

20/3

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

MASTER DEED  
OF  
BERKELEY COURT  
HORIZONTAL PROPERTY REGIME

THIS MASTER DEED (the "Master Deed") made by Berkeley Court Limited Partnership, a South Carolina Limited Partnership ("Grantor"), pursuant to the Horizontal Property Act of South Carolina (the "Act") for the purpose of creating a horizontal property regime and establishing certain easements, covenants and restrictions to run with the land,

W I T N E S S E T H

ARTICLE I

THE PROPERTY

A. Property. As used herein, the term "Property" means and includes the land hereinafter identified and all improvements and structures now existing or hereafter placed thereon by Grantor and all easements, rights and appurtenances belonging thereto.

B. Land. The land ("Land") which is subject to this Master Deed is that certain tract or parcel described in Exhibit "A" attached hereto. The Land is owned by Grantor in fee simple.

C. Dwellings. The building on the Land consists of thirty-six (36) separate dwelling units (the "Dwellings"). The Dwellings, and their dimensions, are more particularly shown and described in the Building Plans (the "Plans") attached hereto as Exhibit "B". Each Dwelling encompasses and includes all that portion of the building designated on the Plans as a Dwelling and consisting of all living and storage space bounded by the upper surface of the foundation slab or the sub-flooring, by the unexposed surfaces of the drywall or plastering forming interior walls and ceilings, and by the exterior surfaces of windows and window frames

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and of exterior doors and door frames; and all flooring, floor covering, tile, plaster, wall board, paint, wall covering, doors, door frames, windows, window frames, cabinets, fixtures, appliances and other building materials within the space so bounded. Each Dwelling also includes the heating and air conditioning equipment and the ducting, electrical wiring and water and sewer pipes serving such Dwelling exclusively, regardless of where situated. )

*deleted  
amended  
to  
limits of  
common  
elements*

D. Common Elements. All portions of the Property not encompassed and included within the various Dwellings are part of the common elements (the "Common Elements") of the Property. The Common Elements include, without limitation, the Land and all parking areas, walkways, paths, yards, gardens, trees and shrubs located thereon; the foundations, framing, exterior walls, party walls, and roof of the building; the foyer; the halls and the stairways; the elevator; the water heater; all devices or installations existing for common use; and all other elements of the Property rationally of common use or necessary to the existence, upkeep or safety of the Property, unless specifically included within a Dwelling. Ownership of the Common Elements is apportioned among and appurtenant to the individual Dwellings as set forth in Exhibit "C" hereto which is made a part hereof. The percentage of the undivided interest in the Common Elements shall not be separated from the Dwelling to which it appertains and shall be deemed to be conveyed or encumbered with the Dwelling even though such interest is not expressly mentioned or described in the conveyance or other instrument.

E. Limited Common Elements. The Limited Common Elements are as follows:

(1) All balconies appurtenant to a Dwelling are Limited Common Elements for such Dwellings;

(2) The hallways on each floor are Limited Common Elements for the Dwellings located on such floor.

(3) The right to use and occupy that portion of the land as shown on Exhibit "D" hereto is a Limited Common Element of Dwelling Number 3 as well as the stairs leading from the balcony

appurtenant to Dwelling Number 3 to such Land; provided, however, that the Land itself is a general Common Element of the Condominium. The outbuilding located on such property shall belong to the owner of Unit #3, but such owner may not modify or change the exterior of such building without the approval of the Association..

(4) The stairs running from the Third Floor of Dwelling to the Fourth Floor of the building are Limited Common Elements of Dwelling Numbers 40 and 41.

(5) The wooden decking appurtenant to Dwelling Numbers 40 and 41 and the exterior heating and air conditioning units serving such units are Limited Common Elements of such units and the owners shall have the right to maintain, repair and replace such decking and heating and air conditioning units; provided, however, that the Association shall have full access rights to all parts of the roof for repair and replacement purposes.

(6) The concrete steps and exterior foyer area leading to Dwelling Numbers A, B, C and D shall be Limited Common Elements of the Dwelling or Dwellings utilizing such steps and foyer area for access.

(7) The parking spaces numbered and set forth in Exhibit "E" hereof shall be Limited Common Elements of those Dwellings which are assigned such spaces in the Original Deed from the Grantor conveying such Dwellings to individual purchasers thereof. Thereafter such Limited Common Elements cannot be conveyed separately from the conveyance of such Dwellings. The building enclosing certain of the parking spaces shall be a Limited Common Element of those Dwellings assigned such enclosed parking spaces.

(8) Foyer areas off of the hallway shall be Limited Common Elements of Dwellings served. Any owner of all Dwellings benefited from such foyer shall have the right to enclose and use such foyer area as part of such Dwelling or Dwellings.

F. Name. The name by which the horizontal property regime shall be known is "Berkeley Court Horizontal Property Regime."

## ARTICLE II

### THE ASSOCIATION

A. Formation. Every Owner, as hereinafter defined, shall be a member of and constitute the council of co-owners (the "Association"), an unincorporated association which shall be managed by a board of administrators (the "Board of Directors") elected by and from the Owners and by

a professional administrator (the "Manager") if the Board of Directors so elect.

B. Owner. As used herein, the term "Owner" means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns a Dwelling.

C. By-Laws. The association and the administration of the Property shall be governed by the By-Laws (the "By-Laws") annexed hereto as Exhibit "F" and made a part hereof. The By-Laws may be modified or amended only in the manner set forth in Article VII hereof.

D. Voting. On all matters relating to the Association or to the Condominium upon which a vote of the Owners is conducted, the Owners shall vote in proportion to their respective interests in the Common Elements. All action taken by a vote of the Owners shall be by the affirmative vote of a Majority of the Owners, as hereinafter defined, unless a different majority is specified in this Master Deed or in the By-Laws.

E. Majority. When used in this Master Deed, "Majority of the Owners" means the Owners of fifty-one percent (51%) or more of the basic value of the Condominium as a whole, in accordance with their interests in the Common Elements.

*(or By-Laws) (See Amendment)*

### ARTICLE III

#### COMMON EXPENSES

A. Expenses. The Owners shall bear expenses of the Condominium in proportion to their respective interests in the Common Elements, including but not limited to the following expenses ("Common Expenses"):

1. Expenses of administration, maintenance, repair or replacement of the Common Elements;
2. Expenses declared to be Common Expenses by the Act, this Master Deed or the By-Laws; and
3. Expenses agreed upon as Common Expenses or lawfully assessed against the Owners as a group by the Association.

B. Income. All income, rents, profits and revenues received by the Association shall be applied and expended in the following order:

1. To the payment of expenses incurred in generating or collecting such income, rents, profits and revenues;
2. To the payment of Common Expenses;
3. To distributions to the Owners in proportion to their respective interests in the Common Elements.

C. Liability of Owner. No Owner may exempt himself from liability for his contribution towards the Common Expenses by waiver of the use or enjoyment of the Common Elements or by abandonment of his Dwelling.

D. Sale of Dwelling. Upon the sale or conveyance of a Dwelling, all unpaid assessments against an Owner for his pro rata share of the Common Expenses shall first be paid out of the sales price or by the acquirer in preference over any other assessments or charges of whatever nature except the following:

1. Assessments, liens and charges for taxes past due and unpaid on the Dwelling; and
2. Payments due under mortgage instruments or encumbrances duly recorded.

