

**BY-LAWS
OF
McCLEARY LOFTS CONDOMINIUM HOMEOWNERS' ASSOCIATION**

**ARTICLE I
NAME AND LOCATION**

The name of this nonprofit corporation is the McCleary Lofts Condominium Homeowners' Association (hereinafter called the "Association"). The initial principal office of the Association shall be located 4735 Butler Street, Pittsburgh, PA 15201, but meetings of Association members and members of the Executive Board may be held at such other places as may be designated by the Executive Board.

**ARTICLE II
DEFINITIONS**

Unless the context clearly indicates otherwise, the words and phrases used herein have the same meaning as the identical words and phrases have in the Declaration of Condominium for the McCleary Lofts Condominiums, as the same may be amended and recorded with respect to the Property known as the "McCleary Lofts Condominiums" located in the 10th Ward, City of Pittsburgh, Allegheny County, Pennsylvania, (hereinafter referred to as the "Declaration").

**ARTICLE III
MEMBERSHIP**

The members shall consist of all the Unit Owners of the McCleary Lofts Condominiums. Membership shall be appurtenant to and may not be separated from ownership of any Unit.

**ARTICLE IV
MEETING OF MEMBERS**

SECTION 4.1 ANNUAL MEETINGS. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at 7:00 P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

SECTION 4.2 SPECIAL MEETINGS. Special meetings of the members may be called at any time by the President or the Executive Board (as that term is defined in **Section 5.1** of these By-Laws), or on written request of the members who are entitled to cast twenty-five (25%) percent of all the votes of the Association membership.

SECTION 4.3 NOTICE OF MEETING. Written notice of each meeting of the members shall be given by or at the direction of the Secretary. Such notice may be given by personal delivery, by publication, or by mailing a copy of such notice, postage prepaid, not less

than ten (10) nor more than fifty (50) days before such meeting to each member entitled to vote, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and time of the meeting. A written waiver of notice shall be deemed equivalent to the giving of notice. The attendance of a member in person or by proxy at the meeting shall constitute a waiver of notice by such member.

SECTION 4.4 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 prior to the commencement of the meeting. Every proxy shall be revocable and shall automatically cease upon sale by the member of his Unit.

SECTION 4.5 QUORUM. The presence, either in person or by proxy, of the members entitled to cast fifty percent (50%) of all the votes of the Association membership shall constitute a quorum for any action except as otherwise provided in the Declaration or these By-Laws. If a quorum is not in attendance, those members who are present may adjourn the meeting to a new date or dates, without notice other than announcement at the meeting, until a quorum as above defined shall be present or represented. Unless a different vote is required by express provision of the Declaration, the Articles of Incorporation, or these By-Laws, each question presented at a meeting shall be determined by a majority vote of those present.

SECTION 4.6 PLACE OF MEETING. Any annual or special meeting of members may be held in such place within or without the Commonwealth of Pennsylvania as the Executive Board may fix from time to time. In the event the Executive Board shall fail to fix such a place or time, or in the event members are entitled to call or convene a special meeting in accordance with the law, the meeting, in such event, shall be held at the principal office of the Association.

SECTION 4.7 MEMBERSHIP LIST. At every meeting of members, there shall be presented a list or record of members as of the record date, certified by the officer responsible for its preparation and, upon request therefor, any member who had given written notice to the Association, which request shall be made at least ten (10) days prior to such meeting, shall have the right to inspect such list or record at the meeting. Such list shall be evidence of the right of the person to vote at such meeting, and all persons who appear on such list or record to be members may vote at such meeting.

SECTION 4.8 INSPECTORS OF ELECTION. The Executive Board may, but need not, appoint one or more inspectors to act at any meeting or any adjournment thereof. If inspectors are not appointed, the presiding officer of the meeting may, but need not, appoint inspectors. Each appointed inspector shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his ability. The inspectors shall determine the number of memberships outstanding, the voting power of each, the number of memberships represented at the meeting, the existence of a quorum, and the validity and effect of proxies. The inspectors shall receive votes, ballots or consents, determine the result, and do such acts as are proper to conduct the elections or vote of all members. The inspectors shall make a report in writing of all matters determined by them with respect to such meeting.

