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BYLAWS

OF

PERSIMMON COUNTRY CLUB COMMUNITY

HOMEOWNERS ASSOCIATION

ARTICLE I

LOCATION, PURPOSE AND DEFINITIONS

1.1 Location. ~~These are the Bylaws of the Persimmon~~ Country Club Community Homeowners Association, an Oregon non-profit corporation ("Association"). Persimmon Country Club Community ("Community") is a residential area located in Gresham, Multnomah County, Oregon, and is subject to the Declaration of Covenants, Conditions and Restrictions recorded April 23, 1993, in the records of Multnomah County, Oregon ("Declaration") with respect to such property.

1.2 Purpose. The Association is formed to serve as the means through which the owners of property within the Community may take action with regard to administration, management, operation and control of such property as well as certain common areas and common interests with respect thereto. The Association, all owners of property within the Community, and all persons using such property shall be subject to these Bylaws and to all rules and regulations which may be promulgated hereunder.

1.3 Definitions. In addition to other definitions set forth in these Bylaws and the Declaration, the following words and terms when used herein shall have the following meanings:

a. "Properties" shall mean the property which is subject to the Declaration and such additions thereto as may later be brought within the jurisdiction of the Association.

b. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners and Unit Owners. ~~The Common Area to be owned by the Association~~ at the time of conveyance of the first Lot is deemed to include tracts A, B, C and D of Phase I as shown on the recorded plat thereof. Additional Common Area tracts may be designated by Declarant as plats are recorded for future phases.

c. "Declarant" shall mean CGC, Inc., an Oregon corporation which formed Persimmon Country Club Community, its successors and assigns.

d. "Common Elements" shall mean real property rights and interests held by the Declarant or Association within the Properties other than Common Areas, as to which the Association shall have certain rights and obligations as may be described herein and/or in the Declaration, including but not necessarily limited to the easements described in Section 5 of the Declaration, and also including the right and obligation to plant, maintain and replace trees, shrubs and other landscaping, consistent with the Persimmon Design Handbook and requirements of

the city of Gresham, within the right of way along both sides of Butler Road within the Properties.

e. "Lot" shall mean any plot of land shown on any recorded subdivision map of the Properties with the exception of Common Area and any plot platted for multi-family residences.

f. "Unit" shall mean a single dwelling unit within a multi-family structure within the Properties.

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

h. "Unit Owner" shall mean the record owner, whether one or more persons or entities, of fee simple title to any Unit, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

i. "Member" shall mean every person or entity who holds membership in the Association.

j. "Persimmon Design Committee" or "Committee" shall mean the design committee established by the Declarant to adopt and administer design guidelines for the Community.

k. "Persimmon Design Handbook" or "Handbook" shall mean the handbook of design guidelines adopted by Declarant for Persimmon Country Club Community, as it may be modified from time to time by Declarant or the Association.

1. "Board of Directors" or "Board" shall mean the board of directors of the Association.

## ARTICLE II

### MEMBERSHIP AND VOTING

2.1 Membership. Every Owner and Unit Owner and the Declarant shall, during the entire period of ownership of property within the Properties, be a member of the Association. Such membership shall commence, exist and continue simply by virtue of such ownership, shall expire automatically upon termination of such ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.

2.2 Voting Rights. Owners, Unit Owners and the Declarant shall be allocated votes in the affairs of the Association according to the provisions of the Declaration. The Declaration sets forth two classes of membership and voting rights of each as follows:

a. Class A. Class A Members shall be all Owners and Unit Owners, with the exception of Declarant, and shall be entitled to one vote for each Lot and each Unit owned. When more than one person holds an interest in any Lot or Unit, all such persons shall be Members. The vote in such instances shall be exercised as they determine, but in no event shall more than one vote be cast respecting any Lot or Unit.

b. Class B. The Class B Member shall be the Declarant and shall be entitled to three votes for each Lot and each Unit owned. For voting purposes, until such time as additional property is brought within the jurisdiction of the Association as provided herein, there shall be deemed to be a total of 209 Lots within the Properties even though not all such Lots are shown on a recorded plat or subdivision map on the date hereof, provided that such total number of Lots, and thus votes, shall be adjusted ~~as may be required~~ so as to be in accordance with the actual number thereof as plats for future phases are recorded. Declarant shall be accorded votes with respect to Units at such time as any plat identifying such Units may be recorded. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(1) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(2) On December 31, 2003.