E. Lien on Dwelling. All sums assessed by the Association but unpaid for the share of the Common Expenses chargeable to any Dwelling shall constitute a lien on such Dwelling prior and superior to all other liens except only (i) tax liens on the Dwelling in favor of any assessing unit, and (ii) mortgage and other liens, duly recorded, encumbering the Dwelling. Such lien may be foreclosed by suit by the Manager or the Board of Directors, acting on behalf of the Association, in like manner as a mortgage of real property. In any such foreclosure the Owner shall be required to pay a reasonable

rental for the Dwelling after the commencement of the foreclosure action, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The Manager or the Board of Directors, acting on behalf of the Association, shall have the power to bid in the Dwelling at any foreclosure sale and to acquire, hold, lease, mortgage, encumber and convey the same. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing or waiving the lien securing the same.

F. Foreclosure Purchaser. If the mortgagee of a first mortgage of record or other purchaser of a Dwelling obtains title to the Dwelling as a result of foreclosure of such mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Dwelling accruing after the date of recording such mortgage but prior to the acquisition of title to such Dwelling by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Owners, including such acquirer, his successors and assigns.

*Under  
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G. Records. The Board of Directors shall keep, or cause to be kept, a book with a detailed account, in chronological order, of the receipts and expenditures affecting the Condominium and its administration and specifying the maintenance and repair expenses of the Common Elements and any other expenses incurred. Both said book and vouchers accrediting the entries made thereupon shall be available for examination by all the Owners at convenient hours on working days that shall be set and announced by the Board of Directors.

#### ARTICLE IV

##### EASEMENTS, COVENANTS AND RESTRICTIONS

A. Use of Property. Each Owner shall be entitled to the exclusive ownership and possession of his Dwelling and may use the

Common Elements in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of other Owners.

B. Utility Easements. There shall be appurtenant to each Dwelling a non-exclusive easement for use of all pipes, wires, cables, conduits, utility lines, flues and ducts serving such Dwelling and situated in any other Dwelling. Each Dwelling shall be subject to an easement in favor of other Dwellings for use of all pipes, wires, cables, conduits, utility lines, flues and ducts situated in such Dwelling and serving such other Dwellings.

C. Encroachments. If any portion of the Common Elements now encroaches upon any Dwelling, or if any Dwelling now encroaches upon any other Dwelling or upon any portion of the Common Elements, or if any such encroachment shall occur hereafter as a result of (i) settling of a Dwelling or Dwellings; (ii) repair, alteration or reconstruction of the Common Elements made by or with the consent of the Association; (iii) repair or reconstruction of a Dwelling or Dwellings following damage by fire or other casualty; or (iv) condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Property remains subject to the Act.

D. Right of Access. The Association shall have the irrevocable right, to be exercised by the Manager or the Board of Directors, to have access to each Dwelling from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Elements or to another Dwelling;

E. Maintenance of Common Elements. The necessary work of maintenance, repair and replacement of the Common Elements and

the making of any additions or improvements thereto shall be carried out only as provided in the Act, this Master Deed and the By-Laws.

F. Prohibited Work. No Owner shall do any work which would jeopardize the soundness or safety of the Property, reduce the value thereof or impair any easement or hereditament without in every such case unanimous consent of all other Owners affected being first obtained.

G. Partition. The Common Elements shall remain undivided and no Owner or any other person shall bring any action for partition or division of any part thereof, unless the Property has been removed from the provisions of the Act in the manner therein provided. Any covenant to the contrary shall be null and void.

## ARTICLE V

### USE AND OCCUPANCY

A. Use. The Dwelling shall be used only as residential dwelling units and for no other purpose; except that Dwelling Numbers A, B, C and D can be used for residential purposes, or for any commercial purpose, at the sole option of the owner or owners thereof.

B. Rentals. Owners may rent their Dwellings for so long as such tenants abide by the By-Laws and Rules and Regulations of the Association; provided that no rentals for periods of less than ninety (90) days will be permitted.

## ARTICLE VI

### INSURANCE

The insurance which shall be maintained upon the Condominium Property shall be governed by the following provisions:

A. Types of Insurance. The Association shall obtain the following types of insurance for the benefit of the Association and the Dwelling Owners and their respective mortgagees as their respective



interests may appear and charge the premiums and other costs thereof as Common Expenses:

(1) Liability Insurance. Public liability and property damage insurance covering all of the Common Elements of the Condominium Property, in such amounts and in such forms as the Board of Directors may determine from time to time; provided that (a) the minimum amount of coverage shall be \$100,000/300,000 bodily injury and \$100,000 property damage; and (b) coverage shall include personal injury liability, hired automobile, non-owned automobile and off-premises employee.

(2) Casualty Insurance. Casualty insurance covering loss or damage by fire or other hazards covered by the standard extended coverage endorsement, including windstorm, vandalism and malicious mischief and such other coverages as shall from time to time be deemed appropriate by the Board of Directors, and all personal property owned by the Association, in an amount equal to its maximum insurable replacement value, as determined annually by the Board of Directors with the advice of the insurance carrier, but in any event an amount sufficient to avoid any co-insurance exposure to the policyholder.

(3) Flood Insurance. Flood insurance in such amounts, if any, as the Board of Directors shall from time to time determine.

(4) Workmen's Compensation. Workmen's compensation in such amounts as required by law and such employer's liability insurance, if any, as the Board of Directors shall from time to time deem appropriate.

(5) Other: Such other insurance as the Board of Directors otherwise determines from time to time is necessary or appropriate.

B. Loss Payable Provisions. All policies purchased by the Association (i) shall provide for the issuance of certificates of insurance and mortgage endorsements to any holders of mortgages on Dwellings; (ii) shall, if available, provide that the insurer waives

its right of subrogation as to any claim against Dwelling Owners, the Association and their respective servants, agents and guests.

C. Carriers, Policy Form and Settlements. The company or companies with which the Association shall place its insurance must be responsible companies, authorized to do business in the State of South Carolina. The Mortgagee Representative shall have the right to approve the form of policies and any company which is an insurer under the insurance placed by the Association. At such time as there is no Mortgagee Representative, or in the absence of the action by the Mortgagee Representative, the Board of Directors shall have such right of approval without qualification. The Board of Directors is hereby declared to be and appointed as the authorized agent for all of the Dwelling Owners for the purpose of negotiating and agreeing to a settlement as to the value and extent of any loss which may be covered under any policy of casualty insurance, and is granted full right and authority to execute in favor of any insurer a release of liability arising out of any occurrence covered by any policy of casualty insurance and resulting in loss of, or damage to insured Condominium Property. All parties beneficially interested in the insurance coverage provided by this Article shall be bound by the selection of the insurance companies and settlements made by the Board of Directors as provided herein.

D. Distribution of Proceeds. Proceeds of insurance policies received by the Board of Directors shall be distributed to or for the benefit of the Dwelling Owners and expended or disbursed in the following manner:

(1) Loss within a Single Dwelling. If loss shall occur within a single Dwelling, without damage to the Common Elements, Limited Common Elements or another Dwelling, the insurance proceeds shall be disbursed to such Dwelling Owner and his mortgagees, if any; disbursement to a Dwelling Owner and his mortgagees being payable jointly to them, provided that said disbursement shall be made solely to a First Mortgagee when so requested by a First Mortgagee whose

mortgage provides that it has the right to require application of the insurance proceeds to the payment or reduction of its mortgage debt (this is a covenant for the benefit of the First Mortgagee of a Dwelling and may be enforced by such mortgagee). The Dwelling Owner shall thereupon be fully responsible for the restoration of his Dwelling.

