

LAKE PURGATORY UNIT I

DECLARATION OF PROPERTY OWNERS ASSOCIATION

(Creation of Powers and Procedures to Conduct Association Affairs)

DECLARATION

Pursuant to Judgment in Civil Action No. C-837, District Court, La Plata County, Colorado, Pages 10 and 11, Dated November 28, 1973, LPPO Association, a Colorado non-profit Corporation, was formed with a Certificate of Incorporation issued June 14, 1974, and recorded June 28, 1974, at Reception No. 385847, La Plata County records, and on June 22, 1974, pursuant to authority of the Articles of Incorporation the Board of Directors did adopt By-Laws of LPPO Association containing Articles I thru XIV.

POWERS

Specifically said Judgment provides that LPPO Association shall have the following powers, among others:

A. The sole right to enforce collection of any money judgment granted in Civil Action C-837 in the District Court of La Plata County, Colorado.

B. The right to receive the assets and assume the liabilities of the informal association known as Lake Purgatory Property Owners Association heretofore existing.

C. The power and right to reimburse present class members as defined in the aforesaid civil action but not anyone who withdrew from the class action, for contributions to Lake Purgatory Property Owners Association as an informal association which those persons have heretofore made, and

D. The power and right to hire and pay legal, accounting, engineering and other technical personnel for advise and services needed for the formation and operation of this corporation, and

E. To provide an equitable method of assessment and enforcement of assessments, including the requirement that each member shall subject his property to a lien for reasonable assessments common to all members upon either a lot by lot basis or an assessed valuation basis, as shall be determined by the corporation in connection with the particular charge, and

, F. To install a water system and such other improvements, including

phone service if the latter shall be determined to be economically favorable and proper, and to provide for the operation and maintenance within Lake Purgatory Unit I and leading to Lake Purgatory unit I of all the water systems, roads, snow removal, garbage collection and sanitation, fishing rights and facilities and to collect monthly assessments due pursuant to Protective Covenants adopted and recorded in the La Plata County Clerk and Recorder's Office.

G. To require that all members of the corporation consent that their properties in Lake Purgatory Unit I are bound by the Articles of Incorporation and By-Laws of this corporation and are subject to such reasonable charges as shall be determined and established by the Board of Directors.

H. To grant relief from inequitable exclusion from the Class of persons who actually participated in the class action and supported the members of the Class in the lawsuit,  
all of which Powers are contained in the Articles of Incorporation.

#### MEMBERSHIP

The By-Laws of the Association provide for membership and charges as follows:

#### Article V - Membership In Corporation

##### Section 1 - Certificate of Membership:

(a) The certificates representing membership in the Corporation shall be in such form as shall be adopted by the Board of Directors and shall be numbered to correspond to the lots in Lake Purgatory Subdivision Unit I, La Plata County, Colorado. Certificates of membership shall only be issued to persons who are Entitled to such membership as herein provided. When membership is authorized as pertaining to any particular lot, the membership certificate shall bear the name of the record owner or contract purchaser of said lots as the same appears upon the conveyance or contract, unless such parties designate that the certificate be issued in the name of one of such owners and the certificate shall be signed by the President or a Vice-President and by the Secretary or Treasurer or any assistant Secretary or Treasurer and shall bear the corporate seal.

(b) (1) In Civil Action No. C-837, District Court in and for La Plata County, State of Colorado, at Page 4, the Court has defined the persons who are members of the Class and who are entitled to be members of the Corporation without further initial charge. The Secretary shall cause membership certificates to be prepared for such members of the Class upon receipt from the members of a request

setting forth the number of their lot owned and the complete names and addresses of the owners or contract purchasers of the lot and the name in which the membership should be issued and the address to which correspondence pertaining to the membership should be address and upon execution by the owners or contract purchasers of the lot of the instruments provided for hereinafter making the lot subject to a lien in favor of the Corporation for assessments adopted pursuant to these By-Laws .

(2) Certificate of membership may be issued to lot owners or contract purchasers of lots in Lake Purgatory Subdivision Unit I without further initial charge, if such was excluded from Class membership by request of the owner during litigation, and was sold to persons who supported the informal property owners association. This provision is made for the purpose of doing equity to persons who may have become property owners without realizing that steps had been taken to eliminate their lots from Class membership and the membership shall issue at the sole discretion of the Board of Directors.

