

DECLARATION OF CONDOMINIUM
CUMBERLAND PEARL CONDOMINIUM

ARTICLE 1

SUBMISSION, DEFINED TERMS, NOTICE, USE

Section 1.1. Submission of Property. Declarant, Jay York, aka John W. York, Jr./ whose mailing address is:

York Property Management
58 Wilmot Street
Portland, Maine 04101

(hereinafter called "Declarant"),

owner in fee simple of the land described in Exhibit A annexed hereto, located in the City of Portland, County of Cumberland and State of Maine ("Land"), hereby submit the Land, together with all improvements, easements, rights and appurtenances thereunto belonging ("Property") subject to the matters referred to in Exhibit A, to the provisions of Chapter 31 of Title 33 of the Maine Revised Statutes Annotated, known as the Maine Condominium Act, as amended from time to time, ("Condominium Act") and hereby creates with respect to the Property a condominium, to be known as CUMBERLAND PEARL Condominium ("Condominium").

The Property is shown on the plat entitled

"**CUMBERLAND PEARL** Condominium, Portland, Maine by Michael Belleau Architects and associated floor plans entitled A1.0-A2.1 dated October 31, 2005, as revised and signed on 01-25-06

which plat and floor plans are being recorded in the **Cumberland** County Registry of Deeds in Plan Book 206, Page 61-65, said plat and plans, as amended from time to time being herein referred to respectively as "Plats" and "Plans". This declaration together with attachments hereto, all as amended from time to time and the Plats and Plans are referred to herein as the "Declaration".

Section 1.2. Defined Terms. As provided in section 1601-103 of the Condominium Act, terms not otherwise defined herein, or in the Plats and Plans, shall have the meanings specified in section 1601-103 of the Condominium Act.

Section 1.3. Name and Address of Condominium. The name of the condominium is **CUMBERLAND PEARL** Condominium ("Condominium"). The address of the Condominiums is **CUMBERLAND PEARL** Condominium, 237 Cumberland Avenue, Portland, Maine 04101. The name of the owners association is the **CUMBERLAND PEARL** Condominium Association.

Section 1.4. Notice to Unit Owners and Others. All notices hereunder shall be sent registered or certified mail to the Board of Directors, care of the managing agent, or if there be no managing agent, to the office of the Board of Directors or to such other address as the Board of Directors may hereafter designate from time to time by notice in writing to all Unit Owners and to all mortgagees of Units. All notices to any Unit Owner shall be sent by registered or certified mail to the Unit address or to such other

address as may have been designated by them from time to time, in writing, to the Board of Directors. All notices to mortgagees of Units shall be sent by registered or certified mail to their respective addresses, as designed by such Unit Owner from time to time, in writing, to the Board of Directors. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

Section 1.5. Uses and Restrictions. References herein to the Board of Directors shall mean the Board of Directors of the **CUMBERLAND PEARL** Condominium Association. In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, the use of the Property shall be restricted to and shall be in accordance with the following provisions:

- (a) The Units shall be used as residences only, provided, however, that home-based occupations may be operated therein without violating this provision.
- (b) The Common Areas shall be used only for the furnishing of the services and facilities for which they are reasonably suited and which are incident to the use and occupancy of Units.
- (c) No nuisances shall be allowed on the Property nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the peaceful possession or proper use of the Property by its residents.
- (d) No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Provisions of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Unit Owners or the Board of Directors, whichever shall have the obligation to maintain or repair such portion of the Property.
- (e) No portion of a Unit (other than the entire Unit) may be rented, and no transient tenants may be accommodated there- in. The foregoing occupancy restriction shall not be construed to prevent the occupants of any of the Units from entertaining guests in their Units, including temporary residency not to exceed six (6) months. Any lease or rental agreement shall be in writing and for a minimum term of thirty (30) days, and a copy thereof shall be provided to the managing agent, and if no managing agent, to the Board of Directors.
- (f) No Unit Owner shall make any structural addition, alteration or improvement in or to any building nor shall he paint or otherwise decorate or change the appearance of any portion of the exterior of the building without the prior written consent thereto of the Board of Directors.
- (g) A Unit Owner shall not place or cause to be placed in the Common Elements, other than any areas designated as storage areas, any furniture, packages or objects of any kind. The public areas shall be used for no purpose other than for normal transit through them without the prior written consent of the Board of Directors, which may be revoked without cause.
- (h) Rules and regulations concerning the use of the Units and the Common Areas and facilities may be promulgated and amended by the Board of Directors with the approval of a majority in interest of the Unit Owners. Copies of such rules and regulations shall be furnished by the Board of Directors to each Unit Owner prior to the time when the same shall become effective.
- (i) No Unit Owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to his Unit without including therein the Appurtenant Interests, it being the intention hereof to prevent

any severance of such combined ownership. Any such deed, mortgage or other instrument pur- porting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interests so omitted, even though the latter shall not be expressly mentioned or described therein. No part of the Appurtenant Interests of any Unit may be sold, transferred or otherwise disposed of, except as part of a sale, transfer or other disposition of the Unit to which such interests are appurtenant, or as part of a sale, transfer or other disposition of such part of the Appurtenant Interests of all Units.

