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Strata Property Act

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FORM Y

OWNER DEVELOPERS' NOTICE OF DIFFERENT BYLAWS

(Section 245(d); Regulations section 14.6(2))

Re: Strata Plan KAS 002667, being a strata plan of

PID: _____ Part of Lot A, Section 2, Township 13, Osoyoos Division Yale District, Plan KAP75185

The attached bylaws differ from the Standard Bylaws to the *Strata Property Act*, permitted by section 120 of the Act:

SEE SCHEDULE "A"

30 JUN 2004 15 33

Date: June 24, 2004.



Signature of Owner Developer
PREDATOR RIDGE GOLF CLUB LTD.
by its authorized signatory: David Paterson

KM087003

KAMLOOPS
AGENT
Gillespie Renkema
Barnett Broadway

SCHEDULE "A"

The Schedule of Standard Bylaws is hereby replaced with the following:

BYLAWS**PART 1 - CREATION OF SECTIONS****1.1 Hotel Lot Section**

A section (the "Hotel Lot Section") is hereby created within the strata corporation consisting of all of the residential strata lots (the "Hotel Strata Lots"). The Hotel Lot Section shall be administered in accordance with these bylaws.

1.2 Commercial Lot Section

A section (the "Commercial Lot Section") is hereby created within the strata corporation consisting of all of the non-residential strata lots (the "Commercial Strata Lots"). The Commercial Lot Section shall be administered in accordance with these bylaws.

1.3 Powers of Separate Sections of the Strata Corporation

Each separate section of the strata corporation may:

- (a) make an agreement with any owner or occupier of a strata lot within the separate section for the provision of amenities or services by it to the strata lot or to the owners or occupiers thereof; and
- (b) in accordance with the provisions set out in section 76 of the Strata Property Act, grant to an owner within the separate section the right to short term exclusive use and enjoyment of common property appurtenant to the separate section or special privileges in respect thereof.

Any resolutions passed by the strata corporation, the council or the executive of a separate section shall clearly state the particular strata lots or common property or limited common property to which such resolution applies and resolutions made by the executive of a separate section shall apply only to the strata lots within, and limited common property appurtenant to and common property to be controlled, managed or administered by that separate section.

PART 2 - GENERAL DUTIES OF OWNERS, TENANTS AND OCCUPANTS**2.1 Inform strata corporation**

- (1) Within 2 weeks after becoming an owner, an owner must inform the strata corporation of the owner's name, strata lot number and mailing address.
- (2) On request by the strata corporation, a tenant must inform the strata corporation of his or her name and mailing address.
- (3) The strata corporation must promptly make the information referred to in subsections (1) and (2) available upon request by the section of which the strata lot in question is a part.

2.2 Permit entry to strata lot

(1) An owner, tenant, occupant, employee or visitor must allow a person authorized by the strata corporation or section of which the relevant strata lot is a part to enter the strata lot:

(a) in an emergency, without notice, to ensure safety or prevent significant loss or damage, and

(b) at a reasonable time, on 48 hours' written notice,

(i) to inspect, repair or maintain common property, common assets and any portions of a strata lot that are the responsibility of the strata corporation or the section, as the case may be, to repair and maintain under these bylaws or insure under the Strata Property Act, and

(ii) to ensure compliance with the Strata Property Act and these bylaws.

(2) The notice referred to in paragraph (1)(b) must include the date and approximate time of entry, and the reason for entry.

(3) In exercising its rights under this bylaw, the strata corporation or the section, as the case may be, will not unreasonably interfere with the use or enjoyment of the strata lot or the normal operation thereof.

2.3 Compliance with bylaws

An owner, tenant or occupant, employee or visitor must comply strictly with these bylaws and with any rules adopted from time to time by the strata corporation or the section of which the applicable strata lot is a part.

2.4 Claims on insurance policies

An owner, tenant, occupant, employee or visitor must not do, or omit to do, whether deliberately or accidentally, any act which would result in a claim being made on the insurance policy of either the strata corporation or a separate section.

PART 3 - MAINTENANCE, REPAIRS AND ALTERATIONS

3.1 Standard

All repairs and maintenance by a section, an owner or the strata corporation must be carried out to a standard which is consistent with a Luxury Country Boutique Hotel. In these bylaws, "Luxury Country Boutique Hotel" means a four star resort condominium hotel as understood in the hotel industry having design, development, construction, furnishing, equipping, operating, service and maintenance standards equivalent to those of other similar facilities at other premium resorts around the world.

