

FHA No. 3236-B
(Addendum)

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
FEDERAL HOUSING ADMINISTRATION

ADDENDUM TO MODEL FORM OF CERTIFICATE OF INCORPORATION (FHA FORM NO. 3236-B)

ARTICLE VI, Section 3

Following the last sentence "..... this purpose." add the following sentence:

To be valid, the amount of any special assessment and the annual assessment must have the approval of the Secretary of Housing and Urban Development in accordance with Article VII.

ARTICLE XII

Insert the following as subsection (3) and renumber the existing subsections (3) through (8) to (4) through (9):

- (3) The amount of each annual assessment and each special assessment, if any. The annual assessment shall be submitted to HUD sixty (60) days prior to the beginning of each fiscal year on a HUD model form of budget.

3/24/72

GPO 927-652

MODEL FORM OF CERTIFICATE OF INCORPORATION

(For Use by the Nonprofit Recreational Association Serving a Series of Condominium Regimes in One Development Area Under Section 234.)

We, the undersigned, desiring to form a nonprofit corporation in compliance with the requirements of _____ (REFERENCE TO STATE LAW) for the ownership, management and maintenance of the swimming pool* and its related equipment, facilities and buildings, including the land on which the same are located, being Section _____ of the Development Area, in _____, both** of which are described in Appendix A attached hereto, and to provide for the orderly and proper collection of all charges for the use of said facilities, do hereby voluntarily associate themselves for the purpose of forming a nonprofit corporation and do hereby certify:

ARTICLE I

NAME AND PURPOSE

Section 1. The name of the corporation is _____ Nonprofit Recreational Corporation, hereinafter called the "Corporation".

Section 2. The principal purposes of the Corporation are:

- (a) To manage, own and maintain the swimming pool* located on Section _____ of the Development Area mentioned above for the benefit and use of the members of the Corporation subject to such restraints or suspensions of use and voting rights of members as are provided herein and in the By-Laws.
- (b) To own, purchase, manage, maintain, repair and replace any or all of the equipment, facilities, and buildings used in connection with the operation of the swimming pool*.
- (c) To establish an orderly and efficient system of billing to pay for the expenses incurred in the furtherance of the aforesaid purposes.
- (d) To promulgate such rules and regulations and perform such deeds as are deemed necessary to achieve the aforesaid objectives.

All of said purposes to be without pecuniary profit to any director or member of the Corporation.

ARTICLE II

OFFICE AND DURATION

Section 1. The principal office of this Corporation shall be located at _____

Section 2. The duration of this Corporation shall be in perpetuo unless soon terminated according to the terms of these Articles.

* Guide description only; conform to facts.

** The legal description of the entire Development Area, and of the Section on which the facilities are located should be attached at Appendix A.

ARTICLE III

GENERAL POWERS

Section 1. This Corporation shall have the power to own, accept, acquire, mortgage, and dispose of real and personal property, and to obtain, invest and retain funds, in advancing the purposes stated in Article I above.

Section 2. This Corporation shall have the power to do any lawful acts, or things reasonably necessary or desirable for carrying out the Corporation's purposes, and for protecting the lawful rights and interests of its members in connection therewith.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every person or entity who is a record owner of a condominium unit in a condominium property regime located in the Development Area which is subject to covenants of assessment by the Corporation shall be a member of the Corporation. Membership shall be appurtenant to and may not be separated from ownership of any such condominium unit which is subject to assessment by the Corporation.

Section 2. Voting Rights. Each member shall be entitled to one vote for each condominium unit owned. When more than one person holds an interest in any condominium unit, all such persons shall be members. The vote for such condominium unit shall be exercised as they among themselves shall determine, but in no event shall more than one vote be cast with respect to any condominium unit.

ARTICLE V

BOARD OF DIRECTORS

Except as provided herein, the affairs of this Corporation shall be managed by a Board of Nine (9) Directors who must be members of the Corporation. The number of Directors may be changed by amendment of the by-laws of the Corporation.

Until such time as a Board of Directors shall be elected according to the provisions contained in the by-laws, the affairs of the Corporation shall be governed by an Interim Board of Directors, who need not be members of the Corporation, composed of the following three (3) persons:

Except as otherwise provided, the Interim Board of Directors shall have the same powers and duties enumerated in these articles and in the by-laws for the elected Board of Directors.

ARTICLE VI

ASSESSMENTS

Section 1. Each member for each condominium unit owned shall pay to the Corporation an annual assessment

equal to 1/ ()* of the total sum necessary to provide for the insurance, reserve fund for replacements, maintenance and operation of the swimming pool** and its facilities. For so long as there are less than _____* condominium units built on the Development Area the balance of said total sum not covered by the assessment against the members shall be assessed by the Corporation against, and be payable by, the Grantor to the Corporation.

