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BOOK 170 PAGE 257

DECLARATION OF EXPANDABLE CONDOMINIUM

For

GENTRY QUARTERS PHASE I CONDOMINIUM

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*Virginia R. Hudson*

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Prepared by

Michael L. Carmin  
COTNER, ANDREWS, MANN & CHAPMAN  
528 North Walnut Street, Post Office Box 2478  
Bloomington, Indiana 47402-2478  
(812) 332-6556

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## GENTRY QUARTERS PHASE I

DECLARATION OF HORIZONTAL PROPERTY OWNERSHIP  
HORIZONTAL PROPERTY REGIME

THIS DECLARATION, and the exhibits which are attached hereto and made a part hereof, are made and executed this 25<sup>th</sup> day of SEPTEMBER, 1986, by Gentry Quarters Development Co., Inc., for itself, its successors, grantees and assigns, pursuant to the provisions of the Indiana Horizontal Property Act.

WITNESSETH:

WHEREAS, the Gentry Quarters Development Co., Inc. is the owner of certain real property in Monroe County, State of Indiana, more particularly described and defined in Exhibit A attached hereto and made a part hereof which shall constitute the Gentry Quarters condominium development; and

WHEREAS, the Gentry Quarters Development Co., Inc. is the owner of additional real property described in Exhibit F, attached hereto, which shall, at the election of Gentry Quarters Development Co., Inc. and upon annexation of such additional real property, constitute a part of Gentry Quarters condominium development; and

WHEREAS, the Gentry Quarters Development Co., Inc. is the owner of certain condominium type multi-unit buildings and certain other improvements heretofore constructed or hereafter to be constructed upon the aforesaid property and it is the desire and the intention of the Gentry Quarters Development Co., Inc. to divide the project into "Condominium Units" or "Condominiums" as those terms are defined under the provisions of the Indiana Horizontal Property Act, and to sell and convey the same to various purchasers subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, Gentry Quarters Development Co., Inc. desires and intends, by the filing of this Declaration, to submit the Property described in Exhibit A and the multi-unit buildings located thereon and all other improvements constructed or to be constructed thereon, together with all appurtenances thereto, to the provisions of the Indiana Horizontal Property Act; and

WHEREAS, the Gentry Quarters Development Co., Inc. reserves the right to annex all or any part of said additional real property described in Exhibit F, attached hereto, upon execution and recordation of an amendment declaration by Gentry Quarters Development Co., Inc. which, upon execution and recordation shall automatically include the land described therein within this Declaration and such owners or the Board of Administrators or the

members of the Gentry Quarters Homeowners Association or by any other person or entity, as hereinafter more particularly provided;

NOW, THEREFORE, the Gentry Quarters Development Co., Inc. by execution of this Declaration does hereby create an Expandable Horizontal Property Regime subject to the provisions of the Indiana Horizontal Property Act and the terms and conditions hereof, and does hereby publish and declare that all of the Property described in Exhibit A (and as described in paragraph 4 below) is held and shall be held, conveyed, hypothecated, encumbered, used, occupied, and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said Property and the division thereof into Condominium Units and shall be deemed to run with the land and shall be a burden and benefit to Gentry Quarters Development Co., Inc., its successors and assigns, and any person, firm, corporation or other entity acquiring and owning an interest in the Property and improvements, their grantees, successors, heirs executors, administrators, devisees and assigns.

1. Definitions.

Certain terms as used in this Declaration and Exhibits attached hereto and made a part hereof shall be defined as follows, unless the context clearly indicates a meaning different therefor:

(a) "Act" shall mean the Horizontal Property Act of the State of Indiana, Act of 1963, Chapter 349, Sections 1 through 41, as amended. The Act is incorporated herein by reference.

(b) "Homeowners Association" is as defined in the Indiana Horizontal Property Act and shall mean all of the Unit Owners acting as a group in accordance with the Declaration and By-Laws.