(2) Loss Beyond a Single Dwelling:

(a) Repair or Restoration. If the damage for which the proceeds were paid is to be repaired and restored such proceeds shall be paid to defray the cost thereof, as provided in this Article. Any proceeds remaining after defraying such costs shall be disbursed, in proportion to the cost of repairing the damage suffered by each Dwelling Owner, if any; disbursements to Dwelling Owners and their respective mortgagees, being payable jointly to each Dwelling Owner and his respective mortgagees, provided that said disbursement shall be made solely to a First Mortgagee when requested by such First Mortgagee whose mortgage provides that it has the right to require application of the insurance proceeds to the payment or reduction of its mortgage debt (this is a covenant for the benefit of any First Mortgagee of a Dwelling and may be enforced by said mortgagee).

(b) Failure to Repair or Restore. If it is determined in the manner provided in this Article that the damage for which the proceeds have been paid shall not be repaired or restored, such proceeds shall be disbursed, in proportion to their respective shares in the Common Elements to all Dwelling Owners and their respective mortgagees, if any; disbursements to Dwelling Owners and their respective mortgagees being payable jointly to each Dwelling Owner and his respective mortgagees, provided that said

disbursement shall be made solely to a First Mortgagee when requested by such First Mortgagee whose mortgage provides that it has the right to require application of the insurance proceeds to the payment or reduction of its mortgage debt (this is a covenant for the benefit of any First Mortgagee of a Dwelling and may be enforced by such mortgagee).

E. Repair or Restoration after less than Very Substantial Damage. Repair or restoration after less than "Very Substantial Damage" (as defined in Section F Below) shall be conducted as follows:

(1) Loss within a Single Dwelling. Where loss or damage occurs to one Dwelling, it shall be obligatory for such Dwelling Owner to repair or restore his Dwelling and any insurance proceeds shall be distributed as provided in Section D(1) above.

(2) Loss Beyond a Single Dwelling. Where loss or damage occurs to more than one Dwelling, and/or to the Common Elements and/or any Limited Common Elements, it shall be obligatory upon the Association and the Dwelling Owners to repair or restore the damage caused by such loss and the procedures shall be as follows:

(a) The Board of Directors shall promptly obtain reliable and detailed estimates of the cost of repair and restoration and begin to settle any insurance claims in order to determine as soon as practicable the insurance proceeds available for such repair or restoration.

(b) In the event of the loss or damage to Common Elements and/or Limited Common Elements and/or any Dwelling, which loss or damage is covered by casualty insurance but the insurance proceeds appear to the Board of Directors to be insufficient to repair and restore all of such damage, then, to the extent that such casualty insurance is not specifically payable under the respective

policy for Common Elements or Limited Common Elements or Dwellings, it shall be applied first for the repair or restoration of Common Elements, secondly for Limited Common Elements and then any Dwellings. To the extent that such proceeds are insufficient to complete said repair or restoration and insufficient cash reserves do not exist in the Association's budget to cover such insufficiency, special Assessments shall be made upon Dwelling Owners by the Association to complete said repair or restoration with such Assessments to be made in the following manner: In respect of Assessments for the completion of repairs or restoration (i) to Common Elements or Limited Common Elements, such Assessments shall be made upon all Dwelling Owners in proportion to their ownership of the Common Elements (without regard to the existence of any exclusive right to use an area constituting Limited Common Elements which may be appurtenant to any Dwelling) and (ii) to Dwellings shall be made only in respect of the Dwellings sustaining loss or damage and the allocation of Assessments among such Dwellings sustaining loss or damage shall bear the same proportion to the total Assessment levied against all of such Dwellings sustaining loss or damage, as the estimated cost of repair or restoration of each Dwelling bears to the estimated costs to repair or restore all such Dwellings sustaining loss or damage; provided, however, that if the Board of Directors finds that it cannot determine with reasonable certainty the estimated cost of repair or restoration attributable to individual damaged Dwellings, then the Board of Directors shall levy the special Assessment for completion against all of the Dwelling Owners in proportion to their ownership of the Common Elements, as if all such damage had occurred in the Common Elements. It shall be presumed that the first monies disbursed from the Restoration Fund in payment

of costs of repair or restoration shall be from insurance proceeds; and if there is a balance in the Restoration Fund after payment of all costs of the repair and restoration for which the fund is established, such balance shall be distributed as provided in Section D(2)(a) to the extent that it represents insurance proceeds and to the Association to the extent it does not represent insurance proceeds.

(c) Any repair or restoration shall be substantially in accordance with the plans and specifications to be prepared by an architect or engineer selected and approved by the Board of Directors. Encroachments upon or in favor of Dwellings may be created as a result of such repair or restoration shall not constitute a claim or basis of a proceeding or action by the Dwelling Owners upon whose property such encroachment exists or by any Dwelling Owner in respect of encroachments on the Common Elements, provided that (i) such reconstruction was either substantially in accordance with the plans and specifications of the architect or engineer or (ii) the Building was repaired or restored in the same manner as it existed prior to the loss or damage. Such encroachments shall be allowed to continue in existence for so long as the Building stands.

*Whole Section deleted & amended*

F. Repair or Restoration after Very Substantial Damage.

The term "Very Substantial Damage" shall mean loss or damage whereby seventy-five (75%) percent or more of the aggregate space of all Dwellings (determined on the basis of the square footage of floor areas) is rendered uninhabitable, or loss or damage whereby seventy-five (75%) percent or more of the total amount of insurance coverage obtained in respect of the Condominium Property becomes payable.

Should such "Very Substantial Damage" occur:

(1) The same procedures shall be followed as required in Section E(2)(a) and (b) above, provided that while the amounts of the special Assessments required by Section E(2)(b) shall be

estimated by the Board of Directors, no actual Assessments shall be made unless the vote described in Subsection (2) below determines that repairs or restoration shall be undertaken.

(2) Thereupon, a meeting of the Association shall be called by the Board of Directors to be held not later than thirty (30) days after the casualty (or if by such date the insurance loss has not been fully adjusted, then within thirty (30) days after such final adjustment), to determine whether to repair and restore the damage or to terminate the Condominium, subject to the following:

(a) If the net insurance proceeds available for repair and restoration (including the insurance proceeds payable to mortgagees if a decision is made not to repair or restore the damage) are sufficient to cover the cost thereof, so that no special Assessment is required, then the Condominium Property shall be repaired and restored, unless a Two-Thirds (2/3) Vote of the Association determines to terminate the Condominium Property (in which case the Condominium Property shall be removed from the provisions of the Condominium Act and insurance proceeds shall be distributed as provided in Section D(2)(b) above).

(b) If the net insurance proceeds available for repair and restoration (including the insurance proceeds payable to the mortgagees if a decision is made not to repair or restore the damage) are not sufficient to cover the cost thereof, so that a special Assessment will be required, then:

(i) if a Majority Vote of the Association is not in favor of the special Assessment, the Condominium shall be terminated (in which case the Condominium Property shall be removed from the provisions of the Condominium Act and insurance proceeds shall be distributed as provided in Section D(2)(b) above);

(ii) if a Majority Vote of the Association is in favor of the special Assessment, the Association shall immediately levy such Assessment, and thereupon the Association shall proceed to negotiate and contract for such repairs and restoration in accordance with the provisions of Section E hereof.

(3) In the event any dispute shall arise as to whether or not "Very Substantial Damage" has occurred, such a finding made by a majority vote of the Board of Directors shall be binding upon all Dwelling Units.