(j) No Unit Owner shall convey his Unit unless and until he shall have paid in full to the Board of Directors all unpaid common charges theretofore assessed by the Board of Directors against his Unit and until he shall have satisfied all unpaid liens against such Unit, except permitted mortgages and mortgages made by Declarant.

Section 1.6. Interpretation. In the event of any conflict or discrepancy between the Plats and Plans and other portions of this Declaration, such other portions shall govern.

Section 1.7. Mandatory Arbitration. All disputes of whatsoever kind or nature, arising out of the operation of the condominium, the use of the premises or the meaning of the condominium documents, any bylaw, rule, policy or provision shall be submitted to arbitration in Portland, Maine according to the rules to which the parties may agree, or, in default of agreement, according to the rules of the AAA. All arbitration awards shall be final, shall be enforceable in the court of Maine and may award injunctive or equitable relief to the extent allowed by law.

ARTICLE 2 IMPROVEMENTS ON THE LAND, UNIT BOUNDARIES

Section 2.1. Location and Dimension of Improvements. The location and dimension of all improvements on the Land are depicted on the Plats.

Section 2.2. Units, Votes, Interests in Common Elements and Shares of Common Element Expenses.

The Declarant hereby creates a total of FOUR (4) units on the Land which units are created hereby. The location of units created by this Declaration within the building and their dimensions are shown on the Plans. Attached as Exhibit B hereto is a list of all units, their identifying numbers, location (all as shown more fully on the Plats and Plans), and the common element and common element expense interest and votes in the Association appurtenant to each unit. Each unit has one vote. Each unit's fraction or percentage of the ownership interest in common elements, and except as may otherwise be provided in Section 3.4 below, in common element expenses is set forth in Exhibit B.

Section 2.3. Unit Boundaries. The boundaries of each unit created by this Declaration are as shown on the Plats and Plans, and to the extent not inconsistent therewith, are located as follows:

(a) Horizontal (Upper and Lower) Boundaries: The horizontal boundaries of the unit shall be the following boundaries extended to an intersection with the vertical (side, front and back) boundaries:

- (1) Upper Boundary: Ceilings of top floor
- (2) Lower Boundary: Floors of bottom floor including any basement or ground floor

(b) Vertical (side, front and back) Boundaries: The vertical boundaries of the unit shall be

the walls bounding the unit extended to intersections with each other and with the horizontal boundaries.

(c) If walls, floors or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereon are a part of the unit, and all other portions of the walls, floors or ceilings are a part of the common elements.

(d) If any chute, flue including any chimney, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

(e) Subject to the provisions of subsection 2.3(d), all spaces, interior partitions and other fixtures and improvements within the boundaries of a unit are a part of the unit.

(f) Any shutters, awnings, window boxes, doorsteps, stoops, halls, steps, porches, balconies, patios, and flues and all exterior doors and window or other fixtures designed to serve a single unit but located outside a unit's boundaries are limited common elements allocated exclusively to that unit.

(g) The parking spaces as shown on the plats and plans are limited common elements allocated to the units as shown on the plan, or, if not designated on the plan, as shown in Exhibit C.

ARTICLE 3 COMMON ELEMENTS

Section 3.1. Common and Limited Common Elements. The locations of the common elements to which each unit has direct access are shown on the Plats and Plans. Each unit shall have parking spaces allocated to it by the Declarant. Unit 237 has no onsite parking space, each other unit shall have no less than one parking space allocated to it, the location of which is shown on the plan or Exhibit C, which is a limited common element appurtenant to that unit. See Section 2.3. for a description of additional common elements and of some common elements which are limited common elements.

Section 3.2. Completion and Alteration of Common Elements by the Declarant. Until completion of all of the units, the Declarant reserves the right to complete and reasonably alter the common elements, including without limitation any equipment, fixtures and appurtenances, when in the Declarant's judgment it is necessary or desirable to do so.

Section 3.3. Additions, Alterations or Improvements by Unit Owners. No unit owner shall make any structural addition, alteration, or improvement in or to any building nor shall he paint or otherwise decorate or change the appearance of any portion of the exterior of any building without prior written consent thereto of the Board of Directors, and except as set forth in this Declaration.