**2.3 Proxies.** A vote may be cast in person or by proxy. A proxy shall be in writing, signed by the Member and shall be filed with the Secretary. No proxy shall be valid after the meeting for which it was solicited unless otherwise expressly stated in the proxy, and every proxy shall automatically cease upon sale of the Lot or Unit by its owner.

2.4 Fiduciaries and Joint Owners. A personal representative, guardian, conservator or trustee may vote in person or by proxy at any meeting of the Association with respect to any Lot or Unit owned or held in such capacity, provided that the Secretary shall be satisfied of such fiduciary capacity. Whenever any Lot or Unit is owned by two or more persons jointly according to the records of the Association, the vote of such Lot or Unit may be exercised by any one of the owners in the absence of protest by a co-owner. In the event of such protest, no one co-owner shall be entitled to vote without the approval of all co-owners. In the event of disagreement among the co-owners, the vote of such Lot or Unit shall be disregarded completely with respect to the matter being voted upon. Notice of any meeting may be waived by any owner before or after the meeting.

2.5 Quorum. At any meeting of the Association, 50 percent of the voting rights present in person or by proxy shall constitute a quorum. When a quorum is once present to organize a meeting it cannot be broken by the subsequent withdrawal of any votes by which the quorum was constituted. If any meeting of members cannot be organized because of a lack of quorum, the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present. At such reassembled meeting, so many votes as shall represent at least 33% percent of the total authorized votes of all Members shall constitute a quorum.

2.6 Majority Vote. A majority vote of the voting rights present, in person or by proxy, at a meeting at which a quorum is constituted shall be binding for all purposes except where a higher percentage vote may be required by law, by the Declaration, by the articles of incorporation of the Association or by these Bylaws.

### ARTICLE III

#### ~~ARTICLE III~~ ASSOCIATION MEETINGS

3.1 Place of Meeting. Association meetings shall be held at such suitable place convenient to the Members as may be designated by the Board of Directors from time to time.

3.2 Annual Meetings. The annual meeting of the Association shall be held in the month of May at such hour and on such date as the Board may designate. The initial annual meeting shall be held in May of 1994. The annual meeting shall be for the purpose of electing directors and for the transaction of such other business as may properly come before the meeting.

3.3 Special Meetings. Special meetings of the Association may be called by the President or Secretary or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from holders of at least 30 percent of the votes entitled to be cast stating the purpose of the meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice thereof.

3.4 Notice of Meetings. Notice of all special and annual meetings of the Association, stating the time and place and the purpose for which the meeting is being called, shall be given by the President or Secretary. All notices shall be in writing and delivered or mailed to each Member at the Member's address as it appears on the books of the Association, and to any mortgagee requesting and entitled to such notice, not less than 10 days nor more than 50 days prior to the date of the meeting. When a meeting is adjourned ~~for less than 30 days~~, no notice of the reassembled meeting need be given other than by announcement at the meeting at which such adjournment takes place. Any Member may, in writing, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting by a Member, whether in person or by proxy, shall be deemed waiver by such Member of notice of the time, date, place and purpose thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order.

#### ARTICLE IV

##### BOARD OF DIRECTORS

4.1 Number. The affairs of the Association shall be governed by a Board of Directors composed of up to seven persons.

4.2 Powers. The Board of Directors shall have the powers necessary for the administration of the affairs of the Association and may do all such acts and things as are not by



law, the Declaration, the articles of incorporation of the Association or by these Bylaws directed to be exercised and done by the Declarant, Members, Owners or Unit Owners.