(3) Membership certificates shall be issued to non-members of the Class owning lots in Lake Purgatory Unit I on a basis of the lot owner paying to the Corporation a sum in cash in the amounts provided for herein.

#### ASSESSMENT

The Board of Directors shall have the power to establish assessments to cover the costs of maintaining roads, water system, and any other common facilities, and the costs of other operating expenses. The annual assessment will be determined solely by estimated needs for annual operating expenses, and will cover only those maintenance and operating expenses. This fund will not be used for capital improvements. The Board of Directors shall from time to time adopt a budget for such purpose and upon adoption of such budget the amount thereof shall be apportioned among the members on either a lot by lot basis, an assessed valuation basis or on an improved as opposed to unimproved lot basis (improved lot shall mean a lot which: (a) is connected to a water source, or (b) has a sewage disposal system, or (c) has electrical connection, and whether a dwelling is constructed thereon or occupancy is by trailer, or tent or any other manner.)

Effective July 1, 1975, all Members of the Association are obligated to pay the mandatory annual assessment, as determined and set by the Board of Directors, not to exceed \$10.00 per month per lot membership. Notice of such assessment shall be mailed to the address of the lot membership as provided by the By-Laws, and shall be payable in any one or more installments as shall be provided in the Notice of Assessment. Assessments are delinquent on May 31 prior to the end of each fiscal year, and any payments after this date are subject to additional interest from May 31 until the date received by the Association at a rate relating to the current, prevailing interest rates, but not over 18% per annum (1-1/2% per month), as determined annually by the Board of Directors and stated in the Annual Assessment Notice.

#### LIEN AND COLLECTION

From the date of adoption of each assessment the same shall be lien on the lot to which it applies until the same is paid. Each charge for disconnection and reconnection shall likewise be a lien on the lot until paid. All such liens shall be subordinate to any first lien or encumbrance granted to secure funds for construction of improvements of such lot. The Treasurer of the Corporation shall from time to time, over his own signature, issue a Certificate to any lot owner stating the amount of any unpaid assessment or charge or lien. The Association shall have the right to collect said lien by Court action against the owners personally (or their successors if the lot has been sold) or to seek Court foreclosure of the lien and in any such proceeding the Court shall add to the amount due a sum sufficient to pay all court costs and all attorney fees incurred in the collection of assessment or enforcement of lien.

#### STATUS OF MEMBERSHIP

PAID CLASS MEMBERS -- All LPPO Class Members who are currently paid-up as to mandatory assessments after July 1, 1975. Such members will be reimbursed on a Pro-rate basis for voluntary contributions made prior to July 1, 1975, as soon as surplus funds become available. Water service from a community water system will be available only to paid-up LPPO members.

NON-PAID CLASS MEMBERS -- LPPO members who have participated in the organization but who have not paid the mandatory assessments for the period subsequent to July 1, 1975.

NON-CLASS MEMBERS -- Owners of property in Lake Purgatory Unit I who were excluded from the Class and have not gained admission to full membership benefits by approval of the Board of Directors and payment of required fees. A Non-Class Member can qualify to receive full benefits of membership in the LPPO Association by making application to the Board of Directors, and by paying into the Association the amount of \$650.00 which is related to a pro-rate share of the \$35,000 general damages judgment received by the original Class members, plus any unpaid and cumulative annual assessments subsequent to July 1, 1975, plus interest on any such unpaid assessments at the rate specified by the Board for delinquent assessments.

ADOPTION AND RATIFICATION

This instrument is hereby adopted by the Board of Directors of LPPO Association on the first day of December, 1975, with instructions that the Secretary certify a true copy and cause it to be recorded in the records of La Plata County, Colorado. This Declaration shall not take effect to control the affairs of the LPPO Association until at least 30 lots have been admitted to membership through the required procedure .

Dean M. Gould  
Harry C Jenkins  
H. Jefferson  
Paul Shepard  
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Board of Directors

I Charles C Carson \_\_\_\_\_, Secretary of LPPO Association declare that the foregoing instrument was adopted by the Board of Directors on the date stated therein .

(SEAL)

Charles C Carson  
Secretary

STATE OF New Mexico )  
COUNTY OF Bernalillo ) ss.  
COUNTY OF Bernalillo )

The foregoing instrument was acknowledged before me this 11th day of December, 1975; by CH (~ (k' > (- (": " ~ l < . J as Secretary of LPPO Association.  
My commission expires August 2, 1977(

Linda C;v,, ;  
Notary Public  
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