Section 3.4. Special Maintenance and Special Expense Assessment. The owners of any unit with a patio or balcony or other item of property allocated to that unit as a limited common element under Section 2.3(f) above and the owners of any unit or units with a fireplace chimney or chimney flue which serves only that unit shall be responsible for the good upkeep, maintenance and repair of such patio, balcony, item of property, fireplace chimney or chimney flue, and if the owner fails to meet such responsibility the

Association may arrange for the same and shall assess the expense to such unit owner. The expense of maintenance and repair of common elements necessitated by the negligence, misuse or neglect of a unit owner shall be charged by the Association to such unit owner.

ARTICLE 4 EASEMENTS AND LICENSES

Section 4.1. Easement for utilities. The Declarant reserves an easement to connect with and make use of utility lines, wires, pipes and conduits located on the Property (but not on units owned by others) for construction purposes on the Property, provided that Declarant shall be responsible for the cost of service so used. Declarant shall have the right, prior to the final termination of the Declarant Control Period, to grant and reserve easements and rights of way through, under, over and across the Property (but not through units owned by others) for the installation, maintenance, repair, removal and replacement and inspection of the lines and appurtenances for public or private water, sewer, drainage, gas, electricity, telecommunications, cable television and other utilities serving any unit.

Section 4.2. Easement for Access. For as long as Declarant has or accepts any repair, replacement or other warranty obligation with respect to any common elements or units, the Declarant reserves in favor of himself, any managing agent and/or any other person authorized by either of them a right of access to and through any common element or unit for repair, replacement or satisfaction of any such warranty obligation; provided that the Declarant or said managing agent shall be responsible for any damage caused as a result thereof. In case of emergency, any such required entry shall be immediate whether or not the unit owner is present at the time. Common areas shall not be used in such a manner as to block the right of access of any unit owner to his unit, common areas, and public ways, and each unit owner, in addition to his undivided interest therein, shall enjoy an easement through the common areas for the purpose of access to his unit.

Section 4.3. Creation and Recording of Certain Licenses and Other Easements. The recording data on any recorded easements and licenses appurtenant to or included in the condominium or to which any portion of the condominium is or may become subject by virtue of a reservation in the Declaration is set forth in Exhibit A.

Section 4.4. Association's Rights. The Association shall have a reasonable right of entry into and upon any unit to make emergency repairs to do other work reasonably necessary for the proper maintenance or operation of the Condominium. The Association shall have the right to grant permits, licenses and easements over the common elements for utilities, ways and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium.

Section 4.5. Right of Access. A right of access shall exist to each unit for the manager and/or the managing agent and/or any other person authorized by the Board of Directors, for the purpose of making inspections or for the purpose of correcting any condition originating in his unit or elsewhere and threatening another unit or a common element, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, other common elements or units, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the unit owner. In case of an emergency, such right of entry shall be immediate, whether the unit owner is present at the time or not.

Section 4.5. Easement for Encroachments. In the event that construction, reconstruction, repair, shifting, settlement or other movement of any portion of any improvements causes either an encroachment of common elements on any portion of a unit or units, or causes a unit to encroach on the common

elements or another unit or units or both, an easement is hereby created for such encroachment and the maintenance thereof.

Section 4.6. Easement for Encroachment by Unit Owners. Each unit owner shall have the right to encroach from the unit owner's unit into the common areas adjacent to that unit for the purpose of driving nails, screws and other fasteners into studs, walls, ceilings and floors, provided that that unit owner shall be responsible for any damage caused or resulting to common or limited common elements hereby, and shall promptly cause any such damage to be repaired.

Section 4.7. Right to Expand Units - Unit 239 & 142. Unit Owners of Units 239 and 142 shall have the right to alter their units in the following manner, without further approval of the Condominium Association or the Board of Directors. This right is subject to the regulations of the City of Portland, Maine as they may be amended from time to time, and declaration does not certify that approval of the same may be available now or in the future. The undertaking of any such alterations shall be at the unit owner's risk, and said unit owner shall be responsible for any damage or expense incurred by the association or other unit owners as a result of any such alterations.

Unit 239 shall have the right to install a dormer or a roof deck or both on the roof of the northwest side of the structure.

Unit 142 may raise the height of the carriage house roof by not more than four feet, and may construct a dormer on the northwest side of said roof.

Unit 142 may install a deck on the south side of the carriage house at the height of the second floor.

Unit 142 may relocate the entrance to the carriage house located on the East side of the building, provided that the removed entrance shall be filled with brick or a window in a manner architecturally compatible with the building.