(c) "Board of Administrators" shall mean the governing body of the Homeowners Association, elected pursuant to the By-Laws and shall be synonymous with "Board of Directors" as used in the Act.

(d) "Buildings" shall mean all structures erected or to be erected upon the property.

(e) "By-Laws" shall mean the by-laws for the administration of the Property and the Homeowners Association contained in Exhibit B attached hereto and made a part hereof.

(f) "Common Area and Facilities" shall have the meaning as set forth in the Indiana Horizontal Property Act and as more fully described in paragraph 8 hereof.

(g) "Common Expenses" shall mean and include:

(i) all sums assessed against the Unit Owners by the Homeowners Association:

(ii) expenses of administration, maintenance, repair or replacement of the Common Areas and Facilities;

(iii) expenses agreed upon as Common Expenses by the Homeowners Association; and

(iv) expenses declared to be Common Expenses by the provisions of the Indiana Horizontal Property Act, or by this Declaration or the By-Laws.

(h) "Common Expense Fund" shall mean the separate accounts to be kept in accordance with the provisions of Article VII, Section 2 of the By-Laws.

(i) "Common Interest" shall mean the aggregate of the undivided interests of the Unit Owners in the Common Areas and Facilities.

(j) "Condominium" shall mean the entire estate in the Property owned by the Owner, including an undivided interest in the Common Areas and Facilities and ownership of a separate interest in a Unit.

(k) "Condominium Documents" shall mean this Declaration and all of the Exhibits hereto as the same shall from time to time be amended. Said Exhibits are as follows:

Exhibit A -- Legal Description of the Property;

Exhibit B -- By-Laws of the Homeowners Association;

Exhibit C -- Master Site Plan;

Exhibit D -- Plans and Specifications;

Exhibit E -- Unit Designations;

Exhibit F -- Legal Description of Expansion Area;

(l) "Owner" or "Unit Owner" shall mean a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, having an ownership interest of record in a Unit within the Property.

(m) "Limited Common Areas and Facilities" shall mean those parts of the Common Areas and Facilities reserved for the use of a certain Unit or Units to the exclusion of all other Units and more specifically described in paragraph 10 hereof.

(n) "Mortgage" shall mean a deed of trust as well as a mortgage.

(o) "Mortgagee" shall mean a beneficiary under or a holder of a deed of trust as well as a mortgage.

(p) "Property" or "Condominium Property" shall mean the entire parcel of real property referred to in this Declaration to be divided into Condominiums (and more fully described in Exhibit A) including the land, the Buildings, all improvements and structures thereon, all owned in fee simple absolute, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for common use in connection therewith.

(q) "Unit" shall mean "Apartment" as defined in the Act and shall mean those parts of the Condominium Property described in paragraph 6 hereof which are the subject of individual ownership. The term "Unit" as used herein and in the By-Laws shall be synonymous with the term "Apartment" as used in the Act.

## 2. Declaration.

Gentry Quarters Development Co., Inc. hereby expressly declares that the Property described herein shall be an Expandable Horizontal Property Regime in accordance with the provisions of the Act and this Declaration.

## 3. Name of the Condominium.

The name by which the Condominium Property shall be known is "Gentry Quarters".

## 4. General Description of the Property.

The Condominium Property consists of the real property described and identified on Exhibit A attached hereto and made a part hereof and the Buildings and other improvements erected and to be erected thereon and all articles of personal property intended for common use in connection therewith.

