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Declaration

Declaration, Schedules and Affidavit

Halifax County Condominium Corporation No. 144

REFORMATTED REFERENCE COPY

This document reproduces the Declaration, its schedules and its affidavit. The original wording is retained. Added headings, contents, bookmarks and page references are editorial navigation only.

Declaration Schedule A is the legal description. The common element rules are a different Schedule A, attached to By-law 1 and provided in the companion By-laws and Rules documents.

The registered declaration, by-laws and applicable amendments prevail in the event of any discrepancy.

Contents

2

Navigation updated 15 October 2026

Halifax County Condominium Corporation No. 144

Source-page references identify pages in the supplied 59-page PDF.

Contents

These page numbers refer to this document. Click an entry or use the PDF bookmarks.

Declaration

Declaration	3
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Schedules and Affidavit

Schedule A: Legal Description	18
Schedule B: Canada Trustco Consent	19
Schedule B: Bank of Nova Scotia Consent	20
Schedule C: Percentage Interests	21
Declaration Affidavit	22

The original declaration body appears on pages 3-17. Its schedules and affidavit appear on pages 18-22. Source pages 3-22 are reproduced in full.

Declaration

MADE PURSUANT TO THE CONDOMINIUM ACT STATUTES

OF NOVA SCOTIA, 1970-71, CHAPTER 12

AND THE REGULATIONS MADE THEREUNDER

FOR HALIFAX COUNTY CONDOMINIUM CORPORATION NO. 144

THIS DECLARATION (the "Declaration") made pursuant to the Condominium Act, Statutes of Nova Scotia, 1970-71, Chapter 12, and the Regulations made thereunder (all of which are hereinafter referred to as the "Act") BY:

Bristol Investments Limited, a body corporate, incorporated under the laws of Nova Scotia and carrying on business at Halifax, County of Halifax, Province of Nova Scotia (hereinafter referred to as the "Declarant");

WHEREAS the Declarant is the Owner in fee simple of lands and premises situate at Halifax, in the County of Halifax, Province of Nova Scotia, as more particularly described in accordance with Section 11 of the Condominium Act and the description filed herewith and being Schedule "A", hereto annexed.

WHEREAS the Declarant has constructed two buildings upon the said lands containing 10 units, and

WHEREAS the Declarant intends that the said lands, together with the said building constructed thereon, shall be governed by the Act.

NOW THEREFORE THE DECLARANT HEREBY DECLARES AS FOLLOWS:

I INTRODUCTORY

1.01 Definitions - The following terms used herein have the meanings set out below, unless the context otherwise requires:

- (a) Common Elements - means all the property except the units;
- (b) Corporation - means the Corporation created under the Act by the acceptance for registration of this Declaration and the Description;
- (c) Description - means the Description submitted for registration herewith by the Declarant as Schedule "A" hereto;
- (d) Land - means the freehold land described in the Description;
- (e) Termination - means the withdrawal of the property from the Act and includes withdrawal as a result of damages;
- (f) Unit - means the part or parts of the land included in the Description, and designated as a Unit by the Description, and comprises the space enclosed by its boundaries and all the material parts of the land within this space at the time the Declaration and Description are registered;
- (g) Any other words and phrases used herein which are defined in the Act have the meaning herein given to them by the Act.

1.02 Statement of Intention

The Declarant intends that the property be governed by the Act, and any amendments thereto. By virtue of the Act, the provisions of this Declaration, the Description and the By-Laws including the Common Element Rules

are imposed upon the property for the benefit of all of the Units and all persons interested therein from time to time.

1.03 Consent of Encumbrancers

The consent of all persons having registered encumbrances against the land or interest appurtenant to the land contained in the Description, being Schedule "A", is contained in Schedule "B" attached hereto.

1.04.1 Boundaries of Units

Each unit shall comprise the area bounded:

- (a) Horizontally, by the exterior surface of the drywall sheeting and the extensions of the planes of such surfaces across windows, doors and other openings.
- (b) Vertically, by the upper surface of the concrete floor slab or floor joists, as the case may be, and by the exterior surface of the drywall for the ceiling.

Notwithstanding the foregoing, the unit shall not include:

- (a) any load-bearing walls, columns or beams within the boundaries of any unit;
- (b) concrete floor slabs within the boundaries of the units
- (c) such pipes, wires, cables, conduits, ducts, flues, shafts, public utility lines and other horizontal or vertical service facilities which are used for the distribution of power, water, drainage and other services within the buildings and that are within the boundaries of the units; but the unit shall include the fixtures, outlets and other facilities with respect to such service facilities which are within the boundaries of the unit and which service the unit only.

1.05 Monuments

The monuments controlling the extent of Units are fully described in the Description set forth in Schedule "A" attached hereto and all dimensions shall have reference to them.

1.06 Proportions of the Common Interests

Each owner shall have an undivided interest in the common elements as a Tenant in Common with all other owners; the proportions of the common interests are the percentages allocated to each Unit as set out in Schedule "C" attached hereto. The total of the proportions of the common interests shall be one hundred per cent (100%).

1.07 Contribution to the Common Expenses

Each owner shall contribute to the common expenses in the proportions identical to the percentages allocated to each unit as set out in Schedule "C" attached hereto.

1.08 Voting Rights

Each Owner shall have voting rights in the Corporation in the proportions identical to the percentages allocated to each Unit as set out in Schedule "C" attached hereto.

