

BY-LAWS
OF
ONE 5TH AVE.
CONDOMINIUM ASSOCIATION

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ARTICLE I
Introductory Provisions

1.1 Applicability. Pursuant to the requirements of Section 3306 of the Pennsylvania Uniform Condominium Act (the “**Act**”), these By-Laws provide for the governance of the One 5th Ave. Condominium Association (the “**Association**”) created pursuant to that certain Declaration of Condominium for the One 5th Ave. Condominium (the “**Declaration**”) to be recorded in the Allegheny County Department of Records (“**Recorder’s Office**”) and applicable to certain property located in the 2nd Ward, City of Pittsburgh, Allegheny County, identified as Block and Lot No. 1-D-23, more fully described in that certain deed recorded in the Recorder’s Office in Deed Book Volume 14571, page 329, as the same may be amended, modified or restated from time to time.

1.2 Definitions. Capitalized terms used herein without definition shall have the meanings specified for such terms in the Declaration or, if not defined therein, the meanings specified or used for such terms in the Act.

1.3 Compliance. Pursuant to the provisions of the Act, every present and future Unit Owner (as defined in the Declaration) and all persons who occupy a Unit shall comply with these By-Laws.

1.4 Office. The principal office of the Association and the Executive Board shall be located at the Property, or at such other place as may be designated from time to time by the Executive Board, but meetings of Members and the Executive Board may be held at such places as may be designated by the Executive Board.

ARTICLE II
The Association

2.1 Composition. The Association is hereby organized on the date hereof, under the Act as an unincorporated association (the “Organization Date”). The Association shall consist of all of the Unit Owners acting as a group in accordance with the Act, the Declaration and these By-Laws. The Association shall have the responsibility of administering the Condominium, the Association, the Common Elements, establishing the means and methods of collecting assessments and charges, arranging for the management of the Condominium and performing all of the other acts that may be required or permitted to be performed by the Association pursuant to the Act and the Declaration. The foregoing responsibilities shall be performed by the Executive Board or hired manager as more particularly set forth in these By-Laws.

2.2 Annual Meetings. The annual meeting of the Association shall be held on the first Monday of March of each year, or at such other date as may be designated from time to time to the Unit Owners; provided that if such date shall occur on a holiday the

meeting shall be held on the next succeeding Monday. Subject to Section 3.1 of these By-Laws, at such annual meetings the Executive Board shall be selected in accordance with the voting requirements of Section 2.10 of these By-Laws and such other business as may properly come before the meeting may be transacted.

2.3 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Unit Owners as may be designated by the Executive Board.

2.4 Special Meetings.

A. The President shall call a special meeting of the Association if so directed by resolution of the Executive Board or upon a petition signed and presented to the Secretary by either the Declarant (as defined in the Declaration) or two (2) Unit Owners entitled to cast a vote in the Association. The notice of any special meeting shall state the time, place and purpose thereof. Such meeting shall be held within twenty (20) days after receipt by the Secretary of said resolution or petition. No business shall be transacted at a special meeting except as stated in the notice.

B. Within sixty (60) days after conveyance of twenty five percent (25%) of the Units to Unit Owners other than the Declarant, a special meeting of the Association shall be held at which meeting one (1) member of the Executive Board designated by the Declarant shall resign, and shall be replaced by one (1) Unit Owner elected pursuant to Section 3.1A, below, except that as provided for in Section 3303 of the Act, Declarant shall not be entitled to vote in such election.

C. Not later than the earlier of (i) seven (7) years after the date of the recording of the Declaration, or (ii) one hundred eighty (180) days after seventy-five percent (75%) of the Units have been conveyed to Unit Owners other than Declarant, all members of the Executive Board shall resign, and the Unit Owners (including Declarant to the extent of Units owned by Declarant) shall elect a new three (3) member Executive Board.

2.5 Notice of Meetings. The Secretary shall give to each Unit Owner a notice of each annual, special or regularly-scheduled meeting of the Association at least fifteen (15) but not more than thirty (30) days prior to such meeting, stating the time, place and purpose thereof. The giving of notice of a meeting in the manner provided in Article X of these By-Laws shall be considered service of notice.

