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11 **MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY**

12 DANIEL and VALERY O'CONNELL,

13 Plaintiffs,

14 v.

15 GLASTONBURY LANDOWNERS
16 ASSOCIATION, INC. Board of Directors,

17 Defendants.

Cause No.: DV-2011-114
Judge David Cybulski

**DEFENDANTS' REPLY TO PLAINTIFFS'
RESPONSE IN OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

18 COMES NOW the above named Defendants Glastonbury Landowners Association, Inc. (GLA)
19 and submits this reply to Plaintiffs' response in opposition to Defendants' Motion for Summary
20 Judgment.
21

22 **PLAINTIFFS' BRIEF IS EIGHT MONTHS LATE**

23 The GLA filed its Motion and Brief Summary Judgment and Brief August 4, 2014. Plaintiffs
24 waited until April of 2015 to file a response without ever asking for an extension from counsel or the
25 Court. Plaintiffs simply state "Note: Discovery delays and recent health issues delayed this Reply."
26 Plaintiffs' dilatory tactics should not be allowed, and their response should be stricken.
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SUMMARY OF PLAINTIFFS' ARGUMENT

1
2 Plaintiffs Daniel and Valery O'Connell contend there are issues of material fact which preclude
3 summary judgment and necessitate a jury trial. They claim the GLA has violated provisions of its
4 governing documents yet they have produced no evidence of this. Plaintiffs take the position that eight
5 of their claims for relief are disputed facts. Plaintiffs claim "genuine issues of material facts in dispute
6 are all evidenced and supported by numerous attached Exhibits & affidavits." However, Plaintiffs have
7 attached no affidavits to their response nor produced any evidence supporting their allegations. Simply
8 pointing to the allegations of the complaint is not enough to establish genuine issues of material fact.
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10 The party moving for summary judgment must demonstrate no genuine issues of material fact
11 exist. Upon such demonstration, the burden shifts to the non-moving party to prove, by more than mere
12 denial or speculation, a genuine issue of material fact exists. *Bruner v. Yellowstone Co.*, 272 Mont. 261,
13 264, 900 P.2d 901, 903 (1995). "Mere denial, speculation, or conclusory statements are insufficient to
14 raise genuine issue of material fact." *Arnold v. Yellowstone Mountain Club, LLC*, 2004 MT 284, ¶ 15,
15 323 Mont. 295, ¶ 15, 100 P.3d 137, ¶ 15. Further, an "opposing party's facts must be material and of
16 substantial nature, not fanciful, frivolous, gauzy, nor merely suspicions." *Klock v. Town of Cascade*,
17 284 Mont. 167, 174, 943 P.2d 1262, 1265 (1997).
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19

20 The GLA has met its burden of demonstrating no genuine issues of material fact exist. Plaintiffs'
21 claims all fail under a plain reading of the GLA governing documents or Montana law. The facts are not
22 in dispute—what are in dispute is Plaintiffs' erroneous interpretations of the GLA governing documents
23 and Montana law. Questions of law are the province of this Court, not the jury. Therefore, this Court
24 may decide this matter on summary judgment without resorting to a jury trial.
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1 **1. Plaintiffs' allegation the GLA has breached a settlement agreement is not a genuine issue of**
2 **material fact.**

3 Plaintiffs have alleged the GLA has breached a settlement agreement. (See Agreement attached
4 as Exhibit A). Plaintiffs take issue with the GLA's reliance on state law when responding to their
5 requests to examine GLA records. They assert the settlement agreement does not require their requests
6 be according to state law.

7 This blatantly ignores provision number one which states: "The GLA will provide O'Connells
8 with all documents to which they are entitled pursuant to the Montana Non-Profit Corporation Act and
9 GLA Bylaws upon request." Montana law is incorporated directly into the settlement agreement. It is a
10 question of law for the Court to determine whether Plaintiffs' document requests must conform to the
11 Montana Non-Profit Corporation Act, and the answer is that they must.

12 Plaintiffs also allege the GLA has refused to provide documents they request. However, they
13 refuse to pay the reasonable costs of labor and materials for copies as allowed by Mont. Code Ann. §
14 35-2-908(3). See Aff. Alyssa Allen at ¶ 4 (May 5, 2015). Whether or not Plaintiffs must pay the costs of
15 copies is a question of law—not a question of fact.

16 Further, Plaintiffs take the position they are entitled to inspect every document the GLA
17 possesses including confidential documents. Neither the Bylaws nor Montana law create such a right.
18 The scope of a member's inspection rights is laid out in those documents, and it is the Court's province
19 to interpret those documents and the law.

20 The GLA's Brief in Support of Its Motion for Summary Judgment lays out the scope of a
21 member's inspection rights in detail, and it will not be repeated here. Suffice to say, Plaintiffs are
22 limited on what they can inspect by the GLA Bylaws and Montana law. The root of the dispute is
23 Plaintiffs' disagreement with the Bylaws and Montana law. Further, the GLA board has the power to
24 interpret the provisions of the Bylaws, and it has done so reasonably.

1 Additionally, Plaintiffs fail to acknowledge that any request must be made in good faith and for
2 a proper purpose describing with reasonable particularity the purpose and the records the member
3 desires to inspect. Mont. Code Ann. § 35-2-907. They want the Court to give them *carte blanche* to
4 have any record at any time which is contrary to the Bylaws and the law. Again, these are questions of
5 law determined by interpretation of the Bylaws and Montana law. The GLA has demonstrated it has
6 reasonably and correctly applied the Bylaws and the law to Plaintiffs' document demands. Plaintiffs
7 have failed to overcome that evidence, and summary judgment is warranted.

8
9 Plaintiffs also take issue with the GLA's request that they make discovery requests rather than
10 demand to inspect records under the Bylaws or the Montana Non-Profit Corporation Act. Given the
11 facts the Plaintiffs started this litigation and one of the claims is in regards to document requests, it is
12 clearly more appropriate to engage in the discovery process which avoids confusion and creates a record
13 of what has been produced.
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15 Plaintiffs steadfastly refused this request, brought their own copier, and rifled through the
16 GLA's records on two occasions leaving no indication of what had been taken or what had been copied
17 demonstrating the need to follow the discovery process rather than informal inspections. See Aff.
18 Alyssa Allen at ¶ 5 (May 5, 2015).
19

20 This very issue was addressed by Judge Jones in another property owner's association case. (See
21 Order attached as Exhibit B). There Judge Jones granted a protective order forbidding requests to
22 inspect or copy association records except in the case of formal discovery. Judge Jones acknowledged
23 the Montana Non-Profit Corporation Act entitles members to inspect and copy certain record under
24 specified conditions, but found,
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26 Because the parties are in litigation where access to the records and the content of the records is
27 at issue, it is reasonable to require the parties exchange such records through formal channels of
28 discovery. Doing so aids in identifying which records have been produced and the scope of the
requests and avoids inadvertent duplicity of effort and expense. (Exhibit B at 2).

1 Judge Jones also sanctioned the Plaintiffs in that case for ignoring the association's request to use
2 discovery. In the current case, the situation is the same.

3
4 The GLA accommodated Plaintiffs' unreasonable requests on two occasions despite Plaintiffs'
5 refusal to pay past costs of labor and materials. Allowing Plaintiffs to continually make inspection
6 requests would have incurred duplicity of effort and expense which is why the GLA's counsel requested
7 Plaintiffs use discovery. Doing so did not violate the settlement agreement. Plaintiffs filed this
8 lawsuit—they cannot exempt themselves from the Rules of Civil Procedure.

9
10 **2. Plaintiffs' allegation the GLA denies members due process/notice is not a genuine issue of
11 material fact.**

12 Plaintiffs assert the GLA has violated notice requirements found in the Bylaws Art. XI.C.:

13 **Due Process.** Prior to making any new Rules or Regulations, or taking any action to enforce any
14 of the Covenants, Bylaws, Rules or Regulations, the Association, acting through the Board of
15 Directors and officers, shall provide reasonable written notice in accordance with Article V,
16 paragraph D, to all of the Members (in the case of rule-making) or to all directly-affected
17 Members (in the case of a proposed enforcement action) and a reasonable opportunity for any
18 such Member to be heard and to give written or oral comment to the Board of Directors or its
19 designee(s). Enforcement actions shall also include a reasonable fact-finding process whereby
20 relevant information related to all sides of the issue will be gathered and evaluated.... (Exhibit C
21 at 15).

22 Plaintiffs claim the GLA violated the notice requirement and disallowed fact-finding.

23 Plaintiffs mistakenly assert "fact-finding" is required in all cases under Art. XI.C. Fact-finding is
24 only required when taking enforcement action. Plaintiffs also mistakenly apply this provision to all
25 GLA actions. It is limited to the making of new Rules or Regulations or actions taken to enforce the
26 Covenants, Bylaws, or Regulations. Plaintiffs fail to cite any example where the GLA made a new Rule
27 or Regulation or took action to enforce Covenants, Bylaws, or Regulations and failed to give notice.

28 In support of their argument, Plaintiffs raise two alleged instances of violation of the notice
provision. First, Plaintiffs cite a conduct policy adopted in 2011 to prohibit recording board meetings.

1 Raising this issue is inappropriate and should not be considered by the Court because this same issue
2 was resolved by settlement of DV-11-193. (See Exhibit A at ¶ 4). This policy was originally adopted
3 because of Plaintiffs' recordation of meetings was disruptive and chilling. See Aff. Alyssa Allen at ¶ 3
4 (May 5, 2015). This issue, among others, at Plaintiff's request was addressed by the settlement
5 agreement. The GLA rescinded the policy without admission of liability, and Plaintiffs have not been
6 denied the ability to record board meetings since the settlement agreement. The issue is *res judicata*,
7 moot, and waived by Plaintiffs due to the settlement agreement, and they should not be allowed to re-
8 litigate it.

10 Even if it was proper to raise this issue here, the policy does not fall under the notice provision.

11 Art. VI.B.10. gives the board the power to:

13 Adopt Rules and Regulations for the conduct of the affairs of the association and the enjoyment
14 of the Members, provided that no rule or Regulation so adopted shall be in conflict with
15 Montana law, the Covenants, the Articles of Incorporation or these Bylaws.... (Exhibit C at 6).

16 Delineated from this power is an additional power found at Art. VI.B.16. which gives the board the
17 power to:

18 Adopt Rules from time to time for the conduct of any meeting, election or vote in a manner that
19 is not inconsistent with any provisions of the Covenants, Articles of Incorporation or these
20 Bylaws. (Exhibit C at 6).

21 Clearly, the Rules and Regulations contemplated by Art. XI.C. are different from rules or policies which
22 are limited to the conduct of meetings. GLA Bylaws Article VI.P. gives a simple, bare outline of the
23 order of business to be used at board meetings. Clearly, it is within the discretion of the board to adopt
24 rules for the conduct of meetings. Plaintiffs originally raised objections to the adoption of Roberts Rules
25 of Order in their Amended Complaint. The recording policy is no different. The board has the power to
26 adopt policies for the conduct of board meetings.

1 Given the distinction between “Rules and Regulations” and rules for the conduct of meetings, it
2 is a reasonable interpretation that before adopting rules for meeting conduct, no notice under Art. XI.C
3 need be given. Such interpretation is within the discretion of the board. Art. XII.A. (Exhibit C at 16).

4 The second alleged violation of the notice provision was the GLA’s practice of newly elected
5 board not officially taking on the duties of board members until the first board meeting after annual
6 elections. Board members are elected in November each year with half of the seats up for election. The
7 next board meeting takes place in December. For reasons of practicality, the incoming board members
8 do not begin board duties until the first board meeting after the election. See Aff. Alyssa Allen at ¶ 6
9 (May 5, 2015).

10 Plaintiffs claim this practice violates the notice provision and the Bylaws (again a claim not
11 made in the Amended Complaint). This practice is not something that falls under the notice provision as
12 it is not a “Rule or Regulation” nor an action to enforce the Covenants, Bylaws, Rules or Regulations. It
13 is simply a practice done to aid continuity and for practical reasons. One of the most important roles of
14 the board is to implement snow removal. See Aff. Alyssa Allen at ¶ 6 (May 5, 2015). Having a period of
15 time where the board is hampered in its ability to coordinate snow removal because new board members
16 are not oriented, appointed to committees (such as the road committee), assigned responsibilities, or
17 officers have not been elected would simply harm the GLA’s ability to serve its members.

18 Plaintiffs claim the practice violates the Bylaws, but their interpretation is faulty. Art. VI.D.
19 states directors “shall be elected for terms of two years each...” (Exhibit C at 7). Further: “The
20 members of the Board shall hold office until their respective successors have been elected by the
21 Members and duly qualify.” (Exhibit C at 7).

22 By remaining in office until the next official board meeting, board members are not getting an
23 extra 30 days in office as Plaintiffs claim. Each board member is given a two year term; the two years
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1 begins on the first board meeting after the election in December and ends two years later in December.
2 Additionally, the Bylaws do not require an immediate step-down. The Bylaws require a new board
3 member to get elected and “duly qualify.” The Bylaws are silent on what “duly qualify” means, and the
4 board has the power to interpret and apply the Bylaws as it sees fit.

5 Here, the board has determined a new board member duly qualifies by election and by
6 assumption of board or committee duties at the next board meeting. See *Aff. Alyssa Allen* at ¶ 6 (May
7 5, 2015). This is a reasonable interpretation and application of the Bylaws. Further, the Bylaws require
8 that officers be chosen by the board at the next board meeting after the annual meeting, and officers will
9 hold office until the successor has been chosen. (See Art. VII.B, Exhibit C at 11). Therefore, it is
10 contemplated that officers, who are board members, will remain in office until the next board meeting
11 after the annual election, and the board’s policy for non-officers is consistent with this provision.
12 Plaintiffs’ erroneous interpretation would make Art. VII.B non-operative—a result disfavored by
13 Montana law. The GLA’s policy is a harmonious interpretation of Art. VI.D. and Art. VII.B. and gives
14 effect to both clauses which is favored by Montana law. Mont. Code Ann. §§ 28-3-201 & 204.

15 Although the GLA did not violate Art. XI.C. because these policies do not require notice under
16 that provision, the GLA still informs its members through newsletters and board meetings where
17 various policies are explained. Members are still allowed and encouraged to give feedback on any
18 policy. Just because it chooses to inform its members in this fashion does not create some duty of due
19 process for every action by the board. The notice provision specifically applies only to making Rules or
20 Regulations or enforcing the Covenants, Bylaws, Rules or Regulations. The instances complained of
21 Plaintiffs are not those actions. Plaintiffs seek to have the Court overrule the board’s interpretation of its
22 own Bylaws—an express power—and apply the interpretation they want. Plaintiffs’ mere disagreement
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1 with the board's reasonable interpretation and application of the Bylaws is not a genuine issue of
2 material fact.

3 Ultimately, Plaintiffs have taken the position that these alleged violations are worth years of
4 litigation and all the associated costs and time. These alleged violations are nothing more than trivial
5 complaints, and the law disregards trivialities. Mont. Code Ann. § 1-3-224.
6

7 **3. Plaintiffs' alleged denial of financial documents is not a genuine issue of material fact.**

8 Again, this claim is all about Plaintiffs' own interpretation of what documents they are entitled
9 to under the Bylaws and Montana law. Plaintiffs believe they are entitled to inspect check details,
10 deposit checks, cancelled checks, credit card and bank statements. They also allege not providing these
11 documents allows the GLA to hide theft of member funds and does not allow them to prove theft and
12 misappropriation of member funds.
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14 Plaintiffs' baseless and false accusations of theft and misappropriation are nothing more than
15 accusations without one shred of evidence. Plaintiffs have been making these claims for years yet have
16 not produced one iota of evidence to back them up. Such accusations are improper and actionable and
17 demonstrate why the GLA had to take the extraordinary measure of seeking to have Plaintiffs declared
18 vexatious litigants. Plaintiffs will sue for everything and anything with no justification.
19

20 In regards to the scope of financial records Plaintiffs are entitled to, the GLA Bylaws state: "The
21 financial reports and Membership records of the Association shall be available at the principal office of
22 the Association for inspection at reasonable times by any Member." (Bylaws Art. VI.B.13., Exhibit C at
23 6). There is no definition for "financial report" or "Membership records" but those terms should be read
24 in conjunction with the Montana statutes. The financial records a member is entitled to inspect under
25 Montana law are financial statements showing assets and liabilities and results of operations and
26 accounting records. Mont. Code Ann. § 35-2-906(5). Mont. Code Ann. § 35-2-907.
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1 The GLA board has interpreted the Bylaws designation of “financial reports” to mean the
2 records enumerated by the Montana Nonprofit Corporation Act. The board’s interpretation is binding on
3 the GLA because the board “has the power to interpret all the provisions of these Bylaws and such
4 interpretation shall be binding on all persons.” (Bylaws Art. XII.A., Ex. C at 16). The board has
5 interpreted “financial records” which a member may inspect to mean the statement of receipts and
6 expenditures for each fiscal year (Bylaws Art. VIII.H., Exhibit C at 13) and financial statements
7 showing assets and liabilities and results of operations. Mont. Code Ann. § 35-2-906(5)(e). These
8 records also constitute accounting records under generally acceptable accounting practices.
9

10 Notably, the GLA amended Art. VIII.I. of the Bylaws to read:

11 **I. Inspection of Books.** The Membership Records of the Association shall be available at the
12 principal office of the Association for inspection at reasonable times by any Member in
13 accordance with the Montana Non-Profit Corporation Act under Title 35, Chapter 2 (2014) and
14 as amended. “Membership Records” means those records that a non-profit is specifically
15 required to keep for inspection pursuant to the Montana Non-Profit Corporation
16 Act under Title 35, Chapter 2 (2104) and as amended. (See Exhibit F).

17 This amendment makes the board’s long-standing interpretation of what records a member is entitled to
18 inspect even clearer. Members are entitled to inspect the records enumerated in the Montana Non-Profit
19 Corporation Act.

20 Plaintiffs claim they are entitled to see check details, deposit checks, cancelled checks, credit
21 card and bank statements, or anything a board member might see. These documents contain sensitive
22 information such as account numbers of members and credit card numbers which Plaintiffs should not
23 have. Additionally, all financial expenditures and receipts are reflected in what they are allowed to have.

24 Similarly, Plaintiffs take issue with membership records they are provided. Again, they want to
25 see everything, but neither the Bylaws nor Montana law allow that. Membership records have always
26 been interpreted by the board to mean name, address, and number of votes pursuant to Mont. Code Ann.
27 § 35-2-906(3). Recently, Montana law has changed to allow members to receive notice of member
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1 meetings via email; if this option chosen, the email address must be disclosed to other members. Mont.
2 Code Ann. § 35-2-535. As of yet, no GLA members receive member meeting notice by email. The GLA
3 has not shared phone numbers, account balances, private correspondence, and other information about
4 members because it has not considered that information part of “membership records.” The majority of
5 feedback from members has been in support of maintaining the privacy of members. See Aff. Alyssa
6 Allen at ¶ 7 (May 5, 2015).

8 Plaintiffs also raise another new claim that the GLA is not requiring fidelity bonds for board
9 members. However, Art. VIII.J. clearly states such bonds “may” be required. (Exhibit C at 14). Again,
10 Plaintiffs are simply disagreeing with the board’s application of discretionary powers.

11 The Bylaws and Montana law enumerate what records members are entitled to inspect. No
12 matter how many times this information is provided to Plaintiffs, it is apparently insufficient, and they
13 ask for more or claim the GLA is hiding information. There is no conceivable purpose for why Plaintiffs
14 should have access to private member information beyond what is allowed by law. Plaintiffs’ mere
15 disagreement with the Bylaws and Montana law is not a genuine issue of material fact.

