

V.P. HOME OWNERS' ASSOCIATION

CERTIFICATE OF APPROVAL

THIS IS TO CERTIFY THAT THE CONSTITUTION OF V.P. OWNERS' ASSOCIATION WAS THIS DAY APPROVED AS IS REQUIRED IN TERMS OF SECTION 29(2)(b)(iii) OR SECTION 42 OF THE LAND USE PLANNING ORDINANCE, 1985 (NO 15 OF 1985) OR SECTION 29 (b)(iii) OF THE WESTERN CAPE PLANNING AND DEVELOPMENT ACT, 1999 (ACT 7 OF 1999) WHICHEVER IS APPLICABLE.

SIGNED AT SOMERSET WEST THIS 17 DAY OF May 2004


Director:

DIRECTORATE : PLANNING & ENVIRONMENT



CONSTITUTION OF V.P. HOME OWNERS' ASSOCIATION

1. NAME:

The name of the Association is:
V. P. HOME OWNERS' ASSOCIATION

2. DEFINITIONS:

In this Constitution, unless the contrary is indicated:

- 2.1 "Association" shall mean V.P. Home Owners' Association;
- 2.2 "Area" shall mean the portion of Erf 1142 Strand (see attached plan) including any subdivision thereof, as well as the private roads situated therein.
- 2.3 "Developer" shall mean V.P. Home Owners Association, its predecessors or its successors in title or assigned;
- 2.4 "person" shall include a Company, Close Corporation, Club, Partnership, current Trustees of a Trust or other Association of persons entitled in law to hold title to immovable property;
- 2.5 "erf" shall mean any subdivision in the Area as approved of by the Local Authority;
- 2.6 "The Register" shall mean the Official Register of Ownership of the Association and words importing the singular shall include the plural and the converse shall also apply; the masculine gender shall include feminine and neuter genders and the neuter gender shall include the masculine and feminine genders.

3. HEAD NOTES

The head notes to the Clauses in this Constitution are inserted for reference purposes only and shall not effect the interpretation of any of the provisions to which they relate.

4. OBJECTS OF THE ASSOCIATION

The objects of the Association are:

- 4.1 to promote and enforce standards, not the least of which would be the congenial atmosphere in the Area in such a way that members may derive the maximum collective benefit therefrom;
- 4.2 to manage, lease and maintain the private road reserve, private open space, all services and amenities constructed for the mutual benefit of members, except for the water supply up to the development metre and electricity supply pertaining to street lighting;
- 4.3 to control the aesthetic appearance of all land and buildings within the boundaries of the Area and to manage and control all matters pertaining to the property and owners subject to the conditions of ownership applicable at the time;
- 4.4 that the Association shall have the power to do such acts as are necessary and reasonably required to give effect to the provisions of the Constitution.

5. MEMBERS

- 5.1 Membership of the Association shall be compulsory and be evidenced by registration in the Deeds Office or Register of the Association, whichever is applicable. Upon registration of ownership, membership of the Association shall be automatic and members shall be obliged to comply with the provisions of the Constitution. No persons shall be entitled to cease to be a member of the Association while remaining the registered owner of a unit in the Area;
- 5.2 Each member shall be entitled to ONE (1) vote for each unit owned in the Area. Ownership of a unit in undivided shares shall constitute only one membership, which membership shall be represented by one individual;
- 5.3 Membership shall be transferred by the registration of a Deed of Transfer in the Deeds Registry at Cape Town, passing transfer of one or more erven in the Area to the new member AND/OR by registration in the Register of the Association whichever is applicable.
- 5.4 Every member shall pay an annual levy/subscription to the Association, the amount to be determined by EXCOM. The subscription so determined shall apply equally to all erven and shall be payable in respect of each erf owned by a member;
- 5.5 No home shall be sold or transferred without the prior written consent of the Association where any amount of the levy/subscription in terms of this Constitution is due and payable in respect of any unit.

- 5.6 No member shall be entitled to lease his home unless it is a specific condition of such lease that the Lessee be handed a copy of the Constitution of the Association and that such Lessee undertakes to abide by the conditions thereof as far as they may affect such Lessee.

6. GENERAL COMMITTEE

General Committee shall consist of one person per unit of the V.P Home Owners Association as contained in the Membership Register. The powers of the Association other than those to be exercised by the members in General meeting, shall be exercised by the Executive Committee (hereinafter referred to as "EXCOM").

7. EXECUTIVE COMMITTEE

7.1 Composition

7.1.1 The number of EXCOM members shall be determined from time to time by the members of the Association in General Meeting and shall consist of registered owners of units in the Area.

7.1.2 the first EXCOM members shall be:

5 representative(s) nominated and denominated by members of the General Meeting.

7.2 Election at Annual General Meeting

7.2.1 EXCOM members shall be elected annually at the Annual General Meeting and shall remain in office until the following Annual General Meeting;

7.2.2 EXCOM members may fill any vacancy in their number or co-opt any additional member. Any EXCOM member so appointed or co-opted shall hold office until the next Annual General Meeting when he shall retire and be eligible for re-election as though he had been elected at the previous Annual General Meeting.