Section 2. The amount of assessment against each member, and if any, against the Grantor, as provided for in Section 1 shall be assessed by the Corporation as a lien at the beginning of each annual assessment period. Each assessment shall be due and payable within thirty (30) days of assessment; and upon default of payment within such period of time, shall be a lien against each condominium unit owned by the defaulting member and against that Part of the Development Area, if any, owned by the defaulting Grantor, and the Corporation shall be entitled to enforce the payment of said lien according to the laws of the State of _____ and to take any other actions for collection from the defaulting parties. Any such lien against a condominium unit or against the Part of the Development Area, if any, owned by the Grantor shall be subordinate to any recorded first mortgage or first Deed of Trust covering such condominium unit, or, as the case may be, covering the Part of Development Area, if any, owned by the Grantor.

Section 3. In addition to the annual assessments authorized above, the Corporation may levy in any assessment year, special assessments for the purpose of defraying, in whole or in part, (a) the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, or (b) the expense of any other contingencies; provided that any such assessments shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4. Each member for each condominium unit owned shall pay to the Corporation a special assessment equal to 1/ ()* of the total sum approved by the Corporation to meet the costs and expenses as provided in Section 3 hereof. For so long as there are less than _____* condominium units built on the Development Area, the balance of any such total sum not covered by the special assessment against the members shall be assessed by the Corporation against, and be payable by, the Grantor to the Corporation.

Section 5. The amount of the special assessment provided for in Sections 3 and 4 shall be assessed as a lien by the Corporation. Each such assessment shall be due and payable within thirty (30) days of assessment, and upon default of payment within such period of time, shall be a lien against each condominium unit owned by the defaulting member and against that Part of the Development Area, if any, owned by the defaulting Grantor, and the Corporation shall be entitled to enforce the payment of said lien according to the laws of the State of _____ and to take any other actions for collection from the defaulting parties. Any such lien against a condominium unit or against the Part of the Development Area, if any, owned by the Grantor.

Section 6. Both annual and special assessments may be collected on a monthly basis.

ARTICLE VII

PERMIT USERS

After the first annual meeting any elected Board of Directors, at their discretion, may from time to time issue permits to persons residing outside the condominium regimes located in the Development Area. Such permit holders may use the swimming pool** and facilities subject to such fees, rules and regulations and cancellation terms as promulgated by the Board of Directors. The Interim Board of Directors may not issue such permits.

* Insert total number of condominium units planned for all sections of the Development Area.

** Guide description only; conform to facts.

ARTICLE VIII

RESERVE FOR REPLACEMENTS

The Corporation shall establish and maintain a reserve fund for replacements by the allocation and payment annually to such reserve fund in such amounts as are established by the Board of Directors. Such fund shall be deposited in a special account with a safe and responsible depository and may be in the form of a cash deposit or invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve fund is for the purpose of effecting replacements for structural elements and mechanical equipment of the recreational facilities owned by the Corporation and for such other purposes as may be determined by the Board of Directors.

ARTICLE IX

INSURANCE

The Corporation shall keep the improvements now existing or hereafter erected on the property of the Corporation insured against loss by fire and other hazards. Such insurance shall be evidenced by standard Fire and Extended Coverage Insurance policy or policies in an amount not less than 80% of the insurable value of the improvements.

ARTICLE X

DISSOLUTION

The Corporation may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the members. Upon dissolution of the Corporation, other than incident to a merger or consolidation, the assets of the Corporation shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Corporation was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE XI

AMENDMENTS

Amendment of these Articles shall require the assent of 75 percent (75%) of the entire membership.

ARTICLE XII

LIMITATIONS ON ACTIONS - HUD

So long as a contract of mortgage insurance continues in effect with respect to a unit or property located on the Development Area, and during such further period of time as the Secretary of Housing & Urban Development shall be the owner of such unit or holder, or re-insurer of any such mortgage, or during any such time the Secretary is obligated to insure a mortgage on any such unit or property, the following actions of the Board of Directors shall require the prior written approval of the Secretary:

- (1) failing to allocate a minimum amount equal to \$ _____ annually for monthly payment to the reserve fund for replacements (amount to be approved by HUD),
- (2) make disbursements from the reserve fund for replacements,

*This amount must be approved by HUD.

4

- (3) annexation of additional properties, mergers and consolidations,
- (4) leasing, mortgaging, or selling of any real or personal property of the Corporation,
- (5) execution of management contract,
- (6) dedication of any such property,
- (7) dissolution of the Corporation, and
- (8) amendment of the Articles and by-laws of this Corporation.

ARTICLE XIII

DEFINITIONS

As used in these Articles -

"Unit" or "condominium unit" shall mean a condominium unit in a condominium regime approved by the Secretary of Housing & Urban Development which is located in the Development Area.

"Grantor" shall mean any owner or owners of a Part of the Development Area.

"Part of the Development Area" shall mean any part of the Development Area on which a condominium regime approved by the Secretary of Housing and Urban Development has not been established.

"Secretary of Housing & Urban Development" shall mean the Secretary or his duly appointed representative.

(Execution and Acknowledgement in accordance with Regulations of Jurisdiction)