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18 **4a. Plaintiffs’ alleges misappropriation and overspending on High South is not a genuine issue of material fact.**

19 Plaintiffs’ next argument simply repeats spurious claims of “misappropriation” and non-
20 aggregate spending. Plaintiffs claim the GLA spends more money maintaining some roads than on
21 others. Plaintiffs claim this violates the Covenants. Some years, depending on many factors, the GLA
22 does spend more money on some roads than others. However, the Covenants do not prohibit this, and
23 recognize this may happen. At its core, the GLA exists to maintain the roads so its members can access
24 the properties. The Covenants state the intent and explain the factors determining road spending:
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27 The Association intends to maintain a private road system within the platted road easements for
28 vehicular access to the various parcels within the Community.... The Association may designate
and define different qualities or levels of road construction and maintenance within the

1 Community (such as residential roads, foothill roads, mountain roads, etc.) according to its
2 limited ability to deal with such conditions as topography, terrain, elevation, native soil and
3 materials, slope, grade, easement location, parcel location, drainage, climate, weather, snow, ice
4 and mud, and limited resources and equipment. (Covenants § 8.01(c), Exhibit D at 17).

5 Further, “The Association and all of the Landowners and their guests have the right to use any of the
6 platted road easements opened by the Association....” (Covenants § 8.01(a), Exhibit D at 17).

7 As noted in the opening brief, there are 22 miles of roads within the GLA that go from the valley
8 floor at 5,000 feet to elevations of 6,600 feet. The roads referred to as “High South” by Plaintiffs are in
9 South Glastonbury in the higher elevations. Because of the topography, some sections of the roads
10 (including in those in High South) may require more snow plowing, grading, drainage maintenance, and
11 gravel than others.

12 Plaintiffs also cite to their Exhibit 6 which is the GLA Road Policy. However, the Road Policy is
13 subordinate to the Covenants. The Covenants give ultimate direction and power regarding maintenance
14 on the roads, and the Road Policy was an implementation document generated in 2008, and it is of
15 course subject to change within the constraints of the Covenants. However, the Covenants do not place
16 any geographic restriction on where money is spent on the roads. As long as the money being spent is
17 assessment money, it can be spent on any road for any reason regardless of road location, classification,
18 or amount budgeted.

19 The Covenants wisely give the board the flexibility to spend where and when it is needed so
20 members can access their property tempered by the “limited ability to deal with such conditions as
21 topography, terrain, elevation, native soil and materials, slope, grade, easement location, parcel location,
22 drainage, climate, weather, snow, ice and mud, and limited resources and equipment.” (Covenants §
23 8.01(c), Exhibit D at 17).

24 Plaintiffs seek to apportion funds to the roads adjacent to the property the funds are collected
25 from. This not only violates the Covenants but is completely impractical. This is not a genuine issue of
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1 material fact because there are no facts in dispute. Some roads require more maintenance dollars. The
2 Court may decide whether or not the Covenants prohibit this.

3 **4b. The GLA's use of the website is not a genuine issue of material fact.**

4 Plaintiffs claim the way the GLA uses its website creates a genuine issue of material fact. It does
5 nothing of the sort. Plaintiffs cite no Bylaw, Covenant, or law they claim the GLA is violating because
6 there is no Bylaw, Covenant, or law that dictates how the GLA is supposed to run its website. Simply
7 put, Plaintiffs disagree with how the GLA website is administered and ask the Court to impose changes
8 on it unsupported by the GLA's governing documents and Montana law.

9
10 Plaintiffs' chief complaint is that the GLA spends money mailing bills, notices, and other
11 correspondence. Plaintiffs fail to acknowledge the GLA is required by law and the Bylaws to mail
12 certain notices. Changing this would require changing the Bylaws or violating Montana law. Further,
13 Plaintiffs assume all GLA members have access to the internet and email, which is not the case. Finally,
14 Plaintiffs disagreement with how the website is used does not justify litigation.

15
16 Finally, Plaintiffs claim the website use violates Covenant 11.05 for not being consistent with its
17 responsibilities and good business practices. (See Exhibit D at 24). Covenant 11.05 does not use that
18 language and simply reads that maintenance of the roads is first priority for GLA funds with the
19 remainder to be used at the discretion of the GLA. Again, this is common theme to all of Plaintiffs'
20 claims, they are disagreeing with discretionary actions. None of the discretionary actions complained of
21 are unreasonable or require Court action nor do they create genuine issues of material fact.

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24 **5. The GLA's paying its board members for non-board services does not create a genuine issue of material fact.**

25 Plaintiffs take issue with a few board members being paid by the GLA for services unrelated to
26 their board duties. The GLA does pay some board members for non-board duties—that is not a fact in
27 dispute. The issue is whether the practice is allowed by law or the Bylaws, and it is.
28

1 Article VI.K. of the Bylaws states:

2 Directors shall not be compensated for attending meetings and for serving as Directors. By
3 resolution of the Board, the Directors may be reimbursed for actual expenses incurred in
4 attending a meeting. The Directors may not be paid either a fixed sum for attendance at meetings
5 nor a stated salary. Nothing herein contained shall be construed to preclude any Director from
6 rendering service to the Association in any other capacity and receiving reasonable
7 compensation therefor. Compensation to be paid to any member of the Board of Directors for
8 such services rendered must be approved by the Board of Directors. (emphasis added) (Exhibit
9 C at 10).

10 Additionally, the Board has the authority to:

11 Appoint and remove, employ and discharge, and, except as otherwise provided in these Bylaws,
12 supervise and prescribe the duties and fix compensation, if any, as necessary, of all officers,
13 agents, employees, or committee members of the Association. (Bylaws Art. VI.B.6., Exhibit C at
14 6).

15 Officers of the GLA are chosen by the Board and must be Board members with the exception of
16 the secretary who may be a non-board member. (Bylaws Art. VII.A., Exhibit C at 11). Reading the two
17 provisions of the Bylaws together, it is clear that not only may Board members may be compensated for
18 services rendered in capacities other than as Directors, but they may be compensated if they take on the
19 additional burden of being an officer, employee, or committee member of the GLA.

20 The GLA can and does pay board members who are contractors or employees rendering services
21 to the GLA in other capacities such as snow removal, construction, road maintenance, and
22 administrative work. See Aff. Alyssa Allen at ¶ 12 (May 5, 2015). The Bylaws clearly allow this, and
23 Plaintiffs have not produced any evidence to the contrary.

24 Rather, Plaintiffs argue the GLA did not seek out competitive bids for some of the work which
25 violates good business practices under Covenant 11.05. Again, Covenant 11.05 does not mention good
26 business practices nor does it require competitive bids although the GLA does solicit bids or work as
27 circumstances dictate. See Aff. Alyssa Allen at ¶ 13 (May 5, 2015). It prioritizes funds to be first spent
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1 on the roads and then at the GLA's discretion. (Exhibit D at 24). It bears repeating: the GLA has the
2 discretion to spend the funds as it sees fit.

3 Plaintiffs claim Art. III of the Articles of Incorporation prohibit paying anyone funds of the
4 GLA. (See Exhibit E at 1). They do not explain how the GLA would maintain the roads with volunteer
5 labor. However, the Articles specifically allow the GLA to pay all expenses incurred in the conduct of
6 its business and to enter into and pay contracts. (Exhibit E at 2). The Montana Non-Profit Corporation
7 Act also allows the GLA to pay employees and contractors with no limitation on who they are. Art. III
8 prohibits the distribution of income and assets based simply on someone's status. It does not preclude
9 the expenditure of income or assets to procure goods or services from directors, officers, members, or
10 other private persons.
11

12
13 Plaintiffs give examples of past or present board members who have been paid for services other
14 than serving as a director. Although Plaintiffs have some of the details wrong (Alyssa Allen was not
15 hired then fired¹), the GLA does not dispute that board members have been paid for services other than
16 as directors. The Bylaws allow this. The Articles allow it. Montana law allows it. The Court should rule
17 that they do so as well.
18

19 **6. Plaintiffs' alleged denial of meeting minutes does not create a genuine issue of material fact.**

20 Plaintiffs claim they were not given meeting minutes from private meetings and committee
21 meetings and most open board meetings. However, this claim is unfounded.
22

23 First, Art. VI.F. of the Bylaws states: "All business of the Board other than confidential matters
24 (in the discretion of the Board) shall be conducted in an open meeting." (Exhibit C at 7). Again,
25 Plaintiffs take issue with the board exercising its discretion to hold closed meetings about confidential
26 matters. The GLA board does have closed session meetings where it discusses topics such as the
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28 _____
¹ And these details are not material facts.

1 ongoing litigation with Plaintiffs and employee matters. Sometimes the open meeting minutes reflect
2 the closed session topics without details. See Aff. Alyssa Allen at ¶ 8 (May 5, 2015). For example,
3 Plaintiffs' Exhibit 15 shows there was a closed session on December 9, 2013 where an orientation was
4 given to the new board members and this lawsuit was discussed. Plaintiffs cite no law or precedent that
5 would entitle them to the information shared in a private meeting by the people they are suing.
6

7 The board does mark regular meeting minutes as confidential with the intent of protecting them
8 from distribution outside of the GLA membership. They are not marked in order to deny them to
9 members as Plaintiffs claim—which is contradicted by the fact Plaintiffs possess them. Members who
10 request these minutes are provided them. See Aff. Alyssa Allen at ¶ 9 (May 5, 2015). Plaintiff Daniel
11 O'Connell was a board member and obviously acquiesced to the practice, and he should be estopped
12 from complaining about it now.
13

14 Further, Plaintiffs claim they were not allowed to inspect minutes is untrue. They have copies of
15 them because they were allowed to inspect and copy. Previous requests for the GLA to make copies for
16 Plaintiffs were denied because Plaintiffs refused to pay the reasonable costs of labor and materials as
17 allowed by law. Plaintiffs previous document requests were "catch-all" requests that failed to state the
18 purpose and identify with reasonable particularity the documents they wished to inspect. See Aff.
19 Alyssa Allen at ¶ 4 (May 5, 2015).
20

21 What Plaintiffs really take issue with is the GLA's practice of incorporating committee actions
22 by report into the regular board meetings. As Plaintiffs' Exhibit 8 shows, the various committees report
23 to the board and make recommendations which are then voted on. Some committees have authority to
24 take action, and they report on any actions taken. Plaintiffs allege this shows committee minutes are not
25 taken, but what they really disagree with is the form of the minutes. See Aff. Alyssa Allen at ¶ 10 (May
26 5, 2015).
27
28

1 Similarly, Plaintiffs complain of email votes by the board, and the alleged lack of proof of
2 actions by written consent. Art. VI.J. allows the board to take action by written consent without a board
3 meeting. (See Exhibit C at 9). It requires the written consent to be attached to meeting minutes.

4 However, the GLA board ratifies all actions by written consent at the next regular board meeting, and
5 on advice of counsel, the board was informed that such ratification obviated the need for attaching the
6 emails because ratification made the emails unnecessary. See Aff. Alyssa Allen at ¶ 11 (May 5, 2015).

7
8 Finally, Plaintiffs fail to identify what meeting minutes they were refused. They do not identify
9 dates, times, or meeting for which they were denied minutes. A mere allegation is not a genuine issue of
10 material fact. Here, it is obvious Plaintiffs have meeting minutes because they used them as exhibits.
11 Plaintiffs refused to pay the labor and materials necessary to meet their demands. They also failed to
12 inform the Court that when they agreed to bring their own copier and paper, the GLA allowed them
13 over 8 hours on two separate occasions to inspect and copy GLA records.

14
15 **7. The GLA's secret ballot elections do not create genuine issues of material fact.**

16 Plaintiffs also claim the GLA's voting procedures violate the law and the governing documents.
17 Notably, Plaintiffs' last lawsuit was in regard to voting practices which have been in place since the
18 inception of the GLA in 1997. Both Plaintiffs have voted this way for many years, and Plaintiff Daniel
19 O'Connell was elected using these same procedures. Claims about the GLA's voting procedures are
20 barred by *res judicata*, waiver, laches and estoppel. (See *O'Connell v. Glastonbury Landowners*
21 *Association, Inc.*, 2013 MT 259N attached as Exhibit G).
22

23
24 The GLA holds its elections by secret ballot which is a democratic organizations. Allowing
25 members to see who voted for who would chill the election process, and open voters up to retaliation
26 and abuse. Absentee ballots reference member names and parcel numbers thus allowing them to be
27 viewed would violate voter confidentiality. Ballots filled out at meetings do not contain this information
28

1 but viewing only those ballots would not provide the actual tallies. Further, the GLA protects ballots
2 because it does not want them to be tampered with. The Plaintiffs can factually prove the actual number
3 of votes by means other than by viewing the actual ballots. Aff. Alyssa Allen at ¶ 14 (May 5, 2015).

4 Plaintiffs claim Mont. Code Ann. § 35-2-535 prohibits secret ballots, but it does nothing of the
5 sort. It merely dictates a list of eligible members before a meeting. Allowing Plaintiffs access to cast
6 ballots, some of which have member identification, would violate secret ballot procedures and open
7 members up to harassment by Plaintiffs.

8 Plaintiffs also claim the membership list prepared before a meeting pursuant to Mont. Code
9 Ann. § 35-2-535 requires disclosure of email addresses. They cite the GLA's alleged confidentiality
10 policy (Plaintiffs' Exhibit 6). However, Exhibit 6 is a letter to members asking for input on a future
11 confidentiality policy. Plaintiffs' complaints are about the letter, not the policy because the policy is not
12 in place yet.

13 Plaintiffs state email addresses must be included as election documents, but are incorrect.
14 Recently, Montana law has changed to allow members to receive notice of member meeting via email in
15 which case the email address must also be disclosed. Mont. Code Ann. § 35-2-535. Only if a member
16 elects to receive notice by email, is the email address then subject to disclosure. No GLA members have
17 elected to receive meeting notice by email therefore there is no disclosure requirement. Aff. Alyssa
18 Allen at ¶ 7 (May 5, 2015). Plaintiffs raise no issues of genuine material fact which preclude summary
19 judgment in regards to elections.

20 **8. The GLA's bidding process is not a genuine issue of material fact.**

21 Plaintiffs again argue the board is liable for "unlawful distributions" because it did not get
22 multiple bids on every contract it entered into. This is simply not the case. Plaintiffs again point to no
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1 law or governing document which requires bids. Plaintiffs submit no evidence that the GLA is required
2 to get multiple bids.

3 However, over the years, the board has regularly informed the membership about various job
4 needs at meetings, through the newsletter and announcements. Sometimes, when time allowed, bids
5 were solicited. Work was awarded based on best price and the ability to do the work. Often there was
6 only one interested party. Due to timeliness of circumstances, some work is performed by whoever can
7 be found in a timely fashion and has the equipment and/or expertise to perform the work.
8

9 **9. Plaintiffs' contentions regarding the counterclaim are not genuine issues of material fact.**

10 Plaintiffs include argument about the GLA's counterclaim and why it is invalid. However, the
11 GLA moved for summary judgment on Plaintiffs' claims against the GLA and any other defendants.
12 The GLA is not seeking summary judgment on its counterclaim yet. The effect of the GLA's motion
13 would be the dismissal with prejudice of Plaintiffs' Amended Complaint leaving the counterclaim
14 against the Plaintiffs to be decided.
15

16 However, Plaintiffs raise arguments against the counterclaim which are improper. First,
17 Plaintiffs claim they "won" lawsuit DV-11-193 because it was settled. However, they fail to note the
18 settlement agreement states it is not an admission of liability. (See Exhibit A at ¶ 9). Second, they claim
19 they somehow prevailed in cases DV-12-220 and DV-12-164. However, the Montana affirmed the
20 dismissal of those cases with prejudice. (See Exhibit G).
21

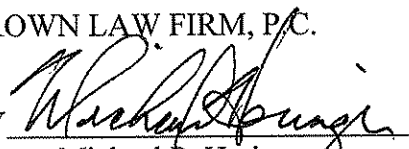
22 Plaintiffs also claim the Montana Supreme Court saw merit in the instant case by remanding it to
23 allow them to amend their complaint. That ruling said no such thing. It simply said Plaintiffs should be
24 given another chance to coherently state their complaint. Finally, Plaintiffs claim that because 10 out of
25 the 12 board members who were on the board when they started filing lawsuits years ago or now no
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1 longer on the board it shows their claims have merit. It does not; it simply shows how long Plaintiffs
2 have been wasting the time and resources of the GLA, its members, its board, and the Courts.

3 **CONCLUSION**

4 Plaintiffs continually allege the GLA has violated the rights of property owners, harmed
5 the property, or misappropriated funds. They never provide specifics, and they fail to produce any
6 evidence of actual harm. They also have failed to establish genuine issues of material fact sufficient to
7 defeat summary judgment. For the above reasons, GLA respectfully requests an Order from the Court
8 entering summary judgment in its favor on all of Plaintiffs' claims dismissing their Amended Complaint
9 with prejudice.
10

11 DATED this 5th day of May, 2015.

13 BROWN LAW FIRM, P.C.
14 BY 
15 Michael P. Heringer
16 Seth M. Cunningham
17 The Brown Law Firm, PC
18 Attorneys for Glastonbury
19 Landowners Association, Inc.

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CERTIFICATE OF SERVICE

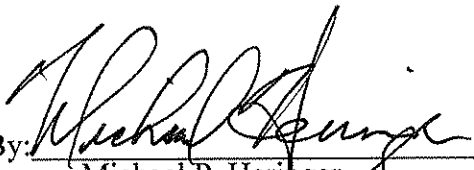
I hereby certify that a true and correct copy of the foregoing was duly served by U.S. mail, postage prepaid; and addressed as follows this 5th day of May, 2015:

Daniel and Valery O'Connell
PO Box 77
Emigrant, MT 59027
Plaintiffs pro se

Daniel and Valery O'Connell
PO Box 774
Cayucos, CA 93430
Plaintiffs pro se

Alanah Griffith
Pape & Griffith, PLLC
26 E. Mendenhall
Bozeman, MT 59715
*Attorneys for Respondents Glastonbury
Landowners Association, Inc.*

Judge David Cybulski
573 Shippe Canyon Road
Plentywood, MT 59254

By: 
Michael P. Heringer
Seth M. Cunningham
The Brown Law Firm, PC

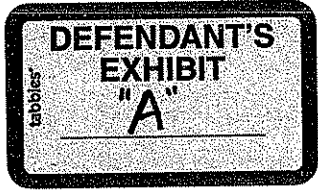
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MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

DANIEL K. O'CONNELL and VALERY)	
A. O'CONNELL & for and on behalf of)	Cause No. DV-2011-193
Members of the Glastonbury Landowners)	
Association,)	
)	
Plaintiffs,)	STIPULATED
)	SETTLEMENT AGREEMENT
v.)	
)	
GLASTONBURY LANDOWNERS)	
ASSOCIATION, INC. (the GLA)	
Corporation),)	
)	
Defendant.)	
)	

The parties to the above-captioned matter met for mediation on the 20th day of July, 2012, and agreed as follows:

1. The Glastonbury Landowners Association, Inc., hereinafter referred to as "GLA," Board of Directors will provide a current GLA membership list to the O'Connells upon request, but not more than two times a year.
2. The GLA will provide O'Connells with all documents to which they are entitled pursuant to the Montana Non-Profit Corporation Act and GLA By-Laws upon request.



1 3. The GLA Board President will vote in accordance with the GLA By-Laws and not
2 solely for the purpose of breaking a tie vote.

3 4. The GLA Board will rescind the existing prohibition against recording member
4 meetings.

