declaration with regard to the Common Elements that are not Limited Common Elements, and so long as the Association pays for the costs associated with the assumption of such responsibilities, and subject to the provisions of Section 6.2 hereof, the cost thereof shall be a Common Expense to the extent not paid by Unit Owners pursuant to Section 6.1 (b) hereof. In addition, the Association shall be responsible for providing and paying for water and sewer for all Units. All damage caused to a Unit by any work on or to the Common Elements done by or for the Association shall be repaired by the Association, and the cost thereof shall be a Common Expense.

(b) By Unit Owners. Each Unit Owner shall pay all costs to repair and replace all portions of the Common Elements that may become damaged or destroyed by reason of his intentional acts or the intentional acts of any Occupant of his Unit. Such payment shall be made upon demand made by the Association.

6.2 Common Expenses Associated with Limited Common Elements or Benefiting Less Than All Units

(a) Any Common Expenses associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Unit, or in equal shares to the Units, to which such Limited Common Element was allocated at the time the expense was incurred.

(b) In addition, the Association may assess any Common Expense benefiting less than all of the Units against the Units benefited in proportion to their Common Expense liability.

6.3 Units. Each Unit Owner shall maintain his Unit, and any Limited Common Elements appurtenant thereto, at all times in a good and clean condition, and repair and replace, at his expense, all portion of his Unit; shall perform his responsibilities in such manner as not to unreasonably disturb other Occupants; shall promptly report to the Board; or its agents, any defect or need for repairs the responsibility for which is that of the Association; and, to the extent that such expense is not covered by the proceeds of insurance carried by the Association, shall pay all costs to repair and replace any portion of another Unit that has become damaged or destroyed by reason of his own acts or omissions, or the acts or omissions of the any Occupant of his Unit. Such payment shall be made upon demand by the Unit Owner of such other Unit. Nothing herein contained shall modify any waiver by insurance companies of rights of subrogation.

6.4 Waiver of Claims. Except only as provided in Section 6.5(a) and (b), the Association agrees that it shall make no claim against a Unit Owner or Occupant, and each Unit Owner and Occupant agrees that he shall make no claim against the Association, the members of the Board, officers of the Association, or employees or agents of any thereof, or against any manager retained by the Board, or his or its officers, directors, employees or agents, or other Unit Owners or Occupants, for any loss or damage to any of the Property, or to a unit of personal property therein, even if caused by the omission or neglect of any one or more of such persons and all such claims are hereby waived and released; provided, that this waiver shall not apply to any such loss or damage due to intentional acts.

6.5 Right of Entry.

(a) By the Association. The Association, and any person authorized by the Association, may enter any Unit or any of the Limited Common Elements in case of any emergency or dangerous conditions or situation originating in or threatening that Unit or any of the Limited Common Elements. The Association, and any person authorized by the Association, after reasonable notice to a Unit Owner or Occupant, may enter that Unit or any of the Limited Common Elements for the purposes of performing any of the Association's powers under the Act, this Declaration or the Bylaws with respect to that or any other Unit, any Limited Common Elements, or the Common Elements. Notwithstanding Section 6.4, the Association shall be responsible for the repair of any damage caused by the Association or its authorized person to the entered Unit, and the cost thereof shall be a Common Expense. All such entries shall be made and done so as to cause as little inconvenience as possible to the Unit Owner and Occupant of the entered Unit or any portion of the Limited Common Elements allocated to the Unit Owner.

(b) By Unit Owners. Each Unit Owner and Occupant shall allow other Unit Owners and Occupants, and their representatives, to enter his Unit, or Limited Common Elements allocated to his Unit, when reasonably necessary for the purpose of altering, maintaining, repairing or replacing the Unit, or performing the duties and obligations under the Act, this Declaration or the Bylaws, of the Unit Owner or Occupant making such entry, provided that requests for entry are made in advance and that such entry is at a time convenient to the Unit Owner or Occupant whose Unit or Limited Common Element is to be entered. In case of an emergency or dangerous condition or situation, such right of entry shall be immediate.

Notwithstanding Section 6.4, the person making such entry shall be responsible for repair of any damage caused by such person to the entered Unit or Limited Common Element.

ARTICLE VII.