4.3 Duties. In addition to duties imposed by these Bylaws or by resolutions of the Association, the Board of Directors shall have authority to carry out and shall be responsible for the following matters:

- a. Care, upkeep and supervision of the Common Area, Common Elements and any other property held by the Association.
- b. Designation and collection of annual and other assessments from the Members in accordance with these Bylaws and the Declaration, and to select a depository for such funds.
- c. Payment of all common expenses of the Association, and institution and maintenance of a voucher system for payment which shall require such approval and review as may be reasonably necessary to prevent any misuse of the Association's funds.
- d. To designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of Association property.
- e. Promulgation and enforcement of rules and regulations for Members, employees and invitees which shall be consistent with the restrictions set out in the Declaration.
- f. Appointment of appropriate committees and committee members.

4.4 Election and Term of Office. So long as there shall be a Class B member, Declarant shall select, appoint and have the

sole authority to remove members of the Board of Directors. After such time, and no later than the Turnover Meeting hereinafter described, the Board shall consist of not less than three directors, one initially elected to a one-year term, one to a two-year term and one to a three-year term, with successors each elected to three-year terms so that their terms shall be staggered. Directors shall hold office until their respective successors have been elected. Election shall be by plurality. Nominations shall be made by a nominating committee appointed by the President. Nominations may also be made from the floor by a Member. All nominees must have provided the Secretary with a consent in writing to serve as a director in order to become a candidate eligible to be voted upon.

4.5 Vacancies. Vacancies on the Board of Directors shall be filled for the balance of the term of the vacant directorship by vote of a majority of the remaining directors even though they may constitute less than a quorum.

4.6 Removal of Directors. At any duly called annual or special meeting of the Association, any one or more of the directors may be removed, with or without cause, by a majority vote of a quorum of Members, and a successor may be then and there elected to fill the vacancy thus created. Any director whose removal has been proposed by the Members may be given an opportunity to be heard at the meeting.

4.7 Resignation. A director may resign at any time by giving written notice to the Board of Directors, the President or

the Secretary. Unless otherwise specified in the notice, the resignation shall take effect on the day and at the time the notice is received by the Board or such officer. Acceptance of the resignation shall not be necessary to make it effective.

4.8 Meetings. An annual meeting of the Board of Directors shall be held immediately following and at the same place as the annual meeting of Members. Regular meetings may be held at such time and place as shall be determined, from time to time, by the President or a majority of the directors. Special meetings of the Board may be called either by the President in the President's sole discretion, or by the Secretary at the written request of at least two directors. Notice of any special meeting shall be given to each director, personally or by mail, telephone, facsimile or telegraph at least two days prior to the day named for such meeting, and shall state the time, place and purpose of such meeting. All meetings of the Board of Directors shall be open to Members. Emergency meetings may held without notice, and may be conducted by telephonic communication. The reason for any such emergency shall be reported in the minutes of the meeting.

4.9 Quorum. At all meetings of the Board of Directors a majority of the existing directors shall constitute a quorum for the transaction of business, and the acts of the majority of the quorum shall be the acts of the Board. If at any meeting of the Board less than a quorum is present, the majority of those present may adjourn the meeting from time to time. At any such

reassembled meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

4.10 Compensation of Directors. No director shall be compensated in any manner, except for reasonable and appropriate out-of-pocket expenses, unless such compensation is approved by a vote of the Members.

## ARTICLE V

### OFFICERS

5.1 Designation. The officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, each of which shall be elected by the directors, and any two or more of which may be held by the same person. The directors may appoint such other officers as in their judgment may be necessary.

5.2 Election. The officers of the Association shall be elected by the Board of Directors prior to the annual meeting of Members, to take office immediately following such meeting, and to serve through the next annual meeting.

5.3 Removal. Upon an affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause, and his/her successor elected at any regular or special meeting of the Board.

5.4 President. The President shall be the chief executive officer of the Association, shall preside at all meetings of the Association and of the Board of Directors, and shall have all of the general powers and duties which are usually vested in the office of president, including but not limited to the power to appoint committees from among the Members from time to time to assist in the conduct of the affairs of the Association.

5.5 Vice President. In the absence of the President, or in event of the President's inability or refusal to act, the Vice President, if any, shall perform the duties of the President, and when so acting shall have all the powers of and be subject to all of the restrictions upon the President. Any Vice President shall perform such other duties as from time to time may be assigned by the President or by the Board of Directors.