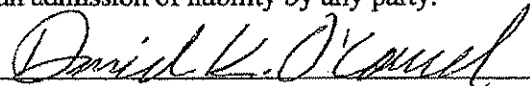
5 5. The parties will dismiss the above-captioned Complaint and Counter-claim with
6 prejudice.
7


8 6. The GLA Directors may not cast proxy votes for members in any capacity; however,
9 they may cast their own votes as landowners. The Proxy Authorization form will be amended
10 accordingly.


11 7. This Stipulated Agreement is subject to ratification by the GLA Board.

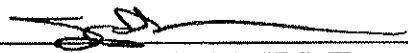
12 8. Each party shall bear its own attorney's fees and costs.

13 9. No provision included in this Stipulated Settlement Agreement shall be construed as
14 an admission of liability by any party.

15 
16 DANIEL O'CONNELL
17 Plaintiff
18 Date of Signature: 7/20/2012


VALERY O'CONNELL
Plaintiff
Date of Signature: July 20, 2012

19 
20 RICHARD BOLEN
21 President, Glastonbury Landowners Association
22 Defendant
23 Date of Signature: 07/20/2012

24 
25 FREDERICK P. LANDERS, JR.
26 Counsel for Glastonbury Landowners Association
27 Date of Signature: 7-20-12
28

SEC. 5-9-13
PARA. 5-9-13
ATTY. 5-9-13
Seth ✓ 5-9-13

COPY

Copied to
Seth

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MONTANA TWENTY-SECOND JUDICIAL DISTRICT, CARBON COUNTY

MICHAEL and DIANE SULLIVAN; JOY)
W. HUNT; DR. HERSCHEL R. and MARY)
BETH HARTER; JEFF and RENEE)
GILDEHAUS; ANDY and DIANE BERES;)
GARY and EMILY RUSSELL; STEVEN M.)
and LEIGH L. GOSE; WILLIAM L. and)
MARY WAGNER; MIKE KAUTZMAN;)
CATHERINE GROTT; DOUGLAS A. and)
JUDY K. BARNES; J. LANCE and MARY)
KAY DISSEL; RICHARD and JEAN ANNE)
BULLOCK; MARTHA L. BROWN; MARTY)
CLAGUE; and ELIZABETH FRAZER,)

Plaintiffs,

vs.

REMINGTON RANCH ASSOCIATION,)
INC.; THOMAS CHEREWICK; RONALD)
M. HENRY; and NANCY GAMMILL,)

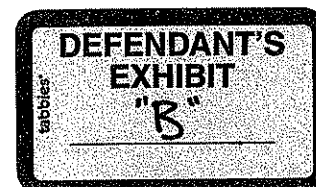
Defendants.

Cause No. DV 11-122

Judge: Blair Jones

ORDER GRANTING MOTION
FOR A PROTECTIVE ORDER

Before the Court is a *MOTION FOR A PROTECTIVE ORDER* filed on October 23, 2012 by Defendants Remington Ranch Association, Inc.; Thomas Cherewick; Ronald M. Henry, and Nancy Gammill (together, "Defendants"). Plaintiffs Michael and Diane Sullivan; Joy W. Hunt;



1 Dr. Herschel R. and Mary Beth Harter; Andy and Diane Beres; Gary and Emily Russell; Steven M.
2 and Leigh L. Gose; William L. and Mary Wagner; Mike Kaurzman; Catherine Grott; Douglas A.
3 and Judy K. Barnes; J. Lance and Mary Kay Dissel; Richard and Jean Anne Bullock; Martha L.
4 Brown; Marty Clague; and Elizabeth Frazer (together, "Plaintiffs") oppose the motion. After due
5 consideration of the briefs, together with the applicable law, the Court determines that
6 Defendants' motion should be granted.

7 STANDARD OF REVIEW

8 Rule 26(c), Mont. R. Civ. P. provides that a party from whom discovery is sought may
9 move for a protective order "specifying the terms, including time and place, for the discovery"
10 and "prescribing a discovery method other than the one selected by the party seeking discovery."
11 Rule 26(c)(1)(B) and (C), Mont. R. Civ. P. Such a party may make a motion upon "certification
12 that the movant has in good faith conferred or attempted to confer with other affected parties in
13 an effort to resolve the dispute without court action." Rule 26(c)(1), Mont. R. Civ. P. For "good
14 cause," a district court may issue an order to protect a party from "annoyance, embarrassment,
15 oppression, or undue burden or expense." *Id.*

16 DISCUSSION

17 A. Defendants' motion for protective order

18 In this case, Defendants request a protective order "forbidding further improper
19 communications from Plaintiffs to Defendants and forbidding further requests by Plaintiffs to
20 inspect or copy the RRA records except in the case of a formal discovery request." (Defs.' Br.
21 Supp. Mot. Protective Order 3.) Given the circumstances here, the Court determines that a
22 protective order is appropriate. Although § 35-2-907(1) and (2), MCA provides that members of
23 a corporation are entitled to "inspect and copy" certain corporate records under specified
24 conditions, such access is limited to a "reasonable time and location specified by the corporation."
25 Because the parties are in litigation where access to the records and the content of the records is at
26 issue, it is reasonable to require the parties to exchange such records through formal channels of
27 discovery. Doing so aids in identifying which records have been produced and the scope of the
28 requests and avoids inadvertent duplicity of effort and expense. Defendants' counsel has made

1 good faith attempts to resolve the dispute without court action, by actually accommodating
2 Plaintiffs' requests on two occasions and by multiple letters to Plaintiffs' counsel requesting the
3 use of formal discovery.

4 Furthermore, Plaintiffs fail to address Defendants' legitimate concern about improper
5 conduct between represented parties. Regardless of whether Plaintiffs—as parties—are entitled to
6 access RRA records under law or contract, it is at best questionable for an attorney to allow his or
7 her client to attempt to obtain discovery by direct contact with a represented opposing party.

8 Rule 4.2(a) of the Montana Rules of Professional Conduct provides that “[i]n representing
9 a client, a lawyer shall not communicate about the subject of the representation with a person the
10 lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent
11 of the other lawyer or is authorized to do so by law or a court order.” The Comment to the
12 identical ABA Model Rule 4.2 provides that this rule protects a represented person against “the
13 uncounselled disclosure of information relating to the representation.” The stated purpose of this
14 protection is “the proper functioning of the legal system.” MODEL RULES OF PROF'L CONDUCT, R.
15 4.2 cmt. (2012).

16 Although the issue at bar does not involve unauthorized attorney communications with a
17 represented opposing party, it does involve communications by an attorney's client directly to the
18 represented opposing party for information relating to the opposing party's representation.
19 Defendants have shown that Plaintiff Michael Sullivan contacted a represented defendant for
20 access to Remington Ranch Association records on at least three occasions: by letter dated
21 February 29, 2012 to the Defendant board members of the Remington Ranch; by letter dated May
22 17, 2012 to Defendant Tom Cherewick; and again by letter dated June 7, 2012 to Defendant Tom
23 Cherewick. (Defs.' Ex. B, E, and G.) At each instance, Defendants' counsel requested that
24 Plaintiffs' counsel make the demands as formal discovery requests to avoid confusion and to
25 create a record of what had and had not been produced.

26 It is improper for an attorney to circumvent the purposes of Rule 4.2 by encouraging his
27 or her client to engage in conduct prohibited to the attorney. Although no evidence indicates that
28 Plaintiff Michael Sullivan wrote the above listed letters at his attorney's direction, Defendants'

1 counsel had informed Plaintiffs' counsel of the situation and reasonably requested that
2 Defendants cease such conduct and employ formal channels of discovery. Regardless of what
3 Defendants believe they are entitled to obtain from Plaintiffs under law or contract, it is neither in
4 the spirit of Rule 4.2 nor does it foster the collegiality the Court expects from counsel for
5 Plaintiffs' counsel to encourage or allow a client to continue the contested behavior. It is
6 incumbent upon Plaintiffs' counsel to exercise client control and ensure that clients understand
7 both their rights as well as their obligations. The requests made by Defendants' counsel in this
8 regard were wholly reasonable and should have been honored by Plaintiffs' counsel.

9 **B. Defendants' motion for attorney fees**


10 Rule 37(a)(5)(A), Mont. R. Civ. P. provides that if a motion for protective order is granted,
11 "the court must, after giving an opportunity to be heard, require the party or deponent whose
12 conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the
13 movant's reasonable expenses incurred in making the motion, including attorney fees." Having
14 determined that a protective order is warranted in this case, the Court will set a hearing to
15 determine the movant's reasonable expenses incurred in bringing this motion under Rule
16 37(a)(5)(A), Mont. R. Civ. P.

17 For the reasons stated above,

18 **IT IS ORDERED** that Defendants' *MOTION FOR PROTECTIVE ORDER* is **GRANTED**.


19 **IT IS FURTHER ORDERED** that a hearing on the issue of movant's reasonable expenses
20 in bringing this motion is hereby set on Tuesday, the 18th day of June, 2013, at the hour of 1:30
21 p.m. or as soon thereafter as counsel may be heard.

22 DATED this 7th day of May, 2013.

23 
24 _____
25 **BLAIR JONES, District Judge**

25 cc: Kelly J. C. Gallinger Joel Todd
26 J. Michael Young Michael B. Anderson.
27 Tammy Wyatt-Shaw Brendon J. Rohan
28 Randall G. Nelson Calvin J. Stacey

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly served by mail or fax upon
the parties or their attorneys of record at their last known address
this 7th day of May, 2013
By: 
Court Administrator to HON. BLAIR JONES

BYLAWS
OF
GLASTONBURY LANDOWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

A. **Name.** The name of the Corporation is GLASTONBURY LANDOWNERS ASSOCIATION, INC. (hereinafter referred to as the "Association").

B. **Principal Office.** The principal office of the Association in the State of Montana is located at 123 Arcturus Drive, Emigrant, Montana 59027 and the mailing address is Post Office Box 312, Emigrant, Montana 59027. The Association may have such other offices, within or without the State of Montana, as its Board of Directors may designate or as the Association's business may require.

C. **Registered Office and Registered Agent.** The address of the initial registered office and the name of the initial registered agent required by the laws of the State of Montana shall be as set forth in the Articles of Incorporation. The registered agent and the address of the registered office may be changed from time to time by the Board of Directors.

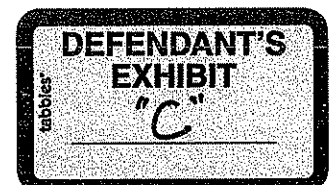
ARTICLE II

OBJECTS

A. **Landowners Association.** These Bylaws are adopted in order to establish a landowners association (or community association) pursuant to the Declaration of Covenants for the Community of Glastonbury, recorded in the Office of the Park County Clerk and Recorder on December 16, 1982 in Roll 41, pages 1042-1078, as Document No. 173158, together with all additions and amendments thereto (hereinafter referred to as the "Covenants"), and pursuant to the nonprofit corporation statutes of the State of Montana.

B. **Purposes.** The purposes of the corporation are as set forth in the Articles of Incorporation, and more specifically as follows:

To provide for the management, administration, maintenance, preservation and control of the parcels, roads and common properties within the real estate development commonly known as the "Community of Glastonbury" in Park County, Montana, including that property which is subject to and burdened by the Covenants (hereinafter referred to as the "Property"), and to promote the health, safety and welfare of the landowners and residents within the above-described Property.



C. **Incorporation of Covenants.** The Covenants described above are incorporated herein by reference. The Association shall also have such purposes, and shall be limited in the carrying out of its purposes, as may be provided in the said Covenants from time to time.

ARTICLE III

POWERS

In furtherance of its purposes and objects, but not otherwise, the Corporation shall have and exercise such powers as are enumerated in the Articles of Incorporation and any additional powers as may be set forth in these Bylaws. The Corporation shall be limited in the exercise of its powers as may be provided in the Covenants from time to time.

ARTICLE IV

MEMBERS

A. **Members.** The Members of the Association and those Members who may be considered to be in good standing shall be as defined in the Covenants from time to time.

B. **Membership and Membership Interest Run With the Land.** The rights, privileges, duties and responsibilities of membership in the Association (referred to herein as a "Membership Interest") shall be as defined herein and in the Covenants and shall run with title to the Property and any qualifying portions thereof. Each Membership Interest shall be entitled to one (1) vote as defined in the Covenants. One Member of the Association may hold and exercise the entitlements of multiple Membership Interests. An owner of an undivided interest not qualifying as a unit of property constituting a separate and distinct Membership Interest (i.e., a joint tenancy interest, or a tenancy-in-common interest created after May 1, 1997) shall hold and exercise the entitlements of a single Membership Interest jointly with the other owners of the undivided interest, or individually on a fractional basis in proportion to his or her ownership interest.

C. **Non-Liability of Members.** The Members shall not be individually or collectively liable for the actions, debts, liabilities or other obligations of the Association.

ARTICLE V

MEETINGS OF MEMBERS

A. **Place of Meeting.** Meetings of the Members shall be held at the principal office or place of business of the Association or at such other suitable place convenient to the Members as designated by the Board of Directors.

B. **Annual Meetings.** The first Annual Meeting of the Members of the Association shall be held within one year of the date of incorporation of the Association, such date to be set by the initial Board of Directors. Thereafter, the Annual Meeting of the Association shall be held on the same day of each succeeding year or, if a legal holiday, on the next business day following, or at a date specified by resolution of the Board of Directors. At such meeting there shall be elected, by the ballot of the Members, a Board of Directors in accordance with the requirements of Article V, paragraph F, and Article VI, paragraph D, of these Bylaws. The Members may also transact such other business of the Association as may properly come before them.

C. **Special Meeting.** It shall be the duty of the President to call a Special Meeting of the Members as directed by resolution of the Board of Directors. Special Meetings may be called at any time upon the initiative of the Board of Directors. A Special Meeting must be called when a petition signed by five percent (5%) of the Membership Interests outstanding and eligible to vote at the time has been presented to any member of the Board of Directors. Notice of a Special Meeting shall be given as soon as practicable and not more than thirty (30) days after receipt of said petition. Notice of any such Special Meeting shall state the hour, date, and place of the meeting and shall further precisely state the reason of such meeting, and said Special Meeting held shall be strictly confined to the matters set forth in the notice.

D. **Notice of Meetings.** The Secretary shall by U. S. mail, postage prepaid, personal delivery or facsimile transmission ("fax") give a notice for each Annual Meeting or Special Meeting of the Members at least thirty (30) days, but not more than sixty (60) days prior to such meeting. The notice shall state the purpose thereof, as well as the time and place where it is to be held. Said notice shall be mailed or faxed to each Member at his address or fax number of record with the Association or at such other address or fax number as the Member shall have designated by notice in writing to the Secretary. Notices of Annual Meetings shall include a ballot for electing the Board of Directors and a proxy form. The mailing of notice of a meeting in the manner herein shall be considered service of notice.

E. **Quorum.** Except as otherwise provided herein, the presence in person or by proxy of Members having twenty-five percent (25%) of the total authorized votes of all Members of record of the Association shall constitute a quorum at all meetings of the Members. Meetings of the Association or action taken by written mail ballot shall be proper only if a quorum of the Members is established either in person or by written mail ballot or any combination of the foregoing.

F. **Voting.** Each Member in good standing as defined in the Covenants, or any person designated by them to act as proxy on their behalf (who need not be a Member), shall be entitled to cast the vote(s) appurtenant to the Member's Membership Interest(s) at all meetings of the Members. For purposes of tabulating the written vote and consent of the Members of the Association, it is hereby provided that:

1. Each Membership Interest is entitled to one vote;

2. A Member may hold more than one Membership Interest and shall have a separate vote for each such interest;

3. A Member holding an undivided interest not qualifying as a unit of property constituting a separate and distinct Membership Interest (i.e. a joint-tenancy interest, a tenancy-in-common interest created after May 1, 1997) shall have a fractional vote in proportion to his or her ownership interest or may combine their fractional vote with all of the other owners of the undivided interest to have one vote collectively; and

4. If the total number of qualifying votes equals or exceeds fifty-one percent (51%) of the total Membership Interests of the Members in good standing who cast votes at the meeting, the vote shall be effective and shall have passed.

G. Designation of Proxy. If a Membership Interest is held by a firm, corporation, partnership, association, or other legal entity, or any combination thereof, a proxy must be executed and filed with the Association appointing and authorizing one person to attend any or all Annual and Special Meetings of the Members of the Association and thereat to cast the entire vote pertaining to that Membership Interest. If a Membership Interest is held by joint tenants, either joint tenant may attend Annual or Special Meetings of the Members of the Association and cast the entire vote pertaining to that Membership Interest, or each joint tenant may attend and cast a fractional vote. Any Member may designate any person to vote as proxy on his or her behalf. To be valid, a proxy must be in writing, dated, executed by the Member of record or legal representative of such Member and filed with the Secretary before or at the appointed time for a meeting. Such proxy shall be effective and remain in force until voluntarily revoked, amended or terminated by operation of law, until the expiration of one year after its execution or until the date of the next Annual Meeting after the proxy was used at the previous Annual Meeting. The Association shall continue to recognize a proxy which has not expired until it receives notice of such revocation, amendment or termination.

H. Order of Business. The order of business of all meetings of the Members shall include, as far as practicable, the following:

1. Roll call and certification of proxies and verification of quorum;
2. Proof of notice of meeting and collection of waivers of notice;
3. Reading of Minutes of preceding meeting;
4. Reports of directors and officers;
5. Reports of committees;
6. Election of directors, if necessary;
7. Unfinished business;
8. New business;
9. Forum for Members' questions/comments; and
10. Adjournment.

ARTICLE VI

BOARD OF DIRECTORS

A. **Number and Qualifications.** The affairs of the Association shall be governed by a Board of Directors. The Initial Directors shall be those Members of the Association appointed by the Incorporator identified in the Articles of Incorporation. Thereafter, the Board shall have an even number of positions available to be filled at election. Initially, this number shall be twelve (12). The actual number of Directors shall be those who have been nominated and elected to office from time to time as provided herein; however, the number of Directors shall not be reduced to fewer than four (4), nor increased to more than twelve (12). Of the twelve positions available on the Board of Directors, up to six positions shall be elected from Glastonbury North and up to six positions shall be elected from Glastonbury South, respectively, on separate ballots from among two separate groups of qualifying candidates.