7.3 Vacation of office

An EXCOM member shall cease to hold office as such if:

7.3.1 by notice in writing to EXCOM, he resigns his office;

7.3.2 he is or becomes of unsound mind;

7.3.3 he surrenders his estate as insolvent or his estate is sequestrated;

- 7.3.4 he is convicted of an offence which involves dishonesty;
 - 7.3.5 he absents himself from THREE (3) consecutive meetings of EXCOM without special leave of absence from EXCOM;
 - 7.3.6 BY resolution of the General Meeting of the Association, he is removed from his office;
 - 7.3.7 he ceases to be a member of the Association.
- 7.4 Building- and Architectural Design, Landscaping Requirements and Conditions of ownership
- 7.4.1 prescribe and enforce the architectural style, the material to be used in respect of any buildings to be erected or in respect of any alterations or additions to be carried out to existing buildings and in particular to control the exterior design of such buildings and the materials and landscaping used so as to ensure an attractive, aesthetic and pleasing character to the building in the Area according to Annexure A attached hereto and to ensure that construction works and the site is maintained in an orderly and neat manner which is reasonable;
 - 7.4.2 do such acts as a.e necessary to accomplish the purposes expressed or implied herein, which acts shall include amongst others, the examination and approval or refusal of building and sewage plans, whether such be for new constructions, renovations, alterations of additions, which approval will not unreasonably be withheld;
 - 7.4.3 compel members to comply with it's requirements, and failing compliance therewith, to take steps to remedy such non-compliance at the cost of the members and, without in any way limiting the generality of the foregoing, to call upon a member in writing to remove or alter within a specified period, anything erected contrary to the requirements laid down pursuant thereto and failing which, to apply to Court for an appropriate order;
 - 7.4.4 to enforce all conditions of home ownership albeit the existing conditions of the present lessor, as transferred, or conditions imposed by the General Committee or the EXCOM.

8.

MEETINGS

Annual General Meetings shall be held once every year at such time and place as may be determined by EXCOM, but so that no more than

FIFTEEN (15) months shall be allowed to elapse between any TWO (2) such successive meetings, the first of which must be held within SIX (6) Months after the registration of the Association. The business to be done at the Annual General Meeting shall include:

8.1.1 the receipt of a report on the affairs of the Association;

8.1.2 the elections of members to EXCOM.

8.2 Ordinary General Meetings

EXCOM may call an Ordinary General Meeting whenever it thinks fit. Ordinary General Meetings shall also be called upon the written request of not less than 1/3 members, directed to the Chairman of EXCOM.

8.3 Quorum

No matters shall be discussed at any meeting unless a quorum is present when the meeting commences. For all purposes, the quorum shall be not less than half of the total number of members, consisting of members present in person or represented by proxy.

8.4 Adjournment

If within half an hour from the time appointed for the holding of the meeting, a quorum is not present, the meeting, shall be dissolved. It shall stand adjourned for one hour. If a quorum is not present at the adjourned meeting within one hour from the time appointed for holding, the members present shall constitute a quorum.

8.5 Chairman

The Chairman of EXCOM shall preside at every General Meeting, but if he is not present at such meeting, the members present shall choose a Chairman from the members of EXCOM, or if no EXCOM members are present, they shall choose some other member present to be Chairman of the meeting.

8.6 Votes

At all General Meetings a Resolution put to the vote of the meeting shall be decided on a poll which shall be taken immediately in accordance with The following provisions:

- 8.6.1 each member present in person shall have ONE (1) vote for every unit registered in his name;
- 8.6.2 each person present as proxy for a member shall have ONE (1) vote for every unit registered in its name;
- 8.6.3 each member and person present as proxy for a member shall verbally announce how he cast each vote to which he is entitled as aforesaid;
- 8.6.4 all Resolutions shall be with the majority vote representing 74% (SEVENTY FOUR PERCENT) of the votes of those members present in person or proxy at the meeting and voting;
- 8.6.5 the Chairman of the meeting shall count the votes for and against the Resolution and shall declare it carried or lost as the case may be;
- 8.6.6 a declaration by the Chairman of the result of the poll and entry thereof in the Minute book of the Association shall be conclusive evidence of that fact.

8.7 Incapacity

Should any member be declared incapable of managing his own affairs, or a prodigal or insolvent, or in the case of a Company, placed under Judicial Management, or into liquidation, such member shall be represented by his Curator Bonis, trustee, Judicial Manager or Liquidator as the case may be, who shall be entitled on his behalf, either personally or by proxy.

8.8 Co-ownership

If two or more persons are jointly registered owners of an erf, then in voting upon any question, the vote of the senior, who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other registered owners of the erf, and for this purpose, seniority shall be determined by the dates of birth of the joint owners. In the event of an erf being jointly owned by a natural person and a Company, then in such event the natural person cast a vote on behalf of such membership.