3.2 Repair and maintenance of property by sections

Each separate section of the strata corporation shall repair, manage and maintain for the benefit of all members of that separate section:

(a) the common property and common assets appurtenant to that separate section including the structure of any buildings that are appurtenant only to that separate section, as may reasonably be considered to be intended for the use of that section

and without limiting the generality of the foregoing such repair, management and maintenance shall include:

- i) such portions of the common property and common assets for which expenses will be allocated to that section;
 - ii) common property and common assets appurtenant to or capable of being used in connection with the enjoyment of:
 - a) more than one strata lot where such strata lots are within that separate section; or
 - b) the limited common property appurtenant to that separate section;
 - iii) the fixtures and fittings including the elevators, and other apparatus and equipment used in connection with the limited common property and common property appurtenant to that separate section;
- (b) the limited common property appurtenant to that separate section, including:
- i) the structure of a building;
 - ii) the exterior of a building;
 - iii) chimneys, stairs, balconies and other things attached to the exterior of a building;
 - iv) doors, windows and skylights on the exterior of a building or that front on the common property;
 - v) fences, railings and similar structures that enclose patios, balconies and yards;
- (c) a strata lot contained within that separate section, but the duty to repair and maintain it shall be restricted to:
- i) the structure of a building;
 - ii) the exterior of a building;
 - iii) chimneys, stairs, balconies and other things attached to the exterior of a building;
 - iv) doors, windows and skylights on the exterior of a building or that front on the common property; and
 - v) fences, railings and similar structures that enclose patios, balconies and yards.

3.3

Repair and maintenance of property by owner

(1) An owner must repair and maintain the owner's strata lot, except for repair and maintenance that is the responsibility under these bylaws of the strata corporation or the section of which that owner's strata lot is a part.

(2) An owner who has the use of limited common property, whether alone or in common with others, must repair and maintain it, except for repair and maintenance that is the responsibility under these bylaws of the strata corporation or the section of which that owner's strata lot is a part.

3.4 **Repair and maintenance of property by strata corporation**

The strata corporation shall, except as provided in the Strata Property Act or where such repair, management and maintenance is the responsibility of a separate section as provided in these bylaws, repair, manage and maintain the common property (that has not been designated as limited common property) and common assets of the strata corporation, including the structure of the building that is appurtenant to both the separate sections, for the benefit of the owners in the strata corporation.

3.5 **Obtain approval before altering a strata lot**

(1) Subject to subsection (2), an owner, tenant or occupant must obtain the written approval of the council and the Manager (as defined in bylaw 9.4) before making any alteration to a strata lot including, without limitation, any alteration that involves any of the following:

- (a) the structure of any building,
- (b) the exterior of any building,
- (c) chimneys, stairs, balconies or other things attached to the exterior of any building,
- (d) doors, windows or skylights on the exterior of any building,
- (e) fences, railings or similar structures that enclose a patio or balcony,
- (f) common property located within the boundaries of a strata lot, or
- (g) parts of the strata lot which the strata corporation must insure under the Strata Property Act including, without limitation, fixtures installed by the owner developer as part of the original construction of a strata lot.

(2) Subsection (1) does not apply to any change to the interior of the Commercial Strata Lots or to any change which the Manager is entitled to make to a Hotel Strata Lot in accordance with the Agreements (as defined in bylaw 9.4) or any other agreement between the strata corporation and the Manager or the owner of the Commercial Strata Lots.

3.6 **Obtain approval before altering common property**

(1) An owner, tenant or occupant of a Hotel Strata Lot must obtain the written approval of the council and the Manager before making an alteration to limited common property designated for that Hotel Strata Lot whether alone or in common with some or all of the other Hotel Strata Lots.

(2) An owner, tenant or occupant of a Commercial Strata Lot must obtain the written approval of the executive of the Commercial Lot Section and the Manager before making an alteration to limited common property designated to the Commercial Strata Lot.

(3) An owner, tenant or occupant of a Hotel Lot must obtain the written approval of the council and the Manager before making an alteration to common property, including limited common property designated for strata lots in more than one section, or common assets. For greater certainty, this subsection does not apply to the owner of any Commercial Strata Lot.

(4) The council or the executive of a section, as the case may be, may require as a condition of its approval under subsection (1), (2) or (3) that the owner agree, in writing, to take responsibility for any expenses relating to the alteration and to provide, at the request of the council or the executive of a section, as the case may be, evidence of appropriate insurance coverage relating to the alteration and security for the costs of the alteration.

(5) Subsections (1) to (4) inclusive do not apply to any change which the Manager is entitled to make to a Hotel Strata Lot in accordance with the Agreements or any other agreement between the strata corporation and the Manager or the owner of the Commercial Strata Lots.

