

**EXHIBIT “D” TO MASTER DEED**  
**BY-LAWS OF THE COUNCIL OF CO-OWNERS OF**  
**THE WESTERLIES**

**ARTICLE ~~II~~**

**PLAN OF CONDOMINIUM UNIT OWNERSHIP**

SECTION 1. CONDOMINIUM UNIT OWNERSHIP:

~~On October~~On October 7, 1971, OTTS D. COSTON, JR. and GORDON V. SMITH; TRUSTEES, and TYSONS VENTURE, a Virginia Limited Partnership, executed ~~a~~ Master Deed (to which these By-Laws are attached as Exhibit “D”), in accordance with Section 55-79.1, et seq., of the Code of Virginia, 1950, as amended (the “Act”), creating a Condominium Project in Dranesville District of Fairfax County, Virginia, known as “The Westerlies.”

SECTION 2 BY-LAWS APPLICABILITY

~~These By-Laws are adopted by the Co-Owners of The Westerlies as the governing By-Laws of the Council of Co-Owners (Council).~~

~~SECTION 2. BY-LAWS APPLICABILITY:~~

~~These By-Laws are adopted by the sole Co-Owner of The Westerlies as the governing By-Laws of the Council of Co-Owners (Council).~~

~~SECTION 323.~~ PERSONAL APPLICATION:

All present or future Co-Owners, ~~and~~ their tenants, heirs, assignees, devisees, or employees, or any other person using the facilities of The Westerlies in any manner, are subject to the provisions of the Master Deed, ~~and the~~ By-Laws, Rules, Regulations and Policy Resolutions.

**ARTICLE II**

**VOTING, MAJORITY OF OWNERS, QUORUM, PROXIES**

SECTION 1. VOTING:

Each Co-Owner is entitled to cast one vote for each Townhouse owned by him/her.

SECTION 2. MAJORITY OF CO-OWNERS:

As used in these By-Laws, the “majority of Co-Owners” shall mean those Co-Owners owning more than 50 % of the Townhouses.

SECTION 3. QUORUM:

Except as otherwise provided in these By-Laws, the presence in person or by proxy of a “majority of Co-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 III**

**ADMINISTRATION**

SECTION 1. ~~COUNCIL-BOARD OF GOVERNORS'~~ RESPONSIBILITIES:

(a) The ~~Board of Governors~~ Co-Owners will ~~constitute the Council~~ (“Board”) which shall have the responsibility of administering The Westerlies, approving the annual budget, establishing and collecting ~~monthly~~ an annual assessments or special assessments as are necessary and arranging for the management of The Westerlies. ~~Except as otherwise provided, decisions and resolutions of the Council shall require approval by the majority of Co-Owners.~~

(b) ~~The Board~~ The Council shall establish and collect from the Co-Owners ~~monthly assessments~~ an annual assessments or special assessments as are necessary in accord with the provisions of the Master Deed and the By-Laws of the Council. ~~The annual~~ Monthly assessments charged to Co-Owners ~~during the initial occupancy period~~ shall be made by the Council in accordance with a schedule of charges prepared by the ~~Board~~ Council. The initial assessment

shall be in an amount sufficient to meet the ~~Board~~~~Council~~'s estimate of management, operating and maintenance expenses, reserves and all other expenses of the ~~Association~~~~Council~~.

Subsequent assessments made by the ~~Board~~~~Council~~ shall be in amounts sufficient to meet ~~the~~ ~~Council~~'s estimate of expenses set forth in an operating budget. Such assessment may be paid in yearly, quarterly, bi-monthly or monthly installments, as designated by the Board. At the present time, the Board has designated payment of this assessment in monthly installments, but the Board shall have the right to determine, prior to the imposition of any new fiscal year assessment, how the annual assessment shall be payable. If at any time t~~The~~ ~~Board~~~~Council~~ agrees that if at any time the Co-Owner of a Townhouse fails to pay his/her monthly installment of an annual -assessment or special assessment, as provided in the By-Laws, t~~The~~ ~~Board~~ will initiate such action as is necessary, including legal action~~the Council will be initiated necessary legal action~~ to collect the ~~assessment.~~ Delinquent assessments.(s).ey.

(c) The ~~Board~~~~Council~~ shall establish and maintain a Reserve Fund for the purpose ~~of~~ ~~replacing~~~~of replacing~~ structural elements and mechanical equipment of The Westerlies and for such other purposes as the ~~Board~~~~Council~~ shall deem necessary.

