

Land Dept. File
Project: Heritage
File: 75
Date: 7.18.01
Copies To: Pari Green
File

**BYLAWS OF
HERITAGE PARK AT COOPER COMMONS
HOMEOWNERS' ASSOCIATION, INC.**

ARTICLE I.

NAME AND LOCATION

The name of the corporation is HERITAGE PARK AT COOPER COMMONS HOMEOWNERS' ASSOCIATION, INC., hereinafter referred to as the "Sub-Association." The principal office of the corporation shall be located at the offices of **Centex** Homes, 4711 North 12th Street, Phoenix, Arizona, but meetings of members and directors may be held at such places within the State of Arizona, as may be designated by the Board of Directors.

ARTICLE II.

DEFINITIONS

SECTION 1. "Sub-Association" shall mean and refer to HERITAGE PARK AT COOPER COMMONS HOMEOWNERS' ASSOCIATION, INC., an Arizona nonprofit corporation, its successors and assigns.

SECTION 2. "Developer" shall mean and refer to **Centex** Homes, a Nevada general partnership, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Developer for the purpose of development and to whom the rights and responsibilities of the Developer shall be assigned pursuant to a recorded instrument.

SECTION 3. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of Heritage Park with the exception of the Common Area.

SECTION 4. "Member" shall mean and refer to those persons entitled to membership in the Sub-Association as provided in the Supplemental Declaration.

SECTION 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 6. "Property" shall mean and refer to that certain real property described in the Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Cooper Commons Parcel 8 (Heritage Park).

SECTION 7. "Special Use Fee Tracts" shall mean all real property, including improvements thereon, owned by the Master Association, managed, maintained, operated, repaired and replaced by the Sub-Association, for the common use and enjoyment of the Owners within Heritage Park at

Cooper Commons, such use to be defined by such Rules and Regulations as issued by the Sub-Association Board of Directors. The Special Use Fee Tracts to be owned by the Master Association is defined as follows:

Tracts T-2 through T-5, inclusive, T-7, T-8, T-10 through T-56, inclusive, T-58, T-60, T-63 through T-65, inclusive, and T-67 through T-82, inclusive, of Cooper Commons Parcel 8, according to the plat of record thereof, recorded on August 29, 1997, in Book 448 of Maps, on Page 44 thereof, and at Instrument No. 97-0601166, Official Records of Maricopa County, Arizona.

SECTION 8. "Supplemental Declaration" shall mean and refer to the Supplemental Declaration of Covenants, Conditions, Restrictions and Easements for Cooper Commons Parcel 8 (Heritage Park), applicable to the Property recorded in the Office of the Maricopa County Recorder.

ARTICLE III.

MEETINGS OF MEMBERS

SECTION 1. ANNUAL MEETING. The first annual meeting of the Members shall be held within one (1) year **from** the date of incorporation of the Sub-Association, and each subsequent regular annual meeting of the members shall be held at least once each year at such date, time and place as is determined by the Sub-Association Board.

SECTION 2. SPECIAL MEETINGS. Special meetings of the Members may be called at any time by the president or by the Sub-Association Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the authorized votes of the Sub-Association.

SECTION 3. NOTICE OF MEETINGS. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than fifteen (15) days nor more **than fifty** (50) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Sub-Association, or supplied by such Member to the Sub-Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and in the case of a special meeting, the purpose of the meeting. When a meeting is adjourned to another date, time, or place, a notice of the new date, time or place is not required if the new date, **time** or place is announced at the meeting before adjournment. At the adjourned meeting, the Sub-Association may transact any business which might have been transacted at the original meeting. In addition, a Member's attendance at a meeting waives objection to the lack of notice or defective notice of **the** meeting, unless the Member at the beginning of the meeting objects to holding the meeting and transacting business in the meeting. In addition, a Member's attendance at a meeting waives objection to consideration of a particular matter at the meeting that is not within the purpose of purposes described in the meeting notice, unless the Member objects to considering the matter at the time it is presented.