2.6 Adjournment of Meetings. If at any meeting of the Association a quorum is not present, Unit Owners entitled to cast a majority of the votes represented at such meeting may adjourn the meeting to a time not less than forty-eight (48) hours after the time for which the adjourned meeting was called.

2.7 Waiver of Notice. Before or at any meeting of the Unit Owners, any Unit Owner may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the receipt of such notice. Attendance by a Unit Owner at any meeting of the Unit Owners shall be a waiver of notice by him of the time and place thereof. If all the Unit Owners are present at any meeting of the Unit Owners, no notice shall be required and any business may be transacted at such meeting.

2.8 Meeting by Conference Telephone. One (1) or more Unit Owners may participate in a meeting of the Unit Owners by means of telephone conference or similar communications equipment by means of which all persons participating in the meeting can hear each other.

2.9 Action by Consent. Any action by the Unit Owners required or permitted to be taken at any meeting may be taken without a meeting if all of the Unit Owners shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Unit Owners.

2.10 Voting. All questions or matters that require the vote, consent or approval of the Unit Owners:

(i) shall require the affirmative vote, consent or approval of a majority of Unit Owners, unless the question or matter is one upon which, by express provision of applicable law or these By-Laws, a different vote is required in which case such express provision shall govern and control the decision of such question or matter; and

(ii) shall be decided by the affirmative vote, consent or approval of a majority of Unit Owners. Subject to Section 3303 of the Act, Declarant shall have the right to be represented on the Executive Board and to cast the votes allocated to any Unit owned by Declarant; and

(iii) in the event of any vote of the Unit Owners resulting in deadlock, each Unit Owner shall be assigned the Percentage Interest allocated to such Unit in the Declaration and the vote shall be decided based upon Percentage Interests.

2.11 Proxies. A vote may be cast in person or by proxy. If a Unit is owned by more than one (1) person, each Owner of the Unit may vote or register protest to the casting of votes by the other Owners of the Unit through a duly executed proxy. Such proxy may be granted by any Unit Owner in favor of only another Unit Owner, a Posted Mortgagee or the Declarant. Proxies shall be duly executed in writing, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of written notice of revocation from the grantor(s) of the proxy. No proxy shall be valid for a period in excess of one (1) year after the execution thereof. A proxy is void if it is not dated or purports to be revocable without notice.

2.12 Quorum. Except as set forth below, the presence at the meeting of Unit Owners entitled to cast, or of proxies entitled to cast, three (3) votes shall constitute a quorum for any action except as otherwise provided in the Declaration or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Unit Owners entitled to vote at such meeting 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 represented.

2.13 Conduct of Meeting. The President (or in the President's absence, the Treasurer) shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat. The then current edition of Robert's Rules of Order shall govern the conduct of all meetings of the Association when not in conflict with the Declaration, these By-Laws or the Act.

ARTICLE III
Executive Board

3.1 Number; Qualification and Initial Appointment.

A. The affairs of the Association shall be governed by an Executive Board which shall be composed of three (3) natural persons. Declarant shall initially appoint the members of the Executive Board and such members shall serve until required to cease serving by the terms of Section 3303 of the Act. A member of the Executive Board appointed by the Declarant need not be a Unit Owner.

B. When and as required by Section 3303 of the Act, some or all of the members of the Executive Board shall be elected pursuant to a vote of Unit Owners taken pursuant to and in accordance with these By-Laws; provided, however, subject to Section 3303 of the Act, Declarant shall have the right to be represented on the Executive Board and to cast the votes allocated to any Unit owned by Declarant. The term of each member of the Executive Board elected pursuant to this Section 3.1B shall cease upon the earlier of (i) his or her death, resignation, removal or (except in the case of members of the Executive Board elected by the Declarant) sale of his or her Unit, or (ii) when his or her successor is elected in accordance to Section 3.2 of these By-Laws.

3.2 Successor Appointment and Term. At the first annual or special meeting of Unit Owners held following the election of members of the Executive Board pursuant to Section 3.1B of these By-Laws, each member of the Executive Board shall be elected to serve for the term of one (1) year or until his or her successor shall be elected and shall qualify, or until the earlier of his or her death, resignation, removal or (except in the case of members of the Executive Board elected by the Declarant) sale of his or her Unit.

3.3 Removal or Resignation of Members of the Executive Board. Any one (1) or more of the members of the Executive Board may be removed with or without cause by Unit Owners entitled to elect such member of the Executive Board.