G. Plans and Specifications. Any repair and restoration must be substantially in accordance with the plans and specifications for the original building, or according to the plans approved by the Board of Directors, which approval shall not be unreasonably withheld. If any material or substantial change is contemplated, the approval of the Mortgagee Representative and all First Mortgagees shall also be required.

H. Insurance by Dwelling Owners. Each individual Dwelling Owner shall be responsible for purchasing at his own cost and expense, such other insurance as may be appropriate, including without limitation, liability insurance for accidents occurring within his Dwelling, insurance against the loss, theft or damage to his own personal property, living expense insurance, workmen's compensation for his personal employees and the like.

I. Mortgagee Representative. The Mortgagee Representative shall be the individual so designated, if any, by the mortgagee or mortgagees holding at least 50% of the aggregate amount of mortgages on the Dwellings.

## ARTICLE VII

### AMENDMENTS

A. By Owners. This Master Deed and the By-Laws may be amended from time to time by resolution adopted by the affirmative



vote of the Owners of two-thirds (2/3rds) of the total interest in the Common Elements subject to the following conditions:

1. No amendment by the Dwelling Owners shall alter the dimensions of a Dwelling or the percentage of the interest in the Common Elements appurtenant thereto without the consent of the Owner of such Dwelling; and

2. No amendment by the Owners shall be effective prior to December 31, 1980, without the consent of Grantor so long as Grantor owns any Dwelling.

B. By Grantor. Grantor reserves the right to amend this Master Deed and the By-Laws at any time prior to December 31, 1980, without the consent of the Dwelling Owners so long as Grantor owns any Dwelling, subject to the following conditions:

1. No amendment by Grantor shall divest an Owner of any portion of his Dwelling without the consent of such Owner;

2. No amendment by Grantor shall materially alter the plan of development set forth on the Plat without the consent of all Owners affected thereby.

C. Power of Attorney. Each Owner shall be deemed by his acceptance of a deed to a Dwelling to have consented to the powers of amendment herein reserved by Grantor and to any amendments previously or thereafter executed by Grantor pursuant thereto. Each Owner shall further be deemed by his acceptance of a deed to a Dwelling to have appointed Grantor his attorney-in-fact to give, execute and record the consent of said Dwelling Owner to any and all amendments to this Master Deed which Grantor may wish to execute pursuant to the powers herein reserved.

D. Recording. No amendments to this Master Deed shall be effective unless and until recorded in accordance with the Act.

## ARTICLE VIII

### GRANTOR

A. Successors. The term "Grantor" used in this Master Deed and in the By-Laws shall be deemed to include any person who succeeds to the title of Grantor to any portion of the Property by sale or assignment of all the interest of Grantor in the Property, if the instrument of sale or assignment expressly so provides, or by exercise of a right of foreclosure or power of sale granted in or conveyed by any mortgage, deed of trust or deed to secure debt given by Grantor and duly recorded prior to the recording of this Master Deed. Any such person shall be entitled to exercise all rights and powers conferred upon Grantor by the Act, this Master Deed, or the By-Laws.

B. Power to Change Dwellings to Common Elements. At any time prior to December 31, 1980, the Grantor shall have the right to deed Dwelling Numbers A, B, C and D, either individually or collectively to the Association and amend this Master Deed to make such Dwellings Common Elements. In such case, each Dwelling's pro rata share of Common Elements and voting rights shall be adjusted accordingly.

C. Liability for Common Expenses of Certain Dwellings. Notwithstanding the percentage interest in the Common Elements of Dwellings A, B, C and D set forth in Exhibit C hereto, such Dwellings shall not be liable for common expenses or entitled to receive any common surplus of the Condominium until December 31, 1981 unless previously conveyed by Grantor.

ARTICLE IX

FIRST MORTGAGEE RIGHTS

A. Mortgagee Notification. Any holder of a first mortgage (the "First Mortgagee") on any Dwelling shall be given, upon request, written notification from the Association of any default in the performance by the Dwelling Owner mortgagor of any obligation under the Declaration or related documents which is not, or has not been, cured within sixty (60) days from the occurrence thereof.

B. Amendment Limitation. Notwithstanding any provision of this Declaration to the contrary, unless at least seventy-five percent (75%) of the First Mortgagees (based upon one vote for each First Mortgage owned), of the individual Dwellings have given their prior written approval, the Association shall not:

(1) by act or omission, seek to abandon or terminate the Condominium;

(2) change the pro rata interest or obligations of any individual Dwelling for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the pro rata share of ownership of each Dwelling in the common elements;

(3) partition or subdivide any Dwelling;

(4) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements (the granting of easements for public utilities or for other public purposes consistent with the intended use of the common elements by the Association shall not be deemed a transfer within the meaning of this clause);

(5) use hazard insurance proceeds for losses to any Condominium Property (whether to Dwellings or to common elements) for other than the repair, replacement or reconstruction of such condominium property or payment to First Mortgagees, except as provided by statute in case of substantial loss to the Dwellings and/or common elements

of the Condominium.

C. Examination of Books. All First Mortgagees shall have the right to examine the books and records of the Association.

D. Reserves. Condominium dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of those common elements that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

E. Limitation of Assessments. All taxes, assessments and charges which may become liens prior to the First Mortgage under local law shall relate only to the Dwellings and not to the Condominium Project as a whole.

F. Notice of Loss. The Association will give all holders of First Mortgages of Dwellings notice, in writing, of any loss to, or taking of the common elements exceeding \$10,000.00 or damage to a Dwelling exceeding \$1,000.00 (only to the First Mortgagee so affected).

G. Management. Any agreement for the professional management of the Association or any other contract providing for services by the Grantor must provide for termination by either party without cause or payment of a termination fee upon ninety (90) days or less written notice by either party and shall not have a maximum term of more than three years.

#### ARTICLE X

##### MISCELLANEOUS

A. Application. All Dwelling Owners, tenants of Owners, employees of Owners and tenants, or any other persons that may in any manner use the Property or any part thereof shall be subject to the Act and to this Master Deed and the By-Laws.

B. Compliance. Each Owner shall comply strictly with the By-Laws and with the administrative rules and regulations adopted pursuant thereto, as either of the same may be lawfully amended

from time to time, and with the covenants, conditions and restrictions set forth in this Master Deed or in the deed to the Dwelling of such Owner. Failure to comply with any of the same shall be ground for an action to recover sums due, or damages or injunctive relief, or both, maintainable by the Manager or the Board of Directors on behalf of the Association or, in a proper case, by an aggrieved Owner.

C. Waiver. No provision hereof shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.

D. Conflicts. This Master Deed is executed to comply with the requirements of the Act, and in the event that any of the provisions hereof conflict with the provisions of the Act, the Act shall control.

E. Severability. The provisions of this Master Deed are severable, and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the validity, enforceability, or effect of the remainder hereof.

F. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Master Deed or the intent of any provision hereof.

G. Gender and Number. All pronouns used herein shall be deemed to include the masculine, the feminine and the neuter and the singular and the plural whenever the context requires or permits.

H. Termination. All the Owners or the sole Owner of the Property may waive the horizontal property regime and regroup or merge the Dwellings with the Common Elements, provided that the Dwellings are unencumbered or, if encumbered, that the creditors on whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the Property owned by the Debtors.

IN WITNESS WHEREOF, Grantor has executed this Master Deed  
this 1<sup>st</sup> day of September, 1978.