Unit 142 is being transferred to allow for the future renovation or replacement of building systems such as roof, walls and mechanical systems. The building improvements of Unit 142 are Limited Common Elements for that Unit, to be maintained and improved at the sole expense of that unit owner.

ARTICLE 5

SPECIAL DECLARANT RIGHTS

Declarant reserves the following special declarant rights for 3 years from date hereof, except as may be otherwise stated below:

Section 5.1. Completion. The Declarant reserves the right to complete improvements indicated on the Plats and Plans.

Section 5.2. Offices and Signs. Declarant reserves the right to maintain one sales or management office or model in not more, or greater in size, than one unit, which may be located or relocated as determined by Declarant. Declarant may maintain signs on common elements advertising the units or models.

Section 5.3. Easement Through Common Elements. Declarant reserves the right to use the common elements for ingress and egress and construction activities and for the storage of construction materials and equipment used in making improvements as shown on the Plans, for discharging its obligations or exercising special declarant rights, whether arising under the Condominium Act or reserved in this Declaration.

Section 5.4. Removal of Officers and Board members. Declarant reserves such rights as are set

ARTICLE 6
BOARD OF DIRECTORS (EXECUTIVE BOARD)
AND DECLARANT CONTROL PERIOD

Section 6. 1. Board of Directors. Subject to the provisions of the Condominium Act, this Declaration or the Bylaws, the Board of Directors shall have the power to act on behalf of the Association. The initial Board shall consist of 3 members.

Section 6.2. Declarant Control Period. For a period of 3 years from the first conveyance of a unit to a person other than the Declarant, subject to earlier termination as set forth below, Declarant shall control the Association ("Declarant Control Period"), and during this period Declarant or persons designated by him may appoint, remove and replace members of the Board; provided, however that:

(a) After 25% of the units are conveyed to unit owners other than the Declarant, the unit owners other than the Declarant shall have the right to elect 1 unit owner, who shall replace the same number of members of the Board appointed by the Declarant, such replacement to be no longer subject to appointment, removal or replacement by Declarant.

(b) After 50% of the units are conveyed to unit owners other than Declarant, the unit owners other than the Declarant shall have the right to elect an additional unit owner, who shall replace one of the remaining members of the Board appointed by the Declarant, such replacement to be no longer subject to appointment, removal or re- placement by Declarant.

ARTICLE 7
AMENDMENT TO DECLARATION,
REQUIRED CONSENT

Except as otherwise provided in the Condominium Act the Declaration may be amended only by vote or agreement of the owners of units to which at least 67% of the votes in the association are allocated. No amendment shall be made to the Declaration during the Declarant Control Period without the prior written consent of the Declarant. In addition, no amendment of the Declaration shall be made without the approval of "eligible mortgage holders", as defined by 1602-119 of the Condominium Act, holding mortgages on units having at least 51% of the voting power of owners of units which are subject to eligible mortgages, and by all mortgagees of Declarant of one or more units. An amendment shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only. An eligible mortgage holder who receives a written request to approve amendments which are not material who does not deliver or mail to the requesting party a negative response within 30 days of receipt shall be deemed to have approved such request. Amendments which are material include any change in voting rights, types of assessments, assessment liens, or subordination of any such liens, in reserves provisions for maintenance, repair or replacement of common elements, changes in insurance or fidelity bond provisions, provisions concerning expansion or contraction of the project, annexation, addition or withdrawal of property to or from the project, in provisions for responsibility for maintenance and repairs, in the boundaries of any unit, reallocation of interests in general or limited common elements or rights in their use, changes in provisions relating to the leasing of units, conversion of the units into common elements or conversion of common elements into units, imposition of any restrictions on a unit owner's right to sell or transfer his unit, any decision by the Association to establish self-management after professional management has been previously required by an eligible mortgage holder, a decision to terminate the legal status of the condominium after substantial destruction or condemnation occurs, or to restore or repair the project in a manner other than that specified in the declaration and by-laws after such condemnation or

destruction, or any provisions for the express benefit of mortgage holders, insurers or guarantors.

ARTICLE 8 RIGHT TO LEASE UNITS

The Declarant shall own in fee simple each condominium unit to which legal title is not conveyed or otherwise transferred to another person. The Declarant retains the rights to occupy and enter into leases with any persons for the occupancy for any legally permissible use not proscribed herein of any of the units owned by the Declarant, and to maintain reasonable signs for such purposes during the Declarant Control Period. No unit shall be leased for any period of less than thirty (30) days, and all leases, whether denominated lease, rental agreement, or otherwise, shall be in writing and signed by all parties to it.