II COMMON EXPENSES

2.01 Specification of Common Expenses

Common expenses mean the expenses of the performance of the objects and duties of the Corporation and, without limiting the generality of the foregoing, include:

- (a) the maintenance, repair, replacement, and the operation of the Common Elements,
- (b) the cost of electricity, water, heating, fuel and all other utilities and services purchased by the Corporation for the use in the Common Elements;
- (c) the payment of realty taxes, (including local improvement charges) levied against the property until such time as said taxes are levied against each Unit;
- (d) the costs of water purchased by the Corporation for use in the Units;
- (e) the remuneration payable by the Corporation to any employees deemed necessary for the operation and maintenance of the property including the payment of any remuneration payable pursuant to any management agreement which the Corporation may enter into;
- (f) the cost of furnishings and equipment for use in and about the Common Elements including the repair, maintenance or replacement thereof;
- (g) the cost of legal, accounting and auditing services, premiums for the Corporation's insurance obligations, appraisals, fees and disbursements of the insurance Trustee, fidelity bonds and the cost of any other objects and duties imposed by the Act, this Declaration and the By-laws of the Corporation and its Board of Directors;
- (h) the cost of borrowing money to carry out the objects and duties of the Corporation and the repayment including principal and interest of debts incurred for the objects and duties of the Corporation, provided, that the borrowing of such money shall have been duly authorized by a vote of the owners at a meeting held for the purposes of such authorization;
- (i) all sums of money assessed by the Corporation for collection from the owners to be set aside in such separate fund or funds as may be provided for by the by-laws of the Corporation, and to be applied, from time to time in whole or in part in the absolute discretion of the Corporation, towards meeting deficits and such other common purposes, or to be used or expended for major maintenance items, which occur less frequently than annually, and for major items or repair or replacement made necessary by may deem necessary or desirable in order to carry out the objects and duties of the Corporation;

2.02 Payment of Common Expenses

Until the end of the calendar month during which the Declarant has executed agreements of purchase and sale for four (4) Units, the Declarant shall pay all common expenses for the Corporation and the Board shall assess the estimated common expenses of the Corporation applicable to the Units conveyed by the Declarant and shall levy against the new Owners of such Units conveyed by the Declarant such portion of such estimated common expenses as the Board, in its discretion, which shall be reasonably exercised, considers proper, and upon receiving the contribution of the new Owners to the estimated common expenses for such period, the corporation shall pay to the Declarant such common expense contributions as they are received from time to time.

Commencing with the calendar month immediately following that in which any Declarant sells the fourth (4th) Unit as aforesaid, and thereafter, each Owner, including the Declarant, shall pay to the Corporation his proportionate share of the common expenses, which shall include payments towards any separate fund or funds, as may be provided for the By-Laws of the Corporation, and the assessment and collection of contributions towards the common expenses may be regulated by the Board of Directors of the Corporation pursuant to the By-Laws of the Corporation.

III COMMON ELEMENTS

3.01 Use of Common Elements

Subject to the provisions of the Act, this Declaration, the By-Laws, including the common element rules and any other rules and regulations passed pursuant thereto, each owner has full use, occupancy and enjoyment of the whole or any part of the common elements, except as herein otherwise provided.

3.02 Limited Common Elements

Subject to the provisions of the Act, this declaration the By-Laws, and the rules and regulations passed pursuant thereto:

- (a) Each Owner is entitled to the exclusive use and possession of the inner surface of glass windows to which his unit has sole access, and the interior side of exterior doors which provide the means of ingress to the egress from his unit.
- (b) Each Owner is entitled to the exclusive use and possession of one parking space designated by the number of his unit, the level, the building and the suffix "p" as shown on the plans included in the description, for the purpose of parking motor vehicles only.
- (c) Each Owner is entitled to the exclusive use and possession of the patio area immediately adjoining his unit, if the Unit has one.

Each Owner is entitled to the exclusive use and possession of the balcony to which his unit has sole access, if the Unit has one.

IV UNITS

4.01 Occupation and Use

The occupation and use of the Units shall be in accordance with the following restrictions and stipulations:

- (a) Each Unit shall be occupied and used only as a residence for single family housing and for no other purpose.
- (b) Nothing shall be done, or permitted to be done or brought into, or kept in a Unit which will in any way increase the risk of fire, or the rate of fire insurance on the property or any part thereof, or on chattels kept within any Unit.
- (c) No Unit shall be occupied or used by any one in such a manner as to result in the cancellation of any policy of insurance referred to in this Declaration.
- (d) The Owner of each Unit shall comply and shall require all its employees and visitors to his Unit to comply with the Act, this Declaration, the By-laws and the Common Element Rules.
- (e) Prior to making any alterations or repairs to his Unit, the Owner shall submit his plans to the Board of Directors of the Corporation in accordance with the By-laws for approval; and the Board shall approve the plans unless the proposed alterations or repairs or the manner of carrying them out are likely to damage or impair the value of any other Unit or the Common Elements.
- (f) No Owner shall make any change to an installation upon the Common Elements, or maintain, decorate, alter or repair any part of the Common Elements, except for maintenance of those parts of the Common Elements which he has the duty to maintain, without the consent of the Board of Directors of the Corporation.
- (g) Nothing herein contained shall prevent and no bylaw or house rule shall be made to prevent the Declarant until all of the Units have been sold for the first time by it from completing the buildings and all improvements to the property, remedying defects, maintaining Units as models for display and sales purposes, and otherwise marketing Units and maintaining marketing and/or construction offices, displays

and signs, provided that they are in accordance with any applicable by-laws of the municipality in which the property is situate.

- (h) No signs, billboards, notices or other advertising matter of any kind, shall be placed on any part of the Unit without the written consent of the Board of Directors of the Corporation being obtained.

