

## Southern Middlesex - 20/20 Perfect Vision i2 Document Detail Report

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Doc#	Document Type	Town	Book/Page	File Date	Consideration
60815120	AGREEMENT		14725/321	09/13/1982	0.00
<b>Property-Street Address and/or Description</b>					
SEE RECORD					
<b>Grantors</b>					
BELL DOUGLAS E &AL TRS, COGSWELL AVENUE REALTY TRUST /S TRS, FANDETTI GERALD N &AL TRS					
<b>Grantees</b>					
<b>References-Book/Pg Description Recorded Year</b>					
27003/329 AMEND 1997, 57958/323 VOTE 2011, 16527/303 DEED 1985, 17478/180 CERT 1986					
<b>Registered Land Certificate(s)-Cert# Book/Pg</b>					

DECLARATION OF COVENANTS,  
RESERVATIONS, RESTRICTIONS  
AND EASEMENTS

For

47 COGSWELL STATION

in

CAMBRIDGE, MASSACHUSETTS

WHEREAS, Douglas E. Bell and Gerald N. Fandetti, both of Cambridge, Middlesex County, Massachusetts, Trustees of Cogswell Avenue Realty Trust under Declaration of Trust dated September 24, 1981 and recorded with the Middlesex South District Registry of Deeds in Book 14425, Page 231, have acquired title to certain real estate situated in the City of Cambridge (hereinafter "Property") which is described in a deed recorded with the Middlesex South District Registry of Deeds in Book 14425, Page 238, 242 and 243; and

WHEREAS, said trustees are in the process of constructing a development, which is to be called 47 Cogswell Station, and which will consist of nineteen (19) townhouse units constructed on a portion of the Property shown on the plan hereinafter referred to as "47 Cogswell Station", all of which is described in a plan (hereinafter "Plan") entitled "Plan of land in Cambridge, Massachusetts, Scale 1" = 20', June 25, 1982, by Ernest H. Fagerstrom Registered Land Surveyor, Norwell, Massachusetts," and which Plan is Part C hereof; and

WHEREAS, said trustees intend to sell nineteen (19) lots comprising that portion of the Property shown as "45 Cogswell Station" on the Plan, each improved with a townhouse unit; and

WHEREAS, the successful conduct of such a plan requires said trustees to subject the land shown on the Plan as "47 Cogswell Station" to a set of uniform rules and regulations, restrictions on use, mutual easements and servitudes, mutual privileges and obligations and to provide a vehicle for the administration, amendment and repeal of the same, all of which are designed to mutually benefit and burden all lots in order to accomplish said scheme, to preserve and enhance the appearance, desirability and value of such lots and the improvements to be made thereon, and to provide for the efficient management and government of 45 Cogswell Station and of 47 Cogswell Station;

NOW, THEREFORE, said trustees hereby declare:

That portion, referred to as "47 Cogswell Station", of the property described in Part C hereof, including all improvements now existing or to be made or created on that portion thereof in the future are hereby made subject to and shall be held, conveyed, encumbered, used and improved subject to the following reservations, restrictions, easements, covenants and limitations, all of which are hereby declared to be part of an integrated scheme for development of the property, to create reciprocal easements on each lot, in favor of all other lots, to create reciprocal rights and privity of contract and estate between all persons owning or who may acquire an interest in said lots (including said trustees), to run with the land and be binding upon all present and future owners thereof (including said trustees) for the benefit of all present and future owners thereof (including said trustees) and their heirs, representatives, successors and assigns;

Definitions

(a) "Trustees" means Douglas E. Bell and Gerald N. Fandetti, as they are Trustees of Cogswell Avenue Realty Trust under Declaration of Trust dated September 24, 1981 and recorded with the Middlesex South District Registry of Deeds in Book 14425, Page 231, who own the property described in Part C hereof, and who have executed this instrument. The term includes the successors and assigns of said trustees.

(b) "Premises" means that portion of the Property shown on the Plan and designated "47 Cogswell Station."

(c) "Plan" means the plan which describes the Property, shows the Lots and the location of the Units, Courtyard, Private Way, Utility Easement Area, Parking Spaces, Common Use Area, and is Part C hereof.

(d) "Lot" means the portion of the Premises which is described in Part C and which is indicated on the Plan by a number in a circle.

(e) "Unit" means a residential townhouse building constructed on a Lot comprising the Premises.

(f) "Association" means 47 Cogswell Station Homeowners' Association, a voluntary, non-profit association organized under the laws of the Commonwealth of Massachusetts.

(g) "Board" means the Board of Directors of the 47 Cogswell Station Homeowners' Association.

(h) "Declaration" means this instrument in its

entirety.

(i) "Person" includes a corporation, any other legal entity and, when the context requires, the plural.

(j) "Owner" means any person who owns a Lot. It includes the Trustees as to any Lots they have not sold, and, when the context requires, the plural.

(k) "Member" means any person who owns a Lot. It includes the Trustees as to any Lots they have not sold. It refers to membership in the Association.