Insurance

7.1 Casualty Insurance. The Association shall maintain, to the extent available, casualty insurance upon the Property in the name of, and the proceeds thereof shall be payable to, the Association as trustee for all Unit Owners and First Mortgagees as their interest may appear, and be disbursed pursuant to the Act. Such insurance shall be in an amount equal to not less than one hundred percent (100%) of the full insurable value of the Property on a replacement cost basis exclusive of land, excavations, foundations and other items normally excluded from property policies, and shall insure against such risks and contain such provisions as the Board from time to time shall determine, but at a minimum shall conform in all respects to the requirements of the Act, and shall provide that, notwithstanding any provision thereof that gives the insurer an election to restore damage in lieu of making a cash settlement, such option shall not be exercisable if such restoration is prohibited pursuant to Section 47C-3-113(h) of the Act.

7.2 Public Liability Insurance. The Association shall maintain public liability insurance for the benefit of the Unit Owners, Occupants, the Association, the Board, the managing agent, if any, the Declarant, and their respective officers, directors, agents and employees, in such amounts and with such coverage as shall be determined by the Board; provided that the public liability insurance shall be for at least One Million and no/100 Dollars (\$1,000,000.00) per occurrence for death, bodily injury and property damage. Said insurance shall comply in all respects with the requirements of the Act and shall contain a severability-of-interest endorsement precluding the insurer from denying liability because of negligent acts of any insured; insure all of such benefited parties against such liability arising out of or in connection with the use, ownership or maintenance of the Common Elements, and the streets, sidewalks and public spaces adjoining the Condominium; and insure the Association, the Board, the managing agent, if any, and their respective officers, directors, agents and employees against such liability arising out of or in connection with the use or maintenance of the Units.

7.3 Insurance Unavailable. If the insurance described in Sections 7.1 or 7.2 is not reasonably available, the Association shall promptly cause notice of such fact to be hand-delivered or sent prepaid by United States mail to all Unit Owners.

7.4 Other Insurance. The Association may procure such other insurance, including worker's compensation insurance, as it may from time to time deem appropriate to protect the Association or the Unit Owners. If at least one Unit is subject to mortgage financing, the Association shall obtain and keep in force such insurance as such mortgagee shall reasonably require from time to time.

7.5 Insurance Trustee. The Board may engage, and pay as a Common Expense, any appropriate person to act as an insurance trustee to receive and disburse insurance proceeds upon

such terms as the Board shall determine, consistent with the provisions of the Act and this Declaration.

7.6 Individual Policy for Unit Owners. Each Unit Owner may obtain insurance, at his own expense, affording personal property, additional living expense, condominium assessment, personal liability, and any other coverage obtainable, to the extent and in the amounts such Unit Owner deems necessary to protect his own interest; provided that any such insurance shall contain waivers pursuant to Section 6.4 and shall provide that it is without contribution as against the insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds that would otherwise be payable on the insurance purchased by the Association due to the proration of the insurance purchased by a Unit Owner under this Section, such Unit Owner shall be liable to the Association to the extent of such reduction and shall pay the assigns the proceeds of his insurance, to the extent of such reduction, to the Association.

ARTICLE VIII.

Casualty Damage

If all or any part of the Property shall be damaged or destroyed, the same shall be repaired or replaced unless: (1) the Condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (3) the Unit Owners elect not to rebuild or replace by a ninety percent (90%) vote, including one hundred percent (100%) approval of Owners of Units not to be rebuilt or Owners assigned to Limited Common Elements not to be rebuilt. All proceeds of insurance shall be used and applied in accordance with the provisions of Section 47C-3-113(e) and (h) of the Act.

ARTICLE IX.

Condemnation

In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the Property, the awards paid on account thereof shall be applied in accordance with Section 47C-1-107 of the Act and Section 9.2 of the Bylaws.

ARTICLE X.

Termination

The Condominium may be terminated only in strict compliance with Section 47C-2-118 of the Act and Section 9.4 of the Bylaws.

ARTICLE XI.

Amendment

This Declaration may be amended only in strict compliance with the Act, including, without limitation, Sections 47C-2-105 and 47C-2-117 of the Act, except that no amendment altering or impairing Special Declarant Rights may be made without the written consent of Declarant.

ARTICLE XII.

Rights of First Mortgagees

The following provisions shall take precedence over all other provisions of this Declaration and Bylaws:

12.1 Availability of Condominium Documents, Books, Records and Financial Statements. The Association shall, upon request and during normal business hours, make available for inspection by Unit Owners and the First Mortgagees and the insurers and guarantors of a First Mortgage on any Unit, current copies of the Declaration, the Bylaws, other rules and regulations governing the Condominium and the books, records and financial statements of the Association. The Association shall provide a financial statement for the preceding fiscal year if requested in writing by a First Mortgagee or insurer or guarantor of a First Mortgage. The Association shall, upon request and during normal business hours, make available for inspection by prospective purchasers of Units, current copies of the Declaration, Bylaws, the Rules and Regulations governing the Condominium, and the most recent annual financial statement.