3.4 Vacancies. Vacancies in the Executive Board caused by the sale of a Unit shall be automatically filled by having the purchaser of such Unit become an Executive Board member, as of the date of the recording of a deed in favor of such purchaser of the Unit.

3.5 Organization Meeting. The first meeting of the Executive Board following each annual meeting of the Association shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

3.6 Regular Meetings. Regular meetings of the Executive Board may be held at such time and place as shall be determined from time to time by the unanimous vote of the members, but such meetings shall be held at least once every four (4) months during each fiscal year. Notice of regular meetings of the Executive Board shall be given to each member, by mail or telegraph, at least twenty (20) business days prior to the day named for such meeting.

3.7 Special Meetings. Special meetings of the Executive Board may be called by the President or Secretary on at least ten (10) business days' notice to each member, given by mail or telegraph, which notice shall state the time, place and purpose of the meeting.

3.8 Waiver of Notice. Any member may at any time, in writing, waive notice of any meeting of the Executive Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Executive Board shall constitute a waiver of notice by him or her of the time, place and purpose of such meeting. If all members are present at any meeting of the Executive Board, no notice shall be required and any business may be transacted at such meeting.

3.9 Quorum of the Executive Board. At all meetings of the Executive Board both members must be present to constitute a quorum for the transaction of business, and all decisions of the Executive Board must be by unanimous agreement. If at any meeting of the Executive Board there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.10 Voting. A vote of the majority of the members of the Executive Board shall decide any question to be decided by the Executive Board, unless the question is one upon which, by express provision of applicable law or of these By-Laws, a different vote is required in which case such express provision shall govern and control the decision of such question.

3.11 Compensation. No member of the Executive Board shall receive any compensation from the Association for acting as such, but may be reimbursed for any actual out-of-pocket expenses incurred in the performance of his or her duties.

3.12 Conduct of Meetings. The President shall preside over all meetings of the Executive Board and the Secretary shall keep a minute book of the Executive Board meetings, recording therein all resolutions adopted by the Executive Board and a record of all transactions and proceedings occurring at such meetings.

3.13 Action by Consent. Any action by the Executive Board required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Executive Board shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Executive Board.

ARTICLE IV
Officers

4.1 Designation. The officers of the Association shall consist of a President, a Secretary, a Treasurer, and such other officers as the Executive Board shall from time to time determine, including without limitation one (1) or more Vice Presidents, Assistant Secretaries and/or Assistant Treasurers. The President, the Secretary and the Treasurer shall be members of the Executive Board. Any two (2) offices except those of President and Secretary may be held by the same person.

4.2 Election and Removal. The officers of the Association shall be elected annually by the Executive Board and, unless sooner removed by the Executive Board, the officers shall serve for a term of one (1) year and until their successors are elected and shall qualify. Any vacancies occurring in offices shall be filled by the Executive Board from time to time. The Executive Board shall appoint such temporary or acting officers as may be necessary during the temporary absence or disability of the regular officers. Upon an affirmative vote of a majority of the members of the Executive Board, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Executive Board or at any special meeting called for such purpose.

4.3 Compensation. The salaries of all of the officers of the Association shall be fixed by the Executive Board, and no officer shall be prevented from receiving such salary by reason of the fact that he is also a member of the Executive Board of the Association.

4.4 Duties of Officers.

A. President. The President shall be the chief executive officer and head of the Association, and during the recess of the Executive Board, shall have the general control and management of its business and affairs, subject, however, to the regulation of the Executive Board. He shall preside at all meetings of the Executive Board, and shall act as temporary Chairman and call to order all meetings of the shareholders and Executive Board, except as otherwise provided by law or by these By-Laws. He shall sign the certificates of stock and all bonds of the Association, and sign and execute all documents in the name of the Association when authorized to do so by the Executive Board. The President shall make annual reports showing the condition of the affairs of the Association and make such recommendations as he thinks proper, and submit the same to the Executive Board at the meeting next preceding the annual meeting of the shareholders. He shall, from time to time, bring before the Executive Board such information concerning the business and property of the Association as may be required.

B. Vice President. The Vice President, if there shall be one, shall perform such duties as shall be assigned to him by the Executive Board and in the absence of the President, he shall have the power and may perform the duties of the President.