4.02 Restrictions on Leasing

No Owner shall lease his Unit unless he causes the tenant to deliver to the Corporation an undertaking signed by the Tenant under seal, to the following effect:

I, _____, undertake that the members of my household and my visitors from time to time, will, in using the Unit rented by me and the Common Elements, comply with the Condominium Act, the Declaration, the By-Laws, including Common Element Rules, and all other rules and directions of the Condominium Corporation during the term of my tenancy.

The entering into occupancy of any Unit by an occupant with the consent of the Owner shall constitute an Agreement that the provisions of the Condominium Act, the Declaration, the ByLaws, including Common Element Rules, and all other rules and direction of the Condominium Corporation are accepted and ratified by such occupant.

Any Owner leasing his Unit shall not be relieved hereby from any of his obligations with respect to the Unit, which shall be joint and several with his tenant and will notify the Corporation of the name and occupation of the tenant or tenants.

V. BY-LAWS

5.01 The Corporation may, by a vote of members who own sixty-six and two-thirds per cent (66 2/3%) of the Common Elements, make by-laws;

- (a) governing the management of the property;
- (b) governing the use of Units or any of them for the purpose of preventing unreasonable interference with the use and enjoyment of the Common Elements and other Units;
- (c) governing the use of the Common Elements;
- (d) regulating the maintenance of the Units and Common Elements;
- (e) governing the use and management of the assets of the Corporation;
- (f) respecting the Board of Directors of the Corporation;
- (g) specifying duties of the Corporation;
- (h) regulating the assessment and collection of contributions towards the Common Expenses;
- (i) respecting the conduct generally of the affairs of the Corporation;

VI MODIFICATIONS OF COMMON ELEMENTS AND ASSETS

6.01 For the purpose of Section 20(1) of the Act, the determination whether any addition, alteration or improvement to or renovation of the Common Elements or any change in the assets of the Corporation is "substantial" shall be made by an affirmative vote of the members who own fifty-one percent (51%) of the Common Elements.

VII MAINTENANCE AND REPAIRS

7.01 Maintenance and Repairs of Units by the Owner

- (a) Each Owner shall maintain his Unit, and, subject to the provision of this Declaration, each Owner shall repair his Unit after damage, all at his own expense. The obligation of each Owner to repair his Unit after damage, includes the repair of all improvements made to his Unit by the Declarant in accordance with the architectural plans and specifications of the Declarant, notwithstanding that some of such improvements may have been made after acceptance for registration of this Declaration and the Description, so that his Unit is restored to a state of repair at least equivalent to that at the time his Unit was originally completed for sale by the Declarant.
- (b) Each Owner shall be responsible for all damages to any and all other Units and to the Common Elements, which are caused by the failure of the Owner to so maintain and repair his Unit, save and except for any such damages to the Common Elements for which the cost of repairing same may be recovered under any policy or policies of insurance held by the Corporation.
- (c) The Corporation shall make any repairs that an Owner is obligated to make and which are not made within a reasonable time; and in such an event, an Owner shall be deemed to have consented to having such repairs made by the Corporation; and such Owner shall reimburse the Corporation in full for the cost of such repairs, including any legal or collection costs incurred by the Corporation in order to collect the costs of such repairs, and all sums of money shall bear interest at the rate of Fifteen Percent (15%) per annum or such other amount as may be approved by By-Law from time to time. The Corporation may collect all such sums of money in such instalments as the Board of Directors may decide upon, which installments shall be added to the monthly contribution towards the Common Expenses of such Owner, after receipt of a notice from the Corporation thereof. All such payments are deemed to be additional contributions towards the Common Expenses and recoverable as such.

7.02 Repair of the Common Elements by the Corporation

The Corporation shall repair the Common Elements after damage, which includes repair and replacement of all exterior doors which provide the means of ingress to and egress from a Unit and to all exterior glass windows, all at its own expense.

7.03 Maintenance of the Common Elements

The Corporation shall maintain the Common Elements, save and except for any improvements made by an Owner to the limited Common Elements appurtenant to his Unit, the inner surface of the exterior glass windows to which a Unit has sole access, the interior side of the exterior doors which provide the means of ingress to or egress from a Unit, which excluded portions of the Common Elements shall be maintained by the Owner having the exclusive use and possession thereof pursuant to this Declaration; the maintenance by an Owner of such excluded portions of the Common Elements shall be in accordance with any directions and specifications set from time to time by the Board of Directors of the Corporation.

7.04 Additions, Alterations or Improvements by Owners

No Owner shall make any structural change in or to his Unit or any change to an installation upon the Common Elements, or maintain, decorate or repair any part of the Common Elements (except for the maintenance of such portions of the Common Elements which the Owner, having the exclusive use and possession thereof, is obligated to maintain pursuant to Clause 7.03 of this Section VII) without the prior written consent of the Board.

VIII DAMAGE

8.01 Procedure Where Damage Occurs

Where there has been a determination by the Board of Directors that there has been substantial damage to the extent that the cost of repairs would be at least twenty-five per cent (25%) of the value of the buildings immediately prior to the occurrence, notice of such determination shall, within ten (10) days thereof, be given by registered mail to the Owners and Mortgagees entered in the register kept for such purpose addressed to the Owner and Mortgagee at the address set out in the said register, in accordance with the provisions of the bylaws of the Corporation, and together with such notice there shall be notice to the Owners and Mortgagees of a meeting called for the purpose of voting for repair, or termination of the Condominium.