SECTION 4.9 VOTING. Each member of the Association shall be entitled to the number of votes set forth in the Declaration.

Every Owner of a Unit shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Unit. When more than one person holds an interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Unit.

SECTION 4.10 ACTION BY CONSENT. Whenever the vote of members is required or permitted, such action may be taken without a meeting on the written consent setting forth the action taken signed by a majority of the Association members entitled to vote.

ARTICLE V EXECUTIVE BOARD

SECTION 5.1 NUMBER. The affairs of the Association shall be managed by an Executive Board of Directors (the "Executive Board"). Members shall be Owners (or the spouse, shareholder or other equitable interest owner, of an Owner) or the Declarant. The initial Executive Board shall have one (1) member and shall be appointed by the Declarant or the Association's incorporator and may be replaced at will by the Declarant. He or she shall hold office until successors have been elected at the first annual meeting of the Executive Board. At the first annual meeting and at each annual meeting thereafter, the Executive Board shall be appointed or elected in the manner herein provided. The number of Executive Board members shall be expanded to three (3) members at the first annual meeting, effective as of the date of that meeting. Until the sixtieth (60th) day after conveyance of twenty-five percent (25%) of the Units to Owners, Declarant shall have the right to appoint and remove any and all members of the Executive Board. Within sixty (60) days following the conveyance of twenty-five percent (25%) of the Units to Owners, Owners shall have at least a two (2) member representation on the Executive Board. Upon the earlier to occur of (i) five (5) years after the conveyance of the first Unit, or (ii) one hundred eighty (180) days after seventy-five percent (75%) of the Units which may be constructed on the Property have been conveyed to Owners, all members of the Executive Board shall resign, and the Owners (and Declarant, to the extent of Units owned thereby) shall elect a new three (3) member Executive Board in the manner set forth in **Section 5.2** of these By-Laws.

SECTION 5.2 TERM OF OFFICE. At the first annual meeting, the Association members shall elect two (2) of the Executive Board members for a term of two (2) years and one (1) for a term of one (1) year. At the expiration of the initial term of office of each respective Executive Board member, his successor shall be elected to serve a term of two (2) years. The Executive Board members shall hold office until their successors have been duly elected and qualified.

SECTION 5.3 REMOVAL OR VACANCY. An Executive Board member may be removed from the Executive Board, with or without cause, by majority vote of the members of

the Executive Board at any special meeting called for that purpose. In the event of death, resignation, or removal of a member of the Executive Board, a successor shall be selected by the remaining members of the Executive Board, and shall serve for the unexpired term of his predecessor(s).

SECTION 5.4 COMPENSATION. No member of the Executive Board shall receive compensation for his services as such member. However, Executive Board members may be reimbursed for any expenses incurred in the performance of their duties.

SECTION 5.5 EFFECT OF PRESENCE. Any member of the Executive Board present at any meeting shall be deemed to have assented to any action taken at such meeting unless his dissent is entered on the minutes or unless his written dissent is filed with the Secretary at or immediately following the adjournment thereof, provided that no member of the Executive Board may dissent from any action for which he voted at the meeting.

ARTICLE VI NOMINATION AND ELECTION OF EXECUTIVE BOARD MEMBERS

SECTION 6.1 NOMINATION. Subject to the composition of Executive Board members as required under **Section 5.1** of these By-Laws, the nomination for election to the Executive Board may be made by a Nomination Committee, and/or from the floor at the annual meeting of the Association's members. The Nominating Committee, if any, shall consist of a Chairman, who shall be a member of the Executive Board, and two or more members of the Association or the Executive Board. The Nomination Committee, if any, shall be appointed by the Executive Board prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nomination Committee, if any, shall make as many nominations for election to the Executive Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations shall be made in a manner consistent with these Bylaws.