C. Secretary. The Secretary shall keep the minutes of the meetings of the Executive Board, and also the minutes of all meetings of the shareholders. He shall see that due and proper notice is given of all meetings of the shareholders and of the Executive Board, shall have custody of and shall sign and affix the seal of the

Association, if any, to all certificates of stock and to such other papers and documents when they shall be signed by the President, or otherwise, as ordered by the Executive Board. He shall perform such other duties as may from time to time be required by the Executive Board, and in case of his absence or inability to act, a Secretary pro tem, who shall have the authority to exercise like powers and perform the duties of a Secretary, may be appointed by the Executive Board or the President.

D. Treasurer. The Treasurer shall have the care and custody of the funds and securities of the Association, and shall keep full and accurate accounts of the receipts and expenditures of all Association funds in books belonging to the Association, and shall deposit all moneys and valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Executive Board and shall sign or countersign all bonds, checks, drafts, notes and orders for the payment of money, which shall be countersigned by the President or such other person as shall be designated by order of the Executive Board. He shall disburse the funds of the Association by order of the Executive Board, take proper vouchers for such disbursements, and shall render to the President and Executive Board, at the annual meeting of the Board, or whenever it may be required, an account of all of his transactions as Treasurer, and the financial condition of the Association. He shall perform such other duties as the Executive Board may from time to time direct. The Treasurer shall furnish no bond unless the Executive Board orders otherwise.

4.5 Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations shall be executed by both the President and Secretary/Treasurer of the Association.

ARTICLE V

Fiscal Year; Common Expenses; Budgets

5.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by the Executive Board; provided, however, that the first fiscal year shall begin upon the recordation of the Declaration.

5.2 Preparation and Approval of Budget.

A. On or before the first day of November of each year (or sixty (60) days before the beginning of the fiscal year if the fiscal year is other than the calendar year), the Executive Board shall adopt an annual budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which it is the responsibility of the Executive Board to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Act, the Declaration, these By-Laws or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. Such budget shall also include such reasonable amounts as the Executive Board considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements. The budget shall segregate Common Expenses.

B. On or before the 10th day of November of each year (or fifty (50) days before the beginning of the fiscal year if the fiscal year is other than the calendar year), the Executive Board shall make the budget prepared pursuant to Section 5.2A of these By-Laws, available for inspection at the Association office and shall send to each Unit Owner and Posted Mortgagee who has registered an address with the Secretary a copy of the budget in a reasonably itemized form that sets forth the amount of the Common Expenses. Such budget shall constitute the basis for determining each Unit Owner's assessments for Common Expenses of the Association and shall automatically take effect at the beginning of the fiscal year for which it is adopted, subject to Section 5.6 below.

C. The Executive Board shall make reasonable efforts to meet the deadlines set forth above, but compliance with such deadlines shall not be a condition precedent to the effectiveness of any budget.

5.3 Assessment and Payment of Common Expenses.

A. Common Expenses. The Executive Board shall calculate the monthly assessments for Common Expenses against each Unit by multiplying (a) the total amount of the estimated funds required for the operation of the Common Elements set forth in the budget adopted by the Executive Board for the fiscal year in question, after deducting any income expected to be received from sources other than Common Expense assessments, by (b) the Common Expense Liability (as defined in the Declaration) (expressed in decimal form) allocated to such Unit, and dividing the resultant product by (c) the number of calendar months in such fiscal year. Such assessments shall be deemed to have been adopted and assessed on a monthly basis and not on an annual basis payable in monthly installments, shall be due and payable on the first day of each calendar month and shall be a lien against each Unit Owner's Unit as provided in the Act and the Declaration. Within one hundred twenty (120) days after the end of each fiscal year, the Executive Board shall prepare and deliver to each Unit Owner and to each Posted Mortgagee who has registered an address with the Secretary an itemized account of the Common Expenses and funds received during such fiscal year less expenditures actually incurred and sums paid into reserves. Any net shortage with regard to Common Expenses, after application of such reserves as the Executive Board may determine, shall be assessed promptly against the Unit Owners in accordance with their Percentage Interests and shall be payable in one (1) or more monthly assessments, as the Executive Board may determine.