When used in relation to the Board of Directors of the Association, it means a member of that Board.

(l) "Courtyard" means that portion of the Premises described in Part C and labeled on the Plan as Courtyard.

(m) "Private Way" means that portion of the Premises described in Part C and labeled on the Plan as "Private Way".

(n) "Utility Easement" means that portion of the Premises described in Part C and labeled on the Plan as "Utility Easement".

(o) "Parking Space(s)" means that portion of the Premises described in Part C and labeled on the Plan as "Parking".

(p) "Common Use Area" means that portion of the Premises described in Part C and labeled on the Plan as "Common Use Area for Lots 7, 8 and 9 of 45 Cogswell Station and for Lots 12, 13, 14, 15, 16, 17 and 18 of 47 Cogswell Station".

(q) "Cluster" means a group of two or more Units in which one Unit on one Lot abuts another Unit on a Lot adjacent to said Lot.

#### PART A

#### COVENANTS, RESERVATIONS, RESTRICTIONS AND EASEMENTS

§1. Architectural review. No structure shall be commenced, erected, placed or permitted to remain on any portion of the Courtyard at 47 Cogswell Station, nor shall any existing structure be altered in any fashion which changes the exterior appearance of that portion of such structure which faces or abuts the Courtyard, unless permission in writing to so do has

first been obtained from the Association. The right to prohibit the construction or alteration of that portion of any structure facing or abutting the Courtyard which, in the opinion of the architects who designed 47 Cogswell Station, is not compatible with the style, appearance and value of existing structures or the architectural scheme and concept created for 47 Cogswell Station, is specifically reserved for the benefit of the Association.

§1A. Removal of debris. In the event a structure in 47 Cogswell Station is destroyed in whole or in part by fire, windstorm or other casualty, and the owner of such structure shall fail within 60 days to remove debris resulting from such destruction or fails to continue diligently to complete such removal once commenced within said 60 days, the Association shall remove the debris and do such other things necessary to render the site of the casualty safe and sightly, and the Trustees hereby reserve to themselves and assign to the Association, its successors and assigns, the right to do said acts and to make assessments therefor as provided in Part B.

§1B. Ground maintenance and other services. Maintenance of paving and underground utilities in the Courtyard, removal of snow and ice from the Private Way shall be performed by the Association to the extent required by its By-Laws or by a vote of its Members, and the Trustees hereby reserve to themselves, and assign to the Association, its successors and assigns, the right to do such maintenance and perform such services, and to make assessments therefor as provided in Part B.

§2. Subdivision. No Lot in 47 Cogswell Station shall be subdivided.

§3. Easement for Private Way. Each Lot shown on the Plan shall be subject to and shall have the benefit of an easement right to pass and repass by foot and by vehicle over that portion of the Premises shown on the Plan and therein referred to as "Private Way".

§4. Utility Easements Reserved.

(a) Each Lot shown on the Plan shall be subject to a permanent easement right to maintain, repair and replace utility lines over that portion of said Lot shown on the Plan and therein referred to as "Utility Easement," for the benefit of every other Lot shown on the Plan.

(b) Each Lot shown on the Plan shall have the benefit of a permanent easement right to maintain, repair, and replace utility lines over that portion of every other Lot shown on the

Plan therein referred to as "Utility Easement," for the benefit of said Lot.

(c) The entry onto any Lot shown on the Plan for the purpose of exercising the permanent easement right to maintain, repair and replace utility lines is accompanied with the obligation to restore that portion of the Lot which is entered upon and which is disturbed by the exercise of such right to its condition immediately prior to such entry.

**§5. Footpath Easements.**

(a) Each Lot shown on the Plan is subject to and shall have the benefit of a permanent easement right to pass and repass by foot over that portion of the Courtyard shown on the Plan and therein referred to as "Private Way".

(b) Lot 16 on the Plan is subject to a permanent easement right to pass and repass by foot over that portion of said Lot 16, shown on the Plan as "Passage by Foot Easement", for the benefit of Lot 18 on the Plan.

(c) Lot 17 on the Plan is subject to a permanent easement right to pass and repass by foot over that portion of said Lot 17, shown on the Plan as "Passage by Foot Easement", for the benefit of Lot 18 on the Plan.

(d) Lot 20 on the Plan is subject to a permanent easement right to pass and repass by foot over that portion of said Lot 20, shown on the Plan as "Passage by Foot Easement", for the benefit of all other Lots shown on the Plan.

(e) Lot 18 on the Plan has the benefit of a permanent easement right to pass and repass by foot over that portion of Lot 16 and Lot 17, shown on the Plan as "Passage by Foot Easement".

(f) Lot 12 on the Plan has the benefit of a permanent easement right to pass and repass by foot over that portion of Lot 9, shown on the Plan as "Passage by Foot Easement".