SECTION 6.2 ELECTION. Election to the Executive Board 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 Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VII MEETINGS OF THE EXECUTIVE BOARD

SECTION 7.1 REGULAR MEETINGS. Regular meetings of the elected Executive Board shall be at least quarterly, without notice, at such place and hour as may be fixed from time to time by resolution of the Executive Board.

SECTION 7.2 SPECIAL MEETINGS. Special meetings of the Executive Board shall be held when called by the President of the Association or by any two (2) members of the Executive Board, after not less than three (3) days notice to each Executive Board member.

SECTION 7.3 QUORUM. At all meetings of the Executive Board, a majority of the Executive Board members shall constitute a quorum for the transaction of business, and any action taken by the majority of those present shall be regarded as the act of the Executive Board.

SECTION 7.4 ACTION TAKEN WITHOUT A MEETING. The Executive Board shall have the right to take any action in the absence of a meeting, which they could take at a meeting by obtaining a written approval of all the members of the Executive Board. Any action so approved shall have the same effect as though taken at a meeting of the Executive Board. They may also act if all Executive Board members are connected by conference telephone or other electronic means whereby all Executive Board members can hear each other at all times.

**ARTICLE VIII
POWER AND DUTIES OF THE EXECUTIVE BOARD**

SECTION 8.1 POWERS. The Executive Board shall have power to:

- (a) Adopt and publish rules and regulations (“Rules and Regulations”) governing the use of the Common Elements and the Recreation Facilities, and the personal conduct of the Association’s members and their conduct thereon, and to establish penalties for the infraction thereof.
- (b) Exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration.
- (c) Employ such contractors or employees as they deem necessary and to prescribe their duties.
- (d) Open bank accounts and designate the signature required.
- (e) Collect assessments.
- (f) Enforce by legal means the provisions of the Declaration, these By-Laws and any Rules and Regulations and bring any proceedings which may be instituted on behalf of the Owners concerning the Association.
- (g) To borrow money for the purpose of the repair of restoration of the Common Property.
- (h) Declare the office of a member of the Executive Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Executive Board.

SECTION 8.2 DUTIES. It shall be the duty of the Executive Board to:

- (a) Cause to be kept a complete record of all its actions and corporate affairs and to present a statement thereof to the members at the annual meetings of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Association members.
- (b) Supervise all officers, agents, and employees of this Association, and to see that their duties are properly performed.
- (c) Issue, or to cause an appropriate officer to issue, upon demand by any person with a legitimate interest, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be evidence of such payments.
- (d) Procure and maintain adequate liability and hazard insurance on property owned by the Association.
- (e) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.
- (f) Cause the Common Elements to be maintained.
- (g) Carry out any other duties imposed by the Declaration or these By-Laws.

ARTICLE IX OFFICERS AND THEIR DUTIES

SECTION 9.1 ENUMERATION OF OFFICES. The officers of the Association shall be a President, who shall at all times be a member of the Executive Board, a Secretary, and a Treasurer, and such other officers as the Executive Board may from time to time by resolution create. All officers shall be members of the Association.

SECTION 9.2 ELECTION OF OFFICERS. The election of officers shall take place at the first meeting of the Executive Board following each annual meeting of the Association's membership.

SECTION 9.3 TERM. The officers of the Association shall be elected annually by the Executive Board, and each shall hold office for one (1) year unless they shall sooner resign, be removed or otherwise be disqualified to serve.

SECTION 9.4 RESIGNATION AND REMOVAL. Any officer may be removed from office with or without cause by the Executive Board. Any officer may resign at any time by giving written notice to the Executive 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 9.5 VACANCIES. A vacancy in any office may be filled by appointment by the Executive Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

SECTION 9.6 COMPENSATION. The President shall not receive any compensation except reimbursement for out-of-pocket expenses. The Secretary and Treasurer may be compensated for their services if the Executive Board determines that such compensation is appropriate.

SECTION 9.7 SPECIAL APPOINTMENTS. The Executive Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Executive Board may from time to time determine.

SECTION 9.8 MULTIPLE OFFICES. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to **Section 9.7** of these By-Laws.