5.6 Secretary. The Secretary shall keep the minutes of all meetings of the Board and of the Association, shall have charge of such books and papers as the Board may direct, and shall, in general, perform all the duties incident to the office of Secretary. The Secretary shall have the responsibilities of the Vice President in the event there is no Vice President or in the event the Vice President is absent or is unable or unwilling to perform the duties of such office.

5.7 Treasurer. The Treasurer shall have responsibility for the Association's funds and securities, and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. The

Treasurer shall also be responsible for the deposit of all monies and negotiable instruments in the name and to the credit of the Association in such depositories as may, from time to time, be designated by the Board.

5.8 Directors as Officers. Any director may be an officer of the Association.

## ARTICLE VI

### ~~ARCHITECTURAL~~ ARCHITECTURAL CONTROL

6.1 Persimmon Design Committee. The Persimmon Design Committee shall consist of five voting members as follows:

- a. An administrator, serving as chair of the Committee, who is a registered architect in Oregon;
- b. Two members at large representing the Declarant;
- c. One member representing the home building community and;
- d. One member who is a qualified landscape designer.

6.2 Selection of Committee. Members of the Persimmon Design Committee shall initially be appointed by Declarant, and Declarant shall continue to appoint such members so long as there is a Class B Member. Thereafter, Committee members shall be selected by the Association, acting through the Board of Directors.

6.3 Purpose. - The purpose of the Committee shall be to provide an administrative body and a mechanism to protect,

enhance and maintain the high quality of improvements and environmental amenities within the Community.

6.4 Controls and Approvals. No building, driveway, fence, wall, swimming pool, rockery, basketball hoop or other structure or landscaping of any type shall be commenced, erected or maintained within the Properties, nor shall any exterior addition, change or alteration to such structure or landscaping be made, until the plans and specifications showing the nature, kind, shape, height, materials, soils tests and location by site plan of the same shall have been submitted to and approved in writing by the Committee as to the quality of workmanship and materials planned, conformity and harmony of external design and location in relation to surrounding structures and topography, building setback restrictions and finish grade elevations, and conformity with the Persimmon Design Handbook established by Declarant and as it may be modified from time to time by Declarant or the Association. All plans shall also comply with all state, county, and/or local regulations. In the event the Committee fails to approve or disapprove such design and location within 30 days after said written plans and specifications have been submitted to it, Committee approval thereof will be deemed to have been given except that any square footage requirements contained in the Declaration or any amendment thereto shall remain applicable. The Committee shall have the right to reject, - for any reason whatsoever, including purely aesthetic grounds, any proposal which it decides is not suitable or desirable. The

decision shall be in writing and if a proposal is not approved, the decision shall include a statement of reasons for the action taken. If the plans and specifications are rejected, the owner shall have the opportunity to resubmit plans. All buildings and other structures must be designed by a registered architect, a professional building designer, or by another qualified person or firm approved or accepted by Declarant, the Association, or the Committee. Any proposed changes or additions to an approved set of architectural plans, site plan or landscaping plan must also be submitted to the Committee for approval as set forth above. All construction, alteration, remodeling or other modification shall be performed only by a pre-approved contractor from a list of contractors selected by Declarant or the Committee.

6.5 Guidelines and Procedure. The Committee shall follow the guidelines and procedures set forth in the Persimmon Design Handbook. All Members and occupants within the Community shall be subject to and comply with the Handbook, including but not limited to the enforcement and compliance procedures set forth therein.

## ARTICLE VII

### TURNOVER OF ADMINISTRATIVE CONTROL

7.1 Transitional Advisory Committee. Unless a Turnover Meeting as defined in the following section has already been held, the Declarant or the Owners and Unit Owners shall form a



transitional advisory committee to provide for the transition of administrative responsibility for the Community from the Declarant to the Association. Not later than the 60th day after Declarant has conveyed Lots and Units representing 50 percent of the votes, Declarant shall call a meeting of Owners and Unit Owners for the purpose of selecting such committee. The committee shall consist of three or more members. The Owners and Unit Owners, other than Declarant, shall select two or more members. The Declarant may select no more than one member. This committee shall have reasonable access to all Association documents. An Owner or Unit Owner may call a meeting to select this committee if Declarant fails to do so.