(g) Each Lot (except for Lot 20) on the Plan has the benefit of a permanent easement right to pass and repass by foot over that portion of Lot 20, shown on the Plan as "Passage by Foot Easement".

**§6. Easement for Roof Inspection.** Each Lot shown on the Plan shall be subject to a permanent easement for the benefit of every adjacent Lot to inspect the roof of the building on said Lot for any condition therein causing leaks in the building located on said adjacent Lot. Each Lot shown on the Plan shall have an easement right to inspect the roof of any building located on an adjacent Lot for any condition therein causing leaks in the building located on said Lot.

§7. Association Membership Required.

(a) Every Owner is and shall be a Member of 47 Cogswell Station Homeowners' Association and is subject to its By-Laws and bound by its lawful acts. All property in 47 Cogswell Station is subject to the By-Laws and other lawful acts of the Association.

(b) Every Owner, by acceptance of his deed, consents and agrees to all the provisions of Part B hereof, and specifically to those which impose a lien for unpaid assessments and authorizes foreclosure for non-payment thereof in the same manner as appropriate to foreclose a mortgage lien under a power of sale clause in a mortgage deed, and for said purpose each owner by acceptance of his deed, thereby appoints the Association his true and lawful attorney for purpose of such foreclosure, which appointment may not be revoked, and which is binding upon his heirs, successors and assigns.

§8. Restrictions. There is hereby imposed upon each Lot shown on the Plan for the benefit of every other Lot shown on the Plan, the following restrictions:

- (a) the color of the exterior of the building and of the fences on a Lot shall not be changed;
- (b) The facade of any part of the building located on a Lot and abutting the Courtyard shall not be changed;
- (c) no tree existing on the date hereof more than 2" in calibre shall be cut down if living; and
- (d) no fence shall be erected on any portion of a Lot comprising any portion of the area designated on the Plan as "Courtyard".

§9. Common Use Area. (a) Those portions of each of Lots 14 through 17 shown on the plan as "Common Use Area for Lots 7, 8, and 9, of 45 Cogswell Station and Lots 12, 13, 14, 15, 16, 17, and 18 of 47 Cogswell Station" shall be subject to a permanent easement right to use such portions in common with others for the benefit of Lots 7, 8, and 9 of 45 Cogswell Station and Lots 12 through 18 of 47 Cogswell Station.

(b) Lots 12 through 18 shall have the benefit of a permanent easement right to use those portions of Lot 7 and Lot 8 of 45 Cogswell Station and those portions of Lots 14 through 17 of 47 Cogswell Station shown on the Plan as "Common Use Area for Lots 7, 8 and 9 of 45 Cogswell Station and Lots 12 through 18 of 47 Cogswell Station" in common with others, for the benefit of said Lots 12 through 18.

§10. Use of Courtyard. The Owner of each Lot comprising 47 Cogswell Station shall have the right to use that portion of his Lot shown on the Plan as "Courtyard", subject, however, to the following restrictions as well as those set forth in §§13 to 18 inclusive hereof:

(a) No waste shall be committed and specifically no trees, shrubbery or brush shall be cut, without the consent of the Association.

(b) No structures of any type or nature, however temporary shall be erected, placed, or permitted on the Courtyard.

(c) At no time shall motor vehicles of any kind be parked or left standing whether attended or unattended in any area shown on the Plan as "Courtyard", "Private Way" or "Utility Easement" except in those areas designated as "Parking" on the Plan.

§11. Reciprocal Easements for Encroachment. Each Lot shown on the Plan shall be subject to a permanent easement for an encroachment, if any, which any part of the building located on an adjacent Lot may have on to said Lot and each Lot comprising the property described in Part C shall have the benefit of a permanent easement for an encroachment, if any, which any part of the building located on said Lot may have onto an adjacent Lot.

§12. Emergency Repair. The Trustees for themselves, their heirs, successors and assigns (including, as a possible assignee, the Association) shall have the right to enter onto any Lot in 47 Cogswell Station in order to effect such repairs or to do any other act necessary to protect the property, health or safety of any Owner.

§13. Entry for Ordinary Repairs. The Trustees for themselves, their heirs, successors and assigns (including, as a possible assignee, the Association) reserves the right to enter upon the Courtyard in order to perform such maintenance and repair work described in Parts A and B hereof.

§14. Non-residential use prohibited. No Owner shall use his Unit for any purpose other than for residential purposes or for uses incidental thereto as permitted from time to time by the zoning ordinance of the City of Cambridge. This section shall not be construed to prevent any Owner from rent-



ing or leasing his unit for such purposes.

§15. Nuisances prohibited. No person shall make any use of any portion of 47 Cogswell Station, which use constitutes a nuisance or annoyance to the other Owners, a fire hazard, may result in the cancellation of any insurance on any part of 47 Cogswell Station, or is in violation of any law, ordinance or governmental regulation. Without the approval of the Association in writing no use shall be made of any part of 45 Cogswell Station which may increase the premiums on insurance covering any portion of 47 Cogswell Station.