(d) In addition to the Reserve Fund, the ~~Board~~~~Council~~ shall establish and maintain a General ~~O~~perating Reserve Account and shall pay ~~monthly~~ into the account a sum equivalent to not less than 3% of the ~~monthly installment of the annual~~ assessments chargeable to the Co-Owners of The Westerlies. Any time that the balance of the General Operating Reserve Account equals ~~125% of~~ ~~% of~~ the current annual amount of the assessments chargeable to the Co-Owners, the ~~monthly~~ deposit may, by appropriate action of the ~~Board~~~~Council~~, be modified so as to maintain the General Operating Reserve Account at the ~~125%~~ level. The General Operating Reserve Account shall remain in a special account and shall at all times be under the control of the ~~Board~~~~Council~~. The General Operating Reserve Account is intended to provide a measure of

financial stability during periods of special stress and may be used to meet deficiencies from time to time as a result of the delinquent payment of assessments by Co-Owners and for other contingencies. ~~Reimbursement shall be made to the account upon payment of delinquencies for which funds were withdrawn from the account.~~

SECTION 2. ANNUAL MEETINGS:

The first annual meeting of the Council shall be held on January 11, 1972. Thereafter, the annual meetings of the Council shall be held ~~on the second Tuesday in~~ ~~November~~ ~~January~~ ~~January~~ of each succeeding year. At such meetings, there shall be elected by ballot of the Co-Owners a Board of Governors in accordance with the requirements of Sections 1 and 4 of Article IV of these By-Laws. The Co-Owners may also transact such other business of the Council as may properly come before them.

SECTION 3. SPECIAL MEETINGS:

It shall be the duty of the President to call a special meeting of the Co-Owners as directed by resolution of the Board of Governors or upon a petition signed by a majority of the Co-Owners. The notice of 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. ~~The meeting shall have at least seven (7) days' notice, as per Virginia Code Section 55-79. 75.~~

SECTION 4. NOTICE OF MEETINGS:

It shall be the duty of the Secretary to mail a notice of each annual or special meeting of the Council, stating the purpose thereof as well as the time and place where it is to be held, to each Co-Owner of record, at least twenty-one (21) but not more than fifty (50) days prior to such ~~annual meetings and at least seven (7) days prior to such special meetings.~~ The mailing of a notice ~~to the Co-owner's address of record and~~ in the manner provided in this Section shall be

considered notice served. ~~If approved by the Board of Governors~~Directors, and with the consent of any member, notices may be transmitted electronically.

SECTION 5. ADJOURNED MEETINGS:

If any meeting of Council cannot be organized because a quorum is not in attendance, the Co-Owners who are present, either in person or by proxy, may adjourn the meeting to a time not ~~fewer~~less than forty-eight (48) ~~hour~~hours -from the time the- original meeting was called. A rescheduled meeting for the purpose of electing directors must be made on seven (7) days' notice and include a statement that the meeting is scheduled for the express purpose of the election of the directors, per Virginia Code Section 55-79.75.

SECTION 6. ORDER OF BUSINESS:

The order of business at all meetings of the ~~Board~~Council shall be as follows:

- (a) Roll call:
- (b) Proof of notice of meeting or waiver of notice:
- (c) Reading of minutes of preceding meeting:
- (d) Report of officers:
- (e) Report of committees:
- (f) Election of governors:
- (g) Unfinished business:
- (h) New business.

**ARTICLE IV**

**BOARD OF GOVERNORS**

SECTION 1. NUMBER AND QUALIFICATION:

The affairs of the Council shall be governed by a Board of Governors (the "Board") composed of no fewer than five ~~(5)~~ and no more than seven (7) persons. The initial Board of Governors, who shall serve until the first annual meeting of the Council, which shall be held on January 11, 1972, shall be appointed by Tysons Venture. All Boards of Governors subsequent to the initial Board of Governors shall be elected by the Co-Owners, and each elected Governor must be a Co-Owner. ~~Provided, however, all other provisions of these By-Laws notwithstanding, until December 31, 1982, TYSONS VENTURE shall have the absolute right to~~

~~appoint one member of the Board; this appointed member may be, but shall not be required to be, a Co-Owner of a Townhouse.~~

SECTION 2. POWERS AND DUTIES:

The Board shall have the powers and duties necessary for the administration of the affairs of the Council and may do all such acts and things as are not by law or by these By-Laws directed to be exercised and done by the Co-Owners; ~~provided, however, all other provisions of these By-Laws notwithstanding, until December 31, 1982, the member of the Board appointed by TYSONS VENTURE shall have the absolute right to veto any capital expenditure voted by the Board in excess of ONE THOUSAND DOLLARS (\$1,000).~~

SECTION 3. MANAGEMENT AGENT:

The Board may employ a management agent ~~with the approval of the Lender,~~ at a compensation established by the Board ~~to perform such duties and services as the Board deems necessary and shall authorize.~~ ~~The Council and the Lender agree that until such time as all of the Townhouses in The Westerlies have been sold to individual Co-Owner purchasers, the purchasers, the management agent for The Westerlies shall be TYSONS VENTURE, or an organization selected by TYSONS VENTURE.~~

SECTION 4. ELECTION AND TERM OF OFFICE:

At the first annual meeting of the ~~Council~~ Council, ~~the~~ term of office of two Governors shall be fixed for three (3) years ~~t.~~ ~~The term of office of two Governors shall be fixed at two (2) years, and the term of office of one Governor shall be fixed at one (1) year. At the expiration of the initial term of office of each respective Governor, his-his/her~~ successor shall be elected to serve a term of three (3) years. The Governors shall hold office until their successors have been elected and qualify. If the Board Council decides to increase the number of Governors from five (5) to up to seven (7), any new Governor to the Board shall serve a term of three (3) years.

SECTION 5. VACANCIES:

Vacancies in the Board caused by any reason ~~or~~ rather than the removal of a Governor by a vote of the Council shall be filled by vote of the majority of the remaining Governors, even though they may constitute less than a quorum, and each person so elected shall be a Governor until a successor is elected at the next annual meeting of the Council.

SECTION 6. REMOVAL OF GOVERNORS:

~~(a)~~ — At any regular or special meeting duly called, any one or more of the Governors may be removed with or without cause by a majority of the Co-Owners and a successor may then and there be elected to fill the vacancy thus created. Any Governor whose removal has been proposed by the Co-Owners shall be given an opportunity to be heard at the meeting.

~~(b) — The right of removal set forth in subsection 6(a) immediately above shall not apply to the member of the Board of Governors appointed by TYSONS VENTURE under the provisions of Article IV.~~

SECTION 7. ORGANIZATION MEETING:

The first meeting of a newly elected Board shall be held within ~~ten (10)~~ thirty (30) days of election at such place as shall be fixed by the Governors.

SECTION 8. REGULAR MEETINGS:

Regular meetings of the Board may be held at such time and place as shall be determined, from time to time, by a majority of the Governors, but at least two such meetings shall be held during each fiscal year. Notice of regular meetings of the Board shall be given to each Governor, ~~personally or by~~ personally, by mail, or by electronic mail at least ~~fifteen (15)~~ three (3) but not more than fifty (50) days prior to the meeting date ~~day named for such meeting.~~

SECTION 9. SPECIAL MEETINGS:

Special Meetings of the Board may be called by the President on forty-eight (48) ~~hours~~ fifteen (15) ~~days~~ written notice to each Governor, which notice shall state the time, place,

~~(as hereinabove provided)~~ and purpose of the meeting. Special meetings of the Board shall be called by the President or Secretary in like manner and on like notice on the written request of at least ~~three (3) Governors~~ a majority of the Board.

SECTION 10. WAIVER OF NOTICE:

Before or at any meeting of the Board, any Governor may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice.

Attendance by a Governor at any meeting of the Board shall be a waiver of notice by him/her of the time and place of the meeting.

SECTION 11. BOARD OF GOVERNORS; QUORUM:

At all meetings of the Board, a majority of the Governors shall constitute a quorum for ~~the~~ the transaction of business, and the acts of the majority of the Governors present at a meeting at which a quorum is present shall be the acts of the meeting. If any meeting of the Board cannot be organized because a quorum is not in attendance, the ~~Board~~ members who are present may adjourn the meeting ~~to a time not less than forty-eight (48) hours from the time the original meeting was called. 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 12. FIDELITY BONDS:

The Board shall require that all officers ~~of the Council~~ handling or responsible for Council funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be paid by the Council.

**ARTICLE V**

**OFFICERS**

SECTION 1. DESIGNATION:



The principal officers of the Council shall be a President, a Vice-President, a Secretary, and a Treasurer, all of whom shall be elected by the Board. The Board shall appoint an assistant treasurer and an assistant secretary and such other officers as in its judgment may be necessary.