7.2 Turnover Meeting. Not later than 120 days after Lots and Units representing 75 percent of the votes have been conveyed, Declarant shall call a meeting for the purpose of turning over administrative responsibility for the Community to the Association. Notice shall be given to all Owners as required in Section 3.4 of these Bylaws. If Declarant fails to call such a meeting, the transitional advisory committee or any Owner or Unit Owner may give notice and call the meeting. The Declarant shall turn over responsibility for administration of the Community to the Association at the meeting, together with all of the Association's funds and documents.

## ARTICLE VIII

### BUDGET, EXPENSES AND ASSESSMENTS

8.1 Budget. The Board of Directors shall, from time to time and at least annually, prepare a budget for the Association, estimate the expenses expected to be incurred, and assess the expenses to each Owner and Unit Owner.

8.2 Expenses. Expenses of the Association shall include:

- a. ~~Expenses of administration;~~
- b. Expenses of maintenance, repair and replacement of Common Area and Common Elements;
- c. Cost of insurance and bonds obtained in accordance with these Bylaws;
- d. A general operating reserve;
- e. Reserve for replacements and deferred maintenance as set forth in Section 8.4;
- f. Any deficit arising from Association expenses for any prior period;
- g. Utilities for the Common Area and Common Elements, and other utilities with a common meter or commonly billed, if any;
- h. Any other items properly chargeable as an expense of the Association.

8.3 Assessment. All Owners and Unit Owners shall be obliged to pay the Association expenses assessed to them by the Board of Directors pursuant to these Bylaws and the Declaration.

Assessments may not be waived or avoided due to limited use or nonuse of Common Area or Common Elements. The Board shall assess the expenses from time to time and at least annually, and shall take prompt action to collect from an Owner or Unit Owner any such assessment which remains unpaid for more than 30 days from the date payment is due.

8.4 Reserves. A portion of the assessments collected shall be placed in an account separate from the general operating account of the Association. This separate account is to be used as a reserve account for major maintenance or replacement of the Common Area and Common Elements. The reserve account shall be used only for the purposes outlined in this section; provided, however, that the Board of Directors may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet other temporary expenses which will later be paid from special assessments. The reserve account may be invested by the Board subject to normal prudent investment standards. Assessments paid into the reserve account shall be the property of the Association and are not refundable to sellers of Lots or Units. Sellers may treat their outstanding share of the reserve account as a separate item in any agreement for sale.

8.5 Special Assessments - Capital Improvements. In the case of any duly authorized capital improvement, the Board of Directors may, by resolution, establish separate assessments for the same which may be treated as capital contributions by the Owners and Unit Owners, the proceeds of which shall be used only

for the specific capital improvements described in the resolution.

8.6 Default in Payment of Assessments. If any assessment is not paid when due, it shall become delinquent and shall, together with such interest thereon and costs of collection thereof, become a continuing lien on the Lot or Unit which shall bind such Lot or Unit in the hands of the then Owner or Unit Owner and the heirs, devisees, personal representatives, successors and assigns thereof. If the assessment is not paid within 30 days after the due date, it shall bear interest from such date at the rate of 18 percent per annum or the highest rate permitted by law, whichever is lower. The Association may bring an action at law against the Owner or Unit Owner personally obligated to pay the same, or foreclose the lien against the Lot or Unit, and there shall be added to the assessment and the lien the costs of preparing and filing the lien and complaint, and in the event judgment is obtained it shall include interest on the assessment as provided above and reasonable attorney fees to be fixed by the court, together with the costs of the action.

## ARTICLE IX

### USE AND MAINTENANCE OF PROPERTY

9.1 Maintenance and Repair. Owners and Unit Owners shall be responsible for keeping their property within the Community in good order, condition and repair, and in accordance with all

requirements of the Declaration, these Bylaws and the Handbook. All maintenance, repairs and replacements to the Common Area and Common Elements shall be made by the Association and shall be assessed to all the Owners and Unit Owners. Any damage caused by an Owner or Unit Owner to the Common Area or Common Elements shall be charged to such Owner as an additional assessment.