B. Reserves. The Executive Board shall build up and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year may be charged first against such reserves. If the reserves are deemed to be inadequate for any reason, including non-payment of any Unit Owner's assessments, the Executive Board may at any time levy further assessments for Common Expenses which shall be assessed against the Unit Owners according to their respective Percentage Interests with regard to such Common Expenses, and shall be payable in one (1) or more monthly assessments as the Executive Board may determine.

5.4 Further Assessments. The Executive Board shall serve notice on all Unit Owners of any further assessments pursuant to Sections 5.3A or 5.3B or otherwise as permitted or required by the Act, the Declaration and these By-Laws by a statement in writing giving the amount and reasons therefor, and such further assessments shall, unless otherwise specified in the notice, become effective with the next monthly assessment which is due more than ten (10) days after the delivery of such notice of further assessments. All Unit Owners so assessed shall be obligated to pay the amount of such monthly assessments. Such assessments shall be a lien as of the effective date as set forth in the preceding Sections 5.3A and 5.3B.

5.5 Initial Budget. At or prior to the time assessment of Common Expenses commences, the Executive Board shall adopt the budget, as described in this Article, for the period commencing on the date the Executive Board determines that assessments shall begin and ending on the last day of the fiscal year during which such commencement date occurs. Assessments shall be levied and become a lien against the Unit Owners during such period as is provided in Section 5.3 above.

5.6 Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Executive Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his or her allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay each monthly assessment at the rate established for the previous fiscal year until the new annual or adjusted budget shall have been adopted.

5.7 Accounts; Audits. All sums collected by the Executive Board with respect to assessments against the Unit Owners for Common Expenses or from any other source may be commingled into a single fund. Reserves shall be maintained in a separate fund, although different types of reserves may be commingled in one (1) reserve fund. All books and records of the Association shall be kept in accordance with good and generally accepted accounting practices, and the same shall be reviewed at least once each year by an independent accountant retained by the Executive Board.

5.8 Collection of Assessments. The Executive Board or the Manager, at the request of the Executive Board, shall take prompt action to collect any assessments for Common Expenses due from any Unit Owner which remain unpaid for more than thirty (30) days from the due date for payment thereof. Any assessment not paid within five (5) days after its due date shall accrue a late charge in the amount of five percent (5%) of the overdue assessment in addition to interest at the rate set forth in the Declaration or such other rate as may be determined by the Executive Board.

5.9 Statement of Common Expenses. The Executive Board shall promptly provide any Unit Owner, contract purchaser or Posted Mortgagee so requesting the same in writing with a written statement of all unpaid assessments for Common Expenses due from such Unit Owner. The Executive Board may impose a reasonable charge for the preparation of such statement to cover the cost of its preparation, to the extent permitted by the Act.

ARTICLE VI
Compliance and Default

6.1 Relief. Each Unit Owner shall be governed by, and shall comply with, all of the terms of the Declaration, these By-Laws, the Rules and Regulations and the Act, as any of the same may be amended from time to time. In addition to the remedies provided in the Act and the Declaration, a default by a Unit Owner shall entitle the Association, acting through its Executive Board or through the Manager, to the following relief:

A. Additional Liability. Each Unit Owner shall be liable for the expense of all maintenance, repair or replacement rendered necessary by his or her act, neglect or carelessness or the act, neglect or carelessness of his or her tenants, guests, invitees or licensees, but only to the extent that such expense is not covered by the proceeds of insurance carried by the Executive Board. Such liability shall include any increase in casualty insurance premiums occasioned by improper use, misuse, occupancy or abandonment of any Unit or its appurtenances. Nothing contained herein, however, shall be construed as modifying any waiver by any insurance company of its rights of subrogation.

B. Costs and Attorneys' Fees. In any proceedings arising out of any alleged default by a Unit Owner, the Association shall be entitled to recover the costs of such proceeding and reasonable attorney's fees.

C. No Waiver of Rights. The failure of the Association, the Executive Board or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, these By-Laws, the Rules and Regulations or the Act shall not constitute a waiver of the right of the Association, the Executive Board or the Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association, the Executive Board or any Unit Owner pursuant to any term, provision, covenant or condition of the Declaration, these By-Laws, the Rules and Regulations or the Act shall be deemed to be cumulative and the exercise of any one (1) or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Declaration, these By-Laws, the Rules and Regulations or the Act or at law or in equity.