SECTION 2. ELECTION OF OFFICERS:

The officers of the Council shall be elected annually by the Board at the organization meeting of each new Board and shall hold office at the pleasure of the Board.

SECTION 3. REMOVAL OF OFFICERS:

Any officer may be removed, either with or without cause, upon an affirmative vote of a majority of the members of the Board and his/her successor elected at any regular meeting of the Board, 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 Council. He/sshe shall preside at all meetings of the Council and of the Board. HHe/she shall have the responsibility of carrying out the directives of the Board and administering the affairs of the Council, including, but not limited to, the power to appoint committees from among the Co-Owners from time to time as (s)he may in his/her discretion decide is appropriate to assist in the conduct of the affairs of the Council.

SECTION 5. VICE-PRESIDENT:

The Vice-President shall take the place of the President and perform his/her 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 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/her by the Board.

SECTION 6. SECRETARY:

The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the Council; (s)he shall have charge of such books and papers as the Board may direct; and (s)he shall, in general, perform all the duties incidental to the office of Secretary.

SECTION 7. TREASURER:

The Treasurer shall have responsibility for Council funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Council. He/she shall be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Council in such depositories as may from time to time be designated by the Board.

**ARTICLE VI**

**OBLIGATIONS OF THE CO-OWNERS**

SECTION 1. ASSESSMENTS:

All Co-Owners are obligated to pay ~~month~~an annual assessments and any special assessment s imposed by the Council to meet all project common expenses. The ~~assessment~~ts shall be made as stipulated in the Master Deed and these By-Laws, and shall include, but shall not be limited to, premiums for insurance as required by the Master Deed, and monthly payments to a General Operating Reserve and a Reserve Fund for Replacements as required by these By-Laws. Such annual assessment shall be broken up paid in into monthly installments, due on the first of each month., or as otherwise designated by the Board. Any special assessment shall be due as directed by the Board in the approval of such special assessment.

SECTION 2. MAINTENANCE AND REPAIR:

(a) Every Co-Owner must promptly perform all maintenance and repair work within his own Townhouse, specifically including any patio or balcony, which, if omitted, would affect The Westerlies in its entirety, or in a part belonging to the other Co-Owners, each Co-Owner

being expressly responsible for the damages and liabilities that his/her failure to do so may cause.

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

(c) A Co-Owner shall reimburse the Council for any ~~expenditures~~expenditure incurred in repairing or replacing any common element damaged through any condition that originates from his/her fault.

(d) The Council shall maintain and repair the General ~~C~~ommon Elements, as defined in the Master Deed- and each Co-Owner shall maintain his/her own Townhouse in good repair. However, the Council shall not be responsible for any failure of water supply or other services to be obtained by the Association or paid for out of common expense funds, or for injury or damage to person or property caused by the elements or resulting from electricity, water, snow or ice that may leak or flow from any portion of the Common Elements or from any wire, pipe, drain, conduit, appliance or equipment. If the cause of any damage to any portion of the Condominium originates from a Unit, the owner of that Unit where the damages originated from shall be responsible for the Council's master insurance deductible. If no coverage is available for the loss under the Council's master insurance policy or if the damages are not anticipated to substantially exceed the master policy deductible, the owner where the damages originated shall be responsible for payment of all damages arising from the loss. The provisions of this paragraph shall in no way relieve the Council of its obligations to properly maintain and promptly repairs all common elements of the Condominium. ~~damages that may originate from natural conditions affecting the common elements or any water or other condition that enters a unit through the common elements.~~

SECTION 3. USE OF UNITS - INTERNAL CHANGES:

(a) No Townhouse shall be utilized for other than residential purposes.

(b) A Co-Owner may not make structural ~~modifications or alterations~~ to his/her Townhouse or its equipment without previously notifying the Council in writing, through the Management Agent, if any, or ~~through the Pp~~resident of the Board of Governors, if no management agent is employed. The Council shall have the obligation to answer within thirty (30) 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. USE OF GENERAL COMMON ELEMENTS:

No Co-Owner shall place or cause the placing of any objects of any kind in the General Common Elements. The sidewalks, ~~driveways~~, roads and roadways shall be used only for normal transit.

SECTION 5. RIGHT OF ENTRY:

(a) Each Co-Owner shall allow the Management Agent or any other person authorized by the Board to enter his Townhouse in case of emergency originating in or threatening his/her or another Co-Owner's Townhouse, regardless of whether the Co-Owner is present at the ~~time or not~~time.