B. **General Powers and Duties.** The business and affairs of the Association shall be managed by the Board of Directors. Such Directors shall in all cases act as a Board which shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts or things as are not by law or by the Covenants, Bylaws or Articles of Incorporation directed to be exercised and done by the Members. The Board shall be regularly convened and shall act by majority vote of those members present at a meeting, unless provided otherwise herein or in the Articles of Incorporation. Such powers and duties of the Board shall include, but not be limited to, the following:

1. Conduct, manage and control the affairs and business of the Association;
2. Make capital expenditures, enter into contracts and agreements, and provide the services and functions as are necessary to operate and maintain the Property and carry out the business of the Association, provided, however, that the following capital expenditures, contracts and agreements shall be approved by the Members as provided in Article V, paragraph F, of these Bylaws:
 - a. Individual contracts and agreements with a term in excess of five (5) years;
 - b. The sum of all capital expenditures in any given fiscal year totaling more than thirty percent (30%) of the Associations' average annual operating budget for the preceding three (3) years; and
 - c. Mortgaging, encumbering or otherwise disposing of any real property of the Association;
3. Fix, levy, collect and enforce the payment of common charges and assessments to Members required to carry out the duties and obligations of the Association, including, without limitation, the operation and maintenance of the community common property and roads;
4. Issue quarterly statements of account on the assessments and take necessary and appropriate action to collect assessments from Members and

common charges from the Members, including the filing of liens and prosecuting foreclosures as provided in the Covenants or by law;

5. Obtain necessary insurance for the Association, the Association's property, the Board, officers and employees of the Association and provide for the use and disposition of the insurance proceeds in the event of loss or damage;

6. Appoint and remove, employ and discharge, and, except as otherwise provided in these Bylaws, supervise and prescribe the duties and fix compensation, if any, as necessary, of all officers, agents, employees, or committee members of the Association;

7. Register the addresses and phone numbers of the Members with the Secretary of the Association, and notices of meetings mailed or faxed to them at such addresses shall be valid notice thereof;

8. Have the right to delegate such powers as may be necessary to carry out the function of the Board to committees as the Board of Directors designates from time to time by resolution as provided in these Bylaws;

9. Enforce obligations of the Members to the Association as provided in the Covenants;

10. Adopt Rules and Regulations from time to time for the conduct of the affairs of the Association and the enjoyment of the Members, provided that no Rule or Regulation so adopted shall be in conflict with Montana law, the Covenants, the Articles of Incorporation or these Bylaws, and provided further that no Rule or Regulation shall be so construed so as to impair in any manner the lien of any mortgage or deed of trust with respect to any of the property if such Rule or Regulation is promulgated after the recordation of said mortgage or deed of trust;

11. Establish reasonable reserve funds for emergencies and unforeseen contingencies and for the repair and replacement of community property;

12. Pay the expenses of the Association, including all taxes or assessments;

13. Keep records in a good and businesslike manner of all assessments made, all expenditures and the status of each Member's accounts, and make such records accessible at reasonable times to all Members;

14. Do any and all things necessary to carry into effect these Bylaws and to implement the purposes and exercise the powers as stated in the Articles of Incorporation, Covenants, Bylaws, Rules and any Land Use Master Plan adopted pursuant to the Covenants;

15. Negotiate and enter into agreements with public agencies, officers, boards, commissions, departments and bureaus of federal, state and local governments to carry out the above powers, duties and responsibilities; and

16. Adopt Rules from time to time for the conduct of any meeting, election or vote in a manner that is not inconsistent with any provisions of the Covenants, Articles of Incorporation or these Bylaws.

C. **Nomination of Directors.** Prior to each Annual Meeting, the Board shall prescribe the opening date and the closing date of a reasonable filing period in which every Member in good standing who has a bona fide interest in serving as a Director may file as a candidate for any position to be filled by votes of the Membership Interests. The closing date shall allow time for the ballots to be mailed with the notice of the Annual Meeting to the Members. The Board shall also establish such other Rules as it deems appropriate to conduct the nomination of Directors in a fair, efficient and cost-effective manner.

Nominations for election to the Board may also be made by a Nominating Committee. The Nominating Committee shall consist of two Members of the Board, one of whom shall be chairman, and three or more Members in good standing. The Nominating Committee shall be appointed by the Board to serve a term of one year or until their successors are appointed, and such appointment shall be announced at each Annual Meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine. Nominations shall also be permitted from the floor at the Annual Meeting. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

D. **Election and Term of Office.** At the first Annual Meeting, the Board of Directors shall be elected by the Members. The three nominees from Glastonbury North and the three nominees from Glastonbury South, respectively, receiving the most votes shall be elected for terms of two years each and the remaining nominees receiving the least votes from their respective areas shall be elected for terms of one year each. Thereafter, at each subsequent Annual Meeting, Directors shall be elected for terms of two years to fill any open positions. The members of the Board shall hold office until their respective successors have been elected by the Members and duly qualify. The initial Directors appointed by the Incorporator shall act until the first election of Directors has been held at the first Annual Meeting. Only Membership Interests arising from ownership in Glastonbury North may vote for Directors representing Glastonbury North and only Membership Interests arising from ownership in Glastonbury South may vote for Directors representing Glastonbury South. Glastonbury North and South shall be as defined in the Covenants.

E. **Vacancies.** Vacancies in the Board of Directors between Annual Meetings, caused by any reason, shall be filled by a vote of a majority of the remaining members of the Board at a Special Meeting of the Board held for that purpose, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Board of Directors for the remainder of the term of the member whose term he is filling and until his successor shall be elected and shall qualify.

F. **Directors' Meetings.** All business of the Board other than confidential matters (in the discretion of the Board) shall be conducted in an open meeting. Meetings of the Board may be called at any time by the President or a quorum of Directors and may be held at any time and place upon the giving of reasonable notice. Any or all Directors may participate in a meeting by or conduct the meeting through the use of any means of communication by which all Directors participating may simultaneously hear each other

during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting.

G. **Notice.** Notice of meetings shall be mailed, delivered personally or faxed by the Secretary, or other person designated by the President, to each Director to be received not less than three (3) days before any such meeting. Notice of a Special Meeting shall state the purpose thereof, place, date and time. If sent by mail, the notice shall be deemed to be delivered on its deposit in the U. S. mail. If notice is sent by fax, it is deemed delivered when the fax transmission is complete to the fax number last given in writing to the Secretary by the Director. The notice may be waived by any Director by signing a written waiver to be filed with the Minutes of the meeting. If all of the Directors attend a meeting or if all of the Directors sign a written waiver, the requirement of notice shall be deemed thereby waived, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting has not been lawfully called or convened.

H. **Quorum.** A quorum of the Directors at any meeting shall consist of a majority of the Directors in office immediately before the beginning of a meeting and may never be fewer than three (3). The act of a majority of such a quorum of the Directors present shall be the act of the Board of Directors. In the absence of a quorum, the majority of the Directors present may adjourn any meeting from time to time until a quorum is present. Notice of any adjourned meeting need not be given. The Directors shall act only as a Board and the individual Directors shall have no authority as such. The Directors present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of Directors from the meeting as long as no fewer than the greater of one-third of the entire Board or three (3) of the Directors are present.

I. **Committees.** The Board of Directors may from time to time appoint such committees from among the Board of Directors, the Members of the Association, or others as it may, in its discretion, determine is appropriate to assist in the conduct of the affairs of the Association. Only Committees of Directors constituted pursuant to the Montana Nonprofit Corporation Act may exercise the authority or powers of the Board of Directors and they may do so only to the extent authorized by the Board. Such Committees of Directors are formed by the Board appointing members to serve on them. Each Committee of Directors must have at least two (2) members who are Directors and who serve at the pleasure of the Board. The creation of a Committee of Directors and the appointment of members to it must be approved by the greater of a majority of all the Directors in office when the action is taken or by any specified number or majority of Directors when required by the Articles of Incorporation or Bylaws.

The Board may also appoint any advisory committees it wishes, which committees need not include any Directors.

The provisions herein which govern meetings, actions at meetings, notice, waiver of notice, quorum and voting requirements of the Board also apply to Committees of Directors and their members.

A Committee of Directors may not authorize distributions; approve or recommend to members dissolution, merger, or the sale, pledge or transfer of all or substantially all of the corporation's assets; elect, appoint or remove Directors or fill vacancies on the Board or on any of its committees; or adopt, amend or repeal the Articles of Incorporation or Bylaws.

All committees shall keep Minutes reflecting the committee members attending and the actions taken.

Committees which the Board may form include, but are not limited to, the following:

1. Financial Committee, initially chaired by the Treasurer, to do financial planning, budgeting, collecting of assessments and such projects as may be given to that committee;
2. Project Review Committee, initially composed of the Board of Directors, to oversee the development of the Community's Master Plan and the Rules regarding architecture and land use;
3. Architecture Subcommittee, serving under the Project Review Committee, which may include qualified individuals such as builders, architects, civil engineers, land planners, etc., to oversee proposed site plans and building plans that must be submitted by Landowners to the Association for recommendations, review and approval in accordance with the Covenants. In case the Project Review Committee is phased out upon completion of the Master Plan, the Architecture Subcommittee shall become the Project Review Committee directly under the Board of Directors;
4. Legal Committee, to suggest Rules for the Community and to attend to legal matters and Community elections;
5. Community Preparedness Committee, to serve as liaison with the Sheriff's department, paramedics and fire department, to formulate emergency and disaster plans, and to coordinate shelter development and interaction;
6. Communications Committee, to oversee public relations and intra-community communications and county relationships;
7. Community Property Committee, to oversee the maintenance and upkeep of community property;
8. Community Life Committee, to serve as liaison with community schools, recreational and social events, groups and in general to foster community spirit; and
9. Economic Development Committee, to foster a climate of economic growth and business expansion.

J. Action by Written Consent. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting if all members of the Board are contacted and a two-thirds majority of the Board members shall individually or collectively consent in

writing to such action. Such written consent or consents shall be filed with the Minutes of the proceedings of the Board. Such action by written consent shall have the same force and effect as a majority vote of the Directors. Any certificates or any other document filed by the officers under any provision of law which relates to action so taken shall state that the action was taken by two-thirds majority written consent of the Board without a meeting and that the Articles of Incorporation and Bylaws of this Association authorize the Directors to so act, and such statement shall be *prima facie* evidence of such authority.

K. Compensation. Directors shall not be compensated for attending meetings and for serving as Directors. By resolution of the Board, the Directors may be reimbursed for actual expenses incurred in attending a meeting. The Directors may not be paid either a fixed sum for attendance at meetings nor a stated salary. Nothing herein contained shall be construed to preclude any Director from rendering service to the Association in any other capacity and receiving reasonable compensation therefor. Compensation to be paid to any member of the Board of Directors for such services rendered must be approved by the Board of Directors.

L. Removal of Directors. Removal of Directors shall be pursuant to the Montana Nonprofit Corporation Act and the following:

1. The Members may remove one or more Directors elected by them without cause at an Annual or Special Meeting.
2. Except as provided in Subparagraph 6 below, a Director may be removed only if the number of votes cast to remove the Director would be sufficient to elect the Director at a meeting of Members.
3. A Director elected by Members may be removed by the Members only at a meeting called for the purpose of removing the Director. The meeting notice must state that the purpose or one of the purposes of the meeting is removal of the Director.
4. The entire Board of Directors may be removed under Subparagraphs 1 through 3 above.
5. A Director elected by the Board may be removed without cause by the vote of two-thirds of the Directors then in office.
6. The Board may remove a Director for failing to attend four consecutive duly noticed Annual or Special Meetings. The Director may be removed only if a two-thirds majority of the Directors then in office vote for the removal.
7. A successor may, then or thereafter, be elected to fill any vacancy created by such a removal in the manner provided herein. Any Director whose removal has been proposed by the Members or by the Board of Directors shall be given reasonable notice and an opportunity to be heard at the meeting where the removal is to be considered.

M. Voting. At all meetings of the Board of Directors, each Director is to have one vote.

N. **Non-Liability of Directors.** The Directors shall not be personally or collectively liable for the debts, liabilities or other obligations of the Association.

O. **Authority to Indemnify.** The Association shall indemnify, to the full extent permitted by the Montana Nonprofit Corporation Act, any person who was or is a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association or in which such person is adjudged liable for receiving improper personal benefit) by reason of the fact that he is or was a Director, officer, fiduciary, agent or Member of the Association.

P. **Meeting Agenda.** The order of business at any regular or Special Meeting of the Board of Directors shall include:

1. Reading and disposition of any unapproved Minutes;
2. Reports of officers and committees;
3. Ombudsman report(s);
4. Unfinished business;
5. New business;
6. Open floor comment period; and
7. Adjournment.

ARTICLE VII

OFFICERS

A. **Number.** The officers of the Association shall be: President, Vice President, Secretary and Treasurer, and such other or subordinated officers as the Board of Directors may from time to time elect. Each officer shall be elected for one year and hold office until his successor is elected and qualified. One person may hold one or more offices provided that their duties are not incompatible, except the President, who shall not hold any other office. All officers except the Secretary must be members of the Board of Directors.

B. **Election.** The officers of the Association shall be chosen by the Board of Directors and elected annually at the first meeting of the Board of Directors following each Annual Meeting of the Members, except as hereinafter otherwise provided for the filling of vacancies. Each officer shall hold his office until his successor has been chosen, until he resigns or is removed in the manner herein provided.

C. **Removal.** Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors at any time, with or without cause, whenever in its judgment the best interest of the Association would be served thereby, by the affirmative vote of a majority of the entire Board.

D. **Vacancies.** All vacancies in any office shall be filled by the Board of Directors without undue delay at any regular meeting or at a meeting specially called for that purpose.

E. **President.** The President shall preside at all meetings of the Board of Directors and Members. The President shall sign all certificates, notes, negotiable instruments, deeds, contracts, mortgages, agreements and other instruments of the Association as authorized by the Board of Directors.

F. **Vice President.** The Vice President shall preside in the absence or inability of the President and shall perform in the absence of the President all of the duties and functions of the President or such other duties or functions as may be given to the Vice President by the Board of Directors from time to time.

G. **Secretary.** The Secretary shall issue notices of all meetings of the Board of Directors and Members, shall keep Minutes of the meetings, shall have charge of the seal and the corporate minutes book, shall sign, with the President, such instruments as require such signature and shall make reports and perform such other duties as are incident to his office or are properly required of him by the Board or President.

H. **Treasurer.** The Treasurer shall be the chief financial officer of the Association and have the custody of all the monies and securities of the Association and deposit the same in the name of the Association in such bank or other depository as the Board of Directors may designate and shall keep regular books of account and balance the same each month. The Treasurer shall render to the President and the Board of Directors, whenever requested, an account of transactions and of the financial condition of the Association. The President and/or the Treasurer shall sign or countersign such instruments as require their signatures. The Treasurer shall perform all duties incident to his office or that are properly required of him by the Board.

I. **Non-Liability of Officers.** The officers shall not be personally or collectively liable for the debts, liabilities or other obligations of the Association.

ARTICLE VIII

CONTRACTS, FINANCE AND COMMON EXPENSES

A. **Contracts.** The Board of Directors may authorize any officer(s) and agent(s) to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances, except as limited in Article VI, paragraph B.2. of these Bylaws. Unless so authorized, no officer, agent or employee shall have any power or authority to bind the Association by any contract, engagement, promissory note, bond, debenture, deed of trust, mortgage, or to pledge its credit or render it liable monetarily or in any manner for any purpose or in any amount.

B. **Deposits.** The monies of the Association shall be deposited in the name of the Association in such banks, trusts or other depositories as the Board of Directors deems advisable and shall so designate.

C. **Loans.** No loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. This authority may be general or confined to specific instances.

D. **Payment of Money.** All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the Association's name shall be signed by the President, Treasurer and/or other officer(s) or agent(s) of the Association in such manner as shall from time to time be authorized by resolution of the Board of Directors.

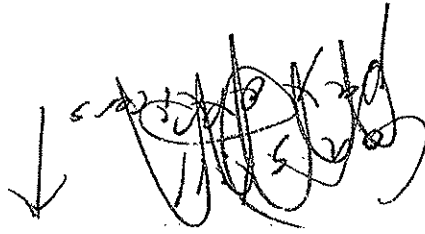
E. **Common Expenses.** Common expenses, in general, shall include expenses of administration and management and expenses for maintenance, repair or replacement of community property. They include, but are not limited to:

1. Management and employees' salaries, service contracts;
2. Casualty and liability insurance;
3. Charges for landscaping, snow removal, and maintenance of walks, roads and parking areas;
4. Audit fees, attorney's fees, and other administration costs;
5. Real estate taxes on parcels owned by the Association and any

F. **Budget.** Notice of estimated budget of capital and operating expenses shall be prepared by or on behalf of the Board of Directors and an operating expense budget by more than one Member. The budget shall be prepared showing receipts and shall be mailed to each Member and presented at the Annual Meeting.

shall be accompanied by the fiscal year prepared by the Board of Directors. This statement shall be presented to the Members at the Annual Meeting on or before the first day of the fiscal year and

G. **Fiscal Year.** The fiscal year shall begin on the first day of January and end on the last day of December for that fiscal year, terminate



shall terminate on the first day of the business shall, if Directors.

H. **Auditing.** At the closing of each fiscal year, if deemed necessary by the Board of Directors, the books and records of the Association may be audited by a certified public accountant or other qualified person, whose report will be prepared and certified. In any event, the Association will furnish the Members with a statement of the receipts and expenditures of the Association for each fiscal year.

I. **Inspection of Books.** The financial reports and Membership records of the Association shall be available at the principal office of the Association for inspection at reasonable times by any Member.

J. **Fidelity Bonds.** The Board of Directors may require that any or all officers and employees of the Association who handle or are responsible for the Association's funds furnish adequate fidelity bonds. The premiums for such bonds shall be paid by the Association.

ARTICLE IX

ASSESSMENTS

A. **Assessments.** The Association, acting through the Board of Directors, shall have the power to fix, levy, collect and enforce the payment of common charges and assessments to Members as provided herein and in the Covenants.

ARTICLE X

OMBUDSMAN

A. **Number and Qualification.** There shall be an office of Ombudsman, one for Glastonbury South and one for Glastonbury North, to be filled by the Members at any Annual or Special Meeting of the Members.

B. **General Responsibilities.** The Ombudsman's role is to communicate with the Members and residents in Glastonbury North and Glastonbury South, respectively, and to convey the concerns of the residents and Members, not otherwise addressed by the Board of Directors, to the Board. They may attend the Board meetings and convey such concerns at the appropriate time on the agenda. The Ombudsman's role is advisory in nature and they shall otherwise have no official powers or authority.

C. **Nomination of Ombudsman.** Concurrent with the opening date and the closing date of the filing period for election to the Board of Director any Member in good standing may file as a candidate for the Ombudsman position. Candidates for the Ombudsman position in Glastonbury North must reside in Glastonbury North and candidates for the Ombudsman position in Glastonbury South must reside Glastonbury South at the time of their election. Ballots for the office of Ombudsman shall be mailed with the ballots for Board of Directors and the notice of the Annual Meeting to the Members. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

D. **Election and Term of Office.** At the first Annual Meeting and at every subsequent Annual Meeting, the Ombudsman shall be elected by the Members of Glastonbury North or Glastonbury South respectively. Each Ombudsman shall be elected for a one-year term and may hold office until his or her respective successor has been elected by the Members and has duly qualified.

E. **Vacancies.** Vacancies in the office of Ombudsman may be filled by the Members at an Annual Meeting or any Special Meeting called for that purpose. If such vacancy occurs within less than four months before the next Annual Meeting, the election may be held at its regularly scheduled time. Any person elected to fill a vacancy shall be an Ombudsman for the remainder of the term of the Member whose term he is filling and until his successor shall be elected and shall qualify.

F. **Removal of Ombudsman.** An Ombudsman may be removed by the Members without cause at any meeting of the Membership by majority vote.

G. **Nonliability of Ombudsman.** An Ombudsman shall not be personally or collectively liable for the debts, liabilities or other obligations of the Association.

ARTICLE XI

ENFORCEMENT POWERS AND PROCEDURES

A. **Rule Making.** The Association, acting through the Board of Directors, may make and enforce Rules and Regulations as provided from time to time in the Covenants or as may be further provided herein, provided they are not inconsistent with any provisions of the Covenants, Articles of Incorporation or these Bylaws.

B. **Enforcement Rights and Sanctions.** The Association, acting through the Board of Directors and Officers, may take such actions and impose such sanctions for violations of the Covenants, Bylaws, Rules and Regulations as may be provided from time to time in the Covenants or as may be further provided herein. The Association shall not be obligated to take action to enforce any provision of the Covenants, Bylaws, Rules or Regulations which the Board reasonably determines is or is likely to be construed as inconsistent with applicable law, or in any case in which the Board reasonably determines may be unenforceable. Any such determination shall not be construed as a waiver of the right to enforce such provision under other circumstances or to prevent the Association from enforcing any other such provision.