D. Abating and Enjoining Violations by Unit Owners. The violations of any of the Rules and Regulations adopted by the Executive Board, the breach of these By-Laws, the Declaration or the Act shall give the Executive Board the right; with prior notice and reasonable opportunity to cure, in addition to any other rights: (i) to enter the Unit in which, or as to which, such violation or breach exists and summarily to abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Executive Board shall not thereby be deemed guilty in any manner of trespass; or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

ARTICLE VII
Amendments

7.1 Amendments to By-Laws. These By-Laws may be amended only by the affirmative vote of not less than two-thirds (2/3) of the votes of the Association, except where otherwise expressly set forth in the Act, these By-Laws and the Declaration.

7.2 Rights of Posted Mortgagees. Subject to the limitations imposed by the Act and except as set forth below, no amendment of these By-Laws may be made without the prior written approval of all Posted Mortgagees if and to the extent that such approval is required by the Act or if and to the extent that such amendment would (i) be a material amendment as defined by the Federal National Mortgage Association or have the effect of (ii) abandoning, encumbering, selling or transferring the Common Elements; (iii) partitioning or subdividing any Unit or the Common Elements; or (iv) changing the Percentage Interests of any Unit Owners. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed to be a transfer within the meaning of this Section 7.2. In any event, a Posted Mortgagee shall be conclusively deemed to have approved an amendment if the Posted Mortgagee fails to submit a written response to the Association within thirty (30) days after the Posted Mortgagee receives notice of a proposed amendment.

7.3 Other Amendments. If any amendment is necessary in the judgment of the Executive Board to cure any ambiguity or to correct or supplement any provision of these By-Laws which is defective or inconsistent with any other provision hereof, or if such amendment is necessary to conform to then current requirements of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation with respect to planned community projects, the Executive Board may, at any time and from time to time effect such amendment without the approval of the Unit Owners or to that effect Posted Mortgagees, upon receipt by the Executive Board of an opinion from an independent registered architect or licensed professional engineer in the case of any such amendment to the Plats and Plans or an opinion from independent counsel to the effect that the proposed amendment is permitted by the Act. Each such amendment shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption, execution and acknowledgment by one or more officers of the Executive Board.

7.4 Declarant's Rights. Until the expiration of Declarant's rights to control the Association described in Section 3303(c) of the Act, Declarant shall have the unilateral right to amend these By-Laws, as Declarant deems necessary, subject, however, to the Act and to the limitation that no such Amendment shall act to deprive or limit any Unit Owner's rights in or to the Common Elements.

ARTICLE VIII
Liability of Members of the Executive Board

8.1 Liability of Members of the Executive Board. Except for responsibility or liability of a member of the Executive Board pursuant to any criminal statute or for payment of taxes pursuant to local, state or Federal law, a member of the Executive Board of the Association shall not be personally liable for monetary damages for any

action taken or any failure to take any action unless (a) such member of the Executive Board has breached or failed to perform his fiduciary duties as provided in Section 8.2 hereof and (b) the breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

8.2 Member of the Executive Board's Fiduciary Duties. A member of the Executive Board of the Association shall stand in a fiduciary relation to the Association and shall perform his duties as a member of the Executive Board (including as a member of any committee of the Board) in accordance with the standards set forth in Section 5712(a) of the Pennsylvania Nonprofit Corporation Law (15 Pa.C.S.A. § 5712(a)), as the same may be amended from time to time. Absent breach of fiduciary duty, lack of good faith, or self-dealing, actions taken as a member of the Executive Board or any failure to take any action shall be presumed to be in the best interest of the Association.

ARTICLE IX Indemnification

9.1 Right to Indemnification. In the event a representative was, is or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, because he is or was a representative or because he is or was serving as a representative of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, the Association (a) shall indemnify a representative who has been successful on the merits or otherwise in defense of any such action, suit or proceeding or in defense of any claim, issue or matter therein, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith; (b) may indemnify a representative against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him even if he has not been successful on the merits in other than a derivative suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association (and, in the case of a criminal proceeding, had no reason to believe his conduct was unlawful); and (c) may indemnify a representative for expenses (including attorneys' fees) actually and reasonably incurred by him in a suit by or in the right of the Association (derivative suit) even if he is unsuccessful on the merits, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and is not adjudged to be liable for willful misconduct or recklessness in the performance of his duty to the Association.