SECTION 4. QUORUM. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of Membership shall constitute a quorum for any action except as otherwise provided in the Sub-Association Articles of Incorporation, the Supplemental Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting **from** time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

SECTION 5. PROXIES. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary before or at the time of the meeting. The proxies shall be counted for purposes of determining whether a quorum is present, and may be voted by the holder of the proxy with respect to any business that may come before the meeting for which the proxy is filed. No proxy shall be valid after eleven (11) months **from** the date of its execution, unless otherwise provided in the proxy. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member **of his** Lot. A revocable proxy shall be terminated by the Member's subsequent filing of another proxy or the Member's filing of a written notice of termination of the proxy prior to the meeting. The death or incapacity of the Member who appoints a proxy shall not affect the right of the Sub-Association to accept the proxy's authority unless the Secretary or other **officer** or agent authorized to tabulate votes receives written notice of the death or incapacity before the proxy exercises authority under the appointment.

SECTION 6. RECORD DATE. For any meeting of the Members, the Board shall fix a date as the record date for determining the Members entitled to notice of the meeting. If the Sub-Association Board fails to fix a record date for any meeting of the Members, the record date for determining the Members entitled to notice of the meeting shall be the business day before the day on which the notice of the meeting is given. The Sub-Association Board shall also fix a date as the record date for determining the Members entitled to vote at a meeting of the Members. If the Sub-Association Board fails to fix such record date, the Members on the date of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

ARTICLE IV.

BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

SECTION 1. **NUMBER.** The affairs of this Sub-Association shall be managed by a Board of not less than three (3) nor more than five (5) directors, who need not be Members of the Sub-Association.

SECTION 2. TERM OF OFFICE. The initial members of the Sub-Association Board and each Sub-Association Board thereafter for so long as there is a Class B Member, shall consist of three (3) persons. Commencing with the first annual meeting of the Members when there is no longer a Class B Member, the Members shall elect one (1) director for a term of one (1) year, two (2) directors for a term of two (2) years, and for Sub-Association Boards of four (4) or five (5) directors one (1), or two (2) directors for a term of three (3) years (as decided by the highest amount of votes); and at each annual meeting thereafter, the members shall elect a director or directors, as

the case may be, for a **term** of three (3) years to replace the outgoing director or directors as the case may be.

SECTION 3. REMOVAL. Except for so long as there is a Class B Member, any director may be removed **from** the Sub-Association Board, with or without cause, by a majority vote of the Members of the Sub-Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining Members of the Sub-Association Board and shall serve for the unexpired term of his predecessor.

SECTION 4. COMPENSATION. No director shall receive compensation for any service he may render to the Sub-Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

SECTION 5. MEETINGS. All meetings of the Sub-Association and the Sub-Association Board of Directors are open to all Members of the Sub-Association and all Members so desiring shall be permitted to attend and listen to the deliberations and proceedings; provided, however, that for regular and special meetings of the Sub-Association Board, Members who are not directors may not participate in any deliberation or discussion unless expressly so authorized by a vote of the majority of a quorum of the Sub-Association Board, except that any portion of a meeting may be closed only if the portion of the meeting is limited to consideration of any of the following: (i) employment or personnel matters for employees of the Sub-Association Board or the Sub-Association; (ii) legal advice from an attorney for the Sub-Association Board or the Sub-Association; pending or contemplated litigation; or (iv) pending or contemplated matters relating to the enforcement of the Sub-Association's Supplemental Declaration or rules.

SECTION 6. ACTION TAKEN WITHOUT A MEETING. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V.

NOMINATION AND ELECTION OF DIRECTORS

SECTION 1. ELECTION. Election to the Board of Sub-Association Directors shall be by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Supplemental Declaration. The persons receiving the largest number of votes shall be elected.

ARTICLE VI.