Signed, Sealed and Delivered  
in the Presence of:

Avis W. Morgan

Betty A. Fulton

BERKELEY COURT LIMITED PARTNERSHIP  
By Preservation Properties, Inc.,  
its General Partner

By: Ralph E. Walden

Attest: Bill M. Pridgen  
Secretary

STATE OF

COUNTY OF

Before me, the undersigned notary public, appeared \_\_\_\_\_  
Avis W. Morgan, who, being duly sworn, said that she saw Preservation  
Properties, Inc., General Partner of Berkeley Court Limited Partnership,  
by Ralph Walden, its President, sign the within Master Deed, and Bill  
M. Pridgen, its Secretary, attest and seal the same, and said corpora-  
tion, by said officers, deliver said Master Deed as its act and deed,  
and that she, with Betty A. Fulton, witnessed the same.

Avis W. Morgan

Sworn to before me this the

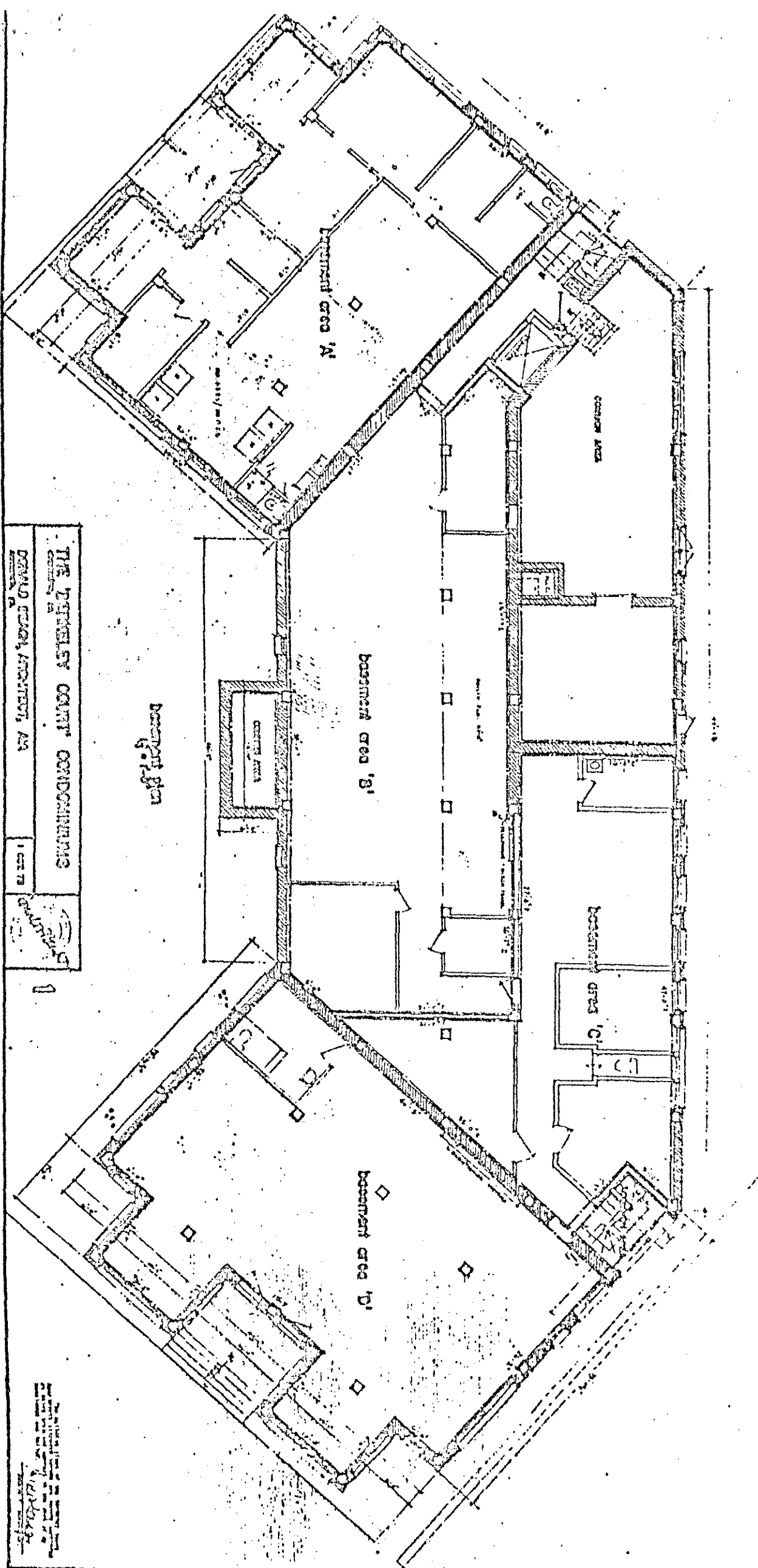
1st day of September, 1978

Betty A. Fulton  
Notary Public, Chatham County,  
Georgia

My Commission Expires: 9/12/80

ALL that lot, piece or parcel of land, together with the buildings and improvements thereon, situated in the City of Charleston, State of South Carolina, at the northwest corner of Rutledge Avenue and Beaufain Street; bounded on the South by Beaufain Street; on the East by Rutledge Avenue; on the West by land formerly of J. B. Campbell, and now or formerly of the Ladies Aid of the Presbyterian Church (known as No. 108 Beaufain Street); and on the North by land formerly known as Lot of Corbett, and now or formerly of Clara W. Taylor (known as No. 65 Rutledge Avenue); and MEASURING AND CONTAINING on Beaufain Street One Hundred Thirty-two (132') feet, but shown by later survey to contain on said street, One Hundred Thirty-three and two-tenths (133.2') feet; and on Rutledge Avenue, One Hundred Twenty (120') feet, Four (4") inches, but shown by later survey to contain on said Avenue, One Hundred Twenty-two and one-tenth (122.1') feet; and shown by later survey to contain on the North line, One Hundred Thirty-four and three-tenths (134.3') feet; and on the West line as per said later survey, One Hundred Twenty-one and four-tenths (121.4') feet; be all said dimensions more or less; this property being a part of a lot known on a plat of Harleston Green by the Number 38. The said property having such shape, form, and dimensions as is shown on later survey and plat made by Richard C. Rhett, Surveyor, dated April 10, 1928, and recorded with deed from Edward J. Murphy to Sixty-three Rutledge Avenue, Inc., dated April 16, 1928, and recorded in the R.M.C. Office for Charleston County in Book U-33, Page 254, on April 17, 1928.

