
BY-LAWS
OF
PELHAMDALE MEWS
HOME OWNERS ASSOCIATION, INC.

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270 Madison Avenue
New York, New York 10016

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**BY-LAWS
OF
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HOME OWNERS ASSOCIATION, INC.**

A New York Not-for-Profit Corporation

**ARTICLE I
NAME, LOCATION AND PRINCIPAL OFFICE**

These are the By-Laws of Pelhamdale Mews Home Owners Association, Inc. hereinafter referred to as the "Association". The principal office of the Association shall be located at Pelhamdale Avenue, City of Mount Vernon, County of Westchester and State of New York.

**ARTICLE II
DEFINITIONS**

The following words when used in these By-Laws shall, unless the context otherwise prohibits, have the meanings set forth below:

- (a) "Association" shall mean and refer to Pelhamdale Mews Home Owners Association, Inc., a New York not-for-profit corporation.
- (b) "Common Properties" or "Common Areas" shall mean and refer to certain areas of land other than individual Lots as shown on the filed subdivision map and intended to be devoted to the common use and enjoyment of the Owners of The Properties.
- (c) "Declaration" shall mean and refer to the Declaration of Covenants, Restrictions, Easements, Charges and Liens applicable to The Properties recorded among the land records in the Clerk of the County of Westchester, New York.
- (d) "Developer" shall mean and refer to Pel Devel Realty Group LLC, a New York limited liability company, and its successors and assigns, if such successors and assigns should acquire (i) an undeveloped portion of The Properties or (ii) a developed portion of The Properties, provided neither said party nor said party's family members intend to reside therein.
- (e) "Development" shall mean Pelhamdale Mews, a residential home development being constructed on The Properties.
- (f) "Home" shall mean and refer to each residential building situated upon The Properties and the parcel of land upon which such building is constructed.
- (g) "Lot" shall mean and refer to any plot of land intended and subdivided for residential uses shown on the subdivision map of The Properties, but shall not include the Common Areas.

- (h) "Member" shall mean and refer to each holder of a membership interest in the Association, as such interest is set forth in Article VI.
- (i) "Owner" shall mean and refer to the record owner of title to any Home. Every Owner shall be treated for all purposes as a single owner, irrespective of whether such ownership is joint, in common or tenancy by the entirety. Where such ownership is joint, in common or tenancy by the entirety, majority vote of such Owners shall be necessary to cast any vote to which such Owners are entitled, but with the exception of cumulative voting employed in the election of Directors, not more than one vote may be cast with respect to any such Owner.
- (j) "The Properties" shall mean and refer to all properties which are subject to the Declaration.

ARTICLE III PURPOSE

This Association is formed to provide for the preservation of the values and amenities of the Development. To that end the Association will own, operate and maintain the Common Properties for the benefit of the Members of the Association.

ARTICLE IV APPLICABILITY

All present and future Members shall be subject to these By-Laws and to the rules and regulations issued by the Association from time to time to govern the conduct of its Members.

ARTICLE V USE OF FACILITIES

The Common Properties shall be limited to the use by the Members and their tenants, guests, contractors, employees and invitees. In the event that a Member shall lease or permit another to occupy his Home or any part thereof, the lessee or occupant shall, at the option of the Member, be permitted to enjoy the use of the Common Properties subject to the same restrictions and limitations as said Member. Any Member, lessee or occupant entitled to the use of the Common Areas may extend such privileges to members of his family residing in his household by notifying the Secretary in writing of the names of any such persons and of the relationship of such Member, lessee or occupant to such persons.

ARTICLE VI MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. The Association shall have one class of membership interest. Each Owner of each Lot shall be a "Member" of the Association.

Each Member is entitled to one vote. When more than one person or entity owns a Lot, the one vote attributable to such Lot shall be exercised as such persons or entity mutually determine but, with the exception of cumulative voting employed in the election of Directors, not more than one vote may be cast with respect to any such Lot. For purposes of this section the word "Home" shall have the same meaning as "Lot" and therefore if there is no Home constructed on a particular Lot in the Development, the Owner of such Lot will still be considered a Member entitled to cast the one vote as set forth above. No Member shall split or divide its votes on any motion, resolution or ballot other than in the cumulative voting procedure employed in the election of Directors.

