

Exhibit D

By-Laws Of

Benjamin Farm Homeowners Association, Inc.

Article I. Name and Location.

The name of this Association is Benjamin Farm Homeowner Association, Inc. hereinafter referred to as the "Association". The principal office of the Association shall initially be located at 3659 South Green Road, Suite 110, Beachwood, Ohio 44122 but meetings of Members and Trustees may be held at such places within the State of Ohio, County of Medina, as may be designated by the Board of Trustees.

Article II. Definitions.

Sec. 2.01 "Association" shall mean and refer to Benjamin Farm Homeowners Association, Inc., its successors and assigns.

Sec. 2.02 "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Associations.

Sec. 2.03 "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Members.

Sec. 2.04 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Sec. 2.05 "Member" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Sec. 2.06 "Declarant" shall mean and refer to Benjamin Farm Limited Partnership, an Ohio limited partnership, its successors and assigned, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Sec. 2.07 "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties

recorded in the Office of the Medina County Recorder.

Sec. 2.08 "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Article III. Meeting of the Members.

Sec. 3.01 Annual Meeting. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 o'clock, P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Sec. 3.02 Special Meetings. Special meetings of the Members may be called at any time by the president of the Board of Trustees, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A membership.

Sec. 3.03 Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of the notice. Such notice shall specify the place, time, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Sec. 3.04 Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, twenty percent (20%) of the votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Sec. 3.05 At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his, her or its Lot.

Article IV. Board of Trustees, Selection, Term of Office

Sec. 4.01 Number. The affairs of the Association shall be managed by a Board of nine (9) Trustees, who need not be Members of the Association.

Sec. 4.02 Term of Office. At the first annual meeting, the Members shall elect one (1) Trustee for a term of one (1) year, three (3) Trustees for a term of two (2) years, and three (3) Trustees for a term of three (3) years; and at each annual meeting thereafter the Members shall elect three (3) Trustees for a term of three (3) years.

Sec. 4.03 Removal. Any Trustee may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a Trustee, his, her or its successor shall be selected by the remaining Members of the Board and shall serve the unexpired term of his, her or its predecessor.

Sec. 4.04 Compensation. No Trustee shall receive compensation for any service he or she may render to the Association. However, any Trustee may be reimbursed for his, her or its actual expenses in the performance of his, her or its duties.

Sec. 4.05 Action Taken Without a Meeting. The Trustees shall have the right to take any action which they could take at a meeting in the absence of a meeting by obtaining the written approval of all the Trustees. Any action so approved shall have the same effect as though taken at a meeting of the Trustees, called for such purposes.

Article V. Nomination and Election of Trustees

Sec. 5.01 Nomination. Nomination for election to the Board of Trustees shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Association. The Nominating Committee shall be appointed by the Board of Trustees prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Trustees as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-members.

Sec. 5.02 Election. Election to the Board of Trustees shall be by secret written ballot. At such election, the Members of their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Article VI. Meeting of Trustees

Sec. 6.01 Regular Meetings. Regular meetings of the Board of Trustees shall be held bi-monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Sec. 6.02 Special Meetings. Special meetings of the Board of Trustees shall be held when called by the president of the Association, or by any two (2) Trustees, after not less than three (3) days notice to all Trustees.

Sec. 6.03 Quorum. A majority of Trustees shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Trustees present at a duly held meeting, at which a quorum is present, shall be regarded as the act of the Board.

Article VII. Powers and Duties of the Board of Trustees.

Sec. 7.01 The Board of Trustees shall have power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Area facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) Suspend the voting rights and right to use of the recreational facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- (c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the Membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

- (d)** Declare the office of a Member of the Board of Trustees to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Trustees; and
- (e)** Employ a manager, an independent contractor, or such other employee(s) as they deem necessary, and to prescribe their duties.

Sec. 7.02 Duties. It shall be the duty of the Board of Trustees to:

- (a)** Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the Annual Meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members;
- (b)** Supervise all officers, agent and employees of this Association, and to see that their duties are properly performed;
- (c)** As more fully provided in the Declaration, to:
 - (1)** Fix the amount of annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;
 - (2)** Send written notice of each assessment to every Member subject thereto at least thirty (30) days in advance of each annual assessment period;
 - (3)** Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner thereof personally obligated to pay the same.
- (d)** Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e)** Procure and maintain adequate liability and hazard insurance of property owned by the Associations;

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) Cause the Common Area to be maintained.

Article VIII. Officers and Their Duties.

Sec. 8.01 Enumeration of Offices. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Trustees, a secretary, and a treasurer, and such other officers as the Board may, from time to time, by resolution create.

Sec. 8.02 Election of Officers. The election of officers shall take place at the first meeting of the Board of Trustees following each annual meeting.

Sec. 8.03 Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Sec. 8.04 Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Sec. 8.05 Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any time later specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Sec. 8.06 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

Sec. 8.07 Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Sec. 8.08 Duties. The duties of the officers are as follows:

- (a) **President.** The President shall preside at all meetings of the Board of Trustees; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.
- (b) **Vice-President.** The Vice-President shall act in the place and stead of the President in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board.
- (c) **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notices of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.
- (d) **Treasurer.** The Treasurer shall receive and deposit in an appropriate bank account or accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Trustees; shall co-sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular meeting, and deliver a copy of each to the Members.

Article IX. Committees.

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Trustees shall appoint other committees as deemed appropriate in carrying out its purposes.

Article X. Books and Records.

The books, records and papers of the Association shall, at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

Article XI. Assessments.

As more fully provided in the Declaration, each Member is obligated to pay the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Member personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Member may waiver or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his, her or its Lot.

All Members shall be assessed for the maintenance and care of the Common Area, such assessment to be determined by the Board of Trustees.

Article XII. Amendments.

Sec. 12.01 These By-Laws may be amended at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy.

Sec. 12.02 In the case of any conflict between Articles of Incorporation and these By-Laws, the Declaration shall control.

Article XIII. Miscellaneous

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

In witness whereof, we, being all of the Trustees of Benjamin Farm Homeowners Association, have hereunto set our hands this ____ day of _____, 1994.

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