8.02 Repair after Damages

- (a) In the event that the Owners who own eighty per cent (80%) of the Common Elements vote for repair, the Corporation shall repair the Units and common elements in accordance with the architectural plans and specifications and certificate contained in the Description, with the following provisos:
 - (i) the obligation of the Corporation to repair after damage hereunder, extends to all improvements made to the Units by the Declarant in accordance with its architectural plans and specifications, notwithstanding that some of such improvements may have been made after registration of this Declaration and the Description, but does not include repair or any improvements made to the Unit by the Declarant for the Owner thereof, which were not included in the architectural plans and specifications of the Declarant; and
 - (ii) the obligation of the Corporation to repair the units after damage shall be limited to repair in respect of all risks which are not insured or insurable under any available policy or policies of insurance; and
 - (iii) each Unit Owner shall repair his Unit after damage in respect of all risks which are not insured or insurable under any available policy or policies of insurance.
- (b) In the event that the Board of Directors shall determine that there has not been substantial damage to the extent that the cost of repairs would be at least twenty-five per cent (25%) of the value of the buildings immediately prior to the occurrence then the Corporation and such Owners whose Units have been damaged, shall repair in accordance with the provisions of Clause VII of this Declaration.

8.03 Plans and Specifications

A complete set of all the original architectural and structural plans and specifications for the buildings, including plans and specifications for any additions, alterations or improvements from time to time made to the Common Elements or to any Unit with the prior consent in writing of the Board of Directors, shall be maintained in the office of the Corporation at all times for the use of the Corporation in re-building or repairing any damage to the building and for the use of any owner and mortgagee of the Owner.

IX INSURANCE

9.01 By the Corporation

- (1) The Corporation shall be required to obtain and maintain, to the extent obtainable, the following insurance in one or more policies:
 - (a) Insurance against damage by fire and extended perils and such other perils as the Board of Directors may from time to time deem advisable insuring:
 - (i) the property, excluding the Units; and

- (ii) personal property owned by the Corporation, but not including furnishings, furniture or other personal property supplied or installed by the Owners;

in an amount equal to the full replacement cost of such real and personal property without deductions for depreciation, which policy may be subject to a loss deductible clause;

- (b) Insurance against damage by fire and extended perils and such other perils as the Board of Directors may from time to time deem advisable, insuring the Units including all improvements made to the Units by the Declarant in accordance with its architectural plans and specifications, notwithstanding that some of such improvements may have been made after registration of the Declaration and the Description, but excluding any improvements made by the Owners thereof, in an amount equal to the full replacement cost of such Units without deduction for depreciation.
 - (c) Public liability and property damage insuring the liability of the Corporation with limits to be determined by the Board of Directors, but in no event for less than ONE MILLION DOLLARS (\$1,000,000.00) and without right of subrogation as against the Corporation, its manager, agents, servants and employees, and as against the Owners and any member of the household or guests of any Owner or occupant of a Unit; and
 - (d) Boiler and machinery insurance to the extent required as the Board of Directors may from time to time deem advisable.
- (2) Such policy or policies of insurance as required by paragraphs (a) and (b) of subsection (1) hereof, shall insure the interests of the Corporation and the Owners from time to time as their respective interests may appear, with Mortgagee endorsements, which Mortgagee endorsements shall be subject to the provisions hereof; and all such policy or policies of insurance shall contain the following provisions:
- (a) That loss shall be payable to the Insurance Trustee; provided that where the amount receivable from an Insurer for any loss arising out of any one occurrence does not exceed Five Thousand Dollars (\$5,000.00), loss shall be payable to the Corporation and not to the Insurance Trustee;
 - (b) Waivers of subrogation against the Corporation, its manager, agents, employees and servants and owners, and any member of the household or any Owner or occupant of the Unit except for arson and fraud;
 - (c) That such policy or policies of insurance shall not be cancelled or substantially modified without at least sixty (60) days prior written notice to all the parties whose interests appear thereon, and to the Insurance Trustee;
 - (d) Waivers of any defence based on co-insurance or of invalidity arising from the conduct or any act or omission of any insured;
 - (e) All policies of insurance (insuring the liability of the Condominium Corporation) shall provide that the same shall be primary insurance in respect of any other insurance carried by the Unit owner; and
 - (f) a waiver of the insurer's and/or insurers' option to repair, rebuild, or replace in the event that after damage the government of the property by the Act is terminated pursuant to clause 8.01 thereof.

9.02 General Provisions

- (a) At such time as the Board of Directors may deem advisable, the Board of Directors shall obtain an appraisal from an independent qualified appraiser, of the full replacement cost of the property, for the purpose of determining the amount of insurance to be effective pursuant to Clause 9.01 of this Section IX and the cost of such appraisal shall be a common expense;
- (b) The Corporation, its Board of Directors and its Officers shall have the exclusive right, on behalf of itself and as agent for the owners, to adjust any loss and settle all claims with respect to all insurance placed by the Corporation, and to give such releases as are required, and any claimant, including the owner of a damaged

Unit, shall be bound by such adjustment, provided, however, that the Board of Directors may, in writing, authorize an owner to adjust any loss to his Unit with an Insurer.