12.2 Rights of Action. The Association and any aggrieved Unit Owner shall have a right of action against Unit Owners and any aggrieved Unit Owner shall have a right of action against the Association for failure to comply with the provisions of this Declaration, the Bylaws and the Rules and Regulations, and decisions of the Association made pursuant to authority granted to the Association in this Declaration and the Bylaws.

12.3 Notice. Each First Mortgagee and each insurer or guarantor of a First Mortgage, upon written request stating its name and address and describing the Unit encumbered by the First Mortgage, held, insured or guaranteed, shall be entitled to timely written notification by the Association of (i) any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its First Mortgagees; (ii) any 60-day delinquency in the payment of assessments or charges owed by the Unit Owner of the Unit on which the First Mortgagee held its First Mortgage or in the performance of any obligation under this Declaration or the Bylaws by said Unit Owner; or (iii) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

ARTICLE XIII.

General Provisions

13.1 Conflict With the Act; Severability. Should any of the terms, conditions, provisions, paragraphs, or clauses of this Declaration conflict with any provisions of the Act, the provisions of the Act shall control unless the Act permits the Declaration to override the Act, in which event the Declaration shall control. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause of this Declaration, or of any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, or the application of any such covenant, restriction, condition, limitation, provision, paragraph or clause to any other person or circumstance.

13.2 Interpretation of Declaration. Whenever appropriate, singular may be read as plural, plural may be read as singular, and the masculine gender may be read as the feminine or neuter gender. Compound words beginning with the prefix "here" shall refer to this entire Declaration and not merely to the part in which they appear.

13.3 Captions. The captions herein are only for convenience and reference and do not define, limit or describe the scope of this Declaration, or the intent of any provision.

13.4 Exhibits. Exhibits A, B, C, D and E attached hereto are hereby made a part hereof.

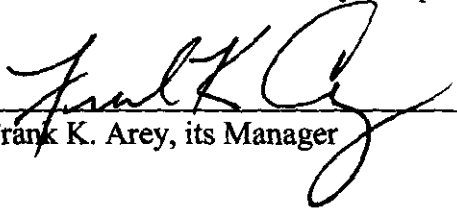
13.5 Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity or enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

13.6 Waiver. No provision of this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

13.7 Law Controlling. This Declaration shall be construed and controlled by and under the laws of the State of North Carolina.

IN WITNESS WHEREOF, Declarant hereby executes this Declaration by and through its authorized representatives on the day and year first above written.

16147 LANCASTER HIGHWAY, LLC,
A North Carolina limited liability company

By: 
Frank K. Arey, its Manager

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, Victoria H. Hughes a Notary Public of the County and State aforesaid, certify that Frank K. Arey personally came before me this day and acknowledged that he is Manager of **16147 Lancaster Highway, LLC**, a North Carolina limited liability company, and that he, as Manager, being authorized to do so, executed the foregoing instrument on behalf of such limited liability company.

Witness my hand and official seal, this 12th day of July, 2006.

[NOTARY SEAL]



Victoria H. Hughes
Notary Public (Victoria H. Hughes)
My commission expires: July 19, 2010

Exhibit A

Legal Description

Lying and being in the City of Charlotte, Mecklenburg County, North Carolina and being more particularly described as follows:

Being all of Parcel 4 as shown on map or plat thereof recorded in Map Book 43, Page 361, in the Office of the Register of Deeds of Mecklenburg County, North Carolina, reference to which is hereby made for a more particular description.

Exhibit B

<u>Unit</u>	<u>Percentage Interest</u>	<u>Square Footage</u>
Unit A	20.44%	1,455
Unit B	79.56%	5,665

Exhibit C

All easements, covenants, restrictions and conditions of record in Mecklenburg County, North Carolina and all matters visible and apparent on the ground.

Exhibit D

**ARTICLES OF INCORPORATION
OF**

AREY AT HUNTERS CROSSING CONDOMINIUM IV, INC.

In compliance with the requirements of Chapter 55A of the North Carolina General Statutes, the undersigned, who is a resident of Mecklenburg County, North Carolina and is of the age of eighteen (18) years or more, does hereby make and acknowledge these Articles of Incorporation for the purpose of forming a corporation not for profit and does hereby certify:

ARTICLE I

Name

The name of the corporation is Arey at Hunters Crossing Condominium IV, Inc. (hereinafter called the "Association").