## 5. Description of Buildings.

Gentry Quarters Phase I will consist of five (5) non-contiguous multi-unit residential buildings. The Buildings are designated on the Master Site Plan, a copy of which is attached hereto and made a part hereof as Exhibit C, which such Master Site Plan further shows the location of each Building on the real property described in Exhibit A and its location with respect to every other Building thereon. The five (5) Buildings contain a total of thirty-six (36) separate Units consisting of basic floor plan types including:

1FA = 600 sq. ft. 1 bedroom flat

1FB = 600 sq. ft. 1 bedroom flat  
 1FC = 670 sq. ft. 1 bedroom flat  
 2FA = 840 sq. ft. 2 bedroom flat  
 2FB = 880 sq. ft. 2 bedroom flat  
 2FC = 1080 sq. ft. 2 bedroom flat  
 2FD = 1200 sq. ft. 2 bedroom flat  
 2TH = 1200 sq. ft. 2 bedroom townhouse  
 3F = 1200 sq. ft. 3 bedroom flat  
 3THA = 1200 sq. ft. 3 bedroom townhouse  
 3THB = 1440 sq. ft. 3 bedroom townhouse

The number of stories in each Building, the number of Units and the types of units and basements are as follows:

<u>Building Designation</u>	<u>Number of Units of Type</u>	<u>Total Units in Building</u>	<u>Basement</u>	<u>Stories</u>
A	2 - 1FA 2 - 2FB 2 - 3THA	6	NO	3
B	5 - 1FA 1 - 1FB 2 - 2FB	8	NO	3
C	1 - 1FB 1 - 1FC 2 - 2FA 1 - 2FB 1 - 2FC 1 - 3THA	7	NO	3
D	1 - 1FA 1 - 1FC 2 - 2FA 1 - 2FB 1 - 2FC 1 - 3F	7	NO	3
E	5 - 1FA 1 - 1FB 2 - 2FB	8	NO	3

Said multi-unit Buildings are more particularly described and defined in the Plans and Specifications of said Buildings, a copy of which Plans and Specifications are attached hereto and made a part hereof as Exhibit D, showing all particulars of the Buildings, including the layout, number of stories, the location, ceiling and floor elevations, Building designations, Unit numbers and dimensions of the Units. Such Plans bear the verified statement of Smith, Quillman and Associates, certifying that said Plans are actual copies of portions of the Plans of the Buildings as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for



the construction of buildings. For a more particular description of the Buildings reference is hereby made to the Plans and Specifications filed herewith as Exhibit D.

6. Description of Units.

(a) The Unit designation of each Condominium Unit, approximate area, number of rooms and other data concerning its proper identification are set forth in Exhibit E attached hereto and made a part hereof. The percentage interests of each Unit in the Common Areas and Facilities owned as tenant-in-common with other Unit Owners shall be based upon the square footage of each Condominium Unit as shown on Exhibit E attached hereto in relationship to the total square footage of all Units as shown on said Exhibit E. Said percentage interests appurtenant to each Unit are as specified on said Exhibit E attached hereto.

(b) Each Unit shall constitute a single freehold estate and shall consist of all of the space bounded by the undecorated and/or unfinished interior surfaces of its perimeter walls, load bearing walls, lowermost floors, uppermost ceilings, windows and window frames, door and door frames. Each Unit includes both portions of the Building within such boundaries and the space so encompassed, including, without limitation, the decorated surfaces, including paint, lacquer, varnish, wallpaper, paneling, tile, carpeting and any other finishing materials applied to interior walls, doors, floors and ceiling and interior surfaces of permanent walls, interior non-load bearing walls, windows, doors, floors and ceiling.

7. Encroachments.

If any portion of the Common Areas and Facilities encroaches upon any Unit, or if any Unit now encroaches upon any other Unit, or upon any portion of the Common Areas and Facilities, as a result of the construction of the Buildings, or if any such encroachment shall occur hereafter as a result of settling or shifting of the Buildings, a valid easement for the encroachment and for the maintenance of same so long as the Buildings stand shall exist. In the event the Buildings, the Unit, any adjoining Unit, or any adjoining Common Area or Facility shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachment of parts of the Common Areas and Facilities upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Areas and Facilities due to such rebuilding shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the Building shall stand.