MEETINGS OF DIRECTORS

SECTION 1. REGULAR MEETINGS. Regular meetings of the Sub-Association Board of Directors shall be held at such place and hour as may be fixed **from** time to time by resolution of

the Sub-Association Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

SECTION 2. SPECIAL MEETINGS. Special meetings of the Sub-Association Board of Directors shall be held when called by the president of the Sub-Association, or by any **two** (2) directors, after not less than three (3) days' notice to each director.

SECTION 3. QUORUM. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a **quorum** is present shall be regarded as the act of the **Sub-Association Board**.

ARTICLE VII.

POWERS AND DUTIES OF THE SUB-ASSOCIATION BOARD OF DIRECTORS

SECTION 1. POWERS. The Sub-Association Board of Directors shall have the power to:

- (a) adopt and publish rules and regulations governing the use ~~of the~~ Special Use Fee Tracts and the personal conduct of the Members and their ~~guests~~ thereon, and to establish penalties for the **infraction** hereof;
- (b) suspend use of common facilities or suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Sub-Association. Such rights may also be suspended **after** notice and hearing, for a period not to exceed sixty (60) days for infraction of published **rules** and regulations;
- (c) exercise for the Sub-Association all powers, duties and authority vested in or delegated to this Sub-Association and not reserved to the membership by other provisions of these Bylaws, the Sub-Association Articles of Incorporation, or the Supplemental Declaration;
- (d) declare the **office** of a member of the Sub-Association Board of Directors to be vacant in the event such member shall be absent **from** three (3) consecutive regular meetings ~~of the~~ Sub-Association Board of Directors; and
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

SECTION 2. DUTIES. It shall be the duty of the Sub-Association Board of Directors to:

- (a) cause to be kept a complete record of all its acts and corporate **affairs** and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;

- (b) supervise all officers, agents and employees of this Sub-Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Supplemerital Declaration, to:
 - (1) ~~fix~~ the amount of the Special Use Fee or annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
 - (2) send written notice of each Special Use Fee or assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
 - (3) foreclose the lien against any property for which Special Use Fees or assessments are not paid within thirty (30) days **after** due date or to bring an action at law against the owner personally obligated to pay the same or to take such action as the Sub-Association Board deems necessary and appropriate under the circumstances to collect unpaid Special Use Fees or assessments.
- (d) issue, or to cause an appropriate officer or agent to issue, **upon**^{*} demand by any person, a certificate setting forth whether or not any Special Use Fee or assessment has been paid. A reasonable charge may be made by the Sub-Association Board for the issuance of these certificates. If a certificate states a Special Use Fee or assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) procure and maintain adequate liability and hazard insurance on property owned by the Sub-Association;
- (f) cause all **officers** or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and
- (g) cause the Special Use Fee Tracts and any additional maintenance areas to be maintained.

ARTICLE VIII.

OFFICERS AND ~~THEIR~~ DUTIES

SECTION 1. ENUMERATION OF OFFICES. The officers of this Sub-Association shall be a president **and** vice-president, who shall at all times be members of the Sub-Association Board of Directors, a secretary, and a treasurer, and such other **officers** as the Sub-Association Board may **from** time to **time** by resolution create.

SECTION 2. ELECTION OF OFFICERS. The election of **officers** shall take place at the first meeting of the Sub-Association Board of Directors following each annual meeting of the Members.

SECTION 3. **TERM.** The **officers** of this Sub-Association shall be elected annually by the Sub-Association Board and each shall hold **office** for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

SECTION 4. SPECIAL APPOINTMENTS. The Sub-Association Board may elect such other officers as the affairs of the Sub-Association may require, each of which shall hold **office** for such period, have such authority, and perform such duties as the Sub-Association Board may, **from** time to time, determine.

SECTION 5. RESIGNATION AND REMOVAL. Any officer may be removed **from** office with or without cause by the Sub-Association Board. Any officer may resign at any time giving written notice to the Sub-Association Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6. VACANCIES. A vacancy in any office may be filled by **appointment** by the Sub-Association Board. The officer appointed to such vacancy shall serve for the remainder of the term of the **officer** he replaces.