ARTICLE II

Duration

The corporation shall have perpetual duration.

ARTICLE III

Applicable Statute

The corporation is organized pursuant to the provisions of Chapter 55A of the North Carolina General Statutes.

ARTICLE IV

Principal and Registered Office and Agent

The principal and registered office of the Association is located at 2527 Hayes Road, Monroe, North Carolina 28110, and the initial registered agent of the Association is Richard E. Marsh, Jr., whose address is 828 East Boulevard, Charlotte, Mecklenburg County, North Carolina 28203.

ARTICLE V

Purposes and Powers

The Association does not contemplate pecuniary gain or benefit, direct or indirect, to its members. In way of explanation and not of limitation, the purposes for which it is formed are:

(a) to be and constitute the Association to which reference is made in the Declaration of Protective Covenants for Arey at Hunters Crossing Condominium IV, Inc., as amended (hereinafter the "Declaration") recorded or to be recorded in the Office of the Register of Deeds of Mecklenburg County, North Carolina, to perform all obligations and duties of the Association and to exercise all rights and powers of the Association, as specified therein, in the Bylaws, and as provided by law; and

(b) to provide an entity for the furtherance of the interests of the owners of lots in the development.

In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise by the Declaration or Bylaws, may be exercised by the Executive Board of the Association;

(a) all the powers conferred upon non-profit corporations by common law and the Statutes of the State of North Carolina in effect from time to time;

(b) all the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the Bylaws, or the Declaration, including without limitation the following:

- (i) to fix and to collect assessments or other charges to be levied against the properties;
- (ii) to manage, control, operate, maintain, repair and improve the common elements, and any property subsequently acquired by the Association, or any property owned by another, for which the Association, by rule, regulation, Declaration, or contract, has a right or duty to provide such services; to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration or Bylaws;
- (iii) to engage in activities which will actively foster, promote and advance the common interests of all owners of lots in the development;
- (v) to buy or otherwise acquire, sell, or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate and otherwise deal in and with real, personal and mixed property of all kinds and any right or interest therein for any purpose of the Association;
- (vi) to borrow money for any purpose except as may be limited by law, the Declaration or Bylaws;

- (vii) to enter into, make, perform, or enforce contracts of every kind and description and to do all other acts necessary, appropriate or advisable in carrying out any purpose of the Association, with or in association with any other Association, corporation, or other entity or agency, public or private;
- (viii) to adopt, alter, and amend or repeal such Bylaws as may be necessary or desirable for the proper management of the affairs of the Association; provided, however, such Bylaws may not be inconsistent with or contrary to any provisions of the Declaration;
- (ix) to provide any and all supplemental municipal services as may be necessary or proper; and
- (x) the foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article V are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of this Article V.

ARTICLE VI
Membership

The Association shall be a membership corporation without certificates or shares of stock. All lot owners, by virtue of their ownership of lots in the association, are members of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation.

ARTICLE VII
Executive Board

The affairs of this Association shall be managed by an Executive Board of three (3) directors who need not be members of the Association. The number of directors may be changed by amendment of the Bylaws of the Association. The names and addresses of the persons who will serve as members of the Executive Board until the selection of their successors are:

NAME	ADDRESS
Frank K. Arey	2527 Hayes Road Monroe, NC 28110
Paula L. Arey	2527 Hayes Road Monroe, NC 28110

Richard E. Marsh, Jr.

828 East Boulevard
Charlotte, NC 28203

The method of election and term of office, removal and filling of vacancies shall be as set forth in the Bylaws. The Executive Board may delegate such operating authority to such companies, individuals, or committees as it, in its discretion, may determine.

ARTICLE VIII
Dissolution

Unless otherwise provided in the Declaration or Bylaws of the Association, upon dissolution, the Association's assets shall be distributed as follows:

- (a) Assets held by the Association upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirement; and
- (b) Any other assets shall be dedicated to a public body or conveyed to a non-profit organization with similar purposes.

ARTICLE IX

Amendments

These Articles may be amended as provided by the provisions of Chapter 55A of the North Carolina General Statutes.

ARTICLE X
Incorporator

The name and address of the incorporator is as follows:

Richard E. Marsh, Jr.
828 East Boulevard
Charlotte, North Carolina 28203
Mecklenburg County

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of North Carolina, I, the undersigned, being the Incorporator of this Association, have executed these Articles of Incorporation this ____ day of July, 2006.