§16. Signs and outside storage. No signs shall be permitted in 47 Cogswell Station except each Owner may maintain a name and address sign not exceeding one square foot in size. No clotheslines, garbage, trash, clothing, or other personal property of similar nature shall be maintained, kept, stored, placed or left in the Courtyard or in a front yard abutting the Courtyard.

§17. Fences prohibited. (a) Except as installed by the Trustees, no fences shall be erected or maintained in the Courtyard or in the front yard of a Lot.

(b) No fences shall be erected or maintained on any portion of a Lot shown on the Plan as "Common Utilities".

(c) No fences shall be erected or maintained on any portion of a Lot shown on the Plan as "Passage by Foot Easement."

(d) No fences shall be erected or maintained in any portion of a Lot between the Unit and the boundary of said Lot if said boundary abuts a public or private way or abuts real estate which is not included in either 45 Cogswell Station or in 47 Cogswell Station.

(e) No fence shall be erected or maintained in the side yard of Lot 13.

(f) Subject to the above, the Owner of a Lot may erect and maintain on his Lot a fence, provided such fence is constructed of materials which are the same as those materials used in the existing fences, and provided such fence is painted the same color as existing fences. Otherwise, no fences shall be erected or maintained on the non-Courtyard portion of a Lot without the approval of the Association. The Association shall permit erection and maintenance of fences on the non-Courtyard portion of a Lot only if said fences are compatible with the architecture of the structure on the Lot and the person desiring same has established a need related to health, appearance

or safety.

(g) Subject to the above, the Owner of a Lot may, but only with the consent of the abutting land owner, erect a fence on the boundary line of said Lot and real estate which abutts said Lot and which is not included in either 45 Cogswell Station or in 47 Cogswell Station.

§18. Pets. Permission is hereby given by the Association that birds, fish and animals of the type usually considered pets may be kept in the Units in accordance with appropriate ordinances of the City of Cambridge.

§19. Overhead lines prohibited. Except as installed by Trustees, all electrical and telephone service lines shall be placed underground and no outside electrical lines shall be placed overhead unless written permission to so do is obtained from the Association.

§20. Trustees may continue construction and sales. Notwithstanding any other provision of this Declaration, and in particular, notwithstanding any provision of §§13 through 18 of this Part A of the Declaration, the Trustees reserve to themselves, their successors and assigns, the unrestricted right to enter upon the Courtyard or any part of the Premises and to construct such improvements and make any and all changes which they shall deem necessary or appropriate, to make such use of 45 Cogswell Station as is necessary and convenient to them to construct Townhouse Units, and to market and sell the same, except that such reservation shall not extend to any Lot which is not owned by the Trustees.

§21. Waiver. No provision of this Declaration or of any rule or regulation of the Association shall be deemed to have been waived unless it is in writing and signed by the Trustees or Association as the case requires. No such waiver in a particular instance shall be deemed a waiver in any other instance.

Failure of the Trustees or the Association to perform any duty, exercise any right or do any act required, permitted or authorized by this Declaration in any instance, shall not be deemed a waiver thereof in any other instance.

Acceptance of any fee or assessment shall not be deemed a waiver of any violation by the Owner making such payment, even if the existence of said violation is known to the Trustees or the Association.

§22. Amendment. Except as otherwise provided herein,

this Declaration may be amended by two-thirds of the total votes of all members of the Association, provided, however, that so long as the Trustees have the right to appoint all the members of the Board of said Association, no amendment can be made without the written consent of the Trustees.

§23. Termination.

(a) The concept and plan imposed by this Declaration and this instrument itself shall cease, determine and end December 31, 2011, unless, prior to that date, the Association, by a vote of 50% of the total voting power thereof, shall vote to continue the concept and plan and this Declaration, which vote shall specify the date to which such continuation shall end, and a copy of which vote attested by the Secretary of the Association, shall be recorded in the Middlesex South District Registry of Deeds.

(b) The concept and plan imposed by this Declaration and this instrument itself shall cease, determine and end upon the recording in the Middlesex South District Registry of Deeds of an attested copy of a vote so to do of 75% of the total voting power of the Association.

## PART B

BY-LAWS: 47 COGSWELL STATION HOMEOWNERS' ASSOCIATIONCHAPTER IGeneral Provisions

§1. Application. The management and administration of 47 Cogswell Station shall be regulated and governed by these By-Laws. All present and future Owners of any interest in 47 Cogswell Station, including the Trustees, and all visitors, tenants, occupants or persons who in any way use any of the facilities of 47 Cogswell Station, shall hold such interest, visit, lease, occupy or use said facilities, subject to these By-Laws.

The acceptance of a deed, execution of a lease or an act of occupancy or use which relates to any Lot, situated in 47 Cogswell Station shall constitute acceptance by the actor that these By-Laws (and the Declaration of which they are a part) are effective and binding upon him, his heirs, successors and assigns.