(b) Each Co-Owner shall permit other Co-Owners, or their representatives, when so required, to enter his/her Townhouse for the purpose of performing installations, alterations or repairs to the mechanical or electrical services serving the other Townhouses provided that requests for entry are made in advance and that such entry is at a time convenient to the Co-Owner. No such prior notice is required in cases of an emergency. ~~(except in case of an emergency when the right of entry shall be immediate).~~

**ARTICLE VII**

**AMENDMENT OF BY-LAWS**

## SECTION 1.

These By-Laws may be amended by the affirmative vote of Co-Owners representing at least ~~5175~~ percent of the total value of all Townhouses in the Westerlies as shown on the Master Deed at a meeting of the Council called for that purpose. ~~; provided, however, that there shall be no amendments made to Article IV, Section 1 and 2 of these By-Laws, prior to December 31, 1981, without the written consent of TYSONS VENTURE.~~ No amendments to the By-Laws shall become effective until recorded among the land records of Fairfax County, Virginia.

## **ARTICLE VIII**

### **MORTGAGES**

#### SECTION 1. NOTICE TO COUNCIL:

A Co-Owner who conveys his Townhouse as security for an indebtedness shall notify the Council through the ~~M~~management ~~A~~agent if any, or the ~~P~~resident of the ~~Council Board of Governors~~ in the event there is no ~~M~~management ~~A~~agent, giving the name and address of the party secured, and the Council shall maintain such information in a book entitled "Parties secured by Deeds of Trust."

#### SECTION 2. NOTICE OF UNPAID ASSESSMENTS:

The Council shall, at the request of a party secured by a Deed of Trust of a Townhouse, report any unpaid assessments due from the Co-Owner of the Townhouse.

## **ARTICLE IX**

### **COMPLIANCE**

These By-Laws are set forth to comply with the requirements of Virginia Code Section 55-79.11 ~~of the Act~~. In case any of these By-Laws conflict with the provisions of the Act, it is hereby agreed and accepted that the Act will control.

The following actions may be taken by the Council and Board of Governors against a Co-Owner who is more than sixty (60) days in arrears of assessment installment payments or who is found to be in violation of a covenant of the Master Deed, By-Laws, or rules and regulations:

A. **Acceleration of annual assessments:** Upon the failure to pay two consecutive monthly installments of the annual assessment or any special assessment, or upon more than a sixty (60) day delinquency of an assessment installment, the entire remaining annual assessment or special assessment shall become due and payable.

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B. Suspension of rights to use of Recreational Facilities. In addition to all other rights which it has in the event of non-payment of assessment installments, the Board of Governors shall have the right to suspend the right of any Co-Owner or tenant of any Co-Owner and their families to access and use the Council's common parking lot and recreational facilities. This restriction includes, but is not limited to, the use of the swimming pool, bathhouse, athletic facilities, exercise facilities and appurtenances thereto, for any period during which assessments and/or other sums duly levied against said Co-Owner owner, including, but not limited to, late charges, interest, administrative costs, contractual charges, costs of collection and actual attorneys' fees and costs, shall remain unpaid, and for any infraction of the rules and regulations, Master Deed or By-Laws. Any suspension imposed under the provisions of this Section shall in no manner extinguish, reduce, or otherwise affect the obligations of such Co-Owner, which obligations shall remain in full force and effect. The Board of Governors shall have the right to impose monetary penalties and to suspend access to amenities for infractions of the condominium instruments or violations of the rules and regulations of the Council or Board of Governors, after compliance with the notice and hearing provisions of Virginia Code Section 55-79.80:2(B). The Board of Governors shall have the authority to tow any vehicle of any Co-Owner whose privileges have been suspended as provided above.

C. Service Charge for Late Payment of Assessment. The Board of Governors shall have the right to establish and collect such late charges, interest, administrative costs, contractual charges, costs of collection and actual attorneys' fees and costs for late payment or non-payment of any assessment installment or sum duly levied against any Co-Owner or assessed personally against a Co-Owner.

D. Collection of Rental Income: The Council shall also have the right to collect rental income (including income from any parking easement(s)) directly from any tenant, in the event a Co-Owner leasing his/her or its unit (including any appurtenant parking easement(s)) to such tenant shall be delinquent in the payment of any assessment or sum duly levied

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