C. **Due Process.** Prior to making any new Rules or Regulations, or taking any action to enforce any of the Covenants, Bylaws, Rules or Regulations, the Association, acting through the Board of Directors and officers, shall provide reasonable written notice in accordance with Article V, paragraph D, to all of the Members (in the case of rule-making) or to all directly-affected Members (in the case of a proposed enforcement action) and a reasonable opportunity for any such Member to be heard and to give written or oral comment to the Board of Directors or its designee(s). Enforcement actions shall also include a reasonable fact-finding process whereby relevant information related to all sides of the issue will be gathered and evaluated. Any member of the Board of Directors whose personal involvement in the matter at issue might, in the majority opinion of the other Board members, detrimentally affect his or her ability to be impartial, shall abstain from participation or voting in such proceedings.

ARTICLE XII

AMENDMENTS

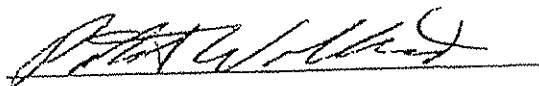
A. **Interpretation and Amendments.** The Board shall have the power to interpret all the provisions of these Bylaws and such interpretation shall be binding on all persons. These Bylaws and the Articles of Incorporation may be amended, repealed or altered, in whole or in part, from time to time whenever at least fifty-one percent (51%) of the Membership Interests of the Association in good standing at the time attending any Annual or Special Meeting, where such proposed action has been set forth in the call and notice of such meeting, shall have voted in favor of such amendment. Any such amendments may be proposed by the Board of Directors or by a petition signed by at least twenty percent (20%) of the Members. Once made, any such amendments, alterations, changes or new Articles or Bylaws, or the repeal of any provision thereof, shall apply to all Members as fully and to the same extent as if originally included herein or in the Articles of Incorporation.

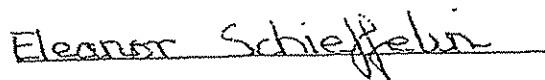
B. **Limitation on Amendments.** No amendment of these Bylaws shall be contrary to or inconsistent with any provision of the Articles of Incorporation, and no amendment of the Articles of Incorporation or these Bylaws shall be contrary to or inconsistent with any provision of the Covenants.

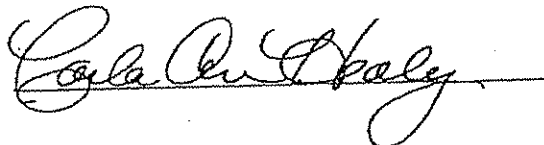
C. **Severability.** A determination of invalidity of any one or more of the provisions or conditions hereof by judgment, order or decree of a court shall not affect in any manner the other provisions hereof which shall remain in full force and effect and shall be interpreted to give effect to the original intent of the entire document, including said invalid provisions or conditions as fully as legally possible.

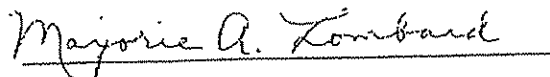
D. **Conflicts.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control, and in the case of any conflict between the Covenants and these Bylaws, the Covenants shall control.

KNOW ALL MEN BY THESE PRESENTS that we, the undersigned Initial Directors and Secretary of the Glastonbury Landowners Association, Inc., a Montana nonprofit corporation, do hereby certify that the foregoing Bylaws of said Association were adopted on the _____ day of June, 1997, and that the same do now constitute the Bylaws of said Association.









Walter G. Wood William J. Sosa
Jean Murphy Robert F. Hoeg

ATTEST:

Secretary

FIRST AMENDMENT TO BYLAWS
OF
GLASTONBURY LANDOWNERS ASSOCIATION, INC.

THIS AMENDMENT is made and adopted this 16th day of November, 1998, by the Board of Directors of the Glastonbury Landowners Association, Inc., pursuant to a 51% majority vote of the Association membership in favor of such amendment at the Annual Meeting of Members held November 14, 1998.

WHEREAS, a discrepancy has been called to the Board's attention between the definition of "Membership Interest" and voting procedures in the Declaration of Covenants for the Glastonbury Community and that definition and those procedures in the Bylaws for this Association; and

WHEREAS, Article XII, D, of the Bylaws expressly provides that in such case of conflict, the Covenants shall control; and

WHEREAS, Article XII, A, of the Bylaws provides for amendment to the Bylaws upon motion by the Board and approval of a 51% majority vote of the Members in good standing;

NOW THEREFORE, for the purpose of eliminating the conflict between the Covenants and Bylaws on these issues, the following two-part amendment to the Bylaws has been proposed by the Board, voted approved by the Members, and is hereby adopted:

1. Article IV, B, of the Bylaws is hereby amended to read in its entirety as follows:

"B. Membership and Membership Interest Run With the Land. The rights, privileges, duties and responsibilities of membership in the Association (referred to herein as a "Membership Interest") shall be as defined herein and as in the Covenants and shall run with title to the property and any qualifying portions thereof. Each Membership Interest shall be entitled to one (1) vote as defined in the Covenants.

Each of the following separated units of property, whether held by one or more than one landowner, shall constitute a separate and distinct Membership Interest that is entitled to one vote and to all other rights, privileges, duties and responsibilities as set forth in the Covenants and in these Bylaws:

- a. A parcel (as defined in Section 3.22 of the Covenants);
- b., An undivided tenancy-in-common interest in a parcel existing as of the effective date of the Covenants, whether owned individually or in joint tenancy; and
- c. A condominium unit.

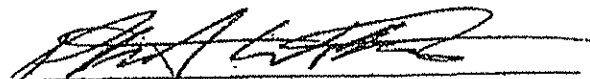
One Member of the Association may hold and exercise the entitlements of multiple Membership Interests."

2. Article V, F, of the Bylaws is hereby amended to read in its entirety as follows:

"F. Voting. Each member in good standing as defined in the Covenants, or any person designated by them to act as proxy on their behalf (who need not be a Member), shall be entitled to cast the vote(s) appurtenant to the Member's Membership Interest(s) at all meetings of the Members. For purposes of tabulating the written vote and consent of the Members of the Association, it is hereby provided that:

1. Each Membership Interest is entitled to one vote;
2. A Member may hold more than one Membership Interest and shall have a separate vote for each such interest;
3. The Association shall be entitled to rely on the acts of one joint owner of a Membership Interest which shall be conclusive as to that Membership Interest and binding upon the other joint owners. In the event the Association is made aware by written notice that the joint owners of a Membership Interest cannot agree as to how the vote of the Membership Interest should be cast, the Association may, in its discretion, grant each joint owner a fractional voting interest in proportion to his or her ownership interest, or may disregard the vote of such Membership Interest entirely;
4. If the total number of qualifying votes equals or exceeds fifty-one percent (51%) of the total Membership Interests of the members in good standing who cast votes at the meeting, the vote shall be effective and shall have passed."

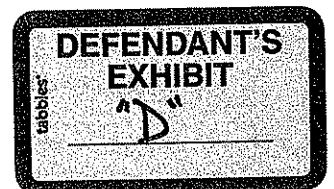
KNOW ALL MEN BY THESE PRESENTS, that the Board of Directors of Glastonbury Landowners Association, Inc. has duly approved the foregoing Amendment to the Bylaws of said Association, and that the same shall be attached to and made a part of such Bylaws, effective as of the date first above written.


Patrick Wolberd, President

ATTEST:


Secretary

Restated
Declaration of Covenants
for the
Community of Glastonbury



**RESTATED DECLARATION OF COVENANTS
FOR THE
COMMUNITY OF GLASTONBURY**

THIS RESTATED DECLARATION OF COVENANTS FOR THE COMMUNITY OF GLASTONBURY is made effective as of the 26th day of September, 1997, as an amendment to the Declaration of Covenants for the Community of Glastonbury, in its entirety, with the written consent of CHURCH UNIVERSAL AND TRIUMPHANT, INC. (the predecessor "Grantor") and GLASTONBURY LANDOWNERS ASSOCIATION, INC. (the successor "Grantor") and the affirmative written vote and consent of the owners (including the Grantors) of at least fifty percent (50%) of the parcels described on Exhibits "A" and "B" attached to the Declaration of Covenants, together with any additions thereto, with respect to the following facts and circumstances:

WHEREAS, the Declaration of Covenants for the Community of Glastonbury (hereinafter referred to as the "Declaration of Covenants") was originally recorded in the Office of the Park County Clerk and Recorder on December 16, 1982 in Roll 41 at Pages 1042-1078; and

WHEREAS, several amendments to the Declaration of Covenants (hereinafter collectively referred to as the "amendments") were duly made and respectively recorded in the Office of the Park County Clerk and Recorder in Roll 43 at Pages 616-618, Roll 45 at Pages 930-933, and Roll 90 at Pages 1208-1234; and

WHEREAS, several additions to the Declaration of Covenants (hereinafter collectively referred to as the "additions") were duly made and respectively recorded in the Office of the Park County Clerk and Recorder in Roll 45 at Pages 989-993, Roll 62 at Pages 620-624, Roll 66 at Pages 1117-1121, Roll 67 at Pages 27-33, Roll 71 at Pages 69-73, and Roll 71 at Pages 1171-1176; and

WHEREAS, an Assignment of Declaration of Covenants (hereinafter referred to as the "First Assignment") was executed by ROYAL TETON, LTD. and accepted by CHURCH UNIVERSAL AND TRIUMPHANT, INC. on December 30, 1986, which First Assignment assigned, transferred and conveyed all of the rights, interests, title, powers and responsibilities of ROYAL TETON, LTD. as the "Grantor" under the Declaration of Covenants, together with all amendments and additions thereto, to CHURCH UNIVERSAL AND TRIUMPHANT, INC., and was recorded in the Office of the Park County Clerk and Recorder on December 31, 1986 in Roll 59 at Pages 724-727; and

WHEREAS, a second Assignment of Declaration of Covenants (hereinafter referred to as the "Second Assignment") was executed by CHURCH UNIVERSAL AND TRIUMPHANT, INC. and accepted by GLASTONBURY LANDOWNERS ASSOCIATION,

INC. on June 17, 1997, which Second Assignment assigned, transferred and conveyed all of the rights, interests, title, powers and responsibilities of CHURCH UNIVERSAL AND TRIUMPHANT, INC. as the "Grantor" under the Declaration of Covenants, together with all amendments and additions thereto, to GLASTONBURY LANDOWNERS ASSOCIATION, INC., and was recorded in the Office of the Park County Clerk and Recorder on June 26, 1997 in Roll 122 at Pages 534-539; and

WHEREAS, Section 2.05 of the said Declaration of Covenants provides the methods and procedures whereby the covenants may be altered, amended, modified, waived, abandoned or terminated in whole or in part; and

WHEREAS, the owners of the property in the Community of Glastonbury have agreed that it would be in the best interests of all parties to create and empower a new self-governing structure through a community landowners association and to make comprehensive amendments to the Declaration of Covenants; and

WHEREAS, the undersigned owners (including the Grantors) of at least fifty percent (50%) of the parcels described on Exhibits "A" and "B" attached to the Declaration of Covenants, together with any additions thereto, wish to alter, amend, modify and supersede the Declaration of Covenants in its entirety through the adoption of the following Restated Declaration of Covenants; and

WHEREAS, the following Restated Declaration of Covenants is intended to alter, amend, modify and supersede the Declaration of Covenants and all amendments and additions thereto in their entirety, including any and all amendments and additions thereto which have occurred prior to the effective date hereof; and

WHEREAS, it is further intended that, after the effective date hereof, the real property which shall be subject to, burdened by and benefited by the Declaration of Covenants as amended herein shall be as described on Exhibits "A" and "B" attached hereto, which exhibits are hereby incorporated herein by reference, and that any and all real property previously burdened or benefited by the Declaration of Covenants that is not listed on said exhibits is and shall be released and discharged from any further effect of any of said covenants, except that any existing easements or rights of way contained herein or in any other plats, surveys or deeds shall remain in full force and effect; and

WHEREAS, it is further intended that, after the effective date hereof, the Declaration of Covenants and any amendments and additions thereto shall be of no further force or effect except as continued herein;

NOW, THEREFORE, the Declaration of Covenants is hereby altered, amended, modified and superseded in its entirety to read as follows:

PREAMBLE

The following Restated Declaration of Covenants is hereby adopted in order that the property hereinafter designated shall be held, transferred, sold, conveyed, used and occupied, SUBJECT TO the following covenants, conditions, restrictions, servitudes, limitations, terms, provisions, liens, charges, regulations, easements, reservations and burdens, each of which shall be deemed to be a covenant running with the land and shall be binding upon all current owners, their heirs, executors, administrators, successors and assigns, and upon all successive owners, lessors or possessors of said property or portions thereof, as hereinafter provided.

SECTION 1. PROPERTY COVERED BY DECLARATION

1.01. Property Subject to and Burdened by Declaration. The real property which shall and is hereby declared to be subject to and burdened by the covenants, conditions, restrictions, servitudes, limitations, terms, provisions, liens, charges, regulations, easements, reservations and burdens in this Declaration (hereinafter collectively referred to as the "covenants") is described on Exhibit "A" (referred to herein as "Glastonbury North") and Exhibit "B" (referred to herein as "Glastonbury South"), attached hereto and incorporated herein by reference. The real property described on Exhibits "A" and "B" shall also include any and all portions, parcels, lots, tracts or other divisions or alterations contained within or segregated from any of the property specifically identified on said exhibits, whether created before or after the effective date hereof.

1.02. Property Benefited by Declaration. The real property which shall and is hereby declared to be benefited by the covenants in this Declaration is described on Exhibits "A" and "B" attached hereto and incorporated herein by reference. The real property described on Exhibits "A" and "B" shall also include any and all portions, parcels, lots, tracts or other divisions or alterations contained within or segregated from any of the property specifically identified on said exhibits, whether created before or after the effective date hereof.

1.03. Additional Property. The Glastonbury Landowners Association, Inc. (herein referred to as the "Association") shall have the exclusive right, at its option and at any time in the future, to add and subject additional property to any or all of the covenants in this Declaration, or any amended versions thereof, by executing and recording an instrument in writing describing any property owned by the Association to be added, or by executing and recording a written agreement between the Association and the owner(s) describing the property to be added to the covenants. Said property must be located adjacent to or no more than one mile from property that is already subjected to these covenants. When added, said additional property shall become burdened by and shall receive the benefit of the covenants as provided in the written instrument or agreement.

1.04. Property Withdrawn from Declaration. The Association shall have the right, at its option and at any time in the future, to withdraw any property from the covenants in this Declaration, by executing and recording an instrument in writing describing any property

owned by the Association to be withdrawn, or by executing and recording a written agreement between the Association and the owner(s) describing the property to be withdrawn from the covenants. When withdrawn, said property shall cease to be burdened by or to receive the benefit of the covenants as provided in the written instrument or agreement, except that any existing easements or rights of way shall remain in full force and effect unless expressly cancelled or extinguished.

SECTION 2. NATURE AND EFFECT OF COVENANTS

2.01. Covenants Running with the Land. Each and every covenant, condition, restriction, servitude, limitation, term, provision, lien, charge, regulation, easement, reservation and burden mentioned in this Declaration shall be deemed and is hereby declared to be a covenant running with the land.

2.02. Additional Force and Effect. In addition, each provision in this Declaration shall also be interpreted in the light of its express language, context and intent, and shall be given additional legal force and effect as defined by state law as a condition, restriction, servitude, limitation, lien, charge, easement or reservation, as is appropriate, running with the land.

2.03. Binding Effect. The covenants within this Declaration shall and are intended to be binding and enforceable as hereinafter provided. Upon authorization of the Association's Board of Directors in each instance, the Association shall have the right of ingress, egress and inspection upon and of each parcel, excluding the interiors of dwellings, at reasonable times and with reasonable notice of at least seven (7) days for the purpose of insuring compliance herewith.

2.04. Duration of Covenants. The covenants in this Declaration shall continue in full force and effect for a period of twenty years from the effective date hereof, at which time they shall be automatically extended for successive periods of ten (10) years each unless terminated or modified by the affirmative vote of at least fifty-one percent (51%) of the Membership Interests of the Association in good standing at the time. Any such vote shall be conducted in accordance with the bylaws and rules of the Association. The president and secretary of the Association may certify the results of such vote on behalf of the Association and its members in any instrument to be filed of record for the purpose of terminating or modifying the covenants.

2.05. Amendments to Covenants. The covenants in this Declaration may be altered, amended, modified, waived, abandoned or terminated in whole or in part at any time by the affirmative vote of at least fifty-one percent (51%) of the Membership Interests of the Association in good standing at the time. Any such vote shall be conducted in accordance with the bylaws and rules of the Association. The president and secretary of the Association may certify the results of such vote on behalf of the Association and its members in any instrument to

be filed of record for the purpose of altering, amending, modifying, waiving, abandoning or terminating the covenants in whole or in part.

2.06. Adoption of Land Use Master Plan. The Glastonbury Land Use Master Plan (hereinafter referred to as the "Master Plan") may be adopted, altered, amended or terminated at any time by the affirmative vote of at least fifty-one percent (51%) of the Membership Interests of the Association in good standing at the time. Any such vote shall be conducted in accordance with the bylaws and rules of the Association. The president and secretary of the Association may certify the results of such vote on behalf of the Association and its members in any instrument to be kept or filed of record for the purpose of adopting, altering, amending or terminating, or providing notice of the adoption, alteration, amendment or termination of, the Master Plan. When adopted, the Master Plan shall have the force and effect of the covenants in the regulation of land uses, development and growth in the Community, and shall be enforceable by the Association to the same extent as if set forth fully herein. Any portion of these covenants and any rule or regulation derived from these covenants may be incorporated into the Master Plan or may continue to exist independently of the Master Plan and shall be given full force and effect.

2.07. Rule Making. The Association shall have the authority to adopt reasonable rules and regulations which are consistent with the intent and enabling provisions of these covenants or the Master Plan. Said rules and regulations shall be enforceable by the Association to the same extent as if set forth fully herein. All existing rules and regulations adopted or amended prior to the effective date hereof in accordance with the original Declaration of Covenants, and all rulings or conditions of approval made pursuant thereto prior to the effective date hereof, shall continue to remain in full force and effect, to the extent not inconsistent with this Restated Declaration of Covenants, until repealed, superseded or amended by the Association. Any references in any such existing rules or regulations to predecessors-in-interest of the Association or to any officers, boards or committees of such predecessors shall be deemed to pertain to the Association or to officers, boards or committees of the Association, respectively.

2.08 Recordation. Any ownership, title, agreement, instrument or document specified or required in this Declaration of Covenants to be of record or to be recorded or filed of record shall be found of record or shall be recorded and/or filed of record in the Office of the Park County Clerk and Recorder, Livingston, Montana.

2.09 Effective Date. This Restated Declaration of Covenants shall become effective upon execution and recordation in the Office of the Park County Clerk and Recorder.

SECTION 3. DEFINITIONS AND SHORT NAME REFERRALS

As used in this Declaration, the following words, phrases and terms shall have the following definitions, meanings, synonyms and intent:

3.01. Association. Glastonbury Landowners Association, Inc., a Montana nonprofit corporation, its successors and assigns.

3.02. Apartment. A building that contains two or more dwelling units for rent or lease, exclusive of any condominiums.

3.03. Certificates of Survey of the Community. Certificates of Survey Nos. 615-A, 616-A, 883, 892, 895, 981, 1173 and the Golden Age Village at Glastonbury North mobile home park plat, all of which are on file or of record in the Office of the Park County Clerk and Recorder, containing some or all of the real property described on Exhibits "A" and "B", attached hereto and incorporated herein by reference; together with (1) the certificates of survey or plats for any property which is added to Exhibits "A" and "B" subsequent to the effective date hereof, and (2) the certificates of survey or plats for any and all portions, parcels, lots, tracts or other divisions or alterations contained within or segregated from any of the property specifically identified in Exhibits "A" and "B", whether created before or after the effective date hereof.