§2. Purpose. It is the purpose of this Association to provide, care for and maintain the Courtyard and Private Way situated within 47 Cogswell Station, to make, alter and repeal rules and regulations governing the use thereof; to amend and repeal restrictions, covenants, conditions, easements and obligations on a uniform basis to protect and enhance the value, appearance, beauty and desirability of the community; to raise money by assessments upon the Members hereof, or to borrow the name in order to accomplish the purposes of the Association; to collect said assessments by the filing of liens and/or actions or petitions in court; to enforce such rules, regulations, covenants, easements, servitudes, conditions and obligations by court or other appropriate actions; and in general to do such things that are suitable and/or necessary to promote the fair, efficient management and regulation of 47 Cogswell Station so as to promote a congenial, valuable, attractive and pleasant residential community now and in the future.

§3. Definitions. Words and terms used herein shall have the meaning ascribed to them in that section of this Declaration of Covenants, Reservations, Restrictions and Easements which is headed "Definitions" unless the context requires a different meaning.

§4. Membership. The membership of this Association

shall consist of, and be limited to, owners of Lots in 47 Cogswell Station.

In the event a Lot is owned by more than one person, the membership relating thereto shall be held in the same names and in the same manner as the Lot.

§5. Severability. The invalidity of any portion or portions of these By-Laws shall not cause any other portion hereof, or of the Declaration of Covenants, Reservations, Restrictions and Easements of which it is a part, to be invalid or unenforceable.

§6. Construction. These By-Laws shall be interpreted liberally so as to give effect to and to assist and aid in the implementation of the overall plan for the management and government of 47 Cogswell Station.

§7. Amendment. Except as otherwise provided in these By-Laws, any provision hereof may be amended by a majority of the votes represented and cast at a duly held meeting of the Members of the Association. Such amendment shall become effective upon recording a copy thereof duly attested by the Secretary of the Association, in the Middlesex South District Registry of Deeds.

## CHAPTER II

### Board of Directors

§1. Composition. The powers and duties of the Association shall vest in a Board of three directors, all of whom shall be Members of the Association, spouses of Members or, in the event of a corporate Member, a director or officer of a Member.

§2. Election - Term. Until 16 Lots with improved townhouses have been sold, or until December 31, 1983, whichever first occurs, the Trustees shall appoint all the Directors.

Thereafter, the Trustees shall be entitled to elect one Director so long as they own two or more Lots. The Trustees may, at their option, and at any time, relinquish said rights.

Subject to the preceding paragraph, the Members of the Association shall elect the Directors at the annual meeting of the Association. Directors shall hold office for a term of three years or until their successors are elected and have qualified, except that at the first annual meeting after the Trustees's rights to appoint the Board have expired, one Direc-

tor shall be elected for a term of one year, one for a term of two years, and one for a term of three years.

§3. Vacancies. (a) Whenever a vacancy on the Board exists, the remaining Directors shall appoint a Member to serve until the next annual meeting of the Association at which the Members shall elect a person to complete any unexpired portion of the term. In the event all positions on the Board are vacant, the Members shall fill said vacancies.

(b) A vacancy shall occur when a Director ceases to qualify for membership in the Association.

§4. Removal. Any Director can be removed by two-thirds of the votes cast at any annual or special meeting of the Association, notice of the time and subject of which has been mailed to all members at least 20 days (including weekends and holidays) prior to the date thereof, subject, however, to the provisions of the first paragraph of §2 of this Chapter, and further provided that they immediately fill the vacancy created by said removal.

§5. Voting. (a) Each Director shall have one vote, and the Board shall transact its business by majority vote, provided a quorum is present. A quorum shall consist of a majority of the Directors.

(b) The Board may act in the absence of a quorum, if all the Directors not present assent in writing to the action taken by signing a copy of the minutes of the meeting, which is then filed with the Secretary.

(c) The Board may act without a meeting if all the Directors sign a record of the action taken, which is then filed with the Secretary.

§6. Meetings. The Board shall determine the times and places of its meetings. The President of the Association or two members of the Board may call a meeting. Notices of all meetings shall be mailed to each Director at least seven days prior to the date thereof. Notice is waived by any Director who attends the meeting or who waives the same in writing.

§7. Powers. (a) The Board shall have all the powers and duties of the Association provided by law, the Declaration of Covenants, Reservations, Restrictions and Easements and these By-Laws, as well as any and all other powers necessary to or convenient to accomplish the purposes of the Association.

(b) Without limiting the generality of subsection (a)

above, the Board:

(i) May employ a manager, to whom the Board may delegate all or a part of its duties, and such other persons it deems necessary to perform its duties, either directly itself or through the manager.

(ii) Shall review the style, and appearance of all structures proposed for 47 Cogswell Station to ensure compatibility with the style, appearance and value of existing structures and with the architectural scheme and concept of 47 Cogswell Station as set forth by the architects who designed the same; and may employ said architects to make such review and render such decision.

(iii) Shall provide for the performance of all maintenance of the Courtyard and any other services directed by majority vote of the Members present and voting at a duly held meeting.