ARTICLE 9 MORTGAGEES

Section 8.01. Mortgagee Rights. In addition to the rights of secured lenders set forth in Section 1602-119 of the Condominium Act, in Article Seven of this Declaration and elsewhere herein, in the By-laws and in the Condominium Act, "eligible mortgage holders" shall have the following rights:

- (a) **Notice of Unpaid Common Expenses.** The Board of Directors, whenever so requested in writing by such a mortgagee of a unit, shall promptly report any then unpaid common expenses due from, or any other default by, the owner of the mortgaged unit.
- (b) **Notice of Default.** The Board of Directors, when giving notice to a unit owner of a default in paying common expenses or other default, shall send a copy of such notice to such holder of a mortgage covering such unit.
- (c) **Examination of Books.** Each such mortgagee shall be permitted to examine the books of account of the Association at reasonable times on week days.
- (d) **Rights Relating to Termination.** Notwithstanding any other provision herein contained, the Condominium herein created may not be terminated without the written consent of at least 67% of the eligible mortgage holders, unless said termination is arises by virtue of the destruction or condemnation of substantially all of the property.
- (f) **Rights Relating to Notice.** Upon sending to the Board of Directors a request therefor, specifying its name and address and the unit number or address of the unit upon which it holds a mortgage, a mortgage holder, guarantor or insurer shall be entitled to timely notice of (1) any condemnation or casualty loss that affects either a material portion of the project or the unit upon which it holds a mortgage; (2) any 60 day delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds a mortgage; (3) a lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the owners' association; and (4) any proposed action which requires the consent of a specified percentage of eligible mortgage holders.

ARTICLE 10 OPERATION OF THE CONDOMINIUM, INSURANCE, TERMINATION

Operation of the Condominium

The Board of Directors shall from time to time, and at least annually, prepare a budget for the

Condominium, determine the amount of the common charges payable by the Unit Owners to meet the common expenses of the Condominium, and allocate and assess such common charges among the Unit Owners according to their percentage of undivided ownership as established by the Declaration, as amended from time to time. The common expenses shall include, among other things,

(a) the costs of repairs and maintenance of the Common Areas and Limited Common Elements and

(b) the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board of Directors pursuant to the provisions of this Article and the fees and disbursements of the Insurance Trustee, if any. The common expenses shall also include such amounts as the Board of Directors may deem proper for the operation and maintenance of the Property, including, without limitation, an amount for working capital for the Condominium, for a general operating reserve, for a reserve fund for replacement, and to make up any deficit in the common expenses for any prior year. The common expenses may also include such amounts as may be required for the purchase or lease by the Board of Directors or its designee, corporation or otherwise, on behalf of all Unit Owners, of any Unit which is to be sold at a foreclosure or other judicial or any other sale. The Board of Directors shall advise all Unit Owners, promptly, in writing, of the amount of common charges payable by each of them, respectively, as determined by the Board of Directors, as aforesaid, and shall furnish copies of each budget on which such common charges are based to all Unit Owners and to their mortgagees.

The Declarant shall deposit two months estimated common expenses into an association working capital account, which shall be treated as a working capital fund and not as a prepayment of common expenses, for each unit sold, and, within sixty days of the sale of the first unit, Declarant shall deposit said sum for each unit which remains unsold.

Common expenses shall be assessed, and payable with respect to all units on the date that the first unit is sold.

All Unit Owners shall be obligated to pay the common charges assessed by the board Of Directors pursuant to the provisions of this Article at such time or times as the Board of Directors shall determine.

No Unit Owner shall be liable for the payment of any part of the common charges assessed against his Unit subsequent to a sale, transfer or other conveyance by him of such Unit, together with the Appurtenant Interests. A purchaser of a Unit shall be liable for the payment of common charges assessed against such Unit prior to the acquisition by him of such Unit only if that unit owner agrees to assume the responsibility for said assessments. A mortgagee or other purchaser of a Unit at a foreclosure sale of such Unit shall not be liable for and such Unit shall not be subject to a lien of the payment of common charges assessed prior to the foreclosure sale. All unit assessments shall be the personal responsibility of the unit owner to whom they are assessed.

The Board of Directors shall assess common charges against the Unit Owners from time to time and at least annually and shall take prompt action to collect any common charge due from any Unit Owner which remain unpaid for more than thirty (30) days from the due date for payment thereof. All regular assessments of common expenses shall be payable monthly.

In the event of default by any Unit Owner in paying to the Board of Directors the common charges as determined by the Board of Directors, each Unit Owner shall be obligated to pay interest at the rate established by the Board of Directors annually not exceeding 18% per annum on such common charges from the due date thereof, together with all expenses, including attorneys' fees, incurred by the Board of Directors in any proceeding brought to collect such unpaid common charges. The Board of Directors shall have the right and duty to attempt to recover such common charges, together with interest thereon, and the

expenses of the proceeding, including attorneys' fees, in any action to recover the same brought against such Unit Owner, or by foreclosure of the lien on such Unit granted by the provisions of the Maine Condominium Act. No such lien shall be prior to the lien of any mortgage on any one or more Units.