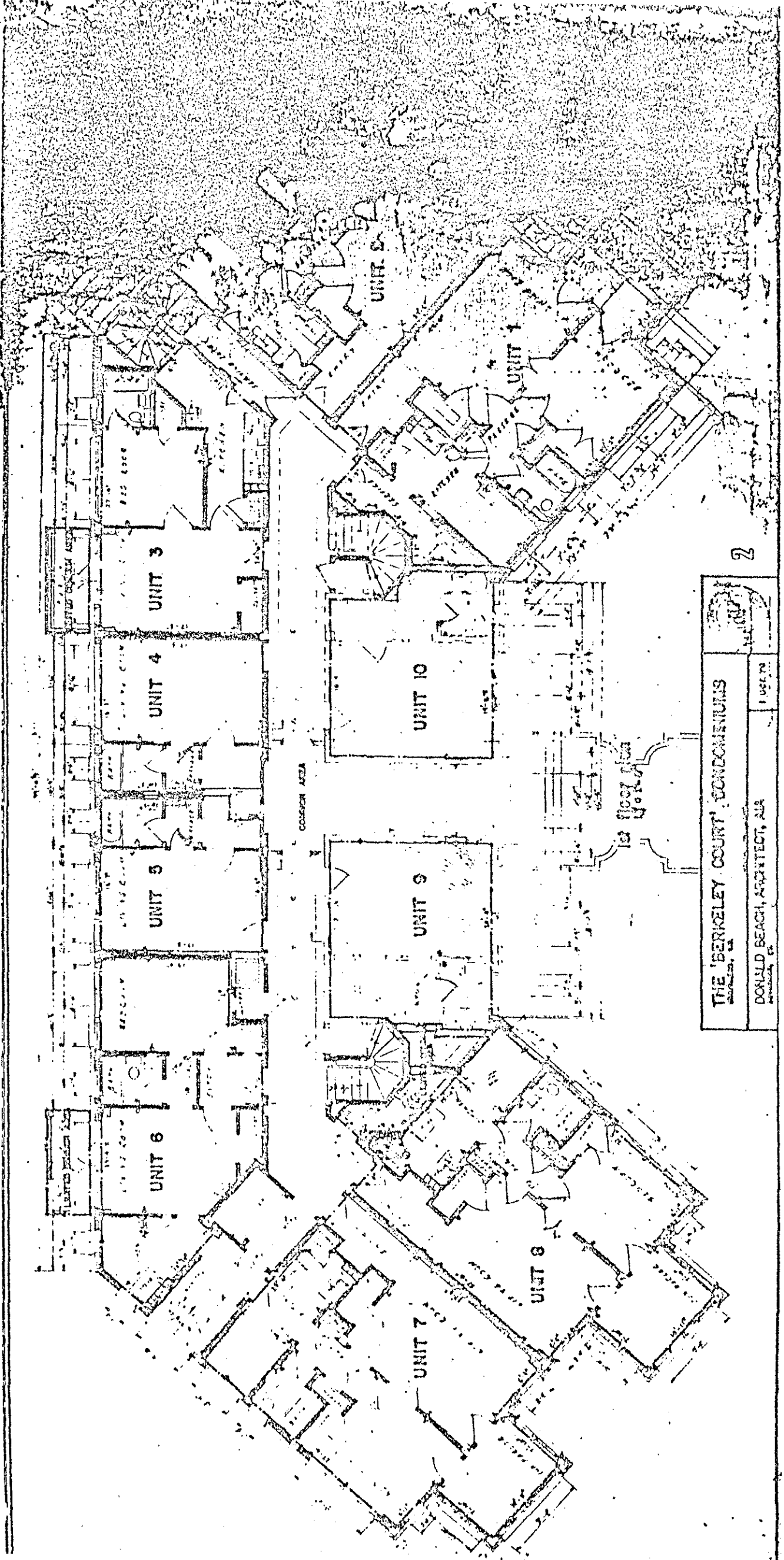
THIS BEING the same property as shown and described on a plat dated December 29, 1978, prepared by Harold J. Leamond and recorded in the R.M.C. Office for Charleston County in Plat Book AM, Page 43, on December 29, 1978.



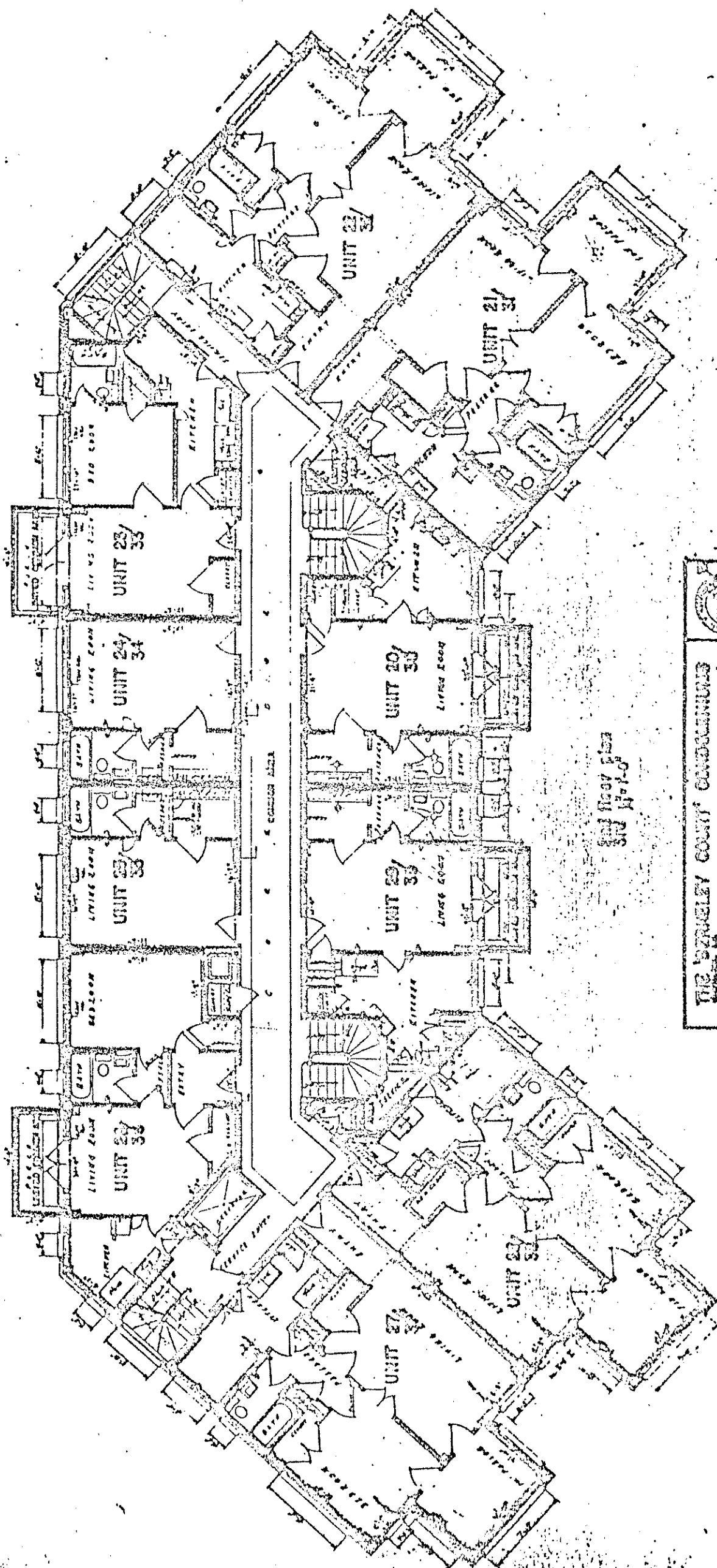
THE DINKELSY COURT CONDOMINIUMS  
 COMMON AREA, ARCHITECT, AIA  
 11-0" x 11-0"

11-0" x 11-0"