(iv) Shall provide for the maintenance of the outside surfaces of all structures in 47 Cogswell Station necessary to keep each one in good appearance and repair and to insure that the outside of no Unit will be maintained or repaired in a fashion that will impair or destroy the integrity or unity of the structure. The Association may permit the owners of a structure in 47 Cogswell Station to perform such maintenance and repairs on such terms and conditions and with such limitations as the Board determines are consonant with the intent, goals and purposes of this Declaration.

(v) May institute law suits on behalf of the Association and employ legal counsel as necessary to properly accomplish the purposes of the Association.

(vi) May employ accounting services necessary to properly accomplish the purposes of the Association.

(vii) May purchase such equipment and other personal property as is necessary to properly accomplish the purposes of the Association, subject to the provisions of subsection (c) below.

(viii) May make, amend and repeal rules and regulations governing the use of the Courtyard, which rules and regulations shall become effective and binding upon Unit Owner's after a majority of the votes have been cast in favor of such rules and regulations at a duly held meeting of the Association, and shall furnish each Member a copy thereof.

(c) The Board shall have no power to expend in excess of \$500.00 in any year for the acquisition of personal property, or for capital improvements without the prior assent of a majority of the votes cast at a duly held meeting of the members of the Association.

§8. Indemnification. The officers of the Association and the Members of the Board, shall not be liable to any Owner for any official act unless such act constitutes willful misconduct, gross negligence or is in willful contravention of the Declaration. The Members shall indemnify and hold harmless each officer of the Association and each Member of the Board against liability for any contract made on behalf of the Association unless such contract is fraudulent, made in bad faith or is contrary to the provisions of this Declaration.

No officer or Director shall be exempt from or entitled to indemnification against liability for his own private tortious conduct against the person or property of another.

### CHAPTER III

#### Officers

§1. Election - Term. (a) The officers shall consist of a President, Vice-President, Treasurer, and Secretary. They shall be Members of the Association and, except as provided by subparagraph (b) hereof, they shall be elected at the annual meeting of the Association for a term of one year or until their successors are chosen and qualified. The officers shall serve at the pleasure of the Board and may be removed by the Board.

(b) So long as the Trustees has the right to appoint all the Directors, they shall also be entitled to appoint all the officers of the Association.

§2. President. The President shall act as chief executive officer of the Association and shall preside at all meetings of the Association. He shall be a Member of the Board.

§3. Vice-President. The Vice-President shall assist the President in the discharge of his duties and shall preside at all meetings in the absence of the President. He may be a Member of the Board.

§4. Treasurer. (a) The Treasurer shall have charge of all funds of the Association and perform such other duties as directed by the Board. He may be a Member of the Board. He shall keep and maintain books and records relating to the fi-



nancial affairs of the Association; he shall maintain such bank accounts as are approved by the Board, and render a report relating to the same at the annual meeting; he shall submit to the Board a proposed budget for operation of the Association during the forthcoming year in time for the Board to review the same prior to the annual meeting. He shall, upon appropriate notice, make his books and records available for the inspection by any member. He may be required to be bonded as determined by the Board and by the Association. He may also serve as Secretary.

(b) The proposed budget for the current year shall be submitted to the Board on or before February 1st of each year. It shall include, in addition to such sums deemed necessary to operate the Association for the current year, all amounts necessary to make up any deficits for the year just ended; amounts in excess of any insurance proceeds required for repair and restoration, reasonable reserves for contingencies and unanticipated expenses and amounts required for the purchase of a Lot as provided in §5 of Chapter V of these By-Laws. It shall include the dollar amount of the proposed assessment to be levied against a Member for each Unit which he owns.

§5. Secretary. The Secretary shall keep a record of all meetings of and actions by the Board and the Association. He shall keep all records, documents and other papers of the Board and of the Association. He may be a member of the Board.

§6. Indemnification. See §8 of Chapter II hereof.

#### CHAPTER IV

##### Meetings

§1. Annual Meeting. The annual meeting of the Association shall be held on the first Monday of April at 8:00 P.M. at 47 Cogswell Station, or at such other place or time (which shall not be more than 20 days before or after said date) as the Board shall direct.

The Association shall elect Directors and officers as required by these By-Laws, approve the operating budget for the coming year and transact any other business of the Association.

The President shall, within 30 days of said meeting, cause a copy of the minutes thereof, including the budget adopted thereat, to be mailed to each Member.

§2. Special Meetings. Special meetings of the Association may be called at any time by the President, a major-

ity of the Board or those members who have one-third of the total voting power of the Association.

§3. Notice. Written notice of all meetings shall be mailed to each Member at least 20 days prior to the date thereof. Said notice shall state the date, time and place of the meeting, as well as the matters to be considered thereat. However, no notice shall be required for the annual meeting actually held at the time and place specified in §1 of this Chapter.