Richard E. Marsh, Jr., Incorporator

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

I, _____, a Notary Public for said State and County, do hereby certify that Richard E. Marsh, Jr. personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this ____ day of July, 2006.

[NOTARIAL SEAL]

Notary Public
My Commission Expires:

Exhibit E

**BYLAWS OF
AREY AT HUNTERS CROSSING CONDOMINIUM IV, INC.**

ARTICLE I.

Name, Membership, Applicability and Definitions

1.1 **Name.** The name of the Association shall be Arey at Hunters Crossing Condominium IV, Inc. (hereinafter sometimes referred to as the "Association").

1.2 **Membership.** All Unit Owners, as that term is defined in the Declaration of Arey at Hunters Crossing Condominium IV, Inc. ("Declaration"), shall be members of the Association and the terms of the above referenced Declaration which pertain to membership are specifically incorporated herein by reference.

1.3 **Definitions.** The words used in these Bylaws shall have the same meaning as set forth in said Declaration, unless the context shall prohibit.

ARTICLE II.

Association: Meetings, Quorum, Voting, Proxies

2.1 **Place of Meetings.** Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Board either in Arey at Hunters Crossing Condominium IV, Inc.'s office or as convenient thereto as possible and practical.

2.2 **Annual Meeting.** A meeting of the Unit Owners shall be held at least once annually for the purpose of electing members of the Board and for the transaction of such other business as may be properly brought before the meeting. The date of the meeting shall be at the discretion of the Board, and notice of said meeting shall be given in compliance with Section 2.4 of this Article.

2.3 **Special Meetings.** Special meetings of the Unit Owners may be called at any time by the Board, the chairman or upon the written request of the Unit Owners owning at least twenty percent (20%) in common interest in the Common Elements other than those Units held by the Declarant.

2.4 **Notice of Meetings.** Written or printed notice stating the place, day and hour of any meeting shall be delivered or mailed not less than ten (10) days nor more than fifty (50) days prior to the date thereof, either personally or by postage prepaid mail, at the direction of the

Board, or the chairman or Unit Owners calling the meeting, to each person entitled to vote at such meeting.

The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, and budget changes, and any proposal to remove Board members or officers.

When a meeting is adjourned for less than thirty (30) days in any one adjournment, it is not necessary to give any notice of the adjourned meeting, other than by announcement at the meeting at which the adjournment is effective.

2.5 Quorum. The presence in person or by proxy at any meeting of the Voting Members (as defined in Section 2.6 of this Article) having thirty percent (30%) or more of the total votes shall constitute a Quorum. If there is no Quorum at the opening of the meeting of Unit Owners, such meeting may be adjourned from time to time by the vote of a majority of the Voting Members present, either in person or by proxy; and at any adjourned meeting at which a Quorum is present, any business may be transacted which might have been transacted at the original meeting.

The Voting Members at a meeting at which a Quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a Quorum.

2.6 Voting Rights. There shall be one person with respect to each Unit Ownership who shall be entitled to vote at any meeting of the Unit Owners (the "Voting Member"). The Voting Member may be the Owner, or one of a group composed of all of the Owners of a Unit, or may be some other person designated by such Owner(s) to act as proxy on his or their behalf, and who need not be an Owner. Each Owner or group of Owners (including the Board, if the Board or its designee shall then hold title to one or more Units) shall be entitled to one (1) vote for each square foot of area within the Unit.

2.7 Majority Vote. A majority of the votes cast by the Voting Members present at a meeting at which a Quorum shall be present shall be binding upon all Unit Owners for all purposes except where a higher percentage vote is required by the Declaration, these Bylaws or by law.

2.8 Proxies. The Voting Members may vote either in person or by agents duly authorized by written proxy executed by such Unit Owner or his duly authorized attorney-in-fact. A proxy shall be valid only for the particular meeting designated therein, unless the person executing it specifies therein the length of time for which it is to continue in force, which time shall not extend beyond eleven months from the date of its execution. Unless a proxy otherwise provides, any proxy holder may appoint in writing a substitute to act in his place. In order to be effective, all proxies must be filed with the secretary or duly acting secretary of the Association, either during or prior to the meeting in question.

2.9 Waiver or Notice. Any Voting Member may, at any time, waive notice of any meeting of the Association in writing, and such waiver shall be deemed to be equivalent to the giving of such notice. Attendance by a Voting Member at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof, except where a Voting Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all of the Voting Members are present at any meeting of the Unit Owner, no notice shall be required, and any business may be transacted at said meeting.