3.04. Common Use Land. Land owned or acquired by the Association upon which a nonexclusive easement running with each parcel in the Community has been or is granted to each Landowner for recreational purposes. The Association shall retain ownership of and the right to use the land in accordance with the Master Plan.

3.05. Community. The Community of Glastonbury.

3.06. Community of Glastonbury. The real estate described on Exhibits "A" and "B", attached hereto, together with all additions thereto after the effective date hereof.

3.07. Condominium. A form of ownership with right of conveyance of a dwelling unit in a multiple-unit project with the land and all other parts of the project held in common ownership or use with the owners of all of the dwelling units, exclusive of any apartments.

3.08. Cottage Industry. An industry whose labor force consists primarily of family or communal units working at home.

3.09. Covenants. Covenants, conditions, restrictions, servitudes, limitations, terms, provisions, liens, charges, regulations, easements, reservations and burdens contained within this Restated Declaration of Covenants.

3.10. Declaration. The within Restated Declaration of Covenants and all amendments thereto, after the effective date hereof.

3.11. Development. The Community of Glastonbury.

3.12. Dwelling Unit. A structure or portion of a structure, normally consisting of

living area, bathroom and cooking facilities, designed for occupancy by a single family. The term includes a boarding house but not the individual living rooms within a boarding house that do not contain a bathroom and cooking facilities.

3.13. Glastonbury. The Community of Glastonbury.

3.14. Glastonbury North. Part of the Community of Glastonbury, being that property described on Exhibit "A" attached hereto, together with all additions thereto after the effective date hereof.

3.15. Glastonbury South. Part of the Community of Glastonbury, being that property described on Exhibit "B" attached hereto, together with all additions thereto after the effective date hereof.

3.16. Landowner. The record owner(s) of a parcel or condominium in the Community, including any purchaser(s) of record under a contract for deed or similar agreement. The term shall include the record owner(s) of a life estate or an estate for years for an original term of at least fifty-five (55) years in a parcel. Insofar as any ownership, voting or membership rights, privileges, duties and responsibilities provided for in this Declaration are concerned, the term shall not include the Association or the owner(s) of any unvested reversionary or remainder interest(s).

3.17. Master Plan. The Glastonbury Land Use Master Plan which is intended to direct the future growth and development of the Community, including all amendments thereto.

3.18. Member of the Association. A person, firm or corporation that is a Landowner and has become registered with the Association.

3.19. Member of the Association in Good Standing. A member of the Association that is current in the payment of all assessments to the Association and is not in violation of these covenants. A member in good standing is qualified to vote as provided herein and in the bylaws and rules of the Association.

3.20. Membership Interest. A Membership Interest consists of the rights, privileges, duties and responsibilities of membership in the Association and runs with title to the property in the Community owned by every Landowner. Each of the following separate units of property, whether held by one or more than one Landowner, shall constitute a separate and distinct Membership Interest that is entitled to one (1) vote and with such voting and other rights and privileges and with such duties and responsibilities as are set forth herein and in the bylaws and rules of the Association:

- a. A parcel;
- b. An undivided tenancy-in-common interest in a parcel existing as of the effective date hereof, whether owned individually or in joint tenancy; and

c. A condominium unit.

3.21. Minerals. Oil, gas, coal, hydrocarbons, minerals, geothermal water and energy, gravel, sand, rock, dirt, and all other placer and hardrock mineral deposits of any sort whatsoever.

3.22. Parcel. A division of the real property comprising the Community as shown on the Certificates of Survey therefor, or any legally segregated and approved portion, parcel, lot, tract or division thereof, which is or becomes subject to the covenants of this Declaration. The term "parcel" does not include any unplatted lots within the Golden Age Village at Glastonbury North mobile home park.

3.23. Platted Road Easements. Easements which are shown on the Certificates of Survey of the Community and generally labeled as "private access and public utility easement."

3.24. Structure. Any construction, building, dwelling, tower, shed, basement or enclosure with a roof, whether above or below ground, including parts of and additions to such structures.

SECTION 4. AGRICULTURAL COVENANTS

4.01. In General. In general and except as limited herein, agricultural usage of land is to be encouraged and promoted.

4.02. Landowners' Animals. Landowners desiring to raise or keep animals of any kind, including dogs and pets, must restrain them within their own land to insure that they will not trespass on other parcels or adjoining roads or land. Landowners are solely responsible to insure that none of the animals kept on their land shall harass or threaten humans, livestock or wildlife or shall cause a nuisance of any kind. Landowners are not entitled to use land owned by the Association, common use land, road easements or any other land not owned by them for the grazing of livestock without permission of the owner thereof. Landowners are solely responsible to maintain and keep fences, gates and cattleguards on their property in good working condition and repair in accordance with state law.

4.03. Swine. No swine of any kind may be kept on any parcel in the Community.

4.04. Feed Lots. Commercial feed lots, fertilizer plants and the like may not be operated or allowed on any parcel, due to associated odors, dust, noise, disease, etc.

4.05. Weed and Vermin Control. Landowners are responsible to make reasonable efforts to control and prevent the spread of noxious weeds and vermin from their property.

SECTION 5. RULES OF HEALTH, SAFETY, NUISANCE AND LAND USE

5.01. Laws, Ordinances and Regulations. Each Landowner shall abide by and obey all laws, regulations, rulings and ordinances lawfully enacted by the State of Montana or any political subdivision thereof, including Park County, and including, but not limited to, fire, health, safety and sanitary laws and regulations; except that a Landowner may in good faith vigorously challenge the legality of any such law which he believes to be unlawful or unconstitutional.

5.02. Fire Rules. The following fire rules shall be binding upon every parcel and are the responsibility of each Landowner:

a. When the U.S. Forest Service or other public agency fire danger designation for the area is high, outdoor fires shall be burned only in an enclosed facility or receptacle having a properly operating and approved spark screen;

b. All fireplaces, whether inside a building or outdoors, shall have an approved spark screen covering the top of the chimney;

c. Chimneys and wood-burning-stove flues shall be cleaned regularly to reduce the hazard of house fires;

d. Any condition which creates a fire hazard shall not be permitted on a parcel. It is recommended that all structures be surrounded with an adequate fire-break;

e. A Landowner shall be liable to any damaged party for any negligently caused fires escaping from his parcel, except for those fires caused naturally by "act of God" or by an instrumentality outside of his control, such as lightning or a shorting power line crossing his property, etc.; and

f. All open fires or burning must be in compliance with applicable laws and regulations. Permits shall be obtained by Landowners when required.

5.03. Sewage Disposal. Each Landowner shall dispose of domestic sewage in a manner approved by the Association and any public health authorities with jurisdiction, including the Park County Health Department. No outhouses shall be allowed except as permitted by county and state regulations.

5.04. Refuse Disposal. All refuse, rubbish, trash, garbage and waste shall be kept, disposed of or regularly removed in a sanitary manner. Refuse shall not be allowed to accumulate so as to cause odor or unsightliness.

5.05. Nuisances and Eyesores. Nuisances and eyesores shall not be allowed. It shall be in the Association's discretion and authority to determine what a nuisance or an eyesore is and to require removal, correction or abatement by the Landowner upon the giving of

reasonable notice as provided in Section 10.02. Specifically, the following conditions shall not be allowed on parcels within the Community:

a. Abandoned trailers, mobile homes and other structures, junk (inoperative or unregistered) cars and equipment, scrap piles, brush piles, etc., in open view of platted roads and other parcels or land; and

b. Noxious odors, excessive noise or vibration, nuisances or other annoyances which, in fact, are infringing upon another's quiet use and enjoyment of his land.

5.06. Industry and Mining. "Industrial" activity, strip mining, quarrying, excavating and other activities which produce smoke or chemical wastes, pollute water and air or tend to degrade the environment shall not be allowed in the Community, except for minor activities in connection with the building of structures and improvements on a parcel or as is otherwise approved by the Association from time to time.

5.07. Commercial Activity. It is the intent of these covenants that the Community of Glastonbury should be a predominantly rural/residential community that allows for the reasonable and productive exercise of free enterprise by its residents, and which both encourages future orderly growth and protects valuable rural and residential land qualities. The restrictions on commercial activity shall include the following:

a. Such activity may not be a nuisance or an eyesore;

b. Commercial business activity other than that contained within a dwelling unit must be concealed by fence, wall, landscaping, shrubs, land berms or the like as required by the Association from time to time;

c. Signs may be erected only as allowed by Section 6.04 or as otherwise permitted by the Association;

d. Adequate off-street parking must be provided as defined by the Association or in the Master Plan;

e. The Association may establish setback requirements for commercial structures from time to time that are substantially in excess of those required by Section 6.02 in order to prevent the unsightly accumulation of commercial establishments along platted roads and boundary lines in a predominantly rural/residential community;

f. Bars, lounges, liquor stores, stills, and the production, sale, service or use of tobacco products, liquor, wine, beer or other alcoholic beverages in commercial establishments shall not be permitted;

g. Adult bookstores and the sale or display of pornographic literature or materials shall not be permitted;

h. Establishments which provide, feature, or allow gambling, nude dancing, stripping, pornographic or X-rated films, lewdness or any illegal activity shall not be permitted, and the Association shall have the discretion and authority to require that any such commercial activity be terminated; and

i. Additional restrictions upon or regulation of commercial activity shall be as set forth in the Master Plan.

5.08. Cottage Industry and Light Manufacturing. Nothing stated herein shall prevent a Landowner from carrying on cottage industries, home occupations, home businesses, professions, warehousing and activities of light manufacturing located in a Landowner's dwelling or auxiliary buildings which produce no substantial sound, odor or vibration such as to be a nuisance to others and which are not in violation of any other provision of these covenants.

5.09. Institutional Activity. Institutional and quasi-public activities, improvements and structures, such as schools, churches, hospitals, museums, libraries, fire stations, community centers and services, etc., shall be allowed as provided in Section 6.01, and otherwise only in accordance with the Master Plan. However, nothing provided herein shall prevent Landowners from conducting lawful religious, educational and charitable activities with their own families and guests on their own property or from erecting and maintaining private chapels and shrines thereon.

5.10. Live Timber. Except as provided below, natural live timber may not be commercially harvested or cut without the approval of the Association.

a. Certain parcels may be evaluated by the Association as being "moderately" or "heavily" timbered. Trees may be cut for firewood, fencing or building structures on these parcels only—however, no more than thirty-three percent (33%) of the original amount of timber on a given parcel may be cut. Deadfall, standing dead and diseased trees shall be cut before healthy living trees. Trees native to a parcel may not be commercially harvested or cut for commercial firewood and hauled away.

b. Trees may be cut and removed on any parcel in small quantities in order to clear sites for construction, roadwork and farming.

c. Trees may be planted, grown and then commercially harvested by a Landowner on any parcel.

5.11. Surface Water Use. Except for any existing surface water rights and permits as of the effective date hereof, Landowners may not newly appropriate or use the surface water on a parcel without the prior approval of the Association. All appropriations and use of surface water shall be in accordance with state law and shall be subject to all prior valid rights.

5.12. Subsurface Water Use. Landowners are entitled to appropriate and use subsurface water by drilling wells in accordance with state law.

a. Spring development may only be made with the approval of the Association and must be made from an underground water source or aquifer, or at the point of discharge, from within the parcel. Others may have already appropriated and reserved certain spring water or spring-fed surface water for irrigation, stock water, and other uses. Such spring water may not be appropriated or used by a Landowner without approval of the owner(s) of such water rights.

b. If the Association determines that a scarcity of water exists, it may implement a water-use plan to remain in effect for the duration of the scarcity. In such an event, a use priority shall be given to the necessities of life, and all Landowners shall be required to abide by the terms of such a plan.

c. Any parcel in the Community which does not have sufficient ground water available to supply the needs of at least one dwelling (a "dry parcel") may, as a matter of right, obtain ground water from the most appropriate neighboring parcel. To establish such a right, the Landowner of the dry parcel must have tried and failed to drill a well on his own parcel through a commercial driller at least two times and must submit the results of a study by a qualified geologist and a dowser's report, if requested, showing the likelihood of no water on his parcel and the likely location of ground water on a neighboring parcel. The Association shall arbitrate any disagreements between the Landowners of a dry parcel and a neighboring parcel in the allocation of ground water, and its decision shall be final and binding. In addition, the Landowner of the neighboring parcel to be used shall have the option of:

i. Sharing his existing well or a planned common well with the dry parcel; or

ii. Requiring the Landowner of the dry parcel to drill his own well, which well must be located as close as is reasonably possible to the common boundaries of the parcels or in a location preferred by the owner of the neighboring parcel.

If a common well is shared, the Landowner of the dry parcel must pay his fair share of all reasonable expenses incurred in the establishment of such well and all costs associated therewith. All necessary and reasonable easements for placing and maintaining any such well and transporting said water to the dry parcel shall be given by the owner(s) of the neighboring parcel.

d. Each Landowner that successfully drills a well is required to provide the Association with a report that states the location, depth, flow, quality and cost of the well. A similar report is required for drilling operations that fail to produce a well. This information will be kept in a well log by the Association for inspection by prospective purchasers and other Landowners.

5.13. Mineral Rights and Development. The original developer of the Community has expressly excepted and reserved all oil, gas, coal, hydrocarbons, geothermal water and energy, and other minerals, together with the mineral and geothermal rights thereto owned by it, and the right to appropriate, extract, develop and use the same. After the effective date hereof, such reservation shall not include the right of surface entry on land not owned by the owner of the mineral rights without the consent of the Landowner. The Association may permissively allow the reasonable noncommercial use of any of the minerals existing within six (6) feet of the surface by a Landowner for use on the parcel owned, provided that such use is reasonable and will not exhaust or denude the property of its mineral resources.

SECTION 6. STRUCTURES AND IMPROVEMENTS

6.01. Association's Approval. A site plan and building plans satisfactory to the Association must be submitted by a Landowner to the Association for review and approval prior to beginning construction of any structure, the placing of any mobile home on a parcel or the carrying out of any other project for which review is required by the Master Plan, these covenants or any rule or regulation adopted in accordance therewith. The Association may retain a copy of the said plans in its files. The design of any improvement shall be safe and in accordance with this Declaration and the Master Plan. The Association shall conditionally or unconditionally approve the plans and make any recommendations deemed necessary or advisable, unless:

- a. The plans are incomplete, are in violation of or are not in accordance with these covenants, the Master Plan, or any rule or regulation adopted in accordance therewith;
- b. The proposed structure is, in the Association's opinion, unsafe, unsound, could pose a menace to the safety and health of other persons, or requires the assistance or input of an engineer; and/or
- c. The plan or the proposed structure is unlawful in any way.

The Association's approval of any plans, together with any conditions or recommendations, shall not constitute an acceptance of any liability or an approval of the design, engineering, safety or legality of the structure or project—and the Association is hereby exempted from liability therefor.

6.02. Setback Requirements. No structures shall be placed within 25 feet of any parcel boundary line or 15 feet of any easement crossing a parcel, without prior approval of the Association. This applies to buildings and major improvements but not to fences, landscaping, roads, driveways, walks, sprinklers, etc.

6.03. Utilities. All electrical and telephone lines, water and sewer pipelines, septic tanks, cisterns, drainfields, gas lines and other utilities installed after the effective date of these

covenants shall be placed underground. Pipelines and gas lines shall be placed at least 36" beneath the surface. Electric and telephone lines shall be placed at least 12" - 18" beneath the surface, unless adverse geologic conditions require otherwise. Propane or other fuel tanks, windmills, tanks, pumps and the like may be placed above ground. In any event, the installation of all utilities and lines shall be in accordance with the Master Plan and all applicable statutes, regulations, ordinances, rulings and other code requirements in effect at the time of the installation.

6.04. Signs and Billboards. The design and location of all exterior signs shall be in accordance with written guidelines adopted by the Association or shall be specifically approved by the Association prior to installation.

6.05. Mobile Homes. There are restrictions on the use of mobile homes and trailers in the Community, including, but not limited to, the following:

a. The Association shall enforce rules that require Landowners to provide a roof and exterior facade on mobile homes that are more in keeping with the general character and quality of the Community as defined in the Master Plan, or to conceal them from view from roads and other parcels by landscaping, earth berm, fence, wall, etc. Landowners are encouraged to landscape their parcel and obtain quality mobile homes. Exterior wood or wood-like finishing on mobile homes is preferred.

b. Mobile homes and trailers must also meet any further standards set forth in the Master Plan.

6.06. Fallout Shelters. It is the policy of this development to recommend but not require the construction, installation or availability of a fallout shelter underneath, behind, in the basement of or within reasonable proximity to every dwelling or habitation placed upon any parcel.

6.07. Maintenance. All structures and improvements, including roads, fences, ditches and agricultural structures, shall be properly maintained and kept in good condition by Landowners so that they are not allowed to become dangerous, unsightly or unsanitary, or to cause a fire hazard.

SECTION 7. RECREATION AND COMMON USE LAND

7.01. Common Use Land, Easement, Covenants. Three of the parcels described on Exhibit "B" are hereby designated as "common use land." A nonexclusive, perpetual easement and right-of-way is hereby granted upon said common use parcels described below to each Landowner, concurrently with the sale of each parcel, for recreational purposes under the following terms and conditions:

a. The parcels affected by this easement are Parcel Nos. 96 and 102 of Certificate of Survey No. 616-A (Glastonbury South) and Tract No. 1 of Certificate of Survey No. 1173 (Glastonbury North);

b. The easement shall be appurtenant to the parcels described on Exhibits "A" and "B" and shall run with the land;

c. The recreational purposes for which the common use land may be used shall include hiking, camping, picnicking, horseback riding, cross-country skiing, fishing and other similar recreational activities approved by the Association for Landowners and their families;

d. Hunting and the discharge of firearms on the common use land are not permitted without authorization from the Association. The Association may or may not permit hunting on the common use land at any time in the future;

e. The cutting of trees, use of motorized vehicles, mining, excavating or other activities which would permanently disfigure, alter, commit waste upon or damage the common use land shall not be permitted without authorization from the Association;

f. No illegal, lewd or offensive activities, loud noises or nuisances, including the use of alcoholic beverages, tobacco or illegal drugs, may be engaged in upon the common use land;

g. Guests may use the common use land only in the presence of a Landowner or members of a Landowner's immediate family;

h. The Association may, from time to time, make additional rules of safety and health and prohibit any activities upon the common use land which in its opinion are not in keeping with the qualities of the Community as defined in the Master Plan;

i. The Association shall retain ownership of the common use land, subject to the above nonexclusive easement and covenants, and the right to use, occupy, develop, improve, grant easements upon or mortgage the land in accordance with the Master Plan; and

j. The Association may in the future erect buildings or improvements upon portions of the common use land for recreational or any other common use purposes consistent with the Master Plan.

7.02. Recreational Access Along Streams. All Landowners in the Community and their families shall have the right to use the area along both sides of portions of Fridley Creek, Dry Creek and Golmeyer Creek for lateral recreational access. A nonexclusive perpetual easement and right of way is hereby reserved for this purpose within twenty (20) feet of the exterior banks along both sides of said creeks, for the use and benefit of Landowners and the Association, under the following terms and conditions:

a. The parcels affected by this easement are as follows:

(1) Parcel Nos. 2, 3, 5, 6, 7, 8, 9, 10, 15 and 16 of Certificate of Survey No. 615-A (Glastonbury North); and

(2) Parcel Nos. 3, 4, 5, 7, 9, 14, 17, 18, 19, 20, 21, 23, 71, 72, 73, 74, 76, 77, 78, 80, 81, 84, 85, 88, 93, 94, 95, 96 and 97 of Certificate of Survey No. 616-A (Glastonbury South);

b. The easement shall be appurtenant to the parcels described on Exhibits "A" and "B" and shall run with the land;

c. Lateral recreational access shall include foot travel only. No motorized vehicles, horses or other animals shall be allowed without the permission of the owner of the land involved;

d. Parcel owners affected by the easement may place fencing across the easement all the way to and along the creek if a gate or other method of access is provided for persons using the easement; and

e. Lateral access along the easement is for traveling from one place to another and not for use of the premises or the stream bordering the premises, without the parcel owner's permission, except as follows:

Within twenty (20) feet of any parcel boundary line or platted road easement line that intersects or crosses a creek, persons entitled to travel on the easement may use that portion of the easement for fishing in the creek, resting or picnicking; however, there shall be no overnight camping or campfires.