§4. Quorum. The presence of 50% percent of the total voting power of the Members in person or by proxy at any meeting shall constitute a quorum. The Association shall conduct its business by majority vote.

In the absence of a quorum, a majority of the Members present may vote to adjourn the meeting to a time not more than 30 and not less than 10 days after the date of the original meeting. At said adjourned meeting, proxies received up to the date thereof shall be counted and the quorum shall be 30% percent of the total voting power of the Members.

The President shall cause notices of said adjourned meeting and the reasons therefor to be mailed to all Members at least seven days before the date thereof.

Notices are waived by those who are present in person or by proxy and by anyone who expressly waives notice.

§5. Voting. (a) Each Member of the Association who owns a Lot shall be entitled to one vote for each such Lot.

(b) Any Member entitled to more than one vote shall cast all votes to which he is entitled in the same fashion.

(c) Votes may not be split in the event a Lot is owned by more than one person; but such persons shall agree as to how their vote or votes shall be cast; failure of such persons to agree on how their vote shall be cast shall invalidate their vote for such Lot. Ownership of a Unit shall be determined on the basis of record title as shown in the Middlesex South District Registry of Deeds.

(d) The Trustees shall be entitled to vote with respect to each Lot owned by them.

(e) The Members may assign their vote(s) to a first mortgage of record.

CHAPTER VAssessments and Liens

§1. Accounting Period. The fiscal year of the Association shall be the twelve (12) month period ending December 31st.

§2. Liability for Expenses. Except as provided in §4 of this Chapter, all expenses of the Association shall be allocated equally among the Owner of each Lot.

§3. Regular Assessments. (a) Each Member's share of the current year's budget as adopted by the Association shall be assessed to the Members as of April 1st of each year. The Trustees will be liable for assessment for any units owned by them. If the assessment proves insufficient, the Board may at any time levy a further assessment upon the Members in the same proportions.

(b) Each Member shall be personally liable for the payment of all assessments properly made against such Member, which assessments shall be due and payable in 12 equal installments beginning the first of May, or in such other reasonable fashion as the Board shall require. No Member may exempt himself from liability for assessment by waiving or abandoning his use or enjoyment of the Courtyard or of his Lot.

(c) Failure of the Board or Association to determine assessments for a 12 month period in the manner prescribed above shall not be interpreted as a waiver or amendment of those provisions, nor a release of a Member of his obligation to pay assessments, but the assessment for the preceding 12 months shall continue, and installments shall be due thereon, until a new assessment is fixed.

(d) This Section shall not be amended except upon a vote of 75% of the total voting power of the Members.

§4. Special Assessments. (a) The cost of maintenance and repairs performed as required by §7(b)(iv) of Chapter II shall be wholly assessed to the Members who own the Lot for the actual cost of the work performed to the building on his Lot.

(b) In the event a structure is destroyed in whole or in part by fire, windstorm or other casualty, the Association shall, if, in the opinion of the Board, adequate provision has not been made by the Owner of said Lot, remove said debris and assess the cost thereof to the Owner or Owners thereof in the ratio as the work done relates to the various units affected

thereby.

(c) Payment of such assessments is due 30 days after a statement therefor is rendered.

(d) This Section shall not be amended except upon a vote of 75% of the total voting power of the Members.

§5. Effect of Non-Payment. (a) All assessments and each installment thereof are a separate, distinct and severable personal obligation of the Member against whom they are assessed. Any such assessments or installments not paid when due, plus interest at 18% per annum, and all costs of collection, including reasonable attorney's fees, are a lien upon the property owned by the defaulting Member. Notice of this lien shall be recorded in the Middlesex South District Registry of Deeds by the Association, which notice shall indicate the identity of the Member who owns the Lot, the amount of the unpaid assessments and/or installments, the Lot or Lots burdened, and a reference to the Book and Page of the Middlesex South District Registry of Deeds where the Declaration of Covenants, Reservations, Restrictions and Easements is recorded. The following form may be used:

Notice of Lien

Pursuant to §5, Chapter V of Part B of the Declaration of Covenants, Reservations, Restrictions and Easements relating to the community known as 47 Cogswell Station situated in the City of Cambridge, County of Middlesex and Commonwealth of Massachusetts, recorded in Book \_\_\_\_\_, Page \_\_\_\_\_ of the Middlesex South District Registry of Deeds, notice is hereby given of liens in favor of 47 Cogswell Station Homeowners' Association, whose address is \_\_\_\_\_, Cambridge, Massachusetts, in the following amounts, against the properties and persons and for the periods set forth in the following schedule.

<u>Owner</u>	<u>Amount</u>	<u>Date due</u>	<u>Lot</u>
1.			
2.			
3.			
4.			
5.			

In addition to the amounts set forth above, said lien secures interest at 18% per annum from the due date to date of payment and all costs of collection, including reasonable attorney's fees.

47 COGSWELL STATION HOMEOWNERS' ASSOCIATION

By: Douglas E. Bell  
Its President hereunto duly authorized

COMMONWEALTH OF MASSACHUSETTS

*Miscellaneous* ss.