8.9 Proxy

- 8.9.1 Votes may be given either personally or by proxy, or by postal vote or by fax;

- 8.9.2 the instrument appointing a proxy shall be in writing in the common form, or any form approved by EXCOM under the hand of the appointed, or his Attorney or agent, duly authorised in writing, or if such appointee is a Company, under the hand of an Officer duly authorised in that behalf;
- 8.9.3 the instrument of appointing a proxy, together with the Power of Attorney (if any) under which it is signed or a notarial certificate copy thereof shall be deposited at the domicilium citandi of the Association at least TWENTY FOUR (24) hours before the time appointed for holding the meeting, or adjourned meeting, at which the person named in such instrument proposed to vote, otherwise the person so named shall not be entitled to vote in respect thereof.

8.10 Legal Persons

Any legal person which is a member of the Association may, through resolutions of its' Directors or other governing body, authorise such person as it thinks fit to act as its' representative at any meeting of the Association and the person so authorised shall be entitled to exercise the same power on behalf of the Company which such person, as a representative of that Company, could exercise as if it were an individual member of the Association. The foregoing provision shall apply mutatis mutandis in the case of a Trust.

9. THE STATUS OF THE ASSOCIATION

The Association shall come into existence on approval of this document by Council.

- 9.1 with legal personality, capable of suing and being sued in its own name;
- 9.2 none of whose members in their personal capacities shall have any right, title or interest to or in the property, funds or assets of the Association, which shall vest in and be controlled by EXCOM in terms hereof;
- 9.3 not for profit, but for the benefit of the owners and occupants of immovable property situate in the area;
- 9.4 able to obtain registration in its' name of the private road reserve, open spaces or the whole area whichever is applicable.

10. RULES AND REGULATIONS AND AMENDMENTS TO THE CONSTITUTION


Any proposed:

- 10.1 rule or regulations or any proposed repeal of, or amendment or addition to, any rule or regulations by EXCOM;
- 10.2 amendment or addition to the Constitution (Annexure "A" included) may be effected by a Resolution passed by a 74% majority at a General Meeting, after written notice thereof setting out such amendment or addition in full, has been given in the notice calling such meeting, subject to the consent of the Local Authority concerned.

11. SUBMISSION OF PLANS

- 11.1 Members shall be obligated to submit all building and sewage plans for new construction, renovations, alterations or additions to the committee (who is bound by Annexure "A") for examination and approval prior to the submission of such plan to the Local Authority for approval and the committee shall make known its decision to the applicant within TWO (2) weeks of the plan being submitted to it;
- 11.2 if any one member is dissatisfied with the decision of EXCOM, he shall have the right to call for a meeting of all members and put his case to the vote. In this instance each member shall have a number of votes equal to the number of units registered in his name.

12. USE AND OCCUPATION REQUIREMENTS

- 12.1 The premises shall be used by the members in accordance with the zoning scheme regulations applicable for the area and for no other purposes whatsoever;
 - 12.2 all members shall ensure that their respective activities on and uses of the estate shall be carried out with reasonable and diligent care and with due and proper consideration for the other members. This shall likewise apply to guests, lessees, servants or members while they are on the estate;
 - 12.3 no member shall cause or permit such conduct either on his own erf or elsewhere on the estate as shall cause a nuisance or disturbance to other members in the quiet enjoyment of their own premises or which is likely to or in any way may tend to effect detrimentally the benefit, enjoyment, rights or occupation and interest of any other member or adjacent property owner.
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Such conduct will include, but will not be limited to, the usage of radio, television and hi-fi sets, recording equipment and the like or the playing of musical instruments to the extent that it will be audible beyond the boundaries of the premises of the member concerned;

- 12.4. no caravans, tents or structures of a temporary nature shall be allowed to be parked or erected in view of any dwelling on the property, save with the approval of EXCOM and the adjoining neighbour;
- 12.5 no member shall be entitled to dump materials or goods on the private road, or on any erf not registered in the name of the member and shall be liable for payment of the cost of rectifying the damage or removal of the material or goods;
- 12.6 Members may not commit or permit any act which would increase the hazard of fire. Members will not be permitted to make fires other than that in their own private braai areas;
- 12.7 Every attempt should be made to ensure that gardens are of a suitable standard and should be well maintained by the owner;
- 12.8 No member shall cause or permit any destruction or degradation of the environment.
- 12.9 All powers and existing conditions of the present lessor, applicable at the time of registration, shall be transferred to the Association upon such registration.
- 12.10 In the event of a lessee contravening the rules, regulations or conditions applicable to persons or property, at the time, such contravention shall be construed as a breach of contract and shall empower the lessor to cancel the contract and evict the lessee. Should the unit be sold or leased the lessor shall be entitled to recover monies outstanding and owing to the lessor before paying out the owner of the unit, so evicted.