- (c) No Mortgage may be placed against any Unit unless the Mortgagee agrees to waive any contractual or statutory provision giving the Mortgagee the right to have the proceeds of any insurance policy or policies applied on account of the Mortgage and thereby prevent application of the proceeds of any insurance policy or policies towards the repair of the property pursuant to the provisions of this Declaration. This paragraph Cc) shall be read without prejudice to the right of any Mortgagee to exercise the right of an owner to vote or to consent, if the Mortgagee itself contains a provision giving the Mortgagee that right, and also to the right of any Mortgagee to receive the proceeds of any insurance policy, if the property is not repaired.
- (d) A certificate of all insurance policies and endorsements thereto, shall be issued as soon as possible to each Owner and a certified copy of all such policies to each mortgagee; renewal certificates or certificates of new insurance policies shall be furnished to each Owner and renewal certificates and certified copies of new insurance policies to each Mortgagee not later than ten (10) days before the expiry of any current insurance policy. The master policy for any insurance coverage shall be kept by the Corporation in its offices and made available for inspection by an owner or Mortgagee on reasonable notice to the Corporation.
- (e) No insured, other than the Corporation, shall be entitled to amend any policy or policies of insurance obtained and maintained by the Corporation, or to direct that loss shall be payable in any manner other than as provided in this Declaration.
- (f) Where this Corporation, instead of the insurance trustee receives any proceeds of insurance pursuant to subparagraph Ci) of paragraph (2) of Clause 9.01 of this Section IX, the proportion of such proceeds attributable to damage to any Unit or Units shall be held in trust for the Owner or Owners of such Unit or Units and, at the discretion of the Board of Directors, may be applied by the Corporation to the repair of such Unit or Units or may be paid to such Owner or Owners subject at all times to the interest if any, of any Mortgagee.
- (g) Where any insurance proceeds have been paid to an Owner for the purpose of effecting repairs to his Unit, then such Owner shall effect such repairs within two (2) months of such payment or within such further period of time as the Board of Directors of the Corporation may permit, and he shall furnish the Corporation with evidence that such repairs have been completed in accordance with Section VII of this Declaration.

9.03 By the Owner

It is acknowledged that the foregoing insurance is the only insurance required to be obtained and maintained by the Corporation and that:

- (a) Each Unit owner may obtain and maintain his own insurance on any additions or improvements made by the Owner to his Unit and for furnishings, fixtures, equipment, decorating and personal property and chattels of the Owner contained in his Unit and his personal property and chattels stored elsewhere on the property, including an automobile or automobiles, and for the loss of use and occupancy of his Unit in the event of damage, which policy or policies of insurance shall contain waivers of subrogation against the Corporation, its manager, agents, employees and servants and against the other Owners, and any members of their household or any owner or occupant of another Unit except for arson and fraud.
- (b) Each owner may obtain and maintain his own public liability insurance covering any liability of the owner with regard to the property and his Unit pursuant to this Declaration to the extent not covered by any public liability and property damage insurance obtained by the Corporation.
- (c) Each Owner is to provide to the Board a certified copy of their insurance policy or policies within ten (10) days of arranging such insurance coverage.
- (d) No owner shall obtain and maintain any insurance on his Unit other than in accordance with the provisions of this Section IX without the consent in writing of the Corporation, which may not be arbitrarily withheld.

X INSURANCE PROCEEDS

10.01 Insurance Trustee

The Board of Directors on behalf of the Corporation shall enter into an agreement with an Insurance Trustee which shall be a Trust Company authorized to carry on business in Nova Scotia and having a capital, surplus and undivided profits of at least One Million Dollars (\$1,000,000) or shall be a Chartered Bank, which agreement shall, without limiting its generality, provide the following:

- (a) the receipt by the Insurance Trustee of any proceeds of insurance payable to the Corporation where such proceeds exceed Five Thousand Dollars (\$5,000.00);
- (b) the holding of such proceeds in trust for those entitled thereto pursuant to the provisions of this Declaration; and
- (c) the disbursement of such proceeds in accordance with the provisions of the Insurance Trust Agreement.

In the event that the Board of Directors is unable to enter into such agreement with such Trust Company, or such Chartered Bank, by reason of their refusal to act, the Corporation may enter into such agreement with such other Corporation authorized to act as Trustee, as in its discretion the Board of Directors may deem advisable. The Corporation shall pay the fees and disbursements of any Insurance Trustee of any fees and disbursements shall constitute a common expense.

10.02 In the Event That:

- (a) the Corporation is obligated to repair any Unit insured under paragraph (b) of paragraph (1) of clause 9.01 of Section IX hereof, in accordance with the provisions of Section VIII hereof, the Insurance Trustee shall hold all proceeds for the Corporation and shall disburse the same in accordance with the provisions of the Insurance Trust Agreement, in order to satisfy the obligation of the Corporation to make such repairs;
- (b) there is no obligation by the Corporation to repair any Unit in accordance with the provision of Section VIII hereof and there is termination in accordance with the provisions of Section 23 of the Act, the Insurance Trustee shall hold all proceeds for the owners in the proportion of their respective interests in the common elements and shall pay such proceeds to the owners in such proportions, upon registration of a notice of termination by the Corporation; and
- (c) the Board of Directors in accordance with the provisions of subsection (1) of Section 23 of the Act determines that there has not been substantial damage to the extent that the cost of repairs would be twenty-five per cent (25%) of the value of the buildings immediately prior to the occurrence, the Insurance Trustee shall hold all proceeds for the Corporation and the owners whose Units have been damaged, and shall disburse such proceeds for the benefit of the Corporation and the Owners whose Units had been damaged, as their respective interests may appear in accordance with the provisions of the Insurance Trust Agreement in order to satisfy the respective obligations to make repairs pursuant to the provisions of Section VII of this Declaration.

Notwithstanding anything to the contrary herein contained any proceeds payable by an Insurance Trustee to an owner, in accordance with the provisions of paragraph (b) of this clause 10.02 of Section X hereof shall be subject to payment in favour of any Mortgagee or Mortgagees to whom such loss be payable in such policy or policies of insurance and in satisfaction of the amount due under any liens registered by the Corporation against such Unit.

XI INDEMNIFICATION

11.01 Each owner shall indemnify and save harmless the Corporation from and against any loss, costs, damage, injury or liability whatsoever which the Corporation may suffer or incur resulting from or caused by any act or omission of such owner, his family or any member thereof, any other occupants of the Unit or any guests,

invitees or licensees of such owner or occupant to or with respect to the Common Elements and/or all other Units, except for any loss, costs, damage, injury or liability caused by an insured (as defined in any policy or policies of insurance) and insured against by the Corporation.