PART 4 – COUNCIL

4.1 Council size

The council shall consist of no less than 3 and no more than 7 persons and not less than one of the members will be a representative of the Commercial Section. If the strata corporation has fewer than 4 owners, all the owners shall be on the council.

4.2 Council members' terms

(1) The term of office of a council member ends at the end of the annual general meeting at which the new council is elected.

(2) A person whose term as council member is ending is eligible for re-election.

4.3 Removing council member

(1) Subject to bylaw 4.1, the strata corporation may remove any council member by a resolution passed by either:

(a) a 3/4 vote at an annual or special general meeting, or

(b) (i) a majority vote of all owners; and

(ii) a majority vote of the owners of strata lots in the section which appointed any such council member,

at an annual or special general meeting.

(2) After removing a council member, the strata corporation must hold an election at the same annual or special general meeting to replace the council member for the remainder of the term of the member's appointment.

(3) No person may stand for council or continue to be on council with respect to a strata lot if the strata corporation is entitled to register a lien against that strata lot under the Strata Property Act.

4.4 Replacing council member

(1) If a council member resigns or is unwilling or unable to act for a period of 2 or more months, the remaining members of the council may appoint a replacement council member for the remainder of the term of that member's appointment or for the period during which that council member is unwilling or unable to act.

(2) A replacement council member may be appointed from any person eligible to sit on the council.

(3) The council may appoint a council member under this section even if the absence of the member being replaced leaves the council without a quorum.

(4) If all the members of the council resign or are unwilling or unable to act for a period of 2 or more months, persons holding at least 25% of the strata corporation's votes may hold a special general meeting to elect a new council by complying with the provisions of the Strata Property Act, the regulations and these bylaws respecting the calling and holding of meetings.

4.5

Officers

(1) At the first meeting of the council held after each annual general meeting of the strata corporation, the council must elect, from among its members, a president and a vice president, and may elect a secretary and a treasurer.

(2) A person may hold more than one office at a time, other than the offices of president and vice president.

(3) The vice president has the powers and duties of the president:

(a) while the president is absent or is unwilling or unable to act, or

(b) for the remainder of the president's term if the president ceases to hold office.

(4) If an officer other than the president is unwilling or unable to act for a period of 2 or more months, the council members may appoint a replacement officer from among themselves for the remainder of the term.

4.6

Calling council meetings

(1) Any council member may call a council meeting by giving the other council members at least one week's notice of the meeting, specifying the reason for calling the meeting.

(2) The notice does not have to be in writing.

(3) A council meeting may be held on less than one week's notice if:

(a) all council members consent in advance of the meeting, or

(b) the meeting is required to deal with an emergency situation, and all council members either:

(i) consent in advance of the meeting, or

(ii) are unavailable to provide consent after reasonable attempts to contact them.

4.7

Requisition of council hearing

(1) By application in writing, stating the reason for the request, an owner or tenant may request a hearing at a council meeting.

(2) If a hearing is requested under subsection (1), the council must hold a meeting to hear the applicant within one month of the request.

(3) If the purpose of the hearing is to seek a decision of the council, the council must give the applicant a written decision within one week of the hearing.

4.8 Quorum of council

Except where there is only one owner, a quorum of the council is 2 where the council consists of 4 or less persons, 3 where it consists of 5 or 6 persons and 4 where it consists of 7 persons. The council members must be present in person at the council meeting to be counted in establishing quorum. Any quorum of a council must include at least one representative of the Commercial Section.

4.9 Council meetings

(1) At the option of the council, council meetings may be held by electronic means, so long as all council members and other participants can communicate with each other.

(2) If a council meeting is held by electronic means, council members are deemed to be present in person.

(3) Owners may not attend council meetings as observers unless council, in its sole discretion, agrees to permit members to attend.

(4) Despite subsection (3), no observers may attend those portions of council meetings that deal with any of the following:

- (a) bylaw contravention hearings,
- (b) rental restriction bylaw exemption hearings, or
- (c) any other matter if the presence of observers would, in the council's opinion, unreasonably interfere with an individual's privacy.

4.10 Voting at council meetings

(1) At council meetings, decisions must be made by a majority of council members present in person at the meeting.

(2) If there is a tie vote at a council meeting, the president will not be entitled to break the tie by casting a second, deciding vote.

(3) The results of all votes at a council meeting must be recorded in the council meeting minutes.

4.11 Council to inform owners of minutes

The council must inform owners of the minutes of all council meetings within 2 weeks after the meeting, whether or not the minutes have been approved.

4.12 Delegation of council's powers and duties

(1) Subject to subsections (2) to (4), the council may delegate some or all of its powers and duties to one or more council members or persons who are not members of the council, and may revoke the delegation.