ARTICLE VII **QUORUM, PROXIES AND WAIVERS**

Section 1. Quorum. So many Members as shall represent at least 51% of the total authorized votes of all Members present in person or represented by written proxy shall be requisite to and shall constitute a quorum at all meetings of the Association for the transaction of business, except as otherwise provided by the laws of the State of New York ("by statute"), by the Declaration, the Certificate of Incorporation of the Association or by these By-Laws. If, however, such quorum shall not be present or represented at any meeting of the Association, the Members entitled to vote thereat, present in person or represented by written proxy, shall have the power to adjourn the meeting. At least 5 days written notice of such adjourned meeting shall be given to all Members. At such adjourned meeting any business may be transacted which might have been transacted at the meeting originally called.

Section 2. Vote Required to Transact Business. When a quorum is present at any meeting, the vote of a majority of the Members present in person or represented by written proxy shall decide any question brought before such meeting and such vote shall be binding upon all Members, unless the question is one which, by express provision of the Statute, Declaration, Certificate of Incorporation of the Association or these By-Laws, a different vote is required, in which case such express provisions shall govern and control the vote required to decide such question.

Section 3. Right to Vote. Members shall be entitled to vote either in person or by proxy at any meeting of the Association. Any such proxy shall only be valid for such meeting or subsequent adjourned meetings thereof.

Section 4. Proxies. All proxies shall be in writing signed by the Owner, and shall be filed with the Secretary prior to the meeting at which the same are to be used. A notation of such proxies shall be made in the minutes of the meeting.

Section 5. Waiver and Consent. Wherever the vote of the membership at a meeting is required or permitted by statute or by any provision of the Declaration, Certificate of Incorporation of the Association or by these By-Laws to be taken in connection with any action of the Association, the meeting and vote of the membership may be dispensed with if all Members who would have been entitled to vote upon the action if such meeting were held shall consent in writing to such action being taken.

Section 6. Place of Meeting. Meetings shall be held at any suitable place convenient to the Members as may be designated by the Board of Directors and designated in the notice of meeting.

Section 7. Annual Meetings. The annual meeting of the membership of the Association shall be held on such date as is fixed by the Board of Directors. At such meetings there shall be

elected by ballot of the membership a Board of Directors in accordance with the requirements of Article VIII of these By-Laws. The Members may also transact such other business as may properly come before the meeting.

Section 8. Special Meetings. It shall be the duty of the President to call a special meeting of the Association if so directed by the Board of Directors, or upon the presentation to the Secretary of a petition signed by a majority of the Members.

Section 9. Notice of Meetings. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held, to each Member at least ten but not more than thirty days prior to such meeting. The mailing of a notice in the manner provided in these By-Laws shall be considered notice served.

Section 10. Order of Business. The order of business at each annual meeting of the Association shall be as follows:

- (a) Roll call
- (b) Proof of notice of meeting or waiver of notice
- (c) Reading of minutes of preceding meeting
- (d) Report of officers
- (e) Report of committees
- (f) Appointment of inspectors of election (in the event there is an election)
- (g) Election of Directors (in the event there is an election)
- (h) Unfinished business
- (i) New business

ARTICLE VIII **BOARD OF DIRECTORS**

Section 1. Number and Term. The number of Directors which shall constitute the whole Board shall be five (subject to the Board of Directors ability to reduce the number of Directors to an amount not less than three). An initial Board consisting of three Directors shall be designated by the Developer to serve until the first annual meeting of the Association. At the first annual meeting and at all subsequent annual meetings the Members shall vote for and elect five Directors to serve for one year terms and until their successors have been duly elected and qualified. All directors, other than those the Developer shall have the right to designate, must be either Members of the Association or immediate family members residing in the Member's home. As required by law, each Director shall be at least nineteen years of age.

Section 2. Cumulative Voting and Right of Developer to Designate Certain Board Members. In an election of Directors, each Member shall be entitled to as many votes as shall equal the number of Directors to be elected and a Member may cast all of such votes for a single Director or may distribute them among two or more Directors as he sees fit.

Notwithstanding the foregoing, the Developer shall have the right to designate three Directors until the fifth anniversary date of the recording of the Declaration or until 90% of the Homes in all phases of the Development are sold to persons who intend to reside therein, whichever is sooner. Thereafter, the Developer shall have the right to designate one Director for so long as it owns one Home in the Development. When the Developer no longer owns any Home in the Development it may not designate any Director. Developer may cast its votes to elect Directors in addition to the

designated Directors set forth above. The provisions of Sections 1 and 2 of this Article VIII may not be amended without the written consent of the Developer.