Any sums of money to be paid by an owner to the Corporation pursuant to this clause 11.0. Section XI shall include any legal or collection costs as between solicitor and client incurred by the Corporation in order to collect such sums of money, and all such sums of money shall bear interest at such rate of interest (not exceeding 2% above the prime rate charged by the corporation's bankers from time to time as the Board of Directors . The Corporation may collect such sums of money in such installments as the Board of Directors may decide upon, which installments shall be added to the monthly contribution towards the common expenses of such Owner, after receipt of notice from the Corporation thereof. All payments pursuant to this clause 11.01 are deemed to be additional contributions towards the common expenses and recoverable as such.

11.02 The Corporation shall indemnify and save harmless the Owner of each Unit from and against any loss, costs, damages, injury or liability whatsoever which may be suffered or incurred by each Owner, his family or any member thereof and any other occupants of his Unit or any guests, invitees or licensees of such owner or occupants resulting from or caused by the negligence or wrongful act or omission of the Corporation, its managers, agents, servants, employees or independent contractors, or for damage done to the Unit substantially resulting from the repair or maintenance by the Corporation of the Common Elements; provided that notwithstanding anything hereinbefore contained, each owner agrees to look solely to the proceeds received from the Insurer or Insurers of the public liability and property damage insurance of the Corporation in the event of such loss, costs, damage, injury or liability.

XII TERMINATION

12.01 Management after Termination

In the event that sale of the property or any part of the Common Elements or termination of the government of the property by the Act is authorized, then the Board of Directors of the Corporation may authorize any procedures, rules and regulations and any other matters deemed necessary to complete such sale or termination and to manage the property pending such completion.

XIII EXPROPRIATION

13.01 Expropriation in Whole of the Property

In the event of the expropriation of the whole of the property the compensation to be paid for the whole of the property shall be negotiated and settled by the Board of Directors of the Corporation, whether or not proceedings are necessary. The Compensation received from the expropriating authority, less expenses involved, if any, in obtaining said compensation, shall be distributed among the owners and mortgagees in proportion to their respective interests in the Common Elements.

Notwithstanding the above provisions in this clause 13.01, the rights of each owner shall be separate to negotiate and settle his personal compensation for additions, alterations or improvements made by the owner to his Unit after registration of this Declaration, the cost of moving and other similar items personal to each Owner.

13.02 Part Only of Common Elements Taken

If no Units are taken by the expropriation, and the expropriation includes only part of the Common Elements, then compensation shall be negotiated and settled by the Board of Directors of the Corporation, whether or not proceedings are necessary. The Board of Directors may deal with the compensation in any one or more of the following ways:

- (a) to distribute the compensation among the owners and mortgagees in proportion to their respective interests in the Common Elements; or
- (b) to use the compensation to add to, change, or alter the Common Elements; or
- (c) to retain the compensation as an asset of the Corporation; or
- (d) where the part of the Common Elements expropriated includes Common Elements the exclusive use of which is annexed to one or more specified Units by virtue of this Declaration, the Board of Directors may deal with the compensation received in respect of such exclusive use Common Element by distributing such compensation among the owners and mortgagees whose exclusive use elements have been taken or by applying such compensation to the replacement of such exclusive use Common Elements.

13.03 Partial Expropriation Including Units

In the event of a partial expropriation which includes some Units, each owner whose Unit is expropriated shall deal with the expropriating authority with regard to compensation relating to his Unit and interest in the Common Elements. The Compensation for any damage suffered by the remaining owners whose Units are not expropriated shall be negotiated and settled by the Board of Directors of the Corporation, whether or not proceedings are necessary; and the compensation so received from the expropriating authority, less expenses involved, if any, in obtaining such compensation, shall be distributed proportionately among such remaining owners or their mortgagees as their respective interests appear, except as required in connection with the restoration of the balance of the property.

The cost of restoring the balance of the property so that it may be used shall be determined by the Corporation, and the Corporation shall negotiate with the expropriating authority with regard to compensation for this expenditure, and shall, unless the government of the property by the Act is terminated within thirty (30) days of the receipt of such compensation, reconstruct using the funds received for such reconstruction.

13.04 Reconstitution of Scheme of Condominium after Reconstruction

In the event of reconstruction as provided in clause 8.02 of Section VIII hereof, all of the Owners and other persons having an interest in or encumbrance against any part of the property agree to do everything necessary and sign such documents and so vote on all occasions as may be necessary to reconstitute the scheme of the Condominium property as follows:

(a) Payment for shares of assets of the Corporation

Any owners whose Units have been wholly taken or rendered completely unusable shall have no further interest in the Common Elements or the property itself but shall be entitled only to receive the value of their share of the assets of the Corporation as determined by their percentage interest in the Common Elements. Said assets are to be valued at book value, and in this respect any asset shall be deemed to have a book value of cost less the maximum allowable depreciation that would be allowed on such assets under the Income Tax Act (Canada) then in force.

(b) Determination of Value of Remaining Portion

The value of the portion of any Unit partially expropriated or rendered partially unusable by the expropriation and/or reconstruction, together with the interest of the Common Elements of such partial Unit, shall be determined, and if it cannot be determined, shall be arbitrated. The owners of portions so taken shall receive the appropriate portion of the payment provided by paragraph (a) of this clause 13.04.

(c) Reduction of Interest in Common Elements

The percentage contribution towards common expenses and the percentage interest in the common elements of all Units and portions of Units that are taken by the expropriation shall thereafter be dissolved and ended.