8. Common Areas and Facilities.

The Common Areas and Facilities consist of all the Property other than the Units as described in paragraph 6 above,

including, without limitation, the following (except such portions of the following, as may be included within an individual Unit):

(a) The land on which the Buildings are erected and all land surrounding the Buildings as more fully described in paragraph 4 above.

(b) All foundations, columns, girders, beams, supports and other structural members.

(c) The yards, landscaping, fences, roads, driveways and exterior parking areas, and fencing and tree screen on the west side of the land.

(d) All roofs, exterior walls and interior walls except those partitioned walls wholly within a Unit, attics and crawl spaces.

(e) All central and appurtenant installations for services such as power, lights, water, sewer, gas and television; and all tanks, pumps, motors, sewage grinders, fans, cables, antennas, conduits, compressors, flues and ducts (except as described in paragraph 10 below), mechanical systems, storm drains, and all other items used in connection therewith, whether located in Common Areas or in Units.

(f) All exterior walkways.

(g) Maintenance areas and recreational areas including the swimming pool and tennis courts to the extent located now or subsequently within the Property.

(h) All other parts of the Property and all apparatus and installations including all items of personal property existing in the Buildings or upon the Property for common use or which are necessary or convenient to the existence, maintenance or safety of the Property.

Subject to the provisions of paragraph 29 hereof, the percentage of undivided interests in the Common Areas and Facilities as pertaining to each Unit and its Owner for all purposes is as set forth in Exhibit E attached hereto and made a part hereof as if herein set forth in full. Such percentage interest appertaining to each Unit shall be subject to change as is provided in paragraph 29 hereof should Gentry Quarters Development Co., Inc. file an amended declaration adding additional Units and real estate to the Expandable Condominium.

#### 9. Use of Common Areas and Facilities.

Each Unit Owner shall have the right to use the Common Areas and Facilities in accordance with the purposes for which they are intended and for all purposes incident to the use and occupancy

of his Unit, and such right shall be appurtenant to and run with his Unit; provided, however, that no person shall use the Common Areas and Facilities or any part thereof in such manner as to interfere with or restrict or impede the use thereof by others entitled to the use thereof or in any manner contrary to or not in accordance with this Declaration, the By-Laws, and such rules and regulations as may be established from time to time by the Board of Administrators. Such rules and regulations may impose reasonable restrictions on the use of such Common Areas and Facilities including, without limitation, assignment of parking spaces to individual Units for their exclusive use.

10. Description of Limited Common Areas and Facilities.

Limited Common Areas and Facilities shall mean and include those Common Areas and Facilities reserved for use by a certain Unit or Units to the exclusion of other Units and shall mean all patios, balconies, chimneys (including duct work and flues), storage rooms and garages. While parking spaces shall not constitute Limited Common Areas and Facilities the Board of Administrators may, in their discretion, from time to time, assign parking spaces to specific Units for their exclusive use. Said Limited Common Areas and Facilities are more fully designated as Exhibit D attached hereto and made a part hereof. References in this Declaration and the By-Laws to Common Areas and Facilities shall include Limited Common Areas and Facilities unless the context clearly indicates otherwise. Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy the Limited Common Areas and Facilities associated with and/or assigned to such Owner's Unit.

11. Statement of Purposes, Use and Restrictions.

The Units, Common Areas and Facilities, and Limited Common Areas and Facilities shall be occupied and used as follows:

(a) The Condominium Property shall be used for single family residential purposes and common recreational purposes auxiliary thereto and for no other purposes.

(b) There shall be no obstruction of the Common Areas and Facilities. Nothing may be stored in the Common Areas and Facilities, excluding the Limited Common Areas and Facilities located within the bounds of a Unit or pertaining to a Unit, without the prior written consent of the Board of Administrators.

(c) Nothing shall be done or kept in any Unit or in the Common Areas and Facilities which will increase the rate of insurance on the Common Areas and Facilities without the prior written consent of the Board of Administrators. No Owner shall permit anything to be done or kept in his Unit or in the Common Areas and Facilities which would result in the cancellation of insurance on any Unit or any part of the Common Areas and

Facilities, or which would be in violation of any law. No waste will be committed of the Common Areas and Facilities.