Section 3. Vacancy and Replacement. If the office of any Director becomes vacant by reasons of death, resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining Directors, though less than a quorum, at a special meeting of Directors duly called for this purpose, shall choose a successor, who shall hold office for the unexpired term in respect of which such vacancy occurred and until his successor is duly elected and qualified. In the event a Director appointed by Developer resigns, the Developer shall have the right to appoint another Director in his place.

Section 4. Removal. Directors (other than those designated by Developer) may be removed for cause by an affirmative vote of sixty six and two-thirds (66-2/3%) percent of the Members. No Director, other than a designee of the Developer, shall continue to serve on the Board if, during his/her term of office, he/she shall cease to be a Member. In the case of an immediate family member residing in a Member's Home, he/she may no longer continue to serve on the Board if during his/her term the Member through whom the Director gained his/her eligibility to be a Director shall cease to be a Member.

Section 5. Powers.

- (a) The property and business of the Association shall be managed by its Board of Directors, which may exercise all such powers of the Association and do all such lawful acts and things as are not by statute, Declaration, Certificate of Incorporation or by these By-Laws, directed or required to be exercised or done by the Members or Owners personally. These powers shall specifically include, but not be limited to the following:
1. To determine and levy assessments ("Assessments") payable monthly in advance to cover the cost of operating and maintaining The Properties. The Board of Directors may increase the Assessments or vote a special Assessment, if required, to meet any additional necessary expenses.
 2. To collect, use and expend the Assessments collected to maintain, care for and preserve the Common Properties, such as the walks, recreation facilities, parking areas and landscaping in The Properties.
 3. To make repairs, restore or alter the Common Properties after damage or destruction by fire or other casualty or as a result of condemnation or eminent domain proceedings.
 4. To open bank accounts and borrow money on behalf of the Association and to designate the signatories to such bank accounts.
 5. To collect delinquent Assessments by suit or otherwise, to abate nuisances and to enjoin or seek damages from Members for violations of the rules and regulations herein referred to.
 6. To make reasonable rules and regulations and to amend the same from time to time. Such rules and regulations and amendments thereto shall be binding upon the Members when the Board of

Directors has approved them in writing and delivered a copy of such rules and all amendments to each Member. Such rules and regulations may, without limiting the foregoing, include reasonable limitations on the use of the Common Properties by guests of the Members as well as reasonable admission and other fees for such use.

7. To employ workmen, contractors and supervisory personnel, and to purchase supplies and equipment, to enter into contracts to provide maintenance and other services, and generally to have the power of directors in connection with the matters herein set forth.
 8. To bring and defend actions by or against one or more Members pertinent to the operation of the Association and to assess special Assessments to pay the cost of such litigation.
 9. To hire a managing agent to perform and exercise the powers of the Board of Directors in the management of the Development.
- (b) The Board of Directors may, by resolution or resolutions, passed by a majority of the Board, designate one or more committees, each of such committees to consist of at least two Members. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. Committees established by resolution of the Board of Directors shall keep regular minutes of their proceedings and shall report the same to the Board as required.
- (c) Notwithstanding anything to the contrary contained in these By-Laws, so long as the Developer or its designee shall continue to own Homes representing at least 5% of the total Homes, but in no event later than 5 years from the closing of title to the first Home, the Board of Directors may not, without the Developer's prior written consent (i) make any addition, alteration or improvement to the Common Areas, or (ii) assess any charge for the creation of, addition to or replacement of, all or part of a reserve, contingency or surplus fund or, (iii) enter into any service or maintenance contract for work not covered by contracts in existence on the date the Association offering plan (the "Plan") is declared effective or, (iv) borrow money on behalf of the Association or, (v) increase or decrease the services or maintenance set forth in Schedule A of the Plan or, (vi) purchase any materials, equipment or other goods costing in excess of \$1,000. Developer shall not use its veto power or control of the Board of Directors to reduce the level of services described in the Plan or prevent capital repairs or prevent expenditures required to comply with applicable laws or regulations. While Developer is in control of the Board of Directors, no mortgage liens will be placed on the Common Properties without the consent of at least 51% of the Owners other than the Developer. This subparagraph (c) may not be amended without the written consent of the Developer.