9.2 Association Rules and Regulations. In addition to the provisions of the Declaration, these Bylaws and the Handbook, the Board of Directors, ~~from time to time,~~ may recommend the adoption, modification or revocation of rules and regulations governing the conduct of persons and the operation and use of property as it may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Community. Such recommendation shall become effective and binding upon approval by a majority vote of Members present, in person or by proxy, at any duly constituted meeting, the notice of which shall have stated that such adoption, modification or revocation will be under consideration.

9.3 Abatement and Enjoining of Violations. The violation of any rule or regulation adopted pursuant to these Bylaws or of the Handbook, or the breach of any Bylaw contained herein or of any provision of the Declaration, shall give the Board of Directors, acting on behalf of the Association, the right, in addition to any other rights set forth in these Bylaws and to all other rights in law or in equity, to:

a. Enter upon the property in which or as to which such violation exists and to summarily abate and remove, at the expense of the owner, any structure, thing or condition that may there exist contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty of any manner of trespass;

b. Enjoin, abate, or remedy such thing or condition by appropriate legal proceedings; and

c. ~~Levy reasonable fines with~~ respect thereto after giving notice and an opportunity to be heard. Such fines shall be treated and enforced as an assessment against the owner and property in question.

## ARTICLE X

### INSURANCE

The Board of Directors shall obtain and maintain the following insurance:

a. Property insurance covering loss or damage from occurrences including, but not limited to, fire, vandalism and malicious mischief with extended coverage endorsement, and such other coverages which the Board may deem desirable, for not less than the full insurable replacement value of the Common Area and the Association's interest in the Common Elements.

b. Public liability insurance covering all Common Areas and Common Elements and all damage or injury caused by the

negligence of the Association or the Board, specifying both the Association and the Board as named insureds. Owners and Unit Owners shall carry fire and extended coverage insurance on their own property, and shall carry their own personal liability insurance.

#### ARTICLE XI CONDEMNATION

The Board of Directors shall have the sole authority to negotiate with any public or private body or person having the power of eminent domain, and to sue or defend in any litigation involving such bodies or persons with respect to the Common Area or Common Elements.

#### ARTICLE XII AMENDMENT

Amendments to the Bylaws shall be proposed by either a majority of the Board of Directors or by Members holding 30 percent of the voting rights. The proposed amendment must be reduced to writing and included in the notice of any meeting at which action is to be taken thereon. A vote of a majority of the voting rights, in person or by proxy, at a duly constituted meeting shall be required to adopt any amendment.

## ARTICLE XIII

### RECORDS

13.1 General Records. The Board of Directors or its designee shall keep detailed records of the actions of the Board, minutes of the meetings of the Board and minutes of the meetings of the Association. The Board of Directors shall maintain a minute book containing the minutes of the Board and of the Association, and also the rules, regulations, and policies adopted by the Association and the Board.

13.2 Financial Records. The Board of Directors or its designee shall keep financial records sufficiently detailed for proper accounting purposes. An annual report of the receipts and expenditures of the Association and a balance sheet showing assets and liabilities shall be rendered by the Board of Directors to all Members and, upon written request, to any mortgagee within 90 days after the end of each fiscal year.

13.3 Inspection of Records. All records of the Association shall be reasonably available for examination by any Member. At the Member's own expense, any Member may request in writing a copy of any such records from the Association.



## ARTICLE IX

### GENERAL

14.1 Notices. All notices required or permitted hereunder to the Association or the Board of Directors shall be delivered in writing or mailed to the principal office of the Association or to such other address as the Board may designate by proper notice from time to time. All notices to any Member shall be delivered in writing or mailed to the Member's address within the Community, or to such other address as may be designated by the Member by proper notice from time to time.

14.2 Nonwaiver. No restriction, condition, obligation or provision contained in these Bylaws or rules and regulations adopted pursuant hereto shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

14.3 Action Without a Meeting. Any action which the Declaration or these Bylaws require or permit the Members or the Board to take at a meeting may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Members or directors entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote, shall be filed in the minute book of the Association. Anything in this section to the contrary notwithstanding, the President and/or Board shall have power and authority to act in good faith in the best interests of the

Association in an emergency without a meeting and without such unanimous written consent.