(d) No sign of any kind shall be displayed to the public view from any Unit or from the Common Areas and Facilities without the prior written consent of the Board of Administrators.

(e) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Areas and Facilities, except that dogs, cats or other usual household pets may be kept in Units, subject to rules and regulations adopted by the Board of Administrators.

(f) No noxious or offensive activity shall be carried on in any Unit, or in the Common Areas and Facilities, nor shall anything be done therein which will be an annoyance or nuisance to other Owners.

(g) Nothing shall be altered or constructed in or removed from the Common Areas and Facilities except upon the written consent of the Board of Administrators and Gentry Quarters Development Co., Inc.

(h) The Board of Administrators of the Homeowners Association is authorized to adopt rules for the use of the Common Areas and Facilities, said rules to be furnished in writing to the Owners. There shall be no violation of said rules.

(i) Notwithstanding anything herein to the contrary, Gentry Quarters Development Co., Inc., and such persons it may select, shall have the right of ingress and egress over, upon and across the Common Areas and Facilities, the right to utilize one or more Condominium Units as a model or office, the right to erect signs upon the Property for the purpose of advertising availability of Units and similar uses, and the right to store materials on the Common Areas and Facilities and make such other use thereof as may be reasonably necessary incident to construction, development and sale of the Condominiums and operation of the Units and Common Areas and Facilities and of other subsequent Phases of Development of which the Property is a part.

## 12. Easements.

(a) General. Each Unit Owner shall have an easement in common with the other Owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Facilities located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Facilities serving such other Units and located in such Unit. The Board of Administrators or its agents shall have the right of access to each Unit to inspect the same, to remove violations therefrom and

to maintain, repair or replace the Common Facilities contained therein or elsewhere in the Buildings.

The Board of Administrators may hereafter grant easements (and shall grant such easements as permitted in this paragraph 12 or as the Gentry Quarters Development Co., Inc. shall direct) for utility purposes for the benefit of the Property including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, gas mains, telephone wires and equipment and electrical conduits, and wires over, under, along, and on any portion of the Common Areas; and each Unit Owner hereby grants the Board of Administrators an irrevocable power of attorney to execute, acknowledge and record for and in the name of each Unit Owner such instruments as may be necessary to effectuate the foregoing.

(b) Cross Easement for Adjoining Property Owners. The Board of Administrators may hereafter grant cross easements for recreational, utility and access purposes for the benefit of the Property, the Unit Owners, and the owners of the residential and commercial properties adjoining or surrounding the condominium regime. All such cross recreational easements and related cross easements for roads, water and sewer shall be subject to approval by Gentry Quarters Development Co., Inc. as to the location, form, beneficiary, content and all other particulars.

#### 13. Partitioning.

Neither the Common Areas and Facilities nor any individual Unit shall be divided nor shall any right to partition any thereof exist. Nothing herein contained, however, shall be deemed to prevent ownership of a Condominium Unit by more than one person, either as tenants-by-the-entirety or tenants-in-common or in any other form by law permitted.

#### 14. Liens.

While the Property remains subject to this Declaration and the provisions of the Act, no liens of any nature shall arise or be created against the Property as a whole or the Common Areas and Facilities except with the unanimous consent in writing of all the Condominium Unit Owners and the holders of first liens thereon, except for (a) such liens as may arise or be created against the several Units and their respective Common Interests under or in accordance with the provisions of the Act, and (b) the lien of any mortgage given by Gentry Quarters Development Co., Inc. to secure financing for the construction of the Buildings and other improvements on the Property. Every agreement for the performance of labor, or the furnishing of materials to the Common Areas and Facilities, whether oral or in writing, must provide that it is subject to the provisions of this Declaration.