THE 'BERKELEY COURT' CONDOMINIUMS	
DONALD BEACH, ARCHITECT, AIA	1000 100



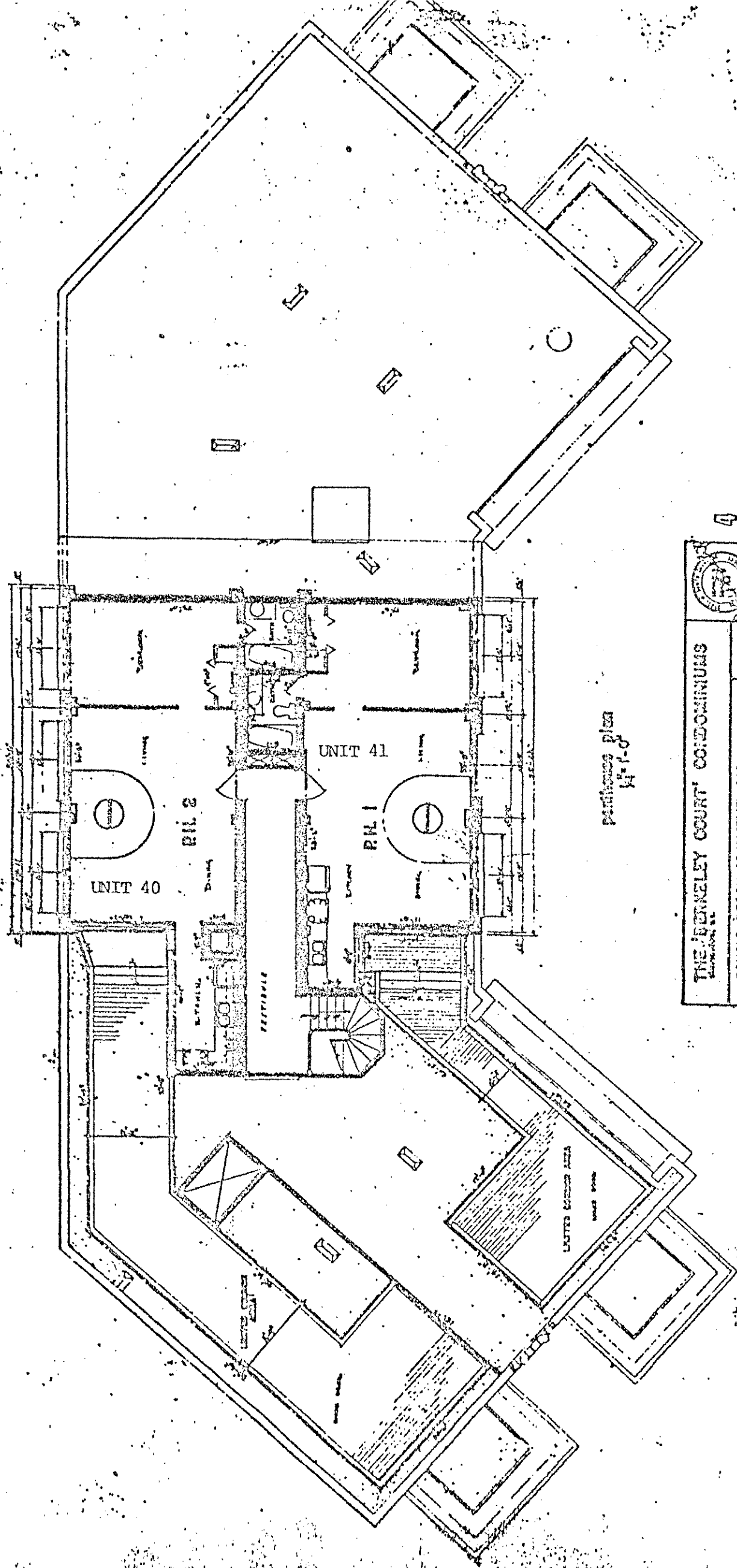
THE BRADLEY COURT CEMETERY

OSCAR DE LA RIVERA, ALBANY, N.Y. 12212


PL 2029



44



penthouse plan  
H-1-8

	
THE BERKELEY COURT CONDOMINIUMS	
DOUGLAS BEACH, ARCHITECT, AIA	1987

<u>Dwelling Number As Shown On Exhibit B Hereto</u>	<u>Stated value as required by South Carolina Law</u>	<u>Percentage Interest in Common Elements and Voting Rights</u>
4	306	1.54
5	306	1.54
24	306	1.54
25	306	1.54
34	306	1.54
35	306	1.54
9	360	1.80
10	360	1.80
20	475	2.39
29	475	2.39
30	475	2.39
39	475	2.39
3	517	2.50
23	517	2.50
33	517	2.50
6	610	3.06
26	610	3.06
36	610	3.06
1	784	3.94
2	784	3.94
7	784	3.94
8	784	3.94
21	784	3.94
22	784	3.94
27	784	3.94
28	784	3.94
31	784	3.94
32	784	3.94
37	784	3.94
38	784	3.94
40 ( Also referred to in Exhibit B as P.H.2)	826	4.50
41 ( Also referred to in Exhibit B as P.H. 1)	826	4.50
A	250	1.16
B	250	1.16
C	250	1.16
D	250	1.16

TOTAL 19,897

100%

The Patio Limited Common Element of Unit Number Three is shown and defined on that certain plat of the Berkeley Court Building dated December 29, 1978, prepared by Harold J. Lemond and recorded in the R.M.C. Office for Charleston County in Plat Book AE, Page 43, on December 29, 1978.

Five Limited Common Element Parking Spaces of the Berkeley Court Condominium are numbered one through five and are as shown and described on a plat dated December 29, 1978, prepared by Harold J. Leamond and recorded in the R.M.C. Office for Charleston County in Plat Book AM, Page 43, on December 29, 1978.

## EXHIBIT C

<u>Dwelling Number As Shown On Exhibit B Hereto</u>	<u>Stated Value as required by South Carolina Law</u>	<u>Percentage Interest in Common Elements and Voting Rights</u>
4	306	1.54
5	306	1.54
24	306	1.54
25	306	1.54
34	306	1.54
35	306 <i>6</i>	1.54
9	360	1.80
10	360 <i>2</i>	1.80
20	475	2.39
29	475	2.39
30	475	2.39
39	475 <i>4</i>	2.39
3	517	2.50
23	517	2.50
33	517 <i>3</i>	2.50
6	610	3.06
26	610	3.06
36	610 <i>3</i>	3.06
1	784	3.94
2	784	3.94
7	784	3.94
8	784	3.94
21	784	3.94
22	784	3.94
27	784	3.94
28	784	3.94
31	784	3.94
32	784	3.94
37	784	3.94
38	784 <i>12</i>	3.94
40	826	4.50
41	826 <i>2</i>	4.50 <i>Q5.36</i>
A	250 <i>Basement</i>	1.16
B	250	1.16
C	250	1.16
D	250 <i>4</i>	1.16 <i>100%</i>

EXHIBIT C

Dwelling Number  
As Shown On  
Exhibit B Hereto

Type Unit

Percentage Of Voting  
Rights and Common  
Elements

Value

TOTAL

100%



20113 PL 341

STATE OF SOUTH CAROLINA)  
COUNTY OF CHARLESTON )

FIRST AMENDMENT TO THE  
MASTER DEED OF  
BERKELEY COURT  
HORIZONTAL PROPERTY REGIME

This First Amendment to the Master Deed (the "Master Deed") of the Berkeley Court Horizontal Property Regime (the "Regime") made for the purposes of effectuating certain changes in and corrections to such Master Deed. Said Master Deed is recorded in the RMC Office for Charleston County in Deed Book Y-117, Page 402.

WITNESSETH:

The following amendments and changes in the Master Deed are hereby made and declared effective by the Undersigned, and have been ratified and approved by the Owners of a 98.46 % interest in the common elements at a meeting of such owners held on April 6, 1979.