14.4 Invalidity; Number; Captions. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the balance. As used herein, the singular shall include the plural and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of these Bylaws.

14.5 Conflicts. These Bylaws are intended to comply with the Declaration. In case of any conflict, the Declaration shall control over these Bylaws or any rules and regulations adopted hereunder.

IN WITNESS WHEREOF, we have subscribed our names this  
24<sup>TH</sup> day of April, 1993.

Nioshi Mochan

Edna Benli

*Presented 5/20/98*

AMENDMENT TO BYLAWS  
OF  
PERSIMMON COUNTRY CLUB COMMUNITY  
HOMEOWNERS ASSOCIATION

RESOLVED, that the Bylaws of Persimmon Country Club Community Homeowners Association shall be, and are hereby, amended as follows:

The following definition is added to  
Section 1.3:

n. "Masters Collection Lot"  
shall mean any Lot as to which  
control of regularly scheduled  
maintenance of landscaping and of  
the irrigation system (but not any  
maintenance of the structure), is  
reserved to Declarant and the  
Association. A Masters Collection  
Lot shall be designated as such by  
Declarant no later than the time it  
is conveyed by Declarant.

The following is added to  
Article VIII:

8.8 Masters Collection Assessment. In  
addition to any assessment discussed above in  
Sections 8.1 through 8.6 of this Article  
VIII, each Masters Collection Lot Owner shall  
be obliged to pay the Association expenses  
assessed to them by the Board of Directors to  
cover the expense of regularly scheduled  
maintenance of the landscaping and of the  
irrigation system for such Lot. The  
performance of such maintenance shall be the  
sole responsibility and prerogative of the  
Association, its employees, agents and

contractors, which shall have a perpetual easement on, over, across and under each Masters Collection Lot and improvement thereon for such purpose. The Board shall assess these expenses from time to time and at least annually, and shall take prompt action to collect any such assessment which remains unpaid for more than 30 days from the date payment is due. A committee comprised of not less than three members selected by Masters Collection Lot Owners ("Masters Collection Budget Advisory Committee") shall provide an annual recommended budget and assessment to the Board for its consideration in setting the Masters Collection Assessment. Whether or not such recommendation is provided, the Masters Collection Assessment shall be determined in the sole discretion of the Board. This assessment shall not be levied against a Masters Collection Lot until such time as city occupancy approval is issued with respect to such Lot, and shall be prorated from such time through the end of the calendar year in which the approval is issued.

Adopted: October \_\_\_, 1998.

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(Officer)

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AMENDMENT TO BYLAWS  
OF  
PERSIMMON COUNTRY CLUB COMMUNITY  
HOMEOWNERS ASSOCIATION

RESOLVED, that the Bylaws of Persimmon Country Club Community Homeowners Association shall be, and are hereby, amended as follows:

The following definition is added to Section 1.3:

m. "Villa Lot" shall mean any Lot as to which control of exterior painting, of maintenance, repair and replacement of siding, roof, gutters and downspouts, and of regularly scheduled landscape and irrigation system maintenance, is reserved to Declarant and the Association. A Villa Lot shall be designated as such by Declarant no later than the time it is conveyed by Declarant.

The following is added to Article VIII:

8.7 Villa Committee. A committee comprised of not less than three members shall be selected by the Villa Lot Owners to act as the "Villa Committee." The Villa Committee shall advise and assist the Board in administering the Board's responsibility and authority set forth in the Declaration to control the exterior painting, maintenance, repair and replacement of siding, roof, gutters and downspouts, and regularly scheduled landscape and irrigation system maintenance of the Villa Lots. In fulfilling this function, the Villa Committee shall recommend to the Board from time to time, and at least annually: (1) a regular, monthly landscape and irrigation system maintenance program including levels of service and cost; (2) a long-term maintenance program for the building components which are the responsibility of the Association as set forth in the Declaration, as well as the reserve requirements to fund such work in the future; and (3) the amount to be assessed to each Villa Lot Owner to properly fund items (1) and (2) above annually. The Villa Committee may include in its submissions a definition of the scope of work, competitive bids for completion of the work, and any other relevant material. Final decision as to the amount of the Villa assessment ("Villa Assessment"), and performance of the painting, maintenance, repair and replacement discussed in this Section 8.7, shall be that of the Board. The Villa Assessment shall be in addition to any assessment discussed above in this Article VIII. The Board shall assess the Villa Assessment from time to time, and at least annually, and shall take prompt action to collect any such assessment which remains unpaid for more than 30 days after payment is due. The Villa Assessment shall not be levied against any Villa Lot until such time as city occupancy approval is issued with respect thereto, and shall be prorated from such time through the end of the calendar year in which the approval is issued.

Adopted \_\_\_\_\_, 199\_\_.

\_\_\_\_\_  
(Officer)

JAN 31 2003

RECEIVED

January 30, 2003

Mike Fisher  
UPDATE MANAGEMENT  
147 SE 102<sup>nd</sup> Avenue  
Portland OR 97216

**Re: Persimmon Country Club Homeowners Association / Turnover**

Dear Mike:

It was nice to speak with you regarding the status of pending matters at Persimmon. Per your request, I will change our records to reflect you as the contact person for the Association, at your business address. You requested a letter confirming our discussion regarding turnover and the termination of the Class B membership at Persimmon.

Consistent with widespread practice in comparable homeowner associations, the Persimmon Declaration and Bylaws provide that initially there are two classes of membership. Class A members are all property owners other than the developer, and they enjoy one (1) vote per lot on Association matters, and the Class B members, the developer (Declarant), who enjoys three (3) votes for each lot owned by the developer. The documents call for the termination of the Class B membership upon the earlier of December 31, 2003, or the date on which the number of Class A votes exceeds the number of Class B votes. The documents permit the developer to annex additional phases to Persimmon, which would increase the total number of votes, but the documents provide that until such future phases are platted, the Association shall be deemed to consist of a total of 209 lots.

The developer has sold 157 lots in Persimmon, and has not yet platted additional stages. Accordingly, the number of Class A votes now exceeds the number of Class B votes by one (157 to 156). The deemed total of 209 lots minus the 157 sold lots yields a total of 52 lots retained by the developer, which, multiplied by three, yields 156 Class B votes. There is language in the documents that calls for the developer to receive additional votes as and when future stages are actually platted, annexing additional lots to Persimmon. Although there is some ambiguity in the documents about whether additional lots annexed after the Class B membership has terminated might somehow resurrect the Class B membership, I understand that the developer's representative stated clearly at the last Board meeting that it was the developer's position and understanding that once the Class B membership terminated, it terminated permanently and could not be resurrected.

It is also my understanding that the developer has welcomed the transition of control from Declarant to individual unit owners, so much so that there has already been a Board election of new Directors from among the owners, and that the owner-elected Board has control

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Mike Fisher  
January 30, 2003  
Page 2

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of Association funds, checkbooks, documents, etc. I also understand the Association has already received all of the documents and materials (e.g., insurance policies, minute book, etc.).

With this background information, it appears to me that no purpose would be served by calling a formal turnover meeting. The purpose of a turnover meeting is for the developer-appointed Board to resign, for independent directors to be elected from among the owners, and for the developer to turn over documents and information to the new Board. Since all of that has occurred, I am not sure there is any remaining purpose to be served by holding a turnover meeting.

In addition, I am not sure there is any additional legal work required with respect to the conversion of the Class B membership to Class A membership. The way the documents are drafted, the expiration of the Class B membership occurs automatically when the requisite number of lots has been sold. Since that has occurred, and since the developer's representative has acknowledged in an open Board meeting that it has occurred, I would simply make sure that the minutes of that Board meeting fully reflect the statements of the developer's representative, the conversion of the Class B membership to Class A, and that they document the fact that the functions of a turnover meeting have already been already been performed, so that no formal meeting is required.

Please give me a call if you have any further questions.

Very truly yours,



P. Stephen Russell III, P.C.

/jlw