2.10. Informal Action by Unit Owners. Any action which may be taken at a meeting of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Voting Members and filed with the secretary of the Association to be kept in the Association's minute book.

ARTICLE III.

Executive Board

3.1 Number. The business and property of the Condominium shall be managed and directed by the Executive Board (the "Board"), composed of three (3) persons, or by such executive committees as the Board may establish pursuant to the Bylaws; provided, however, that the initial Board shall be composed of three persons.

3.2 Initial Members. The initial members of the Board (referred to as "directors" herein) shall be selected by the Declarant, and need not be Unit Owners. Such initial directors shall serve at the election of the Declarant from the date upon which the Declaration is recorded in the Mecklenburg County Public Registry, until such time as their successors are duly elected and qualified.

The names of the persons who shall serve on the initial Board from the date upon which the Declaration is recorded in the Mecklenburg County Public Registry until such time as their successors are duly elected and qualified, are as follows:

FRANK K. AREY

3.3 Election. Except as provided herein, the directors shall be elected at the annual meeting of the Association, and those persons who receive the highest number of votes shall be deemed to have been elected. Notwithstanding anything herein to the contrary, the Board shall consist of three (3) directors during the period that Declarant is entitled to appoint a majority of the directors. The Declarant shall have the right to appoint all of the directors until the earlier of the following four dates: (a) within 120 days after the date by which 75% of the Units which Declarant has created on the Property have been conveyed to the Unit purchasers, or (b) the date upon which Declarant surrenders control of the Condominium to the Unit Owners, or (c) two (2) years after all Declarants have ceased to offer Units for sale in the ordinary course of business, or (d) two (2) years after exercise by Declarant of any development right to add Additional Units under the Act was last exercised.

The Declarant may turn over control of the Association to such Unit Owners other than the Declarant prior to such dates in its sole discretion by causing all or part of its appointed directors to resign, whereupon it shall be the affirmative obligation of Unit Owners other than the Declarant to elect directors and assume control of the Association. Provided at least thirty (30) days' notice of Declarant's decision to cause its appointees to resign is given to Unit Owners, neither the Declarant, nor such appointees, shall be liable in any manner in connection with such resignations even if the Unit Owners other than the Declarant refuse or fail to assume control.

Within sixty (60) days after conveyance of twenty-five percent (25%) of the maximum number of Units which Declarant may create on the Property to Unit Owners other than the Declarant, at least one director and not less than twenty-five percent (25%) of the directors of the Board shall be elected by Unit Owners other than the Declarant. Within sixty (60) days after conveyance of fifty percent (50%) of said Units to Unit Owners other than the Declarant, not less than thirty-three percent (33%) of the directors of the Board shall be elected by Unit Owners other than the Declarant.

Within sixty (60) days after the Unit Owners other than the Declarant are entitled to elect such director or directors, or sooner if the Declarant has elected to accelerate such event as aforesaid, the Association shall call, and give not less than ten (10) days' nor more than fifty (50) days' notice of a meeting of the Unit Owners to elect such director or directors of the Board. The meeting may be called and the notice given by any Unit Owner if the Association fails to do so.

The size of the Board may be increased or decreased from time to time upon the affirmative vote of three-fourths (3/4) of the votes of all Unit Owners, provided that said Board shall not be less than three (3) in number.

3.4 Term and Qualification. Each director shall hold office for the term for which he was elected, or until his death, resignation, retirement, removal, disqualification or until his successor is elected and qualified. At the meeting of the Association in which the Unit Owners are entitled to elect a majority of the directors, the directors of the Board shall be divided into three (3) classes, with each class consisting of one (1) director. The director of the first class shall initially hold office for a term of three (3) years; the director of the second class shall initially hold office for a term of two (2) years; and the director of the third class shall initially hold office for a term of one (1) year. At all annual elections thereafter, one director shall be elected by the Voting Members to succeed the director whose term then expires. Each such director shall serve for a three (3) year term. So long as Declarant shall own one (1) or more Units, the director of the Board which Declarant has the right to designate shall be a member of the third class. Nothing herein contained shall be construed to prevent the election of a director to succeed himself. Each director, except those selected by the Declarant pursuant to the Bylaws, shall be one of the Unit Owners or co-owners, or a spouse of a Unit Owner or co-owner provided, however, that in the event a Unit Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, then an officer or director of such corporation, partner of such partnership, beneficiary of such trust or manager of such other legal entity, shall be eligible to serve as a director.