Section 6. Compensation. Directors and officers, as such, shall receive no compensation for their services.

Section 7. Meetings.

- (a) The first meeting of each Board of Directors newly elected by the Members shall be held immediately upon adjournment of the meeting at which they were elected, provided a quorum shall then be present, or as soon thereafter as may be practicable. The annual meeting of the Board of Directors shall be held at the same place as the annual meeting of Members and immediately after the adjournment of same, at which time to the extent practical the dates, places and times of regularly scheduled meetings of the Board of Directors shall be set.
- (b) Regularly scheduled meetings of the Board of Directors may be held without special notice.
- (c) Special meetings of the Board of Directors may be called by the President on two (2) days notice to each Director either personally or by mail or facsimile transmission. Special meetings shall be called by the President or Secretary in a like manner and on like notice on the written request of at least two (2) Directors.
- (d) At all meetings of the Board of Directors, a majority of the Directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and an act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute, by the Declaration or by these By-Laws. If a quorum shall not be present at any meeting of Directors, the Directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting until a quorum shall be present.
- (e) Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 8. Annual Statement. The Board of Directors shall furnish to all Members and shall present annually (at the annual meeting) and when called for by a vote of the Members at any special meeting of the Members, a full and clear statement of the business conditions and affairs of the Association, including a balance sheet and profit and loss statement verified by an independent certified public accountant and a statement regarding any taxable income attributable to the Members and a notice of the holding of the annual meeting of Association members.

Section 9. Fidelity Bonds. The Board of Directors may require that all officers and employees of the Association (except Developer or Developer's representatives) handling or responsible for Association funds shall furnish adequate fidelity bonds. The premiums on such bonds shall be an expense of the Association.

ARTICLE IX OFFICERS

Section 1. Elective Officers. The officers of the Association shall be chosen by the Board of Directors and shall consist of a President, a Vice President, a Secretary and a Treasurer. The Board of Directors may also choose one or more Assistant Secretaries and Assistant Treasurers and such other officers as in their judgment may be necessary. All officers must be either members of the Board of Directors or Members of the Association. Two or more offices may not be held by the same person.

Section 2. Election. The Board of Directors, at its first meeting after each annual meeting of Members, shall elect a President, a Vice President, a Secretary and a Treasurer. Only the President must be a member of the Board.

Section 3. Appointive Officers. The Board of Directors may appoint such other officers and agents as it shall deem necessary who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.

Section 4. Term. The officers shall hold office for a period of one year or until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed with or without cause, at any time, by the affirmative vote of a majority of the Board of Directors, provided prior notice was given to all Board members that this item is to be on the agenda for such meeting. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors.

Section 5. The President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the Members and the Board of Directors, shall be an ex-officio member of all standing committees, shall have general and active management of the business of the Association, shall see that all orders and resolutions of the Board of Directors are carried into effect and shall have such other powers and duties as are usually vested in the office of President of a corporation organized under the Not-for-Profit Corporation Law of the State of New York.

Section 6. The Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act and shall have such other powers and duties as are usually vested in the office of Vice President of a corporation organized under the Not-for-Profit Corporation Law of the State of New York.

Section 7. The Secretary. The Secretary and/or Assistant Secretary shall attend all sessions of the Board of Directors and all meetings of Members and record all votes and the minutes of all proceedings in a book to be kept for that purpose and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of Members and special meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors or by the President, under whose supervision he shall be.

Section 8. The Treasurer. The Treasurer shall have the custody of the Association funds and securities of the Association and shall keep full and accurate chronological accounts of receipts and disbursements in books belonging to the Association including the vouchers for such disbursements, and shall deposit all monies, and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. These duties may also be exercised by the Managing Agent, if any. However, such Managing Agent shall not replace the Treasurer.

The Treasurer shall disburse the funds of the Association as he may be ordered by the Board of Directors, making proper vouchers for such disbursements and shall render to the President and Directors, at the regular meeting of the Board of Directors or whenever they may require it, an account of all his transactions as Treasurer, and of the financial condition of the Association.

The Treasurer shall keep detailed financial records and books of account of the Association, including a separate account for each Member, which among other things, shall contain the amount of each assessment, the date when due, the amount paid thereon and the balance remaining unpaid.

Section 9. Agreements, etc. All agreements and other instruments shall be executed by the President or such other person as may be designated by the Board of Directors.