(d) Remaining Interests Expanded:

The remaining interests in the Common Elements and the percentage obligations towards common expenses shall be determined by calculating this percentage as a percentage of the total percentages left in the property after its reconstruction, and shall be increased accordingly.

XIV GENERAL MATTERS AND ADMINISTRATION

14.01 Rights of Entry

- (a) The Corporation, or any insurer of the property or any part thereof, their respective agents, or any other person authorized by the Board of Directors of the Corporation, shall be entitled to enter any Unit or any part of the Common Elements over which any owner has the exclusive use and possession thereof, at all reasonable times and upon giving reasonable notice, for the purpose of making inspections, adjusting losses, making repairs, correcting any condition which violates the provisions of any insurance policy or policies, remedying any condition which might result in damage to the property, or carrying out any duty imposed upon the Corporation.
- (b) In case of an emergency, an agent of the Corporation may enter a Unit at any time and without notice, for the purpose of repairing the Unit, Common Elements, or part of the Common Elements over which any owner has the exclusive use and possession thereof, or for the purpose of correcting any condition which might result in damage or loss to the property. The Corporation or any one authorized by it may determine whether an emergency exists.
- (c) If an owner shall not be personally present to grant entry to his Unit, the Corporation, or its agents, may enter upon such Unit without rendering it or them liable to any claim or cause of action for damages by reason thereof, provided that they exercise reasonable care.
- (d) The rights and authority hereby reserved to the Corporation, its agents, or any insurer or its agents, do not impose any responsibility or liability whatever for the care or supervision of any Unit except as specifically provided in this Declaration or the By-laws.
- (e) The Corporation shall not be liable to the owner of any Unit for damages for any interference or inconvenience caused by repairs or any other work permitted by this Article 14.01 provided such repairs or work are carried out as expeditiously as reasonably possible and provided further that such damages are not caused by the negligence or willful acts of the Corporation, its servants, agents and workmen.

14.02 Units Subject to Declaration, By-Laws, Common Element Rules and Rules and Regulations

All present and future owners, tenants and residents of Units, their families, guests, invitees or licensees shall be subject to and shall comply with the provisions of this Declaration, the By-Laws, including the Common Element Rules, and any other Rules and Regulations. The acceptance of a deed or transfer or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration the By-Laws, including the Common element Rules, and any other Rules and Regulations, as they may be amended from time to time, are accepted and ratified by such owner, tenant or resident and all of such provisions shall be deemed and taken to be covenants running with the Unit and shall bind any person having, at any time, any interest or estate in such Unit as though such provisions were recited and stipulated in full in each and every such deed or transfer or lease or occupation agreement.

14.03 Invalidity

Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or unenforceability in whole or in part of any one or more of the provisions of this Declaration shall not be deemed to impair or effect in any manner the validity, enforceability or effect of the remainder of this Declaration, and

in such event all the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

14.04 Waiver

The failure to take action to enforce any provision contained in the Act, this Declaration, the By-Laws, including the Common Element Rules, or any other rules and regulations of the Corporation, irrespective of the number of violations or breaches which may occur, shall not constitute a waiver of the right to do so thereafter, nor be deemed to abrogate or waive any such provision.

14.05 Resolution of Conflict of Provisions

In the event of a conflict between the provisions of the Act, this Declaration or the By-laws, including the Common Element Rules, the provisions of the Act shall govern; subject to the Act, the provisions of this Declaration shall govern; subject to the Act and this Declaration, the provisions of the By-laws shall govern; the provisions of the Common Element Rules shall only be valid so long as they are not in conflict with anything in the Act, this Declaration or those portions of the By-Laws excluding the Common Element Rules.

14.06 Notice

Except as herein provided - any notice, direction or other instrument required or permitted to be given hereunder shall be in writing, and shall be sufficiently given if served personally by delivering same to the party to be served or to any other officer of the party to be served, or may be given by ordinary mail, postage prepaid, addressed to the Corporation c/c its recognized agent, to each owner at his respective Unit or at such other address as is given by the owner to the Corporation for the purpose of notice, and to each Mortgagee who has notified his interest to the Corporation at such address as is given by each Mortgagee to the Corporation for the purpose of notice; and if mailed as aforesaid the same shall be deemed to have been received and to be effective on the first business day following the day on which it was mailed. Any owner or Mortgagee may change his address for service by notice given to the Corporation in the manner aforesaid.

14.07 Construction of Declaration

This Declaration shall be read with all changes of number and gender required by the context.

14.08 Headings

The headings in the body of this Declaration form no part of the Declaration but shall be deemed to be inserted for convenience of reference only.

14.09 Effective Date

This Declaration shall take effect upon acceptance for registration.

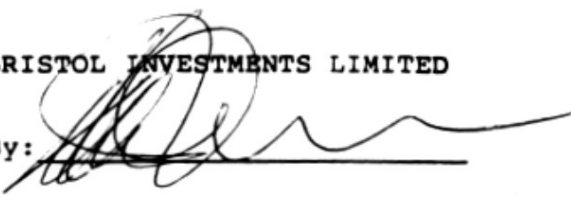
DATED at Halifax, in the County of Halifax, Province of Nova Scotia, 16th this day of April, 1990.

IN WITNESS WHEREOF the Declarant has hereunto affixed its corporate seal under the hands of its proper officers in that behalf duly authorized.

SIGNED, SEALED AND DELIVERED)

BRISTOL INVESTMENTS LIMITED

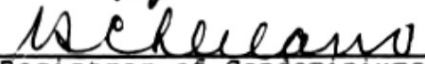

Witness

By: 

And: _____

CONDOMINIUM ACT:

Accepted for registration this 25th day
of May, 1990 at the hour of 11 o'clock, a.m.