SECTION 7. MULTIPLE OFFICES. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

SECTION 8. DUTIES. The duties of the officers are as follows:

PRESIDENT

The president shall preside at all meetings of the Sub-Association Board of Directors; shall see that orders and **resolutions** of the Sub-Association Board are **carried** out; shall sign all leases, mortgages, deeds, promissory notes and other written instruments and shall co-sign all checks.

VICE-PRESIDENT

The vice-president shall act in the place and stead of the president in the event **of his** absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Sub-Association Board.

SECRETARY

The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Sub-Association Board and of the Members; keep the corporate seal of the Sub-Association and **affix** it on all papers requiring said seal; serve notice of meetings of the Sub-Association Board and of the Members; keep appropriate current records showing the Members of the Sub-Association together with their addresses, and shall perform such other duties as required by the Sub-Association Board.

TREASURER

The treasurer may receive and deposit in appropriate bank accounts all monies of the Sub-Association and may disburse such funds as directed by resolution of the Sub-Association Board of Directors; may sign all checks and promissory notes of the Sub-Association; keep proper books of account; cause an annual audit of the Sub-Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE IX.

COMMITTEES

The Sub-Association may appoint committees as deemed appropriate in carrying out its purpose.

ARTICLE X.

BOOKS AND RECORDS

The books, records and papers of the Sub-Association shall at all times, during reasonable business hours, be subject to inspection by any Member or his authorized agent. The Supplemental Declaration, the Sub-Association Articles of Incorporation and the Bylaws of the Sub-Association shall be **available** for inspection by any Member at the principal office of the Sub-Association, where copies may be purchased at reasonable cost.

ARTICLE XI.

SPECIAL USE FEES OR ASSESSMENTS

As more **fully** provided in the Supplemental Declaration, each Member is obligated to pay to the Sub-Association Special Use Fees, annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any Special Use Fees or assessments which are not paid on the date due shall be delinquent. If the Special Use Fee or assessment is not paid when due, the unpaid Special Use Fee or assessment shall bear a late charge as outlined in the Master Declaration and the Supplemental Declaration and the Sub-Association

may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, collection fees, late charges and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Special Use Fee Tracts or abandonment of his Lot.

ARTICLE XII.

CORPORATE SEAL

The Sub-Association may, but need not have a seal in circular form having within its circumference the words: HERITAGE PARK AT COOPER COMMONS HOMEOWNERS' ASSOCIATION INCORPORATED ARIZONA 2001.

ARTICLE XIII.

AMENDMENTS

SECTION 1. AMENDMENTS. These Sub-Association Bylaws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership if such agencies have been involved in the making, insuring or guaranteeing of any mortgage loan within the Property.

SECTION 2. COOPER COMMONS DOCUMENTS. In the event there is a conflict between or among the Cooper Commons Documents, the Supplemental Declaration, the Articles or these Bylaws, the most restrictive provision shall apply unless such interpretation is clearly contrary to the meaning and intent of the Cooper Commons Documents. In the event of a conflict, the provisions of the various documents shall prevail in the following order: (i) Cooper Commons Documents; (ii) the Supplemental Declaration; (iii) the Articles of Incorporation of the Heritage Park at Cooper Commons Homeowners' Association, Inc.; (iv) the Bylaws of Heritage Park at Cooper Commons Homeowners' Association, Inc., and (v) the Heritage Park Association Rules.

ARTICLE XIV.

MISCELLANEOUS

The fiscal year of the Sub-Associations shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of the HERITAGE PARK AT COOPER COMMONS HOMEOWNERS' ASSOCIATION, INC., an Arizona corporation; and,

That the foregoing Bylaws constitute the original Bylaws of said Sub-Association, as duly adopted at a meeting of the Sub-Association Board of Directors thereof, held on the ____ day of _____, 2001.

IN WITNESS WHEREOF, I have hereunto subscribed my name and **affixed** the seal of the said Sub-Association this ____ day of _____, 2001.



James Ratkovic, Secretary/Treasurer