In any action brought by the Board of Directors to fore- close a lien on a Unit because of unpaid common charges, the Unit Owner shall be required to pay a reasonable rental for the use of his Unit and the plaintiff in such foreclosure action shall (subject to the prior right of any mortgagee on any one or more Units) be entitled to the appointment of a receiver to collect the same. The Board of Directors, acting on behalf of all Unit Owners shall have the right to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant thereto, convey or otherwise deal with the same. A suit to recover a money judgment for unpaid common charges ("assessments") shall be maintainable without foreclosing or waiving the lien securing the same.

The Board of Directors shall promptly provide any Unit Owner requesting in writing a recordable statement setting forth the amount of unpaid assessments currently levied against the Unit. The violation of any rule or regulation adopted by the Board of Directors, or the breach of any Bylaw or any provision of the Declaration shall give the Board of Directors and any unit owner or owners the right, in addition to any other rights set forth in the Bylaws, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the cost, including attorneys' fees, of such Unit Owner.

Maintenance and Repairs

(a) All maintenance of and repairs to any Unit, structural or non-structural, ordinary or extraordinary (other than maintenance of and repairs to any Common Areas and facilities contained thereon, and not necessitated by the negligence, misuse or neglect of the Owner of such Unit) shall be made by the Owner of such Unit. Each Unit Owner shall be responsible for all damages to any and all other Units and/or to the Common Areas and facilities that his failure so to do may engender.

(b) All maintenance, repairs and replacements to the Common Elements and facilities, Limited Common Elements and facilities (unless necessitated by the negligence, misuse or neglect of a Unit Owner, in which case such expense shall be charged to such Unit Owner), shall be made by the Board of Directors and be charged to all the Unit Owners as a common expense.

(c) All maintenance and repair related to Unit 142 shall be the sole responsibility of the unit owner of said unit. Said owner shall not be responsible for building repair and maintenance on other units, and the assessments for common expenses and reserves shall make provision for such.

Insurance

To the extent reasonably available, the Condominium Association shall obtain and maintain insurance coverage as set forth herein. All insurance affecting the Condominium shall be governed by the provisions of this Article and Section 1603-113 of the Act. In any event, the Association shall maintain insurance which meets the then current Condominium Master Insurance Policy requirements of the Federal National Mortgage Association. All insurance policies shall have, as the named insured, "The **CUMBERLAND PEARL** Condominium Association, for the use and benefit of the unit owners of the **CUMBERLAND PEARL** Condominium," shall provide that it shall be primary insurance even if other insurance is available to cover any insured loss, shall contain a waiver of subrogation endorsement or clause prohibiting subrogation against individual unit owners, and shall contain an endorsement providing that the coverage is not avoided, nullified or in any other way prejudiced by acts or omissions of unit owners which are not controlled by the Association. All policies of insurance shall provide that the insurer

shall notify the Association, any insurance trustee other than the Association, and each first mortgage holder in writing at least ten (10) days before it cancels or substantially changes any insurance policy or coverage.

A. **Physical Damage.** Property Insurance, under Common Elements, insuring against all risks of a direct physical loss commonly insured against fire and extended coverage perils. The total amount of insurance shall be not less than one hundred (100%) percent of the current replacement cost of the common elements, limited common elements and units. The loss payable clause shall name the Association Insurance Trustee as trustee for each unit owner and the holder of each unit's mortgage or mortgages. The policy shall contain the standard mortgage clause and name individual mortgage holders holding mortgages on individual units.

B. **Liability Insurance.** Liability Insurance, including medical payments for insurance, in an amount determined by the Board of Directors, but in any event no less than One Million (\$1,000,000.00) Dollars per occurrence, covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use' ownership or maintenance of the Common Elements and Limited Common Elements.

C. **Workers' Compensation Insurance.** The Board of Directors shall obtain and maintain Workers' Compensation Insurance to meet the requirements of the laws of the State of Maine.

D. **Other Insurance.** The Board of Directors is authorized to obtain and maintain such other insurance as it may from time to time deem appropriate.

Repair or Reconstruction, Casualty

(a) Subject to the prior rights of mortgagees of Declarant under the terms of mortgages held by them on one or more Units and subject to the provisions of this Declaration, in the event of substantially total destruction of the Property as a result of fire or other casualty and, thereafter, Unit Owners owning an aggregate of eighty (80%) percent of the total common interest in the Condominium promptly vote not to proceed with repair or restoration, the Property remaining shall be deemed to be owned in common by the Unit Owners, as provided in the Condominium Act.