SECTION 9.9 DUTIES. The duties of the officers are as follows:

- (a) **PRESIDENT.** The President shall preside at all meetings of the Executive Board; shall see that orders and resolutions of the Executive Board are carried out; shall sign all leases, mortgages, deeds, and other written instruments; and shall co-sign all checks and promissory notes.
- (b) **SECRETARY.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Executive Board and of the Association's members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Executive Board and of the members; keep appropriate current records showing the members of the Association together with their addresses; and shall perform such other duties as required by the Executive Board.
- (c) **TREASURER.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Executive Board; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the 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 the regular meeting.

ARTICLE X AMENDMENTS

These By-Laws may be amended, at a regular or special meeting of the Association membership, by vote of a majority of the membership of the Association, whether present in person or by Proxy, or by written consent of a majority of the membership, except that:

- (a) Any amendment to the By-Laws affecting the rights or interests of the Declarant shall not be amended or modified without the written consent of the Declarant.
- (b) Any amendment to the By-Laws affecting the rights or interests of Owners shall not be amended or modified without the vote of a majority of the membership of Owners, whether present in person or by Proxy.
- (c) The Federal Housing Administration and/or the Veterans Administration (depending on which, if either, has issued insured mortgages in the project) shall have the right to veto amendments while the Declarant is a member of the Association; *provided, however*, that the consent of the agency shall be implied if it fails to submit a response to any written proposal for amendment within sixty (60) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.

ARTICLE XI LIMITATION OF LIABILITY AND INDEMNIFICATION

SECTION 11.1 LIMITED LIABILITY OF THE EXECUTIVE BOARD. The Executive Board or any officer, and the Association's members in their capacity as Executive Board members or officers:

- (a) Shall not be liable to the members of the Association as a result of the performance of the Executive Board member's or officer's duties for any mistake of judgment, negligence, or otherwise, except for the Executive Board member's or officer's own willful misconduct or gross negligence.
- (b) Shall have no personal liability in contract to a member of the Association or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument, or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' or officer's duties.
- (c) Shall have no personal liability in tort to a member of the Association or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for any Executive Board member's or officer's own willful misconduct or gross negligence in the performance of their duties.

- (d) Shall have no personal liability arising out of the use, misuse, or condition of the property and equipment of the Association, or which might in any other way be assessed against or imputed to the Executive Board members or officers as a result of or by virtue of their performance of their duties, except for any Executive Board member's or officer's own willful misconduct or gross negligence.

SECTION 11.2 INDEMNIFICATION. Each member of the Association, in his or her capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member of the Executive Board and/or an officer, or any settlement of any such proceeding, except in such cases wherein such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties; *provided that*, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member) approves such settlement and reimbursement as being in the best interests of the Association; and *provided further* that indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Executive Board member and/or officer had no reasonable cause to believe his conduct was unlawful. The indemnification by the Association set forth in this **Section 11.2** shall be paid for by the Association on behalf of the Association. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law, agreement, by vote of the members, or otherwise.

SECTION 11.3 INSURANCE. The Executive Board shall have the right to obtain insurance to satisfy the indemnification obligation of the Association set forth above, to the extent reasonably available.

ARTICLE XII GENERAL PROVISIONS

SECTION 12.1 FISCAL YEAR. The fiscal year of the Association shall be the calendar year; *provided, however*, that a fiscal year may be fixed by the Executive Board from time to time, subject to applicable law.

SECTION 12.2 BOOKS AND RECORDS. The Association shall keep records and books of accounts and minutes of meetings as well as a list or a record of all members. Current copies of the Declaration, By-Laws, Rules and Regulations, books, records and financial statements of the Association shall be available at reasonable times for inspection by any member of the Association, or any lender, holder, insurer or guarantor of any first mortgage, at the Association's principle office, and copies thereof made available at reasonable cost.

SECTION 12.3 CONFLICTS. In the case of any conflicts between the Articles of Incorporation and these By-Laws, the Articles of Incorporation shall control; in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

DECLARANT:

McCleary Developments, LLC



Name: Chunwuemeha Onwugbenu
Title: Principal