7.03. Recreational Use of Platted Road Easements. The platted road easements described in Section 8 and shown on the Certificates of Survey of the Community, outside of improved roadway surfaces for motorized traffic and ditches, may be used by Landowners and their families and guests for recreational travel by foot and horseback throughout the development. Any scenic turnouts or picnic areas placed on the easements by the Association are for the recreational use of all Landowners.

7.04. Unfenced and Unposted Land. Landowners and their families shall be entitled to cross any parcel within the Community on foot or horseback in order to gain access to or from common use land or national forest land, so long as the same is unfenced and unposted against trespassers. No parcel shall be used for any other purpose while crossing than for travel as mentioned above, and any person causing any damage while on another's parcel shall be strictly liable therefor. Persons exercising this privilege shall stay well clear of any buildings and improvements. If a parcel is fenced or posted against trespassing it may not be used for any such access or travel, and any violator will be considered guilty of trespassing.

SECTION 8. ROADS AND EASEMENTS

8.01. Platted Road Easements. The platted road easements are those which are shown on the Certificates of Survey of the Community and generally labeled as "private access and public utility easement." These are private easements for access, utilities and a road system in the Community. A perpetual and exclusive easement and right-of-way is hereby reserved upon, across, over and under the real property shown on Certificates of Survey of the Community and labeled as "private access and public utility easement," for the use and benefit of the Association and Landowners, for the following uses and purposes and subject to the following terms and conditions:

a. The Association and all of the Landowners and their guests have the right to use any of the platted road easements opened by the Association and upon which developed roads and/or trails have been placed;

b. Use of the platted road easements is limited to motorized and nonmotorized vehicular traffic, pedestrian and equestrian traffic, livestock, public utilities, ditches and canals, pipelines, landscaping, fencing, roads, trails, and such other uses and purposes as shall be engaged in or permitted from time to time by the Association or as are otherwise contemplated by these covenants;

c. The Association intends to maintain a private road system within the platted road easements for vehicular access to the various parcels within the Community. Initial construction by the developer(s) was intended to be to a basic gravel and dirt consistency. The Association may designate and define different qualities or levels of road construction and maintenance within the Community (such as residential roads, foothill roads, mountain roads, etc.) according to its limited ability to deal with such conditions as topography, terrain, elevation, native soil and materials, slope, grade, easement location, parcel location, drainage, climate, weather, snow, ice and mud, and limited resources and equipment. The quality, quantity and/or level of road construction and maintenance may be upgraded by the Association at any time. The Association shall have the exclusive discretion and option to give permanent names to any or all of the roads and streets in the Community;

d. Some of the platted road easements on the Certificates of Survey of the Community come to cul-de-sacs and then extend to an exterior Community boundary and terminate. The cul-de-sacs are the intended termination points of the initial road construction program. However, the extensions to Community boundary lines are being reserved for possible future road extensions or additions to the Community, access to other areas, road loops, efficient utility access, etc., and are included within all of the terms and conditions hereof. The Association may elect to open these easements and construct roads upon them at any time in the future;

e. The Association shall from time to time make, alter and enforce rules of health, safety, convenience and conduct on the platted road easements, including, but not limited

to, speed limits, signals and signs, traffic regulations, weight and size limits, recreational usage, livestock usage, etc.;

f. The Association may provide, maintain and operate security entrances for any of the roads or may dedicate or otherwise designate any of the roads within the Community for public use;

g. The Association's road maintenance responsibility may be assigned or delegated by conveyance or contract to another private party, a municipality, a county or other Landowners in the Community;

h. The Association's road maintenance responsibility is limited by and conditioned upon the Landowners' individual and collective payment of and the aggregate amount of the "annual community assessment" as provided in Section 11, together with its ability to increase the assessment to keep up with inflation or increased costs. The Association is not obligated to provide maintenance or snowplowing in excess of the amount that has been paid by Landowners through the annual assessment;

i. No motor vehicle shall be operated on the platted road easements in the Community except by a person having a valid operator's or driver's license, and all such operations shall be in accordance with any limitations contained in the license; and

j. No Landowner may encroach upon any platted road easement bordering upon, joining or crossing the Landowner's parcel with fences, structures, improvements or any other use inconsistent with this section, except as permitted in writing by the Association.

8.02. Additional Easements. The following additional easements and rights-of-way are hereby reserved upon, across, over and under the following described parcels:

a. A perpetual easement and right-of-way for ingress, egress and utilities on an existing road shown and labeled as "approximate centerline of existing road and easement per roll 20 page 154," Parcel Nos. 95, 96 and 97, on Certificate of Survey No. 616-A. Said easement and right-of-way shall be forty (40) feet in width, centered on the approximate centerline of the existing road, and is for the use and benefit of Landowners and the Association; and

b. A perpetual easement and right-of-way in favor of Parcel Nos. 97, 98, 99, 100 and 101 on Certificate of Survey No. 616-A running across Parcel Nos. 97, 98, 99 and 100, to construct and maintain a road for ingress and egress for the owners of these parcels to the areas which comprise the western portions of their parcel(s) for any purpose, including the removal of timber therefrom, from the Community access road described in Paragraph 8.02(a). Said easement is for a single-lane road not to exceed fifteen (15) feet in width. It shall be constructed and maintained at the mutual and common expense of the owners of the parcels benefited. Locked gates may be maintained by the parcel owners to restrict access to persons entitled to use the easement. Before construction and use of the road, the location must be

approved by each parcel owner and monumented in a reasonable manner. Any disputes relating to this easement between owners of affected parcels shall be arbitrated and resolved by the Association, whose decision shall be final and binding.

8.03. Effect of Easements. Unless otherwise provided, each easement established, described or mentioned in this Declaration shall be appurtenant to the land benefited and shall run with the land to which it is appurtenant. No easements shall be in gross unless expressly provided.

8.04. Parking. Each parcel shall provide adequate off-road parking consistent with its current usage. The platted road easements shall not be used for parking except in areas designated by the Association.

SECTION 9. SUBDIVISIONS OF PARCELS

9.01. Subdivisions Allowed, Association's Review. Parcels in the Community may be further subdivided, subject to the provisions set forth below and the review and written approval of the Association before the completion of any such subdivision. Any attempted sale, transfer, conveyance, lease, filing or recordation of a deed, certificate of survey, plat or other description of a subdivided portion of a parcel without such written approval shall be invalid, void and of no force or effect. The Association will not unreasonably withhold such approval.

9.02. Subdivision Defined. A subdivision shall include any division of a parcel into multiple parcels, tracts or lots smaller than the original, a redivision, or any other treatment of a parcel which would fall under the definition of a "subdivision" under state or local laws and regulations—including recreational vehicle parks, mobile home parks and condominium projects.

9.03. Intent of Review. The intent of this provision is that the Association shall review each proposed subdivision for consistency with the Master Plan and with this Declaration and to insure proper engineering, surveying, access and plans for providing utilities and at least one feasible building site—so that the divided parcels will be at least up to the same standard as the rest of the parcels in the Community, for the benefit of other Landowners and the future purchasers of divided parcels.

9.04. Mobile Home Parks and RV Parks. With the exception of the Golden Age Village and any adjacent expansion thereof not to exceed a total of 125 lots, mobile home parks and recreational vehicle parks shall not be allowed or approved.

9.05. Condominium and Multi-Dwelling Projects. Condominium and other multi-dwelling projects, such as apartments, shall be consistent with the Master Plan. Approval will generally not be given for hard-to-reach areas with bad winter conditions or for large-scale projects, except where designated in the Master Plan. Design must be in character with the Community and in good taste.

9.06. Review Process. The Association shall require the submission of an application form, drawing, plat and plans, and any other materials needed to inform itself about the proposed subdivision and to insure quality. Within thirty (30) days after the submission of all required materials, the Association will give the Landowner a written response which may include the following:

- a. An unconditional approval;
- b. An approval subject to examination of the final Certificate of Survey or other plat;
- c. Recommendations for changing or improving the plans for the proposed subdivision;
- d. Conditions for approval, such as a requirement that access be constructed, utilities be extended, etc.;
- e. A disclaimer by the Association for providing maintenance, utilities or other services which are currently provided to the rest of the parcels, due to a substandard condition; and/or
- f. A disapproval based upon failure to meet the minimum standards of the development, inconsistency with the founding principles of the Community or with this Declaration.

9.07. Standards. The Association may, from time to time, publish a statement of policies and standards for reviewing proposed parcel subdivisions, which shall include objective criteria upon which all proposed subdivisions will be reviewed.

- a. These may include such criteria as minimum parcel size in certain areas, minimum road standards, minimum utility requirements, survey requirements, density, etc.
- b. These standards are intended to approximate the minimum standards and concepts originally designed into the Community and any improvements thereto which have been subsequently made and/or set forth in the Master Plan.

These standards may become incorporated into or superseded by the Master Plan at any time.

9.08. Maintenance of New Roads. The Association may, but is not obligated to, maintain new private roads at the same level as the original roads in the Community. The Association may agree to accept such a new road for construction and/or maintenance and install and/or maintain utilities upon the payment of a fee from the Landowner dividing the parcel.

9.09. Status of New Parcels. Once a parcel has been divided from an original parcel in the Community, or redivided, with the written approval of the Association, it (and its Landowner) shall be entitled to the same rights and privileges and subject to the same obligations and restrictions as an original parcel. The Landowner of such a divided parcel shall be responsible for paying the same assessments as other original parcels.

SECTION 10. COMMUNITY ADMINISTRATION

10.01. Association's Authority. The Association is hereby vested with the discretion and authority to exercise all rights, powers and responsibilities, make all decisions, take all actions, make and enforce all rules and regulations and otherwise do all things in the administration of the Community that are authorized or required in this Declaration of Covenants or by the Master Plan. The Association is the sole administrative authority in the Community and shall exercise its rights, powers and responsibilities and manage its affairs in accordance with its articles of incorporation, bylaws and rules.

10.02. Enforcement of Covenants. In the event of any violation of these covenants, the Association or any Landowner may enforce these covenants through proceedings at law and/or in equity against one or more other Landowners, including the seeking of damages and/or injunctive relief, by filing an action in the Park County District Court (Montana Sixth Judicial District); provided, however, that no Landowner shall initiate any such legal proceedings against another Landowner until at least thirty (30) days after mailing or delivering a written complaint of the alleged violation to the Association. During such thirty (30) days, the Association may, but is not obligated to, take action by notifying the Landowner(s) against whom the complaint is made of the alleged violation, initiating its own legal proceedings and/or submitting the complaint to binding arbitration in accordance with the rules of the American Arbitration Association if all parties agree to such binding arbitration.

These covenants shall be enforceable by specific performance. Prior to initiating any legal proceedings to enforce these covenants whether as the result of a complaint or on its own initiative, the Association shall first give written notice and a reasonable opportunity for the alleged violator to take action to comply with these covenants. Such notice shall identify the property, specify the violation or complaint and demand compliance with the terms and conditions of these covenants. Such notice must provide for a period of at least ten (10) days from the date of personal service of such notice, or at least fifteen (15) days from the date of posting and mailing of the same, within which time compliance can be made before any legal proceedings by the Association may be commenced. The Association and representatives of the Association shall not be liable to any person or entity for any actions taken or not taken pursuant to the provisions in this section, and all Landowners shall be deemed to have waived any and all rights to or claims for damages for any loss or injury resulting from any action taken or not taken under the terms and conditions of this section.

Actual costs, expenses and reasonable attorneys' fees incurred in connection with removing, remedying, abating, preventing or prosecuting any violation of these covenants shall

constitute a claim by the Association or other Landowner(s) initiating such action against the Landowner(s) of a parcel upon which such violation exists or has occurred.

The Association shall be entitled to intervene as a matter of right in any legal proceeding initiated by any Landowner(s) against any other party under this section.

10.03. Assignment of Association's Rights, Powers and Responsibilities. The Association may assign or transfer all of its rights, powers and responsibilities as established under this Declaration or under the Master Plan, at any time in the future, to a successor organization.

10.04. Association Membership. All Landowners are automatically considered to be members of the Association. Each Landowner agrees to notify the Association in the event of the sale or transfer of any of the Landowner's property in the Community qualifying as a Membership Interest. Each Landowner receiving title to or ownership of any property in the Community qualifying as a Membership Interest agrees to register with the Association by providing the owner's name, mailing address and property description.

SECTION 11. COMMUNITY ASSESSMENT

11.01. Assessments. Each present or future Landowner in the Community covenants and agrees to pay to the Association the following described assessments, all such assessments to be fixed, established, and collected from time to time as hereinafter provided. The assessment shall be a charge and continuing lien upon the property interest against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as is hereinafter provided, shall be the obligation of the Landowner when such assessment becomes payable. The obligation to pay assessments shall run with title to the property in the Community being assessed.

11.02. Purpose of Assessments. The assessments levied by the Association shall be used for the operation, maintenance, repair and improvement of roads, trails, easements, common use land, security entrances, ditches, canals, drainages, machinery, vehicles, equipment and other facilities serving the Community; for snowplowing; for structures, improvements and added services on the roads and trails, the common use land or elsewhere within the Community which are for the benefit of Landowners; and for such other uses and purposes which are contemplated in these covenants or as are otherwise deemed necessary or desirable by the Association in fulfilling its rights, powers and responsibilities within the Community including, but not limited to, legal fees and costs incurred in enforcing any of these covenants against a Landowner or other party, purchases of machinery, vehicles and equipment needed to carry out the Association's responsibilities hereunder, the hiring and salarizing of necessary employees, and capital improvements for administrative, recreational or other Community purposes to promote the common health, safety, recreation, culture, education, welfare and enjoyment of Landowners.

11.03. Annual Community Assessment. Each Landowner shall pay an annual community assessment (the "annual assessment") to the Association for the uses and purposes described above. The annual assessment covers the period from January 1 to December 31 of each year. Assessment shall be made by written notice to each Landowner of the property interest being assessed. The amount of the annual assessment may be increased or decreased from year to year, at the option of the Association, based upon the amount of work to be done and the estimated or anticipated cost of labor, equipment and materials involved. The initial amount of the annual assessment for the 1997 calendar year is \$240 per parcel. The amount of the annual assessment beginning January 1, 1998 shall be as follows:

- a. \$120 land assessment for each parcel, plus an additional \$120 for each undivided tenancy-in-common interest¹ in excess of one per parcel; plus
- b. \$120 dwelling assessment for each dwelling unit located on each parcel or owned in association with each undivided tenancy-in-common interest¹ in a parcel; or
- c. \$240 land and dwelling combined assessment for each condominium unit; or
- d. \$120 land and dwelling combined assessment for each Golden Age Village lot (whether or not each lot has a dwelling unit located on it).

The annual assessment shall be payable either annually on or before January 31 or quarterly in four equal increments on or before January 31, April 30, July 31 and October 31 of each year. If an annual assessment notice is mailed after January 15 of any year, the annual payment or first quarterly installment shall not be payable until fifteen (15) days after the date the notice is postmarked or personally delivered to the Landowner. The amount of the annual assessment may be increased by the Association due to inflation or increased costs or services up to a maximum of 10% per year or the last annual increase in the Consumer Price Index (CPI)², whichever is greater.

11.04. Special Assessments. Special assessments pertaining to the entire Community of Glastonbury or to any limited areas or properties in the Community (including, but not limited to, Glastonbury North or Glastonbury South) may be levied at any time and for any periods by the Association for emergencies, extraordinary capital improvements or repairs,

¹ A joint-tenancy ownership between a husband and a wife does not constitute two ownerships but is to be treated as either a single ownership of an entire parcel or, if a parcel is owned with other tenants-in-common, as one of the tenancy-in-common interests. In addition, condominium units and Golden Age Village lots are not treated as separate undivided tenancy-in-common ownerships for land assessment purposes

² CPI is the Department of Labor Bureau of Labor Statistics Consumer Price Index for "U.S. City Average All Urban Consumers" (1967 = 100).

or for any other purposes and by any methods upon the affirmative vote of at least two-thirds (2/3rds) of the Membership Interests of the Association in good standing at the time pertaining to the property constituting the area to be affected by the special assessment. Any such vote shall be conducted in accordance with the bylaws and rules of the Association. The president and secretary of the Association may certify the results of such vote on behalf of the Association and the affected members in any instrument to be kept or used for the purpose of providing notice of the special assessment. Special assessments that pertain to any limited areas or numbers of parcels or condominiums that are less than the entire Community of Glastonbury shall be payable only by the Landowners of the property to be affected. The Association shall designate the affected area, property, parcels or condominiums to which a special assessment pertains if other than the entire Community of Glastonbury.

11.05. Accounting, Allocation and Use of Funds. The Association shall account for funds paid by Landowners pursuant to any assessment (the "assessment funds") in any manner consistent with its responsibilities and good business practice. Special funds or accounts of any sort may be established by the Association to maintain control and supervision over the assessment funds. Maintenance and repair of roads and snowplowing shall be the first priority for use of annual assessment funds. Allocation and use of the remainder of the annual assessment funds shall be in the discretion of the Association. Special assessments shall be used for the purpose for which they are established. The Association is and shall be a fiduciary in the allocation, application and use of assessment funds. The Association has a duty to perform the responsibilities provided in these covenants to the best of its ability and to the extent that assessment funds reasonably allow. In addition, the Association may establish, maintain and carry over from year to year any reserve funds or special purpose funds for improvements, equipment purchases or for any other purpose pursuant to these covenants. Assessment funds shall be kept or deposited in a special account as provided in the bylaws of the Association.

11.06. Effect of Nonpayment of Assessment. If any assessment is not paid by midnight on the date when due, then such assessment shall become delinquent and shall, together with any interest thereon, become a continuing lien on the parcel which shall run with the land. If the assessment remains unpaid for thirty (30) days after such due date, a five percent (5%) penalty will accrue on the amount of the payment due and the assessment shall thereafter bear interest from the due date at the rate of one and one-half percent (1-1/2%) per month, compounded monthly. The obligation to pay any assessment, penalty or interest of the current Landowner of any property in the Community subject to assessment shall not be affected by any conveyance or transfer of title to said parcel unless waived or agreed upon in writing by the Association. The Association may bring an action at law against a Landowner to collect delinquent assessments, penalties and interest and/or to foreclose on the lien against the parcel, and there shall be added to the amount of such assessment the costs of collecting the same or foreclosing the lien thereof, including reasonable attorney's fees.

SECTION 12. GENERAL PROVISIONS

12.01. Variances, Waivers. The Association reserves the right to waive or grant variances to any of the provisions of this Declaration, where, in its discretion, it believes the same to be necessary and where the same will not be injurious to the rest of the Community.

12.02. Districts. Each present or future Landowner within the Community shall be deemed to have waived any right to object to the formation of one or more local improvement or service districts which include such Landowner's land, and also to have waived any right to join in any action opposing the formation of such a district. Each Landowner shall be deemed to support the formation and operation of any such district for the mutual protection of Landowners of all parts of the Community. However, no such districts, including special zoning districts established by Landowners' petition, may be established without the written consent of the Association.