(b) Subject to the prior rights of mortgagees of Declarant under the terms of mortgages held by them on one or more Units and subject to the provisions of the Declaration, in the event of less than substantially total destruction of the Property as a result of fire or other casualty, or, if the vote against proceeding with repair or restoration, as provided herein, is not sufficient, then in either event the Board of Directors shall arrange for the prompt repair and restoration of the Units (including any damaged Units, and any kitchen or bathroom fixtures initially installed therein by Declarant, but not including any wall, ceiling or floor decorations or coverings or other furniture, furnishings, fixtures or equipment installed in the Units), as well as any other buildings, and the Board of Directors or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a common expense and the Board of Directors may assess all the Unit Owners for such deficit as part of the common charges.

(c) Repair or restoration must be either substantially in accordance with the architectural and engineering plans and specifications for the original buildings, and shall also include such improvements and fixtures as may have been installed by any particular Unit Owner and as to which payment for such repair or reconstruction is forthcoming, or according to plans and specifications approved by the Board of Directors, by a majority in interest of the Unit Owners and by holders of first mortgages encumbering

fifty-one (51%) percent of the undivided interest in the Common Areas subject to mortgages, and if the damaged property contains any Units, by all of the Owners of the Units therein, and by all mortgagees of Declarant on one or more Units; which approvals shall not be withheld unreasonably.

Condemnation

Subject to the rights of eligible mortgage holders, in the event of condemnation of any portion of the common elements, not affecting the improvements to said condominium, the proceeds of any condemnation award shall be distributed pro-rata among the unit owners in accordance with their undivided interest in said elements. In the event of condemnation of improvements, any award relating to common elements, including limited common elements shall be divided among the unit owners whose units are served by said common elements on a pro-rata basis. Any termination of the condominium by virtue of a condemnation shall be governed by the provisions on termination contained herein. The owners association is appointed duly authorized attorney in fact to act for the unit owners in any condemnation proceedings, negotiations, settlements or agreements.

Termination

Subject to the required consent of eligible mortgage holders, this condominium may be terminated by vote of eighty (80%) per cent affirmative vote of all unit owners, except for termination for casualty loss. Upon termination, all unit owners shall hold the common elements as tenants in common.

ARTICLE 11 MISCELLANEOUS

In the event of any inconsistency between or among the Condominium Act, this Declaration, the Articles of Incorporation, the Bylaws or rules or regulations of the Association, the earlier here listed shall control the latter here listed; provided that a provision in this Declaration which is permitted by the Condominium Act shall not be considered to be inconsistent with the Condominium Act.

Any dispute or disagreement between unit owners other than Declarant with respect to the interpretation or application of this Declaration or the Articles of Incorporation, the Bylaws or rules and regulations of the Association shall be determined by the Board of Directors, which determination shall be final and binding on all parties.

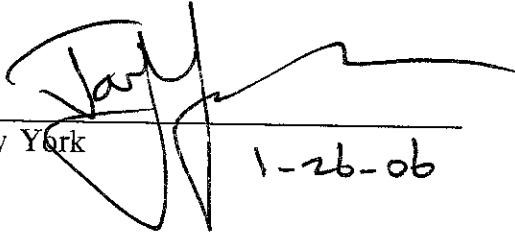
If any term, covenant, provision, phrase or other element of this Declaration, the Articles of Incorporation, the Bylaws, any deed to a unit, or the rules and regulations is held to be invalid or unenforceable for any reason whatsoever, such holdings shall not affect, alter, modify, or impair in any manner any other term, covenant or provision, phrase or other element of such documents.

In any dispute between one or more unit owners and the Declarant regarding the common elements, the Board of Directors shall act for the unit owners, and any agreement with respect thereto by the Board shall be conclusive and binding upon the unit owners.

All claims, disputes and other matters in question between the Declarant, on the one hand, and the Association or any unit owners on the other hand, arising out of or relating to, this Declaration, the Bylaws or rules and regulations of the of the Association, or the deed to any unit or the breach thereof, except for claims which have been waived by the acceptance of a deed, shall be decided as follows unless the parties mutually agree otherwise: Each disputant shall select one person and the two persons selected shall select a third. If the first two persons cannot agree on resolution of the matter, the decision of the third shall be determinative.

This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Notice of the demand for arbitration shall be filed in writing with the other parties. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations or other principles of law or equity.

In witness whereof, the said declarants have signed and sealed this Declaration of Condominium on January 26, 2006.


Jay York 1-26-06

State of Maine
Cumberland, ss

January 26, 2006

Personally appeared the above named Jay York and acknowledges the foregoing to be his free act and deed.