(Deputy) Registrar of Condominiums
by

Schedule A Legal description

ALL THAT parcel of land situate on the easterly side of South Park Street and on the northerly side of Rhuland Street in the City of Halifax, Province of Nova Scotia; being designated as Lot 3 on a "Plan of Survey of Subdivision of Lands of Banko Investments (1984) Ltd. and Subdivision of Lands of Abba Real Estate Ltd."; said plan prepared by Wallace, Macdonald & Lively, Ltd. dated November 5, 1985, signed by Harold S. Lively, N.S.L.S. and approved by the City of Halifax on December 17, 1985; said Lot 3 containing an area of 6,337 square feet more or less and being more particularly described as follows:

PREMISING that the line joining Nova Scotia Coordinate Monument 4844 to Nova Scotia Coordinate Monument 5180 has a grid bearing of N 730 40' 11" E and relating all bearings herein thereto;

COMMENCING at a survey marker placed at the intersection of the easterly limit of South Park Street with the northerly limit of Rhuland Street, as shown on said plan;

THENCE N 19° 38' 44" W along the easterly limit of South Park Street a distance of 98.99 feet to a survey marker placed at the southwest corner of Lot. 2;

THENCE N 70° 21' 16" E along the southerly limit of Lot 2 a distance of 63.64 feet to a survey marker placed on the westerly limit of lands of Arthur D. Vogt, as shown on said plan;

THENCE 5 20° 25' 00" E along the easterly limit of said Vogt lands a distance of 98.12 feet to a survey marker placed on the northerly limit of Rhuland Street;

THENCE S 69° 35' 00" along the northerly limit of Rhuland Street a distance of 64.97 feet to the point of commencement;

TOGETHER WITH a Grant of Easement for right-of-way purposes as described in a Grant of Easement recorded in the office of the Registrar of Deeds at Halifax in Book 4334, at Page 1017.

ALSO TOGETHER WITH AND SUBJECT TO a Grant of Easement for patio and landscaped areas as described in a Grant of Easement, recorded in the office of the Registrar of Deeds at Halifax in Book 4638, at Page 873.

Schedule B Canada Trustco consent

CANADA TRUSTCO MORTGAGE COMPANY having a registered encumbrance within the meaning of clause (n) of subsection (1) to Section 1 of the Condominium Act (Statutes of Nova Scotia 1970-71 Chapter 12 as amended) registered at the office of the Registrar of Deeds for the County of Halifax, Nova Scotia, as follows:

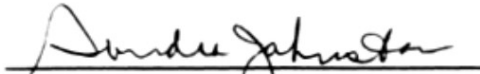
First Mortgage: Book 4638, Page 884

September 27, 1988.

hereby consents to the registration of a Declaration by Bristol Investments Limited pursuant to the Condominium Act against the land or interest appurtenant to the land described in the Declaration.

IN WITNESS WHEREOF the seal of Canada Trustco Mortgage Company has been hereunto affixed as ⁹ attested by the signature of its proper officers in its behalf this 9th day of June, 1989.

SIGNED, SEALED AND DELIVERED


Witness

) CANADA TRUSTCO MORTGAGE
) COMPANY
)
) By: 
)
) And: 
)
)

Schedule B Bank of Nova Scotia consent

THE BANK OF NOVA SCOTIA, having a registered encumbrance within the meaning of the Condominium Act (Statutes of Nova Scotia 1970-71 Chapter 12 as amended) registered at the office of the Registrar of Deeds for the County of Halifax, Nova Scotia, as follows:

Second Mortgage: Book 4736, Page 584 Dated: May 12, 1989.

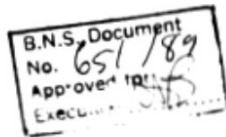
hereby consents to the registration of a Declaration by Bristol Investments Limited pursuant to the Condominium Act against the land or interest appurtenant to the land described in the Declaration.

IN WITNESS WHEREOF this Consent is signed, sealed and delivered by the Bank's Attorney(s) duly authorized on this 6 day of July , 1989.

SIGNED, SEALED AND DELIVERED
in the presence of

S. Orman

Witness



) **THE BANK OF NOVA SCOTIA**

)

)

) By:

[Signature]

Its Attorney

) And:

)

)

~~Its Attorney~~

Schedule C Percentage interests

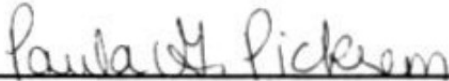
Unit	Level	Building	Common expenses	Common interest	Common rights
1	1	C	10.00%	10.00%	10.00%
2	1	C	10.00%	10.00%	10.00%
3	1	D	10.00%	10.00%	10.00%
4	1	D	10.00%	10.00%	10.00%
1	2	C	10.00%	10.00%	10.00%
2	2	C	10.00%	10.00%	10.00%
3	2	C	10.00%	10.00%	10.00%
4	2	C	10.00%	10.00%	10.00%
5	2	D	10.00%	10.00%	10.00%
6	2	D	10.00%	10.00%	10.00%

Declaration affidavit

PROVINCE OF NOVA SCOTIA

COUNTY OF HALIFAX

On this 16th day of April., 1990, before me, the subscriber, Barbara Fearon, personally came and appeared a subscribing witness to the foregoing Indenture, who having been by me duly sworn, made oath and said that BRISTOL INVESTMENTS LIMITED, a party thereto, caused the same to be executed in its name and on its behalf and its corporate seal affixed thereunto by its proper officer duly authorized in her presence.


A Commissioner of the Supreme Court
of Nova Scotia

PAULA G. PICKREM
A Commissioner of the Supreme
Court of Nova Scotia