1. The Plat of the Berkeley Court Horizontal Property Regime prepared by Harold J. Leamond and recorded in RMC Office of Charleston County in Plat Book AM, Page 77 on February 21, 1979 (the "Official Plat") is hereby certified and declared to be the true and correct plat of Berkeley Court Horizontal Property Regime, substituting and replacing that certain plat dated December 29, 1979, prepared by Harold J. Leamond and recorded in Plat Book AM, Page 43 of the RMC Office of Charleston County. The substitution of the Official plat for the originally recorded plat was required in order to correct the following errors and/or omissions:

(a) The Official Plat contains a statement as to the total area of the land and the ground area underlying the Building on the land as required by the South Carolina Horizontal Property Act, as amended (the "Act").

(b) The Official Plat correctly shows the one-story brick shed located adjacent to the enclosed parking areas to be a part of the Dwelling #3 Limited Common Area Easement which was the intent of Article 1(E)(3) of the Master Deed.

2. The undersigned Declarant to the original Master Deed and this amendment hereby covenant, aver and affirm that the Berkeley Court Building Plans recorded in Plat Book R, Pages <sup>152, 144, 140 and 131</sup> of the RMC Office of Charleston County on April 6, 1979 are the original plans from which the copies appearing in Exhibit B of the Master Deed were made, except as such Building Plans are amended as set forth in Paragraph 6 hereof. Such Building Plans, as amended, are hereby declared to be Exhibit B to the Master Deed replacing the Exhibit B filed with such Master Deed.

3. The last sentence of Section C, Article I is deleted and the following sentence is to be substituted in its place: "The heating and air conditioning equipment and the ducting, electrical wiring and water and sewer pipes serving such Dwelling exclusively, and which are located outside of such Dwelling, shall be Limited Common Elements of such Dwelling."

4. Section E of Article II is amended by adding the words "or in the By-Laws" after the words "Master Deed" and before the word "Majority".

5. The provisions of Section F of Article VI of the Master Deed are not in accordance with the Act. Therefore, such section is deleted in its entirety and the below listed Section F, Article VI substituted therefor:

"F. Repair or Restoration after Very Substantial Damage. The term "Very Substantial Damage" shall mean loss or damage whereby two thirds (2/3) or more of the aggregate value of the property is destroyed, or loss or damage whereby two thirds (2/3) or more of the total amount of insurance coverage obtained in

respect of the Condominium Property becomes payable. Should such "Very Substantial Damage" occur then a meeting of the Association shall be called by the Board of Directors to be held not later than thirty (30) days after the date of the casualty to determine whether to repair and restore the Condominium. Unless the Unit Owners unanimously vote to repair and reconstruct the damaged property and continue the Condominium then the Condominium will be terminated.

(1) If the co-owners vote to repair and restore the damaged property, the same procedures shall be followed as required in Section E(2)(a) and (b) above.

(2) If the co-owners do not vote to repair the damage and continue the Condominium, then the Condominium shall be terminated (in which case the Condominium Property shall be removed from the provisions of the Condominium Act and insurance proceeds shall be distributed as provided in Section D(2)(b) above).

(3) In the event any dispute shall arise as to whether or not "Very Substantial Damage" has occurred, such a finding made by a majority vote of the Board of Directors shall be binding upon all Dwelling Units."

6. The Building Plans filed in Plat Book R, Pages 152, 144, 140 and 131 of the RMC Office of Charleston County show a certain area on the fourth floor of the Building to be a part of Dwelling Unit 41 which was shown as a limited common element of Dwellings 40 and 41 in the Building Plans filed with the Master Deed. The original Building Plans were filed in error since it was the intent of the Declarant to

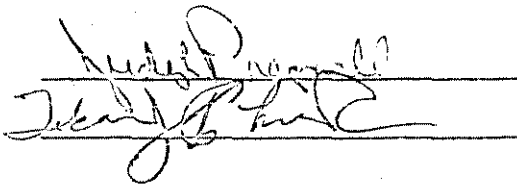
include such space in Dwelling Unit 41. Therefore such space is hereby declared to be a part of Dwelling Unit 41 and the Modification showing it to be in such unit is hereby ratified and adopted as the Building Plans of the Regime, to the same and effect as if such Plans had been filed as Exhibit B to the Master Deed in Deed Book Y-117, Page 402.

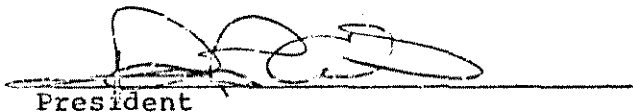
Both affected Dwelling Unit owners, 41 and 40, have consented to this change by joining herein. This amendment does not change any owner's percentage interest in the common elements of the Regime.

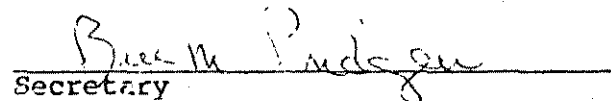
IN WITNESS WHEREOF the undersigned have set their hands and seals this 6<sup>th</sup> day of April, 1979.

Berkeley Court Limited Partnership  
("Declarant" and Owner of Dwelling  
Number 41)

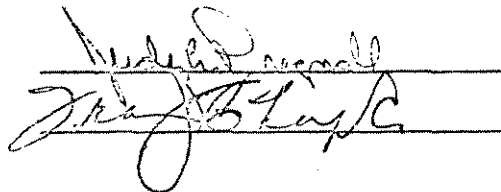
By: Preservation Properties, Inc.,  
its General Partner

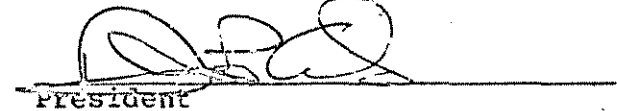
  
Michael P. Small  
John B. Small

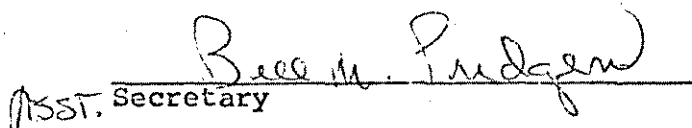
  
President

  
Secretary

Preservation Investments, Inc.,  
as owner of Dwelling Number 40

  
Michael P. Small  
John B. Small

  
President

  
Asst. Secretary

The undersigned officers of Berkeley Court Owners Association (the "Association") hereby certify that at a meeting of the Association duly called and properly held on April 6, 1979, the above stated amendments were adopted and ratified by a 9846 majority in interest of the

Owners of the Common Elements of the Regime.

Judy L. Pregna  
Judy L. Pregna

Donald G. Price  
 President

Mari Watson Read  
 Secretary

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )

Personally appeared before me Francis J. Chojnacki and made oath that he saw the within named Preservation Properties, Inc., Preservation Investments, Inc., and the Berkeley Court Owners Association, all by their respective officers, sign, seal and, as their act and deed, deliver the within written instrument and that he with Judy L. Pregna witnessed the execution thereof.

Francis J. Chojnacki  
 FRANCIS J. CHOJNACKI

Sworn to me this 6<sup>th</sup> day of April, 1979.

Edmond T. Brown  
 Notary Public for  
 South Carolina  
 my Comm. Exp. 8-3-81

Recorded this 6<sup>th</sup> day of April 19 79  
On Property Record Card

*Pauline S. Rogers*

Auditor Charleston County

Filed, Indexed and Recorded  
Apr 6 19 79 11:22  
DATE TIME  
Book 1118 Page 341

TMS VERIFIED	
BAC	<u>74</u>
DTD	<u>4-10-79</u>
<i>Amey Under to</i>	

*Robert N. King*

Register Mesne Conveyance  
Charleston County, S. C.

*ll*