Before me,

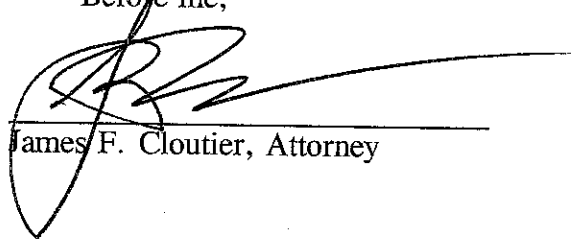

James F. Cloutier, Attorney

EXHIBIT A

Parcel One:

A certain lot or parcel of land, together with the buildings thereon, situated at the westerly corner of the Cumberland Avenue and Pearl Street in the City of Portland bounded and described as follows:

Commencing at said corner of and running thence northwesterly on Pearl Street sixty-five (65) feet, more or less, to land formerly of Moses Russel and now or formerly of Sophia A. Russel; thence on said Russel land, so-called, southwestly fifty-five (55) feet, more or less, to land formerly of Abel Sawyer, now or formerly of Esteria B. Parker; thence on said Sawyer land, so-called, southeasterly sixty-five (65) feet, more or less, to said Cumberland Avenue; thence on said Avenue fifty-five (55) feet, more or less, into the corner and point of beginning.

Being the same premises conveyed to John W. York by Warranty Deed of Claudia R. Whitman and Alison D. Hildreth dated October 28, 1996 and recorded in the Cumberland County Registry of Deeds in Book 12791, Page 44.

Parcel Two:

Two certain lots or parcels of land with any buildings thereon, situated on the westerly side of Pearl Street in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Parcel #1: Beginning at a stake standing in the southeasterly corner of a certain lot formerly occupied by Nathan How and running southerly by said street fifty (50) feet to a stake standing in the northerly corner of a lot of land conveyed by Barrett Potter to Marcus Quincy; and from these two (2) stakes extending back between the said How lot and the lot sold to Quincy and lot formerly owned by Henry S. Pearson, keeping the said width of fifty (50) feet, one hundred eight (108) feet, more or less, to land formerly owned by George Warren.

Parcel #2: Beginning at a stake standing in the southwestly side of Park Street sixty-five (65) feet northwesterly from Cumberland Avenue; thence running northwesterly on Pearl Street forty (40) feet to land now owned by John M. Gould; thence southwestly by said Gould land one hundred ten (110) feet, more or less, to land formerly owned by C. Wright; thence southeasterly twenty-eight and one-half (28 ½) feet to land formerly owned by Thomas Todd; thence northeasterly fifty-five (55) feet to a stake; thence southeasterly eleven and one-half (11 ½) feet to a stake; thence northeasterly fifty-five (55) feet, more or less, to Pearl Street to the point of beginning.

Excepting and reserving however, to Leroy Bernard Hinman, the following described lot or parcel of land situated on the southwestly sideline of Pearl Street, Portland, Cumberland County, Maine, more particularly bounded and described as follows:

Beginning at the most westerly corner of Parcel #2 hereinabove described; thence southeasterly twenty-eight and one-half (28 ½) feet to land formerly owned by Thomas Todd; thence northeasterly four (4) feet to a point; thence in a line perpendicular to the last mentioned course northwesterly twenty-eight and one-half (28 ½) feet to land now or formerly of John M. Gould; thence southwesterly by said Gould land four (4) feet to the point of beginning.

Meaning and intending to reserve to Leroy Bernard Hinman a parcel of land one hundred and fourteen (114) square feet in area.

The foregoing Parcel Number Two are the same premises described in a Warranty Deed from Alison D. Hildreth to John W. York dated October 28, 1996 and recorded at the Cumberland County Registry of Deeds in Book 12791, Page 53.

EXHIBIT B

Percentage Interest In Common Elements
and Facilities

Unit %age Interest in Common elements
and Facilities and proportion of
common expense

142 (Pearl)	20%
237 (Cumberland)	20%
239 (Cumberland)	38%
241 (Cumberland)	22%

The Units 237, 239 and 241 (Cumberland) share Limited Common Element Expenses, including Water and Sewer which shall be shared by the owners of said units, and assessed by the Board of Directors as common element expenses attributable to those units, as follows:

237 (Cumberland)	26%
239 (Cumberland)	47%
241 (Cumberland)	27%

Assignment of Limited Common Elements
Parking Spaces

Parking Spaces for Each Unit are shown as "LCE" with the corresponding
Unit Number on the Site Plan

Received
Recorded Register of Deeds
Jan 26, 2006 02:35:04P
Cumberland County
John B OBrien