12.03. Severability. A determination of invalidity of any one or more of the covenants of this Declaration by judgment or court order or decree shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

12.04. Liability of Association. The Association shall have no liability for any of its actions or failures to act. In addition, the Association shall have no liability or obligation under this Declaration to any person or entity except such liabilities and obligations as the Association has expressly assumed herein.

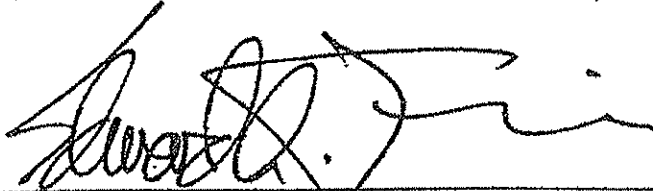
12.05. Titles Not Controlling. None of the titles, captions or headings to any paragraph or section within this Declaration shall control, limit or expand the meaning thereof. References to "he," "his," or to male gender shall also include the female gender and the neuter gender, where appropriate.

- End -

**Certification of Affirmative Written Votes and
Written Consents of Predecessor and Successor Grantors**

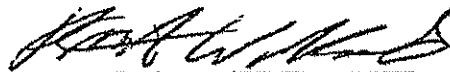
IN WITNESS WHEREOF, the undersigned, acting as the predecessor and successor Grantors, hereby certify that the owners of at least fifty percent (50%) of the parcels described on Exhibits "A" and "B" attached to the Declaration of Covenants, together with any additions thereto, have given their affirmative written vote and consent to alter, amend, modify and supercede the Declaration of Covenants in its entirety in accordance with the foregoing Restated Declaration of Covenants for the Community of Glastonbury. Specifically, the affirmative written votes and consents representing 74.8% of the owners of such parcels, tabulated in accordance with the requirements of Section 2.05 of the Declaration of Covenants, have been given and are attached hereto and incorporated herein by reference. Accordingly, the undersigned, acting as the predecessor and successor Grantors, hereby give their written consents to alter, amend, modify and supercede the Declaration of Covenants in accordance with the foregoing Restated Declaration of Covenants for the Community of Glastonbury.

CHURCH UNIVERSAL AND TRIUMPHANT, INC.



EDWARD L. FRANCIS, Executive Vice President

GLASTONBURY LANDOWNERS ASSOCIATION, INC.



PATRICK WOLBERD, President

STATE OF MONTANA)
: ss.
COUNTY OF PARK)

On this 25th day of September, 1997, before me, THERESE C. BAURES, a Notary Public for the State of Montana, personally appeared EDWARD L. FRANCIS, known to me to be the Executive Vice President of CHURCH UNIVERSAL AND TRIUMPHANT, INC., the corporation that executed the within instrument, and acknowledged to me that he executed the same as the Executive Vice President of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this certificate first above written.



Therese C. Baures
Notary Public for the State of Montana
Residing at Corwin Springs, Montana
My commission expires: 2/1/99

STATE OF MONTANA)
: ss.
COUNTY OF PARK)

On this 26th day of September, 1997, before me, Diane Coffman, a Notary Public for the State of Montana, personally appeared PATRICK WOLBERD, known to me to be the President of GLASTONBURY LANDOWNERS ASSOCIATION, INC., the corporation that executed the within instrument, and acknowledged to me that he executed the same as the President of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this certificate first above written.



Diane Coffman
Notary Public for the State of Montana
Residing at Keeweenaw
My commission expires: 10/17/97

EXHIBIT "A""GLASTONBURY NORTH"TOWNSHIP 5 SOUTH, RANGE 8 EAST, M.P.M., PARK COUNTY,
MONTANA:

- PARCEL NOS. 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69 and 70, as described in and shown on Certificate of Survey No. 615A, on file and of record in the Office of the Park County Clerk and Recorder; and
- PARCEL NOS. 49A and 50A, as described in and shown on Certificate of Survey No. 883, on file and of record in the Office of the Park County Clerk and Recorder; and
- TRACT NO. 1, as described in and shown on Certificate of Survey No. 1173, on file and of record in the Office of the Park County Clerk and Recorder; and
- LOT NOS. 1-49, inclusive, of the "Golden Age Village at Glastonbury North" mobile home park, which is located on portions of Parcel Nos. 3 and 4 of Certificate of Survey No. 615A, and a plat of which is on file in the Office of the Park County Clerk and Recorder.

The real property described above shall also include any and all portions, parcels, lots, tracts or other divisions or alterations contained within or segregated from any of the property specifically identified above, whether created before or after the effective date hereof.

EXHIBIT "B"

"GLASTONBURY SOUTH"

TOWNSHIP 6 SOUTH, RANGE 7 EAST, M.P.M., PARK COUNTY,
MONTANA:

PARCEL NOS. 18, 19, 20, 21, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101 and 102, as described in and shown on Certificate of Survey No. 616A, on file and of record in the Office of the Park County Clerk and Recorder; and

PARCEL NOS. 103, 104, 105, 106, 107, 108 and 109, as described in and shown on Certificate of Survey No. 981, on file and of record in the Office of the Park County Clerk and Recorder.

The real property described above shall also include any and all portions, parcels, lots, tracts or other divisions or alterations contained within or segregated from any of the property specifically identified above, whether created before or after the effective date hereof.

State of Montana }
County of Park }

Filed for record this 30 day of September, A.D. 1997, at 3:56

of P M. Recorded in Roll 124, Pages 548-653

Denise Nelson
County Clerk & Recorder

By _____
Deputy

Recording Fee \$ 636.00 Document No. 262163 Return to Edward Francis

P.O. Box 5000
Corwin Springs MT
59027

X re recording info

4/5 615A, 616A, 773, 883, 892, 895, 981, 1173, 1328

S/D 80, 166, 198, 217, 226, 233, 221

347422

STATE OF MONTANA

FILED
MAY 12 1997
RJC
RL

ARTICLES OF INCORPORATION
OF

GLASTONBURY LANDOWNERS ASSOCIATION, INC. SECRETARY OF STATE

For the purpose of forming a nonprofit corporation and pursuant to the provisions of the Montana Nonprofit Corporation Act, M.C.A., Section 35-2-113, *et seq.*, the undersigned has made, signed and acknowledged the following Articles of Incorporation:

ARTICLE I

NAME

The name of the corporation shall be GLASTONBURY LANDOWNERS ASSOCIATION, INC. (hereinafter referred to as the "Association").

The address of the corporation is 123 Arcturus Drive, Emigrant, Montana 59027, and the mailing address is Post Office Box 312, Emigrant, Montana 59027.

ARTICLE II

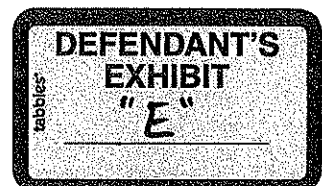
DURATION

The period of duration of the Corporation shall be perpetual.

ARTICLE III

PURPOSE

This association is a mutual benefit nonprofit corporation, pursuant to the Montana Nonprofit Corporation Act, which disavows any intent to exert political influence or engage in lobbying and which does not contemplate pecuniary gain or profit to the members hereof. No part of the net income or assets of the organization shall ever inure to the benefit of any director, officer, or member hereof or to the benefit of any private person(s).



ARTICLE IV

POWERS

In furtherance of its purpose, but not otherwise, the Corporation shall have the power to have and to exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Corporation Law of the State of Montana by law may now or hereafter have or exercise, including, but not limited to, the following:

A. To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association;

B. To pay all expenses incurred in connection with the conduct of the business of the Association, including all office and other expenses, licenses, taxes or other governmental charges levied or imposed against the property of the Association;

C. To enter into, make, perform, or enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose or power of the Association, with or in association with any person, firm, association, corporation or other entity or agency, public or private;

D. To adopt, alter, amend or repeal such Bylaws as may be necessary or desirable for the proper management of the affairs of the Association; provided, however, that such Bylaws may not be inconsistent with or contrary to any provisions of these Articles of Incorporation; and

E. To have and exercise such further purposes and powers, or to be limited in the exercise of its powers, as may be further provided from time to time in such Bylaws.

ARTICLE V

MEMBERSHIP

Members of the Association shall be certain owners of property in the Community of Glastonbury located in Park County, Montana, as more fully described or restricted in the Bylaws.

ARTICLE VI

INCORPORATOR

The name and address of the Incorporator of this Corporation is Church Universal and Triumphant, Inc., 558 Old Yellowstone Trail South, Gardiner, Montana 59030.

ARTICLE VII

REGISTERED OFFICE AND REGISTERED AGENT

The Corporation's initial registered office shall be at 910 Technology Boulevard South, Suite A, Bozeman, Montana 59718. The name of the Corporation's initial registered agent at such address shall be John T. Glover, Jr., Esq.

ARTICLE VIII

LIMITATION OF LIABILITY

Members of the Board of Directors of the Corporation shall not be liable to the Corporation or to members of the Corporation for monetary damages for breach of a director's duties to the Corporation and its members, provided that this provision does not eliminate or limit the liability of a director:

1. For a breach of the director's duty of loyalty to the Corporation or its members;
2. For acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
3. For a transaction from which a director derived an improper personal economic benefit; or
4. Pursuant to M.C.A. Sections 35-2-418, 35-2-435, or 35-2-436.

ARTICLE IX

DISSOLUTION

Upon the dissolution of this Corporation, after paying or adequately providing for the debts and obligations of the Corporation, the remaining assets shall be distributed to a nonprofit fund, foundation or corporation.

ARTICLE X

AMENDMENTS

Amendments to these Articles of Incorporation shall be adopted, if at all, in the manner set forth in the Bylaws; provided, however, that no such amendment shall be contrary to or inconsistent with any provisions of the Montana Nonprofit Corporation Act.

IN WITNESS WHEREOF, for the purposes of forming this nonprofit Corporation under the laws of the State of Montana, the undersigned, constituting the Incorporator of this Association, has executed duplicate originals this 28 day of April, 1997 at 10:30 A.M.


CHURCH UNIVERSAL AND TRIUMPHANT, INC.

By: 
Edward L. Francis, Executive Vice President

STATE OF MONTANA)
) ss.
COUNTY OF PARK)

I hereby certify that on this 28th day of April, 1997, personally appeared before me EDWARD L. FRANCIS, Incorporator of this Association, being first duly sworn, and declared that he is the person who signed the foregoing instrument and that the statements contained therein are true.

WITNESS MY HAND AND OFFICIAL SEAL.


Notary Public for the State of Montana
Residing at: Covina Springs, MT
My commission expires: 2-1-99

GLASTONBURY LANDOWNERS ASSOCIATION, INC.

P.O. Box 312 • Emigrant, MT 59027 • 406-451-0033 • www.glamontana.org •
info@glamontana.org

BALLOT AND NOTICE OF BYLAW ISSUE TO BE VOTED ON AT THE ANNUAL MEETING AND ELECTIONS

At the Annual Meeting and Elections a proposed Amendment to the Bylaws will be discussed, and you may cast your vote on the Amendment. The personally-cast or by proxy-cast ballots will be counted at the Annual Meeting on **Saturday, November 8, 2014 at St. John's Church in Emigrant, Montana. The voting period ends at 11:00 a.m.**

You may cast your ballot by

- a. **Attending the meeting**
- b. **Mailing this ballot to: GLA, PO Box 312, Emigrant, MT 59027**
- c. **Faxing this ballot to: 406-451-0033**
- d. **Giving this ballot to your proxy who will attend in your place or submit the ballot via fax or mail.**

Note: Mailed ballots must be delivered to the GLA's postal address no later than Saturday, November 8, 2014, and will be picked up at 10:00 am. Faxed ballots must be transmitted no later than 4:00 pm on Friday, November 7, 2014.

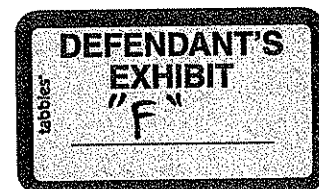
HOW TO COMPLETE THIS BYLAW AMENDMENT BALLOT

1. Sign your ballot;
2. Vote (if you have any questions or are considering not voting, please contact a member of the Board);
3. Submit your ballot by one of the following means:
 - a) Attend the Annual Meeting and submit your ballot in person
 - b) Mail your ballot to: GLA, PO Box 312, Emigrant, MT 59027
 - c) Fax your ballot to: 406-451-0033(We will have additional ballots available at the Annual Meeting for your convenience.)

ALTERNATIVE WAY TO COMPLETE THIS BYLAW AMENDMENT BALLOT

1. You may appoint a proxy by filling in the proxy information enclosed in this packet and delivering this to the person you have designated. (Proxies may not be given to the Board or to Directors.)
2. Have your proxy sign this ballot and vote on your behalf.
3. Have your proxy attend the Annual Meeting, mail it in, or fax it as described above.

The Glastonbury Landowners Association (GLA) records show that you either own or have an ownership interest in, or have another fiduciary interest in, the listed membership interest, as of the Date of Record for this ballot (October 8, 2014). Your voting status will be based upon this membership interest. If you believe the GLA records to be in error, contact the GLA immediately at 406-451-0033.



INSTRUCTIONS

You are voting on an amendment to the Amended Bylaws for the GLA, adopted on November 16, 1998, and as otherwise amended. The amendment is set forth below. This amendment will modify the existing Bylaws as specifically stated in this amendment.

**THE FOLLOWING INFORMATION IS FROM THE
BYLAWS OF GLASTONBURY LANDOWNERS ASSOCIATION, INC.
AND MONTANA LAW, AND GOVERNS YOUR VOTE:**

Voting Requirement for Passage: According to Article XII, Section 1 of the Bylaws,

A. Interpretation and Amendments. The Board shall have the power to interpret all the provisions of these Bylaws and such interpretation shall be binding on all persons. These Bylaws and the Articles of Incorporation may be amended, repealed or altered, in whole or in part, from time to time whenever at least fifty-one percent (51%) of the Membership Interests of the Association in good standing at the time attending any Annual or Special Meeting, where such proposed action has been set forth in the call and notice of such meeting, shall have voted in favor of such amendment. Any such amendments may be proposed by the Board of Directors or by a petition signed by at least twenty percent (20%) of the Members. Once made, any such amendments, alterations, changes or new Articles or Bylaws, or the repeal of any provision thereof, shall apply to all Members as fully and to the same extent as if originally included herein or in the Articles of Incorporation.

Pursuant to the Bylaws, Article V, Section E. "Quorum. Except as otherwise provided herein, the presence in person or by proxy of Members having twenty-five percent (25%) of the total authorized votes of all Members of record of the Association shall constitute a quorum at all meetings of the Members...."

Changes in the Declaration language are denoted with *italics* (new language) and ~~strikethrough~~ (removed language.)

Please check "Yes" or "No" for the proposed amendment presented on the following page.

THE FOLLOWING AMENDMENT IS FOR YOUR CONSIDERATION

Amendment:

ARTICLE VIII: CONTRACTS, FINANCE AND COMMON EXPENSES

I. Inspection of Books. The ~~financial reports and~~ Membership Records of the Association shall be available at the principal office of the Association for inspection at reasonable times by any Member *in accordance with the Montana Non-Profit Corporation Act under Title 35, Chapter 2 (2014) and as amended.* "Membership Records" means those records that a non-profit is specifically required to keep for inspection pursuant to the Montana Non-Profit Corporation Act under Title 35, Chapter 2 (2104) and as amended.

BALLOT

Number Of Votes	
GLA Official Initial	

_____ Yes, I am voting for the proposed Amendment to Article VIII, Section I of the current Bylaws as presented in the Amendment.

_____ No, I do not want to amend the current Bylaws as presented in the Amendment.

Dated this _____ day of _____, 2014.

Signature: _____

Printed Name: _____

Parcel(s) / Lot No(s).: _____ North / South
(circle as appropriate)

PROXY DESIGNATION

If you wish to designate another person as your proxy, please fill out the Proxy Form provided in your packet.

FILED

December 3 2013

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

DA 13-0439

IN THE SUPREME COURT OF THE STATE OF MONTANA

2013 MT 359N

DANIEL K. O'CONNELL & VALERIE A. O'CONNELL,

Plaintiffs and Appellants,

v.

GLASTONBURY LANDOWNERS ASSOCIATION, INC.,
BOARD OF DIRECTORS,

Defendants and Appellees.

APPEAL FROM: District Court of the Sixth Judicial District,
In and For the County of Park, Cause Nos. DV-2012-220, and
DV-2012-164
Honorable Brenda R. Gilbert, Presiding Judge

COUNSEL OF RECORD:

For Appellants:

Daniel K. O'Connell, (Self-Represented); Valery A. O'Connell
(Self-Represented), Emigrant, Montana

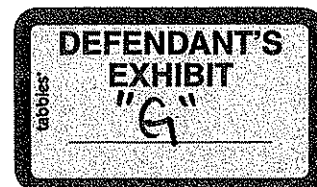
For Appellees:

Michael P. Heringer; Seth M. Cunningham, Brown Law Firm, P.C.,
Billings, Montana

Submitted on Briefs: November 13, 2013
Decided: December 3, 2013

Filed:

Clerk



Chief Justice Mike McGrath delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(d), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Daniel and Valery O'Connell appeal from the District Court's "Order on Plaintiffs' Motion for Summary Judgment and Defendants' Cross Motions for Summary Judgment," filed June 19, 2013. We affirm.

¶3 The O'Connells reside in one of the two Glastonbury subdivisions located near Emigrant, Montana. In the last few years the O'Connells have filed several legal actions challenging decisions of the Glastonbury Landowners Association. In the current action the O'Connells request multiple forms of relief including injunction, mandamus and declaratory judgment against the Association.¹

¶4 In the present action the O'Connells sought relief based upon their claims that the Association wrongly granted a variance to another landowner in the other Glastonbury subdivision several miles from the O'Connells' residence (the Erickson Variance issue); that the Association improperly applied several provisions of the By-Laws in its annual assessment from residents (the Guest House Assessment issue); that the Association

¹ These requests for relief are contained in two actions filed in District Court under cause Nos. DV-2012-220 and DV-2012-164. The District Court's order that the O'Connells appeal from considered and disposed of all of the O'Connells' claims in both actions.

improperly entered a contract with an outside entity to provide administrative functions (the Minnick Contract issue); and that the Association improperly applied the By-Laws regarding the number of votes allowed to each membership (the Election Procedures issue). The parties moved for summary judgment and the District Court received extensive briefing and exhibits on these issues and held a hearing. The District Court fully considered and rejected the O'Connells' contentions on each issue and granted summary judgment in favor of the Association.

¶5 The District Court found that there were no disputed facts as to the Erickson Variance issue; that applicable rules gave the Association the discretion to approve or deny variance requests; that only the O'Connells had objected to the variance; and that the O'Connells had not demonstrated any basis for overturning the decision. The District Court found that there were no disputed facts as to the Guest House Assessment issue and that the Association had engaged in a "straightforward interpretation" of the applicable covenants. The District Court found that the Association had the authority under state law and its By-Laws to enter the Minnick contract and that doing so was necessary to its operation. The District Court determined that the Association has the authority under its By-Laws to administer elections, and that the current method of allocating votes to members has been in place since 1997 without objection from the O'Connells. We find that the District Court properly considered the applicable facts and law and properly granted summary judgment to the Association on all issues.

¶6 We have determined to decide this case pursuant to Section I, Paragraph 3(d) of our Internal Operating Rules, which provides for memorandum opinions. The District

Court's findings of fact are supported by substantial evidence and the legal issues are controlled by settled Montana law, which the District Court correctly interpreted.

¶7 Affirmed.

/S/ MIKE McGRATH

We concur:

/S/ MICHAEL E WHEAT

/S/ BETH BAKER

/S/ PATRICIA COTTER

/S/ JIM RICE