ARTICLE X NOTICES

Section 1. Definitions. Whenever under the provisions of the Declaration or of these By-Laws, notice is required to be given to the Board of Directors or to any Director or Member, it shall not be construed to mean personal notice; but such notice may be given in writing, by mail, by depositing the same in a post office or letter box in a postpaid sealed wrapper, addressed to the Board of Directors, such Director or Member, at such address as appears on the books of the Association.

Section 2. Service of Notice-Waiver. Whenever any notice is required to be given under the provisions of the Declaration or of these By-Laws, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE XI ASSESSMENTS AND FINANCES

Section 1. Creation of the Lien and Personal Obligation of Assessments. The creation of the lien and personal obligation of Assessments is governed by Section 1 of Article VI of the Declaration.

Section 2. Purpose of Assessments. The purpose of Assessments is as specified in Section 2 of Article VI of the Declaration.

Section 3. Basis of Assessments. The basis of the Assessments is as specified in Section 3 of Article VI of the Declaration.

Section 4. Date of Commencement of Assessments: Due Dates. The date of commencement and the due dates of Assessments are as specified in Section 4 of Article VI of the Declaration.

Section 5. Effect of Non-Payment of Assessment: Remedies of the Association. The effect of non-payment of Assessments and the remedies of the Association shall be as specified in Section 5 of Article VI of the Declaration.

Section 6. Subordination of Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinated pursuant to the provisions of Section 5 of Article VI of the Declaration.

Section 7. Checks. All checks or demands for money and notes of the Association shall be signed by the President and Treasurer, or by such other officer or officers or such other person or persons as the Board of Directors may from time to time designate.

Section 8. Operating Account. There shall be established and maintained a cash deposit account to be known as the "Operating Account" into which shall be deposited the operating portion of all monthly and special Assessments as fixed and determined for all Members. Disbursements from said account shall be for the general needs of the Association, including but not limited to, wages, repairs, betterments, maintenance and other operating expenses of the community.

Section 9. Other Accounts. The Board of Directors shall maintain any other accounts it shall deem necessary to carry out its purposes.

ARTICLE XII **AMENDMENTS**

Except as otherwise provided, these By-Laws may be altered, amended or added to at any duly called meeting of Members provided: (1) that the notice of the meeting shall contain a full statement of the proposed amendment and (2) that the amendment shall be approved by vote of at least sixty six and two-thirds (66 2/3%) of the Members. No amendment, however, shall affect or impair the validity or priority of the Members' interests and the interests of holders of a mortgage encumbering a Home. In addition, no amendment of these By-laws which may (i) have the effect in any way of inhibiting, infringing or disturbing the Developer's right to build and to make membership in or use of the Association available to purchasers or lessees of the Homes or (ii) diminish any right granted to or increase any obligation imposed upon Developer may be made without the written consent of the Developer.

ARTICLE XIII **SELLING, LEASING AND GIFTS OF HOMES**

Section 1. Selling and Leasing Homes. A Home may be conveyed or leased by a Member free of any restrictions except that no Member shall convey, mortgage, pledge, hypothecate, sell or lease his Home unless and until all unpaid Association expenses assessed against the Home shall have been paid as directed by the Board of Directors. Such unpaid Association expenses, however, may be paid out of the proceeds from the sale of a Home or by the grantee. Any sale or lease of a Home in violation of this section shall be subject to the continuing lien or enforcement efforts of the Board of Directors. Upon the written request of a Member or his mortgagee, the Board of Directors or its designee shall furnish a written statement of the status of any unpaid charges due from such Member which shall be conclusive evidence of the payment of amounts assessed prior to the date of the statement. A reasonable charge may be made by the Board of Directors for the issuance of such statements.

The provisions of this Section 1 of Article XIII shall not apply to the acquisition of a Home by a mortgagee who shall acquire title to such Home by foreclosure or by deed in lieu of foreclosure. In such event the unpaid Assessments against the Home which were assessed and became due prior to the acquisition of title to such Home by such mortgagee shall be deemed waived by the Association and shall be charged to all other members of the Association as a common expense. Such provisions shall, however, not apply to any Assessments which are assessed and become due after the acquisition of title to such Home by the mortgagee and to any purchaser from such mortgagee. Whenever the term "Home" is referred to in this Section, it shall include the Home, the