9.2 Required Determination. Any indemnification under Section 9.1 (unless ordered by a Court) shall be made by the Association only as authorized in the specific case upon a determination that the indemnification of the representative is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 9.1. Such determination shall be made (a) by the Executive Board by a majority vote of a quorum consisting of the members of the Executive Board who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable if a quorum of disinterested members of the Executive Board so directs, by independent legal counsel in a written opinion.

9.3 Advances for Expenses. Expenses incurred by or imposed upon a representative in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the representative to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association as authorized in this Article.

9.4 Nonexclusivity and Nonduplication. The indemnification and advancement of expenses provided by this Article shall not be deemed exclusive of any other rights to which any person seeking indemnification may be entitled under any other By-Law, agreement, vote of members or disinterested members of the Executive Board or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Notwithstanding any other provisions set forth in this Article, the indemnification authorized and provided hereby shall be applicable only to the extent that any such indemnification shall not duplicate indemnity or reimbursement which such person has received or shall receive otherwise than under this Article.

9.5 Preservation of Rights. No amendment or repeal of this Article shall adversely affect any right or protection extended to a representative hereunder for an act or failure to act occurring prior to the time of such amendment or repeal. Each representative shall be deemed to act in such capacity in reliance upon the rights of indemnification and advancement of expenses hereunder. The rights to indemnification and advancement of expenses hereunder shall continue as to a person who has ceased to be a representative and shall inure to the benefit of the heirs, executors and administrators of such person.

9.6 Insurance or Other Funding. The Association may create a fund of any nature which may, but need not be, under the control of a trustee or otherwise secured or may insure in any manner its indemnification obligations, whether arising hereunder or otherwise. The Association may purchase and maintain insurance on behalf of any person who is or was a representative of the Association or is or was serving at the request of the Association as a representative of another corporation, partnership, joint venture, employee benefit plan, trust or other enterprise against any liability asserted against him and incurred by or imposed upon him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article or otherwise, upon such terms and conditions as the Association may deem requisite including a requirement that any such person must contribute a portion or all of the cost of maintaining such insurance.

ARTICLE X Miscellaneous

10.1 Notices. All notices, demands, bills, statements or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail postage prepaid (or otherwise as the Act may permit), (i) if to a Unit Owner, at the single address which the Unit Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Unit of such Unit Owner, or (ii) if to the Association, the Executive

Board or to the Manager, at the principal office of the Manager or at such other address as shall be designated by notice in writing to the Unit Owners pursuant to this Section 10.1. If a Unit is owned by more than one (1) person, each such person who so designates a single address in writing to the Secretary shall be entitled to receive all notice here under.

10.2 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these By-Laws or the intent of any provisions thereof.

10.3 Gender. The use of the masculine gender in these By-Laws shall be deemed to include the feminine and neuter genders and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

10.4 Effective Date. These By-Laws shall become effective when the Declaration and the Plats and Plans have been duly recorded.

10.5 Invalidity. If any provisions of these By-Laws are determined by a court of competent jurisdiction to be invalid, the determination shall not affect the validity or effect the remaining provisions hereof.

10.6 Conflicts. The terms and provisions of the Act and the Declaration shall control in case of any conflict between them and the provisions of these By-Laws.

10.7 Arbitration. To the extent permitted by the Act, any controversy or dispute involving these By-Laws shall be settled by an arbitrator, in Pittsburgh, Pennsylvania in accordance with the Commercial Rules of Arbitration then followed by the American Arbitration Association, or any successor to the functions thereof. The arbitrator shall have the right and authority to determine how its decision or determination as to each issue or matter in dispute may be implemented or enforced. Any decision or award of the arbitrator shall be final and conclusive on the Unit Owners and may be entered in and enforced by any Court having jurisdiction thereof. There shall be no appeal from any decision or award of the arbitrator other than for gross negligence or willful misconduct.

IN WITNESS WHEREOF, these By-Laws have been adopted as of the ____ day of December, 2011.

EXECUTIVE BOARD OF THE ONE 5TH AVE.
CONDOMINIUM ASSOCIATION