Personally appeared Douglas E. Bell, who acknowledged himself to be the President of 47 Cogswell Station Homeowners' Association, Inc., an association duly organized, and who further acknowledged that he executed the foregoing instrument as said President on behalf of said Association for the purposes therein contained. Before me, this 11<sup>th</sup> day of Sept, 1982.

Daniel S. Kurnear  
Notary Public

(b) The Association may foreclose said lien in the same manner as the holder of a mortgage deed may foreclose deed under a power of sale clause contained in said mortgage deed. In any such foreclosure sale, the proceeds shall be charged with the costs and expenses thereof, including reasonable attorney's fees. The Association may purchase at any such foreclosure sale and may hold, lease, mortgage or sell any property acquired thereat.

(c) Upon foreclosure of said lien against any Member, said Member shall immediately vacate the Lot. If said Member fails to do so, he shall be liable for reasonable rental in addition to all costs, including reasonable attorney's fees, necessary for the Association to obtain possession of the Lot.

(d) Said lien shall be subordinate to any duly recorded first mortgage on the Lot.

§6. Certificate of Payment. At the request of an

Owner, the Association shall, with regard to said Owner's Lot, issue a certificate of payment or non-payment of assessments.

§7. Surplus. Any surplus shall be retained by the Association and applied toward the next year's expenses.

§8. Certificate by Directors and Officers. Any amendments hereto and any certificate herein required to be recorded and any other certificate or paper signed by a Director or by an Officer of the Association which may be deemed desirable to record shall be recorded with said Registry of Deeds and such record shall be deemed conclusive evidence of the contents and effectiveness thereof according to the tenor thereof, and all persons dealing in any manner whatsoever with the Directors and Officers, the Association, the Association property or any Member shall be held to have notice of any alteration or amendment of this Declaration, or change of Directors or Officers, when the same shall be so recorded. Any certificate signed by two Directors, two Officers or by one Director and one Officer, including statements as to who are the Members, as to what action has been taken by the Members, and as to matters determining the authority of the Directors or Officers to do any action, when duly acknowledged, recorded with said Registry of Deeds, shall be conclusive evidence as to the existence of such alleged facts in favor of persons, including the Directors and Officers, acting in reliance thereon. Any certificate executed by any Director or Officer hereunder, in the capacity of designated representative, Clerk, or Secretary of the Board, or by a majority of the Directors hereunder, setting forth the existence of any facts which are necessary to authorize the execution of any instrument or the taking of any action by the Board shall, as to all persons acting in good faith in reliance thereon, be conclusive evidence of the truth of the statements made in the certificate of the existence of the facts therein set forth. Notwithstanding any other provisions of this Section, any certificate relating to assessments, setting forth, inter alia, the amount of unpaid assessments assessed against any Member, shall be conclusive evidence of the facts stated therein if signed by any Director or Officer then in office. The Association shall provide such certificate promptly upon request.

#### PART C

§1. Description. The Premises comprising 47 Cogswell Station and made subject to this instrument are those shown on a plan entitled "Plan of Land in Cambridge, Massachusetts, Scale 1" = 20' June 25, 1982, by Ernest H. Fagerstrom, Registered Land Surveyor, Norwell, Massachusetts, recorded in the Middlesex South Registry of Deeds as Plan No. 698 of 1982 in Book 14675, Page 129, which Plan is incorporated herein and

made a part hereof by reference.

IN WITNESS WHEREOF, Douglas E. Bell and Gerald N. Fandetti as Trustees of Cogswell Avenue Realty Trust have executed this instrument, on this 11<sup>th</sup> day of September, 1982.

Trustees as aforesaid  
and not individually

Douglas E. Bell  
Douglas E. Bell

Gerald N. Fandetti  
Gerald N. Fandetti

David S. Keenan  
Witness to both

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. Sept 11, 1982

Then personally appeared the above-named Douglas E. Bell and Gerald N. Fandetti, as Trustees of Cogswell Avenue Realty Trust, and acknowledged the foregoing was their free act and deed, as Trustees, before me

David S. Keenan  
Notary Public

My commission expires:  
Nov. 16, 1984

RULES AND REGULATIONS

At no time shall trash, waste or garbage be stored in any portion of a Lot comprising any portion of the Courtyard. Trash, waste and garbage put out for collection shall be placed on Cogswell Avenue in trash cans or in sealed plastic bags no earlier than 6 p.m. on the day before collection by the City of Cambridge is scheduled.

If any pet kept by the owner of a Lot becomes a nuisance or offensive to the owners of other Lots, the Association, upon making a determination that the continued presence of said pet by said owner is a detriment to 47 Cogswell Station, may withdraw the Association's consent allowing said owner to retain said pet and said owner shall remove said pet within five (5) days from the date of said notice or otherwise be subject to fines as imposed, in the sole discretion of the Trustees, by the Association.